

BOARD OF SELECTMEN – MEETING OF APRIL 26, 2011
HARMONY HALL

PRESENT – George A. Malliaros, Chairman, Joseph DiRocco, Jr., Vice-Chairman, Cathy Richardson-Brown, Clerk, Robert O. Cox, John J. Zimini, Dennis E. Piendak, Town Manager, Glen Edwards, Asst. Manager/Town Planner and Barbara Souza, 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. At the request of Mr. Cox, a moment of silence was also observed for U.S.M.C. PFC Eric Currier, K.I.A. 02/17/10.

WARRANT APPROVAL – Motion by Mr. Cox and seconded by Ms. Richardson, it was unanimously voted to sign the warrant.

COMMUNITY INPUT – Joseph Wilkie, 41 Regency Drive – (Member of Friends of the New Dracut High School) spoke about the town meeting coming up tomorrow night where voters will vote to put the new high school project on the ballot on May 2nd or they won't. Mr. Wilkie spoke about all the hard work done by the group of volunteers and urged everyone to go to town meeting tomorrow night and support the project.

TOWN MANAGER'S REPORT – Arlington Street Reconstruction -Mr. Piendak reported that this Thursday at the Campbell School the town along with Mass Highway will be holding a design public hearing for the Arlington Street reconstruction project. Sewer Contract – They are on a schedule for the next sewer contract to advertise it for a bid opening in June; that sewer contract will cover the Marsh Hill areas including Lincoln Lane, Bridle Path, Surrey Lane, Bridge Street, Cross, Crosby and Black Oak Lane areas. Hazardous Waste Day was held one week ago Saturday and there were ninety-three participants which was down quite a bit and has been declining the past four years. The first baseball game will be played this coming Sunday at 2:00 p.m. at the Dillon/McAnespie Park. ZBA Opening – An opening for an alternate member on the Zoning Board of Appeals has been posted. Non-perishable food items for the Dracut Food Pantry will be accepted at the Special Town Meeting tomorrow night.

AGENDA ITEMS – Gravity Fitness Club, 28 Loon Hill Road - Request for permission to conduct "Fun-Run/Walk" on Saturday, June 11, 2011 –

It was noted that the Police Chief recommends approval.

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Motion by Mr. Cox and seconded by Mr. Zimini, it was unanimously voted to approve the request.

Dracut Agricultural Commission/Requests for reappointments –

- Mark Shaw – Motion by Mr. DiRocco and seconded by Mr. Cox, it was unanimously voted to approve the reappointment.
- Ellis Neofotistos – Motion by Mr. DiRocco and seconded by Mr. Cox, it was unanimously voted to approve the reappointment.

Leslie Cox, Manager (Coyles's Tavern) 1486 Broadway Road – Request for one-day outdoor wine & malt license for 1st Annual Memorial Bike Run on June 5th, 2011 in the name of U.S.M.C. PFC Eric Currier, killed in action on 2/17/10 in Afghanistan - (Selectman Cox left the table) – Robert Cox, Jr. addressed the board on behalf of Leslie Cox and explained the Memorial Motorcycle Run; he said it will benefit the Wounded Warrior Project and is in the name of USMC Eric Currier. Mr. Cox (Jr.) introduced Russ Currier, father of Eric and said Mr. Currier is also doing a lot of the work in organizing this and they are here to seek the board's permission.

Ms. Richardson asked if they could perhaps tell us a little bit about the Wounded Warriors and what they do.

Mr. Currier said that the Wounded Warrior Project help warriors that have been injured, if they've lost a limb, with funding for prosthetics or anything like that; it helps them a lot. Mr. Currier said that a lot of the guys that were over there with his son got injured and the Wounded Warrior Project is doing a fabulous job for them with everything.

Mr. DiRocco reminded them that if they are having a tent, one of the requirements is that they will have to get approval from the fire department. Mr. Cox (Jr.) indicated that they are aware of that. A brief discussion continued.

On a motion by Mr. DiRocco and seconded by Mr. Zimini, **it was unanimously voted of those present and voting (4-0) to approve.**

PUBLIC HEARING/MEADOW CREEK GOLF CLUB, INC. – Application for Amendment to Special Permit (10th Hole Snack Shack & Function Area) (postponed from meeting of April 12th) – Mr. Jeffrey Brem and Mr. Michael Kuenzler were present. Mr. Brem indicated that they are here to amend the special permit that was issued back in January of 2001 and then the overall site development permit issued on 10/13/2000.

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He said their application is to change some operations of the club for what they feel, for the better. Mr. Brem proceeded to explain what is being proposed by pointing out on the plans. He noted that they are proposing three different improvements all related to operations or functions; the first would be to build a snack shack and pointed to the location on the plan; also in that building will be a storage area for golf tournaments; they will be able to store all their paraphernalia until the day of the tournament in a locked, secured area. Mr. DiRocco asked what it was going to be made out of to which Mr. Brem said it would be a wood framed building, one story 18 X 26; it will have a storage room for beer and a room for selling sandwiches and so forth and then a back room to store the beverage cart and the storage that he just talked about.

Mr. Malliaros asked where the nearest residence is to the proposed snack shack. Mr. Brem, pointing to the plan, said about 200-feet away from the shack. He continued to say that the second part would be the ceremony area; they have had a large amount of requests as a lot of people are not getting married inside churches and would like to have an outdoor area. Mr. Brem proceeded to point out the location on the map noting that it is right across the street from the clubhouse and said it is in a good location and aesthetically pleasing. (Mr. Kuenzler passed out visuals of the proposed ceremonial area) and Mr. Brem continued with his presentation. He said that following the ceremony, the guests would go back into the building for the reception and all the chairs would also be returned; they would not stay out there permanently. Mr. Brem said the third part would be the tent; the reason for the tent is mostly for golf tournaments and its primary purpose will be for the golf outings. Following his comments, Mr. Brem said he or Mr. Kuenzler would be happy to answer any questions.

Mr. Edwards proceeded to highlight some of the departmental review comments. If the board were to approve it, there would be conditions put upon it; one he would ask that the architectural of the building to see if it is suitable for the neighborhood and that a separate vote be taken on the hours; they are looking for 7:00 a.m. to 11:00 p.m. Another thing they also offered as a thought, if the board were willing to go forward with this on a trial basis is to put a permit renewal in so if there is a problem with it, adjustments can be made to it. Discussion continued and Mr. Brem also discussed the possibility of a proposed alternative location; so if they could amend their application to add (pointing to the plan) this as an alternative location, especially considering that that condition is put in there to look at what happens during the six months (the season), they would accept that as a condition. Mr. Malliaros asked

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if there are any houses where the trailer used to be; Mr. Brem said “no”, they are some about 400-feet away.

Abutters - Jake Swiniarski, 99 Meadow Creek Drive – Stated that he wants it to be known that the tent would be about 300-feet from his house and considers it to be very detrimental to his property values; he bought on a golf course for privacy, esthetics, value to his property and sees none of these things being benefitted at all. Mr. Swiniarski stated that he wants to go on record as saying he is vehemently opposed to this and will do everything he can to see this not happen.

Mr. Malliaros asked how he would feel if they went to the other location where the trailer used to be.

Mr. Swiniarski said they actually argued (before Mr. Malliaros was on the board) when they wanted to put the trailer there with the previous ownership before these guys took over and they argued against the tent because they are just not esthetically what belongs there in his opinion. There was no facility built so they had outhouses at the time and doesn't know what they are going to be using for facilities or if they are going to be putting bathrooms in there. He said there are a lot of unanswered questions that just leave him leery about the whole thing and would prefer not to see the tent; he understands if they want some sort of place to do ceremonies or whatever and demonstrating on the plan, he proceeded to point out another 50-feet of area that he feels can be accommodated; its behind the building and said he might be amenable to something like that.

Mr. DiRocco asked Mr. Swiniarski if he was against all three of the items they are proposing. Mr. Swiniarski replied “for that particular location”; he feels perhaps some sort of temporary maybe on wheels; he understands the accommodation for a golfer when they're coming off the 9th they just go right there and said he has no problem with something of that sort but said these other things scare him because if they don't quite work, they'll be here in another year and they will be trying to amend it to do something else. He understands that its all profit motivated but said he has to live there; he has a big investment there and wants to make sure it's protected.

Paul Simao, 95 Meadow Creek Drive – Stated that he lives about 120-feet from there and his concern is; they are talking about a small building...what are they going to have storage for that building? Where are they going to keep the dumpsters for the trash because that accumulates a lot of trash and asked where are they going to put the

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dumpsters for the trash, “in my yard?” Mr. Simao said they have two containers for trash right across from his house; they have two big containers for storage right across from his house and asked what are they going to do

with this little place, what are they going to do for all the storage? Mr. Simao said he is very concerned about that along with what his neighbor just said.

Colleen Swiniarski, 99 Meadow Creek Drive – Stated that she is vehemently opposed to this and wondered with all the conflicting engagements such as the golf course, engagements, weddings, showers or what have you, where are all those cars going to park? She also wondered where people will go if they have to use the bathroom. Mrs. Swiniarski continued expressing her concerns about the tent and the noise factor, plus the beer cans and trash that she said they (owners) do not pick up; the neighbors pick it up. She indicated that she is out there on her bike picking up all the trash as is all the other neighbors and feels they have not been good neighbors as far as trash and as far as noise. Mrs. Swiniarski continued expressing her views and wondered why they feel the need to have two snack bars; she lives across the street and feels the building is under utilized and said the restaurant is closed most of the time and said she didn't build up there to live next to a circus tent and a clam shack. She feels it is not bettering Dracut, it's making it worse and feels it will look foolish up there and said it's all for the profits of these two men to make more money; it's not for the convenience of the golfers because the golfer only has to walk across the street to use a bathroom and to get a cold beer plus they have the little golf cart that goes around for convenience. Following additional comments, Mrs. Swiniarski said she cannot believe that the board, as town fathers, would let this happen to citizens so two guys can make a profit. She stated it is not in the best interest of the town and feels there are too many problems, parking, hygiene, noise, lighting and storage. She also touched upon "booze" being stored in that little place and the potential for kids to break in and wondered who would be keeping a watch on that. Following more comments, she added that they already have a place for ceremonies and said they have paved it and is at the corner of their building, it overlooks the city and has a grass area and wondered why do they need another one. She feels that if they need more space, they have the footprint they should "build up" or they should have built a bigger facility and shouldn't start littering the neighborhood with a circus like atmosphere.

Mike Kuenzler of Meadow Creek –Stated that the weddings are going to be inside the facility; the outside structure, which certainly is more

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beautified than what is there right now, would be for a ceremony that lasts for about an hour and then the people would go inside; the tent has nothing to do with the weddings and wants to clarify that. Secondly, as Mr. Brem said, they have outings sometimes on a Monday in the morning and then again in the afternoon and said they've already had those before and there has never been a parking issue; they are not talking about bringing on anymore cars, they're talking about having a place where people can have their lunch in

the tent as the other people are dining inside because there is a criss-cross for about two hours of those people. Mr. Kuenzler said they have done this before and there has never been an issue with parking.

Mr. Malliaros asked how he would respond to Mrs. Swiniarski's comment about why they didn't build up and make a bigger facility.

Mr. Kuenzler replied that he only came in as an owner about a year ago and the place was built before he got involved.

Mr. Malliaros asked if he thought it was too small. Mr. Kuenzler said personally he doesn't think it's too small and he doesn't think it's too unreasonable to have a ceremony place across the street; it would be used for a couple of hours during a wedding. He said its not every wedding; it would just be an option to have as some people now like that outside wedding.

Mr. Brem added that as far as the snack shack they also have that out there most of the time and it is not just to sell sodas and sandwiches, it's a speed thing and said the restaurant is not set up at all to do snacks, burgers and so forth for the golfers; its just at the turn just as they did last year. He said it was very in formalized last year and wasn't run very well because they didn't have a facility to put things in and added that it is a different operation running a restaurant as opposed to a snack shack. As far as the tent goes, that would be primarily for the golfers on those outings that they have pretty much every week. It is not to be used for a party after the ceremony; it's to be used mainly for the golfers and an occasional outdoor event. Mr. Brem continued to say that with regard to the question about the building being big enough, essentially what they find is that people who come to golf courses like to be outside and so the ceremony for a wedding allows people to be outside, especially on a nice day, and the golfers like to be outside. They have about 150 golfers in the morning and 150 golfers at night; the facility holds about two-hundred. He said "should it have been bigger just to accommodate twenty events a year?" "That's just a large waste of money; you wouldn't be able to pay for it." He said this would give them the flexibility, gives

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them an esthetically pleasing area, its right across the street from the club house so as far as issues such as bathrooms and services, its right there and said they are not intending on putting any port-a-potties. Mr. Brem said as far as the restaurant being open, they closed down three nights and two days during the winter but as soon as the season started, they are now seven days a week and is a full-time restaurant.

Mr. DiRocco asked if it was their intentions to leave the tent up. Mr. Brem said for the season; it will come down at the end of the season.

Mr. Kuenzler added that they are open to moving it across from the barn as well as an alternative.

Mrs. Swiniarski stated that she has one thing to say about golfers wanting to be outside; they are outside for 18-holes and number two, the way the building was designed, it was designed so the entire side overlooking the City of Lowell can be opened. She bikes that circle every day in the summer and not once did she ever see them open up those doors so that the golfers can enjoy the outside and feels their argument is very weak. She also feels that the little walkway between the pro shop and the restaurant, because it is covered, would be fine to put a grill right there and make the hamburgers and hot dogs and the golfers could just walk right across the street, get their quick food and be on their way. She added that they already have their outside ceremony for the weddings at the corner of the building and they won't need the tent that much because as he said, it is only for an occasional outing and can't see why it would be such a big problem to put it up and then take it down if it is only an occasional outing.

Mr. Swiniarski said he would just like to make one statement; there is an awful lot of talk about golfers walking but 99% of the golfers today drive a golf cart so from the 9th tee to across the street is a half a minute.

Mr. Cox said he feels that this warrants a site visit, at the very least.

Ms. Richardson said she would agree with Mr. Cox and said she actually drove up there and couldn't get a sense of where things were going and which houses would be mostly affected so she would appreciate a visit.

Mr. Malliaros said he is troubled by a number of things; it seems to him that these people bought some very expensive, luxurious homes and it really wasn't anticipated that they would have structures in their backyards so it does seem to be unfair.

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Mr. Brem added that the original plan did incorporate some tents on the site; it also incorporated a function area, it was undefined at the time, but it was on the original site plan (he proceeded to point out the area on the plan) and said this was anticipated right from the very beginning in this location; both the tent and the function area were on all the plans.

Mr. Swiniarski said it may have popped up at a meeting but it wasn't a public meeting were they were notified, it was like an ongoing thing; they weren't notified that a lot of this was coming up so they were not able to voice an opinion on it.

Motion by Mr. DiRocco and seconded by Mr. Cox to continue this hearing until May 10th at 7:10 p.m. Discussion ensued regarding setting a date for a site visit. The board agreed to a site visit on Tuesday, May 3rd at 6:15 p.m.

Mr. Simao asked if those trash containers were going to stay there forever or just temporarily. Mr. Malliaros suggested that he (Simao) attend the site visit next Tuesday and he can point them out at that time.

The motion for continuance passed unanimously.

Mr. Piendak stated for clarification that under the latest revisions for the Massachusetts Open Meeting Law the board can conduct a site inspection but it cannot take hearing or deliberate or anything else; they can go and view however it is not a continuation of the public hearing; that all has to take place back here.

PUBLIC HEARING/Application for Special Permit/Light Vehicle Sales/Joseph Zagarella/Let's Make a Deal Auto Sales, 718 Merrimack Avenue (postponed from meeting of April 12th) - The applicant, Joseph Zagarella was present. Mr. Malliaros noted that the board went out and looked at the site.

ABUTTERS – Chris Coviello, 30 Allen Street – Stated that the big problem he has is with the traffic; cars on Rte. 110 travel at a high rate of speed. Leavitt Street is basically their main access for getting into that area. When coming from Rte. 93 and trying to take a right hand turn onto Jacob, Allen and Grant he said the breakdown lane isn't quite wide enough to slow down and get out of the way to make that right hand turn. Following some additional comments, Mr. Coviello said he feels having a used car lot with people stopping to look at the cars will be a fiasco and that is his biggest concern.

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Debbie Moore stated that she has several of the same concerns which is the traffic coming down 110; trying to get out of Leavitt Street is already hard enough let alone having cars parked there; the view is limited and cars come around the turn at a high rate of speed and you don't see them until the last minute. She said having more cars sitting there and with the traffic, she doesn't see how they can sell a car that can't be advertised there; no one is going to see and where are the people who are going to purchase or look at the cars going to park? She said cars coming in and out of Dapper Dogs already causes confusion and explained the difficulty trying to park there and back out safely and doesn't feel that it is a safe location for what they're looking for in her opinion having lived there for ten years. Ms. Moore said that other than Dapper Dogs she hasn't seen any business be successful at that location and thinks that is probably because it's the only one there.

Mr. Malliaros asked if there was a hair salon there. Ms. Moore replied that she never sees anyone there and if they are, she doesn't know when they operate; she often walks the area and has just never seen anyone there. After some additional comments, Ms. Moore said she is opposed to that particular business going in there.

Nathaniel Mota, 714 Merrimack Avenue – Stated that he lives next door and for him this is good because every time they put in a business people turn around in his driveway so that's why he wants this business; he's got three kids and everyone wants to turn around in his driveway to go the other way to Rte. 93.

Mr. Malliaros asked Mr. Mota how having this business there is going to help him. Mr. Mota explained by pointing out on the plan where cars will be parked to prevent people from turning around. Mr. Zimini asked if he is in favor of this going in there to which Mr. Mota replied "yes". A brief discussion continued.

Jonathan Murphy, 598 Merrimack Avenue – Following some initial comments, Mr. Murphy said that he doesn't feel one or two cars will make that big of a difference compared to Dapper Dogs doing a lot of business and doesn't feel having two cars out front would be too much of a concern. Mr. Murphy stated he is in favor of this business.

Joe Zagarella, 146 Brook Street (applicant) – Stated that 10-years ago there was a car lot at that location; 10-years ago there were two other offices there and really doesn't see the big concern about parking; he believes the back yard has eight spaces, minus one for the proposed

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dumpster that will be going there. That will bring it down to six spaces. He asked if it was correct that every business has to have three spaces.

Mr. Piendak replied that there is a ratio of spaces required for a particular business; the ones at that location, each of those just by virtue of their nature require three.

Mr. Zagarella proceeded to discuss the amount of parking spaces available noting that he feels there is plenty of parking there. He is looking to put one car out on 110 and as far as advertising it will be done on Craig's List, Auto Hunter, E-Bay and so forth. He is more of a wholesale dealer with not a lot of customers but would like the ability to do that.

Mr. DiRocco said that following the site inspection, he talked to the Building Inspector and was told they need eleven parking spaces and said he (McLaughlin) felt they had their spaces. Referring to the plan, Mr. DiRocco

pointed to where they offered to angle the cars and said by doing that, the vehicles would still be able to drive behind them because they would be taking up less space. Ms. Richardson agreed and said Mr. Mota had mentioned about people cutting through his yard; she is wondering if there is some flexibility where Mr. Zagarella could park because it might do two things; it might prevent the issue of people going through Mr. Mota's yard and might also prevent the parked car being on the corner and move it to give more visibility. Following some additional comments, Ms. Richardson said there is a right-of-way that isn't delineated well and feels Mr. Zagarella could put the curb stops enough feet away that would delineate it. Discussion continued.

Mr. Zagarella stated that it appears everyone seems concerned about parking and suggested taking the front space away and just store the two out back and let Dapper Dog use the whole front space; he is not looking to advertise on 110, he's looking to advertise on-line and bring them auction to auction as more of a wholesaler but needs the ability because Massachusetts just does not give a wholesale license. Discussion continued regarding the amount of parking spots. Mr. Zimini said he feels it might be wise for them to put a bumper or some type of separation there to help alleviate Mr. Mota's problem so they can't use his driveway as a turn around. Mr. Zimini asked Mr. Zagarella how many employees he will have to which he replied himself and his brother. He said they would be driving in together. Mr. Zimini said that a concern mentioned to him by one of the neighbors was that someone operated a business in there last summer or fall and asked Mr. Zagarella if that was him. Mr. Zagarella replied "no" and said he has a least as of January

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15th. That person was doing audio and car stuff and believes the owner had issues with that person; it had nothing to do with him at all.

Mr. Piendak noted that a previous special permit had been issued for that location in 2000 for auto equipment sales.

Mr. Cox said he understands the safety concerns but if there was an existing business there prior to he would hope that the board is not putting themselves out there but not allowing the owner to rent her property without good cause; again he is not discounting safety cause.

Mr. Zagarella added that there was no back lot in 2000, just the front lot with the parking spaces that are in the front.

A lengthy discussion continued regarding the traffic and parking issues.

Mr. Zagarella said past businesses that were there have all been automotive businesses in that unit because of the garage; he just wants a license to sell

cars and said he doesn't need to display and doesn't even need to store them, he just needs a license to sell cars.

Ms. Richardson said she has a similar concern to Mr. Cox in terms of precedence and said when they were out there during the site inspection Mr. McLaughlin was fairly clear about the fact that there are eleven spaces available. She does feel the delineation of the existing curb and the ending of the actual property needs to be delineated if we go forward. Ms. Richardson also discussed perhaps doing this on a temporary fashion, almost a trial basis to some degree and have a very short window of review and ask that Chief Richardson look at the traffic issues in that particular area and come back to us with some information.

Mr. Malliaros stated that as with any special permit, the board has to find that the intended use is in harmony and purpose with the intent of the bylaw and will not be detrimental or injurious to the neighborhood and is appropriate to the site in question; just because there was something there before doesn't mean there will be something there again.

Mr. (Jonathan) Murphy offered some additional comments in support of this application.

Brandon Zagarella, 146 Brook Street stated that what his brother Joseph is proposing to do is nothing major. Right now there are three businesses that are active; one of them (hairdresser) is barely in use and never there; he realizes that the safety concern is about people pulling in

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and out of the front but he wants to take that away; he doesn't want the front and said all they want to do is park two cars in the back.

Motion by Mr. Cox and seconded by Ms. Richardson it was unanimously voted to close the public hearing.

Mr. DiRocco moved to approve. His reasoning is that he doesn't feel it is any more detrimental to the neighborhood than what was there prior to and said he has offered to take the vehicles and move them from the front to the rear and feels he is trying to work with the neighborhood and following some additional comments, **Mr. DiRocco said he will move to approve with all the stipulations.**

Mr. Malliaros asked if that was with the one car or two cars. Mr. DiRocco said he doesn't have a problem with two cars because the building inspector told him there was enough parking there.

Ms. Richardson wondered if some type of amendment or addition to do some type of smaller review in respect to the neighbor's concerns or a shorter window of review in having the one vehicle in the back initially; start out with one and do a shorter window of review and then also maybe work with Mike's group to figure out how to somewhat delineate the end of the property with some kind of a curb marker; perhaps some kind of stipulation where the landlord being responsible in some way for that. Mr. Piendak suggested a condition requiring curb stops at the front property line between the property and the highway would be an appropriate condition; he pointed out that condition #13 provides for review at six-month intervals initially and then one year after that and said that is standard language that the board has been using on a number of special permits.

Ms. Richardson said she would be willing to make that amendment in support of her colleagues.

Mr. Zimini asked if Mr. DiRocco's motion includes all the stipulations including #13. Mr. DiRocco said unless there was something different that somebody wants to add. Ms. Richardson said just the curb stops and the six month review. Mr. DiRocco said we have a review process in place, but he (Zagarella) is not the owner and they're not going to be parking out front and feels that is something they would have to call the owner in on. Mr. Piendak asked Mr. Zagarella if he had the authority to speak for the owner to which he replied he did not. Mr. DiRocco commented that unfortunately this is a bad location but they're there. Merrimack Avenue used to be a four-lane highway and numerous

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accidents occurred; when they brought it down to two-lanes they don't have the amount of accidents dropped down dramatically. Mr. DiRocco said he stands by his motion.

Mr. Zimini stated that he will be voting opposed to this because he doesn't think it is a good situation and feels just because something has been there before doesn't necessarily mean that it has to continue; he shares the concerns of the neighborhood and said he is not opposed to businesses but he is opposed to this going here because of the safety concerns that he has as well as members of that community. It is a very dangerous road and knows there are six other dealerships there but they are all set back from the road a lot differently than this particular place is and again said he is going to vote no because he doesn't think it's a good use for that particular site.

Motion by Mr. DiRocco and seconded by Ms. Richardson to approve with the stipulations. Mr. DiRocco, Mr. Cox and Ms. Richardson voted in favor. Mr. Zimini and Mr. Malliaros voted no. It was noted that special permits require 4 out of 5 votes to pass. Mr. Malliaros said he was unaware of

that and is willing to give them a chance; he asked if this can be reconsidered. Mr. Piendak replied that it takes someone on the prevailing side to make a motion for reconsideration then its back on the table.

Mr. DiRocco made a motion to reconsider; Mr. Cox seconded the motion.

Mr. Malliaros said it is a close call for him; he shares Mr. Zimini's concerns but he would give them an opportunity as they seem like legitimate guys so he'll give them a chance. **All in favor of reconsidering were Mr. DiRocco, Mr. Cox, Ms. Richardson and Mr. Malliaros. Mr. Zimini voted opposed (4-1).**

All in favor of granting the special permit with the 13-conditions: Mr. DiRocco, Mr. Cox, Ms. Richardson and Mr. Malliaros. Mr. Zimini voted opposed. Motion to grant passed on a 4-1 vote.

Mr. Piendak stated for clarification that the 14th condition would be the two cars in the back (13 in the memo plus add 14). Mr. Malliaros also noted that the board has the power to revisit this in 6-months.

MEDITERRANEO MARKETPLACE, DANY R. KARAM, OWNER. 1229 LAKEVIEW AVENUE, UNITS 2 & 3 - Request for Common Victualler License – Motion by Mr. Zimini and seconded by Ms. Richardson **it was unanimously voted to grant.**

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SPECIAL TOWN MEETING WARRANT ARTICLE - (to appropriate a sum of money for the renovation and construction of an addition to the Dracut High School) – Submitted for the board's recommendation - **Mr. Zimini moved to recommend approval of the article. Mr. Cox seconded the motion. Results of the roll call vote as follows: Mr. Cox, yes; Ms. Richardson, yes; Mr. DiRocco, yes; Mr. Zimini, yes and Mr. Malliaros yes. Motion to recommend approval passed unanimously.**

OLD BUSINESS: Town Manager's Search – Ms. Richardson proceeded to update the board and said she is still waiting to hear from MMA about the Reading Town Manager joining us however she did get a call from Richard Kobayashi, senior consultant at the Collins Center for Public Management at UMass Boston and said he is willing to come here and speak to the board on May 10th about what his particular agency has to offer. She suggested perhaps getting together with him prior to the board's regular meeting. It was the consensus of the board to schedule a work session with Mr. Kobayashi on May 10th at 6:00 p.m.

Infomercial – Mr. DiRocco said he wasn't going to bring this up however one of the candidates (man on his left) had an infomercial on T.V. and he discusses Louisberg Square; he had thought this was put to sleep.

Mr. Zimini interjected and asked if this was on the agenda. Mr. DiRocco said he is bringing it up under old business. Mr. Zimini said it is not old business, it was disposed of. Mr. Malliaros asked the Manager if under the new open meeting laws this can be done. Mr. Piendak said he believes a subject can be brought up, it cannot be deliberated; if it is going to be deliberated it has to be on the agenda but believes the topic can be brought up for future deliberation. Mr. Zimini said "so we're going to discuss politics tonight; is that what we're going to do Mr. Chairman?" Mr. DiRocco said "all I want to do is make some statements so that the taxpayers know the truth, that's all I want to do." Mr. Zimini replied "then why don't you buy a commercial?"

Mr. DiRocco said "I don't need to Mr. Zimini; I'm not running for any office as you are." Mr. DiRocco continued to say that he saw this infomercial and said we have hashed this thing over and over again at our meetings and felt it is wrong to use it politically. At this point, Mr. DiRocco proceeded to address some of the comments that were made during the infomercial.

Incident/Heart Attack - Mr. DiRocco explained an incident that took place following a fishing trip he was on last Wednesday; as they were getting off the boat, at which Dracut Firefighter Romeo Demers was also there, and as they got up top they observed a man having a heart attack. Fight fighter Demers immediately started CPR and after checking on the

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gentleman today, Mr. DiRocco said the man is doing pretty well and said had it not been for Romeo, he is positive this man would not have made it. Mr. DiRocco said he witnessed the whole thing and honestly believes that man wouldn't be here today if it wasn't for his actions and would like to see a letter sent to the Chief and to Romeo for a job well done.

Police Department Contract – Mr. Piendak explained that a tentative agreement has been reached with the police union on a 2-year contract; as with all other agreements it is for 1% this year and 1% next year; it adjusts the clothing allowance by \$150 next year; it clarifies the seniority under the contract for two officers who transferred from Lawrence to our department and brings their police seniority with them. It does change the scheduled hours of work as requested. Currently the shifts are 9-5, 5-1 and 1-9; upon approval the shifts would be 8-4, 4 to midnight and midnight to 8. It clarifies the procedure for the 16-hour notice on leave except in extenuating circumstances of sick leave. It does clarify that the town has no role in administering sick leave bank in the contract; it provides for a 20-year step on June 30th, 2012 which has no impact on the 2-year agreement and exchange therefore it does delete the early termination clauses of the contract which provided for incentive pay of 7 ½ % of someone whose retiring under age 60 and 5% if they are retiring between 60 & 65. Mr. Piendak said the union as ratified it and he is recommending its approval and its execution to the board.

Mr. DiRocco stated that he would like to commend all the unions for participating and going with the town manager.

Mr. DiRocco motioned to approve and was seconded by Ms. Richardson. The motion passed unanimously of those members voting (4-0-1) with Mr. Cox abstaining.

Old Highway Garage/Lakeview Avenue - Mr. DiRocco read aloud a letter from the Building Inspector about the old Highway Department Garage; concerns about its safety were discussed at the last meeting. DPW currently uses the building for storage (the building is slated to be demolished to make way for the Esplanade Park) and he (McLaughlin) feels there is no reason why this cannot continue until then; Mr. McLaughlin suggested (and Mr. Buxton agreed) that the building be kept locked and secured at all times; the fenced off enclosure should also be permanently padlocked

The Chairman read the Community Calendar.

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ADJOURNMENT – On a motion by Mr. DiRocco and seconded by Mr. Cox, **it was unanimously voted to adjourn the meeting at 9:00 p.m.**

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BOARD OF SELECTMEN

George A. Malliaros, Chairman

Joseph DiRocco, Jr., Vice-Chairman

Cathy Richardson-Brown, Clerk

Robert O. Cox

John J. Zimini