

**Board of Selectmen
Meeting Minutes**

May 2, 2016

Chairman Stewart opened the meeting at 6:30 PM.

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

EXECUTIVE SESSION

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted at 6:31 PM to enter into Executive Session to return to Open Session for the purposes of discussion a grievance. Polled vote: A. Frawley - Aye, L. Dalpe - Aye, J. Knowlton - Aye, D. Stewart - Aye and S. McKinnon – Aye

At 6:52 PM the Board of Selectmen returned to Open Session.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon the Board voted unanimously to recess until 7 PM.

At 7 PM the Board returned and Chairman Stewart asked the members present to join in the Pledge of Allegiance.

UNANTICIPATED

Paul Provencher, 17 Barrows Street, Vice President of the Friends of Middleborough Cemeteries, speaks about the upcoming fundraising event at Lorenzo's and the guest speaker will talk about headstone repair from 6:30 to 7:15. All proceeds from this event will go to the Friends of Middleborough Cemeteries.

Arthur Battistini, spoke on how May 7th is National Tourism Day, he highlights a variety of activities that are going on in town.

ANNOUNCEMENTS AND RECOGNITIONS

Selectman Frawley sends a warm Thank You to all of those involved in the Prince & Princess Dance held at the MECC on Saturday. He noted that he took his six year old to a dance and they both had a great time.

Selectman Dalpe spoke about the upcoming Ghost Tours at the Oliver House. She also spoke about the Discover Middleborough 2016 Brochure. She thanked the Shumway family for the layout and printing of the brochures as well as the construction and installation of the handicap ramp at the Oliver House.

Steve McKinnon, 867 Plymouth Street, explained that the Vote Yes Committee for the Police Station has been disbanded and that the remaining funds will be distributed among various groups that work directly with the Town and that those funds also purchased 10 grabbers for the Middleboro Mess Movers.

Brian Giovanoni, School Committee, spoke about the Class of 2020, future 9th graders, that will be looking for at least six hours of volunteer service time in the upcoming school year. There will be a press release regarding this but he asks the Selectmen and public to keep them in mind when they are looking volunteers for upcoming events.

Chris Peck reminded the public about the upcoming Bulky Waste Day.

Selectman Frawley read the letter of recognition for the Capeway Rovers and their generous donation to the Middleboro Youth Sports Programs and asks that anyone wishing to donate speak with Paul Condon at the Mitchell Memorial Club.

MINUTES

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to approve the March 2, 2016 regular meeting minutes as presented.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley, the Board voted unanimously to approve the April 25, 2016 minutes as presented.

WARRANTS

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted unanimously to approve and authorize the Chairman, as a designee to sign the warrants for the week ending April 30, 2016.

NEW BUSINESS

Allison Ferreira, Town Clerk, presented the request for appointment of Roger Lobban to the Board of Registrars to fill the Democratic vacancy of Richard Roth.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe the Board voted unanimously to appoint Roger Lobban to the Board of Registrars to fill the Democratic vacancy of Richard Roth with a term to expire on January 26, 2019.

Allison Ferreira, Town Clerk, presented the Second Hand/Pawnbroker/Junk Dealer/Old Metals License that is due for renewal. She recommended the Board vote the renewals subject to the receipt of all required documentation being filed with the Board's office.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted unanimously to renew the presented list of Second Hand/Pawnbroker/Junk Dealer/Old Metals Licenses subject to the receipt of all required documentation being filed with the Board.

The Board reviewed the request from the Mitchell Memorial Club to modify their existing liquor license to include both upper and lower parking areas. Selectman Frawley asks about whether

the residents have been notified about this. It is agreed that the applicant will be asked to attend the next meeting to speak further on it.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe the Board voted unanimously to continue this matter to a future date to get some additional information from the applicant.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted unanimously to approve the all alcohol liquor license for Bill Seckenger, Muckey's Liquors for May 11, 2016 from 5 pm to 11 pm at 200 Oak Point Drive.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted unanimously to appoint Don Goulart as a Volunteer Observer for the Herring Fisheries Commission with a term to expire on September 30, 2016.

Chris Peck, DPW Director, spoke about Change Order #2 as submitted by environmental Partners for the Middleborough WPCF Upgrades.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon the Board voted unanimously to approve Change Order #2 as presented by Environmental Partners Group for the Middleborough WPCF Upgrade Project #283-1505.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley the Board voted unanimously to approve payment to Jennifer Goldson, in the amount of \$2,365.06 from the Oliver Estate Revolving Fund for the MPPF grant.

HEARINGS, MEETINGS & LICENSES

WRPD – Public hearing – Application made by B&T Realty Trust for property located at Benson Street, Map 100, Lot 4025

Jeff Younquist, Outback Engineering was present for the discussion. Chairman Stewart reads the legal notice and green cards are presented.

Mr. Younquist presented the plans to the Board for a driveway to be placed within the 25ft buffer for a single family home.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley, the Board voted unanimous to accept the revised plans dated April 7 2016.

Mr. Younquist referenced the Atlantic Design Initial Review Letter dated April 20, 2016 and that he has addressed the comments. He speaks about the project, which involves a driveway to a parcel of upland at the back of the property. He shows the wetlands lines and the wetland crossing for the driveway with a 15ft box culvert. He noted that he has been before the

Conservation Commission and they do have an Order of conditions. They will be going before the Planning Board but have not yet done so.

Chairman Stewart opens the hearing up for Board comment. Selectman McKinnon confirms that these plans will be reviewed by the Planning Board. Jeff confirms they will be.

Chairman Stewart opens the meeting up for public comment.

Matt Maher, 58 Gates Path, asks if the plans are to include a subdivision on the property. Jeff speaks to the residents question and confirms that there will not be a subdivision that this is only for a single family home.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon the Board voted unanimously to continue the WRPD hearing for B&T Realty Trust for property located at Benson Street to May 9, 2016 at 7:48 PM.

Earth Removal Permit Hearing – Application made by Costello Dismantling Co., for property located at 701 & 703 Wareham Street, Map 110, Lot 3952 & 3985 continued from March 28, 2016

Chairman Stewart opens the hearing and acknowledges the request from Gary James to continue the Earth Removal Permit Hearing for Costello Dismantling for two weeks.

Upon motion made by Selectman Dalpe and seconded by Selectman Knowlton the Board voted unanimously to continue the hearing for the Earth Removal Permit for Costello Dismantling to May 16, 2016 at 7:30 PM.

TOWN MANAGER'S REPORT

Robert Nunes, Town Manager, spoke about the clean-up at the Pratt Farm this Saturday and the need for volunteers. He also provided an update on the Police Station Building RFQ for the Owner's Project Manager (OPM). He noted that the wetlands on the property have been flagged and that the DPW is cleaning up the piles onsite. The project is moving forward.

HEARINGS, MEETINGS & LICENSES (continued)

WRPD – Public hearing – Application made by the Town of Middleborough, for property located off 55 Plain Street, Map 013, Lot 6384

Phil Cordeiro, Allen & Major Associates, Inc. was present for the discussion. Chairman Stewart reads the legal notice and opens the hearing.

Phil Corderio, presented the plans for the property at 55 Plain Street, owned by Dan Harrington, for the purpose of upgrading an existing Town of Middleborough outfall pipe represented by the Town of Middleborough, Chis Peck - DPW and joint interest with Hometown Oak Point, everyone named has a collective interest in the project. The request is for a WRPD Special permit to repair a drainage outfall pipe that was previously installed in 2003.

Mr. Cordeiro provides a history of the pipe, which handles a portion of the Plain Street roadway drainage and also conveys a portion of Oak Point private drainage which flows through Beaver Dam Swamp. Those who hold the drainage easements are Mr. Harrington of 17 Willowtree Drive, CMG owned by Robert Costa, the Town and Oak Point.

Mr. Cordeiro explained that the application is seeking permission to do repairs on the existing culvert which is embedded in stone. They would like to open the pipe up and convey the storm water to adjacent wetlands. This would require the removal of groundcover and the extension of a 42 inch pipe 20ft and then put an additional 33ft of box culvert to allow the storm water to be conveyed by reducing the velocity as it goes to the wetlands.

Mr. Cordeiro spoke about the Notice of Intent which will be filed this week. There was an informational workshop with the Planning Department, Conservation, DPW Director, NITSCH Engineering and A&M several weeks ago on what the best options were to mitigate the storm water flows through this pipe. At that meeting keeping the work out of the 25ft buffer was discussed but because of the location, it was determined that some work would end up in the buffer. It was recommended that box culverts be added at the end to maximize the effectiveness for velocity reduction. The proposed plan does bring the pipe closer to the wetland system. It was noted that the pipe will be approximately 20ft away with rip rap stone at the end. Mr. Cordeiro referenced the NITSCH comments on storm water calculations and asked the Board if they wanted to get into the details of that.

Chairman Stewart opens the hearing up for Board comments.

Selectman Frawley asked Mr. Cordeiro if what is proposed is going to fix the problem. Selectman Frawley referenced the fact that this matter was discussed for many years and only now it is getting addressed and he would like to know that this will fix the problem. Mr. Cordeiro spoke about the field change that was done during the roadway paving of Plain Street in which the plan was to put in an open air pipe and the calculations going forward were done based on that fact. Mr. Cordeiro further spoke about how no one went back to check on the pipe until recently and it was found to be buried underground and so the calculations have had to be redone. He states that it is very troubling that this happened.

Selectman McKinnon spoke on how that mistake has had an impact on everyone involved. Mr. Cordeiro spoke on how the calculations have been revised and that this proposal is to rectify the problem. Selectman McKinnon spoke further on his concerns with the proposed fix and back to back 100 year storm events now that the topography of the area has changed so much. Mr. Cordeiro agrees that the topography has changed. Selectman McKinnon asks to see a close up of the easement. Mr. Cordeiro spoke about the intent to construct and return to existing conditions

in the work area. Selectman McKinnon points out the location of the deck of one resident, which is merely 10ft off the property line.

Chairman Stewart spoke about how this application is currently in front of the Conservation Commission and the Engineer has some problems with the calculations that have been presented by A&M and that it has not been approved by the Conservation Commission yet. Mr. Cordeiro confirmed that he is working with NITSCH on the calculations. Chairman Stewart clarifies that the numbers that A&M was using for their drainage calculations were for an open pipe scenario but it ended up being a closed pipe that was existing and the calculations were never redone, this has been ongoing as it relates to this drainage pipe back to 2003.

The Board discussed keeping the drainage on Oak Point's site and not transferring it through this pipe to the wetlands. Mr. Cordeiro stated that they Hometown Oak Point have lost a number of homes over the last 18 months for drainage and they do not want to continue to loose home sites. Chairman Stewart states that she sees that as a better option rather than big box culverts down to the wetlands.

Chairman Stewart opened the hearing up for comments from the public.

Jeff Cornell, 35 Summer Street, spoke about the property he owns on Plain Street. He explained that back in 2003, when they put in the drainage, he told them that he could not handle the water but it got done anyway. Now he is back again to speak against this request, which will put more water onto his bog. He states that he cannot handle the water he gets now. The water that goes into Beaver Dam Brook flows into me reservoir for my bog. He refers to the back to back 100 year storm event that took past a few years back and how it took Summer Street off the map, blasted a hole right through it because it couldn't handle the water and it still cannot handle the water. He spoke about how when Plain Street was paved and the drainage changed so everything went into the bog. He noted that his bog is smack in the middle of the 100 year flood zone and that's where the water is designed to go but not more and more and more water. He spoke about the increased chances with this that he will lose his crop depending on when the flooding occurs during the cranberry growing cycle. He asks the Board to have Oak Point construct their own pond, stock it and let the residents enjoying fishing there. He thanked the Board for hearing his concerns.

Korin Petersen, 59 Plain Street, noted that she is a direct abutter and she has serious concerns regarding the storm water calculations that were presented. She noted that at the Conservation Commission meeting NITSCH Engineering had requested that the entire storm water system be looked at again, including upstream and the entire site. She noted that Oak Point has some serious challenges in dealing with storm water basin breakouts. Ms. Petersen asked the Board to consider solutions that presented where the water stays on the Oak Point site.

Robert Costa, 17 Willowtree Lane, spoke about the 2003 Field Change and the fact that no one is able to produce a record of that change. He explained that when the plans were issued it was a subsurface pipe, not above ground. He talks about the impact this work will have on the value of his land and his yard and the difficulty he will have in selling his home because of the encroachment issue that he feels was a result of the previous developer who pointed out to him that the survey stakes in the ground at the time were his property line. He has since found out that the stake was not his property line. He raises the question as to whether Oak Point's use of the drainage system is unauthorized and possibly illegal. He noted that no Board to this date has been able to provide documentation of Oak Point's proposed connection and that when the easement was originally installed it was granted for the drainage on Plain Street, there was nothing about drainage from Oak Point. He talked about how this was presented as an emergency and questions why that is the case now. He presented to the Board three separate documents.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe, the Board voted unanimously to accept into the record, Nitsch Engineering letter dated April 4, 2016; Letter from Karen Augeri Benson regarding the NOI for 55 Plain Street; and February 10, 2016 letter from the Planning Director regarding the Oak Point Drainage System Tie-In with WPA Form 9 attached.

Selectman McKinnon asked that the submitted documents be forwarded to A&M, Conservation Commission, Planning Department, DPW and Hometown Oak Point so everyone is on the same page. He further states that the Board has received a lot of information tonight and requests the hearing be continued until we hear what the Conservation Commission and Planning Board are recommending.

Upon motion made by Selectman Knowlton and seconded by Selectman McKinnon the Board voted unanimously to continue the hearing for the WRPD application for 55 Plain Street, Drainage Outfall to May 9, 2016 at 8:30 pm.

Public Hearing - 88 River Street Nuisance, Source of Filth and/or Cause of Sickness Injurious to the Public Health

Chairman Stewart reads the legal notice and opens the hearing.

Attorney Renauldo - Nixon, Peabody, LLP, stated that he represents A-Plus in Superior Court and will be counsel for this proceeding. He advised that they do take this matter seriously and that they do wish to reserve time on May 9th to speak on the matter. He introduces Mr. Louis, Director of Compliance, who will be listening carefully to the Board's comments as well as any information provided to the Board.

Chairman Stewart explained that the hearing is to determine whether or not, there is a nuisance related to the odors; and whether or not they are emanating from the compost facility at 88 River Street. She clarifies that anything not related to the odors is not being discussed.

She asked that anyone who is planning to testify to stand up, raise their right hands and be sworn in. She asked do you solemnly swear to testify to the truth, the whole truth and nothing but the truth. Those who stood said they do.

Jason Meserve, 83 River Street, testified that he is representing himself personally and his family, his wife and two children. He explained that he is here to describe nuisance level odors confirmed to be coming from the A-Plus Waste facility at the 88 River Street location. He states that the odor is strong and offensive. That it has a putrid smell. That it smells like rotting food and/or rotting produce but on a massive, massive level. The odor is overpowering, nauseating, has caused a burning irritation sensation in his nose, mouth and throat. This effect has been experienced by many others, such as friends, passersby and government officials that have been called out to the site. The odor surrounds his property; that they must leave their property or are forced to go inside to escape it when it is present. He explained that a DEP agent, onsite, once described it to him as “cooking garbage”. He notes that the smell and odor has been experienced in the back woods, ¼ mile away from 88 River Street facility. The smell has caused gagging, vomiting and often headaches, for himself, his family and others who have come to visit their home.

Mr. Meserve testified that the odor has been blamed, by some, as agricultural processes in the area. He stated his opinion that farms and manure don't smell like trash or like landfill. He noted that there is an odor but it is not a trash odor. He explained that the odors affect their lives in the following ways; He can't complete tasks outside; his children are forced to stay inside, they cannot enjoy their outdoors and back yard play area. That when the odors are present the kids always complain about the smell outside. They do not understand why or where it's coming from. The odor has been present since moving in approximately three years ago. The odor has been coming exponentially worse in the past year. He noted that he cannot open his windows; the air conditioning will run constantly all summer. He explained that some of the neighbors don't have a/c, which they don't have that option, and they are trapped. They can't dry their clothes outside and can't conserve energy on that.

Mr. Meserve testified that one of the biggest ways this affects their lives is both planned and unplanned social gatherings. They are filled with anxiety, because of the possible odors they will be subjected to depending on wind directions. He noted that someone recently, in a governmental position in our state, asked how important his house and his property was to them. He answer was that it is the largest investment an average family makes and it is how he primarily provides safety and security for his family. He states that they love their home, they

love their neighborhood, that it is all very important to them. He thanks the Board for hearing this matter.

Chairman Stewart asked how long he has lived in his home. Mr. Meserve answered three years. Chairman Stewart asked how many times he has smelled odor from 88 River Street in that timeframe. Mr. Meserve asked in the past three years? Chairman Stewart answered yes. Mr. Meserve said hundreds of times. Chairman Stewart asked for an average in a week how many times per week. Mr. Meserve said it used to be two to three times per week with an offset variable but now it is a daily occurrence. Mr. Meserve explained that when the odor is there you cannot escape it. On days that the odor isn't present, there is still anxiety, and wonder as to when it's going to come back, when that northeast wind is going to shift. He noted that they have become meteorologists in order to work in the yard around their home. It is frustrating.

Chairman Stewart referenced his mention that he and his family experienced gagging, vomiting and headaches and asked if he can pin-point a specific period of time or recall specific instances.

Mr. Meserve said that prior to the last year, and speaking in terms of the last year because some of the laws have changed since last year, in what can be accepted in that facility. He noted that it seemed to him that it got way worse in severity since the law changed. Before that it was still variable, there were times you could not step outside or open a window without the odor smacking you in the face.

Chairman Stewart asked how he concluded that the odor was coming from 88 River Street. Mr. Meserve answered that there used to be another neighbor that supposedly had some pigs, so it was kind of a 50/50 point. He explained that some other issues pushed them out of that property and then it became obvious when that smell was still present. He noted that it was obvious that they weren't told the truth by an abutter about the real story. Chairman Stewart asked when he started to notice the odors what, if anything, did he do in response to them. Mr. Meserve explained that it was a growing experience and that they had to learn what to do. He explained that for months they called a DEP number that had nothing to do with that kind of business. The situation has taken a lot of time from their family, there has been a lot of stress and a lot of late nights trying to figure out what is going on.

Chairman Stewart asked if there was anything else he did as a result of the odors, in terms of how he changed his lifestyle. Mr. Meserve answered that they knew when they moved into their home that there was an industrial facility across the street. He noted that they put a fence up to try and mitigate the situation. He noted that this is not a site issue that it is an air quality issue. He explained at one point, they were told, that someone would come out and do air quality testing; we still do not know what we are breathing in. He said that it does not seem health to him.

Chairman Stewart asked what the most recent time that you smelled the odor and having seriously physiological reaction to it. Mr. Meserve answered that prior to the Cease and Desist when the business was required to stop taking in materials on a daily basis, it was always present. He explained that you had to choke it off and that they would have smoldering fires in their driveway to try and filter the air with some other scent.

Chairman Stewart asked if in March 2016 he or his family members had issues with gaging, headaches or vomiting. Mr. Meserve explained that his wife called him on the phone while he was at work that she was vomiting in the front driveway. He noted that it seemed to him that Friday's were horrible at the house and the weekend might be bad or depending on the wind. He argued to the DEP and the Town about point of reference and how if there is a northwest wind their home is down-wind of the nuisance. Chairman Stewart asked if he was directly across from the facility. Mr. Meserve answered they are south of the property. Mr. Meserve noted that sometimes the worst wind is no wind at all. He explained that then the smell hangs there.

Chairman Stewart asked the Board if they had any questions for Mr. Meserve. Selectman McKinnon asked relative to the weather conditions, what has his experience been when there is no wind, in the middle of summer. Mr. Meserve explained that it is the worst situation of all. The molecules of air adhere better to your senses so you pick up the smell easier. Selectman McKinnon confirms that it is worse in those conditions. Mr. Meserve explained that the temperature has nothing to do with it. He noted that this past winter with snow on the ground he could still smell the odor.

Selectman Knowlton referenced the email chains indicating the instance and asked if Mr. Meserve had any doctor's documentation, notes or co-pay receipts from seeking medical treatment relating to the odors. Mr. Meserve answered that he has not received medical attention for this.

Jamie Meserve, 83 River Street, testified that as Jason mentioned they bought their house in 2013 and from that time they did notice a thick overwhelming smell present on many days and many nights. She explained that it was like rotting food, the kind of smell that makes you feel sick. She stated that Ron High informed them it was the neighbor's pigs. She said that looking back, it was too intense of an order to be a couple of pigs. She noted that she figured it out was A Plus in fall of 2014 because compost was being tracked out of the facility. She explained that what she scraped off the road stunk of garbage. Chairman Stewart asked if that was the fall of 2014. Mrs. Meserve confirmed that it was the fall of 2014.

Mrs. Meserve explained that she starting with the Board of Health and did find out that A Plus was issued an odor violation, previously. She noted that everything made sense at that point as

to where the smell was coming from. She explained that they did their research and that the smell kept getting worse and worse and more intense over time. They had thought they were reaching out to the MassDEP but instead found they were talking to MEMA. It was frustrating. They felt like they were drowning, living inside a dumpster unless they flee their property. She stated that a small like doesn't seem like it's legal to emit from a facility, that it is really, really overwhelming

Mrs. Meserve testified that after almost a year of complaining to DEP and the Town, the facility had a compost fire that was pretty major. She believes that fire but all the residents at risk and during that time it smelled like a burning dumpster. She states that this has had a huge impact on our life and our family life. It has taken a toll on her personally stress-wise and health-wise. That time can never be given back to our family. She noted her children are four and six years old. The odor varies from day to day. Sometimes it goes from a sour rotten smell to a rubbish cooking death smell and even vinegary, which is odd.

Mrs. Meserve stated that her kids are often coughing and gagging at the bus stop. She noted that she cannot hang her clothes outside, which she would like to do sometimes. She explained that they cannot open their windows on nice days because the house will be permeated with the smell. She stated that it causes headaches and nausea. She asked to think about being trapped in a small closet with someone who has perfume on. You cannot escape it. It is sickening. She states that this is a smell that your body automatically rejects. She states that she has literally thrown up on her front lawn. She does not think that is fair to do at your own home. The odor is irritating to the eyes and throat. She states that we have massive fly problems in the summertime and that they are embarrassed and is often asked about the smell by guests.

Mrs. Meserve stated that when planning events they have to consider wind directions and burn fires to tolerate being outside during nice days. She noted that they have had to have guests leave because of the odor. They cannot escape the smell in the yard or woods; they have had to leave the premises completely on occasions. She noted that the school bus driver and mail carrier have mentioned the smell. She explained her horses go off of their feed when the smell is especially bad. It is hard to do anything outside. She stated that we feel like prisoners in our home on some days. She states that they should not have to leave. This noxious business should not have been allowed to operate its business so close to our homes and how, in good conscience, can we ever sell our home. We are exposed to potential harmful bio aerosols. She states that to be expected to endure this odor any longer would be unthinkable to her. She states that it is destroying their lives and she wants to live in east Middleborough. She noted it is really becoming hard for them. They hope that the Board will help them put an end to this nuisance.

Chairman Stewart referenced the time Mrs. Meserve threw up in her front yard and asked if she remembered exactly when that was. Mrs. Meserve answered that she doesn't remember

specifically but that she did send an email that day. Chairman Stewart asked her to provide a ballpark idea of when. Mrs. Meserve answered that she feels that it was this year. Chairman Stewart asked what the most recent incident of headaches, vomiting, burning of eyes, burning nose and burning throat. Mrs. Meserve answered that it was sometime in early March and that it was really bad. Chairman Stewart asked about since March 2016 has she experienced headaches related to the smell. Mrs. Meserve answered that she would have to look back through their notes and emails. Chairman Stewart asked Mrs. Meserve to describe one or more of those instances where people left due to the smell. Mrs. Meserve states that they had to cancel Thanksgiving at their house, in 2015. Mrs. Meserve spoke of a birthday party in February, where the smell was very strong and DEP was on site. Chairman Stewart asked how many times she has had to leave her home due to the odor. Mrs. Meserve answered countless times. She explained that it is not fair to her kids to be confined to the house when they want to be outside.

Chairman Stewart asked how many times in the past year, per week, on average that the smell was strong enough to have to take action such as moving inside or leaving the property. Mrs. Meserve answered at least three times a week. They have a serious problem. Mrs. Meserve states that it has definitely improved since they have been prevented from taking in the material. She would not mind seeing the material coming out of the space. She will endure whatever she has to endure for this to be over.

Chairman Stewart asked the Board if they had any questions for Mrs. Meserve. Selectman McKinnon asked what the impact was on the odor with the hot humid summer weather conditions when there is no wind. Mrs. Meserve had been complaining to the Town, leading up to the compost fire, about a really intense smell. She thinks it must have been the compost cooking. She states that it has been unbearable and has really affected their lives.

Selectman Knowlton referenced the email chains indicating the instance and asked if Mrs. Meserve had any doctor's documentation, notes or co-pay receipts from seeking medical treatment relating to the odors. Mrs. Meserve answered that because there is no way to measure the odor in the air there is no way to prove a connection. She did mention to her doctor who agreed it was cause for concern. She explained it is hard without some type of evidence to say you have an infection caused by the odor.

Chairman Stewart referenced Mrs. Meserve's testimony regarding the fall of 2014 and scraping up material that had fallen off a truck leaving the 88 River Street facility. Mrs. Meserve answered that she scraped it off the road into a mason jar and called the Middleborough Health Department. She stated that it smelled so bad. She stated that their cars were tracking it up their driveway and that it smelled awful. Chairman Stewart asked if it was the same smell that she had smelled previously. Mrs. Meserve answered yes. She stated that it smelled like hot rubbish.

Chairman Stewart referenced Mrs. Meserve's testimony regarding the neighbors with pigs and asks if they are no longer there? Mrs. Meserve answered that the pigs were gone. Chairman Stewart asked if the smell has persisted even after the pigs were gone. Mrs. Meserve answered yes and that the smell has gotten much worse. Mrs. Meserve confirms that they did know that the facility was there and that they had tried to take steps to mitigate the potential dust coming toward their property. She stated that everything they had read was that this facility was permissible and that it could not cause this type of odor on our properties. It feels as though this business is running on all of our properties as well its own. She states that it is one think to impact the neighborhood with the truck traffic but it is quite another to subject us to the odor, bringing their lives to a screeching halt. She feels like she is drowning. She wants to raise their children on this beautiful property, but there is a level of dread; they have the house of their dreams, they love it; but the smell is not something anyone can live with.

Samantha Turgeon, 87 River Street, testified that she will try not to be too redundant and that as far as what Jamie Meserve says, it does gets to a point where you've dealt with the authorities haven't gotten very far or you've been heard so little that you kind of have to numb out for your own sanity. She stated that it's like almost like Stockholm syndrome where you do not remember all the facts all the time. She says that is how tired they are.

Mrs. Turgeon testified that she does remember reading Mrs. Meserve's emails a week ago and referenced where she called it sickening. She had experienced the odor at the same time and it made her nauseous and gave her a headache. She stated that this morning the odor made her nauseous and gave her a headache. She referenced a letter that she had sent to the Board of Selectmen in June 2015 regarding the odor and to establish this has been going on for a long time. She reads the letter and states that what was said in June of 2015 is still true today. She stated that this was the fourth time she has appeared before the Board to say that there is a nuisance problem that needs to be dealt with. She noted that when the letter was written the odor had increased dramatically since 2014. She noted an increase in the buildup of compost and increase in the truck traffic that the business seemed to expand. She knew it was coming from A-Plus Recycling because 1) Mrs. Meserve testified about the waste in the road was the waste coming from the facility and 2) the odor would increase when the trucks would come in and dump their materials.

Mrs. Turgeon stated that the odor was so pungent and sharp even when the smell was considered low; it still felt as though it was burning her nose and stabbing her in the brain. She feels like she is in a state of nausea for a long time. She can't get it out, it's always there. She stated that it is most often at night that the odor will permeate her home, that it is not air tight. She explained that her home was built in the 1880's and that the air circulates through it. She noted that they live right across the street from the facility at the top of the hill.

Mrs. Turgeon spoke about her conversation with a DEP lawyer, who told her that at night the air will stop traveling upwards and follow low to the ground and spread out horizontally. She stated that the neighborhood becomes saturated with stench at night.

Mrs. Turgeon referenced her June 2014 letter to the Board and how she awoke in the middle of the night with the odor in her room and with that comes with headache, nausea and other symptoms. She stated that she has had to change sleeping arrangements, for her children so they won't have to be exposed or to a lesser extent be exposed. She has left her home to avoid the odor on many occasions. Depending on how long she is exposed to the odor she will have fleeting symptoms of cough, nose irritation, throat and eye irritation and chest pain. She explained that she has been dealing with this odor long enough that has established a pattern of connecting when she was exposed to the odor and then experience the respiratory illness, sinus infections and general mucus buildup. She stated that many of these symptoms have also manifested in both of my children. She noted that most recently her son was diagnosed with asthma. She noted that as far as medical and doctors go, she has mentioned to the Pediatrician and the Allergist and it is hard to prove a connection. There could be microorganisms and or potential gases that could be emitted from the compost but until its tested and then the body is tested and a connection can be established there is nothing tangible at this time, she states that she can only speak about what she has seen.

Mrs. Turgeon spoke about the odor present at birthday parties, Thanksgiving, Christmas and Easter and that the odor has made her home a "family only" zone. She explained that when she is having a gathering they do not invite their friends over, they have indefinitely postponed the back yard wedding they wanted to have when they purchased the home. She said she cannot have that. She has to deal with the aggravation of the children being prevented from playing outside. She has to deal with the whining and crying. She stated that the odor has prevented many outdoor activities.

Mrs. Turgeon spoke about how she has toured many farms and is familiar with farming. She is currently a Sustain Environmental Culture Major, she tutors students who are in the same major and she knows the smell is not agricultural. She knows that the smell is not coming from animals. She explained that she studies compost and these smells that come off it are very common. She stated that she knows it is coming from A-Plus Waste. She asked if it was the two pigs down the road or the thousands of cubic yards of waste. She stated that on all counts she thinks this is case of nuisance odor, it interferes with the comfort and enjoyment of her property, and that it dictates how she lives her life. She noted that most recently she has found she is expecting a child in December. She cannot allow a newborn to be exposed to air pollution. She states that if this isn't going to go away she does not know what they will do. She explained that odor really is a pollution of air, as it displaces the oxygen in the area and that is not even taking into consideration bio aerosols.

Chairman Stewart asked if she has lived at her address for three years. Mrs. Turgeon said yes in October it was three years. Chairman Stewart asked what the most recent incident of headaches, vomiting, burning of eyes, burning nose and burning throat. Mrs. Turgeon answered that it was this morning and that she is very sensitive to it.

Chairman Stewart referenced Mrs. Turgeon's mention of Easter 2016 and asked her to speak about what happened. Mrs. Turgeon answered that she had the family over for an Easter Egg hunt and lunch. She stated that they were outside and everyone was complaining about the odor. They thought it smelled horrible. She stated that some of the people even pick up on smells that she doesn't. She said that one person mentioned a chemical pine smell. She explained that you can warn your family about the odor but you do not know what you are exposing them to. Chairman Stewart referenced Mrs. Turgeon's testimony about the waste in the road and asked her to speak about it. Mrs. Turgeon spoke about how Mrs. Meserve had seen it at the end of December 2014 – January 2015 and she began to observe the waste in the road and the same odor in the trucks as they went by. Chairman Stewart confirmed that the same odor that was in the air was the same odor that was smelled on the trucks going by. Mrs. Turgeon said yes. She also said that as the trucks would go by with the back open you could smell the same smell.

Chairman Stewart asked the Board if they had any questions for Mrs. Turgeon. Selectman McKinnon asked what the impact was on the odor with the hot humid summer weather conditions when there is no wind. Mrs. Turgeon explained that she doesn't think the temperature does anything to do with, she thinks that maybe the compost he takes in in the summer smells worse. She explained that the whole composting process happens quicker in warmer weather where bacteria can produce faster and the odor can produce faster.

Jamie Meserve, 83 River Street, stated that she did have Easter 2016 at her home and it was horrible. She also explained that she didn't want to say the smell wasn't present since the Cease and Desist Order but it definitely hasn't been as intense. She stated that it can still make you feel sick and get a headache she just chooses to stay out of it, if at all possible.

Chairman Stewart asked Judy Tracy if she solemnly swears to testify to the truth, the whole truth and nothing but the truth. Judy Tracy stated that she does.

Judy Tracy, 84 River Street, testified that she has lived on her property since 1995. She stated that she moved in there in July and that she can honestly tell you that the neighborhood doesn't smell anything like it does now. She noted that she has smelled it for several years now and that it doesn't have anything to do with pigs, horses or cows but that it does have to do with 88 River Street. She noted that there is a difference between manure and 88 River Street composting. She stated that the smell is terrible. She said that the last time she stood outside with her son

waiting for the school bus has not been since last September. She stated that the last time they waited for the bus; the two of them were gagging. The smell is terrible. She said that she doesn't know if anyone recalls this but she sent an email on Patriots Day about the smell entering the back side of her home and that she almost passed out from the odor. She also remembers that on March 11, 2016 her son had a terrible sinus infection, has never had that before or been sick like that before and she had a discussion with the doctor about the composting facility. This is the same doctor her son has had for eleven years. She explained that the doctor told her that based on what he is seeing he believes the sinus infection was caused by the composting at 88 River Street.

Chairman Stewart asked for an average in a week how many times per week has she noticed an odor. Mrs. Tracy explained that she would say that when the odors first started it was one to two times per week but now it is five to seven days per week. Periodically the smell is strong, periodically the smell is weak. She states that she also has experience the headache, the sore throat and the nausea. She noted that one morning she left for work, she works in Duxbury, and there was a terrible trashy burning food type smell and it took me 3 ½ hours to start to feel normal again. She stated that she was so sick when she left the house. She has had the smell follow her in her car to her workplace. It is terrible odor that is nothing like manure. She cannot stress that enough. She has heard that it's the manure being smelled. She is highly offended that she would be accused in that fashion regarding her pigs. She took care of those pigs and to be accused like that is insulting. Chairman Stewart confirms with Mrs. Tracy that she doesn't have the pigs. Mrs. Tracy answered that she hasn't had the pigs for two years. She confirms the smell has gotten worse.

Chairman Stewart asked if because of the odor did she make any complaints to anyone and does she remember when. Mrs. Tracy states that she has made complaints to DEP and that she has made complaints to the Board of Health. She confirms that she has been on the phone complaining. She now complains whenever she smells it and that it smells terribly. Chairman Stewart asked Mrs. Tracy if there are one or two instances that stick out as being particularly bad odor. Mrs. Tracey answers with March 18, 2016 which was a Friday, the smell had gotten into her house. She knows that when the smell gets into the house her family members are going to get sick. When she can smell that trash smell in the bedrooms she knows it is going to negatively affect her family. She told has an old house that was built in 1932 so the air circulates through it quickly.

Chairman Stewart asked the Board if they had any questions for Mrs. Tracy. Selectman McKinnon asked what the impact was on the odor with the hot humid summer weather conditions when there is no wind. Mrs. Tracey explained that previously she would say that in the summer the smell is worse but in the last year through the winter it was as bad as the smell we had in the summer. It has not let up.

Chairman Stewart asked Judy Tracy if she solemnly swears to testify to the truth, the whole truth and nothing but the truth. Judy Tracy stated that she does.

Lorraine _____, 81 River Street, testified that she has been on River Street for fifty years. She lived on the street back when the brickyard was open. She noted that everyone has to make a living but she has to agree that the smell is terrible. She has a big house and she is located west of the business. She gets the northwesterly wind and the smell is terrible. She explained that usually she likes to sleep with her bedroom window open and one night it was unbelievable. She noted that she has no ill feeling against Mr. High but the smell is definite. She noted that in the summer the smell is worse just like anything when you put heat on it the compost gets cooking.

Chairman Stewart asked if the smell was so strong did she close her window. She asked if she remembers when that was? Mrs. _____ noted it was in the springtime but that the smell gets stronger as the pile gets bigger. She has had visitors complain of the smell also.

Selectman Frawley explained that he hasn't spoken on the matter because he has had numerous occasions to speak to the residents and he has gone onsite plenty of times. He also explained that sometimes he is out there on his own. He spoke about his visits to the site and how some days, depending on the weather; if you are standing up-wind of it you don't smell odor but standing down-wind it will knock you over. He noted that he has smelled the muck found on the road and there is no way to explain it if that muck from the road is the same muck that is being taken out of the facility and it has the same smell there is an obvious direct connection. He stated that he has smelled it while canoeing on the river. He stated that he has smelled it in Halifax. He noted that he smelled it at Thanksgiving while hunting pheasant. He stated that he has nothing but empathy for the people on there and he doesn't think you can every quantify the stress that it puts on a relationship to have that constant irritation in your home and nothing can be done about it despite what we have tried to look at and what we've tried to do. He stated that he believes every single word of testimony given tonight and implores the Board to do what we can to try and bring this to a close.

Chairman Stewart referenced the A-Plus Waste and Recycling Services, LLC "Unilateral Administrative Order, dated March 23, 2016 along with a letter from DEP, dated April 15, 2016 Regarding the Removal of Finished and Cured Compost and Site Maintenance and asked for this to be included in the record.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe the Board voted unanimously to accept into the record the A-Plus Waste and Recycling Services, LLC "Unilateral Administrative Order, dated March 23, 2016 along with a letter from DEP, dated April 15, 2016 Regarding the Removal of Finished and Cured Compost and Site Maintenance.

It was requested that these documents be forwarded to Mr. High and that the Board will make a copy of the DVD for the hearing available to Mr. High. Chairman Stewart noted that Mr. High did request a continuance of the hearing to May 25th to find counsel and she asked the Board to leave the hearing open until May 9, 2016 which is the next meeting to provide testimony from our Health Agent, who was unable to attend this hearing.

Chairman Stewart asks if the Board would like to ask for a site visit. They should send a letter to Mr. High and pick a day to do that.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon the Board voted unanimously to continue the 88 River Street Nuisance, Source of Filth and/or Cause of Sickness Injurious to the Public Health hearing to May 9, 2016 at 8:45 PM.

CORRESPONDENCE

#4 Selectman McKinnon speaks about the “force majeure” notice from Verizon.

#3 Selectman Frawley spoke about the upcoming Bicycle Committee meeting.

#6 Selectman Dalpe spoke about attending the Transportation Breakfast.

#1 Selectman Knowlton spoke about the Memory Café held at the COA.

ADJOURNMENT

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to adjourn at 10:30 PM.

Respectfully submitted by,

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