

**Middleborough Board of Selectmen
Meeting Minutes**

November 19, 2012

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

In attendance were: Selectmen A. Rullo, A. Frawley, S. Spataro, B. Quelle, and S. McKinnon, Town Manager C. Cristello, and Confidential Secretary J. Shanley.

UNANTICIPATED

Selectman Frawley confirmed with the Town Manager that we received a letter from Attorney Burke regarding Edgeway Mobile Home Park on Friday. Board will discuss later this evening.

Selectman McKinnon noted a solicitation for replacing water pipes received by a resident. He advised residents to proceed with caution when receiving solicitations such as this. Water department Superintendent Joe Silva will look into tomorrow.

Selectman Spataro heard on the news that there is financial aid available for illegal aliens. He called Senator Pacheco and let him know his opinion and suggested others do the same.

Jane Kudcey and Mimi Duphily announced upcoming holiday events. November 24th has been designated as small business shopping day and the Christmas parade is at 1 PM. There will be a window decorating contest again this year with downtown businesses. The voters have to go into at least five shops and get a passport stamped and then their names will go into a raffle. The Burt Wood School will be holding a craft show and the library has holiday events scheduled. Mimi Duphily is organizing the holiday event on the Town Hall lawn on Sunday, December 2nd. On the 1st Sunday of Advent, the crèche will be lit at the Congregational Church. Anyone interested in participating or donating may contact Mimi Duphily. Chairman thanked them for taking this on again, noting that it was a huge success last year.

Chairman read aloud a thank you note from Jeanne Spalding for donations to the COA Food Pantry, noting that this is the last week, but that they will be accepting gift cards for food until the end of the year.

Chairman noted that he had the privilege of donating his time to the St. Vincent DePaul Society and offered that there are many families in need within the community.

Chairman offered his thanks and appreciation for all of the well wishes while he recovered from medical issues, and for the wishes of sympathy in the loss of his mom.

In the spirit of Thanksgiving, Selectman Frawley thanked the Board's Confidential Secretary, the Town Manager, fellow Board Members, the public, and his wife for all that they do.

Selectman Frawley noted that All Are Welcome will be serving Thanksgiving dinner this year. It is a pay if you can program.

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MINUTES

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted to approve 11/5/12 meeting minutes. Three in favor. Selectmen Rullo and Frawley abstained.

Upon motion by Selectman Frawley and seconded by Selectman Spataro, Board voted unanimously to approve 7/23/12 Executive Session meeting minutes.

Upon motion by Selectman Frawley and seconded by Selectman Rullo, Board voted to approve 11/5/12 Executive Session meeting minutes. Selectmen Frawley and Rullo abstained.

NEW BUSINESS

DPW Director A. Bagas and Rich Johnson addressed Board re the Standby Generator-Lane Street Sewer Pump station. Propane will be the fuel source for this generator. One thousand gallons will last one week. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to award bid to Systems Electrical Services, Inc., Revere, MA, in the amount of \$49,500.00.hj

Rich Johnson addressed Board re repairs to the Fire Tower Elevated Water Storage tank. Discussion ensued. Selectman Quelle expressed concern at how low the lower bid is. Mr. Johnson assured the Board that the scope of work has been reviewed and he is confident with this bid. Selectman McKinnon expressed same concerns and the significant difference in bid amounts and offered that he would like to see it re-bid. Selectman Frawley offered that if they had a scope review, and are comfortable, any issues will fall on the project manager. Town Manager offered that the problem is that there are only two bids. Rich Johnson confirmed that doing nothing really isn't an option. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted to award bid to low bidder Rockwood Corporation in the amount of \$583,131.00. Rich Johnson indicated that the work would begin in March with an estimated time of the Tank being out of service for 30-45 days. All electrical work relative to the antennas is included in this bid. Four in favor. Selectman McKinnon opposed.

Town Manager reviewed for Board what the E. Main Street sewer pumping station was about, noting that the Agreement has been reviewed and supported by Town Counsel. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to sign the E. Main Street Sewer Pumping Station Agreement.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to discharge, with thanks, the Water/Wastewater Feasibility Study Committee.

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to sign the grant for the Southeast Regional Health District.

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School Department Technology Systems Administrator Ellen Driscoll and School Business Administrator Kathy Piatelli addressed Board noting that the Board hasn't had the opportunity to review the document, but that it is welcomed to forward comments/concerns to them. The grant is due 11/30/12. This is a grant to fix the building owned by the Town that is currently vacant on Forrest Street. It will be used by the future Director of Maintenance who will be hired by the School Department, but who will also have responsibility for Town buildings as well. Town Manager sees this individual as someone who will be hands-on and able to perform needed work/repairs directly. It is an evolving project and all concerns and questions raised by the Selectmen will be considered. They are asking that the Board approve the concept of applying for the grant. Upon motion by Selectman Frawley and seconded by Selectman Spataro, Board voted to authorize Chairman to sign. Four in favor. Selectman Spataro opposed.

FY'14 Budget Development Schedule

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted to approve the FY'14 Budget Development Schedule.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously not to exercise the Chapter 61A option relative to the Estate of Edward W. Parks, property located on Miller Street.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to appoint Richard E. Tinkham as representative to the Plymouth Carver Aquifer Advisory Committee. Board thanked Mr. Tinkham for his willingness to serve.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to approve the 29th annual M.S. Bike Ride on June 29th and 30th, 2013, subject to no concerns/objections by Fire and Police Chiefs.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to approve the 2013 Water, Wastewater, & Trash Tax Lien report.

Board passed over Environmental Partner's proposal for Stormwater Services FY'13. Town Manager noted that it will be addressed on future meeting agenda.

DPW Director A. Bagas addressed Board. Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to award bid for Salt for snow and ice control to Eastern Minerals, Inc., 134 Middle Street, Suite 210, Lowell, MA 01852, at their bid price of \$47.05 per ton through the Town of Plymouth Regional Salt Bid #21221. Selectman McKinnon asked how many gallons the DPW Director plans to buy, to which Mr. Bagas responded, the average year is 4-

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6,000 gallons. They add it to salt and it improves the salt's ability to melt snow, reducing the amount of salt to be used.

HEARINGS, MEETINGS, LICENSES

At 8:25 PM Chairman began Informational Hearing with the VFW re various named entities/liquor license. Town Manager updated Board of meeting held on 11/8/12 between Town Counsel, the Town Manager, the Board's Secretary, and VFW representatives William Blight, Dave MacNeil and Richard Washburn, and status to this point. Town Manager noted that the ABCC recommended the VFW come before the Board for this hearing to get all information on the record. Chairman swore in the only witness, William Blight, Quartermaster of the VFW Post. Chairman offered that he was going to ask questions and Mr. Blight was to answer them. Chairman informed Mr. Blight that copies of the invoices and checks that prove payments have come out of the VFW account are to be delivered to the Board's Secretary no later than Wednesday this week. Mr. Blight expects to have it to the Selectmen's office by tomorrow.

Selectman McKinnon offered that someone gave him an application for the Driftwood lounge located in the VFW. Selectman McKinnon asked if this is a separate entity located within the VFW. Mr. Blight responded yes, and that they opened it a long time ago. He offered that he was not qualified to answer some of Selectman McKinnon's questions, but that they have hired an attorney who Mr. Blight will be consulting with tomorrow. Selectman McKinnon offered that his concern, as a CEO of the Town signing liquor licenses, is that we have a situation here with the post being issued a license, with a subset getting/selling the alcohol, without a license. He explained that now that there is awareness by the Board/Town, if there is an accident, there is a serious issue of liability for the Town. We have to resolve this subset. Town Manager recommended letting them consult with their attorney tomorrow. Selectman McKinnon asked that Town Counsel tell the Board if continuing to serve possible individuals who are not members is allowed. Town Counsel offered that the All Veterans' Canteen was downstairs and was illegal. He further offered that he hadn't heard of the Driftwood Lounge before this evening. He went on to say that we were assured that they stopped that business (The All Veterans' Canteen). Selectman McKinnon offered that anyone can join the Driftwood lounge if they pay a fee and get a member to sponsor them so it is a separate entity. Town Counsel responded that a club license is for members and their guests. This would be illegal and not within the requirements of a liquor license. Selectman Spataro asked how many people in Town know about the Driftwood lounge, noting that it's been there for 30 years as a way to generate revenue. Chairman posed question whether or not it is legal to have a member pay once, have a sponsor once, and then legally become a member. No answer was offered. Selectman Quelle asked Mr. Blight if the Driftwood lounge was open and serving this evening, to which Mr. Blight responded, yes. Selectman Frawley asked Mr. Blight, that if he finds out from their Attorney tomorrow that they shouldn't be open, to please not be open tomorrow night. Mr. Blight responded that he doesn't have the authority to do that, but that he could ask the other members to consider as a request by the Board. Selectman Frawley offered that the Board shouldn't allow

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something it knows is illegal. Mr. Blight indicated that the general public is not allowed. Chairman Rullo noted that he could go in with a sponsor, get a card, then go in any time.

Selectman Spataro noted that it seemed the concern of the Board was being at risk, and therefore asked Town Counsel and the Town Manager to explain the risks. Town Manager responded that if he had information on the Driftwood Lounge a couple of weeks ago, we could have addressed it tonight and he would agree with Selectman Frawley. Selectman Spataro asked if the Board could get more formal. The Board's Confidential Secretary was asked by the Town Manager what process the Board would have to take. Secretary responded that the Board would have to hold a public hearing for a possible liquor license violation, during which it could suspend, revoke, modify, or cancel the liquor license if, in fact, a violation had taken place. Town Counsel agreed. Chairman advised Mr. Blight that the Board is requesting them to voluntarily close down if their attorney informs them that they are, in fact, in violation. Selectman McKinnon recommended scheduling two hearings for 12/3/12. Mr. Blight read aloud a statement of all the contributions that the VFW makes to the community. Chairman thanked him and offered that the Board recognizes all of that, and that the goal is to make sure that they are operating legally. Upon motion by Selectman Quelle and seconded by Selectman Spataro, Board voted unanimously to continue this hearing to 12/3/12 at 7:30 PM.

Motion made by Selectman McKinnon and seconded by Selectman Spataro to schedule a possible violation hearing on 12/3/12 at 7:45 PM. Selectman Spataro asked if that would come with the support of the Town Manager. Town Manager responded that he wouldn't handle it that way, offering that, in his opinion, this motion gives the impression that the Board doesn't trust that they will do what they say they will. Town Counsel offered that he didn't think the Board needs to schedule a violation hearing to protect the Town. Town Counsel informed the Board that holding this informational hearing is enough to protect the Town. Chairman Rullo recommended waiting until 12//12 to give them a chance to straighten it out. Selectman McKinnon expressed that he remained concerned about the liability to the Town. He asked if the Town Manager and Town Counsel could specifically state that there is no liability to the Town further noting that he is in his position to look out for the best interest of the Town. Chairman asked Town Counsel to which Town Counsel responded that anything is possible. Town Counsel offered that he thinks the Board has taken immediate action since learning of this and it's not unreasonable to wait two weeks after the 12/3/12 meeting to hold a violation hearing. Board voted in favor of holding a possible violation hearing on 12/3/12 at 7:45 PM. Three in favor. Selectmen Rullo and Quelle opposed. B. Giovanoni asked if the liquor license covers the entire building to which the Town Manager responded, yes.

At 9:05 PM Board continued Middleboro Overseas Veterans, Inc. public hearing from 10/15/12 for an Alteration of Premises and a Change of Corporate Name. It had been determined that the applicant had not filed the appropriate application for the transaction it desired. Applicant will re-

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submit the appropriate application. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to close hearing.

At 9:07 PM Chairman opened public hearing on application for a WRPD permit made by Paul Singley and Cheryl Letourneau for 75 Faye Avenue by reading aloud the public hearing notice. Mr. Singley addressed Board. Chairman asked to hear concerns/questions. Hearing none, Chairman declared hearing closed. 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.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to grant the special permit to Paul Singley and Cheryl Letourneau to allow for construction of a new foundation at 75 Faye Avenue as requested in the applicant's application under the Water Resource Protection District By-law pursuant to Section XII. G. 3 (a) based on the plan titled A Special Permit Plan in Middleborough, MA for Paul Singley and Cheryl Letourneau by Senna Fitzgerald Gilbert Associates, dated October 2, 2012, with the following conditions:

- a. That there be no additional lawn area, clearing, or structures, and that, the dwelling not be expanded.

At 9:12 PM Chairman opened public hearing on application filed by Arthur Leonard for a WRPD Permit for Leonard's Auto, LLC, 407 Wareham Street, by reading aloud the public hearing notice. Mr. Leonard addressed the Board. Chairman asked to hear concerns/questions. Hearing none, Chairman declared hearing closed. The Board finds that the proposed use:

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

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to grant the special permit to Leonard's Auto, LLC to allow for the sale of six (6) retail ready cars at 407 B Wareham Street as requested in the applicant's application under the Water Resource Protection District By-law pursuant to Section XII. F.3 (a) based on the plan titled Site

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Plan Leonard's Auto, LLC and submitted during the hearing on October 15, 2012 with the following conditions:

- b. No additional pavement shall be added to create the parking spaces.
- c. The parking areas shall be used for the sale of used retail ready cars.
- d. There shall be no repairs or fluid additions on the premises.
- e. There shall be a 6' chain link fence, with privacy slats, between the applicant's property and the nearest abutter.
- f. They will maintain a treed and/or a landscaped buffer zone to the eastern side of the property.
- g. The parking spaces shall be 10' x 20'.
- h. There shall be six retail ready parking spaces and two general parking spaces, for a total of eight.

At 9:27 PM Board continued hearing hearing from 10/22/12 on application made by Arthur Leonard, Leonard's Auto, LLC, 407 Wareham Street, for a Class II Automobile Dealer license. Mr. Leonard addressed Board. Hearing no further comments/concerns, Chairman declared hearing closed. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to approve the Class II Automobile Dealership license.

SRPEDD representatives gave presentation re Road Safety Audit Report presentation given. DPW Director addressed Board.

Making Clay Street a One-way Street from Rte 18 to Ash Street

Town Manager gave history. Debora Grant of Ash Street spoke and indicated that the traffic and speed is horrible. She knows someone from Clay Street who reports speed is so terrible that she can hardly get out of her driveway. Town Planner Ruth Geoffroy addressed Board to offer her professional opinion. A lot of signage warning people of the change and special enforcement upon implementation will be needed. SRPEDD representative suggested that the Town could ask MA DOT to take a look at it and see if they can make some suggestions. Town Manager will work with Planning to get a letter to Mass DOT relative to timing. Selectman Frawley offered comments about the traffic issue relative to the Rotary. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to make Clay Street a One-way street from Rte. 18 to Ash Street. DPW proposes it will be done after Thanksgiving.

TOWN MANAGER'S REPORT

Town Manager reiterated budget schedule.

Town Manager commented on Cloud based financial software indicating that the State did make progress developing it for municipalities. It is still an active option.

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Selectman Spataro left meeting room at 9:57 PM and returned at 9:59 PM.

Town Manager noted that we did not get our MA Works Grant from the Commonwealth.

Town Manager's Evaluation form and process

He will get the Board his part by the end of the month. Board's Secretary's review is coming due as well.

CORRESPONDENCE

#12 Selectman Spataro would like to send letter of appreciation to Cheryl Leonard upon her letter of resignation. Board agreed. Selectman Frawley offered he'd like to not accept her resignation and keep her.

#1 Selectman Frawley thanked Fire Chief Benjamino for obtaining the EMPG Grant.

#14 Selectman Frawley suggested sending a letter to Senator Pacheco re Rockland Industries. Town Manager suggested we ask for another meeting and ask for all legislators to attend. Selectman Frawley suggested we simplify the process of getting letters out on our end. Town Manager offered that Patricia Cassady has been designated to handle on behalf of the Town. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to have a meeting.

#6 Selectman McKinnon noted correspondence from Plymouth County Mosquito Control re our Assessment being approximately a 20% increase. Town Manager offered that this is why we attend the budget meeting. They are going to have to explain what they are going to do with that increase.

#5 Selectman Spataro noted correspondence from Mr. Malcolm and asked the Town Manager for an update from Attorney Burke. Town Manager pointed to a letter received Friday in which Attorney Burke is asking for an extension. Selectman Spataro asked the Town Manager what he would recommend, to which he responded that he's not going to get a 2013 license and we may go into court. Chairman suggested making it an agenda item for next time we meet to discuss a plan of action. Louisa Brown asked when the Town can start fining the Park. She informed the Board that the residents are still buying their own water.

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At 10:24 PM Board voted by Roll Call to go into Executive Session to discuss strategy relative to Contract Negotiations (Non-union personnel) and not to return to Open Session. Roll Call: S. Spataro, Yes; A. Frawley, Yes; B. Quelle, Yes; S. McKinnon, Yes; A. Rullo, Yes. Ended at 10:50 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN