

**Middleborough Board of Selectmen
Meeting Minutes**

April 13, 2015

Chairman opened meeting at 7:03 PM by inviting those in attendance to join in the Pledge of Allegiance.

In attendance were: Selectmen A. Frawley, J. Knowlton, D. Stewart and S. McKinnon; Town Manager R. Nunes and Executive Assistant J. Shanley.

UNANTICIPATED

Melissa Guimont of Middleborough Mess Movers addressed the Board, provided the Board with a handout and gave an overview of what the group does in Town. She asked the Selectmen if they would pick one month out of the year that they would volunteer to join in cleaning up the litter in Town, either individually, as a group, or in a group of their own that they formulate. The Lakeville Board of Selectmen is going out in May to clean up the litter in its Town. Selectman Knowlton offered to volunteer in August. He suggested asking the Conservation Commission and the Tourism Committee as well. Board will do May 16th in competition with the Lakeville Board of Selectmen and again in August. The MMM can use contributions of claw trash grabbers, which sell at Lowes for \$20. Town Manager volunteered for June 20th and will ask departments/employees to volunteer. Town employee volunteers will meet at 9 a.m. at the Grange Hall. Selectman Stewart will cover 9/19/15.

ANNOUNCEMENTS & RECOGNITIONS

Board made announcements.

MINUTES

To be voted on 5/4/15.

WARRANTS

Upon motion by Selectman Stewart and seconded by Selectman McKinnon, Board voted unanimously to authorize Chairman, or his designee, to sign Warrants for week ending 3/11/15.

Board voted unanimously to authorize the Chairman, or his designee, to sign Warrants for week ending 4/11/15.

NEW BUSINESS

Upon motion by Selectman Stewart and seconded by Selectman McKinnon, Board voted unanimously to approve the renewal of the 2015-2016 Hand/Pawnbroker/Junk Dealer/Old Metals licenses, subject to receipt of all required documentation by the Selectmen's Office.

Upon motion by Selectman McKinnon and seconded by Selectman Stewart, Board voted unanimously to waive the license fee of \$50 for Junk Dynasty's initial license as the applicant had not yet opened for business. The applicant will pay \$50 for the renewed license.

Upon motion by Selectman McKinnon and seconded by Selectman Stewart, Board voted unanimously to approve Certificates of Registration for Fuel Storage for 2015-2016, subject to receipt of all required documentation by the Town Clerk's office.

**Middleborough Board of Selectmen
Meeting Minutes**

April 13, 2015

Upon motion by Selectman McKinnon and seconded by Selectman Stewart, Board voted unanimously to pay the Town of Plympton real estate tax bill for 0 Prospect Street (Landfill) in the amount of \$930.56.

Motion made by Selectman McKinnon and seconded by Selectman Stewart, to designate the School Building committee as "Special Municipal Employees". Motion made by Selectman McKinnon and seconded by Selectman Stewart to amend by approving, subject to Town Counsel approval. Three in favor. Selectman Knowlton opposed.

Upon motion by Selectman Stewart and seconded by Selectman McKinnon, Board voted unanimously to refer ATM Article #27 Zoning Bylaw change to the Planning Board.

HEARINGS, MEETINGS, LICENSES

At 8:07 PM Chairman opened public hearing on application made by Michael Gaetano, LLC, d.b.a. 360 Sports Pub for a new All Alcoholic Beverages Restaurant liquor license for property located at 360 Wareham Street, Assessors Map 72, Lot 5571 by reading aloud the public hearings notice.

Attorney R. Mather, representing the applicant, Ronald Savioli, addressed the Board to present the application. Attorney Mather noted that the applicant is not applying for an Entertainment license at this time. The applicant has no intention of having outdoor entertainment at any time. Mr. Savioli has no connection with the current owners. He will make himself available to speak with any of the neighbors who have any concerns. Board asked questions.

Selectman McKinnon offered that the fencing needs repairing and extending around the property. Selectman Knowlton asked what the seating capacity is for the patio. Mr. Savioli replied 250 seats, plus picnic tables. Attorney Mather offered that this amount is not needed. Selectman Knowlton asked if there will be music played from the inside to the outdoor patio area. Attorney Mather responded that they will not have any music outdoors, unless and until, they feel they would like to apply for an Entertainment license. Selectman Stewart asked Attorney Mather if he was aware of the Health department memorandum, which indicates that it has not received an application for a food permit or anything from the applicant. She also offered that she feels that the fencing that exists will not be an acceptable buffer for the neighbors. She expressed her concern and own experience with the previous licensee's loud music being disruptive to the peace and quiet of the residents who live nearby. Chairman offered that he won't approve until a proper fence/buffer is installed to protect the neighbors from noise and disturbances.

Abutter Brian Dorr addressed the Board. He asked if there would be a limit in hours for the patio service. Attorney Mather responded that they are open to discuss something reasonable. Mr. Dorr asked if there would be a designated smoking area and asked if they could specify entertainment, as much of the noise came from the outdoor speakers. He noted the exterior lighting of parking lot and offered that the previous owner had installed commercial lights pointing at residential homes. He asked if the outdoor sign will be lit up and late at night. He also shared that the parking spaces and patio use by patrons, with music, was disturbing. The fence was installed in six hours by two guys and began to fall over within four weeks. Previously, they were allowed to only have 89 people in the building because of the septic system capacity, but when they advertised for sale, they suggested it can hold 250 people. A resident of Ashley Lane, who abuts the back of this property, addressed the Board. She offered that she is very happy to see a family friendly restaurant open, but

**Middleborough Board of Selectmen
Meeting Minutes**

April 13, 2015

she shares the same concerns as Mr. Dorr. Caroline LaCroix, Assistant to Town Manager offered her opinion/concerns to the Board. Lincoln Andrews also addressed the Board.

Attorney Mather offered that they will investigate the lighting, get a parking space plan, signage, and suggested meeting about the fencing to see if they did what the former Town Manager and the Town Planner had agreed to with them. He noted that Mr. Savioli will be leasing the property and the owners of the property will have no say in how the business is run. Upon motion by Selectman McKinnon and seconded by Selectman Knowlton, Board voted unanimously to continue the hearing to 5/4/15 at 7:15 PM.

Chairman continued public hearing from 3/30/15 on application by MG&E on WRPD Chairman asked to hear comments/questions. Hearing none, Chairman declared hearing closed. Upon motion by Selectman McKinnon and seconded by Selectman Stewart,

The Board finds that the proposed use:

- a. Is in harmony with the purpose and intent of the WRPD By-law and will promote the purposes of the Water Resource Protection Districts.
- b. Is appropriate to the natural topography, soils and other characteristics of the site to be developed.
- c. Will not, during construction or thereafter, have an adverse environmental impact on the aquifer, recharge areas, water resources of the Town.
- d. Will not adversely affect any existing or potential water supply.

The Board votes to grant a special permit to allow for the installation of a gas main in the existing street to connect an existing line at 40 Benson Street to an existing line at Spruce Street within 25' of a fresh water wetland as requested in the Applicant's application under the Water Resource Protection District By-law pursuant to Section 8.2.8 WRPD Z3 & Z4 Use Regulations, based on the plan titled "Existing conditions Plan, Benson Street, Middleborough, Massachusetts", prepared for Middleborough Gas & Electric Company by Alpha Surveying and Engineering, Inc., dated February 5, 2015.

The Board grants the special permit with the following conditions:

1. The proposed project is permissible under Sections 8.2.8.3.i.1 and Sections 8.2.9.3.d.1 only if it is defined as and approved by the Conservation Commission as a "limited project". It appears to qualify as a "limited project" under Section 10.53 (3) (d) of the Wetlands Protection Act.
2. The narrative letter accompanying the application indicates the project is in WRPD Z4 but the majority is in Z3. Please revise.
3. The 25-foot no disturb zone needs to be shown on the plans.
4. The limit of zones Z4 and Z3 needs to be shown on the plans. Also revise Note 5 on Sheet 1 to reflect Z4 and Z3 (not Z1).

**Middleborough Board of Selectmen
Meeting Minutes**

April 13, 2015

5. The plans do not indicate that surface conditions will be restored and stabilized with loam and seed, replanted, pavement repaired, etc. Provide appropriate details and notes.
6. Silt sacs or other catch basin inlet protection should be provided at all catch basins along the route, even catch basins outside the buffer zone as these eventually drain to wetlands.
7. In some areas, the gas line is proposed on the same side of the road as the wetlands. Can it be relocated on the opposite side to avoid the 25-foot no work zone?
8. Please address excavation material stockpiling methods to protect the wetland resources.
9. Please address de-watering methods to protect the wetland resources.

At 9:07 PM Chairman continued hearing for Robert Weaver dba Sports Ltd, dba Robert Weaver. Attorney Greg Nazarian introduced himself as Mr. Weaver's new attorney. Robert Weaver offered that he is allowed to buy and sell salvaged cars. Discussion ensued. Upon motion by Selectman Stewart and seconded by Selectman Knowlton, with agreement by Mr. Weaver, Board voted to amend Mr. Weaver's Class II Automobile Dealer license to have only 25 cars on the lot, for sale, at any given time with only 10 additional cars, on the lot, pursuant to Town Counsel's approval. Chairman suggested that Mr. Weaver be in touch with the Conservation Commission to remedy outstanding Conservation issues. Mr. Weaver offered he has a meeting with the Conservation Agent and Selectman Stewart on Wednesday. Selectman Stewart corrected him and noted that the meeting is actually tomorrow. He said he has it on his calendar for Wednesday. Selectman Stewart confirmed that it was scheduled for tomorrow. Four in favor. Selectman Frawley opposed. Selectman McKinnon made it clear to Mr. Weaver that if he goes over 35 cars on his lot, at any time, he will lose his license.

Upon motion by Selectman McKinnon and seconded by Selectman Knowlton, Board voted unanimously to sign the WPCF Construction Contract. Board took brief recess to sign the contract. Chairman called meeting back to order at 9:52 PM.

Joseph Barboni President and CEO of Methuen Construction addressed the Board. He offered that they pride themselves on their reputation. He does ask for testimonials at the end of projects and will ask the Town. They are scored by Decam. A 70 is a passing grade. They've scored 97 in the last five years. Town Manager asked that change orders be kept to a minimum. Mr. Barboni noted that they only had multiple change orders from one Town.

Board agreed to table the Tourism Committee discussion at the request of Selectman Dalpe. Board agreed it will postpone to 5/11/15 at 7:30 PM.

TOWN MANAGER'S REPORT

Upon motion by Selectman McKinnon and seconded by Selectman Stewart, Board voted unanimously to support ATM Article #25.

**Middleborough Board of Selectmen
Meeting Minutes**

April 13, 2015

CORRESPONDENCE

#16 Selectman McKinnon noted that Building department Permit Report shows that there is not a lot going on, although, it is only based on a couple of months and from a quiet time of year.

#10 Selectman Knowlton noted the Plymouth County Assessment.

#5 Selectman Stewart noted correspondence from Attorney Bond re commendation of Police Detective/Prosecutor Harvey.

#15 Chairman Frawley noted Town's response to Ms. Holton's correspondence from last week.

Upon motion by Selectman McKinnon and seconded by Selectman Stewart, Board voted unanimously to adjourn at 10:15 PM.