

SELECTMEN'S MEETING
Monday, April 24, 2006

On April 24, 2006, the Board of Selectmen held a meeting at 7:00 PM at the Town Office Building in Lakeville. The meeting was called to order by Chairman LaCamera at 7:00 PM. Selectmen present were: Selectman Evirs, Selectman LaCamera and Selectman Yeatts. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

The Lakeville School Committee was called to order at 7:06 PM by Chairman Charlene Shea. Members present included: Charlene Shea, Lorraine Carboni and David Goodfellow.

The Finance Committee was called to order at 7:07 PM by Chairman Richard Velez. Members present included: Martha Weeks-Green, Gary Mansfield, Robert Hill, Rick Velez and Steve Olivier.

7:00 PM Reappointment of Donald Foster to Old Colony School Committee

Gordon Goodfellow, Town Moderator, stated that with three (3) members each (Local School Committee and Board of Selectmen) being present, called for nominations to the Old Colony School Committee. Ms. Carboni nominated Donald Foster for reappointment to the Old Colony School Committee, this nomination was seconded by Mr. Goodfellow, Jr.. No other nominations were made by the School Committee. Selectman Yeatts nominated Donald Foster to the Old Colony School Committee, this nomination was seconded by Selectman Evirs. Mr. Goodfellow, Sr. declared nominations closed.

Upon motion made by Lorraine Carboni, seconded by David Goodfellow, Jr., the School Committee:

VOTED: To approve the reappointment of Don Foster to the Old Colony School Committee with a term to expire May 1, 2009.
Unanimous in favor.

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

VOTED: To approve the reappointment of Don Foster to the Old Colony School Committee with a term to expire May 1, 2009.
Unanimous in favor

Upon a motion made by Mr. Goodfellow, Jr.; seconded by Ms. Carboni it was:

VOTED: To adjourn the Lakeville School Committee meeting at 7:20 PM.
Unanimous in favor

7:05 PM Sign Annual Town Meeting Warrant-Warrant Review – Annual and Special Town Meetings

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To waive the reading of the Annual Town Meeting Warrant and to insert it into the meeting minutes.
Unanimous in favor

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To sign the Annual Town Meeting Warrant.
Unanimous in favor

Chairman LaCamera stated that there would be a Special Town Meeting held on Monday, May 8, 2006 at 6:45 PM at the Apponequet High School Auditorium and read the following into the record:

To any of the Constables of the Town of Lakeville, Greetings:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in Town affairs to meet in the

APPONEQUET HIGH SCHOOL AUDITORIUM

On Monday May 8, 2006 at 6:45 P.M., then and there to act on the following articles:

Article 1: To see if the Town will vote to transfer and/or appropriate from available funds, certain sums of money in order to defray unanticipated costs for fiscal year 2006 for various accounts in the General Fund, the Park Enterprise and Landfill Enterprise, or take any action relative thereto.

You are directed to serve this warrant by posting an attested copy hereof fourteen days at least before the day appointed for a Special Town Meeting and seven days at least before the day appointed for the Annual Town Meeting at the following places: Town Office Building, Starr's Country Market, Savas' Store, Neighbors Country Store, the Clark Shores Association Bulletin Board, Apponequet Regional High School, Lakeville Senior Center, and Assawompset School.

Hereof fail not and make return of this warrant with your doings hereon at the time and place of said meeting.

Given under our hands this _____ day of _____, 2006.

Richard F. LaCamera

Nancy E. Yeatts

Charles E. Evirs, Jr.

BOARD OF SELECTMEN

Chairman LaCamera asked for consensus of the Board to discuss Article Six of the Annual Town Meeting Warrant due to the fact that Ms. Carboni has another meeting to attend this evening. It was the consensus of the Board to discuss Article 6 and then return to the beginning of the Town Warrant Articles. Chairman LaCamera read the article and the Finance Committee recommended the article

Chairman LaCamera then gave a brief introduction and explanation to the warrant articles as on the town meeting warrant.

To any of the Constables of the Town of Lakeville,

Greetings:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in Town affairs to meet in the

APPONEQUET HIGH SCHOOL AUDITORIUM

On Monday May 8, 2006 at 7:00 P.M., then and there to act on the following articles:

Article 1: To determine the salaries of all elected officers, and make appropriation.

The Finance Committee recommends this article.

Article 2: To raise such sums of money as may be necessary to defray town expenses for the fiscal period July 1, 2006 to June 30, 2007, inclusive, and to make appropriation.

The Finance Committee recommends this article.

Article 3: To see if the Town will vote to raise and appropriate for the use of the Trustees for the Plymouth County Co-operative Extension Service the sum of Two Hundred Dollars (\$200.00), and to determine the length of the term of Town Director, as provided in Sections 41 and 42 of Revised Chapter 128 of the General Laws, or take any action relative thereto.

The Finance Committee recommends this article.

Article 4: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Four Hundred Eighty Six Thousand Fifty Six Dollars (\$486,056.00) as the share of the Town of Lakeville in the Plymouth County Retirement Association, or take any action relative thereto.

The Finance Committee recommends this article.

Article 5: To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Seven Hundred Forty Five Thousand Three Hundred Sixty Three Dollars (\$745,363.00) as the Town's share of the 2006-2007 maintenance and operating budget for the Old Colony Regional Vocational High School District, to be used in conjunction with an

appropriation for the same purpose by the Towns of Acushnet, Carver, Mattapoisett, and Rochester, or take any action relative thereto. Old Colony Regional Vocational Technical High School Committee

The Finance Committee recommends this article.

Article 6: To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Five Million Nine Hundred Twenty Two Thousand Ten Dollars (\$5,922,010.00) as the Town's share of the 2006-2007 maintenance and operating budget for the Freetown-Lakeville Regional School District, consisting of the Non-excluded Debt Assessment of Ninety Five Thousand Two Hundred Fifty Eight Dollars and Three Cents (\$95,258.03), the Excluded Debt Assessment of Six Hundred Thousand One Hundred Twelve Dollars and Two Cents (\$600,112.02), and the Operating Cost Assessment of Five Million Two Hundred Twenty Six Thousand Six Hundred Forty Dollars (\$5,226,640.00) to be used in conjunction with an appropriation for the same purpose by the Town of Freetown, and/or to take any action relative thereto. Freetown-Lakeville Regional School Committee

The Finance Committee recommends this article.

The above article was discussed first.

Article 7: To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of One Hundred Thirty Six Thousand Four Hundred Thirty One Dollars (\$136,431.00) for the payment of vocational education tuitions and related transportation for students enrolled in vocational educational programs other than at Old Colony Vocational School and/or to take any action relative thereto. Lakeville School Committee

The Finance Committee recommends this article.

Article 8: To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Four Hundred Fifty Two Thousand Four Hundred Thirty Six Dollars (\$452,436.00) to cover the cost of tuition for special education students enrolled in out-of-district placements, or to take any action relative thereto. Lakeville School Committee

The Finance Committee recommends this article.

Article 9: To see if the Town will vote to raise and appropriate and/or transfer from available funds Twenty Thousand Dollars (\$20,000.00) for the purpose of funding the Fiscal Year 2008 Recertification of Values as mandated by the Massachusetts Department of Revenue, or take any action relative thereto. Board of Assessors

The Finance Committee recommends this article.

Article 10: To see if the Town will vote to raise and appropriate or transfer from available funds, or to authorize the Town Treasurer with the approval of the Board of Selectmen to borrow a sum of money for capital improvements and equipment as follows: Repairs to the Cuppola on the Town Offices; Repairs to the Historic Library Building including the septic system, Repairs to the septic system at Clear Pond Park; Consultant fee for engineering and roof design of the Assawompset School; Repairs to the roof of the Assawompset School; Two (2) new vans for the use of the School Department for special education students; Multi Purpose Dump Truck (40,000 GVW) for the Highway Department; Pick Up Truck to replace the Fire Department Pick Up

Truck; and three (3) new cruisers for the use of the Police Department, or take any action relative thereto. Capital Expenditures Committee

The Finance Committee and the Capital Planning Committee approve this article.

Article 11: To see if the Town will vote to accept under the provisions of General Laws, Chapter 90, Section 34 (2) (a), an apportionment of Chapter 291C, Acts of 2004, in the amount of Two Hundred Twenty Four Thousand One Hundred Twenty Eight Dollars (\$224,128.00), or take any action relative thereto. Highway Surveyor

The Finance Committee approves this article.

Article 12: To see if the Town will vote to raise and appropriate and/or transfer from appropriated and/or unappropriated available funds in the treasury a sum of money for the purpose of adding to the Stabilization Fund pursuant to the provisions of General Laws Chapter 40, Section 5B, or take any action relative thereto.

No money is being proposed to place into the stabilization account.

Article 13: To see if the Town will vote to raise and appropriate or transfer from unappropriated available funds in the treasury a sum of money to the Reserve Fund, or take any action relative thereto.

The Finance Committee approves this article.

Article 14: To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money for the purpose of financing the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements with the Board of Health and residential property owners, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that project and financing costs shall be repaid by the property owners, in accordance with those agreements, as well as take any other action necessary to carry out the projects, or take any action relative thereto. Board of Health

No Comments or objections made to this article.

Article 15: To see if the Town will vote to amend its General By-Law, Chapter II, Town Meetings, Section 4 to read as follows:

Any article shall be received for insertion in the Annual warrant by the Board of Selectmen up to 4:00 PM of the second Monday of March.

or take any action relative thereto.

Board of Selectmen

No Comments or objections made to this article.

Article 16: To see if the Town will vote to authorize the Board of Selectmen to petition the Great and General Court of the Commonwealth of Massachusetts to adopt the following legislation:

AN ACT PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF RENT REGULATIONS AND THE CONTROL OF EVICTIONS IN MANUFACTURED HOUSING COMMUNITIES IN THE TOWN OF LAKEVILLE.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same as follows:

SECTION 1: The general court finds and declares that a serious public emergency exists with respect to the housing of a substantial number of citizens in the Town of Lakeville, which emergency has been created by excessive, abnormally high and unwarranted rental increases imposed by some owners of manufactured housing communities located therein, that unless manufactured housing community rents and eviction of tenants are regulated and controlled, such emergency will produce serious threats to the public health, safety and general welfare of the citizens of said town, particularly the elderly, that such emergency should be met by the Commonwealth immediately and with due regard for the rights and responsibilities of the Town of Lakeville .

SECTION 2: The Town of Lakeville may, by its by-laws, regulate rents for the use or occupancy of manufactured housing accommodations in said town, establish a Rent Board, for the purpose of regulating units, minimum standards for use or occupancy of manufactured housing communities and eviction of tenants there from and may, by its by-laws, require registration by owners of manufactured housing communities. Such rents, standards and evictions may be regulated by the rent board so as to remove hardships or correct inequities for both the owner and tenants of such manufactured housing communities. Said rent board shall have all the powers necessary or convenient to perform it's functions, may make rules and regulations, require registration by owners of manufactured housing communities, under penalty of perjury, of information relating to the manufactured housing communities, sue and be sued, compel the attendance of persons and the production of papers and information and issue appropriate orders which shall be binding on both the owner and tenants of such manufactured housing communities. Violations of any by-law adopted pursuant to this act or any order of said Rent Board shall be punishable by a fine of not more than \$1,000.00.

SECTION 3: (a) in regulating rents for such manufactured housing communities, the Rent Board established under Section 2 may make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for manufactured housing communities in said town are established at levels which yield to owners a fair net operating income which will yield a return, after all reasonable operating expenses, on the fair market value of the property equal to the debt service rate generally available from institutional first mortgage lenders or such other rates of return as the Board, on the basis of evidence presented before it deems more appropriate to the circumstances of the case. The fair market value of the property shall be the assessed valuation of the property or such other valuation as the Board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case. (b) Said town in its by-laws or said Rent Board by regulations may establish further standards and rules consistent with this act.

SECTION 4: The provisions of Chapter 30A of the General Laws shall be applicable to the Rent Board, established under Section 2, as if the Rent Board were an agency of the Commonwealth, including those provisions giving agencies the power to issue, vacate, modify and enforce subpoenas, and those provisions relating to judicial review of an agency order.

SECTION 5: (a) The Plymouth Division of the District Court Department shall have original jurisdiction, concurrently with the Superior Court, of all petitions for review brought pursuant to Section 14 of Chapter 30A of the General Laws. (b) The Superior Court shall have jurisdiction to enforce the provisions of this act and any by-laws adopted thereunder and may restrain violations thereof.

SECTION 6: The Town of Lakeville may by its by-laws regulate the eviction of tenants and the Rent Board established under Section 2, may issue orders which shall be a defense to actions of summary process for possession and such orders shall be reviewable pursuant to Section 2 and 3.

SECTION 7: The personnel of the Rent Board established under Section 2 shall not be subject to Section 9A of Chapter 30 of the General Laws or Chapter 31 of the General Laws.

SECTION 8: This act shall take effect upon its passage.

or take any other action relative thereto.

Board of Selectmen

No Comments or objections were made to this article.

Article 17: To request that the Town of Lakeville vote to increase its Board of Selectmen from three (3) members to five (5) members, such increase to be implemented as follows:

At the 2007 Annual Town Election, the Town will elect three (3) new selectmen to serve with the two remaining members of the old Board. Of these new selectmen, one will be elected for a one (1) year term, one for a two (2) year term, and one for a three (3) year term. Thereafter, as the term of each selectman ends, his/her successor will be elected for a term of three (3) years.

Petition

No one was present to speak on the petition.

Article 18: To see if the Town will vote to amend the Zoning By-Law Section 2.0 Definitions by deleting the text for Dwelling: Single-Family dwelling with attached apartment and replacing it with the following text, or take any action relative thereto:

Dwelling: Single-Family dwelling with attached apartment

For the purpose of the Zoning By-Law, a single family detached dwelling with an attached apartment shall mean a living area not to exceed 600 square feet of habitable area, which may include a kitchen or kitchenette, must be attached to and open to the main dwelling unit with no party wall separation that would have the potential of creating a separate apartment or divided living area, and shall have a common entrance and maintain a single family appearance. Closets, hallways, decks, storage or utility spaces are not considered habitable space. Building Commissioner

No Comments or objections were made to this article.

Article 19: To see if the Town will vote to amend Section 4.1.2 of the Zoning Bylaws, Table of Use Regulations, Business Uses as follows:

Revise “Filling station” in the Principal Use Table to read as follows:

	R	B	I	I-B
Filling Station (allowed only in areas served by municipal water)	N	SP	SP	N

or take any action relative thereto.

Planning Board

No Comments or objections were made on this article.

Article 20: To see if the Town will vote to amend Section 4.1.3 of the Zoning Bylaws, Table of Use Regulations, Industrial Uses as follows:

Revise “Fuel establishment involving storage.....” in the Principal Use Table to read as follows:

	R	B	I	I-B
Fuel establishment involving storage and distribution to be sold wholesale to suppliers (allowed only in areas served by municipal water)	N	N	SP	SP

or take any action relative thereto.

Planning Board

No Comments or objections were made on this article.

Article 21: To see if the Town will vote to amend the current Zoning By-Law by adding the following Section 5.1.3.1 under Section 5.1.3, Easements:

Landscape Easements

Landscape easements shall be permitted within the required lot area or frontage providing that such easement occurs entirely within the upland area of such lot and does not limit the use of such land area as may be required for use by the property owner. In every case the easement shall never become the responsibility of the Town nor shall it be greater than 10% of the upland area or frontage of the lot it is part of as defined by the By-laws of the Town. Planning Board
No Comments or objections were made on this article.

Article 22: To see if the Town will vote to adopt the following General By-Law or take any action relative thereto:

**NON-STORMWATER DISCHARGES TO THE MUNICIPAL STORM DRAINAGE
SYSTEM OF THE TOWN OF LAKEVILLE**

SECTION 1. OBJECTIVE/INTENT.

The objective of this by-law is to prevent non-stormwater discharges to the Town of Lakeville's municipal storm drain system through the regulation of non-stormwater discharges to the storm drain system to the maximum extent practicable as required by federal and state law. Non-stormwater discharges are a major concern because they can impair the water quality of fresh water bodies, including streams, rivers and wetlands; contaminate drinking water supplies; alter or destroy aquatic habitat; and increase flooding.

This by-law seeks to prevent the introduction of pollutants into the municipal storm drain system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process by:

- (1) Regulating the contribution of pollutants to the municipal storm drainage system from stormwater discharges by any user;
- (2) Prohibiting illicit connections and discharges to the municipal storm drainage system;
- (3) Establishing legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this by-law.
- (4) Prohibiting discharges into the municipal storm drainage system that may or can create a condition that is harmful to public safety and welfare.

SECTION 2. DEFINITIONS.

For the purposes of this by-law the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY. The Building Commissioner and the employees and designees of the Town's Building Department are the Authorized Enforcement Agency designated to enforce this by-law.

BEST MANAGEMENT PRACTICES (BMPS). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of five (5) acres or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLCIT CONNECTIONS. Any surface or subsurface drain or conveyance which allows an illegal discharge to enter the municipal storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains, sinks or toilets, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this by-law.

INDUSTRIAL ACTIVITY. Activities subject to NPDES Industrial Permits as defined in 40 CFR 122.26 (b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE Permit. A permit issued by EPA (or by the Commonwealth of Massachusetts under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the municipal storm drain system that is not composed entirely of storm water.

PERSON. Any individual, partnership, association, firm, company, trust, corporation, agency, authority, department of political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee or agent of such person.

POLLUTANT. Any element or property of sewage, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent or other matter whether originating at a point or non-point source that is or may be introduced into any storm drain system, waters of the Commonwealth and/or waters of the United States. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, by-laws, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; rock, sand, salt and soils; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM. A system used to collect and/or convey stormwater including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures owned or operated by the Town of Lakeville.

STORM WATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

WATERCOURSE. A natural or man-made channel through which water flows or a stream of water, including a brook or underground stream.

WATERS OF THE COMMONWEALTH. All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters and groundwater.

WASTEWATER. Any sanitary waste, sludge, septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing comes in direct contact with or results from the production or use of any raw material, intermediate product, by-product or waste product

SECTION 3. APPLICABILITY.

This by-law shall apply to all water entering the Storm Drainage System owned or operated by the Town of Lakeville unless explicitly exempted by the Building Commissioner.

SECTION 4. AUTHORITY

This by-law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and G.L. c.83, §1 and §10, as amended by St. 2004, c.149, §§135-140, and the Federal Clean Water Act, 40 CFR 122.34.

SECTION 5. RESPONSIBILITY FOR ADMINISTRATION.

The Building Commissioner as the Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this by-law. Any powers granted or duties imposed upon the Building Commissioner may be delegated in writing by the Building Commissioner to persons or entities acting in the beneficial interest of or in the employ of the Town under the Building Commissioner.

SECTION 6. SEVERABILITY.

The provisions of this by-law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this by-law or the application thereof to any person, establishment, or

circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this by-law.

SECTION 7. PROHIBITED ACTIVITIES

A) Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal Storm Drainage System or watercourses any materials including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any Illegal Discharge to the Storm Drainage system is prohibited except as provided as follows, and further provided that the exempt source is not a significant contributor of a Pollutant to the Storm Drainage System; notwithstanding the last previous phrase, all fire fighting activities are exempt:

1. The following discharges are exempt from discharge prohibitions established by this by-law: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if de-chlorinated), fire fighting activities, and any other water source not containing Pollutants.
2. Discharges specified in writing by the Building Commissioner, as the Authorized Enforcement Agency, as being necessary to protect public health , safety, welfare or the environment.
3. Dye testing is an allowable discharge, but requires a written notification to the Building Commissioner prior to the time of the test.
4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Storm Drainage System.

B) Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drainage System is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

A person is considered to be in violation of this by-law if the person connects a line conveying sewage to the Storm Drainage System, or allows such a connection to continue.

C) Time for Compliance

Residential property owners shall have 90 days from the effective date of this by-law to comply with its provisions, provided good cause is shown for the failure to comply with the by-law during that period.

SECTION 8. SUSPENSION OF MUNICIPAL STORM DRAINAGE SYSTEM ACCESS.

Suspension due to Illegal Discharges in Emergency Situations

The Building Commissioner, as the Authorized Enforcement Agency, may, without prior notice, suspend municipal Storm Drainage System discharge access to any person or property when such suspension is necessary to stop an actual or threatened discharge which presents or may present an imminent risk of harm to public health, safety or welfare; to the environment; to the municipal Storm Drainage System or Waters of the Commonwealth or the United States. If the violator fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the municipal Storm Drainage System or Waters of the Commonwealth or the United States, and/or to minimize risk of harm to public health, safety or welfare or to the environment.

Suspension due to the Detection of Illegal Discharge

Any person discharging to the Town's Storm Drainage System in violation of this by-law may have their access terminated if such termination would abate or reduce an Illegal discharge. The Building Commissioner, as the Authorized Enforcement Agency, shall notify a violator of the proposed termination of its Storm Drainage System access. The violator may petition the Building Commissioner for reconsideration and a hearing regarding such notice of termination. A person commits an offense if the person reinstates municipal Storm Drainage System access to premises terminated pursuant to this Section, without the prior approval of the Building Commissioner.

SECTION 9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Building Commissioner prior to the allowing of discharges to the municipal Storm Drainage System.

SECTION 10. MONITORING OF DISCHARGES

A. Applicability.

This Section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

B. Access to Facilities.

1. The Building Commissioner, as the Authorized Enforcement Agency, shall be permitted to enter and inspect facilities subject to regulation under this by-law as often as may be necessary to determine compliance with this by-law. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Building Commissioner or his/her authorized representatives.
2. Facility operators shall allow the Building Commissioner ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
3. The Building Commissioner shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Building Commissioner to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The Building Commissioner has the right to require the discharger to install monitoring equipment as determined by the Building Commissioner. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Building Commissioner and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the Building Commissioner access to a permitted facility is a violation of a storm water discharge permit and of this by-law. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Building Commissioner reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this by-law.
7. If the Building Commissioner has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this by-law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify

compliance with this by-law or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Building Commissioner may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Building Commissioner, as the Authorized Enforcement Agency, shall adopt requirements identifying Best Management Practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of Storm Water, the Storm Drainage System, or Waters of the Commonwealth or the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal Storm Drainage System or Watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for Premises, which is, or may be, the source of an Illicit Discharge, may be required to implement, at said Person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal Storm Drainage System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Storm Water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 12. WATERCOURSE PROTECTION

Every person owning Premises through which a Watercourse passes, or such person's lessee, shall keep and maintain that part of the Watercourse within the Premises free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the Watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a Watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse.

SECTION 13. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into Storm Water, the Storm Drainage System, or Waters of the Commonwealth and United States, said person shall take all necessary steps to ensure containment and cleanup of such release. In the event of such a release of oil or hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Building Commissioner, as the Authorized Enforcement Agency, in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Building Commissioner within three business (3) days of the telephone notice. If the discharge of

prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

SECTION 14. ENFORCEMENT

The Building Commissioner, as the Authorized Enforcement Agency shall enforce this by-law, regulations, order, violation notices, and may pursue all criminal and civil remedies for such violations.

A. Civil Relief

If a person violates the provisions of the by-law, regulations, permit, notice or order issued hereunder, the Building Commissioner may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. Civil penalties may be imposed to the maximum permitted by law, including up to \$5,000 a day under Mass. G.L. c. 83, §10.

B. Orders

The Building Commissioner may issue a written order to enforce provisions of this by-law or regulations thereunder, which may include (a) elimination of Illicit Connections or Illegal Discharges to the Storm Drainage System; (b) performance of monitoring, analyses and reporting; (c) an order to cease and desist Illicit Connections and/or Illegal Discharges, practices or operations; and (d) remediation of contamination in connection therewith. If the Building Commissioner determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that should the violator or property owner fail to abate or perform remediation within the specified deadline, the work may be done by a governmental agency or contractor, in which event such work and expenses thereof shall be charged to the violator.

C. Criminal Penalty

Any person who violates any provision of this by-law, regulation, order or permit issued hereunder shall be punished by a fine of not more than \$300.00 per day. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. Non-Criminal Disposition

(a) Whoever violates any provision of this by-law may be penalized by a non-criminal disposition as provided in Mass. G.L. Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department, which is subject to a specific penalty. Without intending to limit the foregoing, it is the intention of this section that the following by-laws and regulations be included within the scope of this subsection, that the specific penalties, as listed herein, shall apply in such cases and that, in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this section, the municipal personnel listed for each section, if any, shall also be enforcing persons for such section. The Building Commissioner, Town of Lakeville Police Department, or any designated

Agent of the Building Commissioner shall be considered an enforcing person for the purpose of this section.

(b) A violation of the by-law and regulatory provisions may be dealt with in a non-criminal manner as provided by section (a) above. Each day on which any violations exist shall be deemed to be a separate offense.

The fine schedule is: First offense, \$100, second offense, \$200, third and subsequent offenses, \$300.

E. Appeals

The decision or order of the Building Commissioner, as the Authorized Enforcement Agency, may be appealed to the Planning Board within 20 days of the date of the decision or order. The Planning Board shall consider the request at a meeting after written notice is given to abutters, paid for by the Person, at least seven (7) days prior to the said meeting.

F. Remedies Not Exclusive

The remedies listed in this by-law are not exclusive of any other remedies available under applicable federal, state or local law.

Planning Board

Minor discussion took place on the above article for clarification. There was no objection to the article.

Article 23: To see if the Town will vote to adopt the following General By-Law or take any action relative thereto:

CONSERVATION COMMISSION WETLANDS BY-LAW

Section 1.0 Purpose

The purpose of this Bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Lakeville by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, water pollution control, fisheries, shellfisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the “resource area values protected by this Bylaw”). This Bylaw is intended to utilize the Home Rule Authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of The Wetlands Protection Act (M.G.L. ch. 131, sec. 40) and Regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth.

Section 2.0 Jurisdiction

Except as permitted by the Conservation Commission or as provided in this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, or discharge into, or otherwise alter the following resource areas: any freshwater or coastal wetlands; marshes; flats; wet meadows; bogs; swamps; vernal pools; banks; estuaries; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; lands subject to tidal action, coastal storm flowage, or flooding; and the one hundred (100) foot Buffer Zone to any of the aforementioned resource areas or lands abutting any of the aforesaid resource areas as set out in section 5.3 (collectively the “resource areas protected by this Bylaw”). Said resource areas shall be protected whether or not they border surface waters.

Section 3.0 Exemptions and Exceptions

No Notice of Intent hereunder need be filed in connection with an emergency project necessary for the protection of health or safety of the citizens of Lakeville to be performed or ordered to be performed by an administrative agency of the Commonwealth or by the Town. An emergency project shall mean any project certified to be an emergency by the Town of Lakeville Conservation Commission or its agents within 24 hours; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this Bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an Emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in The Wetlands Protection Act (M.G.L. ch. 131, sec. 40) and Regulations (310 CMR 10.00) shall not apply under this Bylaw.

Section 4.0 Applications and Fees

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this Bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw.

The commission in an appropriate case may accept as the application and plans under this Bylaw any application and plans filed under The Wetlands Protection Act (M.G.L. ch. 131, sec. 40) and Regulations thereunder (310 CMR 10.00).

Any person desiring to know whether or not a proposed activity or an area is subject to this Bylaw may in writing request a determination from the Commission. Such a Determination shall include information and plans as deemed necessary by the Commission.

At the time of a permit application, the applicant shall pay a filing fee specified in Regulations of the Commission. The fee is in addition to that required by The Wetlands Protection Act (M.G.L.

ch. 131, sec. 40) and Regulations (310 CMR 10.00). The fee shall be deposited in a dedicated account, for use only for resource protection activities, from which the Commission may withdraw funds.

Section 4.1 Consultant Fees

Upon receipt of an application, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law. The exercise of discretion by the commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit or other application filed by a government agency.

The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this Bylaw. The project cost means the estimated, entire cost of the project, including but not limited to, resource area delineation, building design and construction, site preparation, landscaping, and all site improvements. The project shall not be segmented to avoid the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not impact payment of the consultant fee.

The Commission may require the payment of the consultant fee at any point in the deliberations prior to a final decision. If a consultant fee account has been set up pursuant to (M.G.L. ch. 44, sec. 53g), the applicant's fee shall be put into such account, and the Commission may draw upon that account for the specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the consultant fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.

Section 5.0 Notice of Hearings and Filing Procedures

Any permit application shall be sent by certified mail, or hand delivered to the Lakeville Conservation Commission or its authorized representative, and shall include plans and specifications as required of an applicant by the Commission. A person delivering this Notice by hand shall be given a dated receipt. This Notice shall also include a filing fee to be designated in the rules and regulations of the Commission payable to the Town of Lakeville. No filing fee is required when the Town of Lakeville files an application. These plans shall also show the

location of the wetland boundaries and shall be at a scale of 1" = 40' or any such scale that adequately depicts the area.

The Commission shall conduct a public hearing on any permit application, with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, unless an extension is authorized in writing by the applicant. The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this Bylaw with the hearing conducted under The Wetlands Protection Act (M.G.L. ch.131 sec. 40) and Regulations (310 CMR 10.00).

The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed herein.

Section 5.1 Notification of Filing for Permits

Any person filing a permit application under this Bylaw shall also notify by certified mail all abutters, any impacted resource management agency and the owner of the subject property, if different from the applicant, of the filing of such permit application. Such notice shall clearly identify the land on which the work is to be done and describe the general nature of the work. Notice shall include the date, place, and time of said public hearing, and where plans may be reviewed. A list of persons so notified and proof of such notification shall be filed with the Conservation Commission at the public hearing.

Section 5.2 Filing Deadlines

Any permit applications and supporting information needs to be submitted at least ten (10) business days prior to the posted public meeting of the Conservation Commission.

Section 5.3 Permits and Conditions

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result there from, are likely to have a significant individual or cumulative effect upon the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

Where no conditions are adequate to protect those resource values, the Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw. The Conservation Commission may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this Bylaw.

A.) Lands within 200 feet of rivers, ponds and lakes, and lands within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may therefore establish performance standards for protection of such lands including, without limitation, strips of continuous, undisturbed vegetative cover within the 200-foot or 100-foot area, or other form of work limit or setback to buildings, roads, landscaping and other features, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the Bylaw.

In the review of areas within 200 feet of rivers, ponds and lakes, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this Bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this Bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives, and overall project costs.

B.) To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

C.) The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of continuous wildlife corridors in the area, or possible presence of rare species in the area.

The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of The Wetlands Protection Act (M.G.L. ch. 131, sec. 40) and Regulations (310 CMR 10.60).

D.) The Commission shall presume that all areas meeting the definition of vernal pools under section 11.0 of this Bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual meeting the qualifications under the wildlife habitat section of The Wetlands Protection Act Regulations.

E.) A permit shall expire three (3) years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five (5) years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one (1) year period, provided that a request for a renewal is received in writing by the Commission at least 30 days prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

F.) For good cause the Commission may revoke any permit, other order, determination or other decision issued under this Bylaw after notice to the holder of the permit, the public and, abutters, pursuant to section 5.0 of this Bylaw, and a public hearing. Amendments to permits or determinations shall be handled in the manner set out in The Wetlands Protection Act Regulations and policies thereunder.

The Commission in an appropriate case may combine the decision issued under this Bylaw with the Order of Conditions, Order of Resource Area Delineation (ORAD), Determination of Applicability or Certificate of Compliance issued under The Wetlands Protection Act and Regulations.

No work proposed in any application shall be undertaken until the permit, ORAD or Determination issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the Registry section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded.

Section 5.4 Denial

The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable

significant or cumulatively adverse effects upon the wetland values protected by this Bylaw; or where the Commission deems that no conditions are adequate to protect those values.

Section 5.5 Extension Permits

The Commission may extend a permit once for a period of one (1) year. Written requests for an Extension Permit shall be made not less than thirty calendar days prior to the expiration of said Permit.

The Commission may deny an Extension Permit under any of the following circumstances:

- (1) Where no activity has begun on the project, except where such failure is due to unavoidable delay such as appeals in obtaining other necessary permits.
- (2) Where new information not available at the time of the original permit filing has become available and indicates that the Order of Conditions is insufficient to protect the areas subject to protection.
- (3) Where activity is causing damage to areas subject to protection.
- (4) Where there has been activity in violation of the Order of Conditions.
- (5) Where an Extension Permit has been previously granted for the Order of Conditions.

Section 6.0 Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide adequate evidence to the commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 7.0 Setbacks for Activities

The following are the minimum distances (setbacks) of activity from the edge of the resource areas. No activity shall be allowed within these setbacks except as provided below. These setbacks are the minimum and may be extended further by the Commission if deemed necessary for the protection of the interests of the Bylaw.

The setbacks shall be as follows:

- (1) **25-foot** setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- (2) **50-foot** buffer of undisturbed natural vegetation.
- (3) **50-foot** setback to the edge of driveways, roadways, and structures.
- (4) **100-foot** setback for underground storage of gasoline, oil, or other fuels and hazardous materials.
- (5) **100-foot** setback from the mean high water line of vernal pools.
- (6) **50-foot** setback for leaching field for new construction

When in the opinion of the Commission compliance with these setbacks will result in greater harm to the interests of this Bylaw then the Commission will consider alternatives that will provide optimal protection to the resource area.

Pre-existing activities or structures not meeting the setbacks set forth above need not be discontinued or removed [but shall be deemed to be nonconforming].

Section 8.0 Security

As part of a permit issued under this Bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (Including conditions requiring mitigation work) be secured wholly or in part by accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

Section 9.0 Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this Bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this Bylaw. The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this Bylaw, its regulations, and permits issued there under by violation notices, non-criminal citations under M.G.L. Ch. 40 sec 21D, and civil and criminal court actions. Any person who violates provisions of this Bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both. Any police officer or the Conservation Agent shall have authority to enforce this Bylaw. Any person, who violates any provision of this Bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the Bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

Section 10.0 Appeals

A decision of the Commission may be reviewed by the Superior Court in an action filed within 60 days thereof, in accordance with Massachusetts General Law 249, Section 4.

Section 11.0 Definitions- The following definitions shall apply in the interpretation and implementation of this Bylaw.

Section 11.1

The term "person" as used in this Bylaw shall include any individual, group of individuals, association, partnership, corporation, or business organization, trust or estate, the Commonwealth, or any political subdivision thereof, administrative agency, public or quasipublic corporation or body, or any other legal entity or its legal representatives, agents or assigns.

Section 11.2

The term "abutter" as used in this Bylaw shall include all property owners, determined by the most recent maps in the Assessors Office that abut the land or are within 100' of the land on which the proposed activity is to take place. The Water Departments of the Cities of Taunton and New Bedford shall also be notified as abutters when the subject property is within 100' of either Long Pond or Assawompsett Pond.

Section 11.3

The term "activity" shall mean any form of draining, dumping, dredging, damming, discharging, excavating, filling or grading; any form of construction, reconstruction, or expansion of any building, structure, road or other way; or alteration or any changing of the physical, chemical, or biological characteristics of an area of land or water.

Section 11.4

The term "alter" as used in this Bylaw shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

- (a) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (b) Changing of drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns and flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;
- (e) Driving of piles, erection of buildings or structures of any kind;
- (f) Placing of obstructions whether or not they interfere with the flow of water;
- (g) Destruction of plant life, including the cutting of trees, which may significantly impact the interests protected by this Bylaw;
- (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.

Section 11.5

"Buffer zone" shall mean that area of uplands within 100 feet horizontally outward from the boundary of a wetland, vernal pool (except as provided for in Section 3.14), bank, or land subject to flooding. (Note: there is no buffer zone associated with the riverfront area.)

Section 11.6

"Dredge" shall mean to clean, deepen, widen or excavate, either temporarily or permanently.

Section 11.7

“Extension Permit” shall mean a written extension of time granted by the Conservation Commission once for a period of one (1) year, within which time authorized work shall be completed.

Section 11.8

“Fill” shall mean either of the following, whichever is applicable:

- (a) to deposit or place any material so as to raise in elevation, either temporarily or permanently;
- (b) anything that fills or is used to fill - especially earth or gravel used for filling a hole, depression or low area.

Section 11.9

The term “vernal pool” as used by this Bylaw shall include, in addition to that already defined under the Massachusetts Wetlands Protection Act and regulations (310 CMR 10.00), any confined basin or depression not occurring in existing driveways or created through gardening, that meets the certification criteria established in the Guidelines for Certification of Vernal Pool Habitat published by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The buffer zone for vernal pools shall extend 100 horizontal feet from the mean annual high-water line defining the depression.

Section 11.10

The term “wetland” as used in this Bylaw includes:

- 1) Vegetated wetlands are wet meadows, marshes, swamps and bogs where 50% or more of the vegetative community consists of wetland indicator plants as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, sec. 40) and regulations at (310 CMR 10.00.) When vegetation is not sufficient to determine the boundary of a wetland, characteristics of hydric soils or observations of flowing water, standing water or saturated soils may be used.
- 2) Any non-vegetated area such as a creek, brook, stream, river, pond, lake, lands under said waters, and certified and uncertified vernal pools as defined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, s. 40) and regulations at 310 CMR 10.00 and Section 13.14 of this Bylaw.

Section 11.11

The term “bank” shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or mean annual flood level , whichever is higher.

Section 11.12

“Lands subject to flooding” are areas of temporary or occasional flooding as defined in the Massachusetts Wetlands Protection Act (M.G.L. ch. 131, sec. 40) and Regulations at (310 CMR 10.00). Bordering land subject to flooding is the estimated maximum lateral extent of floodwater

that will theoretically result from the statistical 100-year frequency storm. Isolated land subject to flooding is an isolated depression or closed basin without an inlet or an outlet. It is an area that at least once a year confines standing water to a volume of at least ¼ acre-feet and to an average depth of at least six inches. Some isolated lands subject to flooding may be vernal pools.

Section 11.13

The term “resource area” shall mean any area subject to protection under this Bylaw and include any bank, wetland, vernal pool, buffer zone, lands subject to flooding or riverfront area.

Section 11.14

The “Riverfront Area” is the area of land between a river’s mean annual high water line and a parallel line measured horizontally 200 feet away. The riverfront area may include or overlap other resource areas or their buffer zones. A river is a flowing body of water that empties to any ocean, lake, pond or river and which flows throughout the year (except during drought conditions). Perennial streams are rivers; intermittent streams are not rivers. Determination of flow status shall be based on: field observations (witnessed by Conservation Commission or its authorized agent); USGS or other government maps; size of channel or bank; watershed size; stream order; streambed characteristics; local geology; biological community; and/or other appropriate evidence.

Section 12 Regulations

After due notice and public hearing, the Commission may promulgate procedural rules and regulations to effectuate the purposes of this Bylaw. However, failure to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.

Section 13 Severability

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

Conservation Commission

Minor discussion took place on this article for clarification purposes. There were no objections to the article as presented.

Article 24: To see if the Town will vote to accept Margeaux Drive as a Town Way as laid out by the Board of Selectmen and to authorize the Selectmen to acquire by gift an easement or fee simple in the way and any related easements as shown on the road layout plan drawn by SFG Associates, Inc. on file with the Town Clerk entitled “Road As-Built Deer Woods, A Plan of Land in Lakeville, MA” dated February 17, 2006 and revised March 16, 2006, or take any action relative thereto.

Board of Selectmen

The Planning Board recommends the above article.

You are directed to serve this warrant by posting an attested copy hereof fourteen days at least before the day appointed for a Special Town Meeting and seven days at least before the day appointed for the Annual Town Meeting at the following places: Town Office Building, Starr's Country Market, Savas' Store, Neighbors Corner Store, the Clark Shores Association Bulletin Board, Apponequet Regional High School, the Lakeville Senior Center, and Assawompset School.

Hereof fail not and make return of this warrant with your doings hereon at the time and place of said meeting.

Given under our hands this _____ day of _____, 2006.

Richard F. LaCamera
Nancy E. Yeatts
Charles E. Evirs, Jr.
BOARD OF SELECTMEN

Chairman LaCamera stated that both the Special and the Annual Town Meeting Warrant articles will be available to view on the Town website the next day. There will also be copies available at the Town Clerk and Selectmen's Office.

8:00 PM Request for road cuts – Verizon

Daid Small – Verizon Representative and Rob Tebo of Mastec, Contractor for Verizon, were present. Roger Hamilton, Highway Supervisor was also present. Ms. Garbitt distributed a list of the 29 road cuts being proposed to the Board of Selectmen. Chairman LaCamera stated that the Board did not want any road cuts since a majority of the roads were new with newly paved blacktop. He asked why the cable couldn't be inserted into the conduits already existing or road bores be done? He added that he was dead set against opening up twenty-nine roads. The Town spent a lot of money putting together the roads and when they are cut, they are never put right after the fact.

Mr. Small responded that some streets have the underground conduit, while other streets, older ones, have only the direct bury. Under the road bores, with a three (3) inch pipe, will be attempted at least three (3) times before the road is considered to be cut. All field notes have been reviewed to determine what roads have underground conduit and what roads have direct bury. If road crossings are available, they will be used rather than cutting the road. Verizon is also trying to "shadow" the work being done in the existing granted rights-of-ways. Any other place would need to be publicly petitioned to the Town. Verizon will do all that they can to avoid a road cut. Conduit was only begun to be placed in the late 1980's and early 1990's. A path will be laid for all homes, whether they are being "hooked up" at this time or not, so that if they want service in the future it will be easily available with an underground drop wire. Mr. Tebo stated that only if there is a natural gas line does it make it more difficult in laying the fiber optic upgrade. This is being offered only to residential properties at this time since it is not available in the business sector at this time. A ditch digger will be used and it will dig down about eighteen inches. It is easier to drill under the road than to cut the road. Chairman

LaCamera asked Mr. Hamilton if all the connectors were in the Town Way? Mr. Hamilton responded that he questioned some of them, however, typically they are in the Town Way.

Chairman LaCamera asked how the work would initiate? Mr. Small responded that seventy-two (72) hours prior to the work beginning, door tags would be placed on all residential doors explaining what was to take place and with a 1-800 number on it for the resident to call for further information. If a resident has an underground sprinkler, a dog fence, etc, they should contact Verizon to let them know of this ahead of time. There is someone available for the call 24-hours a day. Lawns and driveways will be restored to their original condition if disturbed. Dog fences (underground) and sprinkler systems will be repaired if interrupted. Selectman Evirs asked who would determine if the boring did not work and a road cut needed to be made? Mr. Hamilton responded that it would be him. Ms. Garbitt asked if Mr. Hamilton would witness all the work? Mr. Hamilton responded that he could be available to watch the work. Mr. Small stated that a road would not be cut unless Mr. Hamilton is present. One of the conditions is that Mr. Hamilton be notified if a bore could not be done and something else needed to take place.

Chairman LaCamera stated that the Town has had numerous problems in the past with road cuts with such companies as Bay State, Taunton Utility, etc. No matter how much the Town is told the cut would be repaired, it typically sinks in a matter of time. He added that he did not want any roads falling in. Mr. Small stated that there is a five (5) year warranty on the road cut. If it sinks it will be repaired. CDF is also required by the Town. Flowable fill will be used if needed. The bond is posted at \$72,000, \$2500 for each road cut. Chairman LaCamera asked that a member of the Board, the Town Administrator and Mr. Hamilton be notified if it is necessary to make a road cut. This is to be added under the 6A of the conditions. He asked how long the permit would be needed? Ms. Craig stated that one master road permit would be issued with a copy of all the roads to be cut attached to the permit. Basically all the work is identical with the only difference being the dig safe numbers and locations. Mr. Small responded that they would need the permit for about six (6) months. If it was allowed for the duration of this constructions season, November 15, 2006, this would be adequate.

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To approve a road opening permit to Verizon and Mastec for the list of approved road cuts as provided with dig safe numbers and locations attached, subject to the Town of Lakeville's standard road opening permit and the permit will be effective from April 24, 2006 through November 15, 2006 with a modification made to the permit under 6A, that the Town Administrator be added among those (Board of Selectmen Member, Highway Surveyor) who would be contacted if it is deemed necessary to make a road cut, and under #11, that all trenches will be maintained until the inception of Five (5) years, rather than one (1) year from the permitted date.

Unanimous in favor

8:15 PM Request for appointment of Call Firefighter

Fire Chief Daniel Hopkins & Jeffrey MacDonald were present. Chairman LaCamera stated that Fire Chief Hopkins had requested an additional call firefighter to be appointed. Chief Hopkins explained that Jeffrey MacDonald is an EMT, a diver and has been attending many of the fire drills as of late.

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To approve the appointment of Jeffrey MacDonald as call firefighter/EMT, subject to twelve (12) months probation, a successful completion of the department approved physical examination and PAT test with a term to expire, July 31, 2006.
Unanimous in favor

Vote to adopt the layout of Margeaux Drive

Jay Bisio is present for the discussion. Selectman Yeatts asked about the seventeen (17) cracks and three (3) major ones in the retaining wall? Mr. Bisio responded that the seventeen cracks were typical stress hairline cracks. The three major ones were jack hammered out and repaired. Selectman La Camera stated that a letter has been received regarding the work from Mr. Hamilton. Also, an email was received by the Town Administrator from the Town Engineer regarding the work and there is a recommendation in favor by the Planning Board.

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To approve and adopt the layout of Margeaux Drive.
Unanimous in favor

Renew Junk Dealer, Junk Collector & Auctioneer Licenses

Chairman LaCamera read the request from the Town Clerk for the renewal of junk dealer, junk collector and auctioneer licenses. Chairman LaCamera noted that three are located in a business zone and one is located in a residential zone.

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To approve the license renewal request by Jean Simmons for a Junk Dealer License and Junk Collector License, the license renewal request by Hugh and Judy Rogers for a Junk Dealer License and Junk Collector License and the license renewal request by Colonial Trophy & Giftware Co., for a Junk Dealer License with a term to expire April 30, 2007.
Unanimous in favor

It was the consensus of the Board to conduct a site visit for the license being requested by Anthony and Dorita Morris on Thursday, April 27th.

Request to use Old Town House-Sampson Cemetery Association

Chairman LaCamera read the request from the Sampson Cemetery Association to use the Old Town House for their Annual Meeting on May 5, 2006 at 7:30 PM.

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To approve the request by the Sampson Cemetery Association to use the Old Town House for the purpose of their Annual Meeting on Friday, May 5th at 7:30 PM.
Unanimous in favor

Request for one-day liquor license-Park Commission

Chairman LaCamera read the request from the Park Commission for a one-day liquor license for the Ted Williams Camp.

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To approve the request by the Park Commission for a one-day liquor license for the Middleborough Cobras Award Ceremony on Monday, May 1st from 6 PM to 12 AM.
Unanimous in favor

Request for reappointment of Animal Control Officers and Assistant Animal Control Officers

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To make the following appointments for Animal Control Officer and Assistant Animal Control Officers with a term to expire April 30, 2007:

David Frates, Animal Control Officer and Constable
Jared Darling, Assistant Animal Control Officer and Constable
Laurice Ingargiola, Assistant Animal Control Officer
Frederick Bohning, Assistant Animal Control Officer
Harold Marshall, Assistant Animal Control Officer
Unanimous in favor

Announce vacancy-Park Commission

Chairman LaCamera explained that due to Robert Hill's resignation from the Park Commission, there is now a vacancy. If anyone is interested in serving on the Park Commission they are to submit a letter of interest to the Board of Selectmen. At an upcoming meeting, the Selectmen and Park Commission will review the letters received and make a joint appointment to

fill the vacancy. This person would be appointed until the next annual election, when they will have to run for election for the balance of the term.

Request for storage trailer license-7 Precinct Street

Chairman LaCamera said the Board received a request for a storage trailer license located at 7 Precinct Street. This would be a temporary license, renewable annually by the Board. It is in a business zoned area. Ms. Craig stated that the annual fee for the trailer license was \$25.00. Also, the Board has permitted storage containers in other business zoned areas. Ms. Garbitt added that medical equipment will be stored in the trailer. The Board has issued three (3) permits of this nature in the past. They were to: Gerald White, Mullein Hill School and Paul Hunt – dba Berry Company. On two (2) of the permits, it was required that the trailers not be viewed from the street.

Upon a motion made by Selectman Yeatts; seconded by Selectman Evirs it was:

VOTED: To approve the permit request for a storage trailer license at 7 Precinct Street for the period of one year from this time (April 24, 2006 through April 24, 2007).
Unanimous in favor

Discuss portable classrooms at Ted Williams Camp

Robert Darling, Building Commissioner, is present for the discussion. Chairman LaCamera explained that the original intention for the portable classrooms at the Ted Williams Camp was for them to be used for park purposes. The Park Commission has notified the Selectmen that they do not want the classrooms and the units have become an eyesore. It was recommended that they be sold and at this time there is one (1) person who is interested in purchasing them for \$500. It is recommended that this bid be honored with the person understanding that the units have to be moved at their expense. Mr. Darling stated that the units can be used as an accessory building provided that the lot coverage of 25% is not exceeded. Ms. Garbitt stated that she checked with Paul Guerino, who works on surplus property disposal for the State on the matter and he advised that the bid for \$500 is a good bid. He helped to have the units displayed for bid on E-Bay.

Upon a motion made by Selectman Evirs; seconded by Selectman Yeatts it was:

VOTED: To accept the \$500 bid for the portable classrooms subject to the owner moving the classrooms at his own expense within 60 days.
Unanimous in favor

Any other business that may properly come before that meeting.

Chairman LaCamera stated that he wanted to thank all the residents who helped pick up trash around the Town on April 22nd. The group Dow Family and Friends won the contest.

Chairman LaCamera stated that he would like a letter drafted from the Board thanking the Middle School students for raising money for the local animal shelter.

Chairman LaCamera stated that the Town Administrator received correspondence from the Middleborough Board of Selectmen regarding meeting with the Lakeville Board possibly on Monday, May 1st. Middleborough has met with National Development (Thursday, April 13th) and indicated to National Development that they would like to double the rates they were initially asking for and for an additional \$500,000. This is something that the Middleborough Board may be discussing this evening at their Selectmen's meeting. The Lakeville Board would like to meet specifically to discuss what would take place with the existing customers on Main Street and Bridge Street.

The Town Administrator distributed information to the press regarding the Poetry evening that would take place by the Lakeville Arts Commission.

Other Items

1. Notice of reorganization of Board of Health
2. Notice from Superintendent regarding Freetown School Committee
3. Notice from City of Taunton regarding new water ordinance
4. Letter from MassHousing regarding loan to Arc of Greater Fall River
5. Agenda for Middleborough G&E – April 11, 2006
6. Meeting notice-SRPEDD Commission – April 26, 2006
7. Notice of nominations for SRPEDD at-large commissioners
8. Letter from Senator Menard & Rep. Canessa regarding cable legislation
9. Plymouth County Cooperative Extension-April/May 2006
10. CSX Transportation 2006 Vegetation Control Program
11. Plymouth County Commissioners meeting-April 19, 2006
12. Letter from SEMASS regarding hexavalent chromium regulatory compliance
13. City and Town publication-April 2006
14. Notice from FY07 DCS Annual Grant Round
Selectman Yeatts explained that the grant was for the purpose of self-help and urban self-help. The Town had applied for the grant in the past and if they did again it would be beneficial if the causeway was fixed between the Town of Middleborough and Lakeville provided that Middleborough would like to work with the Town to replace the posts and fix those roads.
15. Training Announcement-MEMA
Ms. Craig stated that she distributed the two-day training by the MEMA announcement to the Police Department, Fire Department, Board of Health and Roger Hamilton. No one has responded at this time. Selectman Yeatts stated that she would try and coordinate the training.
16. Letter from MMMA
17. Letter from Commission on the Status of Women
The Town Administrator stated that the Commission did receive the letter of recommendation as provided by the Town.
18. Wildlands Trust News-Spring 2006
19. Comprehensive Environmental Inc. newsletter

20. Letter from DEP Lakeville DPW Audit

21. Memorandum from Kopelman & Paige regarding Recent Notable Municipal Law Litigation

Minor discussion took place regarding the petition article for the May 8th Town Meeting warrant. Chairman LaCamera explained that he was against the article. It would add more cost for the Town, make government bigger, put more demands on the Town Administrator and Selectman's Office and be more difficult to keep two (2) additional board members informed on a daily and weekly basis with any matters that present themselves. It would also give an opportunity for the open meeting law to be violated (worked around) by the members being able to talk with one another without a meeting being posted in order to obtain one another's view on various matters between posted meetings. Selectman Yeatts stated that she is also against increasing the size of the Board. The Board presently presents a united front and does not have huge public feuds. Selectman Evars asked what the real reason the petitioners were bringing this forward? Ms. Garbitt responded that no specifics had been brought forward by the petitioners. Selectman Evars said if it was due to construed "burnout" by Board members, this is not accurate. The Board members participate with the numerous Boards and Committees that they are also on in conjunction with the Board of Selectmen since they are interested in the matters taking place throughout the Town. It is also more work for the Town than simply making extra copies of the agenda for the meetings.

Upon a motion made by Selectman Yeatts; seconded by Selectman Evars it was:

VOTED: To enter Executive Session at 9:10 PM and not return to Open Session for the purpose of discussing pending litigation and the Collective Bargaining Agreement with the Police Department. Polled vote: Selectman LaCamera, aye, Selectman Yeatts, aye and Selectman Evars, aye.