

REGULAR MEETING OF THE LITCHFIELD BOARD OF SELECTMEN
TUESDAY, APRIL 2, 2013
TOWN OFFICE BUILDING - 5:30 P.M.

Call to Order: First Selectman Leo Paul, Jr. called the meeting to order at 5:30 p.m. Selectmen present were Jeffrey Zullo, Paul Parsons, Diane Knox and Jonathan Tarrant.

Approval of Minutes: Motion: J. Tarrant moved to approve the regular meeting minutes of March 19, 2013, and D. Knox seconded. All voted aye except J. Zullo who abstained because of absence, and the motion carried.

Public Requests/Comments: Ron Glander, Baldwin Hill Road, complained about various Public Works projects and their lack of completion. Specifically, he mentioned backfilling of sidewalks at Center School, fence posts at Community Field and the parking lot and track project at Community Field. He said the new tennis courts at the High School were paved in the rain and painted in 40-degree weather, and he passed around pictures of the damage that has resulted. He said our tax dollars are not being watched. Also, he questioned the lack of attention to drainage in the wetlands permit, and noted flaking paint chips are flowing directly into the wetlands. He asked for a future agenda item that addresses oversight on these projects and the Public Works department.

Selectmen's Requests: Motion: J. Zullo moved to add Item j) under New Business to discuss a Litchfield Area Business Association letter dated 4/1/13 regarding the municipal restrooms. J. Tarrant seconded, all voted aye and the motion carried. In light of the added agenda item, Mr. Glander wished to speak to it under Public Requests and the following motion was made. Motion: Mr. Zullo moved to allow public comment on the restroom item, and D. Knox seconded. All voted aye and the motion carried.

Mr. Glander said that to suggest that LABA pay \$800 for the upkeep of the municipal restrooms for the three winter months was absurd and anti-business.

Motion: J. Zullo moved to add under New Business k) Tennis Court and Other Projects. D. Knox seconded, all voted aye and the motion carried.

Resignations: a) Rachel D. Carley from Conservation Commission, effective 3/27/13: received and noted.

Interviews, Appointments & Reappointments

- a) Reappoint Brenda Barnes to Pension Commission, term expiration 3/2016
- b) Reappoint Douglas Hatstat to Fire & EMS Commission, E. Litchfield Rep., term 4/2014
- c) Reappoint Teresa Berry to Fire & EMS Commission, Northfield Rep., term 4/2014
- d) Reappoint John Campbell to Fire & EMS Commission, Bantam Rep., term 4/2014

Motion: P. Parsons moved to reappoint each of the individuals in items a) through d) above to their respective commissions as listed. J. Tarrant seconded, all voted aye and the motion carried.

Liaison Reports/Commission-Committee Minutes: 3/13/13 Inland Wetlands minutes; 3/18/13 Board of Finance minutes; 3/27/13 Economic Development Commission minutes (draft); 2/26/13 Conservation Commission minutes (draft)

Vacancies: The list of current appointed vacancies with term expirations is as follows:

Beautification Commission: 4 regular members 2/2015, 2/2014, 2/16, 2/16; 2 alternates 2/2016

Capital Improvements Committee: 1 member 11/2013
Conservation Commission: 1 regular member 12/2014, 2 for 12/2013; 2 alternate members 12/2015
Economic Development Commission: One regular member 6/2013; 1 alternate 6/2013
Inland Wetlands Commission: 2 alternate members 6/2013
Milton Historic District Commission: 3 alternate members 1/2015, 1/2015, 1/2014
Park & Recreation: 2 alternate members: 6/2013, 6/2014
Recycling Committee: 4 members, 2/2015, two 2/2013, 2/2014
Social Services Board: 1 member, 2/2015
Town Hall Building Committee: 1 member, 3/2015
Veteran's Advisory Committee: 2 regular member 8/2013, 8/2015; 2 alternate members 8/2015
Water Pollution Control Authority: 1 regular member 1/2018; 1 alternate member 1/2015

Tax Refunds: Motion: D. Knox moved to approve the five tax refunds totaling \$603.79, and J. Tarrant seconded. All voted aye and the motion carried.

Old Business

a) **Proposed P&Z Regulation Amendment:** L. Paul noted the presence of David Dean from the Economic Development Commission, Dr. Dennis Tobin, Land Use Administrator, and Michael Rybak, Town Counsel.

David Dean explained the 3/29/13 letter from the EDC to the Board of Selectmen that says the EDC believes the proposed revision to the P&Z regulations would be harmful to the community as a whole. His points were 1) that the proposal is contrary to the goal of Plan of Conservation and Development dated 6/4/07; 2) the change-over to special exceptions in the approval process would make Litchfield less competitive and have a negative impact on "job bearing" industries or businesses, putting more tax burden on the residential component; and 3) arbitrarily adding a maximum building size of 10,000 sq. ft. or 12,000 sq. ft. gross area would discourage future industrial or commercial projects from coming in that would have increased jobs and the tax base. He felt the current process makes good use of hired experts in the Zoning, Building and other offices and is a superior method to that which is now proposed. Upon question by Paul Parsons, Mr. Dean reassured him that he has communicated all this with P&Z and will be at the upcoming hearing.

Dennis Tobin presented a map and said the special exception size regulation originated on May 17, 2012 at the Character Committee meeting and came about after a six-month discussion. He said he is not a member of the Character Committee or a Committee sympathizer and has not been a supporter of any action concerning this matter with the P&Z. He said the P&Z's impetus for its actions is out of civic duty. He said there was a regulation change in January of 2010 that allowed the Land Use office to expedite modifications on commercial buildings. This moved them more toward a direction of expediting permits, so this proposal is a reversal. It would also take power away from the Land Use Administrator by removing permit options.

Town Counsel Mike Rybak confirmed to J. Zullo that P&Z has the authority to make a change to its regulations without any input from other boards or Town Meeting. The whole process is voted on in the Plan of Conservation and Development. It is not supposed to be in response to a controversial application or a neighborhood group that offers an amendment. Special exceptions are for uses that are so unique that they need some sort of individual permit making to govern it. He finds nothing endemic in the 10,000 sq. ft. footprint that calls for special exception treatment. The conditions for granting or denying a special permit are so general, vague and subjective that you could either grant it or deny it depending on what evidence you chose to apply. Therefore it is a very powerful tool to hand a commission.

Mr. Paul suggested a letter with bullets be submitted from the Board of Selectmen prior to the public hearing making its position known. It was noted that the recent POCAD group ignored the EDC's and the Selectmen's recommendation to change the zoning on top of Toll Gate Hill, or allow the businesses there to no longer be non-conforming so they could expand beyond their 25% limit under non-conforming. J. Zullo added that in the early '90's when he was on the EDC, the POCAD group ignored their recommendation for the same thing.

Motion: J. Zullo moved that the Board of Selectmen not support the P&Z amendments to its zoning regulations as presented. J. Tarrant seconded the motion.

Amendment: D. Knox moved to amend the motion to add that "the decision is based upon input from Town Counsel, EDC Chairman David Dean, the Land Use Administrator, information presented at the 3/19/13 Selectmen's meeting, and a review of the application process." J. Tarrant seconded the amendment.

Discussion: P. Parsons said it was good that all the input gets to the P&Z so that it will be available at the public hearing.

Vote: Voting on the amendment, all voted aye and the motion carried.

Vote: Voting on the original motion as amended, all voted aye and the motion carried.

Mr. Paul will prepare a letter for the Board's review at the next meeting.

b) Town Hall Building Committee Update – J. Zullo: Mr. Zullo announced the next meeting will be Wednesday, April 3rd. He passed out a draft schedule of the Committee's meetings and hearings. John Martin is working on finalizing the upgrade costs to the buildings.

New Business

a) Award Center School Door Replacement Bid: Motion: J. Zullo moved to award the contract to A. D. Deacon & Sons in the amount of \$20,500 and J. Tarrant seconded. All voted aye and the motion carried.

b) Consider Waiving Building Fees for Center School Door Replacement Project: Motion: J. Zullo moved to waive the building fees for the Center School Door Replacement project. J. Tarrant seconded, all voted aye and the motion carried.

c) Consider Waiving Building Fees for Wamogo Security Cameras: Mr. Paul explained this is another request from Fran Odell, Facilities Maintenance Director at Region 6 Schools. The fees would total \$65.00. **Motion:** J. Tarrant moved to waive the building fees for this project at Wamogo. D. Knox seconded. J. Zullo commented he hopes Wamogo remembers this and looks kindly to Litchfield in the future. Upon voting, all voted aye and the motion carried.

d) Readopt Fair Housing Resolution: Motion: P. Parsons moved to waive the reading of the Fair Housing Resolution as presented. D. Knox seconded. All voted aye and the motion carried. **Motion:** P. Parsons moved to readopt the Fair Housing Resolution as presented. J. Tarrant seconded. All voted aye except J. Zullo, who abstained as he is a member of the Litchfield Housing Trust, and the motion carried. The resolution reads as follows:

TOWN OF LITCHFIELD FAIR HOUSING RESOLUTION

Whereas, All persons are afforded a right to full and equal housing opportunities in the neighborhood of their choice; and

Whereas, Federal fair housing laws require that all individuals, regardless of race, color, religion, sex, handicap, familial status or national origin, be given equal access to all housing-related opportunities, including rental and homeownership opportunities, and be allowed to make free choices regarding housing location; and

Whereas, Connecticut fair housing laws require that all individuals, regardless of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, learning disability, physical or mental disability, sexual orientation, or gender identity or expression be given equal access to all housing-related opportunities, including rental and home ownership opportunities, and be allowed to make free choices regarding housing location; and

Whereas, The Town of Litchfield is committed to upholding these laws, and realizes that these laws must be supplemented by an Affirmative Statement publicly endorsing the right of all people to full and equal housing opportunities in the neighborhood of their choice.

NOW THEREFORE, BE IT RESOLVED, That the Town of Litchfield hereby endorses a Fair Housing Policy to ensure equal opportunity for all persons to rent, purchase, obtain financing and enjoy all other housing-related services of their choice on a non-discriminatory basis as provided by state and federal law; and

BE IT FURTHER RESOLVED, That the chief executive officer of the Town of Litchfield or his/her designated representative is responsible for responding to and assisting any person who alleges to be the victim of an illegal discriminatory housing practice in the Town of Litchfield and for advising such person of the right to file a complaint with the State of Connecticut Commission on Human Rights and Opportunities (CHRO) or the U.S. Department of Housing and Urban Development (HUD) or to seek assistance from the CT Fair Housing Center, legal services, or other fair housing organizations to protect his or her right to equal housing opportunities.

e) Readopt Fair Housing Policy Statement: Motion: P. Parsons moved to waive the reading of the Fair Housing Policy Statement and D. Knox seconded. All voted aye and the motion carried. **Motion:** P. Parsons moved to readopt the Fair Housing Policy Statement and J. Tarrant seconded. All voted aye except J. Zullo, who abstained, and the motion carried.

f) Readopt Title VI Equal Opportunity Statement: Motion: P. Parsons moved to waive the reading of the Title VI Equal Opportunity Statement, and J. Tarrant seconded. All voted aye and the motion carried. **Motion:** P. Parsons moved to readopt the Town of Litchfield's compliance with Title VI of the Civil Rights Act of 1964 and J. Tarrant seconded. All voted aye and the motion carried.

g) Readopt Affirmative Action Policy Statement: Motion: P. Parsons moved to waive the reading of the Affirmative Action Policy Statement, and J. Tarrant seconded. All voted aye and the motion carried. **Motion:** P. Parsons moved to readopt the Affirmative Action Policy Statement for the Town of Litchfield and J. Tarrant seconded. All voted aye and the motion carried.

h) Request for Road Closures for Litchfield Hills Road Race 6/9/13: Motion: J. Tarrant moved to approve the road closures for the June 9, 2013 Litchfield Hills Road Race. D. Knox seconded, all voted aye and the motion carried.

i) Adopt Resolution Entitled: RESOLUTION APPROPRIATING \$2,580,000 FOR THE LITCHFIELD CAPITAL IMPROVEMENT PLAN 2013-2014 AND AUTHORIZING THE ISSUE OF \$2,580,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE

Mr. Paul read the title of the resolution and explained that this is the resolution for the bonding issue that will go on to the Board of Finance and then to Town Meeting.

Motion: Paul Parsons moved to waive the reading of the entitled resolution and incorporate its full text into the minutes as Attachment A.

Second: Jonathan Tarrant

Discussion: None

Roll Call Vote: Jonathan Tarrant, Diane Knox, Paul Parsons, Jeffrey Zullo and Leo Paul, Jr. all voted aye. There were no nays or abstentions, and the motion passed.

Motion: Jonathan Tarrant moved to adopt the resolution.

Second: Paul Parsons

Discussion: Paul Parsons asked for confirmation that the \$2,580,000 is the proposed capital budget, and Mr. Paul confirmed it was the proposed capital plus the bonding for the school project for the vote in May. J. Zullo added that they are pre-authorizing the issuance of the bond.

Roll Call Vote: Jeffrey Zullo, Paul Parsons, Diane Knox, Jonathan Tarrant and Leo Paul, Jr. all voted aye. There were not nays or abstentions. Mr. Paul declared the motion adopted.

j) Municipal Restrooms: Mr. Paul said he has contacted LABA as requested to ask if they would contribute to keeping the restrooms open from January through March. The cost of maintenance for the three months is \$2,000.00, and they have been closed for the three-month period since 2004 in part because of vandalism as well as cost. D. Knox added that the comment made at a previous meeting that Torrington keeps theirs open year-round is not true. LABA President Paul McLaughlin has sent a letter dated April 1st saying they would like the restrooms to remain open but could not financially support it. J. Zullo confirmed that the money to keep the restrooms open this upcoming year is not in the budget. J. Tarrant maintained his position that one complaint in ten years does not warrant opening the restrooms in the winter. P. Parsons agreed to do nothing. D. Knox felt that although it is wise to accommodate our visitors, the cost is high for winter maintenance. She was not sure how many patrons actually need to use the outdoor bathrooms in the winter and felt it was not a large enough issue to warrant the expenditure. L. Paul suggested doing nothing and discussing it later in the year if warranted. J. Zullo felt that by closing for three months of the year the Town is not getting full utilization for its investment; however, in light of the budget, the \$2,000 is best held onto, and we will see if there is more interest in this in the fall.

k) Tennis Court and Other Projects: J. Zullo said he was shocked to see the condition of the brand new facilities in such poor condition. Jack Healy said there is a bond of \$135,000 on the project. He said they had contacted M&M Tennis back in February when they noticed the paint peeling, and they will come back and repair the issues. They are disappointed because the school is supposed to be using them now, but M&M is working with them to get it done. Mr. Paul asked about the safety factor with paint pieces and a powdery substance on the courts, and Mr. Healy said he would look into it. The school is using the courts for practice. He also said that regarding the drainage, there was a Wetlands permit issued and they corrected the existing drainage by reinstalling pipes in the same area as before. Regarding the Community Field issues, Mr. Healy said they had decided two years ago to hold on the parking lot after the application of the first layer of asphalt, awaiting the Park & Recreation's ten-year plan. The safety fence was just completed late last fall by our Park & Recreation Director, and the contractor is to come back to fill in the post holes. Mr. Healy said the gate was put in by Public Works. They also need to screen topsoil for the Center School island and curbing that goes down the road. This was one of the

crews' fill-in jobs last fall that ran concurrently with contract work. As soon as they can screen the soil, that job will be completed. J. Zullo asked Mr. Healy for an update on these issues at the next meeting, and Mr. Healy agreed. P. Parsons said the public may get answers and action more quickly if they come in to see Mr. Paul during the week rather than waiting for a Selectmen's meeting that only occurs twice a month. Mr. Zullo said he applauded the public coming to the meetings as it does elevate the subject, and he encouraged any citizens to bring issues to the Board.

Executive Session: a) Step 3 Grievance – AFSCME Local 1303-094: **Motion:** P. Parsons moved to go into executive session at 6:55 p.m., inviting all Selectmen, Labor Attorney Nick Zaino, Tim Oppenheimer, Jason Morse, and Jack Healy. J. Tarrant seconded, all voted aye and the motion carried. They came out of executive session at 7:32 p.m. **Motion:** J. Tarrant moved to deny the grievance and D. Knox seconded. There was no discussion, all voted aye and the motion carried.

Motion: J. Tarrant moved to adjourn at 7:33 p.m. and D. Knox seconded. All voted aye and the motion carried.

Leo Paul, Jr., First Selectman