

MINUTES

For approval at the 11-2-09 meeting

 **DRAFT**

**Middleborough Board of Selectmen
Meeting Minutes**

October 26, 2009

Chairman opened meeting at 7:05 PM by inviting those in attendance to join in the Pledge of Allegiance.

Upon motion by Selectman McKinnon and seconded by Selectwoman Brunelle, Board voted to approve 10-19-09 meeting minutes, with a correction on page three that Selectman Rullo had recused himself from voting on Class II Automobile Dealer's license for 99 West Grove Street. Selectwoman Duphily confirmed with Board's secretary that we had received lease from applicant's attorney.

Four in favor. P. Rogers abstained

Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted to approve 10-19-09 Executive Session meeting minutes.

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

ANNOUNCEMENTS

Job Fair to be held at Town Hall, 10 Nickerson Ave. on 10/27 from 8:30 A.M. until 12 Noon.

NEW BUSINESS

Upon motion by Selectwoman Duphily and seconded by Selectman McKinnon, Board voted to approve request by Middleborough Christmas Parade Committee to hold Annual Christmas Parade on Saturday, November 28, 2009 with a start time of 1 PM and a rain date of Sunday, November 29, 2009, the parking ban from Everett Square all the way through the center of Town, and the use of a fire truck, subject to the approval of the Fire Chief. A copy of the request and approval is to be sent to Fire & Police Chiefs.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve requests from Middleborough Historical Association's Nancy Gedraitis to use the Selectmen's Meeting room on Saturday, 11/14/09 from Noon until 2:30 PM, to erect an advertising sign on the Town Hall lawn, and to reserve the Auditorium on 11/13, in the late afternoon, to set up tables and chairs in preparation for the 340th Anniversary Heritage Festival.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve Betterment Agreement for Arthur J. & Cheryl A. Leary, 41 Rocky Gutter Street.

Four in favor. P. Rogers abstained.

**Middleborough Board of Selectmen
Meeting Minutes**

October 26, 2009

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to approve Betterment Agreement for Michael & Lisa Perry, 15 Cherry Street. Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted to approve Betterment Agreement for Frank L & Lynda J. Tortora, 25 Margaret Road. Four in favor. P. Rogers abstained.

Earth Removal Bylaw – Proposed Upgrades

Chairman suggested that, with a new DPW Director on board, this may be a good time to review the Earth Removal Bylaw and that, as they work on it, they will provide some suggested language to the Board in November or December.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve Secretary Jacqueline Shanley's vacation schedule. Four in favor. P. Roger's abstained.

Utility Liens

Selectwoman Brunelle suggested Andy Bagas and Paul Anderson review and make recommendation for collection procedures to avoid getting to this point in the future. She has asked the Town Manager to discuss with them. Selectman Rullo indicated that we should be charging the maximum interest rate for those on the Lien list. Selectwoman Brunelle advised that she believes the Town is charging the maximum rate. B. Giovanoni asked if the list is a public list. Chairman indicated that it is.

Upon motion by Selectman McKinnon and seconded by Selectwoman Brunelle, Board voted to approve Lien list as presented. Four in favor. P. Rogers abstained.

HEARINGS, MEETINGS & LICENSES

OECD Director A. Nalevanko noted that the Job Seekers Support Group is run by Middleborough on the Move and is held on Mondays at the library. Job Fair will be held tomorrow, October 27, 2009 at Town Hall from 8:30 PM to 12 Noon. Director Nalevanko updated Board on plans re Railing Installation at Entrance to 20 Centre Street Building. Mr. Perry Little spoke of concerns re installing a decorative fence and costs relative thereto, when, in his opinion, it would be better to spend money on handicapped parking area. Selectman Rullo confirmed with Director Nalevanko that a fence is required for safety purposes. She would like to get the project underway by next week

Chairman asked to hear comments from the public. After hearing none, the Board voted as follows. Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted to approve. Four in favor. P. Rogers abstained.

**Middleborough Board of Selectmen
Meeting Minutes**

October 26, 2009

Chairman welcomed DPW Director A. Bagas who noted that it has been a pleasure working for the Town for the past ten weeks, and noting in addition, that all staff, especially the Town Manager, have all been professional and pleasant to work with. He reported no major projects in 2009. Planned projects for 2010 are Wood St. reconstruction, Old Center St. reconstruction, Fairview St. reconstruction and drainage improvements on Plympton St. near Thompson Street.

Selectman McKinnon asked if there is something causing old Center Street's corrosion. Mr. Bagas indicated that it is due to a high water table. They will need to build it up. Selectman Rullo confirmed with Mr. Bagas that Chapter 90 money will pay for projects mentioned. He will hiring private contractors to snow plow as there is a shortage of manpower from workforce. He will get assistance from Water and Wastewater personnel and will get a couple trucks from MG&E. He is going to bring on five more trucks to plow for the Town. Price for salt has gone down recently, which will save the Town money.

He will look into question presented by Selectwoman Brunelle as to whether going to an every other week trash pickup, during the winter months, would help provide personnel for plowing. He will try pre-treating the roads with salt, prior to snow accumulating, which will use less material. In response to question asked by Selectman McKinnon, Mr. Bagas noted that for every dollar we spend on using magnesium chloride on the roads we will save \$5 that we would have spent on salt. They are planning to take advantage of that. Mr. Bagas confirmed that there isn't any impact to farms/bogs. We have approximately 50 private roads in Town. He will propose policy to Board to no longer treat private roads. Mr. Bagas will make sure roads are accessible to emergency vehicles, if needed.

Mr. Bagas talked about Flowable fill, which is a type of concrete, gets delivered in concrete truck, and is poured into trenches as "fill". It is great to use on a busy road, but on secondary roads, is money not wisely spent. Board requested secretary research prior minutes to see if Board authorized the purchase and use of Flowable fill.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to place stop sign on May Avenue northbound at West Street and on Lebaron Avenue southbound at West Street. Selectman McKinnon requested picture or drawings with future requests.

Four in favor. P. Rogers abstained.

Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted to approve installation of "No Parking" sign on the westerly side of Centre Ave. from utility pole #2 to the intersection of Everett Square.

Four in favor. P. Rogers abstained.

Chairman asked Mr. Bagas to provide his advice as to a reasonable fee to charge applicants of Earth Removal permits so that we can have applications reviewed by professionals and cover associated costs. Mr. Bagas will provide his opinion.

**Middleborough Board of Selectmen
Meeting Minutes**

October 26, 2009

Board discussed issue of increasing water rates, which had been delayed previously. Chairman explained that the more you use, the more you pay. Selectman McKinnon requested rate chart be posted to DPW website.

Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted to approve water rate fee as presented on the attached, effective immediately.

Four in favor. P. Rogers abstained.

In response to question raised by Selectwoman Brunelle, Town Manager indicated that we will not be seeing any rate increases in sewer fees.

Board began discussion regarding abatement request for Robert Leite of 25 East Grove Street. DPW Water Superintendent P. Anderson will provide detailed report for Board to consider at its 11/2/09 meeting.

Upon motion by Selectman McKinnon and seconded by Selectwoman Brunelle, Board voted to approve and authorized Chairman to sign Stantec Consulting Services, Inc. new contract.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve contract amendment number 2 with Tighe & Bond.

Four in favor. P. Rogers abstained.

MCI Bridgewater – Requesting Temporary Water Service – Town Manager explained that this is just being brought to Board’s attention as we will have MCI representatives in to make presentation to Board at a future meeting.

Mobile Home Park – Rules & Regulations Hearing

Selectman Rullo recused himself from discussion and voting on this matter as his brother lives at Oak Point Mobile Home Park. Town Manager provided overview of changes to proposed Rules & Regulations that he and Town Counsel are recommending.

Selectwoman Dumphily suggested sending Eviction Hearing notices as mentioned in the proposed Rules and Regulations under #10 C4 by certified mail. Selectwoman Brunelle suggested we send via regular mail also. Selectwoman Brunelle asked the Town Manager to ask Town Counsel for appropriate wording “notice has been given....”.

Ellen Grant addressed Board and noted that they have spent some time in court last Monday and will again this coming Monday, supporting a tenant regarding illegal eviction process.

She reiterated question she had asked at prior meeting and the answer that the Board had given and noted that it had been omitted from the minutes. Chairman explained that her questions was relative to a past decision of the Board and that the Board is about to implement new Rules and Regulations, making the matter moot.

**Middleborough Board of Selectmen
Meeting Minutes**

October 26, 2009

Chairman noted that Board was only made aware five minutes prior to meeting of circumstances occurring and Town Manager will be addressing tomorrow. Ellen Grant welcomed to speak with Town Manager tomorrow.

Selectwoman Brunelle explained that this is the Board's first attempt at improving the Rules & Regulations and that hopefully this will give more clarity for all involved, and that it is all subject to change, but will hopefully smooth the process.

Chairman noted that we will have discussion on 11/23/09.

Upon motion by Selectman McKinnon and seconded by Selectwoman Duphily, Board voted to approve new Mobile Home Rules and Regulations, as presented by Town Manager and Town Counsel, with language for number 10 C4 to include sending notice via Certified Return-Receipt and 1st Class mail.

Chairman indicated that we will have another public hearing to upgrade, as needed per Chairman. A gentleman from Edgeway Mobile Home Park addressed the Board to thank the members and requested copies of the changes to the Rules & Regulations. Chairman told him to contact Board's secretary for a copy. Chairman thanked Town Manager for his work on the matter.

Earth Removal Permit #07-3

Chairman began by explaining request presented to Board and read aloud Attorney Craig Medeiros' letter on behalf of his client Ryan Vlaco. Chairman noted that the Board made a site visit to the property on Saturday, October 24, 2009. Attorney Medeiros began by explaining two requests before the Board this evening. He is asking for releases on lots 105 and 106. He apologized for his client's oversight that his permit expired in April 2009. They anticipate a completion date of April 2010.

Chairman noted that it was an error by the Town to not have required he have 100' of his driveway paved. Selectman Rullo reminded Mr. Vlaco at his permit states that he is required to have fencing on the site. Mr. Vlaco indicated that he didn't know that. Bog will be one and one half acres in size.

Chairman indicated that an extension cannot be granted on a permit that does not exist. It expired in April 2009.

Attorney Medeiros asked for partial certificate of compliance with respect to Lots 105 and 106. Chairman indicated that he does not believe the Town has ever issued "partial" certificates of compliance. Selectman Rullo asked why Mr. Vlaco would build houses on these lots knowing that with E.R. permit in place, he did not have clear title on them. Attorney's response was that it was a mistake. Chairman asked to hear from the public. Donna McLeod addressed Board. She and her husband Dennis live at 47 Whispering Pines Drive. There are no signs warning public of dangerous area. They do not know if

**Middleborough Board of Selectmen
Meeting Minutes**

October 26, 2009

items of debris have been removed as directed by DPW Director. They are asking for denial of permit request and want complete inspection of entire property. She is very concerned of potential contamination of their well water. She thanked Board for its consideration.

Selectwoman Brunelle indicated that the only matter for the Board is the "removal of earth" and that Mr. Vlaco can do whatever he wants to do on his property. Mrs. McLeod offered that they took and submitted photos of Mr. Vlaco removing earth after he knew his permit had expired.

Ron White, who lives in area, addressed Board. He said the houses on the lots for which partial certificates are completion are sought are occupied. Attorney Medeiros confirmed that there is a couple living in one of the homes since two weeks ago and Mr. Vlaco lives in the other.

Steve Alius of 32 Whispering Pines asked why the bog isn't done if that is what Mr. Vlaco's intention has been.

Michael Valair, Trustee of Whispering Pines Homeowner's Association, indicated that he feels permit should be denied. There are many violations in the previous permit.

Chairman indicated that the Board will have Mr. Bagas review site and look at original plans and provide report to the Board and hopes that Mr. Vlaco will Cease & Desist all activity at the moment. And told Vlaco he can apply for new permit. Mr. Joe Frasier, 31 Fran Street addressed Board with concerns re no fencing around sloping areas and children in the area. He is concerned that Mr. Vlaco is not looking at his plans at all based on the things he, himself, said. He thinks Mr. Vlaco is conducting a sand and gravel business. He would hope, from a legal standpoint, that the Town would be concerned about the safety of children in the area. Attorney Medeiros responded that fencing is only to be in place during excavation and that there is none happening presently. Selectwoman Brunelle noted that the neighbors are looking for protections, semblance of restoration, and some relief from everything that's going on. Chairman suggested Mr. Vlaco and his attorney get together with the neighbors and work on discussing issues/concerns and return before the Board on 11/30/09 for consideration of issuing partial certificates of completion for Lots 105 & 106. Chairman also advised Mr. Vlaco that he could apply for a new permit if he wishes to.

TOWN MANAGER'S REPORT

The Website Committee will review the draft layout of the new website on Wednesday with the consultant. If acceptable, he will have consultant move forward with website. They will probably make some edits then begin to show it to some department heads and the public.

Town Manager reported on letter from legislative delegation on signal at Clark Street east. It was very supportive of our position and we hope that the MA Highway Commissioner will put it in the design for the work at Rtes 105 and 495.

**Middleborough Board of Selectmen
Meeting Minutes**

October 26, 2009

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to accept generous gift of police cruisers and south fire station roof by the Pierce Trustees.

Four in favor. P. Rogers abstained.

Town Manager reported that a couple of properties in Town that had gone to foreclosure for non-payment of taxes are still occupied. The owners have had the opportunity to redeem and pay taxes owed, however, in order to get funds back into the Town's receipts, we need to dispose of the properties.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to authorize Town Counsel to move forward in issuing notices to vacate both properties and Board agreed to sign notices. It was noted that while this appears to be a drastic step, the individuals were given an extensive opportunity to rectify.

Four in favor. P. Rogers abstained.

Selectwoman Duphily asked Town Manager if he has received response regarding letter sent to Pierce Trustees from A. Nalevanko. Town Manager noted that he has not, but that he will follow up.

CORRESPONDENCE

#1 SRPEDD Regionalization of Services Conference

#12 PROP 2 ½ Override - Have Dr. Sullivan in to discuss on 11-16

#1 SRPEDD Conferences - forward to Veterans' Agent

#2 SRPEDD Grant Writing Program - Collins ARRA – Town Manager indicated he has a meeting on Friday with various groups, to talk about this particular grant

#3 – Verizon new contacts – Keep and copy to Cable Committee

#9 – EOT – Auburn Street bridge over the Taunton River

Town Manager raised issue of Plymouth St. bridge – Selectwoman Brunelle wants to see it repaired. It hasn't been closed that long. Keep the State on notice that we want it repaired with state money.

Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted to put the Plymouth Street bridge on list of potential bridges to be replaced.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted unanimously to adjourn meeting at 10:54 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN