

TOWN OF KINGSTON  
BOARD OF SELECTMEN

MINUTES  
July 27, 2004

Chairman Mark S. Beaton opened the meeting of the Board of Selectmen held on July 29 2004 at 7:30 p.m. in Room 200 at the Town House, 26 Evergreen Street, Kingston. Present were Vice Chairman Paul M. Gallagher, Olavo B. DeMacedo, Joseph D. Kelleher, Richard E. Kenney and Town Administrator Kevin R. Donovan.

The Chairman announced the dates to note and the Open Forum. No one present requested to speak at Open Forum.

Roberta Medal of the Friends of the Kingston Heritage Center came forward and requested that the Board of Selectmen accept funds raised for the Heritage Center in the amount of \$5,448.10 to be used for two change orders for repairs to the Adams Library currently underway. She also made a plea for donations to a fund to have Helen Husrt's name added to a founders list, stating that \$825 was already raised and they were seeking funding in the amount of \$125.00. Ms. Medal advised the Board that the "Friends" was one of the sponsors of the Town-wide yard sale scheduled for September 11, 2004 and that the Friends would be participating from the Adams Library.

Upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was –

VOTED: To accept the donation in the amount of \$5,448.10 for the Adams Library revonvation.

The Chairman announced that Town Counsel was requested to be present to answer questions from the Board of Selectmen and the Zoning Board of Appeals members regarding several issues that arose at the ZBA meeting on July 7, 2004. He stated that the questions would pertain to the ZBA members' responsibilities and would not involve any personal issues. Present from the Zoning Board was Gail Gleason, Joseph Palombo, Janet Butler, Mauro Mazzilli and Edward Donnelly.

Attorney Elizabeth Lane from Kopelman and Paige was present. Mr. Beaton advised Counsel that the Board would be appointing a new member and asked whether the new member could participate in the 40B hearings currently underway.

Attorney Lane advised the following:

- Any ZBA member not present for the entire hearing or presentation is prohibited from voting.
- It is possible to look at what stage the hearing is at to determine if not a great deal has been done, the applicant may be asked to start again and then the new member could participate.
- If a lot of sessions have been held and applicant has made presentation, new member may not participate, but applicant could withdraw without prejudice, a new hearing date announced, notice provided to the abutters and the hearing could begin again with the new member participating.

Mr. Beaton asked when would the Associate Member participate and what is the function of the Associate Member?

Attorney Lane advised the following:

- The function of the ZBA is a permitting board, which would be a quasi-judiciary and act like a court, with legislative powers that are limited to the conduct for meetings, and consultant fees to be charged.
- The ZBA Chairman may designate an Associate Member to sit on hearings when a regular member is absent or may have a conflict. In that case, the Associate Member would vote. Otherwise, unless designated to sit in on the hearing, the Associate Member would not participate or vote.
- Regarding Consultant selection, Kingston's ByLaw determines that the Board of Selectmen must approve the Consultant. MGL Chapter 40, Section 59G addresses the Consultant selection for Boards and Committees.

Attorney Lane answered questions from the Board of Selectmen and the Zoning Board members that were present.

Mr. Kenney asked if the Zoning Board could hear appeals from Planning Board decisions. Attorney Lane advised that the appeal of Planning Board decisions are made with the Court under the State mandated appeal process.

Mr. Mazzilli asked some specific questions regarding issues before the ZBA and Mr. Beaton advised that the purpose of the meeting was for general information and would not allow questions on specific matters.

Mr. Beaton stated that the ZBA has been under stress and the recent meeting that was televised did not put the Board in the best light. He suggested that the Board stick to issues, take a positive approach for the good of the Town and if any member feels they cannot contribute to the Board that they consider resigning.

Mr. Gallagher suggested taking number one under new business out of order. The Board agreed.

Mr. Beaton announced that the Board would interview the applicants for the ZBA vacancy. Janet Butler, Norman Libby, David Rose and John Haas each gave an overview of their qualifications and interest in filling the position.

Mr. Gallagher nominated Mr. Haas, and it was seconded by Mr. DeMacedo and Mr. Kenney nominated Mr. Rose, and it was seconded by Mr. Gallagher. Mr. Beaton, Mr. Kelleher, Mr. Gallagher and Mr. DeMacedo voted for Mr. Haas and Mr. Kenney voted for Mr. Rose.

The Board reviewed the Town Administrator's Report. Upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was –

VOTED: To send a notice to all Departments, Boards and Committees about contacting Town Counsel and that it can only be done with authorization by the Town Administrator or the Chairman of the Board of Selectmen.

Mr. Beaton stated that the Board would be discussing the Financial Audit at its next meeting and advised that he wanted the Auditors, Collector, Treasurer, members of the Audit Committee and the Planning Board to meet with the Board. The Board unanimously voted to have the meeting on August 10<sup>th</sup> and request the above named to be present.

The Board reviewed the memo from Chief Fogg on the Gray's Beach Road parking matter. Mr. DeMacedo made a motion for No Parking on both sides of Gray's Beach Road. The Board discussed alternative parking for people that are shellfishing. Mr. Gallagher suggested waiting on the decision to look into it more. Mr. DeMacedo stated that the neighbors have spoken and they know what is needed and they want no parking on both sides of the road. Mr. Gallagher stated that he was concerned with setting a precedent. Upon motion made and seconded, following a discussion and a 4 to 0 to 1 vote, it was –

VOTED: To post both sides of Gray's Beach Road as "No Parking".

Mr. Gallagher abstained from voting on the motion.

Mr. Gallagher stated that since parking would be prohibited on Gray's Beach Road, consideration should be given to those with shellfish licenses to park without cost in the parking lot for two hours before and after low tide. Upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was –

VOTED: To allow people with shellfish licenses to park in the lot at Gray's Beach without a parking permit for two hours before and after low tide.

Upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was –

VOTED: To appoint the list of election workers as presented in the memo from the Town Clerk, and further;

VOTED: To accept the donation of a lawn tractor from Peter Opachinski for use at the athletic fields, and further;

VOTED: To enter into executive session<sup>1</sup> for the purpose of discussing collective bargaining and not return to public session.

Respectfully Submitted:

Nancy M. Howlett, Assistant to the  
Town Administrator/Board of Selectmen

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<sup>1</sup> The public session adjourned at 9:35 p.m. and the executive session adjourned at 9:45 p.m.