

# **MINUTES**

**For approval at the 3-23-09 meeting**

**Middleborough Board of Selectmen  
Meeting Minutes****March 16, 2009**

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

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to approve 3-9-09 meeting minutes.  
Three in favor. P. Rogers abstained.

**ANNOUNCEMENTS**

Chairman informed the audience that political signs do not belong on public property/public ways. Selectwoman Brunelle also offered caution not to put signs too close to state highways as the state has been known to remove them.

Town Manager will make budget recommendations and Board will revisit trash fees on March 23, 2009.

Chairman informed audience that the Board is not required to keep its meeting tapes once the Board approves meeting minutes for that specific recording. The Board will allow the public to sign out/borrow any tapes that it does have available, once the tape is no longer needed for purposes of recording meeting minutes.

**NEW BUSINESS**

Upon motion by Selectwoman Duphily and seconded by Selectman Spataro Board voted to appoint Thomas Sypek, 121 East Grove Street, as a member of the Cultural Council.  
Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to appoint Nancy Ockers, Maryanna Abren and Betty Jane Renfrew as members to the Board of Library Trustees for a term of three years.  
Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to appoint 2009 Election Officers as presented on the attached.  
Three in favor. P. Rogers abstained.

T-Mobile Acknowledgment & Consent Letter – Modify Antenna Facilities located at Town Hall, 10 Nickerson Ave., site #4BS0712B. Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to allow the swap of antennas and addition of a cabinet, in addition to the removal of a cabinet, if necessary, and if so authorized by the Town Manager.  
Three in favor. P. Rogers abstained.

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Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to approve rental request by Woods Lake Proprietorship for the use of the Board's meeting room on April 1, 2009.

Three in favor. P. Rogers abstained.

**HEARINGS, MEETINGS & LICENSES**

Police Station Building Study Committee – Chief Russell appeared before the Board and provided overview of the progress made by the Committee. He presented a layout of what the proposed police station would look like.

Chairman inquired if there is any money remaining from the original \$10,000. Chief indicated that there is not. Of the five sites considered, the Committee recommends the Wood Road site. Chairman commended and thanked the Committee for doing a thorough job. Chief will call a meeting of the Committee and keep the Board posted.

DPW Building Study Committee – Selectwoman Brunelle indicated that the Committee had looked at some land, looking for 10 acres, in five different communities, looking for a metal building construction that could house all vehicles and store sand and salt. The Committee voted on town-owned property on Rte. 28 in South Middleborough. There is some conservation land in part that would have to be replicated. The Committee did not go forward with a preliminary plan or official drawings due to financial state of the Town. The Committee is also looking for additional storage facility for the Town. The Town can't take advantage of surplus equipment often offered to the Town as it does not have proper storage facilities to store the equipment. Town Manager offered to get updated cost estimates of square footage from the Town of Hingham as they recently built a new DPW facility. Chairman thanked M. Brunelle for updating the Board.

**OLD BUSINESS**

Chief Russell addressed the Board and clarified the definition of the following police positions:

Agents for Liquor Establishments – can go in and check licenses without probable cause.

Auxiliary Police Officers – looking to gain some experience and work for nothing and pay for their own academy, in service training, weapons, uniforms, etc. – used for parades, special events such as Pratt Farm Spring festival, walk the beat on Friday nights and sometimes Saturday nights. After being an Auxiliary for one year he asks Board to appoint as Special Police Officers, as a reward, but must maintain Auxiliary status.

Special Police Officers – can work details and get paid for working detailed.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to appoint the Auxiliary Police Officers as presented on the attached. Three in favor. P. Rogers abstained.

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**HEARINGS, MEETINGS & LICENSES**

At 8:00 PM Chairman opened public hearing on application made by Seven Stars Liquors for a Change of location by reading aloud the public hearing notice. Attorney Arthur Pearlman submitted affidavit of notice to Abutters and presented his clients reasons for applying for a change of location. The licensee has been operating in Middleborough since 2001. Seven Stars will now be located next to the Auto Zone store. Chairman asked to hear from the audience. Hearing from no one, Chairman declared the hearing closed. Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to approve Change of Location for Seven Stars Liquors. Three in favor. P. Rogers abstained.

**OLD BUSINESS**

Capeway Rovers M/C requesting motor cross race dates/practice dates. Board heard from David Payne of Abington, MA speaking on behalf of Capeway Rovers. They are asking to increase their race dates and practice dates to a combination of 50 dates. They are specifically asking for 20 races and 30 practice dates. When asked what specific dates they would practice, Mr. Payne indicated that practice dates have never been date specific.

Selectwoman Brunelle indicated that she doesn't agree with any additional practice dates, noting that it has been a long-standing concern of the surrounding residents of the area (noise level).

Mr. Payne argued that during the practices the bikes depart at various paces as opposed to all at once during an actual race. The "roar" stems from the departure of all of the bikes simultaneously during "races".

Selectwoman Duphily indicated that she would want input from the neighbors prior to making such a change to the neighborhood that would be affected.

Chairman wants to confirm with Town Counsel that the Board has granted 10 practice dates in the past.

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board voted to approve 2/25/09 listed race dates.

Three in favor. P. Rogers abstained.

Secretary to pull out votes of past couple years for Board's review and will address at future meeting.

Diane Bassett asked if Board can notify abutters of practice dates. Chairman indicated that matter will be reviewed with Town Counsel. Ms. Bassett indicated that 30 additional dates would be too much.

**TOWN MANAGER'S REPORT**

Town Manager reported that we have tested all but two of our wells and none have shown any signs of MTBE.

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Board discussed draft survey from Waste Management regarding landfill operations. Town Manager asked Board members to forward any comments that they have to him.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, the Board acting as the Board of Health, agreed that the Animal Control Officer would benefit from the "Basic Agricultural Emergency Response Training" offered by the Center for Domestic Preparedness and voted to support his application to be accepted for this training.

Three in favor. P. Rogers abstained.

Chairman asked Board for its authorization that he and the Board's secretary work together on the E.R. Conditions for Fuller Street. Selectman Spataro suggested that the current condition of road be documented and if there is any damage to the road, caused by the anticipated heavy travel of trucks relative to this permit, that we ask the permit holder to make necessary repairs. Selectwoman Brunelle suggested that it should be part of the bond and should also be made part of the Earth Removal bylaws (the review of the condition of the road prior to issuing permits). Selectman Spataro asked Town Manager to review and include as part of the language in the conditions for Fuller Street.

**CORRESPONDENCE**

#8 Request from Park Department regarding Surplus Equipment – believes Selectmen has to follow a process in order to declare equipment as surplus. Town Manager will double check, but believes valued at less than \$500.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted that equipment be declared as surplus, subject to confirmation that value is less than \$500.

Three in favor. P. Rogers abstained.

**OTHER**

Selectwoman Brunelle requested Town Manager have Santa's Workshop removed from Town Hall lawn.

R. Dunphy inquired whether the Board has a policy regarding when it will post Executive Session minutes to website. Town Manager explained that the process going forward will be to review minutes and post, just before Town elections (change of Board members).

Chairman Rogers raised issue of recent letter in newspaper signed by the Retirees Group of Middleboro. Chairman and the Town Manager had met with the group in an attempt to be helpful and views the article as unfair. Chairman thinks letter is premature as we have not heard from Town Manager who has been working toward a recommendation. Town Manager will be presenting his budget recommendations at the Board's next meeting. The Board of Selectmen hasn't discussed the issue nor has it voted on it. The

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Board determines percentage to be paid by retirees. In fairness to statements made, P. Rogers, speaking as a resident and taxpayer, believes there is a need to see the retirees 1040 forms to see if someone is unfairly burdened as the fairest way to make determination. The retirees' letter went to state senators and representatives and it went prior to the Town Manager's recommendations and/or any vote of the Board of Selectmen.

Allin Frawley asked if the Board has heard from the Tribe about a meeting. Chairman indicated that we have not heard from them. Mr. Frawley read in the Cape Cod Times that Town Manager and Town Planner met with Tribal leaders. Town Manager indicated that he did. Mr. Frawley asked when that meeting was. He asked if any Selectmen participated in that meeting. Mr. Cristello indicated that they did not. Mr. Cristello indicated that he met with Tribal members.

Tribal Times states that they came and got acquainted with the Town Manager. Mr. Frawley read aloud the intent of the "Open Meeting law". Town Manager clarified that the Open Meeting Law applies to "governmental bodies" and he is not a governmental body. Town Manager clarified the sum and substance of his meetings. Mr. Frawley stated that he had asked specifically if "anyone" had met with Tribal members and included Mr. Cristello as being "anyone". Chairman suggested Mr. Frawley put future questions in writing so as to not leave room for misunderstanding. Town Manager clarified his understanding of Mr. Frawley's past and recent questions. Mr. Frawley indicated concern that there has been no mention of any meetings in any Town Manager's Report. Town Manager indicated that Mr. Frawley had not been clear in what he had been asking.

M. Solimini asked why there can't be an update/clarification to avoid this type of concern/confusion. It seems that everything is a secret with this. Selectwoman Brunelle clarified that the purpose of the Town Manager's report is to inform the Board if action must be taken. It is not to report every detail of his schedule. Mr. Solimini suggested that the Resort Advisory Committee provide regular update reports. J. Lopes indicated that the Resort Advisory Committee discusses, at its public meetings, the Water and Wastewater workshop meetings held by the Board and members of the Tribe. Chairman reminded everyone that the Town does have a contract with the Tribe and the Tribe is undergoing a change of members. The Chairman would like to have a full Board when it meets and discusses issues with the Tribe.

Selectman Spataro asked Chairman if clarification is needed as the public is concerned that the anticipated March meeting will most likely not happen as the Chairman has mentioned that it would be best held after the Board has a full membership, including the possibility of new members. Chairman Rogers will call Chairman of the Tribe and ask when he would like to meet.

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Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted by Roll Call to go into Executive Session at 9:02 pm to discuss strategy relative to contract negotiations. Roll Call: S. Spataro, Yes; M. Duphily, Yes; M. Brunelle, Yes; P. Rogers, Yes. Chairman announced Board would not return into Open Session.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN