

MINUTES

For approval at the 12-5-11 meeting

**Middleborough Board of Selectmen
Meeting Minutes**

 **DRAFT**

November 21, 2011

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, S. McKinnon, S. Spataro, A. Frawley, and B. Quelle, Town Manager C. Cristello and Confidential Secretary J. Shanley.

The meeting was broadcast live by Verizon and MCCAM and recorded by MCCAM.

UNANTICIPATED

In being mindful of the Thanksgiving holiday, Selectman Frawley offered his thanks to numerous people.

Lakeville resident Peter Nygard addressed Board to offer his thanks for having had DPW Director A. Bagas lower the dam at Assawompsett Pond.

ANNOUNCEMENTS

School Committee member Brian Giovanoni announced that the 2nd of three interviews of candidates for a new School Superintendent is scheduled for 11/22/11. It is not being broadcast yet, but the interviews will be broadcast by the schools beginning next Monday night. The interviews will be conducted in the cafeteria of the Nichol's Middle School.

MINUTES

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve 11/7/11 meeting minutes with correction to page 5 as noted.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to approve 11/14/11 meeting minutes with correction to page 2 as noted. Discussion raised by Selectman McKinnon that "Unanticipated" is becoming out of hand in so far as too many lengthy items are being raised by individuals. Chairman agreed. Board agreed that if individuals have multiple items that require an extended amount of time, these items will be required to be placed on a future meeting agenda.

NEW BUSINESS

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve the use of the Town Hall parking lot for a yard sale by the Pratt Farm Committee on 6/9/12 with a rain date of 6/10/12. The yard sale is to raise money towards funding the Pratt Farm pavilion. In response to question by Selectman McKinnon, Committee members indicated that though they are not a 501C3 organization, they are in the process of becoming one. The account the funds go into is a 501C3 and donations are tax deductible.

Police Chief Gates addressed Board. Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to appoint Harold H. Penny, 155 Rocky Meadow Street and Andrew C. Sederquist, 71 Plain Street, to the Auxiliary Police Force.

**Middleborough Board of Selectmen
Meeting Minutes**

November 21, 2011

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to issue a proclamation to James McKeon on his achievement to rank of Eagle Scout.

Commendation – Police Officer Nathan J. Ferbert

Police Chief Gates and Police Officer Nathan J. Ferbert addressed Board noting that it gives both the Chief and the Board the opportunity to publicly commend Officer Ferbert for his actions in apprehending a suspect later charged with 2nd Degree Murder. The Chief noted that he asked Officer Ferbert to attend. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to provide a written commendation to Officer Ferbert. Chairman thanked him and noted it is an honor & a privilege to have him on the Middleborough Police Force. Officer Ferbert thanked the Board and Chief and noted that he still feels a sense of tragedy for the senseless loss that occurred.

HEARINGS, MEETINGS & LICENSES

Rules & Regulations – 2nd Hand licenses

Police Chief addressed Board with his request to make 2nd Hand licensees responsible to better record/track merchandise being brought into and sold out of their stores. He noted that we need a Town Bylaw, which must be adopted by Town Meeting. If the Board adopts his proposed Rules & Regulations tonight, they will need to be typed on each license, effective May 1st. He will be back with a proposed bylaw in the spring, and if accepted, it won't have to be typed on each license going forward. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to adopt Rules & Regulations as presented by Police Chief.

CORRESPONDENCE

5 Selectman McKinnon will attend the Plymouth County Advisory Board meeting scheduled for 12/8/11. Board's Secretary to RSVP on his behalf.

Selectman McKinnon asked Town Manager if the Permanent Cable Committee has the authority to adopt rules & regulations. Town Manager will look into.

HEARINGS, MEETINGS & LICENSES

7:30 PM Chairman opened public hearing on application made by Verizon, Inc. and MG&E to install utility pole 50S on Vernon Street by reading aloud the public hearing notice. Darryl Crossman of Verizon addressed Board to explain the petition. Chairman noted a resident from that neighborhood called him to share his concerns, and noted that it is the concern of the Chairman as well, that placing the pole in this location will create a blind spot at the foot of his driveway. Chairman suggested they review and consider another location for this proposed pole. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to ask Verizon to take another look at it and continue the hearing to 12/5/11 at 7:50 PM.

TOWN MANAGER'S REPORT

Town Manager noted that we received a resignation of Eric Stebbins, Sr. from the Conservation Commission and now have a vacancy to fill. Interested candidates should apply to the Conservation Commission or Town Manager's office.

Town Manager noted letter sent to Senator Eldridge as Chairman to the Joint Committee on Housing and Representative Honan also as Chairman to the Joint Committee on Housing expressing the Board's opposition to House 1269, An Act relative to rent control board procedures for manufactured housing.

Town Manager noted letter sent to Senate Chair James Walsh and House Chair Michael Kane asking for their support of S 1948 a home rule petition approved at our Town Meeting this past June authorizing Boards of Selectmen to approve intermunicipal agreements.

Town Manager noted letter from Wegmans Food Markets, Inc. indicating that they are not interested, at this time, in pursuing the site located on Route 28 in Middleborough.

Town Manager noted correspondence received re dam in Lakeville. He offered that we are going to continue to monitor it and will keep Board informed. No intention to keep lowering it, but monitor it instead.

We received notification from the Plymouth County Retirement Board that its preliminary assessment is about \$700k over what we paid this year. Town Manager attended a meeting on 11/22 and told them it is completely unacceptable. They are having another meeting next Tuesday at which other Town Managers will also attend. Selectman McKinnon asked how the Board can support the Town Manager on this. Town Manager plans to call other Town Managers, and if not enough response is received, can try Selectman McKinnon's suggestion to have this Board ask other Boards to send their Town Managers. Town Manager will send Selectman McKinnon some verbage and he may be able to bring it to 12/8/11 meeting with Plymouth County Advisory Board.

HEARINGS, MEETINGS & LICENSES

At 7:40 PM Chairman opened public hearing on application made by Verizon, Inc. and MG&E to install Utility Pole 50 & 51 on Purchase Street by reading aloud the public hearing notice. Darryl Crossman addressed Board and offered to take any questions. Hearing none, Chairman closed hearing. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted to approve application.

Ruth Geoffroy addressed Board to discuss appeals to Flood Insurance Study Report (FIS) & Flood Insurance Rate Map (FIRM). She provided the Board with the attached handout. Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to approve draft letter addressed to Luis Rodriguez of the Federal Insurance and Mitigation Administration at the Federal Emergency management Agency in Washington, DC.

Selectman Spataro mentioned to Ms. Geoffroy that Selectman McKinnon had been asking what the next step might be re Wareham Street dam and asked who we would engage for support such as water commissioners in the various towns. Discussion ensued. Ms. Geoffroy noted that one of the problems is the grade of the Nemasket River is almost flat. Although the vegetation and sediment may be contributing to the problem, removing them may not resolve the problem. We could collect money for permitting and design, but it may not have as much impact as necessary. It may help, but may not correct problem. Selectman McKinnon noted that he's not sure it wouldn't create further problems downstream if we made those changes. Ms. Geoffroy asked how we will know when to stop lowering the dam. Enough will have to be enough at some point or there will be adversarial effects to the Wareham Street area. Selectman McKinnon asked how we get money to study this. Town Manager responded that the federal level is not the place we will find money, but should ask the state to earmark money and we should ask other Towns to do the same thing. Selectman McKinnon asked if we should get letters out to our delegation to which the Town Manager responded, yes. Town Manager recommended that we get a study done. Further discussion ensued. Selectman Frawley announced that there is a public meeting scheduled for 12/6/11 in Lakeville. B. Giovanoni added that it is at 7 PM at the library and is open to the public. Town Manager suggested we can draft letter and bring it to the 12/6 meeting and see if we can get other Towns to endorse it. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously in favor of Town Manager's suggestion.

UNFINISHED BUSINESS

Edgeway Mobile Home Park update – Selectman Quelle noted that the dry wells appear to be in. There appears to be some tenants who want to tweak the Phase I foundation work. He let them know we have to be careful as it's a contract agreement. We don't want to have problems later on. If it gets too far away from the plan we may have to bring in another waiver. The 12/15 deadline date is still on track. Sample concerns: shrubs and plantings not being put back with care. It's not the same set of hands involved here and maybe instead, by some individuals who have little experience doing this type of work. Chairman asked Town Manager if this wasn't something we could address now re shrubs so that contractor understands. Selectman Quelle noted that the contractor and engineer are being accommodating and polite to tenants. It's just been some of the comments by Attorney Marsan that raised some concerns. Anne McGann, 17 Lyn Lane offered that the engineer and contractor went door- to-door with waivers. Installing skirting around your house was not mandatory. No one has asked for more. One woman doesn't want the drainage around her home. People were told they could have less done, if that's what they wanted. Town Manager noted that only one person is objecting to the gutters and he spoke with J. Spalding today and that is not a problem. Anne McGann offered that the problem is the two maintenance people are doing all of the digging so all of the pressure is on them. Town Manager noted that the work to be completed by 11/30 appears to be running on schedule. They've reached an agreement with Comcast. Planning department has reached agreeable plan for the design of the cable television installation. They are working on survey work for Phase II. They've received bids for the snow and ice management plan and will soon be selecting a contractor to do that work. It seems to be moving forward. Louisa Brown, 162 Wesley Circle

**Middleborough Board of Selectmen
Meeting Minutes**

November 21, 2011

offered that they are all really happy with a lot of what's being done. There still isn't much communication coming from Edgeway. Every time they go to dig, there's a problem. They dug up her bushes, but there isn't enough contact/communication to let them know what's going on. She further offered that they can't say enough about the engineers and the men out there doing the work. Her concern is she hopes what they are doing is bigger than a band aid. Corey Farcus was there two weeks ago when we signed waiver, but that's it. Town Manager offered that he believes Jamie is the point-of-contact for this project. There have been a number of changes based on unsuitable soil. This is only Phase I. This engineer has done a remarkable job communicating, certainly with us.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted by Roll Call to go into Executive Session at 9 PM to discuss strategy relative to Pending Litigation and not to return into Open Session. Roll Call: S. Spataro, Yes; A. Frawley, Yes; S. McKinnon, Yes; B. Quelle, Yes; A. Rullo, Yes. Ended at 9:20 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

**Middleborough Board of Selectmen
Meeting Minutes**

November 28, 2011

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, S. McKinnon, S. Spataro, and B. Quelle, Town Manager C. Cristello and Confidential Secretary J. Shanley.

The meeting was broadcast live by Verizon and MCCAM and recorded by MCCAM.

UNANTICIPATED

None.

ANNOUNCEMENTS

Mimi Duphily addressed the Board to announce the attached downtown holiday events. Mrs. Duphily thanked ABC Towing for getting the Santa House here. She acknowledged Middleborough Friends for having helped to get it painted. Chairman thanked Mrs. Duphily. She noted that all activities are free.

Christmas Miracles announcement – An evening with Miss Mass 2011 Molly Whalen & Friends at The Alley Theatre on 12/18/11 from 3 PM & 7 PM.

Middleborough on the Move has a program called “Buy Local” encouraging everyone to buy from downtown merchants to help benefit our local economy.

Brian Giovanoni member of the School Committee announced that they are holding the 3rd interview for School Superintendent tomorrow night at the Nichols Middle School at 6:30 PM.

Selectman McKinnon thanked everyone for coming out to the Christmas parade. Selectman Spataro thanked the Fire and Police departments and the ambulance service for assisting the young lady who had fainted at the Christmas parade. He applauded the public safety officials.

NEW BUSINESS

Jane Kudcey addressed Board and explained that Middleborough is applying to the Housing of Community Development for the CDBG application. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to authorize Chairman to sign Joint Application Authorization Form re Federal FY’12 CDBG Application.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to authorize Chairman to sign MA CDBG Program FY’11 CDBG Funding Displacement Certification.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to authorize Chairman to sign MA 2012 CDBG Program Anti-Displacement &

**Middleborough Board of Selectmen
Meeting Minutes**

November 28, 2011

Relocation Assistance Certification. In response to question by Selectman McKinnon, Jane Kudcey indicated that we don't do demolition. We repair and renovate buildings.

Karen Cook, Executive Manager of All Are Welcome addressed Board and offered that they hope to use various parking lots for parking during the proposed Road race scheduled for 1/15/12 and they have someone who will snowplow those parking lots for free. It will be the Police Chief's call if he determines weather conditions are not safe enough. Jim DuPont, friend of Karen Cook's, addressed Board. He's held races in Raynham many times during the same week in January and acknowledges that they leave it up to the Police Chief to determine if it is safe to hold. They do not presently have a second date scheduled if inclement weather. Motion made by Selectman Spataro and seconded by Selectman McKinnon to approve. Motion amended by Selectman McKinnon and seconded by Selectman Quelle, to include Police Chief's approval. Unanimous vote.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve One-day All Alcoholic Beverages liquor licenses for the Bartending Service of N.E. on 12/18/11 from 6 PM to 11 PM at the Alley Theatre, 133 Centre Street.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously award Salt for snow and ice control to Eastern Minerals, Inc. at their price of \$48.05 per ton through the Town of Plymouth Regional Salt Bid #21129 and the bid for Liquid Agricultural By-Product, Non-Corrosive De-icing Chemicals to Safe Road Services, LLC at their bid price of \$1.13 per gallon through the Town of Plymouth Regional Salt Bid #21129.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve Budget Review Schedule FY13 & Warrant Deadline of 2/24/12.

UNFINISHED BUSINESS

Edgeway Mobile Home Park update: Selectman Quelle offered that it's been a quiet week. Health Officer Jeanne Spalding addressed Board re snow & ice management plan. Chairman suggested she may want to give the tenant's association a draft of the plan. She said they are making modifications to the draft. Chairman responded that he just wanted to make sure that the tenants have an opportunity to give input before the 11/30 deadline. Health Officer noted that they had to modify plans for the Phase I drainage plan because of soil conditions. She said we are moving along on time for 12/15 deadline re drainage. Board thanked her for update.

At 7:30 PM Chairman opened public hearing on WRPD application for Nemasket River Drainage Improvements project by reading aloud public hearing notice. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to continue to hearing to 12/12/11 at 7:30 PM at applicant's request.

TOWN MANAGER'S REPORT

Town Manager noted letter from the Commonwealth of MA re MassWorks Infrastructure Program funding round. The letter indicated that they are unable to fund the Everett Square Area Revitalization project at this time. The next round will be held in September 2012.

Town Manager reviewed his memo to the Board re Modifications to Rent Regulations as is attached. Brian Giovanoni suggested we include State Representative Gifford from Wareham who represents Carver and Wareham as she might have insight since both towns have a significant number of mobile homes. Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to hold public hearing on Mobile Home Park Rent Regulation Modifications for 1/30/12.

HEARINGS, MEETINGS, & LICENSES

At 7:40 PM Chairman opened hearing re Title V Variance for 33 Lakeview Terrace. Health Officer J. Spalding addressed Board. Discussion ensued. She is asking the Board to only approve the tight tank for now. Chairman asked to hear any comments. Hearing none, Chairman closed the hearing. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve tight tank.

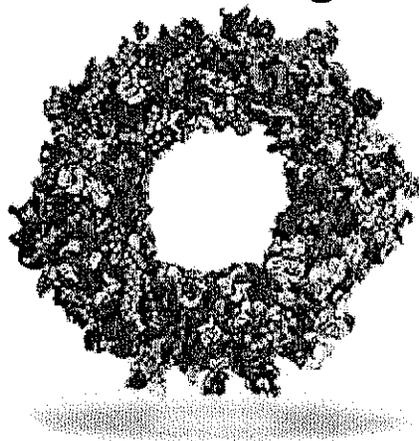
CORRESPONDENCE

Chairman noted that he received correspondence from a resident concerned with operation at 88 River Street. Chairman asked Health Officer if we have approved a recycling or dump for that location. Health Officer responded that the state has permitted the site for composting for quite some time. Chairman asked if we have ever been there to make sure it's only composting. Health Officer responded that we have a number of times. She further indicated that we have not found any solid waste issues and that the anonymous letter indicates that something is being dumped out back, but she doesn't know what. She will report back to the Board next Monday.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted by Roll Call to go into Executive Session at 7:54 PM to discuss strategy relative to Collective Bargaining, and to consider the discipline of an individual and not to return into Open Session. Roll Call: S. Spataro, Yes; S. McKinnon, Yes; B. Quelle, Yes; A. Rullo, Yes. Ended at 8:15 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

Downtown Middleborough Holiday Events



Sunday, December 4, 2011

Join us for an afternoon of holiday cheer!

10 am – 3 pm Burtwood School of Performing Arts Juried Art Fair

2:00 pm Middleborough Public Library – Performance by the trio Winds - Three members of the New England Winds will present an exciting and diverse program of classical, contemporary, ragtime and jazz favorites including some classic holiday music. Seating will be on a first come, first served basis and refreshments will be served after the performance.

4:00 – 6:00 pm Activities at Town Hall

Tree Lighting, music, singers, violinists, refreshments inside. Hot dogs and pop corn for sale outside provided by the American Legion.

MIDDLEBOROUGH
On the Move



NEW TREE ORNAMENTS

AVAILABLE FOR \$19.95 EACH at the Sacred Heart Church, Both locations of Eastern Bank, Marias Card Shop, the custom decorator, Michelle's Hair, Etc. and Gregory Scot Jewelry store

Stroll down to downtown Middleborough and vote on your favorite window decoration! The winner and runner up each receive a \$50 gift certificate from Middleborough Gas and Electric and the voters put their ballots in the box for a drawing and three winners get a \$50 gift certificate for Middleborough Gas and Electric... to be pulled on Dec 26th!

Voting Ballots for favorite window decoration will be available at the Town Hall, at Willy's Auto, at the Cranberry Country Chamber of Commerce, and Middleborough Gas and Electric starting December 4 through December 26th!

Incorporated 1669
335 Years of Progress



CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough
Massachusetts

Town Manager

508-947-0928
FAX 508-946-2320

MEMORANDUM

TO: Board of Selectmen
FROM: Charles J. Cristello, Town Manager
RE: Modifications to Rent Regulations
DATE: November 22, 2011
Cc: Town Counsel

In his October 26, 2011 memo to the Rent Board, Attorney Jay Talerman made several recommendations for improvements to our Rules and Regulations for Mobile Home Park Accommodations. In consultation with Town Counsel Daniel Murray, I have drafted modifications to our rules to implement some of those recommendations. We have also drafted a few clarifications to the rules that we believe would be beneficial.

Fair Net Operating Income

Strike in its entirety Section 1 M. and substitute the following:

Fair net operating income shall be that income which will yield, in the discretion of the Board, a reasonable return to the Owner of a Mobile Home Park, after all reasonable operating expenses. In consideration of whether the return is reasonable, the Board may consider any relevant evidence and standards, including, but not limited to: average returns for other similarly situated Parks, any operating expenses or debt service, any projected capital improvements, or any other factor that may be presented. The Board shall evaluate all evidence presented by any party regarding the fair net operating income.

Use of Consumer Price Index

This language was added to the regulations based on the Board's actions in 1999 related to how Oak Point was going to structure their leases. My understanding is that the long-term leases that have been signed by Oak Point

residents protect them from arbitrary rent increases. I would not recommend doing anything that would cause those leases to no longer be in compliance with your regulations.

Peer Review

Attorney Talerman recognized that the Rent Board does not have the authority under c.44 s53G to charge applicants for peer reviews. He suggested that we could raise the application fee to cover peer review costs. However, some applications may require peer reviews while others may not.

I recommend that we ask Town Meeting to allow us to petition the legislature for the authority to charge the applicant the cost of peer reviews as we have done with earth removal permits.

Tenant Bill of Rights

Substitute for Section 11 and renumber the existing Section 11 to be Section 12 and Section 12 to be Section 13:

Section 11 - Owners Shall Provide Rules and Regulations to Prospective Tenants:

Mobile Home Park Owners shall provide prospective tenants with a copy of the Town of Middleborough Rules and Regulations for Mobile Home Park Accommodations, Rents, and Evictions at least 72 hours in advance of the signing of a rental housing agreement.

Registration

Our regulations already state in Section 3: "No petition for an upward adjustment of maximum rent shall be accepted by the Board until statements and information required to be filed under this section 3 have been filed...." Further, our regulations also state in Section 4 C. that "...the Board may refuse to grant an upward adjustment of maximum rent if it determines that the affected mobile home park accommodation does not comply with the State Sanitary Code or the Town of Middleborough codes or by-laws or any applicable code...."

Further Recommended Clarifications

Section 1-G – definition of "Owner" – 1st line – add "or any party who is required to hold a license for a mobile home park (manufactured housing community) under Sections 32A and 32B of Chapter 140" after "license".

This makes it clear that should an owner not have a license, the regulations still apply.

Section 1- I, 4th line - change “exclusive” to “inclusive”. We know that the “rent” for parks includes the monthly Section 32G license fee. This is the actual practice of the parks.

Section 5-B 2nd line – add “or upon its own initiative” after “Tenant”. This makes it clear that the Rent Board can initiate a general adjustment of rents.

In accordance with our regulations, you will need to give notice of a hearing to consider these recommendations. This will allow all interested parties, including our legislative delegation, to give you their input as well.