

UNANTICIPATED

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to authorize the Town Manager, Selectman Frawley and McKinnon to have a conference call with Special Counsel regarding the Land Into Trust Agreement and discuss what the Town's options are.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe to allow Chairman Frawley to put together a meeting with our State Reps and other town's officials that are party to the Compact to discuss the impact from the casino on their communities.

Selectman Dalpe asks Selectman Frawley and Selectman McKinnon what their problem is with her. She referenced two Brockton Enterprise Newspaper articles. She explained that she would like to clear the air so that the Board may move on with the Town's business.

Selectman McKinnon speaks about his filing of an ethics complaint on Selectman Dalpe. He explained that Selectman Dalpe has opened a Bed & Breakfast and he is now concerned that it is in direct conflict with her role as Vice Chairman of the Board of Selectmen and Chairman of the Tourism Committee.

Selectman McKinnon speaks further about the process of the Bed and Breakfast was flawed. He says Selectman Dalpe sits on this Board and deals with violations of licenses. He referenced the lack of understanding with zoning when opening the Bed and Breakfast.

Selectman McKinnon talked about a grant submission for the Oliver Estate. He also speaks on the two articles for the upcoming Town Meeting that weren't discussed by the Board of Selectmen. One article is for the disbandment of the Tourism Committee and the second article is to take control of the Oliver House away from the Board of Selectmen. He calls for the resignation of the Chairman of the Tourism Committee. He also calls for her resignation as Vice Chairman of the Board of Selectmen.

Selectman Dalpe presented a written response from the Ethics Commission to the Board regarding her recusing herself on anything related to Tourism or Business in the Town. There is clarification on the question asked. Selectman Dalpe asked the question verbally. Selectman Frawley asked for both the question and answer to be in writing.

Selectman Dalpe speaks on the misunderstanding with the Building Inspector. She has one unit and he said to her "less than three". She took that to mean units but he meant the number of people. She states that she has not had more than three people stay and that she has updated her website.

Selectman Dalpe speaks on the grant submission for the land purchase of the Oliver property, she noted that the grant was put together and submitted by a Town Employee and that she did not have an action on it. Selectman McKinnon will provide her with a copy of the grant he is referring to.

Selectman Dalpe speaks on the two warrant articles. She noted that the articles were presented and approved by the Board of Selectmen. She referenced the September 8, 2015 meeting. Selectman McKinnon referenced an August 4, 2015 correspondence from Town Counsel to Selectman Dalpe that could have been presented to the Board but was not.

Selectmen Frawley speaks about the continued unwillingness to post Tourism Sub-Committee meetings. He feels that the Tourism Committee is not following the proper protocol and avoiding answering Selectmen questions. He asks that they follow the rules. He noted that he has received various public complaints regarding her and her spouse as it relates to the Tourism Committee. Selectman Dalpe confirmed with Selectman Frawley that he has these emails. Selectman Frawley confirms he has emails and he stated he will check and get back to Selectman Dalpe.

Selectman Dalpe explained that it is the State Ethics Commissions guides/answers she follows and she will continue to do so.

ANNOUNCEMENTS & RECOGNITIONS

Public announcements are made.

MINUTES

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, Board voted unanimously to approve the 9/14/15 minutes.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, Board voted to unanimously approve the 9/14/15 Executive Session meeting minutes.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted to unanimously to authorize the Chairman or his designee, to sign the warrants for week ending 9/19/15.

NEW BUSINESS

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted to unanimously approve a One-day All Alcoholic Beverages Liquor License for Muckey's Liquors for 10/7/15 from 5 PM to 11 PM at Oak Point for the annual Taste of Middleboro.

Discussed proclamation of support for Middleborough Police Officers and declaring the month of October as "Show support for our Police officers" month by decorating with blue lights and ribbon across the Town.

Town Manager presented Chris Peck, DPW Director's, proposed recommendation for additional trash and recycling barrel fees. There was discussion.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to continue the discussion on trash barrel fees at a time when Chris Peck can attend the discussion.

HEARINGS, MEETINGS, LICENSES

Town Moderator Wayne Perkins addressed the Board to remind the public that Special Town Meeting will be held on Monday, October 5, 2015.

Town Manage explained STM Warrant Articles,

Article #1 Barbara Erickson addressed the Board to offer that she is opposed to the funding for this position being taken out of the budget and noted a letter provided by the Board of Assessors.

Article #2 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

Article #3 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

Article #4 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

Article #5 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

Article #6 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

Article #7 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

#8 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

#9 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

#10 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

#11 Upon motion by Selectman Dalpe and seconded by Selectman McKinnon, Board voted unanimously to support this article.

#12 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article. Neil Rosenthal addressed the Board to express his concerns relative to the cost for a Feasibility Study. School Committee....Rich Young responded

#13 Upon motion by Selectman Dalpe and seconded by Selectman McKinnon, Board voted unanimously to support this article.

#14 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

#15 Upon motion by Selectman Stewart and seconded by Selectman Dalpe, Board voted unanimously to support this article.

#16 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted to support this article. Four in favor. Selectman Knowlton opposed.

#17 Board agreed to hold.

#18 Board agreed to hold.

#19 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

#20 Upon motion by Selectman McKinnon and seconded by Selectman Stewart Board voted unanimously to support this article.

#21 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

#22 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to support this article.

#23 Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted to table until next week so that Town Counsel can be consulted. Four in favor. Selectman Knowlton opposed.

#24 Upon motion by Selectman Knowlton and seconded by Selectman Stewart, Board voted to support this article. One in favor. Selectman Dalpe abstained. Selectman Frawley and McKinnon against.

#25 Upon motion by Selectman Knowlton and seconded by Selectman Dalpe, Board voted to support this article. Two in favor. Three opposed.

#26 Upon motion by Selectman Dalpe and seconded by Selectman McKinnon voted unanimously to support this article.

#27 Upon motion by Selectman Dalpe and seconded by Selectman McKinnon voted unanimously to support this article.

#28 Upon motion by Selectman Dalpe and seconded by Selectman McKinnon voted unanimously to support this article.

#29 Upon motion by Selectman Dalpe and seconded by Selectman McKinnon voted unanimously to support this article.

#30 Upon motion by Selectman Dalpe and seconded by Selectman McKinnon voted unanimously to support this article.

TOWN MANAGER'S REPORT

Town Manager reported on the following:
FY15 Budget Review

- a. Local Receipts
1. Department of Revenue Certification
 - b. Free Cash
 - c. Retained Earnings
 - i. Water
 - ii. Wastewater
 - iii. Sanitation

CORRESPONDENCE

#1 Selectman Knowlton noted.

#8 Selectman Stewart noted.

#6 Selectman McKinnon asked the Town Manager to obtain a schedule of areas to be flushed and put on Town's website.

EXECUTIVE SESSION

Upon motion by Selectman Dalpe and seconded by Selectman McKinnon, Board voted by Roll Call to go into Executive Session for the purpose of discussing Collective Bargaining as it relates to GMEG, DPW, Clerical & Library at 9PM and not to return to open session. Roll Call: S. McKinnon, Yes; L. Dalpe, Yes; J. Knowlton, Yes; D. Stewart, Yes; A. Frawley, yes. Ended at 9:49 PM

This past June Ms. Marzelli requested that the BOS put an item on the agenda to discuss disbanding the Tourism Committee citing that the Tourism Committee was contributing to the unrest on the BOS. Although I don't agree with her that the Tourism Committee was the cause of this unrest, she was spot on about the Board being dysfunctional.

For months now I have been subjected to attacks from members of this board and out of respect for the office but more importantly in an effort to help the board focus on the business of the town and work for the residents who elected us, I have taken the high road and extended olive branches to its members and tried to keep an amicable working environment.

Obviously with the publishing of this article on the front page of the Enterprise, my efforts have not been successful therefore I ask you Mr. Mckinnon and Mr. Frawley, what is it that you want from me? What end do you hope to accomplish by these vicious untrue attacks?

Answer to question

Nee, Amy (ETH) <amy.nee@state.ma.us>

Mon 9/21/2015 1:52 PM

To: Selectman Leilani Dalpe <SelectmanDalpe@middleborough.com>;

CONFIDENTIAL

Dear Ms. Dalpe:

This e-mail is a response to your question about the conflict of interest law, G.L. c. 268A.

You are a Selectman in Middleborough. By reason of that position, you also serve as a member of the Tourism Committee. You have opened a bed and breakfast in Middleborough. Members of the public have expressed a concern that the conflict of interest law prohibits you from accepting a room fee of \$50 or more.

Provisions prohibiting gifts. There is no provision of the conflict of interest law that would prohibit you from receiving a room fee of \$50 or more. Two provisions of the conflict of interest law prohibit municipal employees from accepting gifts of substantial value, i.e., worth \$50 or more, from outside sources under certain circumstances. Section 3 prohibits a municipal employee from accepting a gift of substantial value "for or because of any official act or act within his official responsibility performed or to be performed by him." G.L. c. 268A, § 3. In other words, you may not accept a gift worth \$50 or more as an incentive or reward for the performance of a particular official act as a Selectman or as a member of the Tourism Committee. Section 23(b) (2) prohibits you from accepting a gift given to you for or because of your official position. This provision prohibits you from accepting a gift that is given to you because you are a Selectman or a member of the Tourism Committee.

A room fee is an amount paid by a customer of your bed and breakfast to rent a room. It is not paid to you or your bed and breakfast because of the public positions you hold or because of any official act that you perform in your public positions. The provisions that relate to gifts worth \$50 or more are not relevant to receiving room fees as the owner of a bed and breakfast.

Section 19. On the other hand, under § 19 of the conflict of interest law, you may not participate in a particular matter as a municipal employee if you or an immediate family member has a financial interest in the matter.

While you serve as a Selectman or member of the Tourism Committee, you may not participate in a matter that affects your financial interests as the owner or operator of a bed and breakfast. You also may not participate as a municipal employee if you are an officer, director, trustee, partner or employee of a business organization and the business organization has a financial interest in a particular matter. If the bed and breakfast is a business organization, and you hold one of the listed relationships to the business organization, you may not participate in a matter that affects the financial interests of the bed and breakfast. Finally, you may not participate as a municipal employee in any particular matter that affects your business competitors. As an elected official, your only option is to recuse yourself when matters of this type come before the Selectmen or Tourism Committee.

You should be careful about separating issues regarding your own business interests from your duties as a public official. For example, the question about whether you may charge a room fee of \$50 or more is an issue that affects you personally or affects your business and, I assume, does not relate to any particular matter that is

coming before the Board of Selectmen for discussion or decision. You should not address this issue in the context of a Selectman's meeting. If individuals are concerned about whether you may charge such fees, you should address the concerns in conversations or other communications as an individual rather than in the course of your official duties as a Selectman.

Confidentiality. Both this e-mail and your request for advice are confidential by statute. This means that you are free to disclose this advice to anyone you wish, but that the State Ethics Commission may not disclose your request or any other identifying information unless you consent, or unless you misrepresent the contents of this e-mail.

I hope this advice has been helpful. Please contact us again if you have any further questions about your obligations under the conflict of interest law.

- Amy

- Amy

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