

MINUTES

For approval at the 7-28-08 meeting

Present were Selectmen A. Bond, S. Spataro, and M. Brunelle. Also present were B. Giovanoni, Tighe & Bond representatives, and Town Planner R. Geoffroy.

Chairman opened meeting at 7:00 PM.

Discussed projects regarding water and wastewater.

Discussed costs & capacity issues.

Discussed adjustments needed to IGA data.

Discussed Tighe & Bond present data & issues.

Discussed Lakeville IMA.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board
VOTED: To send letter to the Mashpee Wampanoag Tribe regarding outstanding Annual
Pre-opening Mitigation - Planning Payment in the amount of \$250,000.
Unanimous vote.

Meeting ended and adjourned at 8:30 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

 **DRAFT**

**Middleborough Board of Selectmen
Meeting Minutes**

June 30, 2008

At 7:07 PM Chairman opened meeting by inviting those in attendance to join in the Pledge of Allegiance.

In attendance were Selectmen A. Bond, M. Duphily and S. Spataro.

OLD BUSINESS

Upon motion made by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To sign the AMR Ambulance contract.

Unanimous vote.

Chairman updated the Board on the status of bids received for the Rear Mount Aerial Platform Fire Truck. Bid was awarded to Bulldog Fire Apparatus, 17 Winter Street, Woodville, MA at a price of \$916,704. Fire Chief addressed the Board and answered various questions relative to the bid award.

OTHER

Chairman read aloud a draft reference, for the Board's consideration, regarding the contributions made by Interim Town Manager Steve Lombard.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To approve.

OLD BUSINESS

Chairman called upon Attorney Richard Serkey in regards to 6,000 square feet of 61A land located at 231 Thompson Street, also known as the Gibb's property. Attorney Serkey explained that this is a separate lot than the land previously purchased by the Town.

Upon motion by Selectwoman Duphily and seconded by Selectman Spataro, Board

VOTED: To decline the Town's right to purchase Lot 1, Plan 324 of 2008 Book 54, Page 492.

Unanimous vote.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To approve June 23, 2008 Minutes.

Unanimous vote.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To approve June 23, 2008 Executive Session Minutes.

Unanimous vote.

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HEARINGS, MEETINGS, & LICENSES

At 7:20 PM, Chairman opened WRPD Public Hearing re 27 Augustus Way. Chairman read aloud public hearing notice and memorandum addressed to the Board from the Building Commissioner. Applicant Michael Camara addressed the Board. Health Officer addressed the Board and stated that this matter does not affect the septic system. Chairman closed the hearing at 7:33 PM.

Upon motion by Selectwoman Duphily and seconded by Selectman Spataro, Board

VOTED: To accept and grant permission to Mr. Camara to build his deck.
Unanimous vote.

Board welcomed C.O.A. Director Andrea Priest to discuss the Sr. Tax Abatement program. A. Priest gave an overview of what she had prepared for the Board's review as to how the program will be run. Assessor Appraiser B. Erickson addressed the Board and explained that there are various ways in which the program/abatements can be run, and indicated that it is up to the Board of Selectmen. Town Manager indicated that the money usually comes from the Town's overlays for abatements to cover the expenses. Director Priest is proposing up to a \$750. abatement cap per individual, per year, at minimum wage. Chairman thanked A. Priest for putting the program together. Chairman suggested establishing a deadline for submission of applications followed by a lottery as the fairest method of selecting candidates. Chairman recommended some changes in language within the qualification list and suggested that it would be best to run documents by Town Counsel. Chairman suggested that she lottery for specific positions, seeking qualified individuals for specific needs with a cap of 10 individuals for 2009. A. Priest informed the Board that September is the intended deadline to finalize this process. Chairman asked Ms. Priest to work on the changes in language, seek feedback from various departments to learn what their needs are in order to draft the job descriptions, and to work with B. Erickson to work out details. Ms. Priest will bring matter before the Board again in the near future.

Ms. Priest updated the Board and the public that the shuttle has expanded its pick up route to include the Veterans' Home on Acorn Hill, which houses twelve Veterans.

NEW BUSINESS

Upon motion by Selectwoman Duphily and seconded by Selectman Spataro, Board

VOTED: To approve Town Hall Rental application for Nemasket River Productions, to include all requests as presented in the application and cover letter, including six One-day Wine & Malt Beverages Liquor license for October 10, 11, 17, 18, 24, and 25, 2008.

Unanimous vote.

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OTHER

Chairman expressed an interest in forming a committee for the Arts to get some coordination of events. The matter will be addressed further on a future agenda.

NEW BUSINESS

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To reappoint Michael Maddigan and Joseph Freitas, Jr. as
Members to the Historical Commission.
Unanimous vote.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To reappoint Norman Diegoli, Harold Atkins, and Neil Rosenthal
as members to the Business & Industrial Commission.
Unanimous vote.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To reappoint Gregory Stevens and Ed Beaulieu as Associate
Members to the Business & Industrial Commission.
Unanimous vote.

Health Agent addressed the Board to clarify that the Temporary Part-time Animal Control Officer position is a pre-existing position, however, the person who had been working in this capacity has been out for a significant amount of time.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To approve filling of this vacancy.
Unanimous vote.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To approve and sign Betterment Agreement for 590 Wareham
Street.
Unanimous vote.

HEARINGS, MEETINGS, & LICENSES

At 7:58 PM Chairman opened public hearing on application made by Superior Taxi for an increase in Taxi Fare rates. Chairman read aloud public hearing notice. Applicant Maurice DeLongchamps addressed the Board and indicated that he is currently running on a deficit. Applicant stated that he is up-to-date on his taxes and his insurances. Chairman closed hearing at 8:01 PM.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To approve request to increase Taxi Fare rates.
Unanimous vote.

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NEW BUSINESS

Chairman welcomed Farmer's Market Managers Michael Nash and Darlene Anastas to discuss recent events reported to have occurred at the Farmer's Market. D. Anastas explained that some of the recent concerns are already being addressed, specifically, the Cirelli issue. John Parriott indicated that he is in agreement that a resolution has been reached. Chairman Bond asked if there is a process in place for vendors to have input in the annual market. D. Anastas stated that the Agricultural Commission provided an opportunity for vendors to raise concerns at Commission meetings. Chairman asked if there would be a benefit to create some basic set of bylaws to include a budget, advertising, Market Manager, etc. Mr. Nash and Ms. Anastas indicated that Mr. Nash is the Manager. Chairman asked if there is a way to implement a more democratic process. Ms. Anastas stated that she is more than happy to revisit the process of the Town Hall lawn Farmer's Market. Ms. Anastas indicated that other Farmer's Markets have included grievance processes within their policies and that this is something the Town's Farmer's Market can review and consider for the future. Chairman thanked Mr. Nash and Ms. Anastas for coming in.

HEARINGS, MEETINGS, & LICENSES

Board welcomed Austin Sennett, president of Emergency Response Systems (ERS) who attending the meeting to discuss the process of conducting a Fire Chief Assessment Center. His company is small, by design. He brought with him Chief Alberghini. At 8:35 PM Selectwoman Brunelle joined meeting. Mr. Sennett explained the process to the Board. Mr. Sennett expressed that his job is that of an Assessor and has been for twenty two years. After some brief discussion on the matter, Chairman thanked Mr. Sennett for coming in.

At 9:02 PM Conservation Agent Patricia Cassady appeared before the Board to request that the Board prepare and sign a letter of support regarding the Open Space Plan Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board

VOTED: To provide letter of support as shown in the examples provided by Agent Cassady.

Unanimous vote.

OTHER

Chairman noted that the Finance Committee took a vote that if the Town were to leave SRPEDD, it would not be in the best interest of the Town.

OLD BUSINESS

Well Waiver for Tispaquin Street, M66, L6325.

GTA Engineer George T. Ayoub addressed the Board on behalf of applicant Fadi Heneine. Health Agent addressed Board and explained that this matter has been outstanding and that she has worked with Mr. Ayoub over the past several weeks on reaching a solution for the plans to meet the required criteria. Agent asked, out of

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reasons in accommodating the applicant to reasonably mitigate the impact, that the Board request conditions as listed in the following vote:

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board

VOTED: To grant request, subject to the following conditions:

- 1a. Notice is given to the Conservation Commission that it needs to do further review of these plans as they have changed.
- 1b. Notice is given to the homeowner about this type of system and all it involves.
2. There be a final grading plan that all runoff will not go onto the roadway or onto the abutter's property, such that it goes to the rear of the property.
3. That well tests are conducted once per year for at least the next two years, preferably after the wet season and that a report of the results is submitted to the Health Office for review

and as amended on plan dated June 17, 2002, 4th Revision, Map 66, Lot 6325 Tispaquin Street.

Two in favor. One opposed.

TOWN MANAGER'S REPORT

1. The MG&E minutes included in his packet to the Board included a vote by the MG&E for a pilot to the Town for \$395,106 and in his budget process he had included an estimate of \$393,000 so we are within the estimate of meeting the Town Meeting revenues.
2. Thanked the Board for voting to sign letter of recommendation and for the kind words that were said.
3. Submitted resignation, effective July 16, 2008.
4. Thanked the employees for accepting his leadership in following the budget process that he had recommended.
5. Thanked his Assistant Allison Ferreira and noted that she is very professional and has skills and ability will be beneficial and valuable to new Town Manager Charlie Cristello. Thanked the Board of Selectmen for hiring him for this position.

Selectwoman Brunelle expressed her pleasure in having had Mr. Lombard as an employee and thanked him for his many contributions.

BILLS

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board

VOTED: To approve payment of legal bill for arbitration in the amount of \$300.

Three in favor. One opposed

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board

VOTED: To approve payment of bill from SEMASS in the amount of \$18,215.97.

Unanimous vote.

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Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board
VOTED: To approve payment of bill from Verizon in the amount of \$81.98.

OTHER

Mike Solimini requested email addresses for all Town Departments. Chairman offered that the Board will ask I.T. Director R. Brunelle for his position on the matter and will discuss at Board's next meeting.

CORRESPONDENCE

#1 Board requested document be copied to the Permanent Cable Committee.

At 9:50 PM, upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted by Roll Call to go into Executive Session to discuss strategy relative to pending litigation. Roll Call: S. Spataro, Yes; M. Brunelle, Yes; M. Duphily, Yes; A. Bond, Yes. Chairman announced Board would not return into Open Session. Ended at 10:00 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

**Middleborough Board of Selectmen
Meeting Minutes****June 16, 2008**

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

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

Selectwoman Brunelle acknowledged, with sadness, the passing of former School Superintendent Dr. Lincoln D. Lynch and extended the Board's condolences to his wife and family. Selectmen Rogers and Spataro also offered their recognition of all that Dr. Lynch had represented as the former School Superintendent.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle,
Board

VOTED: To dedicate next year's Annual Town Report to Lincoln D. Lynch, among others.
Unanimous vote.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily,
Board

VOTED: To approve Minutes of June 9, 2008.
Four in favor. One abstained.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily,
Board

VOTED: To approve Executive Session Minutes of June 9, 2008.
Four in favor. One abstained.

Board welcomed Enfield Paranormal Society representatives. Patricia Martin of Enfield addressed the Board. She is also the current Chairman of the Cohasset Advisory Committee. She shared that the Town Hall of Cohasset had a very significant paranormal investigation completed recently. Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board

VOTED: To approve Selectwoman Brunelle's offer to volunteer as security during the investigation, waiving the security/custodial fees.
Unanimous vote.

Enfield will provide its own waiver, taking responsibility for any issues that might arise during the investigation. Ms. Martin offered that all photographs and film records would be turned over to the Board. Selectwoman Brunelle clarified that the least amount of disruption to the day-to-day office hours would be preferred. Selectman Bond asked Enfield to provide an itinerary of what they intend to do, what they intend to bring, and how long they intend to be at Town Hall so that it can be presented to Town Counsel for review.

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Upon motion by Selectman Spataro, and seconded by Selectman Rogers, Board

VOTED: Subject to appropriate letter being received, Board permits Enfield Paranormal Society to conduct an investigation at their designation and Marsha Brunelle's acceptance, in the near future.
Unanimous vote.

Board welcomed Police Sergeant Charles Robichau who provided a presentation on the Barden Hill Water Tower Communication System. He stated that the Water Tower on Barden Hill is coming down. Selectman Rogers stated that this is not going to happen anytime in the near future. There are several antennas located on this tower, including the Sheriff's department, Lakeville Police and Fire, and the FBI. If the tower comes down it will be a regional problem. The Town's current tower and shelter are inadequate and he does not know how they got to be in the condition that they are in. He is looking for the Town to get a new water tower and a new communication shelter. He presented the Board with various estimates. It would take at least three months to take down the present tower and shelter and rebuild. The current shelter is 32' x 12'. He has provided his written presentation to the new Under Secretary for Homeland Security for the State of MA. The grants that he is investigating are not matching grants. The Town does not have the funds for this. Chairman Bond summarized the issues presented as follows:

1. The Water tower is insufficient as to how antennas are set up i.e. wrapped around in horizontal configuration instead of vertical.
2. There are methodologies in which to rectify the situation, i.e. new shelter and new tower.
3. The situation is at an emergency/crisis point in needing to deal with this.

Selectman Rogers commended Sgt. Robichau for the level of detail and hard work that he has put into his presentation. It was agreed that Sgt. Robichau and the Capital Planning Committee should have some discussion on the matter.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board

VOTED: To request a one-page summary from Sgt. Robichau for the Board along with a list of people that he needs information from so that the Board can forward it to the Capital Planning Committee for a recommendation.

Unanimous vote.

Board met with the Conservation Commission re:

Ed Park's Conservation Restriction

Board welcomed the Conservation Commission. Conservation Commission Agent Tricia Cassidy presented a Base-line document for the Board's signature. The Base-line document was established when the Conservation Restriction had been approved for the Ed Parks property. The Board's signature is required as the Town's Water Commissioners. The document had been signed by the executives of Ed Park's estate after Ed's passing. The document was given to the Board to review/read and the Chairman indicated that it would be given to the Board's secretary to make copies for the Board's next packet.

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Dorothy Freitis Property

Agent Cassady stated that there are two elements in protecting it:

1. The first is the 16 acre parcel that surrounds the homestead parcel, which is agricultural. A restriction has been drafted for this parcel.
2. The second is where the homestead exists, which has a historical restriction that has been drafted for it.

A copy had been given to Town Counsel, the Town Planner, the Wildland's Trust and the Nature's Conservatory. Chairman read aloud Town Counsel's opinion on the Conservation Restriction, which included that he was satisfied with the draft restriction. Town Planner addressed the Board and stated that she had emailed to the Board on Friday, further language, related to the archeological factor of the restriction. She went over the changes with the Board and explained that after the Board signs these documents, they must then go on to the State. The Town is closing on either June 24th or June 30, 2008. They are aiming for June 24th. The Town Planner and the Conservation Commission agreed that they are comfortable with the restrictions. Upon motion made by Selectwoman Brunelle and seconded by Selectman Rogers, Board

VOTED: To sign the Dorothy Freitis Conservation Restriction.
Unanimous vote.

Upon motion made by Selectwoman Brunelle and seconded by Selectman Spataro, Board

VOTED: To sign the Dorothy Freitis Historic Preservation Restriction.
Unanimous vote.

Rockland Industries Site, 255 Plymouth Street

Board heard briefly from Agent Cassady who was in attendance to discuss health concerns regarding this site and the attempts to get the site cleaned up. She explained that an Order of Conditions had been issued to Rockland Industries and Roux Associates to conduct remediation of the site after a spike was discovered in the monitoring well. The results will not be available until January. The Agent deferred to Chairman of the Citizen's Environmental Health Impact Committee (CEHIC) Suzanne Dube. Other members of the Committee include: Citizens at Large Walter Glendye and Eileen Bendiksen, and representing the Conservation Commission is Edward Thomas; the Board of Health, Marsha Brunelle; and the Board of Selectmen Adam Bond and Town Manager Steve Lombard. The Committee's mission is to evaluate and mitigate any environmental health concerns in the community. They have met with and gained the support of Senator Edward Kennedy, Congressman Barney Frank, State Senator Marc Pacheco, and State Representatives Thomas Calter and Stephen Canessa. Ms. Dube offered special thanks to Legislative Aide Betty DeBenedictis who had been in attendance for Representative Calter. The Committee has also met with the MA Department of Public Health and the Center for Environmental Health.

One of the sites that the Committee looked into is Rockland Industries, formerly known as Middleborough Chemical, which is a "Tier 1A" site classification by the MassDEP, meaning it is one of the worst types regarding site cleanup or contaminants found there. Ms. Dube gave the attached timeline and history of the site (Attachment). The Committee got together with the

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Conservation Commission to get the enforcement order in place. This is when Roux Associates became involved.

Board heard from Conservation Commission member Mike O'Shaughnessy who stated that the Commission issued an Enforcement order requesting Rockland Industries submit a Notice of Intent (NOI) to explain what is causing the spike in contamination found. Rockland Industries refused to submit the NOI. The MassDEP is meeting with the Board of Selectmen in July to provide results of its Water Quality Tests.

Bill Napolitano, SRPEDD Environmental Program Director addressed the Board. He has been working with both the Conservation Commission and the CEHIC Committee for the past couple of months. He praised the Conservation Commission for having picked up on contaminant findings that were not present a few months earlier. He believes that both the Commission and the Committee have thrown up a red flag.

Russell Enos, an abutter to the Rockland Industries site property spoke and offered that he had contacted MassDEP Gerard Martin and asked if he would give immunity to his neighbor who is willing to tell what is buried at the location of the site. He has not heard back from Mr. Martin. Mr. O'Shaughnessy explained that if Rockland Industries does not comply with the Enforcement order, the only action the Commission can take is to take them to court.

Board heard from Conservation Commission Ed Thomas who showed a picture of a commercial tire shredder that had been on the site and implied that one might assume that there are many tires buried underground at this location.

Mr. O'Shaughnessy asked that the Board support the Commission if it needs to go forward in a legal manner and for its ongoing support, as warranted by the facts, in putting pressure on the DEP and the EPA and anyone else that can help to get this site cleaned up.

Board asked that anyone who may have information relative to what had been buried on this site to please come forward to the Conservation Commission.

Chairman requested that the Conservation Commission meet with the Board at its next scheduled meeting following its meeting with DEP.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board

VOTED: To approve request by Veterans' Memorial Park Trust for a One-day liquor license for its fifth Annual Taste of Middleborough on October 16th at the Middleborough National Guard Armory on Elm Street from 7-9 PM.

Three in favor. One abstained.

Upon motion by Selectman Spataro, and seconded by Selectwoman Duphily, Board

VOTED: To approve waiving of One-day liquor license fee for the Veterans' Memorial Park Trust's Annual Taste of Middleborough.

Three in favor. One abstained.

At 10:30 PM, upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to go into Executive Session to discuss strategy relative to contract negotiations. Roll Call: S. Spataro, Yes; P. Rogers, Yes; M. Brunelle, Yes; M. Duphily, Yes; A. Bond, Yes. Chairman announced Board would return into Open Session.

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Upon motion by Selectman Spataro and seconded by Selectman Rogers, Board

VOTED: To approve the request by Firefighter David Taylor to enter the Master's of Science in Public Administration degree program, with a concentration in Fire Science, subject to there not being any cost to the Town relative to his participation in this program.

Unanimous vote.

Board and Chief briefly discussed issue of bicycle and skateboarding activities taking place on the sidewalks in the downtown area of Middleborough. Board agreed to continue discussion in two weeks.

Upon motion by Selectman Rogers and seconded by Selectwoman Brunelle, Board

VOTED: To approve appointment of William Orphan of 12 Staples Shore Road, Lakeville as a Volunteer Observer to the Herring Fishery Commission for a term ending September 30, 2008.

Unanimous vote.

Upon motion by Selectman Rogers and seconded by Selectwoman Duphily, Board

VOTED: To approve request from Town Clerk for a transfer of funds from Account #01.162.542400.0.0 Printing (Election budget) in the amount of \$975.00 to Account #01.161.529400.0.0 Record Binding (Town Clerk budget).

Unanimous vote.

Upon motion by Selectwoman Duphily and seconded by Selectman Rogers, Board

VOTED: To run request submitted by F. L. Chamberlain School to hold its 1st Annual Art Exposition on the Titicut Green by the Chief of Police for comments/concerns.

Unanimous vote.

Upon motion by Selectwoman Duphily and seconded by Selectman Rogers, Board

VOTED: To approve request for the F.L. Chamberlain School to hold its first annual art exposition on the Titicut Green on Saturday and Sunday, August 2nd and 3rd (rain date being Saturday & Sunday, August 9th and 10th).

Unanimous vote.

Relocation Location of Route 79

Chairman expressed to the Board that he had received a single sheet relative to these plans and that he had been asked to sign it. He indicated that he does not know if he or the Board should be signing said document.

Upon motion by Selectman Spataro and seconded by Selectman Rogers, Board

VOTED: To ask Town Planner if the Board should sign this document.

Unanimous vote.

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Selectman Representative to the MBTA

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board
VOTED: To appoint P. Rogers as the Board's representative to the MBTA.
Unanimous vote.

Upon motion by Selectman Rogers and seconded by Selectwoman Duphily, Board
VOTED: To accept Steve Spataro's resignation as the Board's representative to the DPW
Study Committee.

Unanimous vote.

Board's secretary to prepare letter of resignation on behalf of Selectman Spataro.

Upon motion by Selectwoman Duphily and seconded by Selectman Rogers, Board
VOTED: To recommend to the Moderator that Marsha Brunelle be appointed as the
Board's representative to the DPW Study Committee.

Unanimous vote.

TOWN MANAGER'S REPORT

No discussion necessary.

BILLS

Upon motion by Selectman Rogers and seconded by Selectwoman Brunelle, Board
VOTED: To approve payment of bill from SouthCoast Media in the amount of \$74.75.
Unanimous vote.

Upon motion by Selectman Rogers and seconded by Selectman Spataro, Board
VOTED: To approve payment of bill from SEMASS in the amount of \$10,281.06.
Unanimous vote.

CORRESPONDENCE

#5 Emergency Response Systems (ERS)

Selectwoman Duphily shared information with the Board, which she had obtained in calling
references listed by ERS relative to conducting Assessment Centers.

#4 Letter from Attorney Treano regarding Verizon cable absence of sound and video, changing
PEG channels, etc. Selectwoman Brunelle announced that these issues are being addressed by
the Permanent Cable Committee and that all complaints can be filed on the Town's website and
will be forwarded to the Permanent Cable Committee.

Chairman reminded the Board that it has a Water Workshop this Thursday at 7 PM.

Upon motion by Selectman Spataro and seconded by Selectman Rogers, Board
VOTED: To adjourn meeting at 11:15 PM.
Unanimous vote.

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At 10:30 PM, upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to go into Executive Session to discuss strategy relative to contract negotiations. Roll Call: S. Spataro, Yes; P. Rogers, Yes; M. Brunelle, Yes; M. Duphily, Yes; A. Bond, Yes. Chairman announced Board would return into Open Session.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

Executive Session
Minutes TO BE
APPROVED at later
DATE

Citizens Environmental Health Impact Committee

6/16/08

Town Committee Formed: October 10, 2007

Board Members:

Citizen-At-Large: Walter Glendye & Eileen Bendiksen

Representing:

Conservation Commission:	Edward Thomas
Board of Health:	Marsha Brunelle
Board of Selectman:	Attorney Adam Bond
Town Manager:	Stephen Lombard

Mission: Evaluate & mitigate any probable health & environmental concerns within our community.

Part of our Focus:

Acquire objective status reviews of Middleboro's DEP listed "Disposal Sites"

Met & Gained support from:

Senator Edward Kennedy
Congressman Barney Frank
Senator Marc Pacheco
Representative Thomas Calter (255 Plymouth St)
Representative Stephen Canessa (50 Cambridge St)

Massachusetts Department of Public Health & Center for Environmental Health:
Suzanne Condon, Associate Commissioner & Director Bureau Envir. Health
Dr. Robert Knorr, Deputy Director Environmental Health

Southeastern Regional Planning & Economic Development District (SRPEDD):
Bill Napolitano, Environmental Program Director

Rockland Industries, Inc. (RI)
Formerly: **Middleboro Chemical Industries**
255 Plymouth St., Middleboro, MA 02346

Tier 1A Site Classification by DEP

59 Acres: 28% (16 acres) Uplands & 72% (42.29 acres) Wetlands

Site boarders: Plymouth St.—**North**

Active MBTA railroad line—**East**

Purchade Brook---**West & South**

Perennial stream entering site--Southern end

Flows Northerly---Nemasket River = major tributary = Taunton River

Wetlands swamp intermittently floods during high flow conditions into PB

- 1966-1980 Chemical manufacturing & various other operations.
Manufacturing wastes were disposed of on the property:
former Lagoon, former Filter Beds, Septic System, & Floor Drains.
Spills & residuals from washing processes disposed--ground surface.
- 1968 Concerns 1ST voiced
Middleboro's Health Officer & MA Division of Water Pollution Control
investigated.
- 12/23/80 Suffolk Superior Court judgment (**Case # 31687**)
Closed plant & demanded site **clean-up**.

Chapter 21E of the Massachusetts General Laws

Legal obligations of property owners for contamination to:

- Assess the nature and extent of contamination.
- Take speedy action to address hazards which pose a significant risk.
- Clean up the contamination.

DEP (DEQE, prior to 1989) Implements Program:

Set of regulations: **Massachusetts Contingency Plan (MCP)**

Requires site owners to hire Licensed Site Professionals (LSP) to manage & oversee

5 Phase state regulated process of assessment & clean up.

DEP mandates **5 year timeline--first 4 phases** to be completed.

Chapter 21E--Current Status:

Phase III	Former Lagoon, Drainage Swale Area, & Groundwater.
Phase IV	NAPL

- 10/85 Officially designated “**hazardous waste site**” by Department of Quality Engineers (DEQE).
- 10/93 Privatization of DEP’s Waste Site Clean-Up Program.
Tier 1A Sites (the highest level of contamination or tardiest clean up sites)
a DEP Site Manager with direct oversight, Gerard Martin.
- 8/7/00 Hire 3rd LSP: **Roux Associates, Inc. (ROUX)**.
- 1/6/03 Gerard Martin, DEP Site Manager letter to RI:
“Determination cannot be made that Groundwater is not discharging into the Surface Water in the vicinity of the Drainage Swale area....The **water table slopes towards the stream, the hydraulic gradient of the aquifer is towards the stream.**”
- 3/1/07 Middleboro Gazette article, RI dispute State DEP findings that clean up of hazardous waste is not working. Summer 2006, when ROUX presented latest clean-up plans for the remaining contamination on the site, disagreement with DEP over the lagoon “whether the problem was contaminated water discharging into wetlands”.
ROUX stated that the problem resulted from *sediment* that was contaminated years ago, so they wanted to put clean material on top of the sediment to limit exposure. DEP voiced this plan will not work if the problem was contaminated *water*, which test indicate was the problem.
- 2/7/08 **Presented to Con Com:**
Combined Immediate Response Action Status Report
Non-Aqueous Phase Liquid) NAPL Condition & Potential Condition of
Substantial Release Migration July 2007—Dec 2007
- 9 Monitoring Wells: Evidence chemical increase** most recent report
- DRAFT** DEP Sites in Middleboro (Nov 2007)
DEP Environmental Analyst, Molly Cote:
- “Data indicted these conditions (IRA plan) likely cannot be met”
- “**Risk to environment due to contaminated sediments in the wetlands**”

DRAFT

November 2007 – Limited Summary of Certain Middleborough Sites

Rockland Industries, 255 Plymouth Street: The Site was formerly utilized for chemical manufacturing and packaging. Volatile organic compounds (VOCs), metals, and cyanide are present in the soil, groundwater and sediments at the Site, particularly in the vicinity of the former lagoon. In addition, non-aqueous phase liquid (NAPL) is present in the subsurface in the vicinity of the former Building # 2. The NAPL is weathered diesel fuel mixed with chlorobenzenes.

The Phase II Comprehensive Site Assessment was submitted to MassDEP on September 19, 2002. The Phase II Report documents the source, nature, extent and potential impacts of releases of oil and/or hazardous material; identifies risk to human health and the environment; and evaluates the need to conduct remedial actions at the site. The Phase II Report concluded that the contamination was contained within the Rockland Industries property, there was no risk to human health, that the surface water in Purchase Brook was not impacted at that time, and that there was risk to the environment due to contaminated sediments in the wetlands adjacent to Purchase Brook and remedial actions would have to be implemented to address this risk.

In 2006, Rockland Industries conducted response actions at the Site to address the NAPL and the contaminated surface water and sediments that included: placement of clean fill over the contaminated sediments in the area of the drainage swale of the former lagoon; vacuum extraction of the NAPL, investigation and abandonment/closure of underground piping originating from the NAPL area; and restoration of the disturbed wetlands.

Rockland Industries is conducting monitoring required by MassDEP to determine if the remedial actions taken are sufficient to allow the submittal of a Class C Response Action Outcome (or Temporary Solution). In order to submit a Class C Response Action Outcome (RAO), the NAPL must be reduced to a thickness less than ½ an inch at the Site and the top six inches of the clean fill placed in the wetlands cannot contain any of the contaminants of concern present in the groundwater at the Site. Recent data have indicated that these conditions likely cannot be met. Rockland Industries has until the end of 2008 to monitor conditions at the Site and present alternative solutions if they cannot file a Class C RAO. Status Reports on the monitoring are submitted to MassDEP every six months. The reports can also be reviewed at the Middleborough Public Library.

Gerson Site, North of Sumner Street: The Site was formerly the George E. Keith Factory, which burned down in the 1974 fire that also destroyed the Albert Shoe Factory. Wastewater at the facility was disposed of through a sewage disposal system that consisted of two cisterns that discharged to a filter bed. The filter bed discharged to a shallow pond (Pond 2), which, in turn discharged to Star Pond. The sewer system also reportedly serviced the Albert Shoe Factory and Middleborough Plating Company. A 1987 site assessment revealed that soils in the filter bed, sludge in a large cistern, and sediments in the wetlands in the vicinity of the filter bed

contained elevated levels of certain metals and cyanide. Zinc and cyanide were also present in water samples collected at the Site. In 1993, MassDEP and the Gerson Company, which purchased the site after the release occurred and did not cause or contribute to the releases, entered into a settlement that detailed Gerson's requirements at the Site. According to the terms of the agreement, Gerson was required to address the soils at the Site contaminated with 450 parts per million (ppm) of cyanide or greater. MassDEP's Office of Research and Standards had determined that below this level an imminent hazard to human health no longer existed. In 1993, approximately 650 tons of contaminated material was removed from Pond 2, the Star Pond outlet, the filter bed, and the small cistern. In addition, the cisterns were backfilled. Sampling conducted after the excavation revealed that cyanide levels were below 450 ppm. Therefore, it was determined that there was no imminent hazard to human health at the Site. Gerson had no further obligation under the settlement to conduct any additional response actions at the Site. In 1994, MassDEP issued a letter stating that Gerson had fulfilled its requirements under the settlement. Because some contamination remained at the Site, MassDEP made several attempts to get Gerson to conduct additional work at the Site. Those attempts were unsuccessful. The United States Environmental Protection Agency (USEPA) has also reviewed the file for the Site and declined to take any action or conduct assessment, based on the levels of contamination remaining at the Site.

No further response actions have been conducted at the Site.

Middleboro Plating, 98 Cambridge Street: The Site was formerly utilized as a brass foundry, a shoe factory, paper box manufacturing, and metal plating. The Town of Middleboro took the property via tax foreclosure. In 1999, the USEPA conducted a Preliminary Assessment/Site Investigation (PA/SI) at the Site. The results of the PA/SI indicated that elevated levels of metals and cyanide existed inside the building. As a result, USEPA conducted a removal action at the Site in 2000. This included the removal and disposal of approximately seventy-one (71) drums containing hazardous materials from the Site; removal of non-hazardous materials (such as refrigeration units, steel, cardboard, and bricks) from within the building and the demolished boiler room; transport and disposal of two construction roll-offs containing material contaminated with heavy metals and cyanide collected from inside the building; the excavation and disposal of approximately two hundred (200) tons of metal and cyanide contaminated soil; transport and disposal of approximately one thousand (1,000) gallons of metal and cyanide contaminated water from inside the building; and, construction of a temporary cap (consisting of approximately one foot of clean fill) over the areas excavated outside the building.

In 2001, MassDEP conducted a Phase I Brownfields Site Assessment at the Site. The intent of the assessment was to provide the Town information to provide to prospective purchasers so that they would have an understanding of site conditions. Soil samples collected from below the building footprint contained metals, VOCs and cyanide. No additional soil samples were collected outside the footprint of the building. Groundwater samples also contained metals, VOCs and cyanide.

To date, no additional assessment has been conducted at the Site.

Striar Property, 50 Cambridge Street (lot adjacent to 98 Cambridge Street): This property was once (along with the Middleborough Plating property) the location of the former Albert Shoe Factory. In 2000, the USEPA excavated fifteen (15) test pits at the Site. One test pit revealed an oily substance. Fuel oil constituents were detected in the soil from the same test pit and in one other. USEPA concluded that an underground storage tank (UST) containing fuel oil was present in the vicinity of these test pits. The property owners, the Cambridge Street Realty Trust, hired an environmental consultant to conduct UST removal activities. Two 4,000-gallon fuel oil USTs and associated piping were excavated and removed from the Site in 2000. In addition, approximately 100 cubic yards of fuel oil contaminated soil were removed from the Site. The environmental consultant determined that a Condition of No Significant Risk existed at the site related to the fuel oil release and a Class A-2 Response Action Outcome was submitted to MassDEP in 2001.

EPA's investigation and subsequent investigation also revealed that other contaminants including metals, 1-1 biphenyl, diethylphthalate and polychlorinated biphenyls (PCBs) were detected in the test pit samples. In order to achieve and maintain a level of No significant Risk at the Site, the property owners opted to implement a Notice of Activity and Use Limitation (a deed restriction) to limit or prohibit certain uses at the Site through filing a Class B-2 Response Action Outcome. These include (but are not limited to) use of the Site as a residence, school, nursing home or daycare without further assessment or remediation. It also prohibits any work at the site that would take longer than seven (7) days without proper soil management procedures and worker health safety practices.



May 12, 2008

**Board of Selectmen
Meeting Minutes**

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

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board
VOTED: To approve minutes of April 22, 2008.
Unanimous vote.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board
VOTED: To approve Executive Session minutes of April 22, 2008.
Unanimous vote.

Chairman invited those in attendance to join in the Pledge of Allegiance.

Chairman Bond called upon Town Counsel to ask how we determine what Executive Session minute matters have been resolved to the point where they may now be released to the public. Town Counsel suggested that it is usually easily figured out by reviewing the Executive Session minutes. Chairman Bond to review past Executive Session minutes before passing on to the remaining Board members for further review. Selectwoman Brunelle suggested that the Chairman recognize that some matters remain confidential permanently such as personnel issues.

At 7:07 PM, upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted by Roll Call to go into Executive Session to discuss strategy relative to contract negotiations. Roll Call: S. Spataro, Yes; P. Rogers, Yes; M. Brunelle, Yes; M. Duphily, Yes; A. Bond, Yes. Chairman announced Board would return into Open Session. Ended at 7:53 PM.

At 7:35 PM, upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board voted by Roll Call to return into Open Session. Roll Call: S. Spataro, Yes; P. Rogers, Yes; M. Brunelle, Yes; M. Duphily, Yes; A. Bond, Yes.

Chairman announced, with the pleasure of the Board, Charlie Cristello as the new Town Manager.

**Middleborough Board of Selectmen
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OLD BUSINESS

Richard Heller of Heller & Smith

Chairman gave overview of the Board's previous vote regarding this matter and explained that he asked Town Counsel to work with the parties involved to see if a better resolution could be found. Town Counsel addressed the Board regarding the continued request of Heller & Smith and other involved businesses regarding the project involved. Town Counsel would recommend that the Town could pay the fees at an accelerated rate, as requested. Board was informed that there is \$300-350,000, at present, in materials stored on site. Town Counsel suggested that a compromise could be reached since unknown without review/time. He suggested \$300-\$325,000 would be acceptable. Statute says we have to pay within 15 days, with interest accruing at 15%, if we are found wrong for not paying. Per Town Counsel, Mr. Carson implied that it could have the effect of shutting down the job for a time if the payment is not approved at the accelerated rate. Selectman Rogers expressed concern that by approving this, it would affect the originally contracted bid. We may have general contractors pursuing the Town in a legal matter. Town Counsel does not believe this is likely. Mr. Heller addressed the Board. Chairman asked him if we are moving in the right direction to satisfy his company and the other businesses involved if we agree with the indemnification agreement and the figure of between \$300-\$325,000. Mr. Heller answered that it would. Upon motion by Selectman Spataro and seconded by Selectman Rogers, Board

VOTED: To authorize the accelerated payment to Heller & Smith in the amount of \$325,000, subject to Town Counsel being satisfied with the language in the Indemnification agreement.

Unanimous vote.

NEW BUSINESS

ATM Article #30 Acquisition of Gibbs property

Town Planner R. Geoffroy addressed the Board and gave an overview of the history surrounding the offer to the Town to purchase this property. Many Thompson Street residents were in attendance. A representative of the Agricultural Commission addressed the Board. She indicated that the Commission recommends favorable action on this article, citing that the Town needs the farm land. Jane Lopes of the Historical Commission addressed the Board and stated that the Commission also supports favorable action on this article. Patricia Farrington of Thomson Street speaking on behalf of the Committee for the Preservation of Thompson Street indicated that this Committee urges the Board to support Article 30. B. Giovanoni, Chairman of the Resort Advisory

Committee addressed the Board to reiterate that his committee has previously, and continues to, ask the Board to support favorable action on this article.

Selectwoman Brunelle asked what would stop the Town from removing a preservation restriction, even 20 years from now. Town Planner suggested that this would be a question for Town Counsel. Town Planner will work with Town Counsel tomorrow to structure the language and have prepared for Town Meeting tomorrow.

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Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro,
VOTED: To support Article 30 at Annual Town Meeting, with the amendment
being made at Town Meeting.
Unanimous vote.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board
VOTED: To approve appointment of Bradley Savage as a Middleborough Police
Officer to fill present vacancy.
Unanimous vote.

Edgeway Homeowner's Association Request for Liaison

Upon motion by Selectman Rogers and seconded by Selectwoman Brunelle, Board
VOTED: To appoint A. Bond as the Board's liaison to Edgeway Homeowner's
Association. Unanimous vote.

Chairman Bond asked the Board's secretary to notify the Association, in writing, of this
appointment and to provide A. Bond's contact information, tell them that they are free to
call him on any issues, and to include his cell number as the best way to reach him.

Old Colony Elder Services Representatives

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board
VOTED: To approve recommended appointment of Annette P. Holmes as the
Delegate representative and Marilyn Chammas as the Alternate representative.
Unanimous vote.

Change of d.b.a. for Courtyard Restaurant

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board
VOTED: To approve d.b.a. change from Courtyard Restaurant to Stephanie's
Place, subject to confirmation by the Town Treasurer/Collector that all tax
payments are paid up-to-date.
Unanimous vote.

Rules & Regulations re Sale of Alcoholic Beverages

Board agreed to review and discuss three weeks from now, specifically, June 2, 2008,
after sending around to the Health Office, Police Chief, Fire Chief, Building
Commissioner, and Town Counsel to provide comments & request comments be
submitted to the Board within two weeks. Selectwoman Brunelle indicated that there is
more material previously gathered regarding the matter, from the Police and Fire Chiefs,
in a file folder.

MMA Tax Amendment Action Alert

Upon motion by Selectman Spataro and seconded by Selectman Rogers, Board
VOTED: To send this correspondence to MG&E General Manager Jim Collins
for comments. Unanimous vote.

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Central Baptist Church – Request to use front lawn of Town Hall on July 12th

Board noted that the front lawn has already been reserved by the Rotary Club and the Agricultural Commission for July 12th. Board's secretary to contact the church and ask that a new date be re-submitted for the Board's consideration.

Middleboro Youth Softball League

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board
VOTED: To approve request by Middleboro Youth Softball league donation solicitation.
Unanimous vote.

Kiwanis Club Requests for Proclamations and Invitation

Chairman announced that he plans to attend and encouraged other members of the Board to also attend.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro,
Board
VOTED: To provide proclamations as requested.
Unanimous vote.

Capital Planning Committee Report

Selectman Rogers appeared before the Board to give a Capital Planning Committee presentation. Selectwoman Brunelle asked that the new Town Manager review trash fees and to discuss/explore setting up an enterprise account upon his employment (as a priority) in July.

OLD BUSINESS

Board agreed to continue Fire Chief Search Committee to 5/19/08.

Board agreed to schedule Tispaquin hearing for 6/9/08.

TOWN MANAGER'S REPORT

Nothing to discuss.

BILLS

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board

VOTED: To approve payment of MG&E bill in the amount of \$16.29.
Unanimous vote.

VOTED: To approve payment of MG&E bill in the amount of \$34.67.
Unanimous vote.

**Board of Selectmen
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VOTED: To approve payment of MG&E bill in the amount of \$158.98.
Unanimous vote.

VOTED: To approve payment of Commonwealth Printing, Inc. bill for the printing of the Annual Town Report in the amount of \$6,252.00
Unanimous vote.

VOTED: To approve reimbursement payment to Town Planner Ruth McCawley Geoffroy for expenses incurred by attending the American Planning Association Conference in the amount of \$1,687.93.
Unanimous vote.

OTHER

Upon motion by Selectman Spataro and seconded by Selectman Rogers, Board

VOTED: To move the Board's secretary back to the Town Manager's current office, upon the departure of present Town Manager S. Lombard.
Unanimous vote.

Selectwoman Brunelle informed the Board that she received a letter from the Town Moderator removing her from the DPW Building Study Committee as the Board did not make a timely recommendation. The Moderator appointed Selectman Spataro. Selectwoman Brunelle indicated that she would like to continue to serve. Selectman Spataro indicated that he is willing to relinquish his appointment.

Upon motion by Selectman Spataro and seconded by Selectman Rogers, Board
VOTED: That Marsha Brunelle become the Board's representative to the DPW Building Study Committee and that Steve Spataro be removed as the Board's representative.
Unanimous vote.

M. Solimini addressed the Board and asked for a copy of draft motions. Chairman Bond offered to make the copies and Mr. Solimini will pick them up from his office and pay for them through A. Bond who will turn the money over to the Board's secretary.

CORRESPONDENCE

#20 Ladder Truck – email from M. Solimini

Secretary to email Mr. Solimini and refer him to the Police Chief "Fire Chief".

Refer Mr. Solimini to Chairman to discuss packet request.

**Board of Selectmen
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May 12, 2008

#25 School Department FY'09 Operating Budget

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board
VOTED: To reaffirm the Board's prior vote to support the FY09 Operating
Budget.
Unanimous vote.

#2 Conservation Commission 5-1-08 Meeting

Chairman shared some information regarding the Rockland Industry site.
Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle,
Board
VOTED: To invite DEP to come in on 6/9/08 to talk about status of site or to
give us an alternative date.
Unanimous vote.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board
VOTED: To request Form 27 Certificate of Liability re T. Mobile.
Unanimous vote.

Upon motion by Selectman Rogers and seconded by Selectman Spataro, Board
VOTED: To adjourn meeting at 11:05 PM.
Unanimous vote.

Jacqueline M. Shanley, Confidential Secretary
BOARD OF SELECTMEN