

BOARD OF SELECTMEN MEETING
THURSDAY, NOVEMBER 6, 2008
7:30 P.M.

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

Others present: Michael McCue, Town Administrator
Joseph Lalli, Town Counsel

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

Mr. Phillips made a motion to accept the minutes of Thursday, October 16, 2008 (Regular Session) as written. Chairman Hegarty seconded the motion. Mr. Rose abstained from voting since he was not in attendance. The motion carried.

On a motion made by Mr. Phillips, seconded by Chairman Hegarty, it was unanimously voted to approve the minutes of Thursday, October 16, 2008 (Executive Session) as written. Mr. Rose abstained from voting since he was absent. The motion carried.

Mr. Phillips made a motion to accept the minutes of Thursday, October 30, 2008 (Regular Session) as submitted. The motion was seconded by Chairman Hegarty. Mr. Rose abstained from voting since he was not in attendance. The vote was unanimous.

Chairman Hegarty read the Legal Notices for the Highway bid for 350 tons of rock salt and 1600 Tons of coarse sand.

Mr. Rose, Clerk of the Board, opened the bids for rock salt. The following bids were received:

1. Morton Salt \$82.96 per ton – delivered
2. International Salt \$91.50 per ton – delivered
3. Eastern Salt Co., Inc. \$69.75 per ton – delivered

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to take the bids under advisement.

Mr. Rose opened the bids for coarse sand. The following bids were received:

1. Kingstown Corp. – Plymouth, MA \$20.23 per ton delivered
2. T. L. Edwards, Inc. Avon, MA \$15.85 per ton delivered

Mr. Rose made a motion to take the bids under advisement. Mr. Phillips seconded the motion. All were in favor

The Board met with Assessors Bruce Lane, Cynthia Bernasconi and James Donovan to discuss a date to schedule the Classification Hearing.

After some discussion, the Board and Assessors agreed on Thursday evening, December 4, 2008 at 7:30.

At 7:40 p.m. Mr. Rose made a motion to enter Executive Session to discuss a legal matter. Mr. Phillips seconded the motion.

A roll call vote was taken:

Mr. Rose voted aye
Mr. Phillips voted aye
Chairman Hegarty voted aye
Mr. Lane voted aye
Ms. Bernasconi voted aye
Mr. Donovan voted aye

The Board would reconvene in open session

At 8:10 p.m. the Board reconvened.

Public Hearing to address potential violation of all alcoholic restaurant license for Chester Foods, LLC , D/B/A Scofields Restaurant & Pub-39-43 East Main Street

Mr. Phillips read a “Disclosure of Appearance of Conflict of Interest” as required by G.L. Chapter 268A, Section 23(b) (3). The form was filed with V. Jean Kopke, Town Clerk.

Officer Douglas LeGrice, State Police Sgt. Sean Lydon, Trooper Dennis Keeler and David Lydon (age 20) were in attendance for the hearing. Sgt. George Houhoulis was the Reporting Officer.

Chairman Hegarty read the section of the Police Report of Friday, September 26, 2008 as it pertained to Scofield’s Restaurant & Pub. According to the Police Report, a bartender at Scofield’s, identified as Jennifer Jannini, served a beer to David Lydon, age 20. Trooper Dennis Keeler of the State Police stated Ms. Jannini never asked David Lydon for identification.

Chairman Hegarty asked the police officers present if they had any additional comments relating to the incident. They all replied “NO.”

Mr. Paulding, owner and manager of Scofields, read a statement to the Board apologizing for the incident which occurred and stated the bartender was employed at Scofields for three weeks and was due to take the TIPS class in three weeks. Mr. Paulding stated "I am deeply sorry and this will never happen again."

There were no further questions from the Board.

After further discussion, Mr. Rose made a motion to take the matter under advisement and Mr. Paulding would be notified as soon as possible with the Board's decision. Mr. Phillips seconded the motion. The motion carried.

Public Hearing to address potential violation of all alcoholic restaurant license for Avon's Generations, Inc.—81 Memorial Drive

Attorney Darcy MacDonald, Manager Lisa Rappoli and owner Adam Silver appeared before the Board.

Chairman Hegarty read the section of the September 26, 2008 Police Report for Generations. "According to the Police Report, David Lydon (age 20) and Trooper Keeler went to the bar at Generations and after some time Sgt. Lydon received a text message that they were served. Officer LeGrice went into Generations and asked the bartender for identification. She identified herself as Jillian Conville. Officer LeGrice questioned whether she asked David Lydon for identification and she replied no." "Officer LeGrice explained this was an alcohol service operation ordered by Police Chief Phillips and she allegedly served beer to David Lydon, age 20."

Chairman Hegarty asked the police officers present if they had any additional comments at this time and they replied "no."

Attorney MacDonald, representing Avon's Generations, presented the Board with signed Affidavits from Jillian Conville, Eliezer Carrasquillo, and Jennifer Laun, describing the events of the evening of September 26, 2008.

Attorney MacDonald argued that Trooper Keeler ordered and paid for two beers. She presented the Board with a copy of the ABCC sting guidelines, item #9 which states "*the underage person shall attempt to purchase an alcoholic beverage. They should attempt to purchase the same thing at each location being tested to avoid confusion.*"

Attorney MacDonald reported that since Trooper Keeler ordered and paid for two beers, this was an unsuccessful sting and the matter should be dismissed.

Attorney MacDonald referenced M.G.L. Chapter 138, Section 34 "Sale, delivery or furnishing alcoholic beverages to persons under 21 years of age." Attorney MacDonald reported signs would be hung in the bar area stating that "no one under 21 years of age would be served."

Chairman Hegarty asked for a rebuttal from Sgt. Lydon, Trooper Keeler, David Lydon and Officer LeGrice.

David Lydon and Trooper Keeler concurred that “David Lydon never left the bar area. Trooper Keeler was served two (2) different types of beer.”

Attorney MacDonald reiterated that Trooper Keeler “ordered and paid for two beers and service was to someone of age.”

Mr. Rose questioned Trooper Keeler as to how many sting operations he has taken part in? Trooper Keeler responded “this is his first sting operation.”

Chairman Hegarty asked manager Lisa Rappoli if she was present the evening of September 26th when the incident occurred. Ms. Rappoli responded “no, she was not working that evening.”

Chairman Hegarty asked the Board if they had any final comments. The Board had none.

Mr. Rose made a motion to take the matter under advisement and the Board would notify Avon’s Generations, Inc. of their decision. Mr. Phillips seconded the motion. The vote was unanimous.

At 9:05 p.m. Chairman Hegarty called for a brief recess.

At 9:10 p.m. the Board reconvened.

The Board discussed West Main Street traffic conditions. It was agreed that “courtesy” signs would be placed in appropriate areas.

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to instruct Town Administrator McCue to look into the matter.

The Board discussed a Special Town Meeting date and the town’s finances. The Board agreed to hold off setting a date. Town Administrator McCue furnished the Board with figures for the first quarter of the fiscal year, and reported revenue is lower than anticipated.

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to authorize School Superintendent Frieswyk to submit to the Massachusetts School Building Authority the Statement of Interest dated November 15, 2008 for Butler Elementary School, located at Patrick Clark Drive, Avon, MA, which describes and explains the following deficiencies and the priority category for which Avon may be invited to apply to the Massachusetts School Building Authority in the future for Priority #5, “replacement, renovation or modernization of the heating system in a school house to increase energy conservation and decrease energy related costs in the school house;” the replacement of all lighting fixtures with energy efficient fixtures at Butler Elementary School to include any electrical, structural costs or costs otherwise associated with the project; and hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Town of

Avon, MA. to filing an application for funding with the Massachusetts School Building Authority.

On a motion made by Mr. Rose, seconded by Mr. Phillips, it was unanimously voted to accept the donation from Extreme Vacuum Services to the Avon Water Department for river washed processed stone to be used for fire hydrant installations with no restrictions.

It was unanimously voted to appoint Helen Enright to the Council on Aging Board, term to expire: June 30, 2009.

Public Announcements

Chairman Hegarty announced the Town Hall would be closed on Tuesday, November 11, 2008 in honor of Veterans Day.

Chairman Hegarty thanked the Cub Scouts for their posters reminding residents to vote on Tuesday, November 4th.

Town Administrator's Report

Town Administrator McCue reported we are moving forward with the Council on Aging Director's position. There are three (3) candidates who will be coming in on Thursday, November 13th for second interviews.

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.

At 9:30 p.m. Mr. Rose made a motion to adjourn. Mr. Phillips seconded the motion. The vote was unanimous.

Respectfully submitted,

Miriam Rothstein
Secretary