

MINUTES

For approval at the 3-8-10 meeting

 **DRAFT**

**Middleborough Board of Selectmen
Meeting Minutes**

February 22, 2010

Chairman opened meeting at 7:00 PM by inviting those in attendance to join in the Pledge of Allegiance.

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

Upon motion by Selectman McKinnon and seconded by Selectwoman Duphily, Board voted to approve 2-8-10 meeting minutes.
Three in favor. P. Rogers abstained.

Upon motion by Selectman Rullo and seconded by Selectman McKinnon, Board voted to approve 2-8-10 Executive Session meeting minutes.
Three in favor. P. Rogers abstained.

ANNOUNCEMENTS

The Health Department will hold H1N1 clinics every Friday. In addition, an H1N1 clinic will be held on 2/19/10 for ages 4+ from 9 a.m. to 4:30 p.m. in the Health Office, 20 Centre Street, 2nd floor (Eastern Bank building).

Selectman Rullo announced that there will be a dedication of the Michael Downing House this Saturday. A group of volunteers had constructed a house for Staff Sergeant Michael L. Downing who had sustained life threatening injuries while at war. Selectman Rullo noted that he plans to attend and notified the remaining Board members that they are also invited.

NEW BUSINESS

Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted to approve use of the Town Hall grounds by the Rotary Club on 7/10/10 for its annual Arts & Crafts Fair. Selectwoman Duphily disclosed that her husband is a member of the Rotary Club.
Three in favor. P. Rogers abstained.

Chairman noted that there will be future discussion on the waiver of fees re Town Hall rentals.

Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted to approve rental of Town Hall on 3/28/10 from 12 Noon until 8:00 PM by Miss Massachusetts with a waiver of fees and the understanding that Selectwoman Brunelle will act as security personnel.
Board requested that sign be placed on/near piano announcing that it not be moved.
Three in favor. P. Rogers abstained.

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Upon motion by Selectman McKinnon and seconded by Selectwoman Duphily, Board voted to approve Betterment Agreement for Patrick & Pamela Caffrey, 502 Wareham Street in the amount of \$10,425.00.
Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Duphily and seconded by Selectman McKinnon, Board voted to approve Betterment Agreement for Kevin & Maressa Barry, 4 Terrace Road in the amount of \$17,840.00.
Three in favor. P. Rogers abstained.

Upon motion by Selectman Rullo and seconded by Selectman McKinnon, Board voted to approve Betterment Agreement for Stephen & Adele Lee, 149 Chestnut Street in the amount of \$24,805.
Three in favor. P. Rogers abstained.

Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted to approve 2010 Constable appointments of those individuals as listed on the attached, except for Mario Diliddo, subject to acceptable CORI reports and confirmation of current bonds on file with the Town Clerk's office.
Three in favor. P. Rogers abstained.

OLD BUSINESS

Upon motion by Selectwoman Duphily and seconded by Selectman McKinnon, Board voted not to grant request by Attorney John J. Gushue on behalf of Mrs. Holton to reopen hearing held on 2-8-10.
Three in favor. P. Rogers abstained.

NEW BUSINESS

Town Manager thanked Town Accountant Steve Dooney for putting together Six-month Financial Report. Town Manager reviewed report with Board. Selectman Rullo also thanked Town Accountant. Town Accountant and Town Treasurer were not present as they were in attendance at a meeting of the Finance Committee.

HEARINGS, MEETINGS, LICENSES

Chapter 61 Land – 110 Precinct Street, Map 23, Lot 1

Selectwoman Duphily recused herself from participating in discussion and voting on this matter. Attorney provided written documentation from the Board of Assessors that indicated that there are no Rollback Taxes or conveyance taxes due. Chairman read aloud Board of Assessor's letter. In response to question asked, Attorney Kelley explained that it was an oversight that the Town had not been notified sooner. He further noted that he wasn't involved at the time.

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Upon motion by Selectman Rullo and seconded by Selectman McKinnon, Board voted unanimously not to exercise the Chapter 61 Forestry Tax Program Option for the Nielsen property, Lot 1, being a portion of Assessors Map 23 located on Precinct Street.

Well Variance Discussion – 31 Atwood Ave.

Kevin Walker appeared before the Board – revised system (distance of wells). They meet standards for maximum contaminants. He talked to DEP about number of bedrooms. If it already qualifies as two bedrooms under Title V, and he designs it at anything less, he will be at risk if something fails. The regulations are very clear. Technically he can't make any changes. Chairman clarified that he could design one-bedroom with 500 gallons. Mr. Walker agreed. Selectwoman Duphily asked Mr. Walker what Title V requires re heat. Mr. Walker did not know the answer. House owner/applicant, Eugene Main, addressed Board. He indicated that the house is a two-bedroom home and has been for three families prior to him. Catherine Hassett addressed Board and explained that she and Mr. Main had discussions on this before. She further noted that the Assessor's Office does indicate that this home is a one-bedroom with an unheated porch. The Health Department has not received any well results. She also acknowledged abutter John Fahey of 12 Woods Lake Terrace as being in attendance. Chairman explained that well test results have no value unless you test over a period of time and are able to compare over time. Applicant, Eugene Main, offered that there isn't any heat in the porch and none in the other bedroom, but rather one central heater in the center of the room heating all of the other rooms. Health Officer J. Spalding noted that the Building Department has an issue with this home, specifically, that it is a one-bedroom house. Permits have never been pulled to make it a two-bedroom. Abutter John Fahey expressed concerns regarding the proximity of the septic system to his well. Engineer K. Walker acknowledged that the home's car port was recently removed, and therefore could move septic system up five feet towards Atwood Ave, but he doesn't know what is under the former car port area. Chairman noted that five feet is not valuable. Chairman explained that the applicant doesn't meet the 200' rule and would be endangering the neighbor's wells. He reminded the applicant that the Town has identified the house as a one bedroom.

Upon motion by Selectman McKinnon and seconded by Selectwoman Duphily, Board voted to approve septic system for the above referenced property under the following guidelines: with a deed restriction specifying as a one-bedroom home, reducing size of leaching to a one-bedroom septic system and the well sampling and testing of all wells located less than 100' from the septic system to be collected and tested by a certified laboratory for a two year period at the expense of the homeowner.

Three in favor. P. Rogers opposed.

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Chairman welcomed Dr. Sullivan and noted that he was disappointed to learn of Dr. Sullivan's announcement that he will be retiring.

Dr. Sullivan began FY'11 School Department budget discussion and introduced School Committee members Mr. Pilla, Mrs. Martin, and Mrs. Cedarholm as well as Assistant Superintendent Mrs. Craig and Director of Business and Finance Mr. Tatro. Dr. Sullivan noted that the School Committee has designed a questionnaire, which can be found on-line and at Town Hall for those residents who have questions regarding the Proposition 2 1/2 Ballot question. These questions will be answered at a meeting scheduled for 3/9/10 at 7 PM at the Nichol's Middle School. New questions will also be welcomed at the meeting. See attached. Chairman noted that Dr. Sullivan had provided an Impact Sheet, which, according to Dr. Sullivan, would be posted on the Town's website tomorrow. Dr. Sullivan also noted School Committee member Paul Hilton as being present. Chairman thanked Dr. Sullivan for his presentation. Dr. Sullivan asked that the Townspeople vote on Proposition 2 1/2 based on facts and not on only what they hear. Upon motion by Selectman Rullo and seconded by Selectman McKinnon, Board voted to approve language of Draft Proposition 2 1/2 Override Question for the 4/3/10 Annual Town Election.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted unanimously to authorize a cost-of-living pay increase for FY10 for the Town Manager. Three in favor. P. Rogers abstained.

Town Manager noted that he would like to do his part and will not accept a raise for this year as he is aware of the fiscal position of the Town. He thanked the Board for its offer and support.

TOWN MANAGER'S REPORT

Town Manager gave brief review of the following Articles being prepared for Annual Town Meeting:

MG&E

- land in South Middleborough

Dog Excrement by-law

- potential alternative to creating bylaw, such as public education
- conflicts with trash rules

Earth Removal By-laws

- charging fee for engineer review
- allowed length of permit

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Town Manager read aloud draft letter addressed to Wampanoag Tribal Chairman Cedric Cromwell. After brief discussion on the matter, the following vote was taken. Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted to send letter with correction re Obama administration. Three in favor. S. McKinnon opposed.

OTHER

Allin Frawley addressed Board and asked Board if we could ask Attorney Dennis Whittlesey what the Town can do if the Tribe decides to go someplace else. Chairman noted that matter will be discussed in March when all members are present and after response is received from Tribe.

In response to question by Allin Frawley re Rte. 44, Town Manager noted that he, Chairman Rogers, and R. Geoffroy will be meeting with the Lt. Governor on Monday and suggests talking about at future meeting to discuss local support for Rte 44. Need common strategy. Town manager asked Mr. Frawley to give the Town a week or two. Mr. Frawley agreed.

Bob Denise addressed Board to say that he had gotten signatures for acceptance of Gibbs Road as a Town accepted road. Town Manager noted that he needs to meet with him to go over necessary steps, including road layout procedure before Board of Selectmen. Town Manager will call Mr. Denise and set something up soon.

CORRESPONDENCE

#14 SRPEDD Park N Ride Study –Town Manager intends to meet with Town Planner to go over.

22 House Bill 2509 requests letters of support re Health Insurance Reform – Selectman Rullo urges everyone to do that

#24 Charter Review Committee – mite be conflict between proposed language in new section K and in section F in the existing Charter. Town Manager to look into.

#10 MA Arborists Association announcement – send to A. Nalevanko

12 NSTAR will be treating with herbicides along power lines.

#16 Defoliation – winter moths – list of suggestions is available in Selectmen's office.

It was noted that none of the Board members were able to open the MA Bay Salt RR Crossing email, to which they responded that they could not.

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Selectman McKinnon noted that SRPEDD meeting is this Wednesday night – he will make another stab at Rte. 44.

#11 Census - bill was sent to Treasurer for processing.

#15 Comcast Infinity change in product names - have Cable Committee look at. Copy has already been sent to Committee.

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

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN