

**SELECTMEN'S JOINT MEETING with MIDDLEBOROUGH SELECTMEN**  
**Monday, May 1, 2006**

**Meet with Middleborough Board of Selectmen to discuss Intermunicipal Agreement (IMA)**

*Wayne Perkins, Marsha Brunelle, Adam Bond, Lincoln Andrews and Stephen Spataro, Middleborough Board of Selectmen, and John Healey, Town Manager, are present for the meeting. Richard LaCamera, Nancy Yeatts, Charles E. Evirs, Jr, Lakeville Board of Selectmen and Rita Garbitt, Town Administrator are present for the Town of Lakeville.* Chairman Perkins stated the Town of Lakeville has been requesting this meeting for some time now and welcomed the Lakeville Selectmen and Town Administrator.

Chairman LaCamera noted that the last time Lakeville met with Middleborough was back in December. The meeting was to do with the IMA that was proposed by your Board and a letter that was sent to us asking that we execute the IMA. We executed the IMA based on the proposal you gave us with new changes and you said that you would not execute it until final negotiations between National Development (National) and the Town of Middleborough were completed. We understand that two members of your board met with National and National proposed to you a \$920,000 payment, and you countered with \$1.3 million. The \$920,000 was rejected by your Board. Chairman Perkins replied that the Board took a vote to reject. Mr. Healey said National figured that our proposal was worth about \$1.8 million to \$1.9 million, so they cut it in half and asked if we would accept half, and we said no. Chairman LaCamera said that the proposal that we have is for \$920,000 and that what was discussed by the newspapers was \$1.3 million. Selectman Andrews said the \$1.3 million was for the new business tie in. Then an additional \$500,000 was for a 53A donation that was offered. That brought it up to \$1.8 million and National came in with an offer of \$628,000. A gentleman at the meeting said at the last minute they would split it in half with us. Mr. Healey said that he hated to leave a room without a deal and added it up and split it in half to call it \$950,000. The answer from Selectman Andrews and myself was no.

Chairman LaCamera asked wasn't that offer only for sewer owned? Mr. Healey stated he did not know why we are in negotiations again. Chairman LaCamera replied that Lakeville is just looking for clarification since we read things in the newspapers, and we want to understand the conditions approved. If the National negotiations are closed then that is fine, and we want to complete the IMA for the existing customers. That has been the hang up. Chairman Perkins stated negotiations with them are pretty much closed. Selectman Bond said that was not the only issue that was left on the table; we do not want to reiterate to change the record, and if the issue is for the existing customers, then that is what you should discuss. Do not go back over old territory and certainly do not state it differently than how I recall the facts. Chairman LaCamera said all he was asking was to clarify that the Middleborough Selectmen have refused the agreement with National so that we can move on and not come back to this again in a month. Are the negotiations with National over? Mr. Healey stated you have to ask National that. Chairman Perkins said they were not going to go back to them, I can tell you that. If they came back to us, as we are expecting, then we would reopen negotiations with them.

Chairman LaCamera asked to talk about the existing customers under the IMA since National is off the list. There was a proposal sent to us for our approval and we signed it. Does the Board have any problems with that? Mr. Healey said yes. The agreement that came back signed by Lakeville did not deal with the three issues (3) that were remaining outstanding at that time. As I understand it, this Board is no longer interested in an existing customer only IMA, and has assigned two (2) of our members and myself to redraft the IMA. Chairman LaCamera said so the proposal you gave us is not the IMA you want for the existing customers? Mr. Healey said it is not the IMA that the board wants period. Chairman LaCamera asked then what does the Board want? Mr. Healey said we will tell you when we draft it. Chairman LaCamera asked what are the conditions of the IMA that you are proposing. Mr. Healey replied it has not been proposed yet. Chairman LaCamera said so the IMA is starting at ground zero again? Mr. Healey said two (2) members of the Board have been assigned to start at ground zero again. Chairman LaCamera asked what are the parameters for the existing customers. Selectman Andrews said one of the things is defining an existing customer. We are going to define it as time moves forward. Chairman LaCamera asked how do you define an existing customer that has been an existing customer for 50 years. Chairman Perkins said well you get into a situation here, let's cut to the chase and not waste a lot of time. You have two (2) situations over on Bridge Street that will have a very big impact on how we word that. One is the Walgreen's, and one is the 40b project. If we were to allow a change in usage for those two projects, then we are opening up ourselves to a lot of other potential changes. So we decided to go back to the drawing board and redefine a lot of the stuff that was in the original IMA. We probably would not even be discussing this if this was signed originally, and we would be sitting here saying we goofed. This may be the best thing that ever happened. Chairman Perkins said we made a conscious decision and that was why we did not want to bring you all the way over here to go back over this thing.

Chairman LaCamera said the 40B development that you are talking about in Lakeville, the Town did not ask for any water for that project. The developer came and asked the Town of Middleborough. We did not want that project. That project is over and done with and has already expired under the Board of Appeals. There is no water requirement for that particular one. Chairman Perkins said that is a dead issue at this point but sooner or later someone will come along and want to do something with that whole area over there. We have the same type of responsibility to our constituents as you have to draft something that protects them not just for today but in the future. We are trying to take the approach that we do not end up in a situation that is ugly between us, and if we finally draft something that makes some sense to both sides, then we will not be there. Chairman LaCamera said quite frankly, he did not understand why this is an issue. The Town of Middleborough has provided water to those businesses for over 50 years. The line was installed originally by special legislation and all on that line have the right to tie into that line. The Bridgewater Savings Bank was originally a house in a business zone. It was torn down and the water was connected to it. Chairman LaCamera said the Conway building was a house, torn down, was business zoned and the water was connected and the business is in there and the Walgreen's area is already an existing business.

In 1988 the new water line was put in. In 1989 the Town of Middleborough insisted that all those water lines be moved to the new water line from the old line and it was installed at Middleborough's request and not Lakeville's request. It was a \$2.5 million dollar grant that paid

for it, not the Town of Middleborough. So how can you say we are redefining existing customers? If those customers have a piece of property and sold it to someone else, then every time they sell the property it is a change of use. I don't think so I don't think that is right. So I would like to understand what you mean about redefining an existing customer and a change of use. Mr. Healey said that Dan Murray, Town Counsel, has stated that every use at this point is extra legal and there is no IMA that authorizes us to serve them for them to be customers. This board wants to draft an IMA and has assigned two (2) board members to do that with my administrative help that will meet the needs of the Town of Middleborough and go forward. It is premature to have any further discussions, and according to our Town Counsel the existing uses are extra legal. Chairman Perkins said he concurred; we have a committee working on it with Town Counsel, and when we have it ready will get it to you. Selectman Bond said he also wanted to point out that redefining existing customers is to make it more precise since presently in the IMA it is not a precise definition. It is an attempt at more accuracy, precise and make it shorter, simpler, and more to the point. There is a lot of extra in that document.

Chairman LaCamera said so you are saying that you will go do this by yourself and not have the involvement of the Town of Lakeville? Selectman Spataro responded no one said that. Chairman LaCamera asked then why don't we have two (2) members of your board and one (1) from ours since cannot have two (2) then it would be a majority, sit down and talk about the IMA. Mr. Healey responded because it is our water and sewer resource, not Lakeville's. Chairman LaCamera said but then you are doing it in a vacuum, and if the two sides sat down like we did two (2) years ago and outlined the agreement, it would make a lot more sense than your Board putting together a proposal that we will not agree with and be in the same position that we have been in since May 2005. Chairman Perkins said we met at your Town Hall one night and it was the feeling of this Board that you were trying to dictate policy to the Town of Middleborough. Chairman LaCamera said at that time, February of 2005, the proposal was for new and existing customers. We withdrew all requests for new customers, and you wanted to have new customers put in the proposal. In May 2005, the IMA that was put together by Lakeville and Town Counsel here was for exiting customers only and that is where we stand today. Mr. Healey said after the two (2) Boards hit a log jam for new and existing customers, it was he who suggested to this Board that we were not going anywhere with an existing customer only IMA until I suggested it and submitted an initial draft to this Board. We decided to reopen that to you with existing customers and no new connections.

Selectman Andrews said from his standpoint, when you start combining lots of property, then it is not an existing customer. When two (2) lots are put together for a commercial use, it is not an existing customer. If a residential use turns over into a commercial entity, it is not an existing customer. It is our fiduciary responsible to look out for the rate payer in Middleborough. Lakeville is not in a predicament since Middleborough has not considered turning off water to the existing customers that are there right now and enjoy Middleborough water. We made a motion last week for Selectman Bond and myself to work with Mr. Healey to present a document to you and will present it to you and then you can make a decision to accept, reject or modify. Chairman LaCamera asked if existing commercial uses are an existing customer then. Selectman Andrews said they will consider that. He did not think existing commercial customers should be paying a step one (1) rate; they should be paying a step two (2) rate. Chairman LaCamera asked if there is a business already there and then they sell to another

business, is that considered a business commercial property? Selectman Bond said he did not think that dealing with a hypothetical for a document not yet drafted with regard to a definition that has not yet been formulated and voted on was in order.

Selectman Spataro said he understood what Lakeville is doing to build out infrastructure and spread out the tax base. He thought Lakeville has other avenues and hope that this does not get ugly. We get elected by the people of Middleborough and there are a lot of people that have concerns about water so we are taking our time. Selectman Andrews said we probably all know someone in the Town that has decided to build a well so that they can water their lawn in times of a drought. I personally know that water is an issue and we should remain steadfast on the decision we made last week. Chairman LaCamera said the water usage being proposed is significantly less than the water usage for the original hospital in 1992, 50,000 gallons less per day. When the new water line was put in, there were 13 customers provided by Middleborough water that were moved over to Taunton in 1989 so that is significantly less usage. So we have had much less usage in the past 15 years, so to say that we are taking up water from the residents of the Town of Middleborough really is not true. I bet it is at least 60,000 gallons less per day. Chairman Perkins said that is not what we are saying. We have a supply problem. We have a problem getting enough water out of the ground for the residents to satisfy the user's needs on the system. We are working on that. We have articles on Town Meeting to help mitigate that and in a short time it will be eliminated. However, it does have an impact on out of town usage, and we have worked with the Town of Carver on water and currently have an IMA with them. They were looking for some more water for commercial usage and we had to tell them no. We do not feel that we have it available at this point in time. We have formulated a committee that is working on an IMA and different issues that some members had questions on and once it is approved by Town Counsel, we will send it over for approval, disapproval or modification as Selectman Bond stated.

Chairman LaCamera asked when will it be available? Chairman Perkins said we do not know that. Chairman LaCamera said we really need an end date. This has been going on for a long time. If the two (2) members do have an outline before it gets drafted, then I think we can answer this very very quickly. If we are to wait another month or two (2), I do not think that is fair. Selectman Andrews said he wanted to make it perfectly clear that he is turning this around and putting it on this Board and this IMA would have been signed, sealed and executed two (2) years ago had they not refused it at that time and the reason we are here today is because of that. And after we go thru our deliberations, you should allow the ability for Middleborough to develop water in Lakeville to sweeten the pot on our end. Chairman LaCamera said we are not interested in that. Selectman Spataro said we did the neighborly thing in Carver when they had pollution. The Lakeville hospital would not have been there if it did not have Middleborough water and it was not a guarantee that that would be your water forever, and we have not turned off any water yet to anyone that has a house right now I so feel offended when you come in and demand things. Chairman LaCamera said with all due respect, it has been two (2) years. We had approved it, and we were put off and put off until the National negotiations were completed and now they have. We just want to know where we stand, and we deserve a time frame. Selectman Bond said that was a tactical maneuver of yours signing and sending over the old IMA. If you want to present the core principal to the committee we have here, no one will turn you away. If you want to put that together, it will be very useful in the quick turning over of the

drafting of this thing. We need to sit down and figure what we want and will do; that's what happens in business; one side makes an offer and then counters with the other. Selectman Andrews said Mr. Healey was on vacation and left us an extremely detailed memorandum, and if we had signed it, we would have been flying in the face of the Town Manager and Town Counsel and extremely derelict in our duties. Mr. Healey said there has never been an IMA between the two communities; it has been like 50 years.

Chairman LaCamera said there has been a number of special legislations that have been passed that have been submitted by the Town of Middleborough to provide water to service the hospital and the residents. Mr. Healey said the hospital is correct. Chairman LaCamera said and the people on Main St. I have the legislation if you want to see it. Selectman Spataro said this sounds like litigation. Selectman Bond said yes it does, a cross examination. Selectman Spataro said he thought they could be very candid. As you folks try to build out commercial development, if you want our water, then we are going to make money off of it. That was a lousy deal with National initially. It was costing the Town of Middleborough. The Board has changed, and it must make sense for Middleborough, a profitable business. Chairman LaCamera said we are not asking for more water, all we are asking is for you to maintain the existing businesses and residential homes that already have it. Selectman Spataro asked at the same level? Chairman LaCamera said yes, the same level. Selectman Spataro asked then what is the hurry? When people turn on their faucets, they get water. It always seems to be a problem when someone sells property, and it becomes a commercial business. Chairman LaCamera said so if someone sells a commercial business to another one then they have right to water, why is it a change of use? Selectman Bond said he has the same objection he had before. We cannot sit here and discuss things hypothetically that have not been drafted. It does not make sense.

Chairman Perkins said he thought they had gone far enough and explained our position. When we have an agreement that our Board agrees to and Town Counsel agrees to, then we will submit it to you. Selectman Bond said if you folks want to provide your input before hand, it does not have to be all your input, I know how negotiations work, but input of what you want to put the kybosh on to allow you to have input or you may be able to foster it to get it done faster, it is up to you. Chairman LaCamera said we will meet any time, any day with the two (2) members of your Board and your Town Manager, your Town Counsel and our Town Counsel to discuss the parameters of the IMA. You let us know when and we will be there.

### **Adjournment**

The members exited the Middleborough Selectmen's meeting at 9:25 PM.