

# TOWN OF MIDDLEBURY

Board of Finance  
1212 Whittemore Road  
Middlebury, CT 06762

RECEIVED FOR FILING

Jan 26 2011 at 10:25 AM  
TOWN CLERK'S OFFICE  
MIDDLEBURY, CONNECTICUT

*Edwin Salisbury*  
TOWN CLERK

**Meeting Minutes  
Special Meeting  
Wednesday, January 19, 2011  
Shepardson Community Center Auditorium**

Present: Michael McCormack, Chairman  
Vincent Cipriano, Board Member  
Stephen Ruccio, Board Member (7:05)  
Michael Kenausis, Board Member (6:50)  
Edward Asselin, Board Member  
Dave Cappelletti, Board Member  
Dick Spierto, Board Member Alternate

Absent: Bart Cutrali, Board Member Alternate  
Thomas Proulx, Board Member Alternate

Also Present: Elaine Strobel, Selectman  
John Calabrese, Treasurer  
Betty Proulx, Park & Recreation Director  
Jean Dawes, Tax Collector  
Chief Guisti  
Jim Crocchia, Resident  
Bob Smith, Attorney  
Claudia Greenfield, Administrative Manager  
Rob Huestis, Independent Pension Consultant  
Steven Burnett, The Standard  
Matt O'Rourke, Waterbury Republican  
Larry Hutvagner, CFO  
Tracy B. Graziano, Recording Clerk

Mr. McCormack opened the meeting at 6:30 p.m.

### Executive Session

Mr. Cipriano made a MOTION to enter into Executive Session to discuss contract negotiations and pending arbitration. Mr. Asselin SECONDED, all in favor. Mr. McCormack invited Ms. Strobel, Mr. Smith, and Mr. Huestis, Ms. Greenfield, and Mr. Hutvagner to attend. Executive Session was terminated at 7:05 p.m. The Special Meeting reconvened at 7:10 p.m.

**Discussion & Possible Vote on Retirement Committee's Defined Contribution Plan**

Mr. McCormack introduced Mr. Burnett from The Standard, the company the Retirement Fund Committee (RFC) chose as the plan provider for the new Defined Contribution Plan (DC Plan). Mr. McCormack introduced Mr. Huestis, an independent pension consultant employed by the RTC to guide them through the start-up process for the new plan. Mr. Huestis provided a brief outline of the process starting with the selection of Fiduciary Investment Advisors (FIA), who wrote the RFP that resulted in the decision to elect The Standard as the plan provider. He added that the plan will include a Trust Document and is a qualified plan meaning that both employee and employer contributions are pre-taxed. Mr. McCormack offered that the DC Plan would only be offered to new employees. Mr. Cipriano asked Mr. Burnett what is the current trend in his field. Mr. Burnett replied, "You are late adapters... a DC Plan, much like a 401K in the private sector, is very popular due to it's portability, investment flexibility, and the investment advice that is available to the employee". Mr. Asselin commented that the RFC's first priority is the employees' welfare.

**Approval of Prior Minutes**

Mr. Cipriano made a MOTION to approve the December 8, 2010 meeting Minutes. Mr. Kenausis SECONDED. Mr. Cappelletti declined to vote, as he was not in attendance at that meeting. The MOTION was APPROVED.

**Chief Financial Officers Report**

Mr. Hutvagner presented Statements of Revenues and Expenditures as of December 31, 2010.

**Treasurer's Report**

Mr. Calabrese presented a Treasurer's Report as of December 31, 2010, (see Appendix III.c).

**Tax Collector's Report**

Ms. Dawes presented a Tax Collector's Report for December 2010, (see Appendix III.d.). Mr. McCormack congratulated Ms. Dawes on her success in regards to sending delinquent tax debts to the marshal. He asked that she continue to send the top ten delinquent taxpayers to the marshal.

**Budget Transfers**

Mr. Ruccio made a MOTION to transfer \$3,500 from 01.71.00.6972, Contingency to 01.17.01.6003, Registrar of Voters Temporary Salaries. Mr. Cappelletti SECONDED. Discussion: Mr. Spierto queried if the transfer for temporary salaries had to come from Contingency suggesting that the transfer come out of contract negotiations. Mr. Ruccio amended his MOTION requesting \$3,500 from 01.76.00.9851, Contract Negotiations to 01.17.01.6003, Registrar of Voters Temporary Salaries. The MOTION was unanimously APPROVED.

Mr. Kenausis made a MOTION to transfer \$2,747.40 from 01.76.00.9851, Contract Negotiations to 01.41.02.6122 Communications Personnel Training. Mr. Cipriano SECONDED and the MOTION was unanimously APPROVED.

**Correspondence**

Mr. McCormack relayed a conversation he had with Keith McLiverty, Business Manager for region 15. The Town receives money from the State via the ARRA Stabilization Fund. Last year the Town was over-paid by \$35,597.60. In turn, this year the Town will receive \$35,597.60 less from the State.

**Chairman's Comments**

Mr. McCormack commented on the BOS recent decision to reject the BOF recommendation regarding pay increases for the Town's appointed and elected employees. He added that the BOF has historically had a role in setting non-union salaries and that he believes that every member of the BOF is committed to the taxpayers. In November and December the BOF researched and reviewed the non-union wages in several surrounding communities and compared the results to the Town of Middlebury. It was these results that the BOF based their recommendation on. He said that the BOF was diligent in their review and believe their recommendation to be in line and equitable. Mr. McCormack stated, "That was all thrown out the window when the BOS voted two against one to give themselves a raise...this is something that we as a Board should not tolerate...clearly the Selectmen violated the Town charter when they voted themselves a raise". Mr. McCormack asked Mr. Cappelletti to address this item under New Business.

**Public Comments**

Ms. Strobel suggested to the BOF that at the end of Seward and Monde's three-year contract, which expires this year, the Town re-bid for audit services for two reasons; one, to see if the Town can save money, and two, because of the review if the Reserve Accounts. If Seward and Monde were looking at the Capital Non-Recurring Funds, they wouldn't be considered independent auditors.

**Reserve Accounts Review**

Mr. McCormack, by way of the auditors' recommendation, asked that BOF members Mr. Cappelletti and Mr. Cutrali, both CPAs, review and clarify the Reserve Accounts. Mr. Spierto asked where do the cleaned-up funds go? Mr. Cappelletti replied that if the funds are Capital Non-Recurring, you could roll them into another Capital account or you could pay debt. If there is no debt, they can roll back into the General Fund. Mr. Cipriano queried as to the time frame for reviewing these accounts. Mr. Cappelletti replied that the Town Attorney stated that the original appropriation has to be determined before the funds can be moved, adding that it took him a full day to look at approximately ten, so yes, it is going to be time-consuming. He recommended contacting former employees and/or Board members who may be able to contribute to the history of these accounts. Mr. McCormack will try to contact the former CFO and the former First Selectman and anyone else with history for a meeting in February to do the legwork for Mr. Cappelletti and Mr. Cutrali.

**Discussion on Retaining Own Attorney**

Mr. McCormack stated that this discussion is founded on what he considers "A breach of ethics based on our Town Charter". He asked Mr. Cappelletti to comment. Mr. Cappelletti stated that he contacted the State Ethic's Board. He reported, "As far as the State is concerned, it's not in the Ethic's Board jurisdiction to go into a municipality...it is the State's General Attorney's

responsibility...I did have a conversation with an attorney at the Board of Ethics at the State level and he seemed to believe that it was absolutely a direct and material conflict of interest...He also reviewed the email to all us and he perceived it as a threat that if you [BOF] go after this, we're going to block it". Mr. Cappelletti added that he and the Board of Ethics attorney reviewed the Town Charter and determined that the BOF does not have the authority to hire Town Counsel to represent the Town, but they can hire an attorney to represent the Finance Board. He further commented, "Our choices are to use Town Counsel...we have gone to him before and his answer has been several times it is unethical but it is not illegal...the second option is to hire our own attorney to give us direction and the third is to file a complaint with the State...it would probably take 3 to 5 years...I believe we should follow procedure and use Town Counsel...I think we need to make a plan and stick to it...we need to take a firm stand". Mr. McCormack offered, "My recommendation would be to follow some type of procedure and go to Town Counsel and see if he will act on this, and if he doesn't then we'll have to go out and hire our own attorney". Mr. Cappelletti made a MOTION that Mr. McCormack compose a letter to Town Counsel requesting clarification/legal opinion concerning the potential ethical misconduct of the Selectmen in regards to them voting themselves a wage increase at the December BOS meeting and requesting a response prior to the BOF next regular meeting on February 9, 2011. Mr. Ruccio SECONDED and the MOTION was unanimously APPROVED.

Mr. McCormack had one last comment. He applauded Police Chief Richard Guisti for declining to accept his contractual pay increase for this year given his employees are taking a zero percent increase and taking 5 furlough days.

**Comments by First Selectman**

None

Mr. Cipriano made a MOTION to adjourn. Mr. Cappelletti SECONDED, All in Favor, meeting adjourned at 8:10 p.m.

Respectfully Submitted,



Tracy Graziano  
Recording Clerk

Cc: Board of Selectmen  
Board of Finance and Alternates  
Larry Hutvagner, Chief Financial Officer  
John Calabrese, Town Treasurer  
Tracy Graziano, Recording Clerk  
Email Notification for Website  
File

**SEWER FEE AND ASSESSMENT FUND**  
**Short Term Investment Account**

| <u>Date</u> | <u>Effective Monthly<br/>Compounded Yield</u> | <u>Effective<br/>7 Day Yield</u> | <u>\$\$ Interest<br/>Earned</u> | <u>\$\$ Invested<br/>Balance</u> | <u>Interest<br/>YTD</u> |
|-------------|---|----------------------------------|---------------------------------|----------------------------------|-------------------------|
| July 2010   | 0.24%   | 0.23%                            | \$ 259.75                       | \$ 1,285,356                     | \$ 259.75               |
| Aug 2010    | 0.24%   | 0.25%                            | \$ 266.73                       | \$ 1,285,623                     | \$ 526.48               |
| Sept 2010   | 0.24%   | 0.24%                            | \$ 270.42                       | \$ 1,285,894                     | \$ 796.90               |
| Oct 2010    | 0.24%   | 0.22%                            | \$ 259.78                       | \$ 1,286,153                     | \$ 1,056.68             |
| Nov 2010    | 0.23%   | 0.23%                            | \$ 243.05                       | \$ 1,286,396                     | \$ 1,299.73             |

**Investment Income Compared to Proposed FY 10-11 Budget**

**Treasurer's Account (Gen. Fund)**

| <u>Adopted<br/>Budgeted<br/>Amount</u> | <u>Actual YTD<br/>Earned</u> | <u>%<br/>Earned</u> | <u>%<br/>Time Elapsed</u> |
|--|------------------------------|---------------------|---------------------------|
| \$ 83,500.00                           | \$ 24,142.31                 | 29%                 | 50%                       |

**Sewer Fee And Assessment Account**

| <u>Adopted<br/>Budgeted<br/>Amount</u> | <u>Actual YTD<br/>Earned</u> | <u>%<br/>Earned</u> | <u>%<br/>Time Elapsed</u> |
|--|------------------------------|---------------------|---------------------------|
| \$ 15,000.00                           | \$ 1,299.73                  | 9%                  | 50%                       |

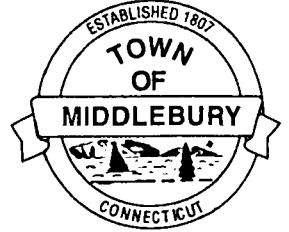
cc:

Board of Selectman  
 Finance Department  
 WPCA - Chairman

Appendix III.d.

# TOWN OF MIDDLEBURY

JEAN DAWES, CCMC  
TAX COLLECTOR  
1212 Whittemore Road, ██████████  
Middlebury, CT 06762 ██████████  
Phone: 203-758-1373 Fax: 203-758-2915  
E-mail: taxcollector@middlebury-ct.org



January 11, 2011

To: Board of Selectmen  
Board of Finance

From: Jean Dawes, Tax Collector *Jean Dawes*

Re: Monthly Report – December

Attached is the monthly report of the Tax Collector for December 2010. Percentages collected follow.

|                              |       |
|------------------------------|-------|
| Real Estate                  | 58.7% |
| Personal Property            | 60.9% |
| Motor Vehicle                | 82.6% |
| MV Supplemental (due 1/1/11) | .001% |

Just a note, to date we have collected an additional \$2,347,855. If you have any questions or concerns, please contact me.

Enc.





RATEBOOK REPORT (TOTAL ONLY)  
TOWN OF MIDDLEBURY

Full, Active, Regular, Year: 1994 To 2010, Total: Yes, Flag: , Date: 01/03/2011, D-Time printing: 01/03/2011 09:49:51 am  
Conditions: Recap By Dist:No, Cycle: 00, Pay Date: 01/03/2011, Name: To, Dist: , Type: TOWN, Sort: Bill Number

| BILL #<br>UNIQUE ID | TAXPAYER NAME<br>ADDRESS |               | 1ST INSTALL.<br>ADJUST 1 | 2ND INSTALL.<br>ADJUST 2 | DATE PAID     | TAXES       | INTEREST      | LIEN | BALANCE DUE<br>FEES |
|---------------------|--------------------------|---------------|--------------------------|--------------------------|---------------|-------------|---------------|------|---------------------|
| GRAND TOTAL         |                          | # ACCT: 26831 |                          |                          |               |             |               |      |                     |
| INST-1              | 27,373,957.15            | BEG COLL      | 26,039,401.69            | CURR TAX                 | 15,361,023.11 | PREV TAX    | 25,076,043.62 |      |                     |
| INST-2              | 23,746,207.89            | CURR ADJ      | -2,977.68                | CURR INT                 | 84,593.90     | PREV INT    | 119,711.57    |      |                     |
| INST-3              | 0.00                     | CURR TAX      | 15,361,023.11            | CURR FEES                | 173.00        | PREV FEES   | 418.00        |      |                     |
| INST-4              | 0.00                     | CURR SUSP     | 0.00                     | CURR LIEN                | 1,426.39      | PREV LIEN   | 349.61        |      |                     |
| BINT                | 0.00                     | CURR BINT     | 0.00                     | CURR BINT                | 0.00          | PREV BINT   | 0.00          |      |                     |
| PREV ADJ            | -4,719.73                | NET BAL       | 10,675,400.90            | CURR REF                 | -678.76       | PREV REF    | -20,000.15    |      |                     |
| PREV TAX            | 25,076,043.62            | RECV BAL:     | 10,677,538.37            | CURR R INT               | 0.00          | PREV R INT  | 0.00          |      |                     |
| PREV BINT           | 0.00                     | REFUND BAL    | -2,137.47                | CURR R LIEN              | 0.00          | PREV R LIEN | 0.00          |      |                     |
| PAY OFF             | 0.00                     | DISCOUNT      | 0.00                     | CURR R FEE               | 0.00          | PREV R FEE  | 0.00          |      |                     |
| BEG COLL            | 26,039,401.69            |               |                          | CURR R FEE               | 0.00          | PREV R FEE  | 0.00          |      |                     |