

TOWN OF LAKEVILLE
Selectmen's Meeting Minutes
July 6, 2015 – 9:00 AM

On July 6, 2015, the Board of Selectmen held a meeting at 9:00 AM at the Town Office Building in Lakeville. The meeting was called to order by Chairman Burke at 9:02 AM. Selectmen present were: Selectman Burke, Selectman Powderly and Selectman Hollenbeck. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. LakeCAM was recording the meeting.

Meet with the Board of Assessors to discuss the Personnel Study

Paul Meleedy and Evagelia Fabian from the Board of Assessors were present for the discussion. The Board of Assessors opened their meeting at 9:02 AM. Mr. Meleedy said he has been on the Board of Assessors approximately nine (9) years and have had four (4) Principal Assessors and two (2) Interims during that time. With Molly Reed leaving, it gave the Board the opportunity to look at the Department and staffing needs. They hired a consultant to review the staffing needs and the day to day operation. The Board of Assessors have reviewed the results to look at what is best for us as a Department and how that fits with the needs of the Town overall. They gave us five (5) separate options to review: 1. Keep things as they are with no change in staffing; 2. Keep everything in place and bring the Principal Assessors salary up to market conditions; 3. Hire an Assessors Trainee to be mentored by an outside consultant; 4. Take the Principal Assessors position and outsource it.

Mr. Meleedy said after analysis, the Board of Assessors believe that they should outsource the Principal Assessors Position. It will save the Town approximately \$20,000 a year and give some consistency in the position. They would like to hire Regional Resource Group (RRG), the company that did the analysis. They will take full responsibility of everything, including communication with DOR and meeting deadlines. Their goal is to have someone in the office two (2) to two and a half (2.5) days a week, and the rest of the time the work will be done in their office. Ms. Fabian said we would be maintaining our current staff. Mr. Meleedy said we need to look at the duties of the existing staff. RRG said they can get this up and running immediately. If we were to hire someone, it would take approximately two (2) months. Given the current market conditions of Principal Assessors available right now, there are not many qualified candidates out there. Ms. Fabian said young people are not going into the field. Chairman Burke asked if we were to hire our own person, how far off are we in salary. Mr. Meleedy said we are off approximately \$20,000. Chairman Burke asked if the report said whether a Town our size needs that much horsepower. Ms. Fabian said the study indicated that 37.5 hours might be too much for a Town our size, considering we have two (2) more full time people. Selectman Hollenbeck asked do you know what the cause for the turnover has been. Mr. Meleedy said it varies, but most of our previous staff went to better paying opportunities. Ms. Fabian said that people use Lakeville as a stepping stone; we can't keep anyone. Some of the people don't have much experience, but we hire them because they fit in the salary range. Chairman Burke said this is a great option to try. Mr. Meleedy said they would like to hire them for a year.

Selectman Hollenbeck said during this process, maybe you can get by with a different space or configuration. Mr. Meleedy said the Assessors would like to be at the Town Office Building. Chairman Burke said since the bank deal did not work out, as a Board we need to see if we can try to do something with the Assessors building. The original conversation was putting the Building Department and Board of Health in the Assessors Building and bringing the Assessors into the Board of Health Office. Ms. Fabian said that would make sense, since people say it's very frustrating that they have to go to the Assessors' Office, then hop into their car to pay a bill. Ms. Garbitt asked if RRG was on the State bid list. Mr. Meleedy said they are currently in 11 other Towns. Selectman Powderly said this is a great idea, and he didn't see any down side. You can always change your mind in a year. Ms. Fabian said the Assessors will evaluate the situation in six (6) months and if we need to hire someone, we have time. Mr. Meleedy asked if they can hire this company to take care of important things that arise. Ms. Garbitt said as Purchasing Officer, she was not comfortable with that. Michelle Randazzo of Kopelman and Paige said the Town can use sound business practices under \$10,000. Mr. Meleedy said the final negotiated figure was approximately \$72-73,000. Selectman Powderly said he is not against going out to quote, but let's not delay. You can spend up to \$10,000 and put this out to quote.

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

VOTED: To allow the Board of Assessors to hire an outside consultant to act as the Principal Assessor for FY16.
Unanimous in favor.

Upon a motion made by Ms. Fabian and seconded by Mr. Meleedy, it was:

VOTED: That the Board of Assessors will hire an outside firm to act in the role of Principal Assessor for the next 12 months.
Unanimous in favor.

Upon a motion made by Ms. Fabian and seconded by Mr. Meleedy, it was:

VOTED: To adjourn the Board of Assessors Meeting at 9:19 AM.
Unanimous in favor.

Chairman Burke called for a brief recess and the Board of Selectmen reconvened at 9:30 AM.

Possible Executive Session, pursuant to M.G.L. c.30A, §21a (1) to discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual

Michelle Randazzo from Kopelman and Paige, Nancy Yeatts, and Andrew Lang, Legal Counsel for Ms. Yeatts, are present for the discussion.

Chairman Burke said the meeting was to discuss Nancy Yeatts and some issues that have arisen relative to the Conservation Commission. Attorney Randazzo said the Selectmen had

scheduled an executive session regarding this matter, but Ms. Yeatts prefers it to be held in open session. Ms. Yeatts confirmed that statement. Attorney Randazzo stated that the Board has asked her to facilitate this meeting. Because Ms. Yeatts requested it to be held in Open Session, there will be a public discussion of certain complaints that have come in and Selectmen concerns with respect to her role as Conservation Agent. They will discuss any actions they may take in response. Actions up to termination can be considered, based on the complaints that have been raised regarding Ms. Yeatts' attitude, demeanor and mode of interacting with citizens, applicants, engineers and other Town personnel. There were written complaints that Ms. Yeatts was given copies of. Attorney Randazzo said the Selectmen met with you the end of June and had a discussion with you leading up to this meeting. They outlined their main areas of concern, primarily complaints alleging unprofessional, and uncourteous behavior by you. The Board wants to be clear that this is not a reaction by the Selectmen to specific actions taken by the Conservation Commission or you acting as the Conservation Commission regarding the Wetlands Protection Act. They are not second guessing the Conservation Commission. Their concern is how people are treated when they interact with Ms. Yeatts. This can reflect poorly on the Town; like they are not being treated fairly. The Board understands that the nature of your job is that there may be some conflict; not everyone will be happy when they walk out of the door. It is really important in any enforcement position, that the enforcing agency, whether it is the Conservation Commission or Ms. Yeatts acting as the Agent, that they are tactful, professional, diplomatic and respectful to the people that you deal with, even when people are not demonstrating the same type of behavior back to you. The Town's Personnel Policy and your Job Description indicate you must do your job in a professional, respectful, tactful and diplomatic manner. Attorney Randazzo said that Ms. Yeatts had engaged in this type of behavior with the Selectmen or Conservation Commission Members that could be viewed as insubordination as well. There have been assertions that you have unnecessarily required certain applicants to engage in needless activities that resulted in additional expense to go before the Commission. There are also assertions that you lead applicants to believe that their applications are in order or that if they take certain actions, their applications will be in order only to have them denied by the Commission. It is not a particular response or interpretation of the Wetlands Protection Act; it is the overall manner in how you interact with the people you come into contact with in your job as Conservation Agent. The Selectmen have made their own observations of this and have received written complaints.

Chairman Burke said when he became a Selectman, one of the things he has focused on is always trying to improve the quality of the delivery of services to the community. When we were in a meeting a few weeks back and John Lens came into our meeting on the verge of tears due to the way he felt he had been treated, he didn't believe there was a whole lot of theatre going on. We were seeing his frustration in dealing with Ms. Yeatts. That struck me as being a serious setback in the vision of trying to improve how we do thing in Town. He knows it can be an adversarial job, but there is a big difference between perhaps the way Ms. Yeatts handles things versus someone explaining here is why the outcome happened, this is the way to appeal, contact me if you have any questions. He wants people to feel, even if the answer is no that they were dealt with fairly, that there was an objective process and that there was nothing that would amplify the emotion of those circumstances. That is my expectation as a Member of the Selectmen. How can we make it better or how can we fix it? That is why it is important to have the investigation.

Selectman Hollenbeck said in reviewing the complaints, she went back and reviewed tapes of the Conservation Commission. Your job is a very difficult job. You are facing people who sometimes don't want to hear your answer. It's difficult because you are a Town employee, but they are not. Their conduct is not something we can enforce under the Wage and Personnel Plan. She watched meetings in November, and a couple came in and cut down dead trees and a live tree. There was great interaction with those taxpayers, and you were very tactful with them. He didn't want to hear the information, but it was received really well, and the way you operated was well in accordance with the Wage and Personnel Board's Code of Conduct. She has watched more recent meetings from which some of the complaints have been received. Some things struck her that weren't as fair or objective in those instances. One of the items she noted was a quote where you said "I do want a preconstruction, it will be on there. Some people don't pay attention to it, and I don't chase them down, but you I will". Selectman Hollenbeck said that wasn't as fair and honest as it could have been. If things are getting heated, people will say things that they otherwise would not have said. In contrast, this struck her as something she wanted to talk about it, and she wanted your interpretation. Ms. Yeatts asked which case it was. Selectmen Hollenbeck said it was the John Lens' case.

Selectman Powderly said his thoughts mirror what Selectmen Burke and Hollenbeck have said. He does not need to reiterate there comments. Attorney Randazzo said it has been identified to me that there have been comments at various meetings made that amplify the comment Selectmen Hollenbeck said about the May 26th meeting. There was a comment about "this was going to be a horror show" regarding an appeal to DEP. Comments of that nature can lead people to really feel like they are not being treated fairly and objectively. She was asked to look at meeting videos and she encouraged the Board to do that also. Selectman Hollenbeck said it is difficult for us as a part time elected Board to be the enforcement agent here for the Wage and Personnel Policy. We are not there to observe your interactions with townspeople. We have to rely on the complaints and the taped meetings. We have no idea what happens when you go on site, other than what we are hearing from the complainants. Attorney Randazzo said her understanding is the written complaints are not the first complaints. People have raised issues independently with the Selectmen. There is some context with what is going on today. This is not the first time that the Board has had concerns over the interactions with folks. Things that people say in the supermarket are different in quality than written complaints. The written complaints are a culmination of building concerns for the Selectmen, based on their observations, and from what they are hearing from folks on the street.

Ms. Yeatts said she believed that this last case, Lens, that we denied, out of 225 cases previous to this, we have denied two (2). One of the written complaints are from that. Two of the written complaints were written in the last ten (10) days on cases that were two (2) years old. Her opinion is that people are soliciting the complaints. Chairman Burke asked if the age made the complaints not valid. Attorney Randazzo suggested that the Board keep questions and then raise questions. Ms. Yeatts said she can go point by point on their complaints to answer what was in them. The Lens case she knew in advance was going to be difficult. There were two (2) cases. There was a previous Order of Conditions on the property that was not satisfied. If she said it was a "horror show", it was because it was so confusing and difficult. She had called DEP several times because the first case was not settled, and now we had a now new owner saddled with the old owner's problems and his own problems. One of the problems was that DEP

has lost 20 employees, so the people she had dealt with before are gone. She spoke to the supervisor of all the wetland cases, and she had given her some strategies for Mr. Lens. The first one being enforcement. Ms. Yeatts did not want to do that. She was on the Conservation Commission and then came back as the Conservation Agent. It has been her desire to get people in and out, but this winter was not a typical winter. There were a lot of complaints this winter, because they were unable to view wetland lines due to the snow. Ms. Yeatts spoke of Mr. Lens' assertion that she attacked his integrity. She stated that she did not intentionally attack anyone's integrity. We lost our Clerk that we had for 15 years and some weeks, Ms. Yeatts was doing both jobs. Ms. Yeatts had come into the office when someone was yelling at the new Clerk on the phone so loud Ms. Yeatts could hear them. Ms. Yeatts took the phone and it was Mr. Lens, who was outraged that our meeting was continued. We did not have a quorum for the meeting. She tried to calm him down; she told him the Commission can have another meeting in two (2) weeks. He was very angry because he said he already had his contractors lined up, and that would interfere. She did have a very unpleasant telephone conversation with him, but she did calm him down. At some point she said she was concerned about lot coverage, as it is a small lot on Long Pond. This community really needs to be concerned about flooding. Everyone blames Taunton and New Bedford, it is Lakeville's job. We are just as guilty letting people build up and put too much on their lots and the water has nowhere to go. That adds to flooding, and that is Lakeville's responsibility. She disputed saying the pool was not needed. She believed that it added to more work on the property. They wanted a pool, addition, sun room and a garage across the street. When questioned what was needed, she spoke mostly with Mr. Len's representative. She had told him right from the start that DEP was questioning her about compensatory storage. When you take away where the water will go, you have to compensate for that and you have to give the water another place to go in the same area. It has to be foot by foot. She needs to see engineering calculations. She strongly disputes saying she did not care about his son. Anyone that knows me knows for 40 years she has taught disability education in the New Bedford schools. There is no way she would say that she did not care about his disabled son. Sometimes people hear what they want to hear; she might have said that was irrelevant. She takes issue with that accusation. On the site visit to observe how the area of loose dirt was being stabilized, it was built up all around the house with no stabilization. That was on the Order of Conditions and is supposed to be done right away so that it does not wash places where it is not supposed to be. On that site visit, she noticed a huge new dock had been installed. It was right there while she was there doing her job. She looked through the file and called DEP, and there was no documentation of a Chapter 91 license. We discussed at the meeting how to incorporate this going forward into the case. It was installed by a Conservation Commissioner in the middle of this case who had not recused himself from the hearing until the dock came up. The Commission's denial is being appealed to DEP.

Regarding the Vasseur complaint, Ms. Yeatts stated she did not go out of her way to contact the Army Corp of Engineers. It is a prudent thing to do; she has done it before, specifically for the Lions Club property for the old racetrack and filled in wetlands. When it is not jurisdictional and is questionable, that is the next step to take. Both the Vasseur and the Lions Club properties are the Army Corp's jurisdiction. That lot had been owned by a man who took a lot of materials from the Town and deposited them on his property. That lot had been filled and filled, so when we checked for wetlands on the new map, it did not show up, but it did show up on the old maps. Since it was not in the Commission's jurisdiction, she did call the Army Corp, and it was their

jurisdiction. The Army Corp issued the permit. The Vasseurs were upset with the Planning Board because they did not give them their curb cut. They referenced other Boards as well, not just Conservation. They received their permit from the Army Corp, and we received a complaint from the neighbors about tree cutting. She called Joe Chamberlain and they went together. They said we have our letter from the Army Corp and they dropped it off at the Conservation Office. Ms. Yeatts told the Vasseurs she could not find it and asked for a copy. They brought the copy to the office, and they went on their way. She could not find their permit from the Army Corp. They were here in five (5) minutes and brought a copy. This seemed to be a paperwork snafu. There didn't seem to be any problems. Regarding the trees, when we get a complaint, she has to investigate. They cut down a bunch of trees in the wetlands. There is an area in Clark Shores where a whole street is built on fill, and there is also a canal and wetland in the middle. She told them all you need is a simplified permit. He was opposed to the \$50 fee, which was set a long time ago. Perhaps it is a little excessive, but that is not set by me; that was set by the Conservation Commission.

Regarding the Vermette complaint, Ms. Yeatts disputed saying this will cost you big time, because it really doesn't have anything to do with cost. The decisions we make are not about money. They are about protecting the resource areas. She does not feel that she personally delayed the project. If you look at the case, what they presented to us, the wetland line was totally wrong. In fact, that whole lot was wetland, and part of it was on fill. She had to smile when they said she ran out of the Board of Health Meeting crying. She has not had a chance to get in touch with Bill Garvey, but she reviewed the Board of Health Meeting Minutes and read them. She cannot imagine running out of a meeting crying over a septic system. That's ridiculous. When they said she tried to tell the Board of Health what to do, Ms. Yeatts said she went specifically to notify the Board of Health that Conservation had denied the case and to ask the Board of Health if they would delay making their decision until Conservation received DEP's decision. She personally did not feel the Board had any problem putting back what was there previously, which was a small house on a slab. The property had an illegal well and septic system. Ms. Yeatts said all these cases are marginal pieces of land, where people weren't allowed to do what they wanted to do. DEP agreed with Conservation that our standards had not been met, and the wetland line was moved. They had to do a denitrification system on the septic system. It was DEP mandated that extra work had to be done and the project was under a superseding Order of Conditions. DEP told her she had to keep an eye on it. She didn't want to do it, since it had already been through the Conservation Commission, but they specifically said to us to keep an eye on it. That was kind of contentious. She tries not to make the Town liable. She went to the site and we do designate a place where the water is supposed to go. They dug the cellar and it filled up with water, then they had to pump into the straw hay bale line. His was not there. It was on the corner of the wetland and the pipe is going over the pit and directly into the wetlands. She called DEP, because she did not want to handle it alone. She arrived before DEP with Joe Chamberlain. He said she refused to speak to him, but she did not want to talk to Mr. Vermette until DEP got there. DEP arrived and he had to put the pipe back in. She doesn't remember anyone coming to her asking about that house, so to tell someone that house would fail, maybe the septic system, because it is in the groundwater. She doesn't remember saying the house would fail; that is not even the right terminology. She has absolutely no idea what he means about brokering any deals. She doesn't know what that means. The extra costs incurred

were to get the project to meet the general performance standards of the Wetlands Protection Act called for by DEP. Is there any documentation on verbal complaints?

Attorney Randazzo said the Board has not approached you with them. She just wanted to say they were out there. Ms. Yeatts said you would expect verbal complaints, especially when the process is not fast. Things do not hang around, this past winter, yes, because of the snow. You can't check a wetlands under 4' of snow. People were pushing us to do things. The job is not popular and we are probably the most unpopular Commission in Town. We have a very heavy responsibility to protect the resources. Why do people move to Lakeville; because it is beautiful. Since she moved here, it has been all about conservation. She tries to deal with people the best she can. You can look at hundreds of meetings that she has been at, and she does not disrespect the citizens of Lakeville. She is not saying she is perfect. Saying something is a horror show is not perfect, but she doesn't see saying that is an issue that she should be here for.

A short recess was held for Ms. Yeatts to meet with her attorney. Upon return she noted that she works 15-19 hours a week, so she does not keep an eye on every project. However, on the Lens project, when she said she would keep an eye on it, that was based on the size of the project. She doesn't necessarily follow regular upgrades on septic systems, unless they are on the pond. Ms. Yeatts submitted two (2) other character letters that she would like to go on record.

Chairman Burke said this is not about the decisions of the Commission. It is about how it is communicated to the applicants and how we deliver services. Ms. Yeatts said when she first came back to work as the Agent, we had an open house for conservation and invited residents. She designed and printed a brochure to help people make it through the process. It is not an easy process. She has tried really hard to work with citizens, and she feels that the Town is pretty lucky. She works 15-19 hours a week and she is available 24/7 on her cell phone. She will go out any time at the applicant's convenience.

Attorney Randazzo said that Ms. Yeatts questioned the age of the complaints. Chairman Burke said his questions were more rhetorical. If people are coming forward expressing discontent about interactions with Ms. Yeatts, it is not invalid just because it was years ago. You did have some static with Lou Vermette. Ms. Yeatts said yes. Chairman Burke said just because it is happening now, makes it invalid? Even if it is politically motivated, it's not invalid. Attorney Randazzo said it is sounding to me that there is a disconnect between how you view the interactions and admittedly disgruntled people view the actions. How does the Board reconcile that and insure that the Town is putting the best face forward with dealings with applicants and engineers? No matter what Town she is in, it is universal. This is a customer service oriented delivery of services. There is often a lot of tension with folks that are not Town employees or officials. They don't have to comport themselves in the same manner as Town employees and officials have to. Some of the things that you said about responding to some of the assertions is a complete disconnect between what people are hearing and what you recall is being said. Some of that may be the mode of delivery. Ms. Yeatts said she provided evidence, like at the Board of Health Meeting. That is not what the Board of Health Minutes say. She has read them several times, and it appears that she acted in a professional manner. Chairman Burke said we have no purview of the Board of Health. Ms. Yeatts said it is in the complaint letter.

Selectman Hollenbeck said your point by point analysis of the letters is based upon the job of the Conservation Agent and the reaction of the Conservation Agent in the context of this is where she would go to DEP. They are upset about it because they don't understand the process or why you are going to DEP. It is difficult for us, because we are trying to separate out the role of the Agent and the Commission from the reaction or how you interact with the people that are receiving the information. We struggle with that because we have the complaint letters. We now have letters as to your character and public interaction. We are being told that people are offended or feel they are not being treated fairly. They are in a vulnerable position because they have been told no. We need to try to take that into account and understand where they are coming from. They are defensive from the get go. We need to somehow figure out how to make sure you are treating everyone fairly, even in an unfair situation because those are the rules or laws. How can we make sure you are treating people in a fair and equitable manner in how you interact with people? Have you had any instances where maybe you lost your cool or had some of those confrontations, and that is what they are reacting to? Ms. Yeatts said she doesn't see it besides what they are saying. That is why she brought up the Board of Health Minutes.

Chairman Burke said he always wants to improve on what we do here. He said you are only as good as your last gig. To Mr. Chamberlain's point in his letter, there are always a disgruntled few who resent the regulations and don't allow them to do what they want. That is Selectman Hollenbeck's point; there are always people that will be unhappy. But if they are so unhappy that we get this type of reaction; we need to look into this. He always wants to improve on how we are doing things. That is what my role here is. You are only as good as your last gig. Ms. Yeatts said the meetings are on cable. Chairman Burke said you can hit it out of the park 100 times, but if you strike out, you strike out. Do we say 99% of the time it is done properly or reasonably? Should we just not dig in and have this conversation on the basis of that? Ms. Yeatts said if you looked at the tape of the last gig, at the very end, Mr. Lens was very threatening too. Selectman Hollenbeck said that is somewhat what she was referencing it. Ms. Yeatts said they can say anything they want. Where did she cross the line? There are three letters (3) that can say anything that they want. Where are the 225 people that she has helped? If she said one thing at a meeting that the Selectmen didn't like about it being a "horror show", she doesn't feel that comment justified all of this. She never saw the letters, and no one said anything about there being complaints until the past ten (10) days. Chairman Burke asked if she thought that this was completely unwarranted. Ms. Yeatts said she is a Town employee; it would have been nice if you had defended her a little bit or asked her what had happened. She knew from the first day there would be trouble denying this case. Selectman Hollenbeck said she wished we were able to have this conversation prior. There was a Wage and Personnel Board, but now that is us. It is a difficult role to be in because we are not here on a day to day basis. There are a lot of things in the handbook that we have to enforce and interpret. She has asked about annual reviews, but she doesn't know if you have had any. Those are some of things that we are struggling with. Why aren't they being enforced? Maybe it has not been done in the past, but we need to look at this to make sure that we are enforcing the bylaw. Personally she feels that if she has been tasked with enforcing the Wage and Personnel Handbook, she needs to do it. This is the means by which we can have the conversation. We can't really come to you to discuss it individually.

Attorney Lang said having the meeting like this is perfectly fine. You have to act on a complaint. However, verbal complaints are not documented. You say you are good as your last gig. The Lens' issue is very contentious; he is emotional about his son. She is delivering bad news constantly. There are two (2) sides, and somewhere in the middle is the truth. Her last gig is not the last two (2) letters that happened over two (2) years ago within a week of each other. Someone is soliciting those letters. Mr. Vermette got bad news; he did not follow the plans that were there. He wanted to turn a seasonal property into a year round property. He had to spend a lot of money to do what he wanted to do. Ms. Yeatts makes the recommendations, and the Commission votes on them. DEP also helps her make the decisions. Regarding Vasseur, that seemed like it was an emotional time, but it was two (2) years ago. If they had that much of an issue, they would have come in and made a big stink. Chairman Burke said maybe they must come before Ms. Yeatts again and don't want to do that. There is an inherent power position that would keep their mouth shut. They may hear that the Town gets a letter, so they send in one. Attorney Lang said both these letters came in within a week. He questioned the veracity and the motivation of the letters. Chairman Burke said it may be politically motivated. Selectman Hollenbeck said with those two (2) letters, in my evaluation and opinion, she doesn't look at those in the same light of the Lens' complaints, because she can see the video and the interaction. She can see good interactions in some of the other meetings. The letters are building the case. Now we have three (3) letters from Conservation Commission Members that build the case the other way. It's trying to gather evidence. She can see what has been said on tape, and that means more to her than the letters. Attorney Lang said Ms. Yeatts can certainly assess how she deals with people and perhaps change, take a step back and think before the delivery of the bad news. Maybe these people are interpreting the bad news differently. Obviously you have an instance where someone did not take that bad news the best way. Selectman Hollenbeck said to that point, the quote that struck her was in the fairness. Maybe it's just the delivery of "I don't chase them down, but you I will". That interaction will put people's hackles up. Is this how you would treat a different project?

Attorney Randazzo said part of what the Selectmen are struggling with is what we can see on Conservation Commission meetings is one thing, but there is no video on one on one interactions with applicants. If the Board sees something happen on a video, is it reasonable to conclude that those same type of comments are being made one on one or more extreme that prompt the complaints coming forward. As Attorney Lang pointed out, is it deliberate. Is it not explaining to folks this is why this is happening? The Board appreciates that your job is not full time, so it may mean that you don't have time to do everything that you need to do, and some of those conversations don't have the same level of content. Ms. Yeatts said she has on her computer over 100 people that have thanked her for the time she has spent with them. That offsets those three (3) letters and maybe comments that were taken badly. She was probably warning them that she would be on site, so they should probably do it right. Chairman Burke said it seemed personal against Mr. Lens. What was your thinking on that comment? Ms. Yeatts said she said it because she was keeping a good eye on the project. Chairman Burke said do you see that someone could take that personally as you going after them. Selectman Hollenbeck repeated the quote in question: "I do want a preconstruction like before you start, it will be on there. Some people don't pay attention to it, and I don't chase them down, but you I will". Ms. Yeatts said because of the complexity and size of the project, she was giving them warning. She did not observe the first case. The gentleman said he was building a modular home on a slab, which was

fine. He put up his hay bales lines and did his demolition with no complaints from neighbors. She hadn't looked at it and didn't hear from him again, and then he wants a Certificate of Compliance for a 5' cellar and three (3) story stick house. Her motivation was it had already gotten away from Conservation once, so she was going to have to keep an eye on it. because the first owner did not follow his order. Was it the best possible way? Maybe not, but she shouldn't get strung up on it.

Selectman Powderly asked what did the new dock on the Lens' property have to do with Conservation. Ms. Yeatts said it is a violation; they have to go before the Conservation Commission to get a Chapter 91 license from DEP. Selectman Powderly said there are hundreds of docks; why was he singled out. Ms. Yeatts said he was an open case, and she could see a violation. Selectman Powderly said in the Order of Conditions to plant grass, they alluded that the loam was put down, and now it has to be taken back up. Ms. Yeatts said the previous owner came to us for a Certificate of Compliance. She looked at it, a 5' cellar and a three (3) story stick house. It is hard to give a Certificate of Compliance to someone that didn't do what their Order of Conditions said. It was not stabilized; there was a huge mound around the house. The Order of Conditions says a short time for stabilization, but that dirt had been there for a long time. If the new owners were going to move it around and build it, then he shouldn't have had to plant grass. The Conservation Commission compromised and let them plant on the side where it wasn't being moved. Selectman Powderly said for the previous owner, the loam was not put where it was supposed to be. Did we tell him where to put it? Ms. Yeatts said they show us what they want to do. We either approve or disapprove. He showed us a slab, and dirt around a slab is different than dirt around a 5' tall foundation. Selectman Powderly said on Vermette, you said the old septic and well were illegal. Ms. Yeatts said he never had a permit for the well. Selectmen Powderly said you said the whole lot is in the wetlands. Does that make the new septic automatically fail, because it was built on illegally filled property? The complaint said that the septic system would fail because it was built in wetlands. Wouldn't it always fail if it were built on wetlands in your mind? If the old system was illegal, does that automatically make the new one illegal. Ms. Yeatts said she guessed it depends on what system you are talking about. Selectman Powderly said you had said that you didn't understand saying the house would fail. The letter says you said the septic would fail. Does that automatically fail the new system, since it was built on wetlands. Attorney Lang said Ms. Yeatts does not remember anyone coming in to ask about the house.

Attorney Randazzo said it is up to the Board, if they want to take public comment. Technically this is not an open meeting. Sarah Kulakovich said she was there for Mr. Lens' meeting, and she knew in that moment that we were going to have trouble. She saw this coming. Ms. Yeatts was great in her last gig. The Selectmen need to get behind the Conservation Commission. We are the only stewards for wetlands in this Town. At this moment, we all own this problem, but the only people at the helm are the Conservation Commission and the Open Space Committee. Ms. Kulakovich said she had bought land just like Mr. Lens and had to eat it. Everyone will react to this problem differently. In ten (10) years when we have flooding, we are going to regret that we did not step up to the plate today. Get behind us and help us deal with these people that are having these problems. If you are sensing friction, the experts are out there on a limb, and we need support. You are not going to have quality people helping the Commission. This is a witch hunt. She can look at everyone in this room and say this is not a

good answer. All of us are human and make misconstrued comments. We are human. Chairman Burke said at what point do we as a Board investigate these things. The point is when we decide it. Ms. Yeatts had the opportunity to have this hearing in private, but she chose this to be public. She chose the witch hunt, so don't throw the witch hunt on us. Ms. Kulakovich said when Conservation came in to speak to the Selectmen about what we are here to do, in that meeting how that went, it is a two (2) way street. It's going one way right now; it needs to go both ways. When we left that meeting, we were heartbroken, and we knew we were on our own. Go back and watch that tape if you want to understand what is going on. The friction you are seeing is because we as a town have not gotten behind this problem that we all own. Yes you are hearing it in frustration, and after a while, people give up and you don't want that response. We want to move forward together as a Town and stop fighting amongst ourselves. We are not playing as a team. We need to come together as a team.

Selectman Hollenbeck said this is not the first hearing that we have had as the Wage and Personnel Board with Town employees, but they have all been in Executive Session. This is not a witch hunt; this is just part of the process that we are expected by by-laws and Town Policies to investigate. Chairman Burke said this is not a criticism of the Conservation Commission decisions or the work you are doing. If you want to make yourself a martyr for your cause, go ahead. We are shackled with a process with the outcome of this being what this is, which is not decided by the Board of Selectmen. He was glad people are here in support of Ms. Yeatts. This is not a team thing. This is just about Ms. Yeatts. Linda Grubb said she didn't believe that you can separate Ms. Yeatts' actions from the Conservation Commission's actions. There were two (2) points that were made. Regarding the "horror show" comment, it had nothing to do with the project, it was how she was going to be able to mesh the two (2) existing Order of Conditions on this property. She does not make decisions for us. She doesn't say that a plan is ok, we do. She can bring it before us and if there is something missing, she asks for it. It is not Ms. Yeatts necessarily creating problems with developers. For Lens, she voted against it for valid reasons. The comment about watching the property closely at every turn was because something more was done than what was permitted by us, like building a larger house, the fill and the dock. Every turn, something more was done than was permitted by the Conservation Commission. Every time you went to look at the site, there was something more done that was not permitted. For her, it is not enough for an applicant to say they didn't know, and yet it constantly happens. She was sorry that the previous owner did things that he shouldn't have done. She was sorry that Mr. Lens is in this position. There is too much on this lot, and she did not approve it.

Selectman Hollenbeck said it has nothing to do with the Conservation Commission's votes; it's the delivery by a Town employee in accordance with the Wage and Personnel Policy. We want the Town employee to put their best face forward and that they are in accordance with the Wage and Personnel Policy ensuring that they have no discourteous conduct towards citizens and other persons using Town facility. It is complicated by the fact that the delivery of the news is not going to be taken well. No one likes to hear no. We are trying to separate these two (2) pieces. We are just trying to look at it from the delivery of the message. Is that representing the Town of Lakeville in the way that a taxpayer who is paying to live here. Ms. Grubb said all of your Board Members are taxpayers too. Mr. Lens actually told us he was going to do whatever he wanted to do once he goes to DEP. Selectman Hollenbeck said Town employees need to deliver messages in a way that should be delivered in accordance with the Wage and Personnel

Policy. Ms. Grubb said what she will take away from this, any time a Town employee is less than courteous with me, she should send a letter to the Selectmen so that a file accumulates. Selectman Hollenbeck said there is an annual review process by which employees are evaluated. This is part of it. It is different than any in the past. Chairman Burke asked Ms. Grubb if she thought the Board should not have done anything. Ms. Grubb said you can't divorce Ms. Yeatts' handling of this project with our decision. You look at the tape; she does not think she was at all disrespectful with Mr. Lens. Selectman Hollenbeck said how are we able to establish divorcing the two. Ms. Grubb said when you get a complaint about someone, you discuss it with them. The Town Administrator could have had that conversation. You have no idea what the three (3) of you sitting at the table on what happens in the audience. Most people don't complain, because they are concerned about the reactions. Attorney Randazzo said the Selectmen cannot do anything outside of a meeting. Regardless of what other consideration of the complaints might have been done or could have been done, the Board must have this type of discussion with the employee. Chairman Burke said the meeting could have been in Executive Session, but Ms. Yeatts chose to have it in public. Ms. Yeatts has been a Selectman; perhaps she feels intimidated. She has the benefit of knowing what type of role we are playing here. Mr. Kulakovich asked where is your checkpoint if everyone complains all the time. Chairman Burke said procedurally is this cumbersome and somewhat ridiculous, yes.

Kenneth Upham asked if Ms. Yeatts violated anything in her Job Description. Attorney Randazzo said it is addressed under Required Responsibilities. Mr. Upham asked if we are speaking about demeanor. Chairman Burke said yes. Mr. Upham said why isn't the complainant here. She suffers the consequences. She has been with us in previous complaints. Chairman Burke said there is nothing in writing. Mr. Upham said she has a history with the Town. This is very discerning and sad. Chairman Burke said it is sad that we are having this conversation. You are entitled to feel how you want. All the commentary is making this more difficult to have a conversation about what we want to have as a Board. He understood Ms. Grubb's comments and Ms. Kulakovich's issues about support of the Town. This is just a conversation about a complaint we have received, and we have to talk to her about it. Ms. Kulakovich said she thought Ms. Yeatts spoke logically and was trying to educate Mr. Lens. We understand why he is stuck. She didn't know if Mr. Lens understands and that he is upset about him being in that position. It is very easy to listen to people and hear them through their own filter. You need to accommodate for that margin of error and how people perceive things and how they change them. She was there, and she tries to stay neutral. She is a very sensitive person, but on this date she thought Ms. Yeatts did an excellent job, and she hopes that counts for something. Joe Chamberlain said the thing that bothers me the most is from the time that Ms. Yeatts got word about the letter; days went by before she had any idea on what was in the letter. Meanwhile, there are people wondering in Town Hall about the letter, and he was getting calls about it. This is a basic tenant: you have to know what charges you are facing. Logically that is how it should work. Chairman Burke said we have absolutely followed the advice of Town Counsel. We followed the required notice. To say not knowing what is in the letter for a few days, how is that damaging. This is a conversation to get her side of the complaints. The fact that she brought everyone here in her defense is interesting. How do we know what she is thinking until we sit down with her? This by her nature can be misconstrued. Mr. Chamberlain said the people that are here to support her might not see this as a trial, but in spirit, it is a trial. Chairman Burke said that is the nature of the interaction. It is similar in the sense that it is formalized and certain

topics need to be discussed. Everyone hears what they want to hear and sees what they want to see. If you see this as a trial, then that's your opinion. This is more cumbersome because there is an audience. Attorney Lang said Ms. Yeatts was well within her rights to ask for open session. Chairman Burke said the format was not decided by the Selectmen. Selectman Hollenbeck said anytime we have personnel issues, they are not what you expect from corporate America. We can't discuss this unless we post a meeting. This is our only means to have this conversation. If we are charged with being the Wage and Personnel Board, we should comply with what we are charged with. It's not a fun process, but this is why we are here.

Robert Bouchard said he would like to endorse Ms. Yeatts' role as the Conservation Agent. She has done a great job and should be commended. Did she say some things that she now regrets, maybe? Things were said inappropriately on both sides. Where do we go from here, that is your task. My recommendation is that you look at it in all fairness. That is what Mr. Lens was looking for. He was looking for preferential treatment, and he did not get it. That is why he reacted that way. We cannot make that kind of decision based on emotion. He came in full of emotion. Talk about fairness, what about everyone else that had hard decisions made. It is what it required from DEP. It's not her last gig, it is her overall record that you need to weigh in on. He respectfully requested that it be minimal; Ms. Yeatts has already suffered enough.

Attorney Randazzo said it is now up to the Board to deliberate. She said it could be done in Executive Session or in Open Session. To the extent that if the Board decided to impose discipline, which would be public. Ms. Yeatts said since 1999 when she first became involved in the Town, she has put her heart and soul into protection of the natural resources. She has nothing to hide. She did not have time to gather support. These people came on their own volition. It should be in Open Session. Joyce Walsh said as a former personnel administrator in public and private organizations, she would urge the Board to not consider any rumors or verbal complaints if they are not documented. If there is no paper trail, they are not legitimate. Of those few items that you say Ms. Yeatts exhibited a demeanor that did not reflect well on the Town, she thought Ms. Yeatts had answered all of them. You have to be very specific. Ms. Walsh said she is not a personal friend of Ms. Yeatts and has never been before the Conservation Commission. Her interest is fairness.

The Board of Selectmen took a brief break.

Chairman Burke said that the floor is closed to public comments. We will now decide what action, if any, we will take acting as the Wage and Personnel Board. Attorney Randazzo said there is a broad range of options for your decision. It is up to the Board as to what is an appropriate response. Selectman Powderly said all employees are employees at-will. We voted in May at Town Meeting to make the Building Commissioner Director of Municipal Inspections. You could say Mr. Darling as Director of Municipal Inspections can hire whomever he likes, as long as they are qualified to do inspections, including Conservation inspections. This may solve itself, whether he chooses Ms. Yeatts to work with or to work with other people. If we are talking about reprimanding Ms. Yeatts, he was not so sure how one punishes an at-will employee who works 18 hours per work. If you were in corporate America on an 18 hour a week employee, you would move on with someone else. It's all perception. When reprimanding an 18 hour a week employee, you don't deal with them anymore. When the audience says they are

uncomfortable, this whole thing is uncomfortable. We are reacting to negative letters. One could solicit positive letters and negative letters. You will have a pile of equal numbers. He didn't know if it takes care of itself with Mr. Darling being the Director of Municipal Inspections. Chairman Burke said that raises the point about the delivery of services in transition. That is two (2) issues, but they are intertwined. One is this specific issue, but moving forward, there is a level of accountability and oversight of the Conservation Agent by Mr. Darling. Perhaps Mr. Darling can work with the Conservation Chairman on this. Instead of this, there is a process that the Department Head can deal with issues like this. Selectman Powderly said he doesn't want to pass the buck to Mr. Darling to say you can either work with Ms. Yeatts or not. Selectman Hollenbeck said it's a separate issue; we want to focus on this issue from this process. We received some letters, and we have addressed them and received a reaction and found out some of the facts. We do not have Mr. Lens here to get additional information. She doesn't know what a precedent is, but she is looking at the most recent complaint. She is having a hard time making a decision that is absolute, based on one (1) instance in front of us today. We have received two (2) sides of the story; this is a difficult position to be in. Is there enough evidence here that we believe warrants disciplinary action, and what is available to us? Chairman Burke said we have the option of doing nothing or doing something and to what degree. We should focus on this. Selectman Powderly's point on moving forward, perhaps this issue does not play out this way, but we as the Wage and Personnel Board have to make a decision specific to the complaints.

Selectman Powderly said he doesn't want to kick this onto Mr. Darling's shoulders. In corporate America, if you are running a \$30 million budget, and you have the perception of complaints, it is just not worth having the person. This is a tedious process for a part time at-will employee. Chairman Burke said we spend way less time talking about expenditures that far surpass the salary of an 18 hour employee. Selectman Powderly said if you solicit comments, you would have negative and positive. How do we reprimand Ms. Yeatts other than terminating her; what else is there? Attorney Randazzo said you can do that, but to the extent that the Board concludes that there is something in the manner of the delivery of the message, the Board ought to be clear as to your concerns and what the Board wants to be focused on. Selectman Hollenbeck said we spoke about how it's not the message necessarily, but the delivery of the message. What can we do to ensure that the message is being delivered per the handbook? Is that something that warrants dismissal, because it cannot be changed or remedied? There were several alternative ways you could have said it, and we want you to work on that. How do you work on that? How do you monitor that? It's easy to put the expectation out there in a circumstance where an applicant comes before you and you say the quote, because this is a complicated matter, expect some oversight. The applicant perceives that Ms. Yeatts is out to get them. The way this was said, it is inappropriate and crosses the line. Hopefully adopt more neutral language that is more fact specific in a way that they don't consider. How do you change it and how do you monitor it? If we are kicking the can down the road, it's Mr. Darling's problem and becomes an issue of oversight. Selectman Powderly said if Ms. Yeatts was terminated, Mr. Darling has the right to hire her as a contractor. Have we already done that making him Director of Municipal Inspections. He was for terminating the position and hiring a contractor. Attorney Randazzo said that is off track. Selectman Powderly said regarding the demeanor of some people, if you tell him to change his ways, he was not sure he will change his ways. If you want to stop him from speaking out of turn, you have to get rid of him. Either

terminate Ms. Yeatts or give it to Mr. Darling for supervision. As soon as Mr. Darling does not like her demeanor, it's up to him to terminate.

Selectman Hollenbeck said she is not sure that there is enough definitive evidence to say that this is, in her opinion, a black and white issue. Does she disagree with the language and delivery but given the circumstances, does she think that it is enough for termination, she is not entirely sure she is there. Selectman Powderly agreed with that, but if you have a public employee that you hear a lot of undercurrent with, you cut and run. Selectman Hollenbeck said maybe it's just that that I don't have that undercurrent. She is coming from, based on the videos, the letters and our discussion. Selectman Powderly said if you want more complaints to put us on safer ground, you could delay it and ask for more complaints or letters of support. Selectman Hollenbeck said the other piece goes back to restructuring the delivery of service. This is another piece and separate. How do we make sure that Conservation is under Mr. Darling's purview. and who he chooses to have perform inspections as opposed to complaints from taxpayers.

Attorney Randazzo said it strikes me that there are a couple of different things. You have to take some action on the pending complaints for closure. It could be to further investigate, but there needs to be some action. Should the Board choose to impose discipline, short of termination, the Board could look at continuing the discussion with Ms. Yeatts as time moves forward. If the Board were to issue discipline, be clear what you want her to improve. You may have a different mechanism to monitor this now. The idea of inviting more letters is not what she is suggesting. She wants to highlight that if the Board felt that it would be necessary to invite the complainants in, she doesn't think that from the discussion, it appears to her that you were willing to accept Ms. Yeatts' explanations on what was happening. The concern is how the message is delivered. You need to give clear expectations to Ms. Yeatts. Selectman Powderly said monitoring can be done, but the problem exists in the private one on one meetings on taxpayers issues. It's he said, she said. If you are waiting for DEP, he might wait in his car. Monitoring the meetings is easy, but no one is there. Selectman Hollenbeck said she is concerned that we don't have a formal mechanism as employee reviews are not being done. A direct supervisor should be reporting back on interactions with townspeople. If you deliver the "no" message in a different way, we won't get complaints. People may complain about the decision, but that is out of our purview. There are issues with the delivery, but she wants to make it clear if this continues, she would be more in favor of more severe disciplinary action.

Chairman Burke asked for a motion. Attorney Randazzo said the motion would be to take no further action on the complaint, take no further action and reprimand her on concerns with interactions with an indication that the Board expects improvement in her manner of interaction or terminate employment. You can craft pieces of this in different ways. You can independently request that the transition with more of a direct supervisor, periodic touch base meetings with Ms. Yeatts and Mr. Darling. Selectman Powderly said if Mr. Darling said to me he wants to cut Ms. Yeatts, he is not going to debate it. Attorney Randazzo said that is different regarding the structure of a Department. Since the Departments are in the same building, Mr. Darling will be here to take complaints. Selectman Powderly said he is not happy with the way we handle ourselves with people that are in front of us. There is an issue. He is not going to terminate someone that is irate with Conservation. He doesn't like the way that we handle people in the Conservation meetings. He believes there is a problem. His motion would be to take no further

action at this point in time, but any further misconduct interpreted by the Board of Selectmen would be termination by the Board. Chairman Burke asked what if we get more letters. Selectmen Powderly said we are not going to take those two (2) piles and consider them, but we will get those letters starting tomorrow. Selectman Hollenbeck said she would second Selectmen Powderly's motion for discussion. The motion was amended to add a time period (6 months) for review with the immediate supervisor, Mr. Darling. Selectman Powderly said we don't do a good job for reviews. Employees don't get more money for reviews. Selectman Hollenbeck said she has a problem with the reviews not being done. Selectman Powderly said if an employee hits another employee and has not been reviewed, are you going to terminate them? Selectman Hollenbeck said the Board will be reviewing the Conservation Agent position under the Building Commissioner.

Attorney Randazzo said going forward, it's fair to say that you are going to need to do an evaluation. In fairness to Ms. Yeatts, if she is going to have a new direct supervisor, that needs to be laid out. Selectman Hollenbeck said that Department Heads should be reviewing personnel. This process is helpful to understand issues that the Conservation Commission and Agent have and the difficulties that they have. She has learned a lot. That is helpful in having that six (6) month review to evaluate how it is going.

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

VOTED: To place a reprimand in Ms. Yeatts' personnel file, which the Chairman will work with Town Counsel to prepare. A review of the issues that have been discussed today will occur no later than December 31st or sooner if necessary with the employee's direct supervisor.

Polled vote: Selectman Hollenbeck – aye; Selectman Powderly – aye and Selectman Burke – aye.

Chairman Burke said a letter will be placed in the personnel file stating that this specific instance was unacceptable. We want to make sure that the way the message is delivered is done in an objective way that cannot be misconstrued in the least. Attorney Randazzo said you can certainly have that in the motion. Whether you choose to call it a reprimand, this is what we want you to do, so don't do it again. Selectman Powderly said he would call it a reprimand. Chairman Burke said that is what this is. Part of the problem with Lakeville is that we aren't clear on stuff, and it stays in the gray areas and people operate in that. There is plausible deniability. We need to be clear and be objective. Another aspect is that we are bad as a Town in enforcement. He wants to be clear that this is a reprimand. Selectman Hollenbeck said she would like a follow up to see if there are continuing problems. We could attend meetings or review tapes to see if we have moved away from the language that was used. Attorney Randazzo said issuing the reprimand is acting on the complaints. You should do a review no later than six (6) months from today.

Other Business

It was decided to switch the Selectmen Meeting times for the August meetings. The new meeting schedule is August 12, 2015 at 7:00 PM and August 26, 2015 at 9:00 AM.

Adjournment

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

VOTED: To adjourn the Selectmen's Meeting at 12:25 PM.
Unanimous in favor.