

MINUTES

For approval at the 2-23-09 meeting

Meeting Minutes

Chairman opened meeting at 7:00 PM.

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

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board voted to approve January 26, 2009 meeting minutes with correction of typo on page two.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to approve January 26, 2009 Executive Session meeting minutes.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to approve February 2, 2009 meeting minutes.

Three in favor. P. Rogers abstained.

ANNOUNCEMENTS

Chairman announced that an Open House will be held on February 25, 2009 at Town Hall, 10 Nickerson Ave. , from 5 pm until 7 pm to welcome new Fire Chief Lance Benjamino.

Chairman asked the Town Manager to give status regarding the formation of a Green Energy Committee. Town Manager indicated that he has received letters of interest and will be conducting interviews next week.

Chairman announced that there will be a South Coast Rail Workshop at 6 pm at Town Hall, 10 Nickerson Avenue on Wednesday, February 18, 2009. The workshop will be taped by Comcast.

Chairman announced that the Board will not meet during the week of February 16, 2009 as the 16th is a holiday and the break from meeting that week will be used to catch up and prepare for a busy meeting agenda in the following weeks.

NEW BUSINESS

Upon motion made by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to adopt the Order of Taking for Indian Meadow Road.

Three in favor. P. Rogers abstained.

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Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to recommend Selectwoman Duphily to serve as the Board's representative on the Citizen's Environmental Health Impact Committee for the remainder of a term ending 10/10/10.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to set 3/31/09 as deadline for the submission of articles for the Annual Town Meeting.

Three in favor. P. Rogers abstained.

Board asked that departments defer capital expenses until the fall.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to re-appoint the individuals, represented on the attached, as Constables, subject to confirmation of civil processing payments to the Treasurer and payment of all outstanding taxes, interest, and/or fees outstanding :

Three in favor. P. Rogers abstained.

Chairman announced that there is one constable position available as one constable elected not to renew this year. Individuals interested in applying may submit application to the Selectmen's Office.

HEARINGS, MEETINGS & LICENSES

Board heard from Animal Inspector followed by Susan McKay of 68 Highland Street relative to Ms. McKay's complaint regarding a dog owned by Nolana Ricci (Natale) of 69 Highland Street. Ms. McKay asked that the leash law be abided and that the Ricci's (Natale's) restrain their dogs so that they cannot enter the McKay property. The Ricci (Natale) family was not present. The Animal Inspector informed the Board that he has record of at least four instances when the dogs were loose and he has received no contact from the Ricci (Natale) family. He recommends a permanent restraining order restraining the dogs to their own property. Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to support the recommendation of the Animal Inspector and issue a permanent restraining order to restrain both dogs owned by the Ricci (Natale) family to their property located at 79 Highland Street.

Three in favor. P. Rogers abstained.

Board heard from Health Officer J. Spalding who reviewed Tobacco Violations committed by:

Middleboro Petroleum, W. Grove St.

Super Petroleum, 554 W. Grove St.

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N.E. Farms/Mobil, 447 Wareham St.

Chairman noted that Super Petroleum had indicated that it had not received notice of the hearing and had requested to reschedule.

Board heard from representative for Middleboro Petroleum who indicated that they had a new employee who made a mistake and that it would not happen again. Representative apologized and indicated that he is directly supervising this employee to teach him the importance of asking for identification.

Board heard from Tom Pratt of New England Farms/Mobil. He indicated that his company contacted the Health Department immediately to find out the name of the employee that made the sale. As it is company policy, the employee was fired. The business has several mechanisms in place to avoid the sale of tobacco to minors, including trainings, followed by a test and certification for each employee.

Health Officer expressed that New England Farms has put forth the effort to implement policies and mechanisms to avoid the sale of tobacco to minors both before, and since, this recent violation. She would request that we get at least the same effort by the other vendors who have violated the sale of tobacco. Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to take under consideration until such time as it may review past decision by the Board under similar circumstances. Board will address at its 2-23-09 meeting.

Chairman opened hearing on application for Class II Automobile Dealer's license for RNT Brothers, Inc., d.b.a. Gas Depot & Service, 5 Station Street. Board heard from owner Raheel Ghafoor who explained that he had been in a partnership with the prior owner, however, is now sole owner. Chairman asked to hear if anyone in attendance wanted to comment. Hearing none, Chairman closed the hearing. Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to approve Class II license for RNT Brothers, Inc. d.b.a. Gas Depot & Service, 5 Station Street with a limitation of three vehicles for sale as supported by the Building Commissioner.

Three in favor. P. Rogers abstained.

Board heard from former Town Manager John (Jack) F. Healey, representing Daniel T. White of Sam White & Sons. Mr. Healey reviewed a proposal for the Board to consider a land exchange (swap) of land located behind and to the left of the fire station located on Wareham Street and acquired by Mr. White. In order to trade this land, South Middleboro Protective Association, Inc. would have to waive its right to revert established when it donated the Fire Station to the Town. It would also require a vote of Town Meeting followed by an RFP procurement process. Mr. Healey met with the South Middleboro Protective Association last Wednesday and the Association is reviewing the proposal and is meeting next month, or in April, to entertain said proposal. Mr. Healey asked the Board if, subject to the approval of the South Middleboro Protective Association, the land swap could be put on the Annual Town Meeting

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Warrant as an article. Mr. Healey indicated that Town Counsel would draft an article for consideration by Town Meeting should all parties agree to move forward with land swap.

OLD BUSINESS

Chairman updated those in attendance as to the status of the Brockton Power plant. The Brockton Power Plant Regional Task Force will be meeting on February 12, 2009 and asks that the Board take a position for or against the proposed project. Board agreed it needs the input of its Health Agent prior to taking a position on the matter.

MTBE Testing - Chairman indicated that some time ago, the Town received payment of \$890,000 from Mobil as there had been some leakage of tanks which put some MTBE in various wells. In 2001 testing was performed by the Town and again in 2002. Readings showed MTBE in some wells and none in others. In 2008 the readings showed no MTBE in any of the wells. Testing was again done today. The results will be available sometime in March. After gathering all the testing information, and presuming the issue of contamination is resolved, the Board of Selectmen, acting as Water Commissioners will be able to put the \$890,000 into the Town's General Fund.

Development of a Stabilization Fund re Open Space – Community Preservation Act – Town Manager to follow up with Town Counsel re combining funds, using separately and creating new fund based on contributions, or creating a gift fund. Town Manager to report back how much money is in the existing account.

Jeanne Spalding reported various concerns regarding the location of the Brockton Power Plant. She recommended that the Board not support the siting of the Power Plant as the concerns have not been addressed. Chairman asked Health Agent to draft letter for the Board to review and finalize at its 2-23-09 meeting.

Board members discussed their individual positions relative to the Town Budget. Board expressed its wish to meet with the School Department to discuss the budget impacts. Chairman asked the Town Manager to come up with a plan based on the various department budget presentations over the next few weeks.

TOWN MANAGER'S REPORT

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to delay implementation of any water rate increase and to continue with present rates.

Three in favor. P. Rogers abstained.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to authorize Town Manager to start getting proposals for design process of water mains previously approved at Town

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Meeting and to come up with rate structure that ensures that we know the exact amount of debt service going forward.

Three in favor. P. Rogers abstained.

Rockland Industries Site - Town Manager reported that State Statute indicates that the Board may appoint an inspector for 21E sites. Board agreed to invite Suzanne Dube and the members of the Citizens Environmental Health Impact Committee in to update the Board on the status of the Rockland Industries site at the end of March, prior to considering any such appointment.

Town Manager reported that the Soule Homestead tax bill has significantly increased over the past year. Assessor Barbara Erickson made some recommendations to the Town Manager to correct the over-valuation. Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to authorize the Town Manager and Barbara Erickson to apply for abatements based on over-valuation and for the longer term looking at classifying the land as Chapter 61b property to reduce the property taxes by a little bit more than 2/3.

Three in favor. P. Rogers abstained.

Town Manager reported that he attended a meeting today of the Bristol Plymouth Regional Technical School District for purpose of electing a new representative to represent municipalities involved in collective bargaining. Those in attendance voted to elect Joseph Pacheco, Selectman of Raynham, to be the representative of future collective bargaining discussions at the Regional School District.

Town Manager to ask Town Planner how the Double Track the Middleboro Line from Braintree to Bridgewater in the amount of \$50,000 got on the TIP amendment.

OTHER

Board agreed to dedicate some time at the end of March to explain all the potential infrastructure improvements relative to the proposed Resort Casino and the costs to get there.

Board heard from Allin Frawley who read aloud a letter that he had emailed to the Board of Selectmen on Sunday, February 1, 2009 questioning any communications between Selectwoman Dumphily and members of the Wampanoag Tribe. Selectwoman Dumphily read aloud a public response assuring Mr. Frawley and the public that she has had no discussions that are considered a conflict of interest. Mr. Frawley, followed by Mr. Renfrew both clarified that neither of them was personally accusing Selectwoman Dumphily, but rather seeking clarification based on statements made by former Selectman Adam Bond. Both Mr. Frawley and Mr. Renfrew apologized to Selectwoman Dumphily and stated that in the event that she had taken the questions personally, it was not their intent.

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Selectwoman Brunelle additionally commented and offered clarification of her relationship/communication with any members associated with the Tribe.

Selectman Spataro clarified his relationship/communication with any members associated with the Tribe.

Selectman Rogers offered his position on the issue.

CORRESPONDENCE

#9 Town of Halifax requesting information regarding the proposed Resort Casino. Town Manager will draft something. Chairman Rogers indicated that he will be meeting with the Resort Committee and will report back to the Board with a status update.

#7 Email addresses for the Selectmen – All emails for the Board of Selectman should be sent to the Selectman's email address at jshanley@middleborough.com to the attention of the Board of Selectmen and it will be distributed to the Board.

#10 Public Consumption of Marijuana – Town Manager to seek clarification if bylaw is required to impose penalty relative to.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted by Roll Call to go into Executive Session at 10:20 pm to discuss strategy relative to collective bargaining. Roll Call: M. Duphily, Yes; S. Spataro, Yes; M. Brunelle, Yes; P. Rogers, Yes. Chairman announced Board would not return into Open Session.

Jackie Shanley, Confidential Secretary

BOARD OF SELECTMEN