

TOWN OF LAKEVILLE
Selectmen's Meeting Minutes
August 8, 2011 - 7:00 PM

On August 8, 2011, 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 Olivier at 7:00 PM. Selectmen present were: Selectman Olivier, Selectman Belliveau and Selectman Maksy. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. Cindy Dow from the Middleboro Gazette was recording.

Discuss request from Suzanne Rebeiro regarding 116 Hackett Avenue

David and Suzanne Rebeiro and Robert Poillucci, Board of Health Chairman, was present for the discussion. Chairman Oliver said that the Rebeiro's are requesting that their property at 116 Hackett Avenue be removed from the Seasonal Property List. Mr. Poillucci explained that the present owners are looking for a Title V certification for their septic. The Board of Health has approved the system and a yearly inspection. In the past, properties with seasonal water and a tight tank have been classified as seasonal homes, and the Board of Health can place a deed restriction on the property that it is a seasonal home. Mr. Poillucci said this property is different since it has a well, so a seasonal deed restriction was not implemented. He noted that this home is identified on the Selectmen's Seasonal Property List as being seasonal. The Board of Health cannot take homes off the list, since it is not their list. Selectman Maksy stated that the Selectmen did not make the list either. There is a list that Nancy Yeatts had compiled, but it is not known if it is an official list or not. Mr. Rebeiro explained that there are ambiguities with the rules. One Department says it is alright to be year round, one Department says no; one Department says the home is on the Seasonal Property List, one Department says no. He started looking up the law for seasonal properties, and the law says one of the criteria is if the home has a sub-standard septic system. Mr. Rebeiro pointed out that all the Title V conditions have been met. Why can't the home be taken off the Seasonal Property List?

Chairman Olivier asked Ms. Garbitt the history of the Seasonal Property List. Ms. Garbitt stated that she was instructed by a previous Board of Selectmen to compile a list of seasonal properties after Town Meeting voted down a warrant article drafted by a Seasonal Advisory Committee to update our Zoning By-Law regarding Seasonal Conversions. After the Town Meeting, Town Counsel advised the Board to amend our Definition of Seasonal/Summer Residence in our Zoning By-law by referring to a list of properties. Ms. Yeatts was a part-time clerk in the Selectmen's office at that time, and she was assigned the task of checking the Board of Health files to verify which residences in Clark Shores were on the summer water supply. A questionnaire/letter that was drafted by Town Counsel was sent to the property owners and was used in compiling the list. After Clark Shores was completed, residents in other shorefront communities such as Churchill Shores and Huckleberry Shores were contacted. The list was still being worked on up until 2006, but was never completed because the Selectmen had other priorities, so they never officially voted on a final list. Ms. Garbitt explained that when the list was put together, Robert Darling, Building Commissioner, lived on Hackett Avenue and knew which homes on Hackett Avenue were seasonal and year round.

Mr. Poillucci asked if a property owner would need to request a conversion to a year round property, if this is not an official list. Mr. Poillucci said that due to new technology, such as the Presby septic system, land area requirements have decreased by a 1/3 to a 1/2 of the original needed land area. Every time new technology is invented, the Town is going to have to change the definition. There are only two (2) ways that the Board of Health can legally justify a seasonal deed restriction on a property, and this home is not meeting those criteria. Selectman Maksy explained that the Seasonal Property List was a good database at the time it was developed, but if people get their septic systems upgraded, then it does not seem that they can be denied year round conversion if they meet all the requirements. The big thing is to make sure that there are no health violations. The Town cannot be arbitrary about the list. There are obviously properties in Town that have a seasonal water supply and a lot of this has to be taken into consideration. Selectman Maksy said the Board of Health is the board to take over the seasonal conversion list. Chairman Olivier suggested that the Town should be looking at the bylaw based on the new septic systems.

Chairman Olivier asked if the house was insulated. Ms. Rebeiro said the home was insulated when they bought it and the house had two (2) heating systems. The previous owners had two (2) sons living in the house year round. Mr. Poillucci asked what the Selectmen were looking for when asking for a conversion. Selectman Maksy stated that it would be if they can meet the Board of Health regulations or if there are any violations from the Building Department or any Town Department. The final determination would be is it detrimental to the neighbors or the community if the property becomes a year round residence. Chairman Olivier suggested that the Board of Health take the list and work from it as a guideline to move forward. It is useful since someone did the work to put it together. He did not have a problem removing 116 Hackett Avenue off of the list since he believes the property qualifies as a year round residence. Selectman Maksy suggested to take each request on a case by case basis. Mr. Poillucci asked what the Board would like the process to be. Do the Selectmen want the Board of Health to sign off on the request to remove the property from the Seasonal Property List, and then the people would go to the Selectmen? Selectman Maksy agreed that that is the proper course of action until the Selectmen decide on another way to tackle this. Ms. Garbitt asked if the Board should adopt some official policy since this is an ongoing procedure. Chairman Olivier responded that the Board probably should, if there is a gray area then it should come before the Board. Mr. Poillucci can help develop the check list.

Selectman Maksy stated that if a property is identified as a seasonal home, and it does not have a year round water supply, it would have to go before the ZBA. Ms. Garbitt stated that a lot of the homes already do have seasonal deed restrictions on them. Ms. Dow asked what situation would require approval by the ZBA. Selectman Maksy responded that if a property is on a non-public water supply and classified as seasonal, they have to go to ZBA. The Board of Health cannot remove a deed restriction; only the ZBA can. Properties that are not deed restricted do not have to go before the ZBA. Ms. Garbitt asked if those homes that have been sold as a seasonal property, would they have to go through the process. Selectman Maksy responded that they did not if they were not deed restricted. A deed restriction has to be allowed by the homeowner, it just cannot be put on. Mr. Poillucci stated that if there was not a deed restriction on the property, then they can come to the Board of Health and get it checked off to move forward. If they do have a seasonal deed restriction, then they must go to the ZBA. Ms. Garbitt

stated that they will have to have a Title V system before going to the ZBA. Mr. Poillucci stated that they then need to come before the Board of Health and the Building Department if there is no deed restriction. Otherwise they have to go before the ZBA. However, what if the ZBA is using a minimum square footage standard that has changed due to technology. Chairman Olivier stated that 20,000 square feet is still their standard. Selectman Maksy stated that ZBA approval is typically subject to Board of Health approval.

Mr. Poillucci stated that the Board of Health will figure out a checklist for seasonal conversion. Then it will go to the Building Department and the ZBA, if there is a deed restriction, if not, then to the Selectmen. Chairman Olivier stated that the policy will be drawn up and then the Selectmen will vote on it at an upcoming meeting. Selectman Belliveau stated that since it is a list that was never approved by the Selectmen; this should just be given to the Board of Health.

Upon a motion made by Selectman Maksy; seconded by Selectman Belliveau for discussion, it was discussed whether to allow the Rebeiro's property at 116 Hackett Avenue to be considered a non-seasonal home, subject to the Board of Health and Building Commissioner's conditions. This motion and second was then withdrawn. Selectman Maksy said that Chairman Olivier now wants to have the Board of Health do this instead.

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

VOTED: That the Board of Selectmen have no objection to the Board of Health individually looking at the homes on the Seasonal Property List on a case by case basis that do not have deed restrictions, in conjunction with the Building Commissioner.
Unanimous in favor.

Upon a motion made by Selectman Maksy; seconded by Selectman Belliveau for discussion, it was discussed to request that the Board of Health and Ms. Garbitt provide a copy of the list to the Selectmen and to remove "seasonal" from the title. Chairman Olivier suggested combining the lists of properties that are and are not deed restricted in order to have a complete list. Ms. Garbitt said the list was originally titled "A preliminary inventory of summer/seasonal homes". Selectman Maksy then withdrew his motion and the second was also withdrawn.

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

VOTED: To consider 116 Hackett Avenue as a year round residence and to remove the property from the preliminary draft inventory list of summer/seasonal homes subject to the Board of Health's approval and the Building Commissioner's approval.
Unanimous in favor.

Discuss letter from Carole Sterling regarding donating a parcel of land on Main Street (Map 58-3-8) to the Town of Lakeville

Chairman Olivier read the letter into the record. The Sterlings would like to donate a parcel of land on Main Street (Map 58, Block 3, Lot 8). Ms. Sterling said the property is all wetlands and is valued by the Town at \$110,900. Ms. Garbitt mentioned that the City of Taunton does own land behind this property. She has not yet forwarded this to the Open Space Committee or discussed it with the Conservation Commission. The Town does get in-lieu-of taxes if it is donated to Taunton. Selectman Belliveau suggested contacting the City of Taunton to see if they are interested in the property. Chairman Olivier suggested that the Board take a site walk on the property. The Selectmen will individually go and visit the property and then will vote on this at their August 22nd meeting.

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

VOTED: To authorize Ms. Garbitt to contact the City of Taunton to see if they would be interested in the parcel of land on Main Street (Map 58-3-8). The Selectmen will perform a site visit and make a decision at their next meeting.
Unanimous in favor.

Acknowledge Donation to the Animal Shelter

Chairman Olivier read the letter into the record. A donation of \$312.25 was made from the Pocksha Canine Club in memory of John D. Cavanaugh, Jr. and Trudy Sturtevant. The letter stated that these individuals had a sincere and deep love for animals and felt this is a fitting way to remember them.

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

VOTED: To accept the donation in the amount of \$312.25 and to send a letter of acknowledgement.
Unanimous in favor.

Discuss Establishment of Insurance Advisory Committee

Chairman Olivier stated that a law was passed that allows the Town to change the steps of the health insurance process. On Step 4 of 21A is the procedure for the Selectmen to invoke section 21A and requires that the Selectmen be called the Insurance Authority and to create the Insurance Advisory Committee. There is still a lot of discussion going on, but the Board should at least establish this committee to put the Town on track to solicit Gateway to look at various plans and consider savings. Gateway is meeting on August 24th. All communities did have an Insurance Advisory Committee at one point, but they fell by the wayside since they cannot make any decisions. Ms. Garbitt said the Committee would consist of no more than seven (7) people, including an employee from each union and a retiree.

Chairman Olivier further explained that in the end, it comes down to how we compare to the Government Insurance Commission (GIC). Ms. Garbitt mentioned that the Board may not want to vote this until we have all the facts. The Public Employee Committee will consist of one (1) Fire employee, one (1) Retiree and one (1) Police employee. These are two (2) totally different committees. The Insurance Advisory Committee will have the right to advise the Selectmen under MGL Chapter 32B, Section 3. Selectman Maksy suggested that the Board wait to see what Gateway comes back with. Ms. Garbitt stated that Gateway is waiting to find out what the most subscribed plan is of the GIC.

Review and vote to sign contract for Vision Government Solutions for the Assessors FY12 Interim Update

Ms. Garbitt explained that this is the typical contract with Vision. The Board of Assessors have looked at the contract and forwarded it to the Board for approval. The cost is \$5,000.

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

VOTED: To approve and sign the contract for Vision Government Solutions for the Board of Assessors' FY12 Interim Update.
Unanimous in favor.

Vote to sign Election Warrant for Special State Primary on August 23, 2011

Janet Tracy, Town Clerk was present for the discussion. Chairman Olivier read the Warrant for the Special State Primary on August 23, 2011 into the record. Selectman Maksy recused himself since he is a candidate in the Special State Primary. Ms. Craig asked if she should remove Selectman Maksy's signature from the warrant. Ms. Garbitt stated that she should remove his signature.

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

VOTED: To sign the Warrant for the Special State Primary on August 23, 2011.
Unanimous in favor.

Request from Town Clerk and Board of Registrars to Appoint Poll Workers

Janet Tracy, Town Clerk was present for the discussion. Chairman Olivier asked why there were so many poll workers. Ms. Tracy responded that State law mandates that there be additional poll workers as backups. For 2012, most of the workers will be used since it is an election year and some only work a half day.

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

VOTED: To waive the reading of the list of Poll Workers dated July 27, 2011.
Unanimous in favor.

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

VOTED: To approve and make the following appointments of poll workers, with one name stricken from the list, Diana Slocombe: Douglas Young, Martha Vigers, Marilyn Hunt, Eleanor Gamache, Joseph Chamberlain, Susan Lynch, Rebecca Wood, Melissa Fitzgerald, Beverly Ingraham, Marion Bollesen, Pauline Ashley, Shirley Fernandes, Joan Morton, Leanne Cataldo, 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, Evelyn C. Bumpus, Patrick R. Fitzgerald, Stephanie Annichiarico, Joanne Corrieri-Upham, Margaret Gross and Mitchell Plonka. The term will be from the present to August 15, 2012.

Unanimous in favor.

Review ZBA Petitions for Nancy Adams – 225 Bedford Street and Stephen Melanson – 4 Violet Street

Chairman Olivier stated that Mr. Melanson is seeking a Special Permit for the property located at 4 Violet Street under Section 6.1.3 of the Zoning By-Law. The Town's Zoning Bylaw on properties containing less than 20,000 square feet requires a Special Permit to reconstruct the dwelling. It was noted that the property also does not meet the setback requirements currently. Selectman Maksy noted that this property is grandfathered, and they can replace up to 105% of the current floor area, but it looks like they are proposing an addition. Further discussion took place on the petition and specifics with the bylaws. It was the consensus of the Board to send a memo to the Zoning Board of Appeals that they had no comments, except to adhere to the Zoning Bylaws.

Chairman Olivier spoke of the Adams petition for 225 Bedford Street. They are looking for a Special Permit under Sections 6.1.8 and 4.1.1. Selectman Maksy stated that Section 6.1.8 reverts to Section 6.1.2. This has been an issue for a long time and needs to be corrected. It can be considered a non-conforming use since there are two (2) houses on the lot, but it is pre-existing. If one wall was left standing, then it is not considered a demolition. However, the entire house must be demolished. They have not abandoned the property since there is a trailer on the lot that they are living in. Selectman Maksy said Section 6.1.8 cannot take away a property owner's right to rebuild based on State law. Chairman Olivier stated that Section 6.1.8 needs to be modified. Ms. Garbitt stated that this would need to go to Town Meeting. Selectman Maksy stated this is under the Planning Board's purview. Ms. Garbitt said the Building Commissioner will be attending the next Selectmen's meeting, so it would be a good time to talk about these changes. It was the consensus of the Board to send a memo to the Zoning Board of Appeals that they had no comments, except to adhere to the Zoning Bylaws.

New Business

Janet Tracy, Town Clerk, was present for the discussion. Ms. Garbitt stated that the Town Clerk was asked to keep the Selectmen in the loop regarding the changes to the way that residents obtain State fishing and hunting licenses. Ms. Tracy explained that the State is

changing their policies and wants all fishing and hunting licenses to be applied for on line. If agents or Towns want to continue issuing them, they have to meet the new requirements. The Town does meet most of them. The State has retained a Pennsylvania Company to handle the bank accounts and remove what they need for the licenses that have been sold each week. A \$6,000 surety bond is needed. There are minimum requirements for the computers, but it is not sure if the Town meets those requirements. Ms. Tracy said that right now, approximately 90% of the Town and City Clerks will not be selling the licenses, mainly since the company is able to go into the Town's checking account and withdraw money when they want. She felt bad for older residents since they used to get their licenses for free if they were over the age of 70. Most do not have computers at home or know how to use computers. She would be able to help them if they came into the Town Office Building.

Ms. Tracy said she was looking for an opinion from the Selectmen if they think she should continue selling the licenses. The Town would receive up to \$1.50 for an administration fee. She typically sells a few hundred licenses a year. Discussion ensued about taking credit cards. Ms. Garbitt stated that if credit cards were used, the Town would have to appropriate the fee and set up an account for it. Another of her concerns is allowing a private entity having access to a Town account. Selectman Maksy stated that this sounds like it is set up for private retail business to sell the licenses, rather than going through the Town. Maybe someone local could do this. Ms. Tracy stated that the convenience fee goes to the company; it does not come to the Town. The Town is presently charging a processing fee of \$1 right now and it goes into the Gifts and Grants Account. Selectman Maksy stated that he did not like a company from another state charging our residents a convenience fee. Ms. Tracy stated that if the Town does meet the minimum requirements for the computer, maybe the Town should try it for a year, and if it is too much, then do not renew. Chairman Olivier stated that even though he did not like doing this, he would for the Town residents. Ms. Tracy will keep the Board updated on her final decision.

Ms. Garbitt updated the Board regarding Duncan Chapman and the solar panels. Mr. Chapman would like to meet with Chairman Olivier. Chairman Olivier suggested a date of Thursday, August 11th. Ms. Garbitt will forward Mr. Chapman a copy of the Town's zoning bylaw regarding solar panels. However, Robert Iafrate, Building Commissioner, will not be back from vacation until August 15th. It was decided that Chairman Olivier would schedule a meeting with Mr. Chapman when the Building Commissioner would be available.

Ms. Garbitt stated that Talbots had contacted her about donating some copiers that they no longer needed. They are IKON copiers, approximately three (3) years old with toner. Currently the Police Department needs a copier, and she is not sure about the Highway Department. She would like to have the color copier for the Town Office Building.

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

VOTED: To send a thank you letter to Talbots for their donation of IKON copiers.
Unanimous in favor.

Old Business

Ms. Garbitt stated that the Board originally approved a permit for live outdoor music on August 14, 2011 from 3:00 PM to 7:00 PM. The person hosting the event has requested that the hours be extended until 9:00 PM.

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

VOTED: To approve the outside music to play until 9:00 PM at the Back Nine Club on Sunday, August 14, 2011.
Unanimous in favor.

Other Items

1. Letter from Plymouth County Sheriff regarding funding for the Plymouth Bristol Alert System
Chairman Olivier asked if Chief Alvilhiera notified the Middleboro Gazette on this. Ms. Dow responded that he had.
2. Letter from Sheriff's Department regarding CodeRED notification system
Chairman Olivier said that the Sheriff's Department will be having a website for residents to register for the notification system and people can add their cell phone number to it. Ms. Craig will put a link on the Town's webpage.
3. Letter from Comcast regarding new program Internet Essentials
4. Letter from GATRA to MassDOT regarding their Report for Proposals entitled Beyond Boston
5. GATRA Advisory Board Meeting information from June 29, 2011
6. Information Guideline Release from Department of Revenue regarding Payment Schedule for Cherry Sheet Program
7. Information Guideline Release from Department of Revenue regarding FY12 Waivers to Education Reform Spring Requirements and Minimum Required Local Contributions
8. Letter from Kopelman and Paige regarding reappointment
9. MMA Alert regarding the release of Municipal Health Insurance Regulations for Comment (Draft of Regulations is attached)
10. MMA's formal comments regarding the proposed Municipal Health Insurance Regulations
11. Power point presentation from the Seminar Ms. Garbitt attended on July 28th regarding the new Municipal Health Reform Act
12. Letter from SRPEDD regarding update on 911 Feasibility Study and next steps
Ms. Garbitt said that she would like to schedule Ross Perry from SRPEDD and the Fire and Police Chief for the Selectmen's August 22nd meeting to discuss this. Chairman Olivier said that calls will be prioritized for the whole region, and he did not like that. What if a call from Lakeville did not rank high enough? There would be some delay to minor types of emergencies. Ms. Garbitt stated that the Police Chief also had concerns about this, including closing the Police Station at night, so that is why she would like Ross Perry to attend a meeting with the Selectmen. The Board can vote to go the phased approach since it does not commit to full regionalization or the Board can vote to not

make any changes and continue along the way things are going now. Chairman Olivier added that there is the cost for the training. Ms. Garbitt mentioned that there may be grants for this.

At 9:50 PM, upon a motion made by Selectman Maksy; seconded by Selectman Belliveau, the Board unanimously:

VOTED: To enter into Executive Session and not to return to Open Session for the purpose of discussing strategy in preparation with non-union personnel, specifically the Fire Chief's Contract .

Polled vote of Selectman Maksy – aye, Selectman Olivier – aye and Selectman Belliveau – aye.