

TOWN OF LAKEVILLE
Selectmen's Meeting Minutes
October 20, 2014 - 7:00 PM

On October 20, 2014, 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 Powderly at 7:00 PM. Selectmen present were: Selectman Powderly, Selectman Burke and Selectman Hollenbeck. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary. Cindy Dow of the Middleboro Gazette was recording the meeting and LakeCAM.

7:00 PM Meet with Sylvester Zienkiewicz regarding an Error in the FY15 Old Colony Regional Vocational Technical High School Assessment

Sylvester Zienkiewicz was present for the discussion. Mr. Zienkiewicz stated that Old Colony had a difficult budget last year. One (1) person handles all the figures, then provides them to everyone else. The budget sheet was reviewed. Mr. Zienkiewicz said the worksheet was made more complicated, not easier. It was noted that the Town of Lakeville had a larger increase in its student population than other Member Towns. Selectman Hollenbeck asked how the Towns would be reimbursed. Ms. Garbitt responded that their assessment will just go down. Other Towns' adjustments are very small compared to Lakeville's. In FY14, this happened to Lakeville. The Town voted more and had \$21,000 left in the warrant article, which was then used for the Special Town Meeting Warrant for the Snow & Ice Deficit. Chairman Powderly stated that there are 124 students that attend Old Colony Regional Vocational Technical High School from Lakeville. The cost per pupil is higher than attending Apponequet High School. Mr. Zienkiewicz noted that they have to take a lot more classes at Old Colony. The students take MCAS and normal classes along with their trade classes. The students do not have study halls. The ratio of students is slightly lower per instructor, more like 20 students in a class. Ms. Garbitt stated that the good news is that at Special Town Meeting, the Town will have \$38,000, since two (2) students that said they were going to attend Bristol Agricultural School did not end up going there.

7:30 PM Meet with the Planning Board regarding Acceptance of Woodland Ridge Drive and Village Road as Town Ways

Brian Hoeg was present for the discussion. Chairman Powderly explained that a timeline was developed regarding the acceptance of Woodland Ridge Drive and Village Road as Town ways. The As Built was to be done first. Then it would take ten (10) days for a review by the Superintendent of Streets. The As Built was delivered today to the Superintendent of Streets. He has written a memo to the Planning Board. Mr. Peck's memo contained several comments about the measurements appearing to not be correct. However, Mr. Peck recommended accepting both Woodland Ridge Drive and Village Road as public ways. He would like to meet with Outback Engineering and the Planning Board to outline what is acceptable and unacceptable. Mr. Hoeg stated that he would be able to meet with Outback Engineering to determine if they can address some of the issues that Mr. Peck has with the plan. Some are simple issues; some may require a quick calculation, like Item #8 for Woodland Ridge, there should be spreaders, and there are none. Mr. Peck has reviewed the plan, but he did not walk the

property due to time constraints. There are some small issues with the plan, including mislabeling and a pipe that is not sized properly. Chairman Powderly stated that the site needs to be looked at, especially the end of the spillways, to see if there is any erosion or anything significant outstanding. Mr. Peck stated that it is so overgrown that it will be difficult to determine. Mr. Zienkiewicz stated that he would like to walk through the basin area and does not mind that it may be overgrown. Chairman Powderly suggested that at least two (2) people from the Planning Board visit the site with Mr. Peck.

Ms. Garbitt stated that the Selectmen can vote its Intent to Layout Woodland Ridge Drive and Village Road as Town Ways. At the next meeting on November 3, 2014, the Board can Adopt the Layout. Mr. Zienkiewicz added that another issue is that management for accepting easements needs to be determined. Town Counsel should check into this, since they are the one driving the Declaration of Easements to make sure that the document is acceptable for that.

Vote to Layout Woodland Ridge Drive and Village Road as Town Ways

John Ryder, Esquire, was present for the discussion. Chairman Powderly asked about the clean-up and its status. Dorothea Ugi of 13 Woodland Ridge Drive stated that one neighbor was working with Attorney Ryder to get some sort of permission from Mr. Bartlett's daughter for the neighbors to go onto the property. We cannot get onto the property to do anything at this time. Attorney Ryder stated that David Dixon had contacted him, and he wrote up a document allowing access, but telling him that going onto the property was at his own risk. It was noted that Mr. Dixon was uncomfortable being specified in the document. Attorney Ryder stated that he will cooperate any way that he can. Ms. Ugi said that it would be a nightmare if everyone signed the waiver to determine who goes on the property. Attorney Ryder stated that he felt that this can be worked out. Chairman Powderly stated that they need to get access to the property. Ms. Ugi asked if Outback Engineering has specified what actually needs to be done. Chairman Powderly responded that he thinks that is coming from Mr. Peck. Selectman Hollenbeck stated that information was provided to Jessica Bradley. Chairman Powderly suggested that the residents have a point person.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To layout Woodland Ridge Drive as a Town way.
Unanimous in favor.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To layout Village Road as a Town way.
Unanimous in favor.

Review and vote to approve Warrant Articles and vote to approve the Warrant – Special Town Meeting – November 17, 2014

Discussion then took place on the Town Meeting Warrant articles. Chairman Powderly pointed out that Article 5 is for both sides of Route 79. Parcels #1 and 2 are directly across from

Rousseau's Trailer Sales and Parcels #3, 4, and 5 are on the opposite corner. There may be a land taking on Parcels #2, 3, 4, 5, and 6 for roadway improvements in the future. His concern is that some owners think the rezoning will help them in the sale of the property, but that is not clear. Frank Sterrett of 5 Crest Drive stated that he thought that there were more than six (6) parcels. Ms. Garbitt stated that two years ago there was an additional property. Mr. Zienkiewicz approached the property owners, but they were not interested. Mr. Zienkiewicz stated that the Planning Board checked with the other owners. The owners for Parcels 7 and 8 (near Joe's Gas) approached the Planning Board for the rezoning. Selectman Hollenbeck stated she was concerned that the owners of Parcel #3 had no input. Ms. Garbitt stated that she did try to contact them; however, they never called back. They were also sent a notice by mail. Originally the Tamarack Liquor Store owners were interested in purchasing the property, but the sale price was too high.

Chairman Powderly said that he gets the impression that this group of residents is very interested that this area be rezoned. Mr. Sterrett asked if the Selectmen and Planning Board have a greater allegiance to a handful of residents or the Master Plan. If you approve the warrant as is, you are not supporting the Master Plan. Selectman Hollenbeck stated that it is up to the residents at the Special Town Meeting to vote yes or no. Selectman Burke added that he is not sure if this is an example of spot zoning. However, the Planning Board went through the process and that is what Town Meeting is for. Zoning should be governed by a comprehensive plan of how the Town should make these changes, but Town Meeting is for everyone to have their turn at democracy. Ms. Garbitt stated that one of the goals for the Master Plan Implementation Committee was to look at other areas to rezone. There were meetings on this with the Selectmen, and it was determined that Neighborhood Business would not work for these properties.

The articles of the Special Town Meeting Warrant were reviewed:

Article 1 Ms. Garbitt explained that she has provided a draft of the transfers and where they are being appropriated from and to. She is still working on the raises for the employees that will be part of this.

Article 2 Ms. Garbitt stated that the tax rate has not yet been set, so it is important to do this transfer to the Stabilization Fund.

Article 3 This article pertains to the authorization for the potential sale of the water tower and the pump station.

Article 4 Ms. Garbitt explained that the laws have changed regarding special permits and wireless communication facilities. This change will make our bylaw conform with Federal Regulations.

Articles 5 and 6 have already been discussed.

Article 7 This article pertains to the acceptance of Woodland Ridge Drive as a Town Way.

Article 8 This article pertains to the acceptance of Village Road as a Town Way.

Article 9 Ms. Garbitt said this is a non-binding article in regards to discontinuing the use of the Common Core State Standards. Selectman Burke stated that Town Meeting is a good opportunity for people to make political statements for how Town Government functions. Chairman Powderly stated that the taxpayers need to know that it is a non-binding article. Ms. Kulakovich stated that it would be hard to find precedence on the article, since it is a message for the Federal and State level. The School Committee has put a temporary hold on PARCC testing. Ms. Kulakovich has additional information to read, which will explain the article further at the Town Meeting. Selectman Hollenbeck explained to Ms. Kulakovich that she will need to make the motion, read the article and speak on it. Then the Selectmen can ask Town Counsel to speak on it, explaining that it as a non-binding article for clarification. If Ms. Kulakovich wants a motion for vote, she will need to make that motion.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To put Articles 1-9 on the Special Town Meeting warrant for November 17, 2014.
Unanimous in favor.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To sign the Special Town Meeting warrant for November 17, 2014.
Unanimous in favor.

Review and vote on Right of First Refusal – 2 Tyler’s Way

John Ryder, Esquire, was present for the discussion. Chairman Powderly explained that the Town has right of first refusal for 61A property. He stated that the seller and buyers would like this to move forward quickly. Ms. Grubb responded that the Open Space Committee has not been able to walk the property. Due to the weather, a site visit could not be scheduled until next week. There are procedures in place for evaluating properties coming out of 61A, and the Open Space Committee would like an opportunity to follow the procedures. Attorney Ryder explained that there are some nuances to the sale, since there is a private third mortgage holder. It is not known what he will do if the right of first refusal is exercised. Basically, the property is “under water” with three (3) mortgages on it. Of the 101 acres, there are about 31 acres that have a defective title on them. The new owner wants to continue with the same use, and they have signed a letter to this effect.

Selectman Burke asked if the Town would want to exercise its right, and if so, what would the Town buy that land for. Selectman Hollenbeck stated that the Selectmen should follow through with their current procedure. If this results in it being delayed a week, then that is what happens. Ms. Garbitt explained that it is more of a policy, since 61A does not require input from anyone. Ms. Grubb stated that if the use is not changing and it is being kept in chapter land, the Town does not have right of first refusal. The right of first refusal is specific to a change of use in the property. Attorney Ryder explained that he checked with the Assessor’s Office, and it was thought that this had to be done for all cases of a sale for 61A. The property is currently in Tax

Title with approximately \$30,000 owed in back taxes. Ms. Schroeder stated that there has to be a legal step to make sure that the new owners are continuing with the same use.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: That the Board exercise its Right of First Refusal for the property located at 2 Tyler's Way.
In favor 0, Against 2, Abstain 1 (Selectman Hollenbeck).

Review request from Police Chief to appoint Frank Sanchez as Police Officer/Constable

Chairman Powderly read the request from the Police Chief requesting the appointment of Frank Sanchez as Police Officer/Constable. Mr. Sanchez will fill the vacancy from the resignation of Daniel Vareika.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To appoint Frank Sanchez as Police Officer/Constable, contingent upon an Academy Exemption from the Municipal Police Training Committee and contingent upon successful completion of a physical and psychological examination. The appointment will be effective December 8, 2014 with a one year probationary period.
Unanimous in favor.

Review request from Police Chief to Post Police Officer Position

Chairman Powderly read the request from the Police Chief to post a position for another Police Officer due to an anticipated vacancy.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To authorize the Police Chief to post the position of Police Officer.
Unanimous in favor.

Request for Road Opening – 171 Rhode Island Road – Columbia Gas Company

Chairman Powderly said a Road Opening Permit request had been received from Columbia Gas Company for the installation of a natural gas service at 171 Rhode Island Road. Mr. Peck has submitted his recommendations in a letter dated October 16, 2014.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To approve the Road Opening Permit request from Columbia Gas to install a new natural gas service at 171 Rhode Island Road as per the specifications of the Superintendent of Streets.
Unanimous in favor.

Request for Temporary Trailer Permit – 8 Malbone Street

Chairman Powderly stated that the Board has received a request from Robert Bradshaw, Jr. to place a mobile home on 8 Malbone Street while the house there is being razed and rebuilt. The house was condemned by the Town in 2010.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To approve the request for a Temporary Mobile Home Permit on 8 Malbone Street to expire on April 20, 2015.
Unanimous in favor.

Request for One Day All Alcohol Liquor License – December 7, 2014 – Ted Williams Camp

Chairman Powderly read the application for a One Day All Alcohol Liquor License on December 7, 2014 at the Ted Williams Camp for a shower from 12:00 PM to 6:00 PM.

Upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To approve the One Day All Alcohol Liquor License on December 7, 2014 at the Ted Williams Camp from 12:00 PM to 6:00 PM.
Unanimous in favor.

New Business

Ms. Garbitt asked if anyone was interested in attending the Massachusetts Municipal Association Trade Show in January. Selectman Burke and Selectman Hollenbeck would like to attend. Ms. Garbitt will register them both for the trade show.

Other Items

1. Reorganization memo from Board of Health
2. Memo from Board of Health regarding Special Town Meeting
3. Thank you letters from Lakeville Arts & Music Festival Committee
4. Email from Frank Sterrett regarding Rethinking Lakeville Zoning Changes

Mr. Sterrett said he would like to speak about his letter to the Middleboro Gazette. In researching the information provided in the letter and the Master Plan, many of the properties, especially those near Route 18 and Route 79 were to be for a new zoning area, Neighborhood Business Zoning. In certain areas there are buildings with businesses with apartments and/or condos above them. This helps a Town meet its Affordable Housing Requirements. He encouraged the Selectmen to slow this process down. He encouraged the Selectmen to follow the Master Plan. In the long run, the Town of Lakeville will be much better off for it. There needs to be some control or it will be like Route 44, all business. He encouraged the Board to take action to get the new zoning in place, and then let the people move on that. Selectman Burke stated that he has forwarded Mr. Sterrett's comments to Mr. Zienkiewicz and Lorraine Carboni of the Economic

Development Committee who are looking at options for zoning. It is an interesting idea worth exploring.

Mr. Sterrett added that he wants the Board to be very careful putting anything on the Town Meeting Warrants. Selectman Burke stated that it seems that what Mr. Sterrett is asking the Board to do is short circuit that process. Mr. Sterrett added that he is a little worried that if the Board lets it go, a lot of residents that should be in a neighborhood business district will be in a business and commercial zone. The Board has an opportunity here. Selectman Burke stated that he feels Mr. Sterrett's concerns are with the Planning Board more so than the Board of Selectmen. Mr. Sterrett asked if there was time to approach the Planning Board. Selectman Hollenbeck stated that it is up to the taxpayers to make the decisions, since the Planning Board has gone through the process. This is going to Special Town Meeting. Selectman Burke added that he is not saying that he agrees, but that he believes in the process that the Planning Board followed and believes in the integrity of the political process. Mr. Sterrett stated that this was started by residential landowners and they wanted more for their properties. A neighborhood business development was off the table. They gave approval I think without consideration of that. It was not given full exposure at that particular stage. Selectman Burke stated that he is comfortable with the matter and how it is going to Town Meeting. At Town Meeting Mr. Sterrett should advocate what he is presenting tonight.

Chairman Powderly stated that at Town Meeting, when Woodland Ridge is being discussed he will ask about Article 5. Selectman Hollenbeck noted that the Town has the Route 79 project also. Chairman Powderly stated that there may be a possible land taking as well. The State, if they approve, will take land and clear the corners. They can rezone the area, and the Town may have 1/3 of an acre. It needs to be determined what is happening to Route 79 first. Ms. Schroeder stated that it seems that the issue that is being discussed, the Planning Board should have been on top of that. It seems that it is within the Selectmen's purview to make sure that they are a functioning committee. Ms. Garbitt explained that the neighborhood business plan that was being put forward, was thought to be going from Main Street to the Hospital Property from Starr Market. The Master Plan Committee is looking at the implementation part of the plan. The Plan is almost ten (10) years old, and the BOS has talked about updating the Master Plan.

5. Memo from Town Counsel regarding Drinking Water and Wastewater Infrastructure – New Funding Opportunities
6. Mass Interchange Newsletter
7. Letter from SRPEDD regarding FEIR Project First Light
8. Letter from Comcast regarding Xfinity 3D

At 9:10 PM, upon a motion made by Selectman Burke; seconded by Selectman Hollenbeck it was:

VOTED: To enter Executive Session and not return to Open Session pursuant to M.G.L. c.30A, §21(3) to discuss strategy with respect to potential litigation, if an open

meeting may have a detrimental effect on the litigating position of the public body, and the Chair so declared.

Polled vote: Selectman Hollenbeck-Aye, Selectman Burke-Aye, and Selectman Powderly -Aye.

Documents provided at the Selectmen's Meeting – October 20, 2014

1. Letter from Old Colony dated September 29, 2014 regarding Lakeville's contribution and supporting financial back up documentation.
2. Letters from the Superintendent of Streets regarding accepting Woodland Ridge and Village Road as Town ways.
3. Special Town meeting warrant articles for November 17, 2014 Town Meeting.
4. Information from Attorney John Ryder regarding the property owned by Gene and Michelle Bartlett regarding the Town's right to first refusal on the property located at 2 Tyler's Way.
5. Request from the Police Chief to appoint Frank Sanchez as police officer and constable
6. Request from the Police Chief to approve to post a Police Officer position due to an anticipated vacancy.
7. Request from Columbia Gas Company for a road opening permit for 171 Rhode Island Road and letter from the Superintendent of Streets pertaining to conditions for permit request.
8. Request for a temporary trailer permit at 8 Malbone Street while the condemned house is being razed and rebuilt.
9. Request for a one day all alcohol liquor license on December 7, 2014 at Ted Williams Camp for a Shower from 12 PM to 6 PM.