

**Middleborough Board of Selectmen
Minutes of Meeting**

 **DRAFT**

November 3, 2008

Chairman began meeting by inviting those in attendance to join in the Pledge of Allegiance.

In attendance were Selectmen A. Bond, P. Rogers, M. Brunelle and M. Duphily.

Upon motion by Selectman Rogers and seconded by Selectwoman Duphily, Board voted unanimously to approve 10-14-08 meeting minutes.

Upon motion by Selectman Rogers and seconded by Selectwoman Duphily, Board voted unanimously to approve 10-14-08 Executive Session meeting minutes.

Upon motion by Selectman Rogers and seconded by Selectwoman Duphily, Board voted unanimously to approve 10-20-08 meeting minutes.

Upon motion by Selectman Rogers and seconded by Selectwoman Brunelle, Board voted unanimously to approve 10-27-08 meeting minutes.

NEW BUSINESS

NSTAR

Jim Weaver, Right-of-Way Engineer with NSTAR addressed the Board. Upon motion by Selectman Rogers and seconded by Selectwoman Brunelle, Board voted unanimously to approve the installation of additional wires (transmission line) on France Street and Pine Street at R/W #240.

Burt Wood School of Performing Arts

Upon motion by Selectman Rogers and seconded by Selectwoman Duphily, Board voted to approve rental of the Town Hall auditorium on Friday 12/12/08 from 2 PM until 10 PM for a holiday recital. Three in favor. One abstained.

Whitman/Hanson High School

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted unanimously to approve rental of Town Hall auditorium on Friday, 11/21/08 from 6:30 PM until 10:30 PM for the Whitman/Hanson Semi-formal dance.

Annual Christmas Parade

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted unanimously to approve request to hold Annual Christmas parade on Saturday, 11/29/08 with a rain/snow date of Sunday, 11/30/08 beginning at 1 PM with a copy of request and approval being sent to D. Boucher, Chief of Police and Fire Chief.

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HEARINGS, MEETINGS, & LICENSES

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted unanimously to approve the transfer of an All Alcoholic Beverages Package Goods Store Liquor license from C.V.L., Inc., dba Middleborough Liquors to Gola Gola, Inc., d.b.a. Jamie's Fine Wines & Spirits, II with the Change of Manager as being Jamie Pangione and hours of operation to be Monday-Thursday 9 a.m.-9 p.m., Friday and Saturday from 9 a.m. to 11 p.m. and Sunday 12 Noon to 6 p.m.

NEW BUSINESS

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted unanimously to approve 2nd Hand license for Opportunity Knocks Twice, 50 Center Street with hours of operation as Monday through Sunday from 9 a.m. until 5 p.m. Applicant was advised to notify police and fire departments of contact information in case of alarm system/emergencies.

HEARINGS, MEETINGS, & LICENSES

Enfield Paranormal representatives addressed the Board to submit its report on paranormal activities here at Town Hall.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted unanimously to continue Costello Dismantling, Inc. Earth Removal Permit hearing to May 4, 2009 with no further extensions allowed. Town Manager will ask Building Commissioner to make sure no further demolition of building occurs.

NEW BUSINESS

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted unanimously to approve Jacques Whitford Co., Inc. Water Exploration Contract, as recommended by Town Manager.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted unanimously to approve Betterment Agreement for 75 Tispaquin Street.

Upon motion by Selectman Rogers and seconded by Selectwoman Brunelle, Board voted unanimously to approve annual request by Veterans' Agent to use his Town Vehicle when traveling to Rhode Island to Transport Veterans.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted unanimously to authorize Chairman to sign annual Boards of Health Youth Access Compliance Check Mini-grant Cover Sheet FY 09.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted unanimously to approve One-day liquor license for the Holiday Inn Express on Thursday, 11/6/08.

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HEARINGS, MEETINGS, & LICENSES

Ron High of A Plus Waste Removal and his attorney, John Wyman appeared at a meeting of the Board of Selectmen acting in its capacity as the BOARD OF HEALTH to discuss Solid Waste License Application and Cease & Desist Enforcement order relative to the above referenced location.

The owner is in the process of cleaning up the back of the building and has been asked by the State not to put anything else back there while contamination problems are being cleaned up. He would like to move the dumpsters to behind the building.

The owner's intent is to construct a recycling business at this site.

Owner indicated that the hours of operation are: drivers come in at 6:00 a.m. on average. On occasion, front-end loaders are run at 4:30 a.m. Sometimes night mechanics need to work at night to address vehicle repairs.

Selectwoman Duphily suggested that DEP come in and report status and steps being taken on this site. Owner was agreeable to this.

Mr. High will provide a list to the Health Officer naming the towns that he picks up from.

Health Officer reported that she started receiving complaints about this site beginning in June and that they became more frequent in August. Matter was referred to DEP for comment. In her opinion, it is being used as an illegal transfer station. Through her investigation, the Health Officer found that Mr. High is not licensed to transfer trash in Plymouth and Kingston. Wareham is chasing after him for picking up trash in that town without any permits.

He's operating a truck/maintenance vehicle business without permission/permits, without electricity and without running water. There were 6 drums full of material (combustible) when the Health Officer visited the site and the fire department has no permits on record.

Health Officer indicated that Mr. High is supposed to register with the Town even if not picking up trash here in Town. The Town doesn't want haulers to limit impact on residents/area.

Mr. High was told on numerous occasions what steps he was required to take before operating his operation, none of which have been done.

Owner stated that he had a prior partner who led him to believe that all permits had been pulled. He stated that he is licensed in Plymouth and Kingston and said he would get copies of those licenses to the Town. He stated he was unaware until this evening that he has a bad relationship with the Town of Wareham. Mr. High is to put the Health Officer in touch with some references. He indicated that he replaced a well, but has not installed any pipes relative to running water.

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Attorney said: under a 21E permit, he is allowed to have a port-a-potty on site. Health Officer states that he was told by her that he was not allowed to have a port-a-potty on site.

Conservation Agent addressed the Board. She stated that A Plus has been telling her for months that they would be applying for a Notice of Intent (N.O.I). She is still waiting for it and is concerned about it. She also reiterated that she visited the site with the Health Officer and witnessed the same issues as reported by the Health Officer.

The Building Commissioner addressed the Board and indicated that electrical, building, and plumbing permits are required at this site and that it would be in violation of plumbing code if Mr. High has drains being used.

He reported that Mr. Hye was asked a year ago if his recycling business would include any material with odor. His answer was no. The same question was asked by Health Officer at that time and same answer was given.

Resident Linda Theriault addressed the Board and provided photographs and a sample of corn being stockpiled on this site. She read aloud a prepared statement (attached). She indicated that Mr. High is leasing space on this site and would like to know how someone can do that without any permits. She indicated that she has police reports which indicate each of her calls regarding noise through all hours of the evening and early morning hours. She read aloud a list of specific requests by her and her neighbors (attached).

Dale Caswell addressed the Board. He lives across the street from this site and is asking that a Cease & Desist be issued tonight and to not allow any trucks to be moved or any business to be allowed until all permits are in place.

Selectman Rogers recommended that the Town Manager speak with David Johnson of DEP to obtain a report on this site.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted to maintain Cease and Desist order re hauling solid waste and to have the Town Manager work with Health Officer and DEP towards resolving outstanding issues.

Unanimous vote.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted to issue a Cease and Desist Order, for all operations, with the exception of the 21E remediation at this location.

Unanimous vote.

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Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted that the hours that A Plus Waste Removal can move trucks back and forth is to be determined between Health Officer, owner (Ron High), and those residents affected, with the understanding that there will also be unannounced spot checks by the Health Officer. Unanimous vote.

Health Officer addressed Board after meeting in the hallway with the residents, Mr. High, and his attorney who wants to run trucks from 6:30 a.m. until 5:30 p.m. Monday through Friday and from 6:30 a.m. until 2:00 p.m. on Saturdays.

Health Officer indicated:

- absolutely no solid waste be brought back onto the site
- trucks be properly deodorized/sanitized prior to being brought back to site
- open containers to be unloaded at 5:30 PM drop off time
- containers to be sealed properly so as not to leak
- trucks to be parked facing forward so as to not be backed up in the morning
- all roll offs are to be loaded onto the vehicles by 5:30 p.m.
- sweeping will be continued to try and maintain dust control
- water spraying will be done to keep dust under control, when necessary
- stay out of operational area of compost area so as to not stir up dust
- All maintenance fluids for the trucks be removed off site as they are not allowed to have a vehicle maintenance operation.

The Health Officer finds this a reasonable trial solution as any further violations will result in immediate infractions which will result in legal action.

Over the next two weeks the health, building, plumbing and electric issues will be better understood in preparation for a follow-up meeting before the Board.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted to allow the parking of trucks to be operated Monday through Friday from 6:30 a.m. until 5:30 p.m. and from 6:30 a.m. until 2:00 p.m. on Saturdays. As Mr. High is not a licensed hauler in the Town of Middleborough, the company is to utilize either Route 105 going out to Route 44 and/or Route 495 and not by way of any other residential roads until follow-up meeting on 11/17/08 and the further details of that particular agreement will be placed in the record by Health Officer with a copy to Counsel. Unanimous vote.

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Star Mill update

OECD Director A. Nalevanko and Teri Bernart of the WEIR Corporation gave a brief power point presentation and provided the Board with a handout (attached).

OECD Director would like to be able to indicate support of the Board to report back to Winthrop Atkins representatives. OECD Director will summarize in a memo to the Board.

TOWN MANAGER'S REPORT

Town Manager requested that Board approve Conservation Agent's request for an upgrade of her office clerk's present position. Upon motion by Selectman Rogers and seconded by Selectman Bond, Board voted to support Town Manager's request. Two in favor. Two opposed. Motion did not carry.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted unanimously that Town Manager is to distribute memorandum that all requests for upgrades should only take place in the context of budget preparation for ensuing fiscal year. Selectwoman Brunelle asked if we could have the Personnel Board come up with guidelines as to what constitutes different guidelines re clerk positions i.e., Senior, Junior, etc. Town Manager will attend the next meeting of the Personnel Board and discuss.

CORRESPONDENCE

35 & 36 Letters from Firefighters re hiring process of new Fire Chief.

Chairman spoke about the process being conducted above-board. Selectwoman Duphily announced that she will abstain from voting on new Fire Chief hire.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted unanimously to adjourn meeting at 11:13 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN