

**Town of Lakeville**  
**PLANNING BOARD**  
*Meeting Minutes*  
**Thursday, October 11, 2018**

On October 11, 2018, the Planning Board held a meeting at the Lakeville Senior Center. The meeting was called to order by Chairman Hoeg at 7:30 PM. The secretary was making an audio recording, and LakeCAM was making a video recording of the meeting.

**Members present:**

Brian Hoeg, Chair; Sylvester Zienkiewicz, Vice-Chair; Peter Conroy, Barbara Mancovsky, Janice Swanson

Lorraine Carboni, Town Coordinator, was also present.

**Discuss a citizen petition for a proposed Zoning By-Law Amendment for Adult Marijuana Retailer.**

Mr. Hoeg advised that they had before them a citizens' petition for an Article for the Special Town Meeting submitted by Lakeville residents. He then read the "subject or subjects requested for action at the meeting" into the record. Mr. LaCamera then addressed the Board. He wanted to state to the Board why this petition had been brought forward and explained it was for the following three reasons:

1. People felt that the Town and the ballot voted no to recreational marijuana. They should have had the opportunity to vote at Town Meeting which the Selectmen chose not to do.
2. This has to do with the Article that the Selectmen presented at Town Meeting related to the Zoning change to Industrial. A lot of people felt confused at Town Meeting. They were not sure what they were actually voting on.
3. This is now allowed in all Industrial areas but it was thought it would only be in the Industrial Park.

Mr. LaCamera advised this is why this petition has been brought forward. It has been reviewed by the Board of Selectmen and referred to the Planning Board. It is now up to this Board to hold a Public Hearing.

Mr. Hoeg asked if anyone present would like to speak to this now. Selectman Burke wanted to state for the record that the Selectmen voted to bring this forward to the Planning Board for consideration for a Public Hearing. Mr. Zienkiewicz wanted to note that this now would need a 2/3 majority vote to pass. Mr. Hoeg asked if there were any further comments from the audience. There were none. He then asked for comments from the Board.

Ms. Mancovsky asked if legal counsel had weighed in on the impact to the Town as they have already entered into negotiations. It was her understanding that if you don't zone a place for it, it

can be put anywhere which is why they zoned Industrial. Will this impact the Special Permit process, and how will it affect the existing businesses that have already been approved? She believed that they would be able to go in anyway because they are grandfathered and the Zoning was in place when they were approved. If the law is changed, it would apply to only someone new coming in.

Selectmen Burke replied that they are looking into a couple of issues through KP Law. The first, the idea that if you ban this through Zoning can it go anywhere there is a like business. There is a specific way that you ban it, but he did not know if it was through this process. Mr. Nathan Darling, Building Commissioner, advised that he had spoken to Kate Laughman yesterday as he had the same concern. He stated that Atty. Laughman indicated that because the Town of Lakeville voted no on the ballot question, they could effectively prohibit recreational or adult use retail marijuana simply by putting no across the table of uses and then striking any other further language. Selectman Burke said the second issue was relative to pre-existing, non-conforming. Mr. Hoeg said that they would still have to come back for Site Plan Review.

Mr. LaCamera wanted to clarify that the cultivation of medical marijuana was done by a Special Permit under the Board of Appeals. He did not know why it was changed to the Planning Board for recreational marijuana but it would have to go to the Planning Board for a Special Permit. Was that correct? Mr. Darling replied that the Special Permit Granting Authority for adult use is the Planning Board. The Zoning Board of Appeals will have no jurisdiction over adult use.

Mr. LaCamera continued that if they do not have a Special Permit from the Planning Board at this time are they grandfathered because they have a Special Permit for cultivation under the Board of Appeals? He has researched it, and that is his understanding of the situation. They have not applied to the Planning Board and cannot apply until after the Special Town Meeting. There is Zoning in place, and it is being changed by petition. Once a petition is filed everything is frozen until after the Town Meeting.

Ms. Mancovsky stated that what concerns her is that any business should be treated fairly. They have been talking about this issue for a year and a half now and residents did not show up at those meetings. It concerns her that they are, in effect, discriminating because they disagree with the morality of what is being done but that conversation has already been had. How much are they spending on legal fees? Are they going to get sued by these business' that have already spent a great deal of money and entered into agreements? This should have been discussed at that time.

Mr. Hoeg said that, as the Planning Board, they presented that they would provide several options for the Town of Lakeville. He doesn't know where that went, but they had the opportunity to offer options such as do we want to do this through Zoning? He believed there had been some response that they didn't want to do this through Zoning but wanted to handle it administratively through the Town. Mr. Zienkiewicz stated that Katie Laughman had drafted an opinion on how they could say no but it didn't go before Town Meeting. It was the identical Article.

Upon a motion made by Mr. Zienkiewicz and seconded by Mr. Conroy, the Board

VOTED: To schedule a Public Hearing regarding a citizens' petition for a proposed Zoning By-Law Amendment for Adult Marijuana Retailer. The hearing will be held on November 8, 2018, at 7:30 p.m. at the Senior Center.  
Unanimous in favor.

**Meet with the Zoning By-Law Review Advisory Committee (ZBRAC) to discuss the proposed Zoning By-Law Amendment regarding Filling Station**

Mr. Nathan Darling, Building Commissioner and member of ZBRAC, was present. He advised that last time they went to Town Meeting with Zoning changes for filling stations they inadvertently left out a couple of sections. They are now trying to go through the due process and clean that up. This original information was presented to the Planning Board at a Public Hearing but never made it to the Warrant. He feels that some of the changes really need to be made so they need to hold another Public Hearing and get it on the Warrant. Mr. Hoeg asked what the changes were.

Mr. Darling replied in regards to Section 4.1.2 Business Uses; they changed some of the language. Where it says filling stations allowed only in areas served by municipal water that is to be deleted. The Special Permit for Industrial Zones also needs to be changed to N. Their concern is with traffic. If there is a filling station in the Industrial Zone that could be problematic. Mr. Hoeg asked what they wanted to change in regards to the municipal water. Mr. Darling said that they had looked at the reasoning of why that was in there. They identified the fact that the Building Code recognizes fire suppression in buildings but there are other ways to achieve that. Public Water supplies that serve over 25 people are DEP regulated so they felt that the public health concern was not there. They thought as a group it did not have to be there, and it would be self-vetting through the Special Permit process.

Mr. Hoeg wanted to explain why that was in there. He stated that when it was originally proposed as a bylaw, it was understood to be beneficial to the people in the area if there was a release. He believed that the Town has a liability to provide water to the area if there was a release. That would be the reasoning for municipal water and not necessarily fire suppression. Selectmen Burke asked how the Town would have the liability for a private company. Mr. Hoeg replied that if someone did the research and found the Town used to have a bylaw and their well wound up getting contaminated from a filling station, they could sue the Town. Selectman Burke did not think that would happen. He was not saying whether or not it was good policy, but was questioning whether there would be legal liability for the Town.

Ms. Mancovsky asked if other types of fuel sources were discussed. Mr. Darling replied that was already addressed and changed in the bylaw. He noted that this had been included in the proposed changes but did not make it on the Warrant. It had gone to Public Hearing and been discussed. Mr. Zienkiewicz recalled at Town Meeting the reading had been lengthy, and they asked to have it waived so none of this discussion came up. Personally, he had been against it.

Mr. Hoeg stated that if ZBRAC wants to present this to the Town who were they to stand in the way. They can present it, and then they can all make their case. Selectmen Burke said that he was not bound to the idea of having it anywhere but thought the municipal water piece had merit to discuss. Mr. Darling said some valid points have been brought up. Mr. Mather stated that of the items that were eliminated by mistake that was the least important to them. The other changes were more significant. They would like to do this in such a manner that if there is opposition to the municipal water piece, they can still get the rest of it in. Mr. Conroy agreed. He did not want to go before Town Meeting as the Planning Board and say they didn't support it. He asked if they could leave the municipal water piece in. He would then be in favor of the other changes.

Mr. Darling said that as ZBRAC had a quorum present he would like to make a motion to withdraw the section on municipal water and keep the Special Permit and the following section for changes and go to Public Hearing. Mr. Burke seconded the motion. The **vote** was **unanimous for**.

Upon a motion made by Mr. Conroy and seconded by Mr. Zienkiewicz, the Board

VOTED: To accept the change to the Zoning By-Law amendment for filling stations.  
The hearing is scheduled for October 25, 2018, at 7:30 p.m. at the Senior Center.  
Unanimous in favor.

### **Meet with Christian Loranger to discuss Surety alternative for the Crooked Lane Solar Project**

Mr. Loranger was present. He advised that this project has morphed a little bit and changed into a community solar project. The final details of it are being put together by Middleboro Gas and Electric. He was here tonight because when they first came in there was a surety meeting, and the Planning Board had voted to go with a \$100,000 cash deposit or a \$250,000 bond. Due to the high cost because he is not bonded, he had put up the \$100,000 cash. They are going through a lease for the project for the next 20 years and the entity that is coming in with them is bonded and can very easily get the \$250,000 bond. He is here tonight to ask if they can replace the \$100,000 cash with a \$250,000 bond.

Mr. Hoeg said he believed this has been reviewed by Town Counsel. Ms. Carboni replied that was correct. A decommissioning form had been sent to Town Counsel and that was what the Board had in front of them. This form was acceptable to Town Counsel, but they would need to review it when it is completed. Ms. Mancovsky asked Mr. Hoeg if he had seen cases where a bonding company was not able to fulfill their commitment. Mr. Hoeg replied in his tenure he has seen bonds that were not irrevocable and they had expired. He asked if this bond was irrevocable. Ms. Carboni responded that she did not get that clarification but it does say that it is a continuous bond. Ms. Mancovsky said that they could ask for that language to be changed. Mr. Loranger said they would insist upon it.

Mr. Zienkiewicz said the bond was a much better idea but the executed form will have to be approved by Town Counsel. Mr. Hoeg asked if that had been done. Ms. Carboni replied that it first has to be completed. Mr. Hoeg asked Mr. Loranger if he could get it filled out and get it to Counsel for approval. He said that he could, but he had not really been in that loop. Mr. Darling noted that as part of the conversation he had with Atty. Laughman, Counsel had suggested it would be fine for the Planning Board to vote to accept a modification to the way the surety is being held contingent upon Counsel approving the surety once it came to the Town. Mr. Zienkiewicz said they should see it first, and then have Town Counsel approve it which he thought was their rule.

Mr. Hoeg asked Mr. Loranger what his time frame was for the lease. Mr. Loranger said sooner would be better. Mr. Zienkiewicz advised their next meeting was in two weeks. The Board was in consensus with waiting until then. Ms. Mancovsky then asked about the fencing at the project. Mr. Loranger said the permanent fencing would be going in. They have been on the wait list because of the size of the project. Ms. Mancovsky stated that this was then a vendor issue and not a cash issue. Mr. Loranger said there was no cash issue with the fence.

Mr. Loranger asked for clarity. Did the Board want to have the bond in hand or the approval from Town Counsel before they would vote? Mr. Hoeg replied that if they were going to vote it would be to release the funds; so they should have the bond in place before they did that. Mr. Loranger said the question he would be asked is what if the bond was in place but they voted to not release the funds. Mr. Hoeg then polled the Board and asked what their thoughts were. If Town Counsel and Mr. Loranger's attorney approved the bond as filled out and presented, would everyone be willing to release the funds in lieu of the bond at their next meeting. Members responded that they were fine with that but wanted to make sure that they had everything they needed in writing.

**Review the following petitions from the Board of Appeals for:**

1. Patrick Marshall

Upon a motion made by Mr. Conroy and seconded by Ms. Swanson, the Board

VOTED: To make no comment on the Zoning Board of Appeals petition for Patrick Marshall.  
Mr. Conroy, Ms. Mancovsky, Ms. Swanson, Mr. Hoeg – AYE  
Mr. Zienkiewicz – ABSTAIN

2. James and Joyce McDonald

Upon a motion made by Ms. Mancovsky and seconded by Mr. Conroy, the Board

VOTED: To make no comment on the Zoning Board of Appeals petition for James and Joyce McDonald.  
Unanimous in favor.

3. Gary Moquin/Daniel Sigman

Upon a motion made by Mr. Zienkiewicz and seconded by Ms. Mancovsky, the Board

VOTED: To make no comment on the Zoning Board of Appeals petition for Gary Moquin/Daniel Sigman  
Unanimous in favor.

**Receive SRPEDD update from Board Member Barbara Mancovsky**

Ms. Mancovsky advised there were several items to discuss which follow:

- The first and most important was the Taunton casino. The Department of the Interior has finalized its ruling, and they are not ruling in favor of the Tribe that was applying to have a casino. The indication is that property will be a commercial use. Right now, the Gaming Commission is considering taking public comments. Public Comments will be open until the end of November. Ms. Mancovsky would encourage all residents of Lakeville to consider sending their comments to the Gaming Commission because right now they do not have a tool for mitigating any of the impacts to their community such as law enforcement,

traffic, and possibly water. They really need to have some resources for this mitigation. Ms. Mancovsky stated that residents can email their comments to: [mgccomments@state.mass.us](mailto:mgccomments@state.mass.us), Region C must be included in the subject line. Comments can also be mailed to: The Gaming Commission, 12<sup>th</sup> floor, 101 Federal Street, Boston, MA 02110.

- Ms. Mancovsky said the next item was SRPEDD has helped facilitate the Master Plan Public Workshop. They have another Public Hearing coming up on October 16<sup>th</sup> at 6:30 p.m. at the Lakeville Public Library.
- The funding has been issued for the Southeast Massachusetts Marine Science and Technology Quarter. They will begin to see outreach on this function very soon. The basis of operation will be based out of UMass Dartmouth. She advised that there were a lot of interesting groups involved to try to build up what they call the “blue economy” with technology, manufacturing, and workforce training. She thought it would be an exciting opportunity for the South Shore as well as their community.
- SRPEDD has purchased a drone, and it is available for municipal use. Ms. Swanson asked if they should let Police and Fire or even Conservation know that there was a drone available for use. Ms. Mancovsky suggested sending a memo to Ms. Carboni who could then circulate it around. Ms. Carboni replied that she could take care of that.
- \$120,000 has been issued to the Taunton River Stewardship Council. The National Parks has a wild and scenic river plan for 2019 they are funding. Water shed information and other impacts of use along the Taunton River can be studied. This will be a great resource for them to get data.

### **Receive Air BNB update from Board Member Sylvester Zienkiewicz**

Mr. Zienkiewicz stated that as far as the State, this is dead this year. They will have to do it again next year and expect to use the same format. Mr. Hoeg asked Mr. Zienkiewicz to elaborate. Mr. Zienkiewicz replied the State was proposing to keep track of it and tax it. The part they were going to take advantage of was the State was going to make them keep paperwork. That way they could know how much of it there was, and it could be regulated. Mr. Zienkiewicz said that it is clear that it is not illegal. Nowhere is it said you can't do it.

Mr. Hoeg said that what he was alluding to was that the Air BNBers are going to get a reprieve until the Commonwealth comes up with some way to identify who's what and what their responsibility might be. Mr. Zienkiewicz said what they would have to do first is find a way to separate the vacation rentals from people that are just renting their home, or their in-law apartment. Mr. Hoeg wondered if right now a home rented for vacation had to be registered. Mr. Zienkiewicz replied according to them it is no; but according to the Health Department it is yes.

### **Next Meeting**

Mr. Hoeg stated their next meeting would be Thursday, October 25, 2018 at 7:30 PM at the Lakeville Senior Center.

## **Old Business**

Ms. Carboni advised that the vote the Board made at their August 9, 2018, meeting regarding their final Zoning Map has been completed, printed, and certified and attested by their Town Clerk. They will have it framed, and she will send them an electronic copy of it. They will also be able to put the map on their website. The Town Clerk will have copies available of it as she has had in the past. The three large framed copies will be in the Building Department, Board of Selectmen's office, and it will have to be decided where the final copy will be placed. The Board of Assessors, Conservation, Town Clerk, and their Department will get a smaller copy. It was then recommended to display the additional large copy at the Library.

## **New Business**

Mr. Hoeg advised that he spoke with Mr. Nick Lanney, and he is willing to work with the Board on their Site Plan Review and Subdivision Review. Mr. Lanney does not do testing but he would recommend Briggs Engineering. They are a good sized firm, and they test for pavements, patching, etc. Ms. Carboni said that she would reach out to Briggs and advise them they would be consulting with them.

## **Adjournment**

Upon a motion made by Mr. Zienkiewicz and seconded by Mr. Conroy, the Board

VOTED:           To adjourn the meeting at 8:37 p.m.  
Unanimous in favor.