

TOWN OF LEE
SELECT BOARD MEETING
Tuesday April 4, 2023 @ 7:00PM
Town Hall • 38 Main Street • Former Courtroom

Minutes

Members Present: Sean Regnier, Bob Jones, Gordon Bailey

Members Absent: None.

Chairman Regnier called the meeting to order at 7:00PM.

1. Minutes: Open Session Minutes of 03/21/2023

Mr. Jones made a motion to approve the 03/21/2023 minutes as submitted which Mr. Bailey seconded and was unanimously approved, 3-0.

2. Public Hearings

a) An application for a change of Officers/Directors/LLC Managers, Change of Corporate Name or DBA, and Change of Corporate Structure, and a public hearing on a Change of Ownership Interest from Silverleaf Resorts, Inc. d/b/a Oak N Spruce Resort, 190 Meadow Street.

Chairman Regnier began by stating this was for a reconsideration for the ABCC from the previous application and today's public hearing is in regards to an ownership interest change. He stated it looked like all required documents were submitted and the fees were paid

Cynthia Coach, the manager of the liquor license at Oak N Spruce Resort, was present via Zoom. Ms. Coach stated that she didn't have anything to add and that they were looking to change the corporate name from Incorporated to LLC.

Mr. Bailey made a motion to approve the change of officers/directors/llc managers, change of corporate name or dba, and change of corporate structure for Silverleaf Resorts, Inc. which Mr. Jones seconded and was unanimously approved, 3-0.

Chairman Regnier opened the meeting up to the public. No one came forward.

Mr. Jones made a motion to approve the change of ownership interest from Silverleaf Resorts, Inc. which Mr. Bailey seconded and was unanimously approved, 3-0.

3. Public Comment

Kathy Hall, Chair of the Lee Youth Commission, began by stating that the LYC has ordered a shed to store equipment in at the Lee Athletic Field and should be delivered sometime next week. She stated that the Lee Middle and High School carpentry class is building the shed. Ms. Hall stated they are also checking out playground areas for soccer. She stated that a regulation field is 120 yards by 60 yards wide and a youth field is at minimum 80 yards by 45 yards. Ms. Hall added that the LYC is planning on continuing spring and summer activities and reminded the public that if they want to rent out the pavilion, they'll need to contact the DPW at (413) 243-5520. She also reminded the public that dogs must be leashed on the fields and asked that the dogs are please picked up after. Finally, she made a shout out to the Chamber of Commerce who is getting ready to start planning Founders Day Weekend. She stated that they are holding a meeting tomorrow at 9:30pm in the Congregational Church.

Monica Ryan, 165 Laurel Street, began by asking the Select Board to consider putting a dog park in the Town. She stated that it is very good for dogs to socialize and she's been traveling to Pittsfield to have her dog enjoy a park. Admin Brittain stated in FY25 the CPC will be giving out funds for community preservation and a dog park may be something to be considered then. He added that the current study going on for Stockbridge Road has had a dog park suggested more than anything. Ms. Ryan added that Anne Langlais is also in favor of the dog park and she'll be getting Ms. Ryan's vote in the next election for the Select Board.

Anne Langlais, 25 Union Street, began by stating a few people met tonight before the meeting and one of the things that was going around the dinner table was how everyone's taxes are going up. She stated that it seems like a tough thing to be paying when they still haven't made a decision if they'll be going through having the PCB dump put in the town. Ms. Langlais suggested freezing the taxes due for anyone within a half mile radius of where the dump may be. She stated it would be really nice to take care of our neighbors. Mr. Bailey stated that there are a number of lawsuits out there right now and the hope is to *not* have a permanent dump in the Town of Lee. He stated they need to see what happens and if the worst-case scenario happens, he thinks the neighborhood needs to have some sort of tax abatement and re-evaluation. He stated that there should be a committee that looks into that, but for this year, they should hold and see what happens with the lawsuits.

Dave Carrington, 190 East Street, told the Select Board to keep up the good work.

Clare Lahey, 110 Mill Street, was present via Zoom. She began by asking about the Garrity operation that is operating on conservation recreation land on Woodland Road without a permit to run an industrial corporation. She stated there was a hearing on it with the Planning Board a few years ago for a permit to have a change in zoning and they were not allowed to do it by the ZBA but it seems to have fallen on the waysides and no one knows who is in charge of enforcement. Chairman Regnier and Bob Jones stated that there was a cease and desist issued and the last they checked, the asphalt had been removed. If they were still operating there, it was news to the Board. Mr. Bailey added that if she wants to look into it further, she should call the Zoning Enforcement Officer, who is our Building Commissioner, Matt Kolmer, at (413) 243-5518 and he is the one who would investigate and enforce. He stated she should get back to the Board if no action is taken. Ms. Lahey asked why it was up to her. Mr. Bailey stated it was not, he would be happy to give Mr. Kolmer a call tomorrow or leave it up to the Town Administrator.

Gail Ceresia, 161 West Park Street, stated she wanted to get some clarification on what the task of the Rest of River Committee was to begin with. When RoR voted to appropriate \$15,000 to fight against the Town with the dump, she wondered if they were even supposed to be voting on something like that.

Mr. Jones stated that he is the representative for the Town of Lee on the ROR Committee, and the vote was 4-1 to appropriate \$15,000 in funds. Lee does not pay into that fund but they are still a member of the RoR. The way RoR has been structured leaves gaping holes in terms of representation. He stated that he speaks with Chairman Regnier and Mr. Bailey about these meetings and they talk about what is on the agenda and where Lee stands on it. They are all clear where Lee stands on RoR and the proposed PCB dump. He stated that there only two elected officials on the RoR- he and Renee Wood of Sheffield- all the others are appointees that are not elected officials. As far as the accountability, it's presumed these members go back to their Select Boards and get direction. He can say that he knows for certain that was not the case for one particular town and there is now quite an upset. He stated that checks and balances are not there in the RoR Committee and that is part of the problem they are fighting right now. The other problem is that nothing discussed at RoR can be discussed in an open meeting; the reps are supposed to go back to their Select Boards and 3-5 people are making decisions for tens of thousands of people in the river corridor. The public has no say whatsoever. The RoR makes their decisions and releases their minutes after the fact. Mr. Jones added when this all first came about 3 years ago, the RoR was going to have representation from each town and make sure GE did a good job and kept their word, but the people in the towns do not know what is going on. Instead, RoR is piling on by being an intervener to go after HRI. Mr. Jones

stated that there is a conversation going on right now about shared services with the Town of Stockbridge and a shared facility on Route 102, which he was feeling really good about. But now he is trying to understand why Stockbridge's rep in the RoR voted to help keep in the PCB dump in Lee. It turns out, the Select Board for Stockbridge didn't know a thing about the vote.

Josh Bloom, 204 West Park Street, was present via Zoom. Mr. Bloom confirmed that he spoke with a member of the Great Barrington Select Board this morning and their Select Board was not consulted with either regarding the vote taken at the RoR Committee meeting to appropriate funds. Mr. Bloom stated that back in November the Select Board in Lee reported that they engaged with the Town of Stockbridge about the RoR agreement and the response was that Stockbridge was disinterested in engaging in that issue. Mr. Bloom stated that the Lee Select Board did not give an update when Stockbridge had a change of heart and eventually told Lee to write a letter to the Select Board to meet. Mr. Bloom stated that it was unfortunate the public did not have that information and he originally thought it was a dead end. Now, he would like to suggest the Lee Select Board respond to Stockbridge and write a letter to engage in conversation together about RoR.

Chairman Regnier told Mr. Bloom that his thought is to write formal letters to *all* of the Towns if they decided to go down that route. Mr. Jones stated that Mr. Bloom has it mostly right, but not all right. Mr. Jones stated that back in November he personally reached out to each Stockbridge Select Board member individually and asked if they would meet with the Lee Select Board. Each member originally said yes. About a month later, the Stockbridge Town Administrator let the Lee Select Board know a couple of the Select Board members in Stockbridge were happy with how the agreement was. Mr. Jones stated that he reached back out to the Chair, Patrick White, and Mr. White stated that if the Town of Lee sends a letter to the Stockbridge Select Board, he'll see that it gets on the agenda-but it was something said in passing. To explain why the Lee Select Board did not make a public announcement--it's because the time has not been right. There is a group of private citizens with a case in Superior Court, HRI in Federal Court, we're waiting for a ruling from the Board of Health on the viability of the proposed site and now the lawsuit of the Town of Lee versus Monsanto. Mr. Jones stated that this Board needs to act prudently and gingerly because they do not want to misstep and they want to get this right. He stated that talking to the other Boards is certainly still on the table, but the timing is not right.

Mr. Bloom added that after attending the RoR meeting, Lee was very well represented and the Town should be proud of our representation.

Anne Langlais, 25 Union Street, asked if the Select Board could ask our Town Counsel if there is a chance the two towns that did not have good representation at the last RoR meeting (Stockbridge and Great Barrington) could go back and do a re-vote through Berkshire Regional Planning Commission (BRPC) when it comes to the appropriation of \$15,000 to have an adjudicatory brief to go after HRI.

Clare Lahey, 110 Mill Street, still present on Zoom, stated that in her research, she found that back in 2012 when RoR was created by BRPC, their role was stated as an advisory committee to the town select boards and to keep the boards updated throughout the execution of the plan. She stated RoR is five people with a lot of power, and she would suggest the Select Board does their research to find out if RoR is just an advisory committee.

4. General Business:

a) Sign agreement with Real Estate Research Consultants (RRC)

Admin Brittain stated that this is the company the Town has used in the past and they are the only company they received a bid from during the public bidding.

Mr. Bailey made a motion to authorize Chairman Regnier to sign the agreement with Real Estate Research Consultants (RRC) from FY24-FY26 which Mr. Jones seconded and was unanimously approved, 3-0.

b) Sign agreement with Waste Water Services, Inc.

Admin Brittain stated this also went out to public bid and Waste Water Services, Inc. had the lowest bid and is the contractor the Town has been using.

Mr. Jones made a motion to authorize Chairman Regnier to sign the agreement with Waste Water Services, Inc. which Mr. Bailey seconded and was unanimously approved, 3-0.

c) Municipal Elections – Town Clerk

Chairman Regnier stated they had two letters from the Town Clerk. The first was to ensure there is proper police force at the election station.

Mr. Bailey made a motion to put it on the floor. He made a motion to move to approve a sufficient number of police officers but not less than one at the polling location at every election therein to preserve order and to protect the election officers and supervisors from interference with their duties and to aid in enforcing the laws relating to elections as required by MGL Ch 54 §72, which has changed in §13 of MGL Ch 92 the Acts of 2022. Further, Mr. Bailey moved to designate the Police Chief the authority to assign specific police officers according to scheduling and availability. The Town Clerk will advise the Police Chief on a location and time the officer is needed. Mr. Jones seconded the motion and it was unanimously approved, 3-0.

Chairman Regnier stated that the second letter is regarding early mail in voting and read:

“The Town of Lee has not participated in Early Vote by Mail for municipal elections. The Votes Act of 2022 request that that we opt out of Early Vote By mail or we will be forced to do it. It is my recommendation, for budget restrictions, that we continue to vote in person for the day of election. We estimate the cost of about \$6,500 between sending people the application for vote by mail and mailing the ballots with postage paid return envelopes. I will of course continue to send out ballots to the people on my permanent absentee list and also offer absentee voting in office (or by mail) for people who cannot attend election day. This will ensure that voting for municipal elections remains the same and the towns people are familiar with the process.”

Mr. Bailey stated that this is only for purposes of the municipal election. Chairman Regnier stated that the election date is set for May 15, 2023.

Mr. Jones made a motion to opt out of early vote by mail which Mr. Bailey seconded and was unanimously approved, 3-0.

d) Berkshire Gas Permit – 104 Orchard Street

Mr. Bailey made a motion to approve the Berkshire Gas Permit to install a new gas service at 104 Orchard Street which Mr. Jones seconded and was unanimously approved, 3-0.

e) Discussion on draft warrant for Town Meeting

Admin Brittain stated that after this review he will put the draft warrant online on the town website for Baby Town Meeting which will be held April 13, 2023 in the Lee Middle and High School Auditorium. He stated there will be an information section at 6pm, and then Baby Town Meeting will begin at 7pm.

Admin Brittain stated that the plan is to have the Board sign off on the warrant at the April 18th meeting.

Chairman Regnier stated that it looks like the operating budget is about \$21,389,000, which Admin Brittain stated is a .3% increase.

Admin Brittain stated that the first six articles on the warrant are routinely passed unanimously and if the Board approves, they'll take one vote for all of the articles combined.

Admin Brittain stated that land acquisition for the Meadow Street Bridge is on the warrant and it's to get a permanent easement. The state will pay for a new bridge. The town will just need to authorize the Board to do the easement that the state will need. The most it should be is \$75,000 but hopefully much less than that.

CPA 2023 and 2024 will also get voted on which are routine motions. Admin Brittain added that the smart LED streetlights, the Fire/EMS Stabilization fund, a water sewer infrastructure fund, the purchase of the Laurel Lake Dam, a Board of Public Works Legislation, municipal electricity aggregation, the stretch energy code, zoning split zone bylaws & dumpster enclosures, a pollinator friendly resolution, and a citizens petition for state seal resolution will also be voted on.

Monica Ryan, 165 Laurel Street, stated that with a dam purchase comes maintenance, and she asked what condition the Laurel Lake Dam is in right now. Admin Brittain stated that it is in good condition and he will post the report online for the public to review. The Board confirmed that this does not give access to the beach. Admin Brittain stated that it would be about \$10,000 annually for maintenance of the dam. He added that there is also potential for the Town of Lenox to help pay maintenance fees for access to the dam as well.

Rob Wright, 20 Pease Terrace, is a member of the Board of Public Works and part of the subcommittee that worked to amend the bylaw. Mr. Wright stated that they've been working on this bylaw change together for months and he thinks there has been progress, and no animosity. He asked the Select Board if they believe the BPW is viable for the Town of Lee and if the BPW will continue to get the support from the Select Board. Mr. Jones was also on that subcommittee and stated that most towns have abolished their Boards of Public Works and he does not want to see that happen in the Town of Lee. Mr. Bailey stated that once he had a chance to review the bylaw change, he would get back to Mr. Wright's question.

f) Public announcement of lawsuit

Chairman Regnier stated that the Town of Lee has filed a lawsuit against Monsanto. He stated that Monsanto is an agricultural biotechnology company owned by Bayer. They were sued by Lee, Massachusetts on Thursday in Massachusetts Federal District Court arising from the manufacturing of PCBs. The lawsuit contends that despite knowing PCBs were toxic to humans, fish, birds, and the environment, Monsanto marketed and manufactured products containing PCBs for five decades. Court action seeks to collect damages arising from the building of a dump in the Town of Lee for two million tons of PCB waste. Counsel has not yet appeared for the defendant.

Chairman Regnier provided the case number so the public could review the case: 3:23-cv-30035-KAR.

5. Any topic the Chairman would not reasonably anticipate.

No business was brought forward.

6. Town Administrator

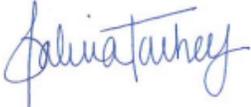
Admin Brittain announced the following dates:

Baby Town Meeting 04/13 at the LMHS Auditorium at 7pm (6pm information session)
Annual Town Meeting 05/11 at the LMHS Auditorium at 7pm
Town Election 05/15 at Crossway Village

The next regular meeting is scheduled for April 18, 2023.

Mr. Jones made a motion to adjourn at 8:12pm which Mr. Bailey seconded and was unanimously approved, 3-0.

Submitted by:



Sabrina Touhey
Admin Asst TA/BOS

Approved on: 04/18/2023