

AGENDA
Lakeville Select Board and acting as the
Wage & Personnel Board as needed
Lakeville Police Station – 323 Bedford Street
August 29, 2022 – 6:00 PM

PLEASE ASK IF ANYONE IS RECORDING THE MEETING
AND ANNOUNCE CABLE TAPING (IF PRESENT)

1. Select Board Announcements
2. Town Administrator Announcements
3. 6:15 PM Presentation by Watermark on Assawompset Elementary School Renovation Project
4. Discuss and possible vote to schedule the November 14, 2022 Special Town Meeting and open the warrant
5. Presentation by Problem Properties Working Group
6. Update on potential November 14, 2022 Special Town Meeting Articles
7. Discuss Facilities Management Function and possible vote to approve Facilities Manager Job Description
8. Discussion and possible vote to assign ARPA funding for the Ted Williams Camp Tennis Courts project
9. Review surplus property list and possible vote to declare items on the list as surplus
10. Discuss and possible vote on Notice of Intent to Layout Ledgewood Drive
11. Discuss request from MBTA Advisory Board and possible vote to appoint a designee to represent Lakeville
12. Discuss future Select Board Meeting Dates
13. Review and possible vote to approve Select Board Meeting Minutes of August 15, 2022
14. Discussion and possible vote regarding retail cannabis applications
15. New Business
16. Old Business

Please be aware that this agenda is subject to change. If other issues requiring immediate attention of the Lakeville Select Board arise after the posting of this agenda, they may be addressed at this meeting.

**AGENDA ITEM #1
AUGUST 29, 2022**

SELECT BOARD ANNOUNCEMENTS

Even with the recent rain, most of the Commonwealth of Massachusetts, including the Town of Lakeville, is currently in a drought phase. Residents are encouraged to practice water conservation in order to avoid over stressing our water resources. Efforts to minimize water usage now will ensure that essential public health, safety and environmental needs continue to be met. To view an informational flyer regarding how you can help conserve water, you can visit the Town's Facebook page or the Town's website under News.

Early voting for the September 6th primary will be held at the Old Town House at 2 Precinct Street began on August 27th and ends on September 2nd at 12:00 PM. For times, please go to the Town's website under the News Tab.

350 letters of past due dog licenses have been mailed out. Please contact the Town Clerk's Office if you receive one of these letters, but no longer own the dog.

There are still some vacant positions available on the Cable Advisory Committee, Open Space Committee, Capital Expenditures Committee, Master Plan Implementation Committee, Energy Advisory Committee, and Zoning Board of Appeals. If you would be interested in volunteering on any of these groups, please submit a letter of interest to the Select Board's office by mail or email.

**AGENDA ITEM #2
AUGUST 29, 2022**

TOWN ADMINISTRATOR ANNOUNCEMENTS

**AGENDA ITEM #3
AUGUST 29, 2022**

**PRESENTATION BY WATERMARK ON ASSAWOMPSET
ELEMENTARY SCHOOL RENOVATION PROJECT**

Attached is a power point presentation regarding the Window and Door Replacement Project.



Massachusetts School
Building Authority

MSBA Accelerated Repair Program (ARP) Assawompset Elementary School Window & Door Replacement Project

August 2022

∞ SLAM

 Watermark

Introduction – Project Team

- Massachusetts School Building Authority (MSBA)
- Freetown-Lakeville Regional School District
- Town of Lakeville (Building Owner)
- Watermark - Owner's Project Manager (OPM)
- SLAM Collaborative - Architect/Engineer (Designer)



Introduction To MSBA ARP

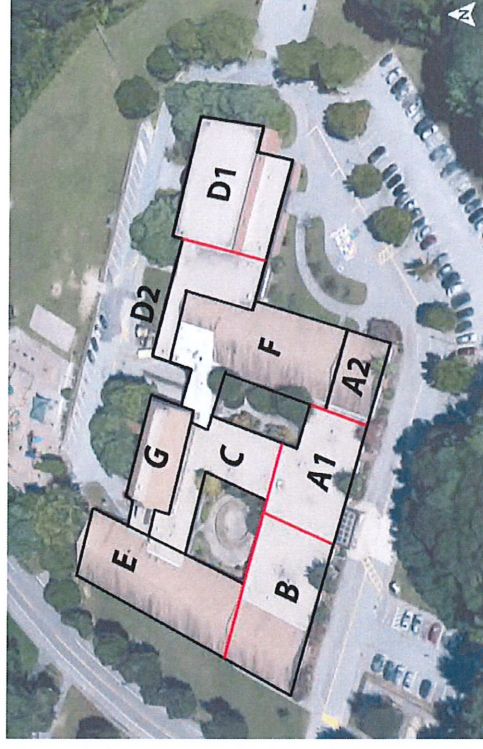
- What is the MSBA Accelerated Repair Program (ARP) ?
- Process and Selection
- Reimbursement Rate Calculation
- What is Funded and Not Funded?



Existing Conditions Assessment

Architecture

- ▶ Overlooks northwestern point of Sampson Cove on Assawompset Pond
- ▶ Assawompset Elementary School was originally constructed as a 2-story building in 1949 (labelled “G” in the Key Plan below) with subsequent additions in
 - ▶ 1954 (F)
 - ▶ 1965 (E)
 - ▶ 1987 (A-D)
- ▶ The cumulative additions created two interior courtyards which allow daylight and natural ventilation into perimeter classrooms and public corridors.



Interior Courtyard – West



Interior Corridor at Courtyard



Massachusetts School
Building Authority

Deterioration of Windows – 1987 Addition

Majority of existing windows were replaced in 1987 with double-glazed insulated aluminum project-out lower windows with fixed translucent panels at upper pane and are currently in general good and operable condition. Deterioration points primarily at glazing units, exterior finishes, intermediate structures and trim.

- Many glazing units installed as part of the 1987 addition now exhibit signs of window fogging, a strong indicator of failure at the insulated glazing seal which has allowed moisture inside the window units. The only practical solution to resolving this issue is to replace the window.



Exterior - Fogging

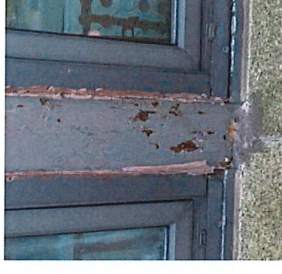


Fogging from Inside

- The sloped soldier brick sill beneath the windows appear to be retaining moisture resulting in staining and algae growth. Where exterior wood trim exists, primarily at the 1949 building, the trim and associated sealants have decayed considerably and need to be replaced in entirety.



Deteriorated Exterior Wood Trim and Sealant



Deterioration of Primary Sealant and Rusting at Intermediate Structure



Recommended Scope of Work

- ▶ New Windows
- ▶ Combination fixed and project-out window units having extruded aluminum thermally broken frames and flouropolymer finish.
- ▶ Direction for window design will be to provide a unifying façade language at all openings across each of the nine school sections. Window composition will honor and draw from the original 1949 building's windows with a fixed translucent amber upper sash traditionally segmented with equally spaced mullions, and a lower project-out clear glazed sash for ventilation.
- ▶ All exterior glazing on the project will be replaced and upgraded with insulated glass units consisting of 2 panes of tempered safety glazing, stainless steel spacers, air space, and a Low-E Coating.
- ▶ As the project is located within a wind-borne debris region as identified by 780 CMR Table 1604.11, all exterior glazing will be required to be impact resistant to meet the requirements of the ASTM E1996 large missile test. This will necessitate one pane at each glazing unit to be laminated safety-glazing with a 0.090 Polyvinylbutyral (PVB) Interlayer.
- ▶ New window shades.
- ▶ Incorporate input from Safety Officers, Police, Fire, and Building Commissioner.



New Window - Example



Recommended Scope of Work

- ▶ New Doors
- ▶ All existing exterior metal doors will be replaced and upgraded with sandstone textured fiberglass reinforced plastic (FRP)/aluminum hybrid exterior doors for increased durability and long-term maintenance.
- ▶ All existing metal frames and entrance systems will be replaced and upgraded with heavy-duty extruded aluminum frames.
- ▶ Removable mullions will be provided at paired doors. All egress doors will be provided with continuous hinges, closers, and self-latching panic hardware.
- ▶ Existing access control systems at entrances will be reused and remain in place where not directly attached to the existing framing.
- ▶ Laminated-safety glazing will be a standard requirement at all entrances to help delay any forced entry situations that could occur during or after school hours.
- ▶ Door contacts will be provided at each door for security.
- ▶ Incorporate input from Safety Officers, Police, Fire, and Building Commissioner.



New Doors - Example



Project Schedule

- MSBA Invitation – February 2022
- Schematic Design (SD) Complete – June 27, 2022
- MSBA Board Meeting – (SD) Approval – August 31, 2022
- 100% Design Complete – Mid November 2022
- Lakeville Town Meeting Vote – November 14, 2022
- Public Bid – December 2022
- MSBA Project Funding Agreement Executed – Mid January 2023
- Construction Contract Award – Mid January 2023
- Target Construction – Summer/Fall 2023



Project Cost

- Total Project Budget \$ 4.22 M
- Reimbursement Rate 53.53%
- Projected MSBA Funding
(Maximum) \$ 2.26 M
- District/Town Funding \$ 1.96 M



Questions & Answers

Q & A



**AGENDA ITEM #4
AUGUST 29, 2022**

**DISCUSS AND POSSIBLE VOTE TO SCHEDULE THE NOVEMBER
14, 2022 SPECIAL TOWN MEETING AND OPEN THE WARRANT**

Attached is the revised draft schedule for the November 14, 2022 Special Town Meeting.

The warrant is now scheduled to close on September 22, 2022 at 3:00 PM.

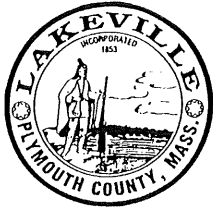
**SPECIAL TOWN MEETING SCHEDULE
NOVEMBER 14, 2022**

<u>ACTION</u>	<u>MEETING DATE</u>
Schedule Special Town Meeting	August 29, 2022
Open Warrant	August 29, 2022
Warrant Closes	September 22, 2022 at 3:00 PM
Vote on Articles	September 27, 2022
Send Articles to Town Counsel for review	September 28, 2022
Vote on Final Warrant	October 11, 2022
Legal ad in Paper	October 24, 2022
Warrant Posting	October 24, 2022
Warrant Review	October 24 th or 1 st meeting in November

**AGENDA ITEM #5
AUGUST 29, 2022**

PRESENTATION BY PROBLEM PROPERTIES WORKING GROUP

Attached is a memo from the Assistant to the Town Administrator regarding the Problem Properties Working Group.



TOWN OF LAKEVILLE

Town Administrator's Office

346 Bedford Street
Lakeville, MA 02347
(508) 946-8803

To: Lakeville Select Board

From: Christina Cotsoridis, Assistant to the Town Administrator

Date: August 29, 2022

Re: Problem Properties Committee

At the request of the Select Board and as a result of a number of blighted properties being brought to the attention of town staff, Town administration established a multi-departmental working group intended to evaluate the Town's current process for addressing abandoned or otherwise problem properties. The group began its work in April of this year and has been working to identify enhancements to the Town's current by-laws that would strengthen its ability to address these locations.

For the purposes of this initiative, a problem property is characterized as including violations of zoning, building, health or sanitation, and fire codes and often presenting itself as a health hazard or public safety concern. After years of neglect, abandoned properties result in the deterioration of structures creating an unsafe environment, attract health and sanitation violations, including vermin, and invite crime.

The goals of the working group are to improve the health and safety of Lakeville neighborhoods and to bring all properties in the Town into zoning, building, health, sanitation and fire code compliance. The working group consists of the following members:

- Town Administrator
- Assistant to the Town Administrator
- Building Commissioner
- Health Agent
- Fire Chief
- Town Planner
- Treasurer/Collector

The working group focused initially on the following types of properties:

- Abandoned buildings
- Junk/blighted properties
- Unsafe/unsanitary occupied buildings
- Old farm/rural properties
- Unkempt commercial properties
- Lodging houses – 4 or more unrelated persons living in the same dwelling unit

The Town of Lakeville contains 4,914 residential properties, 222 commercial properties, 38 industrial properties and 199 exempt properties. Within that property distribution there are 91 properties in tax title. Certain of these addresses also contain unsafe, destroyed or otherwise abandoned structures some with trees and other natural debris, still occupying the land and building on which it fell.

The Town's longstanding practice has been to execute a code enforcement investigation at the time a complaint is reported to the Building Commissioner, who functions as the Town's enforcement officer. Proactive enforcement by Town departments has largely been avoided due, in part, to a lack of resources, the desire to prevent the perception of selective enforcement, and concern over neighbor-on-neighbor retaliation.

The group decided to take a multiphase approach to the issue in order to ensure maximum return on the shortest possible timeline. In the coming months, the working group intends to develop a comprehensive problem properties by-law for submission at Spring Town Meeting which will include, among other things:

- Definitions that clarify abandoned properties; unkempt properties; blight; and others;
- Enforcement and the process for engagement by the Town;
- Making properties safe and recovering costs associated with that process;
- Violations and penalties;
- Establishing a Vacant Building Registry and Revolving Fund

In advance of a comprehensive problem properties by-law, the working group has identified a number of action steps that could be submitted for approval at the Fall Town Meeting in order to equip departments with important tools to address problem properties. The group is recommending six articles for the Fall Town Meeting, the full text of which is attached. They include:

1. Regulating Residential Use of Exterior Space

1. An article updating the definition and storage parameters of reusable materials, restricting the amount of space, location and visibility of such materials as car parts, wood, tools, toys, furniture, etc.
2. An article to restrict the issuance of junk dealer licenses to properties in commercially zoned areas only. The Town currently issues four junk dealer licenses annually, three of which are in residential zones. This article would grandfather in these parcels.
3. An article amending the current general by-law for Junk, Old Metals or Second Hand Articles to include language mandating junk dealers show commercial activity as a

requirement for license renewal.

2. Addressing Problem Properties

1. An article accepting the provisions of M.G.L. c. 40, §58 enabling the Town to place a lien on a property for cleanup and fines (if orders to clean up/make safe go ignored). [General Law - Part I, Title VII, Chapter 40, Section 58 \(malegislature.gov\)](#)
2. An article transferring ownership of foreclosed tax title properties with a value of \$35,000 or less to the Select Board for the purpose of sale, by a 2/3rds vote at Town Meeting. Foreclosed tax title properties with a value of \$35,000 or more would be subject to a more rigorous screening process and the Town would be required to comply with the RFP procedures in Chapter 30B. (A list of addresses will be presented for consideration prior to the close of the warrant.) Post Fall Town Meeting the Select Board will be asked to adopt an Abutters Program, which would enable the Select Board to offer the transferred properties at Town Meeting directly to abutters. The sale would be approved by a majority Town Meeting vote.

3. Identifying and regulating Rooming/Lodging Houses

1. An article accepting M.G.L. c. 148 §26H - Lodging and Boarding House Statute which authorizes the Fire Department to ensure the adequate systems of automatic sprinklers in accordance with the provisions of the state building code. [General Law - Part I, Title XX, Chapter 148, Section 26H \(malegislature.gov\)](#)

Rooming / lodging houses are defined as six or more persons living together not within the second degree of kindred, meaning a father, mother, brother, sister, son, daughter, spouse, grandparent, grandchild, brother- or sister-in-law, son- or daughter-in-law, father- or mother-in-law, stepfather, stepmother, stepsister, stepbrother, stepson, or stepdaughter.”

These by-law changes represent the first in a series of necessary updates to Lakeville’s General By-laws to enable Town departments to maintain the public’s safety and to ensure the compliance of building, fire, health and sanitation codes equally across properties and property types. The working group will continue its work throughout the fall and winter and prepare a comprehensive package of by-law updates for Spring 2023 Town Meeting.

Thank you for your consideration.

APPENDIX

1. Regulating Residential Use of Exterior Space

Article: _____

To see if the Town will vote to amend the Lakeville Zoning By-Laws by adding to Section 2.0 definitions: Reusable Materials or Equipment: Used yard maintenance equipment, tools, car parts, wood, metal, bicycles, toys, furniture, (excluding farm equipment).

On residential property outdoor storage of Reusable Materials or Equipment shall be kept in one area and shall not exceed 500 sq. ft. The storage area shall be screened from view from the street and abutting properties. No Reusable Materials or Equipment shall be stored in any front yard, whether screened or not.

Or take any other action thereto.

Article: _____

This article would add the business use of “Licensed Junk Dealers (pursuant to the Town of Lakeville General Bylaws)” to the zoning use chart. This new use would only be allowed in the Business Zone. This would restrict the issuance of new licenses to those properties located in the Business Zone.

To see if the Town will vote to amend the Lakeville Zoning By-Laws, Section 4.0 Use Regulations by:

Adding to Section 4.1.2 Business Uses

	R	B	I	I-B
Licensed junk dealers (Pursuant to the Town of Lakeville General Bylaws)	N	Y	N	N

Or take any other action thereto

Article: _____

An article amending the current general by-law for Junk, Old Metals or Second Hand Articles to include language mandating junk dealers show commercial activity annually as a requirement for license renewal.

[DRAFT] ADD Section 5. A holder of a license is required to prove that the license is being utilized for an active business. The required ledger book shall indicate that multiple sales of “junk” kept on the premises, are conducted in six months of every twelve-month licensing period. The Book shall be presented to the Select Board prior to the issuance of a new license.

2. Addressing Problem Properties

Article: _____

Acceptance of MGL Ch. 40, Sec. 58 (municipal charges lien)

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 40, Section 58, to authorize the Town to assess a municipal charges lien on any real property in the Town for the following types of municipal fees and charges that have not been paid by their due date; or take any other action relative thereto.

Charges, penalties, fines or fees, including interest and all costs to record said lien(s) in the Plymouth County Registry of Deeds, assessed in accordance with the following provisions and not paid by their due date shall constitute a lien on the real property of the person assessed:

1. Any provision in Section V of the Town's General Bylaws;
2. Any provision in the Town's Zoning Bylaws;
3. Any bylaw, statute or regulation enforced or administered by the Board of Health;
4. Any bylaw, statute or regulation enforced or administered by the Conservation Commission;
5. Any bylaw, statute or regulation enforced or administered by the Building Inspector;
6. Any bylaw, statute or regulation enforced or administered by the Fire Department;
7. Any bylaw, statute or regulation enforced or administered by the Department of Public Works
8. Any bylaw, statute or regulation enforced or administered by the Zoning Board of Appeals; and
9. Any bylaw, statute or regulation enforced or administered by the Planning Board

A municipal charges lien authorized under this section shall take effect upon the recording of a list of unpaid municipal charges and fees by parcel of land and by the name of the person assessed for the charge or fee in the registry of deeds of the county or district where the land subject to the lien lies.

If a charge or fee which is secured by a municipal charges lien remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed under section fifty-three of chapter fifty-nine, the board or officer in charge of the collection of the municipal charge or fee, or the town collector of taxes, if applicable under section thirty-eight A of chapter forty-one, shall certify such charge or fee to the assessors, who shall forthwith add such charge or fee to the tax on the property to which it relates and commit it with their warrant to the collector of taxes as part of such tax.

If the property to which such charge or fee relates is tax exempt, such charge or fee shall be committed as the tax. A lien under this section may be discharged by filing a certificate from the tax collector that all municipal charges or fees constituting the lien, together with any interest and costs thereon, have been paid or legally abated. All costs of recording or discharging a lien under this section shall be borne by the owner of the property.

Article: _____

To see if the Town will vote to transfer the care, custody and control of the parcels of land identified below, acquired by the Town by tax title foreclosure, from the Treasurer/Collector for the purpose of sale at public auction to the Select Board for the purpose of conveyance and for general municipal purposes, and to authorize the Select Board to convey such parcels on such terms and conditions as the Board may deem appropriate, said parcels being described as follows, or take any other action relative thereto.

Property Address _____ Assessors Map, Lot

3. **Identifying and regulating Rooming/Lodging Houses**

Article: _____

Acceptance of MGL Ch. 148, Sec. 26H and 26I (lodgings and boarding houses)

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 148, Section 26H to require that every lodging house or boarding house shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code; and to also accept the provisions of Massachusetts General Laws, Chapter 148, Section 26I to require that any building hereafter constructed or hereafter substantially rehabilitated so as to constitute the equivalent of new construction and occupied in whole or in part for residential purposes and containing not less than four dwelling units including, but not limited to, lodging houses, boarding houses, fraternity houses, dormitories, apartments, townhouses, condominiums, hotels, motels and group residences, shall be equipped with an approved system of automatic sprinklers in accordance with the provisions of the state building code; For purposes of these statutes, a boarding / lodging house is defined as a building with six or more persons living together not within the second degree of kindred. "Second degree of kindred" means a father, mother, brother, sister, son, daughter, spouse, grandparent, grandchild, brother- or sister-in-law, son- or daughter-in-law, father- or mother-in-law, stepfather, stepmother, stepsister, stepbrother, stepson, or stepdaughter." or take any other action relative thereto.

**AGENDA ITEM #6
AUGUST 29, 2022**

**UPDATE ON POTENTIAL NOVEMBER 14, 2022 SPECIAL TOWN
MEETING ARTICLES**

Attached is a list of potential articles and copies of the articles that we have so far.

Fall 2022 Special Town Meeting
Potential Articles

CPC membership – Redesignate housing authority slot. Draft complete.

Budget submission – replace January 31 deadline and clarify submission pathway. Draft complete.

Financial articles:

- Prior bills
- Budget transfers
- Fire Station & Town Hall preliminary design
- DPW Administration – Final design and construction
- Police firearms replacement
- Assawompset ES MSBA Project

Designation of Old Town Hall as historic site – eligibility for MHC grant funding. Christina Cotsoridis working with Gregg Corbo.

~~Earth removal bylaw – fee structure. Gregg to develop fee structure options.~~ No article required per Town Counsel (8/17/22).

Mullin Rule – Planning Board. Marc Resnick drafting inquiry for whether other boards would like to consider.

Problem properties package:

- Junk bylaw/recyclable materials – Draft complete.
- Abutters’ program – Article drafted, list of properties pending.
- Acceptance of MGL Ch. 148, Sec. 26H (lodgings and boarding houses) – Draft complete.
- Acceptance of MGL Ch. 40, Sec. 58 (municipal charges lien) – Draft complete.

Planning Board:

- Open Space Residential Design Bylaw – May be deferred.
- Modified Setbacks & Lot Coverage in Business/Industrial Zone
- Development Opportunities District (removal and/or modification) – Draft complete.
- Industrial District zoning – Marc Resnick.
- Off Premise Sign Clarification – Marc Resnick.
- Alternate Member – Marc Resnick.

Road acceptance petitions - Ledgewood submitted, second possible.

Town Clerk to appointed position (Special Act). Draft complete.

Citizens' Petitions:

Recall Provision (Special Act)

Select Board expansion

Retail with Storage & Distribution in Business Zone (Potential)

DRAFT

CPC Membership Article – Fall 2022 Special Town Meeting

To see if the Town will vote to amend the Town's Community Preservation Committee Bylaw, to delete references to the Housing Authority, as shown below, or take any other action relative thereto:

1. Delete the sixth paragraph of Section 1 in its entirety, which currently reads "One member of the Housing Authority as designated by the Authority for an initial term of two (2) years and thereafter for a term of three (3) years."
2. Amend the eighth paragraph of Section as shown here, with additions in **bold** and deletions in ~~strikethrough~~:

~~Three~~ **Four** members to be appointed by the Select Board, one member to be appointed for a term of one (1) year and thereafter for a term of three years and ~~two~~ **three** members to be appointed for a term of two (2) years and thereafter for a term of three (3) years, **provided that one of the two-year appointments shall be an individual with experience in the areas of clearance of substandard, decadent or blighted open areas or the provision of housing for families or elderly persons of low income or engaging in a land assembly and redevelopment projects, including the preservation, restoration or relocation of historical buildings.**

3. Amend the second sentence of Section 2(1) as shown here, with additions in **bold** and deletions in ~~strikethrough~~:

The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, **and** the Park Commission ~~and the Housing Authority~~, or persons acting in those capacities or performing like duties, in conducting such studies.

Budget submission – replace January 31 deadline and clarify submission pathway.

To see if the Town will vote to amend Section 13 of Chapter III of the Town's General Bylaws relative to the Select Board, Section 16 of Chapter II of the Town's General Bylaws relative to the Finance Committee and Section 25(e) of Chapter III of the Town's General Bylaws relative to the Capital Improvements Committee, all for the purpose of making the timeline for establishing the annual town budget more consistent with the Town Administrator Bylaw and the timeline used in recent years, as shown below with additions shown in **bold** and deletions shown in ~~striketrough~~, or take any other action relative thereto.

Part I – Select Board

Section 13. (a) **Each year** the Select Board **shall establish a budget calendar for the ensuing fiscal year.** All boards, committees, heads of departments or other officers of the town authorized by law to expend money, shall furnish ~~directly to the Select Board to the Town Administrator and Finance Committee~~ by January 31st of each year **by a date established by the Select Board,** detailed estimates of the amounts necessary for **salaries, and expenses necessary for** the proper maintenance of the departments under their jurisdiction for the ensuing **fiscal** year with explanatory statements as to any changes from the amounts appropriated for the same purposes in the ~~preceeding~~ **then current fiscal** year, ~~and an estimate of amounts necessary for outlays or permanent improvements.~~ They shall also prepare estimates of any income likely to be received by the town during the ensuing **fiscal** year in connection with the town's business or property entrusted to their care. ~~The Select Board shall include in their estimate the salaries and expenses connected with their own office, and the salaries of all other town officers shall be included in the estimate for the office, department or branch of the public service of which they are in charge.~~ The Treasurer shall, in addition to ~~his~~ **the** estimate of the amount required for the maintenance of ~~his own~~ **their** office, prepare a separate statement indicating the amounts required for the payment of interest on the town debt and for the payment of such portions of the town debt as may become due during the ~~succeeding~~ **ensuing fiscal** year. (Adopted May 13, 1974; approved by Attorney General June 6, 1974)

(b) **Upon receipt of the budget submissions from the various departments, the Town Administrator shall assemble, prepare and present to the Select Board, by a date established by the Select Board, a proposed annual operating budget for each department for the ensuing fiscal year. The Town Administrator's proposed budget shall also include the annual report of the Capital Expenditures Committee. The Select Board shall review the annual proposed budget submitted by the Town Administrator and make recommendations with respect thereto as they deem advisable. The Town Administrator shall present the budget, incorporating the recommendations of the Select Board and the Capital Expenditures Committee to the Finance Committee by a date established by the Select Board.**

(c) If the Select Board shall fail to establish an annual budget calendar by January 1, the calendar used to establish the budget for the then current fiscal year will be used to establish the budget for the ensuing fiscal year.

Part II – Finance Committee

Section 16. All articles in any warrant for a town meeting shall be referred to the finance committee for its consideration. The ~~Select Board~~ **Town Administrator** shall transmit **by a date established by the Select Board**, immediately a copy thereof to said committee; after due consideration of the subject matter of such articles, by the committee, they shall report thereon to the town meeting, in writing, such recommendations as it deems best for the interest of the town and its citizens. Said committee shall investigate the financial needs of the town, and its departments, and shall prepare and submit in writing at the annual town meeting, a budget and recommendations of the committee thereon.

Part III – Capital Improvements Committee

Section 25(e)(1) For the purposes of this Section, a capital improvement is defined as a physical betterment, including but not limited to the construction of new buildings or facilities and the alteration of buildings or facilities now or hereafter existing, the purchase of land, or items of equipment, provided that any such physical betterment having a cost of less than \$10,000, and which in the judgment of the committee is not of an unusual or non-recurring nature, shall not be considered a capital improvement.

(2) It shall be the duty of the committee to ascertain annually what expenditures for capital improvements, as herein defined, will be required by the Town during the ensuing five years, and in making its determination shall confer with the Finance Committee and the Town Accountant, any Town boards, commissions, committees, officers, employees, and other agencies and departments of the Town involved in making expenditures for capital improvements in the Town, all of which shall co-operate with the committee. All such agencies and departments or other authorities of the Town authorized by law to make such expenditures shall furnish detailed estimates of the expenditures necessary for capital improvements under their jurisdiction for the ensuing five years in conjunction with their annual budget requests **presented to the Town Administrator.**

(3) Upon receipt of the capital expenditure submissions from the various departments, the **Town Administrator shall assemble, prepare and present to the committee, by a date established by the Select Board, a proposed capital budget for each department for the ensuing five years.** The committee shall **use the Town Administrator's report** to prepare annually a program of expenditures for capital improvements, including recommendations for the scheduling of such expenditures and the financing thereof and the probable impact of such improvements on the tax rate of the Town and shall furnish such report and recommendations to the ~~Finance Committee and Select Board~~ **Town Administrator** on or before ~~the second Monday~~

~~in April annually~~ **a date established by the Select Board** for use in preparing ~~it's~~ the annual budget recommendations to the Town **for the ensuring fiscal year**. Copies of such report and recommendation shall be deposited with the Town Accountant and with the Town Clerk and copies shall be made available by the Town Clerk upon request. The capital program for the following five years, shall be published with the Capital Expenditures Committee report and included in the Annual Town Report. Such capital program shall be presented to the annual town meeting for acceptance in principle, subject to final action at subsequent town meeting(s).

Ari Sky

From: Ari Sky
Sent: Thursday, August 18, 2022 9:36 AM
To: Richard LaCamera; Lia Fabian; Lorraine Carboni
Cc: Christina Cotsoridis; Tracie Craig-McGee
Subject: FW: Earth Work Fees
Attachments: Earth Removal Bylaw; Earth Removal Fee Samples

Boardmembers –

Passing along FYI. Gregg's email indicates that the authority already exists to set fees. We won't need to go to Town Meeting but we will have to discuss at a future date. Thanks.

Ari J. Sky, ICMA-CM

Town Administrator
Town of Lakeville
346 Bedford Street
Lakeville, Massachusetts 02347
asky@lakevillema.org
(508) 946-8803



From: Gregg J. Corbo <GCorbo@k-plaw.com>
Sent: Wednesday, August 17, 2022 9:49 AM
To: Ari Sky <asky@lakevillema.org>
Cc: Christina Cotsoridis <ccotsoridis@lakevillema.org>
Subject: Earth Work Fees

Hi Ari.

The current version of the Earth Work Bylaw states that "The Board may adopt and may from time-to-time revise a schedule of reasonable fees to cover the costs associated with the administration of this bylaw." In my opinion, this provision gives the Select Board the authority to establish a fee structure without going back to Town Meeting. Thus, it is not necessary to include this as an article on the warrant, unless the Board has determined that it would prefer to have the fees specifically spelled out in the Bylaw.

We last examined this issue in depth in 2017 and provided the attached. If you wish to change the current fee structure, I recommend that we revive this conversation at the staff level and come up with some recommendations for the Board.

Please let me know if you would like to discuss.

-Gregg

Gregg J. Corbo, Esq.
KP | LAW

101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 654-1764
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gcorbo@k-plaw.com
www.k-plaw.com

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Problem Properties Package

1. Regulating Residential Use of Exterior Space

Article: _____

To see if the Town will vote to amend the Lakeville Zoning By-Laws by adding to Section 2.0 definitions: Reusable Materials or Equipment: Used yard maintenance equipment, tools, car parts, wood, metal, bicycles, toys, furniture, (excluding farm equipment).

On residential property outdoor storage of Reusable Materials or Equipment shall be kept in one area and shall not exceed 500 sq. ft. The storage area shall be screened from view from the street and abutting properties. No Reusable Materials or Equipment shall be stored in any front yard, whether screened or not.

Or take any other action thereto.

Article: _____

This article would add the business use of "Licensed Junk Dealers (pursuant to the Town of Lakeville General Bylaws)" to the zoning use chart. This new use would only be allowed in the Business Zone. This would restrict the issuance of new licenses to those properties located in the Business Zone.

To see if the Town will vote to amend the Lakeville Zoning By-Laws, Section 4.0 Use Regulations by:

Adding to Section 4.1.2 Business Uses

	R	B	I	I-B
Licensed junk dealers (Pursuant to the Town of Lakeville General Bylaws)	N	Y	N	N

Or take any other action thereto

Article: _____

An article amending the current general by-law for Junk, Old Metals or Second Hand Articles to include language mandating junk dealers show commercial activity annually as a requirement for license renewal.

[DRAFT] ADD Section 5. A holder of a license is required to prove that the license is being utilized for an active business. The required ledger book shall indicate that multiple sales of "junk" kept on the premises, are conducted in six months of every twelve-month licensing period. The Book shall be presented to the Select Board prior to the issuance of a new license.

2. Addressing Problem Properties

Article: _____

Acceptance of MGL Ch. 40, Sec. 58 (municipal charges lien)

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 40, Section 58, to authorize the Town to assess a municipal charges lien on any real property in the Town for the following types of municipal fees and charges that have not been paid by their due date; or take any other action relative thereto.

Charges, penalties, fines or fees, including interest and all costs to record said lien(s) in the Plymouth County Registry of Deeds, assessed in accordance with the following provisions and not paid by their due date shall constitute a lien on the real property of the person assessed:

1. Any provision in Section V of the Town's General Bylaws;
2. Any provision in the Town's Zoning Bylaws;
3. Any bylaw, statute or regulation enforced or administered by the Board of Health;
4. Any bylaw, statute or regulation enforced or administered by the Conservation Commission;
5. Any bylaw, statute or regulation enforced or administered by the Building Inspector;
6. Any bylaw, statute or regulation enforced or administered by the Fire Department;
7. Any bylaw, statute or regulation enforced or administered by the Department of Public Works
8. Any bylaw, statute or regulation enforced or administered by the Zoning Board of Appeals; and
9. Any bylaw, statute or regulation enforced or administered by the Planning Board

A municipal charges lien authorized under this section shall take effect upon the recording of a list of unpaid municipal charges and fees by parcel of land and by the name of the person assessed for the charge or fee in the registry of deeds of the county or district where the land subject to the lien lies.

If a charge or fee which is secured by a municipal charges lien remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed under section fifty-three of chapter fifty-nine, the board or officer in charge of the collection of the municipal charge or fee, or the town collector of taxes, if applicable under section thirty-eight A of chapter forty-one, shall certify such charge or fee to the assessors, who shall forthwith add such charge or fee to the tax on the property to which it relates and commit it with their warrant to the collector of taxes as part of such tax.

If the property to which such charge or fee relates is tax exempt, such charge or fee shall be committed as the tax. A lien under this section may be discharged by filing a certificate from the tax collector that all municipal charges or fees constituting the lien, together with any interest and costs thereon, have been paid or legally abated. All costs of recording or discharging a lien under this section shall be borne by the owner of the property.

Article: _____

To see if the Town will vote to transfer the care, custody and control of the parcels of land identified below, acquired by the Town by tax title foreclosure, from the Treasurer/Collector for the purpose of sale at public auction to the Select Board for the purpose of conveyance and for general municipal purposes, and to authorize the Select Board to convey such parcels on such terms and conditions as the Board may deem appropriate, said parcels being described as follows, or take any other action relative thereto.

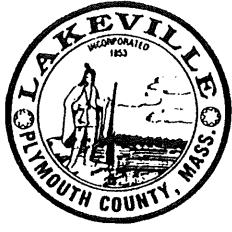
Property Address _____ Assessors Map, Lot

3. Identifying and regulating Rooming/Lodging Houses

Article: _____

Acceptance of MGL Ch. 148, Sec. 26H and 26I (lodgings and boarding houses)

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 148, Section 26H to require that every lodging house or boarding house shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code; and to also accept the provisions of Massachusetts General Laws, Chapter 148, Section 26I to require that any building hereafter constructed or hereafter substantially rehabilitated so as to constitute the equivalent of new construction and occupied in whole or in part for residential purposes and containing not less than four dwelling units including, but not limited to, lodging houses, boarding houses, fraternity houses, dormitories, apartments, townhouses, condominiums, hotels, motels and group residences, shall be equipped with an approved system of automatic sprinklers in accordance with the provisions of the state building code; For purposes of these statutes, a boarding / lodging house is defined as a building with six or more persons living together not within the second degree of kindred. "Second degree of kindred" means a father, mother, brother, sister, son, daughter, spouse, grandparent, grandchild, brother- or sister-in-law, son- or daughter-in-law, father- or mother-in-law, stepfather, stepmother, stepsister, stepbrother, stepson, or stepdaughter." or take any other action relative thereto.



Town of Lakeville
PLANNING DEPARTMENT
346 Bedford Street
Lakeville, MA 02347
774-776-4350

Article _____

To see if the Town will vote to remove in its entirety Section 7.9 Development Opportunities (DO) District from the Town of Lakeville Zoning By-Law or take any other action relative thereto.

ARTICLE 1: To see if the Town will vote to authorize the Select Board to petition the General Court for special legislation, as set forth below, to change to position of Town Clerk from an elected position to a position appointed by the Select Board; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Select Board approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition; or take any other action relative thereto.

Town Clerk

The petition for special legislation shall take the following form:

**AN ACT RELATIVE TO THE POSITION OF TOWN CLERK IN THE TOWN OF
LAKEVILLE**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding section 1 of chapter 41 of the General Laws or any other general or special law, rule or regulation to the contrary, there shall be a town clerk for the town of Lakeville. The town clerk shall have all the powers, perform the duties and be subject to the liabilities and penalties now or hereafter conferred and imposed by law on town clerks. The town clerk shall be appointed and may be removed, after the opportunity for a hearing, by the select board of the town. The select board may establish an employment contract, subject to annual appropriation, with the town clerk for salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, reimbursement for expenses incurred in the performance of the duties of office, liability insurance and conditions of discipline, termination, dismissal, reappointment, performance standards and leave.

SECTION 2. Upon the effective date of this act, the elected office of town clerk shall be abolished and the term of the incumbent of such office terminated. Notwithstanding the foregoing, the elected incumbent holding the office of town clerk on the effective date of this act shall continue to hold such office and perform the duties of that office until the expiration of the term for which the town clerk was elected, unless he or she sooner vacates such office or until a new town clerk is appointed by the select board in accordance with section 1 of this act.

SECTION 3. No contracts or liabilities in force on the effective date of this act shall be affected by the abolition of the elected office of town clerk or the creation of the appointed office and the appointed town clerk shall, in

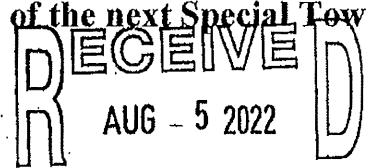
all respects, be the lawful successor of the office so abolished. All records, property and equipment of the offices of the elected town clerk shall be assigned to the office of the appointed town clerk.

SECTION 4. This act shall take effect upon its passage.

CITIZEN PETITION FOR SPECIAL TOWN MEETING WARRANT ARTICLE

We the undersigned, being at least 200 registered voters of the Town of Lakeville, Massachusetts, hereby petition the Select Board pursuant to Mass. General Laws chapter 39, section 10, to include the following Article on the warrant of the next Special Town Meeting to be called by said Board:

Warrant Article:



To see if the town will vote to authorize the Select Board to petition the General Court for special legislation to provide for recall of officials elected solely by the voters of Lakeville, and, further, to authorize the General Court to make changes of form only to such legislation unless approved by Select Board prior to enactment, and, further to authorize the Board to approve such changes as are within the public purposes of this petition or take any other action relative thereto. Subject to the above-stated rights of the General Court and the Select Board to make certain changes, the proposed special legislation shall include the following provisions relative to the recall of elected Town officials:

Recall of an Elected Official

A. RECALL DESCRIPTION

1. Any holder of an elected office in the Town of Lakeville may be recalled therefrom by registered voters of the Town as hereinafter provided.
2. The recall of an elected official will consist of a 3-step process.
3. An initial recall affidavit shall not be filed against an officer within 3 months after the officer takes office or within the last 3 months of the term.

B. INITIATION OF THE RECALL AFFIDAVIT - (Step one) The Affidavit

1. Any 100 registered voters of the Town of Lakeville may initiate a recall petition by filing an affidavit with the Town Clerk.
2. The Select Board may appoint a Temporary/ Interim Town Clerk to handle the recall process and Election should the Town Clerk be the Elected official subjected to the recall.

C. THE PETITION - (Step two) The Petition

1. If the affidavit process has been completed in compliance with the requirements of Section B of this Chapter, the Town Clerk shall provide a sufficient number of copies of petition blanks demanding such recall (printed forms of which shall be kept on hand) to the voters who made the affidavit. The blanks shall be issued by the Town Clerk and bear the Clerk's signature and Official Seal; they shall be dated and addressed to the Select Board and shall contain the names of all persons to whom issued, the number of blanks so issued, the name of the person sought to be recalled, and shall demand the election of a successor to such office.
2. Such blanks must be provided within five Town hall business days during regular business hours.
3. Said recall petition shall be returned and filed with the Town Clerk on the 28th day after the requesting voter receives the blank petitions from the Town Clerk.
4. In the event that the Town hall is not open on the 28th day, the petition may be filed during normal business hours on the next Town hall business day.
5. The petition, before being returned and filed, shall be signed by 200 qualified voters of the Town. Every signature must be accompanied by the signer's place of residence, giving the street and number.

SPECIAL TOWN MEETING PETITION - RECALL OF AN ELECTED OFFICIAL

6. Within 5 working days of receipt of the recall petition sheets, the town clerk shall submit the recall petition sheets to the board of registrars of voters and the board of registrars of voters shall verify the number of signatures which are names of registered voters of the town.

D. THE RECALL ELECTION - (Step three) The Recall Election

1. If the petition shall be found and certified by the Registrars of Voters to be sufficient, the Town Clerk shall forthwith submit it with the certificate to the Select Board. The Select Board shall forthwith give written notice to said official of the receipt of said certificate and, if the official sought to be removed does not resign within seven calendar days, shall order an election to be held on a day fixed by them not less than 45 days nor more than 60 days after the date of the Town Clerk's certificate that a sufficient petition is filed. However, if any other Town election is to occur within 90 days after the date of said certificate the Select Board may, at their discretion, postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as in this section provided.

2. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the nomination and publication, shall all be in accordance with the law relating to elections, unless otherwise provided in this act.

3. Ballots used in a recall election shall contain the following propositions:

FOR THE RECALL OF THE
[NAME OF OFFICER] ()
AGAINST THE RECALL OF THE
[NAME OF OFFICER] ()

Adjacent to each proposition, there shall be a place to mark a vote. Following the propositions shall appear the word "Candidates" with directions to voters as required by section 42 of chapter 54 of the General Laws. Beneath the word "Candidates" shall appear the names of candidates nominated as provided in this act. Adjacent to the name of each candidate shall be a place to mark a vote.

E. DUTIES OF THE INCUMBENT

1. The incumbent shall continue to perform the duties of his/her office until the recall election.
2. If the official is not recalled, he/she shall continue in the office for the remainder of his/her unexpired term, subject to recall as before, as provided in this act.

F. VOTING RESULTS

1. If a majority of the votes cast upon the question of recall are in favor of recall, the officer shall be recalled and the votes for the candidates shall be counted.
2. In that instance, the candidate receiving the highest number of votes shall be declared elected for the open office.
3. If less than a majority of the votes cast are in favor of recall, the votes for candidates shall not be counted.
4. If the official is recalled in the recall election, he/she shall be deemed removed upon the election of his/her successor, who shall hold office during the unexpired term.
5. If the successor fails to take office within five days after receiving notification of his/her election, the incumbent shall thereupon be deemed removed and the office vacant.

G. CANDIDATES TO SUCCEED THE ELECTED OFFICIAL

1. Any elected official sought to be recalled may not be a candidate to succeed himself/herself.
2. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the same shall all be in accordance with the provisions of law relating to elections unless otherwise provided by this act.

SPECIAL TOWN MEETING PETITION - RECALL OF AN ELECTED OFFICIAL

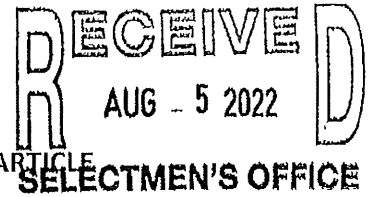
H. APPOINTMENT OF RECALLED OR RESIGNED OFFICIAL

1. Any person who has been removed from an office or who has resigned from office while recall proceedings were pending against him/her shall not be appointed to any Town office within 4 years after such removal or such resignation.
2. In the case of an officer subjected to a recall election and not recalled, a new recall affidavit shall not be filed against that officer until at least 3 months have elapsed after the election at which the previous recall was submitted to the voters of the town.

I. EFFECTIVE DATE

This act shall take effect upon its passage.

- | | | |
|--------------------------------|----------------------------|-------------------------|
| 1. <u>Noelle Rilleau</u> | <u>Noelle Rilleau</u> | <u>22 Reservoir Ave</u> |
| 2. <u>Roy Votter</u> | <u>Roy Votter</u> | <u>22 Reservoir Ave</u> |
| 3. <u>Brian Fedy</u> | <u>[Signature]</u> | <u>17 Reservoir Ave</u> |
| 4. <u>Lisa Fedy</u> | <u>Lisa Fedy</u> | <u>17 Reservoir Ave</u> |
| 5. <u>Sustia Varrichione</u> | <u>[Signature]</u> | <u>13 Reservoir Ave</u> |
| 6. <u>Niere Wright</u> | <u>Niere Wright</u> | <u>1 Wordell Ln.</u> |
| 7. <u>Michael Wright</u> | <u>[Signature]</u> | <u>1 Wordell Lane</u> |
| 8. <u>B. Kennison Glidden</u> | <u>B Kennison Glidden</u> | <u>17 W. Vaughn St</u> |
| 9. <u>Donna L. Glidden</u> | <u>Donna L Glidden</u> | <u>17 W. Vaughn St.</u> |
| 10. <u>Susan Spierer</u> | <u>Susan Spierer</u> | <u>10 Valley Rd.</u> |
| 11. <u>Robert Stanghellini</u> | <u>Robert Stanghellini</u> | <u>10 Valley Rd</u> |



CITIZEN PETITION FOR SPECIAL TOWN MEETING WARRANT ARTICLE

We the undersigned, being at least 100 registered voters of the Town of Lakeville, Massachusetts, hereby petition the Select Board pursuant to Mass. General Laws chapter 39, section 10, to include the following Article on the warrant of the next Special Town Meeting to be called by said Board:

Warrant Article:

An Act Increasing the Membership of the Select Board of the Town of Lakeville

To see if the Town will vote to petition the General Court for Special Legislation.

Notwithstanding chapter 43B section 13 of the General Laws or any General or Special Law to the contrary.

SECTION 1. Notwithstanding any general or special law to the contrary, the number of members on the Lakeville Select Board shall be increased from three (3) to five (5). The Select Board shall annually elect a chairperson from among its members.

SECTION 2. At the first Ballot Election to occur following the effective date of this act, three (3) Select Board members shall be elected. The candidate receiving the highest number of votes in that election shall serve a three (3) year term. The candidate receiving the second highest number of votes shall serve a two (2) year term. The candidate receiving the third highest number of votes shall serve a one (1) year term.

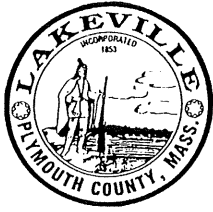
Thereafter, as the terms of Select Board members expire, successors shall be elected for terms of three (3) years.

SECTION 3. This act shall take effect upon its passage.

**AGENDA ITEM #7
AUGUST 29, 2022**

**DISCUSS FACILITIES MANAGEMENT FUNCTION AND POSSIBLE
VOTE TO APPROVE FACILITIES MANAGER JOB DESCRIPTION**

Attached is a memo from the Town Administrator regarding facilities management. Also attached is the funded projects inventory and a draft job description for Facilities Manager for the Board's consideration.



TOWN OF LAKEVILLE
Town Administrator's Office

346 Bedford Street
Lakeville, MA 02347
(508) 946-8803

August 24, 2022

TO: Select Board

FROM: Ari J. Sky, Town Administrator

SUBJECT: Facilities Management

The Town's facilities program is currently staffed by a facilities assistant and custodians. Overall management is handled by the Director of Inspectional Services. A 2017 special act assigns the facilities function to Inspectional Services, absent the appointment of a dedicated facilities manager. Currently, there is no dedicated management and strategic direction is provided on a part-time basis. The primary challenge for the facilities planning function is to ensure that sufficient capacity exists to address the Town's current and anticipated project inventory. A list of currently funded projects is attached to this correspondence. Future projects will result in additional demands on the Town's facilities management resources.

The FY 2023 budget process identified facilities maintenance and planning as functions in need of additional resources, and included operating funding intended to secure additional contractual management. Subsequent to the budget's adoption, it was determined that dedicated staffing would be required to facilitate development and implementation of the Town's facilities plans. At its July 11, 2022, meeting, the Select Board directed staff to develop a job description for a facilities manager and to make recommendations regarding the organizational configuration of the function going forward.

A copy of the draft job description for the facilities manager is attached. Staff's recommendation is to transfer the facilities program to Administration; the hiring of a full-time facilities manager will allow the Town to address current and future facilities maintenance and project needs on a collaborative basis with Inspectional Services and Public Works providing additional support. In the meantime, we have taken measures to obtain contractual support which will allow current needs to be addressed on a shorter timeframe and to assist with the development of the facilities program's long-range capital plan. On a combined basis, these revisions are intended to address the identified capacity issues and ensure that the facilities program moves forward.

The proposed facilities manager position is estimated at an annual salary of \$75,000 +/- . The most optimistic scenario for a successful recruitment would allow the selected candidate to begin work in October, which would mean an FY 2023 cost of about \$56,000. While currently unbudgeted, this expense could be accommodated in several ways, from redirecting savings in the Town's education assessment and/or recognizing additional State revenue or New Growth. Staff will prepare a budget amendment article for the Fall Town Meeting if the Board authorizes staff to proceed.

Thank you for your consideration. Staff will attend the August 29th Select Board meeting to discuss the facilities program and answer any questions.

Attachments

Funded Projects Inventory

Capital Program (Major Stakeholders)

Fire Station Renovation (Fire, Facilities)

Old Library Renovation Completion (Facilities)

Wheelchair ramp, front stairs repair, air conditioning unit

DPW Administration Building (OPM, Facilities, DPW, Administration)

Town Hall/Fire Station Project (OPM, Administration, Fire, Facilities, Building Committee)

Old Town Hall Roof Replacement (Facilities)

Assawompset ES MSBA Renovation Project (MSBA, OPM, Administration, FLRSD)

Ted Williams Camp Tennis Courts (Parks, DPW)

Jon Paun Park Building Demolition/Replacement (Parks, Facilities)

Clear Pond Park Guard Shack (Parks, Facilities)

Cybersecurity/IT Infrastructure (Green River, Administration)

Contracted Operation

Loon Pond Lodge (DPW, Facilities, Boston Tavern)

Existing Grant Funded Projects

Fiber Network Extension – State Fiber Grant (TMLP, Green River, Administration)

Disaster Recovery Site – Community Compact (Green River, Administration)

Senior Center Addition Study – Developer Contributions (OPM, Aging, Facilities)

Outdoor Stage Cover – ARPA/Arts Council/Library Trustees (Arts Council, Facilities)

Parks & Facilities Utility Services Extension – ARPA (OPM, DPW, Facilities, Administration)

Potential Grant Funded Projects

Green Communities (Various)

ADA Grant (Facilities, Planner, Administration)

Safe Streets - Speed Study (DPW, Police)

Community Compact - Continue Records Retention Project (Administration)

EV Chargers (MG&E, Facilities, Administration)

Parks Grants (ARPA, PARC): Clear Pond, Betty's Neck (Parks, Planner, Facilities, DPW)



Job Title: Facilities Manager
Department: Town Administration
Location: 241 Main Street, Lakeville, MA
Hours: Monday – Thursday 8:00 AM – 5:00 PM, Friday 8:00 AM – 12 Noon.
Days and hours may vary, may require evenings or weekends.
Salary: \$75,000 per year plus benefits +/- . This is a non-union position.
FLSA Status: Exempt

Description:

Responsible for general custodial and maintenance services for municipal facilities. The Facilities Manager works on and coordinates all functions related to the facilities maintenance and/or projects.

Essential Functions:

The essential functions or duties listed below are intended as illustrations of the various type of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or logically assigned to the position.

- Creates and oversees the development of unit objectives, plans and goals; conceives and recommends a range of programs/services designed to support objectives and strategic planning initiatives and to enhance the provision of quality service.
- Creates, maintains, and presents a facilities management strategy that details short, medium, and long-range capital improvement projects along with their associated costs and timelines for each municipal building.
- Creates and manages the Facilities operating budget.
- Makes periodic visits and inspections to all buildings within the scope of the Facilities program; keeps records of each building and equipment.
- Supervises general custodial and maintenance staff, and any other staff, contractor and/or subcontractor conducting services on municipal facilities.
- Directs all personnel hired to maintain and/or otherwise work on municipal facilities. This includes coordination, direction, granting access, assisting, scheduling, evaluating, and approval of any work as is directed and/or deemed necessary.
- Prepares specifications for the work to be done under contract; oversees the work and the work order system; inspects the construction, repairs and renovations.
- Receives and evaluates quotes and/or bids from outside vendors.
- Oversees work performed by outside vendors to ensure that work quality is acceptable and adheres to specifications.

- Works with and assists other departments on major construction and renovation projects for the Town; assists with the selection process of architects, engineers and contractors; monitors progress for adherence to plans and specifications, project timelines and budgets.
- Establishes Town-wide contracts for various maintenance services and functions where doing so will result in economies of scale and cost savings.
- Performs general repair, painting, and maintenance duties. This may include any/all duties not typically associated with electrical, plumbing, gas, or building permits.
- Insures that facilities staff arranges rooms for meetings and other functions as requested, including removing, adding, and adjusting chairs, tables, and other furniture at all town facilities.
- Oversees the keeping of an inventory of supplies such as trash bags, paper towels, soap, etc. and purchase and/or request purchasing of additional supplies to ensure that each facility has sufficient quantities, and that all associated dispensers are kept full.
- Performs other related duties as required.

Supervision Received:

Works largely independently with general supervision and guidance provided by the Town Administrator.

Supervision Exercised:

Supervises general custodial and maintenance staff, and any other staff, contractors and/or subcontractors conducting services on municipal facilities.

Qualifications:

- At least five (5) years employment experience in custodial work, maintenance work, and general trades, or similar knowledge/experience preferably in a unionized and/or municipal setting.
- At least one (1) year of experience supervising personnel in custodial work, maintenance work, and general trades preferably in a unionized and/or municipal setting.
- Must have a high school diploma or equivalent.
- Must have a valid Massachusetts driver's license.
- MCPPO Certification and professional Building & Trades licensing preferred.

Knowledge, Skills and Abilities:

Knowledge:

- Knowledge of best practices in the field of building maintenance and general tradesman workmanship.
- Knowledge of general trades, custodial and maintenance work.

Skills:

- Excellent organizational and communication skills.
- Skilled in the use of hand and power tools.
- Strong problem solving and interpersonal skills.

- Must be organized and detail-oriented and be able to work both independently and as part of a team.

Abilities:

- Ability to create and maintain accurate records.
- Ability to communicate effectively and efficiently verbally and in writing.
- Ability to work flexible hours if necessary.

Work Environment:

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the functions.

While performing the duties of this job, the employee is regularly required to use hands, fingers, feel or operate objects, tools or controls and reach with hands and arms and to talk and hear. The employee is required to stand, walk, sit, climb or balance. The employee is frequently required to stoop, kneel, crouch or crawl. The employee must frequently lift and or move up to 25 pounds and occasionally lift and or move more than 100 pounds. Specific vision abilities required by this job include close vision, distance and peripheral vision, depth perception, and the ability to adjust focus.

While performing the duties of this job, the employee regularly works in outside weather conditions. Occasionally employee will be required to work during inclement weather conditions such as heavy rain, snow, flooding, hot and cold weather conditions. The employee regularly works near moving mechanical parts and is exposed to wet and humid conditions along with vibration. The employee occasionally works in precarious places and is occasionally exposed to fumes or airborne particles, toxic or caustic chemicals and risk of electric shock. May be, required to work overtime in extended work day and emergency situations. May be, required to work in the evening or on weekends.

The noise level in the work environment is very loud in field settings and moderately loud at other work locations.

Disclaimer

The above statements are intended to describe the general nature and level of work being performed by people assigned to this classification. They are not to be construed as an exhaustive list of all responsibilities, duties, and skills required of the person so classified. All personnel may be required to perform duties outside of their normal responsibilities from time to time as needed.

The Town of Lakeville provides equal employment opportunities to all employees and applicants for employment and prohibits discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, ancestry, disability status, genetics, pregnancy or pregnancy-related conditions, protected veteran status, sexual orientation, gender identity or

expression, or any other characteristic protected by federal and state laws. Applicants with disabilities needing reasonable accommodation to participate in the job application or interview process, to perform essential job functions, and/or to receive other benefits and privileges of employment, please contact John Viarella, Human Resources Director, jviarella@lakevillema.org 508-946-8808.

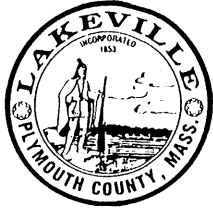
Interested candidates should apply online at www.lakevillema.org/human-resources/pages/job-openings

DRAFT

**AGENDA ITEM #8
AUGUST 29, 2022**

**DISCUSSION AND POSSIBLE VOTE TO ASSIGN ARPA FUNDING
FOR THE TED WILLIAMS CAMP TENNIS COURTS PROJECT**

Attached is a memo from the Town Administrator regarding the Ted Williams Camp Tennis Courts project.



TOWN OF LAKEVILLE
Town Administrator's Office
346 Bedford Street
Lakeville, MA 02347
(508) 946-8803

August 25, 2022

TO: Select Board

FROM: Ari J. Sky, Town Administrator

SUBJECT: Ted Williams Camp Tennis Courts Project

The FY 2022 capital program included a \$28,000 appropriation to resurface the tennis courts at Ted Williams Camp. The Park Commission has solicited proposals for the project, the lowest from East Coast Seal Coating at \$44,785. DPW has reviewed the proposal and supports the project as described.

The East Coast proposal would exceed the project budget by \$16,785. However, the project is eligible for ARPA funding as an outdoor recreation improvement. I would therefore recommend that the Select Board approve funding from the Town's ARPA proceeds if it wishes to proceed, with the intention of redirecting the capital funding to another project at a future date.

Thank you for your consideration, and please let me know if you have any questions.

Attachment

Ari Sky

From: Michael Smith <hydrangea2011@gmail.com>
Sent: Wednesday, August 24, 2022 3:08 PM
To: Ari Sky
Subject: Tennis Courts

Ari,

Per our discussion here is the information in regards to the resurfacing of the tennis courts at Ted Williams park.

Received a quote from East Coast Seal Coating. The owner dropped by and measured the courts. Frank did his due diligence and did a reference check. The total for the project is \$44,785.00. I understand that it is over budget and hope that it can be paid through ARPA funds

I also approached Premier seal coating who gave us a quote last year. I spoke to him twice to have him quote the project again. After waiting multiple weeks there was no response and I understood that he was very short staffed and was unable to do the project.

I reached out to Sport court of Massachusetts who wanted me to send them the specs but had no interest in visiting the project to see what needed to be done.

I reached out to others but received no return calls.

I hope this is the information you needed and if I can be of further assistance know.

Thanks again

Michael Smith
Vice Chair
Parks Commission

**AGENDA ITEM #9
AUGUST 29, 2022**

**REVIEW SURPLUS PROPERTY LIST AND POSSIBLE VOTE TO
DECLARE ITEMS ON THE LIST AS SURPLUS**

Attached is a list and photographs of items in the Town Hall Gray Pod that are ready to be declared surplus.

Town Hall Grey Pod

File Cabinets

26 assorted file cabinets

(Colors: beige and black)

Tables/Desks

3 Large brown desks with attachments

1 eight-foot blue wooden table

1 five-foot brown folding table

Chairs/MISC

10 folding chairs (black and beige)

1 twelve-foot motorized projector screen

Police Department

File Cabinets

26 assorted File Cabinets



UNIVERSAL
STAIRS
Step Up. Stay Down.

UNIVERSAL
UNIVERSAL

UNIVERSAL

UNIVERSAL

UNIVERSAL

UNIVERSAL

UNIVERSAL

RECORDS 8 1/2" x 5 1/2" **Permafile Classic** PRODUCT #00069
 BOX NUMBER FROM TO DESTROY DATE
 Goodman Houth
 PermaProducts

STOCK NO. 00069
 RECORDS 8 1/2" x 5 1/2"
 Leach - Mazzilli

STOCK NO. 00069
 RECORDS 8 1/2" x 5 1/2"
 SHERIDAN
 LAMBERS

RECORDS 8 1/2" x 5 1/2"
 Zyzniowski

RECORDS 8 1/2" x 5 1/2" **Permafile Classic** PRODUCT #00069
 BOX NUMBER FROM TO DESTROY DATE
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STOCK NO. 00069
 RECORDS 8 1/2" x 5 1/2"
 Leach - Mazzilli

STOCK NO. 00069
 RECORDS 8 1/2" x 5 1/2"
 SHERIDAN
 LAMBERS

RECORDS 8 1/2" x 5 1/2"
 Zyzniowski

14
 14
 14









FedEx
Express
Tube







EMPTY

POLICE





LAKEVILLE
POLICE

Case
A

Case
B

Case
C





**AGENDA ITEM #10
AUGUST 29, 2022**

**DISCUSS AND POSSIBLE VOTE ON NOTICE OF INTENT TO LAYOUT
LEDGEWOOD DRIVE**

The Board has received a request from Attorney Michael O'Shaughnessy, on behalf of Paul Turner Corp. for the Town to accept Ledgewood Drive as a public way.

Town Counsel has provided a Public Way Layout and Acceptance Procedural Check-List, and a Memorandum on City and Town Ways-Layout, Acceptance and Acquisition. I have also included an email from Town Counsel regarding our current process and additional points, which is attached to our current road acceptance process.

An electronic copy of the roadway as-built plan has been sent to the Town Planner and the Town's engineer for review. A report will be prepared for the Board prior to the final step of voting to approve and adopt the layout.

I have attached a copy of the Notice of Intent to Layout and Attorney O'Shaughnessy's request. Also attached is a plan for your review.

Attorney O'Shaughnessy has also submitted a Grant of Drainage Easement and also a Grant of Roadway Easement. Staff will be meeting with Attorney O'Shaughnessy later this week to discuss the next steps and necessary information.

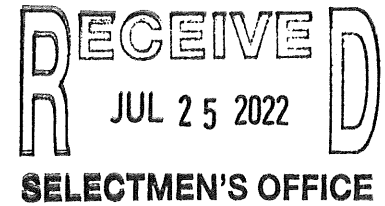
Once the Select Board votes to layout the road, the plan is officially forwarded to the Planning Board for their approval. They have 45 days to report back to the Select Board.

Once we have the Planning Board's report, the Board would consider adopting the layout.

If the Board agrees to layout Ledgewood Drive, the motion would be:

MOTION: I move that the Select Board vote its intention to lay out Ledgewood Drive as a public way, all as shown on a plan entitled Ledgewood Drive Roadway As Built Plan, "Ledgewood Estates", a Residential Subdivision off Pierce Avenue in Lakeville Massachusetts, dated August 28, 2020, prepared by Outback Engineering, Incorporated, which plan is on file with the Town Clerk, and to forward this vote and the plan to the Planning Board for its comments and recommendations pursuant to G.L. c. 41, §§81G and 81I.

Law Office of
Michael P. O'Shaughnessy
43 East Grove Street, Suite 5
Middleboro, MA 02346
Phone: (508) 947-9170
E-mail: mike@mpoesq.com



July 25, 2022

Town of Lakeville
Board of Selectmen
346 Bedford Street
Lakeville, MA 02347

Re: Petition to Layout
Ledgewood Drive as a Public Way
G.L. c. 82, §§21-24

Dear Honorable Selectmen:

On behalf of Paul E. Turner Corp., pursuant to G.L. c. 82, §§21-24, please accept this letter as a petition to the Board of Selectmen to layout Ledgewood Drive as a public way in accordance with the requirements of M.G.L. c. 82, §§ 21 through 24.

Accompanying this petition are three (3) copies of the following plans”

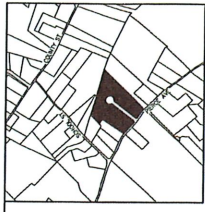
1. “Roadway Acceptance Plan ‘Ledgewood Estates’ on Ledgewood Drive in Lakeville, Massachusetts”, Scale: 1”=40’, Dated: Auguste 29, 2020, Prepared by: Outback Engineering, 165 East Grove Street, Middleborough, MA 02346.; and
2. “Ledgewood Drive Roadway As-Built Plan ‘Ledgewood Estates’ a Residential Subdivision Off Pierce Avenue in Lakeville, Massachusetts”, Scale: 1”=40’, Dated: Auguste 29, 2020, Prepared by: Outback Engineering, 165 east Grove Street, Middleborough, MA 02346.

If you have any questions, please contact this office. Thank you.

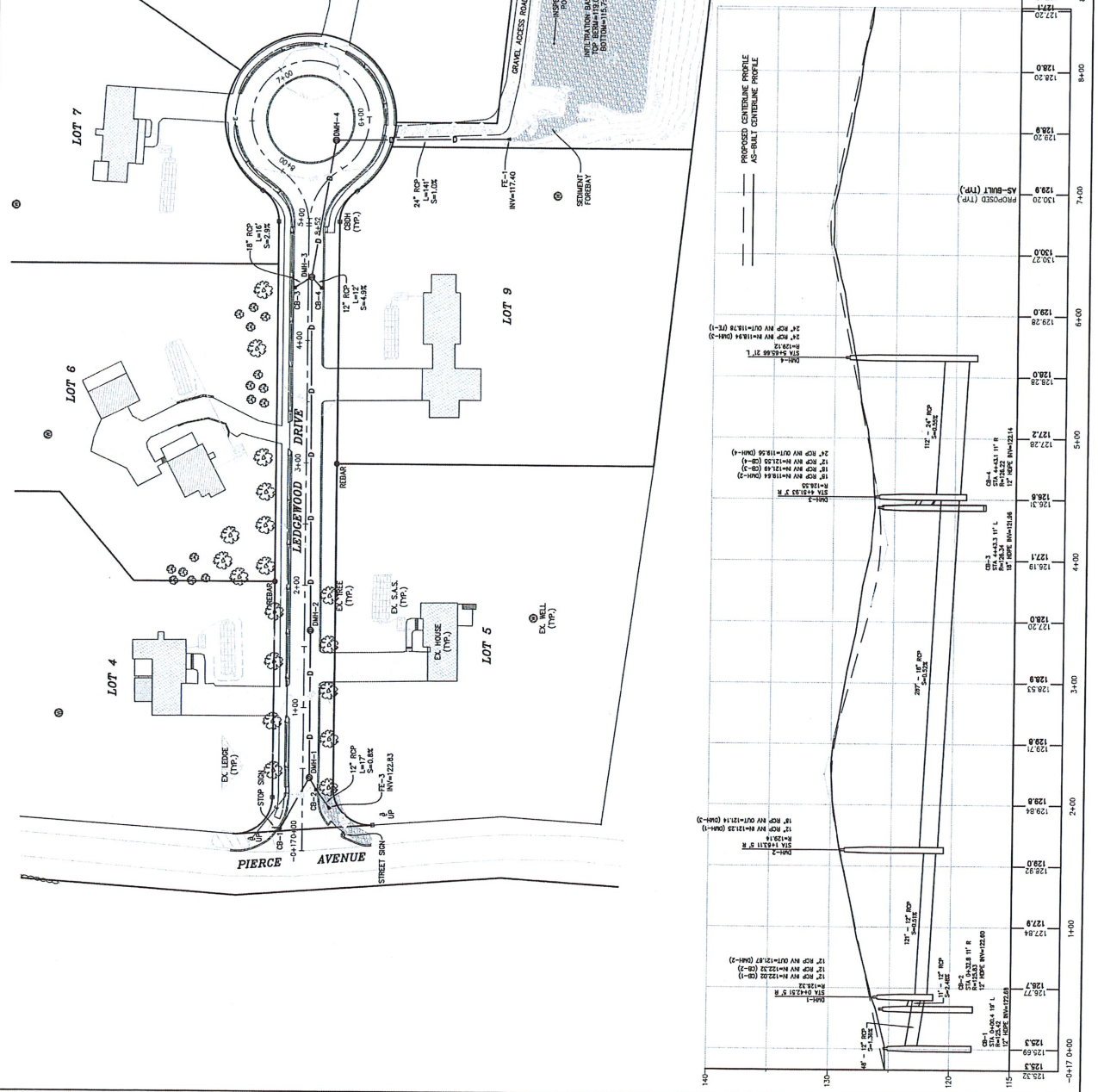
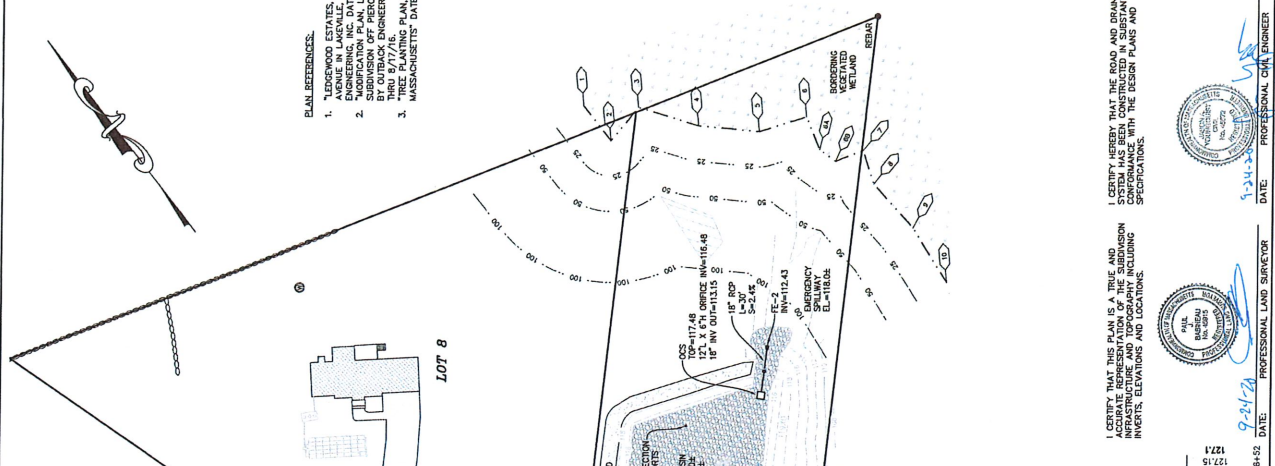
Very truly yours,

A handwritten signature in black ink, appearing to be "Michael P. O'Shaughnessy", written in a cursive style.

Michael P. O'Shaughnessy



- PLAN REFERENCES:
1. "RESUBDIVISION MASSACHUSETTS OFF PIERCE AVENUE IN LAKEVILLE, MASSACHUSETTS, ENGINEERING, INC. DATED 1/5/76 AND REVISED THRU 3/2/76.
 2. "RESUBDIVISION MASSACHUSETTS OFF PIERCE AVENUE IN LAKEVILLE, MASSACHUSETTS, ENGINEERING, INC. DATED 8/4/76 AND REVISED.
 3. "TREE PLANTING PLAN, LEDGEWOOD DRIVE IN LAKEVILLE, MASSACHUSETTS" DATED 9/9/79 BY OUTBACK ENGINEERING, INC.



I CERTIFY THAT THIS PLAN IS A TRUE AND ACCURATE REPRESENTATION OF THE SUBDIVISION AND THAT THE ROAD AND DRAINAGE SYSTEM HAS BEEN CONSTRUCTED IN SUBSTANTIAL CONFORMANCE WITH THE DESIGN PLANS AND SPECIFICATIONS.



DATE: 9-24-79
 PROFESSIONAL LAND SURVEYOR
 DATE: 9-24-79
 PROFESSIONAL CIVIL ENGINEER

NO.	DATE	REVISIONS

OWNER
 PAUL E. TURNER, CORP.
 LAKEVILLE, MA 02347
 ASSESSORS PARCEL 007-009-010
 DEED BOOK: 45368 PAGE 135

**LEDGEWOOD DRIVE
 ROADWAY AS-BUILT PLAN**
 "LEDGEWOOD ESTATES"
 A
 RESIDENTIAL SUBDIVISION
 OFF PIERCE AVENUE
 LAKEVILLE
 MASSACHUSETTS

Outback Engineering
 Incorporated
 165 EAST GROVE STREET
 MIDDLEBOROUGH, MA 02346
 FAX: (508)-947-8823
 www.outback-eng.com

DATE: AUGUST 28, 2000
 DRAWN BY: LEA
 CHECKED BY: J.A.Y.
 SCALE: 1"=40'
 SHEET 1 OF 2

08-2840

PUBLIC WAY LAYOUT AND ACCEPTANCE

PROCEDURAL CHECK-LIST

This check-list sets forth the steps a town must take by statute to lay out and accept a way as a public way, and to acquire rights in such way. ¹ G.L. c.82, §§21-24. This check-list also contains several recommendations, *which are in italics*.

I. LAYOUT

- A. A petition is submitted to the board of selectmen² to lay out a way as a public way, or the board of selectmen may initiate the layout. G.L. c.82, §21.
- B. The petitioner provides the board of selectmen with a layout plan that shows the metes and bounds of the layout, or the city or town prepares such a plan. A plan that is already on record (usually a subdivision plan) may be used as a layout plan if the dimensions of the way as shown on the recorded plan are the same as the dimensions of the way as constructed on the ground.
- C. *We recommend petitioner provide the board of selectmen with a title certification prepared by an attorney licensed in Massachusetts, or town counsel conducts title research, to determine who owns the fee in the road and easements the town may need on abutting properties, if any (such as drainage, slope, utility or access easements). Title research is also done to determine if there are mortgages or other monetary encumbrances that, if foreclosed upon, would terminate the town's rights. Since the services of town counsel are often required in the layout process to prepare and/or confirm the title certification and/or to conduct such research, and the fees to record easements, takings, and plans (at \$75 per plan sheet) are often high, we recommend that the petitioner be asked to reimburse or pay for such costs.*
- D. The board of selectmen votes its intention to lay out the way as public and refers the petition and layout plan to the planning board. G.L. c.41, §81G and §81I.
 - 1) The planning board has 45 days from referral to make a non-binding report to the selectmen or the council. A public hearing is

¹ The procedures to alter the layout a public way and to relocate a public way are the same as the procedures to lay out a way as a public way. The check-list does not, therefore, address layout alterations or relocations specifically.

² Where the authority over town ways is vested in the road commissioners, the reference to the board of selectmen in this check-list should be taken to mean such commissioners.

not required by statute, unless separately required by charter, ordinance, bylaw, or custom. The planning board's report may be brief.

- 2) The public way proceedings may continue only if the planning board has made its report or 45 days have passed since the referral without a report, whichever is earlier.

E. The board of selectmen gives written notice of the meeting at which the selectmen will consider the layout to the landowners from whom the town intends to acquire land or easements by eminent domain. G.L. c.82, §22.

- 1) The town must give notice at least 7 days prior to the meeting at which the layout will be voted.
- 2) The notice is left at the usual place of residence of the landowner or delivered in person to the owner or the owner's tenant or authorized agent. Notice can be sent by registered mail to create a record. If an owner does not reside in the town and has no known tenant or agent, the notice of the meeting must be posted in a public place in the town at least 7 days prior to the layout meeting.
- 3) There is no statutory requirement for notice to be given to landowners from whom the town does not intend to acquire land or easements by eminent domain. *However, since the need for eminent domain may not become apparent until later in the layout process, we recommend that notice be given to all landowners from whom the town needs an easement. Charters and bylaws should be reviewed to determine if there are additional notice requirements.*
- 4) The notice must identify the way to be laid out and state the date, time and place of the meeting at which the layout will be adopted. *We recommend that the notice contain a description of the physical location and dimensions of the way. If a plan has been prepared, the notice could refer to the plan instead and state where it may be viewed (usually, the town clerk's office), or, if the layout plan is already on record, refer to the registry of deeds' plan book and page numbers. We recommend that a copy of the plan be filed with the town clerk.*
- 5) *The notice may also request landowners to donate the land/easements to the town, and include a Waiver of Appraisal and Damages, in case the town elects to take the land/easements by eminent domain.*

- F. Provided that the planning board has submitted a report, or 45 days have elapsed since the referral to the planning board, and notice has been given to the landowners, the board of selectmen holds a public meeting and votes to approve the layout as shown on the layout plan. A public hearing is not required unless otherwise specified in a local charter, ordinance, or by-law. *We recommend that the board of selectmen request owners to grant land/easements voluntarily for nominal consideration, if such request has not been made already.*
- G. The vote approving the layout and the layout plan must be filed with the town clerk at least 7 full days prior to town meeting. This filing requirement does not apply to cities. G.L. c.82, §23.

II. ACCEPTANCE

- A. The board of selectmen places an article on the town meeting warrant regarding the acceptance of the way. If land/ easements need to be acquired, the acceptance article or a separate article should authorize the acquisition of land/easements by purchase, gift, and/or eminent domain and, if necessary, appropriate funds therefor.
- B. Town meeting may not vote to accept the way sooner than 7 days after the layout vote and plan have been filed with the town clerk. G.L. c.81, §23.
- C. Town meeting votes to accept the way as public.
 - 1) A majority vote is required to accept a way that is shown on an approved subdivision plan. G.L. c.41, §81Y.
 - 2) A two-thirds vote is needed to accept any other way. G.L. c.41, §81Y.
 - 3) A two-thirds vote is needed to appropriate funds to acquire land/easements by purchase or eminent domain. G.L. c.40, §14.

III. ACQUISITION

- A. Within 120 days after the close of the town meeting at which the way was accepted, the board of selectmen is required under G.L. c.82, §24 to:
 - 1) Acquire the necessary land/easements by purchase or gift; or
 - 2) Adopt an order of taking under G.L. c.79 and award damages, if any. Please see fuller discussion of eminent domain in attached

Memorandum, particularly as to appraising damages for the taking and awarding damages for rights acquired by eminent domain.

- B. If an order of taking is adopted, the order must be recorded in the registry of deeds for the county in which the property lies within 30 days from the date of the order. G.L. c.79, §3.

The 120-day period to acquire the interests does not apply to cities. G.L. c.82, §24.

- C. Once the order of taking is recorded, the town must give written notice of the taking to the owners from whom the town has acquired the easements. Notice must be sent by certified mail.

503390.2/99999/0005

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL/
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY
PLANNING BOARD

Re: City and Town Ways - Layout, Acceptance, and Acquisition

This Memorandum discusses the steps a municipality must take to create a public way. The first step is the “layout process,” whereby the municipality establishes the physical boundaries (or the layout) of the way. The city council and the board of selectmen (or the road commissioners, if a separate entity) have the authority to lay out public ways. The second step is the “acceptance process.” The city council or town meeting votes to accept the layout of the way as a public way. The third and final step is the “acquisition process,” whereby the municipality acquires the right to use the land within the layout of the way and, if required, easements in lots abutting the way, for public way purposes, including, without limitation, for drainage, access, or other related purpose. Each step is discussed in greater detail below and each step must be completed in full compliance with statutory requirements to legally create a public way. This Memorandum also discusses several issues related to the municipality’s acquisition of public way rights.

Attached to this Memorandum is the “Public Way Layout and Acceptance Procedural Checklist” that outlines the foregoing steps. Charters, bylaws, ordinances, and, where applicable, special legislation, should also be reviewed to determine if they contain any additional requirements.

It should be noted that the procedures to alter the layout of a public way and to relocate a public way are the same as the procedures to lay out a way as public.¹ This Memorandum does not expressly refer to layout alterations or relocations, but it should be understood that the layout procedures set forth herein apply also to the alteration and relocation of a public way.

I. LAYOUT PROCESS

The steps to to lay out, accept, and acquire rights in a public way are set forth in G.L. c.82, §§21-24. It is important to distinguish between these three processes, or steps, that make up this procedure. The “layout” process serves to establish the metes and bounds, or the physical location and dimensions, of the proposed public way.

¹ The process to change the dimensions or location of a public way is referred to as an “alteration of layout.” If the boundaries of a public way are uncertain, a way can also be relocated (that is, its boundaries may be established).

MEMORANDUM TO MUNICIPAL CLIENTS

Page 2

The process of establishing the physical layout of the way does not, on its own, create a public way. However, the layout process is a legal prerequisite to the vote to be taken by the city council or town meeting to accept the way as public. Similarly, the acceptance of a way as public by the city council or town meeting does not establish a way as public until the municipality obtains the legal right to use the land within the layout of the way for public way purposes (unless the municipality already has such rights). All three steps must be followed to properly establish a way as public.

A. Petition to Lay out Way as Public

The layout process begins with a petition submitted by one or more residents to the city council or the board of selectmen or road commissioners.² Alternatively, the layout may be initiated by the municipality. G.L. c.82, §21.

B. Layout Plan and/or Description

Whether the process is initiated by petition or on its own initiative, the city council or the board of selectmen must have a layout plan showing the metes and bounds of the proposed public way. A new survey or as-built plan is not necessary; a municipality may rely upon a plan that is already on record provided that the boundaries of the way as shown on the recorded plan are the same as the dimensions of the way as constructed on the ground.³ Often, easements need to be acquired on abutting or nearby lots for drainage, utility, access and/or other related purposes. If the municipality needs to acquire easements on such lots, the plan on record should also show the boundaries of the easement areas, or, alternatively, a separate easement plan may be prepared, to be used with the layout plan. A municipality may refer to or use a legal description of a way in lieu of a layout plan. It is common for persons petitioning the municipality to accept a way as public to provide the necessary plan and/or description.

C. Referral to Planning Board

Once the layout plan or description is ready, the city council or board of selectmen votes its intention to lay out the way as a public way. In municipalities having a planning board, the layout and the plan must then be referred to the planning board for its review. G.L. c.41, §§81G and 81I. The planning board has forty-five days after the referral to submit its non-binding report (which may be made verbally or in writing) to the city council or the selectmen. The planning board is not required under G.L. c.41, §§81G or 81I to hold a public hearing; however, a public hearing may be held if desired or if it is customary for the planning

² Where the authority over town ways is vested in the road commissioners, the reference to the board of selectmen in this Memorandum should be taken to mean such commissioners.

³ *Practice Tip:* When seeking to lay out and establish an existing way as public, care should be taken to ensure that the layout plan shows the dimensions of the way as it exists on the ground. An as-built plan is useful for this purpose.

MEMORANDUM TO MUNICIPAL CLIENTS

Page 3

board to hold a hearing in such circumstances, and a hearing must be held if required by charter, ordinance, or bylaw.

The lack of a planning board report or a negative report does not affect whether the process may proceed. However, the next steps cannot be taken until the planning board has made its report or forty-five days have elapsed since the referral without a report from the planning board, whichever is earlier.

D. Layout Meeting

1. Towns

In a town, the next step is for the board of selectmen to vote to lay out the way as a public way at a public meeting.

Under G.L. c.82, §22, a town must give written notice of the date, time, and place of the board of selectmen's layout meeting at least seven days in advance to all landowners from whom the town intends to acquire land and/or easements by eminent domain for public way purposes, including any related easements. The statute requires such notice to be left at the usual residence of the owner, or delivered to the owner in person or to the owner's tenant or authorized agent. If the owner does not live in the town and has no known tenant or agent, then the required notice must be posted in a public place in the town at least seven days prior to the layout meeting.

While G.L. c.82, §22 does not mandate the remaining contents of layout meeting notice, we recommend that it include a copy of the plan and/or contain a legal description of the proposed layout. If the layout plan or description is already on record, the notice may refer instead to the registry of deeds' book and page numbers. A copy of the layout plan or description, whether or not on record, should be placed on file with the town clerk, and the notice should state the place and time where the plan or description may be viewed. The notice should specify, either by reference to the street address and/or assessors map and parcel numbers, the lots on which the town needs to take an interest in land, or state that the municipality intends to acquire rights in the land within the layout of the way and/or abutting lots by eminent domain for public way purposes.

The selectmen are not statutorily required to provide notice of the layout meeting if the town does not intend to take land or easements by eminent domain in the course of establishing the public way. If a local charter, bylaw, and/or custom direct otherwise, those procedures must be observed. However, unless the town already owns the land or has acquired the necessary easements, we recommend, as a best practice, that the town provide written notice of the layout meeting to all the owners from whom the town needs to acquire land or easements, as the need for an eminent domain taking may not become apparent until later in the layout process.

MEMORANDUM TO MUNICIPAL CLIENTS

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If the board of selectmen decides that the way should be a public way, the board must vote, at or after the layout meeting, to adopt the layout of the way as shown on the layout plan or as described and then place the matter on the town meeting warrant.

G.L. c.82, §23 requires towns to file the layout description and/or plan with the town clerk. Town meeting may not vote on the public way acceptance unless at least seven days have passed since the filing.

2. *Cities*

As mentioned above, the city council must refer the layout to the planning board and cannot take next steps until the planning board has submitted a report or forty-five days have elapsed, whichever is earlier. Certain layout steps do not apply to cities. A city is not required under G.L. c.82, §22 to give written notice of the city council meeting at which the layout is to be considered to persons from whom the city may take land and/or easements by eminent domain. Cities are also not required file the layout with the clerk prior to the city council vote to accept the layout. The city council must, however, vote to adopt the layout as shown on the layout plan or as described. G.L. c.82, §21.

II. ACCEPTANCE

A. *Vote of Acceptance*

Once the layout process has been completed, the next step, referred to as the “acceptance process,” is for the city council or town meeting to vote to recognize or “accept” the way as public. This is. In a city, the council may vote to lay out a way and to accept the way as public at the same meeting, and even in the same order or motion, unless a local charter or ordinance provides otherwise.

The legislative vote to accept a way as public way should not be confused with the acquisition by the municipality of the right to use the land on which the way lies for public access or easements on abutting lots. Acceptance and acquisition are two separate actions and are subject to different procedures, as set forth below.

Municipalities are not required to record an accepted layout description and/or the layout plan with the registry of deeds. However, the layout plan and/or descriptions are recorded if the municipality needs to acquire rights in the way and/or any of the abutting lots, unless the municipality is relying on an already-recorded plan.

B. *Quantum of Acceptance Vote; Filing*

MEMORANDUM TO MUNICIPAL CLIENTS

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If the way to be accepted is shown on a subdivision plan approved by the planning board, the acceptance is accomplished by a majority vote of the city council or the town meeting. If the way to be accepted is not shown on an approved subdivision plan, a two-thirds vote of the legislative body is necessary to accept the way as public. G.L. c.41, §81Y.

Under G.L. c.82, §32, after the legislative body has accepted the way as public, the city or town clerk must record such description in a book kept for this purpose within ten days.

III. ACQUISITION OF INTERESTS IN LAND

To complete the process of making a way public, the municipality must acquire property rights in the land within the layout of the way sufficient to allow for the requisite public and municipal use. G.L. c.82, §24 states, in relevant part, that: “If it is necessary to acquire land for the purposes of a...[public way] which is laid out...such officers shall, within one hundred twenty days after” [the close of the town meeting at which the way is accepted]...acquire such land....” At the same time the municipality should also consider acquiring such easements in abutting lands or nearby lots for drainage, access, utility, slope, and/or other purposes as are needed to properly support and maintain the way.⁴

Acquisition of either the “fee interest” (that is, full ownership) in the land within the layout of the way, or an easement to use the way for public way purposes, will provide the municipality and the public the requisite rights. However, we recommend that a municipality acquire an easement for public way purposes in a layout as opposed to the fee interest, if possible. Ownership of the fee interest in the land within the way, unlike an easement in the same land, carries with it liability for the existing condition of the land. For example, a fee owner of land contaminated by hazardous waste is, as a rule, strictly liable under G.L. c.21E for such contamination, regardless of who caused the contamination (unless certain exceptions apply). An easement acquired for public way purposes is entirely sufficient to provide the municipality and the public with all necessary rights of travel and associated use of the way, including the installation of utilities.

A vote of the city council or town meeting is required to authorize the acquisition of rights in the land within the layout of the way and, as necessary, certain rights in abutting land. A majority vote of the legislative body is sufficient to grant such authorization, while a two-thirds vote is required to appropriate funds, if required, for the acquisition of these interests in land. G.L. c.40, §14. If the appropriation vote is combined with the public way acceptance vote, the entire vote must pass by a two-thirds vote, even if the way is shown on an approved subdivision plan. Alternatively, the municipality may have separate motions: one to accept the way as public and authorize the acquisition of the land and/or easements

⁴ Acquisition of these related easements is not mandatory, and is not subject to the one hundred twenty-day requirement for acquisition of rights within the layout.

MEMORANDUM TO MUNICIPAL CLIENTS

Page 6

(majority vote if the way is shown on an approved subdivision plan), and one to appropriate the funds (two-thirds vote)

We recommend that the city council or town meeting vote to authorize the acquisition of such rights by gift, purchase, and/or eminent domain, so that the municipality has the flexibility as to the method of acquisition. We also recommend that the legislative body authorize the acquisition of rights at the same time it votes to accept the way as public.

While both cities and towns must acquire sufficient property rights within a layout in order to complete the process of making a way public, towns must do so within a certain period of time. Under G.L. c.82, §24, a town must acquire an interest in the land within the layout of the way no later than one hundred twenty days from the termination of the town meeting at which the public way was accepted, either by: (a) acquiring the land/easements by gift or purchase, or (b) adopting and recording an order of taking, taking such rights by eminent domain under G.L. c.79, or (c) instituting proceedings for a taking under G.L. c.80A.⁵ Cities are not required under G.L. c.82, §24 to acquire rights in land within the one hundred twenty-day period.

Once all necessary rights within the layout are obtained and recorded, the public way process is complete and the way is public.

It is important to note that the above-described statutory requirements are not mere formalities, but must be followed strictly. See Jeffries v. Swampscott, 105 Mass. 535, 536 (1870) (the layout procedures “lay down the indispensable conditions” that a municipality must follow to lawfully acquire the right to use private property for public use). If such steps have not been complied with fully, the way never becomes a public way; even subsequent legislation enacted by the General Court to correct procedural defects cannot cure a “failure to comply with substantive provisions of existing statutes.” See Lorioi v. Keene, 343 Mass. 358, 363 (1961).

We are aware that some municipalities choose not to acquire land or easements through formal procedures, relying on the belief that the vote of the city council or town meeting to accept the way as public is sufficient to automatically confer upon the municipality and the public the right to use the land within the way. There is no support for this practice in the statutes or caselaw, in our opinion. The acceptance vote, at best, creates a license to pass and repass that can be revoked by the landowners at any time. See Morse v. Stocker, 1 Allen 50 (1861).

⁵ G.L. c. 80A permits municipalities to adopt an intention to take land and/or easements by eminent domain, establish the value of such rights and amount of betterments, if any, in a court of law, and then proceed with the taking. This time-consuming procedure is rarely used.

MEMORANDUM TO MUNICIPAL CLIENTS

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Unless the way is located on land that the municipality already owns, the acceptance vote is not sufficient to vest in the municipality and members of the public the legal right to use the private land within the layout of the way. To complete the process of making a way public the municipality must acquire, in a lawful manner, property rights within the layout of the way sufficient to allow for the requisite public and municipal use.

IV. PRACTICAL CONSIDERATIONS

A. *Delays; Title Research*

In our experience, it is often difficult for towns to acquire rights in land within one hundred twenty days from the close of the town meeting at which the way was accepted. A delay may occur if town meeting fails to timely authorize the board of selectmen to acquire the necessary rights and/or appropriate the requisite funds. More commonly, delays occur because petitioners fail to provide the municipality with signed documents in a timely manner. It can also take time to establish who owns the land within the layout of the way so that the municipality acquires rights in the way from the correct parties. As a rule, only the owners of land can grant rights in land to others. Rights in land may also be granted by a developer who has properly reserved such and has the ability to assign the same.

In order to ascertain who owns the land within the layout of the way, it is often necessary to review the title to both the way itself and all the land abutting the way. By operation of G.L. c.183, §58, known as the Derelict Fee Statute, there is a presumption that each owner of a lot abutting a way owns the fee to the centerline of the way, as it abuts his or her lot. However, this presumption may not be valid. The presumption can be defeated, for instance, if a prior owner expressly reserved the fee in the way in a deed or separate document. The current owner may only have easement in, but not own, the land within the public way layout.

Determining who owns the land within the layout of a way often involves researching the title to the way back to the point in time when the fee in the way and the fee in the abutting lots were owned by the same person. Deeds by which the original owner/developer conveyed each lot, and subsequent deeds to each lot, should be reviewed. If the municipality needs to obtain drainage or other easements in abutting lots, the title to such lots should also be reviewed.

It has been our experience that, more often than not, the original owner/developer did not reserve the fee interest in the land within the layout of the way and/or drainage or related easements in the abutting lots. The municipality must, therefore, acquire rights in the way from the abutting lot owners. It may take considerable time and effort to obtain the requisite interests in land from each owner.

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Often, petitioners fail to supply the necessary title information or to provide signed documents in a timely manner. To avoid delay, we recommend that title issues be addressed when a municipality is first asked to accept a way, and that signed deeds and/or easements be provided to the municipality promptly after the city council or town meeting acceptance vote.

C. *Recording Fees; Costs*

While a municipality may conduct the foregoing title research itself to determine the parties from whom it needs to acquire the necessary rights, such research often requires considerable staff time and/or review by municipal counsel, and can be costly and time consuming.

It is preferable (and less expensive for the municipality) to have persons petitioning for the acceptance of the way provide the municipality with a title certification from an attorney licensed in Massachusetts, confirming that the municipality will obtain good title to the land and/or easements. Municipal counsel may be asked to confirm the certification. It is also expensive to record deeds, easements, orders of taking, and plans.

We recommend that a municipality ask the petitioners (usually, the abutting lot owners) to pay the municipality's legal and recording fees. While G.L. c.82, §§21-24 do not require such payment, abutting lot owners are often willing to incur such costs because, once a way has been made public, the owners are relieved of the responsibility, and the considerable cost, of maintaining the way, including removing snow and ice from the way.

D. *Eminent Domain*

A full discussion of eminent domain is not within the scope of this Memorandum. However, since some municipalities prefer to acquire rights in the land within the layout of a way and/or abutting lots by eminent domain, this Memorandum addresses some of the basic eminent domain procedures.

G.L. c.82, §24 expressly authorizes municipalities to acquire land and/or interest in land for public way purposes by eminent domain. Persons affected in their property by a taking are entitled to damages caused by the taking (which are valued just prior to the date of the taking) and to obtain an appraisal of such damages. G.L. c.79, §§6 and 12. A municipality intending to acquire land or easements by eminent domain must obtain at least one appraisal of the damages prior to adopting an order of taking, unless the landowner has waived his or her right to an appraisal and/or damages. G.L. c.79, §7A.

If damages are to be awarded, the city council or town meeting must appropriate money sufficient to provide for the payment of those damages. Damages must be awarded at the time the municipality adopts an order of taking. G.L. c.79, §§6 and 12. As soon as the order of taking is recorded, the municipality obtains title to the land and/or easement and the

MEMORANDUM TO MUNICIPAL CLIENTS

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obligation to pay damages promptly. G.L. c.79, §7B. An owner, lender, or other person having an interest in the land taken has three years from the date the order of taking was recorded to file a petition for an assessment of damages. G.L. c.79, §16.

Some municipalities take land and/or easements by eminent domain powers only if the landowner refuses to grant the municipality the necessary rights voluntarily.

Some municipalities prefer to take rights in the way and/or easements in the abutting lots by a “friendly” eminent domain taking if the municipality needs such rights from several landowners. It is often time consuming to acquire individual easements, as each easement must be signed, notarized, and recorded. The municipality may, instead, execute and record a single order of taking, acquiring all the easements from the various lot owners in one document. To ensure that the taking is “friendly,” the municipality should obtain a waiver signed by each affected owner prior to the taking, waiving the owner’s rights to damages for the taking and an appraisal of damages. Alternatively, if the municipality has agreed to pay the landowner, the municipality should obtain a waiver from the landowner, waiving the owner’s right to damages in excess of the agreed-upon sum. Such waivers are typically not recorded and thus do not need to be notarized.

Other municipalities choose to take rights by eminent domain if the subject land is subject to a mortgage. If a municipality intends to acquire rights in mortgaged land from the owner through a voluntary grant, it is advisable to have the lender subordinate its mortgage to the easement in writing. If the lender has signed a subordination of mortgage, a foreclosure of the mortgage will not terminate the municipality’s easement. In the absence of a subordination, however, the municipality’s rights are extinguished upon foreclosure. While the risk of foreclosure may be small in any particular case, it may not be advisable for a municipality to assume that risk, particularly if the municipality is acquiring an easement on a large portion of a lot (which may significantly reduce its value). Further, most lenders prohibit lot owners from granting easements without the lenders’ consent.

While it is advisable to obtain a subordination from the lender, as a practical matter it is often difficult and time-consuming to obtain a signed consent from the lender, particularly if it is a large national lender. Some municipalities choose to acquire rights in mortgaged property by eminent domain because a municipality is not required to obtain the lender’s consent to take interests in land. A foreclosure of a mortgage cannot terminate an easement acquired by the municipality by eminent domain. A waiver of appraisal and damages should be obtained from the landowner.

However, unless a lender has waived its rights under G.L. c.79 prior to the taking, the lenders may have a viable claim for damages if the taking negatively impacts the value of the mortgaged property. A claim for damages by a lender (or, for that matter, by a landowner) may be uncommon if the municipality acquires an easement only in the abutting way, as the

MEMORANDUM TO MUNICIPAL CLIENTS

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cost of litigation can be steep. Further, the amount of damages, if awarded, may be minimal if the burden of the easement is outweighed by the benefit of having a lot with frontage on a public way and/or having the municipality, rather than the lot owner, be responsible for the maintenance of the way.

There are various factors involved in the decision to acquire the necessary rights by eminent domain. However, it is often useful for a municipality to have the legal authority to take such rights, even if the municipality ultimately decides not to exercise its eminent domain powers. We recommend that the city council or town meeting authorize the acquisition of rights by gift, purchase, and/or eminent domain.

E. Betterments

A detailed discussion of betterments is beyond the scope of this Memorandum. However, we note that if a city or town wishes to undertake roadway improvements to a way being made public, the city or town has the authority under G.L. c.80 to assess betterments on the landowners to recover all or a portion of the cost of such improvements.

Please note that this Memorandum and the attachment are provided for informational purposes only. For legal advice regarding particular matters, we recommend you seek the assistance of your city solicitor or town counsel.

Very truly yours,

Shirin Everett

Tracie Craig-McGee

From: Shirin Everett <SEverett@k-plaw.com>
Sent: Tuesday, August 23, 2022 11:13 AM
To: Ari Sky
Cc: Mark R. Reich; Gregg J. Corbo; Marc Resnick; Tracie Craig-McGee
Subject: LAKE: Road Acceptance Process
Attachments: KP-#489908-v5-Memo_on_Public_Way_Layout.DOC; KP-#503390-v4-Attachment_Public_Way_Procedural_Checklist.DOC

Hi Ari,

The layout steps you sent are essentially correct, and I offer the following additional points/corrections:

Layout Procedure

Layout Plan: It is important to make sure you have a proper layout plan before you start the layout steps. The plan must show the metes and bounds of the road as constructed on the ground. You can use a recorded subdivision plan as the layout plan, if an engineer confirms that the street as constructed on the ground is the same as the roadway as shown on the plan. Otherwise, you may need an as-built plan to be the layout plan. You also need a plan that shows the metes and bounds of any easements that the Town needs on abutting lots. It would be best if one plan shows both the roadway and the abutting easements, but you can have an as-built plan for the road and rely on a recorded subdivision plan if it shows the easements on the lots.

Steps 4 and 5/Public Meeting: A hearing is not required, unless the Select Board chooses to hold a hearing instead.

Step 4/Notice of Public Meeting: The Town must send written notice of the meeting at which the Select Board will adopt the layout to abutters at least 7 days prior to that meeting. The statute requires the Town to send this notice to folks from whom the Town needs to acquire easements. Typically, the roadway belongs to the abutters, so notice must be sent to all abutters. In a few instances, the developers retain ownership of a roadway (this usually happens if the subdivision is relatively recent), in which case notice may be sent only to the developer. I usually review the title to the roadways before the Town starts the layout procedures and determine who must receive the notice. The notice of the meeting must also be posted in a public place at least 7 days prior to the meeting.

Acceptance Procedure

Step 2/Town Meeting Vote: A majority plan is sufficient if the Town is using a subdivision plan as the layout plan. If the Town is using a different plan or an as-built plan, the acceptance must be voted on by 2/3rds of Town Meeting.

Step 3/Drainage Easements: The Town does not need to acquire the drainage easements before it acquires the roadway easement.

Step 3/Acquisition of Easements: Almost every municipality we work with obtain easements in roadways and abutting lots by eminent domain for several reasons. The most important reason is that the Town does not need the consent of the lenders who hold mortgages on the lots to acquire the easements. If the Town acquired an easement by grant instead, the Town's easement will terminate if the lender forecloses on its mortgage unless

the lender has signed a subordinate of mortgage, agreeing that the Town's rights will survive foreclosure. These days, it is virtually impossible to get subordinations from the lenders, and usually takes 6 months of more. Also, it is more efficient and cheaper to record one order of taking rather than many individual easements.

Lastly, we can provide you with the votes and documents you need, starting from the Select Board's vote of their intention to lay out a way as public, referral to the Planning Board, the Order of Layout, the Town Meeting vote, and the eventual Order of Taking.

I recommend you inform all petitioners that they need to provide the Town with a title certification as to who owns the fee in the roadways and whether the developer has reserved the necessary easements. Many municipalities require the developer/petitioners to pay to record the layout plans (\$105 per page) and the Order of Taking/Easements. A few also require the petitioners to pay the Town's legal fees, as there is quite a bit of title research and drafting.

I have attached our updated Street Acceptance Memo.

Please let me know if you have any further questions.

Shirin Everett, Esq.

KP | LAW

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Boston, MA 02110

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From: Shirin Everett <SEverett@k-plaw.com>

Sent: Tuesday, August 23, 2022 9:41 AM

To: Ari Sky <asky@lakevillema.org>

Cc: Mark R. Reich <MReich@k-plaw.com>; Gregg J. Corbo <GCorbo@k-plaw.com>

Subject: FW: Road Acceptance Process

Hi Ari,

I am reviewing the layout procedures and will get back to you later today.

Shirin Everett, Esq.

KP | LAW

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Boston, MA 02110

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PROCEDURE FOR LAYOUT AND ACCEPTANCE OF PUBLIC WAYS (2 STEPS)

The procedure requires two (2) steps. Town Meeting must still vote to accept a road as a public way, but first the Board of Selectmen has to vote to layout the road at one of your regular meetings, then vote to approve the road layout at another regular meeting or hearing prior to the road acceptance article being placed on the Town Meeting warrant.

LAYOUT PROCEDURE

- Step 1. Petition is made to Selectmen to lay out road as a town way. Selectmen may initiate the petition.
- Step 2. Selectmen vote their intention to lay out the way (I have attached a copy of your vote for each road)
- Step 3. Refer petition to the Planning Board (they have 45 days to report back to the Selectmen. If they don't report back to you, the procedure still continues.
- Step 4. Board of Selectmen will post the notice of public meeting, hearing or viewing. Town Counsel said we do not have to hold a hearing, a public meeting is satisfactory.
- Step 5. Board of Selectmen will hold a public hearing or public meeting. The Selectmen vote to approve and adopt the layout as shown on the metes and bound plan. The Board of Selectmen sends the Town Clerk a copy of the Layout Order.

The Plan

The developer has a plan prepared specifying the metes and bounds of the layout. The Planning Board is going to adopt a regulation so that all future subdivision plan approvals will require developers to have a road layout with metes and bounds submitted to them prior to any new roads being accepted by the Town, and the developer will be responsible for the legal fees.

ACCEPTANCE PROCEDURE

- Step 1. Selectmen file the plan and the vote to adopt the plan with the Town Clerk. Within 10 days the Town Clerk must record the description in a book for that purpose. This must be down at least seven days in advance of the Town Meeting.
- Step 2. The Selectmen place an article on the Town Meeting Warrant regarding the acceptance of the way. A majority vote of Town Meeting is required to accept a road which has been approved as part of subdivision.

Step. 3. After Town Meeting, the Selectmen proceed to acquire the layout either by deed, easement or taking. The Town of Lakeville will acquire by easement (including drainage easements). The easement must be recorded at Registry within 120 days after Town Meeting. It is very important the Town gets the drainage easements before we record the easement for the public way. The Town should require the developer to get title certification of the drainage easements prior to Town Meeting vote, because some towns have run into trouble because the Developer never obtained drainage easements from the abutters.

**AGENDA ITEM #11
AUGUST 29, 2022**

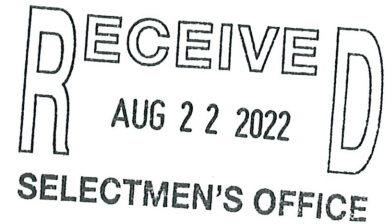
**DISCUSS REQUEST FROM MBTA ADVISORY BOARD AND
POSSIBLE VOTE TO APPOINT A DESIGNEE TO REPRESENT
LAKEVILLE**

The Board has received a request from the MBTA Advisory Board to appoint a designee to represent Lakeville on the MBTA Advisory Board.



August 18, 2022

Richard LaCamera
Chair, Select Board
Town of Lakeville
346 Bedford Street
Lakeville, MA 01748



Dear Chair Lakeville:

Enclosed please find an informational brochure about the MBTA Advisory Board. The Advisory Board works for you, and as the chief executive officer of an MBTA community, you are a member of the organization, *ex officio*. You may also appoint a designee or designees to represent you, and your community on the Advisory Board. Our records indicate that the following individual(s) is(are) your designee(s):

Vacant

If this is incorrect, or to fill the vacancy, please contact me at bkane@mbtaadvisoryboard.gov, or write to me at the address below. I also invite you to visit www.mbtaadvisoryboard.org. Thank you and please enjoy the remainder of summer.

Sincerely,

Brian Kane
Executive Director

**AGENDA ITEM #12
AUGUST 29, 2022**

**DISCUSS SCHEDULING BOARD OF SELECTMEN MEETING
DATES FOR SEPTEMBER, OCTOBER, NOVEMBER &
DECEMBER**

Suggested dates for September, October, November and December are:

September 13th (at the Library) and September 29th
October 11th (start time 5 PM) and October 24th
November 7th and November 21st
December 5th and December 19th

**AGENDA ITEM #13
AUGUST 29, 2022**

**REVIEW AND VOTE TO APPROVE BOARD OF SELECTMEN
MEETING MINUTES OF AUGUST 15, 2022**

TOWN OF LAKEVILLE
Select Board Meeting Minutes
August 15, 2022 – 5:00 PM
Lakeville Police Station Meeting Room
323 Bedford Street, Lakeville, MA

On August 15, 2022, the Select Board held a meeting at 5:00 PM at the Lakeville Police Station Meeting Room. The meeting was called to order at 5:00 PM by Chairman LaCamera. Members present were Chairman LaCamera, Member Fabian and Member Carboni. Also present was Ari Sky, Town Administrator and Tracie Craig-McGee, Executive Assistant to Select Board & Town Administrator. LakeCAM was recording the meeting for broadcast.

Executive Session

Upon a motion made by Member Fabian and seconded by Member Carboni, it was:

VOTED: To go into Executive Session pursuant to M.G.L. c.30A, §21(a) (3) to discuss strategy with respect to litigation concerning Scott v Knox et al. (Lakeville Planning Board), Land Court C.A No. 21 MISC 000245 and Jenkins v Knox et al. (Lakeville Planning Board), Land Court C.A No. 21 MISC 000252, because I declare that discussion the matter in open sessions may have a detrimental effect on the litigating position of the Board and to return to Open Session.
Roll call vote: Member Fabian - aye; Member Carboni - aye; and Chairman LaCamera – aye.

Chairman Knox opened the Planning Board meeting at 5:03 PM.

Upon a motion made by Mr. Conroy and seconded by Ms. McEachern, it was:

VOTED: To go into Executive Session pursuant to M.G.L. c.30A, §21(a) (3) to discuss strategy with respect to litigation concerning Scott v Knox et al. (Lakeville Planning Board), Land Court C.A No. 21 MISC 000245 and Jenkins v Knox et al. (Lakeville Planning Board), Land Court C.A No. 21 MISC 000252, because I declare that discussion the matter in open sessions may have a detrimental effect on the litigating position of the Board and not to return to Open Session.
Roll call vote: Mr. Conroy - aye; Ms. McEachern - aye; and Chairman Knox – aye.

The Select Board went back into Open Session at 6:12 PM.

Select Board Announcements

Chairman LaCamera read the Select Board announcements.

Town Administrator Announcements

Mr. Sky read the Town Administrator's announcements.

Discuss and possible vote to approve the Natural Hazard Mitigation Plan

Michael O'Brien, Fire Chief, was present for the discussion. Chief O'Brien said the plan came about approximately three (3) years ago when the Town could not apply for a grant for a generator as we did not have a Natural Hazard Mitigation Plan. The plan is good for five (5) years, so in four (4) years we will need to fund a new plan. We are now qualified to apply for grants for natural disasters.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: WHEREAS, the Town of Lakeville established a Committee to update the Town's local Hazard Mitigation plan; and

WHEREAS, the Town of Lakeville participated in the update of the Town of Lakeville 's local Hazard Mitigation Plan; and

WHEREAS, the Town of Lakeville Hazard Mitigation Plan update contains several potential future projects to mitigate potential impacts from natural hazards in the Town of Lakeville, and

WHEREAS, a duly-noticed public meeting was held by the Select Board on August 15, 2022 for the public and municipality to review the Town of Lakeville Hazard Mitigation Plan update prior to consideration of this resolution; and

WHEREAS, the Town of Lakeville authorizes responsible departments and/or agencies to execute their responsibilities demonstrated in the plan, and

NOW, THEREFORE BE IT RESOLVED that the Town of Lakeville Select Board formally approves and adopts the Town of Lakeville Hazard Mitigation Plan Update, in accordance with M.G.L. c. 40.

ADOPTED AND SIGNED this 15th day of August, 2022 by the Lakeville Select Board.

Unanimous in favor.

Update from SRPEDD on Assawompset Pond Complex matters

Helen Zincavage and William Napolitano from SRPEDD and Thomas Barron from the Middleborough/Lakeville Herring Fishery Commission were present for the discussion. Member Fabian said this has been a two (2) year planning process for the Assawompset Pond Complex (APC). A list of 12 items that stakeholders deemed to be the most important to help prevent flooding in the future has been prepared. Ms. Zincavage said Senator Rodrigues has obtained some ARPA Funds to help us get started on the list. The top five (5) priorities are: address sedimentation build up; invasive weed removal from Long Pond and the Nemasket River; Middleboro Wareham Street dam removal; installation of boat washing station at the Freetown Boat ramp and replacing the Snake River culvert. Ms. Zincavage said the Long Pond Association received a permit for weed removal, which is happening now. The permit is good for five (5) years. Mr. Napolitano said we are going to use the seven (7) days of the permit; it is \$7,000 per

day including everything for the weed removal. Chairman LaCamera asked how many acres of water has weeds in it. Mr. Napolitano said up to 200 acres, but the pond survey shows some sparse and some dense areas. We did the 10 densest acres. Chairman LaCamera said we are not doing anything to prevent it from happening, especially at the boat ramp. Ms. Zincavage said the boat wash station is #7. The \$250,000 ARPA funds are the focus of items 1 and 2. We did receive another \$250,000 to move forward. High priority items for the additional funding is design and engineering for the boat wash station and looking at engineering to replace the culvert between Long Pond and Assawompset Pond. Chairman LaCamera asked about applying for Federal Funds. Ms. Zincavage said she is not sure about that. Chairman LaCamera said the Federal funding is available right now for water infrastructure. Ms. Zincavage said they tried to request design and engineering and construction funds for the culvert. The Federal representatives need a Federal program to channel the money through. The best way is to go through FEMA. Chairman LaCamera said in the infrastructure bond bill there is \$3 million. What can we do to get funding? The culvert and the dam are problems. Member Fabian said if the engineering is done for the culvert, we would be ready to apply for funds. Chairman LaCamera asked who would be responsible for the project. Mr. Napolitano said SRPEDD in partnership with MassDOT. Now that the Hazard Mitigation Plan is done, you are eligible for BRIC funding. If we can get the engineering done and then apply for construction, we would be in pretty good shape. The river is a problem and getting rid of the sedimentation is big.

Ms. Zincavage said regarding the Middleboro Wareham Street dam removal, there was a public meeting last month to talk about things that came out of studies. The dam removal would help keep the river moving. We are doing an initial feasibility study now. The bridge would need to be widened if the dam were removed. We hope the study will allow us to apply for grants. Member Fabian asked if the herring ladder will be kept. Ms. Zincavage said no, since the dam won't be there it would be part of the stream channel. We would have to do some bank adjustment and the park would change drastically. Discussion occurred regarding a booklet for the residents of Long Pond to protect the pond. Member Fabian said when Conservation gives out a permit, they do hand out materials for good stewardship, but there is no enforcement. She has spoken to members of the Long Pond Association about this issue, but they have said they have not heard anything about stewardship. Member Carboni said it might be advantageous to consider putting together a maintenance plan to make sure that we mitigate things from happening again. Mr. Napolitano said a management plan will be a stewardship plan. Mr. Barron asked where the weeds were going. Mr. Napolitano said they are going to a sawmill and being laid out in winrows. We need to monitor the winrows to make sure there is nothing in them. Mr. Barron asked about the Assawompset Dam. Mr. Napolitano said the detailed study was 600' from the dam, but they did probes down 1,800'. Mr. Barron read information from Outback Engineering regarding the riverbed. The Assawompset Dam has no water getting to it. When there is high water, no water flows out.

Discussion and possible vote to designate the Lakeville Select Board as the applicant to obtain a Notice of Intent (NOI) from the Lakeville Conservation Commission for a project to remove obstructive sediment from the first 1,200 feet of the Nemasket River below the APC Dam

Helen Zincavage and William Napolitano from SRPEDD were present for the discussion. Ms. Zincavage said permits are needed from both the Middleborough and Lakeville Conservation Commissions to dredge the river area near the Assawompset Dam. ARPA money will be funding the work, but it is not appropriate that SRPEDD be the applicant. We are hoping that both Boards will serve as the applicants for the permits needed.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To apply to the Lakeville Conservation Commission for a project to remove obstructive sediment from the first 1,200 feet of the Nemasket River below the Assawompset Pond Dam.
Unanimous in favor.

Discuss and possible vote to schedule a Fall Special Town Meeting-November 14, 2022

Chairman LaCamera said we have a proposed schedule for the Special Town Meeting to be on November 14, 2022. He would like to vote to schedule the meeting on August 29th, open the warrant on August 29th and close the warrant on September 22nd. There are specific articles that we should talk about on the 29th.

Discuss and possible vote the Intent to Layout Ledgewood Drive as a public way

Marc Resnick, Town Planner, was present for the discussion. Chairman LaCamera said we have received a request to vote the Board's intent to layout Ledgewood Drive as a public way. The Planning Board needs to adopt regulations for the acceptance of public ways. We don't have the engineer and DPW Director look at the road until later in the process, but he feels it should be done sooner. Mr. Resnick noted the road had been inspected on January 20, 2021 by Environmental Partners and aside from a few issues regarding a swale and outlet structure, there were no problems with it. Mr. Resnick said he went out there a month ago and walked the site and there was nothing significant. He will go back out and submit a memo. Member Fabian said she thought that the Town was not going to accept any more roads. Member Carboni said it is up to the Board, but there are some communities that are not accepting any more public roads, but Lakeville has not done it. Chairman LaCamera said we did tell the Planning Board that we would not accept the roads on smaller subdivisions. Mr. Resnick said there will be another road coming before the Board that has been constructed to the standards of the subdivision regulations.

Discuss and possible vote to approve request of the Lakeville Arts Council to place signs for the Annual Arts & Music Festival

Chairman LaCamera said we have received a letter from the Lakeville Arts Council regarding signage advertising for the Annual Arts & Music Festival.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To approve the request from the Lakeville Arts Council to place a sign for the Annual Arts & Music Festival at the intersection of Precinct Street and Rhode Island Road and a banner at Dickran Diran Square.
Unanimous in favor.

Discuss and possible vote to issue proclamation in honor of Elizabeth Bryant's 100th birthday

Chairman LaCamera said the Board has received a request to issue a proclamation in honor of Elizabeth Bryant's 100th birthday. Member Fabian said she attended her birthday celebration on Friday at the Senior Center. She read the proclamation into the record.

Upon a motion made by Member Fabian and seconded by Member Carboni, it was:

VOTED: To issue the proclamation in honor of Elizabeth Bryant's 100th birthday.
Unanimous in favor.

Discuss and possible vote on request for Outdoor Entertainment Permit-76 Kingman Street – September 24, 2022

Chairman LaCamera said the Board has received a request from Jonathan Harris for an Outdoor Entertainment Permit for September 24, 2022 at 76 Kingman Street. This permit has been issued for several years, and the Police Chief reports no issues. Member Fabian said two (2) Saturdays past we had an issue with another Outdoor Entertainment Permit that the Board had issued. Going forward, we need to ask more specific questions. They ended up having a live band on a stage with a light show requiring generators and there was an altercation with neighbors. She spoke to the Health Agent who said there is a noise ordinance in place. We may need a policy.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To approve an Outdoor Entertainment Permit for the property located at 76 Kingman Street on September 24, 2022.
Unanimous in favor.

Discuss and possible vote on request from Richard Coletti to be reappointed as a Constable

Chairman LaCamera said the Board has received a request from Richard Coletti to be reappointed as a constable.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To appoint Richard Coletti as a Constable for a term to expire August 12, 2023.
Unanimous in favor.

Discuss and possible vote on Town Administrator Review and FY23 Goals

Chairman LaCamera said the goals for the Town Administrator had been discussed at a previous meeting.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To approve the goals for FY23 for the Town Administrator.
Unanimous in favor.

Member Fabian said the Board had the FY22 goals, so we had something to rate the Town Administrator on that was objective. A copy of the evaluation forms will be in the Town Administrator's personnel file and perhaps in the Town Clerk's office. Member Fabian said she gave Mr. Sky a very favorable review across the board and read some of the narrative from her evaluation. Member Carboni said Mr. Sky has generally met expectations on the majority of the expectations. Areas of improvement needed are verbal communication and interpersonal skills. She said Mr. Sky met the expectations of the review. Chairman LaCamera said in 99% of the expectations, Mr. Sky was excellent. Important items that were achieved were getting the Town's operating budget done earlier than it has ever been and available to the residents. The Capital Improvement plan was updated. Union contracts have been negotiated; health insurance plans updated; grants have been coordinated and the Town has received a significant amount of grant money. Mr. Sky supervises daily operations extremely well and has very important strong relationships at the State and Local level. He has made significant improvements in technology. A challenge has been overseeing the maintenance of Town facilities. Improvements have been made, but we are not where we should be. Chairman LaCamera said Mr. Sky is always out-front dealing with issues. Areas of improvement is updating the Board more regularly on Town projects; needing to get more involved in planning items and decisions in Town; and work on improving policy and procedure for Boards and Committees. Mr. Sky thanked the Board for their feedback.

Discuss and possible vote to accept Frederick Frodyma's resignation from Open Space Committee and Conservation Commission

Chairman LaCamera said the Board had received a letter from Frederick Frodyma resigning from the Open Space Committee and Conservation Commission.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To accept Frederick Frodyma's resignation from the Open Space Committee and Conservation Commission.
Unanimous in favor.

Discuss and possible vote to accept Paula Frodyma resignation from the Council on Aging and as representative to the Old Colony Planning Council Area Agency on Aging Advisory Board

Chairman LaCamera said the Board had received a letter from Paula Frodyma resigning from the Council on Aging Board of Directors and as representative to the Old Colony Planning Council Area Agency on Aging Advisory Board.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To accept Paula Frodyma’s resignation from the Council on Aging Board of Directors and as representative to the Old Colony Planning Council Area Agency Advisory Board.
Unanimous in favor.

Discuss request from Zoning Board of Appeals for comments regarding modification to the comprehensive permit– The Residences at LeBaron Hills

Marc Resnick, Town Planner, was present for the discussion. Chairman LaCamera said the owners are modifying the project. Mr. Resnick said the public hearing will be opened on August 18th. Chairman LaCamera asked if the wastewater treatment plant can handle the changes. Mr. Resnick said the owner has indicated it can, but we do not have documentation from the engineer. Chairman LaCamera said we should get the documentation. Regarding the water allocation, he would like confirmation that they are within the allocation issued by the Town. Chairman LaCamera noted that the owner would like access to Fern Avenue. If they are going to use Fern Avenue, they need to completely reconstruct Fern Avenue, including drainage and sidewalks. He has told the owner that he would like plans for this. School busses will be able to go there as they are proposing a cul-de-sac for a bus turnaround. Member Carboni asked about the pressure on Precinct Street if there is going to be full access from Fern Avenue. Mr. Resnick said it will help disburse the traffic from the development. Member Carboni said when we start the project on Route 79, they may re-route traffic through Fern Avenue onto Precinct Street. Mr. Resnick said we can have a traffic study done. Member Fabian said we have two (2) residents that have been vocal about their water bill. Chairman LaCamera said they have a condo association that sets the fees. Mr. Resnick said the Appeals Board is asking for comments on things you may be aware of.

Review and possible vote to approve Select Board Meeting Minutes of July 11, 2022 and July 25, 2022

Member Carboni noted on the July 11, 2022 minutes, Kathryn Beals needed to be changed to Kathryn Goodfellow.

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To approve the Select Board Meeting Minutes of July 11, 2022 (as amended) and July 25, 2022 as presented.
Unanimous in favor.

New Business

Mr. Sky said the future meeting dates discussion will be on the August 29th agenda.

Old Business

Member Carboni said the Board received a letter from the Open Space Committee regarding the Open Space Residential Development By-law asking to be involved in this. Why wouldn't they be involved. Chairman LaCamera said the Planning Board is in charge of this. Open Space just needs to request a meeting with them. Mr. Sky said Open Space Committee doesn't really have a formal role in the by-law development process. Chairman LaCamera said they were given an opportunity to comment, but they did not.

Adjournment

Upon a motion made by Member Carboni and seconded by Member Fabian, it was:

VOTED: To adjourn the Select Board Meeting at 7:45 PM.
Unanimous in favor.

OTHER ITEMS

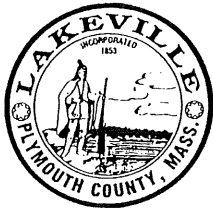
1. Letter from Open Space Committee regarding Open Space Residential Development By-law
2. Email from M/L Herring Fishery Commission regarding herring counts
3. Letter from Comcast regarding channels

List of documents provided at the Select Board Meeting of August 15, 2022

1. Agenda page
2. Agenda page; drought flyer; flyer regarding Nemasket Week
3. Agenda page; email from Town Counsel; Warrant for August 8th Special Town Meeting
4. Agenda page; memo from Fire Chief; Natural Hazard Mitigation Plan
5. Agenda page
6. Agenda page
7. Agenda page; draft timeline; potential articles; memo from Town Counsel; citizen petitions;
8. Agenda page; notice of intent to layout; letter from Michael O'Shaughnessy, Esquire; procedure for layout and acceptance of public ways;
9. Agenda page; letter from Lakeville Arts Council
10. Agenda page; proclamation
11. Agenda page; application for outside entertainment permit; email from Police Chief
12. Agenda page; letter from Richard Coletti; email from Police Chief
13. Agenda page; Town Administrator Annual Performance Evaluation; FY23 Town Administrator Goals
14. Agenda page; email from Frederick Frodyma
15. Agenda page; email from Paula Frodyma
16. Agenda page; email from Planning Board Clerk; letter from Robert Mather, Esquire; site plans
17. Agenda page; Select Board Minutes of July 11, 2022 and July 25, 2022

**AGENDA ITEM #14
AUGUST 29, 2022**

**DISCUSSION AND POSSIBLE VOTE REGARDING RETAIL
CANNABIS APPLICATIONS**



TOWN OF LAKEVILLE
Town Administrator's Office

346 Bedford Street
Lakeville, MA 02347
(508) 946-8803

August 25, 2022

TO: Select Board
FROM: Ari J. Sky, Town Administrator
SUBJECT: Retail Cannabis Applications

The Town received three proposals in response to its Request for Information for Retail Marijuana Establishment Plans. Proposals were submitted for two retail establishments: Aristo-Cann (12 Harding Street) and Flower & Soul (8 Harding Street), and a delivery establishment, TG Delivery, which would be located at Twisted Growers' planned facility at 415 Millennium Circle.

The proposal subcommittee, which consists of Select Board Member Fabian, Town Counsel Amy Kwesell and the Town Administrator, met with the applicants in May to discuss their proposals. The committee subsequently decided to pause recommendations pending the outcome of cannabis reform efforts in the Legislature. Following adoption of the new law, the subcommittee met once again to discuss next steps.

The new cannabis law significantly alters the parameters for cannabis approval going forward. Specifically, the law limits community impact fees to identifiable costs subject to approval by the Cannabis Control Commission and eliminates annual charitable contributions as a requirement in any host community agreements. As a result, the financial benefits to the Town would generally be limited to proceeds from the 3% excise tax, along with the property tax revenue that can be expected from any private establishment.

Given the constraints placed on future host community agreements, the subcommittee decided to put Town policy regarding future cannabis establishments to the Select Board before proceeding with any specific proposal. A discussion regarding retail marijuana establishments will be included on the Select Board's August 29th agenda.

Thank you for your consideration.

**AGENDA ITEM #15
AUGUST 29, 2022**

NEW BUSINESS

**AGENDA ITEM #16
AUGUST 29, 2022**

OLD BUSINESS