

Select Board Regular Meeting
Longmeadow High School – Room A15
535 Bliss Road, Longmeadow, MA
Tuesday, September 4, 2018 – 7:00 p.m.

Present: Chair Mark Gold, Marie Angelides (left at 8:20 p.m.), William Low, Richard Foster, and Thomas Lachiusa

Also Present: Town Manager Stephen Crane, Paul Pasterczyk, Bianca Damiano, Atty. Rose Crowley, Mary Rogeness

Announcements:

1. The Tree Committee will provide a presentation on September 12th at 6:30 p.m. about “Longmeadow Trees: Past, Present and Future”.
2. David Marinelli, Chair of the Tree Committee, will come in front of the Select Board on October 1st to discuss various plans regarding town trees.

Resident comments: none

Select Board Comments:

1. Mr. Lachiusa commented on the staggering statistics from the opioid crisis. The Town has taken a vote to sign on to a class action lawsuit holding pharmaceutical companies accountable. Mr. Crane clarified that the meeting packet contains a lengthy filing that was reviewed by Town Counsel; the filing allows Longmeadow to join and support a class-action lawsuit against the pharmaceutical companies. Nearly 200 local communities are getting on board with the lawsuit. Municipalities are at the front lines of the crisis.

Town Manager’s Report:

1. DPW facility – The landfill engineering team (Tighe & Bond) is working on a plan to bring the asbestos-containing materials (ACM) to the former town landfill and cap it. We have the capacity to do this, we’re moving towards a state-of-the-art cap for the landfill. We are working on plans to clear a path and reopen the access road that is at the landfill. The costs will be reviewed and compared to loading/shipping the ACM to Ohio. A third option is to keep some material on site but there are strict regulations for that too. Ideally, we would like to take it all offsite. The town landfill was contemplated to be used as a solar farm but connection to the grid was an issue; the asbestos situation could be an opportunity to also address the grid connection at the landfill. We need to take action as soon as possible, change orders will be developed so they can be voted on by the Select Board on September 17th.
2. Adult Center – Collier’s has been selected as the Owner’s Project Manager for the Adult Center. Colliers is also the OPM for the DPW project. Colliers was the most highly rated OPM.
3. WESTCOMM - We are in the process of retaining a technology consultant and making sure all works well together and works with the maintenance budget, and is expandable for future communities to join. We expect to have a technology consultant under contract in the next few weeks. We have been working on integrating Hampden County Retirement Board. A screening process was done and we found a good candidate for the Executive Director position. Ms. Angelides questioned whether the town came to an agreement with Scantic Valley regarding WESTCOMM. Mr. Crane stated that legislation is needed to formalize it. Senator Lesser’s and Rep. Ashe’s offices are working to get the legislation written.
4. Isolation Project: A productive session was held with JGS and Bay Path University who are both looking to participate in this effort. There is a grant available and Bay Path will take the lead on this.
5. An audit was performed on the town telephone system and savings of \$5,000 per year were found. Thank you Paul Pasterczyk for pushing for that.

Mr. Foster questioned whether progress updates on the new Adult Center project could be posted at the current Adult Center. Informal conversations Mr. Foster has had with seniors reflect a desire to see progress updates. Mr. Crane noted that the OPM was just selected, the Architect’s (John Catlin & Assoc.) contract will be reviewed and a contract will be executed for design once the OPM signs off on plans.

Ms. Angelides questioned the status of the Governor’s actions on capping the landfill. Mr. Crane noted that the Governor signed a \$5.6 million bond bill for landfill capping; however, the money is rarely released from bond bills. The Town has initiated informal conversations with legislators to see if the release is a possibility; a formal request with specific details

9/4/18 Regular Meeting Minutes

10/01/18 Approved

and amounts can be made once we receive further information from the estimates at the upcoming meeting on September 17.

Mr. Low asked what Plan B is if the town landfill cannot be used for the ACM. Mr. Crane stated that the alternative would be to ship most of the ACM to Ohio and keep some on the site. Mr. Crane has received nothing but positive feedback from the DEP on this. The landfill capping cost is \$250,000/acre which can be paid for with the bond bill money if it is released.

Mr. Lachiusa questioned how the OPEB responsibility will be split for the WESTCOMM employees. Mr. Crane explained that the OPEB responsibility belongs to the District. Longmeadow and Chicopee will pay annual assessments. Our OPEB liability goes down if benefitted dispatchers become employees of WESTCOMM.

The OPM is the same for both the Adult Center project and the DPW project. Mr. Crane noted that the OPM has a structure starting with the Project Director, then Project Manager and representatives in the field. While the Director and Manager/Coordinator, Tim Alix are the same for both projects, the representatives in the field are different for each project.

Old Business:

1. Approval of Meeting Minutes – Mr. Pasterczyk requested the correction be made to the August 20, 2018 minutes under “two members appointed to Finance Committee”, the name should be Eileen Morin.

Mr. Foster made the motion to approve the regular meeting minutes from August 20, 2018 as corrected. Mr. Lachiusa seconded the motion. The vote was 3 in favor, 0 opposed, and 2 abstentions (Ms. Angelides and Mr. Low).

Mr. Foster made the motion to approve the minutes from the August 27, 2018 joint meeting with the School Committee as presented. Mr. Lachiusa seconded the motion. The vote was 5 in favor and 0 opposed.

New Business:

1. Storrs Library Agreement – Atty. Rose Crowley and Mary Rogeness, Chair of the Library Board of Trustees attended the meeting. An agreement was drawn up between Storrs Library and the Town to delineate responsibilities, the original agreement predates our current government structure (Charter). Atty. Crowley noted that the original agreement dates back to 1990 when the library property was transferred from the Storrs Trustees to the Town so the Town could obtain funding for an addition. The Trustees retained operational control through an operating agreement. The Trustees approached Town Counsel due to concerns over the Trustees’ responsibilities on paper that the Town was actually performing. Because the Trustees were exposed to liability, they asked to have the operating agreement updated to reflect the reality of situations and reduce liability exposure. This draft document is in its initial stages, Trustees have received a copy, there have been no comments yet. Atty. Crowley’s objective in re-writing this agreement was to retain the Trustees’ involvement and vital contributions to the library but remove unnecessary exposure to liability. The agreement is made up of two parts: (1) who does what and (2) right of first refusal with respect to another portion of land owned by Storrs Library. Atty. Crowley tried to officially reflect operator status and the liability that this carries. The Town Manager hires the Executive Director; the Trustees’ input is important and therefore written into the document. The fees associated with late/lost books will go to the Trustees who will later return it to the Library in consultation with the Executive Director. The division of personal property remains the same as the previous agreement but a detailed inventory will be drawn up to better delineate “who owns what” (current document unclear in this aspect). Widow Storrs’ 1905 handwritten will can be upheld and items will stay with Storrs Library. The remainder of the document remains the same. When you have control, you have liability. Atty. Crowley tried to retain the authority of the Trustees to weigh in, but not the obligation to weigh in so there is no legal duty of the Trustees to report problems. Last year \$16,000 was collected for lost/late books. An example of Trustees liability is; the library employees are interviewed and handled by the Town yet Trustees are liable for work-related injuries etc. under the old agreement. Mr. Gold noted that he forwarded the first draft of the agreement to Ms. Rogeness to get the Trustees’ input. This is not a negotiation but rather the beginning of a conversation on how to move forward with the changes.

Ms. Rogeness read a statement, which in part said; The Library Trustees have no knowledge of participation in this drafting of the new agreement and do not wish to enter into it. The library currently operates under the 1990 operating agreement between the Town and the Trustees in which the Town appoints Storrs as the sole and exclusive operator of the Library. This is a 99-year contract and the document remains the sole agreement between the two parties. The 1990 operating agreement can only be amended by the written consent of both parties. The Trustees call upon the Town to bring itself back into compliance with the provisions of the 1990

agreement. The adoption of the Town Charter has no effect on the contract which pre-exists its adoption. The new draft is inconsistent with both state statutes governing libraries and the intention of the parties when they entered into the operating agreement and also the clear language in the agreement that goes against the traditions of Storrs Library as a public/private partnership with the Town and is contrary to the operating model of most libraries in Massachusetts. In 1999 the Trustees deeded the library and parking lot property to the town to enable issuance of bonding for the library addition. The operating agreement protected management rights as well as giving the Town right of first refusal. Libraries in Massachusetts are governed by MGL Chapter 78 part of the Education Section. Boards of Trustees have custody of the libraries across the state. According to MGL Chapter 78 Section 11, "All money raised or appropriated by the town for its support and maintenance shall be expended by the board". The Trustees look forward to meeting with the Select Board to discuss and resolve issues of mutual concern. In this regard, the Trustees will be meeting with their counsel on September 13.

Mr. Gold remarked that for 7-8 years now he has been aware of the 1990 agreement and felt it wasn't reflective of our current Charter and operation systems of the town. One item of note is that the original agreement states that the Trustees shall prepare a budget to present to town meeting, this has not happened to this day. Mr. Gold stated that he understands Ms. Rogeness' position; Mr. Gold's intent is to get something that is compatible with the current Charter and the form of government. We need to reach a new agreement. Hopefully, the Trustees can take this as a first pass at a multi-month negotiating process. Ms. Rogeness had no interest in debating at the meeting and noted that the Trustees would be happy to negotiate and discuss regarding changes to the agreement at a later date. The 1990 operating agreement is a contract and was signed by the Head of the Library Trustees and 3 Selectmen back then. Ms. Rogeness added that the Trustees requested that the original agreement be looked at but not that it became a formal document. The Trustees are already covered very well for liability. Mr. Gold anticipates that this may be a long process but does not want to run up our legal costs. Mr. Crane added that Atty. Crowley was in a meeting with the Trustees some time ago and there was a conversation about liability reduction; they did initiate the process. The process took longer than expected. Mr. Crane had reported to the Library Board that the draft was being developed. The draft was not sent to the Board of Trustees only because the Select Board hadn't seen it first. Mr. Gold noted that we should move forward together, not looking for decisions or direction this evening as this will take time to be developed.

2. Plastic Bag Bylaw

Ms. Angelides reminded everyone that Spring Town Meeting voted on a plastic bag ban (citizen petition) but there was no bylaw created. This topic was recently discussed at the Energy & Sustainability Committee meeting. The committee involved an unpaid intern with putting together a plastic bag ban bylaw. The Energy & Sustainability Committee voted to approve this draft bylaw. The Board of Health was asked for input on the draft bylaw but has not responded yet. Ms. Angelides expressed interest in putting this bylaw on the Fall Town Meeting warrant. This bylaw would apply to grocery checkout bags and excludes smaller produce bags and deli bags. Nothing will happen this year per legislative individuals. Things are not moving fast. Mr. Gold felt that the Select Board may be outside of their element to put together a plastic bag ban bylaw when the state may be doing it anyway. He suggested getting input from retailers, and feels it is best to move forward the right way without rushing. We could get other public bodies involved even if it means that this could take many months. Mr. Crane stated that what was approved at the Spring Town Meeting was a non-binding resolution, the citizen petition was not drafted as a bylaw. This issue is emerging in nearby towns and the State will likely take a step on this in their next session. We do not have input from local businesses on the local impact. The state may pre-empt whatever the town does.

Ms. Angelides noted that Big Y did say that this is being done in other towns. Ms. Angelides has had this ready since July; this is a draft recommendation. This item will be put on the next Select Board agenda for a vote to see if the Select Board will support the bylaw. The Board of Health, Recycling Commission, and Town Counsel has not looked at this yet.

Ms. Angelides was excused at 8:20 p.m.

3. State Retirees Benefits Trust Fund

Mr. Gold stated that the Select Board had voted on this previously but the vote to move the OPEB funds was not performed per state standards. Mr. Pasterczyk sent several documents to the Select Board regarding this matter for review and a new vote. Approved documents will be sent to the State to formalize the request to move the OPEB funds. This will start another 90-day waiting period.

Mr. Pasterczyk started working in February with representatives of the State Retirees Benefits Trust Fund to begin the transfer of our funds to be professionally managed by the state. All these documents were prepared and sent to the state, which accepted the town's application on June 7, 2018 and we started a 90-day waiting period; during this time a state rep contacted the town requesting proof that these documents were officially filed/reviewed by the Select Board and Town Clerk; this technicality is a new requirement by State Legal Council that was not provided to Mr. Pasterczyk earlier. The 5 documents are:

1. Certificate of the Clerk
2. Certificate of the Trustee
3. Town Council's opinion
4. Investment Agreement
5. Trust Agreement

Mr. Low made the motion that the Longmeadow Select Board vote to acknowledge and accept the Other Post Employment Benefits (OPEB) Trust Agreement dated the 16th of May, 2018 and other related documents associated with the Town's application to have its OPEB funds invested with the State Retiree Benefits Trust Fund that were included in the Select Board's September 4th, 2018 meeting packet. Mr. Lachiusa seconded the motion. Mr. Lachiusa questioned whether money handling requires three signatures. Mr. Pasterczyk responded that the Treasurer/Collector, Cheryl Cudnik is the sole Trustee and the only signature required. Mr. Foster questioned where the embezzlement protection is if there is one signature required, he feels the town needs to have at least a second signature. Mr. Pasterczyk will inquiry about the signature process for transfers. Mr. Crane added that our annual audit reflects internal controls and they have come up favorably. The vote on the motion was 4 in favor and 0 opposed.

4. Approve House Number Change

Dr. Andrew Lam, owner of 734R Longmeadow Street is requesting a house number change to avoid his driveway being confused as the potential back entrance of the future professional building at 734 Longmeadow Street, which is currently being renovated. The proposed new house number is 730, there is no need for review from the Historic District Commission as this change does not involve structure and/or aesthetics changes. Dr. Lam will have to make the house number change official with the US Postal Service by supplying them with a copy of the certified Select Board meeting minutes.

Mr. Foster made the motion to approve the house number change from 734R Longmeadow Street to 730 Longmeadow Street. Mr. Low seconded the motion. The vote was 4 in favor and 0 opposed.

5. Quarterly Appointments

Energy & Sustainability:

Mr. Low made the motion to appoint Robert Kapner, David Marinelli, and David Miller to the Energy & Sustainability Committee for 3-year terms expiring 6/30/2021, and that Andrea Chasen be appointed to the Energy & Sustainability Committee for a 2-yr term expiring 06/30/2020. Mr. Foster seconded the motion. The vote was 4 in favor and 0 opposed.

Recycling Commission:

Mr. Low made the motion to appoint Virginia Reiter to the Recycling Commission for a 3-year term expiring 6/30/2021. Mr. Foster seconded the motion. The vote was 4 in favor and 0 opposed.

Tree Committee:

Mr. Low made a motion to appoint Patrick Carnahan and Steven Steiner to the Tree Commission for 3-year terms expiring 6/30/2021, Mr. Foster seconded the motion. The vote was 4 in favor and 0 opposed.

Zoning Board of Appeals:

Mr. Low made the motion to appoint Jerry Plumb to the Zoning Board of Appeals for a 3-year term expiring 6/30/2021. Mr. Foster seconded the motion. The vote was 4 in favor and 0 opposed.

Mr. Gold suggested that Michael Michon be appointed as a non-voting member of the ZBA.

Mr. Foster made the motion to appoint Michael Michon to the ZBA for a 3-year non-voting associate term expiring 6/30/2021. Mr. Lachiusa seconded the motion.

Mr. Crane questioned whether this position exists in the bylaws. The ZBA is a regulated authority. Mr. Crane will advise on this at the next meeting.

The vote was 4 in favor and 0 opposed.

6. Block Party Approvals:

1. *Mr. Foster made the motion to approve the block party request for Captain Road on Saturday, September 8 with a rain date of Sunday, September 9. Mr. Lachiusa seconded the motion. The vote was 4 in favor and 0 opposed.*

7. Close Fall Town Meeting Warrant

Mr. Pasterczyk and Mr. Crane reviewed the draft warrant with the Select Board.

- Article 1 – bill from prior year, Waste Management
- Article 2 - bill of prior year, a small infraction was found in a department payroll, it was recommended to do an audit backtracking 2 years, other minor infractions in 2016-2017 were also found.
- Article 3 – standard article, the town puts away 10% of the CPA funds and moves it into specific CPA accounts.
- Article 4 - amounts needed to cover debt service for DPW bonding.
- Article 5 - cleanup article, free cash transfer (anything over \$500,000 per policy) into the operational stabilization fund. Leaves \$93,000 taxable revenue on the table. Mr. Pasterczyk suggested putting the \$93,000 free cash into reserves.

Mr. Gold confirmed that the town needs to raise \$93,000 below our maximum amount. After much discussion, the Select Board decided to direct Mr. Pasterczyk to take the \$93,000 out of Article 5.

- Article 6 – to supplement the employee health and liability insurance accounts. The state came in \$165,000 higher, this is additional levee capacity.
- Article 7 – Five dash cameras for Police cruisers.
- Article 8 – Replace Channel Grinders at Emerson Pump Station
- Article 9 – Replace Skid Steer

Mr. Gold has concerns over Articles 7 - 9 as they appear to be capital items and he questioned why these were not in the original budget. Mr. Crane noted that these items will be presented at an upcoming Capital Planning Committee meeting. Mr. Foster believes it is a bad move to move to go around the capital project process, this will take money away from other capital projects. Mr. Crane noted that dash cameras are a public safety enhancement. The Police Department asks for money twice a year. The other articles (DPW skid steer and channel grinders) are due to sudden failure of existing equipment where timely replacement necessary. Mr. Foster believes these requests for equipment must go through the Capital Planning Committee first. Mr. Gold brought up the question, should we do Capital twice a year instead of once per year? Mr. Crane noted that before the town meeting warrant is signed the Capital Planning Committee will have had a chance to see these articles. With equipment failures we have to have the ability to ask for repairs/replacements in the fall if necessary. Mr. Foster noted that his concern is only for the dash cameras.

Mr. Foster made the motion to close the Fall Town Meeting Warrant. Mr. Low seconded the motion. The vote was 4 in favor and 0 opposed.

Note: These articles have not been formally approved as Article 5 needs to be adjusted to remove \$93,000 and Articles 7, 8, and 9 need to be further reviewed.

Sub-committee reports: None

Mr. Foster made the motion to adjourn the regular meeting at 9:15 p.m. and to enter into executive session with the possibility of reconvening to open session, for the purposes of discussing strategy with respect to collective bargaining or litigation and the Chair declares an open meeting may have a detrimental effect on the bargaining or litigating position of the public body, and approval of past meeting minutes. Mr. Low seconded the motion. Roll call vote: Mr. Lachiusa-yes, Mr. Foster-yes, Mr. Low-yes, Mr. Gold-yes.

Regular Meeting is in suspension.

The regular meeting reconvened at 10:27 p.m. to approve the Tentative Agreement for Local 1903 IAFF.

Mr. Foster made the motion to approve the tentative agreement for Local 1903 IAFF dated August 17, 2018 as presented. Mr. Lachiusa seconded the motion. The vote was 4 in favor and 0 opposed.

9/4/18 Regular Meeting Minutes

10/01/18 Approved

Mr. Foster made the motion to adjourn the regular meeting at 10:40 p.m. Mr. Low seconded the motion. The vote was 4 in favor and 0 opposed.

Documents: Agenda September 4, 2018
Town Manager's Report memo
Draft Minutes Regular Meeting August 20, 2018
Draft Minutes Joint Meeting August 27, 2018
Draft Amended Operating Agreement-Storrs Library
Original Operating Agreement-Storrs Library 1990
State Retiree Benefits Trust Fund Documents
 Certificate of the Clerk
 Certificate of the Trustees of the OPEB Fund
 Town Counsel Letter
 Investment Agreement
 OPEB Trust Agreement
Map of 734 and 734R Longmeadow Street
Board/Committee Appointments memo
Block Party Application – Captain Road
Draft Bylaw - Single Use Ban of Plastic Bags
Draft Special Town Meeting Warrant
Approved Meeting Minutes:
 Historic District Commission 5/1/18
 Historic District Commission 7/17/18
 Planning Board 7/11/18
 Planning Board Public Hearing 7/11/18
 Tree Committee 8/23/18