

## Selectboard Meeting Minutes

January 8, 2025

The meeting was called to order at 6:30 PM, by Ann Marie Visconti, Chair. Curt Robie, and Tamarin Laurel-Paine, members, were also present. Mark Doane, Town Administrative Assistant was also present. Town residents present: Louise Harlow, Adair Laurel-Cafarella, Donald Trask, Karri Trask, Kenneth Murray, Skip Savery, and Jenny Dion, Police Chief.

Public Input: Kenneth Murray had a question about ARPA funds and transferring of funds. The Selectboard Chair said she would be addressing that.

The Selectboard Chair then read a letter from Town Counsel that said the Selectboard can expend ARPA funds. The Chair then read a letter from a Finance Board member, which she felt was improper and disrespectful. Kenneth Murray tried to ask a question; however, public input was done. Kenneth then got up and left the meeting. The Chair then read another letter from the Town Counsel regarding an Annual Town Meeting vote and a subsequent vote at a Special Town Meeting. Due to the error, Town Counsel recommended correcting the errors through a Special Town Meeting. The Chair also reported that Town Counsel can present a workshop on the Open Meeting Law. The Selectboard felt that would be good to have, and the Chair will make the arrangements. FY 24 is close to being closed out. Matt Andre from the Department of Revenue is satisfied that FY 24 is satisfactorily closed, however, Schedule A continues to need to be submitted. Once Schedule A is submitted, Dave Irwin can be contacted.

Mark Doane contacted Van Zandt Plumbing to get the toilet in the lady's room repaired. Van Zandt said we haven't paid a bill; however, the bill is on the Warrant for FY 24 ; 11/29/2023. Mark will check to see if the check has been cashed. Turley Publications still awaiting payment from FY 2024; Mark has volunteered to pay it to keep in good standing with Turley. Mark had the Chair sign a form allowing Skip Savery as the responsible person to sign on the FRCOG bidding documents. Comcast continues to be difficult to contact; Mark will continue to pursue. Tamarin will get Mark a potential contact for Comcast. Mark is also trying to get in touch with the shredding company that we've signed a contract with.

Curt Robie reported that he attended a Zoom call on Rural Policy Advisory Committee. He stated there is a question if a bill has been introduced to look at the Open Meeting Law for small towns. He also reported that grant funding is up in the air, due to the political landscape changing. He did state that the grant of one million dollars for the Senior Center is still on the table, and the decision should be made by March 25, 2025. Curt is hopeful it will be approved, as it was a bipartisan sponsoring. Curt will finalize the Cintas contract for rugs at the entrances of the Town Hall and Senior Center. Cintas will try to coordinate with the highway department and uniform delivery. Curt passed out a Town Administrator job description to the other members of the Selectboard. Tamarin will work on condensing the description for ease. The Selectboard will meet in the town of Washington, with their Selectboard, to finalize the ending of the Town Administrator Contract. He also reported that the Senior Center is awaiting a modified structural plan from the architect. He also recommended that a Senior Center repair account be set up. Adair recommended that a New Truck Account be set up also. Tamarin recommends that when warrants for Annual or Special Town Meetings are needed, that they are written as early as possible so edits and corrections can be made.

Agenda items for next meeting of 1/22/2025 were outlined as developing warrants for STM, determining account amounts, discuss who will administer the Senior work off program, ADA update, and the TA position.



A general discussion was held on the formation of an American with Disabilities Act (ADA) committee. Grants are open for application as of May 1, 2025. Discussion centered around a Town Committee or a Town Commission. It will be further discussed at the Selectboard meeting of January 22, 2025.

Gill Engineering will be awarded the contract for the Cone Road Engineering plan for Bear Mountain Brook. Gill was the only engineering firm to apply.

The Capital Planning Ad Hoc Committee currently consists of: Curt Robie from the Selectboard, Karri Trask from the Finance Committee, Diane Thome from the Planning Board, and Kirsten Smidy, or her representative from the School Committee. The Community Member-at-Large will be posted on the Town Website so interested parties can apply.

The Selectboard will meet on January 29, 2025 at 6:30 PM for budget planning.


The Highway Superintendent will meet with the Finance Committee on January 14, 2025, for budget planning. The Superintendent also recommended using the FEMA money for tree removal. It was also recommended to do a warrant article for funding the new truck for the Highway Department.

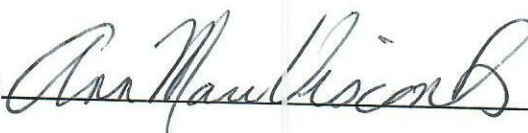
The condition of the Town Bridges was discussed with one bridge on Town Hill at a rating of 4. Any rating of bridges of 4 or below need repairs and are eligible for grants. When a grant is requested, the Town will point out that if the bridge in question is closed, it will hinder all emergency vehicles. Further planning will take place.

A general discussion about transparency and trust in the Town Officials took place between Adair Laurel-Cafarella, Finance Committee Chair and Ann Marie Visconti, Selectboard Chair.

There being no further business to come before the Selectboard meeting, it was declared closed at 9:00 PM

Respectfully Submitted,

  
Mark W. Doane,  
Middlefield Administrative Assistant

Ann Marie Visconti, Chair: 

Curt Robie, Member: 

Tamarin Laurel-Paine, Member: 

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**ARPA funds**

4 messages

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**K Murray** <kmurraybiz@gmail.com>

Thu, Dec 19, 2024 at 7:22 AM

To: middlefield.amv@gmail.com, middlefield.cdr@gmail.com, Tamarin Laurel-Middlefield <middlefield.tamarin@gmail.com>, Middlefield Admin Assistant <middlefield.assistant@gmail.com>, Adair Laurel-Cafarella <adair@abyssdistribution.com>, Steve Harris <qwksteve@gmail.com>, Gita Jozsef <gitajh1@gmail.com>, Karri Trask <karritrask@gmail.com>

At the end of last night's joint meeting with the selectboard and the finance committee, Selectboard chair, Ann Marie Visconti indicated that she was working with legal counsel to find away to legitimize avoiding moving left over funds from the town hall floor project into general stabilization, effectively, **subverting the explicit will of the Middlefield voters as expressed in article 6 of the STM warrant dated and signed by her, and attested to by Curt Robie on 3/28/2024.** If this course of action is pursued I will do all in my power to contact all and any oversight and investigative bodies that have jurisdiction over these matters, including but not limited to, the state's ethics commission and the Massachusetts state Attorney General and seek an investigation into this matter. I assure you I can be quite persistent.

Also, this move is a direct attempt to do an end run around the spending deadline set forth in the ARPA regulations. I will also contact any Federal oversight and enforcement entities to seek an investigation into this. Again, I can be quite persistent.

The correct and legitimate mechanics of this situation is, 1. The town uses ARPA funds to pay off outstanding bills associated with the town floor project. 2. Any and all funds left over in the town hall floor account, after all bills are paid, goes into the general stabilization account, as explicitly stipulated in article 6. Any deviation from this path will open the selectboard members and the town to potentially severe consequences.

Ken Murray

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**adair@abyssdistribution.com** <adair@abyssdistribution.com>

Thu, Dec 19, 2024 at 10:13 AM

To: K Murray <kmurraybiz@gmail.com>, middlefield.amv@gmail.com, middlefield.cdr@gmail.com, Tamarin Laurel-Middlefield <middlefield.tamarin@gmail.com>, Middlefield Admin Assistant <middlefield.assistant@gmail.com>, Steve Harris <qwksteve@gmail.com>, Gita Jozsef <gitajh1@gmail.com>, Karri Trask <karritrask@gmail.com>

Ken: Regarding your letter 12/19/24

Thank you!

I 100% agree.

The Selectboard Chair should not be trying to get advice from Town Counsel to do an end run around the townspeople's vote.

It illustrates the behavior that creates distrust in future collaboration.

I will also help you any way I can to shed light on this attempt to rescind the will of Town Meeting.



Adair

## Finance Committee Chair

[Quoted text hidden]

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**Karri Trask** <karritrask@gmail.com>

Thu, Dec 19, 2024 at 10:39 AM

To: K Murray <kmurraybiz@gmail.com>

Cc: middlefield.amv@gmail.com, middlefield.cdr@gmail.com, Tamarin Laurel-Middlefield <middlefield.tamarin@gmail.com>, Middlefield Admin Assistant <middlefield.assistant@gmail.com>, Adair Laurel-Cafarella <adair@abyssdistribution.com>, Steve Harris <qwksteve@gmail.com>, Gita Jozsef <gitajh1@gmail.com>

Ken~

I agree with you 100% and if there is anything you need from me, please let me know.

Kind regards,

Karri

[Quoted text hidden]

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**K Murray** <kmurraybiz@gmail.com>

Thu, Dec 19, 2024 at 10:47 AM

To: Karri Trask <karritrask@gmail.com>

Cc: middlefield.amv@gmail.com, middlefield.cdr@gmail.com, Tamarin Laurel-Middlefield <middlefield.tamarin@gmail.com>, Middlefield Admin Assistant <middlefield.assistant@gmail.com>, Adair Laurel-Cafarella <adair@abyssdistribution.com>, Steve Harris <qwksteve@gmail.com>, Gita Jozsef <gitajh1@gmail.com>

Thanks for the support. I am available for Monday the 23 as Steve suggested. Let me know.

Ken

[Quoted text hidden]

**Fwd: Authority to Expend ARPA Funds**

1 message

Ann Marie Visconti <middlefield.amv@gmail.com>  
To: Middlefield Admin Assistant <middlefield.assistant@gmail.com>

Mon, Jan 6, 2025 at 9:36 AM

----- Forwarded message -----

From: **Michael D'Ortenzio, Jr.** <mdortenzio@k-plaw.com>  
Date: Mon, Jan 6, 2025, 7:44 AM  
Subject: Authority to Expend ARPA Funds  
To: middlefield.amv@gmail.com <middlefield.amv@gmail.com>  
Cc: Katharine L. Klein <kklein@k-plaw.com>

Ann Marie:

You have requested an opinion regarding the Select Board's authority to expend ARPA funds notwithstanding a vote by Town Meeting to do the same. In my opinion, the General Laws vest authority to spend ARPA funds solely in the Select Board and any vote of Town Meeting doing so is merely advisory.

State law empowers the Select Board to expend grants from the federal government. General Laws c.44, §53A provides that any "officer or department of any city or town...may accept grants or gifts of funds from the federal government...[which] may [be] expend[ed]...in towns with the approval of the board of selectmen...." While the job of Town Meeting is to act as the Town's legislative body, in my opinion, that power is limited by state law. Specifically, the legislative body cannot compel the executive when the executive is acting within its exclusive power. See, e.g., Anderson v. Board of Selectmen of Wrentham, 406 Mass. 508 (1990) (Selectmen not bound by town meeting vote purporting to set the Town's rate of contribution for group insurance benefits); Russell v. Canton, 361 Mass. 727 (1972) (town meeting could authorize the board of selectmen to take land by eminent domain, but could not direct how much was to be taken); Breault v. Auburn, 303 Mass. 424 (1939) (town meeting vote directing the board of health to hire an employee was ineffective because it was a power conferred on board); Lead Lined Iron Pipe v. Wakefield, 223 Mass. 485 (1916) (town vote directing the board of selectmen to hire an engineer was void).

Here, in my opinion, the Select Board has the exclusive power to expend ARPA funds. I understand that the Select Board accepted the ARPA grant on behalf of the Town and, further, that Town Meeting voted to expend \$79,809 of ARPA funds "to remove and replace all asbestos flooring in the Town Hall" pursuant to Article 6 of the April 2024 Special Town Meeting. In my opinion, §53A provides the Select Board with exclusive authority to spend federal grants it has accepted, such as ARPA. Where §53A vests in the Select Board exclusive authority to expend such grants, Town Meeting votes spending the same are in my opinion merely advisory, as the legislative body cannot compel the executive body to exercise the executive body's exclusive power. Accordingly, in my opinion, the Select Board can permissibly spend the \$79,809 in ARPA funds on any ARPA-eligible project without regard to Town Meeting's vote.

Please let me know if you have any further questions. Thank you.

Very truly yours,

Michael

**Michael D'Ortenzio, Jr., Esq.**

101 Arch Street, 12th Floor  
Boston, MA 02110  
617-654-1779  
mdortenzio@k-plaw.com  
www.k-plaw.com

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**2 attachments**

**KP | LAW** image233241.jpg  
27K

**KP | LAW** image233241.jpg  
27K



**Fwd: Reference Error in Town Meeting Article**

1 message

Ann Marie Visconti &lt;middlefield.amv@gmail.com&gt;

Mon, Jan 6, 2025 at 2:52 PM

To: Middlefield Admin Assistant &lt;middlefield.assistant@gmail.com&gt;

----- Forwarded message -----

From: **Michael DOrtenzio, Jr.** <mdortenzio@k-plaw.com>

Date: Mon, Jan 6, 2025, 1:40 PM

Subject: Reference Error in Town Meeting Article

To: middlefield.amv@gmail.com &lt;middlefield.amv@gmail.com&gt;

Cc: Katharine L. Klein &lt;kklein@k-plaw.com&gt;

Ann Marie:

You have requested an opinion regarding the legal effect of reference errors in a recent Special Town Meeting article. Specifically, at the April 2024 Special Town Meeting (the "April STM") the Town voted unanimously under Article 6 "to fund the town hall asbestos removal and re-flooring project by spending up to \$208,809;" however, the article contained an incorrect funding source and the motion did not specify funding source(s). As such, in my opinion, you may wish to clarify the Town's expenditure authority at a future Town Meeting.

In my opinion, towns are generally bound to the terms Town Meeting establishes when voting appropriations. See G.L. c.44, §31. Here, I understand that Article 6 read:

*ARTICLE 6: To see if the Town will vote to spend up to \$208,809 to remove and replace all asbestos flooring in the Town Hall dependent on competitive bidding. Funding to come from \$49,000 previously appropriated at the 2023 annual town meeting, \$79,809 in Federal ARPA funding, \$80,000 from Free Cash, with any balance of funding remaining at the completion of the project to go into the General Stabilization account; or take any other action relative thereto:*

(emphasis added). However, that \$49,000 was not previously appropriated at the 2023 Annual Town Meeting as indicated, but rather at the March 2023 Special Town Meeting (under Article 3). Further, the April STM minutes show one vote under Article 6, namely:

*A motion was made and seconded to fund the town hall asbestos removal and re-flooring project by spending up to \$208,809. Motion passed unanimously*

However, the motion does not specify any funding source(s) for the \$208,809. While the article provides funding sources, an article merely allows Town Meeting to act on the subject matter contained within it; Town Meeting, in my opinion, must vote 1) a funding source, 2) a funding amount, and 3) a funding purpose for an appropriation to be operative. See G.L. c.39, §10. Even if the intent of the motion was to adopt the funding sources printed in the warrant, in my opinion, the reference error in the warrant renders the appropriation incomplete, as more funds have been authorized to be spent than specific funding sources have been identified. As such, you may wish to clarify the Town's authority to expend such funds under Article 6 at an upcoming Town Meeting, ensuring that any motion satisfies 1), 2), and 3) above either through reference to the article or further specificity in the motion itself.

Please let me know if you have further questions. Thank you.

Very truly yours,

Michael

**Michael D'Ortenzio, Jr., Esq.**



101 Arch Street, 12th Floor  
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617-654-1779  
mdortenzio@k-plaw.com  
www.k-plaw.com

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**2 attachments**

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27K

**KP LAW** image452538.jpg  
27K



**Selectboard meeting 1/8/2025**

1 message

**K Murray** <kmurraybiz@gmail.com>

Thu, Jan 9, 2025 at 7:41 AM

To: middlefield.amv@gmail.com, middlefield.cdr@gmail.com, Tamarin Laurel-Middlefield &lt;middlefield.tamarin@gmail.com&gt;, Middlefield Admin Assistant &lt;middlefield.assistant@gmail.com&gt;

On April 13, 2024 a STM warrant was presented to the voters of Middlefield containing six articles that were all sponsored by the selectboard and recommended by the finance committee. All six of the articles were evaluated by the voters and unanimously approved.

The articles in the warrant gave authority to the selectboard to take the action specified in the individual warrants, and, to the best of my knowledge all were acted upon accordingly including article 6. authorizing the asbestos removal and new floors for the town hall. **How could any document be more legitimate than this?**

For the same members of the selectboard who sponsored it to attempt to delegitimize this document, that clearly reflects the collective will of Middlefield tax payers, because it is inconvenient to their personal agendas is an ethical failure and a disgrace. I raised concerns about this issue when it was first proposed by Ann Marie Visconti and Curt Robie at the selectboard meeting on December 11, 2024 and again on December 18, 2024 at the joint selectboard and finance committee meeting. My concerns were not addressed. For anyone to claim they were blind sided by my email of December 19, 2024 is a travesty. As an elected and active member of town government it is not only my right to call attention to what I see as unethical or potentially illegal activity, but an ironclad obligation. That was the purpose of my email.

Article 6. of the above mentioned STM warrant clearly and unambiguously stipulates that all funds left at the completion of the town floor project shall go into general stabilization. It is a completely legitimate expression of the will of the voters of Middlefield. If selectboard members pursue their attempts to do anything other than move leftover funds from the town hall floor accounts to general stabilization as stipulated in article 6. I see it as a profound ethical violation with many implications and I will feel an ironclad obligation to seek relevant outside authorities to investigate. I, more than anyone, hope that this is unnecessary.

Any town official acting honestly and ethically would not, in any way, interpret my words as a threat. To characterize them as such in public and then not allow me to respond, as was done at last night's selectboard meeting, was also a travesty and disgrace.

Ken Murray 508-505-1798