



**SELECT BOARD**  
**TOWN OF TEWKSBURY**  
TOWN HALL  
1009 MAIN STREET  
TEWKSBURY, MASSACHUSETTS 01876

TODD JOHNSON, ESQ., CHAIR  
JAMES F. MACKEY, III, VICE-CHAIR  
MARK KRATMAN, CLERK  
JAY KELLY, MEMBER  
JAYNE E. WELLMAN, MEMBER

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**March 7, 2023 – Meeting Minutes**

A regular meeting of the Select Board was called to order by Mr. Todd R. Johnson, Esq., Chair at approximately 7:00 p.m. Also participating in the meeting were Mr. James F. Mackey, III, Vice Chair; Mr. Mark Kratman, Clerk; Mr. Jay Kelly, Board Member, and Ms. Jayne E. Wellman, Board Member.

Also present was Mr. Richard Montuori, Town Manager

**SCHEDULED ITEMS**

- 1. Executive Session Regarding a Contractual Matter (6:45 p.m.)**
- 2. Entertainment License – La Vita Dolce, LLC.**

Chair Johnson opened the public hearings and read the public meeting notice aloud into the record.

*“Notice is hereby given that the Select Board will conduct a public hearing in accordance with Mass. General Laws, Chapter 138, on Tuesday, March 7, 2023, at 7:10 p.m. at Town Hall, 1009 Main Street, Tewksbury, MA 01876 on the application by Todd Arsenault of La Vita Dolce, LLC. located at 1866 Main Street for an Entertainment License consisting of live music, acoustic and recorded music, DJ with an amplifier, and televised programming. The hours for entertainment in the outdoor patio would be from 12:00 p.m. to 9:00 p.m. and indoor from 6:00 a.m. to 12:00 a.m. from Sunday through Saturday.*

*Input is welcome from the public. The Board of Selectmen recommends that comments be submitted in writing, to the Board of Selectmen, Town Hall, 1009 Main Street, Tewksbury, MA, 01876 on or before noon time Friday, March 3, 2023.”*

Todd & Rebeccah Arsenault were present to speak on behalf of the application.

Ms. Arsenault explained that they wanted to have the North End Marching Band attend their grand opening but also said that the application involved both the grand opening day which was scheduled for Saturday, March 25<sup>th</sup>, and what they would like to do in the future.

Chair Johnson asked if the band would be performing inside or outside. Mr. Arsenault replied that it would depend on the weather, but he would prefer that they be outside. He said amplifiers would not be required.

Ms. Arsenault said the indoor radio system would be light background music, and added they would like to have an outdoor radio system as well.

Chair Johnson asked if the applicant was asking for a D.J. Mr. Arsenault replied in the negative.

Chair Johnson asked if there was a television located on the premises. Mr. Arsenault replied there was.

Chair Johnson clarified that the hours for the outdoor entertainment would be from 12:00 p.m. to 9:00 p.m. and indoors from 6:00 a.m. to 12:00 a.m. Sunday through Saturday.

Board Member Kratman asked if the applicant planned on having events during the year. Mr. Arsenault replied they would like to do more events throughout the year and did not want to have anything every weekend.

Board Member Wellman asked if the applicant planned on having any events indoors that would require amplification. Mr. Arsenault replied that he did not plan to have indoor amplification.

Chair Johnson asked if there were members of the public who had questions or comments. There were none.

**MOTION:** Board Member Kelly made a motion to close the public hearings. Vice-Chair Mackey seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

**MOTION:** Board Member Kratman made a motion to approve the Entertainment License between the hours of 6:00 a.m. – 12:00 a.m. between Sunday through Saturdays indoors, and outdoors 12:00 p.m. – 9:00 p.m. for amplification system (indoors only) radio, television, live music, acoustic and recorded music, live bands, and dancing of patrons to take effect on March 7, 2023. The disc jockey is to be stricken from the application. Board Member Kelly seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

### **3. Town Appeal – Denial of the Public Shade Tree Hearing**

Chair Johnson opened the public hearing.

Mr. Kevin Hardiman, Director of DPW, addressed the Board and said according to Chapter 87 of the Mass General Law, a total of 21 trees that were deemed hazardous were posted to be removed. He said there was one out of the 21 that was requested not to be removed by a resident residing at Birchwood Road. He said 17 of the trees were appealed by two separate parties.

Mr. Hardiman explained that the tree located on Parker Avenue was not appealed and the tree was being removed for a drain installation. He said the two Pine trees on Towanda Road were not appealed, as well as the tree located at 1424 Whipple Road. Mr. Hardiman added the other trees on the list were deemed as hazard risks and very susceptible to wind damage.

Mr. Hardiman stated that the town had a Certified Arborist who performed a hazard tree assessment every year.

Mr. Hardiman said the trees on the list were all approximately 6 feet from the edge of the road.

Board Member Wellman asked how many abutters were notified about the public hearing. Mr. Hardiman replied that per Chapter 87 did not require notification to be sent to the abutters but notice of the public hearing was published twice in the newspaper a minimum of seven days prior to the public hearing, it had to be posted in two public places, and a posting was placed on the tree itself.

Board Member Kratman asked if perhaps some smaller trees could be replanted in their place. Mr. Hardiman replied there was a program that provided for that. He added they did not have to be replaced exactly where they were removed but could be placed further back from the right-of-way.

Chair Johnson asked if there were members of the public who had questions or comments.

Ms. Susan Young, 1408 Whipple Road, addressed the Board and said one of the proposed trees to be removed was located in front of her house. She said three of the trees were close to her home. She asked if there was a height cap that a tree could not grow.

Ms. Young requested that the Pine tree at 1408 Whipple Road not be removed.

Mr. Al Mancini, 15 Kenneth Lane, addressed the Board and said he disagreed with the policy used in determining when to remove trees. He said he did not agree with taking healthy trees down.

Chair Johnson asked if any other members of the public had questions or comments. There were none.

**MOTION:** Board Member Kelly made a motion to close the public hearing. Board Member Wellman seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

**MOTION:** As there were no appeals made, Board Member Kratman a motion to authorize the removal of the trees located at Parker Avenue, two on Towanda Road, and 1424 Whipple Road. Board Member Wellman seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

Board Member Kratman asked if the town could work directly with Ms. Young regarding replacing the tree located in front of her house. Mr. Hardiman replied in the affirmative.

Board Member Wellman asked what the determination was on the tree located on Birchwood Road. Mr. Hardiman replied that the resident on Birchwood Road removed all of the trees located on their property and left the lone White Pine which was approximately 100 feet tall leaning towards the street. He noted it was a public tree and the resident was not allowed to take it down. Board Member Wellman commented that she had seen multiple White Pines fall onto homes and destroy them in storms.

**MOTION:** Chair Johnson made a motion to grant the appeal for the removal of the tree located at 1408 Whipple Road. Board Member Wellman seconded the motion.

**Discussion:**

Board Member Kratman said he was concerned that it had been deemed hazardous by the Arborist. He asked if there were any way to trim the tree back to make it safer. Mr. Hardiman replied that it would be difficult to do that and still maintain the aesthetics of the tree.

Board Member Kelly suggested that the town plant an Oak Tree in lieu of having to take down the damaged White Pine tree. Ms. Young shared that she did not have the room to plant an additional Oak Tree on her property due to the sewer line.

Mr. Montuori suggested that the Board act on the other trees and in the meantime, the Director of DPW would meet with the homeowner and they could discuss the issue further at the next Select Board meeting.

**MOTION:** Chair Johnson amended the motion of the floor, and made another one to table the discussion regarding the removal of the tree located at 1408 Whipple Street. Board Member Wellman seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

**MOTION:** Board Member Kratman made a motion to approve the removal of the remaining trees on the list. Board Member Kelly seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

### **RESIDENT COMMENTS**

There were no comments made.

### **NEW BUSINESS**

#### **1. Annual Town Election Warrant: April 1, 2023**

Mr. Montuori stated that the Select Board needed to approve the Warrant.

**MOTION:** Board Member Kelly made a motion to approve the Annual Town Election Warrant for April 1, 2023, and the Warrant Call for Annual Town Meeting on Monday, May 1, 2023, at 7:30 p.m. Vice-Chair Mackey seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

#### **2. Acceptance of Union Donations to the Police Department**

Mr. Montuori explained that there had been some donations made to the Tewksbury Police Department from the Union for the purchase of a refrigerator and noted that approval from the Select Board was required.

**MOTION:** Vice-Chair Mackey made a motion to accept the Union donation to the Tewksbury Police Department with the Board's sincere appreciation. Board Member Wellman seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

#### **3. Acceptance of Chapter 269 of the Acts of 2022 to allow Middlesex Retirement System to Increase the COLA for Retirees from 3% - 5% on the Systems COLA Base of \$16,000**

Mr. Montuori explained that the Board had received correspondence from the Middlesex County Retirement Board which requested that Select Boards of all municipalities that were part of the system to accept Chapter 269 of the Acts of 2022. He said the cost of the impact to the municipalities was 1% of their valuation and in Tewksbury's case it was approximately \$125,000 to take effect in FY26.

Mr. Montuori pointed out that the Retirement Board had accepted the Act on December 14, 2022.

**MOTION:** Board Member Wellman made a motion to accept Chapter 269 of the Acts of 2022. Board Member Kelly seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

#### **4. Retail Marijuana Regulations**

Chair Johnson commented that multiple applicants had filed for Site Plan Review before the Planning Board. He said one of the things that came up was the validity of the date of approval from the Select Board. He said the approval would be changed to six months from the date of approval, and it would also allow the Board to extend the approval on a case-by-case basis.

**MOTION:** Board Member Kratman made a motion to adopt the language as proposed, (§37.1 Subsection D). Board Member Wellman seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

### **TOWN MANAGER**

#### **1. Town Counsel Invoices:**

- January 16, 2023 – January 31, 2023 (\$3,187.50)

**MOTION:** Board Member Kelly made a motion to approve the Town Counsel invoice in the amount of \$3,187.50 for the period of January 16, 2023 – January 31, 2023. Board Member Wellman seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

- February 1, 2023 – February 15, 2023 (\$3,697.50)

**MOTION:** Board Member Kelly made a motion to approve the Town Counsel invoice in the amount of \$3,697.50 for the period of February 1, 2023 – February 15, 2023. Board Member Wellman seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

### **MINUTES**

- December 20, 2022
- February 8, 2023

**MOTION:** Board Member Kratman made a motion to approve the minutes of December 20, 2022, and February 8, 2023, as presented. Board Member Wellman seconded the motion.

**MOTION CARRIED: 5 – 0 – 0.**

### **BOARD MEMBER REPORTS**

#### **Board Member Kelly**

There were no reports to share.

#### **Board Member Wellman**

- Affordable Housing Production Conversation in conjunction with NMCOG via Microsoft Team at 5:30 p.m. on Thursday, March 16, 2023.

Board Member Mackey

There were no reports to share.

Board Member Kratman

- A meeting was held with the LRTA (Lowell Regional Transit Authority) where they discussed the budget and were able to add additional trips along Rte. 38.

Chair Johnson

- Requested that Mr. Montuori provide an update regarding the new permitting system.
- Mr. Montuori said the new online permitting system had been rolled out the previous Monday using OpenGov. He said it would offer residents to apply and pay for most permits online.

**ADJOURNMENT**

At approximately 8:28 p.m. Vice-Chair Mackey made a motion to adjourn. Board Member Wellman seconded the motion.

**MOTION CARRIED: 4 – 0 – 0.**

**Approved by the Select Board on April 24, 2023**

**Documents Presented and/or Discussed:**

- Entertainment License – La Vita Dolce, LLC.
- Town Appeal – Denial of the Public Shade Tree Hearing
- Annual Town Election Warrant: April 1, 2023
- Acceptance of Union Donations to the Police Department
- Acceptance of Chapter 269 of the Acts of 2022, to allow Middlesex Retirement System to increase the COLA for retirees from 3% - 5% on the Systems COLA base of \$16,000
- Retail Marijuana Regulations
- Town Counsel Invoice: January 16, 2023 – January 31, 2023
- Town Counsel Invoice: February 1, 2023 – February 15, 2023
- Minutes: December 20, 2022, and February 8, 2023

Next Selectmen Meeting Date: March 21, 2023

Respectfully Submitted,

Trish Gedziun  
Recording Secretary