Board of Selectmen **April 11, 2016**
Meeting Minutes

Chairman Stewart opened the meeting at 7:00 PM by inviting those in attendance to join in the Pledge of Allegiance.

In attendance were: Selectman A. Frawley, L. Dalpe, J. Knowlton, D. Stewart and S. McKinnon; and Acting Executive Assistant, Colleen Lieb

UNANTICIPATED
There is nothing from the Board.

Paul Provencher, introduces to the Board the new Honorary Mayor, Pat Bettencourt. He thanks everyone who donated and voted in this event.

Paul Provencher thanked the volunteers who came out on April 9th to do the reflagging of the graves. He reported that 70 volunteers participated.

ANNOUNCMENTS AND RECOGNITIONS
Steve McKinnon, Plymouth Street, spoke about the passing of the debt exclusion and explaining that now the Town needs to vote on the bond proposal for the 9.5 million, which will be done under Article 17 of the Annual Town Meeting to be held on Monday, April 25, 2016. He thanks all the residents who voted on this.

Selectman Dalpe reported on the Third Annual Herring Run Festival. She noted that 5,000 people were in attendance and there was no rain or snow at this event. The ribbon cutting at the Oliver Estate went well and approximately 300 people came to tour the Oliver House. She thanks everyone for supporting this event over the weekend.

A resident at 82 Pearl Street spoke about the weekend events he attended at the Oliver House and reported that dozens of people from all over Southeastern Mass came to see the house. Many signed up to volunteer on future projects and want to know what is next for the historic home.

MINUTES
Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board unanimously voted to approve the September 21, 2015 minutes.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board unanimously voted to approve the April 4, 2016 minutes.

WARRANTS

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon to approve and authorize the Chairman, as a designee to sign the warrants for the week ending April 9, 2016. Unanimous vote.

NEW BUSINESS

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to postpone voting on the Art Cover submissions to Tuesday, April 19, 2016.

Robert Nunes, Town Manager spoke briefly on the Visual Budget tool that, in the spirit of transparency, is resident friend and a value resource for the residents to see where their tax dollars are going. He turns the discussion over to Tara Pirraglia. Tara presented the Visual Budget to the Board. It was noted that this will be available on the Town website and the Town Manager will put it up on his Facebook page.

Melissa Guimont, Middleboro Mess Movers, spoke to the Board about the start-up of the volunteer group that works the third Saturday of the month and goes to certain areas in the Town and picks up the trash on the sides of the road. The first session of the season will be on Saturday, April 16th and the group will meet at the Town Hall Parking lot at 9 AM. Melissa spoke about how the Mess Movers work from June through October and there are a few friendly competitions with other Towns on who can pick up the most bags of trash.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to participate in the cleanup with the Mess Movers on Saturday, June 16th.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to approve a Road Race on Saturday, June 4, 2016 and a Triathlon on Saturday, July 17, 2016 for the Middleborough YMCA.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to declare a surplus of Office Equipment as requested by the Office of Economic and Community Development.

Selectman McKinnon asked about leasing of the Town Hall Annex space. The Town Manager reported that the contract with the previous real estate agent has expired but there was some interest in leasing out the space for a franchise. Two walk-throughs of the space were done. The Town Manager will work on this matter and see about meeting with the interested party.

Joe Silva and Chris Peck were present for the discussion. They discussed with the Board the Proprietary Specification for the East Main Street water treatment plant procurement.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously that it is in the best interest to require proprietary specifications for the East main Street water treatment plant's iron/manganese treatment process, with respect to specifications in a request for bids for same, for the reasons set forth in the Memorandum of Benjamin Levesque, P.E. dated March 9, 2016 which memorandum is to be on file with the minutes of the Board meeting.

Rich Johnson, Amory Engineering, spoke about the replacement of the fire tower elevated tank.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to sign the agreement for Engineering Services for the replacement of the Fire Tower Elevated Tank.

Chris Peck requests tabling the topic of the use of C900 PVC Pipe as an alternative to the cement lined ductile iron pipe on the public water main projects. He would like to research this further on the pipe itself and bring it back to the Board to discuss.

HEARINGS, MEETINGS & LICENSES

Paul Provencher – Discussion on Office Staffing for Veteran's Department

Chairman Stewart reminds everyone present that this is to be a respectful discussion and she asked that during the presentation no one else speak out. Paul Provencher states for the record that in all his previous appearances and the views he has expressed he did not mean to give the impression that the Board of Selectmen or the Town Manager weren't being patriotic or supporting the Veteran's. He apologizes if anyone had that impression.

Chairman Stewart expresses her appreciation for the work the Veteran's Agent does. She clarifies that in 2015 Town Meeting voted 19 hours clerical services with 10 hours designated for the Veteran's Department. The Clerical Union has an issue with the 19 hours and will not allow the hiring of a Clerk for less than 20 hours, which the position at 20 hours would then be eligible for benefits.

Selectman McKinnon speaks on the vote taken by Town Meeting and adds that the Town Manager was willing to support giving all 19 hours to the Veteran's Department. He noted that the Board of Selectmen supported the 19 hours as well. He speaks about the benefits budget that cost us 10 million dollars a year and how as a Town they are trying to keep costs down as we re-coop our losses from 2003, 2004 and 2005.

The Town Manager spoke about the FY '17 budget preparation and his request to Department for no new positions. There were Department requests that were not granted for FY '17. He

talked about the offer to bring in the new Veteran's Agent five months before retirement so that proper training could be done, as a compromise for the clerical services.

Paul Provencher spoke about training the new agent and the dire need for clerical services in the Department.

There is reference to the recent Finance Committee vote to increase the Veteran's FY '17 budget to include ten hours of clerical services.

Adam Bond, 8 Rock Street, speaks in favor of the clerical services.

Arthur Battistini, 6 Reland Street, speaks in favor of clerical services. He suggests posting a temporary position for one year, for 19 hours and then work with SRPEDD on getting grant funds to make up the difference. It was clarified that the SRPEDD grant is for Regional services so it would not apply.

The Town Manager explained that he has spoken with the Clerical Union and they do not accept the 19 hours. There is discussion on asking if the Union would accept a side agreement. The Town Manager will set up a meeting with the Clerical Union representatives, himself and the Veteran's Agent to see if this can be worked out.

WRPD Public Hearing – Application made by Renewable Energy, LLC (Next Sun) for property located at 117 East Grove Street, Map 065, Lot 2916 and continued from March 21, 2016.
Amelia Tracie is present for the discussion. Amelia recaps for the Board the work that was done with the Conservation Commission on the restoration plans for 117 East Grove Street. She explained that basically they add more of a natural screening in the 25ft buffer. There are more shrubs and slope stabilization.

Selectman McKinnon confirms with Trish Cassady that she and the Conservation Commission are satisfied with the revised plans. He speaks on the three year warranty for the trees and asks how the new plants will be maintained with water to keep them healthy. Amelia explained that they will hire someone to maintain the plantings. She will report back to the Board with the information on who will do this. There is discussion on the growing season, which is April through October. The applicant would like to get started on the plantings as soon as possible. Chairman Stewart clarifies how the contractors will access the property to do the work.

Chairman Stewart opens the hearing up for public comment. There is no comment. The hearing will be continued to allow for Atlantic Design for review and final comment.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted to unanimously continue the WRPD Hearing for Renewable Energy, LLC (Next Sun) for property located at 117 East Grove Street to April 19, 2016 at 7:45 PM.

Sheffield Estates Roadway Layout Hearing
Chairman Stewart opened the hearing and read the legal notice for the Sheffield Estates Roadway Layout.

It was noted that the applicant was not present.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley the Board voted unanimously to close the hearing for Sheffield Estates Roadway Layout.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to accept the Roadway Layout for Sheffield Estates.

Eastwood Estates Roadway Layout Hearing
Eastwood Estates Roadway Layout Hearing was canceled and it will be brought back at the Fall Special Town Meeting.

Earth Removal Permit – Application made by W. L. Byrne for property located at Chest Street, Map 062, Lot 2726
Bill Madden, GAF Engineering, is present for the discussion. Chairman Stewart opens the hearing and reads the legal notice.

Bill Madden reviews the presented plan for W.L. Byrne Earth Removal permit for the project locus off Rocky Meadow and Chestnut Street. He explains that this is for additional removal to replace the current permit that is about to expire. It is noted that the property is in Zone 3 and the proposal is allowed within the zone. He references his confirmation with the Conservation Agent that they are outside the 100ft buffer zone and they will maintain an undisturbed buffer as required to the residential properties and the wetlands, maintaining the slopes as required under the Earth Removal Bylaw.

It was noted that the DPW did provide comments on the project there is also comment from an abutter expressing concern for their shallow wells at 17 Woods Lake Terrace and 7 Shortbrook Avenue that will need to be addressed. The Secretary will provide copies to the applicant of the comment. There was brief discussion on the Eastern Box Turtle and Bill Madden spoke on the MEPA review and the determination that the project would not have a negative result on the species.

Selectman Frawley spoke about the many permits that have been issues for this property and the estimate of 200,000 yards per year from the site and he asks when the project will be finished. Bill Madden speaks about the new permit and how the material should be moved quicker than the last round, which was slow due to the economy.

Chairman Stewart opens the hearing up for public comment.

Ron Parsons, 116 Rocky Meadow Street, explained that so many trees have been taken down on the property in his area that now there are sand storms out there that make their way to his property and cover the yard and their vehicles in dust. He noted that it is the worst right than it has been in a very long time.

Darlene Parsons, 116 Rocky Meadow, shows on the presented plans the approximate location of their home and the direction the dust is coming from. There are a few pictures show on a cell phone to the Board.

Brian Giovanoni, Direct Abutter, asks the applicant to address the dust issue and compliments the applicant on the thorough submission.

Neil Rosenthal, Resident, ask if there is a five acre limitation on the work done at the property, meaning that only five acres of the property can be worked on at a time. So areas can be stabilized before moving to the next section. He suggests that this be put in the Order of Conditions.

Selectman Frawley acknowledges the idea of working only on 5 acres as a time and then keep everything else seeded to keep the dust under control. Bill Madden explains that they are open to abutter comments and want to ensure that they are not creating problems for the neighbors.

There is no further comment and it was noted that the Board is waiting to hear back from the Conservation Commission on this. The hearing will need to be continued.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to continue the hearing for the Earth Removal Permit, W.L. Byrne for property located at Chestnut Street to May 9, 2016 at 8:16 PM.

Special Town Meeting Warrant Review

Wayne Perkins, Town Moderator, is present for the discussion. Wayne spoke to the public about the upcoming Town Meeting and invites the residents to come out and do the business of the Town, April 25th at the High School at 7 PM.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to recommend favorable action on Article 1.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to recommend favorable action on Article 2.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe the Board voted unanimously to recommend favorable action on Article 3.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to recommend favorable action on Articles 4 through 10.

Annual Town Meeting Warrant Review
Wayne Perkins, Town Moderator, is present for the discussion.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to recommend favorable action on Articles 1 through 25, Article 28, 29 and Article 31.

Article 27 is discussed. This is the article is to amend the Handicap Bylaw and adopt an increase in fine for parking in a handicap spot from $50 to $300. Selectman Knowlton noted that this is the first time he has heard about this issue.

Carolyn Gravelin, Chairman of the Disability Commission, speaks on the amendment they are recommending. She explained that the fees have not been increased since the early 1980's and the fine is no longer high enough to help prevent people from parking in handicap spots. There is discussion on the Police Department view of this increase and whether or not there is an increase in violations. Carolyn explains that the Commission has a liaison with the Police Department and he has provided input on this. There is discussion on the resurfacing work that is going to be done in Town and how the handicap spots will be marked.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon the Board voted to recommend favorable action on Article 27. Motion carries. 4-1-0

There is a review of Article 26. This is a Citizen's Petitioned Article. Selectman Frawley reads into the record a narrative on the records request. He feels that this is a personal request and that there was no records request voted on and submitted by the Tourism Committee. Selectman Knowlton disagrees, he feels there has been a public records request which he supported but he does not support not sharing those records with the Board. Selectman Frawley states that he has never said he "wouldn't" turn over the records.

Upon motion made by Selectman Frawley and seconded by Selectman Knowlton the Board voted to recommend unfavorable action on Article 26. Motion Carries. 3-2-0

There is a brief discussion on Article 30. The Town Manager notes that this article will not be moving forward. No action is taken.

TOWN MANAGER'S REPORT

The Town Manager reported briefly on the old Chase Chevrolet site. He met with the developer on sewer tie-in issues and noted that the project is doing its due diligence.

The Town Manager reported that he has met with the new owners of Southpoint, they are also in the process of doing their due diligence and it is hoped that they will have plans to present sometime in the fall or early winter.

The Town Manager spoke briefly about MassDOT and the change they have made to a four way intersection as oppose to a three way interchange at Rt. 105 and Rt. 495. This will make the old Chase Chevrolet site more viable. He will also check to see if anything has been submitted for the traffic light at Clay Street, which could potentially increase business at the Commerce Park.

CORRESPONDENCE

Selectman Frawley asks the Town Manager to check with Town Counsel on whether a group can make a public records request or if it has to be an individual.

The Selectman have no comment on correspondence.

ADJOURNMENT

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to adjourn at 10:16 PM.

Respectfully submitted by,

Colleen M. Lieb – Acting Executive Assistant
MIDDLEBOROUGH BOARD OF SELECTMEN

On September 22nd, 2015 Leilani Dalphe, as a private citizen, submitted a public Records Request to the Town Clerk of Middleboro Ma.
The request was for " All emails or communications and their senders sent to the Board of Selectman and or Chairman Allin Frawley concerning complaints against the Tourism Committee and or Leilani Dalphe or Glenn Montapert which was disclosed at the 9/21/15. Also email from the June 29th Board of Selectman meeting and its sender informing the Board and the Chairman that Leilani Dalphe was illegally appointed to the Tourism Committee as the BoS can't appoint members to boards or committees that they oversee".

At the Sept. 23rd meeting of the Middleboro Tourism Committee no mention of a public records request was made. No discussion to submit a public records request took place.

At the Sept. 30th meeting of the Tourism Committee, no mention of a public records request.

On Friday Oct. 2nd Ms. Dalphe received the cost estimate for fulfilling the Public records request.

At the Oct. 7th Tourism Committee meeting, under Discuss and Vote to pay for "Request of Public Documents", Ms. Dalphe stated, " I did make a public records request on behalf of Tourism..." "Because I think we need to see..."
A motion was then made to "pay the public document fees to get copies of all complaints made about the Tourism Committee. We received an invoice back from Allin Frawley requesting $121.76."
This was the first mention of a public records request.
(No discussion or vote to submit the 'public records request' had taken place. Two weeks and 2 meetings have passed since the initial request.)

On Thursday Oct. 8th Ms. Dalphe replied to the Town Clerk;

From: Selectman Leilani Dalpe
Sent: Thursday, October 08, 2015 6:28 AM
To: Allison Ferreira
Subject: RE: Public records request
Allison,

the Tourism Committee voted to go ahead with the request for documents. Does your office invoice for the fee? If so can you invoice the Tourism Committee at Jane Kudcey's office?

Thanks,

Leialni

Town Clerk's response;
From: Allison Ferreira
Sent: Thursday, October 08, 2015 11:59 AM
To: Selectman Leilani Dalpe
Subject: RE: Public records request

Leilani,

Thank you for your e-mail. Please be advised, I consulted with Town Counsel and the public records request you made as an individual may not be paid by the Tourism Committee. The cost of research time would be your responsibility as the individual who made the public records request. I may provide you with a letter with the written estimate for your records if necessary.

Thank you,
Allison

Selectman Leilani Dalpe
October 9, 2015 at 8:19:58 AM EDT
Allison Ferreira
Subject: Public records request

Thanks Allison. I will let Tourism know they need to make the request as the records are for them anyway and we can proceed once they have submitted the request.

Thanks,

Leilani

On Oct. 20th the Town Clerk received another public records request, this was from Sherri Swindle acting as the Vice Chair of the Tourism Committee.
"The TC (Tourism Committee) is requesting any and all emails that Mr. Frawley received to his BOS email account as well as to any of his personal email accounts that mention the TC in any manner, any complaints that were lodged against the TC or its members and any emails that discuss any of the member of the TC. These emails need to include the sender & their email address, the receiver and their email address and anyone cc'd, the subject, the date, and any & all content."

No discussion or vote had been taken to submit any public records request on behalf of the Tourism Committee.
In fact the Tourism Committee had not had a meeting since Oct.7th.

Proprietary Specification for East Main Street WTP Procurement

TO: Christopher Peck, DPW Director, Town of Middleborough

FROM: Benjamin Levesque, P.E.

COPY: Joseph Silva, Water Superintendent, Town of Middleborough and Thomas Mahanna, P.E., Tighe & Bond

DATE: March 9, 2016

The purpose of this memorandum is to summarize the reasons that the Town of Middleborough is utilizing a proprietary specification for the iron and manganese treatment process at the proposed East Main Street water treatment plant (WTP). This memorandum fulfills the documentation requirements of Mass. G.L. Ch. 30, Sec 39M, paragraph (b), which states that specifications normally must "provide for full competition for each item of material to be furnished under the contract", except in cases where the specifications are "otherwise written for sound reasons in the public interest stated in writing in the records of the awarding authority".

Project Background

The Town of Middleborough's water system provides drinking water throughout the Town utilizing a combination of 11 groundwater sources. The East Main Street site currently has two groundwater supply wells that are treated to adjust pH for corrosion control and adds chlorine for disinfection.

Dating back to 2005, the Middleborough Water Department has considered iron and manganese removal at the East Main Street wells. At this site, iron and manganese have exceeded the Secondary Maximum Contaminant Levels (SMCLs) of 0.3 mg/L and 0.05 mg/L respectively. There is currently no regulatory requirement for iron and manganese removal; however these constituents are problematic from an aesthetic standpoint.

In 2006, Weston & Sampson Engineers, Inc. (WSE) prepared a study on behalf of the Town of Middleborough for treatment options at the East Main Street wells. The study compared three adsorptive pressure filtration options and a fourth option of the Infilco Degremont Inc. (IDI) biological treatment technology. IDI conducted pilot testing from April through June of 2005. The pilot program evaluated the performance, effectiveness, and suitability of the biological treatment technology with the Town's well supply. Based on the results of the piloting program, WSE recommended the IDI biological process for implementation in the large scale final design for the East Main Street wells. Concurrently to the work conducted at East Main Street, Tighe & Bond oversaw a pilot project at the Town of Middleborough's Tispaquin well site. This pilot utilized the same biological processes and became the foundation of future full scale design for treatment plants at both the East Main Street and Tispaquin sites.

In December 2008, Tighe & Bond submitted a BRP WS 23 permit application which included design plans to construct a full-scale biological iron and manganese WTP to treat water from the East Main Street well site and a second WTP at the Tispaquin well site. The treatment plant design at the East Main Street well site incorporated the two-stage IDI Ferazur® and Mangazur® pressure filtration process. Although WSE recommended a full scale Mangazur®

Pressure filtration system, Tighe & Bond designed a double vessel Ferazur® and single vessel Mangazur® Pressure filtration system. Tighe & Bond pilot studies at the Tispaquin well in addition to other pilot studies indicated a need for both stages of treatment if both iron and manganese are present in significant concentrations. The respective bacterial cultures thrive under different cultivation condition, if high affinity treatment is required, it is best to have monoculture vessels rather than culture both iron and manganese oxidizers within a Mangazur® Pressure filtration system. Manganese oxidizers prefer higher pH and dissolved oxygen (DO) conditions than iron oxidizers. Allowing for independent cultures to thrive produces the maximum possible contaminant removal.

MassDEP approved construction of these 2 similar water treatment plants (East Main St. and Tispaquin), to remove iron and manganese evident in the drinking water obtained from the respective wells. The construction of new treatment buildings, installation of a packaged biological filtration systems, new site piping, and associated building utilities were all approved as shown in MassDEP approval letter to construct new Water Treatment Plant dated October 1st, 2009. The plants were not constructed as money was not appropriated for construction at that time.

Since the approval of the biological filtration process for removal of iron and manganese, the East Main Street WTP project has been on hold. Recently, the Town has decided to move forward with the construction of the water treatment paint at the East Main Street site. An updated Pilot Study Proposal was prepared & MassDEP approval of this Pilot Proposal was received in 2014.

Blueleaf Incorporated ran the pilot system in 2014 specifically for the anticipated process needed in Middleborough, MA. The pilot test at the East Main Street well site further served to confirm the effectiveness of the IDI Ferazur® Mangazur® process. Blueleaf installed the pilot-scale biological treatment system at the site and operated the process from March 31st through May 22nd 2014. The study demonstrated the effectiveness of the process to remove iron and manganese from a raw water source and confirmed the design filter loading rates, run times, finished water quality, and backwash water characterization.

In order to draw parallels from the pilot to a conceptual full scale system, it was necessary to identify influent water iron and manganese concentrations and compare to historical data. Raw water iron and manganese concentrations were similar to values reported historically. Note that Tighe & Bond's MassDEP Design Review Submittal, dated December 2008 listed the maximum raw water iron concentration to be <3.0 mg/L and the maximum raw water manganese concentration to be < 0.5 mg/L. Both historical and present iron and manganese concentrations are below the maximum design conditions included in the 2008 design documentation.

The Ferazur® biological iron and Mangazur® manganese filtration process met the effluent iron and manganese SMCLs when operating under the conditions included in Tighe & Bond's 2008 design. Operating the Ferazur® with an influent dissolved oxygen concentration greater than 4.5 parts per million reduced the iron concentration to levels of approximately 0.15 mg/L. The Ferazur® filter met the SMCL goal of 0.3 mg/L after approximately 72 hours of operation. The filter then operated 130 hours with consistently low iron concentrations after which the operator backwashed the filter and resumed operation for an additional 22 hours.

IDI Ferazur®/Mangazur® Process

The Infilco Degremont Inc. (IDI) Ferazur®/Mangazur® biological filtration process is a relatively new technology application for the United States. The process works in two stages, with the Ferazur® filter first removing dissolved iron, followed by the Mangazur® filter which removes dissolved manganese. It should be noted that the biological filtration process will not effectively remove particulate iron or manganese should a water supply naturally contain these parameters in oxidized form. The process does not use chemicals to achieve oxidation, with iron and manganese removed solely through the use of biological and filtration processes.

Ferazur® and Mangazur® are filter media, which aid in the removal of iron and manganese metals from groundwater. These metals serve as a source of food for bacteria that naturally occur in groundwater. Ferazur® media has an effective particle size of 1.35mm, and Mangazur® media has an effective particle size of 0.095 mm. The process media in both cases is ANSI/NSF standard 61 approved gravel. During treatment, iron bacteria that naturally occur in well water mediate the removal of iron and manganese from the process water. These bacteria attach themselves to the filter media forming a biofilm. Under conditions of limited oxidation, these bacteria bio-assimilate the iron and manganese, die and became part of the biomass to be wasted. This biological process results in the contaminant level reduction of iron and manganese in the product water. Figure 1 shows a schematic of the Ferazur® and Mangazur® treatment process.

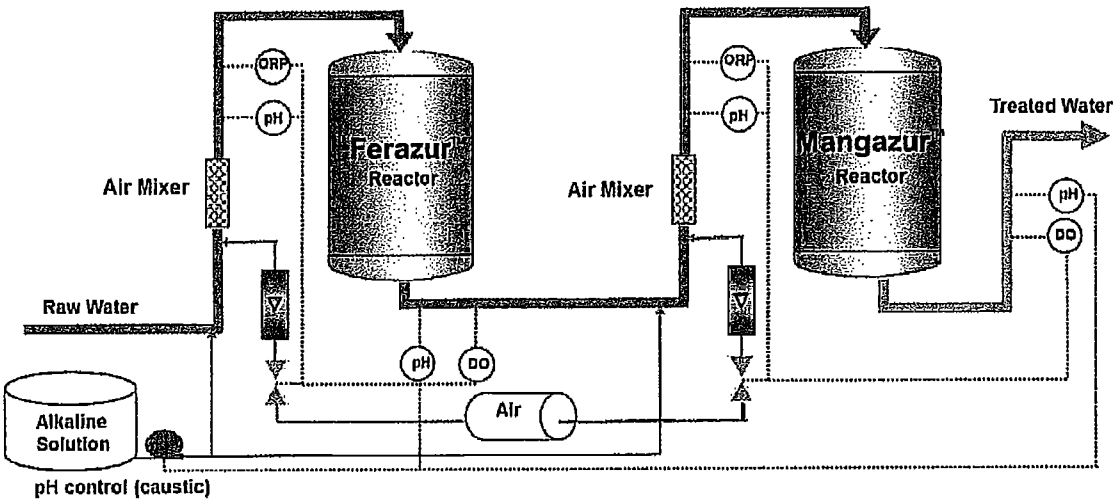

Figure 1: The Ferazur® & Mangazur® Biological Water Treatment Process

The Ferazur® & Mangazur® Filter media technology used for iron and manganese removal was approved by MassDEP, which issued a New Technology Approval letter dated August 4, 2006.

Justification for Proprietary Specification

The Town of Middleborough considers the specifying of the IDI Ferazur®/Mangazur® treatment process as in the best public interest for the following reasons:

1. The Town of Middleborough needs to implement treatment for the East Main Street wells for the removal of iron and manganese from the existing supply wells. Based

on a series of pilot testing in Middleborough, the IDI Ferazur®/Mangazur® process was originally recommended and confirms for providing the treatment needed at the East Main Street wells.

2. The East Main Street site represents unique challenges for operation of a water treatment plant. In particular is the need to minimize residuals production at the site. The use of the IDI Ferazur®/Mangazur® process produces less waste stream and sludge volume than other iron and manganese removal processes. The site does not have access to the municipal sewer collection system nor available space for on-site disposal. The residuals will be stored and pumped into trucks for disposal at the Town of Middleborough's wastewater treatment plant. The reduced residuals volume allows for a smaller storage tank and less operation and maintenance costs associated with residuals transport and disposal.

3. Budgetary quotes for the system IDI Ferazur®/Mangazur® treatment process are comparable to other technologies that provide iron and manganese removal from groundwater.

4. The bidding documents will provide for full competition in all other aspects of this water treatment plant project. Numerous general contractors and suppliers are available for the construction of the overall facility and for providing all other components associated with a water treatment plant.

In the 2005 manual entitled "Designing and Constructing Public Facilities", the Massachusetts Inspector General stated the following (page 45):

If you use proprietary specifications for one or more items, the specifications for those items must include an "or equal" clause: that is, a provision allowing bidders to furnish items that are equal to the specified items. Under the law, an item is considered equal if:

- *It is at least equal in quality, durability, appearance, strength and design;*
- *It will perform the intended function at least equally; and*
- *It conforms substantially, even with deviations, to the detailed requirements contained in the specifications.*

The awarding authority makes the determination as to whether a bid item is equal to the item named in the specification.

The bidding documents will comply with this requirement by virtue of wording in Article 6.05A of Section 00700, General Conditions, and wording in Section 11200, Package Water Treatment System.