

TOWN OF LAKEVILLE
Select Board Meeting Minutes
November 29, 2023 – 5:30 PM

REMOTE MEETING

On November 29, 2023, the Select Board held a meeting at 5:30 PM remotely from various locations. The meeting was called to order at 5:37 PM by Chairman Day. Members present were Chairman Day, Member Fabian and Member Carboni. Also present were Ari Sky, Town Administrator and Tracie Craig-McGee, Executive Assistant to the Select Board and Town Administrator. LakeCAM was recording the meeting for broadcast.

In accordance with the provisions allowed by Chapter 2 of the Acts of 2023, the **November 29, 2023** public meeting of the **Lakeville Select Board** will be held remotely. **However, to view this meeting in progress, please go to facebook.com/LakeCAM (you do not need a Facebook account to view the meeting). This meeting will be recorded and available to be viewed at a later date at <http://www.lakecam.tv/>**

Discuss Loon Pond Lodge contract terms and process – possible meeting with Park Commission

Present for the discussion were members of the Park Commission: Melisa Turcotte, Chair, Michael Smith, Paula Houle, Scott Holmes, and Brynna Donahue. Chair Turcotte opened the Park Commission meeting at 5:37 PM.

Chair Turcotte said the Request for Proposals (RFP) was reviewed from the last time and some of the items were changed, including adding a flat payment option. Food was being prepared at the Lodge and being transported elsewhere, so now the utilities are being paid for whoever wins the bid. We followed procurement rules and posted where it was supposed to be posted, but maybe not where we would have liked to see it. We received one (1) bid and that was disappointing. Mr. Smith asked where it was posted. Chair Turcotte said it was in Nemasket Week. Ms. Craig-McGee said it was posted on CommBuys; Nemasket Week; Goods and Services; and the Central Register. Mr. Smith asked if it was on the Town's website. Ms. Craig-McGee explained that she does not post procurement on the website as she does not know who has the specifications so that can be a concern over bid challenges about bidders not receiving addendas. She requests that bidder email her to receive the specifications and the specifications will be emailed. That allows her to have a complete list of people asking for specifications. Mr. Smith asked if it was posted on the bulletin board at Town Hall. Ms. Craig-McGee said she will check on that. Mr. Smith said it was required to be posted near the Town Offices. Chairman Day asked how many people requested the bid materials? Ms. Craig-McGee said there were mainly the bid companies that are national, so the bid was in their publications. She thought maybe three (3) companies requested the specifications. Mr. Smith said this is important moneywise for the Parks. We did less than minimum for advertising. We have the ability to contact vendors and send them the RFP. We did not put it in the Taunton, Fall River and New Bedford papers. The only one that knew about it was Boston Tavern because someone told them about it. Park Chair Turcotte said Boston Tavern called the office about the contract. Mr. Smith asked if anyone else called for information or email about the bid. Ms. Craig-McGee said Boston Tavern sent an email asking for the bid specifications and she told them once they were

properly published, they needed to send an email requesting the specifications, which they did once published. Chairman Day said he received an email from a local restaurateur about the bid after it was closed. Mr. Smith asked why did we just do the minimum for this? Why didn't we invite other vendors or contact the Park Commission to let them know it was out? We did the bare minimum and received one (1) bid, which the Park Commission turned down. Mr. Sky said the Select Board awards the bid. Ms. Craig-McGee said when the Nemasket Week came to be, the Select Board voted to designate the Nemasket Week as our official newspaper. She was instructed to place all legal ads in the Nemasket Week. Mr. Sky said a lot of people knew it was on the street. Park Chair Turcotte said that Mr. Smith could have reached out to people. We all had the same chance to go out and tell people. Ms. Craig-McGee said as far as procurement goes, she does not solicit interest from companies unless directed by the Department doing the procurement. If she had been asked to send the RFP to specific companies, she would have, but no guidance was received. Mr. Smith said we didn't maximize the amount of bids by putting it in that newspaper.

Park Chair Turcotte said the Park Commission voted to reject this bid and send it out to bid again. Is that a viable option? Mr. Smith said it states in the RFP that all bids can be rejected and go back out to bid. Mr. Sky asked what is the basis for rejecting the bid? Mr. Smith said it is not enough money. Mr. Sky said it is more than what we are getting now. Chairman Day said we would love to have more people bid on it; the last time only three (3) people bid on it. There was one (1) bid and we can have negotiation on the bid. It would be putting us in a risky position to go back out to bid. Ms. Craig-McGee said that bid is now a public document; if we went out to bid, anyone bidding can request a copy of Boston Tavern's bid and that may cause an issue. Mr. Smith said he didn't feel there were any legal implications. Mr. Sky reviewed the financial implications. A percentage fee was provided of 14% based on assumption that Boston Tavern's revenue would be much higher and there was a flat fee of \$9,500 per month for the first year; \$10,500 per month for the second year and \$11,500 for the third year. That would be 5% more in the first year than we are currently receiving. In addition, the RFP requires the vendor to pay all utility costs at the facility. Right now, they reimburse us for the utilities using the extraordinary expenses clause in the current contract of \$608 per month. The utilities are running about \$30,000 per year, so the low estimate will be \$30,000 plus for the year. It is well over \$100,000 in revenue for the Town over the length of the contract. Mr. Smith said we have costs for the Park Department and we can't keep pushing that on our residents. Our capital account is less and less. He would like to get a better pot because there are capital issues that we will need. At this level, which is better, it is going to catch up to us to where we are today. Mr. Sky said you are talking about a 15% to 20% increase in revenue from last year. Mr. Smith said expenses are going up and we have to raise prices. We are responsible for repairs and maintenance for Loon Pond Lodge; is that a Park issue or Town. Mr. Sky said the Town has paid for repairs at the facility. Mr. Smith said we turned the bid down because we didn't think it would sustain us for the next three (3) years because of expenses. Chairman Day said what number are you looking for? With the flat fee there are 12%, 24% and 36% gains in years 1-3. There is no guarantee if we rebid that we get more. Park Chair Turcotte said the Park Commission agreed on the flat fee, plus the room fees. They have 50% more weddings next year than this year, so that increases the room fees. There was a miscommunication on the room fees. Boston Tavern did not understand that the flat fee included the room fees. Mr. Sky said we will receive the room fees.

Member Carboni said everyone has expenses and they will increase. You can't put this on the back of whoever manages the Loon Pond Lodge. Have they been a good business partner for the

last contract? Mr. Smith said as far as payment, he doesn't know. The previous contract was never enforced. We were supposed to audit the figures and receive CORI forms. Did they pay us on time, yes. Did they pay us correctly: he doesn't know. Ms. Donahue said she doesn't have an issue with the contract, but the one reason it is a good contract is because Boston Tavern made a mistake in their negotiations. The fact that someone contacted you after the fact to ask when bidding was happening suggests that maybe it didn't go out the right way.

Mr. Smith asked what was Boston Tavern's score? Mr. Sky said there was one (1) bidder so it wasn't scored. Mr. Smith said when you do a score sheet a minimum must be met. Mr. Sky said what matters is that it is a financially advantageous contract for the Town. Chairman Day said there were three (3) bidders the last time and we scored them prior to opening the price proposals. Mr. Smith said Boston Tavern did not get the highest score last time. Chairman Day said he thought they were within one (1) point. Member Fabian said the Florida company was in third place. For another candidate there was an issue getting references. She had two (2) references that she could not get reference from. Member Fabian expressed her thoughts that there should have been a larger group working on this RFP. More people involved would mean more groups having these discussions on agendas. If we had a bigger group, perhaps all these things would have been hashed out. She didn't know it was going out as a flat fee because her immediate response was does this mean everyone is thinking we are at a finite number and are okay with a flat fee. From a budget perspective, it is easier knowing what you are getting. Chairman Day said we are speculating if that would have meant more bids. Member Fabian said maybe not, but more people would have known what is going on. Park Chair Turcotte said each company was supposed to submit a flat fee and percentage. We met with Boston Tavern and asked him if he could do better than 14% and he said no. If we didn't have the flat fee, we would have lost money. The math comes out to a \$5,000 difference.

Chairman Day said ultimately the Select Board awards the contract. The flat fee has been granted. Do we move forward or roll the dice and go back out, understanding it could be worse? Mr. Smith said it just came to the Park Commission for a vote at the last meeting. Chairman Day asked was there any discussion prior to that meeting. Mr. Smith said it was brought up at a meeting and we asked Park Chair Turcotte to add some things into the RFP. Park Chair Turcotte said we discussed some things two (2) meeting before. Ms. Donahue said we agreed to accept it as an official bid. This came up at the last meeting because we did not know about the advertising and why there was only one (1) bidder. Chairman Day said the State procurement rules were followed and because someone else said they didn't have the opportunity to submit a bid, we are not going to turn away the bid that we have from following the requirements. Mr. Smith said his concern is we feel that just following State procurement, which is the minimum, was enough. Park Chair Turcotte said Ms. Craig-McGee did more than that, but she put it on other websites as well, which is above the minimum. Mr. Smith said it had to go in Goods and Services because it was above \$100,000. Mr. Smith said when you go to these State websites, there is too much to go through. No one knows about those. If our goal is to find someone locally, we advertise locally. Chairman Day asked would it have been advertised the same three (3) years ago. Ms. Craig-McGee said yes. Chairman Day said the person that is complaining saw it in that system last time. Mr. Smith said we could have done better if we got more bids. Chairman Day said if that person complaining had not reached out to you, would we be having this conversation. Mr. Smith said he reached out to them and other people. Member Fabian said you said we are getting the room fees. Do they reference anywhere in

here about the room fees? Mr. Sky said there were questions about that and we met with them. They sent an email that the room fees would be paid. Member Fabian said they estimated a \$1 million sale goal before and that was tough for them. Also, COVID affected them reaching their goals. They have a similar projection here and staffing commitments of seven (7) days a week. Mr. Sky said he will forward the email to the Board. Mr. Smith said we are making more money, but he thinks we could have done better. We should have been better and cleaner. Not sure what rules we broke, but he knows we did. Our previous Select Board Chair dropped off documents to two (2) restaurants. Chairman Day said it's not fair to say we are breaking rules; you need to be specific. Mr. Smith said the person with the highest score did not get the bid; it went to the second highest score. Is that a rule broken? We had to be better when this was done this time. Park Chair Turcotte said the RFP stated that the highest score may not get the contract. Member Fabian said she called references and could not get them. Member Fabian said there were three (3) the member each took one (1) reference. She could not verify her reference and tried to verify the 4th reference and could not verify that either. She could not award any points on that category. Ms. Donahue asked if the other two (2) references come through. Member Fabian said she doesn't remember. Chairman Day said the other problem was that the RFP said no management fees. The top scorer had a management fee in the proposal. Chairman Day said the scoring was done prior to the proposals so then we saw that they were calling for a management fee. Mr. Smith said the Select Board should make their decision and he will honor it. We can have a conversation about going forward in the future. Member Fabian said she knows that Boston Tavern has never heard them be upset about Town functions. The elections can be planned for in advance. There was an issue with the Cranberry Trifest this summer, but she wants to have this all worked out. Mr. Sky said we can provide some language in the contract regarding that. Park Chair Turcotte said Town Counsel said that would be hashed out once awarded. When we met with them previously, he had no issue with the elections. Room fees have always been paid, but certain events do not pay room fees, but are not on weekends. They received money from food and beverages. There is one event that takes up weekends and that is a Town event.

Mr. Sky said we can start to draft a contract, but need guidance on the fee scenario. Chairman Day said so we have either 14% for each year of the flat fee that escalates. Mr. Sky said the percentage depends on the business. They paid \$50,000 on fees over the past four (4) months in the 16% scenario. If they met their \$1 million estimate, the 14% would be more than the flat fee. Member Fabian said the flat fee is safer for us, but if something like COVID hits again, she doesn't want a business going under because they have no revenue coming in. Mr. Smith said he pushed for the flat when you do a percentage you are now a business partner with them and must audit their figures. The Town Accountant doesn't have time for that. At least we know now what we will get. We need a figure we are comfortable with. We won't suffer if they don't make \$1 million. Mr. Sky said he estimates a revenue of \$170,000 with the flat fee plus room fees and utilities. The room fees depend on the activity that Boston Tavern generates. Then it increases by \$12,000 in Year 2. Chairman Day said utility costs are covered. Member Fabian said that is a gain for us. Mr. Sky said we will be billed, but they will pay us. Park Chair Turcotte said Boston Tavern has been a good partner and are willing to work with us. If we work together as a team, that relationship will be fine.

Chairman Day said there was not a vote on the agenda, just a discussion. What are the next steps? Mr. Sky said we have not drafted the contract yet because we wanted your guidance. We need time

to put it together and have it reviewed. Member Fabian said Mr. Sky is asking us whether we should go either percentage or flat rate. Ms. Donahue said the Park Commission discussed that part in the event we could not go out to bid and more of us leaned towards the flat fee. Member Carboni said she likes the flat fee because it makes the expectations easier on everyone. If it doesn't work, next contract we don't do it. Member Fabian agreed. Chairman Day said a 36% increase in three (3) years is a good return, plus the room fees and utility costs. It is hard to look at performance with COVID. Mr. Smith said if the vendor is sold, do we have any protection. Attorney Randazzo said we can provide for that in the agreement. Mr. Sky said we can put in provisions for survivorship. He would advise the Board for the future to start this process two (2) years into the contract due to event bookings. We will start putting a contract together with a flat fee.

Upon a motion made by Mr. Smith and seconded by Ms. Donahue, it was:

VOTED: To adjourn the Park Commission meeting at 6:44 PM.
Unanimous in favor.

Executive Session

At 6:46 PM, upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To enter Executive Session pursuant to M.G.L c.30A Sec. 21(a)(3) to discuss strategy with respect to collective bargaining, specifically with the PBA Local 185 if an open meeting may have a detrimental effect on the bargaining position of the public body and the Chair so declares; and pursuant to M.G.L c.30A Sec. 21(a)(3) to discuss strategy with respect to litigation (Bountiful Farms) if an open meeting may have a detrimental effect on the litigating position of the public body and the Chair so declares, and votes may be taken and pursuant to M.G.L c.30A Sec. 21(a)(2) to conduct strategy session in preparation for negotiations with non-union personnel (Town Administrator) and/or conduct contract negotiations with non-union personnel (Town Administrator) and pursuant to M.G.L. c.30A Sec. 21(a)(7) to comply with the Open Meeting Law, M.G.L. c.30(a) Sec. 22(f): approval of Executive Session Minutes for August 29, 2023 and not to return to Open Session. Polled vote: Member Carboni – aye; Member Fabian – aye and Chairman Day – aye.

List of documents provided at the Select Board Meeting of November 29, 2023

1. Financial information regarding Park Enterprise Fund; memo from Department of Public Works Director; memo from Facilities Director; memo from Building Commissioner
2. Executive Session materials