

SELECTMEN'S MEETING
Monday, November 17, 2008

On November 17, 2008, 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 Evirs at 7:00 PM. Selectmen present were: Selectman Evirs and Selectman Yeatts. Selectman Maksy was absent. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

Review and vote to approve Special Town Meeting warrant

The warrant articles were read into the record by Chairman Evirs and Selectman Yeatts.

Article 1: 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 2: 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 3: 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.
Board of Selectmen

Article 4: To see if the Town will vote to ratify the Collective Bargaining Agreement with the Lakeville Police Association and transfer a sum of money from Employee Benefits for health insurance to wages for the Police Department, or take any action relative thereto.
Board of Selectmen

Article 5: 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 6: 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 7: To see if the Town will vote, pursuant to General Laws, Chapter 40, Section 5B, to create a special purpose stabilization fund for the payment of costs associated with water infrastructure improvement projects, to be known as the Water Infrastructure Improvements Stabilization Fund, and further, to transfer a sum of money from the Special Revenue/Reserve

for Appropriation Account to the stabilization fund created hereunder, or take any action relative thereto.

Article 8: 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 9: To see if the Town will vote to approve the disposition by the Park Commission and the Board of Selectmen, pursuant to Mass. General Laws Chapter 30B, of surplus materials from the Ted Williams Camp property, which materials are to be removed in order to expand recreational facilities. It is anticipated that the proceeds of sale of such materials will be appropriated at a future Town Meeting to expand recreational facilities and repair structures at the Ted Williams Camp and other Park facilities, or take any action relative thereto.

Park Commission

Article 10: 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 11: 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 12: 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

Upon a motion made by Selectman Yeatts and Chairman Evirs stepping down to second and stepping back up to vote, it was:

VOTE: To waive the reading of Article 13.
Unanimous in favor.

Article 13: 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 14: 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, which the Planning Board determines as part of site plan review, is designed for adult-targeted households and; (i) reflects an attractive design and architectural features customarily found in adult-targeted households and; (ii) provides for any recreational amenities to be oriented toward an adult population and shall not include playgrounds.

This section currently states:

Age-Qualified Housing, in which each Dwelling Unit contains, at the commencement of occupancy, at least one occupant who is at least fifty-five years of age. Age-Qualified Housing shall provide a minimum of one parking space per Dwelling Unit.

Board of Selectmen

Selectman Yeatts stated that she is opposed to Article 14. However, there is a public hearing regarding this article on December 1st and she will voice her concerns at that time. Then, she will make a motion to have it withdrawn. Selectman Yeatts stated that she failed to see the benefit for removing the age restriction on this project. She needed to see that it is a benefit for the Town first.

Mike DiCicco from The Enterprise asked about the changes with the Police and Fire contracts. Chairman Evirs said this will be a savings in regards to health benefits. The Police received raises in the amount of 2% for the first year; 2% for the second year; and 3% for the third year. The 2% for the first year will be retroactive to July 1st of 2008. They voted to open the contract and discuss it a year earlier, which helps us with the budgeting process. There will be a little savings seen the first year, but as the years go on, the Town will see a greater and greater savings. There are nine (9) employees with the Fire Department and 16 with the Police Department. We have negotiated a 75%-25% health insurance split with both. Now the Town can work with the non-union employees and retirees. This does not include the teachers. It works out to a raise in their base pay of approximately \$2,400 per employee.

Upon a motion made by Selectman Yeatts and Chairman Evirs stepping down to second and stepping back up to vote, it was:

VOTED: To place Articles 1 through 14 on the Special Town Meeting Warrant for December 8, 2008.
Unanimous in favor.

Upon a motion made by Selectman Yeatts and Chairman Evirs stepping down to second and stepping back up to vote, it was:

VOTED: To sign the Special Town Meeting Warrant for December 8, 2008.
Unanimous in favor.

Review request for driveway curb cut – 13 Moulton Street

Chairman Evirs stated that the applicant is requesting a driveway curb cut for a second driveway for 13 Moulton Street. The Planning Board has approved the request and the Superintendent of Streets has approved the request. Selectman Yeatts said it does not show what is located on the adjacent property. She asked if the Conservation Commission had been consulted since there are a lot of wetlands there. Ms. Garbitt said Mr. Peck would have been aware of any issues like that.

Upon a motion made by Selectman Yeatts and Chairman Evirs stepping down to second and stepping back up to vote, it was:

VOTED: To approve the driveway curb cut for 13 Moulton Street, contingent on the approval of the Conservation Commission.
Unanimous in favor.

Discuss extending Christmas Eve and New Year's Eve closing times for package stores

Chairman Evirs read the memo regarding extended hours for package stores on Christmas Eve and New Year's Eve. The ABCC allows the Local Licensing Authority to extend the hours on these days annually.

Upon a motion made by Selectman Yeatts and Chairman Evirs stepping down to second and stepping back up to vote, it was:

VOTED: To continue with 11:00 PM closings for Christmas Eve and New Year's Eve for package stores.
Unanimous in favor.

Discuss extending last call closing time for restaurants o New Year's Eve

Chairman Evirs read the memo regarding extending last call hours for restaurants on New Year's Eve. The Local Licensing Authority is allowed to extend the "last call" hours on New Year's Eve annually.

Upon a motion made by Selectman Yeatts and Chairman Evirs stepping down to second and stepping back up to vote, it was:

VOTED: To extend the "last call" hours on New Year's Eve for restaurants with liquor licenses until 1:30 AM with all patrons out at 2:00 AM.
Unanimous in favor.

Review Zoning Board of Appeals (ZBA) petition for 17 Island Road

Chairman Evirs noted that the petitioner has revised his original petition. The original petition stated that he was building a 34' x 24' three (3) bedroom home. However, he has revised the plan which now is for a 34' x 26' two (2) bedroom home. Selectman Yeatts said she had concerns about a full basement. The water table in that area is very high. Do they have a de-watering plan and where will they put the water when they hit groundwater. Chairman Evirs said they are also asking for a change in the footprint and change in height. That would require a special permit under 6.1.8. His concern is mainly the height of the home. Selectman Yeatts said the current home has no basement, so they are also adding unfinished basement. Chairman Evirs said the 105% height restriction is being exceeded with the home they propose to build. Approximately four (4) feet of the home is in the ground. He suggested that there be a restriction from the ZBA for an unfinished basement. They can have a washer and dryer there, but not finished living space. They also need a variance for one of these conditions, and that cannot be changed at the meeting, so they will have to reapply. Selectman Yeatts said they need a dewatering plan. They need a sign off from Conservation Commission, and they have not done that yet.

Upon a motion made by Selectman Yeatts and Chairman Evirs stepping down to second and stepping back up to vote, it was:

VOTED: To recommend to the ZBA that there needs to be a restriction on the applicant finishing the basement as living space; a de-watering plan must be submitted; and there is a need for a variance due to the height restriction. Also, Conservation Commission sign-off is needed on the petition.
Unanimous in favor.

Any other business that may properly come before the meeting.

Chairman Evirs stated that he had received the New England Business Bulletin and it has a lot of information on what is going on in this geographical area of Massachusetts. They talk about Regionalization efforts. Dick Schafer from Taunton is part of this effort. They are interested in developing reasonable attractiveness for industrial and commercial business. They are reaching all the way to Plymouth, Bridgewater, Taunton and Middleborough along Route 495. The Town needs to get Lakeville included in this and get representation on this committee. It is very, very important and ties in everything that is going on such as; the casino issues, the power plant issues, South Coast Rail, etc. It ties so much of it together in our little part of the State. He asked Ms. Garbitt to contact Mr. Schafer.

Other Items

1. Boston Herald article regarding paper recycling profits
Chairman Evirs said this reinforces what we talked about at the last meeting with recycling materials and how the demand for recyclable products is lessening. The cost is increasing and Towns are over estimating their revenue for their recyclables. Ms. Garbitt said she thought the Town was all right with the estimation for this year, but for next year, we will need to change figures at transfer station.
2. Letter from DEP regarding Morse Sand & Gravel sound level tests
Chairman Evirs said the letter states that DEP did 13 sound level tests at Morse Sand & Gravel. 11 of the sound tests were within permitted decibel levels and two (2) were outside the criteria. One cannot be over 10 decibels of the ambient noise at the property line. One of the noises outside the criteria was from a cement truck unloading, but that was only one (1) decibel over. They are being asked to operate at a lower RPM and that is a setting on the truck which can easily be done. The second one was a vehicle climbing the hill. They were at a 14 db. This was measured right at the property line of the neighbor.
3. Route 79 Relocation Project Archaeological Examination Report
Selectman Yeatts said PAL found something at one (1) site, and she was wondering if they will have the same problems as Jonathan White had with his site. Is there a synopsis or summary about this? Chairman Evirs said they just want to look at it a little further is what this means.
4. Notice of Intent – Public Scoping Meeting – South Coast Rail – US Army Corp of Engineers
Selectman Yeatts said Linda Grubb will go to the South Coast Rail Meeting and Chairman Evirs may also attend. It will be on Tuesday, December 2nd at U-Mass or Wednesday, Dec 3rd at Taunton High School.

5. Letters from Plymouth County Commissioners regarding regionalization efforts
Chairman Evirs said the letter speaks on 27 communities working together to collectively develop a electricity co-op and waste disposal. However, the Town is tied into Middleborough Gas & Electric and there is also a solid waste disposal contract with SEMASS. He was interested in the Regional dispatch services. The State of Texas has less than 20 dispatch points statewide. In Massachusetts we have over 300 public answering points. Even California has only about 15. We should have a regionalized 911 service. Every town should not have to support all that equipment. Ms. Garbitt said we will invite him to come and talk to the Board of Selectmen about this after Town Meeting and also ask the Fire and Police Chiefs to attend. Ms. Yeatts said she would contact Mr. Clarkson.
6. Plymouth County Commissioner's agenda – November 12, 2008
7. Cranberry Country Chamber of Commerce Perspective
8. Notice from Governor regarding District Local Technical Assistance fund
9. Follow-up information-Regional Sustainability Exchange – October 16, 2008
Selectman Yeatts said she was interested in the sustainable food for the Town. Ms. Garbitt said the first meeting is the energy star portfolio. Selectman Maksy is the energy point person for the Board, so the Board can ask him if he would like to attend.
10. Information from Sustainability Initiative – UMass Dartmouth
11. Joint Transportation Planning Group Meeting Notice – November 19, 2008
12. MBTA Advisory Board meeting notice-November 6, 2008
13. Massachusetts Historical Commission Grant Announcement
14. Notice of Smart Energy Conference – December 12, 2008
Ms. Garbitt said this is in Boston from 8:00 AM to 4:00 PM. It is for local officials and policy makers.
15. Information from Department of Telecommunications & Cable and Attorney General's Office regarding upcoming digital television transition
16. Massachusetts Agricultural Commission Conference – January 23 & 24, 2009
Ms. Garbitt asked if Selectman Maksy would be interested in this. Chairman Evirs will mention it to him.
17. Letter from Comcast regarding FCC Forms 1240 and miscellaneous information
18. Comcast Massachusetts Overview Third Quarter
19. Notice of meeting cancellation – RESC
20. Forum on Municipal Management – Town of Seekonk
Ms. Garbitt said she might be able to attend.
21. Letter from Verizon regarding PEG Access payment – third quarter
22. Letter from Trust for Public Land regarding source water protection
23. Letter from Ronald Snow regarding property located on Cherry Street
Chairman Evirs asked what this letter was regarding. Selectman Yeatts said this is a Town owned property in Clark Shores on Cherry Street. The Town owns the lot, but the adjacent property's garage is mostly on the Towns' property and it is not in good shape. The adjacent property owner would like to purchase this lot from the Town. However, if there is a sewer project there, the Town will need the land for a pumping station, so the Town should hold onto it for now. Ms. Garbitt said they did move their septic system, since that was on Town property also. The parcel would have to go out to bid and all abutters would be contacted if the Town was to sell it. The adjacent property was

purchased at a foreclosure sale. The purchaser would have to pay all the back taxes on it also. The Town can send them a letter that the Town is not interested in auctioning it at this time since the Town may have future use of the property.

Upon a motion made by Selectman Yeatts and Chairman Evirs stepping down to second and stepping back up to vote, it was:

VOTED: To adjourn the meeting at 8:10 PM
Unanimous in favor.