

**TOWN OF LAKEVILLE**  
**Selectmen's Meeting Minutes**  
**April 19, 2011 - 6:30 PM**

On April 19, 2011, the Board of Selectmen held a meeting at 6:30 PM at the Town Office Building in Lakeville. The meeting was called to order by Selectman Maksy at 6:34 PM. Selectmen present were: Selectman Olivier, Selectman Maksy and Selectman Belliveau. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. Cindy Dow was recording the meeting for The Middleborough Gazette.

**Vote to Reorganize Board of Selectmen**

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

VOTED: To appoint Steve Olivier as Chairman to the Board of Selectmen, as Representative to the Plymouth County Advisory Board, and as ADA Coordinator to expire April 11, 2012 and to the Wage & Personnel Board (no expiration).  
Unanimous in favor.

Discussion then took place about the positions that are typically voted on during reorganization of the Board and the other positions that the Selectmen are appointed to or designated to.

It was with unanimous consent to appoint Selectman Belliveau to the Capital Expenditures Committee, the Ted Williams Camp Renovation Committee, water related issues (i.e. DEP Subcommittee: Water Levels Assawompset Pond Complex and DEP Subcommittee: Nemasket River – no expiration dates) and Highway Department (Gasoline Cleanup). These appointments will expire July 31, 2011.

It was with unanimous consent to appoint Selectman Maksy to the Master Plan Committee, the Emergency Planning Committee, Parking Clerk, Lakeville Emergency Management Agency, Middleborough G&E Commission Ad Hoc Member, and Lakeville Hospital Redevelopment . These appointments will expire July 31, 2011.

It was with unanimous consent to appoint Selectman Olivier to the Building Feasibility Study Review Committee and the Regional Finance Committee. These appointments will expire July 31, 2011.

Ms. Garbitt will be the liaison for the Police Department, the Fire Department and for Economic Development. Selectman Olivier is the designated point person for the FY12 Budget and as School Department liaison.

**6:30 PM Meet with Scott Briton of SBA to discuss placing cell phone towers on Water Tower**

Scott Briton was not in attendance. Ms. Garbitt will reschedule the meeting.

**7:00 PM Continuation of 1 Andrea Avenue Earth Removal Hearing**

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

VOTED: To reopen the hearing for the Earth Removal Permit for 1 Andrea Avenue.  
Unanimous in favor.

*Richard Burr from Ryco was present for the applicant.* He provided the abutters list to Ms. Garbitt for verification. He then explained the work that would be done. Mr. Burr explained that the area would be stabilized. There is roughly a 2 to 1 slope now, which will be changed. Loam will be removed and the slope will be flattened so that people can walk down the hill. Ms. Grubb stated that she had seen the new plan and had some concerns. What Mr. Burr is proposing to do is to take out 13,000 cubic yards of gravel. The Town's Earth Removal Bylaw asks for a slope of 4 to 1 and this will be a slope of 3 to 1. They are proposing 6" of loam and grass seed, but she did not think that was enough to hold the hill up. Selectman Maksy stated that if the Board starts to enforce the 400' buffers, almost every homeowner out there would be affected. Ms. Grubb felt this will be detrimental to the neighborhood. She asked if the Conservation Commission has looked at the plan, since they are supposed to have some input. Selectman Maksy explained that this is fixing an issue and an eyesore that has been there for years. Mr. Burr mentioned that most of the retention ponds in Town are a 3 to 1 slope. Stump grindings are available for slope stabilization and any rocks that come up from the removal process will stay on site. Chairman Olivier stated that the Board wants conditions so that the owner can proceed with this project correctly.

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

VOTED: To close the hearing.  
Unanimous in favor.

The conditions for the permit were then discussed. The permit will expire March 31, 2012. The access road will be kept free and clear at all times. Trucks will exit the site and either proceed left into Freetown or right onto Route 140 to County Road. Ms. Craig mentioned that the Superintendent of Streets requested a tracking pad with 1 ½" of crushed gravel on the bottom. The entrance will be at a minimum 30' in length x 20' wide. There will be no removal on Sundays or any holiday. Hours shall be 7:30 A.M. to 4:30 P.M. Monday through Friday and 8:00 AM to 12:00 PM on Saturdays. No equipment operation in removal area shall be permitted on Sundays or holidays. Equipment operation in removal area shall be permitted only between the hours of 7:00 A.M. and 5:00 P.M. Monday through Friday and 7:30 to 12:30 PM on Saturdays. Sorting is allowed, but not the screening of materials. The fee will be paid when the project is completed and slips will be provided to the Town Office once a week. A bond will be posted in the amount of \$1,000. Proof of insurance will be needed.

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

VOTED: To approve the Earth Removal Permit for 1 Andrea Avenue, subject to the conditions as discussed and listed with an expiration date of March 31, 2012.  
Unanimous in favor.

Mr. Burr stated that he does not have a start up date as of yet.

**7:30 PM Special Permit Hearing for Tattoo Parlor-Pietro Panettieri – 54 Main Street**

*Robert Iafrate, Building Commissioner, Robert Pike, Tattoo Artist, Peter Panettieri, property owner, and Robert Poillucci, Board of Health Chairman, was present for the discussion.*

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

VOTED: To open the hearing at 7:36 PM and to continue it until the end of the above hearing for 1 Andrea Avenue.  
Unanimous in favor.

The hearing continued at 7:41 PM. Chairman Olivier read the legal notice into the record. He then summarized the request, which was to hold a Special Permit Hearing for a Tattoo Parlor. The Board of Selectmen is the Special Granting Authority for Tattoo or Body Art Establishments under the Zoning By-laws.

Mr. Iafrate explained that according to the Town's Zoning By-law, tattoo body art requires a special permit. Those types of businesses are fine, as long as they are not sharing a space with another business or a dwelling. Mr. Panettieri had come to the Town asking to put in such a facility. Unfortunately, Mr. Panettieri was not directed to the Board of Selectmen for a Special Permit until after a construction permit was provided and the work was done. The present facility does not share any space with another business or dwelling. There are connecting doors internally, but they are locked doors, so he considers them to be two (2) separate units. There are proper lights and proper egress with a front and a back door. Selectman Maksy stated that on the plan he did not see the separation, but did see the two (2) entrances. Mr. Iafrate came forward and showed where the doors are. There are two distinct units with an entrance and exit, which meet the intent of the bylaw. Mr. Poillucci explained that when Mr. Panettieri was going through the process, he had attended several Board of Health meetings and received the necessary information to move forward to the point that he is at now. Mr. Pike had all the licenses that the Board of Health required him to have. Mr. Pike did offer to take one (1) course that the Board of Health had the authority to waive, which was waived, and he was provided with the permit.

Mr. Poillucci said this is the first application of this type that the Board of Health has been presented with. Since the onset of this application, the Board of Health has changed their forms to adopt more specific guidelines appropriate for the Town and will be clearer in the process going forward in the future. When Mr. Pike originally came in, he said that he would not be

doing extreme piercing. When the Board was made aware of the type of piercing that he intended to do, which, technically under the State regulations is not considered extreme, he volunteered to take the Anatomy and Physiology course that had been originally waived by the Board of Health. He also wanted to continue with the types of piercings that he was originally permitted to perform and agreed to make it a condition upon his renewal in one (1) year to have other courses/certifications in place. Chairman Olivier asked if it was a requirement for a nurse to perform the inspections for the Board of Health. Mr. Poillucci responded that some Towns use a dentist to perform the inspection due to the autoclave. The nurse from Middleborough said that she would not do that type of inspection. Mr. Pike has agreed to find someone who will perform these types of inspections for next year. Mr. Pike stated that he did have one (1) inspection done by a nurse for the opening.

Darlene Donnelly of 237 Main Street stated that she read about this matter in the newspaper. What is the difference between tattoo and body art? Mr. Pike stated that it should say tattoo and body piercing. Mr. Iafrate stated that one definition that he came across from the Cambridge Health Department is that body art is the practice of physical body adornment, branding, braiding, beading, piercing, and scarring. Another definition from the State's website, regarding body establishments/physical art establishments, is that they are for cosmetic, scarring, branding, but not for medical procedures, which is medical implants under the skin and is prohibited. So, basically tattooing and body piercing are the same definition. Ms. Garbitt stated that it is body art piercing, which is a form of self-expression. The Building Commissioner will work on an amendment for the bylaw. Selectman Maksy asked if it would be the Board's understanding that piercing would be part of a body art establishment. All members were in consensus with this. Chairman Olivier stated that his concern is the nurse's inspection. Is the Board of Health comfortable with that? Mr. Poillucci responded that they were. The nurse is comfortable with piercings, but not genital piercings. She does not want to perform a spot inspection and have that occurring. That is her personal choice and that is why Mr. Pike was told to find someone to do those types of inspections. Mr. Panettieri stated that the job of the nurse is to make sure all equipment is sterilized, the equipment is in good working condition, the person using the equipment is certified to use the equipment, and the piercing is done in a closed room, and gloves are used. The nurse will have to knock on the door before entering the room where the piercing is taking place. Her job is not to do the actual inspection during the piercing. Mr. Poillucci explained that the Board of Health can walk into any kitchen or restroom that they want on a moment's notice. Mr. Pike agreed that he will find someone to do those inspections and will pay the additional charge. Mr. Pike stated that the nurse had to make sure that the autoclave was in place, that he knew all the correct pressures, the proper dates were used, that single use packages were used, that he knew how to run all the equipment, the proper disposal for sharps, etc.

Sherry Barron of Sassamon Circle asked if it could be explained why Middleborough does not allow genital piercing. Ms. Garbitt pointed out that Middleborough has not been challenged on that restriction yet. Chairman Olivier asked what if a nurse checked a licensed establishment in Middleborough and found that it was being done. Mr. Poillucci responded that she would shut them down, and they would lose their license. Mr. Panettieri stated that if a license is provided for piercing, it is all inclusive. Mr. Poillucci stated that Middleborough regulations say specifically that it is not to be done. Mr. Panettieri stated that he wanted to clarify why the

business is open until 10:00 PM since several neighbors have asked about this. There is another business at this location that closes at 10:00 PM. The tattooing and body piercing is done by appointment; no one is hanging around having a beer outside. Mr. Pike further explained that in the Lakeville Board of Health Regulations, there is language set against genital piercing, so there are certain restrictions with respect to piercing. It cannot be done on the anus, there is not to be any splitting of the skin and implants. In Middleborough they have stated no body piercing at all; it is strictly ear lobes only. Mary Murphy of Lori Lane asked how many practitioners are working at the facility. Mr. Pike responded that there was one (1). Ms. Murphy asked who followed up on complaints, since the Middleborough nurse refuses to. Would the Town be responsible if a person under the age of 18 receives a piercing? Mr. Poillucci responded that it depends on what is going on. They would come to us if there was an inspection issue. If it was a zoning issue, the Building Commissioner would be consulted. Ms. Murphy asked how many days a week the facility was open. Mr. Pike responded that he did not allow walk-ins after 8:00 PM. He would like to have Sundays and Mondays off, but would be open Tuesday through Saturday, from noon to 10:00 PM. Selectman Maksy asked what the plaza hours were. Also, was the plaza done by Special Permit? Mr. Panettieri responded that he used to have a business there that opened at 5:00 AM. The sign lights shut off about 10-10:30 PM. He had to go before the Appeals Board for the second building, which was approved.

Michael Levrault of 14 Rush Pond Road asked what percentage of the business is drive-by. Mr. Pike said appointments are necessary for any body piercing and body art. He did anticipate much drive-by business. When a sign is put into place for the establishment, it will be tasteful and most likely will be a side sign. Chairman Olivier stated that the sign will have to fit the existing sign structure that is in place. Mr. Iafrate stated that when he does go to put in an external sign, he will have to get a building permit. Mr. Iafrate will make sure that he meets the bylaw. Ms. Murphy asked how the shop was able to open before the permit was provided. Chairman Olivier stated that he had received the Board of Health permit and the nurse inspected it on March 23, 2011. Mr. Pike stated that he received his permit on March 7<sup>th</sup>. Mr. Poillucci added that Mr. Pike picked up the permit/license since it was signed by the Board of Health and he opened, but did cease operation when informed that he was in violation. Mr. Iafrate explained that it had been an oversight by himself. The establishment then got a cease and desist order, which was drafted by Town Counsel and delivered by police. Mr. Pike has been closed until this hearing.

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

VOTED: To close the hearing.  
Unanimous in favor.

Selectman Maksy stated that his only confusion is the State's and Lakeville's difference regarding the definition of body piercing. Ms. Garbitt stated that Town Counsel checked into the definition, and it has not been challenged yet, however, it could be challenged. Selectman Maksy stated that he did not mind the body piercing, but it is the kind of extreme body piercing that he had concerns over. He added that he would like spot checks done at any time by a Board of Health designee, paid for by the applicant as a condition. A spot check should be done in six (6) to nine (9) months. Selectman Belliveau stated that he felt there was a need for a nurse due

to Hepatitis C concerns. Mr. Poillucci pointed out that the definition of extreme is not what he is doing; it is included in the State's definition. Different Towns handle this differently. The Board of Health can find someone to do the inspections and will call another Town to see who they use and what they do.

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

VOTED: That the conditions of the Special Permit for Tattoo Parlor/Body Art Piercing will be as follows: Hours – Tuesday through Sunday from 12:00 PM to 10:00 PM, unless there is evidence that the plaza closes earlier; the business meets the guidelines for a Special Permit and is located in a Business zone; spot checks are to be done within nine (9) months by someone provided by the Board of Health and will be paid for by the applicant; the business has received Board of Health approval with respect to the conditions as provided by the Building Commissioner for having the proper entrances, exits, etc.; they have been granted one (1) practitioner and one (1) apprentice; and as per the definition from Town Counsel.

Ms. Garbitt added that the appeal process would fall under Chapter 40A. The Special Permit shall not take effect until 21 days have lapsed from the date of issue of the Special Permit.

#### **8:00 PM Dog Hearing-Elizabeth Durfee – 13 Wisteria Road**

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

VOTED: To open the dog hearing and to continue it until the above Special Permit hearing is completed.  
Unanimous in favor.

The dog hearing was then continued at 8:30 PM. Chairman Olivier read the letter of complaint into the record and summarized Massachusetts General Laws Chapter 140, Section 157. Chairman Olivier swore in those who would speak during the hearing: David Frates, Animal Control Officer, Randy Hitchcock, Esquire, 1214 First Street Salisbury, representative of Elizabeth and Alan Durfee, Tracy Moquin, 5 Wildwood Road, Srey Samohins, 5 Wildwood Road (cat owner), Cathy Breton, 6 Wildwood Road, Mike Moneri, 13 Wisteria Street, Sylvania Flores, 13 Wisteria Street, Alan Durfee, 13 Wisteria Street, Elizabeth Durfee, 13 Wisteria Street, Sam Durfee, Charlotte Durfee and James Durfee of 456 Chatham West Drive Brockton, Mike Murphy of Brockton, Ted Dubois, 20 North Precinct St, Lakeville, and Pam Perrotta, 3 Central Avenue. Chairman Olivier then read the beginning of the letter of complaint dated March 26, 2011 into the record.

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

VOTED: To waive the reading of the complaint letters from Srey Samohins and Catherine Breton.  
Unanimous in favor.

Ms. Samohins said that her cat was outside playing. She went in the shower and heard a dog barking when she was done showering. She noted that her cat is a docile sweet little cat, who minds its own business. She went outside and a neighbor yelled that these dogs had killed her cat, and that one dog took off with the cat in his mouth. Ms. Samohins said she got into her car and went looking for the dog. It is not first time that that dog got loose; it was in her yard in August. She was concerned since her daughter had just been outside with the cat. Ms. Samohins saw the Animal Control Officer's truck coming down the street and she told him what happened, but someone had already called to report that the dogs were out running loose. We went around up the corner onto Barberry Street where another neighbor came down and told them what they saw happen. They knew where the dogs came from. The neighbor took Ms. Samohins there, and she saw her cat dead in the yard with the dog. She tried to get her cat, and the big dog came after her. She yelled at the dog and chased the dog away and was finally able to get her cat. Ms. Samohins said to the man that came out that his dog attacked her cat; why did you let your dog run loose? He said he did not. The neighbors all saw and heard what had happened. She went home with her cat and was covered in blood.

Selectman Maksy then asked to hear Ms. Breton's story. Ms. Breton stated that she had heard loud barking and opened the window. She heard a dog and a cat and saw dogs on the porch. She got a pine board, and saw that they were at the bottom of the step chewing on the cat, and they came after me when she went outside. Ms. Samohins came out screaming and the dogs took the cat and ran off. Ms. Breton said she called the police.

Sylvania Flores stated that she and Michael Moneri were the first ones outside. Elizabeth and Alan Durfee said they heard a woman outside swearing about the dogs. Ms. Durfee then came outside and ran into her husband and an officer on the porch. Ms. Durfee had no other interaction with them. One of the dogs had broken loose off the chain, and the other went through the fence. That is as much as she knew. Alan Durfee stated that Mr. Moneri came in with the dogs and said that the dogs killed a cat. One lady was swearing about the dogs and another lady had hit the dog with a board. My dogs have never bitten anyone and they play with all my nieces here. Something was outside in my yard that made the dogs get loose, because he does not let the dogs loose.

Mr. Frates said at 7:30 PM on March 18<sup>th</sup> he received a call from the police dispatcher. He went looking and on Central Avenue and found a woman who said that two (2) dogs had killed her cat. He called the police since there were a lot of people there. The boxer lab mix he saw was loose. It crossed the road and went back into the yard. He did not realize that the cat was at the house since he was trying to get the police there. He did see that the fence and chain were both broken. Selectman Maksy asked if they were the two (2) dogs that killed the cat. Mr. Frates responded that they were.

Ms. Samohins stated that she was hysterical. Ms. Breton stated that she never got out the door with the board and never hit the dog. Ms. Flores stated that she told me she hit the dog. Mr. Moneri stated that he was the first outside and saw her yelling and screaming, and she approached him yelling and screaming about the dog killing her cat. He tried to tell her the dogs are confined in the yard. Harley, the boxer lab is on a chain and choker, and it takes a lot of force

to snap that, so something had to have been in the yard. Lucky, the American Bulldog, squeezed in between the pole and the yard. We did not let our dogs go out and do that.

Attorney Hitchcock stated that no one is disputing that the dogs killed the cat; the question is if they are vicious and whether the Board should make a condition about the dogs. He said if this had taken place in Rhode Island, if a dog attacks a human or another dog then it can be considered vicious. No one can say this attack was without provocation. If the dogs had never done this before, it stands to reason that something did happen. These kids can testify that the dogs are loving and friendly around kids, but not around cats. That is the natural order of things. The Board needs to decide if the dogs are vicious. The dogs did not bite, jump or attack Ms. Samohins; a vicious dog would have bitten and attacked. A non vicious dog will pick up the cat and run. These dogs have only been in the Durfees possession for one (1) year. Attorney Hitchcock stated that nowhere in any State statute can he find that if a dog kills a cat that the dog is vicious. What happened to the cat is sorrowful, and his client sent Ms. Samohins a card and a check for the cremation of the cat. His client has poured a concrete slab and put up a kennel to keep the dogs in. Mr. Frates stated that he quarantined the dogs for ten (10) days, since they were not up to date with their rabies shots. The owner has raised the fence and put the gate higher. It is a different gate. He put a kennel inside the kennel. Mr. Frates has inspected it and felt it was sufficient.

Ms. Samohins stated that her daughter had been playing with Buddy in August, when she was working in the garden, and a brown dog came in the yard. She told her daughter to take the cat and to get into the gazebo. She told the dog to get out of the yard. Ms. Samohins appreciated the check, but what if it had been her daughter. She did not want the check and said the Durfees could send the money to the animal shelter. It is not about money, it is about the safety of the residents. Your dogs are friendly since it knows those kids, but they do not know my child. It was vicious and killed my cat. Ms. Flores stated the dogs are not vicious at all. She would have not allowed the children at her recent baby shower to be with the dogs, if they were vicious. Ms. Perrotta stated that there is a problem in Clark Shores and elsewhere regarding loose dogs. They always end up outside by mistake, a kid lets them out, etc. There are many neighbors so afraid to walk by the Durfee house since they heard about this incident, especially if they are with a dog of their own. Mr. Moneri stated that after this incident, he and Mr. Durfee worked on the fenced in area and put the kennel in an area so that the dogs cannot even see the street. The gate fence has been reinforced with wood. Chairman Olivier pointed out that the dogs may not be vicious to the family, but they also should not be roaming the streets due to the leash law. Selectman Maksy remarked that human error causes most of these problems.

Upon a motion made by Selectman Maksy; seconded by Selectman Belliveau it was;

VOTED: To close the dog hearing at 9:10 PM.  
Unanimous in favor.

Selectman Maksy stated that it was his policy that you get one (1) free bite as long as it is not a child. The home owner usually screws up, and the dog or cat suffers for it. He felt that the modifications made to the property were sufficient. Selectman Belliveau stated that it looks like they were trying to be proactive and increased the fence and put a kennel on the property. They



now have a double measure of safety. We have to look at the merits of their dogs, not all the dogs around Clark Shores. Selectman Maksy stated that at least we know that it is not questionable if the dogs did it; it was both dogs. Selectman Belliveau stated that the dogs' intent is not known, they may have been trying to play, but unfortunately that happens. Selectman Maksy asked if there was anything else that Mr. Frates would add. Mr. Frates suggested a lock on the inside so that no one else can let the dogs out. Selectman Maksy stated that he will make that a requirement, to put a childproof lock on the kennel, satisfactory to Mr. Frates.

Selectman Maksy then noted that there were some costs to the cat owner and that is what he is concerned about. Attorney Hitchcock stated that they gave her a check for almost \$150 to cover the cost of cremation. Since the cat is not livestock, there is no State statute for any other money being due. Selectman Maksy stated that the check still stands, and it was presented in good faith. Ms. Craig asked if the dogs are to be kept locked in the kennel at all times when they are outside of the home. Selectman Maksy responded that unless there is adult supervision, the dogs are to be locked in the kennel at all times when outside the home.

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

VOTED: The dogs will be placed in the kennel if there are no adults outside, and there will be a childproof lock on the kennel. If the dogs are outside in the yard, there is to be adult supervision.  
Unanimous in favor.

#### **8:00 PM Meet with Treasurer and Town Accountant to discuss Schedule A reporting requirements**

Ms. Garbitt stated that the Town Accountant hopes to have the information regarding the Schedule A with follow up documents by week's end. She has submitted some of the necessary forms. There are multiple worksheets and the Town Auditor has been receiving them as she gets them done. The Department of Revenue has to approve the Schedule A, and it is anticipated that it will be done within the week. Selectman Maksy asked for a follow up to the Board when the Schedule A is completed. Ms. Garbitt stated that since the Board is meeting next week, she will give an update then. Chairman Olivier stated that he would then like to meet with the Treasurer and Town Accountant to make sure there is an action plan in place so that this does not happen again.

#### **Meet with Building Commissioner, Robert Iafrate, to discuss Kennel License By-law**

*Robert Iafrate, Building Commissioner, and Jared Darling, Animal Inspector, were also present for the discussion.* Chairman Olivier explained the Kennel License By-law. Ms. Garbitt then provided some background information. Up until 2009, no kennel licenses were being issued; the last time one was issued was in 1987. A kennel license is for four (4) or more dogs and is less expensive for someone who has four (4) or more dogs to license. Any kennel license issued had to be located in a Business District. The Town Clerk was challenged and that is how the By-law has evolved. The Town has to issue kennel licenses by State statute. Mr. Iafrate said he has worked on the language for a kennel license in a Residential zone. There is a Pit Bull

Rescue located in a Residential zone in Town. It has been there for 10-12 years. He has contacted some State agencies, but they had nothing to offer. The Town needs to have some guidelines in place for kennels located in a Residential zone, since there are probably more out there than the Town is aware of.

Mr. Darling explained that the by-law starts out with a definition of a kennel. The concern with the proposed by-law is that it reads, if you have four (4) dogs or more, you have to get a kennel license. He would rather see that you have the option to get a kennel license, unless the Board deems that you need one based on what you are doing. If it is personal use, it does not matter. Selectman Maksy stated that it may be too much for the neighbors though. What if the dogs are barking? Mr. Darling stated that then they would have to get the Town involved. He raises hunting dogs. If he gets a dog that is not training as well as he would like, he is likely to get rid of that dog. That is why a kennel license is good for Mr. Darling, he can get rid of that dog and get another one. Mr. Iafrate stated that it would be more expensive to have four (4) licenses than to have a kennel license. Mr. Darling is looking at this with a different point of view. Mr. Darling stated that the language reads, any pack or collection of dogs...irrespective of the purpose, will be deemed a kennel, so it seems that one would need to get a kennel license. Selectman Maksy suggested to take that sentence out. Mr. Iafrate stated that he put together the by-law from language that several different towns use. He noted that it will be subject to a public hearing before the Planning Board, since it is a zoning by-law.

Janet Tracy, Town Clerk, stated that there are residents in Town that have quite a few dogs. Some would like to have a kennel license since it is cheaper than licensing all their dogs. Chairman Olivier stated that it appears that Mr. Iafrate wants to put a little more definition around the kennel license. Mr. Iafrate stated that if someone comes to him, and they are in a Business zone, they have to go to the Board of Appeals for a Special Permit. He would like to say that they need approval from the Board of Selectmen and give them the guidelines to read. Selectman Maksy stated that this would be by right with restrictions. It should not be necessary to come before the Board of Selectmen. Mr. Iafrate pointed out that, with the Special Permit, abutters would have to be notified of the hearing. Ms. Garbitt mentioned that the State is working on changing the statute, but it has been several years.

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

VOTED: To forward the Kennel License By-law to the Planning Board to start the process.  
Unanimous in favor.

#### **Request for Temporary Trailer Permit-5 Halcyon Farm Road-American Mobile Homes**

*Robert Iafrate was present for the discussion.* Chairman Olivier said the Board had received a Temporary Trailer Permit application for 5 Halcyon Farm Road. Mr. Iafrate explained how the trailer permit process has been transpiring since he has been the Building Commissioner. The Selectmen issue the permit and then as a condition of approval, the Building Commissioner goes to check on the location of the trailer to make sure that it is positioned properly. Then the sewer and electrical permits need to be obtained.

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

VOTED: To approve the request for a Temporary Trailer Permit for 5 Halcyon Farm Road with the condition that the Building Commissioner makes sure that it is positioned properly and that all sewer and electrical permits are obtained.  
Unanimous in favor.

**Request for renewal of Temporary Trailer Permit – 7 Leonard Street – American Mobile Homes**

*Robert Iafrate was present for the discussion.* Chairman Olivier said the Board had received a Temporary Trailer Permit application for 7 Leonard Street. Mr. Iafrate explained that he had spoken to the owner several weeks ago regarding the request. The owners are trying to market the property. They are still living in the temporary trailer; it is in the right location, properly installed, but there is no construction work going on at this time.

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

VOTED: To approve the final six (6) month extension for a Temporary Trailer Permit for the property at 7 Leonard Street. The expiration date is October 25, 2011. The owners will be notified that this is the final extension, and they must begin work on the renovations.  
Unanimous in favor.

**Discuss request for Temporary Trailer Permit-2 Montgomery Street-Wayne Frates**

*Robert Iafrate was present for the discussion.* Chairman Olivier said the Board had received a Temporary Trailer Permit Application for 2 Montgomery Street. Mr. Iafrate explained that Mr. Frates came in after he had sent him a letter and the permit had been issued prior to his being in the position (2008). The request for this has been an ongoing process. Mr. Frates stated that he was on a fast track to get the work completed, but the place is being overrun with debris and a lot of stuff is being brought to the property. Mr. Iafrate recommended that this be the last extension of the permit so that project can be completed and the yard cleaned up.

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

VOTED: To give Wayne Frates of 2 Montgomery Street a final six (6) month extension for his Temporary Trailer Permit. The expiration of the permit is October 19, 2011.  
Unanimous in favor.

**Revisit Revised Policy for Appointment to Boards, Committees & Commissions**

Ms. Garbitt mentioned that the revisions were made to the Policy that the Selectmen had requested.

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

VOTED: To accept and sign the revised Policy for Appointments to Boards, Committees & Commissions as dated March 28, 2011.  
Unanimous in favor.

**Revisit request from Conservation Commission to appoint Sarah Kulakovich as Associate Member**

Chairman Olivier read the request from the Conservation Commission requesting the appointment of Sarah Kulakovich as an Associate Member.

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

VOTED: To approve the appointment of Sarah Kulakovich as an Associate Member to the Conservation Commission with a term to expire July 31, 2011.  
Unanimous in favor.

**Discuss Reappointments for Animal Control Officer and Assistant Animal Control Officers**

Chairman Olivier noted it was time for the annual appointments for Animal Control Officer and Assistant Animal Control Officers.

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

VOTED: To approve the following reappointments with an expiration date of April 30, 2012: David Frates – Animal Control Officer and Constable; Jared Darling – Assistant Animal Control Officer; Laurice Hedges – Assistant Animal Control Officer; Darcy Lee – Assistant Animal Control Officer; and Harold Marshall – Assistant Animal Control Officer  
Unanimous in favor.

**Discuss Reappointment of Veterans' Agent and Graves Officer**

Chairman Olivier noted it was time for the appointment of Veterans' Agent and Graves Officer.

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

VOTED: To approve the reappointment of Marilyn Mansfield as Veterans' Agent and Graves Officer with an expiration date of April 30, 2012.  
Unanimous in favor.

**Review request to appoint Allin Frawley as Volunteer Observer to Middleborough Lakeville Herring Fishery Commission**

*Allin Frawley was present for the discussion.* Mr. Frawley was recently elected to the Board of Selectmen in Middleborough.

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

VOTED: To appoint Allin Frawley as Volunteer Observer to the Middleborough/Lakeville Herring Fishery Commission with a term to expire September 30, 2011.  
Unanimous in favor.

**Vote to approve Layout-Deerfield Lane**

Ms. Garbitt distributed the punch list items from Christopher Peck, Superintendent of Streets, for the Board to review. Mr. Peck will visit the site before Town Meeting to make sure that all of the items have been implemented correctly. Ms. Garbitt stated that the next step is approval at Town Meeting.

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

VOTED: To adopt and layout Deerfield Lane.  
Unanimous in favor.

**Request to revise name on Class II Auto Sales License-Elite Auto Sales**

Chairman Olivier spoke on the request for the name revision. The Town has received an amended bond, and it has the correct name on it.

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

VOTED: To revise the Elite Auto Sales Class II Used Car Dealer's License to read: Linda Bury and Jason Bury, d/b/a Elite Auto Sales.  
Unanimous in favor.

**Request to issue Proclamation in honor of Lubell Martin's 100<sup>th</sup> Birthday**

Chairman Olivier said the Board had received a request to issue a proclamation for Lubell Martin's 100<sup>th</sup> Birthday. He read the proclamation into the record. Ms. Garbitt stated that she will try and attend the celebration. Selectman Belliveau stated that he would be able to go and issue the proclamation.

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

VOTED: To proclaim that April 19, 2011 be Lubell Martin Day in the Town of Lakeville in honor of her 100<sup>th</sup> Birthday.  
Unanimous in favor.

#### **Discuss foreclosure notice for Lakeville Country Club**

Selectman Maksy recused himself from the discussion. Ms. Garbitt stated that the Town is not entitled to the right of first refusal on foreclosures. If the bank sells it, and the new owner takes it out of 61b, then the Town has a right of first refusal. There are also rollback taxes that would be due of approximately \$127,000. A property being foreclosed upon does not wipe out its real estate taxes. No action is needed by the Board at this time.

#### **Request for Road Race – Jack Conway and Company – October 1, 2011**

Chairman Olivier read the request from Jack Conway and Company to hold a road race on October 1, 2011.

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

VOTED: To approve the request for a Road Race fundraiser for the Conway House in Middleborough by Jack Conway and Company on October 1, 2011.  
Unanimous in favor.

#### **Request for approval of Emergency Road Cut – Columbia Gas – 4 North Precinct Street**

Chairman Olivier said the Board had received a request for an Emergency Road Cut from Columbia Gas for 4 North Precinct Street.

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

VOTED: To approve the emergency road cut by Columbia Gas for 4 North Precinct Street.  
Unanimous in favor.

#### **Request to use Town House – Sampson Cemetery Association – May 4, 2011**

Chairman Olivier read the request from Sampson Cemetery Association to use the Town House on May 4, 2011 for their annual meeting.

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

VOTED: To allow the Sampson Cemetery Association to use the Town House for their annual meeting on May 4, 2011 at 7:00 PM.  
Unanimous in favor.

### **Review and vote on FY12 budget – Schedule Budget meeting with Finance Committee**

Chairman Olivier reviewed the FY12 Maintenance Budget Revenue and Expense Summary, dated March 10, 2011 with the Board, along with the Departmental Budget requests and School information. He mentioned that the School Committee talked about keeping the fourth grade at Assawompset. They had voted to move them to GRAIS, as part of the Superintendent's plan in order to help with class size, and to help with the transition to the middle school. Chairman Olivier asked why did that happen, since the Local School Committee wanted to do this in December. That was the plan for Regionalization for a better education. Selectman Maksy stated that he did not want to see Assawompset overly burdened and would also like to talk about this another time.

Sherry Barron stated that at some point she would like to hear about the LEAPS program and the one time money. Chairman Olivier explained that it was one time money to set up the LEAPS program, but then it was supposed to continue on with tuitions to run the program. Selectman Maksy asked how that would be tracked once July 1<sup>st</sup> comes around. Selectman Maksy explained that the Town has an agreement with the Local School, not the Region, so the control will be gone next year. Further discussion took place on the changes and suggestions to the budget by Chairman Olivier. He noted that \$6,000 is being taken out of the Stabilization Account and \$100,000 out of the Water Stabilization Account in order to make the budget balance. Additional discussion took place regarding the school budget

### **Review Warrant Articles and Petitions for Annual and Special Town Meeting**

Chairman Olivier reviewed the warrant articles and petitions for the Annual and Special Town Meetings. Ms. Garbitt said for the Annual Town Meeting, there are presently three (3) articles/petitions such as Assessment for FY12, Voke Ed Tuition and Transportation other than Old Colony, and a Conservation Restriction for Natural Heritage on ten (10) acres of land at Ted Williams Camp. There may also be something regarding the Outdoor Lighting By-Law since Mike Renzi is requesting some revisions, which have been submitted to the Planning Board. For the Special Town Meeting, the following petitions are in consideration: to purchase the property adjacent to the Town Offices (The Nursing Home), for Island Terrace to purchase one (1) acre of land from the Town of Lakeville, and to file a Home-Rule Petition to include certain members of the Fire and Police Department under the Civil Service Law.

Discussion took place regarding the three (3) petitions forcing the Town into a Special Town meeting. Ms. Garbitt stated that the Town may need to schedule a Special Town Meeting on May 16<sup>th</sup> due to time constraints.

### **Review request from Conservation Commission regarding Tamarack Park**

Ms. Garbitt told the Board that there is still money available in the Gifts and Grant Account from the original owner of the Tamarack to use. The Board would like to know if there is any money involved in the request from the Conservation Commission. Ms. Garbitt will contact Mike Schroeder and bring it back to the Board.

### **Review City of Taunton Water Connection application – Vital Med – 200 Kenneth Welch Drive**

Ms. Garbitt explained that Taunton will receive the tie-in fee unless the Inter-municipal Agreement (IMA) is done in time. She has contacted Jordan Fiore, Assistant City Solicitor, to discuss this matter. It was anticipated that the IMA would have been amended for the connection fees. Vital Med is ready for their connection to water. Selectman Maksy suggested to push this forward in order for Taunton to waive the fee so the Town of Lakeville can collect the fee. Ms. Garbitt will look into this to determine if the business can wait to connect since it is for an 8" fire service, which would be a large fee. The Board agreed to have the Town Administrator look into the matter to determine if Vital Med can hold off on their water connection so that the Town can receive the connection fee.

### **Review Zoning Board of Appeals petitions: Lakeville Lions Club – Lot 1D Staples Shore Road and DeGrazia and Bento – 67 County Road**

Discussion took place on the petition for Lot 1D Staples Shore Road. The Board recommended that the Zoning Board follow the by-law and meet the intent of the by-law.

Discussion then took place on the 67 County Road petition. The Board recommended that the Zoning Board follow the by-law and meet the intent of the bylaw.

### **Review and vote to approve Selectmen Meeting Minutes of January 24, 2011 (2 sets)**

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

VOTED: To approve the Selectmen Meeting Minutes of January 24, 2011(7:00 PM) as presented.  
Unanimous in favor.

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

VOTED: To approve the Selectmen Meeting Minutes of January 24, 2011 (6:00 PM) as presented.  
Unanimous in favor.

### **Review and vote to approve Executive Session Meeting Minutes of January 24, 2011**

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

VOTED: To approve the Executive Session Meeting Minutes of January 24, 2011.  
Unanimous in favor.



## **New Business**

Selectman Maksy stated that he thought that there might be a conflict of interest on his behalf with the Fire Department regarding negotiations since he is in the union himself. He called the State Ethics Commission and was told to file a Conflict of Interest Form, and he has done this.

Ms. Garbitt spoke on the update from the Plymouth County Mosquito Control Project. They will be spraying during the week of April 20-23 to reduce larval mosquito populations. Spraying will be done only over selected swamps.

## **Other Items**

1. Email from Marie St. George regarding Lakeville Animal Shelter
2. Email from Maureen Gates regarding paving of Mullein Hill
3. Update from Town Clerk regarding Re-Precincting
4. Memo from Board of Health regarding Reorganization of the Board of Health
5. Letter from Board of Health regarding 35 & 37 Bedford Street  
Selectman Maksy explained that this was about the tie-in for Taunton water. This might not take place until August when they are ready. Hopefully the connection fees will be in place by then.
6. Letter from Board of Health regarding proposed rezoning-Bartlett Property-Bedford Street
7. Memo from Park Commission regarding Reorganization of Park Commission
8. Memo from Police Chief regarding award of grant – Child Passenger Safety Equipment
9. Notice of new hours-Conservation Commission  
Selectman Maksy asked that the four (4) day workweek be looked at to determine if there have been energy savings
10. Memo from Middleborough Health Department regarding Communicable Disease Reporting Program
11. Letter from City of Taunton regarding Stop Sign-Turner Street & Rhode Island Road  
Selectman Maksy stated that this was an interesting situation. His wife and several others have been in accidents at this intersection, which was a Taunton intersection. Now they say it belongs to Lakeville. There is a stop sign at the other end of Turner Street, but it is nowhere as busy. The Superintendent of Streets will put up a stop sign.
12. Notice of FY12 Annual Assessment from SRPEDD  
Ms. Garbitt stated that there was a small increase based on the new census numbers for Lakeville. The budget numbers will keep changing right up until Town Meeting.
13. Middleborough Gas & Electric Commission Agenda – April 12, 2011
14. Notice of Decertification of Sysco Boston Project
15. Notice from Governor's Office Regarding Chapter 90 FY12 funding  
Chairman Olivier stated that Lakeville will be receiving \$368,598.
16. Notice from MassDOT regarding Bridge Inspection-Bridge Street/Nemasket River Bridge
17. Notice from US Census Bureau regarding Census Count Question Resolution Program
18. Letter from City of Melrose regarding shared Information Technology Services
19. Letter from SEMASS regarding Notice of Increased Costs due to Change in Law

20. Letter from DCAM regarding search for office space for Department of Revenue  
Selectman Maksy stated that the DOR is looking for office space, and it would be nice to see if the Town could accommodate them. Chairman Olivier stated that the Lakeville Development Corporation was going to look and see if there was any Town property available for development. They have \$10,000 left in their budget, and then they will disband and take a different approach. They want to see what the Town can do to attract business.
21. Meeting notice – SRPEDD Commission- April 27, 2011
22. Meeting notice – Regional Economic Strategy Committee – April 12, 2011
23. Mass Wildlife News
24. Suburban Coalition Annual Legislative Breakfast Notice and Position Paper
25. Notice of Cable Access Meeting - April 11, 2011
26. Notice of Public Hearing for NStar with Department of Public Utilities
27. Letter of re-organization for the Regional School Committee
28. Letter of re-organization for the Lakeville School Committee
29. MMA Budget Alert regarding House budget Committee's Proposal for FY12 Budget
30. Letter from Kristina Egan regarding comment period on the South Coast Rail Environmental Document

At 11:32 PM, upon a motion made by Selectman Maksy; seconded by Selectman Belliveau it was:

VOTED: To enter into Executive Session and not return to Open Session to conduct strategy sessions in preparation for pending litigation, negotiations with non-union personnel, and the Collective Bargaining Agreements with the Fire and Police Unions because an open meeting may have a detrimental effect on the bargaining and litigating position of the Board.

Polled vote: Selectman Maksy-Aye, Selectman Belliveau-Aye, and Selectman Olivier-Aye.