

SELECTMEN'S MEETING
Monday, February 5, 2007

On February 5, 2007, 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 Yeatts at 7:00 PM. Selectmen present were: Selectman Evirs and Selectman Yeatts. Also present were: Rita Garbitt, Town Administrator, Tracie Craig, Executive Assistant and Christine Weston, Recording Secretary.

7:00 PM David St. Germain-Massachusetts National Guard

David St. Germain, Vice-Chairman, Massachusetts Committee for Employer Support of the Guard & Reserve, was present. Mr. St. Germain said he was here to ask that Lakeville affirm that they will follow all Federal & State guidelines in employing and re-employing members of the National Guard & Reserve. At this time a support certificate has been developed and Selectmen in the Towns' of Rochester, Freetown, Somerset, Carver and the Mayors of New Bedford & Taunton have signed it. Since the September 11th tragedy, over 10,000 cases have been reported of problems and discrimination to those that have been called to serve in the National Guard and then have returned to their jobs after a period of service. It basically has been a lack of communication between the employer and employee and 98% of the cases have been settled within three (3) days time. The support certificate basically reaffirms the fact that the Town will follow the law. Chairman Yeatts then read the letter of support, NCESGR Form 15B-200405-1 into the record.

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

VOTED: To sign the Statement of Support showing that the Town stands behind the troops and employees in peace, in crisis and in war.
Unanimous in favor.

7:10 PM Meet with Dan Hopkins-request for Firefighter appointment

Daniel Hopkins, Fire Chief and David Goodfellow, Deputy Fire Chief were present. Chairman Yeatts read the request of Chief Hopkins for the appointment of Michael W. DesRoche as a full-time Paramedic and Firefighter. Mr. DesRoche was not able to be present since he was at work this evening.

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

VOTED: To appoint Michael W. DesRoches as a full-time Paramedic/Firefighter for a six (6) month probationary term. The appointment is contingent upon the successful completion of a Department approved physical examination, a PAT test, and successfully completing the Massachusetts Firefighting Academy Program.
Unanimous in favor.

7:15 PM Meet with Park Commission regarding Clear Pond Restrooms

Ms. Garbitt stated that the Park Commission discussion will be rescheduled to February 26, 2007 since they do not have a quorum at this time.

Review and appoint Special Municipal Employees

Ms. Garbitt stated that each year a review is done of all the Boards and Committees to see if any members are employed with the Town to determine if there is any type of conflict of interest. There are a few positions that need to be voted on at this time and also one (1) that needs to be rescinded since the person is no longer a Town Employee.

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

VOTED: To designate the Lakeville School Committee as “Special Municipal Employees” pursuant to Mass General Laws 268A Section 1N.
Unanimous in favor.

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

VOTED: To designate the Cable Television Advisory Committee as “Special Municipal Employees” pursuant to Mass General Laws 268A Section 1N.
Unanimous in favor.

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

VOTED: To designate the Old Colony Regional Vocational Technical High School District Committee as “Special Municipal Employees” pursuant to Mass General Laws 268A Section 1N.
Unanimous in favor.

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

VOTED: To designate the Smart Growth Hearing Officer as a “Special Municipal Employee” pursuant to Mass General Laws 268A Section 1N.
Unanimous in favor.

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

VOTED: To designate the Sealer of Weights & Measures as a “Special Municipal Employee” pursuant to Mass General Laws 268A Section 1N.
Unanimous in favor.

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

VOTED: To designate Independent Snow Plowing Contractors as “Special Municipal Employees” pursuant to Mass General Laws 268A Section 1N.
Unanimous in favor.

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

VOTED: To rescind the designation of the Library Board of Trustees as “Special Municipal Employees” pursuant to Mass General Laws 268A Section 1N.
Unanimous in favor.

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

VOTED: To approve MCL Chapter 268A Section 20 (f) exemption for Call Firefighter Jared Darling.
Unanimous in favor.

Rescind and reappoint Jeffrey Brum as full time Paramedic/Firefighter

Chairman Yeatts read a memo from Chief Hopkins asking for a correction in the appointment of Jeffrey Brum as full-time Paramedic/Firefighter.

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

VOTED: To rescind the appointment of Jeffrey Brum as a full time Paramedic/Firefighter for a one (1) year probationary term.
Unanimous in favor.

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

VOTED: To appoint Jeffrey Brum as a full time Paramedic/Firefighter for a six (6) month probationary term. Appointment is subject to the successful completion of a Department approved physical examination, a PAT test, and successfully completing the Massachusetts Firefighting Academy Program.
Unanimous in favor.

Request from Apponequet Athletic Boosters Club to use Town House

Chairman Yeatts read a request from the Apponequet Athletic Boosters Club to use the Town House for their annual Easter Plant Sale. Proceeds from the sale are donated to the athletes and Athletic Department and the Boosters Scholarship program.

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

VOTED: To allow the Apponequet Athletic Boosters Club to use the Town House on Friday, April 6th and Saturday April 7th from 9 AM to 4 PM to hold its annual Easter Plant and Flower Sale.
Unanimous in favor.

Request from Massachusetts Motorcycle Association regarding Motorcycle Safety Awareness Period

Chairman Yeatts read a letter from the Massachusetts Motorcycle Association regarding Motorcycle Safety Awareness Period. They requested that the Selectmen proclaim the period of March 26th through April 27, 2007 as Motorcycle Awareness Month. They also requested that they be given permission to erect signs in Town regarding motorcycle safety and that the Selectmen designate someone to be a contact for motorcycle safety. Discussion occurred regarding the signage request and it was thought to be in violation of the Town's sign by-law. Therefore, they would have to go before the Zoning Board of Appeals for a variance.

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

VOTED: To accept the proclamation of the Massachusetts Motorcycle Association and to designate the Police Chief as their Safety Designee.
Unanimous in favor.

Review site plan for 30 Riverside Drive for comment to Planning Board

James Marot, Building Commissioner, was present for the discussion. Ms. Garbitt asked who had performed the peer review for storm water management to the site. Mr. Marot responded that that application has not yet been presented. This is just for the site work for the building. Normally, during site plan review, there is not a reason to ask for storm water peer review. The drainage is in the street and no drainage leaves the site.

Chairman Yeatts stated that she had hoped that Ken Motta might also be present to discuss this site plan with the Board. She said that she had some questions on the roof drains and would like the roof drain recharge system explained. It appears that it goes into an infiltration drainage ditch and there does not seem to be any soil testing in the areas where the roof drains will infiltrate. This has been a problem in the past. A soil test was not done, and the roof drains went into clay, not dirt, thus the water all backed up. Mr. Marot stated that these are the plans for making comments on, and then it will be presented to the Planning Board. They will act on the plans. Selectman Evirs mentioned that the plans show a proposed one-story building, but it is known that there will be a two-story building there in the future. Mr. Marot responded that the building is being constructed as a two-story building and is being built for one applicant at the current time. The plans have been presented by the architect for reasons of egress for the Fire Chief to consider. It is a two-story building. It may just be an error that it shows a one-story building rather than the two-story building.

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

VOTED: To send a memo to the Planning Board asking that the language for the site plan for 30 Riverside Drive be appropriately worded that there will be a second floor (two-story building) and ask if there will be soil testing for the roof drains, where they will infiltrate and ask that there be a peer review done for the drainage.
Unanimous in favor.

Review ZBA petitions: Scott Zion and Bill Markson

James Marot, Building Commissioner, is present for the discussion. Chairman Yeatts noted that the Board had two (2) Zoning Board of Appeals petitions for review.

The first petition was for the property located at 101 Hackett Avenue. Mr. Marot stated that Mr. Zion has not changed anything from his original petition, which was to build a garage on the lot he owns across the street from his house on Hackett Avenue. He is now applying for a variance from Section 2 – Definitions of Accessory Building and is appealing the decision that was previously provided to him by the Building Commissioner. A setback has been applied for. Selectman Evirs asked if Mr. Zion was asking for a variance then. Mr. Marot responded that to put an accessory building on a lot, it does not have to have a primary use building. The other decisions which he applied for have been granted and registered (sideline and frontline variance), and he does not have to reapply for those. The ZBA granted those and they were recorded at the Registry of Deeds. Mr. Zion has applied for a permit at the Building Department, but it cannot be given (since it does not satisfy the zoning 6.3 accessory use) and so he is returning to the ZBA to appeal the decision of the Building Commissioner. Though this is not an accessory use, it is a use allowed by the decision of the ZBA; they could grant him a use variance. The lot is a pre-existing non-conforming lot and is eligible and large enough to put a dwelling on by Zoning, not by the Board of Health. It does about the primary use lot.

Selectman Evirs stated that he would like to uphold the Building Commissioner's denial and not grant a variance since he was in opposition to allowing a variance. This may lead to a habitable area that could be created in the future. Chairman Yeatts asked if there was a condition from the ZBA that there be no electricity to the garage? She added that she was opposed to the garage becoming a living area. Mr. Marot responded that the original application showed a full second story garage, the ZBA asked that the dormers be removed and that there be no water to the building, however, they did not mention no electricity. The hearing before the ZBA will take place on February 15th. This matter was also discussed with Town Counsel and it was indicated that it would only be permissible if the ZBA decides it to be so. The applicant is applying for an accessory use building on a lot that does not have a primary use building. The lots are combined since the petitioner owns to the middle of the line on each side; however, since there is a right-of-way, the law states that the lots are clear and distinctly separate lots.

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

VOTED: To recommend denial of the petition of Scott Zion to build a garage on the lot he owns across the street from his house on Hackett Avenue and that the Board uphold the Building Commissioner's denial.
Unanimous in favor.

Ms. Craig suggested that a letter be sent to the ZBA asking that the Board of Selectmen receive a copy of any of their decisions since otherwise it is not known of the status of their decision. Chairman Yeatts responded in the affirmative since the Board does not know if the ZBA is heeding the advice of the Selectmen or not.

The second petition is for a proposed mini-storage facility at the property located at 156 County Street. Mr. Marot explained that Bill Markson is applying for a Special Permit under 7.4 and a variance from 5.0 and 4.1. Mr. Markson filed a petition well over six (6) months ago with the ZBA. A discussion occurred regarding the petition that had been previously applied for. The original plan was reviewed by the Planning Board and then nothing further took place. A letter was received from an attorney representing an abutter, asking for enforcement. However, there was no petition to enforce what had been presented. Mr. Markson was asked to resubmit his petition to the ZBA since it was agreed that the buildings were for accessory use, which is not permitted in a business zone. Mr. Markson then filed the petition with the ZBA, yet he has not been heard on them as of yet. The hearing has been scheduled for February 15th, however, Mr. Markson will be asking for a continuance, but it is not known when that will take place. Further discussion took place to further understand the petition and what should be the appropriate course of action taken by the Board.

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

VOTED: To recommend denial based on, 4.0 – Use Regulations, a self-storage building is not a permitted use by the Zoning Bylaws of the Town of Lakeville. Also, the ZBA does not have the authority to grant the use-variance. This matter will be followed up by the opinion of Town Counsel.
Unanimous in favor.

Review and approve Selectmen's minutes for August 14, 2006, October 23, 2006 and January 16, 2007

Chairman Yeatts asked that a line be deleted on page 4 of the August 14th minutes (held by the Division of Fisheries and Wildlife) and that a line also be stricken on page 5 in the vote (and with the Conservation Restrictions). Chairman Yeatts noted that Town Counsel will be adding a line as requested to be provided, during the discussion held on October 23, 2006 regarding whether an industrial use is permitted in a residential zone, page 6. Ms. Garbitt stated that Town Counsel has not been asked as of yet about their opinion on this matter, however, it will be presented to them.

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

VOTED: To waive the reading of and amend the Selectmen's meeting minutes of August 14, 2006 page 4 and 5, and to waive the reading of and amend the Selectmen's meeting minutes of October 23, 2006, page 6.
Unanimous in favor.

Review and approve Executive Session minutes: January 11, 2007 (2 sets); January 22, 2007; January 31, 2007

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

VOTED: To waive the reading of approve the Executive Session minutes of January 11, 2007 (two sets); January 22, 2007 and January 31, 2007 as presented.
Unanimous in favor.

Any other business that may properly come before the meeting.

Ms. Garbitt stated that the Town Clerk and the Treasurer's Office have changed their hours on Monday evenings. Rather than having an interim time between closing and then reopening, they have proposed to remain open from 9 am to 7 pm on Monday nights in order to better accommodate the public access to these offices. The new hours will be printed on all tax bills and will also be noted on the Town's website.

Selectman Evirs mentioned that he would like to have the SRPEDD report that he had received put on the agenda for discussion at the next meeting of the Selectmen. Ms. Garbitt will place it on an upcoming meeting. She added that she had also spoken with Mr. Hadfield regarding their attendance to the meeting and it appears they will be able to attend the meeting. Selectman Evirs asked that the Acting Superintendent of Streets, the Police Chief and the Fire Chief also be invited to the meeting to join in the discussion.

The Board of Selectmen then discussed an article that was in The Enterprise regarding what was taking place by the Planning Board of Berkley. At this time, the Town of Berkley is going through a series of zoning changes and bylaw changes. One bylaw change that they are discussing is placing an adult zoning area near the old Landfill site near County Road in

Lakeville. This would be adjacent to residential homes in Lakeville. The Board felt that they should put their opinion before the Town of Berkley that they oppose this area.

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

VOTED: To draft a letter to the Town of Berkley discouraging them from considering placing an Adult Entertainment area near a residential area or any other area adjacent to residential places in the Town of Lakeville and to ask that the Planning Board work with the Board regarding this matter. Also, to request that the Town of Berkley, in the future, present matters of this nature to the Town of Lakeville in advance.
Unanimous in favor.

Mr. Marot explained that the Planning Board had received a notice via Registered Mail regarding this matter. The Planning Board has not had the opportunity to discuss this matter as of yet. Ms. Garbitt asked if the Board might want to write their letter in conjunction with the Planning Board. Selectman Evirs agreed to have a letter jointly sent from the Board of Selectmen and the Planning Board.

Other Items

1. Memo from Brad Bates regarding golf cart donation
Selectman Evirs asked if Mr. Bates was expecting a comment on the letter regarding a suggested donation of a golf cart from the School Department to the Transfer Station. Ms. Garbitt responded that Mr. Souza had spoken with Mr. Bates and it seems sure that the golf cart will be donated from the School Department for use at the Transfer Station. The letter is an FYI for the Board.
2. Letter regarding fundraiser for Sheila Clark
Selectman Evirs stated that he would not be available on the 8th of February which is the first meeting of gathering ideas for a fundraiser for Sheila Clark, who had contracted Triple E in August 2006, at the library from 7:00 PM to 8:00 PM. Chairman Yeatts stated that she also would not be available; however, a letter should be sent on behalf of the Board of Selectmen that though they are unavailable they are in support of the efforts being done on her behalf. Ms. Garbitt acknowledged that she would write a note for the Board of Selectmen.
3. Abutters Notification-Taunton Water Department
4. Letter from DHCD regarding Chapter 40RZoning Incentive payment
Chairman Yeatts asked if a thank you letter had been sent to Donald J. Schmidt, Director, Smart Growth Zoning Program. Ms. Garbitt responded that that will be done within a few days time.
5. Letter from Town of Truro regarding Priority & Estimated Habitat Map
Selectman Evirs stated that he felt the Board should pursue getting the Town remapped. It appears that the Town of Truro is in the process of doing this. Truro also held joint meetings with all their Town Boards to discuss the matter of the mapping and Lakeville should do the same. Truro came up with twenty-one different points and reasons of why they believe their Town should be remapped. It seems that Lakeville could come up with 50% more than that of how the mapping has impacted the Town and development.

Chairman Yeatts stated, that looking at #21 – Letter from Teams re: Natural Heritage – Mr. Jon Regosin, Ph.D., Regulatory Review Manager for the Natural Heritage and Endangered Species Program (MEPA), who was met with in Boston by the Board, will be at the Lakeville Public Library, on March 8, 2007 at 7:00 PM to speak on the MESA project review process. All Town Boards and Committees should be notified that this is going to take place and then a meeting with the Town Boards and Committees could be scheduled after that time. Most questions should be answered at the March 8th meeting. Selectman Evirs stated that this should take place. Since there will be a lot of people to attend the joint meeting after Mr. Regosin speaks, a joint meeting date should be chosen soon. A joint meeting could even be held after the Town Elections have been held.

Chairman Yeatts asked that copies of the Letter from the Town of Truro and from TEAMS (The Environmental Advocates for Massachusetts, Southeast) be sent to all Boards and Committees as listed on the letters and any others deemed appropriate since the mapping impacts many of the Boards and Committees in the Town. Selectman Evirs suggested that a Saturday morning be offered to meet, since that may be a more available time to get together and the best representation from all Town Boards and Committees is anticipated. Ms. Garbitt can poll everyone's calendars for the most convenient date for everyone.

6. Letter from Plymouth County Commissioners regarding surplus vehicle
7. Letter regarding Law Enforcement Legislation
8. Memo from Town Counsel regarding Solid Waste User Fees
9. Plymouth County Commissioners agenda-January 30, 2007
10. Letter from DHCD regarding Chapter 40B Subsidized Housing Inventory
11. DOR Bulletin-Training Program for Assessors

Chairman Yeatts asked if the new employees with the Assessors Office should take the Training Program. Ms. Garbitt responded that she believed that the new employee and the new assessors have completed the program; however she would look into this.

12. Letter from Verizon regarding cable choice legislation
13. Letter from Comcast-Annual Complaint form for 2006
14. Letter from Comcast regarding general issues
15. Massachusetts Overview from Comcast
16. Copy of Executive Order 478 from Governor Patrick
17. Letter from Commission on the Status of Women regarding Unsung Heroines
18. 29th Annual Legislative Reception notice
19. Department of Telecommunications & Energy Order of Notice
20. MassWildlife News newsletter
21. Letter from Teams re: Natural Heritage

Discussion took place of the Letter from Teams under #5 – Letter from Town of Truro.

Upon a motion made by Selectman Evirs with Chairman Yeatts stepping down to second and stepping back up, the Board at 8:30 PM unanimously:

VOTED: To enter into Executive Session and not return to Open Session for the purpose of discussing possible litigation, pending litigation and the Collective Bargaining with the Fire Department.
Polled Vote: Selectman Evirs – Aye and Selectman Yeatts - Aye