

SELECTMEN'S MEETING
Monday, June 22, 2009

On June 22, 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.

7:30 PM Dog Hearing-Curtis & Jaime Velazquez

Present for the hearing were: David Frates, Animal Control Officer, Michael and Penny Carvalho, and Curtis & Jaime Velazquez.

Chairman Maksy read the Notice and Complaint into the record.

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

VOTED: To open the hearing.
Unanimous in favor.

Chairman Maksy then summarized M.G.L. 140, Section 157, and witnesses were sworn in. Selectman Evirs read the letter dated June 12, 2009 from Michael A. Carvalho of 50 Precinct Street into the record. Mr. Carvalho stated that Diesel, an Alaskan Malamute owned by the Velazquezs, was loose. He was inside his home and heard a car honking, so he got up to look. Ms. Carvalho said she was upstairs with their dog, Chico, who was a Chihuahua. She came downstairs to see what was going on. Her husband was in the doorway, yelling at the driver not to get out of the car and calling Diesel to get him out of the road. Diesel then ran into their yard up to the door and went after her husband. As he was yelling at me to grab something to get Diesel away from him, Diesel grabbed Chico and started shaking him and punctured his lungs.

Mr. Frates said he received a call from the Police regarding the attack. The dispatcher stated that the Carvalhos had gone to WestBridge Veterinary Hospital with Chico. He met with the Carvalhos later that night and then met with the Velazquezs. The Velazquezs said they had called WestBridge and stated that they would take care of the medical bills. The Animal Inspector, Jared Darling, requested that the dog be quarantined at the Animal Shelter, and Mr. Frates picked Diesel up for quarantine.

Chairman Maksy asked Mr. Carvalho to explain the injuries to Chico. Mr. Carvalho said both lungs were punctured, and he had severe internal injuries. Ms. Carvalho said WestBridge called during the night and said they needed to put in chest tubes since Chico was having trouble breathing. They were unsure if he would make it through the surgery needed. At 3:30 AM they called again and said the humane thing to do would be to put Chico down. Ms. Garbitt said the Carvalhos had submitted the bill from WestBridge for care given to Chico and an estimate for medical care the dog would need. Ms. Carvalho said the Velazquezs paid the \$1,000 vet bill. There were no additional charges since he was euthanized.

Jaime Velazquez of 48 Precinct Street said she returned home at 9:20 PM. She showed pictures of her yard and Diesel. The yard is all fenced in. She noticed that the side gate was unlocked. The dog cannot do that himself so someone had to unlock the fence. There are two (2) locks on the gate. There is a slight little area between the gates that a small dog could get through. She said Diesel had never hurt anyone. She stated that Diesel came out of the backyard when she came home. He has never been out before. Mr. Frates said the Velazquezs had the dog evaluated by a dog trainer, and he did not notice any issues with the dog. Mr. Darling said he was there for the evaluation.

Pamela Blais of 21 Old Powderhouse Road said she previously lived next door to the Velazquezs. She has known Diesel for a while. She has two (2) Pomeranians that are six (6) and three (3) pounds. Her dogs would terrorize Diesel, but he was never aggressive with them. He would come to her house for family parties on a leash. He would come over and put his mouth and paws on me, but never harmed anyone. Her granddaughter would lay on the dog, and there were no problems. Sandra Peterson of 3 Apponequet Drive (Ms. Velazquez's mother) said she would not let her grandkids live there if Diesel was vicious. He is just a big baby and would not harm anyone or anything. Mr. Carvalho said apparently the dog is a ticking time bomb. He agreed that he had never seen Diesel loose, but look at what he did the first time he got out. The Velazquezs said when Diesel catches opossums in their yard, he tears them apart and perhaps Diesel felt Chico was like an opossum. Chairman Maksy asked Mr. Carvalho about his wounds. Mr. Carvalho showed the Board his wounds and said he was treated at Morton Hospital. His arm is fine, but his ankle is not. Ms. Velazquez said she takes Diesel on walks four (4) to five (5) days a week. She brings him to Ted Williams Camp when she plays volleyball, and he is tied up there. Ms. Velazquez submitted a list of the names of people that have their children there and play with Diesel. They were planning on having the trainer come back out this week and maybe next week, even though he does not feel there is a need. Amanda Oulette of 840 County Street said she received a call from her mother, Ms. Carvalho, the evening of the attack. She stated while she lived at home, Diesel was always outside, day and night. She never witnessed Diesel being walked. Ms. Blais questioned whether Mr. Carvalho tripped over his own dog, causing his injury. She also stated that Chico's injuries could have been caused by a wild animal coming from the woods. Chairman Maksy said there is an eye witness. Selectman Yeatts said she found it almost insulting for someone to say that maybe Mr. Carvalho tripped on a step or the dog was killed by a wild animal. The Carvalhos' dog is dead. She will disregard Ms. Blais's statements.

Chairman Maksy asked where was Diesel right after this happened. Ms. Velazquez said the gate was still open, and Diesel came out of the backyard. Ms. Carvalho said she saw Diesel in the driveway next to Ms. Velazquez's vehicle when she drove home. She then showed a picture of her dog Chico. He was used like a rag doll. All the medical records from the vet are in there. Selectman Evirs asked if there were any bills from Mr. Carvalho's injuries, and did he lose time from work. Mr. Carvalho gave the Board a copy of the medical bills that have not been paid. He is currently laid off, so no time was lost. Selectman Evirs asked the Velazquezs if there was a chance that the gate was not locked. They responded that they always check the gate. Chairman Maksy asked Mr. Frates if he checked the gate. Mr. Frates said the gate did seem secure. Ms. Velazquez said Diesel goes into the house when he wants and goes out back when he wants. She

walks him at 5:30 AM in the morning, which is probably why they do not see him out on the street. Malamutes are typically outside dogs. Mr. Velasquez said he does leave the yard. We take him everywhere because he loves to ride in the car.

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

VOTED: To close the hearing at 8:20 PM.
Unanimous in favor.

Chairman Maksy cautioned the parties that this was now the time that the Board would discuss the matter between themselves. They would not take comments unless the Board asked for them. Selectman Evirs said in one (1) incident there were two (2) strikes. The dog normally does not get out, but when it did there was an unfortunate situation. Chairman Maksy said usually when a dog gets out, it does not bite a person. This time it bit someone and also attacked a smaller dog. There is no question in my mind that the man and the dog were bit by this dog. It was the Velazquezs' responsibility to make sure the gate is locked. Selectman Evirs said this does not appear to be a provoked incident. Selectman Yeatts said how a dog acts in a secure environment is different than when they are out of their own yard. This is a no win situation. Chairman Maksy said there is never a guarantee. A lot of dogs will bite and seem fine until it happens again. We have no way to guarantee that it will not happen again. Selectman Yeatts said that she did not think a trainer would put their reputation on the line based on only 2 ½ hours with a dog. Chairman Maksy said the dog was out of its environment, but the gate should have been locked. Selectman Evirs said we can spare the life of the dog, but then we are putting this burden on someone else. Selectman Yeatts asked Mr. Frates about animal rescue organizations. Mr. Frates said rescues are having trouble placing dogs. We have to tell them about the dog's history if we know it. We do not adopt out dogs that have bitten someone due to liability concerns. A rescue could, but not us as a Town. Further discussion ensued by the Board of Selectmen.

Selectman Yeatts asked the Carvalhos if there was anything at all that would make them feel comfortable with the dog remaining there. Mr. Carvalho said absolutely not. Chairman Maksy said he does not like the idea of the dog staying in the neighborhood, but perhaps Mr. Frates could find a rescue. Selectman Yeatts said the Town is now liable since we know the dog bites. We cannot treat cases differently. The Velazquezs have ten (10) days to appeal. If they appeal, Diesel will stay at the Animal Shelter throughout the appeal period. Chairman Maksy said the biggest issue for him was the two (2) bites to Mr. Carvalho, and the fact that Diesel killed a dog. The Town cannot afford a liability like this, and there is no way to stop it from happening again. Selectman Yeatts said so the dog will stay at the Animal Shelter until such time an appeal is filed and through the appeal period. Chairman Maksy said pending no appeal of our decision, then Mr. Frates has about 20 days to find a rescue to take Diesel. After that, what happens to the dog is at Mr. Frates' discretion.

Ms. Garbitt said she was not clear on any outstanding bills for the Carvalhos. Chairman Maksy asked if the Carvalhos had health insurance. Mr. Carvalho said no. Selectman Yeatts said we can rule that any medical bills received have to be paid by the Velazquezs. Chairman Maksy asked if any more bills were anticipated regarding Chico. Mr. Carvalho said no, the

\$1,000 covered all expenses. Mr. Frates asked if the Velazquezs could visit Diesel. Chairman Maksy said it was up to Mr. Frates. Mr. Frates said in the past, he has allowed just the owners out in the exercise yard during open hours. Selectman Evirs requested that Ms. Garbitt check with Town Counsel regarding visiting the dog.

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

VOTED: That Diesel will stay at the Animal Shelter until such time as an appeal is filed or ten (10) days pass. Mr. Frates will contact animal rescues and attempt to place the dog with them. If all efforts to place the dog with rescues fail, it is the discretion of Mr. Frates regarding the status of the dog. Mr. Carvalho's medical bills will be paid through the Board of Selectmen. The Carvalhos will bring their bills to the Board of Selectmen's office for us to forward to the Velazquezs. Ms. Garbitt will check with Town Counsel about visitation for the dog.
Unanimous in favor.

7:15 PM Meet with Board of Health regarding reappointment of William Garvey, Jr.

This item was tabled.

7:30 PM One Day Liquor License Request – A-Frame-Restaurant

Matthew Breen was present for the discussion. Chairman Maksy read the letter from Mr. Breen into the record. Ms. Craig said that she had spoken to the ABCC, and this is entirely under the purview of the Board of Selectmen. Typically a licensee cannot be issued a one day liquor license, but the ABCC stated that you could issue a one day liquor license for the parking area. Mr. Breen said they will have a section of the parking lot roped off and they will only serve beer and wine. Ms. Craig said their insurance certificate does not limit coverage for the interior, it states "the premises". Chairman Maksy asked her to verify that it covers inside and outside. Selectman Evirs said lately we have been expanding the premises of golf courses, and we consider the parking lot to be a public way, so patrons would have to stay inside the roped area. You are essentially taking some of your public area and making it a private area. Mr. Breen said he understood patrons could not leave the roped in area with an alcoholic beverage. Selectman Evirs said he was wondering if there should be a Police Detail. Chairman Maksy said we should ask the Police Chief what he thinks. Mr. Breen said he has no objection to hiring a police detail. Selectman Evirs said it will help police where the alcohol is and make sure hard alcohol is not taken outside the building. Chairman Maksy asked about parking. Mr. Breen there is a very large parking lot, so there is enough parking.

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

VOTED: To approve the application for a One Day Beer and Wine Alcoholic Beverage License for the A-Frame Bar and Grill at 2.5 Bedford Street to serve beer and wine for an outdoor event on August 1, 2009 from 11:00 AM to 7:00 PM. The Town requires verification that the insurance includes the outside premises, there

will be a police detail during the time of the event and the area that the alcohol is to be served is roped off.
Unanimous in favor.

Request for Live Entertainment Permit-A-Frame-Restaurant

Chairman Maksy read the request for a Live Entertainment Permit from A-Frame Restaurant for August 1, 2009.

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

VOTED: To issue a Live Entertainment Permit for the A-Frame Restaurant on August 1, 2009. The area for the live entertainment will be roped off.
Unanimous in favor.

Review and vote to approve Override Election Warrant

Selectman Yeatts read the warrant into the record:

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 Elections to meet in the

PRECINCT ONE, PRECINCT TWO AND PRECINCT THREE
TED WILLIAMS BASEBALL CAMP, 28 PRECINCT STREET

On SATURDAY, THE EIGHTEENTH DAY OF JULY, 2009, FROM 12:00 PM TO 8:00 PM then and there to act on the following:

Questions 1a and 1b are separate questions. You may vote for or against each question independently. Each question requires a majority of those voting on that question to pass. If more than one question passes, the question with the highest dollar amount will prevail.

1a. Shall the Town of Lakeville be allowed to assess an additional One Million (\$1,000,000) Dollars in real estate and personal property taxes for the purpose of operating the municipal government and the local public schools for the fiscal year beginning July 1, 2009.

1b. Shall the Town of Lakeville be allowed to assess an additional One Million Seven Hundred Thousand (\$1,700,000) Dollars in real estate and personal property taxes for the purpose of operating the municipal government and local public schools for the fiscal year beginning July 1, 2009.

You are directed to serve this warrant by posting an attested copy hereof seven days at least before July 18, 2009 at the Town Office Building, Starr's Country Market. Mayflower Bank, Clark Shores Association Bulletin Board, Apponequet Regional High School, the Senior Center and Assawompset School.

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

VOTED: To approve and sign the Election Warrant for the Override Election on July 18, 2009.
Unanimous in favor.

Selectman Yeatts said we probably need to have more check-in people for Precinct Two since so many people had to wait a very long time at the last Town Meeting. Some people ended up missing the Special Town Meeting and came in on the second article on the Annual Town Meeting. Chairman Maksy said the Town Moderator could have held the meeting until everyone was checked in.

Request for One-Day Liquor Licenses-Park Commission

Selectman Yeatts asked about Bill Fuller's insurance. Ms. Craig said she verified with Gail Evirs, the Park Commission secretary, that it was valid. It is valid until March of 2010.

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

VOTED: To approve the One Day All Alcohol Liquor License for July 11, 2009 from 1:00 PM to 11:00 PM for the Poillucci Family Reunion.
Unanimous in favor.

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

VOTED: To approve the One Day All Alcohol Liquor License for July 25, 2009 from 12:00 PM to 6:30 PM for the Anderson wedding.
Unanimous in favor.

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

VOTED: To approve the One Day All Alcohol Liquor License for August 16, 2009 from 1:00 PM to 6:00 PM for the Jehring-Soule Baby shower.
Unanimous in favor.

Request from Town Clerk to send letters-Democratic & Republic Party Committees

Chairman Maksy read the letter from the Town Clerk. Ms. Garbitt said this is a fairly new process that the Town Clerk has to go through. The Town Democratic Committee is not active, so they cannot make a statement of who they would like to have for election officers. Ms. Craig said by June 1st the Town Committees need to send a list of Election Officers. The Board of Selectmen appoint the positions annually in July-August.

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

VOTED: To send letters to the Democratic and Republican State Committees notifying them that the Local Committees have failed to file a list of enrolled members for appointment as election officers.
Unanimous in favor.

Revisit letter from Lakeville Development Corporation regarding wind power

Chairman Maksy brought the letter from the Lakeville Development Corporation (LDC) back up for discussion.

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

VOTED: To send the LDC a letter that the Board of Selectmen is giving them permission to pursue the possibility of wind power locations on Town owned property.
Unanimous in favor.

Request for Renewal of Temporary Storage Trailer Permit – 1 Christian Way

Chairman Maksy said the Board had received an application for renewal of a Temporary Storage Trailer Permit. Ms. Craig said she had requested that Robert Iafrates, Building Commissioner, inspect the location, but he was unable to find the trailer on the property. However, the trailer has been there for years.

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

VOTED: To approve the renewal of the Temporary Storage Trailer Permit at 1 Christian Way based on the Building Commissioner verifying the location.
Unanimous in favor.

Request from Mullein Hill Baptist Church for fundraiser car wash – June 27, 2009

Chairman Maksy read the request from the Mullein Hill Baptist Church for a fundraiser car wash.

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

VOTED: To allow Mullein Hill Baptist Church to hold a fundraiser car wash on June 27, 2009 at the Town Office Building, subject to the implementation of any Town policies that may be forthcoming, and that biodegradable soap is used.
Unanimous in favor.

Revisit Zoning Board of Appeals (ZBA) petition-127-129 Hemlock Shore Road

Chairman Maksy said the Board had received a request to review a ZBA petition. Minor discussion took place on the petition.

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

VOTED: That the Board of Selectmen sees no significant reasons for the ZBA to deny the petition.
Unanimous in favor.

Any other business that may properly come before the meeting.

Selectman Yeatts said the Lakeville Arts Council had a huge event this weekend, and it was not on the Town sign. The golf tournament and the Freetown Strawberry Festival were on the sign. When we approve the sign use, we should say that approval is given, unless a Town use or organization requires the sign. Ms. Craig said that there were five (5) events for that weekend. In the past, it has always been first come, first serve. The Board approved the use for the Strawberry Festival back in May, and then Mullen Hill put in their request. The Arts Council's request came in after the sign had been promised to the other events. She did suggest that they request that they ask the Park Commission to put it up on their sign, but they only advertise events at the Ted Williams Camp. Ms. Craig said she has put their event on the Town's website. She was going to put their sign up on Friday, but it was raining. Ms. Garbitt said we should have a community sign policy. Selectman Yeatts agreed, saying that we have the right to bump an outside organizations sign if we have something going on in our own Town.

Chairman Maksy said he has been asked several times about who did the work on the Historic Library's roof. He thought that we should put something on the sign about the company that donated the work. Ms. Garbitt said normally the Board sends a letter of recognition when a project is completed. Chairman Maksy said he wanted to note that it was a donation so residents don't feel that we are spending money on this project. With the contractor's permission, maybe we could put something on the community sign about it.

A request for road cuts from Christopher Peck, Superintendent of Streets, was distributed by Ms. Garbitt. These would be for the test borings for the water tank and the water main piping. It would be subject to a bond. Selectman Yeatts said they no longer need all 11 borings. Selectman Yeatts said they only have to go 500 feet from the Highway Barn. She suggested approving all of them, and then they will cross off the appropriate ones that they do not need to do.

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

VOTED: To approve the Road Opening Permit for the pumping station and water main extension.
Unanimous in favor.

Ms. Garbitt distributed an email that Chairman Maksy had received today. It is regarding a Full Regionalization Committee meeting that has been posted for June 29, 2009 at 6:00 PM at the Freetown Elementary School. Chairman Maksy said he will attend this meeting, but wanted to extend this to the full Board in case they would like to attend. Selectman Evirs said he was not available that evening. He suggested asking them to attend a Selectmen's meeting when we have cable so that others get to hear the status. Chairman Maksy said they were talking about taking a vote for a recommendation for full regionalization and my comment was that it was way too early to do it.

Ms. Garbitt distributed information regarding a photo opportunity at the turtle crossing signs. Selectman Yeatts read the letter dated June 22, 2009. Ms. Garbitt said they should have a Police Detail. Selectman Evirs agreed.

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

VOTED: To approve the photo opportunity and to recommend that they contact the Police Chief to obtain a Police Detail.
Unanimous in favor.

Selectman Yeatts said she needed to discuss the transfer of funds for the APC for payment of the haying of the fields. She does not believe they have been cut yet. Selectman Yeatts said she would like to ask for \$6,000 and will reimburse the account \$2,500 if and when it is cut. She also spoke about the possibility of an Adam Sandler movie shooting a scene shot at Betty's Neck. The monetary value would be terrific, but it is conservation land and would have to get some signoffs. Ms. Garbitt said there is \$29,000 in the Gifts and Grants Account for Betty's Neck.

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

VOTED: To transfer \$6,000 out of the Ranger's account for the haying of the fields at Betty's Neck. Monies will be transferred from the Gift and Grant Account, which will be reimbursed \$2,500 if they hay the fields.
Unanimous in favor.

Other Items

1. Letter from Park Commission announcing Clear Pond Opening
Selectman Evirs said he still deeply regrets that we are going to be laying people off and we still gave the Park Department \$25,000 to open the pond and lose \$8,000 by doing it. They should not be breaking even; they should be paying their own way.
2. Invitation to Employer Appreciation Day-New London Submarine Base
Selectman Evirs said he will be attending. Ms. Garbitt said she contacted David St. Germaine, and we only can have one (1) Selectman attend. However, there seems to be space for four (4) people from Lakeville, so she will inquire if Chairman Maksy can attend as well.
3. Meeting notice-Plymouth County Selectmen's Association – June 25, 2009

Selectman Yeatts will follow up on the letter from the Retirement Association since the Sheriff's budget is moving over to the State, but they are leaving the retirement obligations for the County. This could cost the Town \$50,000.

4. GATRA Advisory Board meeting agenda – June 17, 2009
5. SRPEDD meeting notice-June 24, 2009
6. JTPG meeting notice-June 17, 2009
7. South Coast Rail Technical Assistance Workshop – June 24, 2009
Ms. Garbitt planned on attending.
8. South Coast Rail Economic Development & Land Use Corridor Plan
Ms. Garbitt planned on attending the meeting. Selectman Yeatts said she will attend as well.
9. Meeting notice – Southeastern Massachusetts Council on Sustainability-June 18, 2009
10. Notice of Public Comment Period-SRF Program
11. Letter from DEP regarding 2009 Final Intended Use Plan Amendments-Drinking Water and Clean Water State SRF
12. Information from Millennial Net regarding Energy Management
Selectman Yeatts said this should go to our new School Superintendent, John McCarthy and the School Committee as well.
13. Letter from Renewable Energy Trust regarding Clean Energy Choice program
Selectman Yeatts asked Chairman Maksy if there is any money in this for the Town. Chairman Maksy said he has a call in to Meg Lussardi about what they have to offer us for grants, etc.
14. Letter from MassRecycle regarding the Amended Bottle Bill
15. Letter from the Commonwealth regarding FEMA's 2010 Hazard Mitigation Assistant Program
16. Wind Power Meeting-Potential for State-Owned Lands-June 24, 2009
17. MassWildlife Advisory-2008 Deer Season Harvest
18. MassWildlife News
19. Letter from Verizon regarding package changes
20. Information from EPA regarding Climate Showcase Communities
Selectman Yeatts asked if this looked like money for some kind of renewable energy. Ms. Garbitt said the deadline is July 22nd. Chairman Maksy said we should speak to the LDC tomorrow night about the grant writing and sharing and working with others on this. It is not necessarily competitive.
21. Plymouth County FY10 budget

At 9:30 PM, upon a motion made by Selectman Evirs; seconded by Selectman Yeatts, the Board unanimously:

VOTED: To enter into Executive Session and not to return to Open Session to discuss negotiations with non-union personnel and Collective Bargaining Agreements.
Polled vote: Selectman Yeatts – aye, Selectman Evirs – aye, and Selectman Yeatts – aye.