

MINUTES

For approval at the 6-21-10 meeting

Chairwoman opened meeting by inviting those in attendance to join in the Pledge of Allegiance.

In attendance were M. Brunelle, A. Rullo, M. Duphily, S. McKinnon, and S. Spataro.

 DRAFT

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 5/24/10 meeting minutes.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 5/24/10 Executive Session meeting minutes.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 6/7/10 meeting minutes.

NEW BUSINESS

Upon motion by Selectwoman Duphily and seconded by Selectman McKinnon, Board voted unanimously to approve request for the Middleborough Veterans' Council to hold Forget-Me-Not Drive on 7/3/10. Donations may be sent to Robert Burke, 2505 Fox Run, Middleborough, MA 02346. Checks should be made payable to Disabled American Veterans Chapter 57.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve Town Hall rental for Boy Scouts of America Troop 96 Brendan Gaulin for an Eagle Scout Court of Honor to be held on 8/14/10 from 3 PM until 8 PM.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to declare Kabota Lawnmower as surplus equipment as requested by Water Superintendent Joseph M. Silva.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve Common Victuallers license for China Sails, Inc., 3 East Grove Street, with hours of operation being Sunday through Thursday 11 a.m. to 10 p.m. and Friday & Saturday 11 a.m. to 11 p.m., subject to final inspection by Board of Health.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to postpone request for One-day Liquor license to N.E. Bartending Service for Nemasket River Production event on 6/7/10.

OLD BUSINESS

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to appoint Alfred P. Rullo, Jr. as the Board's MBTA Advisory Board representative.

HEARINGS, MEETINGS & LICENSE

Ed Beaulieu addressed Board to give an update on Project Lifesaver, noting that it will be up and running very soon. Bracelets are worn by people with Dementia or Autism or anyone who may tend to "wander". It has a 100% success rate in locating the missing person. The average search time worldwide, for someone wearing a bracelet, has been 30 minutes. The "Future of Middleboro Trust" is the funding agency, however, if someone needs a bracelet, they can be purchased for \$300.

There is an additional \$10 per month maintenance fee to cover batteries and monthly maintenance of the bracelets. The agency asks that any bracelets that are no longer needed, be given back to the agency so that they may be recycled for someone who may need it. Mr. Beaulieu may be reached by his cell phone at 774 526-2905 or by email: ed@foursplus.com.

Arthur Blair, applicant for Town Constable, indicated that he is looking to “give back” to the community as the reason he would like to be a constable. Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted unanimously to approve appointment of Arthur H. Blair, III of 11 Robinhood Avenue as Constable for the Town of Middleborough.

Upon motion by Selectman Rullo and seconded by Selectman Spataro, Board voted unanimously to appoint Stephen J. McKinnon as the Board’s representative to the SRPEDD Commission Southeastern Massachusetts Metropolitan Planning Organization (MPO) for a two year term commencing on 8/1/10.

TOWN MANAGER’S REPORT

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support the Town Manager’s request and sign letter addressed to State Senate President Therese Murray and Speaker of the House Robert A. DeLeo opposing the recent Senate action in its version of the budget, outside section 70, which purports to address the issue of plan design. Upon suggestion by Brian Giovanoni, Town Manager agreed to also copy letter to Senate Minority leader.

HEARINGS, MEETINGS, & LICENSES

Chairwoman Brunelle opened public hearing on application made by Eric Schneider for a Class II Automobile Dealer’s license, 352 Wareham Street by reading aloud the public hearing notice. Elliott Schneider presented Board with plans and explained application on behalf of his son Eric and himself. Chairwoman asked to hear any objections from those in attendance. Hearing none, Chairwoman declared hearing closed. Upon motion by Selectman Spataro and seconded by Selectman Rullo, Board voted unanimously to approve Class II license for the sale of 45 vehicles only, with hours of operation being Monday - Friday 8 a.m. to 8 p.m. and Saturday & Sunday 8 a.m. to 6 p.m., no repairs, and maintaining a buffer of at least 25’ as agreed to with abutters, subject to the Building Commissioner verifying that there is sufficient space for the 45 vehicles and the Fire Chief verifying that there is adequate access should a fire occur.

Tobacco Sale to Minors Hearing:

7:30 PM - Sunoco, 157 South Main Street

No representative from Sunoco was present.

Health Officer Jeanne Spalding addressed the Board and noted that the Health department worked with Middleborough Youth Advocates who found some grant money to help fund the 5/6/10 inspections of all business in Town that the Town permits for the sale of tobacco. She noted that although our percentages overall are good, we still have some merchants selling tobacco to minors.

Health Officer reviewed past decisions by the Board included written violation and written mitigation plan by the business owner to the Health department. Any suspensions are to include

the removal of all tobacco and signs of tobacco sales by the merchant for the time period that their license is suspended.

Amanda Decker Middleborough Youth Advocates Coalition Coordinator spoke and noted that the youth in Town inform her that it is easy to purchase tobacco in Town.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to suspend Sunoco's license to sell cigarettes for three days, specifically, 7/3, 7/4, & 7/5.

7:50 PM - Stop 'n Save - 158 Centre Street

Store owner Banaras Khan spoke. Health Officer noted that she does not have his name on record. He is required to add his name to the license, update all paperwork and contact information through Health department.

They are asking anyone who appears under the age of 27 for identification. This is the first time that this has happened. This will never happen again. Chairwoman asked if they know why this happened. Store Manager, Madhav Pokharel said that they do not know. The tobacco was sold by a male adult. They will put in cash register program that will require the input of someone's birth date prior to the sale of tobacco to that individual. Health Officer will follow up by Friday as to the status of the program and she asks that Stop 'n Save also provide written mitigation plan to the Health department. Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted to issue a written warning, have the merchant develop and provide a written mitigation plan to the Health department and require licensee install cash register program to determine age of individual asking to purchase tobacco. Health Officer is to follow up on the status of the cash register program.

Four in favor. S. McKinnon opposed.

8:10 PM - Gas Depot, 5 Station Street

Health Officer's recommendation is that they not sell tobacco products from the island (gas station filling area). Mrs. Ghafoor said that she is unaware of the cash register program, but she is going to find out what it is and she is going to get it. They will install program within 30 days. Upon motion by Selectman Rullo and seconded by Selectman Spataro, Board voted to issue a written warning, require written mitigation, and require installation of the cash register program within 30 days. Chairwoman offered that if there are any problems such as shipping, they can work with the Health Officer to resolve within a reasonable period of time.

Four in favor. S. McKinnon opposed.

Attorney Craig Medeiros addressed the Board to explain request on behalf of his client for a new Fuel Storage Permit at 154 Thomas Street. The original certificate cannot be located. The Town Clerk's Office and the Fire Department do not appear to have a copy on file. His client had received a reminder notice from the Town Clerk notifying him that the new regulations as of December 2008 require that the permit be posted in public view. This is when he became aware that he could not locate his permit. Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve a license for the Storage of Fuel for Woods Pond Cranberry Company.

8:30 PM - Super Petroleum, 381 West Grove Street

Aaron Cutler, General Manager for the entire operation addressed the Board and explained that his employee had asked for identification, but had not followed through. They have issued a written warning to the employee. They follow the "We Card" program under which they are supposed to card anyone who appears under the age of 27. They have a protocol in place, where, upon hiring, each employee receives a packet. He believes they can "dial" in birthdates on their cash registers and he would be willing to do that, if those registers allow for it. Chairwoman suggested that if he can install the register program at both of their locations, it would be preferable. He is willing to have someone come in for some on-site training, but he did note that they have 26 locations and as much as he appreciates the gravity of the situation, this was one incident. Brian Giovanoni recommended that the Board require all merchants selling tobacco and Packaged Goods Store to purchase an identification machine, which can be plugged in, and that sell for approximately \$800. Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted to issue a written warning, they must present a written mitigation plan, install electronic monitoring device within 30 days to confirm date of birth prior to any tobacco sales.

Four in favor. S. McKinnon opposed.

Selectman Spataro asked Chairwoman if the Board might want to look at bylaw to consider if it wants to make it a requirement for merchants to have these identification scanners.

CORRESPONDENCE

Board postponed correspondence discussion until next meeting on 6-21-10.

Selectman McKinnon read aloud the following notice: Due to summer schedules, the Taunton Senior Whole health Community Briefing has been postponed from June 18th at 1:30 PM at the Taunton Council on Aging until the following week.

TOWN MANAGER'S REPORT

Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted unanimously to authorize the Town Manager to send letter addressed to Steve Smith of SRPEDD asking to use the Municipal Assistance program to help the Town with the Town's Historic Preservation Plan.

Town Manager noted letter from Mass D.O.T. regarding status of the Route 105 at I-495 traffic signal and intersection improvement project has been copied to the Town's legislative delegation. Selectman McKinnon will be attending SRPEDD meeting next week at which he will raise the issue.

There are three individuals registered for FEMA reimbursement. The deadline has been extended until 6/28/10 to register at FEMA.gov.

Town Manager read aloud an announcement re Open Space Committee/Commission on Disability.

I.T. Director Roger Brunelle gave demonstration of the Town's new website.

OTHER

Allin Frawley offered that the new website is a huge improvement. He also asked if the Town has sent the letter to the Wampanoag Tribe yet. Chairwoman responded that the Board can not answer his question. Mr. Frawley asked at what rate the Town's attorney is paid. Chairwoman indicated that it is over \$400 per hour.

Brian Giovanoni addressed Board to clarify if the reason it can't answer the question is because the matter is considered pending litigation. Chairwoman responded that it is considered pending litigation and is not being discussed in order to protect the Town.

Roger Brunelle addressed the Board and offered that, as a former Selectman, he can tell the Board that anything about the matter is considered pending litigation.

Selectman Spataro asked which of the following triggered the litigation: When Tribe announced it is not coming or is litigation started when the letter is sent? The Town Manager responded that it is the former.

Chairwoman offered that the Board will be guided by the Town's attorney and that litigation has already begun.

Jane Lopes offered that if there is a lawsuit outside of the Dispute Resolution process then this would be something new. Town Manager offered that he would not comment on the matter.

Upon motion by Selectwoman Duphily and seconded by Selectman McKinnon, Board voted by Roll Call to go into Executive Session to discuss strategy relative to Pending Litigation and not to return into Open Session. Roll Call: A. Rullo, Yes; M. Duphily, Yes; S. McKinnon, Yes; S. Spataro, Yes; M. Brunelle, Yes.

Ended at 10 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN