

MINUTES

For approval at the 4-13-09 meeting

**Middleboro Board of Selectmen
Meeting Minutes**

April 6, 2009

Chairman opened meeting at 7:00 pm and introduced and welcomed new members Stephen J. McKinnon and Alfred P. Rullo. Chairman invited those in attendance to join in the Pledge of Allegiance.

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

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board voted to approve 3-30-09 meeting minutes.
Two in favor. P. Rogers, S. McKinnon and A. Rullo abstained.

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board voted to approve 3-30-09 Executive Session minutes.
Two in favor. P. Rogers, S. McKinnon and A. Rullo abstained.

ANNOUNCEMENTS

Chairman announced that Executive Sessions have been released and are posted to the Town's website.

Board's secretary called for nominations for Chairman.
Motion made by Selectwoman Brunelle and seconded by Selectman McKinnon to nominate Patrick Rogers as Chairman.
Four in favor. P. Rogers abstained.

Board's secretary called for nominations for Vice Chairman.
Motion made by Selectwoman Duphily and seconded by Selectman Rullo to nominate Marsha Brunelle as Vice-Chairman.
Four in favor. M. Brunelle abstained.

Board took brief recess to allow press to take photographs of Board members.

Chairman welcomed Stephen J. McKinnon who spoke and thanked Steven Spataro for his years of service on the Board of Selectmen, thanked his supporters and all of those who came out to vote at the elections. He shared that he looks forward to working with the Board of Selectmen for the next three years.

Alfred (Al) P. Rullo, Jr. thanked those who had voted for him and noted that it is a humbling experience to be seated on the Board of Selectmen. He congratulated Greg Stevens and noted that he had run a very good campaign. He indicated that he is committed to making transparency a top priority while he serves on the Board.

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NEW BUSINESS

Town Manager recommended June 8th to hold the Annual Town Meeting. Board confirmed with Town Moderator Wayne Perkins that this date is good. The Board's secretary to confirm school availability. Al Rullo will not be able to attend as he has previous commitment.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to set June 8, 2009 as the date to hold the Annual Town Meeting.

Four in favor. P. Rogers abstained.

Chairman read aloud the names of the top six candidates for Chief of Police as follows:

Peter Andrade, currently Lieutenant, Town of Middleborough
Matthew M. Clancy, currently Chief of Police, Town of Plympton
Walter Crickard, currently Lieutenant, Town of Mansfield
Bruce D. Gates, currently Lieutenant, Town of Middleborough
Joseph J. Rebello, currently Chief of Police, Town of Kingston
Otto F. Rhode, Jr., Chief of Police, Town of Berlin

Chairman announced dates of interviews as being Wednesday, April 22, 2009 beginning at 7 p.m. and Saturday, April 25, 2009 beginning at 8:15 a.m.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to approve Theresa H. Scott as Manager to the Middleboro Elks Club.

Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to approve April 19th rental of the Town Hall auditorium for Nemasket River Productions.

Four in favor. P. Rogers abstained.

HEARINGS, MEETINGS & LICENSES

Vicious Dog Complaint - Eric Bagge, 120 Fuller Street

Chairman read aloud letter of recommendation by Middleborough Animal Control Officer Jayson Tracy regarding Vicious Dog Complaint against Eric Bagge, 120 Fuller Street. Board heard from Mr. Tracy. Board heard from Lauren Barnes, owner of the horse that had been attacked by Mr. Bagge's dog. Mr. Bagge has not paid for the medical expenses incurred. Board heard from Mr. Bagge who stated that his dog did break its lead in the past and went after another horse, however, his dog was returned to Mr. Bagge by the owner of that horse. According to Mr. Bagge, the incident with Ms. Barne's horse was a one time occurrence and it was unfortunate. He does intend to pay for the medical expenses. The incident cost him approximately \$5,000. It was his fault that the dog got out that day and had he been able to stop the attack, he would have. The dog was kicked many times and should have been killed. He's been told that the horses have been on his property in the past. According to him, the horse was not in its stall, but rather coming out of the stall. He believes that by spending the money that he has spent on medical care

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for his own dog, it shows that he really cares about his dog. He leaves early every morning and returns each night. He has a gated property.

Selectwoman Brunelle indicated that based on what she saw from the photographs, she believes the dog should be removed from the property as it is a threat to the neighborhood.

In response to questions raised by Selectwoman Duphily, Mr. Bagge indicated that although he was home when the attack occurred, he could not stop it because of the danger posed by the horse and the possibility of being kicked himself. Selectwoman Duphily asked what if the dog had attacked a child. Mr. Bagge indicated that the veterinarian told him it is a common occurrence that dogs attack horses, but that this dog has never attacked a human. He indicated that the dog is not licensed or registered, but that he does have additional insurance as required when having a pit-bull on the property. In response to question posted by Selectman Rullo, Mr. Bagge confirmed that the attack happened off of his property. Selectman Rullo indicated that he views the attack as vicious and has concerns that the dog may attack again. He questioned where the dog would go if removed from its owner's property. Chairman Rogers indicated that he finds this type of incident reprehensible and noted that Fuller Street is full of animals.

Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted to order that the dog be euthanized and not moved to another town.

Board heard from Jayson Tracy who explained that Mr. Bagge does have the opportunity to find someone else to take the dog into another community, that Mr. Tracy would inform that town of the dog's history, and the town would have the ability to accept or deny the dog.

Three in favor. Selectwoman Brunelle and Selectman McKinnon opposed.

A statement was read by Tracey Miller on behalf of Mr. Langren who could not be present for the hearing. The statement indicated that Mr. Langren was present during the attack. He heard intense yelling during the incident. He saw the owner attempting to separate his dog from the horse. Mr. Bagge brought his dog home and returned to assist with the horse's injuries. Mr. Langren feels that the dog is a menace to the animals in the neighborhood.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to amend previous motion to establish that Mr. Bagge be given two weeks period of time to have the dog euthanized, allowing him the opportunity to appeal.

Unanimous.

Verizon & MGE Pole location hearing - Titicut Street.

Chairman read aloud the public hearing notice for application made by Verizon and the MG&E for the placement of a new pole – Pole 4A on Titicut Street. Property owner seeking the pole, Mr. DeGrasse, appeared before the Board and explained that he had lost his home due to an electrical fire in January 2008. Chairman asked to hear comments from the audience. Hearing none, Chairman declared the hearing closed.

Upon motion by Selectwoman Brunelle and seconded Selectman McKinnon, Board voted to approve location of new pole.

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Four in favor. P. Rogers abstained.

Belbens Auto Repair- Consideration for Revocation of license

Chairman read aloud reasons provided for consideration of revocation of License for Land Storage, Manufacture or Sales of Explosives; Certificate of Approval; Record; Certificate of Registrations; Fees; Replacements and Alterations of, and Regulations for Buildings for Belbens Auto Repair, 760 Centre Street. Board heard from Fire Chief L. Benjamino who educated the Board as to the history leading up to this hearing. Chief Benjamino provided photographs of the property. He expressed concern for health issues and safety issues. Also waste oil tanks inside and outside of the building and the building is within 100' of wetland area. The only response the Chief has received has been from an attorney verbally that he has offers for the purchase of the property. Taxes are behind \$3,500 plus. Chief indicated that the goal is to get the property cleaned up. No representatives from Beldens present.

Attorney Kelly, representing potential buyer was present and addressed the Board and indicated that he has a purchase and sale in process. The continued economic business would be beneficial to the Town. At this time, the proposed buyer has no liability and would take on none, unless it would be financially to his benefit. He does know that there is some superficial contamination above ground. His client wants to help the Fire Department. Attorney Kelly indicated that the present owners of the property are Jacqueline and Stephen Flood both of whom he believes reside in the Carolinas. He indicated that he believes, based on what he knows thus far, they have abandoned the property and would most likely not resolve the issues easily. Attorney Kelly asked the Board to consider allowing his client to move forward with the Purchase & Sale and continue this hearing to allow for the opportunity to address the issues.

Mr. Wood of the Fire Department addressed the Board regarding Certificate of Compliance.

Fire Chief thinks this would be the best solution by allowing these folks the chance to clean up the area. He thinks it is in the Town's best interest to work with these folks in an attempt to resolve the situation.

Town Manager recommended they come back in a week showing that they've removed the barrels.

Attorney Kelly indicated that within a week, he and his client would:

- Retain experts;
- Have experts evaluate property;
- Remove barrels;
- Be in touch with Drake Petroleum

Fire Chief indicated that the property has been abandoned for two years already. Department of Fire Services wants contaminants removed from the ground, along with the waste oil, within 24 to 48 hours from this hearing.

Selectwoman Brunelle noted that the Town has no recourse even if it were to revoke the license and that it has no way to remove the contaminants itself.

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Chairman indicated that DEP has 1,000 of these cases and will chase the owner for a long time. Phase I assessment is what he believes is being suggested here. By bringing in the LSP, it can review and make recommendation/plan. Attorney Kelly is willing to pay at least \$5,000, at this point, towards correcting outstanding issues.

Chairman indicated that it's more important for them to come before the Fire Department, as the regulatory department, more than the importance of coming before the Board of Selectmen.

Town Manager indicated that lifting any pressure to get product out of the ground immediately is a risk to the Town and it will cost very little for the removal. He urged the Board to have it removed now.

In response to question by Selectwoman Brunelle, Attorney Kelly indicated that his client would be willing to use part of the money to remove the product, however, he would like to have tanks tested with a portion of that money.

Attorney Kelly explained that the purchase price covers the first mortgage and that the attached creditor is almost completely whole. Town Manager recommends not giving up the leverage, which the Board has at this time. He has been involved with tank testing before and although the tests showed no leaking, once pulled, it was discovered that the tanks had leaked into the ground. Chairman indicated that he doesn't think it's going to cost anyone money as the product has value. In response to question by Selectman Rullo, Attorney Kelly indicated that he can commit this evening to having the product removed as long as it does not exceed the budget of \$5,000. Chief would like to see the product removed from the ground first followed by the removal of the waste oil. He's concerned with what he can't see underground. In response to question by Selectman Rullo, as to how long it would take to make assessment to see if \$5,000 would be enough, Attorney Kelly responded that he will make it his number one priority.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to continue hearing for one week, requested that product be removed no later than **Thursday, April 9, 2009**, that the Board receive a status report by the Fire Chief within one week and agreed it can make a determination at that time whether to continue hearing again.

Four in favor. P. Rogers abstained.

Chairman asked to hear comments from the audience. A gentleman asked how much the Town would be charged if something happens in the meantime. Selectwoman Brunelle explained that the Town does not own the property, therefore, would not be liable. Chief confirmed he believes that to be accurate.

Conservation Agent P. Cassady made point that Never Touch pond is nearby and wetlands and that this is concerning to the Commission. She noted that if there is any remediation needed after assessment, they would have to file a notice of intent first if it is within 100' buffer zone. Catherine Hasset indicated that the Health Agent had been at the inspection and that the Chief had covered most everything. She added that the rubber tires need to be removed, vehicles and vehicle parts, hazardous materials, buckets or anything that can collect water which will provide for increased mosquito problems. See Attachments.

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Edward Byrne Memorial Justice Assistance Grant – Public Comments

Chairman explained that, at the moment, this is just an application and would need to be addressed in the future. Chairman asked if anyone would like to comment.

This grant is being used to cover an existing position and it will assist with current financial difficulties. It is part of the stimulus package. Town Manager explained that this helps next fiscal budget. Finance Committee Chairman Rich Pavadore addressed Board and indicated that his committee met with the Police Chief who confirmed that this is basically just a grant coming in with no strings attached. Town Manager said having a public comment period is a condition of receiving the grant and that the Town has met all of the requirements of the grant.

Fire Department Budget

Board heard from Fire Chief L. Benjamino regarding the Fire Department proposed FY10 Fire department budget. Selectwoman Duphily removed herself from participating in the discussion by moving to a seat in the audience. The Chief indicated that the department can't afford to reduce its firefighter staff as it needs to maintain its minimum man power to respond to calls that the department receives.

Chief indicated some expense items he would be cutting:

- Reduction in holiday pay in hopes that not every member would request that day.
- Uniforms are contractual but can reduce by \$
- Longevity – reduce by \$500 as at the moment only paying one person for longevity.
- Would make up the rest in small amounts in various areas.

The Chief is concerned that only 100k has been budgeted, but the department expended 170k in the previous year. Chief explained that the Town can't afford to lay off firefighters as, again, manpower is needed and also overtime expense would become problem. He is currently looking at operational procedures. In response to question by Selectman McKinnon, Chief indicated that the Town bills insurance companies for auto accidents only if it involves hazard cleanup. In response to question by Selectman Rullo, Chief indicated that our staffing levels are comparable to surrounding towns, however, that we are understaffed compared to the Town of Bridgewater. In response to question by Selectman Rullo, Chief indicated that if we had the ability to increase Call staff, it would not help alleviate expense due to contract obligations. The Chief does, however, advocate having increased Call Firefighters to put more personnel on the fire ground. Chairman thanked Chief Benjamino.

Town Manager will talk with Steve Dooney about AMR regarding \$2,400/month. Money is saved in the unclassified budget and not in the Fire Department budget. Selectman McKinnon asked Town Manager if it is possible to do an offset where cash comes in from other areas where it is just considered an offset. Town Manager responded that it could be; that it's an interesting thought.

R. Pavadore offered opinion that Fire Department budget should reflect what it costs to run three fire stations and any other revenue should just be bumped up to match what is being paid out.

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M. Solimini asked if the \$2,400 includes South and North Middleboro and what the square footage is. He did research and seems rate per square footage is a little low. Chief said three spaces are being utilized. Mr. Solimini clarified that his question is about the space we are leasing and that we need to find out if number is adequate for \$2,400. Fire Chief also noted that personnel utilize building space as well. Selectwoman Brunelle agreed that Mr. Solimini raised valid point and that it does need to be looked at in next contract discussion.

OLD BUSINESS

Chairman raised matter re SRPEDD and Technical Assistance--various categories. Town Manager will pursue.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to appoint Mr. McKinnon as the SRPEDD delegate.

Three in favor. S. Rogers abstained

Board's secretary to send letter to Stephen Smith notifying him of appointment.

Chairman asked Board's secretary to following up regarding Jack Healey's appointment - JTPG.

TOWN MANAGER'S REPORT

Town Manager provided a list of communities and what each spent on snow and ice removal this past winter. It was noted that we have the lowest cost per mile. Town Manager noted that Mr. Boucher is using his resources very efficiently. Chairman noted that Mr. Boucher as done admirable job. Selectwoman Brunelle would like discussion in near future regarding plowing of private roads. Town Manager is preparing information to address later this month.

T. Mgr. been talking with Roger Brunelle about bringing on a consultant to work on the appearance of the Town website. Town Manager hoping to use same consultant he used in Hingham. He hopes to have something to tell the Board in two weeks re the revitalization of the site. Town Manager noted that department heads A. Nalevanko and D. Bowker have offered to assist. Chairman noted that this has taken too long and wants Town Manager to hire someone and get it done.

Selectman Rullo recollected that there were people in the Town of Middleboro who had volunteered to help with the website. Town Manager offered that, while he appreciates the offer of help, he has always been clear on how he wants to do it. If he is going to get the criticism, he wants the control of it as well.

Selectwoman Brunelle noted that the department heads haven't taken advantage of putting information up on the website, i.e. applications, etc. It's not just the Town Manager or the I.T. department. All departments have to buy into this and take responsibility to post information.

Town Manager noted that appearance and content are key. The website needs to be made more user-friendly. He agreed that it will require everyone's participation with proper

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training and indicated that people will most likely be designated in departments to post data. Chairman indicated that we need the Town Manager to move ahead with it. In response to question by R. Dunphy, Town Manager indicated that the consultant cost of \$3,000- \$3,500 is initial one-time cost.

Selectman McKinnon asked Town Manager if each department would then have a sub-administrator to upload information. Town Manager responded that each department may not necessarily have someone, but perhaps I.T. or another department to post for them.

Selectman McKinnon asked if Town Manager ever considered sending over to the library or school department to handle functionality. Town Manager responded that he thinks we have the ability to do within the departments.

R. Dunphy asked if this was going out to bid. Chairman and Town Manager responded that it does not have to be.

R. Dunphy asked what recurring cost is. Town Manager does not know right now.

Town Manager and Chairman, subsequent to their meeting with SEMASS are thinking of forming a workgroup to look at the proposal from SEMASS on modifying our agreement. Selectman Rullo would like to volunteer and recommends appointing a member of the Finance Committee. Chairman read list of names of others who are interested. Chairman asked Town Manager to be the lead and hear from those interested before finalizing a list in two weeks.

OTHER

Motion made by Selectman McKinnon that the Board follow Robert's Rules of Order for future meetings. No second heard. Motion did not carry.

Selectman McKinnon noted that we are having Tribe representatives in next week. Chairman confirmed. Selectman McKinnon asked if we want to have the Resort Advisory Committee in also. Town Manager will send email to the Resort Advisory Committee that it will be an introductory meeting and that they are welcome to attend.

Selectwoman Brunelle noted that Town Meeting Warrant articles should be scheduled for future discussion.

Mr. Frawley addressed the Board and noted that he had read an interesting article in the Globe on Sunday re MA School Buildings.org. They are giving out free money for schools and repairs. He wanted to know if we were part of that program. Town Manager reminded Board it did have School Superintendent in to sign off on a beginning portion of a future school improvement project. These things are a multi-year commitment. If you look at their financials, they are running behind where they should have been in terms of resources with loads of projects.

It's not as favorable a program as it used to be. State funding is considerably lower than it used to be, but there is an application already started.

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Mr. Frawley asked if we can get better advertise Town Elections in the future. He will raise the issue again in the future.

M. Solimini asked for status of vehicle evaluation updates. Town Manager addressed question.

M. Solimini asked if we track mileage and fuel costs. Town Manager noted that the current system doesn't track that well, but that the system we are installing now will track better.

M. Solimini asked how we define if a Town employee gets a vehicle. Town Manager indicated that he does not know as he is new and would have to find out. Selectwoman Brunelle indicated that it is based on effective use, justification, amount of use, what use was for and cost effectiveness.

Cheryl Leonard addressed the Board and paid compliment to whomever has recently cleaned the Town sidewalks and streets and raked the berms. She doesn't know who is responsible, but we should be thanking someone.

CORRESPONDENCE

A.R. - #19 budget reduction suggestions by the Finance Committee – he thinks it was a good job and acknowledged the Finance Committee and asked that the Town Manager is following up to which he indicated he will be.

A.R. #22 Town Counsel letter re pole policy – will review in future

M.D. #13 Plymouth County Extension re Asian Longhorned Beetle – who would be watching over? Conservation Commission?

M.D. #17 Greener Horizons Landscaping company offering services – she would like to call and work with him on a couple of gardens in Town that she is working on.

M.D. #3 – Tolosko letter re meeting – question for Tribal members – will be addressed on 4-13-09.

M.B. #10 Read aloud announcement re Planners' Forum on Land Use - Community Planning Act - scheduled for 4-15-09 at Town Hall.

M.B. #19 Finance Committee budget reduction recommendations - She is perplexed by some of the suggested budget reduction recommendations made by the Finance Committee.

Pertaining to the Fire Department, Police Department and Selectmen's secretary, if anyone has taken the time to speak with the department heads, they would know that the suggested reductions are not feasible. If anyone has taken any time to sit with these people at any time, they would know that these individuals have a full workload. In

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addition to that, there are confidential matters that you could have some concern as to whether that information would be any kind of a conflict with any of the Boards. The Board of has a contract directly with its secretary. The other two positions are not currently part of a union. It is factually untrue that any police department clerical position is being paid \$73,000. It is concerning when it comes from Finance Committee as it could be misconstrued to be factual by the public. We currently have a Chief Procurement Officer, which is the Town Manager.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to adjourn meeting at 10 pm.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN