

MINUTES
for approval on **7-27-15**

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**Middleborough Board of Selectmen
Meeting Minutes**

July 13, 2015

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

In attendance were: Selectmen A. Frawley, L. Dalpe, J. Knowlton, D. Stewart and S. McKinnon; Town Manager, R. Nunes and Executive Assistant J. Shanley.

UNANTICIPATED

Selectman Knowlton offered that a resident had approached him about the Fourth of July. In the news lately they've talked about Post Traumatic Stress Disorder and how fireworks can be difficult for some Veterans and also for family pets. Consider opening the COA or someplace, where it might be a quieter area where people may choose to go on the 4th of July during the fireworks performance. He offered his appreciation to Teri Page for bringing this up to him.

Resident Greg Lessard of 15 Navaho Shores Road addressed the Board about concerns regarding the new Trash Collection system and how it affects those who live on private roads and made some suggestions. Town Manager offered that all private road residents may now visit the DPW and pick up trash carts, which they may then bring down to the Town road. Town Manager offered that there is a large number of private ways in Town and it is impossible for the truck to go down many of these ways and by bringing the carts down to the public road, they will be picked up. Mr. Lessard responded that the barrels are too big to bring down and they would like to continue bringing their trash down in bags. Chairman offered that the Town is willing to work with the residents and will look into his suggestion.

ANNOUNCEMENTS & RECOGNITIONS

Board and audience made various announcements.

WARRANT

Upon motion by Selectman Dalpe and seconded by Selectman McKinnon, Board voted unanimously to authorize the Chairman, or his designee, to sign Warrants for weeks ending 7/11 & 7/18/15.

NEW BUSINESS

Wayne Perkins of Middleborough On The Move announced that Crazy Days will be held on Friday, 8/7 and Saturday, 8/8/15. Upon motion by Selectman McKinnon and seconded by Selectman Dalpe, Board voted unanimously to allow closing the following streets on 8/7 and 8/8/15 from 8 a.m. to 6 p.m.

- S. Main Street at Nickerson Avenue
- Wareham Street at Clifford Street
- N. Main Street at Peirce Street
- Centre Street at Union Street
- School Street at Union Street

Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to approve a One-day Malt beverages liquor license for 8/7 at Massasoit for the Community Dinner – from 4 p.m. to 8 p.m.

Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to approve a One-day Malt beverages liquor license for 8/7 at the Auto Class Centre for the Beer Garden/Tent from 11 a.m. to 7 p.m.

Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to approve a One-day Malt beverages liquor license for 8/8 at the Auto Glass Centre for the Beer Garden/Tent from 11 a.m. to 7 p.m.

Upon motion by Selectman McKinnon and seconded by Selectman Knowlton, Board voted unanimously to send letter o MA DEP requesting a re-assessment of the Odor Abatement Plan & stricter oversight for A-Plus Waste, 88 River Street. Attorney Adam Bond addressed the Board and announced he is representing A-Plus Waste. Attorney Bond read aloud letters from neighbors to A-Plus Waste and provided copies of same. Building Commissioner R. Whalen addressed Board and offered that in response to a recent complaint received by the Building department, Mr. High was cooperative and immediately rectified the issue. His office does not have any oversight relative to odor. He has found Mr. High historically cooperative. Attorney Bond offered that Mr. High has been a cooperative neighbor to the Town. He suggested that the odor may be coming from elsewhere, including a nearby farm that utilizes manure. Resident Jaime Meserve of River Street, addressed the Board to speak about his family's ongoing experiences with odor they believe is coming from A-Plus Waste. A female resident, also from River Street demonstrated the layout of the neighborhood homes. She offered that she composts in her backyard on a small scale. She offered that it is not a manure like smell. It is a smell that gives her headaches and makes her nauseous. She provided the Board with a copy of Cornell Waste Management Institute: Off-Site Air Emissions and Health. This becomes an issue of health and should be dealt with by the Board of Health. Adam Bond made reference to tonight's discussion as being a hearing. Selectman McKinnon offered that it was not a hearing. The Board was merely having a discussion regarding a complaint by residents of the Town. Jaimie Meserve offered that the DEP representative acknowledged the smell when they came out, but the DEP permitting agent decided there is no issue. Further discussion ensued. Motion made by Selectman McKinnon and seconded by Selectman Dalpe to move the question. Ron High addressed the Board offered that he is happy to have the Board come out to the site and that OSHA was on site last night and found no issues. Mr. Meserve offered further comments. Selectman Knowlton offered that he has visited the site and witnessed the odor without question. Board voted unanimously to send DEP the letter.

Upon motion by Selectman Dalpe and seconded by Selectman McKinnon, Board voted unanimously to approve the One-day Beer & Wine liquor license for The Bartending Service of N.E for 7/25/15 for a Comedy Night fundraiser.

Upon motion by Selectman McKinnon and seconded by Selectman Dalpe, Board voted unanimously not to exercise the Town's right to purchase Chapter 61A land, specifically, Map 048, 4659.

Upon motion by Selectman Stewart and seconded by Selectman Dalpe, Board voted unanimously to rescind annual re-appointment of James Brown as Animal Inspector and to re-appoint Derel Lee Twombly.

Upon motion by Selectman Dalpe and seconded by Selectman McKinnon, Board voted unanimously to authorize Chairman to sign Armory Engineers Contract re Vacuum Priming Equipment-Miller Street Well Pumping Station.

Upon motion by Selectman McKinnon and seconded by Selectman Dalpe, Board voted unanimously to sign the B.A.N. (Bond Anticipation Note) authorized at the 4/27/15 ATM for multiple purposes such as computer hardware, police & fire communications system, police cruisers, Town Manager's vehicle, etc.

Upon motion by Selectman Dalpe and seconded by Selectman McKinnon, Board voted unanimously to approve payment of Wright-Pierce invoice for Construction Administration in the amount of \$29,799.54 and to authorize the Town Manager to sign.

Upon motion by Selectman McKinnon and seconded by Selectman Stewart, Board voted to rescind appointment of Leilani Dalpe to the Tourism Committee. Four in favor. Selectman Dalpe abstained. Discussion ensued. Selectman McKinnon asked if there are any other Committees that Selectmen serve on where there may be a conflict. Selectman Dalpe suggested the Disability Commission may be one. Selectman Stewart offered that she spoke with Town Counsel and the Disability Commission does not report to the Board of Selectmen and is actually supposed to be appointed by the Town Manager. She noted that she is on the Green School Committee and it may need to be looked into. Selectman Dalpe offered that the way to correct the issue with her appointment to Tourism is to make her an ex-officio. Chairman Frawley offered that there is another issue with the appointment of Selectman Dalpe's husband, Glenn Montapert, having had been appointed to the Tourism Committee through a vote that included Selectman Dalpe's participation. Upon motion by Selectman McKinnon and seconded by Selectman Stewart, Board voted to rescind the appointment of Glenn Montapert to the Tourism Committee. Sherri Swindle addressed the Board and asked the Board if it would just reappoint Mr. Montapert. Selectman Knowlton offered that he thought the Board should just reappoint Mr. Montapert tonight. Board heard from those in the audience. Chairman responded that Town Counsel has made it clear that this is the law and the Board is responsible to follow it. Four in favor. Selectman Dalpe abstained.

Upon motion made by Selectman Stewart and seconded by Selectman McKinnon, Board voted unanimously to create an ex-officio position on the Tourism Committee for a member of the Board of Selectmen.

Upon motion by Selectman Stewart and seconded by Selectman Knowlton, Board voted to appoint Selectman Dalpe as an ex-officio member of the BOS to the Tourism Committee. Four in favor. Selectman Dalpe abstained.

Selectman Knowlton asked if Town Counsel is advising that the BOS rescind the appointment of Glenn Montapert. The Chairman replied that this is what Town Counsel has indicated.

Upon motion by Selectman Knowlton and seconded by Selectman McKinnon, Board voted to rescind vote appointing Glenn Montapert to the Tourism Committee in accordance with the advice of Town Counsel. Four in favor. Selectman Dalpe abstained.

Upon motion by Selectman Knowlton and seconded by Selectman Stewart, Board voted to reappoint Glenn Montapert to the Committee, pending the required disclosure form. Motion made by Selectman Stewart and seconded by Selectman McKinnon, to amend to include upon Town Counsel's review of our current appointment policy and whether or not this violates it. Three in favor. Selectman Knowlton opposed. Selectman Dalpe abstained. Three in favor of original motion. Selectman Frawley opposed. Selectman Dalpe abstained.

Glenn Montapert, as a citizen, addressed the Board and offered that he will continue to donate his time to the Tourism Committee.

Sandy Richter, MG&E liaison to the Green Energy was present for the discussion re Large Scale Solar Energy Systems. It was realized that the Green Energy Committee may not have been notified of the scheduled discussion. Town Manager suggested discussion be continued. Selectman McKinnon offered that he read through the proposed bylaw and suggested Town Counsel and various departments look it over. Chairman asked that we invite Mr. Stevens and the Green Energy Committee to attend the Board's next meeting to discuss.

Chairman offered that he would like more time to gather material before moving forward with the discussion re electronic devices. He explained that it is about creating a policy for the Board and the use of electronic devices during a meeting. Selectman Knowlton would like to have the discussion, but at same time would not like to impose restriction on others who may email/text/call during a meeting and is responded to by a member of the BOS during the meeting. Chairman offered that it's a question of Open Meeting Law violations. Jane Lopes offered that it's Public Records Law, such as one member passing a note to another member during a meeting. That note becomes a public record. Arthur Battistini offered his interpretation of the Open Meeting Law, that it is permissible if the message is from a non-member of the Board. Board will discuss at its next meeting.

Upon motion by Selectman Dalpe and seconded by Selectman McKinnon, Board voted to continue Body Piercing Regulation hearing to 7/27/15 at 7:20 PM.

Chairman opened public hearing on application made by Xtreme Power Cycles, LLC at 8:43 PM by reading aloud the public hearing notice. The applicant addressed the Board to present their intent.

Selectman Stewart recused herself as the property owner is a client of hers. Selectman Knowlton noted various departments have indicated no issues. Chairman asked to hear any further comments/questions. Hearing none, Chairman declared hearing closed. Upon motion by Selectman McKinnon and seconded by Selectman Dalpe, Board voted unanimously to approve.

Jane Lopes and Ted Eayrs updated the Board and the public on the status of the Oliver House. The town is scheduled to close on the Oliver House on 7/31/15. Questions and discussion followed. Chairman offered that we have to obtain the property first, but once the Town does, he would like to see a discussion of creating an Oliver House Committee made up of qualified people who can manage it appropriately. Jane Lopes offered that it qualifies for numerous grants because it is a historical home. Ted Eayrs offered that once the Town owns it, we can look into grants to maintain it.

TOWN MANAGER'S REPORT

Town Manager presented his report as per the attached.

Upon motion by Selectman Dalpe and seconded by Selectman Stewart, Board voted unanimously to ratify the Town Manager's re-appointment of Jane Lopes and Leslie Corsini-Hebert to the Historical Commission for three-year terms ending on 6/30/18.

CORRESPONDENCE

#1 Selectman Dalpe noted letter of resignation from COA Board of Directors by Annette Holmes.

#1 Selectman Knowlton offered thanks to Annette Holmes for having had served the Town.

Upon motion by Selectman Stewart and seconded by Selectman Dalpe, Board voted unanimously to adjourn at 9:02 PM.

Jackie Shanley, Executive Assistant
BOARD OF SELECTMEN