

TOWN OF MIDDLEBOROUGH  
NOTICE OF MEETINGS OF TOWN DEPARTMENTS AND ALL TOWN BOARDS

As required by Chapter 39 M.G.L.

PLEASE TYPE OR PRINT LEGIBLY

NAME OF DEPT. OR BOARD BOARD OF SELECTMEN/RENT BOARD

DATE OF MEETING: Wednesday 10/26/11 TIME: 7:00 PM PLACE: Hall Town

\_\_\_\_\_  
Date and time received by Town Clerk Clerk/Board member posting notice

MEETING CANCELLED: \_\_\_\_\_ DATE & TIME CANCELLED: \_\_\_\_\_

CLERK/BOARD MEMBER CANCELLING THE MEETING: \_\_\_\_\_

**AGENDA**

1. Pledge of Allegiance
  2. Unanticipated
  3. Rent Control/Rules & Regulations Workshop
  4. Adjourn
-

Rent Control Workshop

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

In attendance were Selectmen A. Rullo, S. McKinnon, S. Spataro, A. Frawley, and B. Quelle, Town Manager Cristello, Town Counsel D. Murray, and Attorney J. Talerman.

Chairman Rullo announced that he would recuse himself based on Town Counsel's advice. Selectman Quelle also consulted with Town Counsel, but was advised that he did not have any conflict and would not be recusing himself. Chairman Rullo left the meeting table and Vice Chairman McKinnon ran the meeting in his place. Selectman McKinnon announced that the proceeding tonight would be focused on the Town's Rent Control Rules and Regulations. Town Manager introduced Mr. Jason Talerman. Mr. Talerman gave a brief summation of his experience with rent control and as special counsel to a number of towns. He also discussed what he has observed recently in the universe of rent control regulations. He discussed his memo to the Board including his recommendations for some improvements to the Town's regulations. He also reviewed his answers to questions raised by the Selectmen.

- a. *Did the Rent Control Board make any errors in the decision of April 2011?* In short, the answer is no. It is my opinion that the decision was thorough and well reasoned, as well as fair.
- b. *Do rents in Edgeway Park have to be all the same?* In short, the answer is no. Rent Control in Middleborough is covered by your Special Act and I see nothing that requires all rents to be the same. Nor do I see anything in the various statutes that requires all rents to be the same. In fact, there is statutory support for the notion that sites that have different attributes can have different rents, subject to restrictions on rent increases under the Act.
- c. *Is our definition of Fair Net Operating Income, which is essentially mortgage rates, in compliance with state regulations?* I see no overt legal flaw in this definition. However, it is my opinion that the regulation is perhaps overly complex. I would generally prefer a definition that allows the Board to consider a wide range of factors that may shift in time. In this vein, the provision can be simplified and broadened to allow more discretion (see below).
- d. *Is our definition of maximum rents in compliance with State regulations?* In short yes. Again, you are governed by a Special Act which is the sole source of authority, absent a State Statute that is direct conflict. I am not aware of any such conflict. Further, I believe this provision is fair, logical and easily understood.

Selectman Frawley asked whether rents could be raised without an operator coming before the Board. Mr. Talerman responded that the regulations as written, allow for that. The Board could choose to be more restrictive if it wanted, but it is not required. Selectman Quelle asked whether the Board could treat different parks differently with respect to rents based on their performance as operators. Mr. Talerman replied that as long as the Board treated the operator

**Middleborough Board of Selectmen  
Meeting Minutes**

**October 26, 2011  
(Wednesday)**

fairly and without bias, that the Board could do things differently, park by park. Selectman McKinnon asked if the Board could decrease rents if a park did not have a license. Mr. Talerman responded that the Board could include in its regulations a provision that would deny rent increase if there is one or more violations of the regulations.

Selectman Frawley asked about language if the Attorney General's guide. Mr. Talerman noted that the Town's Special Act prevails. The Attorney General's guide is meant to summarize what is generally the case throughout the Commonwealth, but it is perhaps misleading since it cannot capture all of the variations in all of the Special Acts. Selectman Quelle asked why our regulations would allow increases with the change of tenants. Town Manager responded that the regulations respected the Board's previous action from 1999 at the request of Oak Point, as they adjust rents upon the sale of units. Mr. Talerman suggested that the Board add even more flexibility to its regulations to take into account any injustices that occur within these parks.

Mr. Martinez asked whether any residents could vote out rent control. Mr. Talerman said that it could be voted at Town Meeting to petition the legislature for such action. Mr. Martinez stated it would be better if the Town closely followed the state regulations and state statute and not deviate from them.

Town Manager asked Mr. Talerman whether the opinion of Town Counsel regarding initial rents at Edgeway was correct. Mr. Talerman said it was. Selectman Quelle asked whether the rents could be rolled back to \$280, which is what the tenants are requesting. Mr. Talerman said that the Board could not issue restitution, but if it felt a fair net operating income could be provided at \$280, the Board could roll back rents based on evidence.

Margo King again raised the question of whether the state law trumped the Town's Special Act. Mr. Talerman again stated that the Special Act adopted by the Town has the same force and effect of a state law as long as it is not inconsistent with state law. Mrs. King also asked about the presumption language in Chapter 140, Section 32L(2). Mr. Talerman replied that the Town maximum rent rule applied to all units so it could not be deemed to be unfair. Mr. Talerman suggested that the presumption language may have been written to prevent abuses by Park owners who might attempt to retaliate against individual residents.

Mr. Lerner stated that Oak Point has been very consistent in setting rents. He questioned whether since Social Security has not gone up, but rents have gone up by 3-4% a year, should Oak Point be reviewed by the Rent Board to justify its method of doing its increases. Louisa Brown asked why rents can increase with the change of ownership. Town Manager responded that the Board's decision prevents that now at Edgeway. An Oak Point resident pointed out that depending on the month someone purchases their unit, the CPI calculation is for the preceding 12 months. It is not the same increase for everyone during the course of the year.

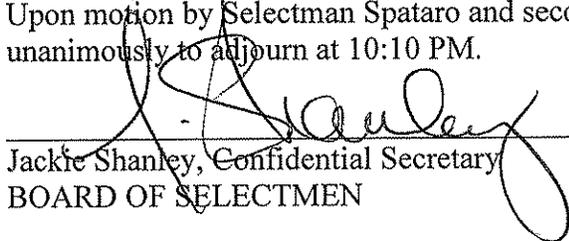
Mr. Martinez asked if the Board was going to take any action this evening. Selectman McKinnon said no, that this evening was a workshop. Mr. Martinez asked when the Board

**Middleborough Board of Selectmen  
Meeting Minutes**

**October 26, 2011  
(Wednesday)**

would consider changes to its regulations. Selectman McKinnon did not offer a date explaining that the Board also had other business to attend to. He said that the Board would return to this discussion at a future meeting.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to adjourn at 10:10 PM.

  
\_\_\_\_\_  
Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN