

SELECTMEN'S MEETING
Monday, October 2, 2006

On October 2, 2006, 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 LaCamera at 7:00 PM. Selectmen present were: Selectman Evirs, Chairman LaCamera and Selectman Yeatts. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

7:00 PM Update from Linda Grubb-S.E. Mass Commuter Rail Task Force

Linda Grubb, representative to the Southeast Massachusetts Commuter Rail Task Force, was present for the discussion. Ms. Grubb gave the Board an update on the Southeastern Massachusetts Commuter Rail Task Force. The Task Force just met recently, and it was the first meeting since June 14, 2006. SRPEDD presented an analysis of transit areas to the group. Old Colony presented their 50 page document on their line restorations. The third chapter of the report will deal with land growth changes. The Town of Dighton has been selected for this since they have a lot of unprotected bio natural resources. The Chairman of the group has changed the meetings and wants to meet with Vision 20/20 and work on open space protection and environmental protection. The next meeting will take place on Wednesday, October 18th.

Ms. Grubb conveyed the fact that she will not be able to attend the next meeting, however, if there is another representative available and they would like to attend this would be beneficial. The group is looking to prepare a document to present to the new administration (after the elections in November) in order to inform them what they feel are the real issues to be looking at. The enviro-mitigation bank program will supply this document since it will have value for the Town.

7:05 PM Meet with Robert Mather, Esquire regarding berm-Residences at LeBaron Hills

James Marot, Building Commissioner was present for the discussion. Also present were Attorney Robert Mather and Gregg Ferrelli from E.A. Fish. Attorney Mather distributed information about the overall project, particularly where the berm sits in reference to the property line on the site. This is condition #12 in the permit. Pursuant to an agreement that is between Remco and the applicant, a berm shall be constructed between the Remco property and the Applicant. However, this is rather vague. The Zoning Board of Appeals has voted that whatever the Board of Selectmen deems appropriate for the berm is what they will agree with. A proposal has been submitted regarding the berm to the Building Commissioner. He then issued a few comments on the proposal, and it was revised accordingly. This will be discussed further this evening.

Mr. Ferrelli explained the design of the berm, and when it will be installed. He stated that the size of the berm has been maximized in order to change the slope on one side. When the Zoning Board of Appeals approved the conditions, they had the basic location of all the units known. (a set of plans was shown to the Board of Selectmen for reference) The plans being shown are the conceptual plans that have been approved by the Town. Mr. Ferrelli explained that the berm is

not contiguous on one side since there is a need for access for the Remco trucks. There is also a deeded right of way. The berm is very important so that the residents do not see the trucks around the site or have to listen to the equipment noises. Broken stone is being used in the berm which will help mitigate the sound that stems from the concrete plant. There will be two rows of stone rip rap. Then there will be plantings on top of the berm. Attorney Mather explained that there will be twelve feet high deciduous trees, evergreens and then shrubbery planted along the berm. The specific names of the species of plants will be provided.

Mr. Ferrelli stated that they would like to put off building the berm at this time since there are some grading issues and several changes to the project. The building of the Residences will take place in phases. Irrigation takes place in Phase Two. Chairman LaCamera mentioned the fact that it will take time for trees and shrubs to grow in so that the noise can be lessened. Attorney Mather responded that the problem at this time is not in finding buyers for the Residences, but it is the buyer's ability to sell their homes. There is a lull in the economy. There will be 62 units in total in Phase One, comprised of 31 buildings with two units per building. Mr. Ferrelli stated that the 23rd building is being built at this time. Chairman LaCamera stated that if the trees are not planted until Phase Two, then the plantings that are put in will have to be of significant height, most likely six to even eight feet tall. Selectman Yeatts asked that Martha "Mike" Schroeder be contacted regarding the plantings since Mike knows the appropriate native plants in the area. Attorney Mather stated that when the species are known, it will also be known how much they will grow in a given year. Larger ones will be put in depending on how long it takes them to grow on an annual basis. Selectman Evirs suggested that a restriction be placed on the project so that when they are ready to begin Phase Two, they cannot begin construction until the berm is built and the plantings are in and it is established that it all works. Mr. Marot stated that he was happy to know that the berm will be significantly higher and that there is one especially high side.

Chairman LaCamera asked that Attorney Mather draft up a letter to the Board on the conditions that have been discussed and it will be followed up on at a later date. He then asked who would be maintaining the berm once it has been constructed. Mr. Ferrelli responded that he and Morse will work that out. Chairman LaCamera asked that who ever will be maintaining the berm be outlined in the letter. Ms. Garbitt mentioned that originally it was thought that the berm was going to be built at the outset of the project; however, this did not get carried through into the agreement.

7:30 PM Warrant Review – Special Town Meeting

Chairman LaCamera began the reading of the warrant for the Special Town Meeting into the record.

To any of the Constables of the Town of Lakeville,

Greetings:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in Town affairs to meet in the

APPONEQUET HIGH SCHOOL AUDITORIUM

On Tuesday October 10, 2006 at 7:00 P.M., then and there to act on the following articles:

Article 1: To see if the Town will vote to reduce the current year appropriations for FY 07, for the purpose of ensuring the Town meets reductions for State revenue and local receipts deficits, or take any action relative thereto.

Discussion occurred regarding Article 1. He explained that the Board met with the Finance Committee and the School Committee on September 26, 2006 and it was thought that matters were all set. However, there seems to be further discussion from the School Committee on some of their requirements in their existing budget. The School Committee was asked to go back and update their budget based on the numbers that they presently have and information that they have with expenses, salaries, etc. in order to show what their expenses will be in all categories. Mr. Oliveira explained that the revised budget amounts are what are reflected in the new budget amounts for the School Committee as of this morning. The budget does have some unencumbered items in it for the specialists. What is encumbered is the anticipated expenses and what has been paid to date. If this is subtracted from the budgeted amount, that is the amount that would be left in the accounts.

Chairman LaCamera stated that looking at the accounts and what has already been established as monies available, which is almost \$24,000 for bus transportation and \$38,000 for reductions in chargebacks, then some other items in the budget that include some salary savings in certain accounts, such as the custodian that was listed in 07 but was reduced in 06. Is this where the budget stands? Mr. Oliveira responded that the custodian was actually in the \$38,000 figure with the fuel and heat. \$13,000 has been taken out for the custodian at the Intermediate School. Last year, \$10,000 was in that line item and was not paid to the Region. This year it is \$13,000. It appears to be a negative number on the budget, yet it was moved to the general salary account. There is no additional \$13,000 in the budget for the custodian. Dr. Furtado stated that though it may be shown this way, the amount is only for half the custodian's salary since the rest is being paid out of ComRec for the pool custodian. This will be moved along with the bus amount. Chairman LaCamera expressed the fact it had been agreed that the custodian would not be in the budget the last time this matter was discussed; also the calculation of the chargebacks was discussed. The custodian should have been completely removed since it does not have anything to do with the chargebacks. Also, why is the custodian being shown for only \$8000 in 07? Mr. Oliveira responded that he understood what was being said, however, that may not have been the process that was followed. The custodian was not taken out first. Now the custodian will be taken out and the meter calculated for the amount of fuel that is used so that all pool costs will be taken out of the budget. What is left will be spread across ComRec and the other groups that use the building. The total custodial cost against the other programs is \$13,000. The custodian was allocated against all the programs in the school and when that was done, the custodial budget was reduced.

Chairman LaCamera stated that the rental income from the Collaborative was included in the previous budget but not the new one. Dr. Furtado explained that the GRAIS budget was

adjusted to zero, presuming that money would be received from the Southcoast Collaborative and it would at least equal, if not exceed Lakeville's share. A revolving account needs to be established in the amount of \$24,000 to offset those costs. It was also learned early in the day that there is an unanticipated early retirement taking place. There may be some savings in salary accounts and it may be that the needed amount is about 88-90% close. No one wants to take away services from the students. Dr. Furtado stated that he would like to request that on October 10th, the will of the people will be found out. If there is a way to make decreases without hurting the students, then that will be done.

Chairman LaCamera stated that he felt it was up to the School Committee to decide what position they would like to take. The almost \$24,000 from the bus account will not hurt the school system and there are other areas in the budget like some salary accounts that did not need as much as was budgeted. It is known that there are other areas that the School Department would like to address and with the figures that are now known, this may be able to take place. Mr. Oliveira stated that he would go with the recommendation of the Superintendent. Dr. Furtado recommended that it be immediately identified, two items, the school bus and the custodian. The School Department is grappling with the AYP (Adequate Yearly Progress) and the impact of this for the students should be conveyed to the public. Direction is being sought from the School Committee for how the GRAIS and Assawompset School principals will address the AYP, losing Title I income and addressing the needs of the fifth grade. No one wants to be back next year talking in front of the press of why GRAIS did not make AYP for the third consecutive year. Thus, on the 10th it can be identified as the funding for the regional bus, the funding for the custodian and any additional funding from the salary accounts, and we should pray for a warm winter.

Ms. Weeks-Green asked if the \$46,000 reduction was acceptable to the Superintendent? Dr. Furtado responded that it is not acceptable, however, if the townspeople say that the budget needs to be reduced by that amount, then the cuts that the School Committee has identified as having the least impact to students will be done. The Regional School Committee has not discussed chargebacks yet. The bus is governed by State regulations and that funding should not have been included in the budget. It should have been examined and discussed by the Region. Ms. Weeks-Green responded that she understood what the Superintendent was saying, however not as much research is done with the School Department as is done for the Town side with its departments and salary accounts for Town Meeting. The people vote on a number that is on the budget and the commitment that is made to maintain the best services that can take place for the Town and its schools. The Superintendent should be prepared to do an in-depth presentation and include addressing the AYP deficiencies so that the full picture of the school system is understood.

Dr. Furtado explained that since the Intermediate School opened with the chargeback formula, it has been struggle to determine the appropriate formula. On a day to day basis, more is learned about how to arrive at a specific formula. Over the past few weeks the transportation issue has been addressed. It all has been a long learning curve. Now, approximately \$36-37,000 has been identified through changes with the budget and chargebacks, and if that amount was known before, it would have been placed somewhere else, such as the fourth grade. However, the costs have been identified as belonging to the Lakeville budget. Chairman LaCamera

mentioned that the chargebacks do not have an effect on the Assawompset budget. Ms. Garbitt mentioned that looking at the new budget, the one that has been prepared for the Town Meeting, it shows that there is still at least \$50,000 available to address the AYP needs. Discussion took place for further clarification of the school budget. Mr. Oliveira explained that there were favorable accounts and unfavorable accounts when the budget was revised; the net of the shortages and overages was \$6500 on the favorable side. It is felt that another \$18,000 is needed to address the AYP needs and other needs of the schools.

Chairman LaCamera stated that looking at the total budget that was approved at the Annual Town Meeting; it appears that there is more money in the budget to spend than was approved at Town Meeting. The Town is not taking any money, there is actually more available to spend. Reducing the bus and the custodian line items do not impact the Assawompset budget. Mr. Oliveira responded that it may appear that way; however, there is not \$69,000 more than was planned on being spent. The memo outlines how it is being suggested to use the funds. Further, the School Committee provides a number for the budget in April, and then attempts to work within that amount. If the townspeople say on the 10th that they do not want to cut the amount that had been approved, then the School Department will do what it needs to do with it. Otherwise, what can be done in the least painful way to the students will be done. Mr. Oliveira explained that further review will need to be done at the School Committee meeting on Wednesday, October 4th.

Chairman LaCamera asked again if the School Committee was in agreement with what was being proposed? Mr. Gordon Goodfellow asked what the bottom line was? Mr. Oliveira stated that he has never supported a reduction in education, and the items that have been identified have never been a part of the educational programming. The School Committee does not ask the Town for funds that it does not need. He added that he was in support of what was being proposed. Ms. Gomes responded that she was in agreement to the non-educational items. It is also important though for the Finance Committee and Selectmen to hear that there are items that the school system needs to address, and they will be taken into consideration when the FY08 budget is being built. Ms. Carboni explained that this has all been a difficult exercise for herself and her colleagues to go through. To look at the school budget it may appear that educational items are not being touched, yet educational lines are being touched and that needs to be made very clear on Town Meeting floor. She added that she would support the recommendation of the Superintendent. Ms. Shea stated that though education itself is not being touched, \$46,000 is needed by the Town and the whole amount is being turned over. Since it was not taking away any of the educational programming for the students, she was in support of it.

Ms. Garbitt mentioned that the \$66,000 Special Education out-of-district shortfall had not been known either. Ms. Shea mentioned that additional vocational education monies were also found. Chairman LaCamera stated that that money helped everyone. Mr. Mansfield stated that if these cuts had impacted education, he would be against it. Assawompset School is hard pressed, but this amount is not affecting them beyond the level that they budgeted. Mr. Velez asked if it was still the assumption that the \$11,000 come from stabilization? Chairman LaCamera responded that it would not be, there was the savings of the custodian. Ms. Weeks-Green stated that she would like the School Committee and the Superintendent to take a very active roll in educating the community of the needs of the elementary school program so that

when the next budget comes about, it will not be a shock since there are items that need to be addressed even though these are trying budget times.

Upon a motion made by Ms. Weeks-Green; seconded by Mr. Mansfield it was:

VOTED: To reduce the current appropriation by \$46,000
Unanimous in favor

Mr. Gordon Goodfellow asked what the total amount for Article 1 was? Ms. Garbitt responded that it was about \$153,415.00 in actual reductions, yet a sheet would be provided about the figures.

Chairman LaCamera stated that money is being taken from stabilization for a couple of one time purchases. There will be transfers taking place with other accounts as well. The landfill account has been reduced by \$10,000, there has been a reduction in out-of-district vocational education tuitions of \$27,000, \$25,000 from stabilization for equipment, painting and software, \$20,000 is available from the Master Plan account since that process has been completed, but then there is the additional \$66,000 for out-of-district Special Education costs. Finally, there is the \$46,000 from the local school district which is not affecting their budget.

Chairman LaCamera said since the meeting that took place on September 21st, much has taken place and it was a very productive meeting. Mr. Velez will now be looking to determine further information that should help out everyone. A spreadsheet has been put together regarding the chargebacks, how they are affected and how they are allocated by the appropriate groups as the number of people is recalculated. The chargebacks are still a work in progress. This has been an issue prior to the present Superintendent. An agreement needs to take place over the next few months from the Regional School Committee regarding the busing. Then that issue can be set aside once and for all. Then the chargebacks need to be analyzed by either everyone or a subcommittee of the groups so that an agreement can also be put into place regarding the chargebacks. What will take place between the Region, the local School, the Town and how it will work, how it will be calculated so that it is clear to everyone from year to year. This needs to definitely be resolved. The Town has put a process in place for its budget and it has worked out fairly well over the years. The methodology that is used with the Department Heads when they look at their budget each year is that they act as if they are starting from scratch of what they need and might take place. Some departments are better at monitoring their budget than others. It is an ongoing process. The Town has to be run like a business with all its costs taken into consideration, health insurance, pension, fuel, etc. Many are moving targets and need to be monitored constantly.

Chairman LaCamera stated that the Town of Lakeville voted to invest \$15 million dollars for the new Intermediate School and the goal was to use it. He felt that the costs to house just the fourth grade show that its time to look at having two elementary schools, adding grades K-3 to GRAIS. The building is presently under utilized. It may be found that Kindergarten through Grade Four (4) can be placed in both schools. Ms. Hunter stated that the School Committee will be provided draft budgets for that very purpose at their meeting on Wednesday night.

Article 2: To see if the Town will vote to raise, appropriate and/or transfer from available funds the sum of Sixty-Six Thousand Dollars (\$66,000.00) to cover the increased cost of out-of-district special education student tuition, or take any action relative thereto.

Lakeville School Committee

Chairman LaCamera explained that Article 2 will be included on Article 1.

Article 3: To see if the Town will vote to raise, appropriate and/or transfer from available funds the sum of Fifteen Thousand Dollars (\$15,000.00) to cover the cost of the purchase of a steamer for Assawompset's cafeteria, or take any action relative thereto.

Lakeville School Committee

The Finance Committee was in approval of the funds to be taken from the Stabilization Account.

Article 4: To see if the Town will vote to accept under the provisions of General Laws, Chapter 90, Section 34 (2) (a), an apportionment of Chapter 122, Acts of 2006, in the amount of One Hundred Three Thousand Three Hundred Ninety Seven Dollars (\$103,397.00), or take any action relative thereto.

Highway Surveyor

Chairman LaCamera read Article 4. He stated that funds are from Chapter 90 for road construction, and the Town will accept the funds. The Finance Committee was in approval of accepting the funds.

Article 5: To see if the Town will vote to rescind the vote on Article 17 of the Annual Town Meeting of June 17, 2002 which accepted the provisions of MGL Chapter 32, Section 89B in its entirety; which would provide a yearly income for the dependent spouses and children of call firefighters, and reserve, intermittent, or special policemen who are killed in the line of duty based on the annual rate of compensation payable to a first year regular or permanent member of the police or fire department, or take any action relative thereto.

Board of Selectmen

Chairman LaCamera read Article 5. He explained that a new law has been passed to protect the spouses and families of call-firefighters that are killed in the line of duty. The Town had actually put something in place for this purpose in 2002 which will now change over to what the State has initiated in June 2006. It is actually better coverage. The Finance Committee was in approval of rescinding the vote.

Article 6: To see if the Town will vote to amend the Zoning By-Law by adding "The Residences at Lakeville Station Smart Growth Overlay District (SGOD)" as new item 3.1.9 to the list of use districts within the existing Section 3.1; and by adding the following new Section 7.7, or take any other action relative thereto:

7.7 THE RESIDENCES AT LAKEVILLE STATION SMART GROWTH OVERLAY DISTRICT

7.7.1 Purpose

The purpose of this Section 7.7 is to establish The Residences at Lakeville Station Smart Growth Overlay District, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R.

Other objectives of this section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. Provide for a range of housing not presently available in the Town that would provide housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning;
7. Enable the Town to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G.L. c.40R; 760 CMR 59.06.

7.7.2 Definitions

For purposes of this Section 7.7, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 7.7.2, or as set forth in the PAA Regulations. To the extent that there is any conflict between the definitions set forth in Section 7.7.2 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

Administering Agency: the local housing authority or other qualified housing entity designated by the Plan Approval Authority (“PAA”) pursuant to Section 7.6.2 to review and implement the Affordability requirements affecting Projects under Section 7.6.

Affordable Homeownership Unit: an Affordable Housing unit required to be sold to an Eligible Household.

Affordable Housing: housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction: a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 7.5 of this Bylaw.

Affordable Rental Unit: an Affordable Housing unit required to be rented to an Eligible Household.

Applicant: the individual or entity that submits a Project for Plan Approval.

As-of-right: a use allowed under Section 7.7.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 7.7.9 through 7.7.13 shall be considered an As-of-right Project.

Department or DHCD: the Massachusetts Department of Housing and Community Development.

Developable Land: all land within the SGOD that can feasibly be developed into residential or mixed-use development. This does not include: 1) Future Open Space; 2) rights-of-way of existing public streets, ways, and transit lines; 3) land currently in use for governmental functions (except to the extent that such land qualifies as Underutilized Land); or 4) areas exceeding one-half acre of contiguous land that are (a) protected wetland resources under federal, state, or local laws, (b) rare species habitat designated under federal or state law; or (c) characterized by steep slopes with an average gradient of at least 15%.

Eligible Household: an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Enabling Laws: G.L. Chapter 40R and 760 CMR 59.00.

Future Open Space: those areas within this SGOD that the Town of Lakeville may designate or require to be identified and designated to be set aside in the future as dedicated perpetual Open Space through the use of a conservation restriction (as defined in M.G.L. c. 184 Section 31 or other effective means), consistent with the Town's Open Space Plan. Such Future Open Space shall not exceed ten percent (10%) of Developable Land area.

PAA Regulations: the rules and regulations of the PAA adopted pursuant to Section 7.9.3.

Plan Approval: standards and procedures which Projects in the SGOD must meet pursuant to Sections 7.7.9 through 7.7.13 and the Enabling Laws.

Plan Approval Authority (PAA): The local approval authority authorized under Section 7.7.9.2 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

Project: a Residential Project Development Project undertaken within the SGOD in accordance with the requirements of this Section 7.7.

Public Open Space: open space that is accessible to and available to the public on a regular basis, whether owned by the Town of Lakeville or other public or private entity.

Residential Project: - a Project that consists solely of residential, parking, and accessory uses, as further defined in Section 7.7.5.1.

SGOD: the Smart Growth Overlay District established in accordance with this Section 7.7.

7.7.3 Overlay District

7.7.3.1 Establishment

The Residences at Lakeville Station Smart Growth Overlay District, hereinafter referred to as the “SGOD,” is an overlay district having a land area of approximately 11 acres in size, being Assessor’s Parcels 62-3-7A, 62-3-7B, 62-3-7G, 62-3-10I, and 62-3-10J, that is superimposed over the underlying zoning district and is shown on the Zoning Map as set forth on the map entitled “Town of Lakeville Smart Growth Zoning Overlay District (C.40R)”, dated August 7, 2006, prepared by Southeastern Regional Planning and Economic Development District (SRPEDD). This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk.

7.7.3.2 Underlying Zoning

The SGOD is an overlay district superimposed on the underlying zoning districts. Upon the issuance of a building permit for any Project approved in accordance with Section 7.7, the provisions of the underlying district shall no longer be applicable to the land shown on the site plan submitted for such Project pursuant to Section 7.7.10.

7.7.4 APPLICABILITY OF SGOD

7.7.4.1 Applicability of SGOD

An applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Enabling Laws and this Section 7.7, including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

7.7.4.2 Administration, Enforcement, and Appeals

The provisions of this Section 7.7 shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 9 through 13 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section 7 shall be governed by the applicable provisions of G. L. Chapter 40A.

7.7.5 Permitted Uses

The following uses are permitted as-of-right by Plan Approval for Projects within the SGOD.

7.7.5.1 Residential Projects

A Residential Project within the SGOD may include:

- a) Two-family, Three-family, Multi-family Residential use(s);
- b) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
- c) Accessory uses customarily incidental to any of the above permitted uses.

7.7.5.2 Other Uses

Any of the following non-residential uses may be permitted by special permit:

- (a) **Neighborhood Businesses** Small-scale (a maximum of 20,000 square feet of gross floor area per building) retail, service, and office uses that are compatible with residential uses and are intended to serve commuters and local residential populations within the SGOD. Examples include, but are not limited to: news stand, grocery or specialty food store, bakery, delicatessen, coffee shop, restaurant, bank, hairdresser, barber shop, launderette or dry cleaners (dry cleaning performed off-site), tailor, health club or exercise facility, video/DVD rentals and sales, shoe repair, drug store, florist, liquor store, gift shop or specialty retail, hardware store, home goods and furnishings, personal care items, medical/professional/ small business offices (up to ten (10) employees), and home occupations.
- (b) **Future Open Space**

7.7.5.4 Prohibited Uses

Filling Stations

7.7.6 HOUSING AND HOUSING AFFORDABILITY

7.7.6.1 Number of Affordable Housing Units

For all Projects, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. Twenty –five (25%) of rental dwelling units constructed in a rental

Project must be Affordable Rental Units. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

7.7.6.2 Administering Agency

An administering agency which may be the local housing authority or other qualified housing entity (the “Administering Agency”) shall be designated by the PAA (the “designating official”). In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Administering Agency shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGOD, and on a continuing basis thereafter, as the case may be:

- a) prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- b) income eligibility of households applying for Affordable Housing is properly and reliably determined;
- c) the housing marketing and resident selection plan conform to all requirements and are properly administered;
- d) sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
- e) Affordable Housing Restrictions meeting the requirements of this section are recorded with the Plymouth County Registry of Deeds.

7.7.6.3 Submission Requirements

As part of any application for Plan Approval for a Project within the SGOD submitted under Sections 7.7.9 through 7.7.13, the Applicant must submit the following documents to the PAA and the Administering Agency:

- a) a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly;
- b) evidence that the Project complies with the cost and eligibility requirements of Section 7.7.6.4;
- c) Project plans that demonstrate compliance with the requirements of this Section 7.7.6.3 and Section 7.7.6.5; and
- d) a form of Affordable Housing Restriction that satisfies the requirements of Section 7.7.6.6.

These documents in combination, to be submitted with an application for Plan Approval (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

7.7.6.4 Cost and Eligibility Requirements

Affordable Housing shall comply with the following requirements:

- a). Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- b). For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
- c). For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
- d). Prior to the granting of any Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Lakeville.

7.7.6.5 Design and Construction

Units of Affordable Housing shall be finished housing units and shall be distributed throughout the Project of which they are a part. Units of Affordable Housing shall be indistinguishable from the market rate units on the exterior and shall contain comparable base fixtures. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

7.7.6.6 Affordable Housing Restriction

Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

- a) specification of the term of the affordable housing restriction which shall be the maximum period allowed by law but no less than thirty (30) years;
- b) the name and address of the Administering Agency with a designation of its power to monitor and enforce the affordable housing restriction;

- c) a description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification;
- d) reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
- e) a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
- f) reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
- g) designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;
- h) a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Administering Agency;
- i) provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Administering Agency;
- j) provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
- k) provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Administering Agency and the Town, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
- l) provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Administering Agency, in a form specified by that agency certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and

- m) a requirement that residents in Affordable Housing provide such information as the Administering Agency may reasonably request in order to ensure affordability.

7.7.6.7 Costs of Housing Marketing and Selection Plan

The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. Such payment shall not exceed one-half (1/2%) percent of the amount of rents of Affordable Rental Units (payable annually) or one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable.

7.7.6.8 Age Restrictions

Nothing in this Section 7.7 shall permit the imposition of restrictions on age upon all Projects throughout the entire SGOD. However, the Administering Agency may, in its review of a submission under Section 7.7.6.3, allow a specific Project within the SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

7.7.6.9 Phasing

For any Project that is approved and developed in phases in accordance with Section 7.7.9.4, the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as defined in 760 CMR 59.04 1(h)) shall be consistent across all phases.

7.7.6.10 No Waiver

Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 7.7.6.0 shall not be waived.

7.7.7 Density and Dimensional Requirements

7.7.7.1 Densities

Notwithstanding anything to the contrary in this Zoning Bylaw, the density requirements applicable in the SGOD are as follows:

- (a) For single-family residential:
at least 8 dwelling units per acre of Developable Land;
- (b) For two-family and/or three-family residential:

at least 12 dwelling units per acre of Developable Land;

- c) For multi-family residential:
at least 20 units per acre of Developable Land.

Where a Project involves an entire block or multiple contiguous blocks, minimum densities shall be calculated on the development of the area as a whole.

7.7.7.2 Dimensional Requirements

Minimum Lot Area:

Single Family Residential	5,000 sq.ft.
Two/Three Family Residential	7,000 sq.ft.
Multi Family Residential Use	40,000 sq.ft.
Neighborhood Business	40,000 sq.ft.

Minimum Lot Frontage:

Single Family Residential	50 feet
Two/Three Family Residential	50 feet
Multi Family Residential Use	100 feet
Neighborhood Business	100 feet

Building Height:

Minimum All Uses:	1.5 stories (18 ft.)
Maximum All Uses:	3 stories (55 ft.)

Minimum Setbacks:

Front Yard Residential:	20 ft.
Neighborhood Business:	0 ft.

Side Yard Residential:	20 ft.
Neighborhood Business:	0 ft.
Rear Yard All Uses:	20 ft.

Maximum Setbacks:

Front Yard All Uses:	40 ft.
----------------------	--------

Maximum Lot Coverage:

Single Family Residential:	30 %
Two/Three Family Residential	40 %
Multi Family Residential	50 %

Neighborhood Business:

75 %

7.7.7.3 Notes for Dimensional Requirements

a) **Building Height**

Height shall be measured from average grade to the cornice line of the roof. Accessory Rooftop Elements shall not be included in the calculation of height, but shall be restricted as to their location on the roof and may need to be screened so as to limit their visual impact. Accessory structures in side or rear yards, are permitted to be only one (1) story in height.

b) **Front Yard Setbacks**

Front yard setbacks shall be measured from the street frontage line to the primary façade, excluding front steps or stoops, porches, bay windows, enclosed main entrances, or other projecting elements. (Note, however, that no projecting element on any building may extend over a property line to intrude onto a public sidewalk.) Where a Neighborhood Business building is located at an intersection and may be considered to have more than one primary façade, then each primary facade may utilize a front yard setback.

c) **Side Yard Setbacks**

The 5-foot minimum side yard setback may only be applied to detached residential buildings with three (3) or fewer units, and is intended to encourage the off-center siting of a house within its lot, resulting in substantial outdoor space where a porch and/or landscaped yard may be provided (in addition to a driveway); and also resulting in a visually varied streetscape.

d) **Accessory Uses**

Uses accessory to a permitted principal use are permitted on the same premises, provided that no accessory building may be located in a required front, side, or rear yard setback area.

1. Front yards may not be used for parking, regardless of the principal use of the building.
2. Front, side, or rear yards of Neighborhood Business buildings may be used as seasonal outdoor seating areas for businesses, provided that such areas are regularly cleaned and maintained, with trash removed on a daily basis. Seasonal outdoor seating areas may be installed during warm weather months. All related temporary furnishings and fixtures, including but not limited to tables, chairs, umbrellas, light fixtures, freestanding signs and menu boards, etc., shall be stored indoors off season; however any

fencing, bollards, planters, or other means of delineating the boundaries of such outdoor seating areas may remain in place permanently.

3. All accessory buildings, including storage sheds, studios, greenhouses, workshops, etc., shall be located at the side or rear of a building, preferably out of view from the street.

7.7.8 Parking Requirements

The parking requirements applicable for Projects within the SGOD are as follows.

7.7.8.1 Number of parking spaces

Unless otherwise approved by the PAA, the following minimum numbers of off-street parking spaces shall be provided by use, either in surface parking, within garages or other structures, or on-street:

- a) **Residential Uses:** 1 to 2 spaces per dwelling unit.
- b) **Non-Residential Uses:** A 20% reduction in required spaces may be permitted when the applicant submits information on peak times by use, confirming that uses are compatible relative to parking demand. On street parking in front of a building may be utilized to help fulfill this requirement.
- c) **Barrier-Free Access:** For multi-family residential and non-residential uses, provide a minimum of one handicapped accessible parking space per establishment and/or use, up to a maximum of ten percent (10%), inclusive, of total parking required. Handicapped accessible spaces may be located on-street or off-street, and in any case shall be located no further than 50 feet from any accessible entrance and be clearly marked, with a safe and accessible means of access/egress.
- d) **On-Street Parking:** On-street parking is not generally available in the SGOD.
- e) **Off-Street Parking:** Off-street parking as an accessory use shall only be provided at the sides or the rear of a building. Residential parking should be clearly marked or separated from non-residential parking. Surface parking lots and/or private garages may be provided for all uses. For multi-family and non-residential uses, pedestrian connections shall be provided from all side or rear parking facilities to the front of the building. Where a parking facility is located behind and serves multiple adjacent buildings, pedestrian connections to the street shall be provided at regular (maximum 400 foot) intervals between buildings.

The PAA may allow for additional visitor parking spaces beyond the two (2) maximum spaces per unit if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in the required parking as provided in Sections 7.8.2 and 7.8.3 below.

7.7.8.2 Shared Parking

Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

7.7.8.3 Reduction in parking requirements

Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process, if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

- a) the availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
- b) the availability of public or commercial parking facilities in the vicinity of the use being served;
- c) shared use of off-street parking spaces serving other uses having peak user demands at different times;
- d) age or other occupancy restrictions which are likely to result in a lower level of auto usage;
- e) impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
- f) such other factors as may be considered by the PAA.

7.7.8.4 Location of Parking

Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

7.7.9 Plan Approval of Projects: General Provisions

7.7.9.1 Plan Approval

An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 7.7.9 through 7.7.13. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

7.7.9.2 Plan Approval Authority (PAA)

The Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

7.7.9.3 PAA Regulations

The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development.

7.7.9.4 Project Phasing

An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full build out of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the provisions of Section 7.7.6.9.

7.7.10 Plan Approval Procedures

7.7.10.1 Pre-application

Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to help guide the development of the definitive submission for Project build out and individual elements thereof. Such Concept Plan should reflect the following:

- a) Overall building envelope areas;
- b) Open space and natural resource areas; and
- c) General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the requirements of the SGOD.

7.7.10.2 Required Submittals

An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fee(s) which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 7.7.6, the application shall be accompanied by all materials required under Section 7.7.6.3. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA.

7.7.10.3 Filing

An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.

7.7.10.4 Circulation to Other Boards

Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Board of Appeals, Building Commissioner, Board of Health, Conservation Commission, Fire Department, Police Department, Highway Department, the Administering Agency (for any Project subject to the Affordability requirements of Section 7.7.6), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide

any written comments within 60 days of its receipt of a copy of the plan and application for approval.

7.7.10.5 Hearing

The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

7.7.10.6 Peer Review

The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review shall be returned to the applicant forthwith.

7.7.11 Plan Approval Decisions

7.7.11.1 Plan Approval

Plan Approval shall be granted where the PAA finds that:

- a) the Applicant has submitted the required fees and information as set forth in the PAA Regulations; and
- b) the Project as described in the application meets all of the requirements and

standards set forth in this Section 7.7 and the PAA Regulations, or a waiver has been granted there from; and

- c) any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 7.7.6., compliance with condition (2) above shall include written confirmation by the Administering Agency that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 7.7, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

7.7.11.2 Plan Disapproval

A Plan Approval application may be disapproved only where the PAA finds that:

- a) the Applicant has not submitted the required fees and information as set forth in the Regulations; or
- b) the Project as described in the application does not meet all of the requirements and standards set forth in this Section 7.7 and the PAA Regulations, or that a requested waiver there from has not been granted; or
- c) it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

7.7.11.3 Waivers

Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 7.7.7.2 in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGOD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section 7.7.

7.7.11.4 Project Phasing

The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.

7.7.11.5 Form of Decision

The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk

without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

7.7.11.6 Validity of Decision

A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two (2) years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

7.7.12 Change in Plans After Approval by PAA

7.7.12.1 Minor Change

After Plan Approval, an Applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall build out or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk.

7.7.12.2 Major Change

Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 7.7.9 - through 7.7.13.

7.7.12.3 As-Built Plans

Prior to the issuance of any occupancy permits, the Applicant shall submit “as built” plans to the PAA, the PAA’s consulting engineer and the Lakeville Building Commissioner to confirm that the Project has been constructed in substantial conformity with the prior approved plan and that the Applicant has complied with the conditions stated in this Section and in the Plan Approval.

7.7.13 Severability

If any provision of this Section 7 is found to be invalid by a court of competent jurisdiction, the remainder of Section 7 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 7 shall not affect the validity of the remainder of the Town's Zoning Bylaw.

Planning Board

Chairman LaCamera read Article 6. He explained that the development that will be taking place at the Lakeville T-Station which is a 200 unit combination of apartments and condominiums. It has been changed from a 40B to a 40R since the Town will be able to receive a significant amount of money from the state by having this type of project. The Town will receive \$962,000 in incentives for this Smart growth Overlay District and then there will be an additional \$300,000 from the Developer for mitigation purposes. The Town submitted the application for the 40R on September 22nd and a letter has been received from DHCD (Department of Housing and Community Development) regarding their review of the project. The project meets all requirements necessary. The Town will receive the first \$350,000 after the Town Meeting and will get a letter of approval from the State. When the Building Permits are taken out the Town will receive \$3000 per unit. Ms. Garbitt stated that the Planning Board has voted to recommend Article 6.

Article 7: To see if the Town will vote to amend the Zoning By-Law (by adding a new Section 3.2.8 which identifies the location of "The Residences at Lakeville Station Smart Growth Overlay District), and Zoning Map by placing the parcels of land comprised of approximately 10.87 acres, more or less, and shown on Lakeville Assessor's Maps as Parcels 62-3-7A, 62-3-7B, 62-3-7G, 62-3-10I, and 62-3-10J within the newly-created "The Residences at Lakeville Station Smart Growth Overlay District", or take any other action relative thereto. Planning Board

Chairman LaCamera read Article 7. Ms. Garbitt stated that the Planning Board has voted to recommend Article 7.

Article 8: To see if the Town will vote to amend the official Zoning Map by changing the business zoning distance for the property as described below from now current 200 foot depth as measured from the front of the properties bordering Main Street (Route 105), to the limits as shown on a plan entitled "Plan Showing Area To Be Rezoned from Residential to Business District" dated August 15, 2006 prepared by Prime Engineering, Inc. (a portion of the 10.6 acres contained in Assessor's Map 62, Block 4, Lot 2 currently owned by Pauline Leonard), further described as follows:

Beginning at the southwest corner of land now or formerly Robert H. & Lorraine Sampson (Map 62-Block 4-Lot 7) situated SOUTH 14°-02'20" WEST 161.30 feet from the southerly sideline of Rhode Island Road, a/k/a Route 79;

Thence SOUTH 75°-57'-40" EAST, by last named land and land now or formerly of William E. & Geraldine Cox, 91.95 feet to northerly end of the present BUSINESS DISTRICT line;

Thence SOUTH 32°-44'-55" WEST by said DISTRICT, 79.49 feet;

Thence SOUTHERLY by said DISTRICT along the arc of a curve deflecting to the left, having a radius of 1,230.00 feet and a central angle of 09°-43'-43", a distance of 208.85 feet;

Thence NORTH 84°-18'-29" WEST by said DISTRICT, 276.16 feet to a point;

Thence SOUTH 04°-11'-32" EAST again by said DISTRICT, 75.00 feet to land now or formerly of Roger L. & Doris M. Quelle (Map 62—Block 4-Lot 1);

Thence SOUTH 04°-11'-32" EAST by said Quelle land, 156.00 feet to the northeasterly end of another BUSINESS DISTRICT line);

Thence SOUTH 63°-05'-29" WEST by said DISTRICT, 168.27 feet to land now or formerly of Lakeville Hospital Realty LLC;

Thence NORTH 19°-55'-50" WEST by said Lakeville Hospital Realty land, 431.36 feet to the southwest corner of land now or formerly of Ellen A. Richmond, Trustee;

Thence NORTH 85°-48'-28" EAST by said Richmond land, 72.07 feet;

All Local School Committee members were present for the discussion on the article, including the Superintendent of Schools. (Charlene Shea, Lorraine Carboni, Carolyn Gomes, David Goodfellow, Philip Oliveira and Dr. Stephen Furtado)

Thence NORTH 04°-11'-32" WEST by said Richmond land, 160.00 feet to the southwest of land now or formerly of Thor & Nicole J. Kakar;

Thence NORTH 85°-48'-28" EAST by said Kakar land, 160.00 feet;

Thence NORTH 78°-49'-42" EAST by said Kakar land, 40.30 feet to the southwest corner of land now or formerly of Karen E. Anthony;

Thence NORTH 85°-48'-28" EAST by said Anthony land, 140.00 feet to the southwest corner of land now or formerly of Bernice B. Ford;

Thence SOUTH 77°-06'-08" EAST by said Ford land and land now or formerly of Thomas R. & Marjorie L. Cleverly, 143.80 feet to a point;

Thence SOUTH 77°-06'-26" EAST 69.05 feet to the corners first mentioned and the place of beginning.

Said Parcel contains 218,737 S. F. or 5.022 Acres, more or less, and is shown as "Portion of Map 62, Block 4, Lot 2" on the plan entitled "Plan Showing Area to be Rezoned From Residential to Business District", dated: August 15, 2006, by Prime Engineering, Inc.

Being the same premises described in deed in the Plymouth County Registry of Deeds at Book 366, Page 212 and Book 368, Page 67. Also being shown on a plan entitled "Plan Showing Area to be Rezoned From Residential to Business District", August 15, 2006 prepared by Prime Engineering, Inc.

or take any action relative thereto:

Petition

Chairman LaCamera read Article 8. He stated that the Planning Board has voted to approve the request for the area next to the old Lakeville Hospital, across from the Jack Conway Real Estate office to be rezoned to all business rather than a mix of residential and business zoning. The Planning Board is in favor of this article. Ms. Garbitt mentioned that maps will be available at the Town Meeting for review by the residents.

You are directed to serve this warrant by posting an attested copy hereof fourteen days at least before the day appointed for a Special Town Meeting and seven days at least before the day appointed for the Annual Town Meeting at the following places: Town Office Building, Starr's Country Market, Neighbors Country Store, the Clark Shores Association Bulletin Board, Apponequet Regional High School, Lakeville Senior Center, and Assawompset School.

Hereof fail not and make return of this warrant with your doings hereon at the time and place of said meeting.

Given under our hands this 11th day of September, 2006.

Richard F. LaCamera; Nancy E. Yeatts; and Charles E. Evirs, Jr.
BOARD OF SELECTMEN

Vote to appoint members to Public Safety/Town Office Building Feasibility Study Committee

Chairman LaCamera explained that the Board needed to appoint members to the Public Safety/Town Office Building Feasibility Study Committee

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

VOTED: To appoint Mark Sorel, James Marot, Daniel Hopkins, Debra Kenney, Jay Catalano member-at-large, Rita Garbitt, Kevin St. George member-at-large, Janet Black, Cynthia McRae, Nancy Yeatts, David Morwick, and Charles E. Evirs, Jr. as members of the Public Safety/Town Office Building Feasibility Study Committee. The appointments will expire on July 31, 2007.
Unanimous in favor

Ms. Garbitt stated that she would like to schedule a meeting for the committee on either the 19th, 25th or 26th of October in order to discuss meeting with the consultant. The members will be emailed regarding the date that this will take place.

Request to use Old Town House – Apponequet Boosters

Chairman LaCamera read the letter from the Apponequet Boosters requesting use of the Old Town House for their annual Christmas tree sale. Ms. Craig stated that the dates being requested by the Apponequet Boosters were available.

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

VOTED: To allow the Apponequet Athletic Boosters Club to use the Old Town Hall for their annual Christmas Tree Sale on the following dates: December 9th, December 10th, December 16th and December 17th.
Unanimous in favor

Review ZBA petitions: Menzel, Zion and Lucas

Chairman LaCamera told the Board members there were three (3) ZBA petitions for review. The first petition was for Dana Menzel for the property located at 55 Loon Pond Road. The petitioner is looking to build a single family home on Lot 3 and then sell the lot. However, the lot does not meet minimum frontage or lot area requirements under the Zoning by-law, thus a variance is also being requested. The petitioner is also looking to amend the declaration of the restriction that was recorded in the Plymouth County Registry of Deeds. In 2001, the petitioner went before the ZBA to convert a seasonal residence into a year round residence. The ZBA approved the request but stipulated that Lots 1, 3 and 4 submitted on the site plan were to be combined as a deed restriction and not be sold separately. Chairman LaCamera stated that no modification of the ZBA decision should be granted. Selectman Evirs agreed. Selectman Yeatts added that the petitioner is trying to break the agreement that was put in place several years ago at their request. Mr. Marot mentioned that on the deeds of the land from the files that combine streets and lots, it shows that there is really no street in this area, thus there is no land area or frontage.

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

VOTED: To recommend denial of the petition, based on the ZBA's original decision in 2001 to combine the lots into one lot and to ask that the ZBA uphold their original recommendation.
Unanimous in favor

The Board then reviewed Scott Zion's petition for 101 Hackett Avenue. Chairman LaCamera stated that the petitioner is looking to construct a garage on a lot of land containing 7,500 square feet. The petitioner is also asking for a variance from a side line setback of 20' and a front yard setback of 40". There is also a large boulder located on the lot which makes the front yard setback variance necessary. Chairman LaCamera asked if Mr. Marot was asking that a survey be done on the property? Mr. Marot responded in the affirmative. A survey will show where the setbacks are on the lot. The petitioner will need permission granted for an engineer to determine the corners of the property, then the petition can be submitted. Lengthy discussion took place on

the petition for clarification purposes. Mr. Marot conveyed the fact that he was concerned about the size of the garage that was being requested to be built. The new garage will be closer to the sidelines than the house is. The Planning Board has also suggested that restrictions be placed on it so that the second floor can only be used for storage, however the plans show some type of recreational or living area. It is not known at this time if there will be water or heat for the building since those plans have not been submitted to the Town. This restriction can be recommended to be put in place since it is often done for garages by the ZBA.

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

VOTED: To recommend to the ZBA that the petition be approved and the variance is approved based on the Building Commissioners recommendation (both lots are to be combined) with the exception that the variance only pertain to the northerly side lot setback, not the southerly side lot setback. If it is deemed necessary to build a narrower building then a narrower building should be built. Also that the ZBA place a restriction on the building that no heat or water is to be installed.
Unanimous in favor

The Board reviewed the petition for Carol Lucas for 175 Main Street. Chairman LaCamera explained that the petitioner is looking to construct a farmer's porch on the front of the home and replace a deck in the rear with another deck. The petitioner is seeking a variance, which is an extension of a pre-existing non-conforming structure. The Board of Health has signed off on the building permit for the two decks and the repair to the home. Mr. Marot added that the reason the petition is before the Board is due to the fact that the size of the lot is less than 20,000 square feet. Adding the deck to the back of the building would be a nice modification to the structure.

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

VOTED: To recommend approval to the ZBA of the Lucas Petition for building a farmer's porch and a deck as per the Building Commissioners recommendation.
Unanimous in favor

Vote to approve Selectmen's minutes of September 25, 2006 (Planning Board hearing)

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

VOTED: To waive the reading of and approve the Selectmen's minutes of September 25, 2006 (Planning Board hearing) as presented.
Unanimous in favor

Any other business that may properly come before that meeting.

Ms. Garbitt stated that the Board of Selectmen need to vote to sign the deed for the sale of the last lot in the Industrial Park. Chairman LaCamera stated that the Town has been advised that they are ready to proceed with the closing of the lot. It is the last lot, and it is being purchased

for \$390,000. Chairman Garvey of the LDC (Lakeville Development Corporation) has signed the deed.

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

VOTED: To sign the deed for the sale of the Lot being purchased by FND, Inc. shown as "Remaining land of Lakeville Development Corp." and entitled "Plan of Land Kenneth W. Welch Drive, Lakeville, Massachusetts".
Unanimous in favor

Selectman Yeatts stated that she would like to officially announce the 5th Annual Betty's Neck extravaganza. This event will be held Saturday, Sunday and Monday (October 7-9). There will be many activities taking place during this three-day event. There will be a name the road contest. A grant has provided booklets and crayons for the children so that they will learn about conservation, etc.

Other Items

1. Letter from Paul Winberg
2. Plymouth County Advisory Board meeting minutes June 15, 2006
3. Notice from Bay State Gas regarding decrease in natural gas prices
4. Letter from Comcast

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

VOTED: To adjourn the Board of Selectmen's meeting at 9:00 PM.
Unanimous in favor.