



ANNUAL TOWN MEETING WARRANT AND *ANNOTATED* MOTIONS – MAY 27, 2014

Middleborough, Massachusetts

To Bruce Gates, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the **Auditorium of the Middleborough High School**, on **Tuesday, May 27, 2014, at 7:30 P.M.**, to act on the following articles:

ARTICLE 1. To hear the report of any committee or officer of the Town, to appoint any committee, or act anything thereon.

(No motion required)

ARTICLE 2. To see if the Town will vote to raise and appropriate a sum of money by taxation or from available funds in the treasury to defray expenses of the Town for the fiscal year beginning on July 1, 2014, relating to all or any of its officers, boards or departments and for purposes authorized by law, or act anything thereon.

MOTION: I move that

- **\$ 1,698,053.00 be transferred from the sales of water to the FY2015 General Fund Budget.**
- **\$ 696,757.00 be transferred from the sales of wastewater to the FY2015 General Fund Budget.**
- **\$ 1,958,744.00 be transferred from the sales of Gas and Electric to the FY2015 General Fund Budget.**
- **\$ 412,029.00 be transferred from the revenues of the Trash Enterprise Fund to the FY 2015 General Fund Budget.**

I move that

- **\$ 300,000.00 to be transferred from the Council on Aging Trust fund to department 541, Council on Aging Budget.**

I move that

- **\$ 240,000.00 to be transferred from the debt stabilization account to department 710, Debt Services budget.**

I move that

- **\$ 121,733.00 to be transferred from the Water Pollution Abatement Trust account to Department 710, Debt Services budget.**

I move that the Town raise and appropriate by taxation or available funds in the treasury the following sums of money for the operating budgets of various departments of the Town for Fiscal Year 2015, beginning July 1, 2014, as presented in the Finance Committee budget book as follows:

(Continued for Enterprise funds AFTER all other budgets have been read and voted on.)

For Waste Water Department Budget.

I move that the Town appropriate from the Wastewater Departmental receipts, the operating budget of the Wastewater Department, 440, the total sum of \$1,893,403.00 minus the indirect costs of \$696,757.00 appropriated in the general fund.

For Water Department Budget.

I move that the Town raise from the Water Departmental receipts, the operating budget of the Water Department, 450, the total sum of \$ 3,601,229.00 minus the indirect costs of \$1,698,053.00 appropriated in the general fund.

For Trash Disposal Budget.

I move that the Town raise from the Trash Disposal Departmental receipts, the operating budget of the Trash Disposal Department, 433, the total sum of \$ 1,048,270.00 minus the indirect costs of \$ 412,029.00 appropriated in the general fund.

(The Finance Committee will make this motion)

ARTICLE 3. To see if the Town will vote to transfer from the income from the sales of gas and electricity a sum of money to the Assessors for the purpose of fixing the tax rate for Fiscal Year 2015, or act anything thereon.

MOTION: I move that the Town vote to transfer from the income from the sales of gas and electricity \$610,891 to the Assessors for the purpose of fixing the tax rate for Fiscal Year 2015.

This article appropriates the amount contributed annually to the Town by the G&E.

ARTICLE 4. To see if the Town will vote pursuant to Section 53E ½ of Chapter 44 of the General Laws, as amended, to authorize and/or reauthorize establishment of one or more revolving funds for the purpose of funding certain activities and operations of certain departments and programs of the Town during Fiscal Year 2015 as set forth below, or act anything thereon.

PROGRAM	EXPENDING AUTHORITY	SOURCE	AMOUNT TO BE EXPENDED
Municipal Fire Alarm System	Fire Chief	Fees	Not to exceed \$15,000
Hazardous Materials Incident Training & Materials	Fire Chief	Fees	Not to exceed \$50,000
Recycling Program	Public Works Sup.	Fees	Not to exceed \$2,500
Composting Bin Program	Public Works Sup.	Fees	Not to exceed \$2,500
Herring Fishery Program	Herring Fishery Com	Fees	Not to exceed \$10,000
Recreation and Sports Program	Park Commission	Fees	Not to exceed \$100,000
Zoning Map, Bylaws and			

Subdivision Rules & Regulations Town Clerk Fees Not to exceed \$2,500

MOTION: I move that the Town vote pursuant to Section 53E ½ of Chapter 44 of the General Laws, as amended, to authorize and/or reauthorize establishment of the following revolving funds for the purpose of funding certain activities and operations of certain departments and programs of the Town during Fiscal Year 2015.

PROGRAM	EXPENDING AUTHORITY	SOURCE	AMOUNT TO BE EXPENDED
Municipal Fire Alarm System	Fire Chief	Fees	Not to exceed \$15,000
Hazardous Materials Incident Training & Materials	Fire Chief	Fees	Not to exceed \$50,000
Recycling Program	Public Works Sup.	Fees	Not to exceed \$2,500
Composting Bin Program	Public Works Sup.	Fees	Not to exceed \$2,500
Herring Fishery Program	Herring Fishery Com	Fees	Not to exceed \$10,000
Recreation and Sports Program	Park Commission	Fees	Not to exceed \$100,000
Zoning Map, Bylaws and Subdivision Rules & Regulations	Town Clerk	Fees	Not to exceed \$2,500

These revolving funds have to be reauthorized annually at Town Meeting.

ARTICLE 5. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source to fund one or more collective bargaining agreements, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$121,992 from taxation to the appropriate line items in FY 2015 budgets as established by the Town Accountant to fund the following collective bargaining agreements:

General Municipal Employee Group	\$37,487
Middleborough Professional Firefighters Assn.	\$45,760
Middleborough Clerical/COA Union	\$20,583
AFSCME Council 93 Local 1700	\$18,162

I further move that the Town vote to appropriate \$ 35,663 of which \$7,989 is from the Wastewater Enterprise Unreserved/Retained Earnings account, \$13,226 is from the Water Enterprise Unreserved/Retained Earnings account, and \$14,448 is from the Trash Disposal Enterprise Unreserved/Retained Earnings account, to the appropriate line items in FY 2015 budgets as established by the Town Accountant to fund the following collective bargaining agreements:

General Municipal Employee Group	\$ 6,812
Middleborough Clerical/COA Union	\$ 2,852
AFSCME Council 93 Local 1700	\$25,999

The Town recently reached one-year agreements with four unions for a 2% cost-of-living increase for FY 15.

ARTICLE 6. To see if the Town will vote to raise and appropriate the sum of \$400,000.00 by borrowing under General Laws, Chapter 44, by borrowing from the Massachusetts Water Pollution Abatement Trust pursuant to General Laws Chapter 29C, or by raising and appropriating said sum from some other source for the purpose of funding the Town's program to repair, replace or upgrade septic waste disposal systems, or act anything thereon.

MOTION: I move that the Town vote to raise and appropriate the sum of \$400,000.00 by borrowing from the Massachusetts Water Pollution Abatement Trust pursuant to General Laws Chapter 29C, for the purpose of funding the Town's program to repair, replace or upgrade septic waste disposal systems.

This article authorizes another round of borrowing to continue the septic system improvement loan program administered by the Board of Health.

ARTICLE 7. To see if the Town will vote to raise and appropriate and /or transfer \$80,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source for the purpose of reimbursing Town employees and retired Town employees and other persons enrolled in the Town's non-Medicare health insurance plans for some of the increases in health insurance HMO and PPO co-payments paid by said employees and retirees and other persons in excess of the amounts of such co-payments applicable during Fiscal Year 2012, and to pay any related costs, or act anything thereon.

MOTION: I move that the Town vote to raise and appropriate \$80,000 from taxation for the purpose of reimbursing Town employees and retired Town employees and other persons enrolled in the Town's non-Medicare health insurance plans for some of the increases in health insurance HMO and PPO co-payments paid by said employees and retirees and other persons in excess of the amounts of such co-payments applicable during Fiscal Year 2012, and to pay any related costs.

The Board of Selectmen voted to change health plans this year to the state Group Insurance Commission saving over \$900,000. This article will fund a portion of the reimbursement of some of the co-payment increases associated with this new plan in accordance with an agreement signed with the Public Employee Committee. The remainder of the funding will come at future Town Meetings.

ARTICLE 8. To see if the Town will vote to: (1) rename the Police Station Building Study Committee to the Police Station Building Committee; (2) empower and authorize said committee to do everything necessary and desirable to rehabilitate and construct additions to the Police Station, including, but not limited to, the employment of professionals and equipping and furnishing said building; (3) appropriate \$12,130,000 to pay costs of rehabilitating and constructing additions to the Police Station, including, but not limited to, the employment of professionals and equipping and furnishing said building and all other costs incidental and related thereto, and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$500,000 of said sum under General Laws Chapter 44B (the Community Preservation Act) and the balance of said sum under General Laws Chapter 44, or any other enabling authority and issue bonds or notes of the Town upon such terms as the Treasurer and the Board of Selectmen shall determine; provided that the appropriation hereunder shall be subject to and contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of principal and interest on the borrowing authorized hereunder from the limitations on taxes imposed by M.G.L. Ch.59, section 21C (Proposition 2 ½), or act anything thereon.

MOTION: I move that the Town vote to: (1) rename the Police Station Building Study Committee to the Police Station Building Committee; (2) empower and authorize said committee to do everything necessary and desirable to rehabilitate and construct additions to the Police Station including, but not limited to, the employment of professionals and equipping and furnishing said building; (3) appropriate \$12,130,000 to pay costs of rehabilitating and constructing additions to the Police Station, including, but not limited to, the employment of professionals and equipping and furnishing said building and all other costs incidental and related thereto, and to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$410,000.00 of the total appropriation for this project under and pursuant to Chapter 44B of the General Laws (the Community Preservation Act) and the balance of the total appropriation (\$11,720,000) under and pursuant to Chapter 44, Section 7 of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; provided, however, that no amounts shall be borrowed or expended hereunder unless the Town shall have voted to exclude the amounts required for the payment of principal and interest on the borrowing authorized hereunder from the limitations on property taxes imposed by Chapter 59, Section 21C of the General Laws (Proposition 2 ½). All rehabilitation work on this project that is paid through Community Preservation Act funds shall be undertaken in accordance with the Secretary of the Interior's Standards for Historic Rehabilitation.

The proposed Police Station project preserves one of the Town's most significant historic structures and provides the police department with a modern facility at a very reasonable cost. The Board of Selectmen supports this article.

ARTICLE 9. To see if the Town will vote to raise and appropriate and/or transfer \$73,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase new police cruisers and new portable radios for the Police Department, or act anything thereon.

MOTION: I move that the Town vote to raise and appropriate \$73,000 from taxation to purchase new police cruisers (\$66,000) and new portable radios (\$7,000) for the Police Department.

Articles 9 through 16 are being proposed by the Capital Planning Committee to fund the capital needs of the Town for the coming year. There are copies of the current 5 Year Capital Plan available at the back of the room. The Board of Selectmen is recommending favorable action on Articles 9 through 16.

ARTICLE 10. To see if the Town will vote to raise and appropriate and/or transfer \$155,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase a new command vehicle and personnel protective equipment for the Fire Department, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$155,000 by borrowing to purchase a new command vehicle (\$55,000) and new personnel protective equipment (\$100,000) for the Fire Department and to meet this appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$155,000 under General Laws, Chapter 44.

ARTICLE 11. To see if the Town will vote to raise and appropriate and/or transfer \$173,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase a new pick-up truck and used cabs and chassis for the Public Works Department, and a new mower for the Park Department, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$173,000 by borrowing to purchase a new pick-up/plow (\$61,000) and used cabs and chassis (\$20,000) for the Public Works Department and a new mower (\$92,000) for the Park Department and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$173,000 under General Laws, Chapter 44

ARTICLE 12. To see if the Town will vote to raise and appropriate and/or transfer \$196,495 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to improve the parking lot and replace the roof at the Council on Aging building, to replace voting booths for the Elections Department, to replace carpeting at the Public Library and replace a vehicle for the Animal Control Department, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$196,495 by borrowing to purchase a replacement animal control vehicle (\$22,000), to purchase new voting booths and protective covers (\$24,500), to engineer, permit and construct the expansion of the Council on Aging parking lot (\$30,000), to replace the roof on the Council on Aging building (\$100,000), to replace carpeting in the Library (\$19,995), and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$196,495 under General Laws, Chapter 44.

ARTICLE 13. To see if the Town will vote to raise and appropriate and/or transfer \$165,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing for bathroom renovations and to replace the intercom system at the Elementary Schools Complex, and for elevator repairs at the Memorial Early Childhood Center, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$165,000 by borrowing to renovate bathrooms (\$80,000) and to replace the intercom system (\$60,000) at the Elementary Complex and to repair elevators at the Memorial Early Childhood Center (\$25,000) and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$165,000 under General Laws, Chapter 44.

ARTICLE 14. To see if the Town will vote to raise and appropriate and/or transfer \$137,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing for new boilers and hot water heaters at Nichols Middle School, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$137,000 by borrowing to replace 2 boilers (\$90,000) and 2 hot water tanks (\$47,000) at the Nichols Middle School and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$137,000 under General Laws, Chapter 44.

ARTICLE 15. To see if the Town will vote to raise and appropriate and/or transfer \$120,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing for bathroom renovations, new lighting and ceiling tiles at Middleborough High School, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$120,000 by borrowing for various building improvements at Middleborough High School and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$120,000 under General Laws, Chapter 44.

ARTICLE 16. To see if the Town will vote to raise and appropriate and/or transfer a \$175,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase staff/classroom computers, printers, and fileservers, LCD projectors and instructional technology, computer network infrastructure, servers and related hardware and software for the School Department, or act anything thereon.

MOTION: I move that the Town vote to raise and appropriate \$175,000 from taxation to purchase staff/classroom computers, printers, and fileservers, LCD projectors and instructional technology, and computer network infrastructure for the School Department.

ARTICLE 17. To see if the Town will vote to raise and appropriate and/or transfer \$4,250,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing for all relevant and necessary expenses associated with the design and construction of a water treatment plant and associated improvements for the East Main Street wells for the Water Department, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$4,250,000 by borrowing for all relevant and necessary expenses associated with the design and construction of a water treatment plant and associated improvements for the East Main Street wells for the Water Department and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$4,250,000 under General Laws, Chapter 44 and to provide that the debt shall be paid from the revenues of the Water Enterprise System.

The East Main Street wells have high iron and manganese levels. A new water treatment plant at these wells will significantly improve water quality throughout the town.

ARTICLE 18. To see if the Town will vote to raise and appropriate and/or transfer \$1,750,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing for all relevant and necessary expenses associated with the design and construction of a well, well pumping station and associated improvements at the Mizaras Well Site for the Water Department, or act anything thereon.

MOTION: I move that the Town vote to appropriate \$1,750,000 by borrowing for all relevant and necessary expenses associated with the design and construction of a well, well pumping station and associated improvements at the Mizaras Well Site for the Water Department and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$1,750,000 under General Laws, Chapter 44 and to provide that the debt shall be paid from the revenues of the Water Enterprise System.

The Mizaras well site has received all the necessary approvals from the Department of Environmental Protection and is ready to be constructed. This new well will allow us to rest our existing wells and will also improve water quality throughout the town.

ARTICLE 19. To see if the Town will vote to appropriate or reserve from the Community Preservation Fund annual revenues in the amounts recommended by the community Preservation Committee for committee administrative expenses, debt service, community preservation projects and other expenses in fiscal year 2015, with each item to be considered a separate appropriation:

Appropriations:

From FY 2015 estimated revenues for Committee Administrative expenses \$13,000

Reserves:

From FY 2015 estimated revenues for Historic Resources Reserve \$26,600
From FY 2015 estimated revenues for Community Housing Reserve \$26,600
From FY 2015 estimated revenues for Open Space Reserve \$26,600
From FY 2015 estimated revenues for Budgeted Reserve \$174,200

Sponsored by the Community Preservation Committee

MOTION: I move that the Town vote to appropriate or reserve from the Community Preservation Fund annual revenues in the amounts recommended by the community Preservation Committee for committee administrative expenses, debt service, community preservation projects and other expenses in fiscal year 2015, with each item to be considered a separate appropriation:

Appropriations:

From FY 2015 estimated revenues for Committee Administrative expenses \$13,000

Reserves:

From FY 2015 estimated revenues for Historic Resources Reserve \$26,600
From FY 2015 estimated revenues for Community Housing Reserve \$26,600
From FY 2015 estimated revenues for Open Space Reserve \$26,600
From FY 2015 estimated revenues for Budgeted Reserve \$174,200

Articles 19 through 22 are being proposed by the Community Preservation Committee. The Board of Selectmen is recommending favorable action on Articles 19 through 22.

ARTICLE 20. To see if the Town will vote to appropriate \$12,000 from the Community Housing Resources Reserve of the Community Preservation Fund and \$8,000 from the Budgeted Reserve Fund Balance of the Community Preservation Fund to fund a portion of the Middleborough Housing Authority's Nemasket Apartments Window Project (Sproat Street) for the purpose of improving housing conditions for ten elderly housing units in two buildings; said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereon.

Sponsored by the Community Preservation Committee

MOTION: I move that the Town will vote to appropriate \$12,000 from the Community Housing Resources Reserve of the Community Preservation Fund and \$8,000 from the Budgeted Reserve Fund Balance of the Community Preservation Fund to fund a portion of the Middleborough Housing Authority's Nemasket Apartments Window Project (Sproat Street) for the purpose of improving housing conditions for ten elderly housing units in two buildings; said funds to be expended under the direction of the Community Preservation Committee.

ARTICLE 21. To see if the Town will vote to appropriate \$25,539 from the Historic Resources Reserve of the Community Preservation Fund and \$23,361 from the Budgeted Reserve Fund Balance of the Community Preservation Fund to stabilize the building envelope of the Barn, Woodshed and Farmhouse of the Soule Homestead property; said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereon.

Sponsored by the Community Preservation Committee

MOTION: I move that the Town vote to appropriate \$25,539 from the Historic Resources Reserve of the Community Preservation Fund and \$23,361 from the Budgeted Reserve Fund Balance of the Community Preservation Fund to stabilize the building envelope of the Barn, Woodshed and Farmhouse of the Soule Homestead property; said funds to be expended under the direction of the Community Preservation Committee.

ARTICLE 22. To see if the Town will vote to appropriate \$77,184 from the Budgeted Reserve Fund Balance of the Community Preservation Fund to stabilize the building envelope of the Green School located at 251 East Main Street; said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereon.

Sponsored by the Community Preservation Committee

MOTION: I move that the Town vote to appropriate \$77,184 from the Budgeted Reserve Fund Balance of the Community Preservation Fund to stabilize the building envelope of the Green School located at 251 East Main Street; said funds to be expended under the direction of the Community Preservation Committee.

ARTICLE 23. To see if the Town will vote to amend the existing Zoning Map by deleting the existing Zoning Map in its entirety and replacing it with a new Zoning Map amended through Town Meeting Action of May 27, 2014 on file with the Town Clerk, which new Zoning Map causes the following substantive changes:

1. Remove the designated potential well site off of Tinkham Lane/Taunton Street located on Assessor's Map 56 Lots 1699/1515 and its 1000' radius Interim Wellhead Protection Area;

2. Remove the 1000' radius Interim Wellhead Protection Area around the "Mizaras" Well off of Plymouth Street in North Middleborough and replace it with WRPD Z1, Z2 and Z3 Zones as shown;
3. Add the Cross Street 2 Well and its WRPD Z1, Z2 and Z3 Zones as shown;

or act anything thereon.

MOTION: I move that the Town vote to amend the existing Zoning Map and Zoning By-Law by deleting the existing Zoning Map in its entirety and replacing it with a new Zoning Map amended through Town Meeting Action of May 27, 2014 on file with the Town Clerk, which new Zoning Map causes the following substantive changes:

1. Remove the designated potential well site off of Tinkham Lane/Taunton Street located on Assessor's Map 56 Lots 1699/1515 and its 1000' radius Interim Wellhead Protection Area;
2. Remove the 1000' radius Interim Wellhead Protection Area around the "Mizaras" Well off of Plymouth Street in North Middleborough and replace it with WRPD Z1, Z2 and Z3 Zones as shown;
3. Add the Cross Street 2 Well and its WRPD Z1, Z2 and Z3 Zones as shown.

(The Planning Board will speak to this motion.)

ARTICLE 24. To see if the Town will vote to amend its Zoning By-Law as follows:

Amend Section 8.2.9 (3) **WRPD Z4 – Special Permit Uses** - by adding a new Subsection "a":

- a. Enlargement or alteration of existing uses and structures that do not conform to the Water Resource Protection District are prohibited, but may be allowed by Special Permit provided the enlargement or alteration does not increase the existing non-conformity or create a new non-conformity with the exception of single and two-family uses and structures. Enlargement of existing structures shall not be permitted by Special Permit if a variance from Title 5 of the State of Sanitary Code is necessary;

and designating the existing subsections, formerly "a" through "j", as "b" through "k".

or act anything thereon.

MOTION: I move that the Town vote to amend its Zoning By-Law as follows:

Amend Section 8.2.9 (3) **WRPD Z4 – Special Permit Uses** - by adding a new Subsection "a":

- a. Enlargement or alteration of existing uses and structures that do not conform to the Water Resource Protection District are prohibited, but may be allowed by Special Permit provided the enlargement or alteration does not increase the existing non-conformity or create a new non-conformity with the exception of single and two-family uses and structures. Enlargement of existing structures shall not be permitted by Special Permit if a variance from Title 5 of the State of Sanitary Code is necessary;

and designating the existing subsections, formerly "a" through "j", as "b" through "k".

(The Planning Board will speak to this motion.)

ARTICLE 25. To see if the Town will vote to transfer the care, custody, management and control of the Green School property located on the southerly side of East Main Street shown as Lot 4814 on Assessors Map 042 and a parcel of land on East Main Street abutting the westerly line of the Green School property, containing 9,700 square feet more or less, being a part of Lot 4844 on Assessors Map 042 and bounded and described as follows:

Beginning at a point in the southerly sideline of East Main Street at the northwesterly corner of the Green School property; thence southerly 93.00 feet more or less in the westerly line of the Green School property to the southwestly corner of the Green School property; thence turning at a right angle westerly 104.22 feet more or less to a westerly line of lot 4844; thence northerly in said westerly line of Lot 4844 a distance of 93.00 feet more or less to the southerly sideline of East Main Street; thence easterly on the southerly side line of East Main Street 104.22 feet more or less to the point of beginning, to the Board of Selectmen for general municipal uses and purposes, or act anything thereon.

MOTION: I move that the Town vote to transfer the care, custody, management and control of the Green School property located on the southerly side of East Main Street shown as Lot 4814 on Assessors Map 042 and a parcel of land on East Main Street abutting the westerly line of the Green School property, containing 9,700 square feet more or less, being a part of Lot 4844 on Assessors Map 042 and bounded and described as follows:

Beginning at a point in the southerly sideline of East Main Street at the northwesterly corner of the Green School property; thence southerly 93.00 feet more or less in the westerly line of the Green School property to the southwestly corner of the Green School property; thence turning at a right angle westerly 104.22 feet more or less to a westerly line of Lot 4844; thence northerly in said westerly line of Lot 4844 a distance of 93.00 feet more or less to the southerly sideline of East Main Street; thence easterly in the southerly side line of East Main Street 104.22 feet more or less to the point of beginning, to the Board of Selectmen for general municipal uses and purposes.

The Board of Selectmen is willing to accept care, custody, and management of the Green School property.

ARTICLE 26. To see if the Town will vote to approve the establishment of a Stabilization Fund according to Massachusetts General Law c.71, Sec. 16 G1/2 for the Bristol-Plymouth Regional Technical School District, or act anything thereon.

MOTION: I move that the Town vote to approve the establishment of a Stabilization Fund according to Massachusetts General Law c.71, Sec. 16 G1/2 for the Bristol-Plymouth Regional Technical School District.

A well-management stabilization fund for Bristol-Plymouth will help to mitigate future assessment increases for necessary capital projects.

ARTICLE 27. To see if the Town will vote to extend the term of the intermunicipal agreement for regional cooperation in the provision of solid waste and recycling services for the South Shore Recycling Cooperative for an additional term through June 30, 2018 and, further, to see if the Town will vote to authorize the Board of Selectmen to execute and deliver an amended intermunicipal agreement, a copy of which is on file in the office of the Town Clerk, to effect the extension of the term and other changes set forth therein; or act anything thereon.

MOTION: I move that the Town vote to extend the term of the intermunicipal agreement for regional cooperation in the provision of solid waste and recycling services for the South Shore Recycling Cooperative for an additional term through June 30, 2018 and, further, to see if the Town will vote to authorize the Board of Selectmen to execute and deliver an amended intermunicipal agreement, a copy of

which is on file in the office of the Town Clerk, to effect the extension of the term and other changes set forth therein.

This intermunicipal agreement has to be reauthorized by Town Meeting every 5 years.

ARTICLE 28. To see if the Town will adopt the following non-zoning wetlands bylaw:

Wetlands Administration Bylaw

Section 1. Purpose

The purpose of this bylaw is to maintain the quality of surface water, the quality and level of the groundwater table and water recharge areas for existing, or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of flood water inundation; to protect the community against the costs which may be incurred when unsuitable development occurs in wetland resource areas; and to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the benefit and welfare of the present and future inhabitants of the Town of Middleborough.

Accordingly, this bylaw protects the wetlands, related water resources, and certain adjoining land areas in the Town by providing for prior review and control of activities deemed to have a significant or cumulative adverse effect upon wetlands values. Collectively, the wetlands values protected by this bylaw, include but are not limited to the following: protection of public and private water supply; protection of groundwater supply; flood control; erosion and sedimentation control; storm damage prevention; avoidance of water and soil pollution; protection of fisheries, wildlife habitat, rare species habitat including rare plant species; protection of agriculture and aquaculture; and recreation values, deemed important to the community. This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures to augment those of the Wetlands Protection Act, G.L. Ch. 131, §40 and Regulations thereunder, 310 CMR 10.00.

Section 2. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- (a) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (b) Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- (c) Drainage, or lowering of water level or water table;
- (d) Dumping, discharging, or filing with any material which may degrade water quality;
- (e) Placing of fill, or removal of material, which would alter elevation
- (f) Driving of piles, erection, or expansion of buildings or structures of any kind;
- (g) Placing of obstructions or objects in water;
- (h) Destruction of plant life including cutting of trees;
- (i) Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;
- (j) Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or ground water;

- (k) Incremental activities that have or may have a cumulative adverse impact on the resource areas protected by this bylaw.

The term “bank” shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term “existing” as used in this bylaw shall mean existing as of May 27, 2014.

“Intermittent stream”: a stream shall be considered intermittent if it is observed not flowing for four consecutive days in a 12-month period and the absence of flow is not due to a period of extended drought, withdrawals, impoundments, or other man-made flow reductions or diversions.

The term “isolated land subject to flooding” shall include an area, depression, or basin that holds at minimum one-quarter acre-foot of water and at least six inches of standing water once a year. Not included are swimming pools, artificially lined ponds or pools, or constructed wastewater lagoons. The buffer zone for isolated land subject to flooding shall be 25 feet.

The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term “pond” shall include any open body of fresh water with a surface area observed or recorded within the last ten years of at least 5,000 square feet. Ponds shall contain standing water except for periods of extended drought. Not included are swimming pools, artificially lined ponds or pools, or constructed wastewater lagoons.

The term “rare species” shall include, without limitation, all vertebrate and invertebrate animals and plant species listed as endangered, threatened or of special concern by the Massachusetts Division of Fisheries and Wildlife regardless of whether the site in which they occur has been previously identified by the Division.

The term “200-foot riverfront area” shall mean that area of land situated between a river or perennial stream’s mean annual high-water line and a parallel line located two-hundred feet away, measured horizontally from the river’s mean annual high-water line.

The term “river” or “perennial stream” shall mean a naturally flowing body of water that empties to any ocean, lake, or other river and which flows throughout the year. The Conservation Commission may by regulations set criteria for determining whether a particular stream or section of stream flows throughout the year.

The term “stream” shall mean any body of running water which moves in a definite channel in the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert or beneath a bridge. Streams may be perennial (see river) or intermittent (see intermittent stream).

The term “vernal pool” shall be defined under the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations thereunder, 310 CMR 10.00.

Except as otherwise provided in this bylaw or in regulations of the Conservation Commission the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations, 310 CMR 10.00.

Section 3. Jurisdiction

In accordance with this purpose no person shall remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter the following resource areas:

Vegetated wetlands (including marshes, wet meadows, bogs, and swamps); vernal pools; banks; reservoirs; lakes; ponds; rivers; streams; creeks; lands under water bodies; lands subject to flooding; and lands within 100 feet of any of the aforesaid resource areas;

Isolated lands subject to flooding and lands within 25 feet of isolated lands subject to flooding; or

Riverfront areas without a permit from the Conservation Commission or as is provided by this bylaw. No permit application shall be required for the maintenance of legally existing structures or landscapes within the jurisdiction defined above.

Section 4. Conditional Exceptions

The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Conservation Commission.

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Conservation Commission prior to commencement of work or within 24 hours after commencement; provided that the Conservation Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place approved by the Conservation Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Conservation Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Conservation Commission, the Conservation Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

As an Agriculture Community, the Middleborough Conservation Commission accepts the Agriculture Exemptions as set forth in the Wetlands Protection Act and Regulations.

Exceptions provided in the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations, 310 CMR 10.00, shall apply under this bylaw, unless specifically excluded by any new or revised Regulations promulgated as outlined under Section 9.

Section 5. Applications for Permits and Requests for Determination

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas and buffer zones protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Conservation Commission as specified in the bylaw regulations to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

Where this bylaw and the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations, 310 CMR 10.00 have concurrent jurisdiction the Conservation Commission shall accept the Notice of Intent and plans filed under the Wetlands Protection Act as the permit application and plans under this bylaw for those parts of the project where

precise overlap exists, provided all pertinent areas and activities subject to the jurisdiction of this bylaw and all information required by bylaw regulations are addressed.

At the time of an application, the applicant shall pay a filing fee specified in regulations of the Conservation Commission.

This fee is not refundable. The fee is in addition to that required by the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations, 310 CMR 10.00. Town, county, state, and federal projects are exempt from the filing fee.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Conservation Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Conservation Commission.

Upon receipt of a permit application or RFD, or at any point in its deliberations, the Conservation Commission may deem it necessary to obtain expert engineering or other outside consultant services in order to reach a final decision on the application. The specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law. The Conservation Commission adopted the G.L. Ch. 44 Section 53G for project review by outside consultants, adopted April 18, 2013.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment except when there is a pending appeal shall be cause for the Conservation Commission to declare the application administratively incomplete and deny the permit without prejudice. The Conservation Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.

Section 6. Notice and Hearings

Any person filing a permit application with the Commission shall within seven (7) days after such person is informed of the date and time of the hearing thereon, give written notice by certified mail (return receipt requested), certificate of mailing or hand delivered, to all abutters, of the project locus, at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite the property on any public or private street or way, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the permit application with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the application, the notice of the hearing, and the determination itself shall be sent by the person requesting a determination to the owner and will be sent registered mail (return receipt requested).

The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, not less than five business days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant.

The Commission shall issue its Determination of Applicability in writing within 7 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission shall combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations, 310 CMR 10.00 in instances of concurrent jurisdiction.

With the consent of the applicant the Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in §7. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

Section 7. Coordination with Other Boards

As appropriate, the Conservation Commission may choose to solicit the advice and opinions of other Town boards and officials in the course of its deliberations. Town boards and officials shall be entitled to file written comments and recommendations with the Commission at or before the public hearing. The Conservation Commission shall take any such comments and recommendations into account but shall not be bound by them. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

Section 8. Permits and Conditions

The Commission, after a public hearing, shall issue or deny a permit for the activities requested within 21 days of the close of the hearing. If it issues a permit, the Commission shall impose such conditions as it deems necessary or desirable to protect wetland values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values.

Lands within 100 feet of wetlands resource areas are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resource areas have a high likelihood of adverse impact upon the wetland or other resources, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and harm to wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover in part or all of the 100-foot area and set other conditions on this area, unless the applicant provides evidence deemed sufficient by the Commission that the area or part of it may be disturbed without harm to the values protected by the law.

A permit shall expire three years from the date of issuance. Any permit shall be renewed for additional one year periods if a request for renewal is received in writing by the Commission at least thirty (30) days prior to expiration of the permit, and providing the Commission finds that (1) good cause has been shown for such extension and (2) such extension will not have significant adverse effects, immediate or cumulative, upon any of the wetland values protected by this bylaw. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

The Commission shall, after receiving a written request for a Certificate of Compliance, inspect the resource area and buffer zone where any activity governed by a permit issued under this bylaw was carried out. If such activity has been completed in accordance with said permit, the Commission shall within twenty-one (21) days after such a request issue a Certificate of Compliance evidencing such determination, which may in an appropriate case be combined with a Certificate of Compliance issued under the Wetlands Protection Act. A Certificate of Compliance may specify conditions in the permit, which will continue to apply for a fixed number of years or permanently and shall apply to all owners of the land.

Violations of this bylaw, submission of false or erroneous information, or new information that substantially alters the likely impact of the project on wetlands resources or values may cause the Commission to revoke or modify a permit or determination issued under this bylaw after notice to the public, abutters, and town boards, pursuant to §5 and §6, and a public hearing.

The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations, 310 CMR 10.00.

No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds, or, if the land affected is registered land (in the registry section of the land court for the district wherein the land lies) and until the holder of the permit certifies in writing to the Commission that the permit has been recorded. Such certification shall include the book and page or instrument number and date.

Section 9. Regulations

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw, and procedures governing the amount and filing of fees.

Section 10. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.

Section 11. Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas and buffer zones protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

Where the Commission deems it necessary to carry out its duties under this bylaw by entering privately owned land it shall do so with the authority of the property owner and shall be subject to the limitations imposed by the applicable federal and state laws. With the authority of the property owner or his/her designee the Commission may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary. Any person who violates a provision of this by-law shall be subject to a fine/penalty of Three Hundred Dollars (\$300.00) for each violation.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Section 12. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the permit application will not have significant or cumulative negative effect upon the resource areas protected by this bylaw. Failure to provide evidence that in the judgment of the Commission is adequate to support this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 13. Appeals

A decision of the Conservation Commission made under or pursuant to this by-law, shall be reviewable in the Superior Court in accordance with G.L Ch. 249, §4.

Section 14. Relation to the Wetlands Protection Act

This bylaw is adopted under G.L. CH. 43B Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, G.L. Ch. 131 §40, and Regulations, 310 CMR 10.00, thereunder.

Section 15. Severability

The invalidity of any section or provision or phase of this bylaw shall not invalidate any other section or provision or phrase thereof, nor shall it invalidate any permit or determination which previously has been issued.

MOTION: I move to postpone this article indefinitely.

ARTICLE 29. To see if the Town will vote pursuant to Paragraph 3 of the Town of Middleborough Wastewater Policy and Plan of Sewer Service Area as adopted by the Middleborough Board of Selectmen, acting as the Water & Sewer Commissioners, by vote on March 8, 2004 to approve an extension of the sewer service area and/or a connection of a private sewer located outside of the sewer service area as requested by Cumberland Farms, Inc. which said connection is not considered a public health emergency by the Board of Selectmen. The land to be included in and serviced by the extended sewer service area is that land shown on the Town of Middleborough Assessor Map 58J, Lot 4371 and Map 58I, Lot 4265 as more particularly described in a deed recorded with the Plymouth County Registry of Deeds in Book 4831 at Page 163 and a deed recorded with said Registry in Book 26704 at Page 016. The connection to be approved is for that private sewer more particularly described in an Easement Agreement dated January 15, 1990 recorded with the Registry in Book 10127, Page 076 and shown on a plan entitled "Easements of Land in Middleboro, Mass." Dated February 22, 1988 by Storch Engineers and recorded with the Registry in Book 10127, Page 083.

By Petition

MOTION: I move to postpone this article indefinitely.

Given, under our hands at Middleborough, this **5th day of May, 2014.**

Allin Frawley, Chairman

Leilani Dalpe, Vice Chairman

John M. Knowlton

Diane Stewart

Stephen J. McKinnon
BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the **8th day of May, 2014**, that date being more than seven days before the time specified for said meeting.

BRUCE GATES
Police Chief