

SELECTMEN'S MEETING
Monday, March 13, 2006

On March 13, 2006, 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 Chairman Hurd at 7:00 PM. Selectmen present were: Selectman Hurd, Selectman LaCamera and Selectman Yeatts. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

7:00 PM Meet with Marcus Baptiste – Station Street Crossing

Marcus Baptiste is present for the meeting. Chairman Hurd said that Marcus has gone back before the Board as he is changing his original intent. Mr. Baptiste said that his revised proposal calls for 52 units of condominiums and he would like to rezone all to business and change to rentals from condos. Since Route 79 will go thru this property, that changes things, so I need to adapt to that. He has had conversations with MassHighway to get a better idea of where the proposed relocation of Route 79 would be and asked when they thought it would happen, but they do not know when. Selectman LaCamera thought it would be about three (3) years. Mr. Baptiste said he has two to three (2-3) years work in front of him before the project will be completed to consider the commercial development. Chairman Hurd said that commercial development is happening all around this property and that is a good place for it. It would help the Town. Mr. Baptiste said that if the relocation goes through, he is probably in favor of it making the site all commercial, but he does not own the property yet.

Selectman LaCamera said we have been specific and have notified you through letters about the relocation of Route 79 and that we would not allocate water to property. You told the State that you would have water and sewer through Middleborough and then you went to Taunton behind our back asking for water. We sent them a letter stating that we did not support the project. We received a letter from your attorney last week threatening to sue. So why should we hold up the Board of Appeals for over two (2) years for a project that has been proposed and is not going anywhere. Where you stand right now, your project is dead since you do not have water. You proposed wells, but they do not work there with septic. I am in favor of good business and what is right for the Town. I read your entire file of the correspondence the Town has sent you and almost all the correspondence lets you know that you do not have water.

Mr. Baptiste asked if there was a personal issue. Why is there water allocation for other business but not for my project? Selectman LaCamera said he did not appreciate the letter from Mr. Baptiste's attorney about suing the Town for water. Mr. Baptiste said this is completely different from suing the Town. Selectman LaCamera said no it isn't. Mr. Baptiste said the Selectmen asked him to switch to business use, but you have no water. Selectman LaCamera said the Board allocated it for what was right for the Town with Canpro and National Development. You should withdraw your project and start over again since it is unrealistic to hold this up for two (2) or three (3) years while waiting for the relocation of Route 79. Mr. Baptiste said so you want me to change the entire project to business, I will, if you tell me you will give me water. Selectman LaCamera said right now you are saying you want to change to apartments. Mr. Baptiste said I am making the changes you requested. Selectman LaCamera

said he didn't ask him to change to apartments. I am interested in what is right for the Town of Lakeville. Mr. Baptiste asked if Mr. LaCamera had seen a copy of the Affordable Housing Plan. That site is specified as perfect for mixed residential/business use. Selectman LaCamera said we can say no to your project flat out. We have brought up our affordable housing numbers the past year. The delay is that you are unable to get water. You applied to Mass Housing without the Town's knowledge, and you told them you had water and sewer and you did not. Mr. Baptiste said he had tried to get an appointment with the Town and thought the Intermunicipal Agreement (IMA) was going through. We did the same thing in Middleborough with no adverse effects. Selectman LaCamera said your company misrepresented the availability of water and sewer as written by your attorney. You didn't talk to us. Mr. Baptiste said he read the newspapers and did go in front of Middleborough.

Chairman Hurd said that Mr. Baptiste has been before us twice to modify his project, but he also agrees with Selectman LaCamera since water is not available. Mr. Baptiste said he has not threatened a lawsuit. Selectman LaCamera said your attorney was before the Taunton City Council and he was going to speak, but they did not acknowledge him. Mr. Baptiste said it was a public meeting, and he was free to speak, but I motioned him back. Chairman Hurd said that sooner or later something will happen with this property. The Taunton water allocation has been spoken for and if more becomes available, then it will come to the Town Office Building. So you are taking a risk by sitting on this property. Someday something will happen with this property, but we do not know where the water will come from. If it is residential, I think we have too many apartments already with the Canpro project. Selectman LaCamera questioned whether the Board of Appeals should approve a project subject to water? Chairman Hurd said Mr. Baptiste has every right since he filed with DHCD, but if it cannot happen without water then that has to be their finding. Selectman LaCamera reiterated should we approve a project without water, would you go to Town Meeting and not know where Route 79 will be and that there will not be water. Chairman Hurd said we already went to Town Meeting and asked them to rezone a portion of it, and it did not have water. The Board of Appeals considers applications based on merit, not a presumption. This would pre-expose the Town to make the decision and that would mean that the Board of Appeals did not do due diligence.

Donald Foster, Chairman of the Zoning Board of Appeals, said he liked hearing what the Selectmen have for input and also it has an impact for us. Mr. Baptiste said he has thought about proposing a restaurant, but a retail building would require significantly less water, probably less than 5,000 gallons per day for the whole site. You are saying you want business on the site, but you do not want to rezone it for business. Selectman LaCamera said it would be better to have the infrastructure and utilities in place, and you don't have that. He asked when Mr. Baptiste would be purchasing the property, noting he has had this under agreement since September, 2003. Mr. Baptiste said he has it under agreement for another 2 ½ half years and will buy it then. He is working towards permits and will buy it; he has been changing plans to accommodate the Zoning Board, Planning Board and Selectmen. There were indications that the Board was going to have water from Taunton. Selectman LaCamera said we sent you a letter that Taunton had no more water to allocate. Did the City Council say we would have more allocation and authorize an allocation? Chairman LaCamera said no it didn't. Mr. Baptiste said there are three business lots proposed and if I some businesses can use if do not have water and I am prepared to drill a

well and do that for the front three (3) lots, but he could not do that with the relocation of Route 79. That is why he was asking to rezone the property further back.

Chairman Hurd said MassHighway knows where it will go, but it is not laid out so how do you know that area is already mitigated? Mr. Baptiste said he has moved a piece of his septic system around. He showed where he expected Route 79 to go and where he had to move the septic and how the business lots have to curl around to maintain the minimum land area. He said the plan was drawn taking into consideration the wetlands, vernal pool, and this is as exact as we can get as confirmed by MassHighway. So he wants to rezone the entire piece so that he can change the lot lines so that it can happen where it needs to. He may even have frontage for a fourth business lot. Selectman LaCamera asked why he didn't put a well on that lot. Mr. Baptiste said if Route 79 does not go through, then he does not have frontage and does not have four (4) lots. He has no guarantee that Route 79 is going through. This has been going on for 20 years. If Route 79 does not go through, then he will do residential; if it does then he will go business. Selectman LaCamera said Route 79 will go thru and it is already in design, according to Skip McCourt of MassHighway. Mr. Baptiste said he was in favor of Route 79 going through his property; it makes the project better not worse. Selectman LaCamera said it is going to happen. Mr. Baptiste said this is a back up plan. I think there are several variables and do not think there is a guarantee.

Selectman Yeatts asked if Mr. Baptists has three (3) legal business lots. Mr. Baptiste said he has two (2) since I am a few feet short of frontage for three (3). Selectman Yeatts said so if you had a legal lot and Route 79 took some with eminent domain, why not put the wells in and do your business? Mr. Baptiste said he has to save the land for the septic. Mr. Baptiste said our 40B plan allows our project to slide depending where it goes. Selectman LaCamera said but you said you would wait to do business? Mr. Baptiste said that is what he wants. The plan accommodates the road sliding either way. We have to continue, we cannot stop with the Purchase and Sale and the permitting process. Selectman LaCamera said the confusion is that you have two (2) lots and the other is 2.7 feet short and if Town gave you the variance for that, those three (3) can be developed with wells and then with the redesign you can have another lot with a well. Mr. Baptiste said if Route 79 does not go through, then I need to have the back lot for septic. He understood the State and the Town's conflict has been resolved, but there is still no guarantee. Putting on a well is not ideal; he would rather have town water.

Selectman Yeatts asked if there is enough room for septic. Mr. Baptiste said yes, the soils have been done. Chairman Hurd asked if you had the variance for the frontage, then you could proceed with the permits and develop for business. Mr. Baptiste said yes. His sole reason for presenting apartments was he thought the Board wanted apartments. Chairman Hurd said the area is already over saturated with apartments. Mr. Foster asked if the construction would be the same if it was apartments or condos. Mr. Baptiste said the condominiums would provide short term profit; apartments would be long term. He really has no preference though. Selectman LaCamera said Mr. Baptiste had put together a proforma and it said it would not make money, and now you are saying this will make money. Mr. Baptiste said three (3) years ago, commercial would not have worked, but after three (3) years it will work. Selectman LaCamera said but your proforma shows \$13 million to develop residential in the property. Mr. Baptiste said he would make money on the commercial. He will apply for the variance. Selectman LaCamera

said then develop it tomorrow. Mr. Baptiste asked what is the problem about rezoning it for business. Selectman LaCamera said we cannot do that. Chairman Hurd said the Town cannot get into the business of speculative zoning. If Route 79 did not happen, then we have created a problem. That leaves us exposed. I would be more comfortable when Route 79 is laid out and the money is in the till. However, he would be comfortable with the Board of Appeals granting the variance. Mr. Baptiste said so the Town has said to finish this. Chairman Hurd said then at some point Route 79 will come in and then you can bring the 4th. Mr. Baptiste said the septic is on the business lots where it cannot be. He has the area that is needed, but it will have to be reconfigured.

Mr. Baptiste then showed on the plan where he needs to leave an area vacant for Route 79 and with the septic then the lots are not big enough and I have to wrap the business lots to the left. Mr. Baptiste wanted to change the lot lines. The septic, which was on the residential, is now on the business land. There is not enough area on the business land so he needed to wrap it around and still stay behind the 100 foot buffer. Selectman LaCamera said so unless Route 79 is done, then you don't have the business. Mr. Baptiste said he can leave the septic where it is and let the State take the property by eminent domain. Then they will pay to move it. He is trying to be courteous by having it elsewhere. Selectman LaCamera said so you cannot do it? Mr. Baptiste said he could not do it without shifting lot lines. He did not know why that is a problem to rezone. Chairman Hurd said it is hard to back and fill if the Town makes another change; people start to lose faith when you do that. Mr. Baptiste said three (3) years ago, this was the least favorable plan and now it is the most favorable. That is a change of events where I think it would be favorable to go back and change the zoning again.

Selectman LaCamera spoke about a letter sent to MDC Development back in 2004. MDC Development has failed to take what is happening in the area into consideration. Mr. Baptiste said from the most recent study, the least desirable alternative was the current proposed relocation of Route 79. Why would he think it was going to happen to that site? Selectman LaCamera said two (2) years ago, we told you it was going to impact your project. Mr. Baptiste said he is trying to plan around Route 79. Chairman Hurd said he did not think Mr. Baptiste was being crucified. Selectman LaCamera is displeased since you keep changing the project. We thought it was only a matter of 2.7 feet and now understand that the proposal of the rezoning is needed to change the lot lines and allow the fourth lot. We are not comfortable with rezoning until we have our questions answered. Mr. Baptiste said so would the Town support the variance? Selectman LaCamera said yes, if that gets three (3) commercial lots developed with wells on site. Chairman Hurd said his advice is get the waiver, finish the proposal and get the septic system. It is a fair gamble that Route 79 will come through and that would be the right odds to play. Mr. Baptiste said so we have already covered the apartments then. Chairman Hurd said yes, since it is already oversaturated there. Ms. Garbitt noted that the Board needs to vote their recommendation to the Board of Appeals. Chairman Hurd said he would support the variance for the 2.7 feet of frontage. Mr. Foster asked if there was a change in scope of the project, that the Boards understood that for communication purposes. Ms. Garbitt asked if the project would need to go back to DHCD. Mr. Baptiste said if he switched to apartments only.

Upon motion made by Selectman Yeatts, with Chairman Hurd stepping down to second, the Board:

VOTED: To make a recommendation to the Board of Appeals to stay with one bedroom condominium units for the residential component of the project.
Two for, one against.

Selectman LaCamera made a motion to send a recommendation to the Board of Appeals that they reject the project and not approve subject to water since there is no water for the project. This motion was seconded by Selectman Yeatts but failed as Selectman Yeatts abstained, Selectman LaCamera voted for and Chairman Hurd voted against. Vote was a tie and failed. Chairman Hurd said that he did not think the Selectmen can recommend that to the Board of Appeals as it exceeds their authority. Selectman LaCamera replied it does not exceed their authority to ask how they will get water. Mr. Baptiste stated that recent Housing Appeals cases put the projects on a waiting list for water. Mr. Foster noted that the Town's first 40B was approved with the condition that it has water and that is how to handle the question. Selectman LaCamera asked what happens if the project is approved and is included for affordable units? That means that no other project can be presented to the Board of Appeals. Mr. Foster understood that the tally on the quota is the number of building permits issued. Chairman Hurd said two (2) years from the date of the comprehensive permit and if a certain number is built or not, in the first year. Mr. Foster asked if you think that would hurt us. Chairman Hurd disagreed, stating the Town can go over the 10%. Selectman LaCamera said the Town requires that a house lot get water and septic before it becomes a buildable lot. Chairman Hurd said we want to maintain a level of prevention to approve or not approve projects. Mr. Foster said there may be some case law like what we ran into on Bridge Street, which is, can the issue of water be used to deny. Selectman LaCamera said if they do not have water, then do not have a project. Mr. Foster said maybe the lack of water is what says no.

Selectman LaCamera said we have two (2) projects trying to go behind the towns back to get water. Is that the type of relationship we want to have with our developers. Mr. Foster said that cannot be the factor. Selectman LaCamera said if they are going to take away water from our allocation, it is. Chairman Hurd said it is not whether they will take away water, it depends whether we have some to allocate. A fair finding predicated on no water makes sense. Mr. Baptiste asked if the Town would go with him to the City of Taunton to allocate for water the Town and his project. Selectman LaCamera said no. We have already been told no. Mr. Baptiste said Taunton was going to do a study. He understands it is not the issue of water it is the pumping of it. Chairman Hurd said his project would come out of our allocation 150,000 and that is zero. It would be incorrect to change how the Taunton could make a decision for Lakeville. We have received a response that they support the Town's right to make the allocation of where the water goes. We have encouraged them not to interpret this for us.

Mr. Baptiste replied if he could go to them with your support, then maybe he could contribute to the pump and the Town could get the additional water it needs for the Town Office Building. Why not try, if he would pay for the pump. We are not talking a lot of water and if he could financially provide the City of Taunton to pump it for his project and the Town Office Building, why not take him up on it? Chairman Hurd said his offer was appreciated, but what if someone

else said I could buy you two (2) pumps so put me in the front of the line. We cannot get into that. We are trying to restructure our agreement with Taunton to reallocate our water. They may want us to do a water tower and pumping stations and if that happens, then we can allocate that way. Mr. Baptiste said but we cannot make a proposal? Chairman Hurd said that does not seem right since it is saying that the project is more valuable if you can financially pay for it.

Selectman Yeatts said if we start doing that, then that will take the control away from the Town and that is why she did not like the Stagecoach project. Mr. Baptiste said he would get additional water for the Town to do as it pleases. Selectman Yeatts said it is still giving money to Taunton for water and what prevents someone else from doing that and taking control from the Town. Chairman Hurd said we need to finish our discussion with Taunton on what they need. Mr. Baptiste said they need a water study plan. Chairman Hurd said we have a good relationship with Taunton. The 150,000 gallons did not take us very far. In terms of what they can deliver, they are at the wall and aware that that amount will not accomplish all of our goals. Selectman LaCamera said we need to protect all of our existing customers and that includes Middleborough and that they have water first. Mr. Baptiste said this would protect them if they had the pump. Selectman LaCamera said the pump is at Kingman Street and another street. That is just one (1) pump for one (1) particular area due to a gasoline spill in Taunton so that had to be put in. If we approve it, it would be a mistake since we would be asking the Board of Appeals to exceed their authority. There is willingness to fix what started badly. Mr. Baptiste asked to be put on the next meeting for the variance. Mr. Foster said he will have to petition and go through the normal process with Board of Appeals.

7:15 PM Samantha Zurkin-Old Public Library Reuse

Samantha Zurkin is present to present her business plan. Also present is Nancy LaFave, Library Trustee. Ms. Zurkin currently runs a non-profit corporation called Everyone's Closet in New York City, where she lives. Everyone's Closet lends daily supplies like durable medical equipment, baby supplies, and magazines. Also a community center which serves coffee to allow people to convene and relax. Chairman Hurd said it sounds like your agency does a lot of interesting things in New York. Ms. Zurkin said that people come to us for wheelchairs, braces, and some even have insurance, but it will not cover several items. Like a motorized wheelchair is needed every two (2) years rather than five (5) years so we will step in and allow them to borrow one wheelchair for a period of time. We have 60 people using the service right now. Donors are those of people who have passed away and want to help someone in their memory so we really serve 120. The organization is supported by herself and her husband; they do not have external support. Ms. Zurkin would like to provide this service in Lakeville. She feels she could cover an annual rent of \$2,500. She is a professional grant writer, and she believes she could obtain grants for the operating costs.

Chairman Hurd noted that the Town is limited with that building due to the fact that the building is not handicapped accessible. Ms. Zurkin said currently they pick up donations from the donor and drop it off for the person. Selectman LaCamera said you will to store equipment in the basement and asked about bringing it up and down the stairs? Ms. Zurkin said the only piece that might be a concern would be a hospital bed, but most of them fold up so it is doable. Ms. Garbitt noted that she did not think we were looking to allow anyone to use the bottom

floor? Ms. LaFave said initially, the Trustees thought just the upper floor should be utilized. Ms. Zurkin said then she would have less stock. Mr. LaCamera asked about signing a lease for a period of time. Ms. Zurkin said she sees funding coming in by the fall, she would work with Einstein Medical and know what is obtainable and would sign a lease for longer than a year. Selectman LaCamera noted that she might want to put together a business pro forma for herself so she can see if that is viable. Ms. Zurkin said she would like further info on the rent first. We would not turn anyone away. We would serve surrounding communities and be open to all.

Chairman Hurd said he was impressed. The Board does not have a definitive on the rents and we have to do the septic system for any user, and build up a fund to take care of historic aspects of the building. What we have is a Library Reuse Committee, and you may be aware that there is another proposal out there as well, for a coffee shop. We will be putting your proposal before them. Ms. Zurkin believed the coffee shop market is saturated, there could be a parking issue there, and her funding is not based on how many customers are served. Ms. Zurkin thanked the Selectmen for meeting with her.

7:30 PM Meet with proponents of Walgreens

Jennifer Turcotte of Green Environmental and Jon Stewart of The Richmond Company are present. Ms. Turcotte noted that she will be going before the Planning Board next Monday regarding the proposed Walgreens plan. The current use of the property is office space on 32 Main Street and a residence at 34 Main Street. Both addresses are served by Middleborough water. In the process of developing the site, she has spoken with Richard Tinkham, Water Superintendent for Middleborough and until today, using the existing services would not be a problem. Now they consider the proposed pharmacy a new use. Mr. Stewart noted they have examined other possibilities for water. Ms. Turcotte said they have gone with onsite waste water. The existing water service is a 1 ½" line, but for fire suppression, Middleborough requires an 8" main. Selectman LaCamera said Middleborough refuses to sign the IMA with Lakeville and there is already Middleborough water there. Ms. Turcotte said the pharmacy would actually use less water. It is much less than a three (3) bedroom home, which was calculated. The issue is fire protection. Mr. Stewart said the worst case scenario for that is underground storage. Chairman Hurd asked if Walgreens was undeterred by Middleborough's refusal to sign an IMA. Mr. Stewart said yes. Chairman Hurd said Middleborough has made a lot of hay of existing customers and this flies in the face of all that they have already said.

Ms. Turcotte noted in developing the design, there was some confusion of lot coverage in the zoning by-law. It states 80%, but was reduced to 54% in 2004. This site design fully complies with zoning and they have had a botanist look at it. A RDA was filed for last Friday for a hearing on April 11th. There are 60 parking spaces and four (4) handicapped spaces in the front. Circulation is an exit and entrance on two (2) streets. The loading area is in the back and also a drive thru pharmacy. There is a small ATM as an accessory structure in the rear and the plan is 47.4% for lot coverage. Chairman Hurd noted that he would like to see a proposed drive up pad between that and the ATM. The issue is that when you get vehicles running on pavement, then you can have runoff. Mr. Stewart said there is a cement pad underneath the drive thru. Ms. Turcotte said also in the loading area. Chairman Hurd asked about traffic with National Development's project; does it impact your project. Ms. Turcotte said no. Our plan closes a

curb cut and the curb cut is more than 300 feet from the intersection, so it goes with what MassHighway wants. Mr. Stewart said they have met with MassHighway and they felt it was fine with stacking and left hand turns. Selectman Yeatts asked about cars pulling up for the ATM and parking for the pharmacy. Ms. Turcotte noted there are two (2) spaces there.

Selectman LaCamera said that he knows some of the Walgreens have drive thru for 24 hours. We would want you to conform to the same hours as National across the street, which will be 8:00 AM to 10:00 PM. Mr. Stewart said he will speak with his client about that and cannot imagine that Lakeville is a 24 hour anything. They respect that. Selectman LaCamera said that continuing the sidewalk around to your driveway on Bridge Street should be considered. Mr. Stewart said our tenant requires that all frontage be side walked and have handicapped access. Selectman LaCamera asked what is the plan for the house. Ms. Turcotte said the tenant will relocate it back further and the engineering building will come down since they plan to move into a building further down. Joseph Rebeiro, owner of 34 Bedford Street, said from the time of the closing, he has 90 days to move the house. If he cannot move it, then he will move elsewhere in Lakeville. Mr. Rebeiro said they are pushing the limit with lot coverage so he has contacted other abutters to obtain land for the coverage. Ms. Turcotte reviewed the drainage. There are highpoints in several areas on site. There are four (4) catch basins into which two flow into a storm center pre treatment unit. They then drain from a manhole into the underground infiltration chambers. Also at the Bridge Street entrance, there is basically the same thing. There is an area that will take the roof drainage.

Chairman Hurd said I am all in favor and think it is a good use for the area. Derek Maksy said there is a house in the back that is fed by a well, not town water. He was asking if the sheet flow will go that way. He was also concerned with headlights shining at that house. He also said if the house relocation happens, there will be a 25% impervious surface and they may have to ask for a variance. Ms. Turcotte said she understood that Compass Bank was developed prior to the rezoning and this property goes the full 400' back. A brief discussion occurred regarding the zoning for the two (2) lots. Mr. Stewart noted there will be a fence all along the side borders of the properties and a substantial landscape buffer to contain the activity on the site. Ms. Turcotte said as part of the submittal is a lighting plan and she spoke on this. The lighting engineer strategically places the lights focused on the parking to address security concerns but not so bright that make it worse than the existing condition. So no lighting is pushed onto abutting properties. Chairman Hurd said the Master Plan Subcommittee and the Selectmen have been pushing for the night sky so they will probably look at that. Where is the septic? Ms. Turcotte replied in the front. The percolation tests were four (4) and seven (7) minutes an inch. Ms. Garbitt asked if there is no municipal water, would the well have to be a public water supply. Ms. Turcotte said no there are no public restrooms. Minor discussion occurred regarding municipal water. Chairman Hurd stated that the Board has taken a position and we need to be very firm that no one goes to Taunton for water without us.

Upon motion made by Selectman LaCamera, seconded by Selectman Yeatts, the Board:

VOTED: To recommend to the Planning Board that this is a desirable use for the area.
Unanimous vote.

8:00 PM Russ Curran-Middleborough G&E-pole easement

Russ Curran from Lakeville Little League is present. Ms. Garbitt said that William Taylor from Middleborough Gas & Electric was going to attend but is not here, but he did give the Board a plan and said it was the standard language that we have to give for an easement for a utility pole. Ms. Garbitt explained that there will need to be some tree trimming and Middleborough Gas & Electric will do that. Roger Hamilton looked at the plan and it is underground along four (4) poles. There is water in one area but they person know where the waterline is and they have already contacted Digsafe. Little League has to come back to the Selectmen and Roger Hamilton to review the plan. The Park Commissioners are always concerned that any project is paid for up front when they give approval. The telephone poles have been paid for; the only concern is the lights. They want to know that the lights have been paid for before they are installed. Chairman Hurd asked if fundraising was done for the lights. Mr. Curran said yes. Selectman LaCamera asked if the wiring would be underground. Mr. Curran replied they would use a ditch witch; it will go down two feet into the ground. Selectman LaCamera asked where the transformer was. Ms. Garbitt replied on the second pole that was installed.

Upon a motion made by Selectman LaCamera, seconded by Selectman Yeatts, the Board:

VOTED: To waive the electrical permit fees for Lakeville Little League for the work at the Ted William Camp.
Unanimous vote.

Upon motion made by Selectman LaCamera, seconded by Selectman Yeatts, the Board:

VOTED: To approve the lighting plan as presented by the Lakeville Little League for the fields at Ted Williams Camp.
Unanimous vote.

Mr. Curran was thanked for his work to put this project together. Ms. Garbitt thanked Middleborough Gas and Electric for their donation of two poles and a transformer. Chairman Hurd also thanked John Meleedy.

Upon motion made by Selectman LaCamera, seconded by Selectman Yeatts, the Board:

VOTED: To approve the easement to the Middleborough Gas and Electric subject to the final plan for maintenance of the poles.
Unanimous vote.

Review plan for Justine Circle Subdivision

Chairman Hurd stated that apparently the plan has changed again for Justine Circle. Selectman LaCamera asked for clarification on the letter from Town Counsel; is the Planning Board going to deal with that? Ms. Garbitt said she had forwarded it to the Chairman. This is

being presented to the Planning Board next Monday night. Chairman Hurd expressed his dissatisfaction with the plan. Selectman LaCamera did not like the plan either. He said there was a concern with the septic, so why are we doing this again? Chairman Hurd noted they can go before the Planning Board, but cannot go forward until they get approval of the shared septic system. Let's build a list, no plans unless stamped and marked by the Board of Health, right? Ms. Garbitt noted that the Board of Health has not reviewed the plan. Selectman Yeatts asked if they had demonstrated this to the Board of Health. Chairman Hurd said they have to demonstrate that each lot can sustain an individual system, and then they can go for the shared system. We should send a letter to the Board of Health that they should not favorably consider any development that is based on a shared system. This is putting a shared system into a place where it only creates an environmental hazard. Selectman LaCamera asked then why is this being considered without approval from the Board of Health first? Robert Darling, Building Commissioner, said they reduced from seven (7) lots to six (6) with a shared septic. Selectman LaCamera said they were supposed to come back and prove they could do this individually. Selectman Yeatts said but they never did. They came up the side with 4-50' pieces on the side for it. Chairman Hurd stated they are still weird looking lots. The name of the game should be stopping really weird lots. Why is he retaining this, will it be valid? Mr. Darling stated it is a buffer zone since his house is back there and there are some wetlands in there. Chairman Hurd asked if you can you build a private way off a private way? Wouldn't you need access by someone else thru their property? Mr. Darling said yes. Further discussion on who owns Fuller Shores Road, the private road, the lots now and about who has frontage on the road.

A resident said he had attended either a Selectmen's meeting or a Planning Board meeting and one of the people said you cannot build a private road off a private road. He was concerned about the community septic system. The engineer guaranteed that the seepage would not get into the underground streams, of which there re many going into the ground. I am concerned about the lake and the wells down below the system. This area is a Zone 2 of a public water supply. What happens if the common septic fails? Selectmen LaCamera stated we need to ask the Planning Board about the private road off of a private road. Town Counsel is reviewing it, access needs to be considered.

Upon a motion made by Selectman LaCamera, seconded by Selectman Yeatts, the Board:

VOTED: To strongly recommend against the proposed plan for Justine Circle to the Planning Board, based on the above reasons.
Unanimous vote.

At this time, Russ Jackson from Kingman Street asked to speak to the Selectmen regarding his property. At a joint meeting held a few months ago regarding the subdivision off of Race Course Road, he mentioned to the Board that he had been pumping water profusely from his basement since construction began. He showed the Board three (3) months electricity bills from the past three (3) months. The bills are all over \$500 and in the coldest winter, the bills never went higher than \$275. Chairman Hurd noted that the Board has objected to this development from the start. Mr. Jackson noted that the average has doubled from what it was last year. The motor load is the only thing that will make the meter spin more than just keeping lights on. Mr. Jackson said that in the retention pond off the back end of the property with the culvert, the water

has not been any lower than a foot inside the wells. This is a big problem. Chairman Hurd said we have to figure out what to do with it. Mr. Jackson said the developer has changed the hydraulics of the land and the water is backing out. He has never pumped water in November, December or January and he has been in his home since the early 90's. He asked what is going to happen to him and the rest of the neighbors if houses go in there. He plans on being a life long resident of Lakeville, but at this point, if you do not do anything my electric bill will be over \$1000 a month, which is not feasible. Mr. Jackson said that the Town has allowed this to go to this degree (all boards) and he has incurred over \$600-\$800 worth of electric bills. He is concerned he will be flooded out.

Chairman Hurd told Mr. Jackson that he may have a civil action against the developer since it is someone causing direct damage. We are told we cannot stop this, and it is a shame that we cannot just say no. Selectman Yeatts noted that the developer met all the thresholds. Even though Conservation said no, DEP could supercede us on the two (2) lots. Mr. Jackson said he told the Planning Board that this would happen, and they did not understand the dynamics of that area and now I am here to show the proof that this happened. Selectman LaCamera said this should go in front of the Planning Board to get this documented appropriately. Mr. Jackson said if you are telling me your hands are tied, and I will need to seek legal counsel. Chairman Hurd said that Selectman LaCamera's suggestion is good and make sure it gets documented, but that should not stop you from getting legal counsel since you may have problems that cannot be reversed. Mr. Jackson said he knew this was going to happen and this is proving that now. 26 South Kingman Street has that culvert that drains into the wetlands in the back and he did not see anything calculated in for that and it drains directly into that wetland. If it cannot absorb that, it is backing up and coming right back at me. His father, Donald Jackson and Roger Hamilton installed that culvert. It was to take away the flooding that was being caused by the culvert at the corner since the water was running over the corner and front part of the property. He said he has spoken to the Planning Board about this. Chairman Hurd said he should get this information in front of the Planning Board.

Sign Bond Anticipation Note (BAN) for street sweeper

Chairman Hurd reviewed the terms of the Bond Anticipation Note for the new street sweeper.

Upon motion made by Selectman Yeatts, seconded by Selectman LaCamera, the Board:

VOTED: To approve and sign the Bond Anticipation Note for the new street sweeper in the amount of \$120,000 at an interest rate of 3.70% with Eastern Bank.
Unanimous vote.

Notice of Intent to Layout Margeaux Drive

Chairman Hurd stated the Board had been asked to vote a Notice of Intent to layout Margeaux Drive. Selectman LaCamera said he would like to wait on this. The Planning Board has not gotten the as-builts. Roger Hamilton has been asked to look at the detention pond and the retention wall. The road looks nice, but Selectman LaCamera did not think the drainage is working well. Selectman LaCamera recommended sending a note to the Planning Board asking

them to have the Town Engineer and a member of the Planning Board inspect the roadway. Chairman Hurd agreed to table this until any observed deficiencies were corrected.

Review Zoning Board of Appeals petitions: Nextel & Benoit/Gemini Realty

Chairman Hurd said there were two (2) petitions that the Zoning Board of Appeals would like recommendations on. The first is for Nextel. They are requesting to put three (3) more antennas on their current antenna, which then adds up to 12, and this is within the intent. Minor discussion occurred regarding the petition.

Upon a motion made by Selectman Yeatts, seconded by Selectman LaCamera, the Board:

VOTED: To recommend approval of the Nextel petition to the Board of Appeals and inquire whether the original bond is still valid and if the Town has the ability to put up antennas and/or a building for the Town to house its communication equipment in.
Unanimous vote.

There was further discussion regarding space for the Town on the new cell tower and a storage building for the Town's equipment.

Chairman Hurd said the next petition is for Gemini Realty/Benoit for the property at 56 Main Street. The petitioner is looking for a variance to have two (2) commercial buildings on one lot. There was discussion on the plan and some confusion about what land they were proposing to combine. Further discussion took place on the plan. Selectman LaCamera asked why they are asking for an easement for the septic system if they own it. Selectman Yeatts replied because of the easement. She asked about the impervious area; what is the coverage, it doesn't say anything. We cannot make a determination since we do not have enough information.

Upon a motion made by Selectman LaCamera, seconded by Selectman Yeatts, the Board:

VOTED: To forward a memo to the Board of Appeals stating the following concerns with the petition: drainage; percentage of lot coverage; two separate buildings on one property; septic system being located in an easement; confusion over who owns the remainder of the property (south of Ebony Road); where is their reserve system going to go (this is a big system and if it fails, where will it go); will there be anything in the buffer zone; confusion over which two (2) lots they are combining, existing road drainage is on another property; and the plan is completely devoid of clarity; it does not accurately let us know what they are trying to do and so the Selectmen do not think they should proceed as it stands.
Unanimous vote.

Approve Selectmen's meeting minutes of October 17, 2005; December 12, 2005 and February 13, 2006

Upon motion made by Selectman LaCamera, seconded by Selectman Yeatts, the Board:

VOTED: To waive the reading of and approve the minutes of October 17, 2005; December 12, 2005 and February 13, 2006 as presented.
Unanimous vote.

Approve Executive Session minutes of December 20, 2005; January 11, 2006; February 6, 2006 and February 27, 2006

Upon motion made by Selectman Yeatts, seconded by Selectman LaCamera, the Board:

VOTED: To waive the reading of and approve the Executive Session minutes of December 20, 2005; January 11, 2006, February 6, 2006 and February 27, 2006 as presented.
Unanimous vote.

Any other business that may properly come before the meeting.

Chairman Hurd read a notice from the Estate of Father Thomas J. Mooney, who passed away recently. Father Mooney left a bequest of \$1,000.00 to the Lakeville Animal Shelter for the care of stray animals. Father Mooney had adopted a dog from the shelter and the dog has been taken in by a family. The Board thanks Father Mooney for his generosity.

Other Items

1. Letter to Plymouth County Commissioners
2. Notice of donation from Estate of Father Thomas Mooney
3. Notice of Phase II Report & RAO report for Shanic Autobody
4. Plymouth County Commissioners meeting notices: February 22, 2006 March 1, 2006 and March 8, 2006
5. Meeting notice-March 2, 2005-Gateway Health Group
6. DOR FVAC Recommended Values FY07
7. DOR Bulletin-2005 Legislation
8. Letter from Comcast regarding programming changes
9. Notice from MMA regarding Spring regional update meetings
10. Notice from Suburban Coalition Annual Legislative Breakfast
11. TPL Update-March of 2006
12. Comprehensive Environmental newsletter-Detention Basins

Upon motion made by Selectman LaCamera, seconded by Selectman Yeatts, the Board:

VOTED: To enter into Executive Session at 9:45 PM and not to return to Open Session for the purpose of discussing possible litigation. Polled vote: Selectman LaCamera, aye, Selectman Yeatts, aye and Selectman Hurd, aye.