



TOWN OF WAYLAND

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AFR
12/14/09

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BOARD OF SELECTMEN
STEVEN J. CORREIA
THOMAS J. FAY
JOSEPH F. NOLAN
SUSAN W. POPE
MICHAEL L. TICHNOR

Board of Selectmen Meeting Minutes November 30, 2009

Attendance: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor
Also Present: Town Administrator F. Turkington, Secretary M. DiNapoli

Chair J. Nolan called the meeting of the Board of Selectmen to order at 7:02 p.m. in the Selectmen's Meeting Room and reviewed the agenda for the viewing audience.

A2. Public Comment Alan Reiss, 463 Old Connecticut Path, asked that the town reconstitute the Town Meeting Study Committee. He said that public debate was sacrificed because of the length of time it took to vote, and suggested the town consider electronic voting. George Harris, 8 Holiday Road, agreed with A. Reiss, and added that the Town Moderator was unable to hear the participants, and that the WayCAM broadcast was of poor quality. Linda Segal, 9 Aqueduct Road, announced a Raytheon PIP meeting on Wednesday, December 2. She asked for continued public hearings on the High School project, and she asked the Board to respect its policy on the use of electronic communication devices. Anette Lewis, 33 Claypit Hill Road, said the Board deliberately put false and inaccurate information in the Special Town Meeting warrant. She also said the Board continues to violate open meeting laws, and sited the meeting on November 24 with U.S. Representative Niki Tsongas. John Schuler, 126 Old Connecticut Path, said the Town Center project will provide only \$500,000 in additional tax revenue if it is built as planned, and is not worth the work involved. He also expressed concern that some boards and committees were not invited to the meeting with Representative Tsongas. M. Tichnor said the comments by the public were not accurate; he said some board and committee members were invited to the meeting with Representative Tsongas as a courtesy, and that the meeting was not behind closed doors. It was held in the large hearing room with the door open. He also noted that serious accusations were made and should be discussed at a future meeting. J. Nolan said the Board works diligently to conform to all the open meeting laws.

A3. Liquor License Hearings J. Nolan opened the hearing at 7:35 p.m. to consider the application filed by P & P Liquors, Inc., dba Wayland Wine and Spirits, for a change of location of operation from 131 Main Street to 302 East Commonwealth Road, in conjunction with the transfer of that liquor license currently held by Grape Ideas, Inc., to sell alcoholic beverages on premise at 302 East Commonwealth Road. Also present was Arthur Pearlman, attorney for Eric Pearlman of P & P Liquors, and James Long, attorney for Grape Ideas Inc. F. Turkington advised the Board that Police Chief Robert Irving had reviewed the application and had no concerns. Nancy Shridhar, 17Snakebrook Road, said she had concerns about the traffic at the intersection, the daycare center across the street, and the additional traffic on weekends and evenings. A. Pearlman said the location had previously been occupied by a drugstore, which generated more traffic. He also noted that no one is allowed to purchase liquor without proper identification. T. Fay asked if this transaction included the sale of a liquor license; A. Pearlman said it is the sale of a business. The Board questioned the experience of the manager, the outstanding debt to the State Lottery, the proposed staff experience, and the applicant's business plan. The Board also questioned

whether it would be in the best interest of the town to let the current license expire on December 31, 2009, and open the license to other applicants. J. Long said this transaction began in September 2009; he said that P & P Liquors was not the first to try to acquire the business, but after consideration, this was the transaction that Grape Ideas Inc. supported and is now presenting to the Board for consideration. J. Long said the application is also supported by the bank and the secured lender. He noted that the timing of the transaction is coincidental with the renewal; it was his understanding that the process tonight would include the transfer and the renewal. F. Turkington said the Board did not intend to renew the license of Grape Ideas after its expiration on December 31, 2009. M. Tichnor moved, seconded by T. Fay, to close the hearing at 8:07 p.m. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0. M. Tichnor expressed concern about the lack of experience of the manager. S. Pope said the proposed manager has taken the TIPS course and has sufficient business experience. J. Nolan said he found the business experience of the manager to be satisfactory. T. Fay asked for more time to get town counsel opinion on the propriety of selling a license and the possible criteria for denying the license. M. Tichnor said he has concerns about the experience of manager, the proper distribution of liquor licenses throughout town, the hours of operation, and traffic. J. Nolan said he did not believe the traffic would be substantially different. S. Correia said he believed the new location is better than the current location of Grape Ideas. S. Pope noted this was an opportunity to fill a vacant storefront. The Board discussed the need to gather more information. A. Pearlman agreed to give the Board one week to December 7, 2009, to make its decision. T. Fay asked J. Long for a written confirmation of the payment agreement between the lottery and Grape Ideas Inc.

J. Nolan opened the hearing at 8:20 p.m. on the application filed by Viva Mexican Grill and Tequileria Inc. for a new alcoholic beverage license to serve alcohol on premise at 15 East Plain Street. Also present were Attorney Stephen Buchbinder and owner Carlos M. Mendez. C. Mendez said he also owns Jose's Mexican Restaurant in Cambridge and has won the Best of Boston award. Linda Segal, 9 Aqueduct Road, and Associate Member of the Zoning Board of Appeals, said the applicant accurately represented his presentation to the Zoning Board. T. Fay moved, seconded by M. Tichnor, to close the hearing at 8:30 p.m. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0. M. Tichnor moved, seconded by S. Pope, that the Board of Selectmen approve the application filed by Viva Mexican Grill and Tequileria Inc. for a new alcoholic beverage license to serve alcohol on premise at 15 East Plain Street contingent upon ABCC review and approval. YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.

A4. Consent Calendar M. Tichnor moved, seconded by S. Pope, to approve the consent calendar (warrants TA113009 and SA113009). YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.

A5. Correspondence The Board reviewed the correspondence.

A6. Report of the Town Administrator F. Turkington reviewed upcoming agendas and meeting schedules. He presented a draft timeline for the 2010 Annual Town Meeting, and he said the report on the town's technology needs is expected to be ready for inclusion in the next capital plan. He noted the passing of former Wayland Police Officer Schuyler M. "Ted" Meyer, who passed away on November 25, 2009, and the Board observed a moment of silence in his memory.

A7. Selectmen's Reports and Concerns M. Tichnor thanked Town Clerk Lois Toombs for her work at the Town election and Special Town Meeting. He said the Board has never violated the open meeting

law, and never intentionally put false information in the Special Town Meeting town warrant; he said that such accusations are shameful. S. Pope agreed; she noted the hard work and dedication of the Finance Committee and said any errors are not deliberate.

A8. Review Draft Performance Evaluation of Town Administrator This item was postponed until next week.

A9. Executive Session At 8:51 p.m., the Board of Selectmen, by roll call vote, unanimously (5-0) approved a motion brought by T. Fay and seconded by S. Pope, to go into executive session pursuant to Massachusetts General Laws Chapter 39, Section 23B(3) to discuss strategies with respect to pending litigation regarding the Public Safety Building and Historic District Commission because a public discussion of these matters will have a detrimental effect on the litigating position of the Town. The Board will return to open session in approximately five minutes for the sole purpose of adjourning.

The Board returned to open session at 9:00 p.m.

T. Fay moved, seconded by S. Correia, to adjourn the meeting of the Board of Selectmen at 9:00 p.m.
YEA: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor. NAY: none. ABSTAIN: none. Adopted 5-0.



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CONFIDENTIAL

Board of Selectmen Executive Session Minutes November 30, 2009

Attendance: S. Correia, T. Fay, J. Nolan, S. Pope, M. Tichnor
Also Present: Town Administrator F. Turkington, Secretary M. DiNapoli

Purpose: The session was called at 8:51 p.m. in the Selectmen's Meeting Room, Wayland Town Building, by unanimous roll call vote (5-0) in open session as permitted by M.G.L. Chapter 39, Section 23B, paragraph three, to discuss strategies with respect to pending litigation regarding the Public Safety Building and the Historic District Commission because a public discussion of this matter will have a detrimental effect on the litigating position of the Town.

Discussion: F. Turkington advised the Board that there is a potential for settlement with Finegold Alexander + Associates in regard to the Public Safety Building envelope deficiencies in the amount of \$550,000, contingent upon a setoff of less than \$10,000. It was the sense of the Board to accept the settlement offer as stated.

In regard to the Historic District Commission lawsuit, F. Turkington told the Board that a similar case involving the Town of Reheboth before the Land Court had ruled that Massachusetts General Laws clearly state that the town is the appointing authority for legal counsel. He said the Historic District Commission case now moves to Appellate Court, which will have thirty days to consider the appeal. He said Special Town Counsel Pat Kantor will seek to file an amicus brief on behalf of the Massachusetts Municipal Association.

Adjourn: By motion of S. Pope, seconded by T. Fay, the Board, by roll call vote, unanimously voted to exit executive session at 9:00 p.m.