

TOWN OF KINGSTON
BOARD OF SELECTMEN

MINUTES
November 10, 2009

Chairman Sandra D. MacFarlane opened the meeting of the Board of Selectmen held on November 10, 2009 at 7:00 p.m. in Room 200 at the Town House, 26 Evergreen Street, Kingston. Present were Vice Chairman Dennis N. Randall, Richard J. Arruda, Mark S. Beaton, Paul M. Gallagher and Town Administrator Jill R. Myers.

The Chairman recognized the Veterans Day holiday and thanked Veterans for their service to the country.

Mr. Randall advised that at the area Selectmen's meeting, neighboring Town's were anticipating the next fiscal year to be worse than the last and painted a picture of doom and gloom. Ms. MacFarlane noted that Kingston would host the meeting in January with the topic of discussion to be recycling, solid waste and the contract with SEMASS. The Board had an appointment with Habitat for Humanity to review and endorse a Monitoring Agreement for the Habitat house located on 138 Grove Street, formerly Town owned property donated to Habitat. Ms. Myers advised that Town Counsel was reviewing the agreement and advised that it would be advisable to have DHCD approve Habitat being the Monitoring Agent prior to the Board endorsing the Agreement. Mr. Randall disclosed that his wife is the President of the Habitat for Humanity Chapter and derives no financial benefit or interest from the position. Upon motion made by Mr. Arruda and seconded by Mr. Gallagher, following a discussion and a 4-0-0 vote, it was—

VOTED: To postpone endorsing the Agreement until the next meeting pending Counsel's favorable review.

It is noted that Mr. Randall was present but did not participate in the vote.

The Board reviewed Pizzeria Uno's application for a Change of Manager from Scott Arnold to Michael D. Tenore. Mr. Tenore was present and outlined his experience as a Manager. Mr. Beaton recused himself from participating in the discussion due to a potential conflict of interest because he is the Manager of another licensed alcohol establishment. Upon motion made by Mr. Arruda and seconded by Mr. Gallagher, following a discussion and a 4-0-0 vote, it was—

VOTED: To approve the Change of Manager for Pizzeria Uno's from Scott Arnold to Michael D. Tenore

The Board reviewed the application of Big Top Kiddie Playland of Hanover, LLC for an Automatic Amusement License for devices at the Food Court at the Independence Mall. It was noted that they would occupy the space previously occupied by Namco Cyberainment. Upon motion made by Mr. Gallagher and seconded by Mr. Arruda, following a discussion and a 5-0-0 vote, it was—

VOTED: To approve the license for Big Top Kiddie Playland of Hanover, LLC for an Automatic Amusement License for devices at the Food Court at the Independence Mall.

Mr. Beaton read from a poster that was prepared at his request which lends support to the MMA's Municipal Relief Legislation. He asked that the Board endorse sending the flyer to Rep. Calter and

Senator Murray to ask their support to look for change and reform. Upon motion made by Mr. Beaton and seconded by Mr. Gallagher, following a discussion and a 5-0-0 vote, it was—

VOTED: To send the poster and a letter to Rep. Calter and Senator Murray as well at the 351 cities and towns in Massachusetts.

Ms. MacFarlane read the public notice on the continuation of the public hearing on the application of Kingston Ten Pins and Alley Kat Lanes for Wine and Malt Beverages licenses. Mr. Beaton recused himself from participation due to a potential conflict because he is the manager of another licensed alcoholic beverage establishment.

Linda Cluff, owner and manager came forward and stated that the wall that the Board had spoke about creating a blind area in the establishment would be removed, all staff would be TIPS certified and not just the bartender, and all floor staff would be monitoring the activity on the floor, the beer and wine would be served in cups and all other drinks were in bottles and cans from a vending machine.

Mr. Randall expressed concern for keeping it a family establishment and Mr. Gallagher expressed concern for the line of sight with just one person at the bar responsible for the whole area.

Mark Corman, the Manager of the abutting Medical Center expressed concern for security and vandalism outside with people exiting the establishment after drinking.

Ms. Cluff stated that the vandalism was after closing at 2 a.m. and the bowling alley had no relationship to the vandalism.

Mr. Randall asked what the capacity of the building was and Ms. Cluff advised a combined amount of 880 people but they had never reached the maximum allowed.

Mr. Beaton came forward and announced that he was speaking as a resident and businessman and stated that the owner of the lanes were responsible business owners for over twenty-five years and if there were to be a problem it would be immediately rectified.

Mr. Gallagher stated that serving beer and wine would be a new part of the businesses and that he could not foresee one bartender being able to control or visibly monitor the beverages once dispensed. He added that removing a wall was just not enough and a server or observer would be needed.

Mr. Randall stated the issue was control and not taking a risk. Mr. Arruda stated that people are at the establishment to bowl and not rushing in to get a beer. He said the reason they want the license is to invite more business.

Mr. Gallagher stated he would support both licenses if there was a bartender and server on duty at all times dedicated to the service of beer and wine and not doing any other duties.

Upon motion made by Mr. Gallagher and seconded by Mr. Randall, following a discussion and a 4-0-0 vote, it was—

VOTED: To issue a beer and wine license to Kingston Ten Pins and Alley Kat Lanes from noon to 11 p.m. Monday through Friday and that a bartender and waiter(ress) be present at all times for the service dedicated to the sales of beer and wine.

Mr. Randall asked what recourse the Board would have once the license was issued and Ms. Myers advised that the Police could do compliance checks.

Ms. MacFarlane opened the hearing on the application of Thorndike Development for an Earth Removal Permit. Upon motion made by Mr. Gallagher and seconded by Mr. Randall, following a discussion and a 4-0-1 vote, it was—

VOTED: To postpone further discussion until November 24, 2009 at 7:45 p.m.

Mr. Beaton did not support the motion.

The Board reviewed the Town Administrator's report. Items discussed were; departmental budgets had been submitted with 3% reduction as mandated by the Budget Advisory Committee along with a budget narrative, Special Town Counsel would be assisting and advising the Planning Board on the 40R development agreements which would be paid by the developer from the 53G accounts. Ms. Myers advised that the account needed to be replenished and requested that the Board authorize her to request \$12,500 from Thorndike Development to fund Special Counsel, and Engineering costs.

Upon motion made by Mr. Randall and seconded by Mr. Gallagher, following a discussion and a 5-0-0 vote, it was—

VOTED: To authorize Ms. Myers to request the funding as detailed above, and further;

VOTED: To use Special Counsel to assist in drafting and fine-tuning decisions for the Planning Board and Board of Selectmen regarding Thorndike Development's applications.

Ms. Myers advised that she was developing a town-wide Continuity of Operations Plan ("COOP") to ensure the provision of essential functions in the event that any Town departments are threatened by a major emergency such as a pandemic or H1N1. She further advised that the Town received a proposed Amendment /extension to the SEMASS contract that was forwarded to Town Counsel for review and that a payment was received from NStar for the damages caused by the power surge which would require Town Meeting to appropriate the funds to the proper budgets. Ms. Myers requested that the Board vote to support a grant opportunity for \$150 to purchase a monitor to be used at the Kingston Intermediate School for monitoring the wind energy produced by the Windspar tower. Upon motion made by Mr. Gallagher and seconded by Mr. Arruda, following a discussion and a 5-0-0 vote, it was—

VOTED: To issue a letter of support for the grant as indicated above.

Upon motion made by Mr. Randall and seconded by Mr. Arruda, following a discussion and a 4-0-1 vote, it was—

VOTED: To approve the public and executive session minutes of September 29, 2009.

Mr. Gallager abstained from voting because he was absent from the meeting.

Upon motion made by Mr. Randall and seconded by Mr. Arruda, following a discussion and a 3-0-2 vote, it was—

VOTED: To approve the public and executive session minutes of October 26, 2009.

Mr. Beaton and Mr. Gallagher abstained from voting because they were absent from the meeting.

The Board reviewed the request of the Fire Chief to accept the donation of a storage trailer and upon motion made by Mr. Gallagher and seconded by Mr. Randall following a discussion and a 5-0-0 vote, it was—

VOTED: To accept the 40 ft. storage trailer for use by the Kingston Fire Dept., valued at \$5,000 and donated by E & K Trucking of So. Easton, MA.

The Board commended the Fire Chief for his resourcefulness in securing equipment at no cost to the Town.

The Board reviewed the 61A land offer for Map 58, Lots 40, 41, and 42-1 and the letter submitted by the Conservation Commission advising that there was protection for the development under the Wetlands Protection Act and there was no interest in securing the land for the Town. Upon motion made and seconded, following a discussion and a 5-0-0 vote, it was—

VOTED: To not exercise the Board's option to purchase the property.

The Board reviewed the Appointments and Resignations and upon motion made by Mr. Gallagher and seconded by Mr. Randall, following a discussion and a 5-0-0 vote, it was—

VOTED: To appoint Douglas Buitenhuys to the Recycling Committee and Jill Myers as the Town's Ethics Liaison and to accept the resignation, with gratitude, of Robert Albertini from the Memorial Day Parade Committee.

Upon motion made and seconded, following a discussion and a 5-0-0 vote, it was—

VOTED: To re-appoint Robert Heath as Fire Chief and Kingston Emergency Management Director.

The Board discussed the membership and charge of the Town Government Study Committee. Mr. Beaton stated he believed five members would be enough and upon motion made by Mr. Beaton and seconded by Mr. Gallagher, following a discussion and a 5-0-0 vote, it was—

VOTED: To establish a five member Town Government Study Committee.

Mr. Beaton made a motion that the tasks of the Committee should be completed and reported at the Spring 2011 Annual Town Meeting. Mr. Randall seconded and amended the motion to provide for the Committee to give the Board periodic updates of the progress of the Committee. Mr. Randall added that the Committee reports to the Board and it was essential for the Committee to accomplish what the Board wanted accomplished. Mr. Beaton stated that he did not accept the amendment. Ms. Myers advised that the item could be under Old Business and could be updated from time to time.

Mr. Beaton suggested that no elected officials be appointed to this Committee due to a potential conflict. Upon motion made by Mr. Beaton and seconded by Mr. Gallagher, following a discussion and a 5-0-0 vote, it was—

VOTED: The Town Government Study Committee ("TGSC") shall be comprised of not more than five (5) members appointed by the Board of Selectmen. Elected officials are excluded from serving in the TGSC. It is anticipated that the work

of the TGSC will be completed on or before the April 2011 Annual Town Meeting. The TGSC shall be an ad-hoc committee which shall be disbanded upon submission of its findings and recommendations to the BOS, unless the BOS authorizes further study.

The Board reviewed the outline of the charge of the Committee as presented by Ms. Myers. Upon motion made by Mr. Beaton and seconded by Mr. Gallagher, following a discussion and a 5-0-0 vote, it was—

VOTED: As follows:

TGSC Charge: The charge shall be to evaluate the effectiveness of the Town's organizational structure and management systems and to report to the BOS with recommendations for further study and/or change. Specifically the TGSC is charged by the BOS to: Study the town's organizational structure; Review the efficacy of the current structure; Evaluate the duties & functions of individuals, boards and committees; Examine models of government in comparable area towns; Study management systems/major function areas: financial, budgeting, personnel, procurement, public safety, public works (streets, trees, highways, parks, water, and waste water), health, planning; and prepare a final report of findings, conclusions, and recommendations.

The TGSC will accomplish its mission by:

- Examining the town's current organizational structure through consultation with town officials and various entities, including the Massachusetts Department of Revenue and Massachusetts Municipal Association;
- Conducting open discussions with town residents regarding perceived strengths and weaknesses in the town's current form of government;
- Obtaining models for alternative organizational structures, through review of professional journals and other resources regarding analysis of governmental structures in Massachusetts, and consultation with state entities;
- Comparing and contrasting the town's current organizational structure with more effective organizational structures adopted in other Massachusetts communities; and
- Present any other information that may be deemed appropriate.

Upon motion made by Mr. Gallagher and seconded by Mr. Arruda, following a discussion and a 5-0-0 vote, it was—

VOTED: To cancel the Board's meeting scheduled for December 8, 2009 due to the State Primary Election being conducted in Room 200 that day.

The Board reviewed the request to waive the building permit fee for the Knights of Columbus for the construction of a handicapped access to their building. The Board acknowledged the good works of the organization but discussed not setting a precedent for waiving fees. Upon motion made by Mr. Beaton and seconded by Mr. Gallagher, following a discussion and a 5-0-0 vote, it was—

VOTED: To deny the request to waive the building permit fee.

Mr. Randall made a motion for the Board to adopt a Flag protocol policy for lowering the Flag for three days to half-staff upon the death of any active member of the Police or Fire Dept., town resident member of the active military or one day for a Town employee or Official. Ms. MacFarlane seconded the motion and stated she supported honoring those individuals in any way but did not want to set a policy. Mr.

Beaton stated he was also not in favor of setting a policy and did not want to overstep the bounds of governmental protocol. Mr. Gallagher stated he wanted to take time to research the matter. Mr. Arruda stated that the Police Department lowered the Flag on occasions without any problems but thought it needed more research. Ms. MacFarlane withdrew her second and Mr. Randall with his motion.

Upon motion made and seconded, following a discussion and a 5-0-0 roll-call vote, it was—

VOTED: To enter into executive session¹ for the discussion of strategy for litigation.

Respectfully Submitted:

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

¹ The public session adjourned at 9:20 p.m. and the executive session adjourned at 9:40 p.m.

