

TOWN OF LAKEVILLE
Selectmen and Wage and Personnel Board, as applicable
Meeting Minutes
August 21, 2017 – 6:30 PM

On August 21, 2017, 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 Burke at 6:30 PM. Selectmen present were: Selectman Burke, Selectman Hollenbeck and Selectman Powderly. Also present were: Rita Garbitt, Town Administrator, Tracie Craig-McGee, Executive Assistant and Christine Weston, Recording Secretary. LakeCAM was recording the meeting.

6:30 PM Meet with Police Chief Frank Alvilhiera regarding commendation for Eric Boulay

Police Chief Frank Alvilhiera was present for the discussion. He read a commendation for Eric Boulay, Jr. On Wednesday, July 19, 2017, at the “Kids Café” held at the George R. Austin Intermediate School, Camp Counselor, Mr. Boulay, Jr., observed Matthew Dubois walking towards him with his hands around his neck area in a universal choking sign. Mr. Boulay, Jr. went quickly to Matthew and saw that he was not exchanging any air. He immediately placed himself behind Matthew and provided the Heimlich maneuver until a hard candy became dislodged from his throat, which Matthew had unexpectedly swallowed whole. Chief Alvilhiera then presented Mr. Boulay, Jr. with the commendation.

Chief Alvilhiera next provided a service medallion to the Board of Selectmen for their service to the Police.

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

VOTED: To approve and present a commendation to Eric Boulay, Jr. for his lifesaving measures.
Unanimous in favor.

6:40 PM Vote on and present proclamation to Rena Fernald for her 100th Birthday

Rena Fernald and her family were present. Chairman Burke read the proclamation into the record for Ms. Fernald. Ms. Fernald is celebrating her 100th birthday and is the third oldest person in Lakeville. She then read a short statement about Lakeville being a place to call her home for the past 34 years.

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

VOTED: To approve the proclamation and declare August 22, 2017 as Rena Fernald Day in honor of Rena Fernald reaching the distinguished age of 100 years.
Unanimous in favor.

6:50 PM Vote on and present proclamation to Frederick Parmenter on his retirement from the Town

Chairman Burke read the proclamation into the record regarding Frederick, who recently retired from the Town as Plumbing and Gas Inspector and employee for 45 years.

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

VOTED: To approve the proclamation and declare August 21, 2017 as Frederick Parmenter Day.
Unanimous in favor.

Discuss scheduling the Special Town Meeting – November 13 or 14, 2017

Chairman Burke briefly mentioned the proposed Warrant Articles for the Fall Special Town meeting, including those from the Planning Board. The Zoning By Law Review Advisory Committee have worked on revising some of the sections of the By-Law to make it more efficient. The proposed Warrant Articles are as follows: the acceptance of three (3) roads in Cedar Pond Preserve as Town ways; the re-zoning of Staples Shore Road from Business to Residential; the re-zoning of Kingman Street Industrial B to Residential; possible ratification of the Laborers' Union Contract; and transfers for unpaid FY17 bills.

Ms. Garbitt mentioned that she is waiting for confirmation from the School Department regarding the availability of the High School Auditorium. The Town Moderator is available; however, Town Counsel Gregg Corbo is not. He is checking with Mark Reich and Michele Randazzo to see if they are available.

Discuss adopting the practice of Remote Participation for Public Bodies

Chairman Burke provided an update regarding 940CMR, 29.10: Remote Participation. Recently a request had been received from a Committee Member who would like to be able to participate remotely during their commute. It is up to the Chairman of the individual Committee to choose whether to agree that this take place. If the Board of Selectmen enacts this policy, they will need to educate the Chairmen of all Boards and Committees, including their Committee Members about 940CMR, 29.10 – Remote Participation. It is to be realized that Remote Participation is only to be used for an emergency, such as someone being in the hospital, not for generally not attending the typical meetings of a Committee. The person with the request is on the Police Station Building Committee. His purpose was more to listen to what was taking place at the meeting than to participate. A positive in this is to give flexibility in attendance, providing the Committee has a quorum of members in attendance and the person legitimately wants to be present, but cannot be. They can participate and the Committee can get business done. Once the Board of Selectmen approves the use of remote participation, all Committees can use it.

Selectman Hollenbeck expressed concern about someone who may be a part time resident or not physically living in Town. Can they participate? This needs to be considered. Chairman Burke explained that remote participation would be under an emergency set of circumstances, it

is not for someone living in Florida for six (6) months of each year and to be participating seasonally. Selectman Hollenbeck mentioned that there is no verbiage about remote participation geographically. Selectman Powderly stated that he did not like the concept of someone not attending a meeting and being able to participate. If someone genuinely cannot make a meeting and the Committee has a quorum, if the person wants to listen in on the phone that is fine. However, it may be a tool that becomes misused and abused in the long term, rather than being helpful. At some point the meetings will be live, and people will be able to Skype. Selectman Hollenbeck said maybe the Board should try it and if it does not seem to be working, the Board can revoke it. It would be helpful to let people know that they can call in and listen to a meeting, even if the Board does not allow them remote participation.

Chairman Burke tabled the matter.

Discuss the Highway Facility Phasing Plan

Chairman Burke stated that a letter was received from Jeremy Peck, Superintendent of Streets regarding him providing a phasing plan for the proposed Highway facility. Chairman Burke reviewed the ten (10) projects, which were presented from Mr. Peck and their projected deadline dates:

1. Clear surveyed property line at 6 Montgomery Street (by Highway Department);
2. Replace fuel pump and fuel system software (need funding). See memo from April 1, 2016 recommending replacement of pump and software. It was also discussed at the Selectmen's Meeting on August 1, 2017 regarding needed replacement of pump and software. There has been recent issues with software drivers not allowing access without administrative approval and repairs;
3. New Highway Office (funding in place);
4. Relocate/grade back part of garage site using MassDEP approved requirements from BUD permit. (by Highway Department);
5. Install bins to separate CBC/SS materials per Beneficial Use Disposal (BUD) permit (need funding);
6. Clear trees and stump area affected by salt shed installation (by Highway Department);
7. Dispose of any excess CBC/SS materials, if necessary (need funding);
8. New salt shed (need funding). See Alternative #4 from the abbreviated facility study for preferred site layout. A new salt shed will supplement the existing salt shed and provide double the salt capacity;
9. Complete facility study to update any pertinent information (need funding);
10. Design and construction of Highway facility; administrative facilities (as necessary), employee facilities, mechanic workshop, wash bay, vehicle storage facility, site work, etc. Any clearing/stumping necessary would be completed two (2) months prior to start of work and would be limited to only necessary clearing.

Selectman Powderly noted that other than cleaning up the site was put out to 2029, so it appears that Mr. Peck is not interested in cleaning up the property. The whole point was to find holes in areas and grades to put material in, so that the Town does not have to pay to truck it off site. There is no intention to be offensive to the neighbors, but to be neighborly by creating a

berm with plants along the top to act as a noise buffer. Essentially the point is to be able to walk the property to see what it looks like. To then be able to see where to install the bins, which will contain materials that need to be separated. Selectman Hollenbeck asked if Selectman Powderly would like some costs associated with the projects. Selectman Powderly responded that he is hoping that the material can be stored on the property and that the Town doesn't have to spend \$100,000 to move it. Once the first project on the list is done, it will help to know about #7 on the list. If a large enough area is not cleared, then the Highway Department will just be moving the material around the site forever, since their working area is too cramped, and they need room to work. The list is a start in the right direction.

Review comments from Town Counsel regarding Earth Removal By-Law

Chairman Burke explained that Ms. Craig-McGee had provided Town Counsel with the Town's Earth Removal Bylaw to update. Attorney Corbo provided a response on April 27, 2017, which outlined six (6) items that need to be revised. Ms. Craig-McGee asked how the Board felt about charging Consultant Fees. The Town does not get as-built plans when a project is done as is requested. It seems that the Town should assess an engineering fee to ensure the receipt of an as-built. When the as-built is submitted, the fee is returned.

Selectman Hollenbeck suggested that the Planning Board address this in their Rules and Regulations. Ms. Garbitt said they already do. There are also a lot of places in Town, which are stockpiling. Selectman Powderly noted that stockpiling is not earth removal. Ms. Garbitt explained that stockpiling is part of Chapter V, Earth Removal. Selectman Powderly mentioned that often that item leads into an agricultural use when talking about stock piling. Composting piles are allowed under agricultural business. If the Board is modifying the By-Law to enforce a stock piling problem, this is not the vehicle to do that. Chairman Burke explained that this is material being brought from one site to another to store, which is different than bringing it someplace to sell. Selectman Powderly stated that he is not sure what the Board is trying to resolve. Selectman Powderly explained that he didn't object to the Earth Removal By-law. If there are other issues, such as offended neighbors, that is different, and cannot be resolved with modifying the bylaw. Ms. Craig-McGee stated that a man came in recently and asked for an Earth Removal Permit, so there may be a project coming up. Attorney Corbo wants to clean up a lot of the language. One place in the By-law says you cannot remove earth from Lakeville, while another area in the By-law says you can.

Chairman Burke stated that he would like Attorney Corbo to explore all of the options. Ms. Craig-McGee is the best suited to work on this with him. If a developer has to pay someone to go and do a survey to verify what is there, then that is on them, or maybe just a flat fee can be set into place. Ms. Craig-McGee agreed that the engineering component could be set and also a yard by yard fee. Chairman Burke suggested that Ms. Craig-McGee work with Attorney Corbo on exploring this and come up with recommendations that will fit the Town. Then the Board can discuss it to determine if it suits the needs or find out if there is an angle that is missed.

Selectman Powderly stated that basically the By-law is to make sure that the Town is protected, and that no one is stripping property of beneficial soils, bringing it elsewhere to then leave a parcel as a valueless piece of property. Ms. Garbitt mentioned how one (1) developer

wanted to move loam within Town; however, he was not able to do so with the Town's By-Law. Selectman Hollenbeck mentioned that the Town does not have a composting standard. Ms. Garbitt responded that DEP has one and that issue has come up. Selectman Powderly added that the issue has come up with manure. Ms. Garbitt stated that with a General By-Law, the Board does not have to have an advertised public hearing for making amendments. Chairman Burke stated that when the Board receives recommendations for the By-Law a public meeting could take place prior to the Town Meeting.

Request to appoint David Kraemer, Jacqueline Kennedy, Gail Fish and Diane Faria to Lakeville Arts Council

Chairman Burke reviewed the details for the appointments to the Lakeville Arts Council. David Kraemer, Jacqueline Kennedy, Gail Fish and Diane Faria needed to take a "break" between their appointment terms, as part of the State Statute for the Lakeville Arts Council. They are now ready to be reappointed to the Lakeville Arts Council.

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

VOTED: To approve the appointment of David Kraemer, Jacqueline Kennedy, Gail Fish and Diane Faria to the Lakeville Arts Council with terms to expire July 31, 2018.
Unanimous in favor.

Request to appoint Kelly Conway as Full Member of the Agricultural Commission

Chairman Burke explained that Ann Gredler is not being reappointed to the Agricultural Commission, so there is a vacancy. Paul Hunt had checked with both Associate Members about becoming a Full Member, and Mr. Ward prefers to remain as an Associate. Kelly Conway would like to be appointed as a Full Member. Paul Hunt has requested that the Board appoint Ms. Conway as a Full Member.

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

VOTED: To appoint Kelly Conway as a Full Member of the Agricultural Commission with a term to expire July 31, 2020.
Unanimous in favor.

Request to appoint Alan Edwards as Full Member of the Council on Aging Board of Directors and appoint Jann Bowes as Alternate Member

Chairman Burke reviewed the details regarding the requests for appointments to the Council on Aging.

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

VOTED: To appoint Alan Edwards as a Full Member of the Council on Aging with a term to expire July 31, 2020 and to appoint Joann Bowes as an Alternate Member with a term to expire July 31, 2018.
Unanimous in favor.

Vote to accept James Gouveia's resignation from the Historical Commission

Chairman Burke stated that the vacancy created by the resignation of James Gouveia from the Historical Commission should be advertised.

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

VOTED: To accept the resignation of James Gouveia from the Historical Commission and to send him a letter of thanks for his service to the Commission.
Unanimous in favor.

Request from Lakeville Arts Council for signage for the Arts and Music Festival

Chairman Burke reviewed the request from the Lakeville Arts Council for the placement of a sign to announce their annual Arts & Music Festival scheduled for Saturday, September 30, 2017, at the intersection of Precinct Street and Route 79.

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

VOTED: To approve the request from the Lakeville Arts Council to place a 3' x 5' A-frame sign on the island at the intersection of Precinct Street and Route 79 to publicize their annual Arts & Music Festival scheduled for Saturday, September 30, 2017.
Unanimous in favor

Review and vote to approve Board of Selectmen Meeting Minutes of August 11, 2017

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

VOTED: To approve the Board of Selectmen Meeting Minutes of August 11, 2017 as presented.
Unanimous in favor.

New Business

There was no new business presented for discussion.

Old Business

Selectman Hollenbeck stated that there will be a Regional Finance Committee and it will meet once a month. She reviewed some of the details about the Committee, negotiations with the union contracts and whether or not the Committee could go into Executive Session to discuss the contracts. Chairman Burke stated that if the Committee is charged to give an opinion relative to the contracts, the Committee can go into Executive Session under contract negotiations for discussion. Selectman Hollenbeck asked how the recommendation would then be communicated to the Committee. Chairman Burke responded that they also enter into Executive Session to learn the opinion on the contract negotiations. Selectman Hollenbeck mentioned that the Schools declared that their Excess & Deficiency Account will be \$100,000-\$150,000. They used \$450,000 of the E&D account funds, which is non-recurring revenue, to fund their Operating Budget. They have tasked the Regional Finance Committee with solving the problem.

Selectman Powderly asked if the Regional Finance Committee made any recommendations, and if they did, they were not paid attention to by the School Department. The Committee doesn't seem to serve a purpose, but to serve their agendas. If they don't pay attention to what the Regional Finance Committee suggests, then why bother. Chairman Burke added that if the School Department charges the Committee to solve the problem, but does not allow for discussing the item with the fear of going against the Open Meeting Law, then it is all a farce. Selectman Powderly stated that discussion can take place on the number of teachers, student enrollment, class size, etc. What is the purpose? Selectman Hollenbeck noted that Steve Owen is basically tasking this. Chairman Burke stated that the Committee needs a Chair, and the Chair should read the Mission Statement before every meeting so that everyone understands what they are there to do.

Any other business that may properly come before the meeting

There was no other business presented for discussion.

Other Items

1. Notice from DEP regarding extension of date to submit Notice of Intent for MS4 Storm water

Selectman Powderly stated that the Notices of Intent for the MS4 Storm water will not be needed for a long time. However, with Lakeville being a pond complex, one would think that this is important, since basically most of the water that goes into the ponds is from off State roads and other water going into the ponds is from private property. There is very little that the Town can control. When discussion takes place about wash basins for the Highway Barn, wash basins can even be located at the Town Office Building, since the water goes into a closed system. The State is saying that they will not monitor this. He recommended that the Town not spend a lot of money implementing something that is not important from the standpoint of the State. Ms. Garbitt mentioned that the EPA has already fined one (1) Town for not complying with regulations.

2. Guide from Town Counsel on updates to marijuana legislation
3. Notice of Year 3 of the Community Compact Cabinet Program
Selectman Hollenbeck noted that there are grant opportunities that should be looked into, since they open in October. Then the IT grant opens in February. The Board needs to make sure that it is prioritizing and keeping track of the dates. Ms. Garbitt mentioned that Freetown has indicated that they would work with Lakeville on anything regionally. She will contact Charlie Sullivan about this information.
4. Notice of Fall Legislative Breakfast Meeting-September 15, 22, and 29, 2017
5. Comcast Notice of Changes to Residential Services Agreement

Executive Session

At 7:45 PM, upon a motion made by Selectman Burke; 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 (3) to discuss strategy with respect to collective bargaining, specifically the Laborers' 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 (7) to comply with the Open Meeting Law, M.G.L. c.30A, §22(f): approval of Executive Session Meeting Minutes for July 31, 2017 and August 11, 2017.

Polled vote: Selectman Hollenbeck-Aye, Selectman Burke-Aye, and Selectman Powderly-Aye.

List of documents provided at the August 21, 2017 Selectmen Meeting

1. Letter from Police Chief regarding lifesaving measures taken by Eric Boulay, Jr. to Matthew Dubois and Commendation for Eric Boulay, Jr.
2. Proclamation for Rena Fernald to proclaim August 22, 2017 as Rena Fernald Day in honor of her reaching the distinguished age of 100 years.
3. Proclamation for Frederick to proclaim August 21, 2017 as Frederick Day for his 45 years of employment to the Town as Plumbing and Gas Inspector.
4. Schedule Fall Special Town Meeting for Monday, November 13, 2017.
5. 940CMR, 29.10: Remote Participation information, Section from Open Meeting Law Guide regarding Remote Participation, email from Town Counsel regarding Remote Participation, sample polices and forms from: Westwood; Dennis; Hopkinton; Brewster and Ipswich, suggested motion.
6. Phasing Plan for the Highway Facility from Jeremy Peck, Superintendent of Streets.
7. Comments from Town Counsel regarding Earth Removal By-Law and the current bylaw.
8. Request to appoint David Kraemer, Jacqueline Kennedy, Gail Fish and Diane Faria to the Lakeville Arts Council
9. Request to appoint Kelly Conway as Full Member to the Agricultural Commission.
10. Request to appoint Alan Edwards as Full Member to the Council on Aging and Joann Bowes as an Alternate Member to the Council on Aging.
11. Resignation from James Gouveia from the Historical Commission.
12. Request from the Lakeville Arts Council for signage placement at the intersection of Precinct Street and Route 79 publicizing their upcoming event.
13. Selectmen Meeting Minutes of August 11, 2017.