

**SELECTMEN'S MEETING
MARCH 26, 2007**

Chairman Perkins called the meeting to order at 7:03 PM.

Selectman Andrews and Selectwoman Brunelle were present.
Selectman Bond and Selectman Spataro were absent.

SELECTMEN'S MINUTES

Upon motion by Selectman Andrews and seconded by Selectwoman Brunelle, the Board

VOTED: To approve the Minutes of March 19, 2007.

VOTE 3 - 0

Selectwoman Brunelle questioned if the agreement to stay with the Southeastern Health Group needed to be voted by the Board.

Mr. Healey said you only have to notify if you withdraw from the Group. He said he would provide a copy of the Joint Purchase Agreement.

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board

VOTED: To approve the Executive Minutes of March 19, 2007.

VOTE 3 - 0

HEARINGS, MEETINGS & LICENSES

Hearing – Request for Road Layout Acceptance – Willowtree Lane – CMG Group LLC

Chairman Perkins read the following: "The Board of Selectmen will hold a public hearing in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, March 26, 2007 at 7:05 PM to accept the layout of Willowtree Lane located off of Plain Street in Middleborough, MA, on such terms as the Selectmen shall determine for the purposes of a Town way, such property being shown on a plan entitled "Road Layout for Willowtree Estates in Middleboro Massachusetts" dated August 19, 2005 revised through January 23, 2007, drawn by Outback Engineering, Inc., which plan is on file with the Town Clerk's Office." The hearing was opened.

Amy Hughes, CMG Group, returned the green cards. She said the subdivision is "almost complete" noting that a surety is being held until the spring to insure trees that were planted bloom.

Chairman Perkins read a letter from the Planning Board recommending favorable action.

Hearing no further comments, Chairman Perkins closed the hearing.

Upon motion by Selectman Andrews and seconded by Selectwoman Brunelle, the Board

VOTED: To accept the layout of Willowtree Lane located off of Plain Street in Middleborough, MA, on such terms as the Selectmen shall determine for the purposes of a Town way, such property being shown on a plan entitled "Road Layout for Willowtree Estates in Middleboro Massachusetts" dated August 19, 2005 revised through January 23, 2007, drawn by Outback Engineering, Inc. Unanimous Vote.

Hearing – Request for Family Campground Permit – Tispaquin Family Campground

Chairman Perkins read the following: "A public hearing will be held in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, March 26, 2007 at 7:15 PM, for the purpose of discussing the request made by Ralph & Barbara Holton d/b/a Tispaquin Family Campground for a Family Type Campground Permit for property located at 68 Purchase Street, Middleboro, MA. Anyone desiring to be heard on this matter should appear at the time and place designated." The hearing was opened.

Barbara and Ralph Holton were present.

Ms. Holton told the Board that she had not received a letter denying or accepting the permit application for a Family Campground Permit. She also said she wasn't notified of tonight's hearing.

Chairman Perkins noted that the notice was sent by regular mail.

Ms. Holton said nothing has changed in the past year and presented the Board with a 2007 Certificate of Registration for Drinking Water.

Ms. Holton argued that her request is in compliance with the Department of Environmental Protection under 310 CMR 15.007 – Campgrounds. She said Jeanne Spalding has said she is in violation of 310 CMR because she feels it is not up to today's standards.

Ms. Holton said, under 310 CMR 15.007 "Campgrounds in existence as of December 1, 1993 and which receive more than temporary use are in compliance with 310 CMR 15.000.

Chairman Perkins noted that there are conditions for compliance that include it not being subject to an existing enforcement agent.

Ms. Holton said this is the order that Ms. Spalding is enforcing.

Chairman Perkins said he disagreed. He said the same argument is made each year and that is why it is in the Court system. He said until the Court decides in Ms. Holton's favor, he will not vote to issue the License.

Ms. Holton said the issue has been in Court for six (6) years and is "costing thousands of dollars". She said the KOA and YMCA also have violations but get permitted each year. She said she has complained to the Building Department but "nothing happens".

Ms. Holton said the Code requires water for every site, but there are other campgrounds that don't have water hook ups and get Licenses for 50 campsites each year.

Ms. Holton said she has owned the campground for 25 years and never had a License for "units". It always referred to 57 "sites". She said what the Town thinks and what she thinks are two different things.

Chairman Perkins said a Judge will have to decide.

Selectwoman Brunelle noted that there was no correspondence from the Health Department in the Board's packets.

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To continue the hearing for one (1) week to request that the Health Officer be in attendance to answer any questions the Board may have, and to respond to allegations made by Mrs. Holton of non-compliance of other campgrounds.
Unanimous Vote.

The hearing was continued to April 2nd at 8 PM.

Request for Exemption from 'Fringe Benefit of Employer Provided Vehicle' – Animal Control Officer

Jayson Tracy was present. He said it had come to his attention that the Town has a 'Fringe Benefit' for Town employees who bring vehicles home. There is a \$3.00/day charge for doing this.

Mr. Healey explained that, under Federal Law, this is a commutation fee. If you have a vehicle you must pay. He said he pays because he is on call 24/7 as well. He said he wasn't aware of any "waiver" possibilities. Under the Federal Law, you must pay something for the privilege of using a Town vehicle to get back and forth from work. The exception is public safety officials – Police and Fire. He said he wasn't sure the responsibilities of the Animal Control Officer fall under that. He said everyone that takes a vehicle home, with the possible exception of the Police and Fire Chiefs, has a responsibility to pay. He said Judy MacDonald could tell the Board how many employees pay. He asked Mr. Tracey if he had consulted with Ms. MacDonald.

Mr. Tracey said no. He said the ACO vehicle has been regulated by the Police Department for the past 33 years. Officer Wyatt never paid the fee because the Police determined it is an emergency response vehicle.

Mr. Healey said he had no objection to the waiver of the fee if there is an exception in the law. He said it is not a "fringe benefit" or "perk". It is a tax law issue.

Chairman Perkins agreed it is a public safety issue. He said it doesn't make sense for the Police or Fire, or ACO to have to drive uptown to pick up a vehicle if called in the middle

of the night. He said it is important that residents understand the reason for taking the vehicles home.

Mr. Tracey said his vehicle is not only transportation, but a tool. He said animals could have blood, feces, and urine, which cannot be put in a personal vehicle. He said it is an "ambulatory service". He also said it wouldn't be an option to drive from his house to the Police Station to get his vehicle because a sick and rapid animal might be involved. It can't be done without the vehicle. It is a "temporary holding facility on wheels". He said between March 31, 2006 and December 31, 2006 he was called 96 times after hours.

Mr. Healey said there is not a question that the vehicle is needed. The issue is the computation fee. There is a charge for using the vehicle to commute back and forth to work.

Mr. Tracey said there had never been an issue until the ACO was moved to the Health Department.

Selectwoman Brunelle said there should be something in previous Selectmen's Minutes identifying which vehicles were indicated as emergency vehicles.

Chairman Perkins agreed that Town Counsel should provide a legal opinion.

Mr. Healey said either there is an exemption or there isn't.

Mr. Healey asked Mr. Tracey to get in touch with him tomorrow. He said he would consult with Town Counsel and Ms. MacDonald to get an answer.

Selectwoman Brunelle asked that the Board be copied on any correspondence.

Chairman Perkins also asked that Ms. MacDonald provide a list of who has vehicles and who does or doesn't pay.

NEW BUSINESS

Request for Annual Appointments

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the board
VOTED: To make the following appointments for 2007:

One Year Appointments

Fence Viewer –
Robert Whalen

Forest Fire Warden –
Robert W. Silva

Tree Warden –
Donald A. Boucher

Alternate Wiring Inspectors –
Stephen Peterson
John Hogan

Moth Superintendent –
Donald A. Boucher

Pound Driver & Keeper –
Jayson Tracey

Dog Officer –
Jayson Tracey

Town Counsel –
Daniel F. Murray

Animal Inspector –
Bart H. Harrison
Unanimous Vote.

Veteran's Agent –
Paul Provencher

Request to Accept Donation from Peirce Trustees – DPW Superintendent

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To accept a check in the amount of \$1,984.61 from the Peirce Trustees
for a band saw for the DPW Department.
Unanimous Vote.

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To send a letter of thanks to the Peirce Trustees.
Unanimous Vote.

Request to Approve Warrant for Annual Town Election – Town Clerk

Upon motion by Selectman Andrews and seconded by Selectwoman Brunelle, the Board
VOTED: To approve the Warrant for the upcoming election.
Unanimous Vote.

Request to Approve & Sign Contracts – Water Superintendent

Mr. Healey said the Board had previously engaged Tighe and Bond to help with
engineering through the construction of the Tispaquin Treatment System. Weston &
Sampson did the design. The request is being made to amend the agreement with Tighe
and Bond to incorporate the design of the water filtration plant at the East Main Street
Wells #1 and #2 into the contract.

Selectman Andrews asked if Town Counsel had reviewed the Contracts.

Chairman Perkins said he had spoken to the Water Superintendent and was assured that
Town Counsel had reviewed it.

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To table the request for one week for Town Counsel to review and sign
off.
Unanimous Vote.

Approve Lakeville IMA

This item was not ready for the Board's vote.

Request to Rent Town Hall Auditorium – M.H.S. Class of 2008

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board

VOTED: To approve the request of MHS Class of 2008 to hold their Junior Prom at the Town Hall on Saturday, May 19, 2007, and to waive the rental fee, subject to obtaining proper catering permits.
Unanimous Vote.

Request to Approve & Sign Notes – Treasurer/Collector

Upon motion by Selectman Andrews and seconded by Chairman Perkins, the Board
VOTED: To award a bid in the amount of \$2,397,700 to T.D. Bank North with an interest rate of 3.79%.
2 – 0 – 1 (Selectwoman Brunelle abstained)

TOWN MANAGER'S REPORT

Firefighters Union – Health Insurance Co-pay

Mr. Healey provided copies of faxes that were sent from Attorney Howard Lenow regarding the Health Insurance issue. The first notified the Board and Town Manager that they are exploring the possibility of coalition bargaining. The second is a 32 item request for information. Mr. Healey said this would be onerous from the standpoint of gathering the information. He said he would do his best to comply with the items that can easily be made available. The rest will take some time. He said there would be some cost involved in gathering the information.

Chairman Perkins said the request didn't bother him as the information will be needed for collective bargaining.

Selectman Andrews said he letter contained an "aggressive tone".

Beach Street

The property is scheduled for auction next Saturday morning. He said about 75 people attended the "walk through". He has also received lots of telephone calls.

Mr. Healey said he and Ruth Geoffroy had conferred on this matter after Selectman Andrews had contacted her asking to review the potential for the property. He had also spoken to a local engineer and developer as well as Town Counsel. It was agreed that there is potential for one (1) Form "A" lot and a retreat lot. A 7-lot subdivision would be cost prohibitive because of the length of the roadway.

Mr. Healey said he is recommending an opening bid of \$300,000. The property is assessed for \$200,000.

Selectman Andrews questioned the time frame for payment, suggesting cutting it to 2 – 3 weeks.

Mr. Healey said nothing would prohibit a shorter time frame, but noted it had already been advertised with these terms.

Selectman Andrews suggested a sign be placed at the property notifying prospective buyers that the auction will be held at the Town Hall, and not at the site.

Mr. Healey said he would do this.

Selectwoman Brunelle also explained that Town Counsel had previously ruled that putting restrictions on the property is only good for the person to whom you sell it. A different entity is not held to the restrictions. Therefore, it is ineffective.

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To authorize the starting bid of \$300,000.
Unanimous Vote.

Public Health Nurses

Jeanne Spalding was present. She read a statement affirming the need for the Public Health Nurses.

Mr. Healey said he would send a copy of the statement to the FinCom for their consideration.

Meeting with Auditors

Mr. Healey said he would provide the Board with a detailed report of the meeting with the Auditors, including a recommendation for the 2006 audit, in next week's packet.

OLD BUSINESS

12 Highland Street (waiting for decision)

Downtown Parking

SELECTMEN'S BILLS

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To pay the bill submitted by Verizon in the amount of \$26.79.
Unanimous Vote.

OTHER

Zoning Change for Town Owned and Other Land on Rte. 28, Across from Stop & Shop

The Board received correspondence from the Town Planner regarding concerns that were raised about possible earth removal rights retained by the Nonni property.

Neil Rosenthal addressed the Board. He said the issue involves a 1960 variance/special permit granted by the Middleborough Zoning board of Appeals for the Nonni property to

allow the operation of a sand and gravel plant as well as the right to remove gravel from the property. It is unclear whether the variance/special permit is still valid. Town Counsel was not available to comment.

Mr. Rosenthal said there is a question as to whether or not the variance is still in good standing. It is unknown if substantial use took place. If it was unused, it goes away in 1 year. If it wasn't recorded, it also goes away.

Mr. Rosenthal said a Bylaw, although not perfect, can be produced for the upcoming Town Meeting. Mr. Rosenthal said if there are no earth removal rights on the Nonni property it would be more advantageous to propose the zoning change now. If there are retained earth removal rights it may be more advantageous to pass the commercial zoning by-law as part of future negotiations with a developer, which would include earth removal scheduling and phasing controls as part of those negotiations.

Mr. Healey said the variance/special permit came in 1960 following the initiation of zoning in 1958.

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To ask Town Counsel to research this issue and hold a spot on the
Town Meeting Warrant for a Zoning By-law.
Unanimous Vote.

Policy for Contacting Labor Counsel

Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To reissue the policy for contacting Labor Counsel as voted by the
Board in June of 2000.
Unanimous Vote.

Selectwoman Brunelle said that Department Heads are required to go through the Town Manager or Chairman of the Board prior to contacting Labor Counsel. She explained that Labor Counsel is paid out of the Selectmen's Budget.

CORRESPONDENCE

- ❖ The Board received letters from Jacqueline & Terry Tolosko and Robert Costa in opposition of a casino coming to Middleboro.

Chairman Perkins noted that the Board has not taken a vote to support a casino, only to have an open discussion with the Indians to see if there's an interest.

- ❖ The Board received a letter from Jesse Powell with several complaints about the upcoming auction of property on Beach Street.

Selectwoman Brunelle said that most of the concerns were addressed earlier in the meeting.

Chairman Perkins said it wasn't a "rushed auction" because the cranberry operation wouldn't be worth bringing back if the Board had not acted when it did.

Mr. Healey noted that the assistance of the Cranberry Grower's Association was secured and 220 growers were notified.

- ❖ The Board's Secretary was asked to consult with Town Counsel to determine if a letter complaining about a Town employee should be discussed in Executive Session.
- ❖ Correspondence from the Plymouth County Cooperative Extension regarding the 2007 Spring Lecture Series was noted.
- ❖ A letter from Selectman Andrews was read concerning the proposed increase to the health insurance co-pay. He had several questions and concerns regarding this. The Board's Secretary was asked to forward the letter to Judy MacDonald for a response.
- ❖ Selectman Andrews noted that he had obtained a property tax bill from another town and it showed the previous balance paid. He said Ms. MacDonald said the Town's software doesn't allow this.
- ❖ Notice from the Commission on Disability was read to make the public aware that the Boston Center for Independent Living (BCIL) is looking for input from the public regarding problems encountered by people who use wheelchairs or other mobility aids, or who have physical disabilities that make it difficult to use health care facilities, when getting health care in Boston are hospitals and their affiliated medical centers, clinics and physicians' offices.

Anyone interested can contact the Board's Secretary for further information and a point of contact.

- ❖ A letter from Edward Tomasik, Jr. concerning a proposed development on Spruce Street will be forwarded to the Planning Board.
- ❖ A letter from Jesse Powell with complaints about a recent ConCom meeting will be forwarded to the Conservation Commission.

Mr. Healey said he had not read the letter yet.

- ❖ Upon motion by Selectwoman Brunelle and seconded by Selectman Andrews, the Board
VOTED: To forward correspondence from Comcast regarding the commencement of the renewal process will be forwarded to the Permanent Cable Committee to start the process.
Unanimous Vote.

Upon motion by Selectman Bond and seconded by Selectman Andrews, the Board
VOTED: To enter into Executive Session at 8:45 PM, not to return to Open Session, to discuss a personnel item and a grievance.

Selectmen's Meeting
March 26, 2007

A poll vote was taken. Selectman Andrews, Selectwoman Brunelle, and
Chairman Perkins approved.
VOTE 3 - 0



Diane Henault, Secretary
BOARD OF SELECTMEN