

MINUTES

For approval at the 10-21-13 meeting

**Middleborough Board of Selectmen
Meeting Minutes**

September 30, 2013

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

In attendance were: Selectmen S. McKinnon, A. Frawley, L. Dalpe and J. Knowlton, and Executive Assistant J. Shanley.

UNANTICIPATED

None.

ANNOUNCEMENTS & RECOGNITIONS

Selectman Dalpe noted that tickets are now on sale for the Taste of Middleborough to be held on 10/16/13 at the Oak Point ballroom to support the Middleborough Veterans' Memorial Park.

Selectman Frawley announced the job fair to be held by the Plymouth Career Center and Middleborough On The Move on 10/30/13 from 10 a.m. until 2 p.m. at Town Hall, 10 Nickerson Avenue.

Selectman Frawley thanked Selectman Knowlton, Lakeville Town Manager Rita Garbitt, Selectman Powderly of Lakeville, Freetown's State Representative Paul Schmid and Middleborough's State Representative Keiko Orrall for joining him on a tour of the Nemasket River on Saturday morning to get a good idea of what's going on with the River and some of the issues being faced by the residents on the Assawompset Pond complex.

Selectman Knowlton announced that the next cleanup of the Massasoit State Park will be held on 10/19/13.

Chairman McKinnon noted the St. Vincent DePaul Society 5K food bank fundraiser that was held this past weekend. He and Selectmen Knowlton and Frawley participated.

Chairman reminded the public that Special Town Meeting (STM) will be held on 10/7/13.

MINUTES

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to approve 9/23/13 meeting minutes with correction to page 5, as noted.

WARRANTS

Upon motion by Selectman Dalpe and seconded by Selectman Frawley, Board voted unanimously to authorize Chairman, or his designee, to sign Warrants for week ending 9/27/13.

NEW BUSINESS

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted to appoint Carleton Donchess as a member of the Cultural Council. Three in favor. Selectman Dalpe recused herself as she is currently working on a grant to submit to the Cultural Council.

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Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to approve a One-day Beer & Wine liquor license for Muckey's Liquors for 10-16-13 from 6 PM to 10 PM at 200 Oak Point Drive.

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to approve a One-day All Alcoholic beverages liquor license for The Bartending Service of N.E. for 10-5-13 from 1 PM to 5 PM at the Council on Aging.

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to approve a Second Hand license for Autumn's at 29 Center Street with hours of operation being Monday through Saturday from 9 PM to 8 PM.

Chairman read aloud Bond Anticipation Notes. Upon motion by Selectman Knowlton and seconded by Selectman Frawley, Board voted unanimously to sign the Bond Anticipation Notes.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to extend Termination/Service Agreement with the Town of Carver for emergency back-up & response mutual aid, repairs to Carver's water distribution system, and meter readings & water billing services to its customers to extend time for Middleborough to provide services to 12/31/13.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to approve expenditure of surety monies.

HEARINGS, MEETINGS, LICENSES

Barbara Holton – Discussion re 61B Recreation land, 68 Purchase Street

Town Counsel spoke and indicated that the Notice of Intent does not qualify with State Statute. Town Manager joined meeting. Barbara Holton addressed the Board and read aloud a statement. Chairman recommended to Ms. Holton that she contact Town Counsel and find out exactly what information she needs to provide so that the Notice of Intent qualifies with State Statute. Brian Giovanoni asked if the Town has received a Purchase & Sales Agreement showing 61B land and no other parcels, which are not 61B land. Town Manager answered no.

NEW BUSINESS (continued)

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to authorize the Town Manager to sign Amendment No. 1 to the Professional Services Agreement with Wright-Pierce for a Comprehensive Wastewater Management Plan.

Upon motion by Selectman Frawley and seconded by Selectman Frawley, Board voted unanimously to authorize the Town Manager to sign Amendment No. 1 to the Owner's Project Manager Agreement with Environmental Partners.

HEARINGS, MEETINGS, LICENSES (continued)

Town Moderator Wayne Perkins addressed Board and encouraged registered voters to attend the Special Town Meeting on 10/7/13 at Middleborough High School at 7:00 PM.

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Public Hearing re STM Warrant Articles

Board and Town Manager reviewed each STM Warrant Article taking comments/questions by those in attendance.

Jane Lopes addressed Board to discuss Article 16.

Selectman Quelle joined meeting at 8:11 PM.

Town Counsel addressed Board and confirmed that Article 26 (Wetlands Protection Bylaw) incorporates all of his recommended changes. Neil Rosenthal addressed the Board and asked the Board to withdraw its support of this Article offering that we already have a Wetland Protection bylaw that's worked extremely well for a very long time. We also added a 25' no touch zone to the WRPD bylaw, and the Natural Heritage Commission has designated all land in Middleborough as box turtle habitat, which puts folks at an extreme disadvantage trying to develop or use their land in Town. This is a home rule bylaw. It goes beyond the state Wetland's Act. Selectman Knowlton offered that he has some of the same concerns. Motion made and seconded by Selectman Quelle to withdraw the Board's support of this Article, with questions by Selectman Frawley. He agreed that Mr. Rosenthal made some compelling arguments, but he did not agree with consideration of withdrawing the Board's support, without the other side (Conservation Commission) present. Selectman Knowlton offered that he thinks it's o.k. to have a change of mind. Chairman noted that tonight is a public meeting to review the Town Meeting Warrant Articles and the Commission was welcome to be in attendance. Brian Giovanoni addressed Board and offered that he likes local control and supports a bylaw like this. He noted that the Commission cleaned up this bylaw, and suggested that we need to trust the members of our Conservation Commission. He suggested that if there are problems with the bylaw, the Town can always vote to revoke it at a future Town Meeting. He supports the Article. Neil Rosenthal offered further comments. He thinks too much control stifles opportunity and the freedom to do what they want with their own property. Town Manager offered that the Conservation Commission worked hard to get this bylaw to a place where they could get it to Town Meeting, including running it by Town Counsel. He suggested that they are entitled to a Town Meeting vote and debate. He asked that the Board allow that to happen and to not table or postpone the Article. Selectman Frawley asked Town Counsel what the procedure is to rescind a vote. He responded that it would be to make a motion, and if it passes, then it is effective. Three in favor. Selectmen Frawley and Dalpe opposed.

Article 27 – Street Acceptance of Veronica Lane noted.

Article 28 – Street Acceptance of Tall Oak noted.

Article 29 – Street Acceptance of Dona Drive noted.

Article 30 Thomas Park damn at Wareham Street. Town Manager offered that the Article indicates transferring the care & custody of this property to the Board of Selectmen. He noted that the DPW does a spring cleanup of the area and we have a volunteer who helps care for the area.

Weston Avenue resident Jeff Stevens addressed Board to ask for an explanation of Article 31. MG&E Commission member Glenn Montapert explained the purpose of the Article. He explained that this is the request of the MG&E to make the upgrades. Mr. Stevens offered Peirce Lane and

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Weston Avenue are private roadways, owned by the Peirce Trustees. The residents of Weston Avenue recently paid to resurface the roadway. He asked if the MG&E would be repairing any damage it causes. Town Manager will look into and let Mr. Stevens know.

Jeff Stevens addressed Board to discuss Article 32 re the Cross on Route 28. He offered his concerns regarding this Article. He suggested that passing this Article may pose serious legal complications for the Town. Brian Giovanoni thanked the Board for taking this on. Neil Rosenthal asked if the land could be transferred from the State directly to the Kiwanis. Town Manager answered no.

Article 33 Town Manager noted that this is regarding a road completion issue.

Article 34 Town Manager noted that this pertains to the Intermunicipal Water Agreement with Lakeville.

Board of Health hearing – Adopt Ordinance to Ban Synthetic Marijuana and Similar Cannabimimetics.

Chairman opened hearing at 9:17 PM. Health Officer Jeanne Spalding addressed the Board. She recommends the 1st draft (two pages) she provided the Board with last week and suggested that the Board could pass it as a Board of Health regulation for now until such time it could be passed as a bylaw. Board asked to hear from Police Chief Gates. He gave the Board a copy of MA General Laws Ch. 270, S. 18. He offered that packaging these products in appealing packaging is unethical business practices. Selectman Knowlton offered that the Senate does have Bill 919 pending to address this exact issue so it is moving forward. Northampton and Westfield have been criminally charging shop owners since January of 2012 with this exact law, for this exact purpose, without a bylaw. He's not against a bylaw, but if Ch. 270, S. 18 gives the Police the authority to do this already, and it's being done in other towns, he's happy with that. Police Chief responded that they can't prosecute merchants for selling legal products. He doesn't know what happened in these other towns. In response to question by Selectman Dalpe, Police Chief confirmed that this law applies to both selling and purchasing these products, but going around and arresting merchants for selling incense and potpourri isn't something he would do. Selectman Dalpe asked Health Officer if the initial guidelines she sent the Board covered any chemical compound, if it does as well as the Attleboro regulation, and if it would be something they could adopt right away. Health Officer responded that it does list some of the products in it. Chairman read aloud that particular section. Health Officer noted that these products have been out there for a while now, but the marketing has become increasingly clever and the products are now on the shelves as opposed to underground. Town Manager suggested the Board give more time for discussion/working on the best proposal. Chairman was sent two state laws for Rhode Island today, which he will get to everybody. Chairman suggested Health Officer, Police Chief, and/or, his designee, work together. Selectman Frawley offered that he thinks it is incumbent upon the Board to put an existing regulation in place. The existing law doesn't work right now. These products can be purchased right now. He recommended adopting an ordinance immediately and amending it later, if necessary. Town Manager offered that Town Counsel hadn't reviewed these drafts yet, so he suggested waiting. It would be a BOH regulation. Upon motion by Selectman Frawley and seconded by Selectman

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Quelle, Board voted unanimously to discuss further at its 10/7/13 meeting. Health Officer will have something prepared for the Board for 10/7/13.

TOWN MANAGER'S REPORT

Town Manager noted correspondence from the Town Clerk notifying us that we will be receiving \$17,778 in state reimbursement for the 6/25/13 state election.

Town Manager noted communication from the MA Gaming Commission notifying us that we will be informed of the Raynham Park slots parlor application. They did not name Middleborough as a surrounding community. He suggested that we petition the Commission to be included as a surrounding community, which we will do.

Town Manager noted MA DOT correspondence received letting us know that they accepted our Project Need Form (PNF) on the Everett Square improvements project.

Chairman asked if the reimbursement for the 6/25/13 state election also covers the cost of the election. Town Manager will find out and let him know.

NEW BUSINESS (continued)

Goals

Selectman Knowlton suggested Board members each review the list and formulate benchmarks. Board agreed to begin by combining some of the goals this evening. A new version of the list will be prepared for review by the Board at a future meeting.

CORRESPONDENCE

#1 Selectman Frawley noted that this noise complaint issue appears to have had a resolution.

#2 Selectman Frawley noted correspondence from the Mass Gaming Commission re Slot application deadline.

#5 Selectman Frawley noted that we have received the CapeFlyer Summary/Risk Assessment.

#1 Selectman Knowlton offered that he was happy to see Star Mill responded to this noise complaint.

#7 Selectman Knowlton noted MAAC "Getting Ready for Winter" announcement.

Selectman Frawley asked if we can discuss additional ways to get advanced notice out to residents when flushing is going to occur.

#1 Selectman Dalpe offered that she was happy with the way Star Mill handled this noise complaint.

#5 Selectman Dalpe pointed out that the report from the MA DOT re the CapeFlyer indicates that they have installed advanced warning signs and street markings and that the future upkeep of these

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devices is our responsibility. Town Manager suggested that they are talking mostly about the signs and street markings. He thinks they should add an advanced warning sign at Spruce Street.

#1 Selectman Quelle noted that he shares the concerns of Mr. Cook over trash pickup hours/noise complaint.

#5 Selectman Quelle offered that folks have been walking around these train tracks for decades since there hadn't been any trains running through Town all these years. They should have done far more advanced notification before running a train through Town at such high speeds. He offered that he doesn't know why they couldn't have addressed the gates malfunctioning a little more and hopes they do a better job next year.

#11 Selectman Quelle asked the Town Manager if the Assessment that comes down to the Towns would run through the County down to the Towns. Town Manager responded that it comes in on the Cherry Street. It runs from the County to the State to the Town.

Chairman noted he had failed to close BOH hearing. Upon motion by Selectman Dalpe and seconded by Selectman Knowlton, Board voted unanimously to continue hearing to 6:30 PM on 10/7/13.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to adjourn at 10:05 PM.

Jackie Shanley, Executive Assistant
BOARD OF SELECTMEN

Chairman opened meeting at 6:30 PM.

In attendance were: Selectmen S. McKinnon, A. Frawley, B. Quelle, L. Dalpe and J. Knowlton; and Town Manager C. Cristello.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to authorize Chairman, or his designee, to sign Warrants for week ending 10/4/13.

HEARINGS, MEETINGS, LICENSES

Health Officer J. Spalding reviewed the draft regulations re synthetic drugs. Chairman McKinnon wanted to be sure the regulations were broad enough to cover any changes in the product. Health Officer offered that that the regulations could be revised at any time. Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to enact the proposed Board of Health Regulation banning synthetic marijuana and similar Cannabimimetics from the Town of Middleborough.

NEW BUSINESS

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to sign the Collective Bargaining Agreement with the Clerical/COA Union.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to sign the Collective Bargaining Agreement with the GMEG Union.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to authorize payment to S. Coast Media Group in the amount of \$4,103.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to recess at 7:00 PM and to reconvene in the MHS Auditorium to conduct the business of Special Town Meeting.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to adjourn at the conclusion of Special Town Meeting at 8:45 PM.

Jackie Shanley, Executive Assistant
BOARD OF SELECTMEN