

TOWN OF LAKEVILLE
Selectmen and Wage and Personnel Board, as applicable
Meeting Minutes
November 1, 2017 – 6:30 PM - Selectmen’s Office

On November 1, 2017, the Board of Selectmen held a meeting at 6:30 PM in the Selectmen’s Office 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, Lorraine Carboni, Town Coordinator, and Christine Weston, Recording Secretary. LakeCAM was recording the meeting.

Meet with Building Commissioner Nathan Darling to discuss the Cease and Desist Order for the Solar Canopy Project at the MBTA Parking Lot

Nathan Darling, Building Commissioner, was present for the discussion. Chairman Burke stated that the Board did not technically vote for the Cease and Desist Order to take place for the Solar Canopy Project at the MBTA Parking Lot. Chairman Burke said through discussion with Ms. Garbitt, Town Administrator, Town Counsel and Mr. Darling, details have been learned of if the Board takes action, what Mr. Darling would then do. Selectman Powderly stated that he thought that the Board had already voted, however, it was more that the Board send a letter to Secretary Pollack as step one.

Chairman Burke stated that what he found horribly disingenuous about the whole idea is the State coming up with this unilateral action, without any input from the Town, to bolster the MBTA budget by leasing air space. The Town pays \$24,000 a year in fees to the State for the privilege of having the commuter rail. The Town did not ask for it to be located in Lakeville. Most people do not realize that the State charges the Town to have the Station located in Lakeville. Now the State wants to extend the commuter line to Fall River and New Bedford to potentially lose even more money a year than they already are doing. The State has had Lakeville pay to be a commuter rail town, of which the Town had no say in, and now they have a bid to lease space venture and they are forcing the Middleborough Gas & Electric Department (MG&E) to buy the power at an inflated rate.

Selectman Hollenbeck stated that the Town of Lakeville was not included on the list with the 37 other stations initially, but now it is. Omni Navitas does not have Lakeville on their list of sites either. Senator Rodrigues and Representative Orrall could be asked about this. It also seems important to read the lease agreement that will be in place with Omni Navitas. That company will be profiting from the MG&E paying them for electricity for 20 years. The Town of Lakeville should not have to subsidize the MBTA’s losses.

Selectman Powderly stated that the Town will be able to issue the Cease and Desist Order, but it seems that there are other maneuvers that the Town can also do, such as writing a direct letter to Governor Charlie Baker and copying it to the Lieutenant Governor, Secretary Pollack and each of the 37 towns which are also involved, and Senator Rodrigues and Representative Orrall. This should elevate the importance of the matter. It is being said that the solar array canopies will benefit the commuters, but there will not be any commuters at the parking lot for it to

benefit. The Town still feels that the solar canopy is blighting the area along with what is being done by the MBTA. Putting solar canopies on a roof at a garage at Logan Airport is much different than putting them on a parking lot or parking garage in a residential neighborhood. A letter to Governor Charlie Baker expressing the Town's extreme displeasure about the solar canopies, and requesting a meeting with those at the highest level possible should be sent.

Chairman Burke added that the Board expressed its issues at the last meeting with the various representatives of the MBTA, Omni Navitas, etc., about the use the Town would rather have in that location. Selectman Powderly said Omni Navitas also has offered money in a payment in-lieu of taxes, however, even if that amount increased to \$20,000, he still did not like the fact of solar canopies being at the parking lot. Selectman Hollenbeck stated that the letter should bring in the South Coast Rail issue and the fact that the Town has been working on expanding the 40R District in that area. The timeline will be important to review, how the Board met with Department of Housing and Community Development (DHCD), how the Board has reached out to its State Legislators each year trying to get the 40R funding each year, concerns with the 40R District changing, the State trying to force the Town into Smart Growth and how Southeastern Regional Planning & Economic Development District had done a study for the Town regarding implementing a Smart Growth District, and now it will be thwarted by a State agency and the lease for the solar canopies.

Chairman Burke stated that he will argue the point that solar panels do not belong in parking lots in residential neighborhoods to the end. The money is the smaller point; the Town is not interested in negotiating the best bang for its buck. The MBTA was negotiating with the Assessors without the Board's knowledge. Therefore, the aspect of blight and all the issues Selectman Hollenbeck mentioned, such as the 40R, expansion of that District, and the movement of the Lakeville train station to Middleborough, needs to be brought forward. Selectman Powderly explained that one of the reasons that the MBTA wants the station in Middleborough is due to the fact that it takes 15 minutes to switch the train from heading in one (1) direction to another because they have to check the mechanics of the train. That is the excuse; they are trying not to keep the people on the train from Fall River and New Bedford any longer than necessary. Selectman Powderly stated that if the solar canopy was to take place in the "pumpkin patch", he might not be as objectionable to the project. Chairman Burke stated that there is still the point of them nevertheless charging the MG&E, which is still wrong.

Chairman Burke reviewed the email from Mr. Darling, which pointed out some specific issues:

1. Contractor stated the bid included 37 other stations. Should the Town reach out to those communities to get their feelings on this?
2. Though the permitting and inspections will most likely be done correctly through State Inspectors, the zoning is the component which is a concern for the Town.
3. Timing is also a big issue; if the project is slowed down, the solar firm may not be able to meet their March deadline and will then lose energy credits. The project will not be as equitable for them then.
4. Through conversation with Town Counsel, they agreed that they would probably be exempt. It would good to reach out again to Town Counsel to discuss the Cease and

Desist further and have their guidance in reviewing or writing the Order, since it will most likely be scrutinized.

The Cease and Desist Order may or may not be recognized and it will fall to the Town to enforce it. Therefore, the entire impact of the situation needs to be understood including knowing that the outcome could be yes or no.

Selectman Hollenbeck stated that from her perspective, the letter is the Cease and Desist. The State is coming in, doing this project and did not tell the Town about it until the Town asked. It would be interesting to know why the March rule is coming into effect. The Board should do everything possible to stop or delay the project till March 2018. They are going against the Town's Zoning By Law. Mr. Darling explained that in order to issue a Cease and Desist there has to be a misuse, which would be Section 10 of the Town's Zoning By Law for solar. Once they start the project, Mr. Darling can issue the Cease and Desist. Through discussion with Town Counsel, it may be that they will not even stop the work. If the project does stop, it is hoped that it would be delayed past March so that they would not be eligible for the solar credits. The solar credits are Federal funds, which the State is trying to tap into. It seems that the reason Lakeville is now on the solar projects list, while it had not been initially, is that the State needs the Town of Lakeville's site up and running more than any other community, which may be on National Grid or Eversource.

Selectman Hollenbeck agreed it would be important to point out that Lakeville was not authorized initially for this project. A Request for Proposals went out and was bid on, but Lakeville had not been part of it. Chairman Burke noted that it must have been modified, which would have taken a process, and the Town was not informed. Selectman Powderly suggested to add in the letter to the Governor that the Town will do a Cease and Desist. Chairman Burke stated that he wants everyone to be aware of the fact that once the Town gets into a legal battle, it will cost the Town money. Selectman Hollenbeck stated that she was looking to delay the project until March. Selectman Powderly stated that this matter will remain on the Board's radar and when they break ground, they will be in violation, at which time it will be addressed. Selectman Powderly asked that the letter to the Governor be drafted and sent first making sure that copies also go to the Lieutenant Governor, Secretary Pollack, Representative Orrall and Senator Rodrigues, then the Town can reach out to the other Towns.

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

VOTED: To write a letter to Governor Baker and copy it to the Lieutenant Governor, Secretary Pollack, Representative Orrall and Senator Rodrigues requesting a meeting with those at the highest level possible to discuss the matter within a week, and then for the Town Administrator to write a letter and send it to the other Towns and Communities who will be affected to apprise them of what Lakeville is doing.
Unanimous in favor.

Discuss the proposed PILOT Agreement for the Solar Canopy Project at the MBTA Station

Chairman Burke stated that the PILOT is a sham, as everyone is aware of. As of late last week, Mr. Scheid of the Assessors' Office, had not heard from Omni Navitas, so the Town doesn't really know what the next steps are. Assuming that the Assessors want to continue with the process, which Chairman Burke said that he is not against, the Assessors' need a copy of the letter of what the Board is up against. The Assessors should not enter into any agreement, since that would come from the Board. To their defense, they were probably waiting for more to happen. Ms. Garbitt stated that they should have contacted the Board or herself as soon as they received the letter. Chairman Burke stated that \$3,800 is being offered for in-lieu-of taxes, and the Assessors are recommending that the amount be \$14,000.

Update from Selectman Powderly regarding his conversation with Jackie Crowley from Middleborough Gas and Electric regarding the Solar Canopies

Selectman Powderly provided an update about his conversation with Jackie Crowley of the MG&E. Ms. Crowley remains neutral on the issue, since the project is not an enormous one, as it relates to their power. She would be happy to meet with the Board in private, but only one (1) Member would be able to meet with her. Ms. Crowley has expressed that she would be happy to respond to any questions that the Board has. Ms. Crowley also did say that if MG&E paid the rate they are agreeing to with Omni Navitas to all solar projects (7-9 cents), then the rates definitely would go up. MG&E is looking at the project to generate 192 hours of electricity, which is a miniscule amount as compared to all their customers.

Selectman Hollenbeck stated that though the project may have a completely negligible impact to the MG&E, the aesthetics is the valid point for the Town of Lakeville. Chairman Burke stated that it is not whether or not it has a huge impact, it is the fact that it does have an impact. It is known that the MG&E gets their power cheaper than that amount. The point is that Omni Navitas has an agreement to get a higher rate for the power than anyone else, and the Towns are subsidizing that cost at an inflated price. It is inherently wrong. Mr. Darling indicated that Omni Navitas is probably making a couple hundred thousand dollars from the 192 hours generated at 7 cents. That amount may be upwards of \$300,000. However, the real piece is the energy credits, which are lucrative. Selectman Hollenbeck stated that it would be beneficial to have a copy of that agreement, since there might be something about what the MBTA then receives from Omni Navitas. Mr. Darling stated how do you pre-qualify a bidder when you only have one (1) bidder. The Town is required to obtain three (3) bids just to do a small project.

Review the Job Description for the Superintendent of Streets; Discuss Interim Replacement Plan; Appoint Search Committee

Chairman Burke reviewed the Job Description for the Superintendent of Streets and discussed the interim replacement plan and appointing a Search Committee with the Board. He stated that he would like the search to bring about someone with hands on experience, which would be beneficial for the Town. Mr. Peck did email a list of items he was working on. Nine (9) out of ten (10) of them were jobs being done through consultants. The few in house jobs have also

been provided. Basically the position requires a significant portion of coordinating with consultants, who do the lion's share of the job. It is intended that the position be more of a working position than administrative.

Selectman Powderly asked about putting the opening of the position on the Town website for two (2) weeks. Ms. Craig-McGee stated that once there is a job description, she can put it up on the website. The Board may want to leave it up until it is filled and not put in an ending date. Many positions have their add read that applications will be accepted until the position is filled, and they also have that the salary depends on qualifications (DOQ). Chairman Burke suggested that the Search Committee be notified to give their opinion. The Search Committee consists of: Aaron Burke, Frank Alvilhiera, Daniel Hopkins, Nathan Darling, Finance Committee Member Ryan Trahan and former Highway Surveyor, Roger Hamilton. Selectman Powderly clarified that if Mr. Hamilton will not be applying for the position, he would be agreeable with him serving on the Search Committee, as well as, being the short term Interim Superintendent of Streets. Chairman Burke asked about Mr. Hamilton's compensation during the interim. Selectman Powderly responded that he did not object to the figure as presented. It was then agreed by the Board that Ms. Garbitt will work out the details and negotiate with Mr. Hamilton within the range presented.

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

VOTED: To approve the Job Description as amended under qualifications to read: valid Massachusetts Motor Vehicle Operator's License required, valid Massachusetts Class B Commercial License (desirable) and valid Hoisting Engineer's License Class C (desirable) and under Experience and Training: Bachelor's degree in civil engineering with four (4) years municipal government experience preferred; or an equivalent combination of education, training and work experience which provides the requisite knowledge, skills and abilities to perform the essential functions of this position.
Unanimous in favor.

Review Proposal and Contract from SITEC to modify the MassDEP Permit Post-Closure Monitoring and Inspection Program relative to the Town's Landfill and Transfer Station

Chairman Burke provided information regarding the Proposal and Contract from SITEC to modify the MassDEP Permit Post-Closure Monitoring and Inspection Program relative to the Town's Landfill and Transfer Station. The Superintendent of Streets, Mr. Peck, had been working with SITEC to try and reduce the cost of post-closure monitoring at the Landfill and Transfer Station. In order to do that, MassDEP has indicated further investigation work will be required for them to approve the proposed modification from SITEC. Selectman Powderly suggested that any decision on the matter be tabled until a new person is brought onboard as the Superintendent of Streets. Chairman Burke asked if there is a need to move on the contract now. Ms. Garbitt stated that the cost being proposed is \$17,900. How much that will reduce the overall cost is not known. Selectman Powderly stated that he would rather wait until a new person is hired as Superintendent of Streets. Ms. Garbitt stated that there is no hurry with the contract, and the matter can wait.

Request from Library Board of Trustees to proclaim November 4-10, 2017 as Friends of the Lakeville Public Library Week

Selectman Hollenbeck and Selectman Powderly plan on attending the luncheon, which will be held on Saturday, November 4, 2017 at noon at the Library. Chairman Burke reviewed the details of the event, which takes place each year to recognize the Friends and Volunteers helping in the Library, the Great Ponds Gallery Art Committee, and the Lakeville Litter Lifters.

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

VOTED: To declare November 4-10, 2017 as Friends of the Lakeville Public Library Week.
Unanimous in favor.

Discuss Comparisons and Funding for the new Town Website

The differences and similarities of the two (2) websites, CivicPlus and Virtual Town Hall and Schools, were compared. Input from others who had worked with the websites was provided. Selectman Powderly suggested that the Town Administrator contact the Towns of Carver, Pembroke, Rockland and Somerset about their experience with Virtual Town Hall.

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

VOTED: That the Town move forward a contract with Virtual Town Hall and Schools for a new website.
Unanimous in favor.

Vote to sign the Event Management Contract for the Loon Pond Lodge

Chairman Burke noted that the Board had received the final draft of the Event Management Contract for the Loon Pond Lodge.

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

VOTED: To sign the Event Management Contract for the Loon Pond Lodge.
Unanimous in favor.

Town Administrator's Annual Review

Chairman Burke stated that the form which was provided was very helpful for completing the Town Administrator's Review. He will submit it to her to review and sign. Overall, since 2014 the Board had created a vision for the Selectmen's Office which seems to have been coming about. The Human Resource (HR) Position has been created and filled. The Town Coordinator position has been created and filled. Both positions will help the Town Administrator by taking away responsibilities which were encumbering to other work she was trying to do and allowing her to generally improve how the Town Hall functions. What has taken place is not something

that the average resident sees. The reviews that need to take place are still an ongoing matter and it is hoped that everything as has been set into motion keeps happening. He would like to see more consistent hours at the Town Hall. The consolidating authority where appropriate such as the position of Inspectional Services has helped with that. It is also hoped that there is further opportunity to work with Ms. Craig-McGee on procurement since, Department Heads have indicated that they want to streamline that a bit more. It is hoped to see it get tightened up and more efficient. All in all, the Board is glad to have Ms. Garbitt; she is a dedicated employee that serves the Town well.

Selectman Hollenbeck provided her review of the Town Administrator. She stated that her goal is making sure that all the information in Ms. Garbitt's head is transferred to others in the Town Hall. Ms. Garbitt has a great presence in the municipal community, and she probably doesn't hear it enough. The next step is establishing how the Town Administrator sees what should take place over the next 20 months prior to her retirement. The Town Administrator has not let anyone down, but followed through with everything until completion, even when other matters presented themselves, she still continued to move things forward. It will be important that the right supports are in place for when Ms. Garbitt retires. It is important that Ms. Garbitt communicate what she sees that still needs to take place. One key item is to make sure that the \$40,000 IT grant does not go without being used. Ms. Garbitt stated that she would like to see the records for all Departments cleaned out. Yesterday she and other key individuals met with King Systems and discussed a process to move forward with it. The goal is to have two (2) people know every job in the Town Hall.

Selectman Hollenbeck stated that it seems to be time for the Board of Selectmen to revise the Priority List and making sure that all Ms. Garbitt's knowledge is conveyed accordingly. Ms. Garbitt stated that having Ms. Dunphy in place has been a huge relief. Any project she has needed to bring to her she has happily and knowledgeably taken on. Ms. Carboni has been learning all the necessary reporting, which needs to take place. There have also been so many procurement projects which Ms. Craig-McGee has put together for the Highway Department, the Green Communities Grant, the Jon Paun bathrooms, etc., besides all that is necessary for the annual bids for heating fuel, gas, salt, sand, etc. Efforts are being made to make the processes more efficient and to streamline them. Ms. Craig-McGee will soon be attending another Massachusetts Certified Public Purchasing Official class to obtain her certification in that area.

Selectman Powderly then provided some input relative to the Town Administrator's review. He stated that an important aspect for him is the delegation of duties. It does seem that the Town Administrator now has the appropriate people in place to delegate to. The relationship she has with the Board of Selectmen exceeds expectations. Whatever and whenever anything is asked for, it is pretty much provided within a day or two, which allows Selectman Powderly to be well-informed of matters he deems to be of importance such as budgets, etc. It is important that people understand that though people are capable of doing a job, it is how they do it, which is important. He added that he is very satisfied with the relationship between the Board and the Town Administrator. He agreed that the Board should get back to putting the Priority List on the agenda after Town Meeting.

Ms. Garbitt stated that she is excited to be able to pass things on. It was a bit difficult hiring clerks and training them, only to have them leave soon after. The posting of the meetings is the number one thing to make sure gets done in a timely fashion. Ms. Garbitt thanked the Board for her review.

Discuss Scheduling a New Year's Party

Chairman Burke said that the Town Administrator had asked if the Board would like to hold a New Year's Party.

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

VOTED: To schedule a New Year's Party for Saturday, January 6th, 2018.
Unanimous in favor.

New Business

There was no new business presented for discussion.

Old Business

Selectman Powderly asked about the School Union negotiations. Selectman Hollenbeck responded that the meeting will be taking place on Wednesday, November 15th, when they will go into Executive Session after their Open Meeting. She is unable to attend that evening. Selectman Hollenbeck will attend the Regional Finance Committee Meeting tomorrow evening and provide an update to Selectman Powderly about their next meeting, and anything she learns about the November 15th meeting.

Ms. Garbitt stated that the Board of Health had asked about increasing the State Revolving Fund Loan and had recommended an amount of about \$200,000. However, the Town Administrator and the Board of Health Chairman met with Patrick Rogers from DEP. It was recommended to increase the amount significantly higher, but only use it as requests come in for Septic Repair Loans. Having the higher amount in place will not necessitate having to go back to Town Meeting as frequently. The funds are not in the Operating Budget, and the loan is repaid through the betterments. Selectman Powderly stated that he would like the Town to continue to remain vigilant with the funds making sure that the betterments are being paid off and if not, that liens are put on the account. Mr. Rogers had even recommended that some sort of prepayment be put into place, since there is a lot of labor involved to process a loan. Ms. Garbitt added that the interest for borrowing the money had been 0% for the Town, it is now 2%. The Town charges homeowners 5%. The Board of Health can vote to charge the homeowners a higher than 5% interest rate. There is \$89,000 in the account at this time of the \$300,000 has was originally borrowed.

Any other business that may properly come before the meeting

There was no other business presented for discussion.

Other Items

1. Notice from Sovereign Consulting Inc. regarding the Filter Beds-off Bridge Street for the Former Lakeville State Hospital Site
2. Scope of Services and Contract from the Collins Center regarding our Community Compact HR Grant
3. Chart from Town Counsel regarding 40R Development vs 40B Development

At 8:40 PM, upon a motion made by Selectman Burke; seconded by Selectman Powderly on a unanimous roll call vote, the Board:

VOTED: To enter Executive Session and not return to Open Session pursuant to M.G.L. c.30A, §21a (7), to comply with the provisions of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and its implementing regulations found at 45 CFR Part 160 and Subparts A and E of 45 CFR Part 164 (the so-called “Privacy Rule”); 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 Minutes for October 11, 2017.

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

List of documents distributed at the November 1, 2017 Selectmen’s Meeting

1. Email from Mr. Darling, Building Commissioner, regarding points he took away from the MBTA Solar meeting.
2. Memos, correspondence, emails regarding the MBTA/Omni Navatis Solar Project (PILOT).
3. Update from Selectman Powderly regarding his conversation with Jackie Crowley, MG&E regarding the solar canopies.
4. Job description for the Superintendent of Streets and additional item to add from Selectman Powderly.
5. Proposal and contract from SITEC regarding modifying the MassDEP permit for the post-closure monitoring and inspection program relative to the Town’s landfill and transfer station.
6. Request from the Library Board of Trustees to proclaim November 4-10, 2017 Friends of the Lakeville Public Library week.
7. Information related to Virtual Town Hall and Civic Plus as considerations for the new Town website.
8. Vote to sign the Event Management Contract for the Loon Pond Lodge.
9. Form for the Town Administrator’s review.
10. Vote to schedule a New Year’s Party.