

TOWN OF LEE
SELECT BOARD MEETING
Tuesday November 15, 2022 @ 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 11/01/2022

Mr. Jones made a motion to approve the November 01, 2022 meeting minutes as submitted which Mr. Bailey seconded and was unanimously approved, 3-0.

2. Public Hearing: **Continued from 10/18/2022** – Special Permit Application – Canna Provisions

Mr. Bailey made a motion to continue the hearing to the December 06, 2022 Select Board meeting at 7:00pm which Chairman Regnier seconded and was approved, 2-0. Mr. Jones abstained from the vote.

3. Public Comment

Kathy Hall, Lee Youth Commission, began by stating that the Lee Youth Commission is planning to set up the ice-skating rink. She stated that the LYC is in need of volunteers to help with the liner which is 60'x100' and the rink should take about 60 minutes to set up. Ms. Hall stated that the LYC will be contacting the Fire Department to help with the filling of the rink, which has been a part of their community service. Ms. Hall concluded by stating that information for this project will be on the town website and the LYC web page once it's available.

4. General Business

a. Sweetgrass-Continued discussion of proposed administrative change to permit

Chairman Regnier began by stating they began this discussion at the previous meeting on November 1st. Chairman Regnier continued by stating he had a letter from the Planning Board stating that they met on November 14, 2022 and voted 4-1 in favor of approving the minor amendment to the site plan dated October 14, 2022 for the property located at 635 Laurel Street.

Pete D'Agostino began by stating no changes have been made to the plan that was presented at the November 1, 2022 meeting or from what was discussed with the Planning Board last night.

Chairman Regnier stated that he invokes the rule of necessity for the discussion and vote on the amendment to the Sweetgrass Special Permit due to the following facts:

1. Town Code 199-13.4 states that special permits require a unanimous vote of a 3-member Board.
2. Town Code 199-9.11 states that cannabis permits must be granted by the Select Board.
3. Member Jones has disclosed in writing according to MGL 268A § 23b(3) that he is an employee at a cannabis establishment in the Town of Lee.

Therefore, there are no other means to hear this permit amendment without invoking the rule of necessity.

Erik Williams, COO and owner at Canna Provisions, asked the Board if there would be a time for public comment on this business item. Chairman Regnier stated it is not typical since this is not a public hearing, but he would allow it. Mr. Williams stated that although this application comes before them as an administrative change, he does not believe that is all it is because it brings up two towns, neighbors, and many concerns. Mr. Williams continued stating he did not speak for or against this special permit application at the public hearing, but did provide information to the then Select Board including real data. Mr. Williams stated that the Police Chief was opposed to this application for those reasons and he believes the Board made a mistake when they granted this special permit and did not listen to the Police Chief and neighbors on the Lee side and in the Town of Lenox.

Mr. Williams continued stating that (Canna Provisions) have been great corporate citizens to this community, they are very involved and they have come before the Board so many times with any questions they are presented with. Mr. Williams added that they have also negotiated in good faith with the Town of Lee and the community impact fees that have come through. However, Mr. Williams continued, in recent months, the principals of the Sweetgrass facility have smeared his reputation to other business owners throughout the Berkshires multiple times. Mr. Williams stated that he is before the Board tonight to defend his reputation, state that he does not believe this is just an administrative change, and he thinks this is a unique opportunity for the Board to reconsider what he believes was a bad decision to begin with. He stated he'd like the Board to also take into consideration the type of persons who run Sweetgrass because they have smeared his reputation in the community and on his personal Facebook page. Mr. Williams stated he thinks this is unacceptable and there is no way he would let this pass without publicly stating he opposes this application for all of the reasons that were put forth in the first special hearing.

Kathy Hall, Lee Youth Commission, stated she attended the Planning Board meeting yesterday and she questioned how decisions are being made without anything in writing. Ms. Hall stated she is also concerned that Sweetgrass wants approval from Lee and wants to speak with the Town of Lenox after. She believes the conversation should include both towns as it did at the first public hearing.

Mr. Bailey began by stating he'd like to clarify that the Board does have a letter in writing from MassDOT stating what they wanted for ingress and egress onto Route 20. Mr. Gordon stated that at the time of the special permit application, he was an alternate on the Planning Board so he was present at the hearings in the beginning.

Dan Delaney began by stating there are many cases where they do not apply for the MassDOT permit until they have an approval from the local authority because of the cost. Mr. Bailey stated that his concern was that it appeared they only went before MassDot because the Town of Lenox had a problem with the plan, and if they didn't, nothing would've gone before MassDOT or changed. Mr. Bailey stated that he still sees common ownership on the plan, and would like clarification of who the two different entities of ownership are. Mr. D'Agostino stated that Sweetgrass owns Lee and Laurel Street Annex owns Lenox.

Mr. D'Agostino stated that he believes the Planning Board took this as a minor administrative change because the only thing the Board did not have before them since the beginning was the placement of the curb cut. Mr. Bailey stated if they are going to classify this as a minor administrative change, there are a couple of things he would like done such as be refiled with the registry of deeds without the common boundary line, have the lanes very distinctly marked for ingress/egress, add an enter/exit sign and maybe paint directional arrows in the lanes. Mr. D'Agostino stated that all of entrance/exit markings were also discussed at the Planning Board meeting the previous night and those are all things they can facilitate. As for the registry of deeds, Mr. D'Agostino stated that the previous decision from the Select Board did not include a reference to a site plan or filing with the registry of deeds but it is something they would accommodate. Mr. Bailey stated that it is a necessity.

Mr. Bailey made a motion to make a finding that this a de minimis change in the overall special permit by reconfiguring the entry but in addition, that the applicant has to file a plan and get back to the Board on December 6, 2022 with a plan that includes the removal of the common ownership symbol, the painted lines, entrance/exit signs, and a revision date on the new plan. Mr. Jones seconded the motion and it was unanimously approved, 3-0.

b. BCAC – weatherization ARPA presentation

Jessie Cooley, from Berkshire County Action Council (BCAC), began by stating BCAC works with all of Berkshire County and includes households in Lee, MA. Ms. Cooley stated that this project specifically works with their weatherization team and the people who are facing road blocks to receiving free weatherization and home heating system benefits. Ms. Cooley stated it is free for anyone who is already on fuel assistance or is low income eligible. She stated that when her team goes out to perform weatherization audits, about 1 in 3 audits determines that the resident does need weatherization services but they need some other readiness project completed first such as roof leaks, or switching over old wiring which can be very expensive. Ms. Cooley stated that there is a waitlist that has been accumulating for years and there isn't enough funding for these readiness projects. Ms. Cooley stated that the utility companies do offer some funding around \$2000-\$5000 per home per project, and BCAC is looking for supplemental funding. She stated that some towns have helped fund with some of their ARPA funding, and that funding stays in an account with BCAC specifically for residents only from that town. Ms. Cooley stated that there are currently 18 families on the waitlist for Lee, MA.

Ms. Cooley confirmed for Chairman Regnier that the amount of supplemental funding they're seeking to help at least seven or eight families on the current waitlist would be around \$35,000, but they would make use of whatever amount could be offered. Admin Brittain confirmed Lee has a little over \$117,000 left in the ARPA funding. Admin Brittain stated some towns are also adding an annual amount of around \$5000 to \$10,000 to be given each year on town warrants.

Mr. Jones made a motion to give \$35,000 of ARPA funding Lee to BCAC for weatherization projects which Mr. Bailey seconded with further discussion.

Admin Brittain confirmed for the Board that he has not received any other requests at this point for the ARPA funding and the current balance of \$117,000 is uncommitted.

The motion was unanimously approved, 3-0.

c. Colonial Power (Municipal Aggregation Presentation)

Mark Cappadona, Colonial Power Group, 5 Mount Royal Avenue, Ste 5, Marlborough, MA, began by stating they would be discussing municipal aggregation tonight which is a community-choice power supply and has to do with the supply portion of the Eversource bills. Mr. Cappadona stated that the process begins by accepting the statute at Town Meeting, creating a plan, hanging the plan within thirty business days, then the Board would vote on the plan. Then it goes through the State process and goes to the DOER for a consultation that takes about 4-6 weeks before it is then filed with the Department of Public Utilities.

Mr. Cappadona stated that there is no real change for the user, but there is an added choice and it is an opt out aggregation. Everyone in town that is on the basic service would get a mailing prior to the start of the programming. If they do nothing, they will automatically be enrolled. However, the customers can opt in or out of the program at any time.

Mr. Cappadona stated that participating in this does not require tax dollars, or any addition to staff, and only needs to give someone the authority to sign off on the supply contract between the town and the citizens. Mr. Cappadona stated that there are fifteen communities in the Berkshires that are participating in this. Admin Brittain stated that all of the towns in Berkshire County are with Colonial Power.

Mr. Bailey suggested offering education of the program for the public before Town Meeting.

d. Appointment – Appalachian Trail Community Committee – Trish Johnston

Mr. Jones made a motion to appoint Trish Johnston to the Appalachian Trail Committee which Mr. Bailey seconded and was unanimously approved, 3-0.

e. Berkshire Gas Permit – 127 Paul Drive

Mr. Bailey made a motion to approve the Berkshire Gas Permit for 127 Paul Drive which Mr. Jones seconded and was unanimously approved, 3-0.

5. Any topic the Chairman could not reasonably anticipate.

Chair Regnier stated that a Temporary Sign Permit application came through today from Berkshire Community Diaper Project to display a temporary sign/banner at 25 Park Place on the fence in the park, and they are requesting the fee be waived. Chair Regnier stated that the sign will read that they delivered 1.5 million diapers to Berkshire families since 2014.

Mr. Bailey made a motion to approve the temporary sign permit from November 18, 2022 to December 18, 2022 and waive the fee which Mr. Jones seconded and was unanimously approved, 3-0.

6. Town Administrator: RoR Update

Admin Brittain stated the eighth and final interim baseline monitoring surface water sampling event will occur at the end of November or December. GE will collect surface water samples from eight locations and the EPA will collect split samples from one location for quality control. The sampling results will be used to define the two-year pre-remediation baseline sampling program scheduled to begin in 2023.

Admin Brittain stated that the fourth 2022 quarterly dam inspection for Rising Pond and Woods Pond are scheduled November 21st. He added that monthly annual ground water engaging and quarterly ground water sampling is being initiated at the UDF this week. And GE contractors are conducting bank and sediment sampling in Reach 5A and that field work is expected to last until the end of November.

Mr. Bailey questioned why the EPA will only be sampling from one location of the eight locations. He stated he would like to write to the EPA and hold their feet to the fire and see more sampling than that. Mr. Bailey stated he'd like to make sure people are doing what they are supposed to do and he'd like to see more sampling done by *not* GE subcontractors.

Mr. Bailey made a motion that the Board have Admin Brittain send a letter to the EPA requesting more sampling to be done independent of GE's contractors and overseen by just the EPA which Mr. Jones seconded and was unanimously approved, 3-0.

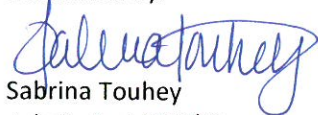
Mr. Jones stated he knows what they did in Pittsfield. Mr. Bailey stated he knows what they did in Pittsfield too, but he does not want to be like Pittsfield.

Admin Brittain added that the Board of Health (BOH) will be conducting their adjudicatory hearing on Saturday November 19th at 10:00am at the school. Admin Brittain stated there are more details on the website that can be reviewed by the residents. Mr. Jones stated he'd like to remind people that this is a BOH hearing, not a meeting, and they are looking for expert testimony. Mr. Jones stated he'd like to encourage people to attend, but he suggests they listen and let the BOH do their work.

The next regular meeting is scheduled for December 6, 2022.

Mr. Jones made a motion to adjourn at 8:25pm which Mr. Bailey seconded and was unanimously approved, 3-0.

Submitted by:



Sabrina Touhey
Admin Asst BOS/TA

Approved on 12/06/2022