

BOARD OF SELECTMEN – MEETING OF FEBRUARY 26, 2013
HARMONY HALL

PRESENT – Cathy Richardson, Chairperson, Joseph DiRocco, Jr., Vice Chairman, George A. Malliaros, Clerk, Robert O. Cox, John J. Zimini, Dennis E. Piendak, Town Manager, Glen Edwards, Assistant Manager/Planner and Shannon Rowe Beaulieu, Recording Secretary.

TIME – The Chairman called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was recited followed by a moment of silence being observed for those who paid the ultimate sacrifice on behalf of this country and for those currently serving in the military particularly in Afghanistan and Iraq. Ms. Richardson also expressed condolences to the Blatus and Pappas Families.

WARRANT APPROVAL – Motion made by Mr. DiRocco to approve the Warrant. Motion seconded by Mr. Cox. Motion passed unanimously.

COMMUNITY INPUT – No one signed in under community input.

Ms. Richardson stated that today is Dracut's birthday and encouraged residents to visit the Dracut Historical Society for the history of Dracut.

TOWN MANAGER'S REPORT – Upcoming Events – Mr. Piendak stated that the Special Election would be held on April 30, 2013, the new trash program would start on July 1, 2013 and Hazardous Waste Day will be held sometime in April. Mr. Piendak stated that the Town will be holding an auction in the Spring of surplus items. Mr. Piendak stated that they have received seven proposals for the trash program. Greater Lowell Vocational School – Mr. Piendak stated that Mr. Paul Morin, Technical School Committee Member, presented the Town with a check for \$17,185.00 to reimburse the Town for the Vocational School Special Election.

Mr. Cox asked about the armored vehicles seen on Loon Hill Road? Mr. Piendak stated that Dracut hosted a NEWLAC Swat Training session which is routine police training.

COLLEEN GABRIEL d/b/a GENO'S, 361 TYNGSBORO RD – REQUEST COMMON VICTUALLER LICENSE

Motion made by Mr. Zimini to approve the Common Victualler License. Motion seconded by Mr. Malliaros. Motion passed unanimously.

APPROVAL OF MINUTES – Mr. DiRocco stated that he read the minutes from the last meeting and discussed the Screening Committee not having enough time to hire a new Town Manager before Mr. Piendak leaves in November. Ms. Richardson stated that she also has similar concerns and asked Mr. Piendak if he has received the new proposal from

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Mr. Kobayashi? Mr. Piendak stated that he has not received a new proposal. Ms. Richardson discussed the Screening Committee meeting in August. Mr. Malliaros stated that the Screening Committee would receive the names of all applicants. Ms. Richardson discussed starting the process a little earlier. Mr. DiRocco stated that the new hire should be notified by the end of October. Mr. DiRocco stated that the new hire should be on board by October 15, 2013. Ms. Richardson discussed starting the search earlier and setting up a time frame for the process.

Motion made by Mr. Malliaros to approve the minutes of February 12, 2013. Motion seconded by Mr. Zimini. Motion passed unanimously.

SPECIAL PERMIT APPLICATION – George Saragas, Trustee of EFFJAM Realty, Fast-Food Restaurant @ 592 Merrimack Ave – Attorney Michael Fadden appeared before the Board and presented plans titled Site Plan dated February 13, 2013 prepared by Andover Consultants, Inc. Attorney Fadden introduced Mr. George Saragas, the applicant and Mr. Bill McLeod from Andover Consultants, Inc. Attorney Fadden stated that the applicant is proposing to construct a donut shop with one drive thru window in a B3 zone at 592 Merrimack Avenue. Attorney Fadden stated that the business would be open from 5:00 a.m. to 9:00 p.m. and seven days a week. Attorney Fadden explained that there will be minimal baking on site and the building will have no fryers or fryolator. Attorney Fadden stated that the project required several variances from the Zoning Board of Appeals and a curb cut from the MASS DOT. Attorney Fadden discussed the Departmental Review Meeting and the 19 conditions that were created are all agreeable with the applicant. Attorney Fadden stated that the project has also been approved by the Conservation Commission. Attorney Fadden stated that the new business will have sixteen employees. Attorney Fadden discussed the agreed upon fencing along Mr. Frank McManmon's property.

Ms. Richardson asked if anyone in the audience would like to speak in favor or against the proposed project? Ms. Richardson stated that Mr. McManmon was in the audience and asked him if he was ok with the proposed fencing? Mr. McManmon asked about possible planting aphrodities instead of constructing a fence? Mr. McManmon stated that he was just concerned about noise and visibility of the proposed project. Ms. Richardson and the Board discussed planting aphrodities and Mr. McManmon stated that he can live with the proposed fencing. Mr. DiRocco asked how many cars will be allowed in the drive thru at one time? Mr. McLeod stated that eight to ten cars would be allowed in the drive thru at one time. Mr. DiRocco discussed not wanting cars to be waiting in line for the drive thru on Merrimack Avenue. Mr. McLeod discussed the "stacking" in the drive thru line and stated that the MASS DOT traffic engineers were satisfied with the eight to ten cars. Mr. McLeod discussed being required by MASS DOT to re-striping on Rte. 110, curb cuts, etc. Mr. Edwards discussed adding condition #20 to the Special Permit requiring that signage is added to where "stacking" of cars should end in the drive thru line on the property.

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Motion made by Mr. Cox to close the public hearing. Motion seconded by Mr. DiRocco. Motion passed unanimously. Motion made by Mr. DiRocco to approve the Special Permit with adding condition #20 to add signage where “stacking” of cars should end in the drive thru line on the property. Motion seconded by Mr. Cox. Motion passed unanimously.

APPLICATION FOR TRANSFER OF WINE & MALT PACKAGED GOODS STORE LICENSE – From Food Emporium, Inc. to: NNF, LLC d/b/a Convenience Plus, Nadeem Khan, Manager – Ms. Richardson read the public hearing notice advertised in the Lowell Sun on Friday, February 15th, 2013. Mr. Nadeem Khan and Mr. Tahi Aleen appeared before the Board to request a transfer of the wine and malt packaged goods store license.

Ms. Richardson asked if anyone in the audience would like to speak in favor or against the proposed transfer? No one spoke in favor or against the proposed transfer.

Mr. Piendak stated that he received a report dated February 22, 2013 from Mr. Tom Bomil, Director of Public Health, which states that when Mr. Bomil inspected the store an employee told him that Mr. Khan had purchased the store from Mr. Aleen. Mr. Bomil stated that there had been no Board of Health permits issued to the new owner Mr. Khan or a transfer of the liquor license for Mr. Khan to be selling alcohol from the premises. Mr. Piendak stated that the Dracut Police went to the store and instructed Mr. Khan that he could not sell alcohol from the premises until the liquor license was transferred to him. Mr. Piendak stated that the Dracut Police went to the store today and were able to purchase alcohol from the store. Mr. Khan stated that there was a misunderstanding by the employee and he has not purchased the store as they are still waiting for the transfer of the permits. Mr. Piendak asked who is in charge of the store, who is the manager on duty? Mr. Khan stated that they have not transferred anything yet and the store is owned by Mr. Aleen. Mr. Malliaros asked who is working in the store now? Mr. Aleen stated that he and one employee currently works at the store. Mr. Cox stated that he would be not be able to vote on this transfer but stated that he does think that this was an innocent mistake. Mr. Cox stated that he spoke to the employee and she stated that it was all a misunderstanding regarding the ownership of the store. Mr. Malliaros stated that until the decision from the ABCC is made the current owner needs to be working on the premises.

Motion made by Mr. Malliaros to close the public hearing. Motion seconded by Mr. DiRocco. Motion passed unanimously. Motion made by Mr. Malliaros to approve the transfer of the wine and malt beverages packaged goods store license. Motion seconded by Mr. DiRocco. Motion passed 4 to 0. Mr. Cox abstained from voting.

OTHER ITEMS FOR DISCUSSION – Medical Marijuana Dispensaries – Attorney Hall stated that the Board was concerned and wanted him to research medical marijuana dispensaries. Attorney Hall stated currently the Town is protected under the Zoning ByLaw, Section 2.11.30 and 2.11.40. Attorney Hall stated that it would be good to

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further protect the Town by creating a Temporary Moratorium on Medical Marijuana Treatment Centers. Attorney Hall provided the Board with a handout with information regarding possibly adding a new section to the Zoning ByLaw. Attorney Hall discussed seeing if the Town will vote to amend the Town's Zoning ByLaw by adding a new Section 2.11.21. Attorney Hall discussed Section 2.11.21. Attorney Hall stated that the Town cannot interfere with State Laws and discussed having dispensaries in industrial zoned and isolated areas which he does not recommend. Attorney Hall discussed the temporary moratorium which would get them through July 1, 2014. Attorney Hall stated that he needs more time to review and this is the first attempt for the Board to review and discuss. Mr. Zimini stated that this temporary moratorium is a very good start and he would like to leave this on the table for the next meeting and have more discussions before deciding to put it before Town Meeting. Mr. Piendak stated that the Warrant Article would have to be filed with the Town Clerk by April 20, 2013 for the June 2013 Town Meeting.

SUBCOMMITTEE REPORTS – Ms. Richardson stated that she would have the minutes from the Economic Development Committee for the next meeting.

Ms. Richardson discussed the Selectmen/School Committee Subcommittee that she sat on with Mr. Zimini that Dr. McNamara created through a Warrant Article at the November 2012 Town Meeting which has now been dissolved. Ms. Richardson stated that they have directed all inquires to the Finance Committee for their review.

Ms. Richardson stated that there is a joint workshop with the Board of Selectmen and the School Committee scheduled for March 26, 2013 at 6:00 p.m. in Harmony Hall.

Mr. Malliaros discussed learning from the School Committee at the last joint workshop that the School Department still has to educate a student that has been expelled from school with no funding from the State. Ms. Richardson stated that yes, this is an unfunded mandate. Attorney Hall discussed educational procedures for Special Education Students. Attorney Hall stated that he would like to see the mandate from the School Department to review.

OLD BUSINESS

Town Charter – Ms. Richardson stated that they would be having workshops to discuss the Town Charter.

Parker Avenue School – Ms. Richardson stated that the School Committee wants to keep the Parker Avenue School within the purview of the School Department. Mr. Malliaros stated that the School Committee wants to hold onto the building and possible lease it to a Special Education Collaborative. Mr. Zimini discussed the legality issues with leasing the building as it would become a landlord situation as it is a Town owned building. Mr. Zimini asked if the School Department should be receiving tax dollars from a Town

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owned building. Attorney Hall stated that he would look into the legality issues of the School Department leasing out the Parker Avenue School. The Board discussed the Pleasant Street Fire Station currently being used by the Department of Public Works and the Kenwood Fire Station currently being used by the Cemetery Department. The Board discussed the Town Hall Annex being surplus once the New Town Hall is constructed. Mr. Piendak stated that the Town Hall Annex would not bring in good money and the money would go into a Capital Improvement Fund not the General Fund. Mr. Zimini asked about charge backs on the Dracut Public Library? Mr. Piendak stated that he would discuss that with Ann Vandal and get back to the Board.

The Chairman read the Community Calendar.

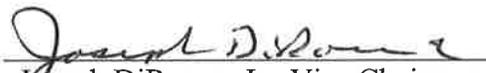
ADJOURNMENT

Motion made by Mr. Zimini to adjourn the meeting. Motion seconded by Mr. Cox. Motion passed unanimously.

The meeting adjourned at 8:10 p.m.

BOARD OF SELECTMEN


Cathy Richardson, Chairperson


Joseph DiRocco, Jr., Vice Chairman


George A. Malliaros, Clerk


Robert O. Cox

John J. Zimini