



TOWN OF MIDDLEBOROUGH OFFICIAL MEETING POSTING

NAME OF PUBLIC BODY: Board of Selectmen
DAY AND DATE OF MEETING: Monday, June 18, 2012
TIME OF MEETING: 7:00 PM
LOCATION OF MEETING (INCLUDING ADDRESS): Town Hall, 10 Nickerson Ave.
MEMBER OF PUBLIC BODY POSTING MEETING: Jackie Shanley, Confidential Secretary to Board of Selectmen
POSTED BY TOWN CLERK'S OFFICE: Rec. June 14, 2012 @3:34 pm

*FOR CANCELLATIONS

MEMBER OF PUBLIC BODY CANCELLING MEETING: [Type text]
CANCELLATION POSTED BY TOWN CLERK'S OFFICE: DATE: TIME:

Revised AGENDA

- 1. Pledge of Allegiance
2. Unanticipated
3. Announcements & Recognitions
4. Minutes: 5/30/12 regular, 6/4/12 regular & E.S., 6/6 regular & E.S., & 6/11 regular
5. New Business:
a. Vote to approve & sign SERSG Contract Award for Supplies FY13-Deicing Supplies IFB.
b. Vote to approve Town Hall rental request for MHS on 5/11/13.
c. Vote to approve use of Town Hall lawn & placement of sign by Plymouth Parents of Twins Club on 8/4/12.
d. Vote to approve Betterment Agreement for 6 Fairview Street.
e. Vote to approve Betterment Agreement for 191 Miller Street.
f. Vote to approve placement of sign on Town Hall lawn by NRP from 7/21/12 thru 8/12/12.
g. Vote to approve the 11th annual Cranberry Trifest Olympic distance triathlon scheduled for 8/26/12.
h. Vote to approve the S. Shore Race Management road race-Nathan Hale Foundation on 11/11/12.
i. Vote to approve Applications for Change of Hours for the following liquor licenses, as presented:
- Dave's Diner, Inc., Harry's Bar & Grille, The Riverside, & Fireside Grille
j. Vote to approve establishment of Community Calendar Website account - OECD.
6. Hearings, Meetings, Licenses
7:30 PM Edgeway Mobile Home Park Matter (continued from 5/30/12 & to be continued to 6/25/12)
7:30 PM Tobacco Regulations
8:00 PM WRPD - Fuller Street Development, LLC, 352 Wareham Street (continued from 6/4/12)
7. Unfinished Business
8. Bills - Jones Day
9. Town Manager's Report
10. Correspondence
11. Executive Session - Pending Litigation - Dispute with Mashpee Wampanoag Tribe
12. Adjourn

* 5/30 & 6/4 Regular minutes to be postponed.

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

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

UNANTICIPATED

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve rental of Town Hall on 8/3/13 by Susan DiJune, subject to clarification of rules on use of the piano.

Selectman Frawley offered his thanks to Melissa Guimont & Middleborough Mess Movers for the recent cleanup of trash in Town. He requested that individuals please stop disposing of trash outside of their car windows.

Selectman McKinnon noted Middleborough/Lakeville Cash Mob on Facebook. This week it is at William's Trading Post this Thursday, June 28th at 9 a.m. This is a group effort to keep money spent within the two towns at local merchants.

Judy Bigelow Costa noted that the sign language musical will be held at Massasoit College this Wednesday by the students of the school from 11 a.m. until 11:30 a.m.

Mark Belanger asked question about Town Meeting Voter I.D. Petition article. He wanted to know why the information from the A.G. saying this was illegal wasn't shared. Chairman explained that it wasn't from the A.G. as they never provided us with a response. It was from the state Election office legal division and in the first sentence they indicated that the determination of legality does not fall under their office, but that of the A.G. They suggested that they thought it was most likely illegal. Brian Giovanoni offered that if anyone would like information from 2008 on the subject, he'd be happy to share, and indicated that it supersedes the A.G.

Sue Dube offered that she believes Town Counsel did receive information from the A.G. prior to Town Meeting indicating that it was illegal and feels that the voters should have been given the information prior to voting. She also offered that we haven't heard a word re the remediation of Rockland Industries. The Conservation Agent indicated she doesn't know where things stand so she had the Commission write letter to DEP asking for the information. The CEHIC meets tomorrow night. State Representative Calter will attend. It would be helpful if the Board could also write a letter. Selectman Frawley offered that he would be more than happy to call Commissioner Kimmel and Mr. Johnson at DEP in Lakeville. He's not opposed to a letter, but suggested that sometimes a phone call works well also. He will be at the meeting tomorrow night.

ANNOUNCEMENTS

Chairman recognized the recent passing of Robert Cushing. He was a valuable member of the Pierce Trustees. Chairman called for a Moment of Silence.

The Water department announces that SEGER Electronics, Inc. will perform Annual Fire pump test on June 20th at 8:30 a.m. SEGER Electronics is located on Leona Drive. During the test, there could be a slight decrease in water pressure or period discoloration for a short period of time in the Bedford Street - Plymouth Street area. The test should last approximately two hours.

Jane Lopes, who serves on the Board of the Archeological Society, noted that the Middleborough Historical Museum on Jackson Street opened on Saturday. People can go to both museums on Saturday for free.

Selectman Fawley announced that the BIA will hold public comment period for the Environmental Impact Study re the proposed casino in Taunton, MA on Wednesday, June 20th at 6 PM in the Taunton High School gymnasium. He urged everyone to attend and share concerns, which will be placed on the official record of the Bureau of Indian Affairs (B.I.A.).

Selectman Quelle cautioned residents that this weekend Sysco is moving and that will involve hundreds and hundreds of tractor trailers traveling through the rotary, starting at approximately 3 pm on Saturday through 4 pm on Sunday.

MINUTES

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted to approve 6/4/12 Executive Session meeting minutes. Selectmen Spataro and Quelle abstained.

Upon motion by Selectman Quelle and seconded by Selectman Frawley, Board voted to approve 6/6/12 regular meeting minutes. Four in favor. Selectman Spataro abstained.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted to approve 6/6/12 Executive Session meeting minutes. Four in favor. Selectman Spataro abstained.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted to approve 6/11/12 regular meeting minutes. Unanimous.

NEW BUSINESS

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve SERSG Contract Award for Supplies FY'13-Deicing Supplies IFB.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve MHS Town Hall rental on 5/11/13.

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Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve use of Town Hall lawn by Plymouth Parents of Twins Club on 8/4/12 and placement of sign. As a member of Middleborough On The Move, Judy Bigelow Costa offered that this would be as long as it doesn't take away from Krazy Days. Chairman requested group be advised to keep some distance from the Veterans' Memorial Park.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve Betterment Agreement for 6 Fairview Street in the amount of \$17,297.21.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to approve Betterment Agreement for 191 Miller Street in the amount of \$ 18,800.00.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted to approve placement of NRP sign on Town Hall lawn from 7/21 through 8/12th. It was suggested NRP be asked to remove or move sign closer to Town Hall on 8/3 & 8/4 so as not to deter from Krazy Days. Selectman Spataro did not think it would be a distraction and noted that their performances are on weekends and this would hinder them. Jane Lopes agreed. Selectman Frawley requested we ask the MG&E if we can use their lawn in case there is any overflow. Judy Bigelow Costa offered that she would appreciate that. Sign request approved unanimously.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to approve 11th annual Cranberry Trifest Olympic Distance Triathlon on 8/26/12.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to approve S. Shore Race Management, LLC road race on 11/11/12 at 12 pm.

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to approve Change of Hours for Dave's Diner on its liquor license to now be Monday-Saturday from 8 a.m. to 1 a.m.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve Change of Hours for Harry's Bar & Grille on its liquor license to now be Monday-Saturday from 8 a.m. to 1 a.m.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve Change of Hours for The Riverside on its liquor license to now be Monday-Saturday from 8 a.m. to 1 a.m.

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Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve Change of Hours on its liquor license for the Fireside Grille to now be 10 a.m. to 1 a.m. on Sundays.

Jane Kudcey of OECD addressed Board to explain request for the establishment of a Community Calendar Website account. Middleboroughcalendar@gmail.com or discovermiddleborough@gmail.com . Local business may post a business logo for small fee to help raise fees to maintain the website. It would include Civic minded groups, but not political parties. In response to question by Selectman Frawley, the Town Manager indicated that community groups are also encouraged to post here as well. He further noted that this will be one consolidated calendar for various events going on in Town, including Veterans' groups.

HEARINGS, MEETINGS, LICENSES

Edgeway Mobile Home Park matter (continued from 5/30/12)

Chairman announced that the Edgeway Mobile Home Park matter would be continued to 6/25/12 as Attorney Marsan indicated that they are still working on a couple of items from the Punch list. Town Manager offered that he and Selectman Frawley visited the Park and asked that they look at a couple of items that they already did, but to potentially improve. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, noting that it's June and the work is still not complete, Board voted unanimously to continue to 6/25/12 at 8 PM. Town Manager offered that asking them to look over, and possibly improve items he requested, is a new development, and it may take longer than a week. They asked for one week at this point.

Tobacco Regulations Discussion continued from 4/30/12

Health Officer J. Spalding addressed the Board and offered that she hand-delivered packets of information to the three pharmacies in Town, specifically, CVS, Rite Aid, and Hannaford's. Michael Agiar, Youth Program Director of Stanley Street Treatment and Resources in Fall River. He has a youth group called Teens Against Drug Abuse. He told the Board that the local pharmacies follow local regulations as presented, but off the record, they indicated that they want the space in the store freed up for other merchandise. Chairman asked if he noticed any impact once they banned the sale of tobacco at pharmacies. He responded that they know for a fact that anytime you limit access to youth, they do get a decrease in use. Selectman McKinnon noted that their budget was cut, but the state keeps increasing tax on cigarettes. Selectman McKinnon asked how much money they put into sting operations. He does quite a few in his district. The FDA just came out with two new officers to do them also. Mr. Agiar offered that it doesn't put an end to the wrong message being sent to the youth by selling tobacco products in pharmacies. He noted that 37 communities in MA have passed this.

Thomas Pastinact, registered pharmacist in Fall River offered that he had given a career day talk to youth and was asked by many if it was o.k. to take parents and grandparents medications. Fall River decided, based on this, to implement a Drug Buy Back program. Chairman Rullo left meeting room

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at 8:03 PM. Pittsfield just banned the sale of Tobacco in pharmacies. Chairman Rullo returned to meeting at 8:04 PM.

D.J. Wilson, Tobacco Control Director at MMA provided handouts, which he reviewed.

Bob Colett, Director of Cape Cod Regional Tobacco Control Program. Relative to the enforcement of Middleborough's present regulations, we have been directed to do a sting recently and next year there will be at least one complete round. Selectman McKinnon thanked him for all of his efforts and asked why there is just one inspection per year. He responded that it is Block Grant funding and very low sales by retailers and local enforcement messages. The State decided that since it is not getting that many illegal sales, it would work with the retailers.

Judith Kirkandoll of Seven Hills Behavioral Health Tobacco Free Partnership. The state will clearly not move on this until the local communities do what they need to do and there is a critical mass. Dartmouth, Fairhaven and Westport are ready to move. She covers 59 towns. The faster we do this locally, the faster the state will do what it needs to do. Relative to compliance checks, stores do sell occasionally to youth, often times, the youth gets the products at home off of their parents. B. B. Giovanoni offered that he supports the initiative to ban the sale of tobacco products by pharmacies.

Chairman asked if anyone in the audience wished to speak against the proposed regulations. None noted.

Bob Colett offered that I.D. machines have limited effect as they can be over-written.

Selectman McKinnon offered that it is admirable and he understands the ramification of smoking, but he asked, if we ban the sale of tobacco by pharmacies, where it will stop. He doesn't think it's the position of this Board to legislate this restriction. Health Officer offered that the MYA did a fabulous job on this. She did not bring this before the Board, but rather the Youth Group did. This is relatively important to them. To them, it's a mixed messages issue and a health care issue and she's a little embarrassed she didn't do something about it herself and sooner. She reminded the Board that it serves as the Board of Health and knows that it can be a difficult position to be in. She has no issues with the changes to the regulations raised this evening.

Chairman offered that non-mobile locations is a good idea. He was initially opposed and he was surprised no one showed up tonight in opposition. He offered that this tells him that they are not concerned with the ban. He asked if it's been reviewed by legal counsel to which the Health Officer responded that she has not brought it before him. Chairman thinks it should be. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to have Town Counsel review. On motion and second to ban the sale of tobacco by pharmacies, Board voted to approve. Three in favor. Selectmen McKinnon and Quelle opposed. Selectman McKinnon commended the M.Y.A. group.

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Health officer suggested implementing on 7/1/12. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to implement as of July 1, 2012, providing Town Counsel reviews and finds no issues.

Selectman Quelle asked if establishments will be reimbursed for calendar year license fee. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to pro-rate license fees for automatic rebate.

WRPD Hearing – Fuller Street Development, LLC, 352 Wareham Street (continued from 6/4/12)

At 8:40 Chairman continued WRPD hearing for Fuller Street Development, LLC from 6/4/12.

Selectman Quelle offered that he has reviewed the DVD of the hearing from 6/4/12 and he is prepared to vote on the matter. Chairman reviewed. Selectman McKinnon read aloud language for vote: 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.

Chairman closed hearing. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted to grant a special permit to Fuller Street Development LLC to allow for the construction of a used car dealership at 354 Wareham Street consisting of an office/sales building and a paved vehicle display area allowing 15.8% of the total lot area to be impervious **as requested in the Applicant's application** under the Water Resource Protection District By-law pursuant to Section XII. G.3.j 'impervious area' based on the plans for 354 Wareham Street dated March 27, 2012 prepared by Outback Engineering with the following conditions:

1. That the large flat area north of the gravel drive and behind the existing house will not be used for parking or vehicle storage.
2. That the Source Control/Pollution Prevention requirements relative to hazardous materials storage and use outlined in the engineers response letter dated May 16, 2012 and the Applicants response letter dated April 25, 2012 will be implemented.
3. That the note on sheet 3 of the plan set referencing removal and replacement of unsuitable soils in the area of the infiltration basin will also apply to the subsurface infiltration systems.

Four in favor. S. Spataro abstained.

BILLS

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to approve payment of bill to Jones Day in the amount of \$8,263.05.

TOWN MANAGER'S REPORT

Town Manager noted Chapter 90 Projects planned for 2012 as per DPW Director A. Bagas.

Town Manager noted Request for Emergency Flushing Assistance for the North Carver Water District.

Town Manager noted application made on behalf of the Middleborough Water Division re the Water Facility Energy Evaluation Program.

Town Manager noted Globe South newspaper article re new Cash mobs-buying locally.

Town Manager noted a MA Gaming Commission Public Education Forum was held today at the Sheraton Framingham Hotel and Conference Center from 9 to 11:30 a.m.

Selectman Frawley asked the Town Manager if we have heard anything from the Governor's office re mitigation to which the Town Manager responded, no. We have also not heard from our legislators on the correspondence we sent out. Selectman Frawley offered that he heard a Compact will be done this week. Town Manager responded that it is hard to fathom when nobody has spoken with any of the communities that will be impacted. Town Manager read aloud State Representative Orrall's letter asking the Governor to meet with Middleborough officials before making any decisions.

Selectman McKinnon offered that, at the MPO and JTPG meeting on 6/20/12, they should hammer all these matters that nobody is willing to talk about, also noting that our own Governor won't help us. Selectman Frawley noted that Representative Orrall is out there. Selectman McKinnon agreed. Selectman Frawley offered that he would certainly like to see the same from our other State Representatives and Senator, who is all for this. Town Manager offered that there's been no one from the State level asking how this will affect us or any of the communities.

Town Manager noted that the Town is out to bid for an O.P. Manager for the Wastewater Treatment Plant upgrade.

CORRESPONDENCE

Selectman Frawley thanked and apologized to the Board's Confidential Secretary, Jackie Shanley, for having had to take the brunt of being sworn at by those opposed to the proposed Non-Criminal Disposition bylaw re swearing. It was noted by Selectman Spataro that others were subjected to

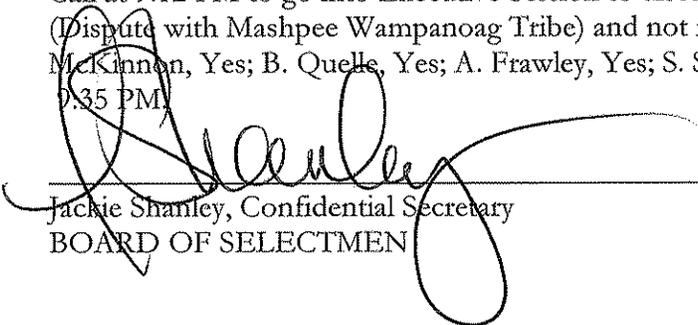
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these verbal assaults as well, including the Town Manager, Assistant to Town Manager, and the Town Clerk's office staff, to name a few.

Chairman asked Town Manager if the fact that we didn't get the Community Development Block Grant means it will affect the paid position in the OECD office. Town Manager responded, yes, and that we will have to come up with something until we can figure something out.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted by Roll Call at 9:12 PM to go into Executive Session to discuss strategy relative to Pending Litigation (Dispute with Mashpee Wampanoag Tribe) and not return into Open Session. Roll Call: S. McKinnon, Yes; B. Quelle, Yes; A. Frawley, Yes; S. Spataro, Yes; and A. Rullo, Yes. Ended at 9:35 PM.



Jackie Shanley, Confidential Secretary
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