

BOARD OF SELECTMEN

Natick Town Hall

November 18, 2013

5:45 p.m.

The meeting was called to order by the Chair Carol A. Gloff at 6:50 p.m.

PRESENT: Carol A. Gloff, Joshua Ostroff, Nicholas S. Mabardy, Charles M. Hughes, Richard P. Jennett, Jr. (arrived at 6:05 p.m.)

ALSO PRESENT: Martha L. White, Town Administrator; Donna Challis, Executive Assistant

WARRANTS: Payroll warrants were signed by the Board of Selectmen on November 18, 2013 in the amount of \$1,159,689.75. This figure was included in total warrants signed by the Board of Selectmen of \$4,231,783.91.

EXECUTIVE SESSION

Mr. Hughes, seconded by Mr. Ostroff, moved to enter into executive session to discuss matters pertaining to litigation, non-union personnel negotiations, and executive session minutes. By roll call vote the Board voted unanimously to enter into executive session. At 6:00 p.m. the Board entered into executive session after announcing that the meeting would return to open session. The Chair further announced that discussion of litigation and non-union personnel negotiations in open session would have a detrimental effect on the Board of Selectmen's negotiating position.

The open session was reconvened at 7:15 p.m.

ANNOUNCEMENTS

1. A special thank you was given to Pat Conaway and the volunteers who participated in cleaning up Coolidge Hill.

POLICE CHIEF

a. Regional Crime Prevention Partnership Grant Application
Police Chief James Hicks sought the Board's approval to file an application for the Regional Crime Prevention Partnership Grant. An application was filed last year, but this was a very competitive grant and it was not received. The comments were that the scope was too big and too ambitious. This year was on a smaller scale.

On a motion by Mr. Hughes, seconded by Mr. Ostroff, the Board unanimously voted to approve the submission of the Regional Crime Prevention Partnership Grant application.

Document - Memo from Police Chief Hicks

b. Lieutenant Assessment Center
Chief Hicks recommended awarding the contract to conduct the Lieutenant Assessment Center to Badge Quest in the amount of \$6,300. Badge Quest has done extensive work for the Town in the past. They were currently contracted to the Sergeants' assessment center and hopefully both could be done at the same time.

The amount was below the threshold to require a competitive bid, but Civil Service required the Board of Selectmen to approve a contract for the assessment center.

Mr. Jennett commented that he worked with Badge Quest on a previous assessment center and they were an excellent group.

A motion was made by Mr. Ostroff, seconded by Mr. Hughes, to award the contract for the Lieutenant's assessment center consultant to Badge Quest in the amount of \$6,300.

Document - Memo from Procurement Officer Peter Roche and Chief Hicks

c. Acceptance of Donation for Police K9 Unit
Chief Hicks requested the Board's acceptance of the following donations for the K9 vehicle:

Middlesex Savings Bank	\$1,000
MathWorks	\$1,000
Brandon Residential Treatment Ctr.	\$ 500

Cognex	\$5,000
Adesa Boston	\$1,000

Mr. Hughes moved to accept the donations as listed with a letter of thanks to each. Seconded by Mr. Ostroff and unanimously voted.

Document - Checks submitted by donors; memo from Chief Hicks

d. Early Hiring of Police Officer

Based on information received this morning, Chief Hicks told the Board that he was withdrawing his request for the early hiring of a police officer. He just found out there was a re-employment list with two laid off officers from another community in the Commonwealth and before a reserve officer could be appointed, the laid off officers must be considered first.

Documents - email from Chief Hicks

PROCUREMENT OFFICER: AWARD CONTRACT FOR CUSTODIAL SERVICES

Procurement Officer Peter Roche informed the Board that eight bids were received for Town Building Cleaning Services and the recommendation was to award the bid to the low bidder M&M Contract Cleaning of Brockton, MA for \$13.00/hr for three years. If approved tonight, he and Jim Lavezzo the Facilities Maintenance Manager, would meet with M&M to go over logistics. This was not the current vendor.

Mr. Jennett inquired if there was any savings with this contract bid, but Mr. Roche advised that it had gone up slightly.

Mr. Ostroff raised the possibility of the new vendor employing the people that were currently providing the service, and Mr. Roche advised that in the initial conversation M&M Contracting was open to that.

A motion was made by Mr. Hughes, seconded by Mr. Jennett, to approve a three year contract for Town building cleaning services to M&M Contract Cleaning at a price of \$13.00 per hour.

Document - Memo from Procurement Officer Peter Roche

PUBLIC HEARING: FISCAL 2014 PROPERTY TAX CLASSIFICATION

Appearing before the Board were Jan Dangelo, Director of Assessment; Carl Marshall, Assistant Assessor; Steve Hanson, a member of the Board of Assessors

On a motion by Mr. Hughes, seconded by Mr. Ostroff, the Board unanimously voted to open the public hearing.

Mr. Ostroff advised that he had received written comments from someone who did not want it to be a public record but expressed concern with increased taxes.

In a power point presentation, Ms. Dangelo explained that the purpose of the tax classification hearing was to determine the percentage share of the tax levy that each class of property would pay. The Board of Selectmen must determine a residential factor and that was used by the Assessors to determine the tax levy paid by each class of property and to calculate the tax rate.

She noted that the residential market in Natick has improved dramatically with a 10% increase over last year. The average family assessment increased from \$433,500 to \$455,470. Assuming the Board maintains a single tax rate that indicates an additional \$424.17 in taxes for the average single family home.

Ms. Dangelo stated that there has been a slight shift this year to residential property, less than 1/4 %.

New growth was certified and approved by the Department of Revenue at \$174,559,861. Out of that the residential class accounted for \$105,105,100 from the Avalon Apartments, 58 condominiums, 26 single family homes, and additions and other improvements; the commercial/industrial class accounted for \$54,925,200 from the MathWorks expansion, Fed Ex Ground, and additions and other improvements; Personal property account for \$14,642,161 in new growth from new accounts and new assets added.

Ms. Dangelo noted that the maximum levy allows for Fiscal 2014 was \$93,467,785 and that includes the debt exclusion of \$4,276,702. This year's

excess capacity was \$31,119.49. The excess capacity was the difference between maximum levy and actual levy.

Continuing, Ms. Dangelo advised that the minimum residential factor was 85.0415%. This factor would allow a split tax rate toward the CIP class up to 150%. That would increase the commercial tax rate by \$7.10 per thousand and reduce the residential rate by \$2.12 per thousand. A residential factor of 1.00 will maintain a single tax rate. A residential factor below 1.0 will result in a split tax rate.

The presentation included examples of the impact on various properties, i.e. single family, small apartment, large apartment, small retail, office building, retail mall.

Ms. Dangelo reviewed the other two exemptions the Board could consider. The first was a residential exemption of up to 20% of the average residential value. The residential class average value was \$398,207. This exemption shifts the tax burden within the residential class. It did not split the tax rate. Non-owner occupied and many residential properties would actually pay a higher tax.

The residential exemption worked well in communities with a high percentage of non-resident property owners. Natick did not have a high percentage of non-resident and this exemption did not make sense for a community like Natick. Examples of the impact of a residential exemption were provided.

The other exemption the Board could consider was a small commercial exemption up to 10%. This was only available to businesses that employ less than 10 people annually and were situated in a building that was valued less than \$1 million. All business at the property must qualify. Approximately 30 properties in Natick may qualify.

Adopting a small commercial exemption without classifying taxes would result in an effective tax rate for small commercial properties that was less than the residential rate.

Included in the presentation was a comparison of the Fiscal 2013 single family tax bill in surrounding towns. It showed that Framingham had the lowest tax rate by \$433.00. Framingham has a split rate with a residential rate of \$17.85 and a commercial rate of \$39.98. Natick's FY2013 rate was \$14.34. Natick's average family tax bill was the third lowest at \$6,216.

Ms. Dangelo advised that if the Board adopted a residential factor of 1.0, the projected tax rate for Fiscal 2014 would be \$14.18. A single tax rate would mean a projected increase to the average family tax bill of \$242.17.

Natick's top 10 commercial taxpayers will collectively contribute \$10,500,2144 in taxes for Fiscal 2014 including personal property. The top 10 taxpayers pay approximately 11.23% of Natick's total tax levy. The top 10 were listed as: General Growth, MathWorks, HC Atlantic Development, Avalon, DDH Hotels, Cognex, Franchi Pasquale, Natick Village Investment, TJX Companies, Federated Department Stores.

The presentation showed Natick's tax rate vs surrounding communities and Mr. Mabardy inquired as to what Natick's rate would be if there were no debt exclusions. Ms. Dangelo did not have that information.

Even though the tax rate went down, Mr. Mabardy noted the assessed value went up and he inquired as to what that was based on.

Ms. Dangelo responded that it was an active market and Natick was a desirable place to be. They looked at all the sales and were seeing an increase in those values. There were 358 sales this year and the prices were analyzed in a variety of areas - style of the house, location, land value, age. Multiple inspections were done and they looked to make sure there were no special circumstances.

Mr. Mabardy then asked about abatements and was told by Ms. Dangelo that an application could be made one time a year after this assessment has been established and the tax rate set. Abatement applications had to be filed by February 1, 2014. For Fiscal 2013 there were 151 applications including commercial and personal property. She didn't have the number of abatements granted available.

How to apply for an abatement was on the tax bills and listed on the information board in front of the Assessors office. The application was on line and the Assessors office will assist people with the application.

Mr. Ostroff noted that it was almost three years since the Town distributed the form of where to go for programs. If someone thinks they may qualify for any of the programs, he encouraged them to reach out.

Ms. Dangelo noted that the Assessors staff just held the second annual exemption filing workshop. Information on the programs available was posted in the senior newsletter, on line and on the information board

Asked about available funds in the overlay surplus account, Ms. Dangelo advised that the Town was in a healthy state in overlay at this point with a balance of \$1,809,941. There was still some pending litigation maybe as much as \$440,226. For the years prior to 2011 there was \$1,155,268 with about \$416,000 outstanding.

Mr. Mabardy commented that he was trying to understand how the affordability could be maintained for retired people on a fixed income to continue living in Natick when there were continued increases in the taxes.

Ms. Dangelo pointed out that Natick has been very proactive in addressing that issue. The Town had the most lenient restrictions for personal exemptions and gave approximately 350 exemptions to those who qualified. Ms. White added that there was a senior tax work off program and recently it was expanded to include veterans. An additional \$1 million was contributed to mitigate the impact of the debt exclusions.

Mr. Walters Young further added that it was heard loud and clear from the Board of Selectmen and the citizens that if the administration could do something to ease the burden, it needed to be done. Almost \$1 million was appropriated from free cash against the cost of the excluded project. If there was no subsidy and the taxpayers paid the actual cost, the rate would go from \$14.34 to \$14.32. Applying almost \$1 million resulted in a tax rate of \$14.18 vs \$14.32. If there was no subsidy, the average single family tax bill would have increased an additional \$65 over the projected increase of \$242.

Mr. Hughes inquired as to when Ms. Dangelo expected the Assessors to release the overlay reserve no longer needed. Ms. Dangelo advised that typically it was when asked by Town administration.

Regarding the pending litigation before the Appellate Tax Board, Ms. Dangelo informed the Board that most were telecommunications. The good news was that last year there were approximately 60 and that was now down to 16. Most were closing with very little money.

Mr. Jennett asked about the usage of the overlay surplus, and Ms. White advised that it was considered to be a recurring source. The long-range plan had \$500,000 being used.

To Mr. Jennett's comment that the use of those funds did not necessarily impact the tax rate, Ms. White responded that the operating budget impacts the tax rate and the overlay was part of the cost to operate the Town. Creating that overlay was funded by the taxpayers. Once the overlay amount was no longer needed it became available as a revenue source.

Responding to some additional questions from Mr. Jennett, advised that an overlay account was created every year to fund personal exemptions and any abatements and once those matters were settled for a fiscal year whatever was left could be released by the Assessors to help fund the operating budget.

One of Mr. Jennett's questions was if there was a way to use the overlay money to help with the tax rate. Ms. Gloff explained that any money released from overlay surplus was put into the operating budget and if someone wanted to lower the tax rate, services would have to be decreased.

Mr. Ostroff asked Ms. Dangelo about commercial sales and she responded that commercial sales have been healthy. When the values were set all the information available was used for that year and when there were new sales of commercial and industrial properties above the assessment, that was good news.

Town Meeting member Larry Forshner encouraged the Board to split the rate to at least some degree. Over the years the single rate may have served the

Town well, but the demographics have changed. Needham has a tax rate of \$11.36 with an average single family house of \$737,000. To pay that tax bill, someone would need to make \$127,000. In Natick someone would have to make about \$128,000.

Wayland and Sudbury have high tax rates which create a downward swing on the resale value.

In a couple of years 40% of Natick's residents will be baby boomers and people will think they have \$10,000-\$300,000 in equity in their homes, but if the residential tax rate keeps creeping up, people will have to keep taking money out of their retirement fund.

Mr. Forshner noted that the Clark's Block will pay \$37,000 in taxes which was the equivalent of less than 3 houses in an 8 home subdivision.

Continuing, Mr. Forsher recalled that former Natick Mall General Manager had a map of Massachusetts with the Natick Mall, North Shore Mall, Burlington Mall, and South Shore Mall around each there was a customer base. The Malls don't compete with each other. The same entity in Burlington pays approximately \$5,643,000; in Braintree \$6,412,508, and in Natick \$3,386,000. Natick Mall pays 60% of what was paid in Burlington and 50% of what was paid in Braintree and they don't compete.

Former Selectman Paul McKinley reminded people that the tax rate was a mathematical formula based on what was spent and the value of the real estate. The last 5-6 years the rate was fluctuated quite a bit. The only thing that matters was the average tax bill. It was a given that taxes were going to go up a little each year and the fluctuation between the ratio of commercial to residential goes up and down. Residential values were going up and commercial values will follow.

Mr. McKinley was intrigued by the average tax bill for a resident in Natick vs all the surrounding towns. For a lot of years Natick was the second lowest on a list of 12-15 towns. That meant if you put your house in another town you would be paying more and if the quality of services was compared to Natick, there would be no comparison. The taxes people pay to live in Natick were the source of funds for the quality of life. If someone wanted to see what a split tax rate looked like, Mr. McKinley suggested driving through downtown Framingham.

General Growth or MathWorks could afford to pay more, but the question has always been about the very large number of small businesses. If the rate was split, the small businesses would end up paying and to save the residents \$1 the business owner would have to pay an additional \$3.50. Many of the large businesses have been very generous to Natick and continue to do so.

On a motion by Mr. Ostroff, seconded by Mr. Hughes, the Board unanimously voted to close the public hearing.

Mr. Ostroff moved to set a factor of 1.0 for Fiscal 2014. Seconded by Mr. Hughes and unanimously voted.

Speaking to his motion, Mr. Ostroff stated that his interest in maintaining a single tax rate was for the overall well being of the community. There may be some residential subsidy for commercial as Mr. Forsher alleged, but people without kids in schools were subsidizing others. Everyone was in this together. The way to reduce taxes was not through this process. It was through the budget.

Mr. Hughes stated that he has been here 12-13 years and 12 years on the Finance Committee and the single rate has worked well for the Town. It has helped attract and maintain businesses. He owned a building in a town that splits the rate and it was phenomenal the amount of taxes paid. It just didn't work.

Ms. Gloff stated she would vote for a 1.0 factor. She too thought the single rate has worked well. People were looking at taxes going up, but expenses went up as well and the only way for that not to happen was to give no raises or cut services which probably involved cutting staff. The Town offered good service in the community, better than most surrounding towns and those things cost money. She also pointed out that the average single family tax bill did not cover the cost of sending one child to school. The businesses were already strongly subsidizing that cost to the Town.

Following a five minute recess, the meeting was again called to order at 8:45 p.m.

HEARING E.P. CLARK POST #107 AMERICAN LEGION: RENEWAL OF LIQUOR LICENSE
Representing the Board in the hearing was Attorney David DeLuca of Murphy, Hesse, Toomey & Lehane.

Representing E.P. Clark Post #107 American Legion was the Commander Robert King, Martin Grady, Justin Fitch, and Mike (?). The American Legion's counsel, Frederick Riley, was not present.

Mr. DeLuca defined the purpose of tonight's hearing and the various options the Board could consider taking.

It was Mr. DeLuca's understanding that in June of 2013, there was an action taken by the ABCC that resulted in two separate suspensions: 1) for illegal gaming machines for which the license was suspended 12 days; 2) failure to file an annual report with the Commonwealth and the list of employees engaged in the handling of alcohol was not properly kept. That suspension was for an indefinite period of time. The license was now before the Board for consideration of renewal for 2014.

The suspension was ongoing and for the ABCC to consider lifting the suspension, the American Legion will first have to file the proper paperwork with the Board of Selectmen to bring them into compliance.

Mr. DeLuca noted receipt of a letter from Attorney Frederick Riley representing the American Legion. The letter states the Legion was attempting to rectify all the compliance issues and was awaiting a certificate of good standing in order to make an application to the Board to amend their license to properly reflect the current directors.

If the Board acted favorably on that application, the Legion could then go back to the ABCC and request some relief.

Tonight the question was whether to renew the license for 2014 and the Board had a range of options:

- 1) Refuse to renew the license based on the existing suspension and the license would become inactive as of January 1. If they wanted to reapply, they would need to start with a new application.
- 2) Renew the license with the understanding that properly completed paperwork will be forthcoming. The license would remain suspended until the suspension was lifted by the ABCC.

If the structure wasn't in place, Mr. Hughes questioned who the Board would be renewing the license for. Mr. DeLuca responded that the renewal would be with the present structure although it was known that it was not in compliance.

Mr. King advised that it would be brought up to compliance. Asked when, he responded that a couple of things were holding them up like getting a floor plan.

Mr. Hughes believed there had to be some urgency to get the license renewed and didn't understand why the paperwork hadn't been done.

Mr. King explained the ABCC had a list of 10 things and 9 were done. There has been a sense of urgency, but he and almost everyone else on the Board had full time jobs. He only became commander last September and he was not aware of these problems. He would appeal to the Board to give some leeway on trying to get this resolved.

Mr. Mabardy inquired if it was possible to put the question on hold until the Legion complied with the requirements.

Mr. DeLuca explained that the request before the Board tonight was to renew the license. If the Board didn't vote to renew it before November 30, the Legion's license would expire December 31. He reiterated that the suspension was in effect and would remain in effect until the restructuring was complete. That process would require the Legion to come to the Board for initial approval and then be approved by the ABCC.

Looking at the second suspension, Mr. Ostroff observed that it was a damnation of the practices at this establishment. He questioned what kind of commitment was being made to bring in management that may have the ability to address some of these issues. Seeing some of the names of directors on the

web site, he was concerned that people may not be up to the job.

Mr. King agreed there was a need to get young people involved, adding that he didn't want to see this fail.

Mr. Ostroff noted that the Treasurer in place while this was happening was still on the Board, but Mr. King advised that he (Treasurer) was defeated in the last election. He was staying on for continuity.

Mr. DeLuca noted that on a positive note the Legion's counsel represents the corporation was now fully compliant with the Secretary of the Commonwealth and in conversations with him (Attorney Riley) Attorney DeLuca stressed that the Board was looking to see more of what the Legion had done rather than what they were planning to do.

If the Board voted to renew the license subject to the suspension, Mr. DeLuca recommended the Board set an outside date to revisit the matter and at that time examine the progress or lack of progress to become fully compliant. If not, the Board would be in the position to revoke the license.

Mr. Jennett found the matter distressing and he would like to see the organization get its act together. He moved to renew the license for 2014 subject to the existing suspension of the ABCC with the full understanding they were moving forward. Seconded by Mr. Ostroff and unanimously voted.

Speaking to the motion, Mr. Ostroff wanted to have the American Legion on the agenda in a few weeks for an update and hopefully the filing of the paperwork. He would also be happy to see an entirely new slate of officers and hear about the plans of the organization going forward.

Mr. Jennett echoed that he would like to see a strong structure put in place so there was confidence in the organization. He wished the organization the best.

Mr. Hughes too wished the Legion well, but commented that he was troubled by the suspension and the interference the ABCC got when they went in there to do their business. That was intolerable.

Mr. King responded that the Legion didn't want that either. He was there when the ABCC came and thought it had been embellished. There had never been a threatening word.

Mr. DeLuca pointed out that the renewal forms had to be provided to the Board by November 27. Ms. White emphasized that by state statute the November 27 deadline was immovable

Document - Letter from Attorney Frederick Riley; copy of ABCC suspensions; hearing notice

CHEESECAKE FACTORY: PETITION FOR CHANGE IN MANAGER

Representing the Cheesecake Factory was the proposed new manager Marc Murphy and Attorney Michael Branwynne of DiNicola, Seligson & Upton, LLP.

Before the Board was a petition for a change in manager from Jeremy Fogel to Marc Murphy. Mr. Branwynne advised that Mr. Murphy has acted as general manager at several other Cheesecake Factory locations and was the manager of record on several other liquor licenses. He has been employed with the Cheesecake Factory for over 10 years.

Noting that the documents submitted showed Mr. Murphy as the general manager since January 2013, Ms. Gloff questioned why the change was not put forward to the Board prior to November 2013.

Mr. Branwynne explained that it was an internal transfer of managers. Mr. Fogel went to Braintree and Mr. Murphy to Natick. In that transfer there was an oversight and apologies were extended. As soon as it was known, Mr. Murphy retained counsel and got an application to the Board as soon as possible. The Cheesecake Factory has now their retained his (Mr. Branwynne's) office to make sure it didn't happen in the future.

Mr. Branwynne was asked if there was the same problem in other Cheesecake Factories in the Commonwealth and he responded that in other towns the Cheesecake Factory has used counsel. Mr. Murphy noted that he wasn't aware of the process. He had been with the Cheesecake Factory for 18 years in six locations. Typically his experience had been that the corporate office would take care of the paperwork and he would appear before the boards.

Mr. Hughes found the situation to be unacceptable. When it was time for renewal and the license was at risk, all of a sudden they came in for a change in manager. There has been no approved manager at the Cheesecake Factory for 10 months. The Board took very seriously its licensing authority for the sale of alcohol.

Mr. Branwynne assured the Board that the Cheesecake Factory corporate office realizes this was a serious mistake and it couldn't happen going forward. They had a policy to handle it internally, but it hasn't worked and they have now retained counsel.

A motion was made by Mr. Hughes to approve the change of manager from Jeremy Fogel to Marc Murphy. Seconded by Mr. Ostroff and unanimously voted.

Mr. Mabardy commented that he would like to see the Cheesecake Factory reach out in good faith to the community.

Mr. Murphy responded that he had only been in this location for 11 months and during that time the restaurant had donated to the Harvest program and to the Joey Fund. Plus they gave 500 gift certificates to organizations that had contacted them along with donating 25¢ for every slice of cheesecake sold to Feed America. They definitely wanted to be a good neighbor.

Documents - petition for change in manager filed by the Cheesecake Factory

HEARING CHEESECAKE FACTORY: ALLEGED VIOLATION OF LIQUOR LICENSE AND RENEWAL OF LIQUOR LICENSE.

The Cheesecake Factory had been noticed for a hearing on the alleged liquor violation of having no approved manager on the premises for a certain period of time.

Attorney David DeLuca explained the Board had a wide range of options from no action, a warning, a reprimand, a suspension, or revocation of license. Also under consideration is the renewal of the license for 2014.

Mr. Jennett expressed his disappointment. He believed a corporation should have a process in place that should make this (getting an approved manager) happen and he would like to see a letter of reprimand on record.

A motion was made by Mr. Hughes, seconded by Mr. Jennett, to renew the Cheesecake Factory's liquor license for 2014 and send a letter of reprimand. Unanimously voted.

Mr. Ostroff proposed an amendment that would impose a one day suspension to be held in abeyance unless there was another infraction before December 31, 2014. The amendment was not accepted.

Referring to Mr. Ostroff's amendment, Ms. Gloff inquired as to what type of infraction and Mr. Ostroff responded failure to report a change in manager. He associated a reprimand as a warning and wanted to put some teeth behind it.

Mr. Branwynne understood the Board's desire to see a record of this, but being the Cheesecake Factory's first time and the fact the Cheesecake Factory employs members of the community and they (Cheesecake Factory) have shown a willingness to make a contribution to the community, he would ask the Board to hold off on a pending infraction. The Cheesecake Factory has been working with his office and a suspension held in abeyance could affect new applications down the road.

Ms. Gloff appreciated the contributions made by the Cheesecake Factory, but to her it was irrelevant. The two situations were not linked. She noted that she wouldn't vote to suspend for one day and hold it in abeyance, but she may be willing to accept the amendment if it was for any infraction of any type.

Mr. Hughes did not support the amendment for a one day suspension. In his opinion a letter of reprimand was enough and he didn't want to be limited to a one day suspension should another incident occur.

Mr. Mabardy thought the letter of reprimand would be the first step in any type of discipline.

Mr. Ostroff explained that he was only offering the amendment to give the Board options and to underscore the seriousness.

Mr. DeLuca reminded the applicant that the license renewal forms need to be provided to the Board of Selectmen's office by November 27.

Document - Hearing notice

CROWNE PLAZA COMPLAINT

Mr. Hughes recused himself and left the table.

Attorney David DeLuca explained that this matter was on the agenda for the Board to determine whether it was appropriate to hold a hearing of an alleged violation of the alcohol laws. There were some concerns raised by one of the involved parties about the timing because in this instance there were other coincidental legal proceedings that may take a considerable amount of time before there was a determination. If the Board wanted to be guided by that was entirely up to the Board.

If there was a concern about the legal process underway, Mr. Ostroff inquired if the licenseholder had the opportunity to stipulate to certain facts if there was a hearing to minimize some of the testimony.

Mr. DeLuca advised that was possible. The applicant could choose to stipulate to a finding of a violation and the Board would move into the disposition phase. There would have to be some facts provided to support making a finding but the full details wouldn't be necessary. That was only if the Board chose to hold a hearing.

Mr. Jennett found this to be a difficult situation. Because of the legal situation the Board ended up in an awkward situation and he had a tough time being judge and jury where it could lean one way or another in a public suit.

Mr. Mabardy recalled that at the last meeting he had asked that the matter be tabled so the Board could base its decision on advice of counsel.

Mr. DeLuca responded that he thought the Board members had the information available from which to make a choice and he hoped he had given the Board the information needed from a legal standpoint. Now it was the Board's determination whether to hold a hearing. If the Board did not feel there was merit, nothing compelled the Board from having a hearing but nothing prevents the Board from having a hearing even if there were some other collateral consequences in other cases.

Ms. Gloff suggested that if the Board decided to hold a hearing it not be scheduled for another two months. The officer who did the investigation was having surgery and would be out for about eight weeks.

A motion was made by Mr. Ostroff to hold a hearing on an alleged liquor license violation by the Crowne Plaza with a date to be determined. Seconded by Mr. Mabardy. The motion passed on a 4-0-0 vote. Mr. Hughes had recused himself and did not vote.

Prior to the vote Attorney Joseph Ayoub representing the Crowne Plaza asked to speak. Because there was a civil matter he urged the Board to wait until the process played out so the Board would have the benefit of all the discovery that came with that kind of process. If at any point the Board thought it was taking too long, the Crowne Plaza could be called back for an update. Maybe an update could be scheduled for three months.

Ms. Gloff inquired as to how long Mr. Ayoub thought it would take for a resolution of the civil matter, but he didn't know. It could be settled next week or it could take six months.

Ms. Gloff had mixed feelings. There were some pretty serious allegations and it was already over a year. Alcohol was involved and she worried a bit about the Board and the responsibility to regulate the sale of alcohol in this community to let this sit for some undetermined amount of time.

Mr. Ayoub pointed out that in the 25 years of operation the Crowne Plaza has not been before the Board on a liquor issue. This was an aberration. It didn't make it good or right if they were found to be responsible, but there was no evidence this was an ongoing problem. The person involved was not an employee of the Crowne Plaza. It didn't happen before and it hasn't happened since.

Mr. Ostroff appreciated what Mr. Ayoub was saying and waiting would give the Board an opportunity to see how the other side developed.

Documents - Complaint filed by Attorney Robert Carp; Police Department investigation

WALNUT PLACE (NORTH AVENUE): APPROVAL OF AFFORDABLE HOUSING REGULATORY AGREEMENT AND LOCAL ACTION UNIT APPLICATION

Michael Carr, the developer of Walnut Place, told the Board he was building 41 units on North Avenue and the Planning Board determined that eight units need to be affordable. To be affordable required control by the state and a local initiative application.

Documents had been submitted that were approved by Housing Planner Joseph Merkel and required the signature of the Board of Selectmen. Included was a community support narrative that described the project.

Ms. Gloff added that because this was not a 40B to get these units to count as affordable, approval of the state was needed.

On a motion by Mr. Hughes, seconded by Mr. Mabardy, the Board unanimously voted to approve the affordable housing regulatory agreement and local action unit application for Walnut Place.

Document - Memo from Housing Planner Joseph Merkel; copy of housing regulatory agreement

COMMUNITY INNOVATION CHALLENGE GRANT

Ms. White noted that for some time the Town has been trying to improve the partnership with the Natick Soldiers Systems Command. A number of ideas have been floated about how we can each benefit each other and the purpose of this grant was to explore possible ways - primarily DPW services the Town would provide and the Labs would pay the Town.

Mr. Ostroff was enthusiastic about this possibility and the expansion of the partnership between the Town and the NSSC.

Document - Memo from Town Administrator Martha White

PARKING PERMIT FEES FOR 2014

Ms. Gloff recalled this item was tabled at the last meeting pending a proposal from the Parking Advisory Committee.

As Vice-Chair of the Parking Advisory Committee, Mr. Jennett reported that the Committee recommended remaining with the current permit fees without any changes, but permit holders should be notified there will be a policy change coming forward. The Committee discussed that there was definitely a need for change in the permit program as far as policy and they were trying to come up with a plan for permitting that will delineate very clearly where people were allowed to park.

The Committee was looking at removing some of the meters from the Town Hall lot and allowing permit parking.

As a member of the Parking Advisory Committee, Mr. Ostroff noted there was some discussion Friday to either keep the status quo and renew or delay because there might be a more comprehensive recommendation. He thought it was worth just renewing the permits as they were and let the committee continue to work on a more comprehensive plan.

Mr. Jennett reiterated that he wanted to notify the permit holders there would be changes in permitting come March or April. Issue the permits, but moving forward the Committee wanted the opportunity to issue a policy and a clear delineation.

Ms. Gloff clarified that it would be the Board of Selectmen who would issue any policy. Her understanding of what was being proposed was to offer the permits for 2014 at the same price and notify people there could be a possible change in the use of the permits at some in the near future.

Telling people the permits were being renewed at the same price, Mr. Hughes thought people would reasonably expect that was the procedure for the next 12 months and he couldn't imagine saying you paid for this permit but we may come back and tell you there was a change in where you will park. That was not fair.

Mr. Ostroff thought Mr. Hughes made an excellent point

On a motion by Mr. Hughes, seconded by Mr. Jennett, the Board unanimously voted to set the fees for a downtown business parking permit at \$325.00 for 2014.

On a motion by Mr. Hughes, seconded by Mr. Jennett, the Board unanimously voted to set the fee for a senior parking permit at \$2.00 for 2014.

On a motion by Mr. Hughes, seconded by Mr. Jennett, the Board unanimously voted to set the commuter parking permit at \$600.00 for Natick residents and \$700.00 for non-Natick residents for 2014.

Documents - Memo from Town Administrator Martha White

TOWN ADMINISTRATOR APPOINTMENT PROCESS

Ms. Gloff outlined the proposed appointment process for the Town Administrator noting it was very similar to what was done three years ago.

Ms. White's contract expires June 30, 2014 and in accordance with her contract the Board had until December 31, 2013 to notify Ms. White of the Board's decision regarding whether to negotiate a subsequent contract to start on July 1, 2014. As December 16, was the Board's last scheduled meeting of the year, Ms. Gloff wanted to make a decision at that time.

At that time the Board based its decision on the degree to which the Town Administrator met the goals and objectives established by the Board over the current contract; if there were compelling circumstances or issues that should be taken into account for goals that have not been achieved; an evaluation of her performance in areas of leadership, foresight, collaboration, responsiveness, personnel, financial, services, strategic planning; did the Board believe the Town's best interests were served by retaining the Town Administrator for an additional term. Public input was also invited and the plan was to seek similar input for 2013 - something would be posted on the web and in the newspaper.

Ms. Gloff asked Ms. White to prepare a self-evaluation to be provided to the Board in advance of the December 16 decision. A motion was made by Mr. Hughes to adopt the process as outlined and schedule a decision for the meeting of December 16. Seconded by Mr. Ostroff and unanimously voted.

Document - Memo from Carol Gloff

UPDATE DEPUTY TOWN ADMINISTRATOR HIRING PROCESS

Ms. White reported that since the last update, she met one-on-one with the four finalists for Deputy Town Administrator. She also had numerous discussions with members of the interview team and others regarding the advantages and disadvantages of the two Deputy Town Administrator model - one for Finance and one for Operations and she has come to believe that was the best approach.

Since adding the responsibilities of Finance Director to the incumbent Deputy Town Administrator, he has had very little time to provide support for non-financial operations and as a result an inordinate amount of her time was spent on day-to-day problem solving with little time left for strategic planning, guiding the organization, coordinating departmental initiatives and working toward achievement of Selectmen and Town Administrator goals.

It was Ms. White's expectation that she would appoint a Deputy Town Administrator/Finance Director and a Deputy Town Administrator/Operations within the next week and introduce them to the Board at the December 2 meeting.

Ms. White advised that she planned to recommend to the Personnel Board that the position of DTA/Operations be classified at Grade 6 the same grade as the DTA/Finance. Presently the Operations position was at Grade 5. She expected this will be presented for consideration at the April 2014 Town Meeting.

Ms. White noted there was insufficient funding for two positions, but an analysis has been done on the insurance budget and there was quite a bit of money in there. In May the Board of Selectmen and Finance Committee could be asked to do a 3% transfer.

Document - Memo from Town Administrator Martha White

TCAN: APPLICATION FOR ONE DAY BEER & WINE LICENSES

Ms. Gloff, Mr. Ostroff, Mr. Mabardy stated they were members of TCAN with no financial interest. Mr. Jennett disclosed that he was a member of the TCAN Board of Directors.

On a motion by Mr. Mabardy, seconded by Mr. Hughes, the Board unanimously voted to grant David Lavalley on behalf of The Center for Arts in Natick two one day wine & malt licenses for performances at 14 Summer Street on November 22 and November 23, 2013 and to re-issue the one day license granted for a performance on October 17, 2013 to December 7, 2013.

Document - Letter from David Lavalley

APPROVE AND SIGN ORDER OF TAKING: SUMMER STREET

As voted by Town Meeting, Mr. Hughes moved to approve and sign the order of taking for a portion of Summer Street. Seconded by Mr. Jennett and unanimously voted.

Mr. Hughes wanted to make it conditional upon the neighbors' concerns being addressed, but Mr. Ostroff thought completing the acceptance of the road would guarantee it would be done. If there were any issues, Mr. Jennett asked that the neighbors come to the Board.

Document - The forms for the taking prepared by the Town Engineer

AFFORDABLE HOUSING TRUST: ACCEPT RESIGNATION - STEPHEN GARTRELL

On a motion by Mr. Hughes, seconded by Mr. Jennett, the Board unanimously voted to accept the resignation of Stephen Gartrell from the Affordable Housing Trust.

Document - letter of resignation from Stephen Gartrell

SIGN ELECTION WARRANT FOR SPECIAL ELECTION TO FILL CONGRESSIONAL SEAT LEFT BY EDWARD MARKEY BEING ELECTED TO THE SENATE

On a motion by Mr. Hughes, seconded by Mr. Jennett, the Board unanimously voted to sign the election warrant for a special election on December 10 to fill the congressional seat left by Edward Markey being elected to the Senate.

Documents - Election warrant

MEETING SCHEDULE

On a motion by Mr. Hughes, seconded by Mr. Jennett, the Board unanimously voted to adopt the following meeting schedule for the first half of 2014: January 6, 2014, January 13, January 27, February 10, February 24, March 10, March 17, March 26, April 7, April 22, May 5, May 19, June 2, June 16, June 30.

Document - Draft schedule

MILFORD CASINO PROJECT: SUBMISSION OF SURROUND COMMUNITY LETTER

The Board was in receipt of a draft letter to be submitted to the Gaming Commission concerning a surrounding town impact should the residents of Milford pass the casino proposal. The vote was slated for tomorrow.

On a motion by Mr. Ostroff, the Board unanimously voted to authorize the Chair to send a letter to the Gaming Commission subject to a positive vote by the Milford voters. Seconded by Mr. Jennett and unanimously voted.

Document - Draft letter to Gaming Commission

TOWN HALL HOLIDAY HOURS

Ms. White announced the Town Hall holiday hours.

Thanksgiving week - closed Thursday and Friday

Christmas week - the late evening will be Monday; Tuesday an early close at 2:00 p.m.; closed on Wednesday; Thursday open from 8:00 a.m.-5:00 p.m.; Friday open from 8:00 a.m.-12:30 p.m.

New Year's week - the late evening will be Monday with offices open from 8:00 a.m.-8:00 p.m.; Tuesday an early close at 2:00 p.m.; closed on Wednesday; Thursday open from 8:00 a.m.-5:00 p.m.; Friday open from 8:00 a.m.-12:30 p.m.

Asked how the word would get out, Ms. White advised there would be a web site announcement and a sign on the door.

Document - Memo from Town Administrator Martha White

MINUTES

On a motion by Mr. Hughes, seconded by Mr. Ostroff, the Board unanimously voted to approve the minutes of the March 11, 2013 meeting.

On a motion by Mr. Hughes, seconded by Mr. Mabardy, the Board unanimously voted to approve the minutes of the July 5, 2013 meeting.

TOWN ADMINISTRATOR NOTES

a. Boston Marathon Permits

Ms. White reported there has been a tremendous interest in the Boston Marathon permits given to the Town and by the end of this week she expects to reach out to the many charities she has heard from looking to see if they could be selected to raise money for their organization.

b. Boston Marathon Route

Ms. White noted that a group of volunteers came up with the idea of planting daffodils along the Boston Marathon route. Natick took over 10,000 bulbs. The LFNR Supervisor identified locations and worked with private property owners and all 10,000 bulbs have been planted. She complimented Art Goodhind.

c. J.J. Lane Park

Ms. White informed the Board that the Conservation Commission was going to advertise for someone for 15 hours a week to manage the community garden plots at J.J. Lane Park. There will be close to 50 plots. The funding will come from the Conservation Fund.

SELECTMEN'S CONCERNS

a. Dean Residence Water Bill

Mr. Jennett inquired about a letter in correspondence from Dean Residences questioning the amount of water being used.

Ms. White advised that she would follow up with the Water & Sewer Supervisor

b. Emerson Street Sofa

Mr. Hughes inquired as to the status of the complaint from an Emerson Street resident of a sofa being on the sidewalk.

Ms. White responded that the sofa had been removed.

c. Nstar Utility Funds

Mr. Hughes requested an accounting of the amount of money Nstar collected to bury the utilities.

d. Friday Afternoon Closing of Town Hall

Mr. Mabardy noted that several people said they came Friday afternoon, November 1 to pay their taxes but the office was closed. He thought the tax office was open in the afternoon if the due date fell on a Friday.

Ms. White noted that after the 12:30 schedule was implemented twice the Tax Collector's office stayed open until 5:00 and had very few visitors. She wasn't sure why so many people came this time, but Town Hall has been closed on Fridays for 2-1/2 years and going forward she has asked staff to include the hours on the bills. There was also the online payment option.

A sign was placed on the window telling people to place their bill there and all were credited with paying that day.

e. Marion Street Bridge

Mr. Mabardy recalled that when Secretary Davey came to the library the subject of the Marion Street bridge was raised and he was asked about the possibility of a temporary bailey bridge. He (Secretary Davey) said that was something that could be considered and Mr. Mabardy wanted to know if there was any way to follow up.

Ms. White believed it was a vote of the Board not to pursue that option because there was a sense from meeting with DOT that it would delay the bridge further.

Ms. Gloff remembered being given the option of a permanent vs temporary fix and the Board went with let's fix it right.

Ms. White said she would speak with the Town Engineer and maybe have the State engineers come speak with the Board.

f. Office Hours

Mr. Mabardy announced that he would be having office hours at the Community Senior Center this Thursday from 9:00-10:00 a.m.

g. Route 27 Overpass Project

Mr. Ostroff reported that he learned recently that the Route 27 overpass project will be built sooner than thought. A potential start date was 2015.

ADJOURNMENT

The meeting was adjourned at 10:45 p.m.



Nicholas S. Mabardy, Clerk