

TOWN OF LAKEVILLE
Selectmen's Meeting Minutes
August 21, 2012 - 6:00 PM

On August 21, 2012, the Board of Selectmen held a meeting at 6:00 PM at the Town Office Building in Lakeville. The Meeting was called to order by Chairman Maksy at 6:02 PM. Selectmen present were: Selectman Maksy, Selectman Belliveau and Selectman Powderly. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. Cindy Dow of The Middleboro Gazette was recording the meeting, as well as, James Cosgrove for Comcast.

6:00 PM Meet with Police Chief Alvilhiera to discuss appointment of Thomas Robinson as Special Police Officer

Police Chief Frank Alvilhiera and Thomas Robinson were present for the discussion. Chief Alvilhiera explained that typically when Police Officers retire, they come back to work as Special Police Officers to do police detail work. Mr. Robinson would like to be appointed as a Special Police Officer. Chief Alvilhiera stated that Mr. Robinson did a lot for the Police Department during his twenty-five years as a Patrolman. In addition, he spearheaded the renovations that have occurred at the Police Station. This work could not have been done without his efforts and Chief Alvilhiera thanked Mr. Robinson for all he has done for the Department. Chairman Maksy expressed the thanks of the Board of Selectmen and residents.

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

VOTED: To appoint Thomas Robinson as Special Police Officer for the Town of Lakeville for a term to expire on July 31, 2013.
Unanimous in favor.

6:05 PM Meet with Board of Assessors to discuss Farm Animal Excise Tax and Status of DOR Assessment

Molly Reed, Principal Assessor/Appraiser, Janet Black, Paul Meleedy and Dana Lucas of the Board of Assessors were present for the discussion. The Board of Assessors called their meeting to order at 6:06 PM. Ms. Black explained that the Board of Selectmen would decide if they wanted the Assessors to assess the Farm Animal and Machinery Excise Tax. The last time the Farm Excise Tax Bills went out was in 2010, consisting of 18 bills, and bringing in only \$2,200 in revenue. To send out the bills, an employee must go out to discover the farm animals and equipment and process this manually. There is not a mechanism within the current billing software to handle this. It is labor intensive for the office staff. Therefore, the Board of Assessors would like to find out if the Selectmen want to continue to assess these two (2) excise taxes. Ms. Reed explained as part of the 2008 Dairy Preservation Act, a new option took place about local assessment of Farm Animal Excise Tax. However, the DOR Bulletin 2009-07B allows a provision that the city or town may approve a referendum to have the Assessors stop assessing this tax.

Chairman Maksy stated that is a lot of work for the amount of money to be received by the Town. He did not like putting a burden on the taxpayer to do it. It was noted that if the referendum is not put on the election ballot, the excise tax would have to continue. The Referendum would be as follows; The referendum is placed before the voters by a two-thirds vote of the "local appropriating authority" as defined in G. L. C. 59, sub section 21C for purposes of Proposition 2 ½. "Local appropriating authority" in that statute means the Board of Selectmen (not Town Meeting) in a town, the city council, with the mayor's approval where required by law, in a city, and the town council in a municipality with a council form of government G.L. c. 59, sub section 21 C(a). Ms. Black said that the Board of Assessors is recommending placing this on the ballot.

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

VOTED: To place the Referendum on the Annual Town Election Ballot regarding Farm Animal and Machinery Excise, subject to the condition that it first is presented to Town Counsel to make sure that the correct process is being followed.
Unanimous in favor.

Ms. Garbitt asked if they would have the new growth number ready for the June Town Meeting. This number typically is provided to the Town in April. Ms. Reed stated that the figure should be ready by the time the tax rate is set for FY14. The Board of Assessors adjourned their meeting at 6:24 PM.

Review and vote to approve Warrant for State Primary on September 6, 2012

Selectman Powderly read the Warrant into the record for the State Primary on September 6, 2012.

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

VOTED: To approve and sign the Warrant for the State Primary on September 6, 2012.
Unanimous in favor.

Review and vote to approve Warrant for Special Election on September 15, 2012

Selectman Belliveau read the Warrant for the Special Election on September 15, 2012 into the record. Selectman Powderly asked where the amounts would be mentioned. Ms. Garbitt responded that the amounts are not mentioned in the ballot, since this will depend on enrollment and the percentage that is Lakeville's share for the schools. At this time, Lakeville's share is 52% of \$903,000, but our share will change every year based on enrollment and the annual interest rate. Selectman Powderly stated that this is misleading as compared to what is on the Region's website. Their website implies that this has already been voted on. Ms. Garbitt stated that she has talked with the Interim Superintendent about this. Chairman Maksy asked that the Town Administrator have Town Counsel look at that and to find out whether it is yes or no. The Town has to get the information out there correctly and ethically.

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

VOTED: To approve and sign the Warrant for the Special Election on September 15, 2012.
Unanimous in favor.

Review and vote on Housing Production Plan

Ms. Garbitt stated that she had attended the Planning Board meeting regarding the Housing Production Plan and they approved the Plan. Selectman Powderly stated that what astounded him was that, in the long term, the Plan projects that the number of students will go up to 1,500. He suggested that the information be sent to the School Committee.

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

VOTED: To approve the Housing Production Plan for 2012 for the Town of Lakeville.
Unanimous in favor.

Re-vote Water Betterment Assessment Order for the Bedford Street Water Line Extension

Douglas Mills was present for the discussion. Mr. Mills stated that he noticed the interest rate was 4% for the betterment assessments. You can borrow money at a 3% interest rate and the Board has 4%. Ms. Garbitt stated that Town Meeting voted the 4% interest rate. Chairman Maksy stated that the only way to consider changing the interest rate would be through Town Meeting. Ms. Garbitt pointed out that people in tax title are charged a late rate of 16% and for a late tax bill it is 14%. Those being assessed the betterment have been sent a letter and the person can either pay a partial payment, spread it out over 20 years, or any number of years, or pay it in its entirety.

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

VOTED: To approve the new amount of \$105,512 from \$105,511 for the Water Betterment Assessment Order for the Bedford Street Water Line Extension.
Two in favor, one abstention (Selectman Powderly).

Request from Lakeville Arts Council for signage for Lakeville Annual Arts Festival

Chairman Maksy discussed the request from the Lakeville Arts Council to put up signage for their Annual Arts Festival, which will take place on September 29, 2012.

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

VOTED: To approve the request from the Lakeville Arts Council to erect signs with the same conditions as last year for their Annual Arts and Music Festival.
Unanimous in favor.

Request for Curb Cut-Lot 4 Staples Shore Road

Chairman Maksy noted the request for a Curb Cut for the property known as Lot 4 Staples Shore Road.

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

VOTED: To approve the Curb Cut request for Lot 4 Staples Shore Road, subject to the comments from the Superintendent of Street's letter dated July 30, 2012.
Unanimous in favor.

Request from Back Nine Club for permit for Outdoor Entertainment – September 1, 2012

Chairman Maksy abstained from this topic. Selectman Powderly asked why the business doesn't have a permit to have outdoor entertainment. Ms. Craig explained that the Town does not issue blanket outside entertainment permits.

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

VOTED: To approve the request for the Back Nine Club to have outside entertainment for a wedding on September 1, 2012 from 3:00 to 8:00 PM.
In favor 2, Abstain 1 (Chairman Maksy).

Request from MBTA Advisory Board to designate Designee for Lakeville

Ms. Garbitt noted that currently she is the Town's representative to the MBTA Advisory Board. Most of these meetings are about the Red and Green Lines. It is not really about the commuter rail. If she notices something on their agenda that is specific for the commuter rail, she will attend the meeting.

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

VOTED: To have Ms. Garbitt continue as Designee to the MBTA Advisory Board for the Town of Lakeville.
Unanimous in favor.

Review Zoning Board of Appeals Petition-Talbot-25 Loon Pond Road

Chairman Maksy said there was one (1) Zoning Board of Appeals petition for review for the property at 25 Loon Pond Road. It was noted that the applicant has enough acreage and a new septic system and a well. However, the frontage does not meet zoning requirements. It was recommended that a letter be sent to the Zoning Board of Appeals regarding the lack of frontage. Otherwise, the Board had no objection to the petition.

Review and vote to approve Selectmen Meeting Minutes of April 9, 2012 and April 30, 2012

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

VOTED: To approve the Selectmen's Meeting Minutes of April 9, 2012 as presented.
Unanimous in favor.

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

VOTED: To approve the Selectmen's Meeting Minutes of April 30, 2012 as presented.
Unanimous in favor.

Review and vote to approve Executive Session Meeting Minutes of June 25, 2012

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

VOTED: To approve the Executive Session Meeting Minutes of June 25, 2012 as presented.
Unanimous in favor.

New Business

Ms. Garbitt stated that she had received a resignation letter from the Water Department Clerk. Ms. Garbitt would like to go back to the next person who was in line for the position and hire Susan Lynch for the position. Since the original hiring took place in May, which is less than six (6) months ago, she would feel comfortable offering the position to Ms. Lynch. Ms. Garbitt has spoken with the candidate, and she is interested in the position.

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

VOTED: To accept the resignation of Suzanne Jorge, Water Billing Clerk, effective August 24, 2012.
Unanimous in favor.

Ms. Garbitt stated that a letter had been received from Nikko Mendoza inviting people to join Governor Patrick at the Mashpee Wampanoag Tribe's ceremony and clambake this week. The event is Thursday, August 23, 2012 in Mashpee from 12:30 to 2 PM.

Old Business

Ms. Garbitt stated that the subcommittee met to discuss the Conservation Agent posting. The job description basically remained the same, with the exception of adding "planning experience in the public sector is desirable". The posting will go on the Town's website, the MACC website, a Planner's Website and be advertised in the Middleboro Gazette and its sister papers. The deadline for the posting is September 13th. It was noted that more and more Conservation Agents have planning experience too. The position is 18 hours for the part time Conservation

Agent. Chairman Maksy stated that he thought the Agent would meet with the Planning Board to stay on top of projects. If they will not, then he did not see that anything has changed. It was noted that \$2,000 in the Planning Board budget, which could be used for planning work.

Chairman Maksy stated that he felt that the Town will soon have to bite the bullet and hire a full time person for the position. He stated that he did not want to hire someone who has no planning experience, and then need someone full time and have to start the hiring process again. The word should not be “desirable”; it should be “minimum”. Ms. Garbitt suggesting changing the word to preferred. Ms. Garbitt explained that Mr. Marot felt that the Town would most likely get a Planner with environmental experience, rather than a Conservation Agent with planning experience. Ms. Grubb stated that a Planner does more than just attend meetings. They attend the meetings, and then do whatever is necessary to promote what took place in the meeting. Selectman Belliveau stated that the Board is looking to hire someone that can fill two (2) roles, even though one (1) role does not exist right now. Ms. Garbitt reviewed who the employee would report to and their general supervision. It would be the Town Administrator and the Conservation Commission and Planning Board. Chairman Maksy noted that one (1) week it may be conservation and the next week it may be planning. Ms. Grubb had asked for them to also report to the Open Space Committee as well, since the Open Space Committee works with the Conservation Committee. Chairman Maksy stated that it can be added on who they would report to. The Board was in agreement if the Town Administrator makes some changes to the posting, that Chairman Maksy could approve the final draft.

Any other business that may properly come before the meeting

Chairman Maksy stated that earlier today the Selectmen met with the Energy Advisory Committee and the Secretary of Energy and Advisory Affairs. A check was presented to the Town in the amount of \$158,275.00 for the Town being designated as a Green Community, which it is one of the few in southeastern Massachusetts. He thanked the Energy Advisory Committee members for all their efforts in achieving the designation.

Selectman Powderly updated the Board regarding the Island Terrace Nursing Home situation with their septic system. He stated that the plan is to try and work with Island Terrace to help them solve their septic issue at a reasonable cost. The Town would like to protect its tax base, and in doing so, Island Terrace would stay in business. They would not have to cut their bed size and may be even able to add beds and assisted living, so that the Town can get even greater tax revenue. The Board wants no out of pocket cost to the Town of Lakeville in any endeavors to help Island Terrace. At this time, it is being asked if Town Meeting voters could be asked if they would allow Island Terrace to put a septic system on conservation land. If the voters say yes, then Island Terrace would go to the State Legislature and ask them for permission as well. That will be an uphill battle. Island Terrace has already gone to Fish and Games to ask them for land. Sometimes people can transfer two (2) acres to a separate entity. That is not what this situation would be. This would be allowing them to use the land. Their engineer will outline why they need a particular parcel, the restrictions he has on the water, etc., and that will be put in writing to us and to the State. As a Town, we are not necessarily giving up anything. We are just allowing them the right to use land. They will have to spend hundreds of thousands of dollars to do this with the State, and they have been working on this for ten (10) years already. Selectman

Powderly said that the Decas family wanted \$3 million for their land, which indicates that they do not want to sell it.

Ms. Grubb provided further information on the matter and stated that it might be better for Island Terrace to buy Decas' land, since they will have so many attorney and engineers fees. The Town would lose some integrity when this is done, since the Town had placed a Conservation Restriction on this property. Chairman Maksy stated that if the residents feel this is a viable project for the Town, they have to be allowed the opportunity to approve it. Further discussion took place on the topic. Ms. Grubb stated that an arrangement was made with the State for the Conservation Restriction, and if it is changed, it could hurt the Town in future negotiations. Ms. Garbitt stated that Island Terrace will schedule a site walk with its engineer. Ms. Grubb stated that she would like to request that the Conservation Commission be included in the meetings and site visits. Nancy Yeatts, Conservation Agent, would be notified of when the meetings are scheduled. Ms. Grubb stated that she would rather be invited to the meetings than to barge in.

Other Items

1. Copy of letter of appreciation from Chief Alvilhiera to Officer Antonio Amaral
Chairman Maksy read the letter into the record.
2. Letter of thanks to David Frates from Mary Dewar
Chairman Maksy read the letter into the record.
3. Copies of signed Intermunicipal Agreements with the Town of Middleborough
The copies of the signed Intermunicipal Agreements with the Town of Middleborough were noted. Middleborough is scheduled for an October 1st Town Meeting and Edgeway's agreement takes effect right away.
4. Letter from James Burke, Attorney, regarding Twin Coach Estates & Edgeway Mobile Home Park
Ms. Garbitt stated that the court has named a new executor and brought in a new management company for Twin Coach Estates & Edgeway Mobile Home Park.
5. Letter from City of New Bedford regarding Information Meeting-Assawompset Ponds/Nemasket River Study – August 23, 2012
Ms. Garbitt stated that it appears that the City of New Bedford is taking the initiative to organize the study for the Ponds. There will be a meeting this Thursday.
6. Public Protection Classification Survey from ISO
7. Notice from Mass DOT regarding Fy13 Chapter 90 funding
8. Copy of letter from Attorney General's Office regarding Carl Peirce's Open Meeting Law of Complaint
9. Notice of Middleborough Gas & Electric Commission meeting-August 8, 2012
10. Memo from Town Counsel regarding Significant Amendments to the CPA-Use of Funds
11. Informational Guideline Release from DOR – FY13 Waivers to Education Reform Spending Requirements & Minimum Required Local Contributions
12. Letter from DOR regarding Tax Rate Preparation and/or Pro Forma Recap for FY13
13. Notice from South Coast Rail regarding Open House-August 22, 2012 – Fall River Heritage State Park

14. Notice from MBTA Advisory Board regarding Municipal Elections to the Boston Region Metropolitan Planning Organization
15. Notice of Regionalization Toolkit Conference-September 10, 2012 – Holy Cross College
16. Notice from MMA of Kenneth Pickard Municipal Innovation Award
17. Mass Wildlife News
18. Notice of Comcast Cable Hearing on Rates
19. Notice from Comcast on Programming Changes
20. Letter from Attorney David Mofenson regarding 1, 2 and 3 ChrisJenn Way

Selectman Belliveau announced that the Fire Chief has purchased a 2003 Pierce Pumper for \$150,000. It is a really sturdy truck and less than the original quote of \$600,000 for a new Pumper. This was an item on the Capital Expenditure Plan that can now be taken off the list.

At 7:55 PM, upon a motion made by Selectman Belliveau; seconded by Selectman Powderly it was:

VOTED: To enter into Executive Session, pursuant to M.G.L. c. 30A, section 21(3) and not return to Open Session to discuss strategy with respect to Collective Bargaining with the new Unions because an open meeting may have a detrimental effect on the bargaining position of the Board and pursuant to M.G.L. c. 30A, sub section 21(2) to discuss strategy in preparation for contract negotiations with non-union personnel, specifically the Fire Chief's contract, because an open meeting may have a detrimental effect on the bargaining position of the Board.
Polled vote: Selectman Belliveau – aye, Selectman Powderly – aye and Selectman Maksy – aye.