

TOWN OF LAKEVILLE
Selectmen's Meeting Minutes
November 12, 2008

On November 12, 2008, the Board of Selectmen held a Special Meeting at the Town Offices. The meeting was called to order at 4:30 PM. Present were Selectman Evirs, Selectman Maksy, Selectman Yeatts, and Town Administrator Rita Garbitt.

Meet with Sherry Clancy, Project Manager for National Development

Building Commissioner Robert Iafrate was present for the discussion. Sherry Clancy gave an overview of what the current zoning allows on the residential portion of National Development's property. She is proposing to substitute the over 55 language and replace it with design standards so that it would appeal to an older population. The impetus behind the proposed language is economic development. It would be a catalyst to jump start economic development on the site. The wording was taken from the Town of Plymouth. It needs some tweaking, but it is substituting a specific age requirement with design requirements because this is a finite market. Originally it was thought the business development would drive the residential. Now we think residential development would initiate economic development.

Selectman Yeatts stated that at the time of the original zoning there weren't any over 55 projects in the works yet. Because there is no sewer, there will be fewer units. Selectman Yeatts asked how many units there would be. Ms. Clancy stated the MEPA review says 100 units. The main limitation will be sewer capacity. 55 and over is blind to bedrooms, 150 gallons per day. When you change to not over 55, it is based upon the number of bedrooms. We have allocated 15,000 gallons of water per day for the residential development. She had trouble understanding why three (3) bedrooms was a problem. Selectman Yeatts stated each child costs the school system \$8,782. She cannot go to the townspeople in support of this project if it is going to increase our student population significantly. Ms. Clancy said it was her expectation that this will appeal to a broader number of people that would attract people 55 and older. Selectman Yeatts stated older residents would have children that were older. Ms. Clancy replied that the units would be designed with criteria that would also appeal to young professionals. Mr. Iafrates suggested laying out the units without closets and maybe lofts could be included. There was a brief discussion about building permit fees and real estate taxes.

Selectman Yeatts asked what does Lakeville get. Ms. Clancy replied it would push the economic development, create construction jobs, and additional real estate taxes and excise taxes. Banks want depth of numbers. The original Board knew we could do single family homes. They encouraged us to do 55 and over. Selectman Maksy said he was concerned about the 40B aspect. Oak Point is successful. Ms. Clancy stated because of Oak Point, 55 and over housing is tapped out. We have done a lot of marketing and feel we cannot fill all 100 units with over 55. Selectman Yeatts stated that single family homes keep their value. She has seen some developments that aren't as nice 20 years later. Ms. Clancy responded that multi family dwellings are all get painted at the same time. Selectman Maksy said the Board might be making a hasty decision. Ms. Clancy stated that they have had residential as part of the plan from the beginning. Route 105 was going to be developed first. It was going to be the catalyst. Now the retail market is so terrible, we think the residential would be the catalyst.

Mr. Iafrate suggested taking out the three (3) bedrooms and let the Planning Board and Board of Health deal with it and police it when the design comes in. If it was an upscale development in the \$450,000 range he thought it would be a gold mine. It would take children out of the equation. Ms. Clancy said \$350,000 would have been \$450,000 a few months ago. Her goal was to offer a variety of single floor and two story dwellings. The architecture and amenities will be geared to an older population. Selectman Yeatts asked her how she was going to assure the Board that the commercial development moves forward. It scares her when the residential starts first. Ms. Clancy replied business is the best use. Commercial was always in our plan. Do you want me to take another crack at this? Selectman Yeatts asked if it could go on the Annual Town Meeting. Ms. Clancy replied that she would go through permitting during the winter. She would have to wait another year to start building. She thought three (3) bedrooms was a good idea. She missed the boat. She will send legal back to the drawing board. Selectman Yeatts stated she would like the Building Commissioner's ideas get to the Planning Board. Ms. Clancy said she will circulate the new language to the Planning Board and send it to Ms. Garbitt on Thursday.

At 5:33 PM, Sherry Clancy and Robert Iafrate left the meeting.

At 5:35 PM, upon a motion made by Selectman Yeatts and seconded by Selectman Maksy, on a unanimous roll call vote, the Board

VOTED: To enter Executive Session and return to Open Session for the purpose of discussing the collective bargaining agreement with the Police Union.
Polled Vote: Selectman Yeatts–Aye, Selectman Maksy–Aye, and Selectman Evirs–Aye.

At 6:36 PM, the Selectman returned to Open Session. Upon a motion made by Selectman Yeatts and seconded by Selectman Maksy, on a unanimous roll call vote, the Board

VOTED: To enter Executive Session and return to Open Session for the purpose of discussing contract negotiations with non-union personnel and pending litigation.
Polled Vote: Selectman Yeatts–Aye, Selectman Maksy–Aye, and Selectman Evirs–Aye.

At 7:05 PM, the Selectmen returned to Open Session.

Review Special Town Meeting Warrant Articles

Ms. Garbitt reviewed the 12 warrants articles for the Special Town Meeting.

Article 1: To see if the Town will vote to raise and appropriate and/or transfer from the Out-of-District funds a sum of Thirty Five Thousand Three Hundred Eighteen Dollars (\$35,318.00) for the payment of Special Education programs in the general appropriation, or take any action relative thereto.

Lakeville School Committee

Article 2: To see if the Town will vote to ratify the Collective Bargaining Agreement with the Lakeville Permanent Firefighters' Association and transfer a sum of money from Employee

Benefits for health insurance to wages for the Fire Department, or take any action relative thereto.

Article 3: To see if the Town will vote to transfer and/or appropriate from available funds, certain sums of money in order to defray unanticipated costs for Fiscal Year 2009 for various accounts in the General Fund, the Park Enterprise and Landfill Enterprise, or take any action relative thereto.

Article 4: To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money for leasing for a term of five (5) years one postage meter for use by the Town, or take any action relative thereto.

Treasurer/Collector

Article 5: To see if the Town will vote to charge for each written demand issued by the Collector a fee of Fifteen Dollars (\$15.00) to be added and collected as part of the tax, as authorized by Mass. General Laws Chapter 60 Section 15, effective as of January 1, 2009, or take any action relative thereto.

Treasurer/Collector

Article 6: To see if the Town will vote to appropriate a sum of money for the construction of an elevated water storage tank and pump station; to determine whether this appropriation shall be raised by borrowing from the Massachusetts Water Pollution Abatement Trust or otherwise; and to take any other action relative thereto.

Board of Selectmen

Article 7: To see if the Town will vote to give the Park Commission and the Board of Selectmen the authority to seek proposals and award bids for removing material from the Ted Williams Camp property to expand recreational facilities and repair structures at the Ted Williams Camp property and other Park facilities. Value of material removed will be returned to the Parks in the form of work projects and/or income placed in the Park Enterprise Fund.

Park Commission

Article 8: To see if the Town will vote to amend the Lakeville Demolition General By-Law Section 1.0 Intent and Purpose by deleting the text “without” and adding the text “within” in the first sentence of the first paragraph so that, as amended, this section reads as follows, or take any action relative thereto:

1.0 Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting significant buildings **within** the Town which are outside Historic Districts and to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them.

Board of Selectmen

Article 9: To see if the Town will vote to amend the General By-Law regarding Outdoor Lighting as follows:

Delete Section 5.3 in its entirety and replace it with the following.

Lamp or Fixture Substitution. Should any outdoor light fixture, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the building official (or his designee), together with adequate information to assure compliance with this code, which must be received prior to substitution.

Section 5.3 currently states:

Subdivision Plan Certification. If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plan shall contain a statement certifying that the applicable provisions of the Town of Lakeville Outdoor Lighting Code will be adhered to.
or take any action relative thereto.

Board of Selectmen

Article 10: To see if the Town will vote to adopt the following General By-Law:

EXCAVATION AND TRENCH SAFETY

In conformity with the provisions of 520 CMR 14.00, the Town of Lakeville hereby establishes the following procedures:

1. The Superintendent of Streets shall be charged with the responsibility of issuing trench permits for all work involving excavation in a public way by any Town agency, Town contractor, private utility, or other legitimate entity. Such excavation permit shall be additional to the required street opening permit issued by the Board of Selectmen.
2. The Board of Health shall be charged with the responsibility of issuing trench permits for all qualifying septic system installations.
3. The Building Commissioner shall be charged with the responsibility of issuing trench permits for all qualifying excavations conducted by any party in a private way or private common drive, as well as qualifying, non-septic excavations of any description on private property.
- 4. The Board of Selectmen shall have the authority to establish fees for the issuance of such permits.**

or take any action relative thereto.

Board of Selectmen

Article 11: To see if the Town will vote to adopt the following By-Law, as authorized by the vote on Article 16 of the Annual Town Meeting of May 8, 2006 and as provided for in Chapter 269 of the Acts of 2006:

To amend the Town's General By-Laws by adding the following new provision at the end of the last provision of the existing General By-Laws:

MANUFACTURED HOUSING COMMUNITIES RENT CONTROL BY-LAW

Section 1. In accordance with the authority of Chapter 269 of the Acts of 2006, the Town hereby adopts this Manufactured Housing Communities Rent Control By-law. In so doing, the Town finds and declares that a serious public emergency exists with respect to the housing of a substantial number of citizens in the Town, which emergency has been created by excessive, abnormally high and unwarranted rental increases imposed by some owners of manufactured housing communities located therein, that unless manufactured housing community rents and eviction of tenants are regulated and controlled, such emergency will produce serious threats to the public health, safety and general welfare of the citizens of said town, particularly the elderly.

Section 2.

A. The Town hereby regulates for the use or occupancy of manufactured housing accommodations in the Town, and establishes a Rent Control Board for the purpose of regulating rents, minimum standards for use or occupancy of manufactured housing communities and eviction of tenants therefrom, and requiring registration by owners of manufactured housing communities.

B. The Rent Control Board shall consist of three (3) members, all of whom shall be registered voters in the Town, and shall be appointed by the Board of Selectmen. At the time of the initial appointments, one member shall be appointed for a term of one (1) year, one (1) member for a term of two (2) years and one (1) member for a term of three (3) years. Thereafter, all members shall be appointed for terms of three (3) years.

C. These rents, standards and evictions may be regulated by the Rent Control Board so as to remove hardships or correct inequities for both the owner and tenants of such manufactured housing communities.

D. The Rent Control Board shall have all the powers necessary or convenient to perform its functions, may make rules and regulations, require registration by owners of manufactured housing communities, under penalty of perjury, require the provision of information relating to the manufactured housing communities, sue and be sued, compel the attendance of persons and the production of papers and information and issue appropriate orders which shall be binding on both the owner and tenants of such manufactured housing communities.

E. Violations of this By-Law or any order of the Rent Control Board shall be punishable by a fine of not more than \$1,000.00.

Section 3. In regulating rents for such manufactured housing communities, the Rent Control Board established under Section 2 may make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for manufactured housing communities in the Town are established at levels which yield to owners a fair net operating income which will yield a return, after all reasonable operating expenses, on the fair market value of the property equal to the debt service rate generally available from institutional first mortgage lenders or such other rates of return as the Rent Control Board, on the basis of evidence presented before it deems more appropriate to the circumstances of the case. The fair market value of the property shall be the assessed valuation of the property or such other valuation as the Rent Control Board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.

Section 4. The provisions of Chapter 30A of the General Laws, insofar as applicable, shall be applicable to the Rent Control Board as if the Rent Control Board were an agency of the

Commonwealth, including those provisions giving agencies the power to issue, vacate, modify and enforce subpoenas, and those provisions relating to judicial review of an agency order.

Section 5.

A. The Plymouth Division of the District Court Department shall have original jurisdiction, concurrently with the Superior Court, of all petitions for review of decisions and orders of the Rent Control Board brought pursuant to Section 14 of Chapter 30A of the General Laws.

B. The Superior Court shall have jurisdiction to enforce the provisions of this By-Law and any regulations or orders made thereunder and may restrain violations thereof.

Section 6. The Rent Control Board may regulate evictions and issue orders providing that a certificate of eviction shall be required as a condition prior to the commencement of an action in summary process to recover possession from a tenant in a manufactured housing community. A certificate of eviction may be issued by the Rent Control Board upon a finding that (a) the tenant has failed to pay the rent to which the owner is entitled; or (2) the tenant is in substantial violation of a valid and enforceable rule of the manufactured housing community; or (3) the tenant is in violation of a law which protects the health and safety of other residents of the manufactured housing community; or (4) the owner in good faith and in compliance with all other applicable laws and regulations discontinues the manufactured housing community; or, (5) other just cause that the Rent Control Board may establish by regulation. Such certificates of eviction or orders shall be reviewable as provided in this By-Law, Section 5.

Section 7. The personnel of the Rent Control Board established shall not be subject to Section 9A of Chapter 30 of the General Laws or Chapter 31 of the General Laws.

In the event any portion of this Manufactured Housing Communities Rent Control By-law is declared invalid, such invalidity shall not affect the validity of any other provision. or take any other action relative thereto.

Board of Selectmen

Article 12: To see if the Town will vote to amend the Zoning By-Law Section 7.5.3 by deleting the text for 4) and replacing it with the following text, or take any action relative thereto:

7.5.3 Permitted Uses as Principal Activities in the Mixed Use Development District

- 4) Limited occupancy housing (LOH) designed for households of a limited number of members, to which: the following requirements would apply: (i) each building (s) may contain multiple dwelling units but no dwelling unit shall contain more than three (3) bedrooms; (ii) for any two-story detached or townhouse dwelling, the master bedroom shall be on the first floor, and all additional bedrooms shall be on the upper floor; and (iii) recreational amenities provided as part of any common open space or facilities, if any, shall be oriented toward an adult population and shall not include playgrounds.

Planning Board/Board of Selectmen

A warrant article will be added regarding a transfer of funds from Employee Benefits for health insurance to wages for the Police Department.

Update on Regional Task Force on Casino Impacts

Selectman Yeatts gave a brief update to the Board regarding the Regional Task Force on Casino Impacts.

At 7:15 PM, upon a motion made by Selectman Maksy and seconded by Selectman Yeatts, the Board

VOTED: To adjourn their meeting.
 Unanimous in favor.