

Chairman Gill called meeting to order at 7:30 PM at the Town Hall Auditorium with members Charles Coldwell, Joseph Gill, Doug Sears and Jerome Selissen present. Town Manager David Cressman, Town Counsel Charles Zaroulis and Recording Secretary Heather Tecce were also present. Member John Ryan was absent.

Scheduled Agenda Items:

1. AFSCME Contract: No Discussion

Motion by Mr. Coldwell, second by Mr. Sears to sign contract, the board voted unanimously.

2. Sullivan Auto Parts Hearing: Attorney Richard O'Neill representing the current owner of Sullivan Auto Parts, Paul Kapitan were both present. Show cause hearing of Class III License why license should not be revoked. Atty. Zaroulis informed the board that Mr. Kapitan is operating Sullivan Auto Parts, and there was a change in ownership in Jan 20, 2002. Former owner was James Sullivan transferred ownership to Mr. Kapitan. Deputy Chief Sheehan was asked to observe/investigate this for the board. During this investigation D.C. Sheehan found the business was sold as stated above and Mr. Sullivan did not work there. The reported date of January 20, 2002 should have been January 20, 2003 and the license should have been transferred at that time. It appears that Mr. Kapitan was under the impression that there was not a need to transfer license because he would still be operating as Sullivan Auto Parts not PAK, Inc. The issue was raised whether or not Mr. Kapitan applied for a license in the selectmen's office Feb. 2004, with Sandy Barbeau. Mr. O' Neill felt there is a bit of confusion and to revoke the license now would be a bit premature and asked for a continuance.

Mr. Selissen motioned for a continuation of this hearing until June 22, 2004, selectmen's meeting, Mr. Sears second and the board voted unanimously.

3. Sam's Beer & Wine Hearing: Attorney Raymond Paczkowski representing Mr. Richard Proctor was present. Show cause hearing for revocation of license for failure of licensee (Kimberly Scott's, Inc. d/b/a Sam's Beer and Wine) to exercise use of said license on premises located at 2316 Main Street. Mr. Paczkowski informed the board he had requested a continuance in a letter June 7, 2004 so he could do some investigating. Mr. Paczkowski explained that Mr. Proctor nor he knew that the license was not transferred from Kimberly Scott, Inc. to Mr.

Proctor. Mr. Paczkowski explained to the best of his knowledge Mr. Proctor purchased the business including the license in 1997 or 1998. Mr. Paczkowski explained that the officers of the corporation were suppose to resign and Mr. Proctor was to become the president, treasurer and clerk and for some reason this did not happen, Mr. Proctor thought it did happen in approx. 1998 or 1999. Mr. Paczkowski just found this out yesterday and he realizes there is more to this situation than when is the establishment going to reopen. Mr. Proctor has been doing a lot of work and intends to open July 1, 2004. Mr. Gill asked town counsel if the dealings here tonight should be with the licensee. Atty. Zaroulis said yes, we should be dealing with Kimberly Scott, Inc. Mr. Paczkowski explained to the board that he does represent the corporation but it has been dissolved and he would have to resurrect the corporation. Mr. Gill explained that they have to deal with Kimberly Scott, Inc. who is the license holder. Mr. Paczkowski explained that the license was not being transferred however the officers of the corporation are changed. Atty. Zaroulis said the issue before the board is that since Jan. 2004 the premises remain unopened so there has been more than a 3 month period of no use of the license without notification to the Board of Selectmen with a reason why. Atty. Zaroulis continued has that business operated for the past 3 months? That is the issue before the board tonight. Atty. Zaroulis spoke about the corporation that does not exist, a defunct corporation and a defunct licensee. Mr. Paczkowski said however, to no fault of his client Mr. Proctor, Atty. Zaroulis explained that his client is irrelevant to this case, Mr. Proctor is not the licensee. Mr. Paczkowski said it appears we do not have an owner, he explained about the corporation being dissolved. In a couple of days the corporation will be in revitalized and if we come back in two weeks Mr. Paczkowski said he will be here with viable corporation and that's why he asked for the continuance. Atty. Zaroulis responded he has no problem with a continuance but he would say that in view of the record on this particular matter the person who comes forward needs to address many issues in this particular operation but the issue before the Board of Selectmen this evening is non use of a license for a period of time. Mr. Gill raised issue of a business certificate from the Secretary of State from Year 2000. Mr. Sears no problem continuing for two weeks. Mr. Coldwell would like to know when it will be opened and that the Board has heard of other dates it was suppose to reopen that is the issue with the board tonight. Mr. Coldwell has no problem continuing but would like a date. Mr. Paczkowski said July 1, 2004 it would open. Atty. Zaroulis he can not open under this license Mr. Proctor is not the licensee. Mr. Selissen raised issue about pushing off to June 22, 2004 and have a date to open July 1, 2004 and that doesn't happen, Mr. Selissen suggested pushing off until July 13, 2004 meeting and then we know if it is opened. Atty. Zaroulis said the corporation could be revived however there will be quite a few other issues, who will be manager, etc. Mr. Sears made a disclosure that he has an office with Mr. Paczkowski but has nothing to do with this particular matter.

Mr. Coldwell motion to continue to the next meeting June 22, 2004, Mr. Sears second and the board voted unanimously.

4. Applebee's – Change in Manager, Mr. Coldwell motion to except change in manager to Stephen W. Dixon, Mr. Sears second and the board voted unanimously.
5. Mavericks Pool Table License: Attorney Raymond Paczkowski and Mr. Proctor, owner of Mavericks were both present regarding the matter of the pool table license. Mr. Paczkowski explained his client has spoken with Chief Donovan will take Chief Donovan's recommendations. Mr. Gill pointed out the license was filed late. Chief Donovan was concerned the bartender could not see the pool table in the back room. There was a camera but the police felt that the consumption of alcohol could not be monitor from the camera in the center of the long bar and there was no point of vision from either end of the bar for the servers to see. Chief Donovan explained that Mr. Proctor was going to move the pool tables into an adjacent room, Chief Donovan had concerns of a ½ wall that the bartender's view maybe obstructed. Chief Donovan suggests putting another camera and taking down the wall and Mr. Proctor has agreed to both. Mr. Gill asked Mr. Proctor when these improvements would be made. Mr. Proctor responded before 30 days. Mr. Selissen would like licenses in on a timely basis. Mr. Sears asked what is happening with the fence. Mr. Proctor responded he has already paid ½ and it should be delivered this Saturday and they should start ASAP. The Board of Appeals granted the variance.

Mr. Sears motioned to renew the application with the Police going to the premise 30 days after and see that these items are adhere to, Mr. Coldwell second and the board voted unanimously.

6. Residents: None

#### Town Manager

7. Middlesex Retirement System: Mr. Gill recommends we support the Town Managers recommendation. Mr. Selissen would to incorporate an annual review as well.

Motion by Mr. Sears, second by Mr. Selissen and the board voted unanimously.

8. Fire Chief Appointment: Town Manager advised the board he will be appointing Richard Mackey as Fire Chief and his appointment will become effective July 8, 2004.
9. Working Foreman Appointment: Town Manager advised the board he will be appointing Larry Gilbert as Working Foreman as Fleet Maintenance Division. Mr. Selissen has concerns with the appointment and would like to make appointment but for a 90 day review.

Motion by Mr. Selissen to appoint and revisit in 90 days. Second by Mr. Sears and the board voted unanimously.

10. Town Counsel Invoice: Mr. Coldwell motion to approve, second by Mr. Sears and the board voted unanimously.
11. Flood Mitigation Assistance: Town Manager informed the board that our Flood Mitigation Assistance Project on Riverdale Avenue made the front cover of MEMA's May 2004 newsletter
12. Budget Transfer: Mr. Coldwell motion, Mr. Sears second and the board voted unanimously to transfer funds.
13. South Fire Station Cellular Facility: Mr. Coldwell motioned, Mr. Sears second and the board voted unanimously for the town manager to go out to bid for other potential users of the site since Verizon has not responded to the certified mail sent to them.

Executive Session:

14. Longevity Incentive Program
15. Executive Session Minutes
16. Approval of Minutes: Mr. Selissen motioned, Mr. Coldwell second to approve Minutes from March 23, 2004 and March 31, 2004, the board voted unanimously. Mr. Coldwell motioned and Mr. Gill second to table Minutes from April 6, 2004 and April 15, 2004 due to Mr. Ryan's absence, the board voted unanimously.

17. Boards Members:

- a. Mr. Sears raised issue of used cars being sold around town. It seems that some people have two and three cars piling up and some with New Hampshire license plates. He would like to know is there a way of enforcing the issue of selling many cars. Mr. Cressman will need to check with the building commissioner. Mr. Cressman spoke with the commissioner this week regarding one location he thought that had quite a few cars being sold. On June 4, 2004, Mr. Sears went to the City Council Office in Lowell where Lt. Gov. Healy met with selectmen and town managers from this area to express their concerns; Mr. Sears spoke of the lottery diversion being in favor of that and the Governor has gotten the message and if the budget goes through we should be getting \$384,000.00. Mr. Sears mentioned school funding and the Lt. Gov. thought that in 2005 that there might be some help us with of 12,500,000.00 Wynn School obligation. Also, spoke about Public Construction Reform and this was a step in the right direction, and also that there is a need for reform in the Middlesex Retirement System. Steve O'Donnell, Deputy Commissioner for Mass Highway in the area was there and spoke of the mall and that "they were on board with the project" and a comment arose from Billerica and Chelmsford that they are still trying to get sound protection for areas on Rte. 3.
- b. Mr. Coldwell, thanks to the Patriot Committee for their efforts in the Memorial Day Parade and it went very well. Mr. Patterson told Mr.

Coldwell that they gave out 3500 flags and they didn't make the end of parade. Mr. Coldwell would like to get an update from the Town Manager on the River Road Project

- c. Mr. Selissen commended Mr. Coldwell and the Patriot Committee for a great job on the parade. On May 19<sup>th</sup> 2004, the sewer meeting at the High School went well to inform residents in Phase 7. Next Wednesday a meeting with the water subcommittee and a preliminary report to this Board June 22, 2004 and he would like to thank his friends from the St. Williams for great job with parade.
- d. Mr. Gill would also like to commend all involved with the parade for a great job. Congratulations to the Graduates of Tewksbury High 2004. He also wishes to thank the Raytheon Employees who helped the Recycle Committee for Tidy Up Tewksbury Day. Mr. Sears motioned to send a written thank you, Mr. Coldwell second and the board voted unanimously. Mr. Gill met with the budget committee last night and not much was resolved and decided to meet again June 21, 2004 to see if an agreement can be met with the school committee.
- e. Town Counsel: Atty. Zaroulis reported the Appeals Court came down ruling in favor for the town in the case Kevin C. Sullivan vs. Town of Tewksbury regarding Woburn Street property.

18. Motorized scooters proposed by-law: The board agrees with the proposed by-law that Chief Donovan has come up with. Town Manager suggested this by-law be reviewed by Town Counsel with his recommendations at June 22, 2004 meeting.

Mr. Coldwell motioned that the matter be referred to Town Counsel, Mr. Sears second and the board voted unanimously.

19. Scholarship and Education Fund Committees – letter of resignation. Mrs. Sitar submitted her resignation.

Mr. Selissen motion to accept and repost position, Mr. Sears second and the board voted unanimously.

The next Board of Selectmen meeting June 22, 2004 at 7:30 PM Town Hall Auditorium

Motion by Mr. Coldwell, second by Mr. Sears at 9:15 PM, unanimously voted to go into Executive Session.

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Jerome Selissen, Member