



### **CALL TO ORDER:**

A quorum being duly present, Town Council President Edward Haley called the meeting of the Bridgewater Town Council to order at 7:30 pm, on September 11, 2018 in the Academy Building Council Chambers, 66 Central Square, Bridgewater, Massachusetts.

### **PRESENT:**

Council members present were, Francis Sousa, Peter Colombotos, William Wood, Dennis Gallagher, Edward Haley, Fred Chase, Shawn George, Aisha Losche, and Timothy Fitzgibbons. Town Manager Michael Dutton and Town Attorney Jason Rawlins were also present.

**ABSENT:** *No Councilors were absent.*

### **PLEDGE OF ALLEGIANCE**

### **MOMENT OF SILENCE**

A moment of silence was held for all veterans who have passed including:

- Paul J. King
- In memory of the September 11<sup>th</sup> tragedy.

### **APPROVAL OF MINUTES**

- August 7, 2018

**Motion:** A motion to approve was made by Councilor Fitzgibbons. The motion was seconded by Councilor Gallagher.

**Discussion:** None

A voice vote was taken, and the motion passed 7-0-2 (Councilors George and Haley abstained due to meeting absence).

### **ANNOUNCEMENTS FROM THE PRESIDENT**

- President Haley announced information on a Family Caregiver Support Program being offered at the Senior Center on 10/2/18 and the Disabilities Commission Community meeting being held 9/20/18.

**PROCLAMATIONS** - *None*

**CITIZENS OPEN FORUM** - *None*

### **APPOINTMENTS**

- Elder Affairs Commission – Regina Cohen

**Motion:** A motion to approve was made by Councilor Fitzgibbons. The motion was seconded by Councilor Losche

**Discussion:** None

A voice vote was taken, and the motion passed 9-0.

- Open Space Committee – Nicole Holmes

**Motion:** A motion to approve was made by Councilor Fitzgibbons. The motion was seconded by Councilor Losche

**Discussion:** None

A voice vote was taken, and the motion passed 9-0.

- Planning Board (Alternate) – Steven Geller

**Motion:** A motion to approve was made by Councilor Fitzgibbons. The motion was seconded by Councilor Losche

**Discussion:** None

A voice vote was taken, and the motion passed 9-0.

- Board of Health – Katie Hammond

**Motion:** A motion to approve was made by Councilor Fitzgibbons. The motion was seconded by Councilor George

**Discussion:** None

A voice vote was taken, and the motion passed 9-0.



**Motion:** A motion was made by Councilor Fitzgibbons to take agenda item G: License Transactions out of order. The motion was seconded by Councilor Losche.

A voice vote was taken, and the motion passed 9-0.

#### **LICENSE TRANSACTIONS (*Taken Out of Order*)**

- Petition P-2018-017 – Granting of a One-Day Alcohol & One Day Entertainment Permit – Black Hat Brew Works – South Shore Brewfest 3

**Motion:** A motion to approve was made by Councilor Gallagher. The motion was seconded by Councilor Losche.

**Discussion:** The petitioner came forward and thanked everyone for their support.

A voice vote was taken, and the motion passed 9-0.

#### **HEARINGS**

- **7:40 p.m.:** License Revocation Hearing: Skips Liquors  
President Haley read pertinent section of MGL.  
President Haley read pertinent parts of the notification letter.  
President Haley opened the hearing at 7:41 p.m.  
President Haley invited the Licensee to come forward.  
Mr. Patel came forward and provided an update since the last meeting, stating they have made three attempts and described the outcomes. Mr. Patel stated the Building Inspector has made them change many things, but the final inspection is at 10:00 a.m. tomorrow. Every time we schedule an inspection there is something else.  
President Haley invited questions from the Council:
  - Councilor Fitzgibbons asked several pointed questions about the timeline for completion outlined by Mr. Patel at the last meeting and progress actually made. Mr. Fitzgibbons asked if Mr. Patel had an attorney with him. Mr. Patel confirmed he did not and that was by choice. Mr. Patel explained in detail the progress made to date and issues needing correcting after inspections. He asserted he did not lie at the last meeting.
  - Councilor Wood asked the Town Manager if the building process is as Mr. Patel describes? Mr. Dutton responded; the Building Department has been more than accommodating. Any changes required were by code, not at the whim of Inspector.
  - Councilor Sousa asked why there wasn't just one list of corrections by the Building Inspector.
  - President Haley stated; while this is the first he's hearing there has been any back and forth, He's been in close contact with the Town Manager and the reports have all been consistent with what he reported.
  - Councilor Wood walked through the timeline again. He pointed out the contractor came in (at the last meeting) and said only touch up paint needed to be done. It's been five weeks and the building is still not ready. The Council has given Mr. Patel three opportunities this year and he is still not open. Mr. Wood's opinion is to revoke the license and Mr. Patel can appeal to the ABCC. Mr. Wood feels very misled.
  - Councilor Colombotos asked Mr. Dutton if the Building Inspector overlooked things or are the new requirements the result of new items? Mr. Dutton responded; this is the first I've heard of it; the Building Department has bent over backwards to help. Councilor Colombotos stated we shouldn't be casting aspersions on the Inspectional Services department if we don't know.
  - Councilor Fitzgibbons asked another series of questions of Mr. Patel relative to who is responsible to see the work is done? Mr. Patel confirmed it was his responsibility to see the work is done according to the approved plan, however, Mr. Solari requested they add another rail. Councilor Fitzgibbons then asked Mr. Patel for information on the timeline of completion for the building according to the plans submitted two years ago. Mr. Patel explained the history to his recollection noting he had his first inspection probably two weeks ago. Mr. Fitzgibbons asked how many times has the Building Inspector has been in to ask you to change something? Mr. Patel responded; the first time was in January to install sprinkler system, which took four and



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a half months to install. Councilor Fitzgibbons asked Mr. Patel if he was saying he feels the Building Inspector is asking you to go above code? Mr. Patel responded that was not what he is saying, it was something he hadn't planned on.

- Councilor Haley asked Mr. Patel when inspector told you had to add the sprinkler to the structure, what was the reasoning? Mr. Patel responded he told me; without that it won't pass, and we won't get occupancy permit.
- Councilor Wood asked Mr. Patel what the original plans called for in the space above store. Mr. Patel responded; it was residential. Mr. Wood recalls it was supposed to be office space. Mr. Wood asked if the building included the ramp in January when it was complete. Mr. Patel responded "no". Mr. Wood pointed out the building wasn't complete then – it wasn't just the sprinkler. Mr. Wood asked if the Building Inspector say it needs to be changed in August? Mr. Patel responded yes; and he changed it, but then he (the Building Inspector) said we need to do something additional.
- Councilor Losche asked Mr. Dutton if there is a timeline from the inspectors? Mr. Dutton responded he does not have one here tonight.
- Councilor Gallagher sees lots of work has been done, though Mr. Patel thought they'd be open back in August. Mr. Patel reiterated; Mr. Solari will be out tomorrow at 10:00 a.m. Mr. Patel feels they have addressed every single thing, though he does feel like they are being scrutinized. He has set up deliveries with vendors but have had to reschedule twice. Councilor Gallagher asked if Mr. Patel thinks everything has been done? Mr. Patel responded; "yes". Mr. Patel stated everything is running and within two days of being issued a certificate of occupancy, the building will be filled.
- Councilor Haley stated his opinion that what Mr. Patel said here tonight holds no weight. He doesn't have any faith in Mr. Patel as business man. Mr. Patel responded; he opened his first store in 2000 and his second business in 2011 with no violations. He has paid out of pocket \$1.2MM on this project. All his savings is in the building.
- Mr. Patel explained the process he has been through with the town stating that previously he had to submit four sets of plans as the previous Building Inspector lost them. Mr. Patel did not know the exact dates as it happened perhaps 2 ½ years ago. Councilor Sousa confirmed Mr. Patel is explaining he had to submit the exact same plans four times – not four different sets of plans. Mr. Patel then explained the process of going to the ZBA for approval for mixed use. Then submitted to the Building Department, who lost the plans.
- President Haley expressed his disappointment that the Licensee had not been more communicative; pointing out, previously the Council asked you to advise if you weren't going to make your deadline and when the deadline passed; the Council heard nothing from you. Mr. Haley concluded; if you're at great monetary risk, I would have thought you would have communicated.

President Haley asked for closing statements from the Licensee:

Mr. Patel stated he has put so much time, money and effort into this project. If I wanted to hold on to something it wouldn't have been a license. Every step of the way was a challenge. He has brought this building to code and has inspection tomorrow at 10:00. Mr. Patel hopes the council does the right thing.

**Motion:** A motion was made by Councilor Fitzgibbons to close the hearing. The motion was seconded by Councilor Colombotos.

**Discussion:** None

A voice vote was taken, and the motion to close the hearing passed 9-0.

The hearing was closed at: 8:22 p.m.



**Motion:** A motion was made by Councilor Fitzgibbons to find a violation has occurred. The motion was seconded by Councilor Wood.

**Discussion:** Councilor Fitzgibbons pointed out; it's clear in the Town Manager's letter sent which cited an ABCC decision. The operation has been ceased for years and the licensee has been silent for years. Councilor Wood stated the business has been idle for five years, outlining the timeline. Councilor Gallagher expressed his opinion that there may have been a time to revoke the license, but we didn't. He does not want to see the license revoked and is unsure a violation has occurred.

**Motion:** A motion was made by Councilor Fitzgibbons to reconsider closing the hearing. The motion was seconded by Councilor Colombotos.

**Discussion:** Councilor Fitzgibbons explained; if we don't take action tonight, he wants to leave the hearing open. Councilor Colombotos agreed noting his opinion that two weeks is the drop-dead date. Discussion followed as Councilors expressed opinions on continuing the hearing and their frustration and disappointment with the licensee to date. Councilor Losche expressed her strong opinion that action should be taken tonight. At Councilor Colombotos' request, Mr. Dutton confirmed there were no other available package store licenses. Attorney Rawlins outlined the options available to the Council for a violation and advised; in this instance would advise revoke/cancel. Councilor Wood outlined his expectations as: at the conclusion of the inspection he expects an email from the Town Manager saying inspection passed and if not, he wants to know exactly why. Mr. Wood's decision in two weeks is predicated on what happens tomorrow. Councilor Fitzgibbons pointed out a motion to reconsider needs 2/3 vote. A voice vote was taken, and the motion passed 8-1 (Councilor Losche in the dissent).

Councilor Fitzgibbons withdrew his motion to close the hearing. Councilor Colombotos withdrew his second.

**Motion:** A motion was made by Councilor Fitzgibbons to continue the hearing to the next regular meeting at 7:40 p.m. The motion was seconded by Councilor Wood.

**Discussion:** Councilor Wood asked if the applicant needs to go before planning board again. Mr. Fitzgibbons pointed out that would be determined at the inspection tomorrow.

A voice vote was taken, and the motion passed 8-1 (Councilor Losche in the dissent).

#### **PRESENTATIONS - None**

#### **TOWN MANAGER'S REPORT**

Mr. Dutton reported on information about various activities happening around town and highlighted meetings and events. Items of note included: there will be a future request for appropriation of funds for traffic engineer to develop alternate safety traffic patterns. The Fire Department received almost \$140,000 in Assistance through a Fire Fighters Grant. The Bridge Street Project is underway and should take two - three weeks. Mr. Dutton then recapped the communication around the issue at the Carver's Pond Treatment Plant; stating regarding the notification, there are very strict protocols and a very dedicated staff. Mr. Dutton went back and reviewed the DEP Regulations to ensure we did things right and found we did do everything right. The good news is there were no bacteria hits. The Mitchell School Building Committee met last night. The committee has eliminated several alternate sites; which is a requirement. A brief update was given on volunteers and committee openings. Finally, Mr. Dutton advised; he and Mrs. Williams will be away at the ICMA conference on 9/25. Mr. Dutton will have Departments come to Town Council meeting that evening and he will schedule a presentation on Sewer/Water Upgrade

#### **Councilor Questions:**

- At Councilor Wood's request, Mr. Dutton explained the reason for the Bridge Street work, which was related to drainage installed years ago. Mr. Wood asked if it's possible the contractor did the work incorrectly and maybe there could be some reimbursement there? Mr. Dutton responded he continues to look at that but is not sure.
- At Councilor George's request, Mr. Dutton expanded on the water treatment issue and notification protocol; stating, there are 3 tiers depending on severity of issue. In this case; the licensee reports to the DEP. DEP reviews



test results and says they will tell us what to do and what tier it is. Mr. Dutton has seen instances where Towns notice the public before being told to do so (with all good intention) and be fined by DEP. The issue has nothing to do with how we did the DEP notifications and interacted with our staff. Issue is that as soon as we had an equipment breakdown, Mr. Dutton should have known. Councilor George pointed out there was a failure of communication to your office that could have been detrimental to the public and he takes issue with the fact that he heard from someone else that an announcement had been placed on the website.

- Councilor Gallagher asked about progress with brush being cleared on sidewalks in certain area of town. Mr. Dutton stated he will look into it. He further confirmed the Town is not using its' resources to mow over at the McElwain.
- Councilor Fitzgibbons strongly suggested having the building department head at the next meeting.
- Councilor Colombotos asked about internal striping of parking lots on Summer Street to Walgreens. Mr. Dutton advised he had placed a call to them. They acknowledged it was something they need to do. Mr. Dutton will work with the Community & Economic Development Director on that.

#### DISCUSSIONS

- November 13, 2018: Next Meeting of the General Public – Invite Senator Pacheco and State Representative D'Emilia for public Q&A  
Councilor George explained he'd like to invite Senator Pacheco and Representative D'Emilia at the meeting of November 13<sup>th</sup> for a Q&A with the public. Would also invite department heads to attend. Councilor's Gallagher and Fitzgibbons like the idea.  
**Motion:** A motion was made by Councilor Fitzgibbons to have President Haley draft a letter to the Senator and State Representative for 11/13/18 (or a date that's convenient for them) outlining the general concept. The motion was seconded by Councilor Gallagher.  
**Discussion:** None  
A voice vote was taken, and the motion passed 9-0.

#### SUBCOMMITTEE REPORTS:

- Budget & Finance: Councilor Wood advised the Finance Department attended Budget & Finance committee meeting and presented some preliminary Fee Cash numbers.
- Rules & Procedures: Councilor Losche advised the committee met a few weeks ago. Mrs. Losche would like to hold off on agenda item L: (d). Mrs. Losche gave a brief update on the Marijuana General Ordinance sponsored by Councilor Gallagher, which is being reviewed by the Town Attorney and should be ready by the beginning of October.
- Strategic Planning: Committee Chair Losche stated the committee met within the past month and are getting some additional information on what's happening with the consultant.
- Public Safety: Councilor Fitzgibbons provided a brief update stating the committee's goal is to come up with document to share with Council and Public about what's needed in Public Safety (Police/Fire/Highway) it may not necessarily be what we can afford.

#### LEGISLATION FOR ACTION

- Ordinance D-FY19-001: Zoning Ordinance – Amend Section 19, Mixed Uses – CBD of Zoning Bylaws  
**Motion:** A motion to approve was made by Councilor Fitzgibbons. The motion was seconded by Councilor Wood.  
**Discussion:** Councilor Wood explained; the measure has been vetted through Planning Board and Community & Economic Development committee and is in its final form. He summarized; the developer will have incentives to do additional things to be able to increase density. Discussion followed briefly as Councilor Sousa raised concerns around the setback, parking and establishing a SPGA instead of stating clearly in the Ordinance what's allowable. Councilors Wood, Colombotos and Losche offered information to address Councilor Sousa's concerns.  
A roll call vote was taken with results recorded as follows:  
Sousa – NAY; Colombotos – YEA; Wood – YEA; Gallagher – YEA; Haley – YEA; Chase – YEA; George - YEA; Losche – YEA; Fitzgibbons - YEA. The motion passed 8-1.
- Order O-FY19-016: Transfer Order – Sewer & Water Reserve Special Purpose for Loan Paydown



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*Postponed to next meeting pending disposition from Finance Committee.*

- Order O-FY19-017: Transfer Order – Town Manager Special Account to Capital Funds  
*Postponed to next meeting pending disposition from Finance Committee.*
- Resolution R-FY18-004: Performance Appraisal – Town Council Clerk  
*Postponed to next meeting.*

**OLD BUSINESS**

- Ordinance D-FY18-008: Zoning Ordinance – Elm Street Retail Overlay  
Mr. Dutton explained the amendments as proposed by the Planning Board and Community & Economic Development and the additional proposed amendments by the Community & Economic Development Director based on councilor comments.  
**Motion:** A motion was made by Councilor Fitzgibbons to approve for advertising. The motion was seconded by Councilor George.  
**Motion:** A motion was made by Councilor Fitzgibbons to amend as presented. The motion was seconded by Councilor George.  
**Discussion:** Discussion followed as councilors asked questions and expressed opinions on the additional amendments relative to testing facilities. Councilor Fitzgibbons pointed out that if it goes to advertising as amended, we wouldn't want to make more amendments after that. Discussion resumed on testing facilities and the determination to limit to two. At Councilor Fitzgibbons request, Attorney Rawlins confirmed the proposed general ordinance (coming out of Rules & Procedures) would ban retail sales entirely, so it wouldn't matter about the number.  
**Motion:** A motion was made by Councilor Gallagher to amend by striking "marijuana product manufacturing" from line 2. The motion was seconded by Councilor Sousa.  
**Discussion:** Attorney Rawlins advised; this amendment is in direct contradiction to the zoning ordinance voted in December.  
**Motion:** A motion was made by Councilor Fitzgibbons to move the question. The motion was seconded by Councilor George.  
A voice vote was taken, and the motion to move the question failed 4-5 (Councilors Fitzgibbons, Losche, George and Chase in the dissent)  
**Discussion (cont'd on amendment):** Councilor Wood stated he is voting against Councilor Gallagher's amendment explained his reasoning.  
A voice vote was taken, and the motion to amend (the original amendment) failed 2-7 (Councilors Gallagher and Sousa in the dissent).  
**Motion:** A motion was made by Councilor Gallagher to amend by reducing the number allowed in line three from 2 to 1. The motion was seconded by Councilor Losche for discussion.  
**Discussion:** Discussion followed briefly among Councilors on the proposed amendment and facilities.  
**Motion:** A motion was made by Councilor George to move the question. The motion was seconded by Councilor Colombotos.  
A voice vote was taken, and the motion to move the question passed 9-0.  
A voice vote was taken, and the motion to amend (the original amendment) failed 1-8 (Councilor Gallagher in the dissent).  
A voice vote was taken, and the motion to amend passed 8-1 (Councilor Gallagher in the dissent)  
**Discussion cont'd on main motion):** Councilor Wood will be voting against advertising. The reason we needed this is because the Town Council did not address limiting the zoning. Mr. Wood likes the original zoning.  
A voice vote was taken, and the motion to send to advertising passed 8-1 (Councilor Wood in the dissent).
- Ordinance D-FY18-015: Zoning Ordinance – Zoning Map Amendment – South Business District – Lyman Place Area  
Councilor Losche explained the Planning Board and Community & Economic Development Committee agree; considering this measure at this time makes no sense. It should be included in the full zoning review. This measure was withdrawn by the sponsor (Councilor Losche).



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- Ordinance D-FY18-016: General Ordinance – Amend Administrative Code – Zoning Board of Appeals Membership  
**Motion:** A motion to table was made by Councilor Losche. The motion was seconded by Councilor George.  
**Discussion:** None  
A voice vote was taken, and the motion passed 9-0.

**NEW BUSINESS**

- Ordinance D-FY19-002: General Ordinance – Amend Administrative Code – Temporary Repairs on Private Ways  
Mr. Dutton explained we need a proper mechanism to work on private ways (water and sewer). This ordinance achieves that.  
**Motion:** A motion was made by Councilor Fitzgibbons to refer to the Rules & Procedures Committee. The motion was seconded by Councilor Losche.  
**Discussion:** None  
A voice vote was taken, and the motion passed 9-0.
- Order O-FY19-019: Rescind and Revote Order O-FY18-046: Ratification of American Tower Lease Agreement  
**Motion:** A motion was made by Councilor Fitzgibbons to take as first reading. The motion was seconded by Councilor Gallagher.  
**Discussion:** Mr. Dutton explained; the number of years on the lease was incorrect on the original order.  
A voice vote was taken, and the motion passed 9-0.
- Order O-FY19-020: Prohibiting Retail Marijuana Tax Proceeds  
**Motion:** A motion was made by Councilor Fitzgibbons to refer to the Budget & Finance and Finance Committees. The motion was seconded by Councilor Wood.  
**Discussion:** Councilor Wood explained his rationale for the order stating; there was talk at state house of only distributing funds to towns who accepted retail marijuana, however, the funds may go into the general fund through state aide. He has had people say it's unfair for Bridgewater to accept proceeds if sales are prohibited. Councilor Gallagher stated his opinion that to send this anywhere is totally inappropriate. These are all hypothetical numbers. A better policy would have been to take the funds and set them aside for public safety officer. Councilors George and Fitzgibbons agreed with Mr. Gallagher. Mr. Fitzgibbons noted the charter requires anything financial needs to go to finance committee.  
**Motion:** A motion to table was made by Councilor George. The motion was seconded by Councilor Gallagher.  
**Point of Order:** Councilor Colombotos asked if it's required to send it to Finance Committee. Attorney Rawlins responded; not if the measure is tabled.  
**Discussion:** Discussion continued briefly as Councilors offered opinions on the motivation and necessity for this measure.  
A voice vote was taken, and the motion passed 8-2 (Councilors Wood and Colombotos in the dissent).
- Order O-FY19-021: Establish Town Manager Goals  
**Motion:** A motion was made by Councilor Wood to refer to Strategic Planning. The motion was seconded by Councilor Fitzgibbons.  
**Discussion:** Councilor Wood explained he cannot recall the last time we did goals for the Town Manager and return them for our consideration. At Councilor Colombotos' request, Mr. Dutton confirmed his contract is up in December. A brief discussion followed regarding the timing of conducting a Town Manager Performance Appraisal.  
A voice vote was taken, and the motion passed 9-0.
- Order O-FY19-022: Transfer Order – Bridgewater Police Association Contract Settlement Funding  
**Motion:** A motion was made by Councilor Fitzgibbons to refer to the Budget & Finance and Finance Committees. The motion was seconded by Councilor Losche.  
**Discussion:** None  
A voice vote was taken, and the motion passed 9-0.  
**Motion:** A motion was made by Councilor Fitzgibbons to take up agenda item O: Citizens Comments after 10:30 p.m. The motion was seconded by Councilor George.  
A voice vote was taken, and the motion passed 9-0.



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**CITIZEN COMMENTS (*Taken Out of Order*)** – *No citizens came forward.*

**COUNCIL COMMENTS** – *Not taken up after 10:30 p.m.*

**EXECUTIVE SESSION** – *No Executive Session was held.*

**ADJOURNMENT**

**Motion:** A motion to adjourn was made by Councilor Fitzgibbons. The motion was seconded by Councilor Losche. A voice vote was taken, and the motion passed 7-0 (Councilors Colombotos and Sousa in the dissent).

The meeting adjourned at 10:36 p.m.

Minutes submitted by: Ann Holmberg

**In accordance with the applicable provisions of the Town of Bridgewater Home Rule Charter and Town Council Rules and Procedures, the Town Council assembled voted, at their meeting on Tuesday, September 25, 2018, to approve the aforementioned minutes, as submitted by a voice vote (7-0) (Councilor Chase absent, Councilor George not present).**

**A TRUE COPY ATTEST:**

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Ann M. Holmberg  
Town Council Clerk