

TOWN OF STERLING  
BOARD OF SELECTMEN  
February 27, 2013

MEETING:

Selectman Sushchuk called the meeting to order at 6:39pm. Roll call established that Paul Sushchuk and Ron Furmaniuk and Brain Patacchiola were present. **Vote:** Selectman Sushchuk made the motion to approve the agenda. Selectman Furmaniuk 2<sup>nd</sup>. All in favor.

**VOTE:** Selectman Furmaniuk made a motion enter Executive Session regarding Contract Negotiations. Selectman Patacchiola 2<sup>nd</sup>. **Roll Call Vote.** Chairman Sushchuk – Aye. Selectman Furmaniuk – Aye. Selectman Patacchiola – Aye. The public was asked to leave the room.

The public meeting resumed at 7:05.

**VOTE:** Selectman Patacchiola made the motion to approve the minutes of February 13, 2013. 2<sup>nd</sup> by Selectman Furmaniuk. All in favor.

Appletown Market

Christopher and Sunny Patel, the owners of Appletown Market were represented by their attorney, Daniel Terpollari. He reported that they had met with the representatives from the First Church, in regard to the church's concerns about Appletown's request for more floor space, to be dedicated to alcohol sales. The Church is concerned that over time the Market will become a liquor store.

The church presented Appletown Market and the Board of Selectmen with a letter containing suggested restrictions for the Market. (see attached letter)

After discussion, an agreement was struck. **VOTE:** Selectman Furmaniuk made a motion to add restrictions requested by the church, to the existing license. Appletown Market will not make alterations to their existing floor plan. Instead they will use the existing wine room to house distilled spirits. (See exhibit A at end of minutes). Chairman Sushchuk 2<sup>nd</sup>. Selectman Patacchiola – Nay, as he does not agree with placing these restrictions upon Appletown Market.

The following restrictions will be placed upon the alcohol license for Appletown Market and a copy of the license will be given to the First Church, for their records.

LOCAL RESTRICTIONS

1. The street side windows of Appletown Market will not display alcoholic signs, with the exception of the custom apple neon Budweiser sign and the historic Sterling photographic posters that are in the windows presently and are sponsored tastefully by a beer company.
2. The 4 foot shelf of hard alcohol, that is in the front window and on display behind the street side counter shall be hidden from view from the street by either covering this with the historic Sterling poster or by some other means. This shelf of alcohol and its window blocking poster should be positioned so as not to impair the cashier's ability to see and be seen from the street for safety

and security reasons.

3. The total percentage of shelf space devoted to alcoholic sales will be no greater than 40%.
4. All distilled alcohol will be contained within the 9 x 11 room, which is positioned in front of the kitchen wall, on the left hand, back corner of the Market. Small bottles of distilled alcohol will be stored upon the 4 foot shelving unit behind the counter, at the front of the store.
5. No nips will be sold.

Meal Site  
Coordinator for the  
Senior Center

Present to discuss this issue were Karen Phillips, Council on Aging Director and Barbara Foster, Chair of the Council on Aging Committee. They reported to the Board that, in December, the COA van driver retired and Pam Dell, the meal site coordinator took over the driver's position. Pam gave her resignation to Montachusett Opportunity Council and the COA assumed that the position would continue to be funded through MOC. However, the COA was informed that due to cut backs, funding for vacated positions, such as Meal Site Coordinators, would be eliminated. After Ms Foster addressed this issue with MOC, the MOC Director amended this decision. MOC has promised to fund the position until June 30<sup>th</sup>, thereby giving the Town the opportunity to authorize funding for this position. However, the Senior Center has, as of yet, not received this promise, in writing.

The Sterling Senior Center serves meals 5 days per week and the meal site coordinator must be Servsafe Certified. There is a sizable amount of paperwork involved in keeping the books for the meal site program and the meal site coordinator is responsible for ordering, serving and keeping track of patron's food requirements, as well as allergies. The COA has been actively seeking volunteers for the position but no one has signed up, on a permanent basis. Currently, Mary Higgins has been assisting in getting the meals out. The Board is most appreciative of her efforts. However, this is a short term arrangement and the Senior Center needs someone who can take over the position permanently and shoulder all of the requirements and inherent responsibilities.

The Personnel Board has met and made their recommendations to classify the Meals site coordinator position. The consensus of the Select Board is that meals are of paramount importance for the Seniors. Since funding for this position must be approved at Town Meeting, they suggested that interim volunteers may also be found by contacting local area schools.

Black Sheep  
Tavern water  
discharge

Present to represent the interests of The Black Sheep Tavern were Attorney Dombrowski, Koks Zahariadis and Tony Zahariadis. The DPW has alerted the Select Board that the water is continuously pumped from the Blacksheep Tavern property. The water is pumped from the building and is discharged outside of the building where it travels the path of least resistance and ends up in the Road, where it freezes in the cold months, posing a risk to motorists. The DPW issued a Cease and Desist order on November 22, 2011. However, the problem has not been resolved and the icing of Pratts Junction road continues to be a big concern for the Town.

Attorney Dombrowski reported that since the Cease and Desist Order, the

Position on Town  
Meeting Articles

owners of the Blacksheep Tavern have taken measures to alleviate the problem. They excavated a portion of the driveway and inserted drainage pipes. However, the volume of water is often staggering and the drains proved incapable of completely addressing the water issue. Therefore, the owners say that while they have made a "good faith" effort, they are aware that more needs to be done and they will continue to search for answers to the problem.

However, the owners stated that the volume of water is increased due to a problem with a collapsed, Town owned, drainage pipe. They would like the Town to intervene and to repair the pipe to keep water, originating from "off property", from exacerbating their drainage problem.

The Board asked that the Blacksheep owners meet with Bill Tuttle, to discuss options to alleviate the problem and to have a report sent to the Town Administrator by next week.

*Article 4 – Create a new position of Town Planner*

The personnel board has voted upon their recommended classification, Grade 8, for this position. The minimum salary would be \$54,000.00 for a full time Town Planner. Selectman Patacchiola that he believed it to be in the best interest of the Town to hire a full time Town Planner as opposed to a part time planner because a full time planner would be an autonomous resource.

**VOTE:** Selectman Furmaniuk made a motion to support this article, pending approval of the job description. 2nd Selectman Patacchiola. All in favor.

*Article 5 – create New Position of Meal Site Coordinator*

The consensus of the Board is that the Meal Site Coordinator provides a vital service to the Seniors of Sterling and that it is important to staff the position.

**VOTE:** Selectman Furmaniuk made a motion to support this article. 2nd Selectman Patacchiola. All in favor.

*Article 27 – Maintenance funds for the 1835 Town Hall*

To see is the Town will vote to raise and appropriate or Transfer from the Stabilization fund, the sum of \$5000.00 to fund the annual maintenance of the 1835 Town Hall, or take any action in relation thereto. Said sum to be expended by the 1835 committee.

The consensus of the Board is that this routine expenditure has worked well in the past. They commended the 1835 Committee for spending their money in a conservative and creative manner.

**VOTE:** Selectman Furmaniuk made a motion to support this article. 2nd Selectman Patacchiola. All in favor.

*Article 37- Define all Boards and Committees*

This article is the result of a Government Study recommendation. This article establishes the written documentation for permanent Boards and Committees,

which have not already been defined within the Town Bylaws, including appointing authority, its duties/responsibilities as well as terms of its members. The following may be considered for inclusion within this article:

- ADA Review Committee
- Cable TV advisory Board
- Cultural Council
- Fair Committee
- Historical Commission
- Industrial Development Committee
- Industrial Development Financing Committee
- Open Space Committee
- Recreation Committee
- Recycling Committee

The Town Administrator has contacted these Boards with the request for the required information. After discussion, the Board decided that those committees that reply, prior to the deadline, will be included.

**VOTE:** Selectman Furmaniuk made a motion to support this article. 2nd Selectman Patacchiola. All in favor

*Article 38 – Special Legislation - Form of Government establishment*

This article is the result of a Government Study recommendation. It would establish a Board of Selectmen-Town Administrator form of government within the Town of Sterling.

**VOTE:** Selectman Furmaniuk made a motion to support this article. 2nd Selectman Patacchiola. All in favor

*Article 39 - Special Legislation – DPW*

This article is the result of a Government Study recommendation. It would re-organize the Department of Public Works.

**VOTE:** Selectman Furmaniuk made a motion to support this article. 2nd Selectman Patacchiola. All in favor

*Article 40 – Special Legislation – Earth Removal/Planning*

This article is the result of a Government Study recommendation. It would authorize the Town to have the Planning Board become the Earth Removal Board in addition to its other statutory duties.

Town Council, Stan Weinberg suggests that this goal be achieved by way of two separate articles.

Article :To see if the Town will authorize and direct the Board of Selectmen to file with the Massachusetts Legislature a petition for special legislation providing that the planning board shall, if and when authorized by town meeting vote amending its earth removal bylaw, also serve as and perform the duties and responsibilities of the town's earth removal board, or take any

action relative thereto.

Article : To see if the Town will vote to amend its earth removal bylaw by striking Section 63-14 and inserting in its place the following: "§ 63-14. The Planning Board shall be the Earth Removal Board." Provided, however, that this amendment is contingent on the enactment of special legislation by the Massachusetts Legislature authorizing the Planning Board to serve as and perform the duties and responsibilities of the Town's Earth Removal Board, or take any action relative thereto.

**VOTE:** Selectman Furmaniuk made a motion to support these articles. 2nd Selectman Patacchiola. Chairman Sushchyk nay.

Barbara Roberti of the Earth Removal Board stood to report that the Earth Removal Board was in favor of this change. Scott Michlak of the Earth Removal Board reported that the only members, of the Earth Removal Board, who opposed the change were the Planning Board members of the Earth Removal Board.

*Article – 41 Surplus Property*

This article will assure that the Town complies with 30B of the MGLs. There has been a substantial revision to the procurement procedure for surplus property disposal and auctions.

**VOTE:** Selectman Furmaniuk made a motion to support this article. 2nd Selectman Patacchiola. All in Favor.

Discuss Article  
Support Initiative

With many of the Town Meeting Articles being sponsored by the Select Board, it was decided that a Public Relations campaign would help explain these initiatives to the voters, prior to Town Meeting. It was decided that Selectman Patacchiola will take the lead, to include writing an article for the Sterling Newspaper to explain their reasoning.

Town  
Administrator  
Updates/old  
business

The property on Hardscrabble Road will soon go to closing. It is anticipated to happen by the end of March.

The Finance Committee budget meetings will take place on Saturday, March 2 from 9 – 4:00 in the Butterick Building

March 18<sup>th</sup> is the deadline for warrant articles.

To make reservations to use the commuter van, residents should call 978 422 8111 ext 2320. Lucinda will be available to take your requests Monday and Tuesday 9:00 – 4:00 and Wednesday from 3:00 – 5:00

The "How Do I?" handbook should be available on the Town's website, by the end of March.

Business and  
Correspondence:

Congressman McGovern has been asked to assist us in promoting an open discuss between Sterling and Clinton, regarding the Wekepeke.

	<p>The Board will attend the Sterling Municipal Light Department meeting on March 25<sup>th</sup> at 6:00</p>
Scholarship Funds	<p>The treasurer reported that the J. Conant fund has a negative balance due to clerical error. She suggested that the \$1,168.16 be transferred from the Maria Houghton Fund into the J. Conant fund to restore the unexpendable balance. Since both of these funds have similar requirements of the applicants, either could have been used to fund last year's scholarships. With the Selectmen's approval, a journal entry can be made to adjust the two funds.</p> <p><b>VOTE:</b> Chairman Sushchyk made a motion to support the above stated course of action. 2nd Selectman Patacchiola. Motion passed. Selectman Furmaniuk stated that he has a child who may wish to apply for a scholarship this year, so he abstained.</p> <p>The unexpendable balance that remains in the J. Houghton Fund is \$3,056.59. After discussion, <b>VOTE:</b> Chairman Sushchyk made a motion to fund \$2,500 in scholarships from the J. Houghton Fund. 2nd Selectman Patacchiola. Motion passed. Selectman Furmaniuk stated that he has a child who may wish to apply for a scholarship this year, so he abstained.</p> <p>Chairman Sushchyk made the motion to appoint Selectman Furmaniuk to the Economic Development Committee. Selectman Patacchiola 2<sup>nd</sup>. Motion passed.</p>
Resignation	<p><b>VOTE:</b> Selectman Patacchiola made a motion to accept the resignation of Lisa Call from the Finance Committee with regrets and to announce the vacancy that will become available on March 31, 2013. 2nd Selectman Furmaniuk. All in Favor.</p> <p>Consensus of the Board was to fill the vacancy at the end of May, giving people more time to apply for the opening.</p>
Public Session	<p>Maureen Cranson, Co-chair of the Senior Center Building Committee addressed the Board with a rebuttal to Claire Stitsen's concern over money spent on an OPM for the initial stages of the Senior Center project. Town Council was contacted. Attorney Weinberg confirmed that the money used for this purpose was approved at the Town Meeting, in May 2009. (see attached letter)</p>
ANNOUNCEMENT	<p>Chairman Paul Sushchyk made the announcement that, after twelve years of service to the Town, he will not be running for re-election.</p>
Adjourn:	<p>Chairman Sushchyk made the motion to adjourn at 9:03. Selectman Furmaniuk 2<sup>nd</sup>. All in Favor.</p>
	<p>Attachments: Letter from First Church regarding Appletown Market:</p>

Board of Selectmen  
Town of Sterling  
1 Park St  
Sterling, MA 01564

2/22/13

Dear Sirs:

Members of the First Church in Sterling Diaconate and Operations met with the owners and representative of Apple Town Market at the First Church in Sterling on Feb 21<sup>st</sup>. The owners presented their plans for expansion of a room in the back of the store that would increase in size from a 9 X 11 room to an 11 X 22 room with increased surveillance for the purpose of selling large bottles of hard alcohol.

After the presentation, the Church members remained to discuss the Church's position on this liquor expansion. The main concerns of the Church are not with the new owners and there is a genuine support of the success of Apple Town Market as a business. However, the history and changes to the Main St. market cannot be overlooked. The original position of the Church when the original license was granted was that Apple Town Market should never become a package store. It is now clearly a package store and the new concern is that it is slowly becoming a liquor store. The church members discussed their legal alternatives and how to prevent this incremental movement towards becoming a downtown liquor store. We were disappointed that the owners did not have a set plan for how much sales space was going to be devoted to alcoholic sales as opposed to convenience store sales.

The Church does not wish to impair the owner's ability to succeed and to have a profitable market in the center of Sterling. We do feel that the present direction of the market towards becoming a liquor store is not in the best interest of the Church or of the Town of Sterling.

The following suggestions and compromises are proposed by the Church. If these restrictions are acceptable to the Board of Selectmen and the owners of Appletown Market, we would like to receive a written copy of the restrictions for our records and would like to receive a copy of the liquor license with these same restrictions written on the license itself. This would eliminate confusion if the license is to ever change hands again.

1. The street side windows of Appletown Market will not display alcoholic signs with the exception of the custom apple neon Budweiser sign and the historic Sterling photographic posters that are in the windows presently and are sponsored tastefully by a beer company.
2. The 4 foot shelf of hard alcohol that is in the front window and on display behind the street side counter shall be hidden from view from the street by either covering this with the historic Sterling poster or by some other means. This shelf of alcohol and its window blocking poster should be positioned so as not to impair the cashier's ability to see and be seen from the street for safety and security reasons.
3. The expansion of the wine room into a large bottle liquor room would not be contested by the First Church, however, the total percentage of shelf space

devoted to alcoholic sales must remain the same as prior to the expansion. The Church recommends measuring the present amount of shelf footage devoted to alcohol and the present shelf footage of non alcoholic sales and calculating and recording that as the greatest percentage of the store shelving allowed to display and sell alcoholic beverages. This percentage should be written on the liquor license itself.

These definitive restrictions will eliminate confusion for all parties and provide clear enforceable guidelines for the enforcement of the liquor license. This solution is a compromise from the Diaconate taking into account the members that feel that there should be no hard alcohol sales within 500 feet of the Church and the Church's willingness to support local businesses and be a good neighbor, as well as the religious conscience of the Town of Sterling.

We thank you for your attention to this matter.

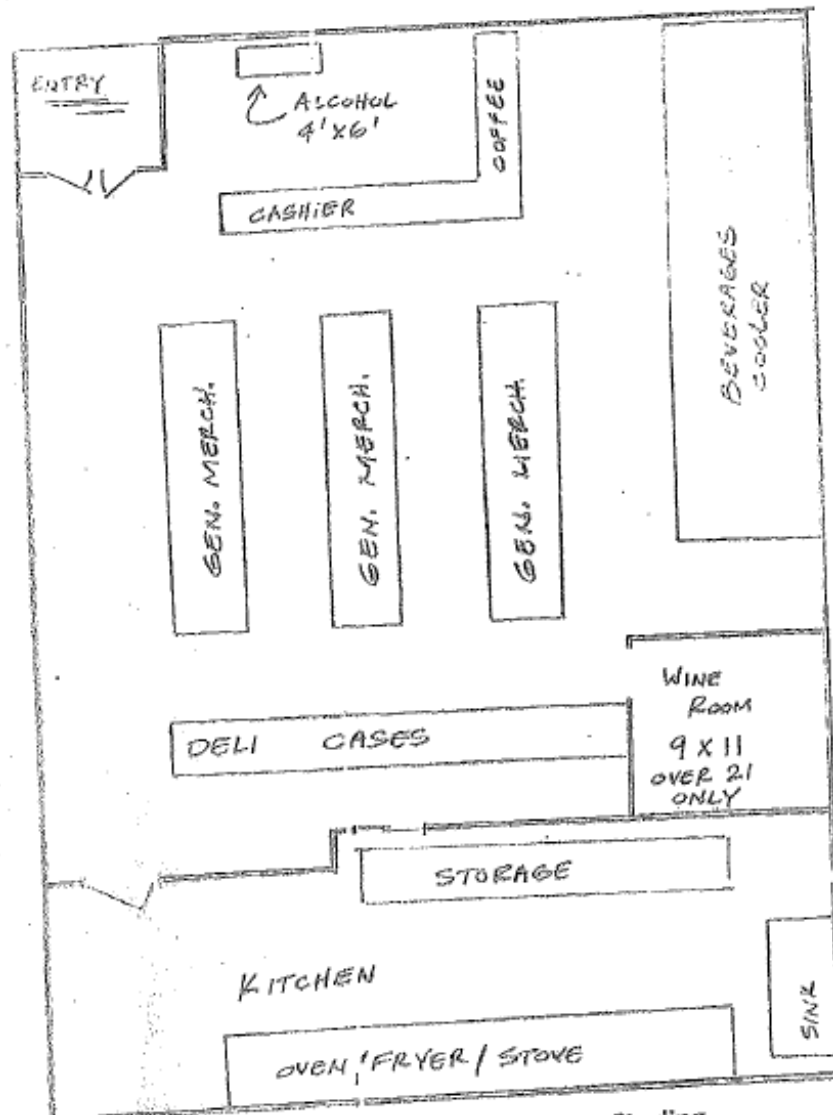
Respectfully submitted,  
Doug Davis, Diaconate representative of the First Church in Sterling

Exhibit A – Appletown Market – follows:



# Exhibit A

MAIN ST. →



Appletown Market, 9 Main Street Sterling  
Existing Layout

Law Offices  
**COLLINS & WEINBERG**

(An Association of Attorneys)  
47 Memorial Drive  
Shrewsbury, Massachusetts 01545-4028  
Telephone: (508) 842-1556  
Facsimile: (508) 839-4873

JOHN M. COLLINS, P.C.  
STANLEY L. WEINBERG

MEMORANDUM

To: Terri Ackerman, Town Administrator  
From: Stan Weinberg  
Re: Senior Center OPM  
Date: February 26, 2013

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You may recall that when I was asked to review the draft OPM agreement last month, I expressed a concern that there would be no money to fund the agreement since the November 2012 town meeting rejected Article 2, which requested authorization to borrow almost \$400K to fund the architectural design and OPM for a proposed new senior center. (Although the article received a majority vote, it was declared defeated because a 2/3 vote is required for borrowing.) You informed me, however, that a prior town meeting vote appropriating money with respect to a new senior center still had money available and that the amount was sufficient to fund limited OPM services. That is part of the reason why I recommended that the scope of services in the draft agreement be limited to what could be paid for from available funds and that the Town have the right to terminate the agreement at its discretion.

Under Article 7 of the May 2009 special town meeting, the voters appropriated \$46,500 "for expenditures in connection with a potential new senior center." The wording of this vote is broad and without limitation, as long as the money is spent in connection with the potential new senior center. Payments for the limited OPM services currently being provided (e.g., developing conceptual designs, preparing costs, facts and figures, holding community meetings, preparing for town meeting, etc.) are, in my opinion, permissible expenditures in connection with the potential new senior center and are authorized by said Article 7 of the May 2009 special town meeting. The defeat of the borrowing request of Article 2 of the November 2012 special town meeting does not change this conclusion since the nature and scope of the articles are different, and there has been no specific or implicit repeal of the Article 7 of the May 2009 special town meeting vote.

Therefore, any contention that it is unlawful to move forward with limited OPM services for the new senior center and the presentation of more specific plans at a future town meeting is without merit.

Please let me know if you need any clarification or additional information regarding this matter.

Selectmen's Meeting Minutes  
February 27, 2013

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