

MINUTES

for approval on 03/04/19

February 11, 2019

Chairman Dalpe opened the meeting at 6:15 PM and invited those in attendance to join in the Pledge of Allegiance.

In attendance were: Selectmen A. Frawley, L. Dalpe, J. Knowlton, N. Rosenthal and D. Stewart; Town Manager R. Nunes and Executive Assistant, Colleen Lieb.

BUDGET REVIEW

There is a review of the FY '20 Finance Committee budget with a total of \$4,890.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Frawley, the Board voted unanimously to recommend favorable action on the Finance Committee FY '20 budget with a total of \$4,890.

The Board reviewed the Board of Selectmen's FY '20 budget and it was noted that the Executive Assistant has been budgeted from 37.5 to 40 hours per week.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Frawley, the Board voted unanimously to recommend favorable action on the Selectmen FY '20 budget with a total of \$76,104.

There is a review of the Town Manager's FY '20 budget. There were no questions.

Upon motion made by Selectmen Frawley and seconded by Selectmen Stewart, the Board voted unanimously to recommend favorable action on the Town Manager FY '20 budget with a total of \$244,860.

Steve Dooney, Town Accountant was present for the discussion. There is a review of the Accounting FY '20 budget and it is noted that the salaries include a cola increase and the Clerical line item has increased from 36.25 to 40 hours.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Frawley, the Board voted unanimously to recommend favorable action on the Accountant FY '20 budget with a total of \$156,807.

Ross Lawrence, Assessors/Appraiser, was present for the discussion. There is a review of the Assessors FY '20 budget. There were no questions.

Upon motion made by Selectmen Stewart and seconded by Selectmen Frawley, the Board voted unanimously to recommend favorable action on the Assessors FY '20 budget with a total of \$215,751.

Randy Robertshaw, Library Director, was present for the discussion. There is a review of the Library FY '20 budget. The Board discusses the reductions that were made from what was

originally requested and spoke about the Library's accreditation. It is noted that in the next budget cycle there will need to be a closer look at the materials/supplies for the library.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Frawley, the Board voted unanimously to recommend favorable action on the Library FY '20 budget with a total of \$722,308.

Attorney Dan Murray, Town Counsel, was present for the discussion. Attorney Murray reviewed the FY '20 Law budget with the Board.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Frawley, the Board voted unanimously to recommend favorable action on the Law FY '20 budget with a total of \$147,172.

At 6:45 PM Selectmen Frawley recused himself.

EXECUTIVE SESSION

Upon motion made by Selectmen Stewart and seconded by Selectmen Frawley, the Board voted to enter into Executive Session at 6:45 PM, to return to Open Session, with respect to collective bargaining or litigation that if done in an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the Chair so declares. Polled vote: L. Dalpe – Yes, J. Knowlton - Yes, N. Rosenthal and D. Stewart – Yes.

The Board returned to Open Session at 7:04 PM.

Selectmen Frawley stepped back onto the Board at 7:04 PM.

UNANTICIPATED

Brian Giovanoni, Rocky Meadow, received notice that the Middleborough Public Schools have declared tomorrow and early release day due to the weather.

ANNOUCEMENTS AND RECOGNITIONS

Arthur Battistini, Reland Street, noted that starting tomorrow night, the Middleborough Community Band will hold its rehearsal. They will be meeting on the second and fourth Tuesday of each month from 6:30 PM to 8:30 PM at the High School.

MINUTES

Upon motion made by Selectmen Knowlton and seconded by Selectmen Frawley, the Board voted unanimously to approve the 2/4/19 minutes as amended.

WARRANTS

Upon motion made by Selectmen Knowlton and seconded by Selectmen Frawley, the Board voted unanimously to authorize the Chairman or her designee to sign the warrants for weeks ending 2/16/19 & 2/23/19.

NEW BUSINESS

Middleborough Matters – Presentation on Vaping

Morissa Vital, Program Manager, Seven Hills Behavior Health, was present for the discussion. Ms. Vital referenced the Frequently Asked Questions (FAQ) about Vaping. She speaks about how vaping has become a serious problem for the younger kids and that the product intentionally targets kids with the flavored liquid nicotine. Ms. Vital speaks about the second hand vape which is also not safe to inhale.

The Board discusses passing an expanded definition bylaw that includes the language that regulations cover all the bases with the flavored vape products. There is a question asked as to whether any Town has passed a limit on the number of tobacco permits issued and if any of them repealed due to backlash. Ms. Vital does not have information to answer that question. The Board will be reviewing the regulations and will be looking for public input as they consider what should be adopted. It is noted that Middleborough Matters did push to get Tobacco sales out of the pharmacies in Town and it was successful. There will be consideration on limiting the number of tobacco permits in Town. This will be reviewed further.

R. Buker – Review of Changes to Tobacco Bylaws to include updated Vape Laws

Robert Buker, Health Agent, was present for the discussion. Mr. Buker reads to the Board his memo regarding Vaping and other flavored nicotine deliver products and the options for augment updated State Laws at a local level for Stricter Regulation of Sales.

Mr. Buker noted that there are twenty six active tobacco sale permits in Town. The Board discusses restricting the flavored tobacco to adult use only. There is discussion on limiting the number of sales permits in Town. Selectmen Knowlton explains that he cannot justify putting a cap on tobaccos sales when the Board continues to have approve marijuana agreements. Selectmen Stewart talks about taking tobacco out of convenient stores or places where minors frequent. There is clarification that vape smoking is being treated the same as cigarette smoking, so you can no longer vape inside any building open to the public. The proposed changes for the Board to adopt will be provided for review and the next steps will be considered at a future meeting.

Upon motion made by Selectman Knowlton and seconded by Selectmen Stewart, the Board voted unanimously to approve two One Day Beer & Wine Licenses for the Herring Run Festival Beer Garden to be held on April 13th and April 14th from 11 AM to 4 PM.

The Board discusses the Demo and Construction contract with Howard Moquin & Sons for the MCCAM Media Center. There are several questions on the demolition and what will be removed. There is a question as to why the cost is so high.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Stewart, the Board voted unanimously to postpone action on the MCCAM Demo & Construction contract until the February 25th meeting.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Stewart, the Board voted unanimously to appoint the Special Auxiliary Police, Matron, Police Chaplain and Crossing Guards as requested by the Police Chief with a term to expire 1/31/2020

Discussion on Cease & Desist on 144 E. Grove Street

Anders Martenson III, 144 E. Grove Street, apologized to the Board for being unable to make the 2/4/19 meeting. He apologizes for the eyesore that is his project. He noted that as of Tuesday, February 5th he received the Cease & Desist letter and his main focus on the site has been to continue working on the safety of the site and the people around it. He is also concerned about stormwater management. He has stopped all work, other than stabilizing the site, and has filed for an Earth Removal Permit with the Board of Selectmen.

Ed Mederios, 9 Crest Drive, spoke about his close to 40 years of working with the Town. He notes that he has gone through four building inspectors and he feels he understands the gravel removal permit process. He speaks about how you didn't need a gravel removal permit in order to build a building. He references the Police Station Building project and the 22,000 cubic yards that were removed under the building process, there was no exemption from it. He also references the upcoming DPW building, which the Building Committee never considered getting a gravel removal permit. He also references the High School project, which also has gravel removal as part of the building process.

Mr. Mederios references the Earth Removal Bylaw and how it never indicates in the document who you ask if you need a gravel removal permit. This is something that needs to be reviewed and corrected. He indicates that it appears we are singling out one project where he feels it was not done intentionally and he questions the interpretation of the bylaw.

Selectmen Stewart questions how it can be interpreted that the property owner knew he was wrong when the Town's own Police Station Building Committee didn't determine they needed one, and asks how we can hold everyone to standards that the Board doesn't even understand.

There is a question raised on the buffer zone as referenced in Appendix A 7b. Mr. Mederios noted that for the Police Station project they cut every tree to the property line and it appears that there should have been some sort of buffer kept. There is additional reference to the Earth Removal bylaw and where it is unclear on the buffer for commercial buildings.

There is discussion on the General Code bylaw and the document held by Mr. Mederios which he states is the actual bylaw and it is 33 pages long. There is discrepancy in what document is being viewed and referenced.

Mr. Martenson explains that they do plan on removing more material with a valid Earth Removal permit and in the meantime they will be stabilizing the slopes.

Upon motion made by Selectmen Stewart and seconded by Selectmen Frawley, the Board voted, three in favor, two against (J. Knowlton and N. Rosenthal against), to vacate the Cease & Desist for 144 E. Grove Street.

8:30 PM Selectmen Stewart stepped off the Board.

HEARINGS MEETINGS & LICENSES

CONTINUED HEARING – Elmer Wing, for a Class II Automobile Dealer’s License “Internet Only” for property located at 161 East Grove Street, Suite 5, Assessors Map 065, Lot 6495 and continued from February 4, 2019

Elmer and Sandra Wing were present for the discussion. Chairman Dalpe opens the continued hearing. She referenced her telephone discussion with the Conservation Agent and her comments on the removal of items from the property located at 278 Wareham Street. Chairman Dalpe noted that the Conservation Agent viewed the Board’s possible approval on the Class II as a good way for the applicant to further clean up the property in that area.

Elmer Wing noted that he did speak with the Conservation Agent and that he is working on continuing to remove the items stored at 278 Wareham Street.

Selectmen Knowlton asks if enough has been removed that we no longer have a problem. He reiterates that right now we have our only leverage to get the junk removed before the license is issued.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Rosenthal, the Board voted unanimously to close the hearing.

There is confusion and back and forth discussion with the Board and the applicant as to whether the business is going to be Internet Only or Licensed for a Number of Vehicles to Display for sale.

Upon motion made by Selectmen Rosenthal and seconded by Selectmen Frawley, the Board voted two in favor, two against, to approve the Internet Only, Class II Application for Elmer Wing, property located at 161 E. Grove Street. Motion Does Not Carry.

Mr. Wing is encouraged to reapply but for a regular Class II license.

At 8:45 PM Selectmen Stewart stepped back onto the Board.

OLIVER ESTATE ITEMS

Upon motion made by Selectmen Knowlton and seconded by Selectmen Frawley, the Board voted unanimously to authorize the Executive Assistant to pay the Utility Bills for the Oliver House, as they are received, out of the Oliver Estate Revolving Fund.

Upon motion made by Selectmen Knowlton and seconded by Selectmen Stewart, the Board voted unanimously to pay Christ Parish in the amount of \$768 to be paid from the Oliver Estate Revolving Fund.

Chairman Dalpe spoke about the kitchen renovation plans for the Oliver House. She referenced the material provided for the Board from Historic New England, which provided approval for the project as well as the donation of the steal sink from the Oliver Estate Historical Society.

Upon motion made by Selectmen Stewart and seconded by Selectmen Knowlton, the Board voted four in favor, one against (A. Frawley) to utilize the remaining funds from the CPA Article to do the kitchen sink replacement project with a not to exceed amount of \$2,000.

TOWN MANAGERS REPORT

R. Nunes, Town Manager, reviewed with the Board his Town Manager's Report which covers February 4th through February 8th.

NEW BUSINESS (continued)

Karen Foye, MCCAM, was present for the discussion. She apologizes for not being present earlier to discuss the vote to sign the Demo and Construction Contract with Howard Moquin & Sons in the amount of \$145,000. She confirmed that the cost is for both the demolition of the existing space and construction of the new studio. She explains that this cost doesn't cover the HVAC or electrical work.

Upon motion made by Selectmen Rosenthal and seconded by Selectmen Frawley, the Board voted unanimously to rescind the previous vote which was to hold on the contract and take action in two weeks.

Upon motion made by Selectmen Frawley and seconded by Selectmen Rosenthal, the Board voted unanimously to vote to sign the Demo and Construction Contract with Howard Moquin & Sons for the MCCAM Media Center.

REPORT ON COMMITTEES COMMISSIONS AND BOARDS

Selectmen Stewart spoke about the Old Drive In property on Rt. 44 and noted that the Developer came before the Conservation Commission for a new ANRAD. She noted that the plan is no longer to go through Vernon Street but to instead travel down Cordial Road, then onto Mill Street and then turn onto Rt. 44. Selectmen Stewart asked the Town Manager to speak with the Developer directly about using Rt. 44 and not the small residential roads to access the property. It is noted that the Developer is holding a meeting for the residents on Wednesday, February 13th.

CORRESPONDENCE

#1 – Selectmen Frawley noted that the Charter Review Committee will need to get back into action by April of 2020.

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Meeting Minutes**

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#2 – Selectmen Stewart referenced the 355 Wareham Street drainage issues where water is going onto different neighbors' property and MassDOT is involved. She wanted to make sure the Board is aware of this.

ADJOURNMENT

Upon motion made by Selectmen Stewart and seconded by Selectmen Frawley, the Board voted unanimously to adjourn at 9:13 PM.

Respectfully submitted by,

Colleen M. Lieb, Executive Assistant
MIDDLEBOROUGH BOARD OF SELECTMEN