



TOWN OF MIDDLEBURY
Board of Selectmen

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May 13, 2024 at 2:30 pm

TOWN CLERK'S OFFICE
MIDDLEBURY, CT

MINUTES

Board of Selectmen

Monday, May 6, 2024 – 4:00 p.m.
Town Hall Conference Room

Mary Beth Lubinski
TOWN CLERK

Start – 4:00 p.m.

End – 5:12 p.m.

Present:

Edward B. St. John, First Selectman
J. Paul Vance, Selectman
Jennifer Mahr, Selectman
Robert Smith, Town Attorney
Dana D'Angelo, Town Attorney
Ron Hunt, Police Lieutenant
Oreste Bona, Animal Control Officer
JoAnn Cappelletti, Social Services Director
Vin Cipriano, Board of Finance, Chairman
Rita Smith, Library Board of Trustees –
Chairman, PD – Commissioner, BOF member

John Jenusaitis, BOF- member, Retirement
Plan Committee Chairman
Liana St. Germain, Recording Clerk
Marj Needham, Middlebury Bee Intelligencer
Sarah Shelton, Voices

Also Present

DEEP – Officer Chickos
DEEP – Officer Newman
Dr. Scott Peterson
Tom Cunningham
Gregory Barnes

Call to Order with Pledge of Allegiance

The meeting was called to order by the First Selectman at 4:00 p.m. with the Pledge of Allegiance.

Approval of the April 15, 2024, Meeting Minutes

First Selectman St. John **MOTIONED** to approve the minutes from April 15th, 2024, **SECONDED** by Selectman Vance. Unanimous approval.

Tax Rebates

Frederic C. Filippelli - \$115.81

First Selectman St. John **MOTIONED** that this rebate takes its usual course, **SECONDED** by Selectman Mahr. Unanimous approval.

Appointments

None

Discussion and Consideration

Small Cities – A&E Services Group, LLC

First Selectman St. John stated that the town has been involved in the small cities since 1988. This program is income-restricted, and we have completed about 80 – 100 projects. The town receives an interest-free loan, and the individual must fall into a certain income bracket. JoAnn Cappelletti has successfully administered that program since the early 1980's. Our first grant was to convert our Community Center into a senior facility. The first Small Cities Group was initially handled by a gentleman, Larry Wagner, who did an amazing job during his time.

Today, it is handled by A&E Services Group. This was put out for a competitive bid because it is a federally funded project. The only bid received was from A&E Services Group. First Selectman St. John noted that there aren't many people in this business.

JoAnn Cappelletti, our Social Services Director, stated that this program has benefited the town residents. There have been over 100 applications in the past 25 years. Now, on average, we receive applications about once a month. The program is to upgrade your home to make it sellable and presentable and ensure its health and safety. A few examples it will cover – are your plumbing, electrical, roofing, and driveway; it does not cover cosmetic upgrades. Ms. Cappelletti stated that the process works by having the individual contact her office; they will set up an appointment so she can go over the application, assist them with filling out the preliminary application, and obtain all the paperwork necessary for the grant process. Once this is complete, if the person is deemed eligible, they go into the next phase of the project process to be completed. Ms. Cappelletti noted that this is a lengthy process, and it's an interest-free loan payable to the town when the property changes hands. There have been times when this has taken years. This is based on the number of individuals in your household and your annual income.

Selectman Mahr inquired how much money is currently available to go out as a new grant to an individual.

Ms. Cappelletti stated that she receives monthly reports from Mr. Peter Testa from A&E Services, and our last report stated around \$300,000.

Selectman Mahr inquired if this is a first come, first serve or if there is a prioritized list available.

Ms. Cappelletti stated that once it goes to A&E Services, Mr. Testa makes the appointment(s) to speak with the applicant(s), depending on where you fall on the list. No, it's not a first come, first serve.

Selectman Mahr inquired if more people want to participate in the process than we have funds available. Ms. Cappelletti noted that we have always had funds available. The grant is for up to 80% of the equity in your property.

First Selectman St. John noted that you are very limited financially. There are caps on things such as your wages.

John Jenusaitis inquired if the town receives the initial funding from the government, and then we continue to roll it over.

First Selectman St. John noted that it continues to roll over.

Gregory Barnes stated that with the money that the town initially received. Once that money is distributed and the town gets the money back, are those restrictions still in place, or are the restrictions that the town imposes with regard to limitations?

First Selectman St. John noted that the federal requirement stays right through in longevity until the money is gone.

Selectman Mahr inquired if this was a yearly process and was advised that this is done every three years. Selectman Mahr also asked if any changes were made, such as fees, and was informed that they have remained the same.

First Selectman St. John **MOTIONED** to accept A&E Services Group, LLC, **SECONDED** by Selectman Vance. Unanimous approval.

Attorney Dana D'Angelo – Sale of MBL – 1-00-48 to James K. Zanavich – Town Meeting

First Selectman St. John noted that this is regarding old business with Attorney Dana D'Angelo and property on Lake Shore Drive. Attorney D'Angelo stated that the Planning and Zoning Commission

had recommended the sale of the one T-lot and that she is here today for approval from the Board of Selectman to move it to a Town meeting. The sale price is \$ 2,650.00; the appraised price was \$2,200.00, and the appraisal was \$450. Attorney D'Angelo noted that we typically charge back the appraisal cost to the buyer.

First Selectman St. John **MOTIONED** to move the sale of MBL -1-00-48 to a Town Meeting **SECONDED** by Selectman Vance. Unanimous approval.

Selectman Mahr – Bears and securing garbage

First Selectman St. John noted that we have quite a contingent of DEEP Officers here today, and our Canine Officer and Lieutenant Hunt are present. First Selectman St. John stated to give some background. We have always coexisted with the bears, and our Canine Officer Bona has been our front person when going out and dealing with our residents who become very concerned about them, which is justifiably so. Over the recent years, people have become increasingly concerned about them.

Selectman Mahr stated that she received a letter from a concerned resident who was having issues with the neighbor bears getting into the neighbor's garbage and getting into their yard. At the same time, there were a lot of comments on the town Facebook group about bears in yards, bears at bird feeders, and whether we should have bird feeders. Selectman Mahr noted that this would be a great time to publicize what DEEP recommends about living with bears. Selectman Mahr read, last year, Public Act 23-77 makes it illegal for a person to intentionally feed any potentially dangerous animal on any land not owned by the state. From that, it means that by intentionally feeding, we know that bears are out there in Middlebury and love birdseed, garbage, and all kinds of things. For our town, it's not; we have a bear, it's we have bears, and we can be very deliberate about our behavior because once a bear finds a delicious source of food in your yard, it remembers it, and they are going to come back and look for it again and again. Selectman Mahr stated in the DEEP press release that from the beginning of April, there are a number of ways they recommend making your house a no-bear food zone. Don't feed the bears; take down clean and away bird feeders by late March or even earlier during mild weather, and secure your garbage in tight, airtight containers in the garage or other enclosed storage area; add ammonia to the trash can or bags will help reduce the odors that attract bears, don't store your recyclables in a porch or screen sunroom because the bears will smell that and try to get to it; keep your BBQ grill clean, supervise dogs at all times, don't leave pet food outside or feed pets outside, use electric fencing to protect your chickens, other livestock, beehives, agricultural crops, and berry bushes, and avoid placing meat scraps or sweet foods such as fruit and fruit peels in your compost piles. We can be smarter than the bears. We can adjust our behavior so that we don't encourage them to come. Selectman Mahr noted that there is another option. Selectman Mahr collected a sample from towns that are starting to create ordinances that prohibit feeding the birds during specific months. Selectman Mahr noted that it's not something that Middlebury has to do right at this moment but that it is an option for us to prohibit when people put bird feeders out as an additional measure to keep the bears away. Our top priority is not to create a situation that we would regret in the future.

DEEP Officer Chickos stated that regarding recommendations, Selectman Mahr "hit the nail on the head." You need to remove the attractants. They keep coming back, and the more they return, the more the reward is not there, and they tend to move on. Once they start associating humans with food, we start having issues. DEEP Officer Chickos noted that another option is to contact your trash hauler for those households that have their trash picked up and ask if they provide bear-proof containers.

Selectman Mahr inquired if they wanted the residents to report bear sightings.

DEEP Officer Chickos advised that Wildlife is collecting that information.

DEEP Officer Newman stated that the Wildlife Division is tracking the bear/human encounters. This is done right on the DEEP website, on the Wildlife Division page.

Marj Needham inquired about the new law, which states you can't intentionally feed wild animals. If you put out a bird feeder to feed the birds, does the law consider that feeding the bears?

DEEP Officer Newman stated it doesn't prohibit wild animals; it prohibits standard animals, coyotes, bears, etc. If you know that bears are coming there, it can be construed that you are intentionally feeding a dangerous animal.

DEEP Officer Chickos noted that if you come upon a bear, do not run; try to make yourself look bigger. You could yell at them or throw something at them; they do not like to be touched, such as a slingshot or paintball gun.

DEEP Officer Newman stated that the goal of the statute this legislation isn't to create enforcement; it is to make people aware and for people to take a bit of responsibility for their property because, again, we are in their world.

Canine Officer Bona noted that, in general, they do not respond to wildlife calls, but here in Middlebury, they do respond to every complaint, especially for any safety concern.

DEEP Officer Chickos advised us to be aware that bear breeding season is around the corner now through July.

Canine Officer Bona stated that one of the cheapest places to purchase an airhorn is Walmart or even whistles. 99% is common sense. Canine Officer Bona noted that the Middlebury Police Department is one of the only departments that states in their contracts that if a canine officer is unavailable, an officer is to respond to the call.

First Selectman St. John thanks Canine Officer Bona for everything he does; he goes above and beyond his canine responsibility for his community, which is very much appreciated.

Public Comments

Tom Cunningham is a member of the Middlebury Land Trust. Mr. Cunningham would like to thank DEEP, our town police department, and other law enforcement agencies for enforcing the illegal ATV incursions and dirt bikes. Mr. Cunningham inquired regarding the QR that was on the press release. Is that something the Land Trust can use to put on our signs to prohibit motorized vehicles on those properties that are affected?

DEEP Officer Newman stated that they could do that, but how long that QR code will be active is unknown. If it's in this area, use the QR code because if they're using Land Trust property, they're most likely on the Bridle Trail and any connecting trail.

Mr. Cunningham noted that before COVID, the town celebrated what was called "Celebrate Middlebury." It was a great event that brought the community together. Many community organizations had booths and made everyone aware of the services they provided, most of which were nonprofits like the Land Trust. Mr. Cunningham wanted to encourage the town to resurrect this event.

First Selectman St. John suggested since this has been brought up before; unfortunately, the pandemic put many things on the back burner. I recommend that if you have individuals interested, it's always better to work with one of our groups. First Selectman St. John noted that this would fall under Park and Recreation, the reason being that when you fall under the town, it eliminates the liability issue because you fall under our blanket and become part of our operation. First Selectman St. John stated that Mr. Cunningham should contact Director Anderson. Selectman Mahr advised that she would be interested in volunteering.

Gregory Barnes stated that he heard over a year ago that Planning and Zoning was updating its regulations and was looking for input. Mr. Barnes noted he had attempted to be placed on the agenda for a Planning and Zoning Commission meeting after several months, and last month, Mr. Barnes was able to get on the agenda for an informal discussion. Since that time, Mr. Barnes has been attempting to enact regulations. Mr. Barnes stated that the vineyard across the street from his residence is a farm, which he agrees with, but it is also a commercial endeavor run for profit and in a residential section. Mr. Barnes has attempted to submit regulations about that for them to consider. Mr. Barnes and the Zoning Enforcement officer have a difference in opinion at this time as Mr. Barnes is attempting to submit an addition to the regulation. They advised him that they do not have a regulation called an addition, but they have what is called an amendment. Mr. Barnes hands the Selectmen what he proposed to the Zoning Enforcement Officer. (see attached) Mr. Barnes indicated a fee schedule with these regulations, and one of the fees is an amendment fee. Mr. Barnes stated that he is not attempting to amend anything but simply requesting an addition. Mr. Barnes requests that the Board of Selectmen waive any fees the fee schedule imposes.

First Selectman St. John stated that the Board of Selectmen would take this request and defer it to counsel on how they may or may not proceed.

Selectman Mahr noted that she does believe the Zoning regulations are being rewritten as we speak. There should be public input and discussion about what that looks like and how that's happening. There should be a public process, and those regulations should occur in the daylight so people know how they are or are not changing.

Selectman Vance stated that Wednesday is an important day for Middlebury and involves our budget. There's been a lot of information about the budget, pros, cons, and otherwise, and I'm going to tell you that I'm not an accountant, and I had to educate myself about the budget. Selectman Vance noted that he attended budget meetings and feels that the budget that our volunteer budget committee put together is prudent. It's something if you're not familiar with it, so take the time and please look at it. Simply because the budget increase is roughly \$400,000, however, many individuals must understand that half of that is for contractual pay raises. They're coming, and they're due and must be paid along with the addition of another police officer. Selectman Vance noted that looking at the budget and capital projects is important. People say they may not understand a capital project, but Selectman Vance inquired the same thing. Selectman Vance advised that he contacted the Board of Finance Chairman, Vin Cipriano, who explained how the capital budget works. Selectman Vance stated that he call this the rainy day fund, but this pays for the big capital projects. Several capital projects are roads and bridges, buildings, and town properties that must be maintained; the Police Department needs a juvenile hold area; they are mandated to have one; this is a \$350,000 mandated project by the state that the town isn't receiving any money for. The fire protection system at the Fire Headquarters is another \$300,000. Selectman Vance noted that there was enough money in the capital reserve budget for the town not to go to bonding. Selectman Vance stated that he didn't fully understand bonding, so he came in and spoke with our town's Finance Department, and they explained it. It's simply a loan, and you need to pay interest. Selectman Vance noted that this is a no-brainer if the town has money in a savings account that can't be used for anything other than capital projects. Selectman Vance stated that the reason for bringing this up is that it's important that we get out and vote. Vin Cipriano, Chairman of the Board of Finance, did a great job explaining everything at the Town meeting. Also, all the Board of Finance meetings are open to everyone who wants to come. Lastly, Selectman Vance noted that the Board of Finance doesn't just review and go over each line item; they sit down with each department head to see what is needed.

Selectman Mahr noted that she was highly amused by Selectman Vance's comments. Selectman Mahr stated that this represents the first time the Board of Selectman has discussed the budget, which has already been voted on and sent to a referendum. Selectman Mahr stated that she was the lone vote against the budget for the very specific reason that the Board of Selectmen did not do its job. It did not meet the time requirements in the charter for the budget process, and we, as the Board of Selectmen, did not speak of any of the priorities that you are now discussing. Selectman Mahr noted that she has to disagree and has a specific statement to say to the First Selectman. Selectman Mahr read the following into the read. (see attached)

Selectman Vance congratulated Selectman Mahr for being a member of the Coast Guard and commended and thanked her for her service. Selectman Vance stated that he educated himself. When the town attorney gave his interpretation of the charter, they stated that they were doing okay because we used ZOOM and meetings were open to everyone. Selectman Vance noted that he attended all Board of Finance meetings except one. Selectman Vance stated that it's important that you educate yourself, too. Selectman Vance noted that some things he has heard from Selectman Mahr regarding supporting public safety have been negative towards our Chief of Police. Also towards, our police officers when present at public events, where they're noted for omnipresence, which assists in preventing problems. Selectman Vance stated that you have an obligation to bring forward any of your concerns except in the form of embarrassment. Selectman Vance noted that he believes Selectman Mahr has done this several times and believes that this is very unprofessional.

Selectman Mahr noted her commenting on the Police Chief being present at public meetings and making comments that people might get arrested in the future for behavior; is embarrassing?

Selectman Vance noted yes, and it's wrong, absolutely wrong.

Selectman Mahr stated that she will not let our town resources bully our residents.

Selectman Vance advised that they are not bullying our town residents; what they are doing is trying to prevent things from occurring. They're preventing violence from occurring; they're preventing laws from being broken. That's why they are present, no other reason. Selectman Vance stated that he disagrees with what Selectman Mahr has stated, other than her being in the service, which he does commend her for. Still, we also need to support our people just like they had discussed whether or not we should defend the men and women who work for this town in any capacity, and the answer is yes. They are working for the town and the people of this community.

Selectman Mahr stated that wasn't the question at all. The petition asked if we should pay for the legal action; it was not about defending the people, the commissioners. There is no suit against any person on any commission in the town.

Selectman Vance noted that he begged to differ and that you do not get a lawyer for free.

Executive Session

None

Adjournment

First Selectman Edward B. St. John **MOTIONED** to ADJOURN the meeting at 5:12 p.m.; **SECONDED** by Selectman Vance. Unanimous approval.

The next meeting is slated for Monday, May 20th, 2024, at 6:30 p.m.

These minutes are submitted subject to approval.

Respectfully Submitted,

Liana St. Germain

Recording Clerk

*****For inclusion in the public record: Board of Selectmen Meeting, May 6, 2024 at 4pm*****

Last Thursday, I became aware of text messages sent by the First Selectmen, stating that I wanted a no vote on the budget and that I was “very anti public safety.”

This statement couldn't be further from the truth. I am against budgets that are conceived in darkness, without rigorous and in-public debate. My reasons for voting against the municipal and capital projects budgets were clearly stated on the record, and had to do with the Board of Selectmen's failure to follow the process outlined in the Town Charter. A failure, I might add, that was confirmed by the Town Attorney in a legal opinion dated 4/15/24.

I take specific offense at the falsehood that I am anti public safety. I didn't make a huge issue out of my Coast Guard service during the campaign as I figured that would speak for itself. It appears I need to be more clear about my record on public safety:

I took my oath as a U.S. Coast Guard Academy cadet when I was 17 years old, and I wore a Coast Guard uniform until my 30th birthday. I was the ranking female in my class, graduating #18 out of roughly 220 cadets. Only 36 women graduated of the about 56 that started, and we graduated in the 20th year that women were allowed to attend federal service academies.

In the eight years that I was an officer, I was responsible for money, people, and property. I supervised public affairs, the morale fund, classified materials, computers, and handled the administrative capacity of my ship. I was the Deck Watch Officer responsible for the only two illegal migrant interdictions my ship made during the 2 years I was assigned to it.

As a Coast Guard Academy Instructor, I taught hundreds of cadets US History during the school year, was the advisor for the Cadet Government Association, and I was directly involved in cadet training in the summertime...that was my career choice to be involved in training the future leaders of the premier maritime law enforcement agency in the US and the world. I've been awarded the Coast Guard Commendation Medal, The Coast Guard Meritorious Team Commendation, and several Letters of Commendation for my performance.

I resigned my Commission to be a stay-at-home mother, not because I suddenly became anti-public safety. My record here in Middlebury also clearly refutes the First Selectmen's comments, most notably our bear discussion today, and my efforts to get the State to take enforcement on the Bridle Trail seriously. Of all the recent articles that the First Selectmen forwarded to his 90-some person email distribution list he notably did NOT forward the Republican American article on 4/30/24 promoting the new ATV enforcement efforts, which clearly attributed my involvement in that effort.

I'm happy to talk to about all the ways the Board of Selectmen isn't living up to the standards set by the Charter because the First Selectmen has assumed power that doesn't belong to him. The budget process, the lack of a BOS vote on legal action, and the absence of any discussion on the town bidding process are prime examples. The personal attacks against me to detract from the truth I'm telling is nonsense, it's offensive to me and the voters, and it stops right now. I'm a legitimately elected public official and I'm here to do the job the voters hired me to do. Stop getting in the way and let's do what's right for the people we serve.