

## **SELECTMEN'S MEETING**

### **Thursday, May 29, 2008**

On May 29, 2008, the Board of Selectmen held a meeting at 10:00 AM at the Town Office Building in Lakeville. The meeting was called to order by Chairman Evirs at 10:05 AM. Selectmen present were: Selectman Evirs, Selectman Maksy and Selectman Yeatts. Also present were: Rita Garbitt, Town Administrator and Tracie Craig, Executive Assistant.

#### Meet with Robert Iafrate to discuss zoning by-laws

*Robert Iafrate was present for the discussion.* Mr. Iafrate said he wanted to discuss the conditions of the electronic messaging sign at Savas Plaza. He had a meeting with Iralki and Dennis Savas and the Police Chief. Based on that meeting, he removed some of the conditions that he had previously put on the sign. He changed the intervals of the messages based on the memo from the Department of Transportation. We have two (2) of these signs in Town now. He did not have any further recommendations other than the previous ones he gave to the Selectmen. Perhaps we can get input from other public safety agencies in Town. He would like to finalize the regulations. There have been some court cases regarding these types of signs. He felt that if used properly, they do meet the current sign bylaws, as long as they do not flash messages. Under Section 3.2.4 under the Night Sky By-law only allows electronic illumination of signs, which must be shut off at 11:00 PM to sunrise. His item #5 on the letter to the Savas' notes this. Selectman Maksy asked if a new development have to go by both by-laws. Ms. Garbitt said General By-laws are not grandfathered. Chairman Evirs said that 3.2.4 talks about general illumination, such as parking lots, signs. Mr. Iafrate said that sign is illuminated as far as I am concerned. Chairman Evirs said the sign still has to meet Zoning Bylaws. He wanted to know if the Selectmen wanted to incorporate these under Sign Regulations in the Zoning By-law. Chairman Evirs said he would recommend that.

Selectman Yeatts asked why Mr. Iafrate had met with the Chief of Police and did not have a Selectman in the Savas meeting. Mr. Iafrate said he wanted to consult with a public safety official. Selectman Yeatts asked why you went from five (5) minute intervals to ten (10) second intervals. Mr. Iafrate said he originally came up with the five (5) minute intervals from conversations with Bob Darling, to see if he had any conversations with the Savas' on these signs. Mr. Darling did not really remember, so we came up with a list of conditions. The Savas' thought it was unacceptable, so I asked them to give me something to look at. Selectman Yeatts said she thought ten (10) seconds is way too quick. Mr. Iafrate said it is on five (5) seconds now and changes one to one and a half times as you drive by. In ten (10) seconds you probably get one message as you drive by. A discussion occurred regarding the documents given to Mr. Iafrate from the Savas'. Selectman Yeatts asked about the letter in February sent to the Savas', which they found unacceptable. Mr. Iafrate said he told them he would put together a list and meet with them to discuss it. Selectman Yeatts asked if they found the five (5) minutes to be unacceptable. Mr. Iafrate said yes. Selectman Yeatts said the hours of operation of the sign were a concern. She would like it to be turned off at the close of business. Chairman Evirs said all businesses have their signs lit up after they close. We need to make sure we are limiting this to the electronic signs. Selectman Yeatts asked what if they want to leave the sign up there that says Savas Liquors all night? The sign should only be transmitting messages during current operating hours and shut off at the close of business. Cindy Dow of the Middleboro Gazette asked why the sign needs to be shut off at all? Selectman Maksy said the Board

should be discussing all electronic message signs, not just one general one. Chairman Evirs said you don't need to advertise things at night when people are asleep. Selectman Yeatts said we aren't just talking about Mr. Savas, we are talking about Mr. Markson's sign also, which is in a residential neighborhood. Chairman Evirs noted that Mr. Markson's property is located in a Business zone. Selectman Yeatts said she was concerned about the homes across from Mr. Markson.

Chairman Evirs said we need to upgrade the by-laws based on the newer technology. Mr. Iafrate said he would like to add some conditions for electronic messaging signs. Selectman Maksy said when the Planning Board reviews your suggestions; they can look at the issues in depth at the public hearing. Selectman Yeatts said signs that flash are illegal. Mr. Iafrate said we need to define what a flashing sign means. That is where the time interval is important. Ten (10) seconds is not flashing, two seconds is. Chairman Evirs said the electronic messaging board is to save you time and effort changing the sign. A longer time than five (5) or ten (10) seconds should be considered by the Planning Board. Mr. Iafrate asked if the Board wanted to make a recommendation or wait for the Planning Board. Selectman Maksy said based on the speed of car; you should only see one (1) sign. Perhaps time intervals should be based on speed. Mr. Iafrate said we have a lot of different speed limits in Town. If we pick up out a number, that would have to work throughout Town. Chairman Evirs felt that something in the excess of a minute should be recommended to the Planning Board. You are taking your eyes off the road. Selectman Yeatts said we could recommend the minimum time to be 60 seconds or more. Mark Sorel, Police Chief, thought that a minute is too long; it's going to be distracting. With a quicker message change time, drivers expect it to change. You will glance up quicker, rather than something that you are not accustomed to seeing. We have had no problems with the sign. If you drive the speed limit, going north on Route 18, you just about make the change on the second sign. The cars are now accustomed to it, if you change it, now there will be a pause, now you will get the neck snap to look. Selectman Yeatts said the current by-law says no flashing. It seems like flashing to me. Chief Sorel said he does not consider it flashing. Selectman Maksy asked if we should leave it up to the Planning Board. Chairman Evirs said the Chief has a valid point, which he agreed with. Mr. Iafrate said perhaps there should be some language about having some dead space between messages. Ten (10) seconds was the most restrictive in these previous court cases. He assumed that the Planning Board will look at the previous rulings.

Selectman Maksy said he would like the Planning Board to consider this. Chief Sorel said those signs are Amber alert ready. He would rather have an Amber alert every 15 seconds than every minute. Chairman Evirs said Amber alerts are exempt, this should be noted in the regulations. Ms. Garbitt said the Board could meet with the Planning Board. Chairman Evirs said after listening to the Chief, he liked the ten (10) second displays, two (2) seconds dead. He wants to make sure that one (1) advertisement is not a continuation of the other, so that you don't read one (1) sign and have to continue looking to get the rest of the ad. Ms. Garbitt noted the Planning Board will hold a public hearing and this should go to Town Counsel prior to the public hearing to see where this will fit in our zoning by-laws for numbering. You need to have the proposed changes in place before the public hearing. However, the Planning Board can change the by-law during the public hearing. Mr. Iafrate suggested sending the ten (10) and two (2) seconds as a guideline. Selectman Maksy said he wanted the Planning Board to look into this, not just take our recommendation. Selectman Yeatts thought the Planning Board should be the ones to look into the time sequence. Selectman Maksy said Mr. Iafrate can support his recommendations. Mr. Iafrate said this has been reviewed, if we give the Planning Board the guidelines to go by, it makes the process go faster. Mr. Markson's sign is going to be

turned on rather quickly and the Savas sign is functioning now. Selectman Yeatts said these signs are new to Lakeville. We are a small town, we are welcoming business, but these will be all over the place. We need to be careful. Chairman Evirs said it is another elected Board's responsibility to put together the by-law. We should send some form of recommendations. We can't be too restrictive and get a snobbish outlook. We don't want business to think we are too difficult. Selectman Yeatts asked the Chief where he did his research. Chief Sorel said he read the Federal guidelines, did internet searches on it, and then had discussion with Mr. Iafrate and considered the information from the Savas' attorneys. He had timed the signs for the speed limit. On Main Street, you have the bank sign. I think it is safer to see the Savas sign than the bank one. All you need to do is have a kid move a spotlight shining into traffic and it blinds people. Chairman Evirs said it could even be accidental, like a landscaper. Chief Sorel said this has happened to two (2) different signs on Main Street. He thought it was safer to see this sign. Selectman Maksy noted that lights are supposed to be top mounted on signs. Selectman Evirs said the Night Sky bylaw is new, these were permitted before that. Chairman Evirs said he would like to show support for Mr. Iafrate's recommendation, but would like to add that the message is not a continuing message. Selectman Yeatts said she could support the recommendation, except #4.

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

VOTED: That there be a minimum time of 60 seconds or more on the change of messages. Selectman Yeatts in favor, Selectmen Evirs and Masky opposed. Motion fails.

Selectman Maksy said he was unsure on #5. Discussion occurred about off premises signs. Chairman Evirs said that these signs are not permitted to run off premises signs. Public service advertising is allowed, but not private entities.

Upon a motion made by Selectman Maksy, seconded by Selectman Yeatts, the Board:

VOTED: That there be, at a minimum, ten (10) seconds between message changes with a minimum two (2) seconds transition time with no continuing messages. Selectmen Evirs and Maksy in favor, Selectman Yeatts opposed.

Upon a motion made by Selectman Maksy, seconded by Selectman Yeatts, the Board:

VOTED: To approve of Mr. Iafrate's recommendation, as amended, to go to the Planning Board. Selectmen Evirs and Maksy in favor, Selectman Yeatts opposed.

#### Apartment by-law.

Mr. Iafrate said he gave an updated apartment by-law to the Board for review and would like to see this go to the Planning Board. It was decided to discuss this at the June 9<sup>th</sup> meeting. Selectman Maksy noted the by-law went before the Master Plan Implementation Committee. Mr. Iafrate is also working on a Neighborhood Business Zone and would like some comments on whether this is going in the right direction. Chairman Evirs said the Board's direction to Master Plan was to move ahead with a proposed Neighborhood Business Zone, get it together and send it to the Planning Board. Mr.

Iafrate said Master Plan hopes at the next meeting to have it ready. Chairman Evirs said the Board will wait for Master Plan's recommendation before forwarding to the Planning Board.

### Other Business

Mr. Iafrate told the Board that the revised plans for Residences at LeBaron are here and they are being reviewed. Don Foster, Chairman of the Zoning Board of Appeals, noted that Dan Varga has reviewed them briefly and given tentative thumbs up with lots of little things that he would like fine tuned. Mr. Iafrate and Mr. Foster then left the meeting.

Selectman Maksy spoke about an article about Town personnel contracts that were in the Gazette today. We should discuss this at our next meeting. Chairman Evirs said the gist of it was about contracts for different Town employees, specifically the Building Commissioner, Superintendent of Streets, Police and Fire Chiefs, and the Deputy Fire Chief. Apparently Ms. Dow has found that only certain positions are entitled to contracts, which was news to him. He spoke about the meeting held with the Health Agent, Larry Perry, where it was proposed to enter into a contract with him. Mr. Perry told us about promises made to him by the Board of Health regarding his employment. Unfortunately, he does not fit into any category. Ms. Garbitt called Town Counsel to get a template for the contract, but they said he is not entitled to a contract. The next step is instructing Wage & Personnel to remedy this. Ms. Garbitt said you can have a by-law regarding contracts. Chairman Evirs said only the Town Accountant, Town Administrator, the Police and Fire Chiefs and unions are allowed contracts. The Director of Library is allowed by statute. Chairman Evirs said technically, we are in violation; we need to see what we do now. Ms. Garbitt said we need to amend the Wage and Personnel Plan or pass a by-law. The contracts for Chris Peck, Bob Iafrate and David Goodfellow are all in violation. The Police Lieutenant is in no where land as well.

Chairman Evirs said we have not had an answer from Town Counsel regarding Kurt Radke regarding the mitigation infrastructure fee. We are still gathering minutes to send to Town Counsel. Selectman Maksy said that Ms. Garbitt mentioned about 53A, which is a gift account. Ms. Garbitt said that's another option. Ms. Dow said regardless of what the minutes show, has Town Counsel said anything at all about whether the Town can charge any mitigation fee. Ms. Garbitt said there is an option of a Town by-law.

### Adjournment

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

VOTE: To adjourn the meeting at 11:10 AM.  
Unanimous vote.