

SELECTMEN'S MEETING MINUTES
February 26, 2013

Members Present: James DeVellis, Chairman
Mark Sullivan, Vice Chairman
Lorraine Brue, Clerk
Lynda Walsh
Ginny Coppola

Others Present: Town Manager Kevin Paicos
Town Clerk Bob Cutler
Atty. Richard Kelliher
Atty. Dee Moschos
Atty. John Michelmore
Atty. Leo Peloquin
Atty. George Bell
Jim Cobrey and Jess Stevenson of the Kraft Organization
Mass Gaming Commission Ombudsman John Ziemba
Plainville Town Administrator Joe Fernandes
Town Planner Sharon Wason

The meeting was brought to order at 7:00 p.m. by James DeVellis, Chairman. Chairman DeVellis reviewed the agenda.

Chairman's Update

Mr. DeVellis stated that he has met with Atty. Spillane and the Advisory Committee in regards to Town Meeting Warrant Articles to discuss ways to improve Town Meeting. They will be having a second meeting with Mr. Paicos and perhaps one other Board of Selectmen member.

Upcoming agenda items include the Capital Budget requests, Warrant Articles for Town Meeting and a discussion on the Fire Department fees. The Kraft Organization will be coming to the March 5th meeting for a Q & A session. The Town Common proposed electronic sign will be on the March 5th agenda also.

Mr. Paicos has received an invitation for the Board from North Attleboro to attend an informational forum on Local Governance and Future of your Public Housing. The meeting is on February 27th and an RSVP is required.

Dual Elections

The Board met with Town Clerk Bob Cutler to discuss the upcoming Town and Special Elections.

Mr. DeVellis and Ms. Walsh recused themselves from this conversation as they are both running for re-election.

Mr. Cutler stated that the Town Election is always held on the first Monday in May per the Town Bylaw. The state is requiring a Special Primary Election for the State Senate seat of John Kerry who was recently appointed Secretary of State on April 30, 2013. The actual election will be on June 25, 2013.

The state has a provision that if a town election is within thirty days of the state primary they can be combined. Mr. Cutler proposes moving the Town Election to April 30, 2013. Some surrounding towns have voted to do this. This would be a one time vote and would only affect this election; the statute would expire on July 31, 2013.

The town would save on police detail costs and set up costs. Combining the two would also save on imposition to the schools. He also feels there may be a better turnout of voters if the two are combined.

There will be two ballots required, one for the town and one for the state.

A motion to combine the Town Election with the State Primary to be held on April 30, 2013 was made by Ms. Brue and seconded by Ms. Coppola. **The motion carried 3-0-0.**

Mr. DeVellis and Ms. Walsh rejoined the Board.

Town Manager Act Discussion

Ms. Brue invited a panel to discuss town management with the Board. The panel included Atty. Richard Kelliher, Atty. Dee Moschos, Atty. John Michelmore, Atty. Leo Peloquin and Atty. George Bell.

Mr. Paicos was hired under the Strong Town Manager Act. The former Town Manager was also working under the Strong Town Manager Act of 2004 although he did not implement some of the powers he could have. The Board of Selectmen has gone from three to five members in the past few years also. This is a roundtable discussion on town management.

Atty. Michelmore stated that he read the 1989 Town Government Study report which recommended such things as the consolidation of the Finance Department, having the Town Treasurer be appointed rather than elected and going from three to five Selectmen. These items were implemented around that time, and then there was no action on other recommendations given for about ten years. This is an opportunity to revisit, review and perhaps implements some more of the recommendations.

In regard to a Town Manager, the job description is always changing depending on the members of the Board of Selectmen.

There was a discussion on the difference between a Town Administrator and a Town Manager. An Administrator works for the Board of Selectmen and follows their policies.

A Manager has broad authority to run the town and the Board of Selectmen controls the policies.

The Town Manager profession has grown in the years since the report was prepared in 1989.

Atty. Bell stated that the town needs to look at best practices in regards to the management of the town. He thinks the Board of Selectmen should focus on goal setting and policies and have the Town Manager run the day to day operations of the town.

Atty. Kelliher is a former Town Administrator for Brookline and also worked with the Mayors of Boston and Newton. He would prefer a Strong Mayor model. This is usually not done in a town the size of Foxboro though. Communication is an important element no matter what type of town management is used.

Atty. Moschos stated that there are currently no small communities with Mayors. He reviewed the three types of management. There is an Executive Secretary which is appointed by the Board of Selectmen as their agent; there is a Town Administrator which is a weak executive who cannot participate in Collective Bargaining, Budgets or the appointment of personnel; the third type is a Town Manager who is an appointing authority, can conduct collective bargaining with Unions, work on town budgets and has executive powers. The Town Manager is consistent with the trend of government today. He also stated that communication from the Board of Selectmen as the policy makers and licensing authority and the town manger is important.

(Discussion continues after opening of Public Hearing)

Public Hearing – Application for the New England Revolution 2013 Soccer Season at Gillette Stadium

Ms. Brue read the Public Hearing Notice.

A motion to continue the hearing to later this evening was made by Ms. Walsh and seconded by Mr. Sullivan. **The motion carried 5-0-0.**

Town Manager Discussion (Continued)

Atty. Peloquin has worked with both the Former Town Manager Mr. Gala and the current Town Manager Mr. Paicos. He has seen the transition from one to the other.

Mr. Sullivan stated that a mayoral form of government may work in the future. It's sometimes overwhelming to be on the Board, it is a volunteer, elected position that requires more and more time to deal with the issues of the town.

Atty. Kelliher stated that a change to a mayor would take decades, most towns that go to mayors have populations of 40,000 – 50,000, Foxboro has 17,000. The town should focus on how to get more effective administration.

Atty. Michelmores stated that there was a Selectmen in the 1970's who would work a full time job, then come to town hall on nights and all day Saturday's. The town has been through ups and downs since then.

Mr. Sullivan suggested that perhaps an Assistant Town Manager positions needs to be looked at; the responsibility of dealing with the Kraft Organization and the day to day operations can be too much for the Town Manager to deal with sometimes.

Mr. DeVellis feels reviewing the 1989 report was helpful. He is happy with the Town Manager management system but is always looking to the future of the town.

Public Hearing – Application for the New England Revolution 2013 Soccer Season at Gillette Stadium

The Kraft Organization was represented by Jim Cobrey and Jess Stevenson.

The Revolution will have a seventeen game schedule, parking is free at these events. They are also looking into doing a college season ticket package as a new addition this year.

George Bell, Chairman of the Stadium Advisory Committee recommends approval with the usual conditions for public safety expenditures. Letters in support were also received from the Police and Fire departments.

Mr. Paicos stated that the indemnification agreement for the concerts at Gillette currently in negotiations will also cover these events. The agreement is close to being made, the Board could condition the signature of the indemnification agreement when available.

A motion to close the Public Hearing was made by Mr. Sullivan and seconded by Ms. Brue. **The motion carried 5-0-0.**

A motion to approve the application for the New England Revolution 2013 Soccer Season at Gillette Stadium subject to conditions from the Stadium Advisory Committee, Police Department, Fire Department and the signing of an indemnification agreement was made by Ms. Brue and seconded by Mr. Sullivan. **The motion carried 5-0-0.**

Mass Gaming Commission presentation with Q & A

The Mass Gaming Commission was invited to speak to the Board to explain the Surrounding Community aspect of the Mass Gaming Legislation in regards to casinos and slots and what steps can be taken to be compensated for impacts from the proposed license. Ombudsman John Ziemba was present as well as Plainville Town Administrator Joe Fernandes.

Mr. Ziemba encouraged the Board to visit www.massgaming.com for up to date information. Mr. Ziemba distributed and reviewed the Massachusetts Gaming Legislation Details. The state has created three regions for casinos and slot parlors.

Foxboro is in Region A. There is an application process to apply for these licenses that is divided into phases. The first phase is a background review, the second phase is review of the proposed site and composition and an economic development plan.

There have been eleven applications for Region A, four of which are for slots with Plainridge Racecourse in Plainville and the Raynham Park being the local ones.

A part of phase 2 is the establishment of a host community agreement and surrounding community agreements. The surrounding communities have important rights, but no veto power to the project. Regional and economic impacts must be shown in these agreements.

Surrounding communities are determined by either the developer or community or by the commission. The commission has a timetable and is working on regulations to address impacts of the surrounding communities through a Community Mitigation Fund.

Regional Planning Agencies may be able to help with the required impact studies.

The surrounding communities are encouraged to stay in touch with the applicants.

(Discussion continues after the Public Hearing)

Continued Public Hearing – Application for Alteration of Premises for Jake n Joe’s at 25 Foxborough Boulevard

Public Hearing – Approval of New Stockholders for Jake n Joe’s at 25 Foxborough Boulevard

Mr. DeVellis recused himself from this hearing.

Ms. Brue read the Public Hearing notice.

Mr. Paicos stated that these are applications for the changes to the former Picadilly Pub and new stockholders. This is their first time doing a remodel of an existing restaurant.

Both applications are in order and the information provided has been verified. Chief O’Leary will be visiting the premises but expects no issues. Mr. Paicos and Building Commissioner Bill Casbarra have inspected the premises.

A motion to close the Public Hearing was made by Ms. Brue and seconded by Ms. Coppola. **The motion carried 4-0-0.**

A motion to approve the application for the Alteration of Premises for the All Alcohol Restaurant License at Jake n Joe’s located at 25 Foxborough Boulevard was made by Ms. Walsh and seconded by Ms. Coppola. **The motion carried 4-0-0.**

A motion to approve the application for New Stockholders at Jake n Joe's located at 25 Foxborough Boulevard was made by Ms. Walsh and seconded by Ms. Brue. **The motion carried 4-0-0.**

The restaurant will be opening as soon as the application is approved by the ABCC.

Mass Gaming Commission presentation with Q & A

Plainville Town Administrator Joe Fernandes informed the Board that an RFP has been sent out for a gaming consultant, proposals were due back by January 31st. An evaluation team was formed and they have reviewed the proposals, they will be interviewed at a meeting on March 5th.

Plainville has not done there own traffic study yet; the Plainridge Racecourse had done a traffic study.

The next steps will require establishing a timeline to come up with a scope of services, review the State act, review the studies and research, study market trends, analyze the application and get a traffic study and a pro forma. Mr. Fernandes expects that there will be demands on Plainville's public safety, economy and the residents.

Plainville is concerned with such things as property values, crime rates, alcohol service policies, mortgage defaults, domestic violence, gambling addiction of young people, impact on other town businesses, insurance rates, impacts on seniors and the community, noise, light and the regional economy.

The definitions of a Surrounding Community still needs to be determined as well as the process. So far they know that they need to respond to any potential surrounding communities that apply, follow up with them, conduct a pre-negotiation meeting and have them at the host community agreement meeting.

The applicant's will be the contact people, not the Town of Plainville.

A determination needs to be made if Foxboro qualifies as a surrounding community under Mass Gaming Commission regulations.

Daniel Crivellaro of 6 Spruce Street wanted to know if the community agreement will be renewable. Mr. Ziembra stated that the mitigation funds are renewable every February.

He also inquired what the ramifications would be if no community agreement is reached. Mr. Ziembra replied that the Gaming Commission will be evaluating the efforts to reach agreements.

Tracy Longa of Barton Road wanted to know if the surrounding community mitigation benefit could be more than it should be. The mitigation fund is established for community mitigation and will be addressed under the host community agreement. This fund is to cover the costs of Plainville; Mr. Fernandes does not want surrounding

communities taking away from Plainville. Mr. Ziembra stated that the mitigation fund is separate from the host community fund. Details on the mitigation funds will be developed after the gaming sites are open.

Post-Storm Report

Mr. Paicos informed the Board that due to excellent preparations and planning the town did very well in the recent snowstorm. There were no downed wires in town. The DPW crews did a very good job. Communicating information to the town was done through media, print, internet, texting and reverse 911. For future events, refinements are needed for shelter preparations such as generators, exhaust fans, cots, etc.

Reimbursements of costs are expected from FEMA and MEMA in the future.

Personnel Wage By-law Change

Ms. Coppola requested that this be placed on the agenda. She attended Ad-Comm meetings recently and noticed that there was a line item to reimburse tuition for one employee in an amount over \$9,000. She questions the appropriateness of this reimbursement as it is a new employee. She was told that this was for a Masters course that was not required by the town or to continue in employment. Even though the request has since been pulled, Ms. Coppola would like Article 2, Section O changed in the Personnel Wage Bylaws at the spring Town Meeting. She is concerned that there are no limitations to this provision and wants it revised.

Mr. Paicos stated that the tuition reimbursement provision has been in the bylaws for at least 20 years and is rarely accessed. The only requirements are that it is for a job related degree and it is a timely application. There is no discretionary action if these guidelines are met. This is for non-union employees; the unions each have their own form of tuition reimbursement.

Mr. Paicos urged caution in modifying employee benefits without talking to the employees. He suggested that the Wage and Personnel Board and the Human Resource Director work on changes. There are two changes on the warrant to the bylaw, these are procedural updates.

Ms. Brue feels that the whole bylaw needs updating now that the town has a Human Resources Director. References need to be updated. She agrees that discussions need to be had and would like to see it on the Fall Town Meeting warrant.

Ms. Coppola is offended that the new Human Resources Director would be asking for \$9,975 in tuition reimbursement when she was just hired. Mr. Paicos stated that individual employees cannot be discussed in an open meeting.

Ms. Coppola would like to see a cap on the amount, a minimum length of employment requirement and a requirement that the employee remain in the town employ after acquiring tuition reimbursement for a minimum time. Right now the only requirements

are a C average and a deadline of application of December 1st for the following Fiscal Year.

Mr. Paicos stated that discussions are needed with the Wage and Personnel Board, the Human Resources Director and the non-Union Employees before any changes can be proposed to avoid creating problems.

Ms. Coppola would like to see this one item on the May Town Meeting Warrant. She volunteered to work with the HR Director to get it in by the deadline of March 5th.

HR Director Cindy DePina stated that changing policies without talking to the employees is not a good policy; they should be included in the discussion.

The Board agreed to put this item on the March 5th agenda.

Kenny Chesney, Taylor Swift and Bon Jove Concerts Indemnification Agreement

Negotiations are still ongoing and the parties have asked for an extension to the time to reach an agreement. They are optimistic that an agreement will be made within the next thirty days. Mr. Paicos has been working with the insurance company on gaps in the policy also.

A motion that, with the assent of the Licensee, NPS LLC, that the time within which the Licensee must comply with Conditions Num 1 and of the event licenses granted by the Board of Selectmen on January 15, 2013, to hold the Kenny Chesney Country Fest concerts at Gillette Stadium on August 23 & 24, 2013 and the Taylor Swift Concerts at Gillette Stadium on July 26 & 27, 2013, be extended until thirty (30) days from today up to and including March 28, 2013 was made by Mr. Brue and seconded by Mr. Sullivan. **The motion carried 5-0-0.**

Action Items

The minutes of February 5, 2013 were reviewed.

A motion to approve the minutes of February 5, 2013 as amended was made by Ms. Walsh and seconded by Ms. Brue. **The motion carried 5-0-0.**

The minutes of February 19, 2013 were reviewed.

A motion to approve the minutes of February 19, 2013 as amended was made by Ms. Walsh and seconded by Ms. Coppola. **The motion carried 5-0-0.**

A request has been made from the Orpheum Theater for a One-Day Beer and Wine License on March 9th.

A motion to approve the request for a One-Day Beer and Wine License for March 9, 2013 was made by Mr. Sullivan and seconded by Ms. Brue. **The motion carried 5-0-0.**

The Planning Board has submitted four changes to the Zoning Bylaws for the May Town Meeting Warrant and one request for funding for the Master Plan.

Town Planner Sharon Wason stated that Public Hearings on these changes will be held by the Planning Board this Thursday at 8:00 p.m.

A motion to send the request for changes to the Zoning Bylaws to the Planning Board for a Public Hearing was made by Mr. Sullivan and seconded by Ms. Brue. **The motion carried 5-0-0.**

Mr. Paicos informed the Board that the TIF request has been received from Invensys and copies will be forwarded to the Board.

A motion to adjourn the meeting to enter into Executive Session and not return to regular session at 9:55 p.m. was made by Ms. Walsh and seconded by Mr. Sullivan. **The motion carried 5-0-0.**

Respectfully Submitted,

Diana Gray

Lorraine Brue, Clerk