

# **MINUTES**

**For approval at the 10-26-09 meeting**

**Middleborough Board of Selectmen  
Meeting Minutes**

**October 19, 2009**

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

In attendance were Selectmen P. Rogers, M. Duphily, M. Brunelle, S. McKinnon and A. Rullo.

**MINUTES**

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve 9/21/09 meeting minutes.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board voted to approve 9/28/09 meeting minutes.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve 9/28/09 Executive Session meeting minutes.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, board voted to approve 10/5/09 meeting minutes.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to Approve 10/7/09 meeting minutes.

Four in favor. P. Rogers abstained.

**ANNOUNCEMENTS**

**2010 Community Development Block Grant Public Forums To Be Held on 10/20/09:**

From 10:00 a.m. - 11:30 a.m., Library, Lower Level, 102 N. Main Street

From 4:00 p.m. - 5:00 p.m. or from 6:00 p.m. to 7:00 p.m., Selectmen's Meeting Room, 10 Nickerson Ave.

**Job Fair**

10/27 at Town Hall, 10 Nickerson Ave. from 8:30 a.m. - Noon

**Housing Rehabilitation Assistance Program Workshops**

11/2 from 5:00 p.m. to 6:30 p.m., Town Hall, 10 Nickerson Ave.

11/3 from 2:30 p.m. to 4:00 p.m., 20 Centre St., 3<sup>rd</sup> Floor Meeting Room

Selectman McKinnon raised concerns relative to the public hearing process regarding the Eric Bagge dog case. Chairman noted that the Board has not received the court finding from Town Counsel yet and will discuss the matter in November.

**NEW BUSINESS**

Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted to issue an Earth Removal Certificate of Completion to Bradley Doyle, Doyle Cranberry.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Dumphily and seconded by Selectman McKinnon, Board voted to approve Town Hall Rental for The Burt Wood School of Performing Arts on 11/4/09 from 5 PM to 11 PM.

Three in favor. M. Brunelle and P. Rogers abstained.

Upon motion by Selectwoman Dumphily and seconded by Selectman Rullo, Board voted to approve Town Hall Rental for The Burt Wood School of Performing Arts on 12/12 from 12 Noon to 6:00 PM and 12/13 from 12 Noon to 7:00 PM.

Three in favor. M. Brunelle and P. Rogers abstained.

Upon motion by Selectwoman Dumphily and seconded by Selectman McKinnon, Board voted to approve Amy Lynne Dowler of Pine Street to the position of Police Matron with the Middleborough Police Department.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted to approve request by Middleborough High School Student Council to hold Homecoming parade on October 24, 2009 with a copy of the request to be sent to the Police and Fire departments.

Four in favor. P. Rogers abstained.

#### **CORRESPONDENCE**

#18 - SRPEDD Meeting - Selectman McKinnon will attend

#4 - DEP Notice of Non-Compliance - Chairman explained that it is a DEP action

#12 - DEP Notice of Determination - Chairman explained that it is a DEP action

#2 - 11/6 Titan's Football Game Announcement - Saluting all Veterans - Selectman Rullo will attend.

#7 - Selectman Rullo read aloud letter from McLean Family thanking Veterans' Agent P. Provencher for his help during their father's (Dr. McLean's) memorial services.

Selectwoman Brunelle noted that from time-to-time lately she has been receiving Town emails on her personal email address at home, which she has, and will continue to, forward to the Board's secretary for the other Board members to also receive.

#### **HEARINGS, MEETINGS & LICENSES**

At 7:30 PM Chairman opened public hearing re MG&E & Verizon New England Pole Hearing - Pole ½ Clifford Street by reading aloud public hearing notice. After hearing from MG&E Division Manager W. Taylor, Chairman asked to hear comments from the audience. Hearing none, Chairman declared the hearing closed. Upon motion by Selectman McKinnon and seconded by Selectwoman Brunelle, Board voted to approve request to place new pole ½ Clifford Street.

Four in favor. P. Rogers abstained.

At 7:35 PM Chairman opened public hearing by reading aloud public hearing notice re Outback Engineering, Inc., on behalf of Middleboro Gas & Electric for a Special Permit under the Water Resource Protection District By-law to allow activities, including installation of a gas line, within 25' of a Bordering Vegetated Wetland, Benson Street (Map 100 & 101). Board heard from Outback Engineering representative Jason Youngquist and also from the engineer for the MG&E Gas department. Chairman asked to hear comments from the audience. Hearing none, Chairman declared the hearing closed.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve WRPD permit finding that this project is in harmony with the purpose and intent of the WRPD Bylaw and will promote the purposes of the Water Resource Protection Districts, further that it is appropriate to the natural topography soil and other characteristics of the site to be developed; that it will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge areas; and further will not adversely affect any potential water supply.

**OTHER**

Selectwoman Duphily noted that the Nemasket River Production's play "Rumors" is playing for the next couple of weekends in the Town Hall Auditorium.

Selectwoman Brunelle noted that Comedian Medium Maureen Hancock will perform at Town Hall on 11/4/09 in the Auditorium. This is a fundraising event.

Middleborough Friends will be holding its Harvest Moon Ball on 11/7/09 in the Town Hall Auditorium. Costumes are optional and tickets are \$15 in advance or \$20 at the door. The primary beneficiary is the Victor Sylvia Memorial.

**TOWN MANAGER'S REPORT**

Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted to accept the gift of the photocopier machine for the Town Clerk's Office by the Pierce Trustees. Board extends its deepest gratitude for the continued support of the Pierce Trustees.

Four in favor. P. Rogers abstained.

Town Manager noted:

The draft RFP prepared in order to do a land swap of the South Middleboro Fire Station Site. Town Manager asked Board to notify him of any comments on the RFP so that he may begin the RFP process.

The bid information for all surplus property, including various vehicles and I.T. equipment and the bid opening date to be Friday, October 30, 2009 at 11 A.M. For anyone interested in bidding on surplus equipment, a viewing of the surplus property will be available on 10/26 in various locations. See attached.

The Town's 43D application was approved by the Office of Business. We will now pursue growth district designation for the Middleborough Park at Rte. 495 to help draw more interest to that property.

Chairman noted letter to MA Highway Commissioner Luisa M. Paiewonsky from Transportation SRPEDD Planning Manager Roland J. Hebert relative to the I-495 Corridor Study. See attached.

At 7:45 PM Chairman opened public hearing by reading aloud public hearing notice re Class II Automobile Dealer's License application for 99 West Grove Street. Attorney Rogers, representing the applicant, Mr. El Khoury, addressed the Board. Selectwoman Brunelle noted that the heavy landscape located in the parking lot, creates a dangerous blind spot when exiting the property. The Attorney indicated that it will be corrected and maintained. Selectman McKinnon noted that the Fire Department is requiring that the dumpster on the property be located at least 25' from the building and it does not appear that way on the plans presented.

Attorney Rogers indicated that they will comply with the Fire Departments requirements. Selectwoman Duphily asked for a copy of the lease agreement that the applicant has with Peaceful Meadows. Attorney Rogers will provide tomorrow. Chairman asked to hear comments from the public. Sharon Krohl addressed Board to say that Mr. El Khoury has always been a good neighbor and she supports his application. Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to approve Class II license for 99 West Grove Street, as identified on the revised plan dated 10/16/09 for 15 vehicles. Four in favor. P. Rogers abstained.

At 8 PM Chairman opened hearing re Earth Removal application by G. Lopes/Red Dog Cranberry, Plympton Street by reading aloud the public hearing notice. Engineer William Madden addressed the Board. Upon completion of Board members expressing various points of concern and asking questions of Mr. Madden, Chairman asked to hear comments from the public. Ann Pierce of 4 Stacey Road addressed Board and noted that the neighbors have been tolerating the blasting since the 1990's. She requested that a member of the Board be present and experience a blast as part of a site visit. Mr. Lopes offered that, in response to previous complaints by the abutters relative to the blasting, he put a seismograph on a neighbor's property and is following state regulations. In response to question posed by Selectman McKinnon, Mr. Madden indicated that there is no rock crushing occurring on the site, however, rocks are broken after blasting, so that they are able to lift the rocks. Chairman asked to hear comments from the public. Bruce Atwood, who lives nearby, indicated that the project is a pain and asked why the neighbors should have to put up with the issues simply because the applicant can't get rid of his material in this economy. He recommended that they be permitted to build one bog at a time and not be allowed to move on to one bog prior to another being completed. The site is a deplorable mess. Board will make a site visit on Saturday, October 24, 2009 at 900 A.M. Chairman continued hearing to Monday, November 2, 2009.

Chairman welcomed Finance Committee Chairman R. Pavadore to discuss the Computer Study Proposal. Prior to beginning discussion, Selectwoman Brunelle recused herself and left the meeting for the evening. In response to question by Selectman Rullo, Mr. Pavadore indicated that the assessment would provide the dollar amount anticipated relative to any cost-savings for the Town. Finance Committee J. Thomas addressed the Board. Hub Technical Services owner Paul Shiff addressed Board and gave an overview of what his company does and what it is proposing to do for the Town of Middleborough. Town Manager asked if we could get a client list from the company so that we can do a reference check. Mr. Shiff will provide to the Town Manager. School Business Manager Tom Tatro addressed the Board. He explained that the School Department had answered some initial questions by the Finance Committee in its research for information and that the School Department is happy to help in matters that may assist the Town with cost savings or running more efficiently. Board heard from I.T. Director R. Brunelle. Chairman thanked Mr. Shiff for his time and the Finance Committee for its work on this matter. Chairman announced that the matter will be discussed further on 11-2-09.

Chairman expressed an interest in meeting with the Parks & Recreation department/commissioners to discuss the possibility of a part-time or full-time Recreation Director and letting the maintenance activities fall under the Town's Highway department. Board agreed it would like to meet with the Parks & Recreation Commissioners to discuss.

Upon motion by Selectmen McKinnon and seconded by Selectwoman Duphily, Board voted by Roll Call to go into Executive Session to discuss strategy relative to Pending Litigation and Real Estate. Roll Call: S. McKinnon, Yes; A. Rullo, Yes; M. Duphily, Yes; P. Rogers, Yes. Chairman announced Board would not return into Open Session.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN

## TOWN SEAL

### INVITATION FOR BIDS

The Town of Middleborough, by its Board of Selectmen, invites sealed bids for surplus property to be removed from 48 Wareham Street, 125 North Main Street, Access Road and 10 Nickerson Avenue in Middleborough, MA.

A complete listing of said property with minimum bid requirements along with bid forms are available at the Office of the Town Manager, 10 Nickerson Avenue and the Office of the Town Clerk, 20 Centre Street, Middleborough, Massachusetts, Monday through Friday, 9:00 AM to 5:00 PM beginning October 15, 2009. Fax requests for information to (508) 946-2320 will be accepted.

### GENERAL INFORMATION

Sealed bids shall be submitted and must be received at the Office of the Town Manager, Middleborough Town Hall, 10 Nickerson Avenue, Middleborough, Massachusetts by **11:00 A.M. on Friday, October 30, 2009** at which time the bids will be publicly opened and read aloud.

Each bid shall be on the bid form provided by the Town and signed by the bidder and included in a separate sealed envelope clearly marked "Bid to Purchase Surplus Property". The envelope must also be marked with the name, address and telephone number of the bidder.

The Town reserves the right to reject any and all bids if in the public interest. The Town may waive minor or insubstantial informalities in any bid.

The Town will award the bids within thirty (30) business days after opening bids.

### SPECIFICATIONS

- Terms and Conditions: Payment by cash or check payable to the "Town of Middleborough" shall be made within three (3) days following notice of the award of bid and prior to removal of the items from Town property.
- All surplus property is to be sold in "as is" condition. The Town makes no representation as to the condition or any other characteristics of the property and assumes no liability for condition or suitability of use.
- Removal of Items: The successful bidder must remove items purchased from Town property within fifteen (15) days of date of sale.
- The successful bidder is responsible for restoring any damage done to Town property as the result of removal of surplus property.

### VIEWING OF ITEMS

Interested parties may view all surplus property on **October 26, 2009** at the following locations/times:

|                 |  |
|-----------------|--|
| <b>10:00 AM</b> | Department of Public Works, 48 Wareham Street, Middleborough, MA (vehicles)              |
| <b>11:00 AM</b> | Central Fire Station, 125 North Main Street, Middleborough, MA (vehicles)                |
| <b>12:00 PM</b> | Wastewater Treatment Plant, Access Road off Everett Street, Middleborough, MA (vehicles) |
| <b>1:00 PM</b>  | IT Department, 10 Nickerson Avenue, Middleborough, MA (computer monitors)                |

-Charles J. Cristello, Town Manager

To be published twice in the Gazette: 10/15/09 and 10/22/09

**BID FORM**

**Re: Town of Middleborough Surplus Property**

**Bid Opening: Friday, October 30, 2009 at 11:00 AM**

**Vehicle/Equipment Item: \_\_\_\_\_**

The total lump sum price for Town of Middleborough surplus property:

\_\_\_\_\_ = \$ \_\_\_\_\_  
Total Lump Sum Price in Words                      Total Price in Numbers

Date \_\_\_\_\_

By \_\_\_\_\_  
Signature and Title of Person Authorized to sign said bid

\_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Name of Bidder    Business Phone

\_\_\_\_\_   
Business Address: Street, City and State, Zip

Seal if Corporation:

Attest: \_\_\_\_\_

**NON-COLLUSION AFFIDAVIT**

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph the word "person" shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.

\_\_\_\_\_  
(Name of Person Signing Bid)

\_\_\_\_\_  
(Company)



SOUTHEASTERN REGIONAL PLANNING & ECONOMIC DEVELOPMENT DISTRICT  
88 BROADWAY ♦ TAUNTON, MA 02780-2557

Acushnet  
Attleboro  
Berkley  
Carver  
Dartmouth  
Dighton  
Fairhaven  
Fall River  
Freetown  
Lakeville  
Mansfield  
Marion  
Mattapoisett  
Middleborough  
New Bedford  
N. Attleborough  
Norton  
Plainville  
Raynham  
Rehoboth  
Rochester  
Seekonk  
Somerset  
Swansea  
Taunton  
Wareham  
Westport

October 7, 2009

Luisa M. Paiewonsky, Commissioner  
Massachusetts Highway Department  
10 Park Plaza, Suite 3170  
Boston, MA 02116

Dear Commissioner Paiewonsky:

At its September 28<sup>th</sup> meeting the Southeastern Massachusetts Metropolitan Planning Organization (SMMPO) approved the I-495 Corridor Study prepared by SRPEDD through our 2009 UPWP. Based on the action by the SMMPO, we are formally requesting that MassHighway restart the process to complete environmental and engineering studies for the Route 44 corridor in Middleborough. A draft EIR/EA/4(f) was prepared by MassHighway and abandoned in 2003 without a release to the public.

As identified in the Corridor Study, the southbound lanes of Interstate 495 experience congested conditions during the afternoon peak hour at Exit 6 (Route 44) in Middleborough. This delay results from the congested conditions at the Middleborough Rotary where the vehicle queue extends from the rotary west on Route 44 to beyond the I-495 ramp intersections. This congestion forces exiting traffic from I-495 to queue down the ramp and back onto the highway causing delay and potential safety problems.

The corridor study concluded that the major improvements identified in the 2003 EIR would resolve the congestion and safety issues on I-495. The corridor study does not address the EIR proposal to widen Route 44 from an undivided 2 lane road to a divided 4 lane facility, but it does evaluate the proposed ring road configuration that would replace the existing Middleborough Rotary with grade separations of Route 44 from Route 18 and Route 28, and the reconstruction of the I-495 interchanges with Route 44 and Route 18.

The problems on I-495 will continue to worsen unless congestion on Route 44 is relieved. If MassHighway requires the commitment of TIP target funding to initiate the studies I am sure that the MPO will be open to a request from you. If you have any questions or would like additional copies of our study, please visit our website at [www.srpedd.org](http://www.srpedd.org) or contact me.

Sincerely,

Roland J. Hebert  
Transportation Planning Manager/Deputy Director  
CC: Bernard McCourt, District 5  
Enclosures