

SELECTMEN'S MEETING
Monday, March 10, 2008

On March 10, 2008, the Board of Selectmen held a meeting at 7:00 PM at the Town Office Building in Lakeville. The meeting was called to order by Chair Yeatts at 7:03 PM. Selectmen present were: Selectman Yeatts, Selectman Evirs and Selectman Maksy. Also present: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

Vote to approve Warrant for Annual Town Election-April 7, 2008

Chair Yeatts read the annual Town Election Warrant into the record.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To approve and sign the Warrant for the Annual Town Election for April 7, 2008.
Unanimous in favor.

Vote to schedule Board of Selectmen meetings-April, May, June & July

Chair Yeatts read a memo from Ms. Garbitt with suggested meeting dates for April, May, June & July. There was discussion about having a regular Selectmen's meeting on May 5, 2008.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To approve the following dates for the Board of Selectmen meetings: April 8 & 28, May 12 & 19, June 9 & 23, and July 14 & 28, 2008.
Unanimous in favor.

Request for curb cut-Lot 2 Lloyds Lane

Jamie Bissonnette of Prime Engineering is present for the discussion. Chair Yeatts stated that Chris Peck, Superintendent of Street's, understanding was that all the utilities were overhead, but the understanding of the Planning Board, is that they will all be underground so it would preferable to have the Superintendent offer any comments due to this difference. Jamie Bissonnette stated that the wording may have gotten confused in the letter. It was discussed with Middleborough Gas & Electric about the utilities being all in underground conduit. Selectman Evirs stated that there will be no excavation on Holloway Brook Drive since the work will be on Lloyds Lane. Ms. Garbitt stated that the utilities to the house are underground. Mr. Bissonnette responded that that was correct. Chair Yeatts stated that she would like the Superintendent of Streets to have a chance to review and comment on this matter. Selectman Evirs asked if the utility was on the Towns' right of way. Mr. Bissonnette responded that it was. He also had a copy of the order of conditions if needed. The Selectmen and Mr. Bissonnette then reviewed and made clarifications on the plans.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To approve the curb cut for Lot 2 Lloyds Lane subject to final signoff by the Superintendent of Streets for verification of the utilities.
Unanimous in favor.

Request from Nina Glavin to rescind previous muzzling order for her dog

Nina Glavin, Fatboy's owner, was present for the discussion. Chair Yeatts asked if the neighbor was notified that this matter was being brought to the Board of Selectmen for review. Ms. Craig responded that she had not. Chair Yeatts explained that a letter was received from All American K-9 Obedience Training School that Fatboy does not have to be muzzled due to the completion of his obedience training class. Selectman Maksy explained, for the history of the matter, that the Selectmen ordered that the veterinarian's bill for Ms. Baptista's dog was to be paid by Ms. Glavin and once Fatboy was professionally trained, then he could be allowed not to have to wear the muzzle. Ms. Glavin stated that she has only been walking Fatboy up and down the driveway and then working with him at the trainings. She added that Fatboy will not be off the leash when he leaves the driveway.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To rescind the muzzle order on Fatboy that was put into place by the Board of Selectmen at the hearing in January 2008.
Unanimous in favor.

Request from Park Commission for one day all alcohol license

Chair Yeatts read the request from the Park Commission for a one-day all alcohol license for Ted Williams Camp.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To authorize a one-day all alcohol liquor license for April 5, 2008 at the Ted Williams Camp from 1:00 PM to 5:00 PM for the Brewins Youth Hockey Team Dinner.
Unanimous in favor.

Announce grant from Taunton River Watershed Campaign

Chair Yeatts explained that the announcement of the grant was sent to Linda Grubb who is on the Open Space Committee. She said that Taunton River Watershed Campaign had voted to award a mini-grant of \$2,000 to the Town of Lakeville Open Space Committee for the updating of the Open Space and Recreation Plan. There will be a mini-grant reception held at the TRWA River Center on March 13, 2008.

Announce Earth Day Clean up-Lakeville Litter Lifters-April 26, 2008

Chair Yeatts read the letter into the record regarding the Lakeville's Earth Day Clean Up to be held on Saturday, April 26, 2008. The drop off point will be the Tamarack Park as it has been the past two (2) years.

Selectman Maksy asked about the fence at Tamarack Park? Should the orange snow fence be removed? He also asked about the utility posts that were going to be installed there from the MG&E by the Highway Department. Chair Yeatts responded it is difficult to get the utility posts since they are in high demand. Some of them have creosote on them, are too rotted or too broken or were already designated for elsewhere. The Board will get an update on this for the next meeting. Selectman Maksy suggested to get a price on pressure treated posts if that is what is needed to do instead of utility posts. This matter was provided to the Superintendent of Streets and he had a plan of what to do. Ms. Garbitt stated that Chris Peck and Mike Schroeder from the Conservation Commission were discussing it. It might have been during the winter season and that is why it has not been done.

Announce South Coast Rail Civic Engagement Meeting March 11th at Lakeville Library 6:30 PM

Chair Yeatts announced the South Coast Rail Civic meeting that will be held on both Monday, March 10th in Attleboro at the Thatcher Elementary School from 7:00 PM to 9:00 PM and then at the Lakeville Library on Tuesday, March 11th in the large meeting room. The South Coast Rail route options are being re-examined. There will be a draft analysis of a short list of alternatives that will then advance to the in-depth environmental review. The input received at these meetings will help narrow down the list of alternatives. Selectman Evirs stated that the train ride will be longer depending on the route taken. There is also the option of closing the Lakeville Train Station involved in their alternatives, so people need to voice their opinion on that.

Request to use Town House-Lakeville Area Mother's Club-May 3, 2008

Chair Yeatts read the request from the Lakeville Area Mother's Club to use the Town House for their annual yard sale.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To approve the request by the Lakeville Area Mother's Club to use the Town House on Saturday, May 3, 2008 for their annual Yard Sale.
Unanimous in favor.

Request to use Town House-Brownie Girl Scout Troop 59-March 16, 2008

Chair Yeatts read the request from Brownie Girl Scout Troop 59 to use the Town House for a Girl Scout Cookie sale.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To approve the request of the Brownie Girl Scout troop 59 to use the Town House on Sunday, March 16, 2008 to sell Girl Scout Cookies from 10:00 AM to 1:00 PM.
Unanimous in favor.

Request to use Town House-Mullein Hill Baptist Church-April 12th & 13th, 2008

Chair Yeatts read the request from Mullein Hill Baptist Church to use the Town House on April 12th and 13th, 2008 for a yard sale.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To allow the Mullein Hill Baptist Church to use the Town House on April 12th and 13th, 2008 for a yard sale to benefit a youth mission trip this summer.
Unanimous in favor.

Review Zoning Board of Appeals (ZBA) petitions: Marzelli and Bourgeois

Chair Yeatts said there were three (3) ZBA petitions to review. The first was the Bourgeois Petition for 65 Rhode Island Road. The applicant is requesting to demolish an existing three (3) bedroom home and replace it with a three (3) bedroom, two (2) story home of 1,664 square feet. The lot contains 21,206 square feet of land and is zoned Residential. The Conservation Commission has no issues with the property. The Board of Health approved a new septic plan for a three bedroom dwelling and has it has municipal water.

Selectman Maksy stated that he spoke with the Building Commissioner today regarding the petition. Any lot over 20,000 square feet does not need a special permit or variance unless it is non conforming. Discussion then took place on the by-laws by the Board of Selectmen. It appeared that no one had noticed the fact that the request references Section 6.1.A. Selectman Maksy stated that if it is an existing home, then the Building Commissioner has the right to sign off, but not if it is to be demolished. The applicant will be tearing the red house down and will build a new house over on the left. Ms. Garbitt stated that she thought this had already been approved and the applicant was tying into the existing water line. This will have to be checked on with the Board of Health, since the specific agreement is that they can tie in if their well has gone dry or there is no place to replace the septic system. The water line may run by the house but it might not be tied in. Selectman Evirs noted that it says proposed water service. Ms. Craig mentioned that her information was from the Health Agent's notes to his Board. The Board of Health approved it assuming it had municipal water. Ms. Garbitt stated that when Mr. Medeiros was looking to tear down the house, this same discussion took place. So the question is, does it or doesn't it have municipal water? Selectman Evirs noted that they do not show a well existing on the property on the plans. Ms. Garbitt stated that one of the properties purchased did have a shared well. Selectman Evirs noted that there is a well on either side of the properties, but not on this particular property. Chair Yeatts stated that if they do not have municipal water, then

they do not have an approved septic system, so they are not eligible for water. Selectman Evirs stated that there is not a well on the property.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To approve the Bourgeois petition pending clarification to determine if the applicant has municipal water.
Unanimous in favor.

Selectman Evirs mentioned that with the Urbansky's petition, the Board of Selectmen want to remind the ZBA that the Board is not looking to issue a special permit, but approves of the Building Commissioner's opinion that the applicant needs a special permit. So, the owner then needs to apply to the ZBA for a special permit. The ZBA is only hearing the appeal that night. So they will have to do that separately. The ZBA needs to be careful on what they decide on that night. Ms. Garbitt stated that she will contact Donald Foster.

Chair Yeatts said regarding the Marzelli Petition for 7 Pine Bluff Road, the applicant is requesting to demolish an existing home and replace it with a one (1) bedroom home. The lot contains 32,580 square feet of land and is zoned Residential. There is no denial from the Building Commissioner. Selectman Evirs stated that they do not have to be denied, they need a special permit. Selectman Maksy read Section 6.1.6 of the Zoning By-laws, which states that any lot 20,000 square feet or more is conforming. However, the other section says it is non-conforming, so this needs to be fixed, since this is confusing. The Board will need to get that re-written by the Planning Board after this is clarified with the Building Commissioner, if he sees it the way the Board of Selectmen see it.

Chair Yeatts stated that the abutters list is 300' from the petition, it is usually 100', therefore, she is considered an abutter and will recuse herself from speaking on the petition. As an abutter, the Chair can attend the ZBA hearing. She asked how the 300' rule came about. Ms. Craig stated that each Board has a different amount of footage for an abutters lists. Selectman Maksy stated that the Planning Board has 400'.

Ms. Garbitt stated that since this is a demolition, the Board should go to section 6.1 first. These are all non-conforming uses under 6.1's. One has to go to three (3) different sections of the by-law to interpret this petition. Selectman Maksy stated that he would like it clarified as well. Ms. Garbitt stated that on the proposed floor ratio by-law, the Building Commissioner did not understand what the Planning Board wanted to do. The Selectmen might want to clarify that as well. Selectman Evirs noted that they are within their setbacks and even if the right-of-way is subtracted out, the owner is still over the 20,000 square feet. It was noted that there are no comments from the Building Commissioner or the Board of Health. In addition, the Board felt the application was incomplete. Ms. Garbitt asked if the Board would like to review the petition again once further clarification has taken place. Selectman Maksy responded that he would, however, he added that he knew the time frame was still moving forward. Ms. Garbitt stated that the ZBA can continue the hearing or deny the petition.

Upon a motion made by Selectman Evirs stepping down then stepping back up; seconded by Selectman Maksy it was:

VOTED: That the Bourgeois application is incomplete and further input needs to be provided from the Board of Health and the Building Commissioner.
Unanimous in favor.

Review and vote to approve Selectmen's meeting minutes: June 25, 2007, January 7, 2008, January 31, 2008 and February 4, 2008

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To waive the reading of and approve the Selectmen's meeting minutes of June 25, 2007, January 7, 2008, January 31, 2008 and February 4, 2008 as presented.
Unanimous in favor.

Review and accept Executive Session minutes: February 4, 2008, February 25, 2008 and February 28, 2008

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To waive the reading of and approve the Executive session minutes of February 4, 2008, February 25, 2008 and February 28, 2008 as presented.
Unanimous in favor.

Any other business that may properly come before the meeting.

Chair Yeatts read the complimentary letter into the record a letter from Bill Hogan, whose home had a fire and how fast the Fire Department had responded to the scene.

Ms. Garbitt stated that in the letter dated March 3, 2008 from Beaver Tree Works, they provide information regarding the ledge at the front of their property along Freetown Street that they feel is a potentially hazardous situation and should be removed. Chris Peck, Superintendent of Streets, has looked at the area and stated that the ledge does impair the line of sight. The ledge is on the Town's property. Beaver Tree Works would like to remove the ledge, at their expense, if the Town would agree to pay for any police details needed. Ms. Garbitt said the Highway overtime budget is stable at this time, with exception of the Snow and Ice budget. Mr. Peck felt that the Highway Department could pay for a Police detail for two (2) days, any more than that, the Town would have to go back and reassess the budget for where the funds would come from. It needs to be made clear that the Town only has two (2) days for the Police detail and then Beaver Tree Works has to take care of the rest.

Chair Yeatts stated that she had a lot of questions to ask Chris Peck on this matter. Once the ledge is taken out, where is the water going to drain? There also needs to be a plan about what is going to be done. Selectman Maksy stated that since the ledge is on Town property, if the Superintendent of Streets does not have any problems with the work, then neither does he. If the

company does anything on their property, the Town does not have any control of the work. Chair Yeatts asked where the stabilization was. She stated that she was not comfortable giving cart blanche on the work and the ledge to be cut out. What if there is a fracture in the ledge that later makes someone's well go dry? Things like that happen with ledge. Selectman Maksy suggested a site visit by the Board of Selectmen. Chair Yeatts suggested that the questions be answered first. Selectman Maksy stated that it should then go on the agenda for the next meeting.

Ms. Garbitt explained that the work is not scheduled until the Board of Selectmen approves it. The area is not Town property; it is in the Town's right-of-way. Selectman Evirs stated that he has no problem with the project as long as the Superintendent of Streets is there watching over the company doing the work. Selectman Maksy suggested that they also provide proof of insurance. Chair Yeatts asked what happens to what is behind the ledge. If it is earth, it will have to be stabilized. The Board does not want to go after the company after the fact if there is earth coming down when it rains. No one knows what will be left, rock or earth. Ms. Garbitt stated that if it does start to wash out, then the Superintendent of Streets will go to the property owner and speak with them on what needs to be done. Chair Yeatts stated that she would still like to ask the questions to Mr. Peck on this work. Selectman Maksy asked what is the Board's potential liability of leaving the ledge there now that the Board is aware of it. Selectman Evirs stated that he is only aware of one accident at that location and it was going in the other direction. However, now that the Board has been made aware of the fact that someone is of the opinion that it is a hazardous situation, the Board should look into it.

Ms. Garbitt noted that the Board is posted to attend the MassHighway meeting in March if they would like to review this again then. Selectman Maksy and Selectman Evirs stated that they will not be at the MassHighway meeting due to previous other commitments.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: That if the Chair feels the removal of the ledge at Freetown Street is the wrong thing to do, it will be brought back before the Board at the March 24, 2008 Selectmen's meeting. The work is subject to the approval of the Chair speaking with the Superintendent of Streets on the matter.
Unanimous in favor.

Selectman Evirs stated that the Board has the Landfill budget to discuss since it was not done the other night due to time constraints. He will start with the expense summary before going to the revenue side. The salaries are all strictly the steps and raises, what the employees are entitled to. In the expenses, under workers compensation, it was \$7,500, it is now \$14,400. There is nothing the Board can do about it; that is their share. With the property and liability insurance, the Board has never really assessed them on their share of the Town's property insurance. This is necessary since they are an Enterprise account and they need to be responsible for their share. The Town Administrative services line is to compensate the time that the Town Administrator Garbitt, her clerk, the Superintendent of Streets, the Town Accountant and all Town employees who are involved with the Landfill/Transfer station matters, they need to be compensated from the Enterprise account. In the Town of Milford, they have a signed agreement with their

Enterprise accounts in their town. Lakeville is far, far less than what other towns are looking for from their Enterprise accounts. \$25,000 is what Lakeville is assessing the Enterprise account. Then, the \$22,700 is their payment for the new truck that they have and the containers that were bought last year.

After putting the expenses where they belong, they do not have enough money on the revenue side. Looking at the trash bags, the \$110,000, with the quantity of bags that they buy to sell, they are not buying enough bags to generate the existing \$110,000 that they are expecting to generate in revenue. That figure is false. It has been decided to increase the cost of the bags. This has not been done since the Brad Bates has been the foreman, which has been at least eight (8) years. The bags are \$1.25 a piece, and it is being suggested to increase them \$.25 cents, on both the large and the small bags. It costs just as much to get the bags to SEMASS. The large bags are 30 gallons. Selectman Maksy asked about having two (2) separate prices for the bags. Selectman Evirs responded that they already do. It is \$6.25 for the roll of five (5) large bags, so if we increase that by \$1.25 it will be \$7.50 and then there is a roll of five (5) small bags costing \$3.75, and they will increase that to \$5.00.

Selectman Evirs added that discussion did take place regarding the cost of the stickers, but they did increase their cost a few years ago and the conclusion was that the price is fine as it presently stands. However, the Landfill will monitor how many stickers are issued per household and how many additional stickers are requested. This will help to better account for the stickers. The Landfill employees are very strict on the disposal of the bags, their salaries depend on it. The revenue from selling the recyclables has increased. The Town is well over what was budgeted for expected revenue and does not want to get greedy with this revenue. This is for steel, cans, newspaper, plastics, etc. Those numbers can change at any time. The transfer from retained earnings has been kept to only transferring \$135,000, which is a more respectful number. There is no subsidiary from the General Fund at all to the Landfill budget. The only shortage this current year is with the bags, so it is being suggested to increase the price of the bags on April 1, 2008. This will give everyone in Town three (3) weeks to purchase their bags without the increase taking effect. The Town is off on the sale of stickers, but that sale usually comes at the end of the fiscal year due to when the stickers expire, June 30th. It has been considered selling them sooner and that will help the men at the Landfill from getting bombarded selling stickers during a smaller time frame.

Upon a motion made by Selectman Evirs; seconded by Selectman Maksy it was:

VOTED: To increase the price of the trash bags, effective April 1, 2008 by twenty-five cents per bag, both large and small.
Unanimous in favor.

Other Items

1. Memos sent to the Planning Board from Selectmen & Master Plan
2. Letter from Outback Engineering regarding Notice of Intent-Lot 2 Huntinghouse Brook Lane
3. Letter from DEP regarding Future Water Treatment Plant Modifications

Selectman Maksy asked if this will help the Town with its water allocation. Ms. Garbitt responded that it would not. Chair Yeatts explained that this is the amount of water that comes into the clear well overnight, so that when everyone gets up to shower it will be safe. It will not expand, there is no place for it to go. If the Town had another clear well or a water tower, then expansion would happen.

4. Memo from Town Counsel regarding Snow and Ice Budgets
5. Memo from Town Counsel regarding processing/disposition of claims and lawsuits; notice to insurers
6. Letter from SRPEDD regarding CPI Adjustment to Acceptance Fee
Selectman Evirs asked if this had any impact on the Town this year. It has been \$.16 cents per capita for a long time and they will stay with that. Selectman Evirs stated that for the service that they provide, the “watch-dogging” that they do, the work on the Route 79 project and obtaining the federal monies to do it, all for only \$1,600 a year, which is a wonderful bargain for the Town. Then, there is also the 20 hours of service that they provide to the Board of Selectmen and 20 hours to the Planning Board to help with by-laws.
7. Letter from SRPEDD-Annual Assessment
See above discussion.
8. Plymouth County Cooperative Extension Annual Report & Appropriation
9. Plymouth County Commissioners agenda-February 26th & March 4th
10. Cranberry Country Chamber of Commerce Perspective
11. Suburban Coalition Annual Legislative Breakfast Notice and Position Paper
12. MEMA Flood Safety Tips
13. Letter from Old Colony Elderly Services
Selectman Evirs asked who gets appointed. Ms. Garbitt responded that Marilyn Mansfield of the COA will notify the Town of who is interested. This is putting the Board on notice that they will need two (2) candidates. Ms. Craig stated that there are currently two (2) people appointed at present. Ms. Garbitt stated that when Ms. Mansfield receives the letter from Old Colony Elderly Services, she let’s those know who are currently appointed and if they are still interested or not.
14. Approved Residency Policy F/L Regional Schools
15. Invitation from Relay for Life-American Cancer Society
16. JTPG Meeting Agenda-March 12, 2008
17. Memo from Board of Health to Planning Board regarding Old Back Road Estates
Selectman Evirs asked where this was located. Ms. Garbitt responded that it was on Route 18, Lakeside Avenue. Chair Yeatts added that they have a seven (7) lot subdivision, and the Board of Health just approved mounded systems. Some are up to an eight (8) foot mound and that will directly affect the run-off. All the plans that the Planning Board approved with the basins and run off are now not what they approved. Also, the Conservation Commission and the Planning Board have two (2) different sets of plans for the site. Whenever there is a substantial change the developer needs to go back to the Planning Board so that they can take another look at it. The drainage was discussed with the Building Commissioner and he does not think it is going to work there. Ms. Garbitt added that the Superintendent of Streets is also concerned about this. He is writing a memo to the Planning Board that this needs to be re-looked at. The drainage will come right down and go into the town way. Selectman Evirs stated that the

Board of Selectmen should also write a letter on this matter. Selectman Maksy stated that the developer can still continue the work, but they will have to prove that they can mitigate the water after the process, so they will need to do an as-built if they continue, and if they do not come back to say that there is a substantial change. Discussion took place on the matter with Old Back Road Estates by the Board of Selectmen. Chair Yeatts stated that the Board cannot put all their trust in the developer. To go back and do enforcement later, after the fact, is difficult; the Town does not have a good track record on that. Selectman Evirs stated that if the Board of Health is concerned, the Conservation Commission is concerned and the Superintendent of Streets is concerned, it would not be a bad thing if the Board of Selectmen wrote a letter for the record. Selectman Maksy stated that he has not seen the project; the septic could make the drainage better. Chair Yeatts stated that the burden of proof is on them to make sure that it works. Selectman Maksy suggested that the Board of Selectmen forward their comments to the Planning Board and make a recommendation that they follow up on it. The Planning Board is an elected board to make sure these form As, Bs, and Cs all work. Chair Yeatts stated that she wants to make sure that it is there that the Board of Selectmen supports the Board of Health. Selectman Evirs stated that the Selectmen should write a letter that the Board supports the Board of Health and agrees with their observations and that this needs to be revisited. Chair Yeatts added that they also need to make sure that all the plans match what is submitted to the Town. Selectman Evirs stated that the Board does not have any proof that that is the case right now. Discussion then took place by the Selectmen on dates, chronological order, revision of the plans, etc. Selectman Maksy stated that they cannot let anymore water leave the property than currently leaves the property; if they did they would violate DEP regulations, etc. Chair Yeatts stated that no one is asking them or policing them right now.

At 8:55 PM, upon a motion made by Selectman Evirs; seconded by Selectman Maksy the Board unanimously:

VOTED: To enter into Executive Session at 8:55 PM, not to return to Open Session, to discuss pending litigation. Polled vote: Selectman Maksy - aye, Selectman Evirs, - aye, and Selectman Yeatts – aye.