



# TOWN OF MIDDLEBURY

*Board of Finance  
1212 Whittemore Road  
Middlebury, CT 06762*

**Meeting Minutes  
Wednesday September 9, 2015  
Shepardson Community Center Room 26  
1172 Whittemore Road**

Present: Michael McCormack, Chairman  
Dave Cappelletti, Board Member  
Stephen Ruccio, Board Member  
Michael Kenausis, Board Member  
Vincent Cipriano, Board Member  
Peter Trincherro, Alternate  
Ken Heidkamp, Alternate

Absent: Joseph Drauss, Alternate  
William Stowell, Board Member

Also Present: Edward B. St. John, First Selectman  
Larry Hutvagner, CFO  
Rachel Primus, Recording Clerk  
Elaine Strobel, Selectman  
Ralph Barra, Selectman  
Robert Smith, Town Attorney

Michael McCormack opened the meeting at 7:09 P.M.

**VOTED:** Unanimously on a motion by Stephen Ruccio and seconded by Vincent Cipriano to make Ken Heidkamp a regular voting member.

## **Routine Matters**

### **1. Approval of Minutes from prior Meeting**

**VOTED:** Unanimously on a motion by Dave Cappelletti and seconded by Stephen Ruccio to **APPROVE** the August 12, 2015 meeting minutes with the following correct: the motion made under New Business #1 by David Cappelletti should say “appropriation” not procreation.

### **2. Chief Financial Officers Report**

Larry Hutvagner noted the finances for August were included in the packets. Nobody is

over budget in expenditures, and revenue is coming in as budgeted. He stated that Ed St John had a meeting today with department heads where he told them they need to live by the budget they were given this year. Dave Cappelletti asked about the Police Department budget. Mr. Hutvagner noted they are budgeted for the 10<sup>th</sup> officer, but the problem is always the overtime. Mr. Cappelletti asked about the fire department and if they received an assessment for what they will need for repairs. Mr. St John said they did and they were given what they need to remain operational. He said the larger items will have to be brought in front of the Capital Plan.

**3. Tax Collectors Report**

Included in packets.

**4. Budget transfers**

**5. Correspondence**

None

**6. Chairman Comments**

Michael McCormack said he does not like conversations about politics. He noted this board is not a political board but that it seems to be the going mantra. He stated that the board spends a lot of time putting together a budget, and they want to establish a budget that is adhered to and if for some reason it isn't then the board should be given a reason why and work to correct that during the year.

**7. Public Comment**

Mike Kenausis stated at the last meeting there was a discussion about not making anything political. He wanted to be on record saying he is very disappointed that the legal opinion contained political slander of members of the BOF. He felt it was unprofessional and when they ask for a legal opinion they should get a legal opinion and if he wants political commentary he will tune into Fox, CNN, or MSNBC. He felt it was totally inappropriate and he feels Mr. St John, as the town's chief officer, would look into that and try to control that in the future.

**Old Business**

**1. Chief Financial Officer will explain how the \$95,433.97 that was used to increase the 2014-2015 budget came from.**

Previously discussed.

**New Business**

**1. Chief Financial Officer explanation of Revenue Shortfall for FY 14-15 that will bring the budget in balance.**

Larry Hutvagner stated he couldn't bring it into balance even though he is the Chief Finance Director. He noted the shortfalls came from the building department and current taxes for last year. Michael McCormack noted the biggest shortfall was the WPCA transfer of \$200,000. Mr. Hutvagner stated current taxes, with the 60 day rule, if taxes are paid in July and August it can be credited to last year's revenue and one of the biggest businesses didn't pay their taxes until September. So they were short on regular taxes for last year.

**2. Town Consul Legal Opinion on the Transfer of the \$95,433.97 used to increase**

## **budget.**

Michael McCormack stated at the last BOF meeting the First Selectman asked that he not bring politics into the BOF meetings, and they all agreed not to. He is offended by Mr. St John saying this is a political ploy. Mr. McCormack noted he is not a lawyer or an accountant but in reviewing the transfer he questioned moving \$95,000 of town money to cover an over expenditure, not FEMA money. David Cappelletti noted the wording on his motion in the minutes was incorrect. He read his email into the record and discussed the wording of the Town Charter. He stated his exact question was not "can we" except the FEMA money but the protection of the general fund, the appropriation of the general fund. He noted that when bonding people come in and ask if there is a BOF, if you answer yes that is a check plus. They see there are 2 different parties overseeing the money. Mr. Cappelletti read from the Town Charter "the town meeting shall have the power to decrease or refuse any transfer or additional appropriation recommended by the BOF, but may not approve the transfer or additional appropriations not recommended by the BOF." He noted he was at the meeting to get that wording changed and added to the Charter. He stated he doesn't feel this is at all political but to save the town. It will affect the town's ability to borrow money and the integrity of the town. Edward St John stated the town has received disaster assistance over the years, thousands of dollars received and no one has questioned the procedure in the past. He noted in 2013 the precedent was set and they followed the same procedure in 2015. David Cappelletti stated the town committee or the Selectman do not have the authority to make a transfer outside of the BOF. Mr. McCormack stated the FEMA money was used to offset the items, but in fact was town money. Steve Ruccio asked if the money was taken from reserve to make up for the \$95,000. Larry Hutvagner said it was an accounting formality. He noted that FEMA and he certified that \$95,000 was spent from the general fund. Dave Cappelletti questioned why budget amendments were happening outside of the BOF, without their approval. Dave Cappelletti asked Attorney Smith if they needed to reword the motion in the minutes. Robert Smith stated he understood the wording and noted his opinion and decision was not going to change. He stated there was no transfer. Steve Ruccio asked where the \$21,000 came from if there was no transfer. Attorney Smith stated a separate account was created. Dave Cappelletti stated at the last meeting they had a general fund budget that changed, without their approval. David Cappelletti said he wanted the budget transfer removed. He noted at the Town Meeting it states that a budget transfer was made. Robert Smith stated the transfers at the end of the year increased the budgets of 3 departments. Mike McCormack noted they increased the budget by \$95,000. Mr. Smith said the town meeting was simply to set up an account. Mr. Cappelletti noted it does not say in the town meeting minutes that they set up an account for the FEMA money, as the town attorney stated was the reason for the meeting. He recommended they remove the adjustment that was made by taking the money out of the general fund. Mr. Hutvagner noted that FEMA never reimburses more than 75%. Mr. Cappelletti said he would like the adjustment removed from the general fund, but they then would still need \$24,000 transferred into this other account. He suggested an insurance reserve account for FEMA's \$71,000. Ed St John said in 2013 Blum Shapiro recommended they follow this procedure, and they did what they were advised to do by the auditors. Mike McCormack said they need to take out \$24,000, leave the \$71,000 and that will leave them with \$22,000 artificial surplus. Dave Cappelletti asked Attorney Smith for his opinion, in which he replied the board had received it in his letter. Mr. Cappelletti noted the opinion they were given does not say anything about appropriations which was in the meeting minutes that was requested from him, and he failed to answer the questions on

appropriations and general fund transfers. He asked if he wanted to recommend that that should be removed because the BOF did not approve it. Attorney Smith stated it was the board's job to recommend transfers. Mr. Cappelletti noted that Mr. Smith originally told the board the money was not in the general fund when in fact it is in the general fund. He asked if he wanted to recommend they take a look at the line item and possible remove it. Attorney Smith stated he is not the person who makes recommendations for finance; it is this board's job. The board reviewed the bigger line item accounts with Larry Hutvagner.

**VOTED: 6-1-0** On a motion by David Cappelletti and seconded by Stephen Ruccio to make a budget amendment that's filled out by the Chief Financial Officer Larry Hutvagner that total \$428,130.79.

### **First Selectman's Comments**

Edward St. John said it is difficult for him to sit here as the First Selectman when he had advised the board of what the revenue projection would be for the year. Looking back, the historical pattern set is there is a shortfall. He noted this particular year the Building Department had a \$62,000 shortfall. He feels that as the First Selectman he has no control over this, but feels the board needs to be reasonable. Mike McCormack disagreed with Ed stating there had not been shortfalls for the past 5 years on revenue. He feels they have a history of under estimating the revenues. Steve Ruccio noted the building department had had a discussion regarding adding another employee and also a newer vehicle. He stated a decision had been made by speaking with the department head to figure it all out. He said the BOF decided to wait to see how the building permits would be and if then there would be a need.

**VOTED:** Unanimously on a motion by David Cappelletti and seconded by Stephen Ruccio to **ADJOURN** the meeting at 8:35 p.m.

Respectfully Submitted,

Rachel Primus

Recording Clerk

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