

TOWN OF FOXBOROUGH
SELECTMEN'S MEETING
MINUTES
AUGUST 18, 2015

Members Present: James J. DeVellis, Chairman
Christopher P. Mitchell, Clerk
Virginia M. Coppola

Others Present: Mr. William G. Keegan, Jr., Town Manager
Ms. Mary Beth Bernard, Assistant Town Manager
Mr. Frank Mortimer, Foxboro Reporter
Mr. William Grieder, Planning Board
Mr. William Buttafuoco, NPS, LLC
Mr. George Bell, Stadium Advisory Committee
Attorney Patrick Costello, Louison, Costello, Condon & Pfaff
Mr. William Yukna, Permanent Municipal Building Committee

Mr. Gray and Mr. Feldman were not present for this meeting.

Mr. DeVellis opened the meeting at 7:00p.m.

Mr. DeVellis read the agenda.

Mr. DeVellis stated that Pauline Hadley who had been the Board of Selectmen's longtime stenographer for 15 years passed away last week. She was a mother of five and a grandmother of seven and a lot of her family is still in the area. Mr. DeVellis requested a moment of silence for Pauline Hadley.

7:00pm – Citizen's Input - Frank Mortimer

Mr. Mortimer wanted to let everyone know that Michael Gelbwasser a reporter for the Foxboro Reporter and the Sun Chronicle passed away last Thursday and he was only 46 years old. Mr. Gelbwasser was a straight forward reporter and he was a very brave man in his final months. Mr. Mortimer read a poem in his honor entitled "After the Funeral".

7:05pm – Selectmen's Update

Mr. DeVellis invited everyone to the August 27, 2015 meeting where the Selectmen are meeting with the Planning Board, the Board of Health, and Water & Sewer to talk about sewer expansion, where it is going and how we work together in the vision of the town with respect to sewer. As you will recall, the town voted to become a partner with the Tri Town Agreement versus a customer, so now we have sewer flow. There are developments going on where and how we monitor that and promote it in and outside of the town.

Mr. DeVellis stated that we have an intern, Katlyn O'Brien working very diligently and now Foxborough has a Facebook page so if you want to "Like" Foxborough Massachusetts you should do so. We also have a Twitter account so you can follow that. This is another opportunity for this Board and the town as a whole to get information out. The more information that gets out, the more people understand the items rather than just a headline or a quick blog on another group. It is sharing of information. Take advantage of it and look at it, Mr. DeVellis knows the Police Department has been doing this for a little bit and it is been successful.

Chief Hatfield wanted to thank the Board for giving him the opportunity to talk about something that is historical for the Town of Foxborough and for the Fire Department and that is that they have brought back the Fireman's Ball. Chief Hatfield really wanted to commend the men and women of the fire department as they have been rolling with this and they have gotten a lot of support from Lakeview Pavilion. It is going to be a great night; it is September 11, 2015. It brings back a lot of the history of the firefighters being dressed in their class blues and having pride about being a firefighter/paramedic in the community. They usually have a lot of family and friends as well as people from the town will be there that night. There are still tickets available so swing by the Public Safety Building. Marsha Armando at Town Hall has been taking names also and letting Chief Hatfield know. They do have a deadline of August 28, 2015. They would love to have everyone come and have a great night of dinner, dancing and fun. Mr. DeVellis asked if Chief Hatfield knew how much the tickets are in which Chief Hatfield responded \$60 which is for the whole night (dinner and dancing).

Mr. DeVellis stated the next item at the risk of embarrassing someone; Frank Mortimer a long time Foxboro reporter is retiring and tonight is his last Board of Selectmen meeting after 28 years. Mr. DeVellis found out a little while ago and he asked Mr. Mortimer if they could do something and he basically said no, he didn't want to be embarrassed and going in line with the way Mr. Mortimer's personality is, it's not about Mr. Mortimer all these years, it's about the town. When Mr. DeVellis asked the Selectmen how they wanted to handle it, they wanted to do a roast.

Mr. DeVellis stated they put together a Certificate of Thanks and Appreciation and they are going to read that to him. Putting this together Mr. Mortimer had a resume of accolades and awards that he has gotten over the years and they didn't put that in there but what Mr. Mortimer means to the town is that Mr. Mortimer has taken himself behind the scenes and he does reporting, he is consistent, and he is very fair and personable which is not much more than they can ask for, for coverage for the town.

Mr. DeVellis read the certificate. Mr. DeVellis stated that this comes from the Board's heart and as a town they appreciate what he has done for many years for Foxborough. Mr. DeVellis has known Mr. Mortimer for a few years and he knows that there are some things other Selectmen do that make Mr. Mortimer angry and irritated sometimes and he doesn't say it because he is a resident but now that he is retiring Mr. DeVellis wishes he will come back at some point and at some level. Mr. DeVellis would love to work side-by-side with Mr. Mortimer and get involved. Mr. DeVellis appreciates everything Mr. Mortimer has done.

Mr. Mitchell stated that Mr. Mortimer has covered a lot of the things that Mr. Mitchell has done in this town and this recently did just happen. Mr. Mitchell was in Pittsburgh over the weekend at a charity event and a woman that was introducing him googled his name and she spent three hours reading every article that Frank Mortimer had ever written about him. She forwarded these articles to everyone in the club so everyone in Pittsburgh knows how Mr. Mortimer writes. Mr. Mitchell wanted to thank Mr. Mortimer for covering anything he and his family have ever done in this town and always being there and getting the pictures.

Ms. Coppola thanked Mr. Mortimer and stated that he had covered everything around town and he always is around town but he is always dependable and they knew that he would cover a story and if he wasn't there, he called them up and asked questions. He always asks questions and Ms. Coppola likes people who ask questions to get the story right. Ms. Coppola really wanted to thank Mr. Mortimer for his integrity and hard work and always being around. Mr. Stedman and Mr. Peterson always knew they could depend on him and they could depend on him.

Mr. Mortimer stated that it has been such a privilege covering the various boards in this town. It blows him away that the board members could be home doing many different things and yet they are here, taking shots from the public and all of them have tremendous backgrounds. It is humbling and he always felt a little bit behind the eight ball because even the people they hire like Mr. Keegan and Ms. Bernard are just so up there that you don't want to screw up the coverage.

Mr. Mortimer stated that it is also humbling to be working on the paper of Vin Igo, Jack Authelet, Jeff Peterson, Bill Stedman, Ruth Jackson, their unbelievably brilliant Office Manager and Kate Golden who are corporate leaders.

Mr. Mortimer is so thrilled to be having new blood come into this job. Mr. Mortimer knows there is a young man coming who is very earnest and experienced and this is just what the Foxboro Reporter needs.

Mr. Grieder stated that their Chairman Mr. Weinfeld, couldn't be there this evening and he knows that on Thursday nights people have other things to do than to come to a Planning Board meeting so they wanted to take this opportunity at the Board of Selectmen's meeting to read a letter on behalf of the Planning Board for Mr. Mortimer.

Mr. Mortimer stated he couldn't have done this job without his wife. Lynn who is a nurse at the Veterans Hospital in West Roxbury and who works at a job that actually pays with dollar bills.

Mr. Keegan stated he would have written something for Mr. Mortimer but then it would have become a public record. Mr. Keegan stated in the short time he has been in Foxborough, he and Ms. Bernard both are very grateful for the coverage Mr. Mortimer has presented to the community and he has been very fair. All of the stories that he has seen have been balanced and everyone knows in this business all they ever want to strive for is balance so they can get both sides of the story out there. Mr. Keegan appreciates the fact that Mr. Mortimer strived to do that and also that he took the time to verify his facts before it was printed and not a lot of people do that so he appreciates the fact that Mr. Mortimer took the extra time to do that.

7:25pm – U.S. Men’s National Soccer Team vs. Brazil Application – NPS, LLC – William Buttafuoco, NPS, LLC and George Bell, Stadium Advisory Committee

Christopher Mitchell read the public hearing notice.

Mr. Buttafuoco stated that on September 8, 2015 it is the U.S. Men’s National Team against Brazil. They are expecting somewhere in the 40,000 person range for ticket sales and the game is scheduled and published for 8:00pm. They would be looking for parking to be at 4:00pm and stadium gates at 6:30pm. There will be a fan activity area in Lot 22 which is the West Club Lot during the late afternoon up until game time and that will close at 8:00pm. The teams will be staying in Boston and when they arrive in town they will practice Monday in preparation for the game on Tuesday and they will depart soon after the game. It is a quick in and out for those teams, a little different than the Gold Cup with the teams were here for a little longer period of time.

Mr. Bell stated the Stadium Advisory Committee met and reviewed the application with Jess Enos whose grandfather passed away and couldn’t be here this evening. It is an international friendly event which means it won’t be too competitive. They reviewed it and the only issues together they are working through is what will the attendance level turn out to be. Right now they are saying in the 40,000 range and they have talked that if it is like the last international event, there is a major surge towards the end of it at which creates traffic so it is a bit of an angst for the public safety people because it could be up towards 5,000 to 8,000 seats that could be sold pretty quickly (within the last day or so). The two chiefs are well aware of this and the stadium will have a pre-all agency meeting a week out to see how the ticket sales are tracking and that they will adjust their manning levels based on what happens. That was the only significant thing. They will open the back gates and parking will be paid and they will have translators on hand in the concourse areas to deal with people that may need additional help. It is going to be a busy week that week. This kick off is the first of three events that week. The Patriots are in town on Thursday night; and Saturday night there is a One Direction concert. The chiefs feel very comfortable on how they are going to manage it but it is going to be a fairly busy week. On top of all that, it is going to be natural grass.

Mr. DeVellis stated they received letters from public safety and the departments involved and there is also one letter from Walpole regarding the traffic and pedestrians and that is something that the stadium works out as well with the Town of Walpole.

Motion made by Christopher Mitchell to close the public hearing. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion made by Christopher Mitchell to approve the application of NPS, LLC for the U.S. Men’s National Soccer Team vs. Brazil. Seconded by Virginia Coppola. **Vote 3-0-0**

7:20pm – Discussion on NPS, LLC Seating – Attorney Patrick Costello, Louison, Costello, Condon & Pfaff

Mr. DeVellis stated recently the Stadium came before the Selectmen for a change in their liquor license status as well as some changes within the Stadium; the Optum Lounge that was being proposed. The Board took that under consideration and voted to approve the changes to the liquor license and the discussion to follow was how does that affect when you are removing seats and changing the protocol inside what happens to those seats specifically the revenue because it is the payment in lieu of taxes program that was set up prior to this Board being here. What the Board did was get some input from the Finance Department, Randy Scollins and Town Manager as well as reached out to their town counsel to look at the legal part of the contract that says do we have the right to do it and if so how do we do it. The Board also reached out to the Stadium and Mr. DeVellis apologizes, as they were going to have an earlier meeting this afternoon with Dan Murphy and Mr. Murphy's mother had passed away so unfortunately the discussion is internally for the most part to get the Board's side and get some advice from town counsel and then they will continue it to another time to figure it out. There is no deadline right now that they are after, this is towards the end of the season where they do all of the tallying up so they thought it was prudent to handle this sooner rather than later on.

Attorney Costello stated that he had discussed this particular matter with Mr. Keegan and reviewed all of the relevant documents which include the June 1, 2000 lease, the April 2006 settlement agreement as well as correspondence from NPS dated July 28, 2015 and in that correspondence NPS established its position relative to whether or not the town would be entitled to any adjustment in the retro payments that were made under the lease agreement. Attorney Costello has reviewed that document very carefully and he did prepare for the benefit of the Board a letter dated August 14, 2015 in which Attorney Costello set forth his position on those issues.

Attorney Costello stated that in essence what we have here is a situation whereas Mr. DeVellis had noted the 2000 lease agreement that was executed by and between the town and NPS, LLC. Typically lease agreements address the proprietary interest in property as well as the rights to use that property when they do establish consideration, typically a rental payment. Most leases are relatively straight forward and unambiguous in their terms. With respect to this particular lease however Attorney Costello notes that in the 15 years that have passed since the document was initially executed there have been substantial changes at the Stadium most of which are very beneficial and basically the result of sound business practices on behalf of the leasee. However, since this particular agreement was specifically fashioned, there is not only a lease but also as noted, a payment in lieu of taxes agreement which he believes with respect to the Optum Field Lounge (focused on in the letter) that there were changed circumstances in the operation use of the Stadium that should warrant further review and discussion amongst the parties.

Attorney Costello reviewed earlier today a memo that Mr. Keegan had submitted to the Board that Attorney Costello thinks even further fortifies his points in that there are numerous changes going on down at the Stadium in terms of conversion of certain areas of the facility to different types of uses than those which had been initially anticipated at the time the lease was executed back in 2000. In Attorney Costello's view he thinks that the underlying purpose and intent of the lease as executed and as understood by the parties back in 2000 should warrant some further discussion and review at this point and time given to the substantial circumstances in regard to the use of the Stadium. Specifically, there was a recital clause/provision in the lease that

anticipated that the Stadium would have 68,000 seats. Numbers fluctuate in many instances, but to the extent that the number of seats upon which the revenue stream that we are receiving is based, as rental payments have decreased substantially yet those areas of the Stadium are devoted to other economically beneficial uses by the leasee, it would seem to him that there is no reciprocity there in terms of sharing the wealth with a change in use of the property. Attorney Costello believes the underlying purpose and intent of the lease was to provide fair and equitable compensation to the Town of Foxborough based upon anticipated use of the Stadium to the extent that certain types of uses at the subject property deviate from or change seating areas from that which was initially anticipated ambiguities or uncertainties as to the application of provisions to the lease can arise. That was very evident in 2006 when the compensation the town would receive as a result of non-Stadium uses for private office space for example, complimentary tickets and issues of that nature were not specifically addressed in the lease; what the parties did was sit down and negotiated a compromise which was memorialized in a settlement agreement that established the remediation or compensation that the town would receive for those particular items which again were not specifically addressed in the lease. Attorney Costello believes that the situation with the Optum Field Lounge is a similar such situation. It is basically taking what was formally a seating area of the stadium and converting it to a private access or access for an additional admission fee or charge access area for which an ambiguity or question arises under the lease terms in Article 5 as to whether or not the town would be entitled to additional compensation. In Attorney Costello's view this is a very unique property, payment in lieu of tax agreements are typically executed by municipalities and private property owners where no real estate taxes are assessed under Chapter 59. The whole premise of real estate tax assessment is to assess taxes based on value of the property. With regard to specialty use properties or commercial properties generally the value of the properties is determined by what's called an income approach to value. It takes into account the income derived from the use from the property and allows for a deduction of certain operating expenses and a capitalization rate is applied. Not that we have to go through that type of exercise when you execute an appellate agreement but the fact that the fluctuation or change in the nature or amount of income derived from property is a critical component to determining what a tax assessment would be under the general laws he thinks is somewhat analogous to the situation in that where we have a material change in use or character of the Stadium property is it worthwhile or appropriate to take the use of that change to determine whether the lease payment terms that were negotiated back 15 years ago are or quite frankly how they would be implemented in light of the changed circumstances. Attorney Costello did set forth in his letter just his general summary of that point and certainly has a great deal of respect and appreciates the view that NPS has taken in its correspondence of July 28, 2015 but he believes this letter focuses more on specific language in our Article 5 Rent Provisions than on the overall purpose and intent of the agreement which he believes is a relevant factor.

Mr. Keegan stated that the overriding issue here is that there has been a permanent change made to the property itself and if you look at the terms of the lease agreement, the lease agreement speaks to the fact that we receive a certain amount of revenue from seat revenue and when the number of seats changes only understand that certain seats will be filled during certain events and that is typical of the stadium type event, but if you permanently alter the number of seats in the stadium that has a direct reflection back from the town's ability to raise revenue on those seats. That is the point they are trying to raise here is that it is worth further discussion and

review with NPS to say you are going to continue to gain revenue through the changes that you made and the town is pleased to see you do that but by the same token the town does not want to see its revenue source diminished. We are looking for a balance in that discussion.

Mr. Mitchell asked if he was correct in that there was 15 years left on the lease. Attorney Costello stated yes. Mr. Mitchell read through everything a couple of times and he received some figures from Mr. Scollins today and the way Mr. Mitchell broke it down, it looks like we are only losing revenue on the football events. We are not really losing on soccer or concerts because that is where the stage would go so doing some basic math we are looking at \$3,300 a game. So we are talking about \$3,340 a game that we are tossing around, everything else stays the same and just in ticket sales last year they gave us \$2.4 million just in tickets so for \$33,000 is it worth fighting about. Reading their lease it says they can alter the premises, which they have. The way Mr. Mitchell looks at the Optum Lounge is that it is a luxury box. Do we get any extra benefits besides the ticket sales on those? Mr. Keegan stated that he thinks there are some additional seats that will be added to those two new luxury boxes so there will be some offset against the loss of the 2,200 seats. Mr. Mitchell stated that if his company buys a luxury box and it is probably \$20,000 a game do we as the town, get anything. Mr. Keegan stated the only revenue that we get is the ticket revenue, it is a per seat ticket revenue. If there are events held throughout the year in those boxes such as the new Cross Pavilion when those events are held outside the stadium type events we will pick up additional revenue in terms of meals tax but in terms of the overall impact, it is a relatively small amount of money per game but the issue is if this continues to perpetuate as a change that keeps coming back to us it will have a consistent impact on our revenue source. Mr. Mitchell stated he totally agrees and his suggestion is reading the lease as a layman they can alter the premises. Let's talk to them and sit down at the table and say okay this is fine, we don't want you to do this to the north end zone, we don't want you to do this to the sidelines, let's look at how we can renegotiate the lease or something for future things like this. They gave us \$2.4 million last year just in ticket sales and we are questioning \$3,340 per game. Mr. Keegan stated on a season wide basis it is probably less than \$20,000 but the real basic question is that if you are permanently altering the premises and you are affecting the town's ticket sales and they have the right to alter the premises there is no question about that issue either. The only reason why this is raising a question is because removing seats has a direct impact on the town's revenue. This is payment in lieu of taxes which means that any loss in seats has a direct impact upon our revenue source as a town. Mr. Mitchell stated that he would like them to address the lease going forward to try to mitigate if they all of a sudden want to make the whole lower bowl an Optum Club then the town would really have a loss. Ms. Coppola stated that was one of her concerns; it is the Optum Club today but what happens down the road and the Board of Selectmen are not privy to their plans and they may not even know what they are going to do but she thinks what this was doing is that it was setting a precedence and Ms. Coppola wanted to make sure that it didn't set a precedence in that the payment in lieu of taxes and plan was adjusted with the settlement; we have had settlements before and adjustments to the lease have been made and that is all that she was asking was that they do that because it is payment in lieu of taxes and what it is, is their tax obligation; the whole town of Foxborough has tax obligations and she thinks they should be abiding by what they have in the lease. If we need a new settlement agreement, that's fine but she thinks it should be addressed before anything else happens down the road. If it is not addressed now and something happens 3

to 5 years down the road and they try to change it then they will say well you had no problem with it in 2015 why you bring it up now, which is why we are bringing it up now.

Mr. DeVellis asked if he could suggest, we have town counsel saying here is the big picture on behalf of the town and we have the Kraft organization in all due respect to Dan Murphy there is a lot of good information in there and it makes a lot of sense with the meals tax but we have not heard from their counsel's review of the contract; why don't we set up a meeting between the two counsels, Mr. Keegan, and it is not completely necessary but one of the Board of Selectmen could attend. More to what Mr. Mitchell is saying, this should not be a fight, it is not adversarial and Mr. DeVellis does not want it to turn into one. Maybe the two attorneys could get together with this lease and figure out where we are. Mr. Costello stated that is exactly what he suggested in his letter, he is sure this is something that could be negotiated reasonably. The key issue here is that this is a little snowball right now but given the change in the entertainment business and the way stadiums are used generally this could blossom into something where the lease or the payment terms as such within the lease it might be like we are trying to put a square peg in a round hole and we just want to make sure that we have an understanding or a specific agreement as to how modifications like this and conversions of areas within the stadium will be addressed going forward. Mr. DeVellis stated he thinks it is just one of those situations that was not anticipated 15 years ago when they did the lease. Mr. DeVellis stated this may have been addressed this afternoon had they had that meeting so wanted to try to do it within the next few weeks. Ms. Coppola asked if it would be appropriate to have Mr. Scollins involved in the discussions where he has all the numbers in which Mr. DeVellis stated yes.

7:35pm – Marijuana Dispensary Discussion – Attorney Patrick Costello

Mr. DeVellis stated there was an application made to the town from Beacon Compassion Center. The first presentation was more of listening to the applicant on their presentation and they allowed public input so they had quite a few people coming to the microphone and any fact they took it under advisement. The Mass law is new and has recently been changed so what they are asking is, has Attorney Costello had an opportunity to look at the application and come back to the Board of Selectmen and say here is the law and here is your options and give them some advice to move forward and then the Board of Selectmen will tackle it another day. Attorney Costello's stated that he hasn't actually reviewed the full application but what he did provide to the Board is a letter just summarizing what the municipal role is with regard to the registration of marijuana dispensaries. That role has evolved; and as new as the law is, the regulations are continuing to evolve and quite frankly the Department of Public Health is currently reviewing the regulations for further review and further refinement. As it stands right now, cities and towns do have an active role in this process and he thinks the Board is at a juncture and they have to exercise some discretion on how they choose to proceed here.

The first essential role of a city or town with regard to the RMD registration process is to issue a letter either of support or non-opposition to the facility being cited within the Town of Foxborough. That is a mandatory requirement within the siting phase of the application process at DPH. The issuance of a letter by the Board of Selectmen is essential in order for the process to move from the siting phase to the investigatory phase which is the final phase in the registration process. Mr. DeVellis asked for clarification; the first part is mandatory, is it

mandatory to draft a letter or is it mandatory to have that going forward. Attorney Costello stated it is mandatory for the applicant to submit a letter to DPH. From the Board of Selectmen's perspective they have three options:

1. they can issue a letter of support for the project;
2. they can issue a non-opposition for the project;
3. they can decline to issue a letter and do nothing.

If the Board chooses the latter option, in Attorney Costello's view the application process would cease and terminate right there and the applicant would have the option to seek a letter of approval or non-opposition from another community. That is the way the DPH interprets that provision right now.

Mr. DeVellis asked if this was speculation from reading the regulations or has that process happened already. Attorney Costello stated yes; he is representing a town now that is beyond that point and they are into the host agreement negotiations phase now and there is a hearing next week before the Zoning Board on the special permit. They similarly have a zoning bylaw that would require a special permit to be issued by the Planning Board for this facility and that is the other prong if you will of municipal involvement in this process. They would have to comply or meet the requirements of their zoning bylaw and receive a special permit from the Planning Board before they would be free to open up shop.

Mr. Mitchell asked if there was any timeline when the applicant comes before the Board that they have to do something on the letter. Attorney Costello stated not from their perspective, no. It is really a discretionary call for the Board. Obviously they take into consideration the site and location as it relates to other facilities within the community or adjoining communities; all of that is fair game for them to consider. There is no legal compulsion or requirement that the Board issues a letter; it is a prerequisite to the applicant being able to move forward with the process but the Board of Selectmen is the chief executive body of the town and they have the ultimate discretion or determination as to whether or not to issue the letter.

Ms. Coppola stated reading the DPH requirements and it is either support, non-opposition or if it is nothing then there is no appeal process. It is pretty straight forward. The Town of Norwood had actually sent a letter of non-opposition for one company and actually did nothing for another company so there is precedence for both actions in different towns.

Attorney Costello stated in the other community he represents where there is an application pending there were actually three applications and for two of them the board did not issue a letter.

Mr. Keegan stated if in fact the letter of non-opposition was issued by the Board or letter of support by the Board what could the town do at that point; do they enter into negotiations. Attorney Costello stated that pretty much at any point in time from now or in the future prior to the issuance of the special permit the town would enter into negotiations for what is called a host agreement with the facility. These facilities are nontaxable; from a real estate tax perspective these companies are nonexempt and what many communities have done interestingly is filed

special legislation seeking authorization from the general court to impose excise taxes on the sale of product which is otherwise exempt from taxation as well. These host agreements provide for some level of compensation to the town to mitigate any negative impacts of the project and quite frankly many host agreements also make specific provision for the establishment of foundations or other entities to educate the public on drug abuse or to assist in dealing with substance abuse problems within the community; you see that as a very common provision in these agreements. It is up to the applicant or the registered dispensary to make those payments to the town as negotiated so this Board would be free at any point in the process to negotiate in such a host agreement should they choose to do so.

Mr. DeVellis stated where this is a new process and they are in the fact-finding mode they will open it up to the public if one wants to give their opinion. They had the first meeting and the microphone was pro or against and the Board got a good sense from that but if there is anyone in the audience who wants to offer something that the Board hasn't heard before or something on process that might enlighten them.

Mr. Douglas Rhoads, R.N. stated he used to work for the Department of Public Health and he lives in Sharon. Mr. Rhoads gave the Board an article from the Journal of American Medicine on Internal Medicine and they look at states that have existing cannabis laws and they found that there was a 24.8% of reduction in opioid deaths both in legal and illegal opioid deaths all in the last three years since they have had medical marijuana legal in this state, that would've saved 750 from death. From a harm reduction strategy it seems really negligent not to allow it into the community because you do have this "not in my backyard" and if everyone has this "not in my backyard" then we will continue to have these problems. From a public health point of view it is really a community service to have it rather than to blind opposition.

NPR (National Public Radio) did a whole piece just a view days ago on "spice" which is a synthetic marijuana and what they found is in communities where they couldn't get real marijuana they were getting that because it is cheaper and they were able to pass drug tests because it was a legal substance even though it was much more harmful and what they found are a few thousand people a year are going to hospitals with kidney and liver failure. It is a harm reduction strategy. Foxborough serves alcohol and in a perfect world there would not be any alcohol serving anywhere because it kills 16,000 to 20,000 people every year but you can manage it and make sure that people who are 21 only have access to it and do what you can to do it in a safe fashion so rather than have it continued on the black market or someone is buying from someone's cousin or not checking IDs and they don't know what they have and they don't know what they are selling and they will sell it to anyone because they are drug dealers they are more likely to say "hey I don't have any of this, this week but do you want heroin or something else". You are never going to go into a state licensed facility that is being inspected and DPH is through there and the state police are through there and find anything that you are not supposed to so again from a harm reduction strategy it seems to make a lot more sense to be responsible about it than to just give an overall no which causes other problems that you have to deal with.

Mr. DeVellis asked the Board if they wanted to continue this to another meeting in which all agreed.

Mr. Mitchell asked Attorney Costello if the state is done with all their laws on this, is it final yet. Attorney Costello stated no, it is continuing to evolve. Something that is on the horizon is likely to be a ballot question within the next two years on legalizing marijuana for recreational use. Many communities are already expressing concerns about what impact that will have on already existing licensed dispensaries. The DPH are already cognizant of that issue and are already looking at it but a new round of applications has just opened on June 29, 2015 and the regulations that are in place now are applicable to those particular applications but he does understand that DPH is considering and deliberating on further regulations going forward. It is not by any means a set situation unfortunately.

Mr. DeVellis stated in their packets from the last time they have the application. If any of the Board members have questions that they want to ask the applicant in order to understand it better for their next meeting, filter those through the office and send them to applicant so they will have answers for those by the next meeting.

8:03pm – Discussion on Town Common (Fundraising) – Flagpole - Jack Authelet and Tina Belanger

Mr. DeVellis stated that this project came to the forefront a month ago on the condition of the flagpole at our common. When it was first brought up Mr. DeVellis thought it was just a painting issue. There is rot through the steel pole which is 100' and it is moving back and forth so it is not if it needs to be replaced, but it is when it needs to be replaced. To that end, the Board had this on their agenda briefly with the recognition that there are people who are going to come forward and they set up a process where if you wanted to donate there is a vehicle to do that at town hall and they are asking people if they want to make a donation they will collect the money but that obviously is not enough so in talking to Mr. Authelet on/off over the last couple of weeks on the different ways to move forward he had some suggestions.

The new piece of information is that they had asked their DPW Director to look at options and he sent the Board three different options (steel, aluminum, fiberglass) with a cost estimate for the pole, the base and fixing the bottom patio around it.

Mr. Keegan stated that what they effectively have is a poll that currently measures at about 93.50' from ground level to the first ball. There is an additional pole that extends out which is actually a lightning rod. Mr. Hill contacted the same company that installed many flagpoles in New England, All American Flagpole who gave him three estimates and there are pros and cons to each one of the various estimates. What is being recommended is about a 100' steel pole or aluminum pole or a fiberglass pole; of those three the one that is recommended is the fiberglass pole because it only requires recoating after 20 years and it requires the least amount of maintenance. It would also require a lighter crane for the installation and it has a useful life of greater than 50 years if properly maintained. They want something that will last a long time, require as little maintenance as possible and still has a nice look to it. That is the recommendation that they are offering and the net cost of looking at this, is somewhere around \$45,000-\$55,000 and then the actual cost that Mr. Hill has given Mr. Keegan would be about \$45,000 but he is figuring \$50,000 because there is always a fudge factor.

Mr. DeVellis asked where we go from here. He had spoken to Mr. Authelet a little bit about this and if this is a committee that is appointed by the Selectmen, it carries pluses and minuses. It is subject to the open meeting law which is not a bad thing but it is stifling sometimes when you want to get together on a Thursday because it is convenient and it is Wednesday and you can't do that 48 hour notice. Mr. DeVellis wanted to suggest something like a "Friends Of" that could raise the money and the town would be the conduit but they are a little more free to outreach. Mr. DeVellis' thought is something in the Common that has a history of the common and that everyone sees and everyone uses it is an opportunity to reach out to the scouts, the veterans, the sporting groups, the music groups and businesses to say look here is the project, here is what we are going to do and here is the beginning and do it. Mr. DeVellis looked at prices, and the price for a 100' flagpole and there was a nice article on the Dallas Rotary Club which did this effort and at the end of the exercise they had a flag that would fly over this which was 50' x 30'. For the first week or so they had a test flag up there and everyone that donated and worked on it had their name on the flag. There are some interesting things that you can do and reach out to the town. The last thing that they want is for this to be a chore where it just drags on and he is grateful Mr. Authelet and Ms. Belanger are stepping up. Mr. DeVellis spoke to Rachel Calbrese that has done a lot of the things for the Recreation Department and she is very excited to help and Mr. DeVellis is thinking 8-10 people could get this done sooner rather than later and he knows Mr. Authelet had some ideas of different things that could go on flagpole.

Mr. Authelet stated there is no question that we have to do something. The fact is that of any of these options they have roughly a 50 year life span so if they do the proper maintenance in essence that means this is the only shot that we are going to have. Mr. Authelet also thinks there are many interesting differences between the types of metals. Ideally if we can make the decision on that and get the new flag pole fabricated and then dismantle what is there, you will minimize the amount of time from when the old one comes down and the new one goes up. Mr. Authelet also thinks they need some discussion on is it just the flagpole. Should this have a yard arm on it on, which the right side they could have a POW/MIA flag and the other side a Purple Heart Flag as they still have servicemen unaccounted for in this town. Mr. Authelet stated that what has been demonstrated to him over and over again is if we identify the need and it is very clear that we have to do this, if we show people how they can be part of it, we can do this. If you have a committee that had representatives of different groups and the committee had members who would willingly go to different groups for their regularly scheduled meetings and tell them the details of this project Mr. Authelet thinks the support is out there. We could do different things; you could buy into this project at so much an inch or whatever, there are all kinds of ways to approach it. This is a great opportunity for memorial gifts, you could make a donation in the memory of a loved one or service member and it could be a very meaningful experience. He thinks that we could dismantle the planter that is around the present flagpole and dig out the base of the pole and put in whatever we need for support for the new flagpole and restore the base. The height is important because when you are at an event on the common and you salute the flag you can't see it however you can see it coming up Central Street, Cocasset Street, etc., and this is who we are, this is the physical and philosophical center of this place that we call home. This is so important to us. So many women and men away during World War II wrote back to the War Service Committee after receiving copies of the BTY newsletter that was published to keep them up to date on what was going on at home while they were away had said "the minute I see that Common I will know that the war is over" and it is in our hands now and the flag has to be the

first thing that they see coming up the street. Mr. Mitchell stated he thinks they will have no problem raising \$50,000 especially if Mr. Authelet goes to all of these clubs and talks to them. Mr. Authelet stated that he is very encouraged that Ms. Belanger has stepped forward. She has made such a difference on the Cleanup Foxborough Day and she is a very capable person. Mr. Authelet stated that he can't participate in the committee itself but he can do all of the background and answer any questions, provide promotional material and do whatever it takes.

Mr. Keegan stated with regard to the funding (the check writing process), if people want to start contributing to this process he spoke internally today and tried to get some direction on that and checks can be made out to the Town of Foxborough provided that they put a note on the check "for the Town Common Flagpole Project" so that it is properly identified and they will put that into a separate account. It will be a gift account which they can use to appropriate out to fund this project.

Mr. DeVellis stated that this could be a starting point and asked Ms. Belanger if she could be the catalyst to be the contact person if someone at home is seeing this and it would be nice to see new people that aren't the same taxed volunteers all of the time. Ms. Belanger stated that she would be happy to do that and she will put her number in the newspaper and people can call her.

Mr. Mitchell asked if we could do this without appointing anyone. Mr. Keegan stated the town can serve as the contractor during this process so in terms of getting the work done we can coordinate the construction piece. It is the fundraising piece that the town cannot be a part of. Mr. Authelet was hoping Mike Johns would be here as he had discussed this with Mr. Johns. Mr. DeVellis stated that Mr. Johns was fully on board and is willing to help but again like Mr. Authelet, he is pulled in different directions but he will lend his expertise and his voice, but can't lead it. Mr. Authelet stated that it is worthy of discussion to consider whether it be a straight pole or have the other flags. Mr. Keegan stated that he had a conversation with Mr. Johns about that earlier tonight and while he supports the concept the one thing that could be problematic is the fact that the pole they are looking at actually has an internal mechanism which will raise the flag all the way to the top and if you put an arm on it, it actually interferes with that. The other solution to that would be that you could put matching poles on each side because part of the problem is that you cannot get a flag larger than a 3' x 5' flag for the Purple Heart right now. Mr. John stated that he may be able to get one for the POW/MIA flag. You could have complementary poles on each side of the large pole that could help keep the focus on the middle. Mr. Mitchell stated he likes the proposal of going with the fiberglass pole because it is less maintenance. Mr. Authelet stated that it has a lot going for it.

Ms. Coppola stated when the Board first discussed this 5 to 6 weeks ago the next day she took the liberty of calling Cindy Haddad of the Founder's Day Committee and where Founder's Day is June 10th and Flag Day is June 14th, Ms. Coppola asked her if they could get the flagpole done in time could the dedication of the flagpole be incorporated in the Founder's Day celebration, either the night before or the day of and she said that could be done but the thing is we need to raise the money and order the pole. Ms. Coppola wanted to know if they thought it could be done within that timeframe (it would have to be done by June 1st). Ms. Belanger stated that she thinks that would depend on the response that they get. Mr. Authelet stated that it would be fundraising through a very short window. Ms. Belanger thinks in this town it would be possible.

She thinks they will know by the response that they get right out of the gate whether that would be possible.

Mr. Mitchell personally thinks that by the end of September/October they will have the money. Ms. Coppola stated that it would be a fine Christmas gift. Mr. Authelet stated that it is a lot of money but it is even a greater opportunity. Ms. Belanger stated to Ms. Coppola she thinks it is a great idea, that timetable is a good one and will keep everyone moving along. Ms. Coppola stated that it gives everyone a deadline. Mr. Authelet stated school will be back in session and when they did both the common fence and the steamer shed, the elementary schools contributed quite a bit, \$645.

Mr. DeVellis stated as far as representation from the Select Board, could one person volunteer. Mr. Mitchell stated that he would volunteer.

8:22pm – New Town Hall Review (Cont'd)

Mr. DeVellis stated the Permanent Municipal Building Committee was in front of the Board of Selectmen last week and they had made their presentation with Lerner Ladds & Bartel (LLB). Mr. Yukna asked if it would be appropriate for LLB to come back tonight and Mr. DeVellis took the liberty of saying no because he thinks they did a nice presentation, and the questions and answers went back and forth and thinks they will wait for Mr. Gray as he was not at that meeting so they extended it to this meeting to see if they had any further questions and give the Board some time to digest the packet that they had given them last week.

Mr. Yukna stated the Permanent Municipal Building Committee consisted of: Bill Kass, Vice Chairman, Merrill Kass, Mike O'Leary, Jack Schuyler, Don Treannie, Steve Sloan, John Hardy, and Gary Whitehouse. Mr. DeVellis asked if they were all town residents in which Mr. Yukna responded yes. Mr. Yukna also stated that most of them have some type of background in construction or the building trade and most of them have been on this committee for years, it is not a committee that is assembled every year. Mr. Yukna stated that it has been a committee long before he got here and he has been on the committee for the last 14 years. Mr. DeVellis asked if any were town hall employees in which Mr. Yukna responded no.

Mr. Yukna stated that as they presented last week, the original plan the Board approved a few months ago basically was a larger plan but had all of the adjacencies of the different departments that were laid out over time both in working with Mr. Keegan and working with the department heads themselves. In a lot of ways the plan hasn't changed or at least the concept of the plan hasn't changed much over the 5 to 6 years they have been doing this. The department heads have really solidified their stance on how they want their departments to work. Most of it is a consolidation of abilities within an area versus being spread out so as an example the Finance Department where the Assessing side is one separate room area right now and the Treasurer is in another area and the financing/accounting side is another area, in the new design it is effectively a one working shop area which allows them to spread their manpower for coverage and it also allows for common thinking and common actions. That same theme really has been taken through the entire town as far as building, inspections, planning all being very close and next to each other and be able to work together. In the last iteration the final change that was made was

made by Mr. Casbarra which was to add a door which went between where the Inspections office is and over to the Conservation/Planning area. Effectively as they are working together they will be able to go back and forth between departments. The departments looked at this plan very carefully and they are very comfortable with their adjacencies and they are very comfortable with the space that they have and the way that their staff will operate out of this area.

The issue being obviously that they are required based on the way they set this up to have three different estimates. Again, what Mr. DeVellis alluded to at the first meeting which is the difference in this process over previous processes is that instead of asking for a sum of money and then going out to bid and hoping that they have bids that come in under that sum so they can do the project. This one was basically put together on a sense that they would design the project, they would go all the way through to the bidding stage and they would actually get contractors to bid on it and then go back to town meeting with a final number. The only number that you really don't have at that stage is basically a small contingency you would carry at that point. Obviously the contingency gets very small because now you have most of the numbers in a defined fashion.

We can talk about estimates all we want and he thinks that obviously we use the estimates to guide us if they are going too high or if they are in a direction that they would like to pull back down on that is what they are using those estimates for but those will never be the numbers they go to town meeting with. What they go to town meeting with will actually be the numbers that the contractors have bid that they will do this job for. On every project they have done you never know what one contractor is going to do against another; how hungry they are for a job or how hungry they aren't. They were very fortunate on the high school project because at the time the economy was exceptional and they got a phenomenal contractor that bid very low and they did great on it. The same thing happened on the joint public safety and ironically as he said at the last meeting that only happened with one contractor on the library, they just had enough money to effectively hire that contractor to do the project. You might get a dozen contractors to bid and if you are lucky you will get one contractor that will get you to the number you want to be at.

The reality is that the number will be the number at that point in time; it is not something just after town meeting. The only contingency you will be carrying there is potentially what they would hit in the ground but they are not really going much into the ground so it is not like they're trying to put a full story underground and having to deal with significant ledge issues, they are going to put in obviously footers and supports but again based on the borings that they have done they think they are in pretty good shape. Their contingency number will not be a significant number; typically at that point you would be carrying a couple of percentage points and that is again to protect you in case something else comes up. If the project is done right and the architects have done their job in laying out the scope of work, you end up with very few change orders and that has been the case on most of the projects he has been fortunate enough to go through. The only change orders they have had of any significant value have been owner driven and that is because they had the money to do them. The high school project they were able to do more on the school than was originally bid on and it put the school in a better stead for a longer time but that was their choice to do as a town not an issue that the architect did something right or wrong.

Mr. DeVellis stated right now the phase is design and development and they have had many public meetings amongst themselves as well as they went to the Planning Board and the Downtown Design Review Committee and asked if they have had their input, adjusted the plans and they all signed off on it, in which Mr. Yukna responded yes. Mr. DeVellis stated the Zoning Board is not an issue because there are no variances and they came before the Board of Selectmen last week with the architect and some of the big changes were that you got rid of the basement and took the innovative HVAC system and brought it up top, but at this point in order to meet your schedule you are looking for the Selectmen to sign off on the presentation from last week. Mr. Yukna stated they are looking for the Selectmen to give them direction on the final note that was out there so he doesn't think there was any disagreement relative to the fact that they were going to use the heating system and Mr. Feldman was highly supportive of it and was using it on different projects that his company works on.

The issue really comes down to they were able to shrink the building back down by the 2,000 square feet and that they had to decrease to have a larger boiler room facility underneath. Then the other side of it is they took it one step further and said okay if they wanted to take this building further down what those optional spaces will be. That is where they laid out for the Board of Selectmen the 705' that could be removed and in doing so they also noted that they felt there were some concerns; the hallway being reduced, which the Board of Selectmen might feel comfortable with but the Building Committee was not comfortable with it. Some of the spaces that they would be taking out of the larger bullpen carriers and sub-offices again what this building will turn into 10 to 20 years from now is really dependent on the amount of space we have internally so yes they can shrink any building and literally you could build a single-story 5,000 square foot building if you wanted but will it meet the long term, that is the question you really have to answer. The Building Committee feels at this point the 705' to be remaining into the project is the right thing to do but that isn't their call, it is just their advice to the Selectmen. Mr. DeVellis asked if the 705' represented the hallway in which Mr. Yukna responded that it represents the hallway, 1' out of the office areas, 1 1/2' out of the back main bullpen areas and about 8" out of the front office bathroom.

The concept is that it can be anywhere from you agree that you shouldn't cut the 705' or anywhere from there to 0. It is the direction the Board of Selectmen feels is right for the town in the long run. Yes, there is a dollar factor to it, if you leave the full 700' into it, it is basically \$157,000 so it is anywhere from zero to \$157,000 added onto this project and that is what brought it up to the \$8.3 million versus the \$8.13 million on the current estimates. Again, those are just estimates and they are strictly at the schematic stage. The only real thing they are looking at is the picture. The only thing that they have defined a little bit further in the whole building really won't get defined further until they get that schematic design, is the heating system that they have really honed in on what they are doing. That is a big piece of the mechanical side obviously but also you really get into the design documents that are needed for bidding and building the project, that is when you really get the defined details worked out and Mr. Yukna is comfortable that the schematic design typically can carry a little bit higher money on that side, that is why the contingency right now is at the \$611,000 with contingency and a cost escalator. Mr. Yukna stated last time you usually start off at 10% but when you get to the design documents it usually drops off to 7 1/2% and usually when you go out to bid in the case that you are doing it the way we are doing, you'll usually drop to about 2-2 1/2%. This contingency keeps

moving on the more information you have and the more accurate your estimates can be. You are asking an estimator right now to give you a great number on electric in a building that he has not seen a drawing on the electrical design so they are doing it on square footage and they are doing it on estimates on their side. As it gets more and more refined the numbers get more and more precise to really where you are.

Mr. DeVellis stated that the schematics are on the inside but design and development on the outside and asked if they had been before the Planning Board in which Mr. Yukna stated yes and the Downtown Review Committee's biggest issue is the exterior. They pretty much locked that in and made a number of revisions that they had wanted on how it reflected the requirements of the town so that is the direction they gave them and they had to make the changes in order to get their blessing to move forward to the Planning Board. The Planning Board did similar things that they thought in their role what the town needed to have. They have made all of those adjustments for those boards and have gained their approval at this point.

Ms. Coppola asked Mr. Yukna to explain once again why they are eliminating the basement. Mr. Yukna stated the only way the basement is usable for anything other than a mechanical space is if you make it fully accessible with the elevator system itself and dual exit systems which means it has to grow even more and the cost has to grow because an elevator that has a two-story lift versus a three-story lift has a differential and the fact that you would have to have two means of egress from it means additional space requirements to get out of it. In their scenario on how they built this they were basically putting everything else up above, they didn't need room for anything else; they wanted the boiler room, the water heating system, the sprinkler rooms and the electrical rooms. The building code allows them to have a basement with a single means of egress as long as you aren't using it for anything else. Once they were able to say that they didn't need it because the new mechanical system did not need that large footprint, it doesn't need the boilers, which is the biggest part of what that lower section was going to be then they didn't need the basement, they didn't lose anything relative to how it would be used in the future because they didn't have the right to use it for anything other than the mechanicals so it wasn't like they were giving up storage space or anything like that because they never had the right under the design unless they expanded the basement to even a larger size to be able to do that.

Ms. Coppola asked if eliminating the basement cuts \$500,000 and Mr. Yukna responded yes. Mr. Mitchell stated that they had said last week we have had 15 different public meetings on this so he is good.

Mr. DeVellis asked for public comments.

Mr. DeVellis stated that the only thing he would ask of Mr. Heydecker is that this meeting is for the benefit of the Board so if anything is a repeat from the last meeting if he could just summarize it since they have heard a lot of those numbers and his opinion on that and if there is anything new by all means speak.

Mr. Heydecker stated it is a lot simpler and since the Wednesday meeting he didn't feel it would be necessary to go through that again. The other thing was that they got into a lot of detail which perhaps had some points however to repeat all of those details isn't appropriate this evening.

What Mr. Heydecker is looking at this evening is basically just two issues. They start with the premise again of the Town Hall Working Group that the program is 15,500 square feet and the cost is \$7.2M and it will be done in early September. The early September date is gone so forget that part but the other two pieces are things he thinks appropriately need to be discussed more fully.

Mr. Yukna put together a four page handout which he gave everyone last week and on page 1 there is some very interesting information which said in effect fees both architectural/OPM are over \$1M. The \$7.2M carries fees somewhere around \$250,000 but this is the general contractor's fee, it has nothing to do with the A.E. fees. The A.E. fees on pages 2 & 3 don't exist so there is \$1M which is not part of the \$7.2M or the \$8.3M as a starting point of this whole process that he tried to highlight last week.

The other part is the contingency which has a very similar kind of note, the design contingency which is on page 3 is included in every estimate that the Board has been through to this date and architects and towns have, it is what occurs during the design, the development and the contract documents stage for changes that occur because of planning and different equipment and things that happen. It has nothing to do with the bidding and construction contingency. If you ask contractors and architects generally at the time of bidding they prefer carrying no less than 5% of the variations that can occur in the bidding process and issues that arise during the construction period. Historically we have carried 10; we have broken it down to 5. The estimates that Mr. Heydecker put together and the committee put together for the fire and police building to begin with it was cut back to 5 after he left the committee. The typical arrangement is at this stage of the project you carry 10. When you get to the bidding process though half of the problems that normally occur have been taken care of and the only thing the state, the AIA and the Architectural Association talk about is that you need to carry 5% for bidding problems that could occur. There may be a brand-new union settlement coming up and you have to cover that end of it to get it down to 2% or you are asking for trouble. The 5% is typical and is throughout the industry and 10% is the appropriate number today. 10% on this project is \$714,000, not the 4% carried on page 3 of the estimate that was delivered so you are short already \$1.7M which is on top of the \$7.2M which is the starting point. The furnishings are not in there; the fees for the hazmat; the fees for testing materials are not covered under that \$7.2M budget.

Mr. Heydecker gave the Board a handout which was from KBA originally. There are two parts, one at the top and one at the bottom. The estimate that was presented is professional and it is full and there are some problems within it but the problems are not germane tonight. Mr. Heydecker stated he could give the Board examples such as why is the heating one line and the electrical goes on for five pages but that is incidental. The point is if the Board will look at the sheet he just handed them, they accepted this kind of bid information in 2011, 2012, 2013, it was brought up in the Working Group, and all of the sheets that were passed out at the Working Group followed this format. The format that the Board is looking at, the \$7.2M eliminates everything under owner's costs, they don't exist.

The second part of this is the issue of the square footage that we are dealing with. Mr. DeVellis stated that he had asked many times for Mr. Heydecker to sit and work with the Permanent Municipal Building Committee and it doesn't seem to be happening so if it is coming to this

table all Mr. DeVellis is going to ask is how many points do you have and what he is trying to gauge is he trying to give Mr. Yukna an opportunity to respond to this so we don't have to keep going back all the way up to town meeting.

Mr. Yukna stated that what he is confused with is that the four page handout, 3 pages are estimates and the last page is the schedule; pages 2 and 3, the first page actually takes by division cost the estimators cost of building the building and that is effectively what they are expecting the contractors cost to be. If they use the smaller version, that is at \$6.169M and not \$7.1M. Deleting the basement takes off the 449 and then deleting the 705' brings it down to just under \$5.6M as far as the construction costs. The next page is general conditions, general requirements, bond insurance, contingency fees, and that brings it back up to \$7.1M, these are the fees that Mr. Yukna is being told are not included in his numbers.

Then, you go back to the first page and if you take this first page the \$7.142M is that section down in the middle bottom where it is \$6,921,960 plus the \$50,000 for hazmat plus \$170,000 for demolition. On top of that they are including architectural fees and the OPM fees and as Mr. Heydecker had noted of over \$1M, and that is what brings us up to \$8.164M so Mr. Yukna doesn't understand; the numbers are there in black and white and they are all listed and again Mr. Heydecker's relative numbers are right as far as when you add them up but he is adding from \$7M those \$2M, instead of from \$6M where it really is.

Mr. DeVellis stated that he does not want to go back and forth and he has asked these gentlemen to work independently as this is a Selectmen's meeting not a working group. You have said your point; he responded to it, can we move to your second point.

Mr. DeVellis stated this is a Selectmen's meeting not a working group session with the architects and this has been going on for months and it is very public and these numbers have been going back and forth and the Board does not have the expertise to crunch the numbers, they are relying on their architects and the professional estimators. The Permanent Building Committee and Mr. Heydecker are on one side and Mr. DeVellis is not going to allow it to go back and forth tonight.

Mr. Heydecker stated the second point is perhaps another solution for the whole issue that he has been raising. The second point covers the plans and charts that LLB has put out. The plans are professionally put together. The charts are accurate and he changed all of his charts that use their numbers because the scale is always a problem and he is very happy that LLB in their latest reports gave us the full charts with their calculations on each room. The point is as you go through the plans and the charts and compare them to the sessions the Working Group had and they said they would cut 22,000 square feet from the program which dropped it from 17,500 square feet to 15,500 square feet and everyone seemed to agree and they had worked out how and where those deducts would be and the point is in addition they had deducted after the fact another 1,500 square feet, so we should be down to 35,000 square feet. This other 15,000 square feet is for storage which started at 1,300 square feet and it is now about 1,800 square feet and the mechanical space was listed as 650 or 800 square feet, and it is now 190. Mr. Heydecker stated that he can go all the way down the list but compensating on the other side is the stairwells went up another 1,000 square feet, from the KBA plan. Instead of 400 square feet, it is now 1,400

square feet and this is not workable space. It is a nice space to have but do we need that 1,000 square feet when we are adding and subtracting through the process.

When we first got into this with the KBA plan they came in at 17,500 square feet, and the Working Group demonstrated that this plan could be cut by 2,000 square feet, no one wanted to listen to it, they came to town meeting and Adcom with the \$8.6M and it was voted down.

The process we are looking at today could use what they know in the industry as a charrette. These are sit downs that may take a full day with people involved in the process including outsiders. Mr. Heydecker would be very happy to get into this and start working with them in depth but the point is we can't say that we have cut all this space and are saving all this money when the stairs increased by 1,000 square feet. He could also lean the other way and say the corridors were reduced so we are even.

Mr. DeVellis stated to Mr. Yukna the question now is on the square footage of the stairs where you heard the last time one versus two square footage of the stairs and workable. Mr. Yukna stated that the secondary stairs are basically code driven and size wise are appropriate for the space that they are using. As Mr. Yukna stated at the last meeting, the front stairs he agrees to a degree with Mr. Heydecker that they are larger than they need to be but again Mr. Heydecker was at the meeting and made the comments to the Design Review Committee which we made the front entrance way which has that stairwell in it expanded. That is square footage. Mr. Heydecker stated that the inside wall area was not expanded, his recommendation was that they move the columns out 2' and that was accomplished from where the columns were shown outside the square footage of the building, the inside was not increased by himself or anyone else.

Mr. Heydecker would like to get a charrette and get into this and go through the pluses or minuses and go through what the costs are. If you look at that KBA sheet the numbers at the bottom do not exist in the \$7.2M budget, the numbers are \$10M.

Mr. Keegan asked Mr. Yukna to state for the public's benefit the final cost number because with all due respect to Mr. Heydecker's comments the \$10M is a number that he is estimating. The number that was officially discussed by this Committee is what. Mr. Yukna stated if it is inclusive of the 705', it is \$8,321,750 and if it is exclusive of that it would be \$8,164,281. Mr. Keegan stated that is the official number that they are estimating and he thinks it is important to note that this is not the final number, it is only an estimate and the reason why it is so significant is that this project is being done differently than any other project that has been done before. We are actually going to have bids in our hands before we go to town meeting and that is when the real number will be discussed. Mr. Yukna stated the question is on the interior design which everyone has seen for months now and the layout they have all seen and he is sure they have all had an opportunity to talk to the different department heads to each of their spaces. Either you believe and agree that the space that has been worked out for each of those areas is what is appropriate for a town hall and for an individual department or you don't. Mr. Heydecker doesn't but Mr. Yukna does and it is two different opinions and he is sure that as many townspeople as we have we will have people on both sides of that; that feel the building size could be bigger or it could be smaller. The onus that is on the Board of Selectmen at this point in

time is what is your comfort level with the size of this building for what you are trying to accomplish for the long term of the town and is it important that you drop 500 square feet, is it important that you drop 1,000 square feet or is it important that you gain 500 square feet those are the decisions that you really have to make. The building committee is only charged with taking it and then pushing this to whatever the town has told them to do.

Mr. DeVellis stated taking all that into consideration and to Mr. Heydecker's point the process of the design charrette; having sit down meetings where you can look at bubble diagrams and square footage needs; file cabinets opening and closing and being able to move around having a base discussion on that and having licensed architects and professional cost estimators please tell me that has all been done before you came to this table. Mr. Yukna stated of course that has been done. This has been going on week after week and month after month with people that have done this before as volunteers in the town and have worked on other public projects and the town has spent through town meeting what they call soft costs to hire professional architects and cost estimators and MEP folks to get to this point and they are now coming to the Board saying they need a decision. The MEP stuff going from the basement up top is a big savings, it is innovative technology and if we don't need the heaters that is a big thing. The things that Mr. DeVellis had heard the last time such as do we want to put petitions in the Selectmen's meeting room to section it off, if the Board screws up that decision tonight, you can retrofit it; it is not a make or a break.. Can we add another 1 1/2' on the hallways after it is built, no so that is one of the decisions you are looking for now. Once you get that information you're going to go back to those architects and professionals and say this is the decision, take it from the schematics and go through design development and get it in there. Mr. DeVellis is just not hearing that the process is that plus what he is used to seeing so the Permanent Municipal Committee is doing what they asked them to do and what the voters asked them to do. Mr. Yukna stated this process has been more exaggerated in the review of areas and defining of needs than any other building they have done in this town and he can honestly say that because he has been on the committee for every one of those buildings that they have done recently. The end result is the Building Committee working with the architects and the professionals he believes if someone can tell them that they didn't do the joint public safety building right or the library right or where they didn't do the high school right then he thinks there is some credibility on their side that they do have an idea of what they are doing. It doesn't mean that Mr. Heydecker and he are always going to agree and it doesn't mean that Mr. Yukna isn't going to disagree with anyone else during the process but they have done the process the way they have always done the process and they involve the end-user and as he has always said this is not the Building Committee's building, this is the town hall. Effectively it is the Board's building so they work for the Board just as they worked for the library, and joint public safety, it was their building and their needs and their ability to work within that facility when they were done that they had to mimic and that is exactly what Mr. Yukna thinks they have done with the town hall project and he thinks they have mimicked it exactly how the departments feel they need for the long run. Mr. Scollins as the Finance Director knows what he needs to operate within his department and as much as Mr. Yukna believes he understands building things, he doesn't try to second-guess how someone wants to operationally run within their department and he thinks that is what this plan reflects.

Mr. Heydecker stated that they have been through this process and it is in the report that they had met with the occupants of those areas and they set up the space based on the equipment and the

furnishings and everything else that they needed. We went through this process not once but twice. The question is the process started with 897 square feet for file cabinets and Plan 1. Plan 2 it got dropped to 399 square feet. In both cases they talked to the occupants; what did we get in the plan; less than 270 square feet of file cabinets. This is the same kind of problem, we have lost all of the archival storage that was required, the vault that was required, why did we lose them if it was so important that they had to be in the program and in the building.

Mr. DeVellis stated that it is a process, from the beginning to the end it is going to evolve and he knows one thing that is changing; had we built this two years ago or last year the prices would not be what we are seeing today and tomorrow. It is ludicrous the escalation. The Board's duty right or wrong is they have to make some decisions and we have to move forward and they will find out at town meeting if the numbers and the plans are approvable but he can't just keep letting one person in the entire committee go back and forth at the Selectmen's table so he is going to end it tonight on that and he thinks it is up to the Board.

Mr. DeVellis is going to look to the Town Manager to find out exactly what they are voting on tonight. Mr. Keegan stated that there are two actions in which were depicted earlier tonight. They were looking for a decision on whether or not they should add the additional square footage back into the plan which was about 705 square feet; and the other action was whether or not you wanted to continue on with the plan that includes the divider in the Selectmen's meeting room, and the recommendation from the Building Committee is to remove those going forward.

Mr. Keegan would recommend to the Board that they take the advice of the Building Committee and remove those dividers even though he thinks the intention originally was that they would have additional meeting space. Given the fact that you take a broader perspective with all the meeting space throughout the town we can probably get by without that additional space.

If you don't add the additional square footage now it is going to be a lot more expensive to fix that later and Mr. Keegan thinks it makes sense \$153,000 out of an \$8M plan it would be ludicrous for them not to recommend that.

Motion by Christopher Mitchell that they move forward with the \$8,321,750 number at 16,692 square feet. Seconded by Virginia Coppola. **Vote 3-0-0**

Mr. Yukna stated that it would be best that they take the pricing out as it is an estimate at this time.

Motion by Christopher Mitchell to withdraw his original motion. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion by Christopher Mitchell that they approve the 16,692 square foot town hall building. Seconded by Virginia Coppola. **Vote 3-0-0**

Mr. DeVellis thanked all of the volunteers.

9:07pm – Fall Warrant Articles

Home Rule Petition

The Home Rule Petition for the Child Abuse training is sponsored by the Board of Selectmen. Ms. Bernard stated there is nothing new.

New Town Hall Project

The new town hall project which they just talked about in the only other thing would be once they go through the process would be the date.

Abandon Liberty Place

Ms. Bernard stated the Abandon Liberty Place is part of the town hall project and the Board of Selectmen has to sponsor this. Mr. DeVellis stated right now it is a public road so the site plan would go over it and the Board of Selectmen would have to discontinue it. Mr. DeVellis stated when you discontinue this that square footage would be part of the site plan so there would be a lot changes which would be a Form A that would need to be approved by the Planning Board. Mr. Keegan stated that once it gets abandoned it would go before the Planning Board and they will create the Form A.

Mr. DeVellis stated that this already went through site plan approval, the Planning Board approved the site plan and obviously it doesn't meet zoning requirements if they are over a right of way because that is contingent upon the right of way going away so that shouldn't be controversial.

Sewer Capacity

Ms. Bernard stated that is a placeholder for a sewer article where they give the addresses wanting to connect to water and sewer. Water & Sewer Commission is the sponsor.

Liquor License Requests

Mr. Keegan stated that Foxfield Plaza has submitted a request to be put on the September 8, 2015 Board of Selectmen agenda which they will be asking for a couple of additional licenses for that project, for some pad sites.

Mr. DeVellis stated that we do not physically have liquor licenses to give. Mr. Keegan stated these are for additional licenses over and above what we currently have.

Ms. Coppola stated that this was a project that Sharon Wason and she were going to be working on figuring on they would have economic development at this stage and they would have a pretty good idea of basically it would be liquor licenses for the town nodes and Foxfield Plaza is the first node that has come up. Ms. Coppola asked if Mr. Keegan had an idea when the Economic Development Committee will meet. Mr. Keegan stated they are scheduling a meeting for

September. Ms. Coppola asked if that could be one of the first priorities that they look at just so they won't have a rushed warrant article.

Mr. Mitchell stated that the town hall discussion they had just gone through, they had mentioned a February town meeting, are we going to still do a fall meeting. Mr. Keegan stated it will be just a February meeting.

Overlay District

Ms. Bernard stated this is something that they currently have an intern and Mr. Casbarra working on just making the zoning more user friendly for the downtown district for the mixed use.

Ms. Bernard stated they will have language to share when it comes before the Board as each of these come together and they will run them through town counsel.

Possible Placeholders

They are contemplating a Personnel By-Law change. They are seeking the advice of town counsel and they are working with the Personnel Wage Board to talk about since all of the Steelworkers positions are coming out of the by-law they are looking at it just possibly being a by-law that defines that there are personnel policies. They would have a personnel policy so that as policies change you don't have to keep going to town meeting. For example, they mention the Mass Maternity Leave Act in the by-law but that just changed with the Mass Parental Leave Act so that is something that actually has to go to town meeting to change. They thought the by-law should refer to a policy manual and the by-law defines the use of the Personnel Wage Board. They are discussing that right now and the Personnel Wage Board is on board with getting some direction and draft language around that.

They also have a hold on collective bargaining agreements as well. They are looking at possibly Steelworkers, Library and Police.

Ms. Coppola asked if all of the departments realize there will not be a fall meeting and it is probably going to be February 2016. Mr. Keegan stated that it came out of the last discussion when the plan was submitted for town hall that they need to possibly take a step back and see where that goes. Mr. Scollins is aware of that as well. Mr. Keegan stated he doesn't think they have a need for a second meeting unless something comes up that he is not aware of then they would have a second one.

8:25pm – Town Manager Update

Mr. Keegan received an application from Timothy Kenneally who is interested in serving on the Economic Development Committee will. Mr. Keegan actually spoke to Mr. Kenneally directly and he is the President of the Tri-County Chamber and is an attorney and is interested in serving in this capacity which Mr. Keegan is thrilled to have him. Mr. Keegan wanted to put his name forward as another addition to this committee which is turning out to be a blue ribbon committee. Mr. DeVellis stated that he had met Mr. Kenneally through the Advisory Committee.

Motion by Christopher Mitchell that they approve Timothy Kenneally on the Economic Development Committee. Seconded by Virginia Coppola. **Vote 3-0-0**

They had sad news today that Dan Murphy who is their liaison with Kraft Group, his mother passed away on Sunday night and Mr. Keegan and Ms. Bernard went to the wake to pass along the regrets and sympathies of the town and the Board. He was very appreciative of the fact that they went.

Mr. DeVellis appreciated them going to represent the town. A lot of times they had these adversarial positions on items but Mr. Murphy is a resident and his wife is on a lot of committees in town and his children go to school here so their condolences go out to him.

Ms. Coppola stated when they were reviewing the meeting notes early in the year before the election, there were two things that they were going to review one of them were the satellite parking lots and Ms. Coppola was going to do that with Chief O'Leary which she did.

The other issue was the liquor regulations and Ms. Brue was going to do that with Chief O'Leary which was before May. Ms. Coppola looked at the liquor regulations and they never did meet and go over them and the last time the board was advised on these was in 2012. The only reason she is bringing this up is when Attorney DeLuca was here when they were reviewing the violations one of the possibilities was that you could change the times of operations and Attorney DeLuca stated that you could not do that without a hearing because that is a license so that has to be changed.

They also thought that they would hold bartenders criminally liable and that's not mentioned in there so she thinks that it should say if it is a violation possibly you could be out for a criminal violation so they were going to review them anyway and she thinks it is about time to do that. Ms. Coppola stated maybe they could have the people that were involved with that before such as Dave Brown, Lorraine Brue and Chief O'Leary and then run it by Attorney DeLuca. Mr. Keegan stated that we may be able to form a subcommittee on this in which Ms. Coppola stated she would not mind being a part of this.

9:22pm – Action Items

Motion by Christopher Mitchell to approve the gift from JBC Realty, LLC to the Sharon Wason Memorial Fund in the amount of \$500. Seconded by Virginia Coppola. **Vote 3-0-0**

Mr. DeVellis stated he had spoken with Mr. Greider and they are looking at having a meeting possibly Friday with Mr. Greider, Mr. Casbarra and Ms. Vasile so it is certainly not forgotten. They have gotten some bids and they are very grateful that people are still donating to this.

Motion by Christopher Mitchell to accept the gift donation from the Mom's Club of Foxboro to be used for recreational needs in the amount of \$100. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion by Christopher Mitchell to accept the gift donation from Melissa and Jeffery Campbell to be used for recreational needs in the amount of \$100. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion by Christopher Mitchell to approve the block party application at 22 Eastman Street on August 29, 2015 from 3:00pm – 8:00pm with a rain date of August 30, 2015. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion by Christopher Mitchell to accept the gift donation from Weichert Realtors/Briarwood Construction for the Sharon Wason gift fund in the amount of \$150. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion by Christopher Mitchell to accept they gift donation from Briarwood Construction in the amount of \$150 for the Sharon Wason Gift Fund. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion by Christopher Mitchell to accept the donation of the scholarship funds in the amount of \$395 from NPP Development (CBS Scene). Seconded by Virginia Coppola. **Vote 3-0-0**

Mr. DeVellis stated this is the fourth year they have done the Mother & Son Soccer so it is adding up not only with the donations but the use of the stadium. Ms. Giardino was planning on coming tonight but couldn't but wanted to say a special thank you so she is going to come in at one of the other meetings to recognize the Kraft organization from making this donation year after year.

Motion by Christopher Mitchell to appoint Brian P. Walton to the Audit Committee. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion by Christopher Mitchell to accept the Sunday early openings for Jake n Joe's of 11:00am during all Patriot Home Games (9/27/15, 10/25/15, 11/06/15, 12/06/15, 12/20/15) and dates may change due to the flexible schedule. Seconded by Virginia Coppola. **Vote 3-0-0**

Motion by Christopher Mitchell to accept the gift donation from Harold & Marie Crossley for purchase of a memorial book in the amount of \$14.37. Seconded by Virginia Coppola. **Vote 3-0-0**

Approval of the BOS Minutes of 1/28/15, 3/3/15, 3/17/15, 4/28/15, 8/4/15. Mr. DeVellis stated where he appreciates them coming forward where the Board has three members instead of five they should table this until the next meeting.

Motion by Christopher Mitchell to adjourn 9:30pm. Seconded by Virginia Coppola **Vote 3-0-0**