

SELECTMEN'S MEETING MINUTES
Monday, April 12, 2010
7:00 PM

On April 12, 2010, the Board of Selectmen held a meeting at 7:00 PM at the Town Office Building in Lakeville. The meeting was called to order by Chair Yeatts at 7:03 PM. Selectmen present were: Selectman Yeatts, Selectman Olivier and Selectman Maksy. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

7:00 PM Orrall Earth Removal Permit Hearing-continued

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

VOTED: To open the hearing for the Emery Orrall Earth Removal Permit for 150 Rhode Island Road.
Unanimous in favor.

Gene Bartlett and Emery Orrall were present for the discussion. Mr. Bartlett stated that the plan pretty much shows what will be done. Abutter notifications were done for the Conservation Commission hearing in regards to the gravel removal. A legal ad was also run for the Conservation Commission hearing. A discussion occurred regarding abutters and notification. Mr. Orrall did not notify the abutters of the original Earth Removal Permit Hearing before the Selectmen. Ms. Craig then gave a copy of the letter that notified Mr. Orrall of the steps needed to be taken in regards to abutter notification to Chair Yeatts. Ms. Craig stated that a copy of the legal ad is mailed to the abutters to notify them of the hearing. Chair Yeatts stated that due notice had to be given and the legal ad was published in the Middleboro Gazette on January 21, 2010.

Selectman Maksy stated that it only hurts Mr. Orrall if the Board does not go through this process legally. He said Mr. Orrall needs to send out the original legal ad to the abutters and to make a note that this hearing has been continued to April 21, 2010 at 7:00 PM. This should be done tomorrow.

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

VOTED: To continue the Orrall Earth Removal Permit Hearing to April 21, 2010 at 7:00 PM.
Unanimous in favor.

Meet with Robert Poillucci to discuss well testing for residents due to the Flooding

Robert Poillucci, Board of Health member, was present for the discussion. Chair Yeatts wanted to state for the record that the Board of Selectmen has no control over the section of Bedford Street being closed. If there was anything she could have done she would have since it now takes her a half hour to get to the Town Office Building. Chris Peck, Superintendent of

Streets, has spoken to MassHighway and the best scenario is that the road will be open midweek, and the worst case is that it could be two (2) months. There were divers out on Sunday checking the culvert pipe to make sure it had not been compromised. They are doing borings to make sure the structure is safe. They are not going to open the road until they know that it is safe.

Mr. Poilluci stated that he has been on the Board of Health (BOH) for less than a week and has been getting asked questions every day about the Town paying for well testing. At his first BOH meeting, the Chairman, William Garvey, said he had discussions with the Selectmen regarding paying for the well testing since he thought that the Town had money available for this. However, it appears that funding is available through FEMA. The BOH has been doing some research regarding the safety of wells after being covered by flood waters. According to the Center for Disease Control, wells may not be safe for many months after an extensive flood. The well should continue to be tested once the water recedes. He said that the BOH had received a discounted rate of \$150 from Analytical Balance to test wells affected by the flooding. There are approximately 150 wells affected by this. Chairman Yeatts asked about just doing e-coli testing. Mr. Poilluci was concerned about the liability to the Town by only testing for e-coli when there are most likely other contaminants in the flood water.

Chair Yeatts stated that the Town does not know if it would be reimbursed for this expense. If so, the reimbursement is only 75% of the cost and the Town has to pay the other 25%. All the people that are applying to FEMA should be able to get reimbursed for their own well testing. She was concerned about the liability if the Town went onto people's properties to collect samples. Mr. Poillucci stated that it would be a great thing for people to get their well tested since many people never have. Mr. Poillucci would like to set up a program for this testing. Residents should chlorinate their well, flush it out, and then have it tested if the well was under water. There are directions from the EPA on how to do this, and we should place it on the website and do a press release. Ms. Garbitt stated that if the BOH knows that someone's well was in failure prior to the rains, then FEMA will not provide assistance. FEMA has been telling all the residents that the Town is testing the wells, so the BOH needs to get word out that this is what is going to take place. Ms. Garbitt stated that that part of the problem is that power has to be turned on to test the wells, and some homes still do not have power. Mr. Poillucci expressed concern about the cost to the Town to do the testing (approximately \$20,000), and an employee would be needed to do the testing and coordinate the testing. Selectman Maksy stated that if the Town definitely knew that FEMA would reimburse the Town for the testing, then the BOH should proceed with a well testing program. Otherwise they should have the homeowners pay for the testing, and the Town can help them as much as possible.

Dana Duree of Staple Shore Road, stated that he tests his well and septic system every year, as he is located right on Assawompset Pond. He feels that the houses on Staples Shore should be tested by the Town. He said that the erosion that occurred took eight (8) feet of soil from his lot. His living room is now over the pond and his well is two (2) to three (3) feet from the edge of the pond. Someone has to help us. Mr. Duree stated that he has been out of his house for three (3) weeks and has been to FEMA three (3) times, and they are moving slowly. Selectman Maksy said you can put bleach in the well, but the water must be down. Mr. Poillucci stated that you put the bleach in the well and then open all the spigots and let it run till you smell the bleach and then let it sit in the pipes overnight. Ms. Garbitt stated that FEMA is not going out to the homes

until the water level is down. Chair Yeatts suggested to Mr. Duree that he go to FEMA again and see what is reimbursed. As a homeowner, you are more likely to be reimbursed than the Town. We need to have the BOH work with FEMA and find out how many times they will reimburse for the well testing. Further discussion occurred regarding FEMA and reimbursement funding.

Mr. Duree asked who will be responsible for repairing the shoreline that was washed away. The water in the ponds has been high since last spring. Selectman Maksy stated that that is something he should talk to FEMA about. Mr. Duree said FEMA does not get involved in that. Chair Yeatts stated that she lives on Assawompset Pond also and lost a lot of shoreline also. She has applied to the Conservation Commission for an emergency certification to place some rocks in. If you still have water on your property, you will have to wait until the water goes down. Mr. Duree said he felt that the Town should be more active in this.

Selectman Maksy stated that he felt the Board should have a separate meeting to meet with residents and maybe invite our State legislators and members of the BOH. Chair Yeatts agreed that would be a good idea and perhaps we should also invite FEMA to hear residents' concerns. Mr. Poillucci stated that if the wells and septic systems were working before, the BOH cannot put it on Title 5, as long as they were working before.

Discuss Pay Rate for Inspections Performed by the Building Department due to the Flooding

Chair Yeatts stated that Mr. Iafrate would like to pay Inspectors at an hourly rate for inspections instead of per inspection. The Inspectors are still out tagging homes and they have a put in a lot of hours already.

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

VOTED: To have Inspectors under the Building Department be paid \$30 an hour regarding the tagging of homes due to flood damage. The inspection fees will return later to their per inspection rate.
Unanimous in favor.

Discuss the Board's Appreciation for all the Assistance the Town and Our Residents Received During the Recent Disaster

Chair Yeatts stated that Ms. Garbitt has asked the Department Heads to forward a list of everyone they would like to thank for the assistance received during the recent flooding. Selectman Maksy stated that he and Ms. Garbitt spoke about this a while ago and there have been so many involved that he wants to make sure a letter was sent out to recognize them. Ms. Garbitt stated that Town employees have also gone above and beyond to help people out. Chair Yeatts stated that she would like to write the thank you letter to Sysco for all the food that they donated.

Discuss Postponing Annual Town Meeting

Chair Yeatts said that the Board needs to postpone the Annual Town Meeting from its original date. Ms. Garbitt said she has checked with the Moderator and Town Counsel and they are available on May 24, 2010. The auditorium is also available.

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

VOTED: To postpone the Annual Town Meeting from Monday, May 10, 2010 to Monday, 24, 2010 at 7:00 PM at the Apponequet High School Auditorium.
Unanimous in favor.

Discuss Scheduling Special Town Meeting

Chair Yeatts told the Board members that the Board needed to schedule the Special Town Meeting and open the warrant.

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

VOTED: To schedule the Special Town Meeting for May 24, 2010 at 6:30 PM.
Unanimous in favor.

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

VOTED: To open the warrant and to close the warrant on Wednesday, April 21, 2010 at 4:00 PM.
Unanimous in favor.

Discuss Meeting Dates for May and June Board of Selectmen Meetings

The Board scheduled their upcoming meetings for May 10, 2010, May 24, 2010, June 14, 2010 and June 28, 2010.

Discuss Appointing Members to the Energy Conservation Committee and Vote of Charge

Ms. Garbitt said that William Garvey said he would serve on the Energy Conservation Committee. Selectman Maksy stated that he would like the committee's name to be Energy Advisory Committee. Chair Yeatts thought that the Committee should review the information and suggest to the Board their charge and the Board will look at this again.

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

VOTED: To appoint Robert Iafrate, Rita Garbitt, William Garvey, Jr. Derek Maksy, Don Foster, Kathleen Barrack, Darryl Bernier, Walter Healey, Stephen Durfee,

Richard Velez, Larry Simpson, Suzanne Amos, and Pamela Rasa to the Energy Advisory Committee.
Unanimous in favor.

Ms. Garbitt stated that the first meeting will be April 21st at 7:00 PM at the Library.

Discuss Renewal of Animal Control Officer Appointments

Chair Yeatts reviewed the appointments.

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

VOTED: To reappoint the following; David Frates, as Animal Control Officer and Jared Darling, Laurice Hedges, Darcy Lee and Harold Marshall as Assistant Animal Control Officers with expiration dates of April 30, 2011.
Unanimous in favor.

Discuss Renewal of Veteran's Agent and Graves Officer Appointments

Chair Yeatts reviewed the appointments.

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

VOTED: To appoint Marilyn Mansfield as Veterans' Agent and as Graves Officer with an expiration date of April 30, 2011.
Unanimous in favor.

Review and Vote to Accept Revised Middleborough-Lakeville Herring Fishery Commission Bylaws

This item was tabled. Ms. Craig will find out what the changes are first.

Discuss Request from Power Plant Task Force regarding proposed Moratorium Legislation

Chair Yeatts stated that this is the latest version of the Moratorium Legislation from the Power Plant Task Force. They are requesting that the Selectmen vote a formal endorsement and then forward it to our Legislators requesting that they sign on as co-sponsors.

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

VOTED: To support the Moratorium Legislation voted on at the Power Plant Task Force's meeting on April 1, 2010 and forward to Lakeville's Legislators.
Unanimous in favor.

Invitation from Lakeville Historical Commission to Annual Memorial Day Observance

Chair Yeatts read their letter into the record. Selectman Maksy said he would try to attend. Selectman Olivier said he would attend.

Request for SRPEDD Commission and Joint Transportation Planning Group Representatives

Ms. Garbitt said she would be willing to continue on as the Board's SRPEDD representative if the Board approved. Meetings take place the 4th Wednesday every month at 7:00 PM and are very informative. Selectman Olivier is very interested and would like to attend also. If the Planning Board does not have a Representative, then Selectman Olivier could fill that role.

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

VOTED: To continue with Rita Garbitt as Board of Selectmen's representative for SRPEDD.

Unanimous in favor.

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

VOTED: To appoint Christopher Peck to the Joint Transportation Planning Group with Rita Garbitt as alternate.

Unanimous in favor.

Review Request from Pilgrim Monument Committee 100 to participate in Plymouth Monument 100th Anniversary Parade – August 5, 2010

Ms. Craig stated that the Town has to respond by May 1st if they are going to participate in the Plymouth Monument Parade. The Board asked that this be forwarded to the Historical Commission to see if they were interested in representing the Town.

Review Request for Curb Cut – CVS – Main Street

Marcus Baptiste was present for the discussion. Selectman Maksy recused himself from the discussion. Mr. Baptiste stated that Christopher Peck, Superintendent of Streets, has signed off on the application. The Planning Board has already approved the location as part of their site plan approval and it has been through MassHighway.

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

VOTED: To approve the Curb Cut for the CVS Pharmacy site on Main Street, per Mr. Peck's comments in letter to the Planning Board dated May 16, 2008, and the Planning Board recommendations.

Unanimous in favor.

Chair Yeatts noted the markers needed to be placed on the Howland Road Conservation Restriction so that Mass Audubon can distinguish the right of way to the property. Mr. Baptiste stated that the stakes are about three (3) to four (4) feet tall and a few inches wide and are put in every few feet and at turning points to distinguish the easement. The plan will note this is an access easement for Mass Audubon only. Chair Yeatts stated this is Town property and anyone can go on the property.

Upon a motion made by Selectman Olivier with Chair Yeatts stepping down to second and stepping back up to vote, it was:

VOTED: To have the markers installed for Mass Audubon.
Unanimous in favor.

Review Request to Appoint Members to DEP Water Working Groups

Chair Yeatts stated that DEP is forming two (2) working groups regarding water issues with the ponds. One is a short term committee to address the high water levels. She would like to be on both the groups. Discussion occurred regarding possible representatives. Chair Yeatts said she will speak with Dick Turner to see if he would like to serve.

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

VOTED: To appoint Selectman Yeatts to both working groups and Linda Grubb and Chris Peck to the second committee.
Unanimous in favor.

Review Fourth Amendment to Tri-Party Agreement-Cedar Pond Preserve

Chair Yeatts stated that the agreement is all up to date and has been reviewed by Town Counsel for Cedar Pond Preserve.

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

VOTED: To approve as recommended by Town Counsel the Fourth Amendment to the Tri-Party Agreement for the Cedar Pond Preserve.
Unanimous in favor.

Review and Vote to sign Contract with Real Estate Research Consultants for Personal Property Re-Val

Chair Yeatts asked if there were other proposals and who chose the vendor. Ms. Garbitt responded that the Town Accountant has reviewed the contract. She is not sure if there were other proposals, but this is a sole source procurement. Selectman Maksy stated that he would like to make sure that the Board of Assessors has seen this. Ms. Garbitt stated that the Board is meeting with the Finance Committee Wednesday night and she will place this back on the agenda then.

Review Zoning Board of Appeals petitions: Kenney and Kenn

Chair Yeatts said the Board had two (2) Zoning Board of Appeals petitions. The first petition is for 103 Hackett Avenue. The Planning Board does not recommend approval of this petition. Chair Yeatts stated that she agreed with the Building Commissioner and the Planning Board. There is insufficient information to make a determination. Ms. Garbitt stated that it is already a non conforming lot and the petitioners want to make it more non conforming. They would need a variance, but you do not grant the variance to create more of a non conforming lot. A hardship cannot be financial. Conservation Commission approval will be needed, and they have not gone before the Board of Health yet.

Chair Yeatts said the second petition is for 6 Lakeside Avenue. This petition needs to have more information for the Board to make a decision. The Planning Board felt that the property needed both a Special Permit and variance and that there were insufficient facts to act on the petition. Selectman Maksy stated that he thinks that the Building Commissioner could issue a building permit for this. It is not a violation and is grandfathered in. The Board should try and revise this bylaw. Discussion occurred regarding the updating of the zoning by-laws. Selectman Maksy stated that he would rather not comment on this petition. It was agreed that the Board would state that they had no comments or concerns regarding this petition.

Review and Approve Selectmen Minutes – January 11, 2010

Upon a motion made by Selectman Maksy with Chair Yeatts stepping down to second and stepping back up to vote, it was:

VOTED: To approve the Selectmen's Meeting Minutes of January 11, 2010 as presented.
In favor 2, Abstain 1.

Review and Approve Selectmen Executive Session Meeting Minutes – March 22, 2010, March 23, 2010, and March 30, 2010

Ms. Garbitt stated that the Board needs to enact the Rule of Necessity since Selectman Evirs is no longer on the Board.

Upon a motion made by Selectman Maksy with Chair Yeatts stepping down to second and stepping back up to vote, it was:

VOTED: To approve the Selectmen's Executive Session Meeting Minutes of March 22, 2010 as presented.
In favor 2, Abstain 1.

Upon a motion made by Selectman Maksy with Chair Yeatts stepping down to second and stepping back up to vote, it was:

VOTED: To approve the Selectmen's Executive Session Meeting Minutes of March 23, 2010 as presented.
In favor 2, Abstain 1.

Upon a motion made by Selectman Maksy with Chair Yeatts stepping down to second and stepping back up to vote, it was:

VOTED: To approve the Selectmen's Executive Session Meeting Minutes of March 30, 2010 as presented.
In favor 2, Abstain 1.

Any other business that may properly come before the meeting

Appoint Robert Canessa as Wiring Inspector

Chair Yeatts said that the Building Commissioner has requested that Robert Canessa be appointed as Wiring Inspector to fill the vacant position. Selectman Maksy stated that Chair Yeatts was not present for an emergency meeting during the flooding at which the Selectmen voted to appoint another Assistant Wiring Inspector. Mr. Canessa is the Assistant Wiring Inspector, but due to the death of the Town's Wiring Inspector, he needed assistance dealing with the flood impacted properties. Kevin Thew was appointed as Assistant Wiring Inspector to help during the emergency. Selectman Maksy said he would like to post this position now. Chair Yeatts stated that since Mr. Thew stepped up during the emergency to help the Town, it would be an insult to him if this position was posted.

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

VOTED: To appoint Robert Canessa as Wiring Inspector until July 31, 2010.
Unanimous in favor.

Selectman Maksy stated that the Board needed to appoint another Assistant Wiring Inspector quickly during the flooding. The question is should the person be someone that does work in Lakeville or someone who does not work in Lakeville. He would rather post the position and make it contingent on not being able to do work in Lakeville. Ms. Garbitt stated that with job openings, the Town typically posts them on the bulletin board in the hall for two (2) weeks and on the website. Classified ads are expensive for part time positions. Selectman Maksy stated that he would like to solicit letters of interest since there is no money available to be spent for this. Bruce Malenfant stated that it was his understanding that John Beech was the Wiring Inspector and he worked in Town, so he did not understand the conflict with an Assistant Wiring Inspector. Selectman Maksy responded that Mr. Beech was a part time inspector so it was not a conflict. If he was full time, then it would have been a conflict. He still did not agree with it. It should be someone that is unbiased. Chair Yeatts stated that the Board will put it out there to see what happens. Mr. Malenfant stated that he thought Mr. Beech was the full time Wiring Inspector. It was decided to have the deadline be April 29, 2010.

Ms. Garbitt stated that the Park Commission Chairman has requested letters of interest for a vacancy on that board. This appointment would be a joint appointment. The press was asked to publicize the vacancy and request letters of interest due back by April 29, 2010.

Other Items

1. Letter from Old Colony Regional Technical High School regarding Open Meeting Law presentation
2. Letter from Office of the Governor regarding Chapter 90 funding – FY11
Chair Yeatts stated that the Town's Chapter 90 apportionment is \$285,624.
3. Letter from MassDOT regarding 2010 Spring Sweeping
4. Notice under Massachusetts Wetlands Protection Act – 1 Elliot's Way
5. Notice of Annual Meeting – Plymouth County Advisory Board – April 29, 2010
Chair Yeatts stated that the Board needs the budget for this. Ms. Craig stated that no attachments were received. They may send it under separate cover. She will call and ask when to expect the budget.
6. Notice of workshop – Multi-Agency Pandemic Response Planning & Coordination
Chair Yeatts asked if anyone is attending. She will speak to Dan Hopkins about this. We should keep up on these things. Selectman Maksy suggested either Dan Hopkins or Dave Goodfellow should attend.
7. JTPG meeting notice – April 14, 2010
8. Notice of meeting – Regional Economic Strategy Committee – April 13, 2010
9. Notice from SRPEDD regarding Annual Awards – Request for Nominations
10. Notice from Council on Sustainability regarding Regional Conference – April 27, 2010
11. Invitation to Suburban Coalition Legislative Breakfast – April 27, 2010
12. MassWildlife News
13. Notice from Comcast regarding Enhanced Services
14. Letter from Comcast regarding Price Adjustment
15. CDM Newsletter – Winter 2010
16. Letter from Associated Builders and Contractors, Inc.
17. Notice of address change: Department of Telecommunications and Cable
18. Letter regarding accreditation for Assawompset School
Chair Yeatts stated that when she looked at the letter dated February 9th that Laurie Hunter sent to NEASC, she stated that Assawompset lost 15 positions. We only lost 12.5 positions, so she wanted to point that out. She reported that the nursing services had been reduced, but it should be taken into consideration that the paramedics are less than ½ mile away. 14 EMS calls were recorded last year at Assawompset. Further discussion took place on this.

Adjournment

At 9:55 PM, upon a motion made by Selectman Maksy; seconded by Selectman Olivier it was:

VOTED: To enter into Executive Session to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the

government's bargaining or litigating position and not return to Open Session. Also, to conduct strategy sessions in preparation for negotiations with non-union personnel; and to actually conduct collective bargaining and contract negotiations with non-union personnel. Specifically, the Board will discuss the Fire, Police and Teachers Collective Bargaining Agreement.

Polled vote of Selectman Maksy – aye, Selectman Olivier - aye and Selectman Yeatts – aye.