



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

TODD R. JOHNSON, ESQUIRE, CHAIR
JAMES F. MACKEY, III, VICE CHAIR
PATRICK HOLLAND, CLERK
MARK KRATMAN, MEMBER
JAYNE E. WELLMAN, MEMBER

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June 27, 2023 – Meeting Minutes
Tewksbury Town Hall
1009 Main Street
Tewksbury, MA

Mr. Todd R. Johnson, Esq., Chair, called a regular Select Board meeting to order at 7:00 p.m. Also participating in the meeting were Mr. James F. Mackey, III, Vice-Chair; Mr. Patrick Holland, Clerk; Ms. Jane E. Wellman, Board Member; and Mr. Mark Kratman, Board Member.

Also Present: Mr. Richard Montuori, Town Manager

SCHEDULED ITEMS

1. Taste of the Himalayas, LLC – New Liquor License (Public Hearing)

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

Chair Johnson noted for the record that on June 23, 2023, the Select Board received a letter from Werner Gossels, Trustee of Laine Realty Trust, located in Wayland, MA, and indicated that he was in support of the application.

Chair Johnson also said the Board received a letter that was received on June 27, 2023, signed by multiple residents (Ida Mulhare, Michael Mulhare, and Renee Mulhare who indicated they were not in favor of the application.

Mr. Sukhvinder Singh, Owner of Taste of the Himalayas, LLC, was present to speak on behalf of the application. Mr. Singh said he had previously owned and operated the Safron Indian Grill which had to close during the Covid pandemic. He said that the restaurant had mainly served beer and wine and he did not have a bartender, but that he intended to have a bartender at the Taste of the Himalayas restaurant.

Chair Johnson asked the applicant how he intended on storing the alcohol. Mr. Singh replied there was shelf space behind the bar area, and anything not opened would be stored in a locked storage facility in the back of the restaurant.

Chair Johnson asked the applicant if he was TIP (an education alcohol training course) certified. Mr. Singh replied that he currently was not but had been in the past. Chair Johnson recommended that Mr. Singh get TIP certified.

Chair Johnson asked if any Board Members had questions or comments.

Board Member Holland asked if the servers would be TIP certified and if there would be a TIP-certified person on the premises at all times. Mr. Singh replied if it made things extremely difficult then the

answer was no, and he would stick to selling things like beer and wine. He added that if he were to run a full operation at the bar there would have to be one person who was TIP-certified at all times.

Board Member Holland asked the applicant if he had ever had any violations at his previously owned restaurant. Mr. Singh replied that he did not.

Board Member Kratman explained that there were two different types of licenses, an All-Alcohol license, and a Beer & Wine license. He said the applicant was asking for an All-Alcohol license, but was also saying he was not willing to get all of the servers TIP-certified and that was not making the Board comfortable. Mr. Singh replied that somebody would be TIP-certified.

Vice-Chair Mackey stated that he did not see a bar on the plan. Mr. Singh said the bar would be located at the back of the restaurant.

Vice-Chair Mackey asked how many employees Mr. Singh intended to have. Mr. Singh replied there would be five to eight.

Vice-Chair Mackey said he would like to see the applicant come back with a more finite plan.

Board Member Wellman asked if the restaurant was currently in operation. Mr. Singh replied in the affirmative. Board Member Wellman asked if alcohol was currently being served. Mr. Singh replied it was not.

Board Member Wellman said there were items in the application that were not properly filled out. She said she too felt that the applicant needed to return to the Board with more detailed information.

Chair Johnson said he felt the applicant, who was the manager, needed to be fully responsible and aware of the obligations that went along with serving alcohol. He strongly suggested that he get TIP-certified.

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

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

MOTION CARRIED: 5 – 0 – 0.

MOTION: Board Member Wellman made a motion to continue the public hearing, date-specific to the July 18, 2023, meeting. Vice-Chair Mackey seconded the motion.

MOTION CARRIED: 5 – 0 – 0.

2. Housing Production Plan Presentation

Ms. Alexandra Lowder, Community/Economic Development Planner for the Town of Tewksbury. She said she was present to seek an endorsement for the Housing Production Plan 2023 – 2027.

Ms. Lowder reviewed a PowerPoint presentation and highlighted the following:

- The Housing Production Plan began in mid-2022.

- Initial findings presented to the Select Board on 8/4/2022
- Initial findings presented to the Planning Board on 8/22/2022
- NMCOG (Northern Middlesex Council of Governments) & Tewksbury staff organized Affordable Housing Workshops where residents asked questions about the community needs assessment.
- 2016 – 2020 American Community Survey Data indicated that 30% of Tewksbury households were housing cost-burdened, paying more than 30% of their annual income on housing, with 12% severely cost burdened, paying more than half their income on housing.
 - 2010 Census SHI Goal: 1,80 Affordable Units (10% of 10,803 year-round units in the 2010 Census)
 - Current Number: 1,087 Affordable Units (10.1% of 10,803)
- Since 2012, the median detached home price in Tewksbury rose faster than the Massachusetts median, reaching \$560,000 in 2021.
- The typical Tewksbury home sold in 2021 would not be affordable to at least 70% of Tewksbury households.
- Tewksbury has an undersupply of rental units. Tewksbury had the second-highest median rent in the region.
- Who carries the burden of low supply and high costs of housing in Tewksbury?
 - Small, non-elder families were estimated as the household type with the largest number of households (1,154 households, or 22%) burdened.
 - A disproportionately high proportion (58%) of non-family households with at least one member over the age of 62 were cost-burdened (1,040 households.)
- Ms. Lowder provided fifteen goals to create more affordable housing with an emphasis on:
 - **Goal #3:** Monitor existing income-restricted units, maintain these units as affordable.
 - **Goal #4:** Create more diverse types and sizes of ownership units, including types such as smaller single-family detached, duplexes, and townhouses at affordable prices that could serve as “starter homes.”
- Implementation Strategies for the Fifteen Goals (in summary)
 - Maintain the SHI by continuing to monitor expiring units, pursuing the right of first refusal opportunities, and maintaining funding to act on opportunities to extend deed restriction terms.

- Work with Tewksbury Home Build and Habitat for Humanity of Greater Lowell to create affordable homes on small lots and through infill opportunities.
- Strengthen the Family Suite bylaw through as-of-right Accessory Dwelling Units (ADUs)
- Research & identify areas in residential districts with smaller lots than those zoning districts allow, and evaluate the feasibility of reducing minimum lot size in those areas.
- Evaluate allowing two-family dwellings in the R40 district. Evaluate opportunities for adaptive reuse to residential.
- Incorporate community engagement into discussions about and decision-making for affordable housing.

Ms. Lowder noted that the Residence Inn, which was a long-term hotel located at 1775 Andover Street had applied for their comprehensive permit and would be heard by the Zoning Board of Appeals the following Thursday evening. She said it was a great opportunity to see about 130 two and one-bedroom, and studio apartments as rental units.

Board Member Wellman said it was poignant to read some of the numbers of people who could not afford to keep their houses in Tewksbury, and it was very important for the Select Board to do whatever they could to increase the amount of affordable housing.

Board Member Wellman asked if there was a way to get some recommendations from Ms. Lowder and perhaps some technical assistance from NMCOG as to articles that could be brought forward at the October Special Town Meeting and the Annual Town Meeting the following May. Board Member Wellman also asked what the best way to utilize the Affordable Housing Trust Fund in which to identify and create opportunities. Ms. Lowder replied that the Accessory Dwelling Unit bylaw would be relatively easy to look at. She also said the best way to use the Affordable Housing Trust Fund was to look at buy-down opportunities.

Board Member Kratman said the Governor's office had announced affordable housing was going to be a priority. He said the state put mandates on the towns but did not give them the funding to do it.

Board Member Kratman said he felt larger towns/cities received more funding. Ms. Lowder replied that under the new zoning bylaw that had been adopted in May of 2022, there was a 7-units per acre cap on all multi-family housing.

Board Member Kratman suggested that the Select Board should team up with the Planning Board to better address the issue.

Board Member Holland asked if there were a lot of family suites (Accessory Dwelling Units) that were vacant at present. Ms. Lowder replied that she felt it was a difficult question to answer because they were meant to be occupied by family members of the homeowner so presumably if the home was occupied then the family suite would be occupied.

Board Member Holland asked if incoming restricted units were being strictly monitored. Ms. Lowder replied that it was.

Vice-Chair Mackey asked how many units would be available from the conversion at the Residence Inn. Ms. Lowder replied that it would be about 130 units.

Vice-Chair Mackey asked if Ms. Lowder knew what the impact of the MBTA would be. Ms. Lowder replied that they needed to decide where the project was going to go first. She said she launched a survey earlier that day to the community to rank the six proposed districts that were on the action plan that was submitted earlier in the year to maintain interim compliance. She added it was also available under “News & Announcements” on the town’s website. She said she was hopeful that the information from that survey would be available by the end of July and in early August they would begin working with NMCOG to help them with their GIS.

Chair Johnson asked if Ms. Lowder had an inventory of units that may become available in the future. Ms. Lowder replied that when units were in danger of coming off the subsidized housing inventory they exercised that right of first refusal.

Ms. Lowder noted that the Planning Board had voted 3-0 to endorse the Housing Production Plan on June 26, 2023.

MOTION: Board Member Wellman made a motion to endorse the Housing Production Plan (2023 – 2027) as presented. Board Member Holland seconded the motion.

MOTION CARRIED: 5 – 0 – 0.

RESIDENT COMMENTS

Ms. Anne Marie Stronach, 14 Pillsbury Avenue, addressed the Board and said she felt compelled to come to the meeting to publicly discuss the Town Manager’s Deputy Police Chief appointment. Prior to sharing her thoughts on the matter, she said she completely supported the Chief and the entire law enforcement community. She said one of the recommended candidates was the spouse of the top law enforcement officer. She also said that although she felt both candidates were qualified, her concern was about the “unseen and that the qualifications were clouding the judgment of the appointment without consideration of the innate bias the position and the appointment possessed.

Ms. Stronach said the position was not included in the last budget, and asked why. She said she was concerned that there would be a conflict of interest.

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

NEW BUSINESS

1. Town Counsel Reappointments

For the record, Chair Johnson noted that Attorney Kevin J. Feeley, Jr. was present.

Chair Johnson said former Town Counsel Attorney Charles Zaroulis had sadly passed away during the Covid pandemic.

Chair Johnson said he felt the Town of Tewksbury had been exceptionally served by Attorney Feeley.

MOTION: Board Member Wellman made a motion to appoint Attorney Kevin J. Feeley, Jr. as Town Counsel through June 30, 2024. Board Member Wellman seconded the motion.

Discussion:

Board Member Kratman asked if the next appointment could be for three years.

Board Member Wellman asked what the annual spend was for Attorney Feeley's services. Mr. Montuori replied that the expended funds were as follows:

<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
\$117,402	\$ 96,231	\$120,958

MOTION CARRIED: 5 – 0 – 0.

2. Road Race Approval – Bern's Great Legs 5K for Women

Chair Johnson explained that the race predominantly took place in the City of Lowell, and they would be entering their 42nd year of running the race. He said the race entered Tewksbury at the intersection of Clark Road and Country Club Drive. He further said the request was for approval from the Select Board because the race did impact Tewksbury. He said the Police Department's Safety Officer had reviewed the request and recommended approval provided that the race organizers adhered to what the City of Lowell's Police Department recommended and that there would be a Tewksbury police officer at the affected intersection during the road race.

Chair Johnson said the race would take place at 7:00 p.m. on Thursday, July 20, 2023.

MOTION: Board Member Kratman made a motion to approve the Bern's Great Legs 5K for Women road race as presented. Board Member Wellman seconded the motion.

MOTION CARRIED: 5 – 0 – 0.

3. T.D.E.I.A.C. – School Committee Designee Appointment: Katie Anderson

MOTION: Board Member Wellman made a motion to appoint Katie Anderson as the School Committee's designee to the Tewksbury Diversity, Equity, and Inclusion Advisory Committee through April 30, 2024. Vice-Chair Mackey seconded the motion.

MOTION CARRIED: 5 – 0 – 0.

TOWN MANAGER

1. Deputy Police Chief Appointment

Mr. Montuori explained the process that took place in making the decision to appoint a Deputy Police Chief. He said Deputy Police Chief John Voto had given his notice for retirement and would be effective as of July 31, 2023. He said in anticipation of said retirement he sent out proposals to six firms to conduct an assessment center in accordance with Civil Service guidelines. He said the assessment center would generate a list of candidates for the position of Deputy Chief from which he would make an appointment. Mr. Montuori said after receiving the proposals from all six firms, he contracted with John Parrow Consulting & Associates to conduct the Deputy Police Chief assessment center. He pointed out that John Paral Consulting & Associates had worked with the town in the past, conducting assessment centers for the Fire Lieutenant & Captain positions, as well as the Deputy Fire Chief. He said the cost of the assessment center for the Deputy Police Chief was \$6,000.

Mr. Montuori stated that on February 7th, after finalizing all of the Civil Service documents, he notified the seven lieutenants within the police department that the position was posted and that an assessment center would take place on March 30th. He added that on February 27th, the seven

lieutenants were also notified that the job posting, and application were live on the Civil Service website and that the application deadline was March 15th. He said after the deadline two lieutenants signed up to participate in the assessment center; Lieutenant Alicia Columbus who is the Police Chief's wife, and Detective Lieutenant Brian Farnham. He added on March 30, 2023, the assessment center took place where an intensive interview process took place with many components that simulated real-world challenges that would typically be encountered by someone in the position of Deputy Chief.

Mr. Montuori explained that the candidates were not known to the assessors and were only referred to by candidate number and names were added to the score sheet after all of the exercises were complete. The assessors were Police Superintendent Kenneth Lavalley, Retired, Lowell Police Department; Police Chief Richard McLaughlin, Retired, Belmont Police Department; Police Chief Juliann Flaherty, Arlington Police Department; and Police Chief Donald Palmer, Jr. Retired, Groton Police Department. Mr. Montuori said that all candidates were evaluated equally against the same criteria and circumstances. He said after all four exercises were complete, the scores were totaled, and all scores went to Civil Service, as was required.

Mr. Montuori said he and Ms. Teresa Belanger, Director of Human Resources sat in and observed the assessment center, but they sat in the back of the room and did not participate in any portion of the process, and they left the room when the assessors scored each candidate after each exercise and no information was shared with them. He said after the assessment center was complete, the assessors informed him that they had never seen better candidates and they recommended that he appoint two candidates and have two Deputies in the department; one for operations, and one for administration.

Mr. Montuori said on May 1, 2023, he was informed by Mass Civil Service that a list was generated for the position of Deputy Police Chief and the list generated was comprised of Lieutenant Columbus, #1; and Lieutenant Farnham, #2. He added that on May 24, 2023, interviews were held with each candidate and the interview panel consisted of Todd Johnson, Chair of the Select Board; Steve Sadwick, Assistant Town Manager; Teresa Belanger, Director of Human Resources, and himself, the Town Manager. He said after the interviews, all involved came to the same conclusion, both candidates did an outstanding job and that I should consider appointing two Deputies.

Mr. Montuori said he decided that both Lieutenant Columbus and Lieutenant Farnham should be appointed as Deputy Police Chiefs and felt they were well deserving of the position. He said one Deputy would oversee operations, and the other Deputy would oversee administration. He said he would develop and implement a reporting structure that would ensure that Lieutenant Columbus did not report to the Chief. He said Lieutenant Columbus would report to Lieutenant Farnham on all matters pertaining to her and any issues of significance would be dealt with by the Town Manager.

Mr. Montuori stated that the funding for the second Deputy would be absorbed in the FY 24 police budget due to early retirement, and they planned on not filling a lieutenant's position once the Deputy Chief positions were filled and the incremental cost of the second Deputy would be approximately \$32,000.

Mr. Montuori said he wanted to make it clear that Chief Columbus would have to file proper disclosures with the Ethics Commission as he had done in the past as his wife was Lieutenant Columbus. He added there had been no issues in the past.

Chair Johnson said he concurred 100% with Mr. Montuori's characterization of both candidates in that he thought they were exceptional.

Board Member Holland asked Mr. Montuori if he would have made the same decision if “Lieutenant Columbus” was “Lieutenant Smith”. Mr. Montuori replied that he would because of the quality of the candidates.

Board Member Wellman said she asked Town Counsel to join the meeting as she had some questions.

Board Member Wellman asked Attorney Feeley if the appointment was at the discretion of the Town Manager according to the Charter. Attorney Feeley replied that was correct.

Board Member Wellman said she called the State’s Ethics Commission for guidance and because she was not related to either of the two people that were related to each other, they could not advise her.

Attorney Feeley explained that the Conflict of Interest Law prohibited any public employee from participating in a matter that an immediate family member had a financial interest. He noted Chief Columbus did not have any involvement in the process. He added there was an exception that potentially could have given the Chief a waiver and allowed him to participate in the process and noted that neither the Chief nor the Town Manager sought it.

Board Member Wellman said Chief Columbus would not have any say in the compensation of either Deputy.

Board Member Wellman said she was concerned with the appearance of a conflict of interest. Attorney Feeley said he had not been asked for an official opinion on the matter. He said Chief Columbus would contact the Ethics Committee, and Town Counsel could write an opinion.

Board Member Wellman asked if Attorney Feeley felt a structure as recommended would create a chilling effect in the police department. Attorney Feeley replied he did not think it would.

Vice-Chair Mackey clarified that not backfilling the Lieutenant position would equate to \$32,000. He asked if there was a possibility that the Lieutenant position might be an ask on the following year’s budget. Mr. Montuori replied he did not think so but right now there was no plan to do that.

Board Member Kratman it was not unusual to have family members working in the same department. He said the Board had never appointed anyone with nepotism on their minds. He also said he did not think someone should be harmed because they were related to someone else in the same department.

Board Member Wellman said she had the greatest respect for the police department and Mr. Montuori, but she was concerned about the appearance of a conflict of interest and that the structure was contrived only for the purpose of enabling the appointment and they would not see it with any other appointment if the Deputy were not an immediate family member of the Chief. She said the nature of the relationship created an inherent lack of objectivity even in a chain of oversight. She also said they were very fortunate to have two exceptional candidates for the position, but she said she felt it was the kind of thing that they were trying to avoid in public administration.

Vice-Chair Mackey asked if the Select Board needed to approve the appointment as it was within the Town Manager’s authority. Attorney Feeley replied that under the Town Charter, the Select Board did not have to take any action, however, the Board had the option to vote to endorse the appointment.

MOTION: Board Member Kratman made a motion to endorse the appointments of Alicia Columbus, and Brian Farnham as Deputy Chiefs of the Tewksbury Police Department. Board Member Holland seconded the motion.

MOTION CARRIED: 4 – 0 – 1. (Abstained – Board Member Wellman)

2. Town Counsel Invoices:

- **May 16th – May 31st, 2023 (\$5,652.50)**

MOTION: Board Member Wellman made a motion to approve the Town Counsel invoice in the amount of \$5,652.50 for May 16th – May 31st, 2023. Board Member Kratman seconded the motion.

MOTION CARRIED: 5 – 0 – 0.

- **June 1st – June 15th, 2023 (\$5,227.50)**

MOTION: Board Member Kratman made a motion to approve the Town Counsel invoice in the amount of \$5,227.50 for June 1st – June 15th, 2023. Board Member Holland seconded the motion.

MOTION CARRIED: 5 – 0 – 0.

MINUTES

- **May 16, 2023**

MOTION: Board Member Holland made a motion to approve the minutes from the May 16, 2023, meeting as presented. Board Member Wellman seconded the motion.

MOTION CARRIED: 4 – 0 – 1. (Abstained – Vice-Chair Mackey)

BOARD MEMBER REPORTS

Vice-Chair Mackey

- Wished everyone a happy and safe 4th of July.

Board Member Wellman

- The Elementary School Building Committee was held the prior week and will meet again in August. The consultant that was hired to provide a recommendation regarding the flooring issue had made a recommendation to remove the filling pieces between the wood strips. There are some issues with some heating units that were being addressed with new parts that were being shipped in from China.

Board Member Kratman

- Board Member Kratman stated that he met with the LRTA (Lowell Regional Transit Authority) where they reviewed their budget and planned on approving it the following day. He noted that on July 5th the Sumner Tunnel would be closed for two months for repairs.

- Noted that the 4th of July celebration would occur on July 3rd and thanked the Town Manager and staff for their help in putting the celebration together.

Board Member Holland

- Congratulated the high school seniors who graduated.

Chair Johnson

- All of the public hearings for Marijuana licenses had been continued to the July 18, 2023, meeting, and in the interim comments were welcome from the public. He encouraged the public to provide their input prior to July 18th.

ADJOURNMENT

MOTION: At 8:54 p.m. Board Member Kratman made a motion to adjourn. Board Member Holland seconded the motion.

MOTION CARRIED: 5 – 0 – 0.

Approved by the Select Board on August 8, 2023

Documents Presented/Discussed

- Taste of the Himalayas, LLC – New Liquor License
- Housing Production Plan Presentation
- Town Counsel Re-appointment
- Road Race Approval – Berna's Great Legs 5K for Women
- T.D.E.I.A.C. – School Committee Designee Appointment: Katie Anderson
- Deputy Police Chief Appointment
- Town Counsel Invoice: May 16th – May 31, 2023
- Town Counsel Invoice: June 1st – June 15th, 2023
- Minutes: May 16, 2023

Next Select Board Meeting: July 18, 2023

Respectfully submitted,

Trish Gedziun
Recording Secretary