

Regular Session Minutes - Selectmen's Meeting
Selectmen's Meeting Room, Town Hall
Tuesday, September 4, 2012, 7:30 p.m.

PRESENT: Catherine B. Cordes, Chair, Margot R. Fleischman, William S. Moonan, Michael A. Rosenberg, Mark Siegenthaler, and Town Manager Richard T. Reed

ALSO PRESENT: J.M. Coull, Inc. Representative Mark Moschella; Attorney Pamela Brown; Firebox BBQ Representatives David Goldstone and Bryan McConnaughey; Ginger Japanese Cuisine representative Mei Ling Khoo; Recreation Director Amy Hamilton; Blake Block Owner Bruce Blake; James Shea; Finance Committee member Barbara Perry; Press representatives Kim Seibert and Eileen Kennedy

Chair Cordes called the meeting to order at 7:30 p.m.

13-038 Public Hearing-Aquifer Protection Special Permit JM Coull Inc.
- 160 Middlesex Turnpike

Mr. Rosenberg made a motion to open the public hearing. Ms. Fleischman seconded the motion.

The motion passed 5-0-0.

Town Manager Richard Reed explained that the Zoning Bylaw requires a special permit for businesses doing a project in an aquifer zone. The long term goal is to protect the aquifer zones to potentially be used in the future. Mr. Reed informed the Selectmen that the permit is necessary when petroleum is used in a fuel tank. Mr. Reed went on to say that recommendations of staff are positive.

F.W. Webb Company, Inc., 160 Middlesex Turnpike is being renovated with JM Coull, Inc. serving as the project managers. J.M. Coull Inc. representative Mark Moschella was present to answer any questions regarding the generator.

Mr. Rosenberg wondered if there is already a generator at F.W. Webb. Mr. Moschella responded that there was but it is not capable of backing up the whole building. Mr. Moschella explained that it is vital that they have a larger generator because all 77 branches of F.W. Webb communicate through the Middlesex Turnpike office.

Chair Cordes asked if the new generator would be located in the same place as the old generator. Mr. Siegenthaler further inquired if the old generator would be staying and what kind of fuel it takes. Mr. Moschella answered that the new generator would be located off the back of the building in the parking lot and that the current generator would remain on the roof and is powered by natural gas.

Mr. Moonan was curious about the design of the generator. Mr. Moschella assured that the generator is not new to the industry and has had no record of failing in the past. Chair Cordes noted that the generator has double wall construction.

The Chair opened the hearing to the public. There were no comments or questions.

Mr. Rosenberg made a motion to close the public hearing. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

Mr. Rosenberg made a motion to grant a special permit to J.M. Coull, Inc. for the installation of a diesel power generator for use at F.W. Webb. at 160 Middlesex Turnpike. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

13-039 Public Hearing - Request for Wine & Malt License to All- Alcohol and Alteration of Premises - Firebox BBQ LLC dba Firebox BBQ - 347 The Great Road

Mr. Rosenberg made a motion to open the public hearing. Ms. Fleischman seconded the motion.

The motion passed 5-0-0.

Attorney Pamela Brown was present along with Firebox BBQ proprietors David Goldstone and Bryan McConnaughey. Ms. Brown explained that the purpose of the hearing was to request an all-alcohol license along with approval for alteration of the premises. Firebox has plans to alter the interior to allow for a bar with twelve seats. Mr. Goldstone and Mr. McConnaughey are trying to make Firebox into a more traditional dining restaurant rather than a fast-food restaurant. An all alcohol license, along with featuring new menu items and implementing table service, are all parts of the plan to increase business after 8:00 p.m. when the restaurant now closes.

Ms. Brown identified the issues that Building Inspector Chris Laskey had with the alteration of premises and stated that the all of the issues were addressed. The flip up portion of the bar was eliminated, the outdoor seating was removed, and the surfboard sign was taken down. Ms. Brown indicated that Mr. Laskey was mistaken about the access to handicap ramps and went on to state that it was never blocked by the outdoor seating which was allowable by right for Firebox to use. Mr. Siegenthelar inquired why Firebox did these things to begin with. Ms. Brown added that they never heard that there was an issue until the email from Mr. Laskey. Mr. Goldstone and Mr. McConnaughey took the email seriously and addressed all the issues because the all-alcohol license is important for them to remain viable as a business in Bedford.

Mr. Rosenberg asked if the proprietors considered expanding into the space behind the Bank of America ATM. Mr. Goldstone indicated that they have thought about it but financially it would not work at this time.

Chair Cordes questioned if the proprietors were familiar with the alcohol serving regulations of the Town. Mr. Goldstone indicated that they were and they want the alcohol to be more of a complement to the meal.

Mr. Moonan pointed out that the floor plan only indicated 40 seats. Mr. Goldstone said it was the intent to have 44 seats. Upon looking at the plan again, Ms. Brown realized that two tables were missing and pointed out where they would be located.

Mr. Moonan asked Mr. Reed how many all alcohol licenses were available and how it would be possible to get more. Mr. Reed responded that the number of liquor licenses per town corresponds to the total population. Bedford has a total of 14 all-alcohol and 5 wine and malt licenses. To obtain more licenses the Town would have to see a population increase in the next census in 2020 or the Town could petition the legislature. Two all alcohol licenses are available. Mr. Moonan further inquired if there was ever a history of having all the licenses taken and any being returned. Mr. Reed said that there has never been a competition for a license; usually one business will go out and another will come in and take over that license.

The Chair opened the hearing to the public. There were no comments or questions.

Mr. Rosenberg made a motion to close the public hearing. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

Mr. Moonan made a motion to grant an all alcohol liquor license to Firebox BBQ LLC at 347 The Great Road subject to a final floor plan showing 44 seats. The motion was seconded by Mr. Rosenberg.

Mr. Moonan inquired about the time frame of how long it would take for the license to go into effect. Mr. Reed replied that it depends on the state, but it could take thirty days. The state then has to inspect the changes in the field. Mr. Siegenthaler inquired if Firebox would be changing their hours of operation if granted the all alcohol license. Mr. Goldstone said they would stay open later if they were busy as the original permit allows Firebox to stay open until 11:00 p.m.

The motion passed 5-0-0.

13-040 Public Hearing - Alteration of Premises, Change of Manager, All Alcohol Request - KH + GC Restaurant, Inc. dba Ginger Japanese Cuisine - 88 The Great Road

Mr. Rosenberg made a motion to open the public hearing. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

Attorney Pamela Brown was present along with Ginger Japanese Cuisine new manager Mei Ling Khoo. KH + GC Restaurant, Inc. dba Ginger Japanese Cuisine is returning to

the newly renovated Blake Block. The restaurant is tripling their space and is changing its address from 78 The Great Road to 88 The Great Road. With the larger floor plan they intend to have outdoor seating on a brick patio which would be easily accessible to the kitchen through a doorway leading outside. Six seats inside would be located at the Sushi bar with the rest having table service.

Mr. Rosenberg indicated that the outdoor seating was not part of the plan they received. Ms. Brown then showed the Selectmen the seasonal plan. She explained that the patio is located adjacent to a 5-foot sidewalk. Chair Cordes noted that they would be required to rope it off from the sidewalk.

Mr. Rosenberg pointed out that Mr. Laskey requested that the Selectmen grant only 80 seats because of parking availability. Ms. Brown requested that the Selectmen approve the plan of 82 seats because it is easier to drop seats than add them to a liquor license. She added that the Blake Block does not know what other kinds of tenants would be renting from there and they may require fewer spaces than they are allowed. Mr. Laskey could decrease the occupancy limit if needed but there would still be flexibility on the alcohol license. Chair Cordes noted the difficulty of the building and parking lot. Ms. Fleischman stated limiting the number of seats on their part is being unnecessarily inflexible.

Mr. Rosenberg suggested that the Selectmen support 82 seats on the all alcohol license but with an occupancy limit of 80 seats. Ms. Fleischman replied that this would create an intentional discrepancy.

The Chair opened the hearing to the public. There were no comments or questions.

Mr. Rosenberg made a motion to close the public hearing. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

Mr. Rosenberg made a motion to grant an all-alcohol liquor license to KH + GC Restaurant dba Ginger Japanese Cuisine moving from 78 The Great Road to 88 The Great Road to be managed by Mei Ling Khoo in accordance with the presented floor plan showing 82 seats with the outdoor seating being clearly cornered off from the sidewalk. Mr. Moonan seconded the motion.

The motion passed 5-0-0.

13-041 Contract Awards Tennis Instruction Services- Kyle Anderson dba KA Tennis - 38 Putnam Road - Town Center Exterior Painting - Dimitrios C. Contracting, Inc. – Canton, MA

Recreation Director Amy Hamilton was present to discuss the Tennis Instruction Services Agreement with KA Tennis. In preparing for tennis instruction, Mr. Reed and Ms. Hamilton talked about the state procurement threshold. The tennis instruction business did very well so it made sense to do a competitive procurement which is

required when the value of a contract exceeds a minimum of \$25,000. Charging \$17 an hour per person over two years would bring in \$25,000. There was only one respondent, Kyle Anderson dba KA Tennis, who had worked previously for the Town under purchase order arrangement.

Mr. Rosenberg made a motion to approve the agreement between the Town and Kyle Anderson dba KA Tennis for the period of September 1, 2012 to August 31, 2014 charging \$17.00 an hour per person. The motion was seconded by Ms. Fleischman.

The motion passed 5-0-0.

Before Ms. Hamilton left, Mr. Moonan asked that she give a brief update on how the summer season went at Springs Brook Park. Ms. Hamilton indicated that it was a much better season for the park and that she was happy with how it went. With the restricted use of the deep end and the dock end there was some congestion in the lap lanes which frustrated some people. They did lose some business because of the deep end closure but there were a high number of young children and parents. Ms. Hamilton went on to say that the committee will be meeting to discuss options for next year.

Mr. Reed briefly spoke about the Town Center exterior painting contract. The project was estimated at \$50,000 and Contractor Dimitrios C. Contracting's proposal came in the lowest at \$28,770. The references for the contractor were excellent and Mr. Reed added that the Town recommends approval of the contract.

Mr. Siegenthaler made a motion to approve the agreement between the Town of Bedford and Dimitrios C. Contracting for the exterior painting of Town Center in the amount of \$28,770. Mr. Rosenberg seconded the motion.

The motion passed 5-0-0.

13-042 Annual Article Balance Extensions

Chair Cordes pointed out that this is for capital expenditures that have not been expended within the two year time frame.

Mr. Reed summarized the memorandum from Town Accountant Debra Champagne which outlined the capital articles to be closed, extended, and carried forward into FY13.

The capital articles to be closed total \$35,738.98 that can be returned for future appropriation. The capital articles to be extended into FY13 beyond the two-year limitation provided in Article 13.2 of the Town's General Bylaws total \$147,018.15. The articles listed to be automatically carried forward to FY13 total \$491,604.10 as they are either encumbered and/or are FY11/FY12 articles.

A brief discussion occurred regarding the large balance to be carried forward for the Department of Public Works Vehicles and Equipment replacement. Mr. Reed clarified

that this was due to over estimating the amount requested at Town Meeting added together with the value of trade-ins, which creates a roll over balance.

There was also a discussion concerning the copiers in Town Hall and at the middle school. A majority of the appropriated money for the copiers was used leaving a small amount to be carried over. Mr. Reed noted that the Town Hall was getting a new copier and the extra money would be used towards that copier.

There was concern that the appropriation for middle school doors and hardware was not used for three years. Mr. Siegenthaler recalled an issue a while back that prevented the project from moving forward.

Mr. Reed explained that \$147,018.15 is a low number to be carried forward and has been much larger in the past.

Ms. Fleischman made a motion that the Selectmen approve the articles to be closed, extended, and carried forward as outlined in the memorandum dated August 30, 2012. Mr. Rosenberg seconded the motion.

The motion passed 5-0-0.

**13-043 Miscellaneous Action Items - Chapter 268A, Section 20(b) Exemption
- Katy Hollyday, Claudia Lawry, Nicole Khvilivitzky and Joshua
Blakeley, Referee to Teen Corner Staff**

Mr. Rosenberg made a motion to grant a Chapter 268A, Section 20(b) exemptions to Katy Hollyday, Claudia Lawry, Nicole Khvilivitzky, and Joshua Blakeley. The motion was seconded by Ms. Fleischman.

The motion passed 5-0-0.

13-044 Minutes

Mr. Rosenberg made a motion to approve the August 20, 2012 Regular Session Minutes, as amended. The motion was seconded by Ms. Fleischman.

The motion passed 4-0-1 abstained.

13-045 Town Manager's Report

Mr. Reed updated the Selectmen on the status of recruiting a shared energy manager with Arlington. The agreement was executed earlier in the day. The position will soon be posted and Mr. Reed hopes to have a person in place in the next 1 to 2 months. The energy manager would work on average for 16 hours in Arlington and 8 hours in Bedford. The responsibilities of the job would include monitoring energy usage in the schools and municipal buildings, identifying areas for conservation efforts and applying for grants for further energy conservation. Chair Cordes noted that by hiring a shared energy manager the Town may get a more experienced person than hiring part-time or contracting the position out.

Mr. Reed stated that Town Counsel is preparing to file with the court a request for declaratory judgment on the Massport property as far as Massport will need a local permit for projects in the future. Ms. Fleischman asked which court but Mr. Reed replied that still needed to be discussed. Mr. Moonan commented that he is pleased that they are moving forward with it.

13-046 Open Discussion

Ms. Fleischman drew attention to the revised letter which she drafted on the Selectmen's behalf. The last sentence was added upon the recommendation of Chair Cordes. Ms. Fleischman stated there was no imminent need for the letter as the Travelodge is not on any upcoming Zoning Board of appeals agenda. Mr. Siegenthaler inquired as to who would be signing the letter.

Mr. Moonan moved to authorize Chair Cordes to sign the letter as amended to the Zoning Board of Appeals when it is necessary. Ms. Fleischman seconded the motion.

The motion passed 5-0-0.

Mr. Rosenberg pointed out that there was more flushing over the weekend. Mr. Reed replied that it was a precautionary move and the water tests are still looking good.

Mr. Rosenberg asked when the Chaim Gross Sculpture is set to go up. The Department of Public Works (DPW) is doing the necessary site work. Mr. Rosenberg commended the piece of work and is happy that it will soon be ready to be displayed. There will be a ceremony and DPW Director Richard Warrington is making the arrangements for the unveiling ceremony. The benches are in stock and are ready to be put in place.

Mr. Rosenberg pointed out that the press box has been closed at the high school because it is no longer safe. A proposal to replace or repair the box has never come before the Selectmen. Chair Cordes remembered there was a plan submitted a few years back but nothing ever came of it.

Chair Cordes stated that her discussion of the water quality issue would air on the Bedford Common cable show on Wednesday night. She requested the Selectmen act as hosts to the many dignitaries attending the Bedford Day parade. Chair Cordes asked when the Bedford Citizen of the Year would be announced. The announcement will be made on Thursday, September 6, 2012 and the reception will be held on Friday evening September 28, 2012.

Mr. Moonan made a motion to move into Executive Session for the purpose of contract negotiations and strategy session related to the Town Manager Employment Agreement, not to return to Regular Session. The motion was seconded by Ms. Fleischman.

The Selectmen were polled: Fleischman, aye, Moonan, aye, Cordes, aye, Rosenberg, aye, and Siegenthaler, aye.

The Regular Session meeting adjourned at 9:00 p.m.