

TOWN OF LAKEVILLE
Selectmen and Wage and Personnel Board, as applicable
Meeting Minutes
April 27 2016 – 6:30 PM

On April 27, 2016, the Board of Selectmen held a meeting at 6:30 PM at the Town Office Building in Lakeville. The meeting was called to order by Chairman Hollenbeck at 6:30 PM. Selectmen present were: Selectman Hollenbeck, Selectman Powderly and Selectman Burke. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. LakeCAM and Matthew Ferreira of the Middleboro Gazette were recording the meeting.

6:30 PM Meet with Barbara Vasseur to discuss Stockpile Permit – 1 Susan Lane

Barbara and Mark Vasseur were present for the discussion. Ms. Vasseur explained that her family is taking over the business due to her father's passing. The business stockpiles material to compost into loam and then is sold. Not being allowed to bring in materials means that the family will be out of business. Chairman Hollenbeck asked if Ms. Vasseur is running an active business out of a residential property. It was understood that the material that was on the property last year would be sold. Ms. Vasseur explained that the loam business pays the bills for the property and house. Chairman Hollenbeck stated this is a business being run out of a residential zoned property without a business permit. The stockpile permit was created to allow for the removal of material that was stockpiled on the property. In 1969, the first time Mr. Butler applied, he was provided with an Earth Removal Permit. It seems that the family is actively removing products under an Earth Removal Permit, but also bringing in product to sell. Mr. Vasseur explained that Mr. Butler had been doing this work for the past 40 years.

Chairman Hollenbeck asked if this activity falls under the Town's Earth Removal Permit Bylaw. Ms. Garbitt explained that a stockpile permit was issued in 1979 to allow for clean up to be done, which DEP had ordered. Mr. Butler applied for an Earth Removal Permit in March of 2004, but the application was withdrawn by his attorney in April of 2004. The Selectmen allowed Mr. Butler to have the stockpile on the property, which was understood to be solid waste being removed and not excavation of native material. The Selectmen did not know that the family was bringing material in and then selling it. Ms. Vasseur stated that there had been a sign about allowing stumps to be dropped off; however, that was taken down. Mr. Vasseur stated that the family still wants the leaves and grass to be dropped off at the property in order to keep the business going. Selectman Powderly stated that at the March 23, 2015 meeting, the Board of Selectmen understood that what was on the property would be leaving the property. It was further understood that the family was not accepting new materials. Mr. Vasseur stated that when Jeremy Peck, Superintendent of Streets, and Nate Darling, Building Commissioner, came down in 2015, he had told him that he was not going to bring in any more stumps, but would still bring in other material in order to make compost to keep business going. Keeping the business going has been enough to pay bills. Chairman Hollenbeck stated that Mr. Darling has reviewed the permit in regards to the Zoning Bylaw, which was approved in 1959. The matter needs to be presented to Town Counsel, since the family is operating a business out of a residential zone, which does not have an established use prior to zoning. There is no "grandfathering in" for something that conflicts with existing laws.

Selectman Burke explained if the business was in place prior to 1959, and you are continuing with a non-conforming use, it “may” be okay. Based on the documents, 1969 was the initiation of the Earth Removal Permit, but not under the provision of the Earth Removal Zoning Bylaw. This is why a clear understanding needs to come from Town Counsel. The family may need a special permit from the Zoning Board of Appeals. Selectman Powderly mentioned that a lot of towns allow composting to take place, and under Chapter 61A, the family may be able to continue that. It may be acceptable as farm income under Chapter 61A, which the property should be classified under, unless the property is going to be sold immediately. Since the property contains 51 acres, it was recommended that the family contact the Farm Bureau to see if this is allowed under Chapter 61A. Ms. Vasseur stated that her father in the 1990s was connected with Chapter 61A. Mr. Vasseur stated that in 1969, the property was commercially or industrially zoned. Selectman Burke stated that Town Counsel will look at the zoning at the time of the non conformity. The Board does not have a problem with the business operating at its present location. We need to make sure that what is taking place conforms to the Zoning Bylaw. Chairman Hollenbeck noted that the tax assessment for the property would be lower if the property was classified under 61A.

Ms. Vasseur stated that the second issue is the stockpiles on the property. She had provided a map to the Building Commissioner of the location of the piles. However, the piles change a bit depending on what needs to be composted. In 2016 the Selectmen approved only one (1) unscreened loam pile on the property, yet it is necessary to have several piles to go through the composting process. Mr. Vasseur stated that there are four (4) types of loam that are sold, so he needs to have four (4) piles. Chairman Hollenbeck explained that the Board was not under the impression that this was an active business. Selectman Burke added that the Board had granted the permit based on a misunderstanding on what was happening at the property. That is why the permit does not coincide with what the family wants to do on the property. Selectman Powderly explained that the Board is not trying to control the business. Chairman Hollenbeck explained that the Board wants to work with the family and make sure that everything is taken care of.

Discuss memo from Board of Health regarding increase in Board of Health Budget

Chairman Hollenbeck said her concern is that the Board would be opening up a situation if the request from the Board of Health was granted. Employees are specifically kept below a particular amount of hours so that they do not receive benefits. She stated that she is not in favor of the request. The request also affects more than just the one (1) employee in the Board of Health. The person was aware of the restrictions when they applied and received the position.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To take no action on the request from the Board of Health to increase their budget in the amount necessary to give the Part-Time Clerk two (2) weeks of vacation and holidays prorated.
Unanimous in favor.

Discuss joining the Plymouth County OPEB Trust (PCOT)

Chairman Hollenbeck stated that she, Ms. Garbitt and Ms. Kenney attended a session on April 8, 2016 held by the Plymouth County Other Post-Employment Benefits (OPEB) Trust. The Town is required to pay health insurance and a minimal amount of life insurance for Retirees. Looking at the 2015 actuarial report, the unfunded actuarial accrued liability for the Town is \$14,261,010. If the Town joined PCOT, the amount would be discounted to \$9,696,208. This is a professionally managed fund, which has over 200 public agency clients. It will allow the Town to start funding and pay down some of that liability now rather than binding the Town. The Town presently pays \$600,000 a year for its retirees. As more and more people retire, that amount continues to increase. This is an obligation of the Town. The Town can withdraw from the Trust at any time giving a 30 day notice, and there would not be any penalty. PCOT is a “one-stop shop” for OPEB prefunding and includes the following comprehensive services: trustee services, custodian services, investment management, investment fiduciary, actuarial coordination, document preparation, ongoing compliance monitoring, contribution and distribution processing, and consulting and administration. This will free up the Town Administrator and Treasurer. The fees that PCOT would charge are very minimal. The assumed rate of return is 7%, which would commence as soon as the Town joins. This amount is standard in the industry at this time, and the actuarial liability will decrease.

Selectman Powderly asked if the Town continues to fund the account as it proceeds, which has not been done except for current employees, would the amount be \$1,390,000. Chairman Hollenbeck responded that there is a required contribution to become fully funded. Selectman Powderly asked what the Town is currently required to contribute. Chairman Hollenbeck explained that the Town puts in whatever it can. With the Trust, it would be a long term Rate of Return. The 7% is not guaranteed; it is tied to the market and amortized over approximately 30 years. The Trust would be happy to handle the administration piece, provided that they are funded upfront. However, a lot of communities do not have that amount to put upfront. The Town of Lakeville does, so once the amount was set into place, the Town would be all set on day one. There would be a separation of the current employees and the retired employees for clearer detail. The Trust can start to be funded with the existing \$200,000 that has currently been set aside if the Board votes to do this. Selectman Burke asked if Town Counsel should review this. Ms. Garbitt mentioned that Town Counsel is counsel for some of the towns that have joined the Trust.

Discuss Enterprise Funds related to the Park, Landfill and Water

Daniel Hopkins, Chairman of the Park Commission, was present for the discussion. Chairman Hollenbeck said the Board began the discussion about the Park, Landfill and Water Enterprise accounts on whether to keep them as Enterprise accounts or make changes so that they would come under the umbrella of the Town. If changes are to be made, there could be articles placed on the Town Meeting Warrant to eliminate the Enterprise accounts as of 2018. The Water Department does not have to be changed since the water tower will be sold soon. The landfill is doing well at this time. There has been a lot of discussion regarding the Park Department. Selectman Powderly asked if the Board would be changing the election process or the Enterprise Fund. Chairman Hollenbeck explained that the election process would remain the

same. The revenue and expenses could change to fall under general government or remain the same. There are many questions over the financial controls for those Enterprise Accounts. Are they being properly assessed as an Enterprise Fund for expenses that are theirs, which are actually being paid through General Government? Selectman Burke explained that it is not what the Park Commission wants to spend time on. The Board of Health operates as a Department, so there is the fiscal oversight, and the budget process is a bit clearer. There are positives and negatives either way.

Selectman Burke added that he doesn't have a clear understanding of all the resources that the Town is using for the Park Department. It is difficult to know whether or not there is a profit, especially when you don't know the pieces being left out of the analysis. Not having the Park Department as an Enterprise Account could be an advantage, if it can be set up like every other Town Department with its budget. That takes the energy of the earning money aspect off of the Park Commissioners. Without having that concern, their focus could be creating a vision of what the Park Department can do with its resources for the Town's benefit. The question is, is it a business or a service that the Town provides to the community? There just needs to be a clear understanding of the numbers in order to make some rational decisions based on the numbers. If they remain as an Enterprise Fund, how can the Board make sure that it receives all the information that is needed to make sure that it has accurate reporting? Ms. Garbitt stated that the Park Department became an Enterprise Fund in 1990. Initially it started out as a way to have user fees come in to be able to at least run Clear Pond, since the rest of the parks had to be closed. Selectman Powderly stated that he would hope that the new Board of Park Commissioners would have an interest in developing the long vision with fields, since there are many people that go to Clear Pond and use Ted Williams Camp. The Board of Selectmen would need to look at the numbers in detail, if the Enterprise Account is made into a Town Department. It was found that there should be a charge back of the Highway Department to them. He added that he is not opposed in going through the budget cycle one more time with the Park Department remaining as an Enterprise account. He did not want to fund the Park Department, since he felt that they should be self-sufficient.

Mr. Hopkins stated that the Park Commission doesn't have the kind of money for big items, like the \$175,000 needed to pave the driveway. The gravel removal revenue money was put into the building renovations. Although the Park Department has a \$1 million building, there is no parking, so the paving was put in as a capital request. Capital requests are put in each year, depending on the needs of the Park. The tennis court needs repaving, which will be done through Retained Earnings. The Park Commission can do smaller projects, but does not have the money to do the larger projects. Selectman Burke stated that it should be one way or the other, and there should be a repayment schedule, if the Town pays for the large items, which have never been looked into. So it is not operating as an Enterprise Fund. He wants to make sure that there is a clear understanding of what all the numbers are. Ideally it would be great if it was successful enough that it could fund all of its needs.

After further discussion about the allocation of employees, Selectman Powderly stated that he wants to make sure that people are allocated to the appropriate Department that they are doing work for. He also suggested allowing the Park Commission to go through another budget cycle

to see how they are doing. The Water Enterprise account can be dismissed, unless there may be a need to reestablish it in the future, and the process would be considerable.

Review and vote on amended Job Description and Classification for Assessment Specialist

Chairman Hollenbeck stated that the Board has reviewed the Job Description and Classification for the Assessment Specialist position. If the Board approves the amended Job Description, the position will be posted internally for a week before it is advertised.

Upon a motion made by Selectman Burke; seconded by Selectman Powderly it was:

VOTED: To approve the amended Job Description and Classification for the Assessment Specialist with a classification of Level 1 with a \$1.00 Differential for an active Real Estate License.
Unanimous in favor.

Review request from Council on Aging regarding General By-law change

Chairman Hollenbeck explained that the Council on Aging is looking to reduce the number of participants on their Board from 15 to 11 and to make some minor language changes. The request will go on the Warrant for the Special Town Meeting June 6, 2016.

Request for appointment of Charlene Montleon as Alternate Member – Council on Aging Board

Chairman Hollenbeck stated that the Council on Aging is requesting that Charlene Montleon be appointed as Alternate Member to the Council on Aging.

Upon a motion made by Selectman Burke; seconded by Selectman Powderly it was:

VOTED: To appoint Charlene Montleon as Alternate Member to the Council on Aging Board with a term to expire July 31, 2016.
Unanimous in favor.

Discuss Annual SRPEDD and JTPG Appointments

Chairman Hollenbeck said the SRPEDD and JTPG appointments were up for renewal.

Upon a motion made by Selectman Burke; seconded by Selectman Powderly it was:

VOTED: To appoint Rita Garbitt as SRPEDD Representative and Jeremy Peck as JTPG Delegate, with Rita Garbitt serving as Alternate. The appointments will expire May 24, 2017.
Unanimous in favor.

Review reappointments for Veterans' Agent and Graves Officer

Chairman Hollenbeck said the annual appointments for Veterans' Agent and Graves Officer were up for renewal.

Upon a motion made by Selectman Burke; seconded by Selectman Powderly it was:

VOTED: To reappoint Wilford Corey as Veterans' Agent and Graves Officer with a term to expire April 30, 2017.
Unanimous in favor

Request from M/L Herring Fishery Commission for appointment of Don Goulart as Volunteer Observer

Chairman Hollenbeck said the Middleborough/Lakeville Herring Fishery Commission has requested an appointment of Don Goulart as a Volunteer Observer.

Upon a motion made by Selectman Powderly; seconded by Selectman Burke it was:

VOTED: To appoint Don Goulart of Middleborough as a Volunteer Observer to the Middleborough/Lakeville Herring Fishery Commission for a term to expire September 30, 2016.
Unanimous in favor.

Request from the Tuesday Club of Assonet for Sign for Annual Strawberry Festival

Chairman Hollenbeck said a request had been received from the Tuesday Club of Assonet to place a sign for the Annual Strawberry Festival at the Town House.

Upon a motion made by Selectman Burke; seconded by Selectman Powderly it was:

VOTED: To allow the Tuesday Club of Assonet to place a sign at the intersection of Pickens and Precinct Streets for their Annual Strawberry Festival to be held on June 19, 2016.
Unanimous in favor.

Request for Outdoor Entertainment Permit-19 Reed Farm Road-September 24, 2016

Chairman Hollenbeck said a request had been received for a permit for Outdoor Entertainment at 19 Reed Farm Road on September 24, 2016 for a wedding.

Upon a motion made by Selectman Burke; seconded by Selectman Powderly it was:

VOTED: To grant the request for an Outdoor Entertainment Permit for a wedding on September 24, 2016 at 19 Reed Farm Road from 5:00 PM to 10:00 PM.
Unanimous in favor.

Review and vote to approve Board of Selectmen Meeting Minutes of January 5, 2016

Upon a motion made by Selectman Burke; seconded by Selectman Powderly it was:

VOTED: To approve the Selectmen's Meeting Minutes of January 5, 2016 as presented.
Unanimous in favor.

Review and vote to approve Board of Selectmen Executive Session Meeting Minutes of April 13, 2016

Upon a motion made by Selectman Burke; seconded by Selectman Powderly it was:

VOTED: To approve the Selectmen's Executive Session Meeting Minutes of April 13, 2016 as presented.
Unanimous in favor.

New Business

Ms. Garbitt stated that the Plymouth County Development Council will be having its 33rd Annual Transportation Breakfast on Thursday, May 12, 2016 at the Plymouth Country Club if any member of the Board is interested in attending. Chairman Hollenbeck will get back to the Town Administrator about attending.

Old Business

- a. Update from Selectman Powderly regarding the Assawompset Elementary School Facilities (AES) Study Committee Meeting

Selectman Powderly provided an update regarding the last Assawompset Elementary School Facilities Study Committee Meeting. He explained that the meetings are difficult with so many people on the Committee and everyone having a different idea of what they would like to see take place. He and the Building Commissioner, Nate Darling, had tried to explain the value of using the Energy Grants each year to accomplish necessary projects, relating that they can be upwards of \$250,000 and how other projects have been done at the School through the grants. Members on the Committee want to petition the State for the School to have all the work done at one time and not done piece meal. It was hoped to have some carpeting done in six (6) classrooms, add some needed wall outlets, update breakers, etc. However, the priorities quickly change from one member to the next. Selectman Burke mentioned that Selectman Powderly had indicated doing some work to preserve the building so that replacements would not be necessary in the future, just repairs. It is not reasonable to do the entire comprehensive Kaestle Boos report. That would take Town resources. Chairman Hollenbeck stated that if the Board attends a meeting of the Committee, it can be conveyed to them what is reasonable and what is not reasonable with respect to the budget. Especially if the Building Commissioner and the Building and Grounds Person at Assawompset are saying that doing everything is not necessary. Selectman Burke added that a half million dollar parking lot does not improve education. Selectman Powderly noted that it would require an override to do the full project and Fred Baker,

Director of Business & Finance, would be responsible to do all the necessary paperwork which that would require.

b. Update from Selectman Hollenbeck regarding the Regional Finance Subcommittee and the discussion with the Auditors regarding the GRAIS Debt

Chairman Hollenbeck stated that she had spoken with Richard Medeiros today. The Regional School Committee will be meeting tonight and one (1) item on their agenda is to vote the budget. They are well aware of the stance of the Selectmen, since they received the letter that was sent to them about the amount that the Town would provide as an increase to the assessment. They can reduce their budget, but they cannot increase it from this point forward. It is expected that they will be voting the budget that Superintendent Medeiros presented, which would require an \$800,000 increase from the Town. Regarding the George R. Austin School debt, it is an issue of numbers that are there that no one is understanding, so that is still ongoing.

c. Update from Selectman Burke on the Police Station Design Review Committee

Selectman Burke stated that the Police Station Design Review Committee met, and it was a very good meeting.

Ms. Garbitt briefly updated the Board regarding Attorney Goldrosen's response about the Agricultural Steering Committee desiring a bit more assurance of who would be appointed to the Agricultural Commission.

Ms. Garbitt provided an update regarding the sale of the Water Tower. At this time the Clean Water Trust Fund needs a few more things changed. There is a minor difficulty with Barnard Green from the Trust and his interpretation of the agreement. The agreement had been sent to Town Counsel for their opinion, and DEP approval is necessary. Hopefully this is not a real impediment at this time. Attorney D'Abreu in Taunton and the new Superintendent of Streets, John Chase, were hoping that Lakeville could go back to an Intermunicipal Agreement and generate bills. It was explained that Lakeville had tried to do that before; however, there was a software glitch with Taunton generating those with liens. The law provides for liens on electric bills, but not for water. Selectman Burke said to politely explain that they buy the Water Tower, and then we talk. Ms. Garbitt stated that Jon Chase also knows the Middleborough water line is located in Lakeville, and they want people tying in to be exclusive to Taunton. Middleborough has it set up that Town Meeting action/approval is required to approve anyone tying in. Selectman Powderly stated that the Board may need to go before the Mayor and Taunton City Council about the matter.

Ms. Garbitt explained that the Trust did add on the City Council to the agreement. However, this has to be cleared up before the Mayor will sign the transfer agreement. Chairman Hollenbeck stated that it will be mutually beneficial, once this matter is taken care of. After further discussion regarding the nuances of the matter, the Board of Selectmen suggested that Ms. Garbitt contact Mark Reich about some assistance on the matter, so that it can be done prior to Town Meeting.

Ms. Garbitt stated that the Park property being considered for the Police Station has been walked. Since the vegetation has grown over the past four (4) years, there does not seem that any restoration will be needed. A four (4) year update will be necessary, and Nancy Yeatts, Conservation Agent, will do that.

Any other business that may properly come before the meeting

There was no other discussion presented for discussion.

Other Items

1. Reorganization Notices from the Planning Board; Library Board of Trustees; Cemetery Commission and Board of Assessors
2. Notice of Change of Officers – Firefighters Local 3188
3. Notice of SRPEDD Commission Meeting – April 27, 2016
4. Letter from Comcast regarding Temporary Contract Change
5. Notice from Comcast regarding Comcast Digital Preferred and Digital Premier Services
6. Notice from Verizon regarding change to FiOS programming
7. The Voice of the Retired Public Employee Newsletter
8. SRPEDD Annual Awards Request for Nominations

At 8:12 PM, upon a motion made by Selectman Hollenbeck; seconded by Selectman Powderly it was:

VOTED: To enter Executive Session and not return to Open Session pursuant to M.G.L. c.30A, §21a (2) to discuss contract negotiations with non-union personnel, specifically the Fire Chief; and pursuant to M.G.L. c.30A, §21a (3) to discuss strategy with respect to collective bargaining, specifically the Clerical Union and the Highway Union, if an open meeting may have a detrimental effect on the bargaining position of the Board, and the Chair so declared; and pursuant to M.G.L. c.30A, §21a (2) to conduct a strategy session in preparation for contract negotiations with non-union personnel, specifically the Animal Control Officer, the Council on Aging Director, and the Executive Assistant to the Town Administrator and the Board of Selectmen. Polled vote: Selectman Powderly-Aye, Selectman Burke-Aye, and Selectman Hollenbeck-Aye.
Unanimous in favor.

List of documents provided at the April 27, 2016 Selectmen Meeting

1. Request from Barbara Vasseur for a hearing regarding conditions of stock pile permit, minutes from previous meetings on the matter, March 23, 2015, March 30, 2016, permit issued March 30, 2016, map of property with stock piles noted.
2. Memo from the Board of Health requesting to increase Board of Health budget.
3. Introduction to the Plymouth County OPEB Trust (PCOT) packet
4. Memo relating to what Enterprise Funds are
5. Amended job description and classification for Assessment Specialist position
6. Request from Council on Aging regarding General By-law change
7. Request from Council on Aging to appoint alternate member on their Board
8. Annual SRPEDD and JTPG appointments
9. Appointment for Veterans' Agent and Graves Officer
10. Request from Middleborough/Lakeville Herring Fishery Commission for appointment of Volunteer Observer
11. Request from the Tuesday Club of Assonet to put up a sign for their annual Strawberry Festival
12. Request for Outdoor Permit at 19 Reed Farm Road on September 24, 2016
13. Invitation from Plymouth County Development Council 33rd Annual Transportation to attend their breakfast on May 12, 2016.