

**TOWN OF LAKEVILLE
SELECTMEN MEETING MINUTES
Monday, June 14, 2010
7:00 PM**

On June 14, 2010, the Board of Selectmen held a Meeting at 7:00 PM at the Town Office Building in Lakeville. The Meeting was called to order by Chair Yeatts at 7:01 PM. Selectmen present were Selectman Yeatts, Selectman Olivier and Selectman Maksy. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

Revisit Appointment of Assistant Wiring Inspector

Selectman Maksy stated that before the Board makes this appointment, he would like the Board to develop a policy for hiring. He would like to delay this and then determine how the Board wants to do this in the future. Chair Yeatts stated that she does not mind looking at that, however, July and the Annual Reappointments are coming very soon. Selectman Maksy stated that he would like to make a motion not to appoint anyone for this position until the Board does its July appointments. Selectman Olivier stated that the Board needs to come up with a policy first that addresses this matter before it appoints someone to the position.

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

VOTED: To not appoint the Assistant Wiring Inspector at this time.
Unanimous in favor.

Selectman Maksy stated that this policy would not just be for this position; it is for all Town positions. Ms. Garbitt stated that there is a hiring policy in the Wage and Personnel Plan; however, the inspectors are not included. Perhaps they could be included in the Wage and Personnel Plan. Selectman Maksy stated he would like that done. Chair Yeatts stated that if Selectmen Olivier and Maksy wanted this policy instituted, they are on their own since she has many other endeavors that she is already working on at this time. Ms. Garbitt stated that she would put this on for a July meeting of the Board.

Revisit revisions to Middleborough/Lakeville Herring Fishery Commission Regulations

Discussion took place on the revisions to the Middleborough/Lakeville Herring Fishery Commission Regulations as compared with the original regulations. Ms. Craig stated that she can go through the regulations again and read it word for word to see what else they changed. They added something new that they had not discussed with the Selectmen. Selectman Maksy stated that they were told that about the jurisdiction, we did talk to them about that. Selectman Olivier added that it was to include Lakeville, since everywhere it had only Middleborough. Also, about the grounds for dismissal, the Board wanted it more definitive. Ms. Garbitt stated that the Wardens would make a recommendation to the Boards of Selectmen regarding the removal of a person from the position. Ms. Craig stated that they did make two (2) of the three (3) revisions that the Board requested. The regulations should just read Boards of Selectmen. The only thing Lakeville opted out of is the collection of permit fees, so that is only

Middleborough. Chairman Yeatts stated that with the terms unprofessional or illegal, it will be alleged illegal and alleged unprofessional conduct shall be grounds for dismissal. Selectman Olivier asked about the minutes, 8b under c. Ms. Garbitt stated that they will fall under the Open Meeting Law, to be filed in a timely manner. Ms. Craig stated that they post in each Town, so each Town will receive minutes. Chairman Yeatts stated she would like the words "Lakeville" and "shall" added where she indicated under the conduct section.

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

VOTED: To have Ms. Craig further review the document and make note of the suggested changes by the Board and forward to the M/L Herring Fishery Commission.
Unanimous in favor.

New Business

7:00 PM Earth Removal Permit Hearing-William Logan

Nyles Zager, Project Engineer from Outback Engineering, Marcus Baptiste and William Logan from W.R. Logan were present for the discussion. Mr. Zager took the floor on behalf of W.R. Logan. The petitioner is looking for permission to remove 60,000 cubic yards of earth material from the property located off Precinct Street.

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

VOTED: To open the Earth Removal Hearing.
Unanimous in favor.

Ms. Craig stated that six (6) certified mail green cards were returned as not picked up, and the rest have been provided to her. Mr. Zager stated that Mr. Baptiste has closed on two (2) of the properties and took one (1) off the market. This way they can use the third parcel to exit the rear of the property as shown. The back portion is all wooded. They will grade the property with side slopes 4 to 1 as the by-law requires. The area in the back will be flat and stabilized with loam and seed and the side slopes stabilized with stump grindings. Mr. Logan said that most of the loam will be pushed off and then pushed back on. Mr. Baptiste said they will not be going lower than the roadway grade or any abutting property, therefore, they will not be undermining the road. Chair Yeatts asked where the house in the back is. Mr. Baptiste responded that it is over 100 feet away. Chair Yeatts stated that Mr. Baptiste should show the structure on the plans. Mr. Zager stated that it was actually scaled off the plan.

Douglas Reynolds of 4 Water Street (property in the back), stated that he is already fighting with runoff water. What are they going to do with that? Tammy Reynolds came forward and showed the surveyors map. Mr. Reynolds stated that he just had his property re-surveyed and found all kinds of property deficiencies, The corners were not right. He is concerned about the runoff. Mr. Zager stated that the hill will be taken down, more to a slope. It should not affect the runoff. Mr. Baptiste responded that if anything, we would reduce water runoff to the Reynolds property. The slope will be more level, allowing for infiltration. Chair Yeatts stated

that the Board is going to have to go and look at this before a decision can be made about the setback. It was decided to continue the hearing until 7:30 PM on June 28, 2010 so that the Board could do a site inspection. It was the consensus of the Board to meet at 8:00 AM on June 19, 2010 for a site inspection.

Selectman Maksy asked if it is all gravel material. Mr. Baptiste responded that it was. Selectman Olivier asked to go over conditions since there may be other things the Board needs to look at first. Chair Yeatts stated that the Board should wait until after the site inspection. Mr. Zager stated that the project may not be finished in September, if the dates change. Chair Yeatts stated that if the Board holds them up two (2) weeks then the Board will give him two (2) weeks. Mr. Reynolds will be provided with copies of the letters from Chris Peck, Superintendent of Streets and from the Planning Board. Chair Yeatts read the conditions from the Planning Board letter, dated June 2, 2010, to Mr. Reynolds and reviewed the letter dated May 28, 2010 from Mr. Peck.

Chair Yeatts asked that Mr. Peck be present at the site inspection. Ms. Craig stated that Mr. Peck would be on vacation on June 19, 2010, so the site inspection was scheduled for June 21, 2010 at 4:30 PM. Selectman Maksy asked about the slopes with the wood chips. Mr. Baptiste stated that they have had very, very good success with it in the past. Discussion took place about getting the project done before the road is repaved. Selectman Maksy stated the Mr. Peck seems to want the project done prior to the repaving of Precinct Street, but they cannot rush their project so that the road gets done. Ms. Garbitt suggested that the truck traffic stay on Precinct Street instead of using Route 79. Chair Yeatts stated that while Emery Orrall's earth removal project is going on, she would rather have no more truck traffic on Route 79. Mr. Logan said they could use Precinct Street. Ms. Craig stated that the Town no longer requires a bond for the road; the Town receives a Certificate of Insurance. Selectman Maksy stated that the bond or certificate is usually in the amount of what it would cost to loam and seed the site after removal and repair the road, if needed. Ms. Craig said for the Orrall project, the Town required a \$5,000 bond for the restoration, then the firm that is doing the trucking to must name the town of Lakeville as an additional insured for their Certificate of Insurance.

Mr. Baptiste stated that he would like to grind the stumps on site. It would be two (2) or three (3) days of work, and it would be no more noisy than the equipment used for the removal. Chair Yeatts stated that there are no wetlands on this property. Selectman Olivier asked about the trucking slips and when they would be turned into the Town. Ms. Craig stated that it would be nice to have them every week since it is a fast track project. Mr. Logan stated that he can do the slips Thursday to Thursday. Bruce Malenfant asked if the bond was supposed to be in proportion to the job. It seems to be due to the liability. Selectman Maksy responded it is usually what the cost would be to bring in loam, then spread it and seed it.

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

VOTED: To continue the Hearing to June 28, 2010 at 7:30 PM and to conduct a site visit on June 21, 2010 at 4:30 PM.
Unanimous in favor.

Schedule July and August Selectmen's Meeting

It was the consensus of the Board to schedule Selectmen's meetings for July 12 and July 26, and August 9 and August 23, 2010.

Vote to issue Annual Dog Warrant

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

VOTED: To waive the reading of the Warrant to the Dog Officers.
Unanimous in favor.

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

VOTED: To issue the Annual Dog Warrant for the Town of Lakeville to: David Frates, Jared Darling, Laurice Hedges and Harold Marshall of the Town of Lakeville and Darcy Lee of the Town of Berkley.
Unanimous in favor.

Request for one-day All Alcohol License-Park Commission

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

VOTED: To approve the application for a one day Beer & Wine license at the Ted Williams Camp on July 31, 2010 for the Laura Convoy Family Outing from 1:00 PM to 6:00 PM.
Unanimous in favor.

Request to use Town House for yard sale – Mullein Hill Christian Academy

Chair Yeatts read the request from Mullein Hill Christian Academy to hold a yard sale fundraiser at the Town House. Ms. Craig stated that the Town House is available for the requested days. She also has a copy of the Insurance Certificate.

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

VOTED: To approve Mullein Hill Christian Academy to hold a yard sale fundraiser at the Town House on July 17, 2010 from 8:00 AM to 4:00 PM and July 18, 2010 from 1:00 PM to 4:00 PM with set-up during the evening of July 16, 2010.
Unanimous in favor.

Request to use Town Office Building for car wash – Mullein Hill Christian Academy

Chair Yeatts read the request from Mullein Hill Christian Academy to hold a car wash at the Town Office Building.

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

VOTED: To approve the use of the Town Office Building by Mullein Hill Christian Academy on August 21, 2010 from 8:00 AM to 4:00 PM for the purpose of a car wash fundraiser, subject to using biodegradable soap.
Unanimous in favor.

Request to use Town Office Building for car wash – Boy Scout Troop 4

Chair Yeatts read the request from Boy Scout Troop 4 to hold a fundraiser car wash at the Town Office Building.

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

VOTED: To approve the use of the Town Office Building for a car wash to be held by Boy Scout Troop 4 on June 19, 2010 from 10:00 AM to 3:00 PM with the use biodegradable soap.
Unanimous in favor.

Request from Town Clerk to send letters to Democratic & Republican Committees

Chair Yeatts read the request from the Town Clerk to send letters to the Democratic and Republican Committees requesting names for appointment as Election Workers.

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

VOTED: To send letters to the Democratic and Republican Committees requesting names for appointment as Election Workers if no correspondence is received by June 15, 2010.
Unanimous in favor.

Request for Permit to store Unregistered/Ungaraged Vehicles – 1 Fern Avenue

Chair Yeatts said that Mark Lucas of Affordable Towing has applied for a permit to store Unregistered/Ungaraged Vehicles at 1 Fern Avenue. Robert Iafrate, Building Commissioner, has submitted a letter. Mr. Iafrate felt they were grandfathered since this property has always been there as a business use. Chair Yeatts suggested that the Board perform a site visit. The Board would like to schedule this for 4:15 PM on June 21, 2010. Chair Yeatts asked that information be provided prior to the site visit regarding the decision on the operation of the business. The matter was tabled for discussion to June 28, 2010.

Review Site Plan – Gateway Commons – Harding Street

Chair Yeatts said the board needed to review the proposed Site Plan for Gateway Commons Development, scheduled to be built on the former Lakeville Nurseries property. She noted that there are a lot of wetlands in that area, and there are turtle habitat restrictions. The proposed

development will be a shopping plaza. They will have Taunton water, which will need a sign off from the Selectmen. The 100 foot buffer from the wetlands is too close. DEP would not allow this, even if Lakeville did. They will need to hire a really good storm water engineer for their storm water review. It is also too close to the river front. Chair Yeatts said Poquoy Brook, one of the only cold water streams for the trout, is located in the area. She did want to see this property developed, but not this close.

Ms. Craig stated that the owner of the property was not able to get the plans to Christopher Peck to sign off. They are waiting for his signoff and then will schedule to appear before the Planning Board. Chair Yeatts questioned the 17.2 acres of green space. The Board did not provide any official comments at this time.

Review Zoning Board of Appeals petitions: Barys, Conway & Kuketz

Jonathan Pink from Azor Land Sciences was present for the discussion. Chair Yeatts said the Board had three (3) Zoning Board of Appeals (ZBA) petitions to review. The Conway petition for the property located at 33 Southworth Street was reviewed.

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

VOTED: That the Board had no comment regarding the Conway petition.
Unanimous in favor.

The Board reviewed the Kuketz petition for the property located at 2 Devon Drive. The lot contains 12,200 square feet. Mr. Pink said this property is approximately half a mile before the boat landing. There is an Order of Conditions on the property. Ms. Craig stated that she has not received the Order of Conditions from Conservation. Mr. Pink said there is an existing second floor, but it does not come all the way to the front. Selectman Maksy stated that the kitchen will get bigger and it will get squared off. The biggest thing is the Conservation Commission approval. Right now the dwelling it is too close to the neighbor's sideline. As long as they are not violating the height of 35 feet, they are not seeking a variance. Selectman Maksy said this specific bylaws needs to be cleared up. When a house is built prior to zoning, it is grandfathered and considered a legal lot in Town. So where is the violation? Ms. Garbitt commented that they are altering the dwelling; they are not in violation. Selectman Maksy said that a Special Permit is needed. They are not creating a violation since they are not going any closer to the property lines. We are using this as a tool and the Building Commissioner needs guidance on this. Ms. Garbitt stated the Selectmen have spoken about bringing all the Boards together to discuss revising this bylaw.

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

VOTED: To recommend approval of the Kuketz petition for 2 Devon Drive, subject to the Conservation Commission reviewing the ZBA petition.
Unanimous in favor.

The Selectmen reviewed the Bary's petition for the property located at 3 Hollis Avenue. Chair Yeatts asked why the Board is looking at the petition if the Board does not have the information from the Board of Health, Conservation Commission and the Planning Board. Ms. Craig stated that she just received a letter today from the Board of Health and the letter was distributed to all. Chair Yeatts stated that they would like to build a farmer's porch and to demolish a portion of the dwelling and construct a deck. The dwelling is 891 square feet and more than half the size of the house is the porch. It is close to the leaching field, as noted in the Board of Health letter. Chair Yeatts would like to know what the other Boards comments are and what the ZBA decides.

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

VOTED: That the Board of Selectmen is concerned about the distance of the deck to the existing leaching field, per the Board of Health letter.
Unanimous in favor.

Any other business that may properly come before the Meeting

Ms. Garbitt stated that the Open Meeting Law seminar is tomorrow night. It will be at the Joe Simas Lecture Hall at 7:00 PM. One of the new requirements is that meeting posting notices must be visible 24 hours a day, seven (7) days a week. In order to do this, Mr. Garbitt felt an outdoor bulletin board would be needed. The price is over \$1,000, in order for the sign size that will be needed. A decision is not needed tonight. The money would come from the Town Office Budget after July 1st. Ms. Garbitt stated that some towns are looking at putting a computer in a place that is open 24/7, like the Police Station, but she does not want to maintain a computer in the lobby. For now, Ms. Garbitt stated that the postings and agendas can be taped on the window, and we will be in compliance.

Other Items

1. Notice from F/L Regional School Committee reorganization
2. Notice of Board of Assessors Reorganization
3. Notice of appointment to Wage & Personnel Board – Robert Poillucci
4. Notice of appointments from Board of Health
5. Letter from Scrap Bros. Recycling
6. Memo from Town Counsel regarding Amendments to Family & Medical Leave Act Regulations
Ms. Garbitt asked for permission to work with Town Counsel to update the policy. It is part of the Wage and Personnel Handbook. The Board authorized Ms. Garbitt to work with Town Counsel on this matter.
7. Letter from Administrative Office of the Trial Court regarding Plymouth County Courthouses
Chair Yeatts stated that the committee voted that they are not going to fund the court houses. It is worth a try instead of taking a \$400,000 loss every year.
8. Letter from SRPEDD regarding nominations for S.E. Metropolitan Planning Organization
9. Copy of SRPEDD Grant Application for Regional 911 Feasibility Study

10. Mass Wildlife News
11. Letter from Bay State Gas regarding Residential Arrearage Forgiveness Program
12. Letter from Department of Telecommunications & Cable regarding Comcast hearing
13. Notice from Verizon regarding PE 1st Quarter 2010
14. Letter from Comcast regarding addition of HD channels
15. Updated Open Meeting Law Reference Card from Town Counsel
16. Letter from Division of Capital Asset Management regarding 1 Patrick Thomas Court
Chair Yeatts stated that DCAM is transferring the Bridge Street property to another State agency. A resident has been utilizing the property for their own use. The Board of Health has been working on this. Selectman Maksy asked that this be sent to Representative Steve Canessa.
17. Letter from U.S. Census Bureau regarding final Boundary Validation Program
Chair Yeatts stated that they want us to sign off on the boundaries, but she felt this needed to be looked at by the Assessors. Lakeville has five (5) days to do it and that was up yesterday. There is some paperwork that has to be filled out with this. Chair Yeatts will have to sign off on the sign off form and the Board has to sign off on the plans. Selectman Maksy stated that he is curious what the correction is. Chair Yeatts stated that she wants to send it to the Assessors and have them look at the lines. Chair Yeatts stated that it is the law so they have to do this. We want Norman Taylor to look at the changes more specifically; he may know the boundaries better anyway.

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

VOTED: To request that the Assessors review this tomorrow and to let them know that time is of the essence.
Unanimous in favor.

18. Information regarding equipment for setting up a Cable Studio
19. Agenda for Middleborough G&E meeting – June 8, 2010
20. Information from SRPEDD regarding Stretch Code
Ms. Garbitt stated that the first meeting for the Energy Advisory Committee is June 30, 2010.
21. Meeting notice – Regional Economic Strategy Committee – June 15, 2010
22. Memo regarding Final Charter Commission Districts
Chairman Yeatts stated that the Plymouth County Charter Board voted to look at the charter for the community as well. They had until June to set up the precincts. Lakeville is in district 2, which is Middleborough, Lakeville and Rochester. That district gets one (1) representative to be on the Charter Commission. Chair Yeatts said she is going to run for the position. They had been talking about disbanding the County government but it has \$22 million of assets, and she is not willing to just give that up to the State.
23. MassHousing Draft Cost Examination Report for Woods Edge
Ms. Garbitt stated that the Board does have to get back to the State with any comments. Selectman Maksy asked that this be forwarded to the ZBA and Town Counsel. Ms. Garbitt stated that the rules have changed since the 40B was done regarding the profit margin and what is allowed and what is not.

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

VOTED: To send the MassHousing Draft Cost Examination Report for Woods Edge to the ZBA for their recommendations.
Unanimous in favor.

- 24. Letter from MMA regarding MunEnergy Program
- 25. Notice from Suburban Coalition regarding Position Paper
- 26. MBTA Advisory Board Meeting Notice, Minutes and FY11 Budget
- 27. Letter from Blue Cross Blue Shield regarding insurance costs
- 28. Letter from EBS Foran regarding CHIPRA notice

Adjournment

At 9:30 PM, upon a motion made by Selectman Maksy; seconded by Selectman Olivier, the Board

VOTED: To enter into Executive Session to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the government's bargaining or litigating position and not return to Open Session. Also, to conduct strategy sessions in preparation for negotiations with non-union personnel; and to actually conduct collective bargaining and contract negotiations with non-union personnel. Specifically, the Board will discuss the Teachers, Fire, and Police Collective Bargaining Agreements.
Polled vote: Selectman Maksy-Aye, Selectman Olivier-Aye, and Selectman Yeatts-Aye.