

Chairman Dalpe opened the meeting at 7:06 PM and asked those in attendance to join her in the Pledge of Allegiance.

In attendance were: Selectmen L. Dalpe, A. Battistini, N. Demers, M. Germain and N. Rosenthal. Also present was Town Manager, R. Nunes and Executive Assistant, Colleen Lieb.

This meeting was recorded by MCCAM for broadcast on Comcast and Verizon.

UNANTICIPATED

George White, 2408 Green Street, referenced a May 19, 2021 email that was addressed to all the Board Members. He asks about the status of the four phase plan for the water drainage. Chairman Dalpe noted that the status is the Board has not received the report from Tetra Tech yet.

Brian Giovanoni, Rocky Meadow, asked about the status of the special legislation that was to be sent to Boston for the purpose of refunding students. The Town Manager reported that he will follow up with Town Counsel and get a status of the legislation to see if it is ready to be sent in.

Ed Mederios, Planning Board Chairman, spoke about the invitation that was extended to the Board to attend the Planning Board meeting on July 20th to discuss Site Review and 40R.

ANNOUNCEMENTS AND RECOGNITIONS

Chairman Dalpe announced the Goodies in the Garden at the Oliver Estate on July 16th, July 22nd and July 29th. Comes and relax and enjoy dessert with your friends.

Chairman Dalpe asked for a moment of silence for Harold Atkins. Selectmen Rosenthal spoke briefly about Harold Atkins accomplishments.

Selectmen Germain gives a shout out to his son, wishing him a Happy 13th Birthday.

Brian Giovanoni, Middleborough Friends, spoke about the opening of the Summer Concert series on Thursday, July 15th from 6-8 PM. The first band performing will be Miracle Maxx.

Paula Fay, 8309 Oak Point Drive, spoke about recognizing the Police, Fire from our town and surrounding Towns that came in to assist with the situation at the Department of Transportation building on Rt. 28. We thank you for your service. She also spoke about the Historical Society Fall Festival, which will be held on October 2nd from 11 AM to 3 PM.

Glenn Montarper, Marion Road, recognized the North Middleborough fabulous parade this past weekend and the amazing fireworks and carnival that was at the Park.

R. Nunes, Town Manager, made an announcement for the Vax Bus that will be coming to the Town Hall.

MINUTES

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to approve the 6/28/2021 minutes as presented.

WARRANTS

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to authorize the Chairman or her designee to sign the Warrants for week ending 7/17/2021 and 7/24/2021.

NEW BUSINESS

Oak Point – Rent Control Board = discussion and acknowledgement of receipt of petition for general rent adjustment; discussion and possible vote for concerning procedures and time for consideration of said petition

Gregg Corbo – KP Law and Tristian Colangelo – Sugarman & Rogers were present for the discussion. Attorney G. Corbo explained that he is present for tonight's discussion to go over the process that is required to be followed upon receiving a formal petition for Rent Control Adjustment on June 7, 2021 and as a result of the receipt of that petition it sets in motion procedures that are required to be followed. He noted that the first step is for the Board to acknowledge receipt of the petition and have a discussion as to which type of proceeding the Board will employ under the Town's regulations as the Rent Control Board. The Board shall meet and determine whether to proceed on such petition pursuant to the formal or informal rules as outline in 801 CMR 1.00 et. seq. There is a review of the two proceedings, formal and informal.

Attorney G. Corbo explained that before the Board even makes the decision on which of the two types of procedures will be employed, he recommends the Board discuss whether it is appropriate at this time to consider the merits of the petition. He explains that the petition raises a number of concerns about the management and conditions of the property at Oak Point, some of which relate to the common areas and common facilities. However, two significant issues in the petition, one of which is the issue of moisture or water on the slabs under the homes and the other is the issue of rent uniformity for like services. Both of these were alluded to earlier this evening and both of these issues raise serious legal questions. He explained that while the Supreme Judicial Court issued on the Blake case, that case was decided in contract and was not a rent control board context. This does not mean that the same question of how that analysis applies in Middleborough. He references the current pending litigation between a Class of Residents and Hometown America who is responsible for the moisture under the slabs. There is a legal dispute between the residents and HTA as to who is responsibility of the remediation this has a significant baring on the amount of rent that can be charged.

Attorney G. Corbo recommends putting a stay on this proceeding until such time when we receive a decision from the courts as to how those legal issues apply to this circumstance. In his opinion, to attempt to answer those very same questions being litigated in the courts, you will likely find yourself a part in one-side or another and at possible odds with the decision of the Federal Courts. He recommends staying the petition for rent adjustment until those cases are decided and once we

have guidance determined whether or not Oak Points are justified. Once the court has decided then the Board is free to give a hearing using the guidance from the courts.

Chairman Dalpe opened the discussion up for comments from the Board.

Selectmen Battistini asked if the Board should not make a decision on the formal or informal yet as well. Attorney G. Corbo confirms that at this point the Board should not even make the decision of formal or informal yet and that it will depend ultimately on what the court does.

Selectmen Germain asked if we are looking at 6-12 months as best for a ruling. Attorney G. Corbo noted that it is difficult to get a timeline on litigation but it could take that long or it could be resolved sooner.

Selectmen Rosenthal asked if it is possible to hold a more limited rent control hearing on issues outside of the court issues, if it became necessary. Attorney G. Corbo agrees that if issues arise that are within the jurisdiction of the Rental Control Board or the Board of Health as the license authority, those can be addressed as the Board sees fit, but it has to be outside of the issues that are pending litigation, the Board is able to do that.

Paula Fay, 8309 Oak Point Drive, asked to build upon Selectmen Rosenthal's idea that a rent control hearing could be held if it is outside of the pending litigation issues. Attorney G. Corbo noted that in terms of litigation and municipal law, he can almost guarantee that the Board opening a proceeding and issuing an order with respect to rent is not going to move this along any faster and that it is likely to end up in litigation. He suggest that the issues with the conditions at the property be addressed through the Board of Health.

T. Colangelo, Sugarman & Rogers, spoke on behalf of Hometown America. He noted that there was a lot of information discussed tonight. He references the petition that was submitted and how it comes with a lot of issues involving mostly maintenance, drainage and rent uniformity each of those issues is subject in Federal Court. Two of those cases involve Class Actions

The Board will take this information under advisement and report back at a future meeting.

Discuss Chapter 61A – 120 Thomas Street Property with Attorney Shirin Everett

Shirin Everette – KP Law, Ed Mederios, Attorney Robert Mather and Charlie Macy – Developer, were present for the discussion. Attorney Mather provided an overview of the discussions that have taken place in regard to this property. He reviews with the Board the plan that was submitted by Charlie Macy. The plan creates nine lots that are five acers each. It is noted that the applicant would like to market these properties as mini farms. He would then designate the back property to be donated to the Town to be kept as open space. The back land is approximately 28.6 acers, which would be restricted from future development.

Ed Mederios noted that there should be a 50ft right of way to access that back property. C. Macy agrees that they will clear a 50ft access and stump it, so that the Town can use it if they would like to. Attorney Mather noted that he thinks this is a good proposal for this property.

Shirin Everett, spoke about the Board entering into an agreement with the Developer that will guarantee that he will build the presented development as well as provide the 28.6 acers to the Town. There is a brief discussion on where the houses on each lot will be located and putting covenants on where the house can be located. S. Everett confirmed that the Board can enter into this agreement and that she will work with Attorney Mather to draft it.

Chairman Dalpe opened the discussion up for comments from the Board.

Selectmen Battistini asked about the “owner unknown parcel”, this is being worked on and will be presented to a title insurance to assure that the title is good.

Chairman Dalpe opened the discussion up for comments from the audience.

Ed Mederios, Planning Board Chairman, noted that originally he was going to try and create some sort of non-profit to purchase this land and do the same thing as the Developer but instead the applicant was open to the concept and is willing to do this. There is discussion on how to accept the parcel of land and it is decided that Town Meeting will be the best process.

Upon motion made by Selectmen Germain and seconded by Selectmen Demers, the Board voted unanimously to support the proposal as presented and to keep the 28.629 acers as Open Space. All are in favor.

HEARINGS MEETINGS AND LICENSES

New Hearing – Class II Dealers License – application filed by Samuel Chuckran for Big Dog Auto Sales located at 195 E. Grove Street, Assessors Map 072, Lot 2085

Samuel Chuckran – Applicant and Jonathan Chuckran were present for the discussion. Chairman Dalpe read into the record the legal notice and declared the hearing open. S. Chuckran provided a brief presentation to the Board of his application. He noted that he has an automobile dealership license on this property previously but sold the land in the early 2000’s.

Chairman Dalpe opened the discussion up for comments from the Board. There is a question asked as to where the septic system is located and confirmation that no vehicles will be parked over it. S. Chuckran confirms that the septic is at the back of the property and not under the pavement.

Chairman Dalpe opened the hearing up for public comment. There is no comment.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to close the hearing. All are in favor.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to approve the Class II Dealer's License for Samuel Chuckran for Big Dog Auto Sales located at 195 E. Grove Street, Assessors Map 072, Lot 2085 with the requested hours of operation and no more than forty (40) vehicles for sale at any one time. All are in favor.

NEW BUSINESS (continued)

Vote on Chapter 61 A/B – Thompson Street

Chairman Dalpe reviewed the request for the Board to not exercise its option on the 61 A/B property of Thompson Street. There is reference to the correspondence received from Department Heads recommended that the Board not exercise its right.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted to NOT exercise their Right of First Refusal for the Chapter 61A/B property located on Thompson Street, Assessors Map 023, Lot 145. All are in favor.

Upon motion made by Selectmen Rosenthal and seconded by Selectmen Demers, the Board voted unanimously to reappoint Diane C. Stewart, Elaine Hays & Maryanna Abren to the Board of Library Trustees, each for a three year term to expire on June 30, 2024. All are in favor.

The Board opted to go back to the Zoning Board of Appeals and ask that they provide a recommendation as to the appointments they want for their Board. This will be put back on the agenda for a vote at the next meeting.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to approve a One Day Beer & Wine License for Harper Brewery for an event to be held at Soule Homestead, 46 Soule Street on July 24, 2021 from 3 – 8 PM.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to approve a One Day Beer & Wine License for Harper Brewery for an event to be held at Benson's Pond, 6 Pine Street on August 14, 2021 from 3 – 10 PM.

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to approve a One Day Beer & Wine License for Harper Brewery for an event to be held at Soule Homestead, 46 Soule Street on September 18, 2021 from 12 – 8 PM.

TOWN MANAGERS REPORT

Robert Nunes, Town Manager, reviewed the Town Manager's Report. The report covered June 21, 2021 through July 9, 2021. He referenced the ChandlerThinks Facebook Page, which is in regard to branding the downtown, now has 215 members. He also referenced the negotiations that are currently taking place. He asks for Commission on Disability appointments to be ratified.

Upon motion made by Selectmen Rosenthal and seconded by Selectmen Demers, the Board voted unanimously to ratify the appointment of Judy Bigelow-Costa, Dawn Moquin Craig and Diane Stewart to the Commission on Disability with terms to expire on June 30, 2024.

Upon motion made by Selectmen Rosenthal and seconded by Selectmen Demers, the Board voted unanimously to ratify the appointment of Christine Rivers to the Commission on Disability with a term to expire on June 30, 2023.

REPORT ON COMMITTEE COMMISSIONS & BOARDS

There is nothing reported.

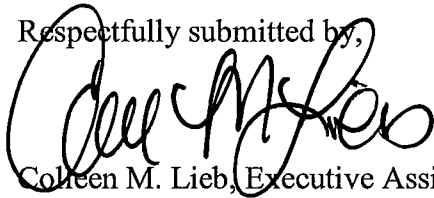
CORRESPONDENCE

There is no correspondence this week.

ADJOURNMENT

Upon motion made by Selectmen Demers and seconded by Selectmen Germain, the Board voted unanimously to adjourn at 9:00 PM.

Respectfully submitted by,



Colleen M. Lieb, Executive Assistant

MIDDLEBOROUGH BOARD OF SELECTMEN