

# **MINUTES**

**For approval at the 4-23-12 meeting**

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.

Chairman Rullo explained process of Board reorganization. Selectman Spataro called for nominations for position of Chairman. Motion made by Selectman McKinnon and seconded by Selectman Frawley to nominate Alfred P. Rullo, Jr. as Chairman. No other nominations were made. Board voted unanimously in favor of Alfred P. Rullo, Jr. as Chairman. Chairman Rullo thanked the Board members for the vote of confidence.

Chairman Rullo called for nomination for position of Vice Chairman. Motion made by Selectman Quelle and seconded by Selectman McKinnon to nominate Allin Frawley as Vice Chairman. Motion made by Selectman Spataro to nominate Stephen J. McKinnon as Vice Chairman. Motion was not seconded. Board voted unanimously in favor of Allin Frawley as Vice Chairman.

#### **UNANTICIPATED**

Selectman Spataro noted that a couple of residents stopped him in the past weeks about folks not picking up after their dogs on sidewalks and offered that, if people could be courteous and pick up, it would be appreciated.

Selectman Frawley noted that he had spoken with the Town Moderator about how they can get more interest in voter turnout. They concluded they would try and get more signs out advertising elections. Selectman Frawley had received emails from local business owners. We could get some donations and put signs on Town Hall lawn. He will keep Board informed as subject progresses. Selectman Spataro noted that the DPW does a great job about putting up signs and suggested putting signs out by south and north Middleborough and asked the Town Manager if we could get the DPW to do that. Town Manager responded that, if they have some locations, we can get it done.

Michael Solimini of Otis Pratt Lane addressed Board to add to the conversation. He offered that, based on a study he had done in the past, we lost a number of voters with the Plymouth Street bridge being closed. Precinct One voting location was done without options and is a major inconvenience for many voters. There is a major decline in Precinct One voters, which should be looked at. He told the Board it is the Board's decision where the voter precincts are located and not the decision of the Registrar of Voters. Selectman McKinnon recommended that the Board needs to get the Town Clerk involved in that discussion. Chairman noted that we can put it on for future agenda item. Mr. Solimini asked if the Fire department will be involved in the Underground Testing bylaw. Town Manager responded that the recommendation comes with the Fire Chief's approval. Mr. Solimini asked if Town Counsel will be present for Executive Session tonight. Chairman responded no and that the matter is for discussion only.

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Paul Espinosa who lives on access road to Tispaquin pond addressed Board. He wanted to express concerns of residents in that area re the underground culvert on Tispaquin Street. He read aloud recommendations by those residents. Chairman offered that this project is already designed and funded and doesn't think we can go back and start over. The residents are proposing we use our own ponds & waterways to replenish the Herring. Selectman Frawley asked if he had approached the Herring Fishery Commission on this. He responded that he has and that they seem to be supportive. He indicated that they are hoping they can extend the Herring to come into Tispaquin pond. Selectman Frawley offered that he would be happy to help them in any way he can with this, but noted that it is not an easy process.

Joan Shurtleff of 3105 Fox Run, Oak Point, congratulated the Board on its reorganization. She commended Anne McGann and members of Edgeway Homeowner's Association for their constant and consistent dedication between friction and power. She read aloud a statement. Chairman thanked Ms. Shurtleff. He noted the recent Manufactured Housing public forum sponsored by Senator Pacheco, and attended by a number of individuals from the Attorney General's office and individuals from the Community Development & Housing Agency. At this forum, it was confirmed that the Rent Board is in conformance with the Rules & Regulations and is not the only Town that has allowed C.P.I. in regulating rent control. It had been noted at the forum that this Board has been fair and has applied the Rules & Regulations properly. Mr. Solimini addressed Board to argue that this discussion was raised out of order as Edgeway Mobile Home Park matter was listed under Hearings. Chairman explained that Ms. Shurtleff raised matter re CPI and not the matters at Edgeway Mobile Home Park.

Selectman McKinnon thanked all of the candidates who ran for office in the recent election and all of the people that supported them noting that you can't run a campaign by yourself and there was a lot of help and support by many. He thanked everyone who came out to vote, noting that it was a holiday weekend. He pledged to continue to do the best he can and make the best decisions he can.

Chairman read aloud Water department announcement re water storage tanks and anticipated minor water pressure fluctuations.

Chairman read aloud All Are Welcome community kitchen announcement, noting that they are now open weekly on Saturday mornings from 7:30 a.m. to 10:30 a.m.

Chairman read aloud a FIOS Verizon announcement that they will work on the network on 4/11/12 from 1 a.m. and 5 a.m. and during that timeframe PEG channels will be off for approximately 10 minutes.

Selectman Frawley announced that SEMA of Charter Unlimited will hold a kids fishing day on 4/14/12 from 9 a.m. to 11 a.m. on Willow Avenue near the East Bridgewater Highway department for kids 12 and under.

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Selectman Frawley announced that MA Wildlife and MA Audubon will sponsor a program on 5/2/12 from 6 p.m. to 8:30 p.m. re Protecting Habitat from Endangered Species & Other Wildlife.

Selectman Quelle announced that Middleborough Mess Movers are looking for volunteers. The group is meeting on 4/21/12 in the Town Hall parking lot from 9 a.m. to 12 Noon. The contact is Melissa Guimont at mbmessmovers.com.

Selectman Quelle recognized the Fire department for its work with various fires this past week. He noted that we are at high risk for brush fires with this dry weather and cautioned residents in regards to having bonfires or burning at this time.

Selectman Quelle recognized the Town Manager and the DPW for addressing recently raised concerns re the bus depot out front, which is now being cleaned up.

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Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve 4-2-12 meeting minutes.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to approve 4-2-12 Executive Session meeting minutes.

**NEW BUSINESS**

Brian Giovanoni addressed Board to talk about the Middleborough Friends Pancake Breakfast scheduled for 5/5/12. Upon motion by Selectman Quelle and seconded by Selectman Frawley, Board voted unanimously to approve placement of sign on Town Hall lawn advertising the event from now until 5/5/12.

Police Chief addressed Board to explain his request for the appointment of the Special Seasonal Police Officers and to introduce them. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to appoint the following individuals as part-time Special Seasonal Police Officers with a term of 5/1/12 to 9/13/12:

Anthony J. Keaney  
Boaz S. McMahon  
Harold H. Penney  
Andrew C. Sederquist  
Robert A. Stephanian

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to declare MPD 2005 Ford Crown Victoria VIN #FAFP71W75X107515 as surplus equipment.

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Chief Gates explained the Permanent Police Sergeant request. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to appoint Temporary Police Sergeant John H. Graham as a permanent Police Sergeant, effective April 9, 2012.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to nominate Andrea Priest as the Town's representative to Old Colony elder Services Board of Directors for 2012-2013.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously approve Town Hall auditorium rental request for Eliza Burnham on 12/27 & 12/28, with the understanding that a Certificate of Liability Insurance will be provided to the Selectmen's office.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve Town Hall auditorium rental request for Old Colony Caller's Association on 6/3/12.

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to Town Hall auditorium rental request & waiver of fees for Cub Scout Pack 64 on 4/25/12.

Chairman noted the agenda item re step increase for the Board's Secretary and offered that she had received an excellent job performance review this year and continues to do well. Motion made by Selectman Quelle and seconded by Selectman McKinnon to grant the Board's Confidential Secretary, Jacqueline Shanley, a 3% step raise, effective 7/1/12. Barbara Erickson addressed the Board. Chairman Rullo confirmed with Ms. Erickson that she is a Town employee. Ms. Erickson offered that she is also a resident. She told the Board that she believes people should know that there are no steps in the Board's Confidential Secretary's employment contract and instructed the Board that it should call the increase a Cost of Living Allowance (COLA) because, in her opinion, that is what it is. Ms. Erickson advised the Board that it should be prepared to offer this to other Town employees when it is negotiating all of the contracts. Board voted unanimously to grant the 3% step raise. Board members thanked the Confidential Secretary and she extended her thanks in return.

Town Manager explained the Memorandum of Agreement with the Middleborough Public Employees Committee (PEC) noting that the Committee reached an agreement today. He congratulated the members of the Committee and noted that they had great participation by the Union representatives. He explained the provisions of the plan. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve and sign the Memorandum of Agreement.

Chairman noted the Open Space and Recreation Plan is on file in the Selectmen's office. Selectman Frawley offered that he had served on the Open Space Committee and recognized the tremendous amount of work that Conservation Agent Patricia Cassady and the Commission had to put into this.

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Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to sign the letter in support of the 2012 Open Space & Recreation Plan.

Selectman McKinnon offered that he asked the Town Manager to address the water restriction matter, which is approximately one month earlier than usual. Selectman McKinnon explained that, with the work being done on the water tank, and having had a very dry winter, we need to start conserving water, and he would like to make it effective immediately. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to make the water restriction effective immediately. Copies of the water regulations can be obtained from the Water department at 508 946-2482.

Town Manager spoke about the retiree health insurance. The retirees had raised issue of establishing mechanism to get back onto Town Health insurance if needed. Town Manager offered that it seemed like a reasonable request and noted that it has been the practice for other employees who wish to re-enter the plan when needed. We save money each year that they are not on our plan. He explained to the Board that he only wanted to raise the matter and asked that the Board table the matter until he does a little more research. Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to table matter.

Upon motion by Selectman Quelle and seconded by Selectman Frawley, Board voted unanimously to approve 2<sup>nd</sup> Hand license for "Wee Ones" consignment shop at 5 Wareham Street, Suite B.

**HEARINGS, MEETINGS, LICENSES**

At 8:10 PM Chairman continued Edgeway Mobile Home Park matter from 3-19-12. Town Manager offered that the Health Officer is scheduled to meet with DEP to go over the septic plans this week. Chairman noted that we still have a punch list to go through on Phase I. Town Manager recommended continuing the hearing for another month until all punch list matters are complete. He and the Town Planner are reminding the Park Owner/Operator that they still have limited time and the buffer zone needs to be planted and walls to be built. Chairman suggested that we may want to have the Park Owner/Operator come in and review matters. Selectman Frawley offered that he would like to see the owner next month with a completed punch list. Town Manager agreed. Selectman Frawley offered that if they miss the window for the buffer zone they are one year behind. Town Manager responded that, not only that, but they lose the \$140k deposit on file with the Planning Board.

Anne McGann of 17 Lyn Lane offered that they did move two sheds and re-planted three trees and they are very happy about that. She asked if they have to have DEP approval before they can even begin digging a hole. Town Manager believes that they will need that approval and suggested that the septic will control/affect drainage. She asked if Board/Town Manager knows where the treatment plant is going to be located. Town Manager indicated that he did not know. Selectman Quelle offered that he had a question for Ruth Geoffroy today and she had strongly suggested that the Owner/Operator go through Atlantic Design Engineers for the calculations. Town Manager

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noted that the Edgeway Mobile Home Park Owner/Operator is required to pay for our review by Atlantic of all plans. Town Manager recommended continuing to 5/14/12 at 7:30 PM. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to get owner in that night to discuss all of these issues. Chairman wants to do sooner. Town Manager recommended having the Park Owner/Operator in on 4/30/12 re Phase I punch list and status on Phase II. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously in favor.

Town Manager recommended meeting with counterparts in Lakeville to discuss water service from Lakeville to Edgeway Mobile Home Park, including fully functioning fire hydrants. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted to authorize Selectman Frawley to represent the Board in a meeting with Town Manager C. Cristello and the Lakeville Selectmen.

Board reviewed the following ATM Articles:

#22 Rent Board Appointment – Chairman recognized petitioner of this article. Anne McGann addressed Board to explain reasoning for this article. Selectman Frawley offered to the residents of Edgeway that he will spend as much time as needed to get all of us where we need to be. Selectman McKinnon offered that his opinion is to leave it with the Selectmen as it will end up before the Board anyway in the end, even with a separate Rent Control Board. Louisa Brown of 162 Wesley Circle followed up that they just feel that the Board has so much on its hands. She asked what happens if the Park Owner/Operator doesn't show up on 4/30. Chairman responded that he doesn't think we can do anything to force his attendance, but if he violates the agreement, we can take action. Margo King asked for a time as to when Lakeville and Middleboro will meet. Selectman Frawley responded that they will do it as soon as they can.

Town Manager recognized Senator Pacheco just came into the meeting. The Senator offered that he showed up because the Board had invited him this evening, and although he had prior engagements, he was able to get here. Chairman offered that the item didn't make the agenda this evening as they were of the understanding none of the legislative delegation could attend. Town Manager offered that we were trying to reschedule for Wednesday night. The Senator responded that he is unavailable. The Senator asked if it could still be discussed. Selectman Frawley offered that he thinks the Open Meeting Law prevents the Board from discussing the item as it is not on the Agenda. Selectman Spataro offered that the Board could re-open "Unanticipated". Selectman Quelle offered that it would certainly be appropriate to allow the Senator to make statements, but to not have back and forth dialogue. Selectman McKinnon offered that we don't want to violate the Open Meeting Law, but the Senator had come in and it is difficult to get the time with him. He agreed to allow the Senator to speak, but to not engage in discussion. Jane Lopes clarified that the law reads that you are required to place on the agenda all that "you can reasonably expect" and that having the Senator show up at 8:30 PM is not reasonably expected.

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Mike Solimini questioned the matter. Chairman responded that it was the Board's prerogative and that the Chairman was deciding to return to Unanticipated.

Senator Pacheco congratulated Selectman McKinnon and thanked the Board for inviting him to come before the Board re the Mashpee Wampanoag Tribe and the IGA with the Town. He offered that he has had many conversations over the years with various Selectmen serving on the Board regarding the Agreement. He offered that he is not an attorney and that he was not there to offer a legal opinion. He believes that the terms and conditions of any contract that is entered into between the Town and any entity are to be met. This has always been his position and remains so. It seems to him that the issue is interpreting what the contract says at the end of the day. He is happy to advocate on behalf of the Town and it's also his job to advocate on behalf of the City of Taunton. He noted the response letter received by the Governor's office by the Board. He's assuming the Board wished for him and the delegation to lobby on behalf of the Town. He offered that he assumes the Governor's office will take it seriously and that he doesn't know where they are and he doesn't want to be involved in any negotiations relative to Casinos in MA. It's not for him as State Senator to be involved with that. Chairman asked if he'd be willing to sign a letter to the Governor indicating he should not sign a compact with the Mashpee Wampanoag's until they settle with Middleborough. He responded that he would not. He would be willing to sign a letter that says that the terms & conditions of the contract ought to be met and that if some haven't been met, they should deal with that. Chairman replied that he is asking for the Senator's support. Selectman Spataro pointed out that part of the contract states that if a compact was to be presented to the Governor, then the Town would be afforded the opportunity to be at the table. He asked if the Senator would assist the Board in getting a meeting with the Governor. Senator responded that he would, however, he has been waiting for a meeting with him re Taunton State Hospital. He thinks that the Governor sent response through his Chief legal counsel because of the complexities of the IGA Agreement. He will put in writing that he believes that anything that the Wampanoag Tribe is legally responsible for, under the Terms & Conditions of the contract, would be adhered to by them. Selectman Frawley offered his appreciation to the Senator for taking his calls and responding to his emails and clarified that what the Board is trying to accomplish is to clear up the Town's issue with the IGA prior to the Tribe moving forward.

Selectman Quelle asked the Senator if there is any legislature action planned prior to July. The Senator responded not until, or unless, the Governor successfully negotiates a compact with the Tribe and then it has to go before the legislature. The final session of legislature is 7/31/12, and even after all that takes place, the Tribe would have to go to the federal level to seek the land that they are to have in the host community and have it put into Trust. Selectman Quelle then asked the Senator, if the Tribe doesn't meet his expectations, is it deserving of his support. The Senator responded that if the Tribe met the terms and conditions of the laws that they passed, then he would be supportive of it. Selectman McKinnon thanked the Senator for coming in and noted that this Town invested a lot into this and jumped through hoops going with this agreement, and as his

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Senator, he expects that he tell the Tribe to deal with Middleborough. They need to finish what they started and make the Town of Middleborough whole. He wanted the Senator to sign a letter as presented by the Chairman. Senator responded that he will sign the letter he wants to sign and it will say that if the Tribe has outstanding legal obligations to be met, it better meet them and he will be checking with legal counsel to make sure that he can even sign that. Selectman Spataro offered that he was still looking for him to ask for a meeting between the Board and the Governor. The Senator will address tomorrow/forthwith and try to arrange for a meeting with the Governor.

Brian Giovanoni questioned why this discussion was taking place if it is on an agenda for Wednesday night and offered that he wasn't prepared to discuss this tonight. Chairman responded that it was not anticipated that the Senator was going to show up tonight and the Board decided to allow the discussion. The Senator explained that he was invited to be here tonight by a letter. A few nights ago, he had spoken to the Chairman and indicated that it may be unlikely that he'd be able to attend, but that he would try. Chairman clarified that the Senator did nothing wrong and offered that the Board appreciated that he came by and this Board made the decision to allow you to speak. The Senator offered that he doesn't intend to continue to discuss this issue as far as future meetings potentially go.

Mike Solimini addressed Board and offered that he appreciates the flexibility that the Board allows under unanticipated, but thinks that the Open Meeting Law should be reviewed for rules of unanticipated as he thinks it is supposed to be limited in discussion. The Board thanked the Senator.

State Representative Orrall arrived unexpectedly at 9:50 PM and announced that her office was called today and told that tonight's meeting had been cancelled. Chairman explained the circumstances that had occurred this evening and the attempts to schedule the legislative delegation on a meeting agenda. He offered that the Board was going to finish up the business of the meeting and would allow for further comment to/from her afterwards.

Board reviewed the following Annual Town Meeting Articles:

Article 23 – Rent Board fees – Selectman McKinnon asked if the Board wanted to alter this incase Town Meeting wants to appoint a separate Rent Board. Town Manager responded no as the Board would still have the authority to set the fees. Selectman McKinnon questioned whether language should be incorporated into the article to reflect that. Town Manager will ask Town Counsel.

Article 7 – Co-pay reimbursement (active) & Article 8 (retirees)

Article 9 – Borrowing to upgrade septic system

Article 24 - Rescind Underground Testing bylaw

Article 25 - New Fuel Oil & Gasoline Storage bylaw

## **TOWN MANAGER'S REPORT**

Town Manager noted letter to be sent to the Governor asking him to quickly expedite the release of Chapter 90 funds. He explained that we are already into construction season, and every day that passes, we lose as construction season becomes less and less. Copies of the letter are being sent to the legislative delegation.

Town Manager alerted the Board that the project @ Routes 105 & 495 has been issued a notice to proceed on 3/16/12.

## **CORRESPONDENCE**

#3 Selectman Frawley noted that MCCAM will be holding workshops on how to use the projector screen and equipment in the Selectmen's hearing room.

#5 Selectman Frawley noted that the Hillcrest residents have raised some very valid items.

#7 Selectman Frawley offered that the Board will continue to advocate against the closing of Taunton State Hospital.

#5 Selectman Quelle noted that he did drive through Hillcrest Mobile Home Park and encouraged Board members to do the same.

Selectman McKinnon shared that the Plymouth County Commissioners will meet on 4/26 and he pointed out that the annual SRPEDD appointment and JTPG must be made. Board's Secretary clarified that the annual application forms had not been received in the office yet, but that she would follow up.

#6 Chairman Rullo read aloud correspondence from Greener Horizon noted that they have volunteered to garden the island by Dave's Diner again this year.

Board agreed it will meet Wednesday night with any members of its legislative delegation to discuss the IGA with the Mashpee Wampanoag Tribe.

Selectman Frawley thanked Representative Orrall for coming to the meeting on the fly. She offered that she was told that tonight's meeting was cancelled, and that it was moved to Wednesday night, but that this issue is very important to her, therefore, she would be here Wednesday night.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted by Roll Call to go into Executive Session at 10:11 PM to discuss strategy relative to Non Union Contract Negotiations – (Town Manager) 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 10:30 PM.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN

**Middleborough Board of Selectmen  
Meeting Minutes****Wednesday, April 11, 2012**

Chairman opened meeting at 7:05 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, and Town Manager C. Cristello.

The meeting was not broadcast live, but was recorded by MCCAM, and will be broadcast at a later date.

Chairman stated that the Board is seeking the support of its state legislative delegation for the Town's position in its dispute with the Mashpee Wampanoag Tribe. State Representative Orall told the Board she wants to assist Middleborough. She asked the Board some questions, which the Board answered. She asked what the Board wants the delegation to do. The Board responded that it wants the delegation to request a meeting with the Governor. It also wants the delegation to send a letter to the Governor asking him to make compact negotiations with the Tribe contingent on the Tribe finishing its business with the Town of Middleborough. Representative Orall responded that she has already advocated for Middleborough's concerns and has also made those concerns known.

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to send a letter to the Governor requesting a meeting.

Adam Bond addressed the Board on the dispute with the Mashpee Wampanoag Tribe. He believes that Middleborough's support of the proposed casino gave the Tribe leverage with the Commonwealth that led to the Commonwealth passing gaming legislation preferential to the Mashpee Wampanoag Tribe. The Tribe has disproved its own argument about the impossibility of performance. It just walked away from the agreement with the Town. He further recommended that we ask our representatives at the federal level to pressure the Bureau of Indian Affairs to make the Tribe act responsibly.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to adjourn the meeting at 7:50 PM.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN