

Chairman Frawley opened the meeting at 7:00 PM by inviting those in attendance to join in the Pledge of Allegiance.

In attendance were: Selectman A. Frawley, L. Dalpe, J. Knowlton, D. Stewart and S. McKinnon; and Acting Executive Assistant, Colleen Lieb

REORGANIZATION

Selectman McKinnon confirmed that all newly elected members of the Board of Selectmen have been sworn in and takes over the meeting for the purposes of reorganization. He calls for nomination of Chairperson. Selectman Frawley nominates Selectman Stewart, Selectman Dalpe seconds. He calls a second time for nominations for Chairperson. He calls a third time for nominations for Chairperson.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe the Board voted unanimously Selectman Stewart as the Chairman to the Board of Selectmen for a one year term.

Chairman Stewart takes over the meeting.

Chairman Stewart calls for nominations for Vice Chairperson. Selectman Frawley nominates Selectman McKinnon, Selectman Knowlton seconds. She calls a second time for nominations for Vice Chairperson. She calls a third time for nominations of Vice Chairperson.

Upon motion made by Selectman Frawley and seconded by Selectman Knowlton the Board unanimously voted Selectman McKinnon Vice Chairperson to the Board of Selectmen for a one year term.

UNANTICIPATED

There is nothing from the Board. There is nothing from the audience.

ANNOUNCEMENTS AND RECOGNITIONS

Rich Young, High School Building Committee and Chairman of the School Committee, spoke about The Compass Group, who were choose to be the Owner's Project Manager for the High School Building project.

Steve McKinnon, resident, thanked the voters for taking action on the Police Station Building. There was an 11% turnout and roughly 1200 votes in favor.

Paul Provencher, 17 Barrows Street, reminds everyone to attend the inauguration for Honorary Mayor, this Wednesday at 7 pm at the Town Hall.

Selectman Dalpe speaks about the dates and times of the upcoming Herring Festival. She shows the ad that was AAA magazine and also that the event made the list of "Best Things to do for

Under \$15". She showed the Historic New England Properties article that was printed in Antique Homes Magazine with the picture and summary of the Oliver House. She referenced the documentary to be shown at the Alley Theater on Friday night that features the herring. She also spoke about the grand opening and ribbon cutting ceremony planned for Saturday at 10 AM.

Selectman McKinnon spoke about Middleborough Mess Movers and the first Saturday to begin collecting trash and refuse. April 16, 2016 at 9AM at the Town Hall parking lot. He also spoke about his attendance at the Taunton Chamber of Commerce meeting and the question he asked Secretary Pollock regarding getting the rotary flyover project plans to 25%.

Selectman Knowlton spoke about the Cultural Council Grantee Reception and some of the presentations of the plans for the funds.

Chairman Stewart read the information for the DPW Rain Barrel program.

MINUTES

There was discussion on 9/21/15 minutes. These will be amended and brought back for approval.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board unanimously voted to approve the March 28, 2016 minutes.

WARRANTS

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon to approve and authorize the Chairman, as a designee to sign the warrants for the week ending April 2, 2016. Unanimous vote.

NEW BUSINESS

Kelly Jarabek, Animal Control, was present for the discussion. Kelly spoke about the need to increase the dog adoption fee to cover vaccinations and medical attention if required. The current cost is \$10 and it an insufficient amount. A \$150 dollar adoption fee is recommended and is in line with what other shelters charge for adoptions. The Selectmen agree with the increase.

Chris Peck, DPW Superintendent, spoke on the petition from the residents to connect to Town water and noted that he did receive some estimates on the cost for this work. There is a question as to where the funding will be allocated from. There was discussion on a combination of retained earnings and capital improvement projects.

Attorney Dan Murray, Town Counsel, was present for the discussion. Chairman Stewart spoke about a meeting held with Town Counsel to discuss what the Board of Health options are on the

issues happening at 88 River Street. Attorney Murray spoke to the Board about his research with regard to the excessive odors emanation from the 88 River Street Composting Operation.

Attorney Murray spoke about MGL Chapter 111, Section 143. He explained a public hearing would be required and a finding would be made if the evidence warrants a nuisance arising from the property. The owner would have the opportunity to offer evidence in the public hearing. There was reference to the DEP Order and the appeal period. The Board of Health's hearing can be held while the DEP situation is in process.

Upon motion made by Selectman Frawley and seconded by Selectman Knowlton the Board, acting as the Board of Health voted unanimously to hold a hearing at the next possible date to discuss whether odors discharged from the composting facility operated at 88 River Street constitute a nuisance, source of filth and/or cause of sickness injurious to the Public Health.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to authorize the Chairman to sign the letter and vote to vacate temporarily the Cease & Desist Order for the Harju Earth Removal.

HEARINGS, MEETINGS & LICENSES

The Board discussed the recent tobacco violations and the discussions with each of the owners on the reasons why they sold tobacco to a minor. It is noted that the current tobacco fines are \$100/\$200/\$300. There is agreement that an increase in second in third offenses should be made. There is a proposal of increasing the second fine to \$500 and third fine to \$1,000. It is noted that the Board of Health does have the ability to raise fees or fines as necessary.

Arthur Battistini, resident, suggested the Board consider creating a fine for the individual who makes the sale. There is discussion on the need for the business to be responsible and held accountable. If a fine were imposed to the employee, in addition to the business, then there is a question as to how the employee fine would be enforced. Tobacco stings are done by the State and the Town is not aware of when they take place or which businesses are involved. The Board of Health is notified and the results of the sting are provided. No Town officials are in involved.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley the Board acting as the Board of Health, voted unanimously to increase the tobacco fines from \$100/\$200/\$300 to \$100/\$500/\$1000.

The Board discussed the State law that requires all tobacco sales comply with the regulation that if it looks like they are under the age of 27 you ask them for a photo id. It is unclear how a mandatory check of ID's for everyone would be enforced.

The Board discussed the idea of Rising the age to 21 to purchase tobacco products. Selectman Knowlton spoke against raising the age. He explained that at 18 you become an adult in our

society, you are able to fight for our country and you should be able to make an informed choice as to whether or not you want to enjoy tobacco product. Selectman McKinnon discussed how the town's businesses would lose sales to surrounding towns if the age requirement was raised to 21 in this town. The state law is 18 and the surrounding towns are all at age 18. There is reference to legislation in process to increase the age to 21.

Hearing - Class II Dealers License, Applicant, Denise Margolin, 35 Harding Street, Map 047, Lot 535 and continued from March 28, 2016.

Attorney Robert Mather and Denise Margolin were present for the discussion. Attorney Mather provided an overview of the property, which is located right next to the Holiday Inn as you are leaving town. It's a large manufacturing building. He explains that the applicant is asking to put two cars out for sale at a time. The applicant currently has the same business in the Town of Norfolk and has the experience of selling 5-8 vehicles a week by only displaying the vehicles two at a time. It was noted that all the vehicle and warranty, records and work will be done by John Auto's Repair on Cape Cod Highway.

Attorney Mather spoke about the letter from the Building Commissioner regarding the locations of where the cars will be displayed. Attorney Mather spoke about the established site and the 27 feet of grass with a good portion of that in the Town layout. Attorney Mather does not agree with the Building Commissioner and has spoken with Town Counsel about the non-conforming site. He is waiting to get in writing from Town Counsel his opinion on the plan for the site and whether or not the Zoning Board has to make a determination. He asks the Board to vote contingent on Town Counsel's opinion and the agreement to comply with either finding.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe the Board voted unanimously to grant a Class II Dealer's License for City Limits auto Brokers, located at 35 Harding Street subject to the following condition, that pending Town counsel's determination that the plan does comply with zoning and if town Counsel determined that the plan does not comply with zoning, than no vehicles will be displayed within the 25ft buffer unless relief is provided by the Zoning Board.

TOWN MANAGER'S REPORT

The Town Manager discussed the letter from MassDOT, regarding the Town's Chapter 90 Allocation, which is \$872,408. The Town Manager referenced the Article on the town meeting warrant, from free cash in the amount of \$308,000, along with the Chapter 90 funds for a total of 1.3 million for road and parking lot improvements.

CORRESPONDENCE

#4 Selectman Frawley referenced Town Counsel letter and noted that he was within his rights to step down from the Board and then speak as a resident.

#4 Selectman Knowlton referenced Town Counsel's letter also. He noted that with the Town Meeting Warrant review on the next agenda. He explained that he understood why Selectman Frawley stepped down but questioned if Town Counsel should be asked if Selectman Dalpe needs to step down from the Board because of her work on Tourism.

Selectman Frawley explained that he stepped down from the Board to err on the side of caution and because of the possibility of perceived conflict. But since Town Counsel has indicated that he can speak on the article, he plans to do so at the next discussion.

Selectman Knowlton asked how Selectman Frawley can speak on that article when he is the one that will directly benefit from it if it passes. Selectman Frawley asked how he would directly benefit from the article. Selectman Knowlton explained that he is the recipient of the funds. Selectman Frawley stated that those funds will go to the Selectmen's Office. Selectman Knowlton explained that is not true and that those funds will go to him.

Chairman Stewart indicates that Town Counsel will be asked to provide a finding on whether members of the Board of Selectmen can speak on or take action on articles presented at their meeting, as they relate to the other Committees that individual Board members are on.

Selectman Frawley asked if Selectman Dalpe is a signatory on the petitioned article. Selectman Frawley reiterates that he, in no way shape or form, had anything to do with the petitioned article.

Selectman Knowlton responds that he has had records requests previously and has been asked by the Town Clerk what the charge will be for him to provide those records and that those funds go directly to him. So he asked for no funds. It is his understanding that the funds go to the recipient who the request is made to.

Selectman Frawley asks Selectman Knowlton to direct that question to the Town Clerk.

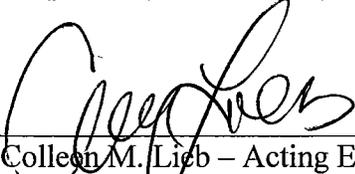
The question to be asked of Town Counsel is where the funds go for public records requests and who sets the amounts for those funds, the town clerk or the holder of the records.

Upon motion made by Selectman Dalpe and seconded by Selectman Knowlton the Board voted unanimously to ask Town Counsel where the funds go for a records request and who sets the amounts for those funds, the Town Clerk or the holder of the records.

ADJOURNMENT

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to adjourn at 9:40 PM.

Respectfully submitted by,



Colleen M. Lieb – Acting Executive Assistant
MIDDLEBOROUGH BOARD OF SELECTMEN