

# **MINUTES**

**For approval at the 3-9-09 meeting**

**Middleborough Board of Selectmen  
Meeting Minutes****February 23, 2009**

Chairman opened meeting at 7:10 pm.

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

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to approve minutes of February 9, 2009 with a change under "Other" to read "\$55 million dollars on TIP Amendment".

Three in favor. P. Rogers abstained.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to approve Executive Session minutes of February 9, 2009.

Three in favor. P. Rogers abstained.

**NEW BUSINESS**

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to approve Town Hall auditorium rental request for the Middleborough Lion's Club for March 6, 2009, the placement of an advertisement sign on Town Hall lawn, and a One-day All Alcoholic Liquor license in the name of "The Bartending Service of New England with a waiver of rental fees, but to include the one-day liquor license fee in the amount of \$50 and the standard fee for serving liquor on the premises in the amount of \$100.

Three in favor. P. Rogers abstained.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to approve request by Central Baptist church to use the Town Hall parking lot on May 11, 2009 for purposes of holding a book sale.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to approve Town Hall auditorium rental request for MYA to hold its "Prom Fair 2009" on March 22, 2009 from 9 a.m. to 9 p.m. with a waiver of fees. Town Manager to loan Jack Healey a key to Town Hall for the event.

Three in favor. P. Rogers abstained.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to approve Town Hall rental for Old Colony Caller Association to hold "Anniversary & Scholarship dance" on June 7, 2009 from 1 pm to 6:30 pm.

Three in favor. P. Rogers abstained.

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to approve Town Hall auditorium rental request for the Stacey Ann Leroy Foundation "Dinner dance" on March 21, 2009 from 2 pm until 12 midnight with a waiver of fees.

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Foundation to be notified that it is to leave auditorium in clean condition as rental scheduled for following day.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to approve Town Hall auditorium rental request for Nemasket River Productions for its "Spring Production" with dates of 3/8, 15<sup>th</sup>, & 29<sup>th</sup> and 4/4-4/26, a One-day All Alcoholic Liquor license for 4/10 & 4/25, and for the placement of an advertising sign on the Town Hall lawn. As a condition of the approval, all props and platforms are to be removed from the building after the production, and staging presently being stored in the hallway of the Auditorium is to be moved immediately, noting that the Building Commissioner advises it to be a safety hazard.

**HEARINGS, MEETINGS & LICENSES**

Town Clerk administered the Oath of Office to new Fire Chief Lance Benjamino. Lance Benjamino thanked the Fire Chief Search Committee, the Board of Selectmen and Town Manager, his family, several firefighters, the Fire Chiefs of Plymouth County, Austin Sennett, and retired Fire Chief John Albergini. Chairman reminded those in attendance that the Board would be holding a welcome reception for Fire Chief Benjamino on Wednesday, February 25, 2009 at Town Hall.

**CORRESPONDENCE**

Chairman invited Robert Burke of the Veterans' Association to come forward. Chairman read aloud letter submitted by Mr. Burke on behalf of the Association regarding its wish that the Board recite the Pledge of Allegiance prior to the start of Board meetings. Chairman explained that, in his experience, he has not witnessed that the Pledge is recited in most Towns at Selectmen meetings. Mr. Burke indicated that he and the Veterans Council of Middleborough wish to see the Pledge recited at the Selectmen's meetings. Mr. Burke announced that old flags can be dropped off at the Veterans' Agent's office at any time throughout the year at 20 Centre Street. The Oakpoint Veterans' Association conducts a "Flag retirement ceremony" each Veterans' Day weekend in the ballroom of Town Hall. Board agreed it would recite the Pledge of Allegiance prior to the start of its meetings. The parties agreed that future Chairmen will be asked to continue beginning Board meetings in this fashion.

**NEW BUSINESS**

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to approve Common Victualler's license for Stoney's Restaurant located at 456 W. Grove Street.

Three in favor. P. Rogers abstained.

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DPW Water Superintendent R. Tinkham appeared before the Board and presented Massachusetts Coastal Railroad Rte. 28 Watermain Railway Crossing revised agreement. Town Counsel addressed Board and explained that he does not approve the form of this contract for reasons he provided in 2008, however, the Commonwealth has indicated that it will not budge on the terms of its standard contract. Town Counsel indicated that it is important for the Board to sign the agreement as the project will not proceed otherwise. Town Counsel indicated that he, himself, would not sign the agreement, noting the number of assumptions of liability as his main concern.

Selectman Spataro asked to hear the Town Manager's position on the matter. Town Manager indicated that he has experienced not being able to get simple changes made to these types of agreements and believes that the Board doesn't have a choice, but to approve, if it wants to move forward with the project.

Upon motion by Selectman Spataro and seconded by Selectwoman Dumphily, Board voted to approve the agreement as presented.

Three in favor. P. Rogers abstained.

**Taxi License for Middleborough Veterans' Outreach Center**

Chairman gave analysis of process for which one would obtain a livery license. Town Counsel addressed the Board and indicated that he was in agreement with that analysis. Town Counsel expanded by explaining that Middleborough's regulations only reference travel "from place to place within the Town of Middleborough" and is called a Taxi license under the regulation. The Town is not authorized to regulate travel outside of the Town of Middleborough, and therefore, would not regulate "livery licenses". Board questioned in what manner Mr. Thomas would track mileage/charge rates. He indicated that he would keep a written log.

Board agreed it needs to look at Taxi Regulations to make clearer for the future.

Upon motion made by Selectman Spataro and seconded by Selectwoman Dumphily, Board voted to issue Taxi license to Veterans' Outreach Center.

Three in favor. P. Rogers abstained.

Board requested Town Manager review regulations and make recommendation for rate increase.

**HEARINGS, MEETINGS & LICENSES**

Town Manager addressed Board relative to the Massachusetts Group Insurance Commission. Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to approve sending letter to Senator Pacheco and Representatives Calter, Canessa, and Straus, after minor modifications.

Three in favor. Selectman Rogers abstained.

Chairman read aloud draft letter as prepared by Health Officer Spalding relative to the Board's health concerns in relation to the proposed location of the Brockton Power Plant. Upon motion by Selectman Spataro and seconded by Selectwoman Dumphily, Board voted

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to approve the letter, which the Chairman will present to the Committee on Thursday evening.

Three in favor. P. Rogers abstained.

**OLD BUSINESS**

Town Manager presented Board with Trash Fee Analysis.

Upon motion made by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to support Town Manager's recommendation to continue to keep track of any surplus generated by the trash fee and delay any future rate increases until the accumulated surplus is exhausted.

Four in favor. P. Rogers abstained.

Town Manager to research what initial trash fee rates were based on. Selectwoman Brunelle asked T. Manager to put together a synopsis as Board has voted various exemptions that could be documented along with this analysis and be incorporated into a policy. Lincoln Andrews addressed Board and Town Manager and pointed out that residents who are paying for trash pickup are providing interest free cash to the Town. Town Manager explained that the Town holds onto the money for a very short time, however, suggested that the point is fair and should be looked into. Board thanked Town Manager for level of information he provided in the analysis and asked that it be put on the website.

Board had brief discussion regarding consideration of revisions to the Town Charter. Board agreed to appoint a Charter Study Committee to consist of 7 Citizens at Large and to draft a formal motion and bring up on March 2, 2009.

**Announcements**

Chairman announced Town Manager has requested additional time to gather more information on budget and be prepared to make recommendation on March 23, 2009.

Chairman announced that the Board would be given a copy of Water/Wastewater Feasibility Study report tonight.

**TOWN MANAGER'S REPORT**

Proposed bylaw re Marijuana use in public– requires vote of Town Meeting to approve bylaw.

TIP Amendment question – double tracking of the line – it was an MBTA request.

Balance in fund created by Rollback taxes – answer next week.

Current report – interviews complete for Green Energy Committee.

Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to approve the appointment of the following individuals to the Green Energy Committee

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for a term of three years, expiring in February 2012, as recommended by the Town Manager:

Stephen Bonfiglioli, 237 Thompson Street  
James Cook, 2 Wareham Street, Apt #8  
Charles R. Chace, 104 Wall Street  
Juli Gould, 14 Indian Meadow Road  
Brian Kowalski, 14 Indian Meadow Road  
Joseph Ranahan, 6 Court End Avenue  
Jeffrey Stevens, 1 Weston Avenue

We have received letter of retirement notice from R. Tinkham with retirement date effective 3/31/09. Town Manager will get announcement out to various Towns and their water departments.

Pole hearings – Verizon – Town Manager recommended that we will notify abutters, but no longer advertise public hearing notice. Selectwoman Brunelle expressed that it has been a long standing policy of the Board to require public hearing notice advertisement. Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to maintain its past policy and require advertisement of public hearing notice and for applicant to pay related fees.

Three in favor. P. Rogers abstained.

Chairman suggested dedicating Annual Town Report to various individuals/groups in addition to Lincoln D. Lynch, with one side of inside cover dedicated to those who have passed and the other side to those who are living such as, “In Memoriam” and “Thank you” sections. Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to include all names mentioned by Chairman.

Three in favor. P. Rogers abstained.

Town Manager offered to show Board a draft.

**OTHER**

Michael Solimini approached Board and indicated that he would like to see detail added to minutes of 2/9/09.

Chairman will look into questions raised by resident David Lemmo of 240 Everett Street regarding removing limitation “time frame” in which one must “use or lose” their access to the landfill based on permit visit restrictions. Chairman will look into and provide report in March and will also report to Mr. Lemmo.

Mr. Frawley asked:

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1. Where he can get copies of Selectmen meeting tapes. He was advised that he can contact the Selectmen's Office.
2. If we have heard response from the Tribe to the letter we sent. Chairman responded that we had not, that the Tribe is in the processing of reorganizing since its recent elections, and that the Board anticipates a meeting sometime in March. It will be on the agenda.
3. Whether or not we have a point-person representing the Board in relation to communication with the Tribe. Mr. Frawley was advised that the Town Manager is that person.

Chairman Rogers distributed the Water and Wastewater Committee Final Draft Report to the Board members for their comments. Board will discuss some time in April.

**CORRESPONDENCE**

#21 Plymouth County Extension – Town Manager will get information for Selectwoman Duphily.

#10 SRPEDD is holding a meeting on energy – Chairman suggested Town Manager mention to Green Energy Committee.

Chairman inquired status of addressing website. Town Manager indicated that he needs to meet with I.T. Director R. Brunelle to move forward. Chairman indicated that if we need to use volunteers from the Town, we should. It will be put on Agenda for end of March.

At 9:39 PM Board voted by Roll Call to go into Executive Session 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. Ended at 10 PM.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN

**Middleborough Board of Selectmen  
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 **DRAFT**

**March 2, 2009**

Chairman opened meeting at 7:04 p.m.

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

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

Chairman announced that the Town Manager will present his budget recommendations at the Board's 3/23/09 meeting.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted to approve a One-day All Alcoholic liquor license for Muckey's Liquors on behalf of Oak Point-Cranberry Chamber of Commerce for March 10, 2009 from 5 p.m. until 7 p.m. Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to approve appointment of Jayson Tracy as Animal Control Officer and Jessica Gardner as Assistant Animal Control Officer for the upcoming re-appointment period starting in April per M.G.L. Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to nominate Jessica Gardner as Animal Inspector and Jayson Tracy as Alternate Animal Inspector for this current period and for the successor period starting in March. Three in favor. P. Rogers abstained.

**OLD BUSINESS**

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted unanimously to appoint seven Town residents as members of a Town Charter Study Committee to serve a term of up to 10 months for the purposes of evaluating changes to the Town Charter and presenting a report to the Board of Selectmen for consideration, which shall include:

A Board of Health;

A Water and Sewer Commission;

Strong Town Manager duties;

A Public Safety Officer for the Fire and Police Department; and for any other issues that they deem would strengthen the Town of Middleborough's operations. The appointing authority, being the Board of Selectmen, shall fill any vacancies based on an unexpired term or the vacancy in order to maintain cycle of appointment.

Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted unanimously to allow until Friday, March 27, 2009 until 12 noon for the submission of letters of interest regarding the Town Charter Committee. Letters will be received by the Selectmen's Office and addressed at the Board's 4-6-09 meeting.

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**CORRESPONDENCE**

#17 Dick Heaton – MCAH Affordable Housing 2-26-09 meeting invitation – did anyone from our Affordable Housing Committee attend? If so, Selectman Spataro is interested in receiving a report. Secretary to send copy of correspondence to Planning.

#14 Letter from George Marra re Liquor license for Elk's Club – Upon motion by Selectwoman Brunelle and seconded by Selectman Spataro, Board voted that its secretary is to send letter to the Elk's Club asking them to address matter, if a Change of Manager application is not received by the end of this week.  
Three in favor. P. Rogers abstained.

# 15 Community Health Night announcement from the C.O.A. was read aloud by Selectwoman Brunelle.

Chairman announced Task Force meeting comments relative to Brockton Power plant – concerned about air omissions.

**HEARINGS, MEETINGS, & LICENSES**

Class II Hearing, 99 Grove Street – At 7:22 p.m. Chairman opened public hearing and read aloud comments submitted by Building Commissioner. Chairman requested copy be sent to applicant. Chairman declared hearing closed. Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to submit to ZBA for further action and has denied application, without further prejudice, at this time  
Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to issue written warning to Super Petroleum, Middleboro Petroleum, and New England Farms/Mobil notifying them that any further tobacco sale violations will result in a suspension of their licenses and for them to provide a written mitigation plan to the Health department  
Three in favor. P. Rogers abstained.

**OLD BUSINESS**

Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted to approve the Chief of Police job description as amended and modified by the Town Manager.

**TOWN MANAGER'S REPORT**

Town Manager announced OECD grant application for funds to study/implement improvements to water/sewer infrastructure, roadways, parking facilities, streetscape for the Everett Square Centre Street Revitalization Project (see attached). Application deadline is 3/13/09. Public hearing to be held in Selectmen's hearing room on 3/12/09.

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Town Manager noted that the Board's secretary has provided the Board with the new Town of Middleborough Taxi fare rates.

At 7:41 PM Chairman opened public hearing on Class II application filed by Tiffany Cesero by reading aloud the public hearing notice. Chairman read aloud comments submitted by Building Commissioner in which he indicates his support of license if the vehicles are moved to abide by Zoning bylaws. Board heard from applicant who expressed wish to supplement her income by obtaining the Class II license. Chairman suggested she visit with the Assessors and talk with Building Commissioner, sketch out his recommendations, get him to approve it, notify Board's secretary and continue hearing. Nicole Lewis, abutter from 45 Wareham St., addressed the Board and asked if Class II means car sales. Applicant indicated yes. Abutter indicated she was satisfied with answer. Upon motion by Selectman Spataro and seconded by Selectwoman Brunelle, Board voted to continue hearing until such time as applicant has information to move forward.

Three in favor. P. Rogers. Abstained.

**HEARINGS, MEETINGS, & LICENSES**

Superintendent of Schools Robert Sullivan addressed Board to give presentation of Stimulus projects in relation to the Schools.

Selectwoman asked if Board needed to take any action regarding GATRA letter mentioned in Town Manager's Report. Selectwoman Brunelle read letter aloud. Town Manager indicated he would draft a letter for next meeting.

Board heard from the Permanent Cable Committee and discussed general information regarding Peg Access and the anticipated audio improvements in the Selectmen's hearing room.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to adjourn meeting at 9:15 pm.

Three in favor. P. Rogers abstained.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN