

**SELECTMEN'S MEETING**  
**Monday, March 26, 2007**

On March 26, 2007, 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 Yeatts at 7:00 PM. Selectmen present were: Selectman Evirs and Selectman Yeatts. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

**7:00 PM Meet with Louis Rodrigues-letter of interest**

The meeting with the School Business Manager, Louis Rodrigues, was postponed for this evening.

**7:15 PM Meet with Marcus Baptiste**

*Marcus Baptiste and Ann Marton were present for the discussion.* Ms. Marton stated that at the previous meeting with the Board of Selectmen discussion had taken place surrounding the Pickens Street land parcel. Chairman Yeatts sent information regarding this parcel to her office. The deed was researched and also what took place at Town Meeting regarding the parcel of land. The land is under Article 97 at this time. Thus, the parcel of land on Howland Road was the next piece that was looked into for consideration. That parcel has a total of 636 acres. Ms. Marton displayed the plans for this parcel and identified the areas (pink polka dots) that were the consideration for the estimated priority habitat and the Open Space areas (in yellow). The twenty-acre portion, in close proximity to the two open space parcels is outlined in red, nearest the back of the property and would affect the Town the least. It is in close proximity to the Freetown Town Forest and there is some correlation in that area for box turtle habitat. This information was then provided to Sarah Haggerty of Natural Heritage for consideration. It appears that Natural Heritage feels that this parcel is acceptable to them for mitigation purposes. There is no Article 97 on this parcel. The 20 acres appears to be the number of acres needed for the mitigation, and the only issue is exactly where this parcel will be. The plan for the 636 acres was taken from the Massachusetts GIS maps which generally depicts the boundaries of the parcels of land.

Chairman Yeatts asked if a Conservation Restriction (CR) could be placed on the land for a Right-of-Way in the event that the Town needed access across the site. Ms. Marton responded that she did not think so. The land would be for passive recreation purposes such as walking trails, hiking trails, etc. A clause could be added for an allowable use, however. Selectman Evirs stated that that land is zoned industrial. Having this take place would go against what the Town is trying to do, develop areas in the Town for industrial use. Chairman Yeatts stated that the reason the Board of Selectmen zoned the entire parcel industrial was to protect another 600 acres from being zoned for residential use. Thus there will still be over 600 acres in this area zoned industrial, and in order that the businesses on Route 105 can start preceding forward, this mitigation needs to take place.

Selectman Evirs stated that while it is known that he is very supportive of commercial development and has approved of changing the present areas' zoning to business to allow business to move forward, the Board is now searching for a piece of property for the box turtle, and it would appear that the turtles in the present area will be destroyed. A parcel of land is being chosen that is at the most remote southwest corner of the Town from the most northeast corner of the Town which is 10-12 miles away, and they are saying that this is okay for the box turtles. This seems to send a real wrong message on the mapping and the whole system. Ms. Marton explained that Natural Heritage has accepted the relocation of Route 79 and the layout that MassHighway has provided along with other changes. There is other mitigation that will be done; timelines will most likely be required as well. The turtles will be displaced, however, the goal is to move the turtles out of the present area before it is altered. Natural Heritage has to vary their standards and mitigate appropriately for each individual project that is presented to them. All projects and sites are different.

Selectman Evirs stated that this is still an area that is completely remote from where the turtles are that is being suggested for the swap. Is this what takes place in other Towns? Could land from another Town be swapped instead that may be closer to this habitat? Chairman Yeatts explained that she believed the exchange should stay within the Town. Mr. Baptiste will also be providing an additional \$50,000 for this mitigation, and the Town does not want to see it go to another Town. This is what needs to be done to solve a local problem, get Route 79 relocated and move the project ahead. Ms. Marton asked if MassHighway would have provided mitigation. Ms. Garbitt responded that MassHighway would have in the event that the project was not taking place. Ms. Marton stated that she had spoken to Sarah Haggerty at Natural Heritage and Mark Carmichael from MassHighway and what they typically provide for mitigation is to the footprint of the roadway that they alter. They have even requested that a rare plant be replanted so that it was not destroyed. MassHighway would have to perform to the same requests of Natural Heritage; however, it would be shocking if they did comply since this is not really in their area of capability, since they typically work with signage, traffic lights, traffic, retaining walls to protect wetlands, etc. The concern is, if Mr. Baptiste did decide to walk away from his project, MassHighway may not perform the proper type of mitigation, and the Town would still have to provide some type or portion of the mitigation. The Town is intricately linked to the relocation of Route 79, the mitigation and the project.

Chairman Yeatts stated that she was very concerned about making sure that the project continues to move forward since it is significantly behind at this time. Mr. Motta has 90% of the work done of the 25% completion that Canpro is required to do. It would have been beneficial if Mr. Motta was present this evening. Selectman Evirs stated that he would like another opinion from the State or to have another opinion from the State regarding what is presently taking place since there is much more information available than when the meeting with the State took place. Ms. Garbitt asked if the Selectman meant the State as in MassHighway or Natural Heritage. Selectman Evirs responded that he was referring to Natural Heritage, however, it would be beneficial to have MassHighway available for a meeting as well to discuss this.

Chairman Yeatts stated that she did not feel that the problem Selectman Evirs had with the map in general should be presented to Natural Heritage. Selectman Evirs asked if Ms. Marton has submitted the plan of what she would be doing. Ms. Marton responded in the

affirmative. Natural Heritage and MassHighway have had the information for approximately two (2) weeks or more. Selectman Evirs asked what would happen if the Town does not mitigate? Ms. Marton responded that it did not appear that the standards and requirements under MEPA could be met and the project most likely would not be allowed to move forward. Ms. Garbitt asked about tunnels for the turtles to get to the other side of the property, could that be used as has been done for other areas? Ms. Marton responded that that would not be beneficial in this matter since the turtles would only be redirected to another dead end. Also, tunnels typically do not work for the turtles, and they do not use them.

Chairman Yeatts stated that Mr. Baptiste had a deadline to also consider. He may not be able to wait any longer since he has already waited a long time with the matter of Natural Heritage. Since Natural Heritage is positive about the suggested alternative, then this is where the mitigation needs to take place. Selectman Evirs pointed out the fact that the Town has done a lot for Mr. Baptiste in order to help his project move forward. The property was rezoned; water has been allotted, etc. Chairman Yeatts mentioned the fact that the Town asked Mr. Baptiste to rezone the property, and the Town will be getting a lot more than what it is giving in this matter. Selectman Evirs stated that he just had a hang up with the mapping area. Protect one area, and then be allowed to destroy another. Natural Heritage needs to come in and explain how this can take place. Right now this has been a series of e-mails, letters, telephone calls, etc. A meeting needs to take place with everyone and for them to state that this particular exchange is completely adequate with them. Ms. Marton explained that Natural Heritage feels that the area is within the local population for box turtles, not that anyone even knows if they are actually using this area even presently. Natural Heritage will issue this to take place, if the Board votes to allow the exchanged 20-acres. Then an application can be filed on behalf of Route 79 and Mr. Baptiste's project. Once this is all deemed acceptable then the permit can be filed. Even if the Board votes in the affirmative this evening, an application still has to go through Natural Heritage, yet this cannot be done without authority from the Town.

Selectman Evirs pointed that everyone should be well aware that he did not agree to the map and how it was developed. If this is within the protected area for the box turtle, then the difficulty is exchanging it to an area that is not mapped for their protection in another area of the Town. The Town is being penalized on a piece of property that has been mapped and then being allowed to put a protection in an area where it was not mapped for protection. Ms. Marton stated that the maps come out every two (2) years. For a plant, animal or even the box turtle, the map could grow or shrink in various areas. The turtles have been observed in a 3,000 foot radius of the area and this is considered a reasonable migration area for the turtle. A joint meeting could be pulled together; however, Mr. Baptiste has some deadlines. Selectman Evirs stated that deadlines are temporary, this change would be permanent. There is no deadline at this time for this consideration, and the Town should not make a hasty decision.

Chairman Yeatts stated that Selectman Evirs was welcome to go and speak with Natural Heritage, this is her field of expertise and she has been to enough meetings and had enough discussions about the mapping. If the Town opposes the map, Natural Heritage could potentially play Russian roulette with the map and it could change. The tax dollars are desperately needed and wanted for the Town. Mr. Baptiste is poised to meet with Canpro and if this does not take place, then the project will fall further behind and the Town could potentially lose money with

any further hesitation on its part. As soon as Mr. Baptiste can begin his project, the sooner the tax revenue can come in to help with the budget. Selectman Evirs stated that he does not disagree with getting tax revenue generated, but outside of the three (3) parcels that were presented, is there a list with other parcels as options? Mr. Baptiste responded that a state-wide search was done of parcels; however, the other parcels were too far away from the area and were of significant cost (\$200,000 minimum). Chairman Yeatts added that private parcels were also considered, however, there were difficulties with those parcels due to their endowments. Selectman Evirs stated that in good faith he could not make a motion on the matter. Mr. Baptiste asked if he could return before the Board in two (2) weeks when they would have a third member to the Board. It was agreed for Mr. Baptiste to return.

Selectman Evirs asked for Sarah Haggerty's phone number to discuss this further with her. He explained that he is all for protecting natural resources; however, he did not understand how this could be relocated to 12 miles across the Town. Minor further discussion took place for clarification regarding MEPA, MassHighway, Canpro and MDC Development on what would be taking place for the permitting, costs, construction, land taking and who would be responsible in these various areas. Ms. Garbitt stated that Mr. Baptiste has to be back before the ZBA on April 19<sup>th</sup>, thus further discussion can take place on the matter with him on April 9<sup>th</sup> at 7:15 PM.

Mr. Baptiste stated that it was his honest opinion that the relocation of Route 79 would not take place in the near future if the mitigation is not resolved. 75% of the issues have to be resolved by September 2007. Four (4) years have already gone by since this matter began. It has taken 30 years for Route 79 to be relocated, and if the mitigation does not move forward, then it will take even longer than this year for anything to take place. The hurdle only keeps getting bigger. Selectman Evirs stated that if a meeting could take place with MassHighway prior to April 9<sup>th</sup> he would attend it.

### **Announce Litter Lifters Earth Day Celebration**

Chairman Yeatts announced that the Lakeville Litter Lifters would be organizing an Earth Day Lollapalooza clean-up for Saturday, April 21, 2007 from 9 AM until 12:00 PM. The drop-off site will be at Tamarack Park. No Town bags are required. The event will be mobilized into groups of five (5). Members can select their team from their neighborhood or a group of friends. The litter must be picked up from roadsides. The team that picks up the most bags of litter will win a prize, which will soon be announced. More information will be in the Gazette or can be found through contacting Mike Schroeder.

### **Discuss application for driveway cut-61 Highland Road, Lot 2**

Chairman Yeatts stated that the Planning Board approved the driveway cut for 61 Highland Road, Lot 2, at their March 19<sup>th</sup> meeting.

Upon a motion made by Selectman Evirs with Chairman Yeatts stepping down to second and stepping back up to vote, it was;

VOTED: To approve the driveway cut for 61 Highland Road, Lot 2 as approved by the Planning Board on March 19, 2007.  
Unanimous in favor.

### **Request from Comcast for resolution regarding Verizon legislation**

Chairman Yeatts stated that some Towns have passed resolutions regarding the pending Verizon legislation such as Quincy, Pittsfield and Waltham. The resolution would urge the Massachusetts Legislature to oppose any effort to eliminate the municipal consent process for competitive providers of cable television service, until a thorough evaluation is completed of the current system, and the effect of any proposed changes on local governments residents, competitors and incumbents is analyzed and would request that the DTE request a report on the status of Verizon Communication's commitments, operations and intent to utilize municipal rights of way for the purpose of providing cable television service and exempts it from the requirements that provide or intend to provide cable televisions. This has been submitted to Comcast and is "anti-", it is on the side for the Town. Ms. Garbitt asked if she should ask the Cable Committee if they would like the Board of Selectmen to vote on the Resolution. The Board members approved of this, if it would help the matter.

### **Announce Historical Commission Memorial Day observance**

Chairman Yeatts stated that the Memorial Day observance is scheduled for Monday, May 28, 2007 at 10 AM in front of the Town Office Building and Fire Station. The Chair will attend the event. There will be a third member to the Board at that time and possibly they may consider being at the event to express a few words.

Chairman Yeatts stated that the final bound copies of the archeological dig have been reviewed. The Historical Commission has requested that the Old Town House be referred to as the Town House.

Chairman Yeatts stated that the Historical Commission is looking for final input on the Honor Roll and any future Vietnam memorial to be placed at W.W.I. Memorial Dickran Square. This will take place at their April 11<sup>th</sup> meeting at 7:30 PM at the Library. After the meeting, the Commission would like to present a plan to the Selectmen and the Park Department for additional Veteran recognition at the square.

### **Review request of Mullein Hill Christian Academy for car wash**

Chairman Yeatts read the request of Mullein Hill Christian Academy to hold a car wash at the Town Office Building.

Upon a motion made by Selectman Evirs with Chairman Yeatts stepping down to second and stepping back up to vote, it was;

VOTED: To allow the 8<sup>th</sup> grade class of Mullein Hill Christian Academy to hold a car wash at the Town Office Building on Saturday, May 12, 2007 from 8:30 AM to 2 PM.  
Unanimous in favor.

**Review request for yard sale fundraiser-Town House**

Chairman Yeatts read the request of to hold a fundraiser yard sale at the Town House on behalf of a Lakeville resident stricken with breast cancer.

Upon a motion made by Selectman Evirs with Chairman Yeatts stepping down to second and stepping back up to vote, it was;

VOTED: To allow the yard sale fundraiser at the Town House on May 12, 2007 from 9:00 AM to 4:00 PM for the benefit of a Lakeville resident stricken with Breast Cancer.  
Unanimous in favor.

**Review earth removal permit renewal applicants**

The Board reviewed the list of earth removal permits that were requesting renewal.

Upon a motion made by Selectman Evirs with Chairman Yeatts stepping down to second and stepping back up to vote, it was;

VOTED: To renew the earth removal for Frank Will on Howland Road and T.L. Edwards off Bedford Street, expiring March 31, 2008 with the same conditions.  
Unanimous in favor.

Selectman Evirs asked what is done with the other earth removal permits that have not resubmitted in time. Ms. Garbitt responded that no more work could be performed after April 1<sup>st</sup>. A letter would then be sent to cease and desist any work after the 31<sup>st</sup> of March. This means that no more earth can be removed or brought in. Ms. Craig mentioned that there is a possibility that the application has not been submitted for renewal since the work may have been completed.

**Review and vote to approve Selectmen's meeting minutes of January 22, 2007 (2 sets); March 5, 2007; March 8, 2007 and March 13, 2007**

Chairman Yeatts stated that on the minutes of January 22, 2007, there was discussion regarding the custodian. Could the amount be compensatory service for the pool? Ms. Garbitt stated that she did not think it was the custodian for the pool that was being referenced, but it was not in the minutes.

Upon a motion made by Selectman Evirs with Chairman Yeatts stepping down to second and stepping back up to vote, it was;

VOTED: To approve the Selectmen's meeting minutes of January 22, 2007 (2 sets), March 5, 2007, March 8, 2007 and March 13, 2007 as presented and to waive their reading.  
Unanimous in favor.

**Review and vote to approve Executive Session minutes of February 21, 2007; February 22, 2007; February 26, 2007 (2 sets); March 5, 2007; March 7, 2007; March 9, 2007; and March 12, 2007**

Upon a motion made by Selectman Evirs with Chairman Yeatts stepping down to second and stepping back up to vote, it was;

VOTED: To approve the Executive Session meeting minutes of February 21, 2007, February 22, 2007, February 26, 2007 (2 sets), March 5, 2007, March 7, 2007, March 9, 2007 and March 12, 2007 as presented and to waive their reading.  
Unanimous in favor.

**Other Items**

1. Letter from Dr. Furtado regarding fiber optic cable for Assawompset School  
Selectman Evirs stated that it was a wise decision to wait after town meeting to determine what to do with the fiber optic cable for Assawompset School since the Town should not get into anymore expenses until it deals with what it has right now.
2. Letter from Division of Fisheries & Wildlife regarding 44 Clear Pond Road
3. Letter from MassHighway regarding street sweeping  
Selectman Evirs asked that the letter from MassHighway be forwarded to the Superintendent of Streets.
4. Letter from Old Colony Regional regarding FY08 funding for regional school transportation reimbursement  
Selectman Evirs stated that he felt the Board should send supportive letters as represented in the sample letters to the Town Representatives and Senator with respect to supporting increasing funding for the Regional school transportation. Ms. Garbitt mentioned that the Tuition for the Old Colony Regional School had actually decreased.
5. Old Colony Regional Newsletter  
Selectman Evirs stated that he would like to applaud Old Colony Regional Vocational Technical High School in having the highest attendance rates among area regional high schools according to statistics recently released by the Massachusetts Department of Education. This is a job well done.
6. Letter from CEA regarding 84 Main Street
7. SRPEDD meeting cancellation notice
8. Plymouth County Commissioner's meeting agendas-March 13 and March 20, 2007
9. Plymouth County Cooperative Extension Calendar-March & April 2007

Selectman Evirs mentioned that there will be a Mosquito Lecture on Thursday, March 29<sup>th</sup>, 2007 from 7 PM to 9 PM at the Middleborough Town Hall. Ellen Bidlack, Entomologist, of Plymouth County Mosquito Control will be present to give a lecture.

10. DOR Bulletin regarding FY08 Budget Issues & Procedures
11. DOR Information regarding FY08 Budget
12. Memo from Town Counsel regarding FCC Order-Competitive Cable TV Licenses
13. Comcast Annual License Fee-2006
14. Comcast 2007 Annual Notice Filing

Upon a motion made by Selectman Evirs with Chairman Yeatts stepping down to second and stepping back up to vote, it was;

VOTED: To adjourn the Board of Selectmen's meeting at 8:20 PM.  
Unanimous in favor.