

~ PLYMOUTH BOARD OF SELECTMEN ~

TUESDAY, JULY 17, 2012

TOWN HALL MAYFLOWER ROOM

The Selectmen held a meeting on Tuesday, July 17, 2012 at 7:00 p.m. at Town Hall in the Mayflower Room.

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

Melissa Arrighi, Town Manager

CALL TO ORDER

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

TOWN MANAGER'S REPORT

Facilities Event Manager – Town Manager Melissa Arrighi announced that Patrick O'Brien has accepted the position of Facilities & Special Events Manager at Memorial Hall. As the Special Assistant to the Town Manager, she said, Mr. O'Brien was filling-in as the coordinator of events at the Hall since the contract with the previous management company had ended. Ms. Arrighi noted that Mr. O'Brien will begin his new position in approximately two weeks.

Labor Training – Ms. Arrighi reported that Attorney David Jenkins from Kopelman & Paige (Town Counsel) provided a presentation on labor management issues at the July 9th Department Head meeting. Attorney Jenkins, she said, spoke at length about impact bargaining and decisional bargaining, as well as how the process of decertification works. The Department Heads had the opportunity to ask questions specific to their areas and found the session to be productive.

Solid Waste – Ms. Arrighi informed the Board that an internal group has been meeting to discuss proposed changes to the Town's solid waste program and possible curbside pickup program. At this point, she said, the choice on vendors has been narrowed down to ABC Disposal as the most advantageous bidder for a curbside program in Plymouth. Although the Town is not yet prepared to award a bid, Ms. Arrighi indicated, the DPW will make a formal presentation to the Board of Selectmen in the next few weeks. Any type of agreement with ABC Disposal, she said, will be contingent upon Town Meeting approval in the Spring of an appropriate solid waste budget.

Urban Land Institute – Ms. Arrighi noted that she, Chairman Muratore, Lee Hartmann (Planning Director), Larry Rosenblum (former Planning Board member), Leighton Price (chairman of the Plymouth Growth & Development Corporation), and Lieza Dagher (Plymouth Center Steering Committee) recently met with two representatives from the Urban Land Institute’s Technical Assistance Panel to provide them with a tour of the 1820 Courthouse and immediate surrounding areas. The tour, she said, was conducted in preparation for the Urban Land Institute’s (“ULI”) panel session, scheduled for September, when the Technical Assistance Panel will meet with various Courthouse stakeholders to discuss the Courthouse’s potential future.

BOARD LIAISON / DESIGNEE UPDATES

Distinguished Visitors Committee – Selectman Harnais reported that the Distinguished Visitors Committee will meet on July 19, 2012 to finalize the itinerary for the forthcoming official visit from Plymouth’s sister city of Shichigahama, Japan. The delegation from Shichigahama, he said, is scheduled to arrive on August 2, 2012 and will consist of six adults and seven schoolchildren. Selectman Harnais thanked those members of the community—businesses and individuals, alike—who have donated goods, services, and time to provide the delegation with a proper welcome. The August 7, 2012 Selectmen’s meeting, he said, will be dedicated to the delegation, during which Shichigahama’s Vice Mayor will make a presentation on the city’s efforts to rebuild following the earthquake and tsunami events of March 2012.

PUBLIC COMMENT

Chairman Muratore opened the meeting to public comment. No citizens came forth to speak.

PLYMOUTH LONG BEACH PLANNING UPDATE

David Gould, DPW Environmental Manager, provided the Board with the following overview of planning and acquisition initiatives that the Town has undertaken on Long Beach.

Mr. Gould explained that, while the vast majority of the beach is publicly held, there are numerous private properties scattered throughout the length of the beach. The presence of these interspersed, private parcels adds increased complexity to beach management activities. Over the last 10 to 15 years, several properties on Long Beach (Goldenrod, Barnes, Pelleteri, Griffith, Massey, etc.) have changed hands, but the Town did not acquire those parcels.

Mr. Gould discussed, in further detail, the numerous challenges that privately-owned properties pose upon the Town’s Beach Management Plan (“BMP”), affecting access, parking, and travel corridor restrictions. There have been a number of changes to property use on Long Beach in recent years, including the adjustment of lot lines (that were either

surveyed or recorded incorrectly, years ago) and the elimination of private parking areas that strayed onto Town property. In those cases where lot lines needed adjustment, Mr. Gould explained, the Town worked with property owners to reconfigure the lots in a way that would retain the most public rights to the beach.

Mr. Gould referenced the recent acquisition of the Laughlin property on Long Beach, whereby the Town was able to enact a land-swap with the Tassinari family (owners of a nearby unbuildable lot) that provided for extended public ownership of the outer beach. This acquisition, he said, was consistent with the Board's recent strategy to increase public access to both the harbor and ocean side of the beach.

Mr. Gould displayed maps of the beach, illustrating the location of the property at 318 Ryder Way that the Town leases to John Scagliarini. Near the property leased to Mr. Scagliarini, he noted, is a large tidal flat area that could be ideal for future public shellfishing activity. Based on the layout of the structure on the property, he said, the Town may be able to create a maximum of ten new parking spaces. Though ten (or less) parking spaces may seem insignificant, he explained, the Town has always fought very hard to expand and maintain its parking areas on the beach for the use of its citizens. Based on the directive of the Board, Mr. Gould indicated, it is the responsibility of staff to investigate any opportunity to expand access to the beach and improve its Beach Management Plan.

Vice Chairman Mahoney offered his observation that the challenge of managing Long Beach extends beyond the protection of endangered species. The Board, he said, specifically gave Town staff the directive to bring forth any opportunity to acquire property on the beach for public use.

Chairman Muratore opened the presentation to public comment.

Jamie Aimone asked Mr. Gould if the Town is focused only on expanding parking access to Long Beach. In his opinion, Mr. Aimone said, the Town will never be able to meet the public demand for parking at the beach.

Mr. Gould explained that there is more to property acquisition on the beach than parking, alone. For example, he said, it is the Town's hope that the Laughlin acquisition will produce the ability to create an additional crossover access point or boating access area. The Town of Duxbury, he reported, has three crossovers that can be used interchangeably when plover nests create an impediment to access. In addition, Mr. Gould said that his division is working with the Division of Marine Fisheries to reopen the shellfish beds in the harbor, which are situated near 318 Ryder Way. Some beach initiatives may seem small, he said, but they may collectively have great impact in the future. Mr. Gould noted his belief that, while a handful of parking spaces may not seem significant to some, every parking space on the beach is valuable to the family that can utilize it on a beautiful summer day.

Paul Withington of the Conservation Commission expressed great respect for Mr. Gould but offered his concern about allowing vehicles to park on the beach, noting his belief that

automobiles should not be allowed on the outer beach. The beauty of the beach, he said, is in its remoteness; if it becomes a parking lot, the beauty may be lost.

Bill Shaw of Associated Engineers argued that Mr. Gould's proposal to allow ten parking spaces on the footprint of Mr. Scagliarini's home is not legally correct. Mr. Shaw cited zoning bylaw to argue that relief from the Zoning Board of Appeals would be required if such a proposal were to go forth.

Mr. Gould cautioned Mr. Shaw from making the assumption that beach parking is subject to the same regulations used for downtown, paved parking. As with many other municipal beaches, he said, there are no measured, painted parking stalls—parking is simply allowed in designated areas, where available.

Attorney Larry Winokur spoke to the Board, at length, on behalf of his client, John Scagliarini. Citing wetland regulations and zoning law, Attorney Winokur sought to invalidate Mr. Gould's proposal to utilize the lot leased by Mr. Scagliarini for additional beach parking and/or shellfish access. He questioned the agenda driving the Board to consider terminating the lease on the lot, thereby evicting Mr. Scagliarini from his year-round home for what appears to be only a handful of parking spaces. Attorney Winokur touted Mr. Scagliarini as a good citizen who has often advocated for the protection of the beach. He questioned why the Town of Plymouth seems to have such a strict Beach Management Plan and asked why the Town has not used its other nearby parcels to create more parking, instead of forcing Mr. Scagliarini—who owns the structure situated upon the property—to relocate elsewhere. It is unlikely, Attorney Winokur claimed, that the pier at 318 Ryder Way could ever be utilized for public boat access, much like the (alleged) improbability of a potential future crossover through protected dunes. Any consideration of changing Mr. Scagliarini's lease, he argued, must be responsible and practical, and the loss of revenue from the lease does not appear to meet the value of only a handful of parking spaces.

Mr. Gould contended that a number of Attorney Winokur's arguments and claims were inaccurate. He addressed Attorney Winokur's comments about parking regulations, travel corridor width, shellfish access, the 'splash apron' of stones protecting the beach, and habitat areas. The Town, Mr. Gould explained, cannot establish parking on undisturbed areas of the beach, but areas that have been disturbed—such as the footprint of the home at 318 Ryder Way—can be utilized for parking. Mr. Gould took issue with a suggestion made by Attorney Winokur that the Town has conducted activity at the beach without proper permits, noting the dedication and integrity of staff and the intense scrutiny upon the Town's Beach Management Plan. It is unfair and illogical for Attorney Winokur to compare Plymouth's Beach Management Plan to that of other beaches, he said, based on the varying characteristics and regulations pertaining to each beach.

Chairman Muratore brought the discussion back to the Board. He acknowledged that he since realized he was incorrect during a previous meeting when he advised the Board that it could not reconsider a previously-taken vote on this matter unless a member who voted in the previous majority made the motion to reconsider (consistent with *Roberts' Rules of Order*).

If the Board wishes to consider offering a ten year lease extension to Mr. Scagliarini, Chairman Muratore said, it should consider doing so in executive session.

Selectman Harnais made a motion to revisit the lease for property at 318 Ryder Way in executive session. Selectman Brewster inquired if Attorney Winokur and Mr. Scagliarini would be invited to participate in the executive session. Ms. Arrighi advised the Board to discuss its position in executive session and subsequently direct her to negotiate with the lessee, outside of executive session.

Selectman Harnais reiterated his motion to revisit the lease for property at 318 Ryder Way in executive session. Selectman Tavares offered a more specific motion to discuss the matter in executive session on July 31, 2012. Vice Chairman Mahoney seconded Selectman Tavares' motion, and the Board voted 5-0-0 in favor.

PUBLIC HEARING: ALTERATION OF PREMISES (LIQUOR LICENSE)

RIO'S STEAKHOUSE, LLC D/B/A RIO'S STEAKHOUSE, 318 COURT STREET

Chairman Muratore opened a public hearing to consider the application for an Alteration of Premises from Rio's Steakhouse, LLC d/b/a Rio's Steakhouse, holder of an Annual Wine & Malt Restaurant Liquor License at 318 Court Street. 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.

Cesar Pungirum, attorney for Rio's Steakhouse, LLC, explained that his client is seeking permission to add beer and wine service to the outdoor patio at the North Plymouth restaurant establishment. Attorney Pungirum noted that the existing patio area, encompassing four to five tables, is bordered by a fence.

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

On a motion by Selectman Harnais, seconded by Vice Chairman Mahoney, the Board voted to approve an Alteration of Premises for Rio's Steakhouse, LLC d/b/a Rio's Steakhouse, holder of an Annual Wine & Malt Restaurant Liquor License at 318 Court Street, as requested in the application for alteration. Voted 5-0-0, approved.

LICENSES

VEHICLE FOR HIRE OPERATOR LICENSE (NEW)

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to grant a Vehicle for Hire Operator License to each of the following applicants, listed below. Voted 5-0-0, approved.

❖ For **Mayflower Taxi**:

- Thomas Kane (15 Florida Avenue, Plymouth)
- Christopher Graham (20 Spinnaker Drive, Plymouth)

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

PEDI-CAB OPERATOR LICENSE (NEW)

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to grant a Pedi-Cab Operator License to each of the following applicants, listed below. Voted 5-0-0, approved.

❖ For **Plymouth Pedicab**:

- Elissa May (37 Pine Street, Middleboro)
- Bradford Randall (39 Winter Street, Kingston)

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

ONE DAY WINE & MALT LIQUOR LICENSE*

On a motion by Selectman Harnais, seconded by Selectman Brewster, the Board voted to approve a One Day Wine & Malt Liquor License for each of the following applicants, as detailed below. Voted 5-0-0, approved.

- ❖ **Cage Titans Fighting Championship** (34 Mattakeesett, Pembroke) requested a One Day Wine & Malt Liquor License for a mixed martial arts event to be held at Memorial Hall from 6.00 p.m. to 12:00 a.m. on July 27, 2012.
- ❖ **JJR Productions / Jim Roche** (PO Box 10, New Boston, New Hampshire) requested a One Day Wine & Malt Liquor License for a comedy show to be held at Memorial Hall from 7.00 p.m. to 10:30 a.m. on July 28, 2012.
- ❖ **Therese C. Kole** (93 Norris Road, Sagamore Beach) requested a One Day Wine & Malt Liquor License for a wedding and reception to be held at the Plymouth Center for the Arts (11 North Street) from 6:00 p.m. to 12:00 a.m. on the evening of July 21, 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 – The Board approved the meeting minutes of the March 6, 2012 Selectmen’s meeting.

Consent & Agreement of Landlord for Reliable Fish – The Board approved a *Consent and Agreement of Landlord* for Reliable Fish Co., Inc., pertaining to leased property at 16 Town Wharf.

Lease Agreement for 318 Ryder Way – The Board tabled its decision on the *Lease Agreement* between the Town of Plymouth (as Lessor) and John Scagliarini (as Lessee) pertaining to Town-owned property at 318 Ryder Way (Plymouth Long Beach). Thus far, the Selectmen have proposed a lease extension to Mr. Scagliarini for five years, starting May 1, 2012 and ending April 30, 2017.

Donation Agreement for Property off Bloody Pond Road – The Board approved and executed a Donation Agreement between the Town of Plymouth (acting by and through its Conservation Commission) and Dorothy H. Davis and Seth Harvey pertaining to a gift of 33+/- acres of land, located between Bloody Pond and Route 3, which Ms. Davis and Mr. Harvey intend to donate to the Town.

ENERGY UPDATE

Patrick O’Brien, Special Assistant to the Town Manager, provided the Board with an update on the Town’s efforts to increase energy efficiency and reduce energy consumption.

In 2007, Mr. O’Brien explained, the Selectmen adopted the “2020 Energy Plan” proposed by the Plymouth Energy Committee to attain all municipal power from renewable sources by the year 2020. The following year, the Town appointed an Energy Officer and adopted an Energy Use Policy, leading to the receipt of the 2009 Municipal Leading by Example Award from the Commonwealth. Through the efforts of the Town’s Energy Committee and Employee Green Team—and the addition of a Fuel Efficiency Policy in 2011—the Town’s energy usage declined steadily from over 19 million kilowatt hours (kWH) to a little over 16 million kWH in a matter of only three years.

Mr. O’Brien displayed charts outlining the savings achieved through various behavioral and infrastructural modifications at the Town Hall, Police Headquarters, Fire Headquarters, and Public Library. The Library, he said, was perhaps the biggest success story, where a complete energy retrofit in June 2009 produced a 39% reduction in electricity usage and a 52% reduction in gas consumption.

In addition to energy usage within the Town’s facilities, Mr. O’Brien reported, the Town has made strides in reducing fuel consumption within its vehicle fleet. With the 2009 purchase of two fuel-efficient Ford Focuses to replace two Ford Crown Victoria vehicles, the Town implemented a shared vehicle policy for interdepartmental use. Seeing the success of the shared vehicle program, Mr. O’Brien said, the Consolidation Committee recommended the

adoption of the Fuel Efficiency Policy (2011) and the purchase of additional Ford Focus vehicles.

Mr. O'Brien discussed a number of forthcoming projects and future goals related to municipal energy use, including the pursuit of energy aggregation/bundling, updated wind/solar bylaws, Green Community status, and a public Energy Expo slated for September 2012.

Mr. O'Brien fielded some brief questions and comments from the Board relative to the Town's policy to purchase right-size vehicles for each department. In response to an inquiry from Chairman Muratore, Ms. Arrighi explained that Mr. O'Brien's responsibilities as Energy Officer will be transferred to another staff member (following his transfer to Facilities/Event Manager at Memorial Hall), so that momentum on the Town's energy initiatives is not lost.

COALITION OF NUCLEAR COMMUNITIES

Selectman Brewster provided the Board with a presentation on her effort to form a Coalition of Nuclear Communities.

Within the United States, Selectman Brewster reported, there are 104 nuclear reactors operating at 64 sites in 31 states (35 of which are boiling water reactors like Pilgrim Nuclear Power Station and those at the Fukushima Dai-Ichi Plant in Japan). Based on population statistics, she indicated, nearly 40% of Americans live within the 50-mile emergency zone around these facilities—equating to more than 156 million people (of which 4.8 million live within Pilgrim's 50-mile zone).

Selectman Brewster reported that, in 1982, the Federal Nuclear Waste Policy Act was enacted to facilitate the removal of onsite nuclear waste from power plants. As part of the Act, the Nuclear Waste Fund was created to establish a federally-funded/operated radioactive waste repository by January of 1998. The Nuclear Waste Fund collects \$750 million annually through energy consumer fees, yet—30 years and \$30 billion later—no storage site exists, and plans for the Yucca Mountain repository were terminated in 2009. Legally, money from the Nuclear Waste Fund cannot be used for onsite storage, Selectman Brewster said, thus forcing nuclear host communities to become de facto radioactive waste dumps.

Selectman Brewster indicated that Pilgrim has approximately 3,000 spent fuel rods in its pool, despite the fact that the pool was designed to hold only 880 rods. By Entergy's own estimates, she said, Pilgrim's storage pool will reach absolute capacity by 2014, prompting the company to initiate plans for dry-cask storage at the site. Entergy's plans for dry cask storage, however, indicate that the storage pool will always remain at maximum capacity.

For the safety of Plymouth's citizens, Selectman Brewster said, the Board must consider how it can compel the Federal Government to fulfill its obligation to provide a national repository for spent nuclear waste. By forming a coalition of nuclear host communities, she said, host communities can work with legislators to amend the Nuclear Waste Policy Act of 1982 to allow for—and fund—immediate on-site dry cask storage.

Selectman Brewster discussed the costs and challenges associated with the task of advocating for such change. Special Assistant Patrick O'Brien then provided a timeline for action to form the Coalition of Nuclear Communities. The hope, he said, is to bring about legislative change within an aggressive 18 to 24 month schedule.

Selectman Brewster pointed out that the goal of the Coalition is to remain focused on safety, as opposed to drifting into pro-nuclear or anti-nuclear positions. Regardless as to how one feels about nuclear power, she said, the reality of the situation is that nuclear waste is currently stored at Pilgrim, and it must be stored safely.

Selectman Brewster displayed and reviewed the website that was created for the Coalition, www.nuclearcommunities.com, where citizens can find a wealth of information related to nuclear host communities, safety reports, and ways by which citizens can help. At the close of her presentation, Selectman Brewster read the letter that the Town has issued to other host communities, inviting them to join with Plymouth.

Each member of the Board commended Selectman Brewster and offered support for the creation of the Coalition.

Chairman Muratore opened the presentation to public comment.

Rich Rothstein, member of the Nuclear Matters Committee ("NMC"), applauded the efforts of Selectman Brewster and the Board to pursue the formation of a coalition. This, he said, was one of the recommendations that the NMC made in its 2006 report to the Selectmen. Mr. Rothstein offered his opinion that Sheila Slocum-Hollis (of the Town's special legal counsel, Duane Morris) will be an excellent resource to the Coalition in determining the difference between "promises broken and actual laws broken." He advised the Board to reach out to the nuclear-focused volunteer committees in other communities—not just the elected municipal leaders.

Keven Joyce offered support for the formation of the Coalition, noting his belief that it may be helpful if the Coalition were to provide quarterly updates on its activities.

At the close of discussion, Selectman Brewster reiterated that the goal of the Coalition is to remain focused on safety, as opposed to drifting into pro-nuclear or anti-nuclear positions.

OLD BUSINESS / LETTERS / NEW BUSINESS

Newfield Street – Vice Chairman Mahoney complemented the work done by the Department of Public Works to improve Newfield Street.

Pavement Markings – Selectman Tavares shared his observation that several of the Town's crosswalks and pavement marking appear to be faded, and, thus, he inquired if the DPW had

established a summer schedule for painting. Ms. Arrighi noted that she would ask the DPW Director for an update.

Cable Relicensing – Chairman Muratore referenced correspondence from the Massachusetts Department of Cable & Telecommunications, in which the Town was notified that the renewal process for Comcast’s cable license may begin as early as 36 months prior to the license expiration date of June 29, 2016. Ms. Arrighi indicated that the Town’s Cable Advisory Committee will work on the license renewal, with assistance from Town Counsel.

Tour Parking on Waterfront – Selectman Tavares asked the Town Manager to look into a complaint the Board received from the owner of Bettyann’s Tours regarding tour parking on the waterfront.

ADJOURNMENT OF MEETING

On a motion by Selectman Harnais, seconded by Vice Chairman Mahoney, the Board voted to adjourn its meeting at approximately 9:20 p.m. Voted 5-0-0, approved.

Recorded by Tiffany Park, Clerk to the Board of Selectmen

A copy of the July 17, 2012 meeting packet is on file and available for public review in the Board of Selectmen’s office.