

TOWN OF LAKEVILLE
Selectmen's Meeting Minutes
October 17, 2011 - 7:00 PM

On October 17, 2011, the Board of Selectmen held a meeting at 7:00 PM at the Town Office Building in Lakeville. The meeting was called to order by Chairman Olivier at 7:00 PM. Selectmen present were: Selectman Olivier, Selectman Belliveau and Selectman Maksy. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. Mark Burrridge from the Middleboro Gazette was present and James Cosgrove was also videotaping for Comcast.

7:00 PM Meet with State Representatives Keiko Orrall and Christopher Markey and Senator Michael Rodrigues

State Representatives Keiko Orrall and Christopher Markey and State Senator Michael Rodrigues were present for the discussion. Chairman Olivier spoke to the Legislators regarding the importance of the Ever Green Clause. Since there is no time frame, it allows contract negotiation matters to continue with no incentive for the unions to sit down and work out a contract. This is an important clause and should have a time frame. Senator Rodrigues stated that he has a meeting on Friday at the Lakeville Library with the Mass Municipal Association. From his understanding, there will be no changes, revisions or additions to Ever Green. It is subject to amendment debates and compromises. Selectman Maksy provided a copy of the SJC's Ever Green decision. It is out there, but the Supreme Court struck down a practice that had been in place for generations. Representative Orrall stated that she had attended the hearing. It was on a long list of bills that were to be discussed and after three (3) hours she had to leave. It is still sitting there in committee; it was not part of the House or Senate discussions. Representative Markey explained that the idea of having collective bargaining is to make sure that there is an equal playing field on both sides. The question is what is the practical effect of what we do. The Ever Green clause with no time frame is not a good thing, but if we do not have one, it puts unions in a weakened position. It may be even more costly for the Town to be involved in that type of negotiations. If negotiation goes on for years, then the Town may get stuck with retroactive pay that it cannot afford. It may take leverage away from the unions, but as a Representative, we need to make sure that the playing field is as level as it can be for everyone. Chairman Olivier stated that he felt that the playing field was not level and that it was in the unions' favor. There should be a time frame in place to make a decision. There should also be a mediator, where there is no question that they are being completely objective. It could also be the Selectmen that say that they will wait out the six (6) months. Representative Markey stated that you can pass the buck as an elected board, let the next guy will have to worry about it, but you need to be accountable. That is important to the taxpayer, that you make a decision. It is just as hard for a Selectman to say no to a firefighter, municipal worker or police officer. Selectman Maksy stated that a year is a reasonable time frame. Representative Markey stated that though he understands why the MMA wants to do it differently, it may not necessarily be the best thing for us.

Chairman Olivier said he was happy about receiving the 40S money. Senator Rodrigues said that the Town will have to thank Steve Canessa for that. This year there was a for the 40S appropriation, and the process should go easier once it becomes routine. There will also be

additional unrestricted State Aid for cities and towns. The controller will have the number certified by November 1st and available for communities if they are having a fall town meeting. It will be part of free cash for the FY11 budget. Also, in the supplemental budget, money was in there for reimbursement for the flooding costs from March 2010. The Governor had included money for the ice storm and other natural occurrences. \$2.8 million was provided to the communities that Senator Rodrigues serves. Lakeville's portion was \$33,000. There will be a process to go through for the Town to get their funds returned. The State has increased the Estimated Revenue Receipts, so the trend is \$460 million this year above estimates. The State put \$350 million back into the stabilization account and backfilled other accounts, so it is looking even better for next year.

Selectman Maksy asked about Expedited Permitting. This was a matter that had been discussed before. Why would a business even come to Massachusetts? Is the State going to address the issues with Natural Heritage and Mass Historical stopping projects. Senator Markey stated that there are potential growth and job getters coming over the next decade in areas such as life sciences and renewable energy. He understands Selectman Maksy's concerns with Natural Heritage. The allegations about turtles on properties have been heard at a hearing. They are working on this and trying to do something, but there is also a danger letting things take place in an expedited fashion. Selectman Maksy spoke about the earth removal project at the Ted Williams Camp. The ball field project was held up for a year and a half, and that is a facility that was given legislative approval for recreation. Senator Rodrigues shared Selectman Maksy's frustration. Expedited permitting was started in 2003. It is the old carrot on the stick. If you create a priority development area and guarantee that you can turn around all the permits in six (6) months, then we also will at the State level. The Massachusetts Environmental Protection Act process has been extremely streamlined. There is still a weak link with Mass Historical, but it seems that the rest of the permitting side is fine. That needs to be fixed. Natural Heritage is trickier, since that is a map and it is almost like a land taking. We have to get a better handle on streamlining that process.

Chairman Olivier stated that with what happened with Sysco, others will think twice about trying to come to Lakeville and start a business. That concerned him. The Lakeville Hospital site needs to be cleaned up to get the site in a more marketable condition. That is a prime spot near the highway and should be looked at. The State should help to clean it up. Representative Markey said we can try to make it more marketable by speeding up the permitting process at the State level, but at the end of the day; residents will still have to deal with a company there. The land will not be used for what every single person wants to see there. Senator Rodrigues said he has met with National Development regarding the site. This is their "black eye", since they are a prominent organization. The State is limited in what it can do. It is unconstitutional to go in and do anything on private property. The Town had an opportunity to buy it at auction. Selectman Maksy stated that the Town can still purchase it. It is zoned for stores, etc., mixed use, but with this economy no one wants it. It is simpler to build new than to use existing. Mr. Rodrigues agreed.

7:30 PM Discuss opening Town Offices five (5) days a week

Chairman Olivier explained that at the last meeting of the Board, they had voted to reach out to the Department Heads about how they would like to structure their hours for a five (5) day work week within their departments. Chairman Olivier stated that it appears that all Departments have come up with a schedule to work a half a day on Friday. Selectman Maksy read the letter from the Assessors into the record, which stated that they were not in favor of opening on Fridays. However, if the majority of the departments are open on Friday, the Assessors will cooperate by scheduling the newly hired clerk for ½ day on Fridays. However, the new clerk will be alone and unsupervised, which would raise security concerns. Their hours of operation to the public would remain the same, plus opening four (4) hours to the public on Friday. Selectman Maksy asked why would the Assessors put a new person in there alone on a Friday if they would have concerns. Chairman Olivier stated that it seems like the Assessors want to work Monday through Thursday and that is not cooperating.

Selectman Belliveau said that it seems that most of the Departments are not cooperating. A half day is four (4) hours, not three (3) hours. It was a compromise that was trying to be made between Department Heads and the Board of Selectmen for them to move towards working on Fridays. Chairman Olivier stated that the Board was asking for town services to be available five (5) days a week. The Building Commissioner asked if the building could be open only half a day on Fridays, and the Selectmen agreed. We asked Department Heads to go back and look at their schedules. The Selectmen are looking at the feedback right now. Selectman Belliveau stated that there will still be a majority of Town Departments working ten (10) hour shifts. Ms. Garbitt stated that the Board of Health is open a different schedule in order to get their hours in. Selectman Maksy stated that people need access to the Town Offices. If the Departments are only available to the public 32 hours during the day when people are at work, this does not help the general public. People are not stampeding the door to get in here at 8:30 AM. Ms. Garbitt stated that the Building Commissioner usually arrives at 7:30 AM to be available for contractors. Selectman Maksy stated that each Department has a special need for their particular hours, so, maybe the Board cannot set hours. One end of the building needs to be open earlier and the other open later. Selectman Belliveau stated that the Board asked for a schedule, and it does not appear that was provided. Selectman Maksy asked how they then disseminate who does what. The residents need accessibility to the Town Offices. Contractors need their permits early to work for the residents. Chairman Olivier responded that the contractor can adjust his schedule and not look for a permit on the day it is needed. Everyone just needs to plan. Further discussion took place on the topic by the Board Members, the Town Administrator and those present considering length of work hours, productivity and the necessary work getting accomplished.

A motion was made by Chairman Olivier, stepping down, then stepping back up and seconded by Selectman Belliveau to:

VOTE: Set the hours for the Town Office Building and the Assessors Building to be open from 8:00 AM to 4:30 pm Monday through Friday effective October 31, 2011.
Two in favor and one opposed.

8:00 PM Meet with Town Clerk to discuss voting machines

Janet Tracy, Town Clerk, was present for the discussion. Ms. Tracy reviewed the situation with the voting machines and the need to purchase new machines. There are companies that sell new or refurbished machines. The positives and drawbacks were considered regarding new vs. refurbished ballot tabulating systems. Ms. Tracy expressed the fact that she felt more comfortable in purchasing the refurbished machines from AccuVote.

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

VOTED: To approve the purchase of three (3) refurbished AccuVote machines in the amount of \$13,500.
Unanimous in favor.

After further consideration by the Board and input from Ms. Tracy, the Board decided to withdraw their motion and vote and allow Ms. Tracy to contact the Town of Freetown to discuss their surplus machines with them. She will then notify the Board of her preferences on Friday, October 21st.

8:15 PM Meet with Police Chief regarding request for an additional Police Officer; discuss request for appointment of Thomas Higginbotham as Special Officer; discuss request for appointment of Reserve Officers: Zachary Porter; Anthony Kearney; Daniel Varieka; Katie Farrell and Jared Bisio

Police Chief Frank Alvilhiera was present for the meeting. Chairman Olivier gave a brief synopsis of the staffing in the Police Department. There are presently thirteen (13) Police Officers and the Town is still short four (4) officers. The Police Chief is requesting another officer now since incidents have increased due to the poor economy. The time that seems to be most at risk is in the evening hours. It will cost approximately \$24,000 to hire someone now through the end of the fiscal year. Chief Alvilhiera stated that this is a step, not a solution. He will want someone that has been through the academy. The hope is to reduce some of the overtime in the Police Department and to cut as much as can be done to preserve the position going forward to the end of the fiscal year. It will definitely be a help having an extra person on at night.

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

VOTED: To approve the request for an additional Police Officer for the remainder of this budget/fiscal year.
Unanimous in favor.

Chief Alvilhiera stated that the Police Department actually lost one (1) officer to the State Police Academy. The Special Police Officer will be filling that position and that person would essentially be on detail work.

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

VOTED: To approve Thomas Higginbotham as Special Police Officer with a term to expire July 31, 2012.
Unanimous in favor.

Chief Alvilhiera then discussed Reserve Officers with the Board. They are different than Special and Police Officers. They will be to cover shifts, vacations and to provide supplemental patrols that are available.

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

VOTED: To appoint the following as Reserve Officers with an expiration date of July 31, 2012: Zachary Porter (contingent upon completion of Plymouth FT Academy); Anthony Kearney (contingent upon successful completion of PAT); Daniel Varieka, Katie Farrell and Jared Bisio (contingent upon completion of Reserve Academy and PAT).
Unanimous in favor.

Discuss Meeting at Mass DOT regarding the relocation of Route 79

Selectman Maksy abstained from the Mass Department of Transportation (DOT) discussion regarding the relocation of Route 79. Ms. Garbitt reviewed the letter dated May 11, 2011 from Bernard McCourt, District Highway Director. A copy of the letter was sent to Marcus Baptiste. Selectman Belliveau explained that they are dealing with the Verizon union, so their hands are tied. Selectman Belliveau stated that it was thought that Verizon had three (3) months of work left and Landers had 22 weeks of work to finish the road. The Town would be looking at early next fall for completion of the road. Middleborough Gas and Electric needs to re-locate the poles, and needs Verizon to move their wires. Then cable has to go in to do their work after Verizon is finished. It was suggested that the Board call a meeting and express concern over this delay. Ms. Garbitt suggested the November 7th meeting of the Selectmen. Ms. Garbitt said that DOT had tried to impress upon Verizon that there are essentially telephone poles out in the roadway and that is a safety hazard with winter coming up. Chief Alvilhiera said this is a DOT job, but the big hold up is Verizon.

Discuss Request for Proposal for Water Tower for Telecommunications Systems

Chairman Olivier stated that his only comment is that the Board reviews the proposal before it goes to Town Counsel. Ms. Garbitt responded that there is the possibility for five (5) locations on the water tower. It is not thought that a cat walk is needed. However, Camp, Dresser and McKee need to be consulted for technical assistance.

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

VOTED: To authorize Ms. Garbitt to prepare a Request for Proposals for the lease of space on the water tower for telecommunications systems and to provide it to the Board prior to it being submitted to Town Counsel for review.
Unanimous in favor.

Discuss GRAIS Agreement

Chairman Olivier stated that the recommendation is to use Model A for the Regional School District. Ms. Garbitt distributed information about Model A, which would consist of three (3) Kindergarten through Grade 5 schools (Assawompset, GRAIS and Freetown Elementary School). Discussion occurred about the student numbers for Freetown. Chairman Olivier asked if Freetown wants to amend the agreement, should the Board say to let it stand. Selectman Maksy stated that the GRAIS agreement stands as it stands. Chairman Olivier stated that the clock had run out this year, through no fault of the Selectmen. Discussion occurred regarding the special legislation that could be required for the upcoming election of the Regional School Committee.

Review Subdivision Plan for Honey Bee Farm (Gillian Drive) submitted by Donald & Betty Bissonnette

Ms. Garbitt stated that this is the first step for the Honey Bee Farm subdivision. They must submit their plan to various Boards/Committees prior to meeting with the Planning Board. Discussion then took place on the plan. Selectman Maksy pointed out that it is a newly created lot. The only comment the Selectman had was regarding the upland circle on Lot 6.

Revisit SRPEDD FY12 Municipal Assistance Hours request

Ms. Garbitt stated that a request was sent to the Planning Board to use their planning hours with the Selectmen's hours for Development Planning and Expedited Permitting. The Planning Board approved 15 of their 20 hours for the Selectmen's use, since they want to use five (5) of their hours. Middleborough has a Development Opportunities District, and the Planning Board would like to work with SRPEDD on one for Lakeville. Ms. Grubb mentioned that there are other places for an overlay district where the Town could allow things to go in with a little more control than just zoning it industrial. Discussion took place on options for the Town. SRPEDD will not recommend where the zone should be located, but they will assist the Town and give direction.

Request for Temporary Storage Trailer Permit renewal-Fern Avenue-Morse Sand and Gravel

Chairman Olivier reviewed the application for the renewal of the Temporary Storage Trailer Permit at 10 Fern Avenue for Morse Sand & Gravel.

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

VOTED: To approve renewal of the Temporary Storage Trailer Permit for Morse Sand and Gravel for the property located at 10 Fern Avenue, with an expiration date of October 19, 2012, with the following conditions: 1. The temporary storage trailer is to be used strictly for the storage of chemicals and 2. The Fire Chief must be notified of any change of the type or amount of chemicals located in the temporary storage trailer and provide Material Safety Data Sheets for the additional chemicals.
Unanimous in favor.

Review Curb Cut Request-6 Reed Farm Road

Chairman Olivier reviewed the application for a Curb Cut for 6 Reed Farm Road. The applicant is requesting a curb cut for a new driveway leading to a new garage.

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

VOTED: To approve the Curb Cut for 6 Reed Farm Road with the conditions as stated in the letters from the Planning Board and the Superintendent of Streets.
Unanimous in favor.

Request for appointment of Assistant Animal Control Officer-Jennifer Nash

Chairman Olivier stated that David Frates, Animal Control Officer, has requested that the Board of Selectmen appoint Jennifer Nash as an Assistant Animal Control Officer because one of his Assistant Animal Control Officers has been hired as a part time Police Dispatcher.

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

VOTED: To approve the appointment of Jennifer Nash as Assistant Animal Control Officer with an expiration date of April 30, 2012.
Unanimous in favor.

Request to use Dickran Diran Square and Town House – 8th Annual Lakeville Arts & Music Festival – September 29, 2012

Chairman Oliver read the request from the Lakeville Arts Council requesting the use of the Town House and Dickran Diran Square for the 8th Annual Arts and Music Festival. Discussion took place about why this is not being held at Ted Williams Camp to eliminate traffic concerns. Ms. Garbitt stated that Joanne Corrieri-Upham will come before the Board on the 21st of November. Selectman Maksy noted that the Library is used during the festival. It was decided to table the request until the Board meets with Ms. Corrieri-Upham.

Announce Gift and Grant Accounts for the Traffic Islands on Route 105/18 and Town Facilities

Ms. Garbitt stated that the Town used to landscape the Route 105/18 intersection area with gift funds. She has been receiving inquiries from people asking how they can contribute since it has not been landscaped for a while. The Town has the two (2) gift and grant accounts that people could donate money to for the upkeep of the traffic islands on Route 18/105 or for Town keep. Whenever the Town goes out for bonding, the company that comes out sees these kinds of things. Town pride is taken into consideration when the bonding process is under consideration.

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

VOTED: To approve the use of the two (2) gift and grant accounts for the upkeep of the traffic islands on Route 18/105 and the Town keep.
Unanimous in favor.

Review and vote to accept the Selectmen's Meeting Minutes of September 8, 2011 & October 11, 2011

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

VOTED: To approve the September 8, 2011 Selectmen's Meeting Minutes as presented.
Unanimous in favor.

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

VOTED: To approve the October 11, 2011 Selectmen's Meeting Minutes noting that Cindy Dow was recording the meeting.
Unanimous in favor.

New Business

Request to access Town Counsel from the Board of Health

Chairman Olivier reviewed the request from the Board of Health Agent asking for permission to ask Town Counsel to proceed with court enforcement for a Title 5 violation at 20 Second Avenue. Ms. Garbitt explained that this is has go to Housing Court to force the owners to fix their septic system. Discussion then took place about the fact that times are tight and the Town cannot afford to spend a lot of money on litigation. Selectman Maksy stated that the Town will spend the money to fix the problem by the time this goes through the court. Ms. Garbitt stated that the Board of Health can invite the homeowner to their meeting, but they have no enforcement if the people do not attend the meeting. Selectman Maksy stated that he would like to see an estimate of how much this could cost from start to finish.

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

VOTED: To authorize the amount of \$2,000 in legal fees for the Board of Health to move to the next step with the 20 Second Avenue property.
Unanimous in favor.

Request from Nancy Yeatts to apply for a Forestry Management Plan Grant

Chairman Olivier asked about why a Forestry Management Plan is only being done for the Assawompset Pond Complex lands and not all Conservation and Town owned land. Ms. Garbitt mentioned that the City of New Bedford owns a lot of land around the ponds and has done a Forestry Management Plan. There is also a requirement for Habitat Diversity, which is supposed to be done for Betty's Neck. There is a grant to write the Forestry Management Plan. Ms. Grubb stated that most Conservation Restrictions allow for forestry management for a healthier forest.

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

VOTED: To authorize Nancy Yeatts to apply for the Forestry Management Plan Grant and to have Phil Benjamin meet with the Selectmen to discuss Forestry Management Plans for other Town owned properties.
Unanimous in favor.

Discuss FY 13 Capital Plan

Chairman Olivier spoke about the FY13 Capital Plan. It seems that the Capital Expenditure Committee (CEC) and the Finance Committee are questioning why they go through all the work of preparing a Capital Plan if it will all change when it gets to the Selectmen. Selectman Maksy explained that there was no money in FY12 available to spend. The CEC was designed when there was money to be able to make purchases. The Selectmen were fine with their prioritization, but the Town did not have that kind of money to spend. The Selectmen still went with their plan, but could not go with the full acquisition. The CEC prioritize under an unbiased point of view. He does not want to have to sit with each Department to go over all of their requests. He appreciates the work that the CEC does. The Town needs to have a goal more like \$200,000 per year for Capital Expenditures, rather than \$600,000.

Selectman Belliveau stated that he had spoken with Ms. Garbitt about this and part of her job description is to develop a Capital Plan. Ms. Garbitt said she will prepare the memo to the Department Heads. It was decided that the plan would be to prioritize based on needs and for the Department Heads to come back with their top priorities.

Any other business that may properly come before the meeting

Ms. Grubb spoke about the Town owned properties that would be auctioned off. She had prepared a list of other Town owned properties. If the Town needs money, there are other properties that the Town owns that the Board might want to consider selling. It is being

suggested to have a more thorough review of other Town owned properties than just the 18 as listed. Discussion ensued on the topic. Ms. Garbitt stated that the Treasurer came to the Board since people are interested in the properties and the Treasurer wants to be able to get the properties back on the tax rolls. Ms. Garbitt explained that the list of properties is what the Treasurer has foreclosed on. Chairman Olivier asked to send the list to the Treasurer's Office to reconcile. Ms. Grubb stated that there are over 100 Town owned properties that she weeded through to come up with the list. Selectman Belliveau stated that the Building Commissioner should look at the list and determine if the sites are buildable. Chairman Olivier stated that the Board's concern should be whether a house can be built on the property or not. Selectman Maksy stated that if a house can be built there, then the Town will gain that value from selling it. Ms. Grubb pointed out that there are environmental concerns in some areas due to density.

Other Items

1. Thank you letters from Lakeville Arts Council regarding 2011 Arts and Music Festival
Chairman Olivier read the letters into the record to Chief Alvilhiera, Chris Peck and Chief Hopkins.
2. Letter from US Department of Commerce regarding Government Units Survey
3. Letter from SEED Corporation regarding Membership Renewal
4. Letter from Comcast regarding services provided to the Town of Lakeville
5. Letter from Verizon regarding contact information being changed
6. Letter from Real Recycling Massachusetts regarding Expanded Bottle Bill
7. SRPEDD Meeting Notice-October 26, 2011
8. Notice from Verizon regarding \$.08 monthly increase
9. Press Release from Barney Frank regarding upcoming Town Meetings on Military Spending

At 11:08 PM, upon a motion made by Selectman Maksy; seconded by Selectman Belliveau it was:

VOTED: To enter Executive Session and not return to open session to discuss strategy with respect to the Collective Bargaining Agreements with the Police and Fire Unions, to discuss strategy in preparation for negotiations with non-union personnel, to discuss contract negotiations with non-union personnel, specifically the Fire Chief's contract, and to consider the purchase, exchange, lease or value of real estate, because an open meeting may have a detrimental effect on the negotiating position of the Board.

Polled vote: Selectman Belliveau-Aye, Selectman Maksy-Aye, and Selectman Olivier-Aye.