

TOWN OF LAKEVILLE
Selectmen's Meeting Minutes
March 21, 2011 - 7:00 PM

On March 21, 2011, 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 7:04 PM. Selectmen present were: Selectman Yeatts, Selectman Olivier and Selectman Maksy. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. Cindy Dow was recording for The Middleborough Gazette.

Discuss comments regarding Final Draft of Open Space Plan

Linda Grubb, Chair of the Open Space Committee, was present for the discussion. Selectman Maksy asked about page 5 and the increase in the population. He was looking for footnotes on where the information was being taken from. Linda Grubb responded that she believed it came from census work that SRPEDD did in 2001. When the 2010 numbers come out, everything is subject to change. That is what has to be used until the new census numbers come out in April. Chair Yeatts stated that she did not want Lakeville's Plan to be ten (10) years behind before we move forward. Ms. Grubb stated that they had to start somewhere. The Committee was going to do an addendum, but now we are going to wait until the new census figures come out. Selectman Maksy stated that a lot of his comments are concerning where the data was obtained. Ms. Grubb stated that the population can be updated, and they have used the most recent data available. Selectman Maksy asked if the Town was the deeded owner of Betty's Neck. Chair Yeatts responded that the Town owns it. The Town is part of the Assawompset Pond Complex, but owns Betty's Neck. Ms. Grubb stated that the Plan will have to explain how the Town was able to purchase it with the grants, etc. Selectman Maksy said that on page 12, it states that no new teachers were hired. Ms. Grubb responded that that information was from Laurie Hunter at Assawompset.

Selectman Maksy asked about the very last sentence on page 16. Conversion of seasonal homes has led to septic and water problems due to being unable to properly filter wastewater. He did not like how that is worded. He did not want to criticize residents because they are on a smaller lot. He thought it may sound offensive to some and we are going to be accepting the plan as a Town. That is like saying all cranberries cause cancer. Chair Yeatts stated that the Town paid \$100,000 for a study done by Camp, Dresser & McKee and that is what they found. Selectman Maksy noted that there are just as many properties throughout the Town that have failed systems. He has no evidence that someone's septic system is leaching into Long Pond. He has a problem with this seasonal property list that is out there, but that is another issue. The wording can be changed so that it does not insinuate that all the homes on the pond contaminate the water. Chair Yeatts noted that that has been documented. The Board of Health would like money to go after them. We will be talking about that later tonight.

Selectman Maksy asked about the formerly unbuildable lots on page 18. He did not understand, a lot is either buildable or not. How did the lot become buildable when our zoning gets more stringent every year? Area, frontage, etc. are definitions for a buildable lot. Ms. Grubb explained that by mounding systems, they become buildable. Selectman Maksy stated that if a lot was unbuildable in the 50's with less than 5,000 square feet and less than 50 feet of

frontage, it still would be. Ms. Grubb explained that it is the ability to pass a percolation test also. Chair Yeatts noted that the Town has changed the rate from 20 minutes to 30 minutes. Selectman Maksy stated that the definition is frontage, area and then there is a third one. Ms. Grubb stated that she will have Donald Foster take a look at it. Selectman Olivier stated that the reason is more likely because the price of the lots have gone up, and people can now pay for a more expensive system. Selectman Maksy noted that perhaps the wording could be that previously a lot that was considered cost prohibitive was no longer cost prohibitive. That would be a better way to word it. Selectman Maksy asked about the infrastructure. The Assonet Train Station will have an impact on southern portions of Lakeville. He would like to qualify that, is it good impact or bad impact? Is it more development or less development? Ms. Grubb responded that it depends on your perspective.

Selectman Maksy asked about the gallonage on the top of page 25. Chair Yeatts responded that it is 300,000 gallons. Previously the limit that Taunton could treat water for Lakeville was 150,000 gallons per day, but with the current Inter-municipal Agreement, it is 300,000 gallons. It never was 130,000 gallons; it was always 150,000 gallons. Ms. Grubb explained that someone has come up with a formula to arrive at buildable land in Lakeville, not considering land that is underwater or wetlands. We choose to use the SRPEDD figure since we did not calculate the figure. Selectman Maksy cautioned about throwing opinions into the plan. Ms. Grubb responded that it is simply taking public information and saying that the chart that the Committee prepared either did or did not take this into consideration. You cannot look at the chart and say that the acreage amount can be used in this paragraph. Selectman Maksy felt personal opinions should not be part of the plan. Ms. Grubb explained that it is not a personal opinion; it is a possible discrepancy in the numbers. Selectman Maksy stated that he felt that could have been stricken from the plan. He did not think we can use some information and not other information. What makes the Committee more of an expert of developed and undeveloped land? How do we get past that? He thought it would cause confusion, and the reader will choose the one that they like better. Ms. Grubb offered further explanation. SRPEDD takes the wetlands into account. She did not know how they do that, but this needs to be shown in the plan of how you would arrive at those figures. The information came from the 2005 Master Plan. Ms. Grubb stated that this is only to give you a general idea of what we think is still considered buildable land in Town. Selectman Olivier stated that if it is a personal opinion, it should not be in there, but if it is data, then that is fine. Ms. Grubb further explained that it is based on information from the Assessors Office, the Conservation Commission and restricted land records. There will always be discrepancies. Every document will have a different number since there is really no way to know what is out there.

Selectman Maksy referred to page 36, the top paragraph. There is little chance that any part of Ted Williams Camp will ever be used for agricultural use. Ms. Grubb stated that she agreed. They will not be using it for a corn field. It will be used for ball fields. Selectman Maksy explained that he took that to mean someone cannot even put in a small garden. Ms. Schroeder stated a small garden is not agriculture. Ms. Grubb stated that she would like to speak on the athletic fields. The current Open Space Plan implies that we do not need any more athletic fields in Town. Now it looks like the Town does need a lot more fields, so that chart will change.

Chair Yeatts referred to the preface, page ix, first paragraph, about Riverside Drive and Commercial Drive. Is that an appropriate sentence? Ms. Schroeder responded that it should say almost up to the Nemasket River. Chair Yeatts referred to page 1, second paragraph, appropriately sited new commercial development. Chair Yeatts felt the need to say that it is pretty well known that you need commercial and industrial development to balance the tax base. Ms. Schroeder suggested to put in “as seen as” instead. Selectman Olivier mentioned that he did not see the survey. Ms. Grubb responded that the survey is in the appendix. The Committee did not have money to print out the complete finished document, but it will be in there. We are also getting to the point that the survey is almost out of date. Selectman Maksy stated that he would like an opinion of what people think of for commercial and industrial business. Selectman Olivier suggested, “how do you think we would/should pay for the services in Town?” Ms. Grubb stated that she would like to do another survey. They did not get as many responses as the Committee would have liked. There is not a lot of time between now and the Town Meeting, but if the Board would like to prepare questions, they can also attend the next Open Space Committee meeting.

Discuss joining the Old Colony Crossroads Collaborative

Ms. Garbitt explained that a few years ago, the Town joined the Old Colony Crossroads Collaborative. Ms. Garbitt had attended a few meetings, but the Collaborative did not seem to get off the ground. The Collaborative is at a point now where they are meeting. Ms. Garbitt said the meetings take place during the day. Chair Yeatts suggested asking Gary Mansfield to represent Lakeville.

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

VOTED: To ask Gary Mansfield if he would like to be the Town’s representative to the Old Colony Crossroads Collaborative.
Unanimous in favor.

Review request from Wage & Personnel regarding Longevity

Chair Yeatts read the memo from Ms. Garbitt acting as Chair of the Wage and Personnel Committee, dated March 7, 2011. The Wage and Personnel Board voted unanimously to recommend to the Board of Selectmen that any new employees hired on or after March 1, 2011 would not be eligible for longevity at this time, due to the Town’s financial situation. Selectman Olivier stated that in order to retain employees that you have invested time in, after they have gone through their steps, the Town offered longevity. It is basically a percentage increase in the wages. However, over time the wages have increased in the public sector. With the fiscal constraints that the Town is in, the Town cannot continue down this path of percentage increases provided automatically. This is a way to try and reduce costs.

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

VOTED: That new employees hired on/after March 1, 2011 are not eligible for longevity.
Unanimous in favor.

Review memo from Wage & Personnel regarding addition of new member

Chair Yeatts read from the memo, dated March 7, 2011, from Ms. Garbitt. The Wage and Personnel Board had been discussing adding another Member to the Board. It was voted to add a Citizen-at-Large member with the following restrictions: the individual shall not be employed by or do work for the Town of Lakeville; the individual shall not be related to anyone employed by or who does work for the Town of Lakeville; the individual shall not be currently serving on any Board or Committee for the Town of Lakeville, and the individual must be a registered voter in the Town of Lakeville. There is no stipend for the position.

Selectman Olivier explained that the Wage and Personnel Board is now about an even split of employees and non employees. The whole perception of the Wage and Personnel Board is so there are controls in place since they are providing direction of what the wages and benefits for the Town should be. He has suggested adding another member that is not an employee, who is considered an objective member. Selectman Maksy stated that he would like to clarify that there is a need to have Department Heads on the committee, but it does not have to stay that way. He would like to change all the places where it says “may” to “shall”. He asked why does the person need to be a registered voter in Town. It should be enough to be a resident.

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

VOTED: To change and amend the word may to shall on the Wage and Personnel Board’s membership and to add a Citizen-at-Large Member.
Unanimous in favor.

Discuss request from Town Clerk to send letters to Town Democratic & Republican Committees

Chair Yeatts read the request from the Town Clerk regarding sending out the annual letters to the Town Democratic and Republican Committees.

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

VOTED: To send letters to the Town Democratic & Republican Committees requesting the names of Election Workers to be appointed from each committee.
Unanimous in favor.

Review proposed charge for Building Feasibility Study Review Committee

Chair Yeatts stated that she would like to put this on next week’s meeting agenda so that Selectman Olivier could review charges from other committees. She said a charge is needed to explain what the committee will be doing. Another way is for the committee to meet and come up with a charge during their first meeting. Ms. Garbitt stated that usually the Selectmen draft the charge. It was decided to put the appointments to the committee on the next agenda as well.

Discuss rescheduling April 11, 2011 Selectmen's Meeting

It was agreed to change the April 11, 2011 meeting to April 19, 2011.

Revisit Selectmen's Member to Collective Bargaining Committee for the Teachers' Contract

Ms. Craig said that the School Committee is posted for March 23rd at 6:30 PM, but she has not seen a posting for the Collective Bargaining Committee. Discussion then took place regarding the meetings that are presently scheduled and the fact that the Board of Selectmen is not notified when the meetings are taking place. Ms. Craig stated that all committees have to post 48 hours prior to meeting through the Town Clerk. Ms. Garbitt said they are supposed to check with all the members to set a meeting date. Selectman Maksy said they seem to be in violation of the Open Meeting Law. They are talking about opening the contract, but it sounds like they have opened the contract to discuss it. There has been no consideration for the public on this.

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

VOTED: To appoint Selectmen Olivier as Member to the potential Collective Bargaining Committee for the Teachers' Contract.
Unanimous in favor.

Discuss letter from Lottery Commission regarding Poquoy Brook Golf Course

Chair Yeatts stated that Poquoy Brook has applied to have Keno. The Board does not have to take a vote, unless the Board is against them being issued a Keno license. The Board was in favor of allowing Poquoy Brook to have Keno.

Discuss request from Conservation Commission to appoint Sarah Kulakovich to Conservation Commission as an associate member.

Selectman Maksy stated that Ms. Kulakovich did not meet the deadline for submitting her letter of interest. Ms. Craig explained that Ms. Kulakovich sent her a letter of intent on February 9th. It was copied and emailed to the Chairman of the Conservation Commission. From that email, Mr. Orrall invited her to attend a meeting to see what the Commission does. Ms. Craig said Ms. Kulakovich's letter was in a previous agenda packet. Selectman Maksy stated that he had not seen it. That is why guidelines are needed. He would like the opening on the Conservation Commission to be published in the Gazette and keep this on file for now. We need to do this fairly. This is just a procedural thing. Selectman Olivier stated that he did not see the letter either. Chair Yeatts stated that it showed responsibility on Ms. Kulakovich's part to attend a meeting to find out what it entailed. Selectman Olivier stated that a policy was put into place and has not been followed. Chair Yeatts stated that she felt the procedure was followed. Ms. Kulakovich saw the blurb in the paper, attended a meeting, felt it was something of interest to her and so submitted a resume. Ms. Grubb asked if the item was on the Selectmen's agenda. The confusion may be that when Mr. Orrall hands this in, he thinks it is getting to the Board and

maybe it is only going to the office. Ms. Craig explained that she and Mr. Orrall had emailed back and forth. Mr. Orrall dealt directly with Ms. Kulakovich since he could answer her questions. He sent some of the information, such as the memo, and resume to Ms. Craig. The letter might have been in the original attachment, but was sent directly to Mr. Orrall. Selectman Maksy asked in fairness to redo the process again.

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

VOTED: To put the opening for an Associate Member for the Conservation Commission in the paper and to take letters of interest until April 14, 2011.
Unanimous in favor.

Request for renewal of Temporary Trailer Permit-135 Precinct Street

Chair Yeatts read the request for the renewal of the Temporary Trailer Permit for 135 Precinct Street.

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

VOTED: To renew the permit until March 30, 2012.
Unanimous in favor.

Request for renewal of Temporary Trailer Permit-225 Bedford Street

Chair Yeatts stated that she had a few questions about the renewal request. The permit is for a house that burnt down. The six (6) months for the initial permit is up. In reading the bylaw, the applicant should have pulled a building permit during this time. The applicant needs to apply for a building permit. She suggested renewing the permit for 60 days and see if the applicant pulls a building permit. The applicant may need to be told that she needs to think about rebuilding since she cannot live in the trailer forever. Ms. Garbitt will put this on the next agenda and speak to the Building Commissioner.

Review revised site plan-Zoning Board of Appeals petition-167 Bedford Street-Leo Rousseau

Chair Yeatts stated that the Zoning Board of Appeals has reviewed the site plan for 167 Bedford Street and has approved it.

Discuss Board of Health request from Town Counsel regarding Title V Enforcement of Failed Systems and Body Art Permit-Inspiration Body Art-54 Main Street

Chair Yeatts stated that the Title V enforcement has been taken care of. She spoke with Ms. Garbitt about it today.

Chair Yeatts said the Body Art Permit went before the Board of Health. They only spoke about nose and ear piercing. Genitalia piercing was not specifically talked about. A Prince

Albert was mentioned, but the Board of Health did not fully understand what that was. The Board of Health also waived the physiology and anatomy classes, and cannot now insist that the classes be taken according to Town Counsel. They will be discussing this again at their meeting on Wednesday night to speak to the applicant about taking the waived classes. If they do not agree, then she was asking for a few more hours to talk to Town Counsel.

Review and vote to approve Selectmen Meeting Minutes of December 20, 2010

Selectman Olivier stated that he only has the odd numbered pages of the minutes. The minutes will be put on the next agenda for the Board to review and approve.

New Business

Ms. Garbitt stated that she was notified today that the Joint School Committees meeting for March 24th was rescheduled to March 31st at 6:30 PM at the Apponequet IMC.

Ms. Garbitt stated that March 14th is the deadline for warrant articles for Town Meeting. The Assessors sent their warrant article for the tri annual re-evaluation. They are asking for a lesser amount since the Town can spread it out for four (4) years. The Planning Board will be looking into amending the General By-law for the Outdoor Lighting. The Planning Board supports four (4) of the warrant articles. The warrant articles will be part of the agenda for the Board, next Monday. The Park Commission also submitted a borrowing article for the earth removal at Ted Williams Camp. Attorney Bob Mather submitted his letter for acceptance of Commercial Drive and Riverside Drive. He will be meeting with the Planning Board.

Ms. Garbitt stated that requests have begun to be received for organizations to hold car washes at the Town Office Building. The Town Office Building is now connected to the City of Taunton and Lakeville has to pay for the water now. It is not known how many gallons are used during one of these events. How would the Board would like to manage the car washes. Selectman Maksy suggested to do a meter reading prior to the organization having the car wash and then immediately after they are done. It cannot be more than \$20 worth of water that they would use.

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

VOTED: To have organizations pay \$20.00 towards the cost of water when they hold a fundraiser car wash at the Town Office building.
Unanimous in favor.

Other Items

1. Memo from Wage & Personnel Board regarding New Performance Evaluation Form
Selectman Olivier explained that the new Performance Evaluation form was drawn up by the Wage & Personnel Board. The form is a combination of a form from another municipality and from a private sector company. The factors will help guide the person who is doing the evaluation and to rate the person. The present performance evaluation

form that is being used by the Town allows someone to be well below expectations and still get a raise. With the new form, you have to at least meet or exceed expectations in order to be eligible for a raise. If you have a 4% pool of money and you have a particular amount of employees, then you can then spread that amount of money between those who exceed and meet the expectations. Selectman Olivier then gave further insight about how the new process works. Selectman Maksy stated that he felt that there also should have been an additional signature above the supervisor, an objective review, such as the Chair to the Board of Selectmen or the Town Administrator. This will ensure that there is no conflict. He suggested to also get rid of the “partially meets”. Further discussion ensued on the topic.

Ms. Dow asked a question about the Schedule A. When it has been stated that the Town will not meet the deadline for the money, does that mean that the Town will not get it? Selectman Olivier responded that the funds are part of the quarterly Local Aid. When the Town does not meet the deadline for the paperwork that was to be submitted, it delays the funding.

Selectman Olivier stated that since the Town is late on submitting the Schedule A to the Department of Revenue, this also makes it so that the auditors cannot even come in to do their audit, which they wanted to do in November. The Town cannot figure out its Free Cash until the Schedule A is submitted to the Department of Revenue. So this is also delaying other things, since the Town is not doing the job it should be doing in the Treasurer’s Office. Ms. Dow asked how much is the quarterly payment? Selectman Olivier responded that it would include Chapter 70 funds for the School Department. The full amount is \$3 million, that would then be divided by four (4), so approximately \$600,000 dollars. It was indicated to me that it will take several weeks to get this done. The Town Accountant has been putting in a lot of hours to get this done, but the Town is eight (8) months behind in the necessary paperwork. This matter has been discussed previously. Selectman Maksy stated that once the paperwork is caught up and submitted, then the Treasurer and Town Accountant need to come back before the Board to discuss this matter. Can resources from any other Departments be pulled in order to help to get this paperwork done?

Selectman Olivier stated that this is in the Town Accountant’s corner. Ms. Garbitt stated that Ms. McRae wants her trial balance done before she sends it in. Selectman Olivier stated that is her procedure. She will get it done. Once this is completed, then we need to sit down and figure out how this is going to be fixed so that it will not take place again.

2. Memo to be distributed to Boards, Committees and Commissions regarding Open Meeting Law requirements
 3. Letter from Barney Frank’s Office regarding proposed hydrology study of the Assawompset Pond Complex
 4. Memo from the Conservation Commission regarding 50th Anniversary Celebration
- Selectman Maksy asked if the Conservation Commission can have a sub committee. Chair Yeatts responded that they had spoken to Town Counsel, and they could not have a sub committee. The Conservation Commission is going to do it another way.

5. Letter from Old Colony Regional Vocational Technical High School regarding budget hearing for 2011-2012 to be held on March 23, 2011
6. Letter from Mass DOT regarding annual spring street sweeping
Selectman Olivier stated that he did not think that the Town had that many sidewalks? Ms. Garbitt stated that there are sidewalks on Route 105. Christopher Peck, Superintendent of Streets, has received this letter.
7. Letter from Town Counsel regarding 2010 Massachusetts Interstate, Merrimack and South Coastal Watersheds Small MS4 NPDES Draft General Permit
8. SRPEDD Commission Meeting Notice – March 23, 2011
9. Letter from Massachusetts Historical Commission regarding Archaeology Month 2011
10. MBTA Advisory Board meeting notice-March 23, 2011
11. Notice of SEMASS COSC meeting – April 6, 2011
Chair Yeatts asked who was attending the SEMASS COSC meeting. Ms. Garbitt responded that she would and Mr. Peck.
12. Letter from DEP regarding Annual Statistic Reports for Public Water Systems
Selectman Olivier asked about the Annual Statistic Report for Public Water Systems. Ms. Garbitt responded that the information in the letter is being taken from the annual report. Fred Parameter is the Town's certified water operator. The commissary at Ted Williams Camp is being kept on for the election, that way the restrooms will be open and so that there will be enough water when the martial arts building is connected.
13. MassWildlife Newsletter
14. Notice of Sustainable Communities Conference
Selectman Maksy asked that the information about the conference be forwarded to Robert Iafrate, Building Commissioner.
15. DOR Bulletin – FY12 Budget Issues and Procedures
16. DOR Bulletin – Local Option Personal Exemptions
17. Notice of PEG Payment from Comcast
18. Letter from Comcast regarding 2010 Annual License Fee
19. Letter from Comcast regarding 2011 Annual Notice Filing
20. Notice of Price Increases – Verizon FiOS
21. Letter from The Neighborhood Corporation regarding renewal of membership

At 9:32 PM, upon a motion made by Selectman Maksy; seconded by Selectman Olivier, the Board unanimously:

VOTED: To enter Executive Session to conduct strategy sessions in preparation for negotiations with non-union personnel and to discuss strategy with respect to the collective bargaining agreement with the Fire Department, because an open meeting may have a detrimental effect on the bargaining position of the public body and not return to Open Session.
Polled vote: Selectman Olivier – aye, Selectman Maksy – aye, and Selectman Yeatts – aye.