

SELECT BOARD MEETING MINUTES

December 19, 2016

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Board members present: Chairman Bugbee, Selectman LaCourse and Selectman Brown

Others present: Joe Bassett, Tom Loureiro, Caren Rossi, Pat Barbour, Red MacDonald, Judy MacDonald, John and Anne Tappan, Bill Callen, Rachel Deane, Linda Reinhold, Chief Tom Dronsfield, Chief Scott Nemet, Town Administrator Julie Glover and Town Secretary Denise Duval.

1. Chairman Bugbee calls the meeting to order at 6:30 pm.
2. Chairman Bugbee opens the meeting up to public comment. There is none.
3. Chairman Bugbee opens the public hearing for the 2017 Racetrack license for the Lee USA Speedway. Joe Bassett, the new General Manager, points out that the schedule has the same 23 dates with a couple special racing dates added to the regular racing year instead of at the end of the year. Selectman LaCourse catches an error under Test & Tune. The 2nd race should say Sunday, April 29th. Chairman Bugbee moves to approve the Racetrack license as presented with the amended correction under Test & Tune which reads Sunday, April 9th which should say Sunday, April 29th. Selectman Brown seconds. All in favor. **Motion Carries.**

Chairman Bugbee closes the public hearing.

4. Bill Callen reminds everybody of the request with regard to extending the track utilization that was tabled at the last Select Board meeting to include making the facility available to race teams on Tuesdays and Thursdays from 9:00am – noon for education and inspection and noon – 5:00pm for on track education and safety testing.

Since the last meeting, Lee Fire has recommended that is necessary for the track to provide 2 Lee firefighters and an engine plus a staffed ambulance during the 1-5 times when there would be cars operational on the track as they are scheduled. There would only be one car on the track at a time. Selectman LaCourse confirms that this is only happening during the regular race season. Chief Dronsfield stated that a police presence would not be necessary. TA Glover confirms that this is covered under section 17 of the Racetrack Ordinance. Chief Nemet confirms that this schedule will not be an issue for this team to provide coverage. The Board is ok with this proposal.

5. Tom Loureiro, Racetrack Committee Chair, presents the proposed changes to the Racetrack Ordinance to appear as a Warrant Article. In 2014 the Select Board formed an Ad Hoc Racetrack Committee consisting of 7 people to tighten up the ordinance and the ability to perform sound monitoring. They retained Reuter Associates to assist in testing and accomplishing their goals. The most important thing that Reuter did was confirm that the 97 decibel measure is actually a reasonable number and is manageable. They decided that the location for testing should be just south of the track. They installed a monitoring pole at this location. With guidance from Reuter, they determined that the existing equipment that the town had for monitoring was perfectly adequate for what they wanted to do. Reuter assisted in settings and calibrations. The objective is to monitor each event. The objective was to create a process whereby issues could be captured early on and addressed before they actually became a penalty violation. During the heats, the track can identify issues. The first 3 violations are warnings. The violations are not cumulative from year to year. Selectman Brown adds that 97

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is the standard used throughout NASCAR racing establishments. They also dealt with a noise issue they had with the speakers. They made some adjustments and it was taken care of. The track was very cooperative. The process went very smoothly and was a good experience.

Various PowerPoint slides are presented showing sound/noise variations.

The Chief of Police will take care of the testing and monitoring.

TA Glover points out that the new ordinance is written in a way that would limit the events at the racetrack to 23. Tom Loureiro states that that was not their intention. TA Glover will correct the language.

6. Bill Oldenburg, Asst. Director of Project Development for DOT, states that back about 4-5 years ago when they started the Lee Circle conversion he was the project manager. Mike Dugis, Chief Preliminary Design, is also present. The Chief of Police states that last year at this time we had 37 crashes at the traffic circle. To date we have had 133 crashes. Chairman Bugbee states that there have been no fatalities but it still takes about 45 minutes for the police to handle the call. He states that the area is very confusing. Mr. Oldenburg states that there were a couple of things that the project did do. Adding the 2nd lane increased the capacity. The queues are gone. The mile back up to Route 155 has disappeared. Because the circle is smaller there is less conflict with people getting in and out of the driveways to McDonald's and the gas stations. They have modified the overhead signing and striping for tracking the lane. A few months ago they had a drone fly overhead during peak hours. By using the video, they see that 95% of them get it and 5% don't get it. Trucks will use both of the lanes. A lot of the trucking companies want their drivers to stay in the outside lane. Keene NH was their first two lane roundabout. They went through growing pains like this. No one should enter next to someone else. There is no way of knowing their intention. The problem with the right lane being just a right exit is that would take all the capacity for the through so the backups would be to Rte.155 again. Some of the crashes that happened before weren't just at the circle but queue related. Mr. Oldenburg says they are still looking at it and will entertain any ideas. They do not generally get the accident data. Chairman Bugbee asks if the Chief could send him the crash numbers on a regular basis, maybe quarterly. He would think that the State would be concerned over these numbers. Selectman LaCourse asks if the circle can be widened any more. Mr. Oldenburg says no. He says it is designed correctly. It is the way people are driving. They aren't even sure if the people know that they are driving it wrong. Chairman Bugbee asks the Chief to send the logistical information to Mr. Oldenburg regarding the accidents at the circle.
7. Alice MacKinnon, ABC Chairwoman, presents the FY18 budget recommendations from the ABC. They are proposing a slight increase in the operating budget for the town. It is less than 1%. They are not recommending an increase in police department personnel for this coming year; however, they do support the fire department's budget as presented. They would like to advise the Select Board that they would support a salary of up to \$70,000 for the Fire Chief himself and for the requested changes in personnel for which he has asked. They support the Energy Committee request for a total of \$9900 for operations and energy conservation measures. From their presentation it is the ABC's understand that about 50% of that would come back through grants. They support the small request from the Sustainability Committee for a small appropriation from the Town to assist in their work. They appreciate the work of the

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Agricultural Commission and the Heritage Commission and all of the Committees within the Town itself. They support and recommend the wonderful work of the CIP Committee and their presentation to us was excellent. Because of the budget considerations they do not support increasing the building inspector's position from half-time to full-time this year. Nor do they support the creation of a part-time rec director at this time. Overall, the proposed operating budget is \$3,759,273.00 plus the \$9200 for the Energy Commission which was left out of that. The question is about the trust funds and the capital expenditures. Ms. MacKinnon states that they are up by more than \$200,000 and in the past the Select Board have wisely used money from the surplus to fund these and the ABC recommends that they do that again if they can. At some point the surplus is going to run out and the Town is going to have to bite the bullet in terms of a rate increase for those items.

8. Caren Rossi, Planning and Zoning Administrator, is asking for guidance from the Board with regards to receiving calls over the weekend about planning, zoning and code enforcement issues. She would like the Board to instruct her how to address them, i.e. answer them or not answer them. There are times when these issues involve Bill Booth as well. These are not about emergency issues for the assistant emergency director. Selectman LaCourse says that Ms. Rossi works Monday through Friday and she should not be active Saturday and Sunday. Ms. Rossi adds that as the health officer she would address those issues should there be one. TA Glover suggests getting the message across to people to call the police if they are having a problem. Selectman LaCourse suggests advertising more that she is only available M-F. The Board suggests leaving that on her voice mail message. If it is an emergency indicate to call the police.
9. a) Chairman Bugbee, 250th Representative, has 2 proposals to present to the Select Board on behalf of the 250th Committee with regards to some left over money that they have from the 250th celebration. The first is putting a flag pole at Little River Park near the pavilion. He has one price for \$1400.55. It is a 25' pole which includes a large flag.
b) The second thing is they would like to put up 18 American flags in place of the 250th banners (on utility poles.) American flags are supposed to be illuminated if placed outside. Chairman Bugbee asked the TA to contact Barrington how they have flags out without illuminating all of them. Barrington said they were exempt because the Supreme Court said you can do just about anything you want with a flag and it's not a violation. TA added that Barrington said they don't worry about it and no one has raised it as an issue. TA said there may be a difference between what a private citizen does with a flag and what government does with a flag. The Town may actually have to following different rules.

John Tappan asks to address the Board briefly and reads the following:

Probably all of us have experienced coming into a small NH town in a spring summer morning and seeing American flags against a deep blue sky and the pride and patriotism of that time seems to glow in the morning sun. But then coming back from your destination at night you pass through that same town and the flags are still there in the dark forgotten. I remember a forgotten flag from when I was a child, returning from some outing riding in the backseat of my parents car. As we turned onto our street and looked down the line of houses, houses very close together, we could see the flag in front of our house, the only forgotten flag in the dark. Whether our timing was by plan or accidental delay, we come home after dark and had not made arrangements for our flag. In our neighborhood there was an American flag on the front

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of most houses on special days. And if a family could not be home at sunset, they made arrangements for a neighbor to take down the flag. The people in our neighborhood had respect for the flag and they knew the code of laws of the United States of America Title 4 Chapter 1 Section 6 Subsection (a): "It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaffs in the open. However, when a patriotic effect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness." Please don't turn the Town of Lee into a town of forgotten flags. I would rather see the money be spent on the best furnishings including dark sky friendly illumination for the flag. Dark sky friendly illumination is expensive, but what is important is not the number of flags but rather the care and respect that we show to the flag.

John Tappan explains that dark sky friendly is not illuminating from the bottom of the pole. It is illumination either from a point higher than the flag or from on top of the pole looking down on the flag. Mr. Tappan would rather see us show real respect to the flag rather than spend money on many flags. Even if that means better furnishings or lighting at flags that we have already at other facilities. Selectman LaCourse is enthusiastic about the flag pole down at LRP but he is not enthusiastic about putting out 18 flags in the Town of Lee. The Planning Board pushes dark sky friendly and so should they. He thinks that there should be a procedure on how they deal with their flags. Chairman Bugbee suggests letting the committee know that they are not interested in the 18 but see if they are interested in not only doing the one at the pavilion but refurbish the one at the ballfield with the proper illumination and include proper illumination for the town hall flag. Selectman Brown would like to have a MIA POW flag included with the ones at the park. Chairman Bugbee adds that the VFW was going to maintain the 18 flags, but maybe they will do these other instead.

Chairman Bugbee will find out the costs and come back to the Board to get approval.

10. a) TA Glover presents to the Board the proposal and first invoice from AG Architects; she believes it was the intent of the Board to pay for this out of the Building Capital Reserve Fund. Chairman Bugbee indicates yes. He is also ok with the proposal which is \$48,800. The first invoice is \$18,234. Selectman Brown and Selectman LaCourse are ok. Chairman Bugbee asks if there is a motion to accept the contract. Selectman Brown would like to read the contract first. Selectman LaCourse indicates he would also. The check will be in the next manifest.

b) TA Glover presents a draft cell phone policy for the Board to review. The Board has asked to look into who gets reimbursed and who doesn't because it is not consistent. TA Glover reads an excerpt from the Fair Labor Standards Act: Place of Work. "Hours worked include all the time in which an employee is required or allowed to perform work for an employer regardless of where the work is done whether on the employer's premises, at a designed work place, at home or at some other location. It is the duty of management to exercise control and see that work is not performed if the employer does not want it to be performed. An employer cannot sit back and except the benefits of an employee's work without considering the time spent to be hours worked. Merely making a rule against such work is not enough. The employer has the power to enforce the rule and must make every effort to do so. Employees generally may not volunteer to perform work without the employer having to count the time as hours worked."

TA Glover recognizes that this and the policy is an abundance of caution. After polling other towns it appears that a lot of them seem to look the other way which is not entirely legal. If we

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ever did get a 91-A request for texting it would be pretty difficult to get them from the providers. Selectman Brown asks what the recommendation is. TA Glover says the policy before them. She adds that the Board may want to add money to the budget for people who have cell phones that do not currently get reimbursed. Chairman Bugbee's concern is that they are treating everybody the same. He thinks that if the department head determines that a person needs one then the town should either provide it for them or reimburse the employee to use their own. If there are employees that have cell phones and the town is not reimbursing them then the reimbursement option should be given to them to be fair. Selectman LaCourse agrees with this and that it is the department head's responsibility to justify the need for a phone. The TA will bring the policy back in final form to the next meeting.

c) TA Glover states that in 1984, Durham and Lee signed an agreement relative to the Durham well that is located in Lee which said that Lee had some rights to hook ups and fire hydrants and once the safe yield was determined Lee was entitled to 10% of the safe yield and the number that was in the agreement was 700,000 gallons. This means Lee gets 70,000 gallons distributed (per day.) If Lee wanted to expand they would have to pay. Since 1984 there are 9 single family residences that are connected to the Durham water system and Durham bills them. For many years there has been an MTBE problem at the traffic circle that has affected a number of businesses. The State has spent a fairly significant amount of money mitigating and monitoring that. Once the State received the MTBE settlement money of several millions of dollars, they decided that it would be great if they could extend the water line from the Lee well to the traffic circle to the 6-8 businesses that the State has to take care of. The estimated cost of the project is \$1.4 million. Ms. Rossi, Chief Nemet, Deputy Lombardo and TA Glover have attended 3-4 meetings with the State and Durham about this. Lee has been entitled to some of this water since 1984. This would solve the State's problems. One of the issues at the commercial district is the lack of city water. It has kept some developers away. State and Lee thinks it would be great but not Town of Durham. Durham is saying that the amount of water that will be needed will exceed the 70,000. TA Glover states that they will continue to go to these meetings and push to have this happen. UNH is in the process of designing and building a new water treatment plant. UNH water system people want to use some of the State's settlement money from a different case for this new plant. Selectman Brown asks if Lee is using the 70,000 gallons. Ms. Rossi says absolutely not. Ms. Rossi indicates that the 1984 agreement states that the Selectmen are supposed to meet every year to discuss this. In 1987 there was a subsequent agreement relative to abutters. There was a zone established. The Board wants Ms. Rossi and the TA to continue to attend these meetings and report back periodically.

d) TA Glover asks permission to close the Town Hall on Thursday for 1 ½ hours so that the Treasurer may take the employees out for their annual lunch. Permission is granted.

e) TA Glover reminds the Board that the holiday potluck lunch is on Wednesday at noon.

11. Chairman Bugbee moves to accept the Consent Agenda as presented. Selectman LaCourse, seconds. All in favor. **Motion Carries.**
12. Chairman Bugbee moves to accept the Public and Non Public Meeting Minutes from December 5, 2016. Selectman Brown, seconds. All in favor. **Motion Carries.**

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13. Chairman Bugbee moves to accept Manifest #12 and Weeks Payroll Ending December 18, 2016. Selectman Brown, seconds. All in favor. **Motion Carries.**
14. Chairman Bugbee **moves** to enter into Non-Public Session per NH RSA 91-A: 3 II (a) personnel at 8:17 pm. Selectman LaCourse, seconds. Roll Call Vote. **All Agree following Roll Call Vote. Motion Carries.** The Board returns to public session at 9:12 pm.
15. Chairman Bugbee **moves** to seal the non-public minutes. Selectman LaCourse, seconds. Roll Call Vote. **All Agree following Roll Call Vote. Motion Carries.**
16. Selectman LaCourse confirms that when the police go on special duty we get that fee on top. TA Glover confirms. He asks if the Fire is the same way. TA Glover says no. The Fire Department charges for the fire truck but she does not know the rate. The money for this goes into the same fund. There is about \$42,000 in this fund. Chairman Bugbee suggests using these funds to purchase the sign trailer. The Board asks the TA to look into the Fire Department charging the same administrative fee as the Police Department does.

Chairman Bugbee reports that the volunteer dinner was nice. He is hoping to continue it next year. Selectman Brown asks if they can do something for the firemen that could not be there because they were at the fire in Epping. TA Glover suggests consulting with the Fire Chief first. Selectman Brown will do that.

Chairman Bugbee asks if we can pay the Trustees of the Trust Funds their land use change percentage now and not wait for the process. TA Glover says yes. He asks for it in the next manifest. He indicates that it will be for two years. Chairman Bugbee states that the Trustees are working on a process so that when it comes in, it is divided at that time because the RSA says as soon as it is collected it's supposed to be split. We have typically waited to the end of the fiscal year and the audit is done.

TA Glover indicates that the audit is done and they should be getting the results soon.

Chairman Bugbee announces the arrival of the Heritage calendars. They will be at the Town Hall and Library by tomorrow for \$10.

Selectman LaCourse states that the Planning Board is updating the regulations and building codes. There will be many changes on the Warrant.

17. Chairman Bugbee will entertain a **motion** to adjourn at **9:20pm**. Selectman LaCourse so moves. Selectman Brown, seconds. All in favor. **Motion Carries.**

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Minutes transcribed by:



Denise Duval, Town Secretary

1/3/17
Date

Minutes accepted by The Lee Select Board:



Scott Bugbee, Chairman



John LaCourse



Cary Brown