

BOARD OF SELECTMAN
Meeting Minutes
November 20, 2007

Chairperson Jerome Selissen called the meeting to order at 7:00 PM. Present at the meeting were Todd Johnson, Vice Chair; Anne Marie Stronach, Clerk; and Board Members, David Gay and Edward Dick. David Cressman, Town Manager, was also present.

1. Tax Classification Hearing

Mr. Jay Kelley presented information for the board and the public's review. The following issues are 1) what the tax rate split for residential, open space, commercial, industrial, and personal property; 2) will the Board establish a Residential Tax Exemption—this has been initiated in 11 of the 351 municipalities, and the Board has historically voted no; 3) will the Board establish a Small Business Exemption—7 municipalities use this exemption, and the Board has historically voted no; 4) whether to establish an open space discount—only 2 municipalities have voted in favor of this; 5) The Board of Assessors is to inform the Board of Selectmen of any excess levy capacity—the excess for fiscal 2008 will depend on the rate split chosen tonight. Once the split is voted, Mr. Kelley will give the exact figure of the levy amount. If the rate split of 1.61 doesn't change, then the figure will be \$17,214.96. However, the levy capacity is not useable for the following reason: to raise additional tax revenue the tax rate will need to increase by a minimum of \$.01. The total taxable value for the town is just under \$4.2B, so the increase of \$.01 will produce \$42,000. Since this is greater than the excess levy capacity it puts the town over the levy limit and the existing amount cannot be used. A spreadsheet was provided to the Board showing tax rates of single family homes and commercial properties with various rate splits. For the record, the maximum rate split is 1.75, so the information in the spreadsheet is based on average and median assessments and bills.

Mr. Johnson confirmed the current split is 1.61 and the residential factor is just under .88%. Mr. Kelley confirmed the factor will decrease at the same split. Mr. Johnson then asked why there was such a large jump in revenue this year, and asked for Mr. Kelley to comment on this. Mr. Kelley noted the total amount raised in Fiscal '07 was \$83.9M and in Fiscal '08 it is \$91.3M. The major areas of increase were real estate taxes at \$2.1M (including new growth), CPA revenue at \$0.9M, Sewer revenue at \$1.4M and Water revenue at \$0.7M, State aide at \$0.5M, and Teacher's Salary Deferral at \$1.3M—these items cover the majority of the raised revenue increase. Mr. Johnson asked what Mr. Kelley's recommendation would be for the Board on a tax split, and Mr. Kelley recommended to keep it the same. His reason for this is because there has been stabilization in the community, and there has been a slight shift away from residents to commercial industry.

Mr. Gay noted he had a conversation earlier in the day with Mr. Kelley and he agreed with his recommendation.

Mrs. Stronach also spoke with Mr. Kelley, and in reviewing these documents, she felt a 1.75 split would be better as she did not believe companies consider property taxes as an evaluation means when deciding to locate a business in a town. Also, in surrounding towns,

Tewksbury has the lowest tax rate for commercial and industrial property. Wilmington last year was 1.90 and received a waiver which means this rate will eventually go to 1.70, and currently Wilmington is at 1.83 split. Lowell has a 1.70 split and Billerica has a 1.75 split. Further, with the promise of the institution of the a new economic development committee for Tewksbury, this committee will more than likely come up with incentives for businesses to locate in Tewksbury. Mrs. Stronach also had an article from the Boston Business Journal from October 2007, which stated more of the tax burden should be on the commercial properties rather than the residential properties, as the residents in Massachusetts have been bearing the tax burden for the last 5 to 7 years. Mrs. Stronach recommended moving the split to a 1.75 split.

Mr. Dick didn't believe raising the split to 1.75 would drive any business out of Tewksbury. He also noted the tax on a residential property is not at a bad. However, one of his concerns for the town is building a stronger tax base, and he would prefer to build the tax base first before raising the split.

Mr. Selissen asked if the total raised revenue included the Water and Sewer Enterprise Funds. Mr. Kelley confirmed yes. DOR separates the tax levy from other revenue sources, which is the balance of what the town will spend. Mr. Kelley also pointed out these numbers are estimates. Mr. Selissen stated he supported the 1.61 split.

Mr. Johnson added he believes we need to give consideration to the ongoing financial review that is taking place by the subcommittee task force. Without having a recommendation from them, it is difficult to make an adjustment upwards in a split. He would like to revisit this again next year with when the Board will have the Financial Planning Task Force's recommendation.

MOTION: Mr. Johnson made the motion to approve a residential factor of .879330 which is also reflective of the CIP shift of 1.61; Mr. Gay seconded; and the motion carried 4-1 with Mrs. Stronach opposed.

Mr. Selissen asked if any of the Board members wanted to consider the Residential Tax Exemption or a Small Business Tax Exemption and no one came forward to raise these issues.

Mr. Kelley asked for permission to speak to the Board regarding the Financial Planning Task Force. He stated last night the Task Force completed three months of meetings with all department heads, the Town Manager, and the Superintendent of Schools to discuss the budget projections through FY 2011. The detailed knowledge and willingness to share this knowledge has impressed all the Task Force members and has made our job much easier. The Task Force also met with Shawsheen Tech Superintendent, Mr. Lyons, and has requested more information from him, and hope to receive that soon. Next on the agenda is a meeting with the Finance Committee and at that meeting will provide another opportunity for public input for this process. The revenue and expense projections will be finalized and all final recommendations will be presented to the Board of Selectmen at their January 22, 2008 meeting, and the Task Force is on schedule to proceed. Mr. Selissen extended a thank you to

everyone on the Task Force for doing an excellent job on behalf of the townspeople.

2. Continuation of a Public Hearing regarding Backstage Grille Entertainment License

Mr. Johnson recused himself from this hearing. The applicants Kevin Ferguson of 186 Warren Street, Waltham, MA and Ms. Dawn Callahan of 11 Davis Road, Chelmsford, MA, co-owners of the Backstage Grille, presented on their own behalf.

The license is being amended to include New Year's Eve, St. Patrick's Day, Halloween, Mother's Day, and the third Sundays in July and August. The license will remain as a Wednesday through Saturday operation with the exception of these dates in 2008. Mr. Zaroulis agreed when the owners apply for their new license in 2008 and proceeding years, it should include these specific dates; and for New Year's of 2007, the owners will need to apply for a one-day license. Mr. Cressman suggested making this request as an amendment to their current license as abutters have been notified of this meeting tonight. The Board agreed.

Mr. Dick confirmed the operation times are 8 p.m. to 1 a.m. Mr. Ferguson confirmed this, and further stated they are not trying to change the parameters of the application, only adding the holidays as specified.

Mr. Gay complimented Mr. Ferguson and Ms. Callahan on the fine job they have done in making the transition from the former establishment to now Backstage Grille.

Mr. Selissen opened up the hearing to the public.

Mrs. Janet Leblanc of 19 Colonial Drive came forward. She wanted clarification on the hours of operation as she is concerned with Wednesday night operation. She did not want the owners to have live bands on Wednesday night. Mr. Ferguson clarified their schedule is to have karaoke on Wednesdays, a DJ on Thursdays, and live bands on Friday and Saturday nights, and the only change to the license would be to have entertainment on non-license days when holidays are involved. Mrs. Leblanc again is concerned for working neighbors during these holidays when it will be late and loud. The noise is still an issue for her as her home is closest to the building. She didn't understand why there needed to be entertainment on non-license holidays or now Keno at this establishment if the sales there have increased due to food sales and liquor sales increasing. Mr. Ferguson explained Keno has always been this establishment but was not advertised until the new sign was constructed. Mr. Ferguson also noted after a meeting with the neighborhood residents, that he gave them each his business card with his personal email and cell phone number, with the promise he would be open to them at anytime if they had a complaint and would answer an email within 24-hours or call them back within 1 hour. Mrs. Leblanc stated this is correct, but she didn't understand why the Backstage Grille needed to be in a residential location, and she hoped the Board would take that into consideration.

Mr. Jim Morello of 24 Colonial Drive came forward to note he would like to commend Mr. Ferguson and Ms. Callahan on the job they have done to curb the motorcycle traffic and disturbances in the area. Mr. Morello also noted he agreed with Mrs. Leblanc's comments,

as he too has witnessed the bass noise from the restaurant. While it doesn't bother him when he is in his house, he can agree it would be a disturbance to Mrs. Leblanc only across the street from the restaurant.

No other residents came forward to speak.

Mr. Dick commented on the owners giving a young local band, Woodbury, to perform at their restaurant from 7 p.m. to 9 p.m. and personally he felt that was a great contribution to the community.

Mr. Ferguson noted they do have a decibel meter and they try and keep the decibels below 50.

MOTION: Mr. Dick made the motion to approve an amendment to the current license which will include December 31, 2007, a new application will be submitted with the correct hours of operation, and each year submit a new application noting specific holidays or dates outside of Wednesday through Saturday to be open; Mrs. Stronach seconded; and the motion carried 4-0 with Mr. Johnson abstaining.

3. Dan Klasnick, Verizon and South Fire Station Cell Tower Update

Mr. Selissen presented a letter from Verizon requesting a continuance of this hearing until February 12, 2008 at 7:30 p.m.

Mr. Dick asked for clarification on whether the Planning Board had been instructed to find a different location for the cell tower prior to construction. He thought this was an instruction after construction. Mr. Cressman explained this request was due to a resident at the last meeting who indicated there was a letter issued from him to the Planning Board to find location. No such correspondence has been located by any town department. There was never a letter that Mr. Cressman was aware of. This issue was brought up by the Board of Selectmen, and at that time Mr. Cressman stated he was directed to locate another carrier who would relocate the tower similar to what occurred at the Wynn Middle School. At that time there was no other location which complied with the zoning bylaw at that time other than the South Fire Station location.

Mr. Selissen asked Chief Mackey and Captain Sitar to present to the Board tonight what the other uses for the cell tower are for over and above Sprint and Verizon's purposes and what impact in moving the tower would mean to the town's communication capabilities. Both Chief Richard Mackey of 72 Carlton Road and Captain Michael Sitar of 568 Chandler Street were present to go over these details. Chief Mackey began explaining about the microwave capabilities. There are alot more than fire department radio antennas, this system ties into fire, police, DPW, and critical functions to the town for public safety. The microwave systems began planning three years ago, and the beauty of this system is that is ties in all departments including fire, police, schools, recreation, etc. There are 23 microwave sites in the town of which 5 sites are primary sites 1) at the water tank on Astle Street; 2) at the Police Station; 3) one at Catamount on Ames Hill; 4) the South Fire Station; 5) one at Tewksbury State Hospital water tanks. The way the system works is all the sites need to be

in view of a primary site, for instance the Tewksbury State Hospital primary site communicates with the Library and the Water Tower on Colonial Drive. The largest cost of the project was the work done on Ames Hill as there was a 120-foot tower constructed here. As a result, two access roads were installed which also give the town direct access to the water tanks in this area. The cost for these roads was \$12,000. The town also applied for a grant with Homeland Security for the Key Span L&G facility on Chapman road, and was awarded a \$30,000 grant to put a microwave link at this facility. This project will begin on December 4, 2007 to give a direct link from this site to the police station. Captain Sitar explained there have been numerous problems within police and fire departments with their portable radios in South Tewksbury and East Tewksbury. Personnel would talk on their portable radios and no one would hear them. Because these radios operate on 4 watts of power it had to reach the main repeater site on Astle Street and could not make the connection. Ames Hill turned out to be the solution and is now a repeater site along with the other four locations Chief Mackey described. The phone lines are unreliable and a microwave system allows critical communication to be transported without phone line dependency. Portable radio crucial to the safety of the officers and the public, as officers need to be heard inside buildings as well, i.e. in basements, in buildings, and in driveways at residences. Without these antennas this communication cannot be heard. For example, the police were at North Meadow on a call, and while they were there someone at the site began to have a heart attack. The police officer called on the portable radio, and then realizes no one can hear the call, so he ran to his cruiser to relay the call. Every minute counts in these situations. Specifically at the South Street Fire Station tower there are the following means of equipment here: 1) the antenna is a police and fire radio receiver; 2) a transmitter from the South Fire Station; 3) a microwave link for point to point communication (to the police station); 4) and a point to multipoint which talks to the Trahan School, the South Fire Station, the Heath Brook School, and many municipal facilities in this area. The DPW also installed a SCADA system which monitors all the water valves in town which will be used here as well. In the future, this site will be used for laptop uses which are inside most police and fire vehicles, and this will save the money spent on air cards. This is a critical infrastructure to the town.

Mr. Selissen asked if the cell tower was moved, and in order to realign all of the sites to “see” the antenna, what would the cost be estimated at. Captain Sitar guessed about \$200K. Mr. Selissen also confirmed if the antenna supported electronic valves and there was a major fire in South Tewksbury, the antenna would allow pressure to be boosted to this area to fight the fire.

All of the Board members were very aware of the needs for this system, and appreciated both gentlemen’s time in coming out to educate them and the public on the need for this system. No one disagreed this was an “eye sore”, but it is a benefit to the safety of our town.

Mrs. Stronach asked the previous copper system the fire station used. Captain Sitar explained what the town was using was a copper coax cable which was at capacity. The old tower was put in temporarily and only had a 2-year expectancy on it. This system didn’t serve the needs of the department. The system was not the correct height for the town’s needs. There are other benefits to this system, but the primary concern was to improve communication only. Mrs. Stronach asked if the tower was moved behind the fire station, would the tower still serve the need for the fire department. Captain Sitar stated it would

serve the need. Mrs. Stronach asked if the tower was moved off location would it still serve the needs of the department. Captain Sitar explained there would need to be something at the South Fire Station to replace this tower. Mrs. Stronach appreciated the explanation of the intricacy of this system, and was glad to have this information noted.

Chief Mackey noted the town has only paid approximately \$120K of the approximate \$500K needed to build this system.

There were residents present who asked to be heard, and Mr. Selissen allowed them to speak during the Residents portion of the meeting, but requested not to discuss the cell tower issues, however they could ask questions.

4. Residents

Mrs. Maryanne Defeao of 20 Wolcott Street came forward to address the Board. She was very disturbed how inadequate the communication coverage has been in town regarding emergency situations. She is disappointed the town officials let this happen. She stated if Verizon or Sprint had not come along, she would still be living in a part of town where emergency communications could not be heard. Mrs. Defeao felt the communication needs is the responsibility of the town, not cellular providers. She was also disappointed the fire and police had not been screaming about this situation for years. Mr. Selissen asked Mrs. Defeao what her question was. Mrs. Defeao asked if there was no cell tower constructed, would she still be living with inadequate emergency communication coverage for her part of town. Mr. Selissen stated he could not speak to this specific question, however he felt the town is doing everything it can to improve communications within town. This is no different then simply upgrading means of communication, and the town is trying to provide the best services it can with a very limited budget to the residents. For instance, Mr. Selissen had been very concerned about the town's water capacity, and recently a five-million gallon water tank has been installed on Colonial Drive. This is an issue that has been ongoing for several years. Now there is sufficient water supply for fire protection for the community as a whole. The Board can only take on one issue at a time. No one is suggesting there was inadequate service, but what we were providing was the best service available to us given our financial situation.

Mrs. Defeao asked when the two cell towers were constructed near the junior high, how many meetings did those residents have to go through in order to obtain results to have these towers moved, and who paid for the towers to be moved. Mr. Cressman clarified, there was not two towers, there was one tower. That tower was taken down and another tower was constructed a few feet away from the first location. It was the same scenario as what was presented to the residents last month where Verizon would come in and build a new tower and the Sprint tower would disappear. He did not recall how many meetings that took place, but it was over a one-year timeframe. Mr. Cressman also conveyed there has been more discussion about the tower not being at the fire station at all, rather than discussion about moving the tower. Alternatives have been given to move the tower, but the residents have not been in agreement. Mr. Cressman firmly stated the direction he was given was to find a carrier to move the Sprint tower, and he maintains that is the direction he continues to move forward with. Mrs. Defeao reminded Mr. Cressman she would like to know who paid for the

- a. Back in 1984 John Krochmal was cited for dumping of obnoxious animal waste causing an offensive odor to residents within 100-feet of wetland locations.

- b. On January 18, 2002, Tewksbury's hired consultant for the Conservation Commission stated "This section of wetlands is degraded from the adjacent pig barns. Be advised, I have noted significant run-off from the pig barns to the wetlands and in the vicinity of flags M77 to M89
- c. On May30, 2006, from hired consultant for Tewksbury on the Perkin's Trust property who stated, "I have conducted various site inspections of this area and concur with the applicant's representatives. The wetland area is highly degraded. The area was clearly excavated and most likely intercepted the water table creating hydrology close to and above the present ground surface. The cafeteria waste, presumably from the pig manure is evident on the ground surface all through the wetland area.
- d. On July 27, 2006, the hired consultant for Perkin's Trust wrote a letter to the MEPA office stating, "If this clean up does not happen the area will remain contaminated and remain a hazard to animals and to humans in the area." He also stated the "isolated wetland area is currently stockpiled with pig manure and other debris."
- e. On September 28, 2006, the hired consultant for Perkin's Trust wrote a letter to the Army Corp of Engineers, and stated "Wetland area A is an isolated fresh water wetland that is a result of a graveling excavation that took place in the 70's. The area delineated was excavated below the ground water table and later used as a dumping ground for pig manure from the adjacent piggery."
- f. On October 2, 2006, the Mass DEP advises the proposed wetland alterations cannot be approved.
- g. On October 4, 2006, an email to the MEPA analyst, Sarah Haggerty, a biologist, who was following this from the endangered species review noted that both the first and third vernal pools met the criteria for certification; and will be processed and certified.

Mr. Delonis felt it was urgent the Board had this information, and as they can see the town does have an environmental issue at hand which needs to be addressed. Mr. Selissen asked if copies were given to the Board of Health, and Mr. Delonis stated he would deliver their copies to the office tomorrow. Mr. Selissen advised Mr. Delonis that he personally has had discussions with Mr. McHatton and they will be presented their additional findings to the Board of Selectmen on Tuesday, December 4, 2007.

Mr. Gay commented for the record that he has been working with this group as he shares their concerns and frustrations. He requested through Lou-Ann Clement to view the site of the piggery, and he was told through her that the family would not allow him to go on the property. He is very unhappy and upset at this, as it gives a very strong signal that something is not right when a standing member of the Board of Selectmen is working with the group to help them, but is told he cannot go on the property. Mr. Gay made a formal request to the Town Manager and Town Counsel that he would like to view this property.

Town Manager Report

5. Temporary Police Lieutenant

Mr. Cressman would like permission to fill on a temporary basis a police lieutenant's

position per the Chief Donovan October 30, 2007 email on this subject. This email indicated the cost of filling this position would be less then the cost of overtime to replace him.

Mrs. Stronach thanked the police chief and Mr. Cressman for their work to prove this position will save the town money.

Mr. Johnson asked for a point of clarification stating this is not a permanent appointment, and Mr. Cressman stated that was correct.

MOTION: Mr. Dick made the motion to approve a temporary police lieutenant's position; Mrs. Stronach seconded; and the motion carried 5-0.

6. Labor Counsel Invoice

Mr. Cressman requested authorization to pay labor counsel in the amount of \$800.

MOTION: Mr. Johnson made the motion to approve labor counsel's invoice for services dated November 5, 2007 in the amount of \$800; Mr. Gay seconded; and the motion carried 5-0.

7. Project Manager Appointment

Mr. Cressman announced the appointment of Carlos Jaquez as Project Manager in the Community Development Department as of December 3, 2007. This position is critical in dealing with the residents and contract 28, 29 and 30 which sewer will be available in the next few months. Also, this individual will be responsible for updating the town's GIS for the assessor's maps which have not be updated since 2002, the town zoning maps which have not been updated since 2005, and storm water mapping which is required by May 2008 for our federal storm water requirements. Mr. Cressman also noted this position has not impact on the general fund as 80% of the cost is paid for by sewer funds and 20% is paid by the water fund.

Mr. Selissen clarified this individual will be part-time until he has finished his degree program, and Mr. Cressman confirmed yes. Mr. Selissen noted this is an exception given the Board's earlier decision on no new hires, because there is no charge to the general fund. Mrs. Stronach also noted the town will suffer significant fines if the storm water project is not completed by May of 2008. She also noted in reviewing this application this gentleman is currently an intern and will be eliminated after his degree is complete which will create a cost savings. Given this cost savings, Mrs. Stronach approved this position.

MOTION: Mrs. Stronach made the motion to approve the Project Manager Appointment for Carlos Jaquez to the Community Development Department; Mr. Gay seconded; and the motion carried 5-0.

8. Plumbing Fee—Point of Use Water Sub Meters

Mr. Cressman brought this forth to the Board for the Building Commissioner, Mr. Colantoni, and he is requesting to change the building permit fees for a plumbing inspection to \$100 per building and \$5 per apartment. This will allow an apartment owner to modify their tenant's water use for water conservation, etc. by the owner, not the town. This is a voluntary

program. There is not currently a fee for this type of work, and this work is charged on a device basis, currently \$120 per device. When charging on a device basis it costs the homeowner more money. Mr. Johnson noted he supports instituting this fee, but would like this discussed when all town-wide fees are discussed with the Board of Selectmen this coming year.

MOTION: Mrs. Stronach made the motion to approve the Plumbing Inspection Fee for Point of Use Water Sub Meters to \$100 per building and \$5 per apartment within the building; Mr. Gay seconded; and the motion carried 5-0.

Executive Session

The Board will not hold Executive Session this evening.

9. Approval of Minutes from September 25, 2007 (Executive Session)

Mrs. Stronach asked to table the approval due to an error in the Sutton Brook portion of the minutes. These will be presented at the next meeting.

10. Reports

Board Members

Mr. Dick, Mrs. Stronach had no report.

Mr. Johnson reported The Tri-Town Development Committee met at the Tewksbury Public Library. Mr. Cressman, Mr. Sadwick and he all sat in on the meeting. Mr. Johnson felt issues were moved forward well. There is a growing consensus around the interstate ramping systems for Wilmington, Tewksbury, and Andover and he hoped this is a positive step. The parties were to meet with Federal Highway Administration to advocate for the preferred ramping system.

Mr. Johnson also reported the Community Food Pantry had conducted its distribution for the upcoming holiday. Unfortunately, in our town there has been an increase in demand among residents. On a positive note, he wanted to thank all of the residents, local organizations, corporations, churches, schools, etc. who have supported the pantry. Over 140 households were distributed to this holiday season.

Mr. Gay reported he attended with Mrs. Stronach a forum at the High School regarding Students against Drunk Driving. There were 40 in attendance, and faculty and the superintendent of schools.

Mr. Gay also reported there is a group meeting to discuss how to begin an industrial committee or development group for the town. He, Nancy Reed, Steve Sadwick, Jay Donovan, and NEMCOG will be meeting on Monday, November 26 at the Community Development office.

Mr. Selissen reported the Friends of the Tewksbury Patriotic Committee held its first annual fundraiser. He was pleased to report there will be a Memorial Day Parade. Donations are still being accepted for this organization.

Mr. Selissen also reported the Veteran's Day services were held on November 11th, and he thanked all for participating and the High School Band.

Town Counsel

No report this evening.

Special Committees

No report this evening.

11. Appointments

Two openings on the Conservation Commission and three applications.

MOTION: Mr. Dick made the motion to nominate Patricia Powers; Mrs. Stronach seconded; and the motion carried 5-0.

MOTION: Mr. Johnson made the motion to nominate Stephen Deckoff; Mr. Dick seconded; and the motion carried 5-0.

Mr. Gay made the motion to nominate Gail Predicaro, but this was not voted on as the positions had been unanimously voted previously.

There was one applicant for the Historic Commission, which was not nominated by the Board.

12. 20 Carter Street—taxes

This payment has been resolved.

Adjourn

MOTION: Mr. Dick made the motion for adjournment at 9:50 p.m. Mr. Johnson seconded, and on a roll call vote, Mr. Gay, Mr. Johnson, Mr. Dick, Mrs. Stronach and Chairperson Selissen vote in favor of adjournment for a unanimous vote of 5-0.

Approved: _____
Anne Marie Stronach, Clerk