

Members present: Kevin McCormick Christopher Rucho
Valmore H. Pruneau Steven Quist
Allen R. Phillips

Mr. McCormick convened the meeting at 7:00 p.m.

Anthony Picarello – Request For Change of D/B/A for PJ’s New England Bar & Grill, 185 West Boylston Street to Aglios Ristorante & Bar

Mr. McCormick recused himself. Mr. Picarello, owner of PJ’s New England Bar & Grill joined the Board. He plans to change his restaurant to an authentic Italian family-style restaurant with a new chief and new menu. His goal is to make the change by November, and he intends to make some interior changes, no structural changes and no change in hours of operation. Aglios is Italian for garlic.

Mr. Rucho asked if the business is in good standing with the town. Mr. Gaumond is still waiting for a response from the Board of Health and the Fire Chief. He is in good standing with the other departments we typically check with, including Treasurer/Collector, Building Inspector and Police Chief.

Motion Mr. Phillips to approve the Request for Change of d/b/a for PJ’s New England Bar & Grill, 185 West Boylston Street to Aglios Ristorante & Bar contingent upon the establishment being in compliance with the Board of Health and Fire Department, seconded by Mr. Rucho, all in favor. Mr. McCormick returned.

Patrick Inderwish, Chairman, Parks Commission Pine Grove Storm Cleanup

Mr. Inderwish joined the Board. He is requesting approval of storm clean up money to finish the cleanup of the Pine Grove including excavating and removal of all stumps, collection and removal of all wood debris and grading and overseeding of the 5.5 acre site. It should complete the major portion of the clean up. They do not plan on doing any major excavation. According to Mr. Westerling there was no intention to bring in additional materials it is just to regrade the area with existing soils and it will be made smooth. We want to avoid any addition erosion issues.

The DPW put the project out to bid, ten people provided bids ranging from \$21,000 to \$144,250. Mr. Inderwish noted that the majority of the prices were in the \$20,000 to \$40,000 range. There are some documents pending from the low bidder and references have been checked. Their 50% payment bond will take two weeks. The Parks Commission will meet on the 28th and vote to go ahead with the work.

Mr. Phillips thinks the work needs to be done and the \$21,000 figure seems like a reasonable price. Mr. Pruneau asked if this is the reason why the Pine Grove is still closed. Mr. Inderwish replied absolutely, until it is graded and the area is safe and inspected it will remain closed.

Mr. Quist asked if there is going to be any problem with truck traffic and direction. Mr. Inderwish explained that when the original work was done to clean the trees there were not a lot of problems with the traffic. The contractor will be made aware of the parking at the school lot and they will be sensitive to the school and the students. Mr. Rucho asked if the signs entering the football field still say the field is closed. Mr. Westerling indicated that those signs can now be removed. They were left up because we didn’t want people to use the field when it was still growing.

Motion Mr. Phillips to allow the expenditure of \$21,380.00 to Colonial Construction from the funds appropriated from the Stabilization Fund at town meeting for ice storm debris clean to cover the costs for the cleanup of the Pine Grove to include excavating and removal of all stumps, collection and removal of all wood debris and grading and overseeding of the 5.5 acre site and pending receipt of all

the necessary bonds and insurances, seconded by Mr. Pruneau. Mr. Rucho asked if this is 75% reimbursable. Mr. Gaumond explained that is not as it is not in the right-of-way and the stumping is not covered by FEMA. FEMA did not cover any public lands. Mr. Rucho asked about the vendor who submitted the first bid of \$1,000 for removal of the trees which fell in the Pine Grove, and why they didn't do this work. Mr. Westerling explained that the first quote was just removal of the trees and this is stage two. Vote on the motion – all in favor.

OLD BUSINESS

1. Consider adding language to all Common Victualler Licenses issued by the Board of Selectmen to prohibit BYOB into establishments which do not have an approved Alcoholic Beverage Licenses

Mr. McCormick recused himself. At the last meeting when this was discussed Mr. Gaumond was asked to survey local communities on whether they allow BYOB in their community. Mrs. Lucier surveyed surrounding communities and the results are in the Board's agenda package. Mr. Pruneau thanked Mr. Gaumond and Mrs. Lucier for the information. Mr. Pruneau explained that he was looking at liability wise and what the restaurants have to do.

Mr. Pruneau would also look for some type of registration as it would let us know who is serving and who is not. If the Police Department gets a call for a certain establishment we would know there could be liquor involved. Mr. Phillips suggested TIP training. Mr. Gaumond explained that in Cambridge if you get a common victuallar license there is language on that license that says patrons are not allowed to bring alcoholic beverages into the licensed establishment. The Board could do nothing or they could establish a regulation via the common victuallar license to prohibit it. He does not know that you could require the wait staff to be TIP certified because they are not serving or pouring the alcohol. Mr. Phillips disagrees as the TIP training covers more than those things as wait staff person should be able to tell if somebody is intoxicated and there are laws concerning liability. Mr. Pruneau questioned who would be responsible at that point, is it the establishment or is it the person themselves. Mr. Gaumond believes it would be the person. If they notify us that they plan to do BYOB we would notify the Police Department. Mr. Pruneau thinks it needs more research into the legal end of it and who is ultimately responsible.

Mr. Quist thinks notification to the town is the minimum that they should do. Mr. Phillips questions whether the town has any liability in the event that an establishment which chooses to allow BYOB has someone injured. Mr. Gaumond would prefer to seek information from the ABCC rather than Town Counsel. Mr. Quist is not looking to impact the businesses and neither is Mr. Rucho. Mr. McCormick does not believe the town would have any liability. If somebody left his restaurant and they had an accident there is no liability on the town. Back in 1991 he opened Beaman Tavern and he had BYOB. He came to the town and said what do I have to do and they said nothing. Mrs. Lucier contacted that ABCC at that time and they said it had nothing to do with the town. Mr. Pruneau thinks it would be a good idea for the town to be able to track this. Mr. McCormick noted that when he did BYOB the Police Chief really didn't want him to do it but he did anyway. Mr. Pruneau would like to seek input from the Police Chief. Mr. Phillips asked what if you have an establishment that has an incident then would the town would be responsible. Would we at any time be responsible? Mr. Gaumond then we would have a mechanism to deal with them through the Police Department. Mr. Phillips is concerned with tracking illegal activity at the BYOB. If we are not addressing it when it comes up are we responsible?

2. Re-Consider Local Option Excises on meal and room occupancy taxes

Mr. Quist requested this item be brought back again. At the last meeting Mr. Pruneau requested a survey of local communities, which is included in the Board's agenda package. Mr. Gaumond

explained that one of the dynamics about this is that cities are able to adopt this by vote of the city council where towns need town meeting approval. The decision of the Board of Selectmen needs to make is to determine whether to put this on the warrant for town meeting. In reviewing the list, Mr. Phillips noted that the majority of the towns took no action similar to this Board.

Mr. Gaumond calculated the increased cost on a \$100 meal to be an additional 75¢. If we adopt this in October, it goes into effect in January and from January through June we would be an additional \$87,000. With the room tax we would need to select our percentage. Currently West Boylston is at 3% and we could go to 6%. Boston is at 6-1/2%. If we go to the maximum we would see an additional \$18,815.

Over an entire year it would be an increase of \$169,000 for hotel taxes and \$19,000 for meals taxes. Should the Board wish to include the hotel tax on the warrant they decide the percentage up to 6%. Mr. Phillips noted that this would be to rescind the Board's previous vote, which was based on people having enough fees and taxes. He is not in favor of this at this time.

Motion Mr. Phillips not to include this on the October town meeting warrant. No second on the motion.

Motion Mr. Quist to include both on the warrant, seconded by Mr. Rucho. Mr. Rucho does not think the hotel tax would impact town residents and the meals tax increase is only .75%. Mr. Quist asked Mr. McCormick how many of his patrons come from West Boylston. Mr. McCormick estimates that number to be 25%. Mr. Rucho noted that one of the things the Board wanted to know is what the surrounding communities planned to do and the concern was people would go out of town. Vote on the motion – Messrs. Rucho and Quist yes; Messrs. Phillips and Pruneau no.

3. Discussion of potential DCR land swap

Mr. Gaumond explained that we still have the outstanding issue of the land swap on the table and it requires town meeting approval. The proposal is to swap the rail trail and River Road for property on Prescott Street for a potential ball field. He asked the Board if they are prepared to go forward with this for the October town meeting. Mr. Phillips pointed out the fact that the property would be for a potential town use. Mr. Gaumond reminded the Board that there were discussions lead by Senator Chandler that we needed to resolve the ball field issue. If we decide to move forward Mr. Phillips wants to have the property tested. Mr. McCormick recommends asking for a 21E on the property. Mr. Gaumond was asked to inquire with the DCR if any similar tests were done and to get copies of those results. He didn't hear anything back from DCR and they did have any of those tests done at that time. Mr. McCormick believes the seller would have to do the testing and the number one issue will be is the land safe and how do we counter the opinions expressed by the Open Space and Sustainability Committees unless we have those results. He wants DCR to provide us those results. Mr. Rucho believes the bottom line is we do not want River Road as it is a winter season safety issue. The land swap does require town meeting vote. Mr. Gaumond suggested putting this off until the May town meeting and conducting public meetings and hearings and request a 21E and see where we end up. Mr. Phillips questioned how long sampling would take. Mr. Gaumond asked what will happen if DCR will not cover the cost of the soil testing. Mr. Phillips recalls DCR saying that they have their own personnel who could perform the testing. Mr. Gaumond stated that some folks might not trust those tests.

Mr. Phillips would accept the state testing the property because they will sign their name to it. Mr. Rucho was under the impression that DCR was going to get an independent test. Mr. McCormick feels if they want the swap bad enough then this is what we will require. He thinks it would be better to be able to stand up at town meeting and have the answers when they ask if the land is safe. Mr. Phillips recommends having DCR test the land first and if they come back and say it is okay then we would have it tested.

Mr. Quist asked about the history behind the land swap. Mr. Gaumond explained that the Board of Selectmen held meetings with DCR officials for a number of years on the Earthday Project. Senator Chandler advocated for the Town of West Boylston and pushed the issue with DCR to find a way to swap land. Mr. Phillips noted that the Town of West Boylston requested flat land. DCR came back with a trade of River Road and the rail trail for a parcel of state-owned property on Prospect Street. Mr. Quist asked if the swap goes through and it ends up becoming a ball field, who will maintain it? Mr. Rucho believes the thought was we will have the land and it is better than River Road as the road has been a headache to maintain and plow. He questioned whether we could go to town meeting and say we want to make the land swap and then ask DCR to test the parcel. Mr. Gaumond does not know if we can do it pending and once the town gives you authority to make the swap we do not have to go forward, but we would not have to back to town meeting and ask them again. We could also ask a non-binding question to town meeting. Mr. McCormick would rather put this off until May to allow ample time for public hearings so that residents can come in and get answers to their questions.

Mr. McCormick stated that dogs will no longer be allowed on the rail trail if this passes and DCR will close River Road as they do not want vehicles driving so close to the water. He suggested providing people with a handout. In order to allow for a thorough presentation, he would rather put this off until the May town meeting. Mr. Pruneau remembers closing River Road during the winter time and questioned whether we should take that step again. Mr. Gaumond plans to have Mr. Westerling and the Transportation Committee attend an October Board of Selectmen's meeting to request the closing of that road during the winter months. We have done an analysis of the road and it will take a lot more money to correct the current condition of the road. The Transportation Committee endorsed Mr. Westerling's suggestion to close River Road. We would be required to notify the Town of Holden. Mr. McCormick recalls there being an issue the last time the road was closed. Mr. Phillips remembers the Board being able to close the road because the icing was a public safety issue. Mr. Rucho questioned why the Board couldn't just close the road as he feels DCR will close it the day they take ownership of it. Mr. Phillips agrees with putting this off until May with the condition that we have the testing completed and it could be by DCR or a third party. Mr. McCormick offered to work with Mr. Gaumond on the approach and Mr. Gaumond will request a 21E from DCR on the property.

NEW BUSINESS

1. Presentation of Articles for October 19, 2009 Semi-Annual Town Meeting

Mr. Gaumond presented the Board with the proposed list, which they will review and vote on at a special meeting of the Board scheduled for next Wednesday night. The articles are in no order and should the Board want to remove any of the articles they need to let him know. Included in the list is an article to re-state the spending authority for a couple of our revolving funds as Mr. Westerling is designated on several of those funds and there is a cap on the limit one individual is allowed to have authority over. Mr. Gaumond is proposing a General Bylaw change to amend the Public Hearing and Notice section to allow for advertising on the web to save advertising costs associated with newspaper notices.

2. Municipal Buildings Committee Discussion (CR)

Mr. Rucho voiced his dismay over the fact that at the conclusion of town meeting it was voted to disband the Municipal Buildings Committee. We still have huge issues with our Public Safety Headquarters and the roof is still leaking over the dispatch area. Mr. Pruneau believes that issue falls under building maintenance. Mr. Rucho expressed concern with the unsafe lockup and not having any cells in the police department. He feels we stopped talking about the big picture of the town buildings

and what do we want to do with those buildings. Mr. Pruneau feels that the committee was trying to develop a system to move the DPW to another location, relocate the police to the DPW building and at this point we are back to where we were before. Mr. McCormick explained that the Municipal Buildings Committee came up with a program for buildings needs to be a sequence. If we are going to spend any amount of money the right way is to begin with getting the DPW moved. He noted that the booking area has been unsafe for ten year.

Mr. Rucho feels that at town meeting our approach was to take care of three town departments and we never said there were other steps to the plan to include the police and fire departments. Mr. McCormick noted that a roof is a capital project. Mr. Rucho pointed out the fact that the DPW will still have its trucks outside in the snow. The sense that Mr. McCormick had from town meeting was that people did not want to spend any money and it was one eighth the amount of money to solve the building needs of those three departments. If we need to fix a roof it should be a debt exclusion.

Mr. Rucho feels that all of the building issues still exist and we are just letting them go. Mr. Phillips agrees with Mr. Rucho that all the building issues are still there and he thinks it needs to be addressed as the Board of Selectmen, not as a Municipal Buildings Committee. Mr. McCormick believes it will take a million dollars to fix the booking area in the Police Department and maybe the proposal for the small addition and alteration to that facility is something we should go back and ask the voters for again.

As the DPW Building and the Fire Department building are owned by the town and we do not owe any money on them, Mr. Quist would like to develop, with the use of volunteers, to make that a showcase. We take pride in that and our community and then we could do the Fire Department building. He would be willing to meet with any residents willing to do something on this project. We need to do some of this privately instead of publicly and we need to think out of the box. He is also up for suggestions on how to revamp the DPW building and what it should be. Mr. Pruneau feels we wanted to vacate the DPW building because of the location.

If it is the desire of the Board of Selectmen to re-establish the Building Committee, maybe with new people, Mr. McCormick would not have a problem. However, he has no desire to be on the committee, and if a new group would like to work on a plan and report back to the Board of Selectmen he is fine with that. He does not intend to serve on another building committee and perhaps we should wait for a few more years to come back with another proposal. Mr. Pruneau noted that the Finance Committee suggested not purchasing a building, but continue renting. Mr. McCormick will support the establishment of the committee.

Mr. Rucho feels the Municipal Buildings Committee went forward with one building and initially the plan was to deal with all the buildings. Mr. McCormick pointed out the fact that the approach taken solved three building issues, Town Hall, DPW, and Council on Aging. Mr. Quist is interested in having anyone in the community who would like to take pride in one of buildings come forward. Mr. Rucho would like to see another committee formed to do something with the buildings that are falling apart and report back to the Board of Selectmen. Mr. Quist offered to serve with Mr. Rucho. It was suggested that a smaller committee would be best and Mr. Rucho does not want to bring the same thing back to town meeting as he wants to address our other huge building issues.

Mr. Phillips feels if there are any other people from the current committee who are interested in serving again they would need to submit their name to be reappointed.

Motion Mr. Rucho to request the Town Administrator to re-establish a Municipal Buildings Committee and bring a proposal back to the Board for review at their next meeting, seconded by Mr. Phillips, all in favor.

Mr. Pruneau feels the roof at the public safety complex needs to be addressed now. Mr. McCormick suggested bringing forward a debt exclusion in May for the roof issue.

3. Acknowledgement of the Town Administrator's Employee Recognition Program

In the Municipal Calendar during the month of September, Mr. Gaumond provides the Board with the Town Administrator's Employee Recognition Program, which was adopted a couple of years ago on how we recognized our employees. Employee Service Awards are announced at town meeting, in friendship and fellowship the Town Administrator authorizes a town employee luncheon at a local restaurant during the holiday season, the Town Administrator has established a Commitment to Excellence Award, he holds a volunteer breakfast in April and he is looking into service pins for employees.

Motion Mr. Phillips to endorse the Town Administrator's Employee Recognition Program, seconded by Mr. Rucho, all in favor. Mr. McCormick thanked all the employees

4. Endorsement of Proclamation for UN Day Celebration at the State House in Boston in celebration of the 64th Anniversary of the United Nations

Motion Mr. Phillips to endorse the Proclamation in celebration of the 64th Anniversary of the United Nations, seconded by Mr. Rucho, all in favor.

MEETINGS, INVITATIONS & ANNOUNCEMENTS**1. September 23, 2009, 7:00 p.m. – Board of Selectmen Special Meeting to review the Warrant for the October 19, 2009 Semi-Annual Town Meeting**

Mr. Phillips is unable to attend this meeting.

2. September 26, 2009, 11:00 a.m. – Ribbon cutting & Rededication of the Rail Trail**3. October 5, 2009, 6:30-8:00 – Town Counsel will present Complying with the Open Meeting Law & Public Records Law/Taking & Accepting Board Meeting Minutes/Practical Considerations – recommendation is board members and their record keeping staff both attend as well as Town Clerk or Assist Town Clerk****4. October 19, 2009, 12:00-2:00 – UN Day Celebration at the State House in Boston in celebration of the 64th Anniversary of the United Nations****5. October 28, 2009, 7:00 p.m. – Ice-Storm Wrap-Up & Pre-Disaster Mitigation Meeting****6. Senator Kerry's Office will hold office hours at Town Hall on September 30, 2009 from noon until 1:00 p.m.****FUTURE AGENDA ITEMS**

Mr. McCormick would like to look into installing some sort of signage at the intersection of Route 140 and Route 12 at the triangle as there is no traffic control sign at that location, such as yield or stop, and it is dangerous for those vehicles entering Route 12. Chief Minnich will be asked for a recommendation. Mr. Rucho has spoken to the Police Chief about signing in town and the Chief indicated to him that signage was one of the things his department was looking at in town. Mr. Gaumond also discussed this with his Transportation Committee at their last meeting.

With no further business to come before the Board, motion Mr. Pruneau at 8:40 p.m. to adjourn, seconded by Mr. Phillips, all in favor.

Respectfully submitted,

Nancy E. Lucier

Approved: October 7, 2009

Kevin M. McCormick, Chairman

Valmore Pruneau, Vice Chairman

Allen R. Phillips, Clerk

Christopher A. Rucho, Selectman

Steven Quist, Selectman