



**BOARD OF SELECTMEN**  
**TOWN OF TEWKSBURY**  
TOWN HALL  
1009 MAIN ST  
TEWKSBURY, MASSACHUSETTS 01876

BRUCE PANILAITIS, PH.D., CHAIRMAN  
MARK S. KRATMAN, VICE CHAIRMAN  
ANNE MARIE STRONACH, CLERK  
DAVID H. GAY  
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**MEETING MINUTES**  
**SEPTEMBER 13, 2016**

Mr. Panilaitis then opened the meeting for public session at 7:00 p.m. Attendees were Bruce Panilaitis, David Gay, Mark Kratman, Anne Marie Stronach, Todd Johnson, and Richard Montuori.

**Mavericks Hearing—Show Cause Hearing—Unpaid Taxes, Transfer of Stock, New Officers**  
Attorney Douglas Sears was present on behalf of Route 38 Entertainment d/b/a Maverick's. Outstanding debts owed to the town from Route 38 Entertainment were discussed at the July 19, 2016 meeting. A letter was submitted to the Board of Selectmen indicating these bills would be paid.

Mr. Panilaitis noted for clarity, this is a public hearing for the transfer of stock, and it relates to all licenses held by Rt. 38 Entertainment Corporation. Mr. Sears explained Mr. Richard W. Proctor had 51% of ownership of the stock and daughter Renee M. Proctor, who died in March 2016, had 49% ownership of the stock. Mr. Richard W. Proctor wants to transfer his ownership and Renee M. Proctor's stock ownership to his grandson Mark A. Proctor, as he will become President and Owner of Route 38 Entertainment, d/b/a Maverick's Restaurant and Lounge with 100% ownership of stock.

On August 4<sup>th</sup> a payment of \$15,000 was made to the town. The amount owed was \$19,084.49. This outstanding balance is not owed by Route 38 Entertainment, but by March & Main Realty Trust, the landlord. March & Main Realty Trust owed a water and sewer bill of \$11,458.88. The only outstanding bill owed by Route 38 Entertainment is a property tax bill of \$1,057.92. Mr. Proctor is aware that licenses likely will not be issued unless all payments are made. Mr. Proctor wants to continue the business and to continue to employ the current staff. Mr. Sears' proposal was for the Selectmen to recognize the payment of \$15,000 made in August and for them to also recognize the outstanding debts owed to the Town by the landlord is not the responsibility of the tenant and the Selectmen should not take any action to revoke any licenses for Route 38 Entertainment.

Mr. Montuori explained the debt for the last 12 months still has an outstanding balance of \$197.12. The total owed to the Town is \$31,763.57. His recommendation to the Board was to approve the stock transfer paperwork and forward it to the ABCC. A new state statute will require all debts to be current before any licenses are approved. The statute will change as of November 9, 2016. Licenses will begin renewal process end of November, beginning of December.

The Chair opened the hearing up to the public for comment. There were no comments made.

Mrs. Stronach clarified that if the ABCC had any issue with the stock transfer the Selectmen may see this request again.

Mr. Gay commented that he felt other businesses in town have made strides to pay their debts and keep them current with the Town and Route 38 Entertainment continues to be delinquent. He stated it isn't fair and hoped this will change.

Mr. Johnson asked for clarification of the request; is the request for the transfer of stock only or for the transfer of stock plus new officers. Mr. Sears noted that the action is for the transfer of stock, but the officers will be posted once the transfer of stock is approved.

**MOTION: Mr. Kratman made the motion to approve the transfer of stock application for Route 38 Entertainment d/b/a Mavericks Restaurant and Lounge as presented to the Board; Mr. Gay seconded and the motion passed unanimously.**

### **Settler's Way Street Acceptance**

Mr. Panilaitis read the public notice into the record which stated the hearing is for the laying out of town ways for Settlers Way and by the acceptance of the road the Town is allowed to expend Chapter 90 monies to make improvements to this road.

Mr. Dick Cuoco, representing the applicant and Mr. Mark Ginsburg, the proponent, were present for this hearing. Mr. Cuoco stated an approval had been granted by the Planning Board last night (9/12/16). In addition the DPW Director and the Town Engineer are both satisfied that all improvements made to the road. The proponent respectfully requests the Selectmen approve the street acceptance to go before Town Meeting.

The Chair opened the hearing up to the public for comment. There were no comments made.

There were no comments from the Board of Selectmen.

**MOTION: Mr. Gay made the motion to approve the street acceptance for Settlers Way to go before Town Meeting; Mr. Johnson seconded and the motion passed unanimously.**

### **Pole Petition—Herbert Street**

Mr. Panilaitis read the public notice into the record stating that National Grid plan number 22210122 Herbert Street intends to install approximately +/- 58 feet of conduits from Pole 1 at Herbert Street to House #11.

Mr. John Tully of National Grid was present for this discussion. He noted 11 Herbert Street is an existing home and currently has overhead service. The current tenant would like to have the service installed underground.

The Chair opened the hearing up to the public for comment.

Ms. Gail Poole residing at 10 Herbert Street came forward with one concern regarding the berm near her property. She wanted to be sure if it were disturbed that it would be fixed appropriately. Mr. Tully confirmed if the berm were to be disturbed it would be rebuilt or replaced by National Grid.

Mr. Johnson asked why the need for underground service. Mr. Tully explained the homeowner is upgrading its service and it is their preference to put the service underground. The homeowner will pay for all costs of the project. There are no other abutters besides Ms. Poole. There are only two houses on the street.

Mr. Panilaitis questioned that DPW was consulted and was assure DPW reviewed the matter.

**MOTION:** Mrs. Stronach made the motion to approve the pole petition submitted by National Grid for plan number 22210122 for 11 Herbert Street as presented; Mr. Gay seconded and the motion passed unanimously.

### **Committee Appointments**

**MOTION:** Mr. Johnson made the motion to close the appointment process for the remainder of the fiscal year, unless the Selectmen at its discretion, need to reopen it; notification will be placed about this action on the town's website; Mr. Gay seconded and the motion passed unanimously.

### Green Committee

**MOTION:** Mr. Johnson made the motion to appoint Tom Cooke and Loretta Ryan as residents to the Green Committee through June 30, 2017; seconded by Mrs. Stronach and the motion passed unanimously.

### Economic Development Committee

**MOTION:** Mrs. Stronach made the motion to appoint Hanson Beechat to the Economic Development Committee through June 30, 2017; seconded by Mr. Kratman and the motion passed unanimously.

### Massachusetts Cultural Council

**MOTION:** Mr. Kratman made the motion to appoint Hannah Oliver to the Massachusetts Cultural Council through June 30, 2017; seconded by Mr. Gay and the motion passed unanimously.

Mrs. Stronach requested that the town manager's office to send thank you letter to committee members who have recently completed service on boards.

### Residents

The Chair called for residents to come before the Selectmen. There were no residents in the audience who came forward to speak on any topics.

### New Business

#### **October 16<sup>th</sup> – Tewksbury's Substance Use Prevention and Education Week**

Mrs. Stronach commented on the extent to which this event reaches all of the town staff and she encouraged residents to attend any event being held that week.

Mr. Johnson made note of Chief Sheehan's letter to the Selectmen stating since January 1, 2016, Tewksbury alone had 57 overdoses and 12 related deaths, which is significant for a town population of 28,000. This is not a Tewksbury issue alone, it is a national issue.

**MOTION:** Mr. Johnson made the motion to approve Chief Sheehan's request to declare October 16<sup>th</sup> as Tewksbury's Substance Use Prevention and Education Week as presented; Mrs. Stronach seconded and the motion passed unanimously.

#### **Common Victualler Application: Mehfil**

**MOTION:** Mrs. Stronach made the motion to approve the Common Victualler Application for Mehfil as presented; Mr. Gay seconded and the motion passed unanimously.

#### **Cara Ryan Corporation DBA TJ Callahan's One Day Liquor Wine and Malt Application for the Harvest Festival September 18, 2016**

It was noted this is the third time this application has come before the Board of Selectmen, and that Chief Sheehan has signed off on this application.

**MOTION:** Mr. Gay made the motion to approve Cara Ryan Corporation DBA TJ Callahan's application One Day Liquor Wine and Malt License for September 18, 2016 from 12:00 p.m. to 4:00 p.m.; Mrs. Stronach seconded and the motion passed unanimously.

#### **Town Manager**

##### **Senior Town Counsel Invoice—July 2016 Invoice**

**MOTION:** Mrs. Stronach made the motion to approve the Senior Town Counsel Invoice for July 2016 in the amount of \$13,750 on the recommendation of the Town Manager; seconded by Mr. Kratman and the motion passed unanimously.

##### **Town Counsel Invoices for July, 2016; August 2016**

**MOTION:** Mrs. Stronach made the motion to approve the Town Counsel Invoice from Feeley & Brown, P.C. in the amounts of \$4,690.22 for services rendered July 16, 2016 through July 31, 2016; \$3272.50 for services rendered August 1, 2016 through August 15, 2016; \$1870.00 for services rendered August 16, 2016 through August 31, 2016; and \$1,615.00 for Labor Counsel services rendered August 16, 2016 through August 31, 2016 on recommendation of the Town Manager; seconded by Mr. Kratman and the motion passed unanimously.

##### **Special Town Meeting, October 4, 2016 Warrant Articles**

Mr. Montuori gave the following highlights:

- After a better understanding of the financials, adjustments will be made to the budget at Special Town Meeting; this is addressed in Article 1
  - Additional funds from State Aid in the amount of \$391,000 and additional funds in new growth (formerly projected by the Town Manager to be \$800,000 and once certified will be now be approximately \$1.6M)
- Standard articles will be submitted for unpaid bills—there was one this year
- There are two Articles addressing the Lowell Sewer Assessment, it is lower than approved in the current budget from May; the October warrant article will address the difference

- An article will be presented for a Free Cash transfer in the amount of \$763,890.00 to address a one-time capital projects and equipment expense
  - This type of transfer is done each Fall when Free Cash is certified and is used to fund items not originally included in the fiscal year budget
  - Free Cash was certified at \$4, 916,361 as of July 1, 2016
  - Article 5 will spend the \$763,890 of Free Cash on various items
- Article 6 will spend \$460,000 on school one-time expenses
- Article 11 will use Free Cash for additional funding of the Town’s Senior Tax program in the amount of \$25,000
- Per the Selectmen’s financial policy, \$600,000 of Free Cash will be used for Snow and Ice expenses—this is not included in the Warrant but has been set aside for future use
- Article 12, per the Selectmen’s financial policy, \$350,000 will be transferred To Other Post Employment Benefits Account
- Article 13, a transfer of \$2,442,051 will be sent to the Stabilization Fund from Free Cash; this replenishes what was spent in May and adds to the fund
- Mr. Montuori will describe in more detail at the next Selectmen meeting the free cash breakdown
- A Special Education Reserve Fund is being requested to be created via Article 7; this is due to a new state statute
  - Should Article 7 pass, Article 8 will request to transfer \$725,000 from the Stabilization Fund which was set aside at a the 2015 Town Meeting for out of district tuition
- Article 10 will allow the Town to spend \$710,000 from water retained earnings for a water distribution project and equipment purchases (this is money was turned back and year-end and revenue came in higher than projected; earnings were \$3,212,346 which included \$1 M from the previous year in retained earnings; a total of \$1.1 from rates was collected higher than projected and \$470,000 was turned back from budget
  - Sewer had retained earnings of \$3,661,108 which included \$1,777,282 previous years and a turn back of \$312,000; revenue was projections came in higher and collected an additional \$411,000; the town also took in \$694,000 from exempt property taxes, etc.
- There will be three Community Preservation Articles
- An article will be presented to install two traffic and speed limit signs in town due to a newly adopted state statute
- An article will be presented for a gift of land abutting the Town’s Water Treatment plant
- An article will be presented to modify the restrictions at 1057 South Street to permit three houses to be built on property instead of two
- Article 21 is to change the town by-law to allow at town meeting the articles for bylaws and general laws to be acted upon on the first night of town meeting in case the budget portion of the meeting ends early, the residents can continue to act on articles; all zoning articles will be presented at town meeting the following night
- Article 23 is the Settlers Way acceptance, as presented this evening
- Two articles will be presented on the appointment of Council on Aging members

Discussion took place amongst the Selectmen members regarding this proposed change in the appointment of the Council on Aging members. The Chair noted that committee and board appointments in Tewksbury are carried out in a very public process and should be the same for all boards and committees.

**MOTION:** Mr. Kratman made the motion to rescind the second version of the draft Article 22 and remove it from the October 4, 2016 Warrant; seconded by Mr. Gay and the motion passed 4 to 1 with Mrs. Stronach opposed to this vote.

The Warrant will be posted on Friday morning and available on town's website by Friday afternoon. Mr. Montuori's handout should be ready in next few days for the Selectmen's review. The Finance Committee will have a public hearing on September 28, 2016.

Mr. Montuori suggested to the Selectmen to possibly consider reopening the Warrant in order to address the new tax delinquency law as it relates to licenses held by business owners. This law is changing on November 9, 2016. All towns have to accept the statute and create a bylaw. Tewksbury's bylaw calls for 12 months of payments to be current and if state statute changes for all bills to be completely current at the time of license renewal, then Tewksbury will have a conflict. He suggested reopening the warrant to make the bylaw consistent.

**MOTION: Mrs. Stronach made the motion to reopen the Warrant for Special Town Meeting to be held on October 4, 2016; Mr. Johnson seconded for discussion noting this action is in the community's better interest and is consistent with previous actions the Selectmen took with regard to the Municipal Modernization Act; the motion passed with a unanimous vote.**

**MOTION: Mr. Kratman made the motion to recommend the Town Manager draft an article to the current warrant for the acceptance of the Municipal Modernization Act which will amend Tewksbury's bylaw Chapter 3.04 as it relates to delinquent taxes; Mr. Gay seconded and the motion passed with a unanimous vote.**

**MOTION: Mrs. Stronach made the motion to close the warrant; Mr. Gay seconded and the motion passed with a unanimous vote.**

Mr. Montuori made the announcement that the Selectmen's meeting of November 8<sup>th</sup> conflicts with Election Day and should be changed. He recommended the dates of November 1 or November 15; there are 5 Tuesdays in November and 2 meetings can still be held. The Selectmen will take this under advisement and will decide at their next meeting.

With summer's quiet time coming to a close, Mr. Montuori wanted to make sure the announcements of new town staff appointment were noted. Vincent Bomal, Town Facilities Manger started the beginning of August. Brian Pena, Assistant DPW Superintendant for Water and Sewer also began in August. A new Finance Director was appointed, Ron Florino on September 12<sup>th</sup>. Mr. Montuori also announced that Steve Sadwick will take the position of Assistant Town Manager, as Town Meeting had approved funding for this position. The Town will begin to recruit and hire a new planner/conservation agent who will take over the Planning Board and planning responsibilities. Steve will continue to oversee Community Development within this role. The Selectmen congratulated Steve and also congratulated Mr. Montuori in his decision to hire him.

**Outstanding Minutes: August 16, 2016 (regular session) and August 22, 2016 (working session)**

**MOTION: Mrs. Stronach made the motion to approve the minutes for August 16, 2016 (regular session) and August 22, 2016 (working session) as presented; seconded by Mr. Gay and the motion passed unanimously.**

## **Board Member Reports**

### **Mark Kratman**

The Tewksbury Beautification Committee met last night; Clean-Up Day is scheduled for Saturday, October 15; sign-up is on the town's website.

The Economic Development Committee has not set a next meeting date.

Mr. Kratman thanked the 9/11 committee for a wonderful event; over 200 people attended.

### **Anne Marie Stronach**

High School Building Committee is closing out the project and finishing up work with the Massachusetts School Building Association. The enrollment report was submitted on time on September 9<sup>th</sup> and, once approved by MSBA, a newly formed Elementary School Building committee will begin.

### **David Gay**

The Public Events and Celebrations Committee will celebrate their 3<sup>rd</sup> Annual Harvest Fest to be held on September 18<sup>th</sup> from 12 p.m. to 5 p.m. at Livingston Field. The Patriots game will be broadcast courtesy of TJ Callahan's. Remote control car racing and signing performances will be held during the day as well.

### **Todd Johnson**

There will be three Community Preservation Act Articles presented at Special Town Meeting in October. 1) to finish the cemetery at Livingston Street in the amount of \$125,000; 2) Friends of Tewksbury Tennis to install drainage in the amount of \$9,500; and 3) to refurbish the Mico Kaufman Memorial to World War II Veterans on the Town Common in the amount of \$6,800.

Mr. Johnson clarified that the warrant has not been published as of tonight; it will be available on Friday, September 16<sup>th</sup>.

Friday is National POW/MIA Day and encouraged residents to be aware of this.

### **Bruce Panilaitis**

Extended his gratitude to 9/11 committee for a very good event.

A request was received in between meetings that September 5 was National Suicide Prevention Week; it is an important topic but the Selectmen were not able to get out in time but wanted to address.

Saturday, September 24<sup>th</sup> is Zero Waste Day from 9:00 a.m. to 1:00 p.m. at the Wynn School

The Town Center Master Plan Committee met on August 31<sup>st</sup> with their consultant to finalize the draft of plan. The committee is planning to schedule a public session on November 29<sup>th</sup>.

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The next regular scheduled Selectmen's meeting will be held on September 27, 2016 at 7:00 p.m.

*Adjournment*

**MOTION:** Mr. Gay made the motion to adjourn; Mr. Kratman seconded, and the vote was unanimous at 8:33 p.m.

*Approved by the Board of Selectmen on September 27, 2016*