

SELECTMEN'S MEETING
Monday, April 27, 2009

On April 27, 2009, 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 Maksy at 7:00 PM. Selectmen present were: Selectman Maksy, Selectman Yeatts and Selectman Evirs. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

Liquor License Hearing-The Back Nine Club

Chairman Maksy read the legal notice into the record.

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

VOTED: To open the Liquor License Hearing regarding the Alteration of Premises for the Back Nine Club.
Unanimous in favor.

Joseph Klein was present representing the Back Nine Club. Also present was Mark Sorel, Police Chief. Ms. Garbitt explained that there was new legislation passed which allowed beverage carts to serve alcoholic beverages on the golf course. The ABCC passed their own regulations at the beginning of April regarding the beverage carts. She noted that there is a Town Way that passes through the golf course. Discussion occurred with Chief Sorel regarding his opinion on the beverage cart crossing over a Town Way. Ms. Garbitt stated if the Board of Selectmen approve the Alteration of Premises, which would allow the beverage cart out on the golf course, the only change will be on their license, which will now include a description of the golf course. Ms. Craig added if the applicant applies for a Transportation License from the ABCC, the beverage cart could cross the public way.

Mr. Klein explained that they would like to have one (1) cart operating on the golf course. His idea on hours would be to have the cart on the course until 4:00 to 5:00 PM, based on leagues and who is playing. There are regulations that need to be followed with the parking lot. He understood that the Town road cannot be crossed until there is a Transportation License granted from the ABCC. He anticipated the cart operating six (6) to seven (7) days per week based upon weather and play. Selectman Yeatts asked about signs stating that no alcoholic beverages are allowed beyond particular points. Mr. Klein responded that there would be, and he explained where they would be located. Selectman Evirs asked how that will be policed. Mr. Klein responded that the course will have trash and recycling bins at those points where the road would be crossed. It would be monitored, especially at Holes 13 and 16. It is felt that most of the sales will be from holes 1-12, and then the golfers will be done, since the course is so short beyond that. There are rangers on the course who will monitor this as well. Chairman Maksy asked if they will be crossing the street with the beverage carts. Mr. Klein responded that he anticipated that they would be. While the rangers are policing the golf course, they can police that as well. Further discussion occurred on the various aspects of this matter.

Mr. Klein stated that there will be regulations for the person who sells the alcohol from the beverage cart listed inside the cart, and they will be aware of how many drinks were purchased by particular golfers. He noted that only two (2) drinks can be purchased by a player at one (1) time. Selectman Evirs stated that he has a problem with open containers on the Town way and in the parking lot. The quickest trip is to go through the parking lot rather than go around. He felt that a secure route without entering the parking lot needed to be established. Mr. Klein explained that there is curbing all the way through the parking lot, so the golf carts have to go along the cart path and up the maintenance path to the tee. Further discussion occurred on how to control this properly. Selectman Yeatts asked who would have the liability if there is an accident going across the road. Selectman Evirs responded that the Town might become part of it. Sign locations were discussed again. Chairman Maksy stated that it might be better that the golfers not have drinks while crossing the street, and then they come back and purchase another once they play the holes across the street.

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

VOTED: To close the hearing.
Unanimous in favor.

The Board discussed the areas of signage for the golf course. They requested that signage stating that no alcoholic beverages will be allowed beyond this point as follows: the driveway entrance (at the main entrance) where the course crosses to the 18th green will have the first sign, then prior to going across Powder House Road, where the course crosses into Parcel C. This is where there should be a sign, where Parcel A crosses to Parcel C, and trash barrels and recyclable containers will be placed there. There should be proper signage in the parking lot, stating that no golf carts are to be in the parking lot. There will be a designated cart path around the parking lot to keep the golf carts out of the parking lot. Beverage cart hours will be until dusk only. If there is a night time golf game, one with the glow balls, the beverage cart should not be encouraged during that time. Dusk does vary during the year. The hours for the beverage cart should be from 8:00 AM to dusk, Monday through Saturday. Discussion took place regarding what time dusk occurred, which was deemed to be 30 minutes prior to sunset. Ms. Craig added that Mr. Klein will also need to check with the Board of Health to determine if further permits are needed from them for the operation of the beverage cart. Mr. Klein responded that he would.

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

VOTED: To approve the alteration of premises for the Back Nine Club, Mark Joseph Klein, Manager for a beverage cart to serve Holes 1-12 of the Back Nine Club, located at 17 Heritage Hill Drive, Lakeville, MA. The beverage cart will be limited to holes 1-12 (Parcel A). Proper signage will be installed at the driveway entrance (at the main entrance) where the course crosses to the 18th green (Parcel B), then prior to crossing Powder House Road, where the course crosses into Parcel C. This will be a sign, where Parcel A crosses to Parcel C with trash barrels and recyclable containers. Signage will be in the parking lot, stating that no golf carts are allowed in the parking lot. There will be a designated cart path around the

parking lot to keep the golf carts out of the parking lot. Beverage cart hours will end 30 minutes prior to sunset.
Unanimous in favor.

Revisit request for the Board to vote to layout Anderson Way as a Town Way

Leo Bisio was present for the discussion. Ms. Garbitt stated that the Town had asked for a new as-built plan for Anderson Way, since there were some changes made with the swale. Mr. Bisio stated that Jon Pink had not put them on the plan. He did not realize that they should be on the plan. Selectman Yeatts asked Mr. Bisio to come the table to explain the changes on the plan. Mr. Bisio said the Certificate of Compliance is not done yet; he is working on that. Selectman Evirs asked about the division line of fee ownership in the roadway. Mr. Bisio responded that the Marshmans owned to a certain point originally. He put the road in for them on their property and then bought the back half from someone else, so that is why Jon Pink had to put that in. The Town is getting an easement for the road. The Marshmans are giving an easement to the Town also. Ms. Garbitt explained that the Town does not want to assume the liability for the road. That is why we ask for an easement to plow and maintain the retention ponds.

Chairman Maksy asked about the letter from Christopher Peck, Superintendent of Streets, dated April 22, 2009. Mr. Bisio responded that he had to cut a tree down, since there are a lot of dead trees. He also had to fix a concrete bound that broke and take down a tree that would have come down across the road. He did fix the grass, but people are still driving right over it. He has completed all the rest of the items that were in Mr. Peck's letter. Ms. Garbitt explained that Mr. Bisio will need Planning Board approval. Mr. Peck will need to go out and confirm that all his items were completed and then Conservation Commission approval is needed. If all of these approvals are obtained and the Selectmen approve the layout, then it goes to Town Meeting.

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

VOTED: To layout Anderson Way.
Unanimous in favor.

Request from GATRA to approve Drug & Alcohol Testing Policy – Council on Aging

Ms. Garbitt explained that since the Town received Federal funds for GATRA, all of the dispatchers and van drivers need to have random drug and alcohol testing. Marilyn Mansfield, Council on Aging Director, has forwarded the new contract. There were a few changes from the previous contract.

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

VOTED: To approve and sign the Drug & Alcohol Testing Policy for the Council on Aging.
Unanimous in favor.

Request from GO21 for Letter of Support and Resolution

Selectman Yeatts stated that she attended the GO21 meeting and would like the Board to vote to sign a letter of support for having truck bodies on a train. Chairman Maksy stated that he did look into this matter and to a point, they are lobbyists for the train industry, but he is fine supporting this. Minor discussion ensued on the particulars of the matter. Selectman Yeatts read the resolution into the record.

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

VOTED: To read, approve and sign the GO21 Letter of Support and Resolution.
Unanimous in favor.

Request to reappoint Animal Control Officer and Assistant Animal Control Officers

Chairman Maksy noted that the Animal Control Officer and Assistant Animal Control Officers were up for reappointment.

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

VOTED: To make the following appointments: David Frates as Animal Control Officer and Constable, Laurice Hedges as Assistant Animal Control Officer, Darcy Lee as Assistant Animal Control Officer and Joseph Carboni as Assistant Animal Control Officer. These appointments are effective through April 30, 2010.
Unanimous in favor

Request for appointment for Call Firefighter

Chairman Maksy read the letter from Fire Chief Daniel Hopkins requesting the appointment of Jason Myers as a Call Firefighter/Paramedic.

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

VOTED: To appoint Jason Myers as a Call Firefighter/Paramedic with an expiration date of July 31, 2009.
Unanimous in favor.

Request for Road Opening Permit – 142 Rhode Island Road

Chairman Maksy said the Board had received a request for a Road Opening Permit for the property located at 142 Rhode Island Road. He read the letter dated April 22, 2009 from Christopher Peck, Superintendent of Streets.

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

VOTED: To approve the Road Opening Permit for 142 Rhode Island Road, contingent upon Mr. Peck's comments and that Mr. Peck is informed and present when the work is done.
Unanimous in favor.

Discuss payment of Earth Removal Permit fees – Lakeville Country Homes

Chairman Maksy recused himself from the discussion as he is an abutter. Selectman Yeatts stated that Gary Mosca of Lakeville Country Homes called today to discuss a payment plan for the monies he owes the Town for his Earth Removal Permit. He proposes the following payment plan: \$2,000 immediately, \$2,000 by mid-May, and \$2,900 by June 10th. Selectman Evirs stated that he understands that Mr. Mosca is having cash flow problems, but the Town of Lakeville should not be his bank. The Town should get half of the owed monies immediately and then every two (2) weeks he should pay a quarter of the monies owed until payment has been completed. With golfing season beginning, he should be done paying the Town in less than a month. The Town also has not inspected the property, and there are three (3) bonds outstanding. Further discussion ensued regarding a payment plan. Ms. Garbitt stated that her concern is that the monies are paid in this Fiscal Year. Selectman Yeatts stated that that is her concern also. He should pay another \$1,450 right now. Selectman Evirs stated that Mr. Mosca should pay \$1,725 every two (2) weeks or the Town can start talking about the fines, which kicked in March 31st. Selectman Yeatts stated that she would like to talk to Town Counsel before fines are implemented since Mr. Mosca was not notified of them. Selectman Evirs pointed out that this information was part of Mr. Mosca's Earth Removal Permit. Selectman Evirs stated that if Mr. Mosca agrees to the Board's terms, then maybe, the Board would look past any penalties. There is revenue coming into the golf course now. There are probably at least 100 people there on Tuesday evenings, and they pay \$35 a head and that adds up pretty quick. Selectman Yeatts said the first payment needs to be made by May 1, 2009. Selectman Evirs stated another payment would be due on May 11th and then May 25th. The Town will not release the bonds until full payment is made. Ms. Craig asked what the Board would like to do if Mr. Mosca does not pay in a timely manner. Selectman Yeatts stated that the Board will notify Mr. Mosca in a letter that this is the schedule the Board is setting into place, and if it is complied with, the Board will not pursue any of the fines. Selectman Evirs asked to include a copy of the bylaws and have them highlighted. Selectman Evirs stated that full payment needs to be made by May 26, 2009.

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

VOTED: To send Mr. Mosca a letter stating that he is to pay \$2,000 immediately, then \$1,450 to the Town by May 1, 2009, then \$1,725 by May 11, 2009 and \$1,725 on May 26, 2009. Mr. Mosca will also be sent a copy of the Town's Earth Removal Bylaws highlighting the fact that the Town has the right to implement fines and fees as of March 31, 2009 on a daily basis.
Unanimous in favor.

Discuss request from Cable Commission regarding Verizon proposed legislation

Ms. Garbitt explained that Verizon has filed a petition which would eliminate a certain number of subscribers that they currently have to report. Peter Epstein, the Town's cable attorney, is putting together comments for the petition. Selectman Evirs asked if the Town was paid fees from Comcast and Verizon for the number of subscribers. If so, then if they do not have to report and let the Town know their numbers, how does the Town know what they are basing their numbers on? Ms. Craig mentioned that if the Board puts this on its May 4th agenda then it is too late since Attorney Epstein is working on this for May 1st. Ms. Garbitt explained that monies received will be for the studio that the Town will have to start paying for someday. Selectman Evirs stated that it would make the accounting difficult if Verizon did not let the Town know their number of subscribers. It is understood that for competition purposes they do not want this information available, but the Town needs to know the numbers.

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

VOTED: To approve the request from the Cable Committee to have Attorney Epstein prepare a response to the Verizon petition if they are comfortable with the charges from Attorney Epstein.
Unanimous in favor.

Request from Sampson Cemetery Association to use Town House-May 6, 2009

Chairman Maksy read the request from the Sampson Cemetery Association to use the Town House on May 6, 2009.

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

VOTED: To approve the use of the Town House by the Sampson Cemetery Association on May 6, 2009 for their Annual Meeting, subject to any Town policies that may be voted prior to May 6, 2009.
Unanimous in favor.

Discuss letter received from Massachusetts Coalition for Jobs and Growth

Selectman Yeatts explained that this letter comes with a chart of how much Lakeville would receive, which is 50% of the tax revenues, to be distributed through Local Aid. This distribution of revenues will be evaluated through the formula with the three (3) casinos that have been proposed.

Chairman Maksy suggested checking the "yes" part of this form. Then, Selectman Yeatts can fill hers out separately so the Board does not have to vote and can just agree that Ms. Garbitt will send this out. Ms. Garbitt could represent the Selectmen and Selectman Yeatts could represent the Task Force. The Casino Task Force may want to do something separate.

Review and vote to approve Selectmen's meeting minutes: March 2, 2009

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

VOTED: To approve the Selectmen's meeting minutes of March 2, 2009 as presented.
Unanimous in favor.

Any other business that may properly come before the meeting.

Ms. Garbitt noted that the Board needed to vote to reappoint Marilyn Mansfield as Veteran's Agent and Graves Officer.

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

VOTED: To appoint Marilyn Mansfield as Veteran's Agent and Graves Officer with an expiration date of April 30, 2010.
Unanimous in favor.

Ms. Garbitt distributed the information about the location of the water tower. Selectman Yeatts explained that the Town needs the preliminary design ready for August 1st if the Town wants to receive stimulus money. If there are any stimulus monies left over from projects that were not shovel ready on August 1st, then we may get additional money if we are ready to go. There are three (3) potential sites. The Lakeville Development Corporation has suggested a parcel in front of the proposed site, but she thinks they should look at that lot again as it may be a buildable lot. Selectman Yeatts explained that the parcel on Route 79 may be more visible to the residents. The consultants seem to feel the Industrial Park site may be the better location. Discussion took place on the proposed locations. Selectman Yeatts stated that they will need to do survey work and geotechnical work, and then the design work needs to get done as quickly as possible. It was decided that Selectman Yeatts and Chairman Maksy will visit the site at 4:15 PM on Wednesday. Ms. Garbitt said that CDM will be attending the next Selectmen's meeting to do a presentation. The Lakeville Development Corporation and the Planning Board will be invited to attend this meeting.

Chairman Maksy explained that the Board had received a letter from the Planning Board asking about how the Board of Selectmen felt about waiving the age restriction for the National Development project. Selectman Yeatts stated that she is concerned about the lifting of the age restriction. She has become fearful that National Development is not sure that they want to continue on with the project. The property is more valuable if they lift the age restriction, and she would like some type of agreement that they will not sell the property if the age restriction is lifted. Ms. Garbitt stated that the Planning Board can require that. Selectman Yeatts stated that she would like to see how Kensington Court, the apartment complex at the MBTA Train Station, which has no age restriction goes and how it may affect the schools. These projects were well thought out, and it would be beneficial to see how the first one turns out. She did not think that a 40B would be feasible since a developer would have to spend millions just to demolish the buildings. Chairman Maksy understood that the Town has no assurances; however, the Town also wants to promote the project. Maybe the Board should consider it in a way that benefits the

Town. Selectman Yeatts noted that if they start the project, it will be in phases and, if it does not succeed, the Town will have another half finished project there which will not make it attractive to sell. Selectman Evirs indicated that this project is attracting different demographics with the age restriction than the 40R development across the street. The Town can go back to the State and gain some mitigation money if there is an impact to the schools from Kensington Court. Selectman Evirs said it was his opinion that the Planning Board and Lakeville gains if they both allow National to remove the age restriction. Reading the bylaw it says that at the time of initial sale, one person must be age 55 or older. Selectman Yeatts stated that gaining Site Plan Review for the project is not enough. The Town needs commercial development. The Town also does not have any water to give them right now so the Board does not have to decide on this now. Selectman Evirs stated that Site Plan Review is a good thing. Ms. Garbitt explained that the Planning Board has closed the hearing, and they did hold off on making their recommendation. They will probably make a decision at their next meeting. Chairman Maksy stated that the Board can at least send a list of concerns if we do not want to take a formal vote. The Planning Board is an elected board, but they did ask the Board of Selectmen for an opinion, and we should respect that and give our concerns to them.

Other Items

1. Memo from Cemetery Commission regarding LeBaron Golf Course
2. Memo from Cemetery Commission regarding cemetery maintenance
3. Memo from Debra Kenney regarding increase in Municipal Lien Certificate fees
Selectman Evirs stated that if the Treasurer can raise the fees and does not need a vote of the Board to do it, then she should proceed.
4. Letter from Town of Norton regarding request for changes in the calculation of the Subsidized Housing Inventory
5. Email from Department of Public Safety regarding New Emergency Trench Regulations and Proposed Amendments to Existing Trench Regulations
6. Waterways Application – 210 County Road
7. Letter from Greater New Bedford Workforce Investment Board
8. Memo from Town Counsel regarding Outdoor Wood Boiler Regulations
9. Plymouth County Commissioners Meeting agenda – April 21, 2009
10. Invitation to attend Budget Challenges 2010 Summit – May 11, 2009
11. Invitation to attend Land Use Partnership Act Discussion-May 6, 2009
12. Chapter 40B Conference – May 8, 2009
13. 14th Annual S.E. Massachusetts Drinking Water Fair
Selectman Yeatts stated that this meeting is June 18th and she might attend.
14. DOR Preliminary FY10 Levy Limit Worksheet information
15. DOR Bulletin – Sales Report Submissions
16. Bay State Gas letter and press releases regarding rates
17. Verizon 2008 Annual Financial Filing
18. Woodward & Curran Directions Newsletter
19. Invitation to SRPEDD Annual Dinner – May 27, 2009
20. Letter from Field Engineering regarding Response to Comments – National Development

At 9:10 PM, upon a motion made by Selectman Evirs; seconded by Selectman Yeatts the Board:

VOTED: To enter into Executive Session to discuss negotiations with non-union personnel and to comply with the provisions of any general or special law or general grant-in-aid requirements (General Privacy) and not to return to Open Session but to adjourn in Executive Session.

Polled vote of Selectman Yeatts – aye, Selectman Evirs – aye, and Selectman Maksy – aye.