

TOWN OF LAKEVILLE
Selectmen's Meeting Minutes
July 30, 2012 - 7:00 PM

On July 30, 2012, 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 Vice Chairman Belliveau at 7:00 PM. Selectmen present were: Selectman Belliveau and Selectman Powderly. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. Cindy Dow from the Middleboro Gazette was recording the meeting

7:00 PM Meet with Conservation Commission to discuss the Water Extraction Bylaw and the Subcommittee for the Wetland Bylaw

Emery Orrall, Joseph Chamberlain and Linda Grubb from the Conservation Commission were present for the discussion. Mr. Orrall stated that Linda Grubb has done an excellent job of rewriting the Water Extraction Bylaw. Selectman Belliveau stated that he questioned Item 3, since he did not understand what it means. Mr. Chamberlain explained that as more and more people use hydro seed, the companies providing this service are taking water from wherever they see fit, and this needs to stop. It is not pool companies taking the water; it is companies that water plants for malls and hydro-seed. They do not think of it as stealing. The bylaw needs to be in place since this is a very gray area. The Police really have no authority to stop someone, when they are found extracting water from the ponds. Ms. Grubb clarified that the enforcement is specifically for those extracting water into tanks and carts it away from the water source. Mr. Chamberlain added that the Town has enough problems with invasive weeds that it does not need more when others put in hoses that may have seeds from remote areas into Lakeville's ponds allowing alien plants to take root. When this went to Town Counsel, it was to question the property owner's riparian rights. Riparian rights are the rights of the owner of the land forming the back of a river or stream to use water from the waterway for use on the land, such as for drinking water or irrigation. Someone with a self-contained pond (7 acres or less) on their land has the right to do what they want with the water. This matter was not a problem until hydro-seeding came into play.

Selectman Powderly asked how does the Town provide an alternative to someone who needs the water. Mr. Chamberlain responded that there is a line behind the Town House, not off the hydrant line, but from the Pump Station to Elders Pond that could be used. This is pretreatment water, and one might not want to use it for a pool. There is no pump or meter on the line, and a meter should be installed, which would allow for the Town to make money from the water being extracted. If the bylaw is passed, then it becomes a local bylaw, and the Town has the enforcement authority to fine someone when they extract water. Selectman Powderly stated that he would like to make sure the bylaw would be enforceable and that the Town can fine someone. Also, who would enforce it? Ms. Garbitt stated that it would fall under non-criminal disposition under the Town's General Bylaw. This is most likely enforceable through the Building Commissioner, since he enforces General Bylaws. If the police saw this taking place, they can document it, then the Building Commissioner can fine the person who takes the water. The suggested fines would be \$100 the first offense, \$200 the second offense and \$300 the third offense. Selectman Powderly stated that he would like to have a sign installed where water is being extracted and an alternative provided, since then they will just go to another source. Ms.

Garbitt stated that she would like to forward the bylaw to the Planning Board. They do not have to hold public hearings on General Bylaws, but they have been in order to gather public input. The Planning Board can review the bylaw, and then send it to Town Counsel for review. Once it has been reviewed by Town Counsel, the Planning Board could hold a public hearing.

Ms. Grubb stated that she did not believe that most people want to break the law. Right now, people think they have a right to the water, but they don't. So if they overstep the bylaw, then they are fined. Mr. Chamberlain stated that most hydro-seeders that he has contacted do not think that it is illegal to extract water from the nearest resource. Selectman Belliveau suggested to forward the bylaw to the Planning Board and get their input, letting them know this is a better bylaw than the previous one. The Town should also send letters to the hydro-seeders explaining the new bylaw once it goes into effect. Chairman Maksy had a lot of objections with the bylaw; however, he is not here this evening to bring them forward for discussion. Ms. Grubb explained that a lot of the concerns that people had originally when the bylaw was being crafted have now been put to rest.

Upon a motion made by Selectman Powderly, with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To open the Dog Hearing for K-9 Country Club, to be continued after the Conservation Commission topic has ended.
Unanimous in favor.

Discussion continued regarding forming a subcommittee to study the need for a Wetland Bylaw. Mr. Orrall stated that those on the subcommittee would report to the Conservation Commission. If they found that the Town would benefit from a Wetland Bylaw, they would write a Wetland Bylaw. Mr. Orrall noted that 198 communities have a bylaw and 152 do not. Middleborough did their Wetland Bylaw as a zoning bylaw with a 25 foot no touch zone. Taunton has an ordinance to try and protect the wetlands. The Conservation Commission has tried to pass a Wetland Bylaw before, but it failed. It may be that the public was not adequately informed of the Bylaw. Mr. Orrall said that he would like to ask other Board members to be on the Wetland By-law Subcommittee. Ms. Garbitt suggested advertising the need for members on the subcommittee for three (3) weeks. There could be two (2) at-large members, the three (3) members of the Conservation Commission and a member of the Planning Board and Board of Selectmen. Letters of interest should be sent to the Conservation Commission by August 17th. Mr. Orrall stated that the Wetland Bylaw will have to be more stringent than the State regulation. The State does not get into the 25 foot no touch buffer zone. They have a 100 foot buffer that they leave up to the local Conservation Commissions to enforce. The Conservation Commission has solved the problems case by case when the Department of Environmental Protection has turned it back over to the Town.

7:30 PM Dog Hearing-Diana Starr-K-9 Country Club – 36 Main Street

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To re-open the Dog Hearing for K-9 Country Club at 7:48 PM.
Unanimous in favor.

Vice Chairman Belliveau stated that Nancy Snell has filed a formal complaint against the K-9 Country Club in regards to excessive barking. The owner of the kennel is Diana Starr. He then read the complaint into the record and summarized MGL's 140, Section 157. He then asked for those who would be speaking on the matter to rise and be sworn into the record. Those present and sworn in included David Frates, Animal Control Officer, Diana Starr, Edward Starr, Joshua Starr, Nancy Snell, Anne Higgins, Michael Vickery, Joe Rebeiro, and Pam Beyork.

Nancy Snell stated that her complaint was basically about the excessive dog barking and its annoyance. Vice Chairman Belliveau read a letter from Mr. Frates into the record dated July 30, 2012 regarding the inspection that he performed at the kennel. Ms. Starr discussed the operation of the kennel. The maximum amount of dogs is 34 in the busy season, which is in the summer. There are 25 runs. The hours of operation are 8:00 AM to 5:00 PM. There are eight (8) to nine (9) employees and two (2) groomers. Anti-bark devices have been installed. Since the complaint has been made, they are bringing the dogs in by 9:00 PM. Ms. Starr stated that they are trying to be the best of neighbors. They are honest, hardworking, and keep the dogs safe and clean. Selectman Powderly asked how the kennels are built. Ms. Starr responded that it is made from cinder block, but it is insulated. The building has been there for 30 years. Selectman Powderly asked if Ms. Starr has walked away from the building and heard the dogs. Ms. Starr responded that they have not; sometimes they do hear the dogs, sometimes they do not.

Ms. Snell stated that she can have her TV on and hear the dogs barking in her house. She added that she would not have made the complaint just too waste time. Anne Higgins of 24 Main Street stated that she lives next to the new housing development and has been there for 36 years. The kennel is not a problem. She is retired and home most of the day and does not hear noise from the kennel. She stated that she would hope that Ms. Snell would have investigated the neighborhood before she moved in. Michael Vickery stated that the coyotes at the hospital site make more noise than the dogs. There is the manhole cover in Walgreen's parking lot that makes noise when anyone rides over it. He doesn't hear the dogs, especially with Walgreen's there now; it is more of a buffer. Pam Beyork, patron of the kennel, stated that she has been bringing her dogs there for 18 years. She has a friend that lives in the development with Ms. Snell. The dog barking is a muffled sound. Selectman Powderly asked if there was a better way to muffle the sound. Ms. Starr stated that she does separate the dogs so that they do not see one another, which reduces the amount of barking.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To close the K-9 Country Club Dog Hearing at 8:04 PM.
Unanimous in favor.

Vice Chairman Belliveau asked Mr. Frates for his input. Mr. Frates stated that he has never had a complaint about the kennel. Time will tell if the anti bark devices that have been installed will work. Vice Chairman Belliveau stated that he has been out there several times and heard

dogs behind their house, but not up in front. Ms. Starr stated that she tries to limit the drop off times between 11:00 AM and 4:00 PM so that the dogs are not disturbed and can be calm. She offered to show Ms. Snell through the kennel anytime. Selectman Powderly stated that they have already limited the outdoor hours for the dogs. The kennel has been in business for 16 years and there has not been an uproar from the neighbors against the kennel. He suggested that the Board do not do anything at this time unless there are more complaints about the barking. Ms. Snell stated that there are other dogs in the neighborhood that bark, but this starts at 8:00 AM on Saturday and it goes on all day. Ms. Snell stated that she has to make noise in her house since the barking just continues. Vice Chairman Belliveau asked Mr. Frates if there is anything else that can be done. Mr. Frates stated that some kennels put in music. Ms. Starr stated that they do have music.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To take no action on the K-9 Country Club and to take Ms. Snell's complaint under advisement. If another complaint arises, then the Board will look at the matter again.
Unanimous in favor.

Review and vote on Intermunicipal Water Agreement with the Town of Middleborough for the Edgeway Mobile Home Park

Ms. Garbitt stated that Middleborough's Town Counsel drafted the Intermunicipal Agreement (IMA) for 20 years. They also worked on the draft with Kopelman and Paige to produce it. Now it is ready for the Board to approve and send back to Middleborough. Mr. Cristello will place the IMA on the next agenda of the Middleborough Board of Selectmen.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To approve and sign the IMA with the Town of Middleborough for Edgeway Mobile Home Park for a term of 20 years.
Unanimous in favor.

Review and vote on Intermunicipal Water Agreement with the Town of Middleborough for existing Lakeville customers

Vice Chairman Belliveau explained that the IMA with Middleborough would have a term of 20 years, effective October 1, 2012, which is the date of Middleborough's Special Town Meeting. Town Counsel has reviewed it. Sylvester Zienkiewicz, Chairman of the Water Advisory Board, thought this would be good for the Town. Vice Chairman Belliveau stated that it is good for the two (2) Towns to move forward and to leave the past behind.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To accept and sign the IMA with Middleborough for existing Lakeville customers, effective October 1, 2012.
Unanimous in favor.

Review and vote on Determination & Consent from Town Counsel regarding the Assawompset School Lease Agreement

Vice Chairman Belliveau asked if the Town is agreeing that it is acceptable for Kopelman and Paige to represent both Towns (Lakeville & Freetown). Ms. Garbitt responded that the Town will have to sign a Determination and Consent Form when Freetown asks Kopelman and Paige to review their lease. What are Capital Costs is one of the questions that have to be answered. Selectman Powderly said if the Region is considering closing Assawompset School, there needs to be a discussion, since if they close the school, Lakeville is left with all the electricity and heat expenses. Ms. Garbitt stated that all the questions that the Selectmen have asked have been forwarded to Town Counsel. Vice Chairman Belliveau stated that Kopelman and Paige will be able to answer the questions once the Board gives them the authority to do so.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To sign the Determination and Consent for Kopelman and Paige to have the right to review the Assawompset School Lease Agreement for the Regional School District.
Unanimous in favor.

Review and vote on request from Lakeville Community Access Media to transfer Cable Funds

Ms. Garbitt noted that the Town retained \$25,000 from the Public/Education/Government (PEG) funds. Lakeville Community Access Media (LCAM) may ask at some point for the checks from Verizon and Comcast to be mailed to them directly. Right now, they are just requesting to transfer the PEG Access payments received from Verizon and Comcast. Ms. Garbitt said that Attorney Peter Epstein has said the Lease Agreement for the Library needs to be revised. However, the 5013C paperwork is still in the process of being completed. When that takes place, the new Agreement can be completed and will include language that the checks will go directly to LCAM. Ms. Garbitt noted that at this time, the Town receives \$200 per month from LCAM to defray the cost of heat and the electricity expense at the Library. The Board could have this applied to Estimated Receipts. Ms. Garbitt checked with the Town Accountant to see if the \$200.00 should be treated as a reimbursement to the heat and electricity expense for the Library. She has advised that the \$200.00 be applied to Estimated Receipts.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To transfer the PEG checks received from Verizon and Comcast over to LCAM.
Unanimous in favor.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To authorize the Town Accountant to put the \$200 received monthly from LCAM be applied to Estimated Receipts.
Unanimous in favor.

Revote Water Betterment Assessment Order for the Bedford Street Water Line Extension

It was the consensus of the Board to put the re-vote of the Water Betterment Assessment Order for the Bedford Street Water Line Extension on the next agenda since Chairman Maksy was not present this evening, and Selectman Powderly had abstained from voting on the matter originally. Ms. Garbitt explained that the reason that the re-vote was needed was due to a \$1.00 rounding error on the Betterment Chart. The new amount is \$105,512.00 instead of \$105,511.00. The Assessors have committed the Assessments to the Treasurer, and she has forwarded the Assessments to the property owners.

Review and vote on Housing Production Plan

Selectman Powderly stated that he has not had an opportunity to read the Housing Production Plan. Ms. Garbitt said the Planning Board is meeting on August 7th to discuss the Plan, and it is anticipated that they will approve it. The Board of Selectmen is being asked to approve the Plan, subject to the Planning Board's approval. Vice Chairman Belliveau asked for the vote to be tabled, since he did not know if Chairman Maksy has had the opportunity to read the plan.

Review and vote to award bids for Hot in Place Asphalt Recycling and Crack Sealing – Highway Department

Vice Chairman Belliveau went over the information presented regarding the hot in place asphalt recycling and crack sealing bids.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To award the bid for Hot in Place Asphalt Recycling/Heater Scarification to Highway Rehabilitation Corporation at a rate of \$4.13 per square yard.
Unanimous in favor.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To award the bid for Crack Sealing to Crack Sealing, Inc. in the amount of \$27,527.00 at a cost of \$12.31 per gallon.
Unanimous in favor.

Request from Town Clerk to appoint Elections Officers

Vice Chairman Belliveau read the request from the Town Clerk to appoint Election Officers. It was noted that she asked to have Jonathan Drane added to the list of appointees. Cindy Dow asked how people are appointed to the positions, since she has not seen the position posted. Ms. Craig stated that the letters are sent to the Town's Political Committees requesting that they send in names for people to be appointed.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To appoint the following as election workers: Douglas Young, Martha Vigers, Marilyn Hunt, Eleanor Gamache, Joseph Chamberlain, Susan Lynch, Rebecca Wood, Margaret Gross, Melissa Fitzgerald, Beverly Ingraham, Marion Bollesen, Pauline Ashley, Joan Morton, Jean Douillette, Kristen Main, Robert Brady, Joan E. Newcomb, Patricia R. Bessette, Vivian Lee, Gary E. Mansfield, Catherine T. Sankus, Debra L. Martin, Shirley L. Healey, Patrick R. Fitzgerald, Joanne Corrieri-Upham, Mitchell Plonka, Stephanie Annichiarico, Gail F. Fish, Mary E. Guertin, Michelle Y. Darling, Kathy A. Medeiros, Gail A. Evirs, Francis B. Kenney, IV, and Jonathan A. Drane with terms to expire August 15, 2013.
Unanimous in favor.

Request for Lakeville Country Club to obtain a KENO License for 44 Clear Pond Road

Vice Chairman Belliveau read the notice from the Massachusetts State Lottery regarding the request from Lakeville Country Club to obtain a KENO license. If the Board does not have any concerns, then no action would be needed. The Board did not object to the KENO License being issued.

Appointment of Jessica Huizenga to Lakeville Emergency Planning Committee

It was noted that Jessica Huizenga is willing to serve on the Lakeville Emergency Planning Committee in her Interim Superintendent capacity.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To approve the appointment of Jessica Huizenga to the Lakeville Emergency Planning Committee with a term to expire July 31, 2013.
Unanimous in favor.

Announce Lakeville's Designation as a Green Community

Vice Chairman Belliveau said that Larry Simpson, Chairman of the Energy Advisory Committee, Robert Iafate, Building Commissioner, Ms. Garbitt and himself attended a ceremony at the State House regarding Lakeville's Designation as a Green Community. It was

noted that Lakeville is the first southeastern Massachusetts community to receive this designation. Ms. Garbitt requested that the Board send Donald Foster, James Kenney and James Porter letters of thanks for all the work that they did to help the Town achieve this designation. The State will be using James Porter's format that he developed as their template for other communities since they were so impressed with it. Selectman Powderly suggested sending a letter to the entire Energy Advisory Committee, with a special thanks to Mr. Foster, Mr. Kenney and Mr. Porter for going the extra step. Ms. Garbitt noted that the grant application is due in September, and the Committee is working on that now.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To send a letter of thanks to the Energy Advisory Committee for all their work to help Lakeville achieve the Green Communities designation and to particularly thank Donald Foster, James Kenney and James Porter for their distinctive efforts.
Unanimous in favor.

Announce \$10,000 911 Training Grant

Vice Chairman Belliveau announced the receipt of the \$10,000 911 Training Grant by the Lakeville Police Department. The contract start date is July 23, 2012 and will run through June 30, 2013.

Discuss scheduling a meeting with Interim Superintendent to review Technology Project

Ms. Garbitt stated that she had received the Interim Superintendent's Regional Technology Project and also her Entry Plan with a formal letter attached. Dr. Huizenga had asked that it be forwarded to the Board of Selectmen and the Finance Committee. Dr. Huizenga has asked to meet with the Selectmen and the Finance Committee sometime between August 6 to August 27, 2012. Ms. Garbitt will check with Ms. Huizenga to see if August 21st or August 23rd would be feasible, and she will check with Chairman Maksy also.

Review and vote to approve and sign FY13 GATRA Contract

Vice Chairman Belliveau noted that the Board needed to vote to approve and sign the FY13 GATRA Contract.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To approve and authorize the Chairman to sign the FY13 Contract between the Greater Attleboro-Taunton Regional Transit Authority and the Town of Lakeville for Transit Service to the Elderly and Disabled.
Unanimous in favor.

Review and vote to approve Selectmen's Meeting Minutes of June 4, 2012; July 12, 2012 and July 16, 2012

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To approve the Selectmen's Meeting Minutes of June 4, 2012 as presented.
Unanimous in favor.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To approve the Selectmen's Meeting Minutes of July 12, 2012 as presented.
Unanimous in favor.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To approve the Selectmen's Meeting Minutes of July 16, 2012 as presented.
Unanimous in favor.

Review and vote to approve Selectmen's Executive Session Meeting Minutes of April 30, 2012, May 14, 2012 and May 22, 2012

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To approve the Executive Session Meeting Minutes of April 30, 2012, May 14, 2012, and May 22, 2012 as presented.
Unanimous in favor.

New Business

Ms. Garbitt noted that she had received a letter from the Massachusetts Municipal Association regarding the Annual 6th Grade Essay Contest. This will be forwarded to Ms. Huizenga.

Old Business

Ms. Garbitt stated that while closing out the books for FY12, there are still a few transfers to do with the Library Expenses and also the Building Department. The Selectmen need to vote to approve the transfers.

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To approve the transfers for FY12 in the amount of \$1,702.00 for the Library and \$1,010.20 for the Building Department.
Unanimous in favor.

Other Items

1. Copy of memo from Board of Health regarding F/L Schools Public Water Supply System
2. Response from Building Commissioner to letter from Karen Anthony regarding 5 Main Street
Ms. Garbitt has been working on this matter with Kurt Radke of New England Rent All Equipment and the Building Commissioner. Selectman Powderly stated that the property looks good; however, it will be more accurate to wait until the project is complete to see if it has been done correctly. Ms. Garbitt said that Mr. Radke has confirmed that the earth removal is done.
3. Letter from Douglas Foster regarding Marilyn Mansfield – Veteran Agent
4. Thank you letter from The Tuesday Club of Assonet
5. Letter from BETA Engineering regarding 8 Montgomery Street
6. Letter from FEMA regarding Letters of Map Change-Floodplain maps
7. Letter from Mass Audubon regarding Expanded Environmental Notification From-Gateway Commons
8. Letter from Mass DOT regarding Bridge Inspection Report-Vaughn Street/Nemasket River
9. Letter from NSTSR regarding Upcoming Tree Maintenance
10. Letter from Pro Home regarding HOME Program for FY12
11. Memo from Town Counsel regarding Open Meeting Law-Remote Participation and Intentional Violations
12. Memo from Town Counsel regarding Americans with Disabilities Act-Trail Accessibility Requirements
13. SRPEDD Commission Meeting Notice – July 25, 2012
14. Update on SRPEDD Public Health Grant
15. MEGA Renewal Results for Policy Year FY12
16. Mass Interchange Summer Newsletter
17. Notice from Comcast regarding Digital Network Enforcement
18. Letter from SRPEDD regarding ENG – Gateway Commons
19. Letter from Vicki Souza regarding Council on Aging Director Position

Upon a motion made by Selectman Powderly; with Vice Chairman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To adjourn the meeting at 9:15 PM
Unanimous in favor.