

**TOWN OF LAKEVILLE**  
**Selectmen's Meeting Minutes**  
**December 3, 2012 – 6:45 PM**

On December 3, 2012, the Board of Selectmen held a meeting at 6:45 PM at the Town Office Building in Lakeville. The meeting was called to order by Chairman Maksy at 6:45 PM. Selectmen present were: Selectman Maksy, Selectman Belliveau and Selectman Powderly. Also present were: Rita Garbitt, Town Administrator, and Christine Weston, Recording Secretary. Cindy Dow of the Middleboro Gazette was recording the meeting.

**6:45 PM Meet with Superintendent of Streets to discuss his request to implement Overtime Rotation Winter On Call Procedures for Highway Department**

*Christopher Peck, Superintendent of Streets, was present for the meeting.* Mr. Peck stated that last year he had instituted some procedures at the Highway Department in regards to the overtime rotation winter on call procedures. The Foreman was burnt out being on call each day during the winter season, so, he implemented a temporary procedure for on call coverage. The Police were asked to notify the Highway Department by 4:00 AM about what areas needed to be sanded throughout Town. Instead of just the Foreman going out every day to sand, a rotation was set into place. The Police Department has a list with each of the crew's contact information. The schedule was put into place from December 1, 2011 through March 10, 2012. The crew person was given four (4) hours of overtime pay to retain them on-call.

Chairman Maksy stated that the Wage and Personnel Plan does not authorize that procedure and that he did not think Mr. Peck had the authority to implement the policy. Other Town Departments might then want to begin doing that. Selectman Maksy added that his understanding was that Mr. Peck would be the first one to come in. Mr. Peck responded that he does not have a Commercial Driver's License. However, he takes care of trees and plows during every snowstorm, but doesn't run a sander. That is what the person on the schedule does. Chairman Maksy asked what the cost was to put the procedure in place. Mr. Peck responded that it was approximately \$1,400 to do it last year. Since the warm weather came early, the time period was cut short. Mr. Peck noted this procedure is typical for Highway Departments that he surveyed.

Chairman Maksy stated that he works for MassDOT, and they don't have that. There was no policy in the Town of Lakeville which allowed for Mr. Peck to put this procedure into place. Mr. Peck stated that it was in his budget, and he did not go over his budget. Chairman Maksy stated that it is not the work they did, it is when they got paid and the work was not done. Selectman Belliveau stated that he can appreciate Mr. Peck trying to solve a problem; however, this is one of the things that need to be communicated. He is not trying to micromanage, but this is personnel and wages, so it should have been presented to the Board first. We should have talked about it and gave you our blessing on it. It would have been nice to know about it up front. Mr. Peck stated that it was done out of necessity, and he was short staffed. Mr. Peck stated that he is not trying to steal from the Town or give his employees money. He is just worried about public safety. Selectman Powderly stated that although he does not deny that Mr. Peck should have come before the Town for this, however, if it gets the crews on the road earlier,

then perhaps it should be agreed with. The Police can call Mr. Peck, and he can make the calls to start the rotation.

Selectman Belliveau asked if only one (1) sander goes out for all the roads that need to be done. Mr. Peck responded that six (6) sanders go out, and it takes four (4) hours to do all the roads. The Police call and state the spots needing sanding. Almost all of the staff is called in since the spots are so widely separated throughout the Town. He calls the first person who is on the rotation, and they come in. Last year, when the men were on call, the Police called them, since they had that driver's number to call directly. Last year was not a typical winter. It was a warm winter. The Foreman lived across the street from the garage, so he saved a half hour to 45 minutes by being readily available to go out to sand. Only one (1) person goes out to spot sand.

Chairman Maksy stated that the Board needs to find the right way to do this; it is the taxpayer's money. There is not a line item for it. It is being taken out of the Snow and Ice Budget. The Town does not have a policy on it, and the Town is in union contract negotiations. Mr. Peck stated that the Town was not in contract negotiations when this was initiated last year, and he has not begun the procedure this year. Chairman Maksy stated that there is an additional problem, since Mr. Peck is out of the loop when the Police are calling the people directly. They need approval from management to do this. There needs to be better controls on this. Mr. Peck stated that the person is, at most doing a ¼ mile road, not the whole road. This is what has been in place for over 38 years, and the previous Foreman had been doing this. If there was abuse, he would have put a stop to it.

Chairman Maksy stated that the new Highway Foreman is going to be an hourly position, not salary. This procedure would have been good to bring up when that position was being discussed. Mr. Peck stated that having a salaried highway foreman is unheard of at a small Highway Department. A salary person would just go home after their eight (8) hours; there is no incentive to stay. Chairman Maksy stated that the person has a job, and if they do not do the work, then we find someone that does. This happened a year ago. Now there is another problem since last year we had a salary person in the position, and now the Town will have an hourly person. Selectman Belliveau suggested to come up with a solution of how the problem could be solved, so that no one is burned out. Chairman Maksy stated that a line item needs to be created to eliminate any concerns. Selectman Powderly stated that the line item is somewhat technically there. The person is coming in to sand the road, not fix a piece of equipment. Chairman Maksy stated that this might have to be a stipend instead of a four (4) hour minimum. This matter needs to be discussed at the next meeting. Selectman Belliveau stated that he applauded Mr. Peck for coming up with a solution, however, the Board should have been included on it. The plan in the interim was for Selectman Powderly and Ms. Garbitt to work on this with Mr. Peck.

#### **7:00 PM Meet with Board of Assessors to set Minimum Residential Factor**

*Present for the discussion were: Paul Meleedy, Janet Black, Dana Lucas, Members of the Board of Assessors, and Molly Reed.*

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

VOTED: To open the Hearing at 7:38 PM.  
Unanimous in favor.

Ms. Garbitt stated that the Board of Assessors are not posted for this evening, however, as long as they do not vote, they can give their presentation and answer any questions that the Board may have. Mr. Meleedy stated that the purpose of the meeting is to determine if the Town should remain with a single tax rate or split it between residential and commercial. The Board of Assessors is recommending that the Town continue and maintain the single tax rate. It includes the 2 ½ % percent increase. The average homeowner will see their taxes increase about \$90.

Chairman Maksy noted that the State looks at the valuation as the Town's means to pay for its schools and compares the Town with other communities. Mr. Meleedy explained that the Assessors have to follow a rigid formula to set the values and the information is then provided and approved by the Department of Revenue. The numbers have to be in line to set the tax rate. Discussion took place regarding the Town's assessed values. Ms. Black mentioned that the Department of Revenue wants 100% valuation. The median home value is \$290,000 for Lakeville. It is formula driven, and there is someone in the field everyday verifying the values. Selectman Powderly asked that the Assessors find out who does Whitman's figures just for curiosity sake.

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

VOTED: To close the hearing at 8:00 PM.  
Unanimous in favor.

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

VOTED: To remain at a Factor of One for the FY14 tax rate.  
Unanimous in favor.

### **7:30 PM Meet with Council on Aging Director to discuss revised Council on Aging Clerk Job Description**

*Vicki Souza was present for the discussion.* Ms. Garbitt stated that she and Ms. Souza reviewed the job description for the Council on Aging (COA) Clerk. The revised draft has been attached for the Board to approve. She has a few questions for the Board. Presently the position is Monday through Thursday, 32.5 hours a week, and it is budgeted for that. It is basically a flexible schedule based on the needs of the Director. Ms. Souza stated that flexibility is needed. If there is a meeting that the Director needs to attend, the Clerk may need to come in earlier to cover for the Director. Typically the Clerk comes in about 9:00 AM to 9:30 AM and leaves at 4:00 PM. Lunch is a half hour. The position was always 32.5 hours. Even if the COA is opened back to five (5) days, the time could be spread over the five (5) days. There is no reason for the COA to remain closed on Fridays. However, she will need to check with GATRA regarding the bus schedule. That may take a few weeks to change. Ms. Souza said the position can be

advertised for 32.5 hours and perhaps effective July 1<sup>st</sup> it will increase to 35 hours. Selectman Belliveau suggested to advertise that the position may increase to 40 hours, and that it is flexible week to week, depending on the needs of the Director.

Ms. Garbitt then referred to Page 2 under experience and training. The wording has been: preferred Bachelor's Degree. Other communities have asked for an Associate's Degree. Ms. Souza added that some communities also have just a High School diploma. Chairman Maksy stated that it should be a High School diploma and preference for someone with governmental experience and/or experience with a governmental agency and/or Associates Degree. Ms. Garbitt stated that the current position is a Level 4. She asked what the Board would like for the rate range. Ms. Garbitt suggested a range from 1 to 3 for the step and a rate in the range of \$16.11 to \$17.07. She would like to post the position for 35 hours, five (5) to seven (7) hour days, Monday through Friday. It would be subject to Town Meeting to increase the position to 35 hours, but would be 32.5 hours right now.

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

VOTED: To post the COA Clerk job description as amended.  
Unanimous in favor.

**8:00 PM Meet with Fire Chief Hopkins for an update on the Ted Williams Commissary Building and Discuss Monthly Status Report**

*Daniel Hopkins, Fire Chief and Park Commission Chairman, was present for the discussion.* Chairman Maksy asked Chief Hopkins about the renaming of the Rhode Island Extension. Chief Hopkins stated that he will need to ask the Police Chief also for input on this matter.

Discussion then took place on the status of the ambulance. Chief Hopkins stated that the income is \$30,000 a month, pretty much consistently, and it does increase a little each year. The runs for the ambulance service have increased. Chairman Maksy then discussed the advertising for the Mechanic position at the Highway Department with Chief Hopkins. Chief Hopkins stated that a lot of routine maintenance could be done in house. Chairman Maksy suggested that the Chief keep track of what work is done when the mechanic begins. Ms. Garbitt asked about the five (5) year replacement plan for the ambulances. Chief Hopkins responded that looking at the Capital Plan, there is one (1) scheduled in the 2015 budget to replace the 2006 model. The Town is getting more time from the ambulances since the quality of vehicles purchased has increased. They have been able to last approximately eight (8) years. Selectman Powderly suggested to add the figures in from July 1, 2012 and then there can be an ending date of June 30, 2013. The fire trucks have hour meters on them and that can also be added to the report. Chief Hopkins will provide the reports twice a year and more if needed.

Chief Hopkins stated that the Ted Williams Commissary Building is coming along. The sprinkler system is being put in now. The wiring has been done by the students from Old Colony. The electricity went from a single phase to a double phase. The carpentry will take place with Old Colony students during inclement weather this winter. Everything is coming along really well. The gravel operation will be starting within the next two (2) weeks. The

asphalt plants are almost ready to close. There has been discussion about the Commissary being used as a polling place in 2013. The Commission feels that the building could be ready for April Town Elections. However, if there are any Special Elections before that, he cannot guarantee that the building will be ready. It will definitely be ready by next fall. It is planned to be fully ready for June. Ms. Garbitt stated that if the Board does not to change the polling place, then nothing needs to be done until the building is ready. Then the Board can send a certified notice to everyone that the location will change back to the Ted Williams Commissary Building. Selectman Powderly asked about the status and the quality of the gravel. Is there more or less than was thought? Chief Hopkins responded that the gravel has been good, not great, some pockets were found that were not any good. There is an agreement in place with the contractor that the gravel work would be done within two (2) years. The permit will need to be renewed since it expires March 31, 2013.

### **Discuss Request from the Board of Assessors to rename the new extension of Rhode Island Road**

Mr. Peck stated that with the relocation of Route 79, some questions have come up about renaming either the old or the new section. The concern is to not affect too many addresses. An option is to call it Rhode Island Extension since that would only affect one (1) property. Chairman Maksy suggested that Mr. Peck contact the Fire Department since they typically use the first three (3) letters to identify roads when they are going out on a call.

Chairman Maksy stated that the Town should also consider naming the roadway to Ted Williams Camp. Mr. Peck will speak with the Fire Chief on the new extension of Rhode Island Road and also the entrance for Ted Williams Camp. Chairman Maksy stated that the Board needs a recommendation to move forward.

### **Discuss 2013 Holiday Schedule**

Discussion took place on the Holiday Schedule for 2013 as provided. Chairman Maksy said there will still have to be a Personnel Plan in place for the non-union employees. Ms. Garbitt said the schedule changes every year depending on where the holidays fall. Chairman Maksy pointed out that there are 11 legal holidays. After further discussion the Board decided to eliminate the two (2) half days and noted that if someone wanted to use their vacation or personal days they could, if they needed more time for traveling, etc., during the holidays. The Board decided that it should be 11 legal holidays, plus two (2).

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

VOTED: To have 11 legal holidays for 2013.  
Unanimous in favor.

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

VOTED: To give employees the day after Thanksgiving off and Christmas Eve Day off for 2013.  
Unanimous in favor.

**Request from Police Chief Alvilhiera for appointment of Eric McNeice as Police Officer/Constable**

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

VOTED: To appoint Eric McNeice as Police Officer/Constable, effective January 14, 2013, subject to a one (1) year probation, contingent upon successful completion of a psychological examination, physical examination, physical abilities testing, and approval of Police Academy exemption by the Commonwealth of Massachusetts. The appointment would expire July 31, 2013.  
Unanimous in favor.

**Request for appointment of Michael Bednarski as Volunteer Observer M/L Herring Fishery Commission**

Chairman Maksy stated that the Board was just recently notified of the resignation of Luke Leonard from the Herring Fishery Commission (Commission). The Commission only gave one (1) day notice before requesting appointment of a Middleborough Resident to fill the vacancy. It does not appear that they gave anyone else a chance. What about an Associate Member that has been waiting? It was suggested to have Ms. Craig contact Chairman Maksy on this tomorrow for discussion. The Town of Lakeville had Luke Leonard and Sylvester Zienkiewicz as Volunteer Observers, but now there is only Mr. Zienkiewicz. The Town has two (2) Wardens on the Commission. The topic was tabled for further research.

**Vote to accept Robert Marshall's resignation from Old Colony Regional Vocational Technical School Committee**

Chairman Maksy read the letter of resignation from Robert Marshall from the Old Colony Regional Vocational Technical School Committee. Ms. Garbitt will advertise the vacancy, with letters of interest being due by April 30, 2013.

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

VOTED: To accept the resignation of Robert Marshall from the Old Colony Regional Vocational Technical School Committee and to send him a letter of thanks for time served.  
Unanimous in favor.

### **Schedule Board of Selectmen meetings for January, February and March, 2013**

The Board reviewed the suggested dates and set the meetings as follows: January 7 and 28; February 11 and 25; March 11 and 25, 2013. It was agreed to meet again with the Freetown Selectmen around January 21.

Brief discussion then took place on the Lease Agreement for Assawompset School. It was agreed that nothing will be done with it right now. Mike Ward had sent the lease to Ms. Garbitt with the recommended changes as voted on by the Regional School District Committee. Selectman Belliveau stated that after considering the changes, the Board of Selectmen will remain with the original agreement and not accept any changes or revisions.

### **Announce DEP Grant-Sustainable Materials Recovery Program Municipal Grant**

*Christopher Peck was present for the discussion.* Mr. Peck stated that he had applied for a grant with DEP back in the spring for a roll off container. The Town received \$5,500 for a roll off container; it is designated for rigid plastic. The Town has to report back to DEP where the plastic materials goes and how it is recycled. Also, \$2,300 was received for mailers and signs will be replaced.

### **Request for Curb Cut-57 Pierce Avenue**

*Christopher Peck was present for the discussion.* Mr. Peck stated that he has approved the curb cut, subject to approval by the Historical Committee, since Pierce Avenue is a scenic road. Trees cannot be removed from the roadway layout without the Historical Commission's permission, even the removal of the dead trees. Ms. Garbitt stated that she will forward this to the Historical Commission.

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

VOTED: To approve the Curb Cut Permit, subject to Mr. Peck's recommendation and the Historical Commission's approval.  
Unanimous in favor.

### **Revisit discussion of current Zoning By-law for Curb Cuts**

*Christopher Peck was present for the discussion.* Chairman Maksy stated that perhaps this was an item that the Town Administrator could approve, instead of having the Curb Cuts come to the Board. That way, people would not be held up waiting for a meeting. Currently it is a General Bylaw. Ms. Garbitt stated that she would check with Town Counsel to see if the Board could just amend their rules and regulations, or if there has to be an amendment to the actual Bylaw.

### **Revisit discussion of current Zoning By-law for Temporary Permits**

Ms. Garbitt stated that temporary permit covers mobile homes if a person's home burns down and also storage units. If someone builds a storage shed, it is a one-time fee, and they can be taxed on the unit. If someone applies for a storage unit, the permit is annual. Right now, for a mobile home, the permit lasts for six (6) months, and can be renewed for another six (6) months. Chairman Maksy stated that a storage trailer is not an unoccupied mobile home; the interpretation might be being misinterpreted. A mobile home can be used for storage, but the intent is not to have an old mobile home sitting in someone's yard for years. Ms. Garbitt will consult with the Building Commissioner for his input.

### **Proposed Improvements to Middleborough Route 44 Rotary**

Chairman Maksy recused himself from the discussion. Ms. Garbitt stated that she had asked the Superintendent of Streets and the Police Chief to attend a meeting regarding the proposed improvements at the Route 44 Rotary. Mr. Peck explained that there are two (2) options on the table; the MassDOT option and McNeill Associates option. The biggest difference is access to Route 18. The Middleborough option's cost is \$38 million and the MassDOT cost is \$25 million. Mr. Peck stated that the Town of Middleborough did speak up and said that this affects both Middleborough and Lakeville residents. Ms. Garbitt stated that she will call MassDOT and find out when they will be holding public meetings on this.

### **Discuss Extended Closing Hours on Christmas Eve and New Year's Eve for Package Stores**

Chairman Maksy recused himself from the discussion. Vice Chairman Belliveau read the memo from Ms. Craig, asking if the Board would like to extend the closing hours on Christmas Eve and New Year's Eve for retail package stores.

Upon a motion made by Selectman Powderly; with Selectman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To not extend the hours for retail package stores beyond the usual 11:00 PM closing time.  
Unanimous in favor.

### **Discuss Extended Closing Hours on New Year's Eve for Restaurants with Liquor Licenses**

Chairman Maksy recused himself from the discussion. Vice Chairman Belliveau read the memo from Ms. Craig, asking if the Board would like to extend the closing hours on New Year's Eve for restaurants with liquor licenses.



Upon a motion made by Selectman Powderly; with Selectman Belliveau stepping down to second and stepping back up to vote, it was:

VOTED: To extend the closing hours on New Year's Eve for restaurants with liquor licenses to 2:00 AM.  
Unanimous in favor.

### **Review Zoning Board of Appeals Petition-16 Old Powderhouse Road**

Ms. Garbitt stated that the cabana had been constructed without a building permit. Robert Iafrate, Building Commissioner, denied the permit once it was applied for. The Planning Board felt that the cabana should have been placed on another location on the site, and it does not meet the specifications for a variance. The Selectmen had no comments regarding this petition.

### **Discuss Appointments to the Technology Committee**

Discussion took place on the appointments to the Technology Committee. Chairman Maksy felt that the Board should leave three (3) at-large spots to get public input on the matter. It was decided to have two (2) at-large spots.

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

VOTED: To appoint Selectman Belliveau, the Town Administrator, Town Accountant, Police Chief, Fire Chief, Town Accountant, Treasurer/Collector, Town Clerk, Superintendent of Streets, Building Commissioner, Principal Assessor/Appraiser, Board of Health Agent, Library Director, and Council on Aging Director to the Technology Committee with terms to expire July 31, 2013.  
Unanimous in favor.

### **Review and vote to approve Meeting Minutes of November 19, 2012**

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

VOTED: To approve the November 19, 2012 Meeting Minutes as presented.  
Unanimous in favor.

### **Review and vote to approve Board of Selectmen Executive Session Meeting Minutes (2 sets) of November 19, 2012**

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

VOTED: To approve November 19, 2012 (2 sets) Executive Session Meeting Minutes as presented.  
Unanimous in favor.

## **New Business**

Ms. Garbitt stated that the Board has received an invitation from Old Colony Regional Vocational Technical High School to attend the Energy Efficiency Leader Award presentation by Trane at the school at 9:00 AM on December 12, 2012. The Board members will contact Ms. Garbitt if they can attend. Ms. Garbitt is unable to attend since she has another meeting. It was suggested that perhaps Donald Foster could attend.

Ms. Garbitt distributed correspondence about Amelia "Millie" England, age 112 years who had recently passed away. The Board will send condolences to her family.

Ms. Garbitt stated that the Town received the public records request from the School Department. The information regarding student teacher ratio figures was provided to the Board. The information on Apponoquet class size is easy to read. The Freetown Lakeville Middle School figures are not as easy to decipher. Regarding the information provided for the George R. Austin Intermediate School, Grades 4 and 5, only music, physical ed, art, and math lab figures were provided. It does not say anything about the main courses that the students have to take. Assawompset School's information is easy to read with full & part day kindergarten, however, it does not give any information on the Special Education Class. Overall, the class sizes do not look too bad or too high.

Ms. Garbitt said the other question the Board had was regarding salaries. Ms. Garbitt said the information was not in the format as asked for by the Board. She reviewed it with Selectman Powderly today. Selectman Belliveau stated that he will be seeing Mr. Ward tomorrow and will ask him about that information. It would be easier to have the whole breakdown on one (1) employee without going through a lot of pages to gather that information. It needs to be known what the teachers are being paid and what they are actually being compensated, so that the taxpayer can decide whether to support an override or not. The Town did receive a lot of information. Selectman Powderly will follow up on this with Mr. Ward.

## **Any other business that may properly come before the meeting**

Ms. Garbitt distributed a notice about the Wampanoag Tribe, dated November 30, 2012, from Epsilon Associates, Inc. This notice will be forwarded to the Casino Advisory Committee.

Ms. Garbitt mentioned that she had received a letter from Ana and John Singleton of 125 South Pickens Street, dated November 29, 2012, regarding a tree that was taken down by Middleborough Gas & Electric (MG&E) on their property without any notice. They would like a replacement tree. Ms. Garbitt has contacted Sandra Richter, Public Communications Manager, and asked that the MG&E respond to the letter. Chairman Maksy asked that Ms. Garbitt to follow up on this matter.

Ms. Garbitt stated that if there was to be an override election, it should take place at the Annual Election to save money. The Town Clerk will need a vote by February 5<sup>th</sup> if the Board intends to have one.

## **Other Items**

1. Copy of letter sent to Massachusetts Gaming Commission
2. Copy of letter from M/L Herring Fishery Commission sent to Luke Leonard
3. Information requested by Selectman Powderly from Plymouth County Mosquito Control  
Selectman Powderly stated that he had attended the meeting and received enough information on what the Plymouth County Mosquito Control does to answer his questions. However, the question is whether or not they do the spraying. If they do all the spraying that they allude to, then it is not a bad deal.
4. Notice from State Ethics Commission
5. Notice from Comcast regarding Change of Annual Filing Date
6. Directions Newsletter from Woodard & Curran
7. Meeting Notice-Regional Economic Strategy Committee-December 11, 2012

At 10:08 PM, upon a motion made by Selectman Belliveau; seconded by Selectman Powderly it was:

VOTED: To enter Executive Session pursuant to M.G.L. c. 30A, §21(3) and not return to open session to discuss strategy in preparation for negotiations with the new unions because an open meeting may have a detrimental effect on the negotiating position of the Board.

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