

TOWN OF MIDDLEBURY

Board of Finance
1212 Whittemore Road
Middlebury, CT 06762

Meeting Minutes
Wednesday, February 9, 2011
Shepardson Community Center, Room 26

RECEIVED FOR FILING
Feb. 17 2011 at 4:05 PM.
TOWN CLERK'S OFFICE
MIDDLEBURY, CONN.

Richard M. Bennett
TOWN CLERK

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

Absent: Michael Kenausis, Board Member
Thomas Proulx, Board Member Alternate

Also Present: Elaine Strobel, Selectman
John Calabrese, Treasurer
Betty Proulx, Park & Recreation Director
Jean Dawes, Tax Collector
Dan Kenny, Assessor
Ollie Leduc, Building Official
Kris Tiso, Building Clerk
Edward St. John
Matt O'Rourke, Waterbury Republican
Jaimie Cura, Voices
Marj Needham, Bee Intelligencer (7:57)
Larry Hutvagner, CF
Tracy B. Graziano, Recording Clerk

Mr. McCormack opened the meeting at 7:05 p.m.

Mr. Cipriano made a MOTION to appoint Mr. Spierto and Mr. Cutrali voting members.
Mr. Asselin SECONDED. The MOTION was unanimously APPROVED.

Approval of Prior Minutes

Mr. Spierto made a MOTION to approve the January 19, 2011 meeting Minutes. Mr. Cutrali SECONDED. The MOTION was APPROVED.

Chief Financial Officers Report

Mr. Hutvagner presented Statements of Revenues and Expenditures as of January 31, 2011 stating that the scheduled revenue is on target and all departments are within their budgets on the expenditure side.

Treasurer's Report

Mr. Calabrese presented a Treasurer's Report as of January 31, 2011, (see Appendix I.c). The Treasurer's Account has earned \$29,378.14, 35% of the Adopted FY10-11 Budget and the Sewer Fee and Assessment Account has earned \$1,564.08, 10% of the Adopted Budget, with 58% of time elapsed.

Tax Collector's Report

Ms. Dawes presented a Tax Collector's Report for January 2011, (see Appendix I.d.).

Budget Transfers

None

Correspondence

None

Chairman's Comments

Mr. McCormack stated that the BOS presented a FY 2011-2012 Budget to the BOF that calls for basically no increase. He recalled that last year; the BOF voted unanimously that their goal over the next five years is to reduce the cost of running the Town [of Middlebury] by 20 to 30 percent. This will require a budget decrease of four to six percent per year. To reduce the Proposed FY 2011-2012 Budget by 4% would require a reduction of about \$400,000. He continued, "We are going to work very hard with the department heads to try to come up with some ideas, thinking out of the box, where we can come up with that kind of savings to get our budget in line, and the cost of running the Town of Middlebury in line with our peer group".

Public Comments

None

Mr. Ruccio made a MOTION to amend the agenda by moving item II.a, Old Business – Recap of Murtha Cullina Payments, here. Mr. Spierto SECONDED and the MOTION was unanimously APPROVED.

Recap of Murtha Cullina Payments

Mr. Hutvagner explained that the BOS originally approved an amount of up to \$20,000 for Murtha Collina's services, but ultimately the total fee was \$10,600 (see Appendix II.b.). This ends the Town's obligation to Murtha Cullina. Ms. Strobel asked, "What did we get for our money?" Mr. Hutvagner responded that Murtha Cullina is a lobbyist firm.

Discussion on Town Attorney's Opinion on Reserve Accounts

Mr. Hutvagner prepared spreadsheets detailing the Town's Designated Reserve funds and Designated Capital Non-Recurring Fund (CNRF) balances as audited in June of 2009, as of 6/30/10 and as of 2/4/11 as well as any balance changes from 6/30/10 to date (see Appendix II.a.). Mr. St. John, former First Selectman gave a general overview of how the Town's Designated Reserve and Capital Non-Recurring Funds were established from

1985 to 2007. He asked the BOF what the issue is with the Reserve Accounts. Mr. Cappelletti explained, "We [BOF] are trying to reserve the Capital Non-Recurring Accounts...Town Counsel is telling us that they [BOS] have the freedom to spend them and we can't stop them unless we find the original authorizations". Mr. St. John offered that the Town Clerk keeps perfect records. Mr. McCormack explained that what the BOF is looking for from him [Mr. St. John] is a time frame of where to look to narrow down the search. Mr. St. John stated that during his administration, all CNRF accounts were established at Town Meetings typically in the months of January or February of each year. Mr. Cappelletti recommended that he meet with the Town Clerk and retrieve the records necessary to identify the original appropriations based on the time frame provided by Mr. St. John. Mr. McCormack stated that he, Mr. Cappelletti, Mr. St. John, and Mr. Mike Belden, the former CFO, will meet to review the Town Clerk's records and report their findings to the BOF at their next meeting.

Discussion on Board of Selectmen Salaries

Mr. McCormack presented a letter from Town Counsel (see Appendix II.c.) in response to a request from the BOF for a legal opinion regarding the BOS's two to one vote to increase their salaries for FY 2010-2011. In brief, Mr. Savarese's legal opinion is stated as follows:

"Any reserve account designated for employee compensation established by the budgetary process or legislative action of a special Town Meeting by the voters is an appropriation that may be used to fund the pay increases unless specifically restricted. It is my understanding that a reserve was specifically included in the 2010-2011 Town Budget for adjustment of pay to Town employees. See Extraordinary Items 01-76-00-9851 entitled reserve for Contract Negotiations. The Board of Selectmen is authorized to spend any such appropriation without further approval of the Board of Finance".

Mr. McCormack maintains that the actions of the BOS pertaining to the vote to increase their salaries violated Section 801 of the Town Charter. He asked the BOF members to review Mr. Savarese's letter and the Town Charter in preparation for discussion at the next meeting.

Discussion on Special Duty Pension Costs

Mr. Asselin, Chairman of the Retirement Find Committee (RFC), has raised concerns regarding special duty wages earned by police officers and the Town's pension fund. According to the Town's actuarial firm, the wages earned by the officers when they perform special duty assignments are counted towards their retirement benefit. However, the contributions to the plan from the Special Duty Fund, approximately 9%, falls drastically short of the plan cost of approximately 16-18 percent. Mr. McCormack stated, "This will cost the Town between \$20,000 and \$35,000 per year...we need to work on getting the pension cost of the special duty revenue self-funding". Mr. Spierto offered that the Police Department determines the rate for special duty assignments. Mr. McCormack responded that the rate is not the issue; it's the fact that the contribution into the pension fund has to equal the cost. Mr. Cappelletti reminded the BOF that the Special

Duty Fund is also utilized to purchase new police vehicles. Mr. Hutvagner offered that it is an allocation situation. Mr. Ruccio asked Mr. McCormack contact Officer Al Cronin, President of the Police union, and discuss this issue with him and report back to the BOF at the next meeting.

Discussion on the 2011-2012 Budget as Recommended from the Board of Selectmen

Mr. McCormack restated that the FY 2011-2012 Budget Proposal the BOF received from the BOS was a good starting point. Mr. Hutvagner informed the BOF that this preliminary draft does not include Region 15's numbers or the affects from the State's Budget to be disclosed on February 16, 2011. Mr. McCormack began discussion on the FY 2011-2012 Budget calendar.

FY 2011-2012 Budget Calendar

Mr. McCormack presented Chapter VII, Section 701 of the Town Charter (see Appendix III.c.) that governs the budget process stating, "We basically have until the March/April meeting to come up with a budget...we need to look at things differently... regionalizing our dispatch service, that will save us \$300,000... having an outside contractor take over the running of the transfer station...we have to come up with new ways of doing things or eliminate things that are just not necessary". He asked the BOF members to meet with their department heads and come up with some ideas to approach the 4% reduction for the next meeting. Mr. Cappelletti asked Mr. Hutvagner to briefly identify some of the larger increases in preparation for next month's discussion.

First Selectman Comments

None

Mr. Spierto stated that he wished to publicly thank Mr. Asselin for all his work on the Retirement Fund Committee over the last two years. Thank-you Mr. Asselin.

Mr. Cipriano made a MOTION to adjourn. Mr. Ruccio SECONDED, All in Favor, meeting adjourned at 8:23 p.m.

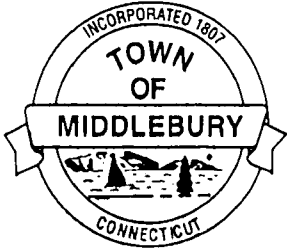
Respectfully Submitted,



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

I. c.



TOWN OF MIDDLEBURY

1212 Whittemore Road
Middlebury, Connecticut 06762

TREASURER'S REPORT

Date: February 8, 2011
To: Board of Finance
From: John N. Calabrese Jr.
RE: Investment Income from July 1, 2010 to January 31, 2011
(7 Months Activity)

GENERAL FUND

General Fund - Short Term Investment Fund (STIF)

Date	Effective Monthly Compounded Yield	Effective 7 Day Yield	Interest	Invested \$\$ Balance	Cumulative Interest YTD
July 2010	0.24%	0.23%	\$ 0.04	\$ 430.72	\$ 0.04
Aug 2010	0.24%	0.25%	\$ 0.04	\$ 430.76	\$ 0.08
Sept 2010	0.24%	0.24%	\$ 0.04	\$ 430.80	\$ 0.12
Oct 2010	0.24%	0.22%	\$ 0.05	\$ 430.85	\$ 0.17
Nov 2010	0.23%	0.23%	\$ 0.06	\$ 430.91	\$ 0.23
Dec 2010	0.22%	0.22%	\$ 0.04	\$ 430.95	\$ 0.27

General Fund - Repo /Sweep Interest - Naugatuck Savings

Date	Interest	Ending \$\$ Balance	Cumulative Interest YTD
July 2010	\$ 1,669.56	\$ 2,041,016	\$ 1,669.56
Aug 2010	\$ 3,504.12	\$ 8,359,729	\$ 5,173.68
Sept 2010	\$ 6,305.69	\$ 7,477,854	\$ 11,479.37
Oct 2010	\$ 4,656.39	\$ 5,295,910	\$ 16,135.76
Nov 2010	\$ 4,262.26	\$ 4,654,620	\$ 20,398.02
Dec 2010	\$ 3,744.06	\$ 5,003,856	\$ 24,142.08
Jan 2011	\$ 5,235.79	\$ 9,457,605	\$ 29,377.87

Total Interest from Treasurer's Account is:

G/F - STIF Account	\$ 0.27
G/F Repo/Sweep Interest - Naugatuck Savings	\$ 29,377.87
Total	\$ 29,378.14

Short Term Investment Account

CAPITAL & NON-RECURRING FUND

Date	Effective Monthly Compounded Yield	Effective 7 Day Yield	\$\$ Interest Earned	\$\$ Invested Balance	Interest YTD
July 2010	0.24%	0.23%	\$ 121.53	\$ 601,417	\$ 121.53
Aug 2010	0.24%	0.25%	\$ 118.13	\$ 551,535	\$ 239.66
Sept 2010	0.24%	0.24%	\$ 115.98	\$ 551,651	\$ 355.64
Oct 2010	0.24%	0.22%	\$ 45.05	\$ 1,897	\$ 400.69
Nov 2010	0.23%	0.23%	\$ 0.30	\$ 1,897	\$ 400.99
Dec 2010	0.22%	0.22%	\$ 0.33	\$ 1,897	\$ 401.32

Capital Non-Recurring Fund - Repo /Sweep Interest - Naugatuck Savings

Date	Interest	Ending \$\$ Balance	Cumulative Interest YTD
July 2010	\$ 8.94	\$ 60,837	\$ 8.94
Aug 2010	\$ 9.25	\$ 24,038	\$ 18.19
Sept 2010	\$ 2.86	\$ 9,713	\$ 21.05
Oct 2010	\$ 125.08	\$ 457,816	\$ 146.13
Nov 2010	\$ 181.81	\$ 376,201	\$ 327.94
Dec 2010	\$ 187.80	\$ 458,438	\$ 515.74
Jan 2011	\$ 194.30	\$ 459,188	\$ 710.04

SEWER FEE AND ASSESSMENT FUND
Short Term Investment Account

<u>Date</u>	<u>Effective Monthly Compounded Yield</u>	<u>Effective 7 Day Yield</u>	<u>\$\$ Interest Earned</u>	<u>\$\$ Invested Balance</u>	<u>Interest YTD</u>
July 2010	0.24%	0.23%	\$ 259.75	\$ 1,285,358	\$ 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
Dec 2010	0.22%	0.22%	\$ 264.35	\$ 1,286,661	\$ 1,564.08

Investment Income Compared to Proposed FY 10-11 Budget

Treasurer's Account (Gen. Fund)

<u>Adopted Budgeted Amount</u>	<u>Actual YTD Earned</u>	<u>% Earned</u>	<u>% Time Elapsed</u>
\$ 83,500.00	\$ 29,378.14	35%	58%

Sewer Fee And Assessment Account

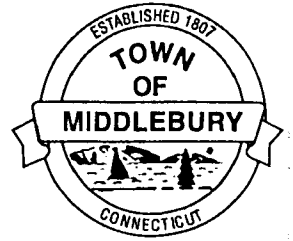
<u>Adopted Budgeted Amount</u>	<u>Actual YTD Earned</u>	<u>% Earned</u>	<u>% Time Elapsed</u>
\$ 15,000.00	\$ 1,564.08	10%	58%

cc:

Board of Selectman
 Finance Department
 WPCA - Chairman

TOWN OF MIDDLEBURY

Appendix I. d.



JEAN DAWES, CCMC
TAX COLLECTOR
1212 Whittemore Road, P.O. Box 392
Middlebury, CT 06762-0392
Phone: 203-758-1373 Fax: 203-758-2915
E-mail: taxcollector@middlebury-ct.org

February 7, 2011

To: Board of Selectmen
Board of Finance

From: Jean Dawes, Tax Collector *J. Dawes*

Re: January 2011

Attached is the Monthly Report of the Tax Collector for January 2011.
Percentages collected are as follows:

Real Estate	88.25%
Personal Property	85.9%
Motor Vehicle	86.19%
MV Supplemental	60.24%

We have collected and posted an additional \$1,514,604.44 to date. Please contact me with any questions or concerns.

**TOWN OF MIDDLEBURY
MONTHLY REPORT OF TAX COLLECTOR**

DEP: \$7,155,016.32
O/P : 14,097.61
E/B: \$7,140,918.71

MONTH: JANUARY 2011

LIST YEAR	TAXES COLLECTED	INTEREST COLLECTED	LIENS & COSTS	TOTAL COLLECTED
1999	\$ 85.00	\$ 85.00		\$ 170.00
2002	\$ 208.66	\$ 3.13	24.00	\$ 235.79
2003		\$ 104.21		\$ 104.21
2004	\$ 164.60	\$ 145.99	6.00	\$ 316.59
2005		\$ 70.86		\$ 70.86
2006		\$ 379.46		\$ 379.46
2007	\$ 2,097.41	\$ 1,121.76		\$ 3,219.17
2008	\$ 9,623.32	\$ 1,532.21	24.00	\$ 11,179.53
2009	\$ 7,123,494.75	\$ 4,157.47	50.00	\$ 7,127,702.22

***MV SUPPLEMENTAL INCLUDED IN ABOVE FIGURES**

*(2008)	*(171.22)	*(6.48)		
TOTALS:	\$ 7,135,673.74	\$ 7,600.09	48.00 / 56.00	\$ 7,143,377.83

Minus IFV \$ 2,459.12

TOTAL COLLECTED \$7,140,918.71

LAWFUL DEDUCTIONS

2007	\$ (275.04)
2008	\$ (458.19)
2009	\$ (7,030.16)

LAWFUL ADDITIONS

	\$ 257.10
	\$ 390.50

SUSPENSE

Year	Tax	Interest
2004	157.94	144.51
2007	201.93	81.78

RATEBOOK REPORT (TOTAL ONLY)
TOWN OF MIDDLEBURY

Full, Active, Regular, Year: 1994 To 2010, Total: Yes, Flag: , Date: 01/31/2011, D-Time printing: 01/31/2011 04:54:04 pm
Conditions: Recap By Dist:No, Cycle: 00, Pay Date: 01/31/2011, Name: To , Dist: , Type: TOWN, Sort: Bill Number

BILL #	TAXPAYER NAME	1ST INSTALL.	2ND INSTALL.	DATE PAID	TAXES	INTEREST	LIEN	FEEES	BALANCE DUE
UNIQUE ID	ADDRESS	ADJUST 1	ADJUST 2						
2009 TOT REAL ESTATE		# ACCT: 4048							
INST-1	11,752,699.94	BEG COLL 22,928,617.07	CURR TAX 20,235,468.62	PREV TAX	0.00				
INST-2	11,175,917.13	CURR ADJ 3,238.20	CURR INT 19,840.99	PREV INT	0.00				
INST-3	0.00	CURR TAX 20,235,468.62	CURR FEES 125.00	PREV FEES	0.00				
INST-4	0.00	CURR SUSP 0.00	CURR LIEN 0.00	PREV LIEN	0.00				
BINT	0.00	CURR BINT 0.00	CURR BINT 0.00	PREV BINT	0.00				
PREV ADJ	0.00	NET BAL 2,696,386.65	CURR REF 0.00	PREV REF	0.00				
PREV TAX	0.00	RECV BAL: 2,696,575.85	CURR R INT 0.00	PREV R INT	0.00				
PREV BINT	0.00	REFUND BAL -189.20	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	22,928,617.07		CURR RBINT 0.00	PREV RBINT	0.00				
$\frac{22,928,617.07}{2,696,386.65} = .1175 = 88.25\%$									
2009 TOT PERSONAL PROPERTY		# ACCT: 673							
INST-1	446,808.76	BEG COLL 884,502.81	CURR TAX 757,575.66	PREV TAX	0.00				
INST-2	437,694.05	CURR ADJ -2,143.65	CURR INT 760.96	PREV INT	0.00				
INST-3	0.00	CURR TAX 757,575.66	CURR FEES 0.00	PREV FEES	0.00				
INST-4	0.00	CURR SUSP 0.00	CURR LIEN 0.00	PREV LIEN	0.00				
BINT	0.00	CURR BINT 0.00	CURR BINT 0.00	PREV BINT	0.00				
PREV ADJ	0.00	NET BAL 124,783.50	CURR REF 0.00	PREV REF	0.00				
PREV TAX	0.00	RECV BAL: 125,024.49	CURR R INT 0.00	PREV R INT	0.00				
PREV BINT	0.00	REFUND BAL -240.99	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	884,502.81		CURR RBINT 0.00	PREV RBINT	0.00				
$\frac{884,502.81}{124,783.50} = .1410 = 85.9\%$									
2009 TOT MOTOR VEHICLE		# ACCT: 7435							
INST-1	1,345,454.74	BEG COLL 1,345,454.74	CURR TAX 1,151,990.40	PREV TAX	0.00				
INST-2	0.00	CURR ADJ -7,525.01	CURR INT 3,526.06	PREV INT	0.00				
INST-3	0.00	CURR TAX 1,151,990.40	CURR FEES 50.00	PREV FEES	0.00				
INST-4	0.00	CURR SUSP 0.00	CURR LIEN 0.00	PREV LIEN	0.00				
BINT	0.00	CURR BINT 0.00	CURR BINT 0.00	PREV BINT	0.00				
PREV ADJ	0.00	NET BAL 185,939.33	CURR REF 0.00	PREV REF	0.00				
PREV TAX	0.00	RECV BAL: 188,019.51	CURR R INT 0.00	PREV R INT	0.00				
PREV BINT	0.00	REFUND BAL -2,080.18	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	1,345,454.74		CURR RBINT 0.00	PREV RBINT	0.00				
$\frac{1,345,454.74}{185,939.33} = .1381 = 86.19\%$									
2009 TOT SUPP MOTOR VEHICLE		# ACCT: 1111							
INST-1	154,347.88	BEG COLL 154,347.88	CURR TAX 89,135.35	PREV TAX	0.00				
INST-2	0.00	CURR ADJ -3,834.13	CURR INT 0.00	PREV INT	0.00				
INST-3	0.00	CURR TAX 89,135.35	CURR FEES 0.00	PREV FEES	0.00				
INST-4	0.00	CURR SUSP 0.00	CURR LIEN 0.00	PREV LIEN	0.00				
BINT	0.00	CURR BINT 0.00	CURR BINT 0.00	PREV BINT	0.00				
PREV ADJ	0.00	NET BAL 61,378.40	CURR REF 0.00	PREV REF	0.00				
PREV TAX	0.00	RECV BAL: 61,403.97	CURR R INT 0.00	PREV R INT	0.00				
PREV BINT	0.00	REFUND BAL -25.57	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	154,347.88		CURR RBINT 0.00	PREV RBINT	0.00				
$\frac{154,347.88}{61,378.40} = .3976 = 60.24\%$									
2009 GROSS TOTAL		# ACCT: 13267							
INST-1	13,699,311.32	BEG COLL 25,312,922.50	CURR TAX 22,234,170.03	PREV TAX	0.00				
INST-2	11,613,611.18	CURR ADJ -10,264.59	CURR INT 24,128.01	PREV INT	0.00				
INST-3	0.00	CURR TAX 22,234,170.03	CURR FEES 175.00	PREV FEES	0.00				

RATEBOOK REPORT (TOTAL ONLY)
TOWN OF MIDDLEBURY

Full, Active, Regular, Year: 1994 To 2010, Total: Yes, Flag: , Date: 01/31/2011, D-Time printing: 01/31/2011 04:54:18 pm Page: 24
 Conditions: Recap By Dist.No, Cycle: 00, Pay Date: 01/31/2011, Name: To , Dist: , Type: TOWN, Sort: Bill Number BALANCE DUE

BILL #	TAXPAYER NAME	DATE PAID	TAXES	INTEREST	LIEN	FEES
UNIQUE ID	ADDRESS	1ST INSTALL.	2ND INSTALL.			
		ADJUST 1	ADJUST 2			
INST-4	0.00	CURR LIEN	0.00	PREV LIEN		0.00
BINT	0.00	CURR BINT	0.00	PREV BINT		0.00
PREV ADJ	0.00	CURR REF	0.00	PREV REF		0.00
PREV TAX	0.00	CURR R INT	0.00	PREV R INT		0.00
PREV BINT	0.00	CURR LIEN	0.00	PREV LIEN		0.00
PAY OFF	0.00	CURR R FEE	0.00	PREV R LIEN		0.00
BEG COLL	25,312,922.50	CURR RBINT	0.00	PREV RBINT		0.00

RATEBOOK REPORT (TOTAL ONLY)
TOWN OF MIDDLEBURY

Full, Active, Regular, Year: 1994 To 2010, Total: Yes, Flag: , Date: 01/31/2011, Time: 04:54:18 p
 Conditions: Recap By Dist:No, Cycle: 00, Pay Date: 01/31/2011, Name: To , Dist: , Type: TOWN, Sort: Bill Number

YEAR	TAX DOLLARS	ADJ.VALUE	TAX COLLECTIBLE	CUR SUSP	PREV TAX PAID CURR TAX PAID	PREV INT PAID CURR INT PAID	PREV BINT PAID CURR BINT PAID	PREV LIEN PAID CURR LIEN PAID	REFUND BAL	REC BAL
1994	687.90	0.00	687.90	0.00	0.00	0.00	0.00	0.00	0.00	687.90
1995	695.12	0.00	695.12	0.00	0.00	0.00	0.00	0.00	0.00	695.12
1996	738.90	0.00	738.90	0.00	0.00	0.00	0.00	0.00	0.00	738.90
1997	738.64	0.00	738.64	0.00	0.00	0.00	0.00	0.00	0.00	738.64
1998	874.74	0.00	874.74	0.00	105.50	205.72	0.00	0.00	0.00	769.24
1999	1,141.55	0.00	1,141.55	0.00	0.00	193.24	0.00	0.00	0.00	1,141.55
2000	1,286.57	0.00	1,199.01	0.00	87.56	35.49	0.00	0.00	0.00	1,199.01
2001	2,140.74	0.00	2,140.74	0.00	0.00	0.00	0.00	0.00	0.00	2,140.74
2002	4,437.76	0.00	3,591.65	0.00	846.11	2,268.66	0.00	0.00	0.00	2,434.30
2003	10,038.71	-92.46	9,441.49	0.00	597.22	1,174.34	0.00	0.00	0.00	9,334.54
2004	16,665.23	-91.65	13,591.32	0.00	3,073.91	4,124.56	0.00	0.00	0.00	9,204.58
2005	22,318.58	-93.96	21,090.35	0.00	1,228.23	2,591.59	0.00	0.00	0.00	11,069.00
2006	40,563.24	3,244.43	35,279.11	0.00	8,528.56	1,349.59	0.00	0.00	0.00	23,132.94
2007	254,773.28	1,524.00	201,169.22	0.00	55,128.06	12,723.23	0.00	0.00	0.00	148,615.59
2008	25,450,416.62	-9,488.16	434,099.45	0.00	25,006,829.01	95,444.11	0.00	767.61	-313.55	255,578.45
2009	25,312,922.50	-1,368.96	25,312,922.50	0.00	177,820.76	31,617.52	0.00	1,061.39	-668.72	3,071,023.82
2010	0.00	0.00	0.00	0.00	0.00	0.00	0.00	175.00	-2,535.94	0.00

RESERVE FUNDS
Summary by Function

DESIGNATED RESERVE FUNDS	Audited 6/30/2009	As of 6/30/2010	As of 2/4/2011	(Since 6-30-10) Changes	Designated Description
1001 Reserve for Leased Equipment	\$ 3,391.58	\$ 3,391.58	\$ 3,391.58	\$ (0.00)	Funds reserved for unforeseen Future Leased Equipment Costs
2001 Reserve for Copy Machine/Equipment	\$ 7,494.53	\$ 1,353.03	\$ 1,353.03	\$ -	Surplus Funds from G/F to be used for unexpected Future costs
General Government Lease Equipment Reserves	\$ 10,886.11	\$ 4,744.61	\$ 4,744.61	\$ (0.00)	
1003 Reserve for Debt Service	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ -	Transfer from G/F to cover unexpected future costs
7110 Reserve for Debt Reduction	\$ 32,633.87	\$ 32,633.87	\$ 32,633.87	\$ -	Town Meeting Appropriation for Wtby Filtration Plant Debt
Debt Service Reserves	\$ 232,633.87	\$ 232,633.87	\$ 232,633.87	\$ -	
1004 Reserve for Emergency Fund	\$ 50.00	\$ 50.00	\$ (214.00)	\$ (264.00)	Orange Plastic Fence @ 171 Acme Drive (Lien on property)
1008 Reserve for Update of Town Plan	\$ 7,401.00	\$ 7,401.00	\$ 7,401.00	\$ -	Town Meeting Appropriations to Update Town Plan
2000 Reserve for GASB 34	\$ 1,228.00	\$ -	\$ -	\$ -	Transfer from G/F -GASB 34 Reporting Expenditures
2002 Reserve for Contract Negotiations	\$ 69,431.38	\$ 69,431.38	\$ 69,431.38	\$ -	Surplus from G/F to cover unexpected future costs
4708 Contingency Payroll FT-PT	\$ 40,000.00	\$ 40,000.00	\$ 35,530.33	\$ (4,469.67)	Town Meeting Appropriation for Contingency PR FT - PT
7100 Reserve for Professional Services	\$ 28,376.48	\$ 16,758.03	\$ 16,758.03	\$ -	Town Meeting Appropriation for Professional Services
7130 Reserve for Property Tax Support	\$ 22,961.00	\$ 22,961.00	\$ 22,961.00	\$ -	Town Meeting Appropriation (CNRF) for Property Tax Support
7140 Reserve for Potential Past Due Taxes	\$ 58,758.75	\$ 58,758.75	\$ 58,758.75	\$ -	Town Meeting Appropriations for Potential Past Due Taxes
7190 Reserve for GASB 43/45 (Sick/Vac Pay)	\$ 115,049.53	\$ 101,632.53	\$ 101,632.53	\$ -	Surplus from G/F to cover GASB 43/45 Requirements
General Government Project Reserves	\$ 343,256.14	\$ 316,992.69	\$ 312,259.02	\$ (4,733.67)	
6000 Medical Insurance Reserve	\$ 23,205.55	\$ 23,205.55	\$ 23,205.55	\$ -	Surplus from G/F to cover unexpected future costs
Medical Insurance Reserves	\$ 23,205.55	\$ 23,205.55	\$ 23,205.55	\$ -	
7200 Revaluation Reserve	\$ 63,989.00	\$ 91,989.00	\$ 66,716.01	\$ (25,272.99)	Surplus from G/F to cover Future cost for Grand List Revaluation
Revaluation Project Reserves	\$ 63,989.00	\$ 91,989.00	\$ 66,716.01	\$ (25,272.99)	
6110 Hunting Ridge Maintenance Reserve	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ -	Detention Basin Maintenance Fee - Future Maintenance of Pond
7120 Reserve for Open Space	\$ 372,141.66	\$ 372,141.66	\$ 372,141.66	\$ -	Town Meeting Appropriations for future land / open space acquisition
Open Space Reserves	\$ 422,141.66	\$ 422,141.66	\$ 422,141.66	\$ -	
7135 Reserve for Future Cost of Voting Machines	\$ 9,512.98	\$ 3,409.25	\$ -	\$ (3,409.25)	Town Meeting Appropriation Future Costs for Voting Machines / Training / Supplies
7180 Reserve for Fire Apparatus Replacement	\$ (116,868.54)	\$ -	\$ -	\$ -	Pumper Truck
7210 Reserve for Mini Bus	\$ -	\$ -	\$ -	\$ -	Grant used to Purchase Mini Bus 10/9/07
Capital Purchases Reserves	\$ (107,355.56)	\$ 3,409.25	\$ -	\$ (3,409.25)	
9001 - Reserve for Police DARE Program	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ -	Transfer from G/F - Times Donation for the DARE Program
General Gov't Program Reserves	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ -	
7150 Reserve for Power & Control Chgs	\$ 22,297.54	\$ 27,140.22	\$ 23,950.95	\$ (3,189.27)	Surplus from G/F to cover unexpected future costs
7160 Reserve for Heating Oil & Natural Gas	\$ 32,000.00	\$ 32,000.00	\$ 1,025.61	\$ (30,974.39)	Surplus from G/F to cover unexpected future costs
7170 Reserve for Fuel, Gas & Oil	\$ 37,599.40	\$ 37,599.40	\$ 2,933.65	\$ (34,665.75)	Surplus from G/F to cover unexpected future costs
Fuel, Power, Gas Reserves	\$ 91,896.94	\$ 96,739.62	\$ 27,910.21	\$ (68,829.41)	

RESERVE FUNDS
Summary by Function

7220 TIP Fees / Waste Disposal / Reserve	\$ 91,170.57	\$ 91,170.57	\$ 90,420.18	\$ (750.39)	Surplus from G/F to cover unexpected future costs
7230 Recycling Equipment / Reserve	\$ 22,250.92	\$ 22,250.92	\$ 21,616.02	\$ (634.90)	Surplus from G/F to cover unexpected future costs
7240 Reserve for Snow Plow Labor	\$ 51,456.67	\$ 51,456.67	\$ 51,456.67	\$ -	Surplus from G/F to cover unexpected future costs
Public Works Equipment Reserves	\$ 164,878.16	\$ 164,878.16	\$ 163,492.87	\$ (1,385.29)	
1000 Bio-Terrorism Grant	\$ 4,179.14	\$ 4,179.14	\$ 4,179.14	\$ -	Grant for Bio-Terrorism Costs
Grant Reserves	\$ 4,179.14	\$ 4,179.14	\$ 4,179.14	\$ -	
<i>Reimbursed from State of Connecticut</i>					
3000 Long Meadow Road Bridge (80% Reimb)		\$ (114,333.41)	\$ (174,207.74)	\$ (59,874.33)	
4000 Energy Saving Project (100% Reimb)			\$ -	\$ -	
5000 Tucker Hill Pump Station (100% Reimb)		\$ -	\$ 1.00	\$ 1.00	
		\$ (114,333.41)	\$ (174,206.74)	\$ (59,873.33)	
SUB TOTAL	\$ 1,252,211.01	\$ 1,249,080.14	\$ 1,085,576.20	\$ (163,503.94)	
DESIGNATED BALANCE	\$ 1,252,211.01	\$ 1,249,080.14	\$ 1,085,576.20	\$ (163,503.94)	
UNDESIGNATED BALANCE*	\$ 49,909.99	\$ 98,335.91	\$ -	\$ (98,335.91)	
Ending Fund Balance	\$ 1,302,121.00	\$ 1,347,416.05	\$ 1,085,576.20	\$ (261,839.85)	

DESIGNATED FUNDS	AUDIT	AS OF	AS OF	(Since 6/30/10)
	6/30/2009	6/30/2010	2/4/2011	Change
1 Computer Equipment	\$ 7,015.88	\$ 7,015.88	\$ -	\$ (7,015.88)
350z Fire dept. personnel protection equip	\$ 212.79	\$ -	\$ -	\$ -
4011 Economic development	\$ -	\$ -	\$ -	\$ -
4711 Reserve for future contractual obligations	\$ 20,727.74	\$ 20,727.74	\$ 20,727.74	\$ (0.00)
4727 Drug Enforcement Program	\$ 6,036.48	\$ 5,280.48	\$ 5,280.48	\$ -
Sub Totals - Departmental Operations	\$ 33,992.89	\$ 33,024.10	\$ 26,008.22	\$ (7,015.88)
1013 Reserve for Fire Dept. Equip./Mini Bus	\$ -	\$ -	\$ -	\$ -
3501 Fire dept. equipment reserve	\$ 1,500.00	\$ -	\$ -	\$ -
4010 Police Department Vehicle	\$ -	\$ 30,463.00	\$ 1,044.00	\$ (29,419.00)
4723 Reserve for Equipment PW	\$ 186,585.04	\$ 174,177.06	\$ 123,967.44	\$ (50,209.62)
Sub Totals - Reserves for Capital Purchases	\$ 188,085.04	\$ 204,640.06	\$ 125,011.44	\$ (79,628.62)
2014 Inspection / Impact Fees	\$ 100,289.11	\$ 100,289.11	\$ 100,289.11	\$ -
2015 Straw Pond Fees Collected	\$ 76,000.00	\$ 76,000.00	\$ 76,000.00	\$ -
Sub Totals for Impact Fees / Contractual Agreements	\$ 176,289.11	\$ 176,289.11	\$ 176,289.11	\$ -
1007 Middlebury Appreciation Night	\$ 5,004.33	\$ 5,004.33	\$ 5,004.33	\$ -
3503 Fire dept. westover donation	\$ 296.69	\$ -	\$ -	\$ -
4003 Police dept. westover donation	\$ 10,142.47	\$ 7,886.93	\$ -	\$ (7,886.93)
4706 Buildings & grounds westover donation	\$ 4,764.41	\$ 356.71	\$ 356.71	\$ 0.00
Sub Totals for In Kind Donations	\$ 20,206.90	\$ 13,247.97	\$ 5,361.04	\$ (7,886.93)
3504 Fire dept. Emergency Mgmt.	\$ 4,945.36	\$ 7,712.07	\$ 7,712.07	\$ -
4004 Police Dept.-Computer Equip.	\$ (33.13)	\$ (33.13)	\$ (33.13)	\$ (0.00)
4008 Police dept. national certification process	\$ -	\$ -	\$ -	\$ -
4009 Police - Asset Forfeiture	\$ -	\$ 5,239.16	\$ 5,182.41	\$ (56.75)
4724 Firearms Aid (Police Dept.)	\$ -	\$ -	\$ -	\$ -
4729 Cops More Grant	\$ 495.10	\$ 495.10	\$ 495.10	\$ 0.00
4732 Student Resource Officer	\$ -	\$ -	\$ -	\$ -
816 Clerk Preservation of Historical Records	\$ 14.38	\$ -	\$ -	\$ -
Sub Totals for Grants	\$ 5,421.71	\$ 13,413.20	\$ 13,356.45	\$ (56.75)
4600 Ledgewood Park Improvements	\$ (4,689.84)	\$ (4,689.84)	\$ (4,689.84)	\$ (0.00)
4601 Mary I. Johnson Park Improvements	\$ 7,442.80	\$ 6,002.80	\$ (141,004.95)	\$ (147,007.75)
4705 Middlebury Greenway Project Phase II	\$ -	\$ -	\$ -	\$ -
4715 Meadowview Park	\$ (54,968.82)	\$ (54,968.82)	\$ (54,968.82)	\$ (0.00)
4602 Shepardson Building Improvements	\$ 75.78	\$ 75.78	\$ 75.78	\$ (0.00)
4603 Police - Fire Improvements	\$ (50,000.00)	\$ -	\$ -	\$ -
4701 Maint./Repairs/Improvmts to Town Property	\$ 29,616.54	\$ 8,363.52	\$ 852.57	\$ (7,510.95)
4716 Water tank site (Timex)	\$ (4,377.00)	\$ (4,377.00)	\$ (4,377.00)	\$ -
4718 Police Dept.-reserve bldg. repairs	\$ 26,538.07	\$ 26,538.07	\$ 26,025.15	\$ (512.92)
4719 Fire Dept.-reserve bldg. repairs	\$ 44,095.07	\$ 29,148.38	\$ 19,866.85	\$ (9,281.53)
4720 Recreation -reserve bldg. repairs	\$ 24,394.66	\$ 9,168.95	\$ 10,254.66	\$ 1,085.71
4750 Repairs/Maint Town Equip and Facilities	\$ (239.98)	\$ (239.98)	\$ (239.98)	\$ 0.00
4800 Professional Services	\$ 17,989.50	\$ 16,602.00	\$ 16,602.00	\$ -
5100 Rt 188 Sewer Project	\$ -	\$ -	\$ -	\$ -
Sub Totals for Town Bldgs / Facility and Park Improv.	\$ 35,876.78	\$ 31,623.86	\$ (131,603.58)	\$ (163,227.44)
4721 CRRA Mid-CT. Proj.-Rebate/Dog Pd. Rental	\$ 14,907.76	\$ 17,918.09	\$ 20,797.22	\$ 2,879.13
4725 Tower Rental	\$ 424,639.17	\$ 422,389.17	\$ 422,389.17	\$ -
4760 Nichols Road Property	\$ 8,943.09	\$ 5,751.83	\$ 5,639.83	\$ (112.00)
Sub Totals - Tower Rental & Other Rental Proceeds	\$ 448,490.02	\$ 446,059.09	\$ 448,826.22	\$ 2,767.13
4728 Insurance Reserve	\$ 10,566.62	\$ 29,143.77	\$ 29,143.77	\$ -
Sub Totals - Insurance	\$ 10,566.62	\$ 29,143.77	\$ 29,143.77	\$ -
5212 Road Resurfacing/Reconstruction	\$ 159,550.62	\$ 31,404.64	\$ 31,404.64	\$ 0.00
Sub Totals - Road Projects / Resurfacing	\$ 159,550.62	\$ 31,404.64	\$ 31,404.64	\$ 0.00
4722 Recreational Trails Program Grant	\$ -	\$ -	\$ (15,299.74)	\$ (15,299.74)
GRAND TOTALS	\$ 1,078,479.69	\$ 978,845.80	\$ 723,797.31	\$ (255,048.49)

**Town of Middlebury
Capital Non-Recurring Fund**

2/8/2011
4:01 PM

DESIGNATED FUNDS	AUDIT 6/30/2009	AS OF 6/30/2010	AS OF 2/4/2011	(Since 6/30/10) Change
DESIGNATED BALANCE	\$ 1,078,479.69	\$ 978,845.80	\$ 723,797.31	\$ -
UNDESIGNATED BALANCE*	\$ 57,941.22	\$ -	\$ -	\$ (255,048.49)
Ending Fund Balance	\$ 1,136,420.91	\$ 978,845.80	\$ 723,797.31	\$ (255,048.49)

Appendix II.B.



RECEIVED

JAN 15 2010

By Finance Dept.

January 12, 2010

Lawrence Hutvagner
Chief Financial Officer
Town of Middlebury
PO Box 392
1212 Whittemore Road
Middlebury, CT 06762

Client Number: 408805
Matter Number: 408805-0003

Federal Tax I.D.: 06-0686015

Matter Name: Government Affairs

Our records indicate an outstanding balance on your account as follows:

BILL DATE	INV NO.	ORIGINAL AMT.	PAYMENTS	CURRENT BALANCE
11/10/09	392873	\$10600.00	\$.00	\$10600.00

\$10,600.00

TOTAL DUE

PLEASE DISREGARD STATEMENT IF PAYMENT HAS BEEN MADE. THANK YOU.

Please make check payable to:
Murtha Cullina LLP
CityPlace I
185 Asylum Street
Hartford, CT 06103-3469
Attn: Accounts Receivable Department

Stephen Norman 2/2/2010
Thomas P. Jones 2/3/2010

APPROVED	DATE
DEPT.	
GA. ACCOUNT # 01-20-02-6167	
PROJECT or FUND NAME	
PAID CK. NO.	DATE

Murtha Cullina LLP | Attorneys at Law

BOSTON

HARTFORD

MADISON

NEW HAVEN

STAMFORD

WOBURN

58

BURY

Customer #: Murtha Cullina LLP

S

2/4/2010

Chk #:

022462

DATE	AMOUNT	INVOICE NUMBER	DATE	AMOUNT
2/3/2010	\$10,600.00			
			Total:	\$10,600.00

II. c.

STEPHEN L. SAVARESE
ATTORNEY AT LAW
attystephensavarese@gmail.com

Newtown Office:
Phone: (203) 270-1144
FAX: (203) 270-0077
103 South Main Street
Newtown, CT 06470

Middlebury Office:
Phone: (203) 758-8645
P.O. Box 7
Middlebury, CT 06762

February 9, 2010

Chairman Michael McCormack
Board of Finance
Town of Middlebury
1212 Whittemore Road
Middlebury, Connecticut 06762

Re: Legal Opinion on Board of Selectmen vote pay increases

Dear Chairman McCormack:

You have requested a legal opinion on the perceived violation of the Standards of Conduct, Section 801 of the Town Charter ¹ when the Board of Selectmen voted (2-1) on December 20, 2010 to grant a two percent (2%) pay increase for all non-union employees including the Selectmen themselves from funds allocated in the 2010-2011 Annual Budget. Board of Finance had recommended different pay increases for the top six salaried non-union employees and no increase to the Selectmen. Your email request dated January 31, 2010 specifically states "[t]he Selectmen cannot vote to give themselves a raise." (copy of your full email attached) To clarifying the question presented, I reviewed the draft Minutes of the Board of Finance meeting of January 16, 2011, and note the request for

"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."

The Board of Selectman is specifically authorized by Section 604 of the Town Charter entitled Pay Plan ² to adopt the schedule of pay for "all compensated offices and positions in the Town, whether elected or appointed, full or part time, salaried or hourly... from time to time" as presented by the First Selectman. The specific designation of the Board of Selectman as the proper authority to establish "[t]he salaries, wages or other compensation of all Town employees" is again restated in the last sentence of Section 604 of the Town Charter with two caveats – reference to Section 208³ and the limitation of the appropriations made.

Section 208 of the Town Charter sets forth the titles of those elected officers that are to receive compensation and the general requirement that "[a]ll other elected Town officers, board members and commissioners shall serve without compensation." Along with the Town Clerk, Tax Collector and Treasurer, Section 208 designates the members of the Board of Selectmen to receive compensation for their elected service to the Town of Middlebury. The compensation for the designated elected officers "shall be provided in the budget." No additional procedural methods are outlined in the Town

Stephen L. Savarese

Attorney-at-law

Legal Opinion on Board of Selectmen vote pay increases

— Charter for determining the compensation of the First Selectman or two Selectmen that constitute at the members of the Board of Selectmen.

It is my legal opinion as Town Counsel that the express authority that the Town Charter in Section 604 gives to the Board of Selectmen the prerogative to adopt a different pay increase for the non-union employees then was recommended by the Board of Finance with regard to the 2010-2011 fiscal year, including the six elected officers entitled to compensation, so long as an appropriation was included in the budget and passed by the voters. It cannot be an ethical violation to follow the mandate of the express language of the governing law of the jurisdiction. Specific terms covering the given subject matter would prevail over general terms of another statute, or as here the sections of the Town Charter, which might otherwise control. Oles v. Furlong, 134 Conn. 334 (1948); Institute of Living v. Town & City of Hartford, 133 Conn. 258 (1947). Stated another way, "[w]here there are two provisions to a statute, one of which is general and designed to apply to cases generally, and the other is particular and relates only to one case within the scope of a general provision, the particular provision must prevail, and if both cannot apply, the particular provision will be treated as an exception to the general provision. Gaynor v. Union Trust Co., 216 Conn. 458 (1990).

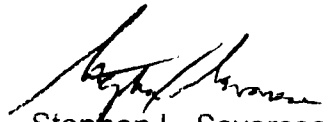
With regard to the compensation of the members of the Board of Selectmen, no material conflict of interest exists regarding their vote to increase their compensation by the same percentage as granted to all other town non-union employees. A material conflict of interest is defined in Section 801 Paragraph (A)(4) as "where a reasonable person would conclude that the financial or private interest is incompatible with the proper discharge of official duties or would tend to impair independence of judgment and action in the performance of official duties." The difference of opinion between the Board of Finance recommendation for no increase for the three members of the Board of Selectmen and the vote to include the First Selectman and two Selectmen in the two percent (2%) pay increase was a total cost of Nine Hundred Sixty-six and 43/100 Dollars (\$ 966.43); Seven Hundred Twenty-four and 97/100 Dollars (\$ 724.97) for the Office of the First Selectman and One Hundred Twenty and 73/100 Dollars (\$ 120.73) for each of the Selectmen.⁴ The inference in your referral is an absolute exclusion on the Board of Selectmen participation in any increase not approved by the Board of Finance. No fair reading of the Town Charter dictates the prior approval of the Board of Finance to the Board of Selectmen vote on their compensation within the budget appropriations.

Finally, the past practices of the Town of Middlebury in combining by department the salaries paid to both the elected officials and their staff, and periodic changes to the Pay Plan which has specifically included the elected officials designated for compensation in Section 208 of the Town Charter, further supports the "reasonable person" standard to interpreting the existence of no prohibition on the Board of Selectmen to vote for a uniform increase to the pay of all compensated officials and non-union employees alike, themselves included. See Budget Line items 01-10-01-6002 (Board of Selectmen) 01-16-01-6002 (Town Clerk) and 01-15-01-6002 (Tax Collector) and Pay Plan FY 2006-2007 combining Appointed & Elected Employees. A survey of prior pay increases indicate that the pay increases were approved similarly reviewed and approved combining Elected, Appointed and staff.⁵

Stephen L. Savarese
Attorney-at-law
Legal Opinion on Board of Selectmen vote pay increases

Any reserve account designated for employee compensation established by the budgetary process or legislative action of a special Town meeting by the voters is an appropriation that may be used to fund the pay increases unless specifically restricted. It is my understanding that a reserve was specifically included in the 2010-2011 Town Budget for adjustment of pay to town employees. See Extraordinary Items 01-76-00-9851 entitled Reserve for Contract Negotiations. The Board of Selectmen is authorized to spend any such appropriation without further approval of the Board of Finance.

Sincerely,



Stephen L. Savarese
Town Counsel
Town of Middlebury

enclosure
Cc: Board of Selectman
Chief Financial Officer

¹ SECTION 801. CONFLICT OF INTEREST.

A. Definitions. The following definitions shall apply to this Section 801:

1. Conflict of Interest.

A conflict of interest shall be deemed to exist if any elected Officer, member of any board, commission, authority, committee or any Town employee shall have a financial or private interest, direct or indirect, in any purchase, contract, transaction, or decision involving such office, board, commission, authority, committee or employee of the Town.

2. Financial Interest.

A financial interest shall be deemed to exist if any such officer, member or employee might, directly or indirectly, derive financial gain or suffer loss from any such purchase, contract, transaction or decision involving any such Town office, board, commission, authority or committee and shall also be deemed to exist if a business or professional enterprise in which the officer, employee, member or commissioner has any interest as owner, member, partner, officer, employee or stockholder or has any other form of participation will be affected by the outcome of the matter under consideration.

3. Private Interest.

A private interest shall be deemed to exist if any such officer, member or employee shall have an interest by reason of relationship within the fourth degree by blood or marriage, or close business relationship of prejudicial relationship with a person involved in any such contract, transaction or decision.

4. Material Conflict of Interest.

A conflict of interest shall be deemed to be material where a reasonable person would conclude that the financial or private interest is incompatible with the proper discharge of official duties or would tend to impair independence of judgment and action in the performance of official duties.

B. Disclosure of Conflict

1. Any elected officer or Town employee who shall have a conflict of interest as defined herein shall disclose the interest causing such conflict in writing to the Board of Selectmen. Any elected or appointed member of any Town board or commission who shall have a conflict of interest shall disclose the interest causing such conflict to such board or commission.

Stephen L. Savarese

Attorney-at-law

Legal Opinion on Board of Selectmen vote pay increases

C. Determination of Materiality.

1. In the event that a disclosure or a claim of a conflict of interest with respect to a Town officer or employee has been made to the Board of Selectmen, it shall inquire into the facts of the matter and determine whether or not a conflict exists and if so, whether it is material.

2. In the event that a disclosure or a claim of a conflict of interest with respect to any member of a Town board, commission, authority or committee has been made to such board, commission, authority or committee, it shall forthwith determine by a majority of those members present, excluding the member whose interest is in question, whether or not a conflict exists and if so, whether it is material.

D. Disqualification.

If it has been determined that a material conflict of interest exists the officer, board, commission, authority or committee member or employee who has the conflict shall be disqualified from discussing or acting upon any matter encompassed by that conflict of interest. Any officer, board, commission, authority or committee member or employee may disqualify himself even though the conflict of interest has not been determined to be material.

E. Sanctions.

1. Any violation of Subsection B1 and D of this Section shall be grounds for removal of any such officer, board, commission, authority and committee member or employee pursuant to the provisions of this Charter or the General Statutes.

2. Any such violation shall render any purchase, contract or transaction affected thereby voidable by the authority which approved the purchase, contract, or transaction, and any such violation with respect to any decision of a board, commission, authority or committee shall be subject to such remedies as may be provided by law.

² SECTION 604. PAY PLAN.

The First Selectman shall prepare a Pay Plan for all compensated offices and positions in the Town, whether elected or appointed, full or part time, salaried or hourly, and may prepare amendments thereto from time to time. The Board of Selectmen shall adopt or modify and adopt the Pay Plan and any amendments thereto. A copy of the Pay Plan and all amendments shall be furnished to the Board of Finance and filed with the Town Clerk after adoption. The salaries, wages or other compensation of all Town employees not set in accordance with Section 208 hereof, [*members of the Board of Selectmen, the Town Clerk, Tax Collector, and the Treasurer shall receive such compensation as shall be provided in the budget*] shall be set by the Board of Selectmen in conformity with the Pay Plan for the positions involved within the limits of the appropriations made therefor. (italics and emphasis added)

³ SECTION 208. COMPENSATION.

Members of the Board of Selectmen, the Town Clerk, Tax Collector, and the Treasurer shall receive such compensation as shall be provided in the budget. All other elected Town officers, board members and commissioners shall serve without compensation

⁴ Selectman Robert Desmarais, Sr. while voting for the increases has declined the increase. Selectman Elaine Strobel voted against the increases and also declined the increase.

⁵ Increases of 3.5% FY04-05, 3.25% FY 05-06, 3.4% FY 06-07 and 3.4% FY 07-08 were voted and approved for "Appointed and Elected" employees.



Stephen Savarese <attystephensavarese@gmail.com>

Charter Violation

1 message

mike mccormack <mike.mccormack602@yahoo.com>

Mon, Jan 31, 2011 at 7:24 AM

To: attystephensavarese@gmail.com

At the December 8, 2010 meeting of the BOF, the Board voted to allocate the money to fund increases in the following manner: 1% raise to the Chief of Police, CFO, Director of Public Works, Assessor, Administrative Manager and Library Director and a 2% raise to all other non-union employees with the exemption of the Selectman, who would receive no raise. At a subsequent BOS meeting, the selectmen gave everyone a 2% raise which was counter to our wishes and something that we think is just wrong. There is also what we believe is a violation of the Standards of Conduct, Sec. 801 of the Town Charter. ~~The Selectmen cannot vote to give themselves a raise.~~ Our Board would like you to give us a legal opinion on this breach of the Town Charter. We would like to correct this violation locally and quietly. Therefore, we would request your opinion by our next meeting: Feb. 9, 2011.
Michael McCormack, Chairman, BOF

Budget CALENDAR

Appendix III.c.

CHAPTER VII

FINANCE

SECTION 701. FISCAL YEAR.

The fiscal year of the Town shall begin on the first day of July and end on the 30th day of June

SECTION 702. BUDGET PROCEDURE.

A. Department Heads.

On or before January 15 in each year each officer and the head of each office, board, commission, authority or committee of the Town, supported wholly or in part from Town funds, except the Regional Board of Education, shall file with the Board of Selectmen a detailed estimate of the expenditures to be made by that office, board, commission, authority or committee during the ensuing fiscal year, which estimate shall be deemed to be the budget request of such office, board, commission, authority or committee. An estimate of the expenditures to be made for the current fiscal year and the revenues, if any, other than property tax revenues, to be collected in the ensuing fiscal year by each such office, board, commission, authority or committee shall also be included.

B. Board of Selectmen's Duties.

The Board of Selectmen and the Chief Financial Officer shall review the budget requests. During or upon completion of the review, but no later than the February meeting of the Board of Finance, the Board of Selectmen shall meet with the Board of Finance to discuss recommended alterations or changes in said budget requests.

C. Board of Finance's Duties.

→ 1. Beginning February 1st, the Board of Finance shall review with the head of each town supported office, board, commission, authority or committee, the budget request made and shall review any changes the Board of Selectmen has recommended.

→ 2. By April 15th, the Board of Finance shall prepare a proposed budget which shall include the following:

- a. An itemized statement of all expenditures for the preceding completed fiscal year.
- b. An itemized statement of all appropriations for the current fiscal year and all estimated expenditures for the current fiscal year.
- c. An itemized statement of proposed budget expenditures for the next fiscal year, which may include a contingency fund not exceeding two (2) per cent of the total estimated expenditures for the current fiscal year, including Middlebury's share of the Region 15 School District budget.

- d. Estimates of revenue presenting an itemized statement of the receipts collected from all sources in the last completed fiscal year, the receipts collected during the current fiscal year prior to the time of preparing the estimates, the receipts estimated to be collected during the current fiscal year, itemized estimates of the receipts other than the property tax to be collected in the ensuing year, an estimate of the amount which should be raised by local property taxation for such ensuing fiscal year and an estimate of the available surplus at the end of the fiscal year.

CHAPTER VII (Cont.)

SECTION 702. BUDGET PROCEDURE (CONT.).

→ 3. By the 1st Thursday in May, the Board of Finance shall hold a public hearing on the proposed budget at which all persons shall have the opportunity to be heard regarding the appropriations proposed for the ensuing year. A legal notice shall be prepared for publication in a newspaper having a substantial circulation in the Town at least five (5) days prior to the said public hearing.

→ 4. Immediately after such public hearing, the Board of Finance shall hold a meeting at which it shall consider the estimates presented and any other matters brought to its attention.

5. Copies of the budget to be presented to the Annual Budget Meeting shall be available in the Town Clerk's Office not later than one (1) week prior to said Meeting.

6. Following approval of the annual budget at the Town Meeting, the Board of Finance shall meet immediately and establish the tax rate on the taxable property of the Town for the next fiscal year.

D. Annual Budget Meeting.

→ The Budget shall be presented by the Board of Finance to the Annual Budget Meeting on the 4th Thursday in May and shall be adopted by majority vote of those present and voting at said meeting.

Ten (10) days prior to the 4th Thursday in May, a report on the proposed budget containing substantially the information required by Section 702-C-2 of this Charter, shall be prepared for publication in a newspaper having substantial circulation in the Town and be available as published for the annual Town Meeting.

Copies of the budget to be presented to the Annual Budget Meeting shall be available in the Town Clerk's Office not later than one (1) week prior to the 4th Thursday in May.

Following approval of the Annual Budget at the Annual Budget Meeting, the Board of Finance shall meet immediately and establish the mil rate on the taxable property of the Town for the next fiscal year.

Said Meeting shall have the power to decrease or delete any appropriation or item in any appropriation for the same purpose recommended by the Board of Finance. No appropriation shall be made exceeding in amount that for the same purpose recommended by the Board of Finance and no appropriation shall be made for any purpose not recommended by the Board of Finance.

In the event that the Annual Budget Meeting shall fail to adopt the Budget, the Meeting shall be adjourned for not over two (2) weeks and appropriate notice shall be given of the adjourned Meeting as provided in Section 903-D.