

**TOWN OF LAKEVILLE  
SELECTMEN'S MEETING MINUTES  
Tuesday, August 24, 2010 – 6:00 PM**

On August 24, 2010, 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 Chair Yeatts at 6:20 PM. Selectmen present were: Selectman Yeatts and Selectman Olivier. Also present were: Rita Garbitt, Town Administrator and Tracie Craig, Executive Assistant.

**Review Zoning Warrant Article for Sysco**

Chair Yeatts said on August 20, 2010, the Board of Selectmen met at 2:00 PM, where the Selectmen voted to send on the re-zoning article for Sysco to the Planning Board (PB). Unfortunately she was working, and there was only a very short amount of time to meet, and people were not allowed to speak. So we scheduled this meeting to hear comments from residents. She explained the ground rules for the discussion. All that the Selectmen did at that August 20<sup>th</sup> meeting was the same thing we do for any zoning article. We voted to send the Industrial C Overlay District Regulations to the Planning Board in order for them to hold a public hearing.

Frank Sterrett of 5 Crest Drive said on August 20<sup>th</sup>, the Board voted to send the zoning article to the Planning Board, but he had some things he would have liked to have changed. Can that happen now? Chair Yeatts said yes, at the PB hearing. That is the time for the public to put in their input. Robert Mather, Esquire, said that the Town has been very generous having so many meetings. Typically the zoning article is sent in and then forwarded to the PB. We have had multiple meetings regarding the zoning prior to sending it to the PB. The proper place for public comment is at the PB hearing. Chair Yeatts said she was not expecting people to show up for the meeting on August 20<sup>th</sup>. Selectman Olivier said this is an opportunity for you to speak to us; we will be attending the PB hearing as well. Mr. Sterrett asked if the extra piece added to the zoning area, was that done so Sysco can meet the coverage ratio. Chair Yeatts read the letter from Attorney Mather regarding the additional parcels. Mr. Sterrett asked if the Town would consider this property for lot coverage ratio. Chair Yeatts said at this point, we don't know if Sysco will be acquiring it. They do have a Purchase and Sale Agreement. Mr. Sterrett said in 7.9.5.7, Paragraph B: Design Standards would like to see the Town put in some safeguards to protect the citizens. The highest noise complaints at Stop & Shop in Freetown come from the loudspeaker PA system. There are 202 abutters within ¼ mile from the facility. Chair Yeatts said it is the purview of the PB to address these issues. Selectmen Olivier said Paragraph D speaks about noise. Nelson Pratt of Captains Way said if the purpose was to pass it along to the PB, can we assume that you approve of this. Chair Yeatts said it is a part of our process. She spoke of how she was vehemently opposed to the rezoning by Assawompset School, but she still voted it along because it is up to the people of Lakeville to decide. Chair Yeatts said she could not remember if the Selectmen voted to approve the overlay district. Mr. Pratt asked if the Selectmen had discussed it. Chair Yeatts said no. Selectmen Olivier said they had discussed it at PB meetings. Chair Yeatts stated on August 20<sup>th</sup>, Selectman Maksy and she just voted to forward the article to the PB. That is the process. At a Board of Selectmen's meeting, we have not had that discussion.

Mr. Pratt said regarding the additional properties, we were told at the last PB meeting that a potential wastewater treatment facility could be on site without those properties. If the assumption is that at some point they will determine what they will do with these properties, will it be before we vote on the zoning overlay. Selectman Olivier said he thought so. Chair Yeatts said she was not sure if Sysco would know. We don't know at what stage they are at. Mr. Pratt said so if this overlay passes and these properties are in the zoning overlay, what happens to these properties if Sysco doesn't want them. Chair Yeatts said before the legal ad was published, she spoke to each individual property about the overlay district. Whether or not they decide to sell, it only adds to these people's options. If they don't sell to Sysco, the underlying zoning applies. The land area for the Industrial C Overlay is 50 acres. Mr. Pratt asked how many acres total for the new area. Chair Yeatts responded possibly 15 acres. William Garvey, President of Lakeville Development Corporation, said a businessman is not going to buy a piece of property on hearsay. They will wait until Town meeting to see if the overlay passes. Lynn Huntoon of Captains Way asked if they were speaking about Dewey's and what else. Chair Yeatts said there are five (5) additional properties. The bank, Dewey's, and three (3) private homes. Michael DiCico, reporter, asked will the PB be deciding if the overlay includes the additional area. Chair Yeatts said yes. Mary Murphy of Lori Lane asked if the additional five (5) properties were included in the district designation description. Richard Scott of Rush Pond Road asked for the date of Attorney Mather's letter. Chair Yeatts said she requested the letter from him today.

Mr. Sterrett asked if you had to break it down into percentages on the Development Agreement, how much came from Sysco, the Town and the consultants. Chair Yeatts said the majority, perhaps 80-90% came from Kopelman and Paige. Mr. Sterrett said so it is fair to say no more than 10% came from Sysco lawyers. Janet Scott of Rush Pond Road spoke about 7.9.5.7, Section E and 9.5.8. What we have for any type of protection is a building height of 50' a 50' setback and 80% lot coverage. The only other protection is things that will be thought of between the PB and the applicant. Chair Yeatts said there will be site plan review held in open meetings. Ms. Scott asked if when we get to the Town Meeting, will they already have gone through and given us the final site plan or will we be asked to just vote on this, with what is stipulated in this bylaw. Chair Yeatts said it will be hard for them to put the cart before the horse. You go in and do site plan review once zoning is in place. Walter Healey, member of the Planning Board, said they won't do anything until after Town Meeting. Ms. Scott said when we had meeting after meeting with National Development, we had a better sense of the types of protections that the abutters and the Town would have. Ms. Murphy said this occurred prior to the vote on rezoning. Ms. Scott said we felt comfortable enough when we went to Town Meeting that we advocated for National because we knew what they were giving us. With the way this statement is written, she is not entirely comfortable with these protections. There is a big hole. This says we might come up with something during Site Plan Review. Chair Yeatts said she should bring this up at the PB hearing. She believed that the PB would be willing to have multiple meetings for residents to air their concerns. Doug Mills of Bedford Street said he would hate to think that the PB isn't going to address all the concerns if this passes at Town Meeting. He would hate to think that the Building Commissioner would even consider building permits until the problems are addressed. Mr. Mills said he felt that the zoning needs to go forward. Chair Yeatts said the Development Agreement with National was signed before Town Meeting, where the zoning change occurred. Ms. Scott said the agreement stipulated what

type of protections the residents and Town would have. Chair Yeatts asked that people have their questions ready for September 14, 2010.

Mr. Scott said that the Board of Selectmen are obliged to explain what you are doing and why. This document is full of legalese. If our attorney wrote this, he would ask that Town Counsel stop the legalese as much as possible. He asked someone to explain Paragraph 2 to him. Before you pass it forward to the PB, you need to understand it and make sure that he understood it. We are taking the Selectmen's authority and passing it to the PB. At some point when we make our appeal during the hearing (Paragraph 1 on page 3), building orientation is just one of many techniques to protect people from sound. You are saying we should make our case to the PB, and he was concerned that the Selectmen were passing the buck to the PB. It doesn't seem like there is a mechanism to see that these things are responded to. When we made comments to MEPA, the applicant had to respond in writing to our comments. Mr. Scott asked at the last PB meeting if they would take written comments and Mr. Marot said absolutely. His question is will they respond in writing to our comments. It is really important as you are approving this that you understand it. He doesn't understand it and is going to personal expense to find out what it means. At the end of the day, the Selectmen are entering into that contract. Chair Yeatts said she took offense to Mr. Scott's comment regarding passing the buck to the PB. Zoning is the PB's job. We work with them, but it's their job. She was not about to explain the document. We tell Town Counsel what we want and they do the legalese. There are things that she didn't understand, but Town Counsel said that is how we have to do it. She would like both attorneys to be present at the PB hearing to explain any questions on the Development Agreement. The Town's Counsel would make the decision on the changes.

Mr. Scott said the Town has had a lot of work done on the Master and Open Space Plans. Those plans have summarized how the Town feels about how properties should be developed. In Paragraph 1, he only saw one (1) reference to protecting the environment. These plans are looking to protect the environment and open space. He has heard Chair Yeatts speak about losing trees on Route 18 (Ted Williams Camp buffer). He is concerned about losing trees in his yard. He did not want to hear the Selectmen say we like this project because of the money. This project should not be treated special. This zoning is lacking in wetlands protection. He was not sure who will speak to the PB regarding protecting the environment. He felt that the Board of Health should be commenting. The PB has said that other boards need to comment. It is the Selectmen's responsibility to make sure that the Boards submit their comments. You have a timeline of two (2) meetings. He did not see how you can possibly have the necessary discussion with this timeline. Chair Yeatts said that the Selectmen have been to every PB meeting. In the Master Plan, we designated that area to be where we wanted business development. She has spoken at length to Conservation and will ask them to attend and make a statement. She was not speaking for Conservation, but the wetlands on that property have been very, very heavily impacted already. There is a hospital waste site there. They are not pristine habitat or wetlands. We will encourage all the Boards to attend the hearing and put their comments in writing.

Selectman Olivier said that the residents had given the Board a lot to digest. He explained that in Paragraph 1, it states that this is a district that will overlay the current district. They would have to meet the underlying zoning district regulations, plus meet Industrial C zoning. There is language regarding conflicting zoning requirements. The overlay district would govern

conflicts. As far as questions you want to submit to the PB, that's a great idea. This is a project that's bigger than usual for Lakeville. When Sysco goes for the septic system, the Board of Health will be in the thick of things making sure things are done right. Conservation will also be looking at their responsibilities. Mr. Scott said you have said many times that the Town wants business there. The people of Lakeville at large did come up with zoning that allowed mixed use. He would disagree regarding the difference between retail versus Sysco. Retail is beneficial in many ways. People could live in the housing and walk to stores and transportation. Sysco is a highly intense business that typically goes in industrial parks. He felt this is an extension of the Lakeport Industrial Park. The intensity of that activity is different than a business. We are creating this zoning because Sysco cannot meet the existing zoning standards. The zoning was voted on by residents to protect the residents. We need to be careful before we say these industrial bylaws don't work for us any more. Setbacks are 100' for industrial. We fought for the 100' setback with National Development. He is hearing Sysco at all costs as fast as possible. Are the Selectmen prepared to delay Town Meeting until the PB process is done? The re-zoning cannot go forward until the PB closes the hearing. He wanted to make sure that if it takes a third meeting, the Selectmen were prepared to wait. What is driving this October 18<sup>th</sup> deadline? Ms. Garbitt said part of it is the availability of the school, Town Counsel and the Moderator. Chair Yeatts said we picked the date and worked backwards. We have certainly postponed Town Meeting before. If they decide they are not ready to close the hearing, we have no control over that.

Mr. Pratt asked how we got from where we started to where this document is now. At some point in time, there could be 80% coverage with the PB approval. The first PB meeting he attended, Thomas Bond was requesting 80% coverage after you subtracted the wetlands. Linda Grubb of Peirce Avenue said Mr. Marot suggested 60% of the acreage with a 20% bonus to bring it up to the 80%. This gives the Planning Board a little more control of the building design. Mr. Pratt said he put some numbers together with our current industrial zoning. If you look at that, there is an incredible amount of coverage as far as acres covered. Chair Yeatts said six (6) acres were removed for the drainage. The Town has two (2), three (3) acre lots that we gave for the detention area for the Route 79 relocation. Ms. Garbitt said the site was originally 72 acres, but National donated six (6) acres to the Town. Mr. Pratt said if you do the math, you will find that 80% potentially of those 66 acres is absurd looking at how many acres that result in looking at our current industrial coverage. Chair Yeatts said when you speak about coverage; it depends on how things are covered. It doesn't have to be asphalt. Parking lots don't have to be all asphalt; they can be of other material. Mr. Pratt said they want to control the runoff. Chair Yeatts said perhaps not the truck area, but the parking for the employees. Selectmen Olivier said this is something the PB has to agree to, the 80% lot coverage. Mr. Pratt said if you look at the language about increasing the lot coverage, there really is no meat regarding design standard. He was assuming the 80% is a given. It does not take anything but PB approval with no specifics that we can measure. Selectman Olivier said that would all come out during site plan review. Mr. Pratt said the Development Agreement said 60% in one place and 80% to another. Our current industrial zoning requires specific items to go from 50% to 60% and 60% to 70%. This one doesn't have that. Selectman Olivier said there are some checks and balances. Site plan review has been accepted by the applicant and PB (7.9.5.8.).

Ms. Grubb said the density bonus only applies to the design of the building. It does not apply to environmental aspects of the property. Other towns provide bonuses based on the environmental impact. For every square foot of impervious coverage you need six (6) square feet of densely landscaped land to compensate for the environment. We are telling them to design a pretty building, and we will be happy. There is nothing in the density bonus bylaw that we passed that says anything about environmental protection. Chair Yeatts said the Town has a Storm Water Bylaw, and we would always have a peer review. Ms. Grubb said it is the density bonus which really breaks this project. No matter what they did at 80% coverage, she cannot support it. This project would not even fit in the Industrial Park with our current zoning bylaws, which is 70% coverage. Ms. Scott said in 5.2.2.1, it talks about retention ponds and drainage swales not being included in the determination of the size of the property. This overlay excludes it right away. In 7.9.5.2 where it speaks about lot coverage, they have removed that as a protection. Mr. Sterrett spoke to Chair Yeatts comments about the wetlands being in poor condition. On Crest Drive and Twin Coach Estates and Rush Pond, we see deer in our yard and wild turkeys. They come from the hospital property; there is life there. This is a very convoluted project with questions. Couldn't we put together some sort of web page so that people can understand the steps? You said the Selectmen chose North Lakeville for business development. Chair Yeatts said it is in the Master Plan. Ms. Grubb said we planned mixed use because of the infrastructure. There was never mention of industrial. The Nemasket River is an area where we are focusing protection of. There are serious problems in the area with drainage. Ms. Grubb said the Mixed Use zoning has 60% lot coverage.

Frank Sterrett asked if the Selectmen were aware of the data that shows as you add more and more industrial and commercial property in Town, the residential values go down. Ms. Garbitt said that you want to have 20% business/industrial development. Right now, we are at 13%. That means the residents are carrying 87% of the tax burden. When you bring in business, you take the tax burden off of the residents. Mr. Sterrett said that the average residential property value drops. Selectman Olivier asked if that was the tax valuation or the average market value. That makes sense; the tax valuation will decrease. Mr. Sterrett asked if the taxes would go down. Selectman Olivier said potentially they can if you don't let various departments run away with the revenue. He couldn't promise that they would go down, but if the taxes remain the same, that sounds pretty good. Mr. Sterrett said there is some data that says there could be a 30-50% loss in value. Selectman Olivier said if this project is done wrong, he might agree with Mr. Sterrett. From what he had seen, he didn't think Sysco's intention is to do what they want without caring for their abutters. Mr. Sterrett said the Town needs to build in big time protections for those 202 residences. Ms. Huntoon said she thought she heard that the Selectmen agree to document comments and responses. Can that also be posted on the website so other Departments can read comments, kind of like a chart? Chair Yeatts said if you have attended Town Meeting and know what shape the Town is in right now, you know we are down in staff.

Mr. Scott said we are working very hard to come up with a solution that meets everyone's need, including Sysco's. The National non TIF project was going to generate the same amount of taxes as Sysco without a TIF. Chair Yeatts said the TIF takes the taxes away temporarily. Mr. Scott said he still hadn't figured out how the TIF formula works. Selectman Olivier said a TIF is just a depiction on how it will work. The tax rate and valuation is going to change. This is an estimate. It will get to a point where the valuation is 100% taxed. Chair Yeatts said we can

add in the motor vehicle tax on the trailer and trucks and personal property value that will be much higher than the projects that National proposed. Mr. Scott said the personal property is exempt. Selectman Olivier said only for 13 years. Mr. Scott said their tax rate is lower than for anyone else. We are trading off saying we can never have a business like Sysco there. Selectman Olivier said the TIF was one of the better TIFs that Town Counsel has seen in a long time. Mr. Scott said he thought the residents would like a discussion on money and zoning so we can weigh that against the degradation of North Lakeville. Having Town Counsel say this is a good TIF isn't good enough. Selectman Olivier said it is in the eye of the beholder and depends on where you live. The model that we have in place today, based on the economy and what the State has done, we are unsustainable as a Town to provide the services that the townspeople would like. We need additional revenue and to control our costs. This is an opportunity to clean up a site that no one else wants to deal with. National walked away. We need to do it right. We need to mitigate the detrimental impact. There is no doubt that there will be. Anyone that says there won't be is lying to you. If we do the job correctly, and we mitigate as much as possible, maximize the revenue that we desperately need for this Town, maybe it will help the Town in the long run. Now we won't need another industrial development in Town. Otherwise we become another Middleborough. Chair Yeatts said the TIF has been voted on. There is no revisiting it. The State has approved it and it is finished.

Iralki Savas of Fuller Shores said a few years ago we authorized and built at the Train Station a residential development. The revenue is \$88,000 a year. That community is now putting into the school system 19 children at a cost of \$85,000 a year approximately. There are going to be another three (3) children going to Assawompset, so it will be a washout. There is no washout with Sysco, but we have to be careful. This is all income. Ms. Murphy said you said that National walked away. Are they paying tax bills? Selectman Olivier said he meant that they walked away from the development. Ms. Murphy asked if the Town is going to give her a tax abatement on her property because of the truck traffic. Her property value will go down, and her tax bill should go down. If all 200 residences tax bills go down, isn't that negating some of the profit. Chair Yeatts said it would be on a case by case basis. Mr. Pratt said Lakeville has a single versus a multiple tax rate. Every Town is suffering the same economic issues that we have. If you want to fix the problem without ruining the Town, have you discussed another tax rate for commercial properties. Lakeville is probably in the bottom 10% for tax rates. Why don't we institute a commercial tax rate, you could probably raise \$500,000 with no Sysco. Selectman Olivier said the Assessors keep telling us that we don't have enough commercial property to do that. Mr. Pratt said our tax rate is so low we have a great opportunity to take advantage of that. Selectman Olivier said there are some risks; we could chase businesses away. Cindy Dow of the Middleboro Gazette said the Assessors do a presentation every year and they give us a graph on the different tax rates and valuations. A tiny change would change a residential assessment a few dollars, but add hundred to businesses. Mr. Pratt said if we are in the bottom of Bristol and Plymouth Counties for tax rates, where are we going to chase them too. Selectman Olivier said he couldn't recall the numbers, but we would have to increase their tax rate so high. Chair Yeatts said that Talbots, our largest employer is on the edge of folding. They have already laid off 200 people. If we increased their taxes, we could send them over the edge. Mr. Pratt said the average commercial tax rate is \$14.57 in Bristol and Plymouth counties. We are \$10.22. Can't that be phased in as an increase? Why are we so low? Chair Yeatts said when she talks about average, she doesn't want to be averaged in with Brockton and Plymouth. We

look at Towns similar to us. Ms. Garbitt said we go through this every year with the Assessors. A lot of the communities are trying to get away from the multiple tax rates.

John Jenkins of Pickens Street said he is not an abutter. He knew the TIF is a done deal, but at some point the question is going to be asked: do you agree with this proposal. You will answer and what you say will hold weight with the general Town Meeting populace. Regardless of the advice, the TIF is not a good financial plan for the Town. Mr. Pratt makes a good point regarding tax rates. We gave almost 50% of that away to Sysco. Sysco loves us because of Route 495 and a \$5 tax rate. That can all be undone at Town Meeting. The comment was made by Selectman Olivier that the abutters won't be purposely harmed by Sysco. This is purely business for Sysco and should be considered purely business for Lakeville. If your house is next to a 60-70 acre industrial complex with walls, the value of your house will go down, and you will be damaged. It is not intentional, but they will be damaged by Sysco. The Town does need financial assistance; we have lived here 22 years. The Town has been proud that we have been able to keep the tax rates down, thrift is commendable. The unfortunate thing is that the thrift that we have exercised has boxed us into a corner. Now we are taking a big hit, like a Sysco. Changing the commercial tax makes more sense than saying Sysco will be the savior of Lakeville. It will have a permanent, negative long term effect on the Town. We will look back and say what did we do. We are going to regret this and we should relook at this. Maybe Sysco is not the answer. Middleborough's industrial parks are different than this development. There are no houses. He thought this is wrong and a big mistake. Ms. Garbitt said when raising the commercial rate higher, you have a tax levy based on the tax assessments. Selectman Olivier said your expenses are this much and your valuation is how you calculate the rate. You would decrease residential and increase commercial. You can only get money for your expenses. We tried an override that was overwhelmingly defeated. People were hurting. This is a difficult time for everyone. Ms. Garbitt said if your tax levy is \$1,000 a year, it can go up 2.5% plus new growth. The next year you can only go up 2.5%. You can only change your levy limit by a Prop 2.5 override or debt exclusion.

Chair Yeatts said we are looking at September 1<sup>st</sup> at 7:30 PM for the site visit to Sysco in Norton. She wanted to add in Rita Garbitt and Bob Iafrate, who will attend for the Town. Mr. Sterrett said that Dick Anderson may be out of town on that date, so we would substitute someone. Chair Yeatts said we will leave word at the gate on who is attending. Let us know the substitute. Mr. Sterrett will forward the name. Mr. Pratt asked about the possibility of videotaping the site visit. Chair Yeatts said that Sysco will let us know. Ms. Scott asked because of the change from business/residential to industrial, will that have to have a MEPA done. Chair Yeatts said she assumed they would since they are changing the use and project.

### **Adjournment**

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

VOTED: To adjourn the Selectmen's meeting at 8:04 PM.  
Unanimous in favor.