

PLYMOUTH BOARD OF SELECTMEN

TUESDAY, FEBRUARY 9, 2016

MAYFLOWER ROOM, TOWN HALL

6:00pm **Executive Session**

The Board of Selectmen will hold an Executive Session pursuant to Massachusetts General Laws, Chapter 30A, Section 21, Paragraph 3; to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigation position of the public body and the chair declares.

Collective Bargaining SEIU
Fire Fighter's Negotiations

7:00PM - **CALL TO ORDER**

Chairman Tavares returned to Open Session and called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Present: Kenneth A. Tavares, Chairman
Anthony F. Provenzano Jr., Vice Chairman
John Mahoney
Sean P. Page
David Malaguti

Melissa Arrighi, Town Manager
Tiffany Park, Administrative Assistant
Lisa Johnson, Administrative Assistant

Chairman Tavares asked for a moment of silence to honor former Chief of Police, Bill Murphy, who recently passed away.

7:05PM - **TOWN MANAGER'S REPORT**

Sewer Update

Melissa Arrighi began her report by apologizing to the residents of Plymouth for the traffic trouble caused by the sewer breaks, especially to those living on and around Long Pond Road, Westerly Road and Braley Road. She went on to say that C. Brito had been wonderful to work with and on top of this project 24/7. She said they are hoping to have the by-pass completed within the next couple of weeks. Once she has her follow-up meeting with C. Brito and the Department of Public Works she will report back to the Board with an update on the progress.

Saltwater Fishing Grant

Melissa informed the Board that Plymouth was awarded a \$6,000 Grant from the Department of Fish and Game's Division of Marine Fisheries for recreational saltwater fishing access. She explained that the grant will be used for a new filet table to be placed at the state boat launch facility so fisherman can clean their catch before going home.

Also a web camera will be installed to allow fisherman to view the harbor conditions before driving to the boat ramp. She stressed how pleased she was to once again, show our strong partnership with such state agencies as the Department of Fish and Game, Energy and Environmental Affairs, and our State Delegation.

FATM

Melissa told the Board that a couple of weeks ago she met with the Police Chief, the Fire Chief, Assistant Town Manager and Dr. Leo Polizoti (Police Consulting Psychologist). She said they spoke about recognizing that policing has changed over the years in this growing community. They also talked about how to manage these changes and how they have been affecting officer's attitudes and consequently their responses and coping strategies. She told them that Town Meeting had supported a study that would review culture in the Police Department that focused on key aspects that can influence officer's mental health including, stress factors, manpower levels, internal culture, and physical training/psychological well-being. She said some questions we should be asking is "what can we do differently" and "what are some trend". She reiterated that the main goal was to keep are police officers healthy. Melissa finished by saying she would keep the Board informed of the progress and if they intended to pursue a study as outlined on the FATM Article.

Before Public Comment, David Malaguti asked to make a couple of comments. He started out by saying he was asked, in general, if the raw sewage was being dumped into the harbor. He wanted to make it clear that it was not true. He went on to say that would be illegal and the Town could be fined. He then went on to say he was also asked if the sewage were being dumped into the infiltration beds, to which Mr. Malaguti also said was not true. He stated that the sewage is being trucked up to the treatment plant. He explained the sewage is taking the same route but rather using pipes, they are using trucks.

Ken Tavares added that we will continue to give daily updates as well as provide phone numbers and contact information for questions.

7:10PM - PUBLIC COMMENT

Don Wilkinson took to the podium to speak on behalf of the Hearings for the four Aquaculture Licenses. He said that he once read in the Old Colony that giving out an Aquaculture License was like handing out money. He went on to say that it was not true. These people will have to work hard for their money and they may only break even for the first 4 to 5 years.

Robert Spencer came to the podium and wanted to commend the Town for how they have handled the sewer break repairs. The only thing that he wanted to note was that the Police duty placement could be a little better and that there needs to be an officer outside the Stop & Shop on Samoset.

7:12PM – LICENSES AND ADMINISTRATIVE NOTES

LICENSES

On a motion by Sean Page and seconded by John Mahoney, the Board approved a Change of Manager for **Linchris Hotel Corp. d/b/a Hotel 1620 at Plymouth Harbor**, 180 Water Street, from Kelly Lajoie to Brian Erik Anderson and a Change of d/b/a from Radisson Hotel Plymouth Harbor to Hotel 1620 at Plymouth Harbor. *Voted 5/0*

On a motion by Anthony Provenzano Jr. and seconded by Sean Page, the Board approved a One Day Wine and Malt License for **Loretta LaRoche Productions**, Erik Christensen, 50 Court Street for February 12, 2016 from 6:00 pm to 10:00 pm for a Comedy Show to be held at Studio G, 50 Shops at 5 Way. *Voted 5/0*

On a motion by Anthony Provenzano Jr. and seconded by Sean Page, the Board approved a One Day Wine and Malt License for **Loretta LaRoche Productions**, Erik Christensen, 50 Court Street, for February 20, 2016 from 6:00 pm to 11:00 pm for a Music Show to be held at Studio G, 50 Shops at 5 Way *Voted 5/0*

On a motion by Sean Page and seconded by John Mahoney, the Board approved a One Day Wine and Malt License for **Pilgrim Hall Museum**, Robin Nutter/Donna Curtain, 75 Court Street, for February 12, 2016 from 5:00 pm to 7:00 pm for an Exhibit Opening Reception. *Voted 5/0*

On a motion by Sean Page and seconded by John Mahoney, the Board approved a One Day Wine and Malt License for **Dillon's Local**, Colin Dillon, 21 South Park Avenue from 12:00 pm to 12:00am for an enclosed tent in front of the restaurant for the following dates: March 17, 18 and 19, 2016. *Voted 5/0*

On a motion by John Mahoney and seconded by David Malaguti, the Board approved an Outdoor Amplified Music Permit for **Dillon's Local**, Colin Dillon, 21 South Park Avenue for March 17, 18 and 19, 2016 from 12:00 pm to 12:00 am for music to be played in an enclosed tent in front of the restaurant. *Voted 5/0*

On a motion by John Mahoney and seconded by Anthony Provenzano Jr., the Board approved an Owner Transfer for **R. Michael Sacchetti d/b/a RMS Auto Sales**, 86 South Street, R. Michael Sacchetti, from Combined Charities Inc (Same owner, just going from a corporation to an individual). Issuance is subject to approval from the Building Department. *Voted 5/0*

On a motion by Sean Page and seconded by Anthony Provenzano Jr., the Board approved a Group 3 – Live Entertainment for **Kogi Bar and Grill**, 8B Court Street, Patricia Cho (they already have Group 1 and 2 – Radio and Dancing). Issuance is subject to approval from the Building and Health Departments. *Voted 5/0*

ADMINISTRATIVE NOTES

On a motion by Anthony Provenzano Jr. and seconded by John Mahoney, the Board approved the termination of an aquaculture license for Matthew Ian Minahan due to lack of substantial use. *Voted 5/0*

On a motion by Anthony Provenzano Jr. and seconded by Sean Page, the Board approved *Exclusive Vending Rights* for America's Hometown Thanksgiving Celebration Committee during all of the activities that are scheduled for the event taking place November 18 – 20, 2016, along the streets and at Pilgrim Memorial Park. *Voted 5/0*

On a motion by Sean Page and seconded by John Mahoney, the Board agreed to ratify and execute a memorandum of agreement for 2015 – 2018 CBA with SEIU. *Voted 5/0*

The Board appointed a liaison for the Public Art Initiative – Pilot Project, to be involved with the art selection process for any artwork to be submitted to be installed in the Town of Plymouth public spaces. Anthony Provenzano Jr. volunteered and the Board approved Mr. Provenzano as the liaison. *Voted 5/0*

On a motion by John Mahoney and seconded by Sean Page, the Board appointed Pamela L. Borgatti as custodian of the tax possession properties held by the Town listed as;
Map 121, Lot 6-119 - 16 East Wind Drive
Map 110; Lot 8B – Off of Mast Road
Voted 5/0

The Board approved and executed an Aquaculture License for Todd McAdams, 2 White Street, Plymouth, MA

The Board granted its permission to Robert D. McCart and Charles Jackson, owners of 42 and 46 Nameloc Road, to file a Notice of Intent with the Plymouth Conservation Commission, which proposes the construction of erosion control measures that span onto Town owned property.

The Board executed an Order of Outlay and an Acceptance of Deed prepared in connection with the October 17, 2015 Town Meeting Acceptance of the Layout of Ship Pond Road (portion of) as a Public Way.

The Board authorized Chairman Tavares to sign two letters – one addressed to the Nuclear Regulatory Commission and the second addressed the Department of Energy, related to the revised Federal rulemaking process pertaining to the closure and decommissioning of Nuclear Power Stations.

7:15PM – PUBLIC HEARING

Chad Hunter, Plymouth Harbor Master, came to the podium and told the Board that there were (4) people seeking Aquaculture Licenses tonight. They were John Lebica, Tara O'Shea, James Carpenter and Albert Ethan Kusmin. Mr. Hunter went on to assure the Board that their site selections did overlap but that between all of the applicants they worked out their site choices. He also assured the Board that the site selections would have limited impact to navigation within the harbor.

John Mahoney asked Harbor Master Hunter how many licenses have been issued and how many total sites are there left.

Chad replied by saying that there were 26 Aquaculture sites within Plymouth Harbor and after tonight there will be 8 sites left to issue a license for.

On a motion by David Malaguti and seconded by Sean Page, the Board approved the (4) requests for Aquaculture Licenses. Voted 5/0

7:25pm - COMMITTEE LIAISON / DESIGNEE UPDATES

None

7:26PM - OLD BUSINESS / LETTERS / NEW BUSINESS

David Malaguti brought up the point that during the last two snow storms that we have had recently, many of the traffic lights were getting caked and blocked with snow. He felt that the new LED lights weren't warming up enough to melt the snow and it was becoming a public safety issue.

Melissa Arrighi responded by saying that she would contact the DPW Director.

7:30PM - PUBLIC HEARING

BJ's Wholesale

Martha Awiszus came to the podium and introduced herself as the attorney for Mormax Company d/b/a BJ's Wholesale Club in consideration for an All Alcohol Package Store License to be transferred to them from Joseph Chahine d/b/a The Phoenecian located at 202 South Meadow Road.

Ms. Awiszuz went on to introduce some people that she brought to the meeting for support. They were as follows: Graham Luce, BJ's Senior Vice President and General Counsel, Dawn Goldstein, General Manager of BJ's in Plymouth, Bonnie Volpe, BJ's Vice President and Divisional Merchandise Manager in Beverage and Sundries, Howard Wayne, BJ's External Legal Counsel, and Mike Leary, BJ's Senior Vice President and General Merchandise Manager of Food, Beverage and Sundries.

Ms. Awiszus then began a PowerPoint presentation describing BJ's capabilities and reasons for requesting said license. She began by saying that BJ's has substantial experience in liquor sales and currently holds 5 licenses. Only cashiers above 18 years of age are permitted to sell alcohol, and all will be TIPs certified. She stressed that the point of sales registers also provide additional control.

Martha Awiszus went on to explain BJ's security. She said that the Plymouth Club has 42 security cameras monitored in club and from the home office in Westboro. She also said that there is one entrance and one exit which when exiting the members receipt is checked off with the contents of the shopping cart. She also pointed out that the parking lot is swept regularly by personnel.

She then spoke about the support that the BJ's Club was getting support from local club members and submitted many comments by said members.

She then went on to describe the BJ's Club location in comparison to other package stores in Plymouth. She presented a map dividing Plymouth into 3 sections, North, Central and South. Ms. Awiszus stated that traffic would not be affected and presented a traffic study of other clubs. She added that the Club employs 112 staff team members, 46 of which are Plymouth residents. She also explained her take on the 2006 MA

Referendum and how BJ's is not related to "Big Box" stores, and that the alcohol would be part of the shopping experience.

Martha finished up by stating that nothing about the club would change. They would have the same square footage, they would only be offering 350 SKU numbers compared to an average package store having 8,000 to 10,000 SKU's. In closing, Martha said that she felt that they have addressed any and all concerns that the Board of Selectmen might have including, location, parking, safety and need.

At 8:04 pm Ken Tavares asked if the Board had any comments and turned to Mr. Mahoney first.

John Mahoney asked BJ's attorney what the square footage of liquor sales area would be.

Ms. Awiszus replied 2,887 square feet.

Selectman Mahoney also mentioned that the map that BJ's provided showing the liquor stores in Plymouth was incorrect. He told them that they had 14 liquor stores shown on their map when in fact there are 16 liquor stores in Plymouth which meant 2 were missing. He also noted that the yellow triangle, which depicted the Phoenecian, was not in North Plymouth but rather West Plymouth.

David Malaguti agreed with Mr. Mahoney by saying he has been in Plymouth for eons, 68 years to be exact, and he reiterated that the Phoenecian is in West Plymouth, not North Plymouth.

Anthony Provenzano Jr. began by referring to the traffic graph presented by BJ's that compared their two clubs with liquor licenses to the Massachusetts average traffic pattern, then asked if Plymouth was above or below the Massachusetts traffic average.

Graham Luce replied by saying he did not have that statistic but that the two Clubs that were on that chart were both above the state average.

Mr. Provenzano than asked if it was fair to say that the Plymouth BJ's Club had more than 15,000 visits per week.

Mr. Luce answered by saying that Plymouth had roughly 50,000 unique shoppers every year, so if each shopper had 10 visits per year that would equate to about 10,000 visits per week.

Tony then asked how many members were Plymouth residents, to which Mr's Luce replied, 13,088.

Mr. Provenzano finished up by asking what the dates were that BJ's decided to survey their members on their feeling towards BJ's selling alcohol.

Graham Luce said that the in-store survey was taken from Black Friday through the end of January, and that the online survey was conducted during the first week of December.

Sean Page then asked if it was the first weeks of December 2015. He also asked how broad of a reach the online survey was.

Mr. Luce replied by confirming that yes, it was the first week in December of 2015. He then explained that the on-line survey reached out to members that in fact, had shopped in the Plymouth Club.

Sean Page also touched on security. He stated that he has shopped in the Plymouth BJ's and questioned the distance between the register and the person at the door checking carts. He said in the past, he has let his 11 year old daughter push the cart out of the club and that it was impossible for the person at the door go through a full cart and check every item, therefor making it possible to pass alcohol off to an under-aged person.

Mr. Luce answered by asking what other establishment's offer a security check at the door. We're checking for theft, not age, and assured that the age will be checked at the register. The Point of Sales register knows who the cashier is through a login system and if a cashier is under 21 then the sale is halted until a manager comes to complete the sale. That's the security, which is the same in any other package store. The check at the door is strictly for theft and for our protection.

Mr. Page said that he understood but just wanted to point out the large gap between the register and the door. He also asked if they were to get the liquor license would that change their staffing needs, and also would their charity contributions change.

Graham replied by saying that the square footage would not change so they didn't see a need to add any team members. But he did say that if the need arose they would consider adding team members. Mr. Luce also went on to say that their charity work would not change, and stressed that they will continue to partner with schools, that are chosen by the Plymouth Club, and partner with them. He assured the Board that BJ's is committed to the community and the Town of Plymouth.

At 8:15 Mr. Tavares asked if anyone in support of BJ's wanted to come up to the podium and say something on their behalf.

Robert Spencer came to the podium and said that he was all for BJ's getting a liquor license. He felt that they deserved a chance and that if they abused it then it could always be revoked.

Henry Levin came up and identified himself as representing Joe Shaheen of the Phoenecian and explained that Mr. Shaheen has held this license for the past 23 years and wants to retire. He went on to say that BJ's Wholesale Club in Plymouth has a great reputation and asked the Board to approve this license transfer.

At 8:17 pm Mr. Tavares invited those that are opposed to this transfer to come to the podium and speak on why it should not be approved.

Dan Chamberlain came to the podium and introduced himself as representing Liquor 'N More of Plymouth. He went on to say that they were a small, family owned and operated. He also said that they were against BJ's Wholesale being granted a liquor license because of the lack of public need. He reiterated that there were 8 other liquor dispensaries within a short distance. He reminded everyone that a Board member pointed out that there were 16 other liquor stores in Plymouth and the majority of them were in North Plymouth in close proximity to BJ's. He stated that even the map that BJ's provided shows the over saturation in the area. Mr. Chamberlain finished by saying he felt that the license being surrendered in West Plymouth would be better suited in Central or South Plymouth as there is more of a need, and urged the Board to be consistent with their decision.

Everett Malaguti came up and said that he was against issuing the license due to the lack of public need. He did also ask if BJ's had looked into other options such as a Malt and Wine License.

Graham Luce said that they did look into other options but when the state granted them two more licenses they felt that Plymouth would be the perfect club as many of their members have been asking about alcohol.

Steve Lydon came up and said that opposed the license transfer as there is no public need in North Plymouth like there is in West Plymouth. He also said he wasn't comfortable with a Club that charges a fee to be a member selling alcohol.

Peter Balboni came up and said he has been a lifelong resident of Plymouth and he urged the Board to deny BJ's the license because there is no public need. He stated that the Town is over their quota of license issuance. He also urged the Board to be consistent and referred back to their decision with Walmart and Yankee Spirits. He ended by thanking the Board for their consideration of denying this transfer.

At 8:35 pm Ken Tavares asked if there were any further comments for or against transferring this Liquor License from the Phoenecian to BJ's Wholesale.

Graham Luce came back to the podium and said he wanted to clarify two points. One being that BJ's does sell to the general public because anyone can come into the club and get a free, one-day shopping pass. He also added that state laws require them to sell alcohol to non-members at the same price as members would get. The second point was that the 2006 Referendum did not relate to big box stores, it was referring to convenience stores and chains, stating that a lot of what has been said is propaganda.

Henry Levin came back up to the podium and wanted to reiterate that many people have said that they shouldn't add a new liquor license, but it's a transfer and not a new license.

At 8:36 pm Mr. Tavares closed the hearing to the public and turned the discussion over to the Board of Selectmen.

David Malaguti began the discussion by saying that he agrees with the fact that there is no real public need, and that transferring a license from West Plymouth to North Plymouth would be detrimental because of the close proximity of the other package stores. He went on to discuss public need verses public want. He went on to say that taking the Phoenecian out of West Plymouth will truly inconvenience the people in that area. Mr. Malaguti aslo said that he suggested selling the Phoenecian as it exists. He said his vote for the transfer was a no.

John Mahoney spoke next and referred back to a meeting last year when the Town Manager asked that the Board try and be consistent and fair. He also mentioned that the state is rather hypocritical by criticizing the Town for having too many licenses, then handing out more licenses for the Town to distribute. He finished up by saying the only need he sees in in South Plymouth.

Anthony Provenzano Jr. said that he it's a struggle with the size of Plymouth. H stated that most of the growth began in the north end of town, and only recently has growth started to pick up in the southern end of town. He added that the map that the BJ's team provided use a clever use of line drawings to divide up the town. He went on to say that he just couldn't justify moving a liquor license from the west to the north. He said he

would however, support moving it to an underserved area of town rather than an overserved area. He said he will vote against this transfer.

Sean Page stated that there wasn't much more that he could add. He mentioned that the Board has criteria that they must adhere to. He said competition is good for everyone in the long run but too much can ruin a business. West Plymouth or South Plymouth would benefit from a liquor license but not North Plymouth. He said we try to be consistent with big and small business so therefor he could not support this license transfer.

On a motion by David Malaguti and seconded by Anthony Provenzano, the Board voted and opposed the transfer of the All Alcohol Package Store License from the Phoenecian to BJ's Whole. *Voted 0/5*

By Roll Call: Tavares-No, Provenzano-No, Mahoney-No, Page-No, Malaguti-no

ARTICLE 22

Melissa Arrighi stated that this year there are two streets proposed for acceptance and they are Raymond Road and Camelot Drive.

Chairman Tavares read the Public Notice as follows: Notice is hereby given to all persons interested that the Selectmen will meet in the Mayflower Meeting Room – First Floor at the Plymouth Town Hall, 11 Lincoln Street on Tuesday, February 9, 2016 at 7:30 pm at which time and place the said Selectmen will proceed to view the above route, to see all persons and corporations interested therein who may then and there desire to be heard thereon, and then to layout, locate and establish said way over the route above-described, and to assess all such damages as any person or corporation may sustain by the location and construction of the way aforesaid, and to do whatever else may legally be done on the premises.

On a motion by Anthony Provenzano Jr. and seconded by Sean Page, the Board voted and approved Article 22 to proceed to Town Meeting. *Voted 5/0*

By Roll Call: Tavares-Yes, Provenzano-Yes, Mahoney-Yes, Page-Yes, Malaguti-Yes

8:49PM – TOWN MEETING ARTICLES

Article 22

To see if the Town will vote to authorize the Board of Selectmen to accept and allow as a public way the following street or portion thereof as laid out by the Board of Selectmen and reported to the Town, and as shown on plans on file with Town Clerk; to authorize the Board of Selectmen to acquire by gift, or eminent domain an easement or easements to use said way for all purposes for which public ways are used in the Town of Plymouth, and all associated easements; and further, accept gifts for this purpose and any expenses related thereto; and authorize the Board of Selectmen to enter into all agreements and take all related actions necessary to carry out said acquisition(s);

- Raymond Road
- Camelot Drive

(Pending Hearing) Approved - Voted 5/0

Article 3

To see what action the Town will take under the provisions of G.L. c.44, §53E ½ regarding the establishment, annual re-authorization or renewal as the case may be of revolving funds, or take any action relative thereto.

Lynne Barrett explained that this is an annual authorization for several departments that have revolving funds. Each of these departments have already provided their budgets.

On a motion by David Malaguti and seconded by Sean Page, the Board approved moving Article 3 to Town Meeting. *Voted 5/0*

Article 8

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sum of money for the repair and/or purchase and/or lease and/or replacement of departmental equipment for the various departments substantially as follows: or take any other action relative thereto.

Lynne Barrett told the Board that each department met with the Town Manager and went over their equipment requests. The total sum of all requests is \$776,823 of which Lynne recommends the purchase of \$488,000 of said equipment. She stated that this was much less than was funded last year.

On a motion by David Malaguti and seconded by John Mahoney, the Board approved moving article 8 to Town Meeting. *Voted 5/0*

Article 9

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sum of money for the construction and/or repair and/or purchase and/or lease and/or replacement of departmental buildings and/or equipment and/or capital facilities for various departments of the Town and/or for feasibility and other types of studies as follows: or take any other action relative thereto.

Lynne Barrett told the Board that the Capital Improvement Committee met and ranked each project that was submitted. Lynne and the Town Manager then sat down and selected 3 projects and fit them into the budget

On a motion by Anthony Provenzano Jr. and seconded by John Mahoney, the Board approved moving Article 9 to Town Meeting. *Voted 5/0*

Article 4 (STM)

To see if the Town will vote to amend appropriated under Article 8 of the 2015 Annual Town Meeting for the purpose of repair/purchase/lease/replacement of departmental equipment, or otherwise amend said vote, or take any other action relative thereto.

Lynne Barrett explained that at the 2015 Annual Town Meeting, \$4,000.00 was approved for Article 8 Item KK: Acoustic Buoys and the funding source were grants. Lynne would

like to amend the appropriation for this item from \$4,000.00 to \$2,138.66 and the source from grants to general fund free cash.

On a motion by David Malaguti and seconded by Sean Page, the Board approved moving STM Article 4 to Town Meeting. *Voted 5/0*

ARTICLE 5 (STM)

To see if the Town will vote, pursuant to the provisions of G.L. c.59, §38H, to authorize the Board of Selectmen and Board of Assessors to negotiate and enter into an agreement for payment in lieu-of-taxes (“PILOT”), for a 0.5 MW-AC (more or less) solar photovoltaic energy generating facility for MA Highway Solar, LLC (or it’s affiliates, successors or assigns) to be located on property described as Plymouth Route 3 Interchange Exit 5, upon such terms and conditions as the Board of Selectmen and Board of Assessors shall deem to be in the best interest of the Town, or take any other action relative thereto.

Lynne Barrett recommends a 20 year agreement for this PILOT.

On a motion by David Malaguti and seconded by John Mahoney, the Board approved moving STM Article 4 to Town Meeting. *Voted 5/0*

ARTICLE 6 (STM)

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to the following Stabilization Funds, as authorized by the provisions of G.L. c.40, §5B as amended,

- a. Nuclear Plant Mitigation Stabilization Fund or take any other action relative thereto.

Lynne Barrett asked for support to begin this fund. She explained that with Entergy’s Closing we would like to put away funds for the decommissioning process.

John Mahoney asked what the generated interest would be, to which Lynne told him she would get those figures to him.

On a motion by Sean Page and seconded by John Mahoney, the Board approved moving STM Article 6 to Town Meeting. *Voted 5/0*

ARTICLE 7 (STM)

To see if the Town will vote to rescind the following unused borrowing authority,

Article 9B3 2012 Annual Town Meeting Water Street Bridge	\$700,000
Article 9B3 2013 Federal Furnace HVAC	\$1,380,000

Or take any other action relative thereto.

On a motion by David Malaguti and seconded by Sean Page, the Board approved to move STM Article 7 to Town Meeting. *Voted 5/0*

ARTICLE 9 (STM)

Melissa Arrighi told the Board that every year the Town reviews the fees collected for Dog Licenses, and that there hasn't been an increase since 2006 for neutered dogs and 2001 for un-neutered dogs. So they are recommending a proposed fee increase to \$15 for neutered dogs and \$25 for un-neutered dogs which equates to a \$5 increase per year.

On a motion by David Malaguti and seconded by John Mahoney, the Board approved moving STM Article 9 to Town Meeting. *Voted 5/0*

ARTICLE 35

No Motion, No Action

ARTICLE 10

To see if the Town will vote to authorize the Board of Selectmen to petition the Massachusetts General Court for special legislation to establish a "Environmental Affairs Fund". The revenues from renewable energy PILOT payments shall be placed in such Fund, which shall be dedicated in its entirety to cost related to environmental projects to include mitigation, land acquisition, water quality assessment, storm water improvement, river restoration, or as a local grant match to other State and/or Federal related environmental grant opportunities, or take any other action relative thereto.

Brian Harrington told the Board that the Herring Pond Watershed Association supports Article 10. He stated that long range funding would aid local organizations and would improve opportunities for private sector. He also said its money that our town needs and deserves.

John Mahoney stated that this would be proactive, saying that he would not want a Flint, Michigan to happen here.

On a motion by John Mahoney and seconded by David Malaguti, the Board approved moving Article 10 to Town Meeting. *Voted 5/0*

ARTICLE 1

Postponed and moved to the March 1, 2016 Selectmen's Meeting

7:50PM – REQUEST FOR LICENSE – CEDARVILLE LANDING

Three property owners – James Rosenthal, Sandra Drive Nominee Trust (James Rosenthal and Maria Troulis, Trustees), and Michael Kelly, seek a license from the Town to construct a jointly-planned erosion control barrier on a sizable span of Town-owned property in the Cedarville area. The request proposes to construct an erosion barrier across three parcels of publicly-owned property, one of which is laid out as a public landing, under the name "Cedarville Landing"

Richard Serkey requested that they present their arguments first, and Chairman Tavares granted his request.

Mr. Serkey began by handing out a three ring binder of exhibits to present to the Board of Selectmen. He went through the presentation and touched on the significant points of the 15 exhibits within the binder, which included:

- Map of Kingsbridge Shores subdivision, overall and by parcel
- Brief history of parcels involved
- Foreclosure judgement for land acquired by town for non-payment of taxes
- Map of proposed erosion control barrier
- Conservation Commission Applications – WPA Form 3 Notice of Intent
- Correspondence between Mr. Serkey and the Town of Plymouth
- Letters to Precinct 8 Town Meeting Members

Mr. Serkey then went on to say that nobody in the room tonight is opposed to the license that are on this side of the podium. He also said that none of the subdivision residents have prevented anyone from going onto the public landing. He also said that the property owners are united in this effort and that the Town has already been named on the insurance for lot 10F. He went on to say this would be a public/private partnership and that it would be a win-win for all involved.

Selectmen Page said that as a fire fighter that area is part of his responsibility, and he questioned why there was a “Private Property” sign posted on Town-owned land.

Richard Serkey replied by saying that in order to get to the Town-owned property people would have to cross over private property. Even if the public were granted permission to use Lot 10F they would still have to go over private property.

Sean Page said that the public is being banned from the beach and parking by the signage and that he, personally, had been banned and asked to leave the beach. He said that he didn't know the person's name when asked by Mr. Serkey.

David Malaguti asked how the whole system worked with the 1912 cart path easement.

Mr. Serkey said that the 1912 easement didn't say much when he looked it up at the Clerk's Office. He also said that the 1955 Assessor's map simply shows a cart path to Cedarville Landing. It wasn't clear who could use the path. He reiterated that it would be a leap to say that the public could use that cart path to access the beach.

Mr. Malaguti said that he disagreed with Mr. Serkey and that the cart path could be alternate access. He went on to say that if the 1912 description of the cart path says that it is public access then it is still public access. Mr. Malaguti then asked what would happen if a house further down the beach needs access to make erosion repairs.

Richard Serkey replied by saying that Mr. Rosenthal has never denied anyone access and that lot 10F is free and uninhibited.

Selectman Mahoney stated that he agreed with Richard in saying that lot 10F was private property and that the Town property was landlocked. He also referenced accepting the roads of the subdivision as public ways and that the Town does plow them now.

Mr. Serkey answered by saying it would take a lot of time and cost a lot of money to accept those roads as public ways.

John Mahoney then asked if they could see something that represents the structures that they are proposing to build.

Richard Serkey then referenced exhibit 6 in his presentation binder and called MR' Parker up to the podium to give a description of the barriers proposed.

Mr. Parker explained that the revetment would be a sloped structure made up of sand bags. These sandbags would be "punched polyester" and would be very sturdy. He went on to say that the polyester is ½ inch thick, 7 feet wide by 2 feet tall. They are filled with sand and water then allowed to drain. Once drained the sand becomes rock solid and sturdy. Once water is added back into the bags the sand, once again becomes pliable. He said these were vital to protect Mr. Kelly's property with waves coming in from the northeast. He said they also allow passage and can be driven over once buried. He told the Board that White Cliffs has the same installation if they would like to go see them for reference. He ended by saying he hopes that they are granted the license because everyone has the right to protect their property, and then asked the Board for their support.

Mr. Serkey then asked the Board if some other people could speak on their behalf and the Selectmen agreed.

Ken Fitzgerald came to the podium first and stated he lived at 12 Gallagher Drive, and that he was the President of the Kingsbridge Shores Civic Association. He said that there are currently 135 paid members and that the Association does a lot to keep the neighborhood and beach clean and safe. They have spent \$9,000 in recent history for beach clean-up, and to hire police and security to keep the peace. He also said that residents walk the beach daily all year long and that this project would keep safe access for these residents. He informed the Board that when the stairs were ripped out in an ocean storm that Mr. Rosenthal paid to have the stairs rebuilt. He also told the Board that there were 220 homes that were taxed and billed last year.

James Rosenthal came up next and stated that he has lived in his current home for 14 years staying that he had passed papers on September 11, 2001. Over those years he's seen tremendous changes to the wind and waves, and that the Town bluff has received severe damage and erosion. He said that the revetments that he previously installed have worked beautifully. He also reiterated that he and Ms. Troulis had repaired the stairs personally. Mr. Rosenthal went on to say that he gave access over his lot to White Cliffs to install their revetment, and ensured the Board that he was not against people using his lot to protect the beach. Mr. Rosenthal then said that permanent access to the beach was deeded into all of the homes in Kingsbridge Shores. He then addressed Selectman Page's earlier comments by saying there is no parking area for the public to be banned from, and that it's all private parking. He said that they added gravel and that residents of the subdivision were given a placard to park there. He finished by asking that they not make his property a public way and also asked they grant the license without restrictions.

Tiffany Park then presented her research on behalf of the Town of Plymouth. Her presentation began with a brief history of how the town acquired the parcels now known as Cedarville Landing, which is the southernmost extent of Plymouth's coastline. She also submitted pictures and proof that the Kingsbridge Shores residents had already made repairs on the Town-owned property without previous permission from the Board of

Selectmen. Ms. Park's research gave a synopsis of how the land was acquired by the town in 1912, and how the land was used prior to the development of Carbine Shores in 1967, now known as Kingsbridge Shores. She stated that it was still unclear of the use of the cart path since the land was developed. She ended by saying that while awaiting the results of a title search on the landing as well as legal advice from Town Counsel, the Board discussed the possibility of purchasing or acquiring, by eminent domain, the Rosenthal/Troulis property to ensure future public access to the Town's landing. Ultimately the Board reached what they believe to be a compromise position that would achieve both private and public objectives.

Everett Malaguti came up to the podium and said he was in favor of the Board issuing this license. He explained how he weighed out both sides of public and private property and that you have to consider that. He closed by asking the Board to support this license.

Mr. Spencer took the podium next. He started by saying that he was in favor of what they are trying to do, and it won't cost the Town a dime. He also said that by granting the license with conditions of an easement is holding them hostage.

At 10:21 pm Ken Tavares asked the Board Members to weigh in and then decide whether they wanted to vote on this tonight or take time to go through Mr. Serkey's presentation binder.

David Malaguti began by saying the Town nor the Board were holding anyone hostage. He said that by doing this they were not preventing, yet protecting public property. He also said that there had to be rights assigned to the cart path in 1912. Mr. Malaguti went on to say that they have to look at all angles and the whole Town must be included as this is Town property. He closed with saying there are rights that we want to make sure we maintain.

Sean Page said it's important to protect homes, but the fact is there needs to be access to the Town-owned beach and they should be able to be used by all. He finished by reiterating that the Board was not holding anyone hostage.

Anthony Provenzano Jr., Vice Chairman, said that he agreed with Mr. Malaguti in the fact that there has to be more information about the 1912 cart path. He went on to say that our objectives are not to hold anyone hostage, but to preserve rights for a public resource such as Cedarville Landing. Mr. Provenzano concluded by saying that granting a license to build on Town-owned property has a value for the whole community so he doesn't feel like we are asking too much.

Ken Tavares said he has listened to both sides and that he does not have anything to add. He then asked the Board for a motion and a second to go to vote.

On a motion by John Mahoney and seconded by Sean Page, the Board voted to table their decision until they have time to go over the information presented in the open meeting.

Voted 5/0

10:30PM - ADJOURNMENT

On a motion by Selectman Page and seconded by John Mahoney, the Board voted to adjourn the meeting at 10:30pm and not reconvene into Executive Session, and to move the last two items to next week. *Voted 5/0*

Executive Session (Last two item moved to next Tuesday)

The Selectmen will hold an Executive Session pursuant to Massachusetts General Laws, Chapter 30A, Section 21, Paragraph 6; to consider the purchase, exchange, lease or value of real property,

Recorded by: Christopher Badot
Administrative Assistant, Board of Selectmen