

~ PLYMOUTH BOARD OF SELECTMEN ~

TUESDAY, SEPTEMBER 8, 2015

TOWN HALL, MAYFLOWER ROOM

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

Melissa Arrighi, Town Manager

The Selectmen held a meeting on Tuesday, September 8 at 7:00 p.m. at Town Hall in the Mayflower Room.

Chairman Tavares called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

Public Comment:

Pat McCarthy takes the podium to state she will be making a Procedural vote at Town Meeting to change the order of Article 18 to have it heard prior to Article 17.

Licenses & Administrative Notes

1. One Day Wine & Malt for New World Tavern at Memorial Hall for October 17, 2015.
A motion to Approve was made by Anthony Provenzano, Jr. and seconded by Sean Page, and the motion result was Passed. Ayes: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.
2. New Officer/ Director for Chili's Grill and Bar
A motion to Approve was made by Sean Page, and seconded by John Mahoney, and the motion result was Passed. Ayes: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.
3. Recommend Article 2B to Fall Town Meeting
A motion to Approve was made by David Malaguti and seconded by John Mahoney, and the motion result was Passed. Ayes: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.
4. Authorize Land Donation to Conservation
No vote needed.

Article 2A

Aaron Wallace takes the podium to present Eric Arbin who will be presenting the Old Colony Hazard Mitigation Plan. Hazard mitigation plan identifies policies and actions that can reduce risk and future losses. Some hazards in the plan are: Flooding, coastal erosion, wildfires, and earthquakes. A risk assessment is included in the plan and existing protections are included as well. Plan adoption has a 5 year shelf life and it has received approval from FEMA on August 14, 2015. Hazard Mitigation plans should be updated annually or after a major storm. While this is a regional plan, people at FEMA have discussed doing a plan for each Town. Mr. Wallace: My recommendation is that we look at a local funding option so having a local plan improves the time; having a local plan would give us an advantage. Chairman Tavares: So this is something you would be recommending in a few years? Mr. Wallace: Yes sir, this plan now is closed but we can make a local plan. Chairman Tavares: For a Town of this size I would prefer a local plan.

Mr. Wallace takes the podium to go over article 4K for comprehensive emergency operation plan for the Town of Plymouth. A copy of the presentation can be found in the weekly packet. Mr. Wallace gave a quick background on NFPA and FEMA Comprehensive Preparedness. Federal Assistance & Planning – Cooperative Agreement, State’s strategic planning is approved on a 5yr basis, and performance & cooperative agreement allows FEMA to release emergency funding to the state. Considerations: This project seeks to use benchmark policies and new standards to identify priorities and the best available methods.

Chairman Tavares: Looking over the packet this weekend it looks like we are being asked to come up with \$100,000. How are we protecting this community and why should we spend this money? Mr. Wallace responds: We felt that we would put it out there based on 4 vendors who gave us an estimate of what it would cost. Right now I don’t have a clear number as to what this will cost because we will have to enter into a bid process. There will be portions of the plan that we will look to possibly change. I look at this more as a financial plan for the community; the planning process is really the most important part in order to address what exactly Plymouth’s needs are.

Chairman Tavares: What I think I hear you saying is, reimbursement to the community will be limited because we didn’t do the planning? Mr. Wallace: Yes I think it would make it more concrete. Chairman Tavares: do you know a community that has gone through this process that has had a natural disaster? Mr. Wallace: Those plans tend to happen following an incident. The dollar figure you invest in this plan will pay off when/if we have a natural disaster.

Selectman Provenzano addresses Mr. Wallace: We originally hoped to fund this plan through the state but it hasn’t worked out, would we be reimbursed for doing this? Mr. Wallace: We would look to get some reimbursement. It’s a protection for something that wouldn’t happen very often, but when it does we would have a plan in place.

Selectman Malaguti: Who came up with the \$100,000 amount you or finance? Mr. Wallace: We had 4 bids \$68,000 on the low end and \$125,000 on the high end. Chairman Tavares: How prepared is this community now for a natural disaster such as a forest fire, hurricane, and or a catastrophic winter/blizzard? How much better off will we be going with this plan? Mr. Wallace: For the blizzard we had in 2013, if we had saw extended power outages the rate of mortalities would have been high. It's more of have we had an issue that has destroyed vegetation, homes, or businesses; I don't look at an individual basis. Chairman Tavares: In my mind you've raised more questions than I have answers; maybe this will require more time. I think I understand what \$100,000 does, but as person who has lived in this community through hurricanes and devastations, I'm not sure exactly what we are getting for the \$100,000 Mr. Wallace: We would have a plan as to what actions we would take in the event of a catastrophe.

Selectman Page: Most people would say I'm on Aaron's side on this, being a firefighter in this Town I've seen firsthand how hard Aaron works. Chairman Tavares: If something happens at the end of the day there are only a few people that are held responsible if something doesn't get done and that is us. I'm well aware of Aaron's capabilities. I just want to know that the planning we are doing is enough. If we do this, I want to be able to say that the community is moving in the right direction.

Selectman Page: Is the \$100,000 more of a down payment in the event of a catastrophe? Mr. Wallace: When we have a disaster, such as a snow storm, we route money through programs such as FEMA. Selectman Provenzano: Are the things we can do better just paperwork? Mr. Wallace: No it is not just paperwork; this goes toward the execution of our direction. I don't have a good sense of how a snowstorm will affect our chamber. There are several important factors that go into an initial damage assessment. Selectman Provenzano: The idea is to get us to a position so things can get cleaned up quicker so businesses can be up and running? Mr. Wallace: Yes. Instead of getting a 75% reimbursement maybe we would get 90% reimbursement. Selectman Malaguti: Is training a component of this? What types of firms offer this service? Mr. Wallace: Following the final completion of the plan we would have training. Many firms offer these services, especially following Katrina.

A motion to Approve was made by David Malaguti, and seconded by Sean Page, and the motion result was Passed. Ayes: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.

Chairman Tavares states that the Public Hearing for Morton Park will be postponed until September 22, 2015 at 7:15 p.m. due to a heavy agenda for that evening.

Article 17

Conflict of Interest Ms. Pratt takes the podium on behalf of the committee of precinct chairs: I am requesting your support of inclusion of article 17 in the warrant and let it go toward Town meeting for debate. About 2 years ago the committee of precinct chairs created a conflict of interest subcommittee. During their meetings, there were two significant outcomes. First, they

reviewed whether or not a municipality had the right to create a more stringent provision on conflict of interest than the state had. It was their conclusion that a municipality does. The second outcome was a bylaw proposal to the committee of precinct chairs and Article 17 is the result of many hours of debate and compromise. Article 17 addresses a number of issues related to the fact that some people believe that the constituency should be the one to decide whether an individual should be allowed to vote on an article where they have a direct financial benefit. This article addresses that saying there will be a record on file, available to the public, and the same record will be available to Town Meeting members. After many hours of negotiation, we came to a very successful compromise. We as elected officials have an obligation to periodically review our own behavior and our performance. There are some people who believe that putting forth this article will create a wider division amongst our legislative bodies. I disagree, I believe this will bridge the gap and I ask that you let this go before Town Meeting.

Ms. McCarthy: I have a lot of concerns regarding the interpretation of Article 17. I have a concern that it would be unjust and unfair and not enforceable, people would end up on this list forever. Over all these years, very few times have a Town meeting member singled out a line item on the budget to be voted on separately. The original proposal was a tie vote and this was the compromised version, I feel that the interpretation can be unjust and unfair. Selectman Mahoney: What was your motivation on Town floor to hear 18 before 17? Ms. McCarthy: I felt as though that was the logical way to go in terms of voting on it.

Mr. Lyden takes the podium: This article is so much different information I don't know what I'm voting on. We had a lawyer saying it wasn't enforceable, we had town council say it was. It's a mess. No one knows exactly what they are voting on.

Mr. Hapgood takes the podium: I've been to several meetings and it was disgusting. The committee wants to have a punishment for every Town worker. I'm going to say something at Town meeting, but you have to understand that very few town meeting members and precinct chairs were at that meeting. They only heard what they were told and the biggest item was "Town employees steal from the taxpayers."

Mr. Costello: I have to address Mr. Hapgood because one thing the committee did do is not take a direct assault on Town employees but it was not.

Ms. Buechs: This article has brought arguments and separation because now the public will see Town meeting members made an example of whether it's true or not. If someone challenges another Town meeting member and there is really no recourse, they are to accept it and they are not able to defend themselves. It was Ms. Pratt who got them not to focus on the employees, I cannot wait for this to be over and I just want to tell my town meeting members to keep their chin up.

Mr. Webber: I've been a town employee for 35 years. I don't think this article is properly situated and I do not support it. The other 134 member besides myself, are all elected voters

under the Town of Plymouth; that's what we are. If that committee had spent their time and effort collecting information, putting out information, or starting a signature drive all would be accurate if we were in a Mayoral Town. I've given you two documents that relate to Town charters and state ethics commission. In essence, no town meeting member can be held in violation while acting as a town meeting member.

Selectman Mahoney: Did you get a copy of the letter that Mr. Serkey dropped off earlier? How do we have the same individual come in here who is an attorney and we still arrive at two different opinions? Mr. Webber: I haven't seen this statement about what Mr. Wilson said to Mr. Serkey.

Chairman Tavares: I'll read the portion Mr. Serkey was talking about: Comment from Mr. Serkey:

After interviewing Town Counsel Elizabeth Lane and State Ethics Commission Attorney Lane on their relative merits, the COIC voted on March 16, 2015 by a vote of 5-2-0 to recommend passage of the bylaw that is now identified as Article 17. On July 16, 2015 the COPC after modifying the language of the bylaw to its liking, voted by a vote of 8-4-1 to recommend its passage by Town meeting.

Selectman Malaguti: It sounds like this is an interpretation of their comments not necessarily their statements. This is how the conflict of interest interpreted those comments.

Mr. Castello: We talked with Mr. Wilson and Ms. Lane a year ago and during that meeting we had a conference call, Mr. Wilson was very adamant that any issue he wanted to talk about pertained to the state. He and Ms. Lane came up with that the Town is supplementing the state statute. From time to time it has not been followed. The charter as it was written is legal and enforceable.

Selectman Provenzano and Mr. Webber debate back and forth regarding pre-emption and the meaning of the letter Chairman Tavares read into record.

Selectman Page: I believe that this is not the venue to be debating between two people; we don't have to keep bickering all night.

Mr. Jerry Seroco: The finance committee meeting the other night, if this goes forward this is just the beginning.

Mr. Brown: I've spent hundreds of hours pertaining to these issues and it all started a few town meetings ago. Article 17 will allow town meeting members to shame other members out of voting.

Ms. Burk: I was a member of the conflict of interest committee and it never was the intention of the committee to target any one group. It really is about all Town meeting representatives, there should be a way to highlight when there is some sort of conflict.

Selectman Mahoney: Is the expectation that all 135 members will be able to participate in this?
Ms. Arrighi: yes.

Mr. Malaguti: I would never advocate changing our form of government. I can probably count on one hand the amount of evil people at town meeting. I'm in favor of article 18. There are a lot of precincts that have vacancies, so what do we do? Make it uncomfortable for people to run for a town meeting member? We won't have 135.

Selectman Page: There are many out there that are going to say that I'm in direct conflict with anything to do with this. The law is the law you don't go outside the law.

Selectman Provenzano: I've taken a look at this; it's gone from bad to worse. The mechanism in this provision would be overly cumbersome and unworkable. I will be voting against article 17 and for article 18.

Selectman Mahoney: You've got good people on both sides of these issues going back and forth. If you can explain why this is in the best interest of the community they would give it the thumbs up.

A motion to Approve was made by David Malaguti, and seconded by Anthony Provenzano, and the motion result Failed. Nays: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.

Chairman Tavares: I cannot support this motion either. I've watched town meeting over the years and people go in as a town meeting member and vote within the best interest of the town. I think this can be interpreted as one way or the other, if we want this form of government we have to let the representatives go in and vote. I don't think Article 17 is in the best interest of the Town.

Article 18

Mike Lincoln – Timing is everything, it's been two years of the committee of precinct chairs discussing this.

Ms. McCarthy- I just want to mention that Mr. Pizer was invited to speak as well as Steve Trifaletti. Steve wanted to make sure that it was known that the way the section is right now it is unreasonable for a moderator to vote on it. I've always voted on the good of the town. I've also voted in support of the Pinehills. If you don't like your town meeting member, vote them out.

Mr. Donahue: We support for this article to be abolished and I want to make sure the town meeting floor moves forward. This is a waste of time and why we voted back in June not to support this.

Ms. Burke: I'm asking that you support to keep the conflict of interest law in the town charter.

Mr. Costello: I'd like to speak as a tax payer, some may think it isn't a problem but for a tax payer it's a problem. I'm asking you to not support this.

Selectman Provenzano makes a motion for article 18, selectman Mahoney seconds the motion. Malaguti – approve, Mahoney – Approve, Page – Approve, Tavares – Approve, Provenzano – Against

Selectman Provenzano: With all the legal opinions we've heard, no one has talked about preemption. I don't think that town meeting members should be voting on articles that they have self-interest in.

Article 19

A motion to Approve was made by Sean Page, and seconded by David Malaguti, and the motion result was Passed. Ayes: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.

Article 20

A motion to Approve was made by David Malaguti and seconded by John Mahoney, and the motion result was Passed. Ayes: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.

Article 21

A motion to Approve was made by Sean Page, and seconded by David Malaguti, and the motion result was Passed. Ayes: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.

Article 22

A motion to Approve was made by David Malaguti, and seconded by Sean Page, and the motion result was Passed. Ayes: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.

Article 24

Steve Lyden takes the podium: It makes the board more transparent to the public. Right now if the public does not like a decision they have no recourse. I support this article.

Mr. Keohan: I think what you need to do is step back and look at the bigger picture. You as the Board of Selectmen have opinions and you trust people to advise you. We can look at entities like the housing authority that are set up to protect the public.

Mr. Peck: The advantage you have with an appointed board is you can provide balance. I would urge you to keep it an appointed board.

Selectman Provenzano: Mr. O'rouke in your research, how many towns have an elected ZBA?
Mr. O'rouke: we never collected that data.

Selectman Mahoney: I'm not supportive of this purposed change and I do remember going back a few years ago when all 5 members were all ZBA members.

Selectman Malaguti: There is some merit to have an elected board. Why I think we should keep it the way it is, it takes money to run the election and you could get a block of people who get together with a block of money and elect whoever they want.

Selectman Provenzano: I can certainly see the merit in this, but I also see the pattern of uncontested elections so I will be voting against this one.

Selectman Page: Like Selectman Malaguti said I could really go either way with this. I would like to see this stay as is.

Chairman Tavares: I will not be supporting this and I would not want to see the ZBA have to be voted on at the ballot box.

A motion to Approve was made by David Malaguti, and seconded by Anthony Provenzano, Jr., and the motion result Failed. Nays: Page, Provenzano, Jr., Mahoney, Tavares, Malaguti.

Article 25

Selectman Malaguti makes a motion to recommended article 25 at town meeting, seconded by Selectman Provenzano.

Article 26

Selectman Malaguti makes a motion to recommend article 26 at town meeting, seconded by selectman Page.

Ms. Arrighi begins her presentation for Article 7 for the New Town Hall which can be found in the weekly packet.

Mr. Peck takes the podium to go over the budget for the new town hall high lighting construction escalations.

Mr. Keohan and Ms. Curtin take the podium to discuss some of the historic aspects of the new courthouse.

Mr. Everett Malaguti takes the podium: Since the beginning of this project I have been in disapproval. I have been to numerous building committee meetings and looking over the reports

and recommendations regarding the extra money being requested. I don't agree with the overage amount as well as using the meals tax for this purpose vs. using the community preservation fund.

Selectman Mahoney: I would like to ask David Peck a question respect to this revenue stream, what assurances do we have that the individual that receives the bid on this will restore the building to the historic setting we are trying to achieve? Mr. Peck responds: We will watch them like a hawk. With our budget we are proposing we are maintaining our contingencies. We may not use all the money. We have had some surprises and there may be others.

Selectman Page: I understand escalation; regarding the excavation and demolition what are we doing to avoid these surprises? Mr. Peck- By doing the excavation early we have eliminated any other surprises. We can't guarantee there won't be surprises, but there will be far fewer by getting this out of the way at an early stage.

Selectman Provenzano: So you've estimated a certain rate of construction and we are anticipating that once the bids are open if we are pleasantly surprised will you be altering your number at Town Meeting? Mr. Peck: We won't know until after the bids but we will keep the Town Manager apprised.

Ms. Arrighi: There were a couple of reasons why we didn't go back to the CPC funds. The meals tax can absorb this cost rather than have it off the tax rolls. It is the suitable source.

Selectman Mahoney: It would be nice to have in the end a dam cam such as the drone fly over.

Selectman Page: Maybe if we do the camera watching everyone perhaps this will go a bit smoother.

A motion to Approve was made by John Mahoney and seconded by Sean Page, and the motion result was Passed. Nays: Malaguti. Ayes: Page, Provenzano, Jr., Mahoney, Tavares.

Old business: Selectman Malaguti: What is the status of the entrance to Veteran's field?

Ms. Arrighi: We've been working with Mr. Bubbins and Bill Keohan on keeping the area well lit. Early spring is when shovels should hit the ground.

Selectman Mahoney: Regarding Burial Hill, the work that has been done looks very good. I think we need to keep on top of the erosion of the trees.

A motion to adjourn the meeting at 10:41 p.m. was made John Mahoney, seconded by Sean Page.

Meeting minutes recorded by: *Annikka Bernabe* (Administrative Assistant to Board of Selectmen)