

# **MINUTES**

**For approval at the 10-15-12 meeting**

**Middleborough Board of Selectmen  
Meeting Minutes**

September 24, 2012

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

In attendance were: Selectmen A. Frawley, S. Spataro, and S. McKinnon and Confidential Secretary J. Shanley.

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

**ANNOUNCEMENTS**

The Water department will be flushing hydrants beginning Monday, September 17 through October between 8 a.m. and 3 p.m.

Selectman McKinnon offered well wishes to Chairman Rullo.

The COA Food Pantry is collecting canned/packaged meat this week which may be dropped off at the Town Hall, the Health department or the COA.

Jeanne Spalding addressed the Board and noted that the Emergency Preparedness information is posted to the Town's website weekly. Selectman McKinnon asked her to post links for FEMA and Red Cross. Prior to the start of STM, the Health department will be setting up its emergency preparedness display and a free blood pressure screening.

**MINUTES**

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 9/10/12 meeting minutes.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 9/17/12 meeting minutes.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve 9/10/12 Executive Session meeting minutes.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve 9/17/12 Executive Session meeting minutes.

**NEW BUSINESS**

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to authorize Police Chief Gates, on behalf of the Police Station Building Committee, to sign the contract with Kaestle Boos Associates, Inc., Foxboro, MA.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to appoint members as presented on the attached as members to the Herring Fishery Commission.

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Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to appoint DPW Director Andrew Bagas as the Town's representative to the S. Shore Recycling Cooperative (SSRC) for a three-year term.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve a One-day Wine & Malt beverages liquor license for the Bartending Service of N.E. on 10/6/12 from 6 PM to 11 PM at the Alley Theatre, 133 Center Street.

**CORRESPONDENCE**

#3 Selectman McKinnon noted correspondence received from the Freedom From Religion Foundation regarding the cross located on Route 28 in Middleborough. We will have Town Counsel review the letter.

**NEW BUSINESS (continued)**

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to authorize Acting Chairman Allin Frawley to sign the DHCD 2013 Mass Downtown Initiative Program Application.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to authorize Acting Chairman Allin Frawley to sign the Extension Request for FY2010 CDBG from 9/30 to 12/31/12.

**HEARINGS, MEETINGS, LICENSES**

Board took brief recess while Selectman McKinnon stepped out of meeting for a moment.

Appeal re Notice of Violation dated 7/30/12 for 9 Woloski Park, Middleboro, MA

At 7:27 PM Chairman opened hearing re 9 Woloski Park. Chairman swore in witnesses: Health department staff, Catherine Hassett and Jessica Gardner, along with resident Daniel O'Grady. The Town's attorney James Lampke was also in attendance.

Mr. O'Grady began by providing the Board with a timeline of steps leading to tonight's hearing. He referenced 9/15/11 letter from Catherine Hassett listing Health Code violations at 9 Woloski Park. He also noted 3/23/09 letter to Mark Arsenault from Catherine Hassett. He spoke with Attorney Lampke in September. It was September when he learned his house was inhabitable. He suggested that this hearing was necessary because of the failure of re-inspection by the Health department and re-inspection by the lien holder. It took from May to eight months later to get the re-inspection. According to him, this is an abuse of the process. He stated he would not be here except for the fact that the process had been violated. Town Manager joined meeting at 7:37 PM.

In response to question regarding the inspection of the water temperature, Catherine Hassett responded that it is her normal procedure to let the water run a few minutes to let the temperature rise and it did not rise to the required minimum temperature of 110 degrees F and not exceed 130 degrees F. Attorney Lampke confirmed with Ms. Hassett that she measured the temperature by utilizing a thermometer after letting the water run the standard amount of time that she normally would. In response to question by the Chairman, Ms. Hassett offered she believes she did not test the kitchen water. Mr. O'Grady stated that he saw her test the kitchen water and offered that he

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turned down the water heater the day before and he has no problem if someone wants to come by and re-test it again. Attorney Lampke responded to Mr. O'Grady that this is why the Town asked to do another testing and he chose, which, was his right, not to allow it. The Town could have come in recently to re-test. Chairman reminded Mr. O'Grady that we are only addressing the 7/30/12 violation order.

Heating Facilities Required

Mr. O'Grady indicated that one of the bedrooms has a vent from which the furnace shoots heat through it. Chairman asked Mr. O'Grady if it was fair to say that there were is no external force to heat those rooms. Mr. O'Grady responded that there's no heat source located in those rooms. Attorney Lampke asked Mr. O'Grady if he had a picture of the vent in the one bedroom. He responded that he didn't, but offered that he could come take a look. Mr. O'Grady offered that the bathroom has a vent that may have been an exhaust fan at one point, but it is not connected as a heat source to the furnace. Catherine Hassett offered that Health department officials weren't aware of a vent in the bedroom and had asked, in writing, for documentation as they were told it was only heated by a wood stove. They needed evidence that a heat source exists to heat both bedrooms and the bathroom with the doors closed.

Mr. O'Grady offered that he misunderstood 410.200 by taking it to mean it was just a quote of the law and not a request of him. He has documentation and can provide. Chairman Frawley suggested the sooner the better.

Mr. O'Grady informed the Board that he had chosen not to allow the inspectors to re-inspect as he thought it was an excessive amount of inspections.

Cinder blocks

O'Grady offered that the Building Commissioner advised him that as long as he poured cement cap over the blocks, it would be fine, so he did that about a week ago. He turned the cinder blocks sideways and filled them with cement also. Ms. Hassett offered she hasn't seen it and would like to speak with the Building Commissioner about it. Mr. O'Grady offered that he is in agreement with some of the violations and opposed to others.

410.351 Owners Installation and Maintenance Responsibilities

Mr. O'Grady installed a GFI outlet himself. Attorney Lampke suggested he follow up with the building department and make sure he has/does comply with whatever the law requires relative to necessary permits. This was duly noted by Mr. O'Grady.

Mr. O'Grady offered that he has a window in the bathroom, which, in his opinion, makes it not a violation, but he does still want to address it. Catherine Hassett offered that if there is an existing unit, though non-functioning, he is required to bring it into functioning capacity or have it removed. Mr. O'Grady offered that he had looked into the vent issue in the kitchen covered with tape and discovered that it is actually a light fixture.

Mr. O'Grady offered that he replaced the face plate on light switch in bedroom #1 on day after Ms. Hassett's inspection. He does not have photo, but notes re-inspection will show it.

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He does not see trim around light fixture as a code violation. It is a decorative piece and he has replaced it.

410.500 Owner's Responsibility to Maintain Structural Elements

Mr. O'Grady offered that the sheetrock wasn't missing. It was just the shields. Chairman offered that pipes shouldn't be located in exterior wall and sheetrock should be covered with the shields. Attorney Lampke asked Mr. O'Grady if pipes in bathroom were exposed by missing sheetrock to which Mr. O'Grady responded that it is covered with a vent now.

Attorney Lampke asked Mr. O'Grady if there was loose trim board at time of inspection to which he responded, yes, and that he has removed it to paint them to match.

Attorney Lampke confirmed with Mr. O'Grady that, at the time of inspection, there was trim board which was not secure in the dining and living rooms.

Attorney Lampke confirmed with Mr. O'Grady that, at the time of inspection, the threshold between the kitchen and living room was showing a gap.

Mr. O'Grady offered that, at the time of inspection, there was a gap between top of paneling and sheetrock, but he has fixed it.

Attic access panel

Mr. O'Grady explained that he offered to flip it over, which would have corrected it at time of inspection, and Ms. Hassett had agreed, and yet it ended up on list of violations. Ms. Hassett responded that he didn't do it at the time and that's why it ended up on the list of violations. Mr. O'Grady disputes her version. He offered that he didn't do it in front of her as she said no at the moment. Ms. Hassett informed the Board that she didn't tell him not to do it. If someone offers to fix something, she lets them do it and show her, or fix it, and she can come back the next day.

Mr. O'Grady offered that he replaced the missing trim and section of sheetrock on inside of side entry doorway. He is not contesting this violation.

Mr. O'Grady offered that it is true that bedroom #1's closet door has sections of missing trim. He didn't correct, but instead, removed all of the trim. He does plan to get new trim to make it look better.

Mold-like substance on floor of cabinet of bathroom sink

Mr. O'Grady offered that he wiped it clean and painted it with glossy finish and suggested that it's not a leak, but probably just oxidized. There was something there, but he may disagree with interpretation that it was a mold like substance.

Missing half of gutters and down spouts on side and front of dwelling

Mr. O'Grady offered that these have all been replaced. He offered that he didn't know a structural element falls under state sanitary code. Attorney Lampke confirmed with Mr. O'Grady that he was not disputing that these were missing, but that Mr. O'Grady doesn't believe they are a sanitation code violation.

Lattice

Mr. O'Grady offered that lattice is not structural and that Ms. Hassett asked him if he had the missing lattice and he said yes so it's not a violation. Ms. Hassett responded that the lattice was there, but it was not in good repair. If it is there, it should be installed. Otherwise, it should be removed.

Chairman asked if anyone is living in that home right now. Mr. O'Grady responded no and that it is non-occupied.

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Chairman asked Mr. O'Grady if there was anything else he would like to add. Mr. O'Grady offered he believes it is an abuse of process that it has been over one year to get this started. He told the Board that he has been requesting a re-inspection for months. He thinks it's unacceptable to have to wait this long. Chairman confirmed with Mr. O'Grady that the Board was only addressing the 7/30 complaint to which Mr. O'Grady responded, sure, but it's a re-inspection from 2009. We are now at one year since Ms. Hassett initiated action. It's been 8 months of nobody getting back to me. He asked why it took the Board of Health 8 months to re-inspect his property and then 3 additional months to get back to him. Attorney Lampke asked Ms. Hassett if the inspection done in May was the result of the meeting that Mr. O'Grady, she, and himself had held to go over what needed to be done to the property. Ms. Hassett confirmed that it generated that inspection. Chairman asked to hear further comments. Hearing none, Chairman declared hearing closed and noted that the Board would take the matter under advisement and make a decision at its next meeting, October 1, 2012 at 6 PM, at Middleborough High School, just prior to Special Town Meeting.

**NEW BUSINESS (continued)**

40B-Star Mill Local Initiative Program

Josephine Ruthwicz of the Housing Authority addressed the Board noting that this will be sent to DHCD after it is signed. It will then be returned to them and they can begin the lottery process. It will be advertised locally. Residents receive priority, but it is open to all applicants.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to authorize Acting Chairman Allin Frawley to sign the Star Mill Local Initiative Program, Local Action Unit Application.

VFW Change of Manager (continued from 9/17/12)

Eric Goodnow, representing the VFW, addressed the Board and explained that the Middleborough Overseas Veterans', Inc. owns the whole building. The All Veterans' Canteen, Inc. pays taxes and they hire employees through it. They rent to the All Veterans' Canteen, Inc. The VFW has the current liquor license. The All Veterans' Canteen, Inc. has been at this location and in business since 1985. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve proposed manager subject to continued discussion with the VFW re liquor licenses and legal entities.

**HEARINGS, MEETING, LICENSES (continued)**

Town Moderator addressed Board to make annual plea to Town residents to attend the Special Town Meeting on 10/1/12 at 7 PM at Middleborough High School.

At 8:50 PM, Chairman declared public hearing open to review Special Town Meeting Warrant Articles:

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support Article 1.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support Article 2.

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Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to support Article 3.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support Article 4.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support Article 5.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to table Article 6. Brian Giovanoni offered thanks to the Pierce Trustees as a member of the School Committee. Town Manager noted that we will send a letter of thanks as is past practice.

Capital Planning Committee Chairman Steve Morris addressed Board to speak about Article 7, which will now be in the amount of \$131,485. Motion made by Selectman Spataro and seconded by Selectman McKinnon, to support this article. I.T. Director Ellen Driscoll and I.T. Administrator Tara Pirraglia addressed Board. Resident Sue Dube asked what five departments will have GIS and if the MG&E will have access. I.T. Director Driscoll was unsure. I.T. Administrator responded that the G&E is not included in this push, but the Assessor's office, Planning, Conservation, Health & I.T. are included. Ms. Parraglia also offered that the G&E is more than welcome to come over. Board voted unanimously to support Article 7.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support Article 8.

Article 9 – already addressed at previous meeting.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support Article 10.

Barbara Erickson addressed Board to explain Article 11. Motion made by Selectman Spataro and seconded by Selectman McKinnon, with a question about \$100,000, to support Article 11. Town Manager answered question. Unanimous.

Article 12 – already addressed at previous meeting.

Article 13 – already addressed at previous meeting.

Article 14 – Steve Morris representing Solid Waste Task Force addressed Board. Resident Sue Dube of Plympton Street offered that Waste Management has been a good neighbor and very respectful to traffic, but asks that Board be mindful of structure upgrades moving forward. Peter Richter of Waste Management addressed Board maximum of five more trucks than what is being used now,

but can offset it by re-routing. The maximum should remain at 30 trucks. Chairman requested his presence at STM to speak if needed. Mr. Richter agreed.

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Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support Article 14.

Article 15 – already addressed at previous meeting

Article 16 – already addressed at previous meeting

Article 17 – passed over

Article 18 – already addressed at previous meeting

Article 19 – already addressed at previous meeting

Article 20 – passed over

Article 21 – already addressed at previous meeting

Article 22 – already addressed at previous meeting

Article 23 – already addressed at previous meeting

Article 24 – already addressed. Steve Bonfiglioli addressed Board. He has had a chance to look over Planning Board proposal and determined that he is better off to stay where he is with the easement. He would probably have to drop the price by 1/3 if he followed Planning Board recommendations. Town Manager recommends passing over the Article if Mr. Bonfiglioli feels worse off to move forward with it. Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to table Article 24.

**TOWN MANAGER'S REPORT**

Board noted Town Hall lawn sign report.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to adjourn at 9:39 PM.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN



**Town of Middleborough**  
**Massachusetts**

September 25, 2012

**BOARD OF SELECTMEN**

Chairman David J. Cavanaugh, Chairman  
Middleborough-Lakeville Herring Fishery Commission  
Bank Building/20 Centre Street  
Middleborough, MA 02346

Dear Chairman Cavanaugh and Members of the Commission:

We are pleased to inform you that, at its meeting held on 9/24/12, the Board of Selectmen voted unanimously to appoint the following individuals to the Middleborough-Lakeville Herring Fishery Commission:

“VOLUNTEER OBSERVERS” for a term ending September 30, 2013

Allin Frawley	Luke Leonard
Harold Atkins	Sylvester Zienkiewicz
Kristen Chin	Cynthia Gendron

“FISH WARDENS” for a term ending September 30, 2015

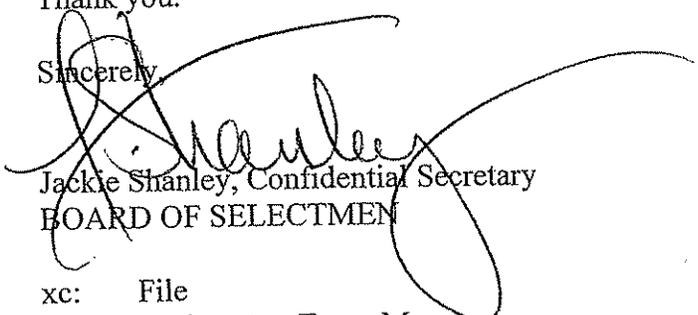
Ronald Burgess	Tom Barron
Bryant Marshall	

The Board extends its appreciation for the service provided to the Town by these individuals.

Please remind the appointees to appear before the Town Clerk to be sworn in, noting that these appointments are effective as of 9/30/12.

Thank you.

Sincerely,

  
Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN

xc: File  
Assistant to Town Manager  
Town Clerk

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**October 1, 2012**

Acting Chairman Allin Frawley opened meeting at 6:35 PM at the Middleborough High School.

In attendance were: Selectmen A. Frawley, S. Spataro, B. Quelle, and S. McKinnon, and Town Manager C. Cristello.

Selectman Frawley reported Mr. Cavanaugh's complaint about the vandalism at the Park near the Herring Run.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to invite the MG&E Commission and the Parks Commission in to discuss how to address the issue.

Chairman Frawley brought up the letter regarding the closing of the Wingate facility. He will call our legislators to see what we can do.

**NEW BUSINESS**

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to appoint the following individuals as Special Police Officers, effective immediately:

- Boaz McMahon
- Robert Stephanian
- Andrew Sederquist

Chief Gates reported that they had been Seasonal employees this summer and had done a great job.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to extend Conditional Offers of Employment as Police Officers from Civil Service Requisition #00185 to:

- Zachary C. Porter, 32 N. Street, Middleborough, subject to passing a physical/medical examination including drug screening, and passing a psychological examination.
- Jeffrey M. Brown, 77 Pearl Street, Middleborough, subject to passing a physical/medical examination, including drug screening, passing a psychological examination, and passing the Physical Abilities Testing for entry to the police academy.

Selectman Quelle noted that we will save money by not having to send one candidate to the Police Academy. Chief Gates noted that we will also be able to put him to work right away.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to approve the use of the Town Hall parking lot by Soule Homestead Education Center on Saturday, November 3, 2012 for an electronics & appliance recycling event.

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Board reviewed the draft Decision re Appeal of the Board of Health Order dated July 30, 2012-9 by Dan O'Grady, 9 Woloski Park. Acting Chairman Frawley noted that there was no evidence presented by Mr. O'Grady to refute Ms. Hassett's violation letter. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve and issue its Decision as the Board of Health.

Town Manager updated the Board on changes to the Warrant Articles.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to send the letters to the parties involved in Civil Service Requisition #00185.

At 7:00 PM Board moved to MHS auditorium to conduct Special Town Meeting business.

Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to adjourn at 8:30 PM at the conclusion of Special Town Meeting.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN