

TOWN OF LEE  
SELECT BOARD & BOARD OF PUBLIC WORKS (JOINT MEETING)  
Tuesday November 29, 2022 @ 12:00PM  
Town Hall • 38 Main Street • Select Board Office

Minutes

**Select Board Members Present:** Sean Regnier, Bob Jones, Gordon Bailey

**Members Absent:** None.

**Board of Public Works Members Present:** Robert Bartini, David Forrest, Gary O'Brien, Robert Wright

**Members Absent:** None.

**Chairman Regnier called the Select Board meeting to order at 12:01PM.**

**Chairman Bartini called the Board of Public Works meeting to order at 12:02PM.**

1. Discussion: Future Plans for BPW

Chairman Regnier began by stating they were present today for a discussion of the future plans of the Board of Public Works (BPW). He stated that there are two different acts that conflict with each other - the Town Administrator Act and the Acts from 1970. Chairman Regnier stated today they would discuss the BPW's role, the conflict of the Acts, and how to move forward.

Admin Brittain stated that this is not intended to be personal by any means, and they appreciate everyone's service to the Town over the past decade. He stated this is really about the two conflicting Acts and there have been a number of band aids put on it over the years, but the only real way to fix it is to get a legislation change. Admin Brittain stated that he has given everyone a handout that explains what surrounding towns have done successfully to remedy the conflict.

David Forrest stated this is the second time this has been brought to the BPW by a Town Administrator. Mr. Forrest stated that he agrees there needs to be a legislative change, but it has to be done properly. Mr. Forrest stated that the enabling Acts are very clear of what the duties of the BPW are but the problem is that the two Acts cross. Chairman Regnier stated that they are hoping to bring this change forward to Town Meeting. Mr. Forrest stated after the Town Meeting it will go to the State to be signed by both Houses, then the Governor, and then back to Lee for a final vote. Mr. Forrest stated that this happened years ago and it never moved forward at the State.

Mr. Forrest stated that although Admin Brittain stated this is not personal, he believes it has become a little personal. Mr. Forrest stated that he has twenty-five years on the BPW and Chairman Bartini has thirty years of service. Mr. Forrest stated they were good enough to be around for many years and help with new endeavors and questioned why now all of a sudden, they won't exist and will have nothing to do with the day to day. Mr. Forrest stated he has a problem with that. Mr. Forrest stated that during the pandemic it was hard to hold meetings, and not a lot of the members on the BPW are computer savvy, so a lot of times they did not meet. Mr. Forrest asked what it would show the Town's people to take a long-existing Board and dissolve it. Mr. Forrest stated that that will tell the Town's people that they do not want to be involved in the Town.

Chairman Bartini stated that he does not believe the BPW has done anything wrong, and they've been doing the same thing for years. As an example, Chairman Bartini brought up when they were installing a new water line from the water plant to the mill and he attended construction meetings every two weeks because he was asked to attend. Some of the things they are doing, they have assumed it was part of their role because they've done it for years.

Chairman Bartini stated this all came about after a meeting at the end of September that he could not attend because he was ill, and he had to cancel the meeting before that because they did not have a quorum. Chairman Bartini stated if they'd like to punish someone, to punish him, not the whole Board. He stated he nor the Board did anything wrong, but he'd be glad to go right now if that is what the Select Board wants.

Chairman Bartini stated that they have only done what they have done for years and no one ever told them they were wrong. For example, they have recommended what streets to blacktop for years. As for equipment, the problem now is that the Superintendent has only been here for five months and the Highway Supervisor has only been here a year and a half and came without a construction background. Chairman Bartini stated that Admin Brittain has been here for one year, and he knows more than the Superintendent and Highway Supervisor when it comes down to it. Chairman Bartini stated that the Select Board just named Mr. Wright as a member of the Board two months ago, and they have Mr. O'Brien on the Board who has a wealth of construction knowledge and more trucks in his own fleet than the Town of Lee has. Chairman Bartini stated he was also perturbed by the two members of the Board that submitted their resignation, and those former members are not happy with how this all went down.

Chairman Regnier stated if they do dissolve the BPW down the road, no one is kicking the members out of town. They have appreciated all of the members input throughout the years, and they will continue to do so. Chairman Regnier stated that this is not a personal thing. He is looking at this as a way to streamline government. As an example of things needing to be more seamless, Chairman Regnier brought up the purchasing of a new truck for the DPW. He stated that money was appropriated at Town Meeting and then they needed to decide what should be purchased. Chairman Regnier stated that now that the Town Meeting will be an Open Meeting, they could come forward and state what they believe the Town should purchase, and they can make any amendments on the floor that they want.

Going back to the truck, Chairman Bartini stated that is where this problem all started. Admin Brittain stated that they came full circle with the truck since they originally voted on \$200,000 for one new large truck, then \$220,000 for two new smaller trucks, but the DPW said they really needed a large truck. Admin Brittain stated that it went back and forth for a while, now they're back to where they started, and are now paying about 18% more for the same thing they could've purchased earlier. Chairman Bartini stated as soon as the money was approved at Town Meeting, they told the Highway Supervisor to get it done, but the Highway Supervisor kept coming back saying he couldn't get the trucks they were looking at. Mr. Forrest stated that because of the pandemic and supply chain, trucks have become less available

Mr. O'Brien stated that the DPW wanted a 750 five-yard spreader with a ten-inch plow that is a two-wheel drive version. He stated the DPW could do the same thing with a 550 four-wheel drive rig. Mr. O'Brien stated the big truck versus small truck issue is not like it was years ago, and they could get two of the smaller rigs for the price of the larger.

Admin Brittain stated this is why they need a legislative change that edits the Acts of 1970 and the Town Administrator Act so that they do not overlap. The question is the day-to-day roles and the efficiency of it. Admin Brittain stated that there have been a number of things he has signed off on without any problem from the BPW, but then there are certain things (for example, the truck purchase) the BPW wants their say in and it has delayed the process. Admin Brittain asked if there really needs to be this process of waiting every couple of weeks until the BPW meets for residents to do something as simple as hooking up to sewer. The residents pay their deposit, and then they are put on hold until the BPW makes a decision. Admin Brittain asked why they cannot give permission to the DPW staff to make these approvals which will be more efficient, and at the end of the day, help the residents more. Admin Brittain added that if they need to purchase a new police cruiser, Chief gets the specs, he approves it, and then the purchase is made. There is no middle man to have to wait to go through.

Mr. Forrest stated he believes they need to come up with some sort of universal specifications for the trucks. Mr. Forrest stated that there is a lot of information not shared between the offices and the BPW and that is what holds them up. Mr. Forrest stated that he does not talk to the Superintendent unless he has a serious problem and he never tells him anything that is going on. Admin Brittain stated that is where the problem lies. There is not a clear path of what the Superintendent needs to get approval on or can administratively approve, and that is not how any other department in the town functions. Out of 350 communities in Massachusetts, all but 17 of them have either changed or eliminated their BPW. Once the Town Administrator Act came about, really only the School Committee has that type of oversight over a department. Admin Brittain stated that his goal is to have a responsive and efficient government.

Admin Brittain stated that there are things he believes can be efficiently done by a committee such as abatements and rates. Admin Brittain stated that long-term planning was thrown out there back in 2004 and there has never been a long-term plan submitted. They should put together a five-year capital plan and then the staff should carry out the plan.

Mr. Forrest stated that for a long time they could not get a truck, then one becomes available and they want to purchase it right away but it wasn't a long-term truck. Chairman Bartini stated this is the second year in a row this has happened with a truck. He stated that one year ago, they were planning to get a new 550 and Zachary Sorrentino, Highway Supervisor, told the BPW he found a used truck at Marchese Ford in New Lebanon. Chairman Bartini stated that after the meeting he called Marchese Ford to inquire about the truck and the owner stated he never spoke with anyone from the Town of Lee and suggested that the truck was not good for the Town. Chairman Bartini then went to speak with Zippy (the former Superintendent) and Mr. Sorrentino, told him he knew no one ever spoke with Marchese Ford and stated that the truck the BPW just voted on to buy should not be bought. The truck was not purchased. Marchese Ford told Chairman Bartini that they did have a perfect truck coming in in two weeks and the Town bought that truck. Chairman Bartini continued stating that Mr. Sorrentino's pickup truck was supposed to be a Chevy, but when it came, it was a Ford. Chairman Bartini stated that there is something to be said about the Highway Supervisor and he thinks he is overstepping his authority. Mr. O'Brien stated that they just want to do what is best for the Town and a lot of the staff they have does not have truck experience.

Mr. Bailey stated that we need to get back to the issue of the conflicting Acts. Mr. Bailey stated that fifteen years or more ago, there were Town employees who did not want to do their job and a lot of the things that used to be the Superintendent's job were passed along to the BPW. Mr. Bailey stated that he believes the BPW just took it over whether it was their job or not because someone needed to get it done. Mr. Bailey stated they need to figure out who is going to do what and change the Acts. Mr. Bailey stated he believes a lot of the issue lies with communication between the Superintendent and the BPW. He stated that even if the BPW does not need to know about it, they should know about it. Chairman Bartini stated that the former Superintendent, Zippy, used to call him three times a week. He stated that after Zippy retired, Lenny Tisdale came in as the Superintendent, and the communication has stopped.

Admin Brittain stated that the other problem is that the BPW has a meeting, a decision is made, and then there are side phone calls with opinions from individual Board members. After a meeting, the staff should act on what was decided and there should be no further discussion on it until the next meeting. As an example, the BPW voted to pave certain roads, the meeting ended, and then a call came in from a member stating they don't believe this road or that road should be paved anymore. At that point, the BPW has already made its recommendation and the staff should be able to act on that or there needs to be another meeting. The question is, is this just a BPW recommendation and the Town Administrator can act on it or is the TA stepping on toes if he moves forward without their reapproval? Admin Brittain stated he likes things to be efficient and he likes things to be clear and that is not what he has here.

Admin Brittain stated he does not mind requesting Mr. Tisdale update the BPW each week, but if there is an issue, can they act on it immediately or do they need the BPW to have a meeting? There is no other town in Berkshire County that runs things that way. Chairman Bartini stated he does not need a weekly update from Mr. Tisdale.

Another example Admin Brittain brought up was that a resident's radio failed one month ago, but it was just picked up on the current reading. The resident's bill should be \$1000 but they are going to make it \$2000. The resident gets a new radio and has done what the Town has requested. Admin Brittain stated at that point, they should be able to tell the resident they can refund them the additional \$1000 they were charge. Instead, the resident needs to go to an abatement hearing and then they'll get a credit they will see three months from the hearing. Admin Brittain stated that is not how he wants to see the residents have to go through things. He believes they have added an extra layer that does not make sense. Chairman Bartini stated that if Admin Brittain has had these concerns, he should have relayed them to him and he would've reached out to the rest of the BPW. He stated he knew nothing about these concerns.

Admin Brittain stated there is also an issue with procurements, and how he has signed warrants for each department except for the school. There is a question of whether or not he has the authority to do that with the BPW because of the Acts from 1970. He also added the issue of hiring. Admin Brittain stated they would certainly set up a committee to hire for a Superintendent, but for a laborer position, do they need to work about BPW schedules or can they rely on the new HR department they have? It is not clear. Admin Brittain stated there should be a clear path for capital long term plans.

Mr. Bailey stated that a lot of these concerns can be fixed by the BPW adopting a different policy. Mr. Bailey suggested having a member from each Board sit down and look at the Acts and figure out what will work best for the Town. Mr. Bailey stated he'd like to see a five-year or ten-year long-term plan made by the BPW, and as new technology comes out, the BPW can revisit the specs on the plan and edit as needed. Mr. Bailey stated each equipment piece should have a replacement date



under the long-term plan.

Mr. Bailey stated there is probably equipment in the water treatment plant that needs to be upgraded, but who is asking that question. Mr. Bailey stated he does not think Mike Towler can look at it, evaluate what technology is out there and give advice, and they can should a specialist to look at it if need be. Mr. Bailey stated he'd like the BPW to go out and ask those questions and he thinks that needs to be included in any changing of the Acts. Mr. Bailey stated it is clear in the Town Administrator Act that the Town Administrator is in charge of any procurements. The BPW agreed. Mr. Bailey stated he also understands the TA needs recommendations and that needs to be clear in the updated Acts.

Admin Brittain stated the way a Board or Committee would work effectively is to have the Superintendent and DPW Supervisors put together the draft plans, get review from the Board or Committee, and then move forward on it. They get bogged down on the execution of it, and the time they need the advice is in the long-term planning. Chairman Regnier stated that that is a document that should live on the Town website.

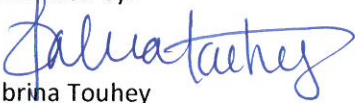
Mr. Jones stated he believes this has been a great meeting that was long overdue. Coming out of the meeting, Mr. Jones stated they need to define everyone's responsibilities and make the Town Administrator's job and the process for residents run as smooth as possible. Mr. Jones stated that the BPW would be invaluable in creating a long-term plan. Chairman Regnier agreed and stated if in the past there was work taken off the Superintendent's desk and put on the BPW's lap, it should go back to the Superintendent.

Admin Brittain stated he would be more than happy to organize a working group to help move the legislative change forward. The BPW chose to have David Forrest represent the BPW in the working group and Mr. Wright will help as well. Bob Jones volunteered to represent the Select Board in the working group.

**Mr. Bailey made a motion to adjourn the Select Board meeting at 1:42pm which Mr. Jones seconded and was unanimously approved, 3-0.**

**Chairman Bartini made a motion to adjourn the BPW meeting at 1:42pm which Mr. Forrest seconded and was unanimously approved, 3-0.**

Submitted by:

  
Sabrina Touhey  
Admin Asst TA/BOS

Approved on