

TOWN OF LEE
SELECT BOARD MEETING
Tuesday April 18, 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 04/03/2023

Mr. Jones stated that on the bottom of page 2, the minutes should be edited to state that RoR is acting as an “intervener”.

Mr. Jones made a motion to approve the 04/03/2023 minutes as submitted which Mr. Bailey seconded and was unanimously approved, 3-0.

2. Public Hearings

a) A public hearing on an application for an alteration of premise from Montra II, Inc. d/b/a 51 Park Restaurant & Tavern, 51 Park Street. Robert Trask, 51 Park Restaurant & Tavern, was present via Zoom representing the business.

Chairman Regnier began by stating that this application is a requirement from the state if businesses want to keep any temporarily approved outdoor alcohol service permanently.

Mr. Trask began by stating that the current temporary seating is to the left of the carport when you drive onto the property. He stated that it is a lawn area with five picnic tables. Mr. Trask confirmed that the outdoor terrace and outdoor porch seating to the right of the carport have already been approved for outdoor alcohol service permanently. Mr. Trask stated that during the summer months they often have a long waiting list of people waiting to be seated outdoors, and these picnic tables have helped keep patrons from congregating in the driveway.

Mr. Bailey stated that he had concerns with the lawn area only being roped off and stated that usually they prefer to have a more substantial barrier put in place. Mr. Trask stated that they have only roped off the area for the last three summers and there have been no incidents. He stated that he put the rope on the floorplan because he knows that is the minimal requirement with the state, but he hopes to put in several planters to separate the area more. He stated that the area is in direct view of staff. Mr. Bailey stated that he was uncomfortable with just a rope, whether Mr. Trask has done it for three years or not. He stated that other than that he does not have a problem with the application.

Mr. Trask confirmed that they have also had umbrellas planted with the picnic tables for the last three years. He stated with the wind, a few umbrellas have broken on them, so now they pay very close attention to them with the weather. He stated each umbrella is fastened down with umbrella stands.

Chairman Regnier opened the public hearing up to the public.

Jay Wise, 33 Park Street, began by stating Robert Trask has always been a great neighbor. He would like to know how many tables this will be total and if it will affect parking. Chairman Regnier stated that Mr. Trask is looking for approval of five picnic tables. Mr. Trask stated it is no more than what he has had the past three summers, and it does not affect the parking lot at all.

Chairman Regnier closed the hearing to the public.

Mr. Bailey stated he would be more comfortable if a more substantial barrier was put in place before the tables were put out.

Mr. Bailey made a motion to approve the alteration of premise from Montra II, Inc. d/b/a 51 Park Restaurant & Tavern with the expectation that the area will have a substantial barrier put in place before the tables are put out for seating which Mr. Jones seconded and was unanimously approved, 3-0.

3. Public Comment

Josh Bloom, 204 West Park Street, began by thanking the Town's Select Board members, the Town Administration, and the Town's Pro Bono lawyer for their excellence, trustworthiness, and commitment to stopping GE's Berkshire toxic dump. He stated that they are doing an excellent job and they deserve recognition and praise. Mr. Bloom stated that tonight he would like to share his concerns about the actions of the Berkshire Regional Planning Commission (BRPC) and the Rest of River Committee (RoR). He asked for everyone to be mindful that BRPC's potential pro-dump bias is maybe affecting our town's strategic planning and he wanted to discuss the pros and cons of rejecting the town budget line 800 of Article 7 of the Town Meeting Warrant for \$4,927.52 for BRPC at Town Meeting. Mr. Bloom stated that over the last month he has had concerns of the intentional deceptive practices of BRPC and the RoR Committee (which BRPC Chairs). He stated that these two entities met in executive session in January 2023 and the Town of Stockbridge representative admonished his colleagues not to disclose the committee's intentions of their voting to intervene in oral arguments against Berkshire environmental organizations in support of GE. Mr. Bloom stated that BRPC consulted with their lawyers and then put out an agenda for their March 27th meeting that just listed their intentions of entering into oral arguments against the environmentalists as "approving expenditure of funds". He stated that BRPC scheduled public comments before they revealed the true nature of what was on their agenda so the public could not participate in the discussion that they had. Mr. Bloom stated that Mr. Jones, as the Town of Lee's representative on the committee, made a valiant argument but the appointed representatives from Sheffield, Great Barrington, Stockbridge, and Lenox voted in support of undermining our community's environmentalists.

Mr. Bloom continued, stating that after that meeting, BRPC stonewalled CTSB about releasing the video recording of that public meeting. Over the course of ten days, Mr. Bloom stated that he submitted six requests to them before he received a response as part of a public records request. Mr. Bloom stated that at the RoR meeting on April 14th, the committee went through great lengths to limit and exclude the public from their meeting where they discussed Mr. Bloom's open meeting law violation complaint against them for intentionally obfuscating the 3/27 agenda. Mr. Bloom stated that the 4/14 agenda did not allow for public comment and they refused to add it when asked. Mr. Bloom stated that Mr. Jones made a motion to allow public comment, none of the representatives from Stockbridge, Sheffield, Great Barrington, and Lenox would second the motion. Instead, the other representatives ask the Chair to mute the public so they could not ask questions or speak. Further, after requesting RoR record the meeting, they refused.

Mr. Bloom stated that the response from the committee about his complaint was to commit to trying to do better in the future instead of invalidating the previous vote to intervene in oral arguments against environmentalists (this was simultaneously done with their refusal to allow public comment). Mr. Bloom stated that he filed an open meeting law violation against the RoR committee and BRPC for their refusal to allow public comment at the 04/13 meeting.

Moving on, Mr. Bloom stated that it is glaringly obvious in the Strategic Plan and Hazard Mitigation Plan that the dump was left out of significant conversations and background materials, and it begs the question of whether or not BRPC is an unbiased participant. Mr. Bloom asked the Board to provide strict oversight of BRPC's involvement to be sure they are not showing antagonism towards Lee, that they are not acting to minimize the importance of the dump in future planning, and that they are considering public input. Mr. Bloom stated that he finds BRPC's stance to oppose the interests of the Town of Lee and he wants to know why we should be funding them in Fiscal Year 2024. He does not want this to be something he springs on the Board in the middle of Open Town Meeting, so if they are not prepared to answer him now, he would be fine with the Board getting back to him.

Mr. Jones began by stating that Mr. Bloom's description of RoR was accurate. He stated that he is the representative from the Lee Select Board on the RoR and he was disturbed with how the last RoR meeting went. He stated that they do not have any meetings scheduled for the future as of yet, but he does have a meeting at 3pm on Friday with Chris Brittain and Tom Matuszko, the Executive Director of BRPC, about BRPC's role in RoR and the position of the Town of Lee. Mr. Jones stated that we are in a totally different situation now than what was happening when RoR was formed. He stated that BRPC's role in this, which is to be a facilitator, has become political.

Mr. Bailey stated that as far as withholding funds, he is not against it, but he would like to think about it. He thinks it is a great thought and he believes he can support it, and maybe they could put it off to a special meeting in the fall rather than to totally deny them. He stated that putting it off may show them how serious the Town of Lee is, and they could still deny it in the fall, but he wants to see how the meeting goes Friday with Mr. Matuszko.

Mr. Jones added that Mr. Bloom is not the first person to come forward noticing that the dump is not listed in the preliminary suggestions for the town plan, and there are a number of people that are angry that BRPC is involved given their involvement with RoR. Mr. Bloom added that he was not among those people until about one month ago.

Chairman Regnier stated that he appreciates Mr. Bloom's efforts on this matter. He stated that he is a member of the Master Plan Committee, and they did discuss the dump a couple of different meetings, and he doesn't believe it was omitted from the plan maliciously. He stated that he thinks BRPC has done a great job so far with all of the deliverables and the information they have provided to the Master Plan Committee and their guidance with structuring the master plan. However, Chairman Regnier stated that he does understand the frustration and BRPC's lack of avocation for the Town of Lee with RoR.

Anne Langlais, 25 Union Street, began by asking Chairman Regnier if the Master Plan Committee has minutes from their meetings posted for the public to see. Chairman Regnier confirmed they are posted on the town's website. Ms. Langlais continued by recalling that BRPC was a much cheaper option to use for the master plan than going out to bid. Chairman Regnier stated that from his recollection, BRPC was \$50,000 and there was additional funding for the Open Space and Recreational Plan, so it was around \$65,000 total. Ms. Langlais stated that she was not sure this was the case currently, but she understood that BRPC could apply for grants to defer costs as well, and she wanted to know if BRPC is making more money that does not

include our town's funding. Ms. Langlais stated that her third question was whether or not it is an option to hold off on voting for the BRPC funding in the town warrant until a special town meeting. Mr. Bailey stated that that is what he was saying earlier. He stated that when it is read off at town meeting, someone can hold it, they can have a discussion, and then there can be a motion to continue the vote to a special town meeting in the fall.

Through Chairman Regnier, Ms. Langlais stated that Mr. Bloom mentioned how BRPC was instructed by lawyers, and she asked Mr. Bloom if that was a specific question that he asked them to answer. Mr. Bloom stated that he put in a public records request for all correspondence related to RoR's meeting agenda for 03/27. Among the documents they released, Mr. Bloom stated that there was a completely redacted email from Melissa Provencher to one of their two law firms, and a completely redacted email from the law firm back to Melissa Provencher – which we know were related to the 03/27 agenda. Ms. Langlais stated that the reason she asked Mr. Bloom this question was because she had sent an email to the Chair of BRPC asking them to please identify what parties or lawyers instructed either BRPC or the RoR to actually put to vote whether they will intervene with oral arguments. She stated that she would expect an answer back tomorrow, but if not, perhaps it is something that can be asked in their meeting on Friday. Mr. Jones stated that he can answer in part, and that is that the representatives who sit at the RoR table are marching in lockstep on this and they wanted to put this intervenor brief in. He stated that they were quite enthusiastic about it and the attorneys may have told them they could do it and instructed them on how, but that it is the RoR that wanted to see this done.

Ed Lahey, 110 Mill Street, began by stating that with no disrespect to Town Administrator Chris Brittain or Chairman Sean Regnier, he would like to see either Tim Gray, Clare Lahey, or Bob Jones present at the meeting scheduled next week with Senator Warren's office so that the people that have been fighting this fight for twenty-years have a voice. Chairman Regnier confirmed for Mr. Lahey that both he and Mr. Jones cannot be at the meeting at the same time because it will not be a public meeting, but they have worked it out where he will be at the meeting for the first half hour and Mr. Jones will attend the second half of the meeting. Mr. Lahey stated that he understands what Chairman Regnier is saying, but they are leaving out Tim Gray, and there is no greater expert in his field in the country – Mr. Lahey stated that that is difficult to understand. Chairman Regnier stated that he thinks it would be a little improper at this point to have Tim Gray at the meeting since he is not a representative of the town, but this is hopefully just the start of the conversation, and he would be happy to welcome Tim Gray at another time. Mr. Jones stated that he'll be spending some time with Tim Gray on the phone before going into the meeting.

Clare Lahey, 110 Mill Street, stated that she was able to attend a webinar by the Center for Health, Environment & Justice (CHEJ) that spoke about sacrifice. She stated that CHEJ is setting up a way to measure air pollution in an area within a five-mile radius. She stated that they would use that as a way of looking at sacrificed zones. In other words, this does not take individual smoke stacks but includes them all together. Ms. Lahey stated that the EPA is looking at individual smoke stacks, not putting together everything in a particular area. Ms. Lahey stated that our elected officials can promote the fact that there are things that the EPA cannot do. She stated that the following makes the dump an environmental injustice – that it is in a low-income neighborhood compared to the rest of the town, it's on a town border, and it's an area that is being looked at as a sacrificed zone because it already has pollution.

Janice Braim, 35 Church Street, stated that she wanted to thank the Select Board and Town Administrator, Chris Brittain, for the wonderful job they are doing. Ms. Braim stated that she attended the RoR meeting and she was so livid. She stated that she did not understand how any human being would not want a better cleanup of the river.

Gail Ceresia, 161 West Park Street, stated that she was present to read a proposal for Article 19 of the Town Warrant from the Sandy Beach Committee. Sandy Beach Committee requested that the Select Board consider the following conditions to the purchase of the Laurel Lake Dam: 1) That the Town be able to traverse lot 41A in all directions surrounding the dam and its appurtenances for purposes of repair, maintenance, and public right of way, 2) That the Town call a public hearing prior to the Town Meeting so that the public can participate in the process, 3) That the 2-year time limit before proposing the dam purchase again be waived if applicable. She stated that she does not want to have to go through the property owner to be able to repair the dam if necessary.

Kathy Hall, Chair of the Lee Youth Commission, began by stating that the LYC would like to thank the Lee Middle and High School Carpentry teacher, intern, and students of the program for building a storage shed for the Lee Athletic Field. As a reminder, she stated that use of the pavilion for events, and the use of the tennis and/or pickleball courts for activities at the Lee Athletic Field needs to be reserved with the DPW at (413) 243-5520.

4. General Business:

a) Appointments:

Fire Services Study Committee – Bill DeFreest

Mr. Bailey made a motion to appoint Bill DeFreest to the Fire Services Study Committee which Mr. Jones seconded and was unanimously approved, 3-0.

Fire Department Part Time FF/EMT – Gary Hayes

Mr. Jones made a motion to appoint Gary Hayes to the Fire Department as a Part Time FF/EMT which Mr. Bailey seconded and was unanimously approved, 3-0.

Election Worker – Joe Scully

Mr. Bailey made a motion to appoint Joe Scully as an Election Worker which Mr. Jones seconded and was unanimously approved, 3-0.

b) ARPA Request - \$200 Jacob's Ladder Trail Scenic Byway

Mr. Jones made a motion to approve \$200 in ARPA funds to Jacob's Ladder Trail Scenic Byway which Mr. Bailey seconded and was unanimously approved, 3-0.

c) Utility Cut Permit – 200 Golden Hill Road

Mr. Bailey made a motion to approve the utility cut permit for 200 Golden Hill Road which Mr. Jones seconded and was unanimously approved, 3-0.

d) Memorial Day Parade – May 29, 2023 at 10:00am

Chairman Regnier announced that the Memorial Day parade will be held on Monday May 29th and it will begin at 10:00am. Mr. Bailey stated that they are looking for more participants to join

the parade. Mr. Jones stated that last year a few people commented to him that more American flags should be included in the parade.

e) Sign letter to surrounding Select Boards regarding Rest of River

Chairman Regnier read the letter to the Select Boards of Stockbridge, Sheffield, Great Barrington, and Lenox.

Anne Langlais, 25 Union Street, stated that it is perplexing and enraging to her and asked “how dare you BRPC?”. She stated that she feels like BRPC has put in an intentional wedge trying to create something that shouldn’t be there with our neighbors that we are working with on a regular basis.

Mr. Jones stated that he understands what Ms. Langlais is saying, however, the elephant in the room is that RoR is one person from each of the five towns, and only two of the five are current elected officials. He stated that the real problem is the structure of the agreement and it is set up to keep everyone in the dark. A lot of people in the surrounding towns are good people that have not been given the information needed to help Lee, and that it is not covered well in the press. He stated that the EPA and GE wanted to put a dump right next to the rising dam in Housatonic, and the people in Great Barrington went nuts; this is because the plan was made in the open where people knew about it. Mr. Jones stated that the only reason there is a plan for a dump in Lee is because nobody knew about it. Mr. Jones cautioned that if we have angst and anger with the situation, it is not the fault of the people in the surrounding towns. He stated that it is the structure of RoR and he fully believes the Select Boards of the surrounding towns do not fully understand what a PCB dump in the Berkshires does to them as well. That is what we are finally focusing in on. It has been on the table for a while, but it’s all about timing, and the time to reach out to these towns is now.

Mr. Bailey made a motion to have all Board members sign the letters to surrounding Select Boards which Mr. Jones seconded and was unanimously approved, 3-0.

While on the topic of RoR and with CTSB present, Mr. Jones stated that they all received a copy of a Berkshire Eagle article from 1972 that stated that the Town of Lenox was looking for a water source for the bird sanctuary and they hired an engineering firm. The firm identified a great water source that had existing wells in it that put out millions of gallons a day. Mr. Jones stated that that site is also the current proposed dump site. He stated that an aquifer is there but the EPA does not know about it. Mr. Jones asked if the Board could receive a copy of the original engineering plan from 1972 from Lenox. The Board agreed to ask Admin Brittain to get a copy of that plan.

f) Sign Annual Town Meeting Warrant

Chairman Regnier reminded the public that the Open Town Meeting will be held on Thursday May 11th at 7pm in the Lee Middle and High School auditorium.

Gail Ceresia, 161 West Park Street, stated that Admin Brittain has put some documents and PowerPoints on the website on how to conduct yourself at the Open Town Meeting that she found very helpful.

Mr. Jones made a motion for all Board members to sign the Town Meeting Warrant which Mr. Bailey seconded and was unanimously approved, 3-0.

g) Release of Lien: Lee Regional Housing Rehab Program – 30 School Street

Mr. Bailey made a motion to release the Lee Regional Housing Rehab Program lien for 30 School Street which Mr. Jones seconded and was unanimously approved, 3-0.

5. Any topic the Chairman would not reasonably anticipate.

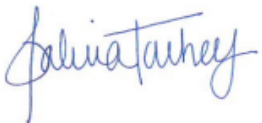
Chairman Regnier stated that just before tonight's Select Board meeting, the Open Space and Recreational Committee met for the first time and there is a seven-year-old plan the Committee is looking to update. He stated that that plan is a piece of the Master Plan, but it is its own document that has to be approved and kept by the state. Chairman Regnier stated that the Committee will meet for the next six or so months and the meetings are open for anyone to come to and participate.

Chairman Regnier also announced that he had some sad news to share as well. He stated that for the last few years that he has been on the Select Board, they have annually recognized Barbara Broderick as being our oldest town resident. Sadly, Chairman Regnier stated that Ms. Broderick had passed away at 109 years old.

The next regular meeting is scheduled for May 2, 2023.

Mr. Bailey made a motion to adjourn at 8:11pm which Mr. Jones seconded and was unanimously approved, 3-0.

Submitted by:



Sabrina Touhey
Admin Asst TA/BOS

Approved on: 05/02/2023