

BOARD OF SELECTMEN MEETING
THURSDAY, JULY 12, 2007
7:30 P.M.

Members present: Francis A. Hegarty, Chairman
Steven P. Rose
Wayne Phillips

Others present: Mark Fisher, Town Administrator
Joseph Lalli, Town Counsel

Chairman Hegarty called the meeting to order at 7:30 p.m. with all members present.

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to accept the minutes of Thursday, June 21, 2007 as submitted.

There were no public comments during the Open Forum.

The signing of change orders #2 and #3 relative to the Page Street Reconstruction Project was the first order of business. The change orders were voted on at the previous meeting; this item is for signatory purposes only.

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to approve the signing of the contract forms for change orders #2 and #3.

Additional Reappointments for 2007/2008

On a motion made by Mr. Phillips, seconded by Mr. Rose, the following individuals were reappointed for 2007/2008 as follows:

Mr. Kevin Foster	Board of Appeals (Fire Dept. Rep.)	to 6/30/2010
Mr. Joseph Donovan	Alternate Plumbing & Gas Inspector	to 6/30/08
Ms. Sharon Kelly	Cable TV Advisory Committee	to 6/30/08

The vote was unanimous.

A request for a street opening permit was received from Can Four Corporation for 430 Page Street.

After some discussion, it was unanimously voted to approve the street opening permit for 430 Page Street with the following conditions:

1. All work must be done to the Avon Water Department's specifications and approval
2. Plans must be submitted to the Board of Selectmen with final project plans approved by the Avon Water Department
3. All trenches must be filled with flowable fill
4. The work must be done prior to the final coat of asphalt on Page Street. Once the final coat is applied to Page Street, the permit will be rescinded. Once the final coat of asphalt is applied to Page Street, a five (5) year moratorium on street opening permits will be in effect.

A request for one-day special alcohol permits was received from Avon Fish & Game Association for August 11 and August 18, 2007.

Mr. Rose made a motion to approve the one-day special permits for Avon Fish & Game Association on August 11 (Club Function-Birthday) and August 18, 2007 (Club Function Barbeque). Mr. Phillips seconded the motion. The vote was unanimous.

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to approve all vouchers for the payment of bills as submitted.

7:45 p.m.—Public Hearing on the Application for a Common Victualler's License for 160 Memorial Drive—Mainha Restaurant

Ms. Sulamita Figueredo appeared before the Board, applicant for a Common Victualler's license at 160 Memorial Drive. Ms. Figueredo stated she is buying the business and opening a Brazilian/Italian restaurant called Mainha. Her hours of operation would be Monday through Thursday from 11:00 a.m. to 9:00 p.m.; Fridays and Saturdays from 11:00 a.m. to 10:00 p.m. and Sundays from 11:00 a.m. to 3:00 p.m. There would be no changes to the establishment except for signage.

Mr. Phillips made a motion to grant a Common Victualler's license for Mainha Restaurant to Ms. Figueredo at 160 Memorial Drive. Mr. Rose seconded the motion. The vote was unanimous.

Town Administrator's Report

1. Mr. Fisher reported a letter was sent to the Water Department from the Department of Environmental Protection's Drinking Water Program. They are pleased to announce that the Avon Water Department has won a Public Water System Award for excellence for calendar year 2006.
2. A commendation letter was received from the Massachusetts State Police detailing their appreciation for the assistance provided by Lt. Michael Hardiman on June 20, 2007 when a serious accident occurred. Lt. Hardiman's actions in taking charge should be commended.

3. A request was received from Tax Collector Michael DePesa for the Board's permission to allow Sandy Cain to carry over two (2) vacation hours beyond what is allowed into the new fiscal year. Mrs. Cain devoted an unusual amount of time to ensure the Preliminary Tax Bills for FY '08 were mailed in a timely fashion and was unable to take all of the vacation time due her.

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to grant Mrs. Cain the two (2) hour carryover beyond what is allowed into the new fiscal year.

4. Financial Overview of Street Projects relative to available funds and available funds for future contracts
5. Report to the Board on the Page Street Project—Mr. Fisher discussed extending the excavation of Page Street on the southerly end another 80' +/- to the gutter line of Pond Street. An additional discussion ensued regarding changing the radius on the corner on the easterly side of Page Street at Pond Street. Mr. Fisher explained this would help slow down traffic and with the use of "Cape Cod Berm" drainage would be better controlled. The additional cost would be approximately \$17,500. Mr. Fisher stated he would recommend the Board to authorize the expenditure with a \$20,000 limit for the change order. Mr. Rose and Chairman Hegarty stated they concur with Mr. Fisher's recommendation to extend construction and alter the intersection.

8:00 p.m.—Continuation of Liquor License Violation Hearing (sale of alcohol to a minor)—Avon Chinese Restaurant Corporation, D/B/A Charlie Chan's, License #005800005

Mr. Lee Liang, Manager of Charlie Chan's, and Attorney Paul Seaver appeared before the Board.

Chairman Hegarty asked Officer Craig Staffier to read the Police Report for the record.

"According to Officer Staffier on May 28, 2007 he observed a group of young people enter Charlie Chan's Restaurant. He returned approximately 15 minutes later. Officer Staffier observed a group of five (5) young people who appeared to be in their teens sitting at one booth. On the table were two (2) scorpion bowls with two straws each. Officer Staffier went to the group and asked for ID. One female produced her ID—she was 25 years of age. One of the other males produced a fake ID which listed him as 24 years of age, but the fake ID was expired. Another male did not have an ID. At this time Officer Staffier radioed dispatch and said he would be out with a liquor law violation."

Attorney Seaver stated Mr. Liang is the license holder. A court hearing was held on June 21, 2007 and Chief Phillips was in attendance. According to Attorney Seaver, as of June 30, 2007 a scanner was purchased and is now being used. In addition, Mr. Liang will attend a TIP seminar in this area within the next month. Attorney Seaver reported that Mr. Liang is a 46 year old male who has owned Charlie Chan's for the last four (4) years. He is taking the liquor violation which occurred on May 28, 2007 very seriously.

Chairman Hegarty asked Mr. Liang if he could state what occurred on the evening of May 28, 2007?

Mr. Liang reported two individuals came in. One individual ordered a scorpion bowl at the counter. He then sat down. Two females then entered the establishment. One came up to the counter and ordered a scorpion bowl. He checked her ID. The other female did not go up to the counter.

Chairman Hegarty responded that “you are not delivering alcohol to the table and thus could be serving alcohol to anybody.” Chairman Hegarty also stated there is no service bar allowed for the establishment under your liquor license. You must bring the alcohol to the table and not at a counter.

Mr. Rose questioned “how do we monitor this?” Where is the alcohol going?

Mr. Rose stated that based on the Town’s alcohol policy, this is the first offense for Charlie Chan’s and a written reprimand would be issued. Mr. Rose expressed his concern regarding TIP’s training. According to Mr. Liang, he has already taken the TIPS training. Mr. Rose questioned when the next training would be?

Attorney Seaver answered that the next TIPS training would be held in Natick on July 14, 2007. However, it was his understanding that Mr. Liang was supposed to take the training within this area.

Mr. Phillips stated that if any second offense occurred at this establishment, Mr. Liang would receive the maximum penalty.

After further discussion, it was unanimously voted to issue the following written reprimand to Avon Chinese Restaurant Corporation as follows:

1. To instruct your employees on the Town of Avon’s alcohol policy
2. To serve only single drinks
3. To participate in the TIPS training on July 14, 2007 in Natick, MA and if you are unable to attend that program because it is too late to register, you will be given seven (7) days from July 14, 2007 to find another TIPS program
4. All of your employees must be trained in the teachings of TIPS
5. There is to be no service of alcoholic beverages from the service bar. Drinks must be served to a specific individual at the table only
6. Any establishment that is found in violation will have said violation on their record for 36 months. After 36 months, the licensee may petition the LLA to remove same.

The hearing adjourned at 9:00 p.m.

Town Administrator’s Report (Continued)

Mr. Fisher returned to the discussion of the Page Street intersection.

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to approve the extension of the reconstruction of Page Street to the Pond Street gutter line with the use of Cape Cod Berm.

7. Replacement of Fence at Miller/Tracy Playground—Mr. Fisher reported time is of the essence in replacing the fence at the Miller-Tracy playground. The contractor is grinding that section of the road next week and the existing fence must be removed within days.

Two bids were received; one from Premier Fence and one from Inline Fence, Inc. as follows:

<u>Premier Fence</u>	<u>Ornamental Iron</u>	<u>Industrial Grade Aluminum</u>
	\$10,040.89	\$10,861.76 Removal time – 2 days
Inline Fence, Inc.	\$5,994.00	\$8,329.00 Removal time – not to exceed two weeks

After presenting the options to the Board, Mr. Fisher recommended the following:

- (a) To ask the contractor to remove the fence and put up a temporary barricade
- (b) To close that entrance to the playground until a new fence is installed and
- (c) To ask the low bidder to resubmit a price for Ornamental Iron without having to take down the existing fence and put up a temporary fence
- (d) To give low bidder authorization to install the fence at a cost not to exceed \$6,000.00

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to move forward with Mr. Fisher’s above-stated recommendation.

8. **Discussion on Constellation New Energy**—our current provider of electricity is offering the chance to lock in future pricing, effective December, 2007. Mr. Fisher reported we are currently paying 10.40 per kilowatt hour. Mr. Fisher cannot predict what future prices might be. It all comes down to how much risk the Town wants to take.
9. **OCPC-Draft of Transportation Improvement Program (TIP)**—a draft of the FY '08-11 Transportation Improvement Program was received from Charles Kilmer, Transportation Program Manager. Mr. Fisher reported there are no projects listed for Avon.
10. **Massachusetts Water Pollution Abatement Trust Bond**—Mr. Fisher reported a letter was received from the Mass. Water Pollution Abatement Trust stating there is a balance of \$24,500.00 remaining in the project fund. Any unutilized project funds from the original \$200,000 bond used to fund the wastewater engineering study would no longer be available. The Board agreed that Mr. Fisher would draft a letter to the current company, SEA Associates.
11. **PILOT from the City of Brockton**—Mr. Fisher provided a handout to the Board from Attorney Hutchinson in response to the Town’s demand for PILOT monies owed from the City of Brockton. Chairman Hegarty stated the Town should pursue this issue and file suit.
12. **Abatement of Ambulance Fees**—Mr. Fisher provided the Board with a handout of outstanding ambulance fee invoices for fiscal year 2002, 2003, 2004 and 2005 with balances of \$50.00 or less. Mr. Fisher explained these balances reflect the

portion of the invoice that the insurance companies do not cover. Chief Spurr reported that these balances should be abated and Mr. Fisher agreed.

Mr. Fisher recommended the following action regarding outstanding balances prior to July 1, 2007:

- (a) Send a letter for each overdue invoice where no payment has been made. This would track undeliverable letters, and then Chief Spurr could present them to the Board for abatement. If there is no return, those letters could be turned over to a collection agency.
- (b) Invoices with partial payments made could be researched so that determination could be made if the Town can legally go after the unpaid balance. If the Town cannot pursue payment, then Chief Spurr should be given the authority to categorize them as over commitments. The Town Accountant would then make the necessary adjustments.
- (c) For all invoices dated July 1, 2007, a procedure would be in place whereby the billing company could offer collection services, as needed.

After further discussion, Mr. Fisher recommended that the Board vote to abate the list as presented by Fire Chief Spurr and the Board vote to authorize Fire Chief Spurr to credit over commitments as of July 1, 2007 with the Town Accountant.

Mr. Rose made the following motion: to vote to abate the list presented by Fire Chief Spurr and to authorize Fire Chief Spurr to credit over commitments from July 1, 2007 with the Town Accountant. Mr. Phillips seconded the motion. The motion carried.

Meeting dates for the month of August were set as follows:

Thursday, August 2, 2007 at 7:30 p.m.

Thursday, August 16, 2007 at 7:30 p.m.

Chairman Hegarty announced this is Mr. Fisher's last meeting as Town Administrator. Mr. Fisher would be leaving his employment with the Town of Avon on Friday, July 27, 2007. The Board thanked Mr. Fisher for all his efforts and hard work.

At 9:45 p.m. Mr. Rose made a motion to enter Executive Session for the purpose of collective bargaining and the Board would not reconvene in open session. Mr. Phillips seconded the motion.

A roll call vote was taken:

Mr. Rose voted aye

Mr. Phillips voted aye

Chairman Hegarty voted aye

Respectfully submitted,

Miriam Rothstein

Secretary