MINUTES

for approval on 8/22/16

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; Town Manager R. Nunes and Acting Executive Assistant, Colleen Lieb

UNANTICIPATED
There was nothing discussed.

ANNCOUNCMENTS AND RECOGNITIONS
The Board made various announcements.

MINUTES
Upon motion made by Selectman Frawley and seconded by Selectman McKinnon, the Board voted unanimously to approve the July 11, 2016 minutes as presented.

WARRANTS
Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to approve and authorize the Chairman, as a designee to sign the warrants for the weeks ending July 30, 2016 and August 6, 2016.

NEW BUSINESS
Mr. Wayne Perkins announced to the Board that the Green School is complete and the occupancy permit has been signed. He presents the keys and the permit to the Board. Mr. Lincoln Andrews provided a narrative on the Green School project. There was a recommendation to request funding for the paving of the Green School parking area at a cost of $30,604.50. It was offered that the request could be forwarded to the Peirce Trustees for consideration. It was further offered that there are a few finish items that need to be purchased for the building, such as a paper towel holder for the bathroom and door closers.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley, the Board voted unanimously to send a letter to the Peirce Trustees asking if there is funding available, in the amount of $30,604.50, for the paving of the Green School parking lot and to have the Town Manager research and add to the request enough funds for paper towel dispensers and door closers.

Jane Lopes, Historical Commission Chairman, asked to be included in the review of any plans for paving a parking area at the Green School. The Chairman agrees to keep the Commission involved as the paving moves forward.

Chairman Stewart thanks the Green School Building Committee and echoes the sentiment that this is truly a Town project.

Beta Group – Wareham TIP Project

Chris Peck, DPW and Bill McGrath, Beta Group were present for the discussion. Mr. Peck explained the TIP project that was originally set to reconstruct Wareham Street through to the Cherry Street intersection. Mr. Peck offered that after the meeting with Mass DOT they were told that the project has been scaled back. They do not agree and have asked Mass DOT to look at Wareham Street starting at the traffic lights and having those all replaced. This would change the Center Street work. Mr. Peck briefly discussed the revamping of the drainage and granite curbing on both sides of the road up Wood Street to Tiger Drive, but that is years away.

There was discussion on traffic signals for pedestrian crossing. Mr. Peck offered that audible signals were installed in 2015. Mr. McGrath spoke on the current signal designs which are all uniform.

Mr. Peck explained the need for support from the Board that they want to proceed with this project and that the Town is responsible for design fees. The fees are 10% on the total project cost estimated at 4 to 4.5 million.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley, the Board voted unanimously to send a letter of support to Mass DOT for this project.

Upon motion made by Selectman Dalpe and seconded by Selectman Knowlton, the Board voted unanimously to approve a Beer & Wine License for August 5th from 12 pm to 6 pm and August 6th from 12 pm to 6 pm for the Krazy Days Beer Tent.

Selectman Dalpe noted that the Bid Documents for the MassHistoric grant will be presented for approval at the August 22, 2016 meeting.

Upon motion made by Selectman Knowlton and seconded by Selectman McKinnon, the Board voted unanimously to approve the Scope of Work for the Paint and Mortar Analysis on the Oliver Estate and authorize the Chairman to sign.

Chairman Stewart explained that the Board's Executive Assistant resigned. She asked the Board to review the job posting to hire a full time replacement. The Board discussed removing the duties of Recording Secretary to the Commission on Disability at this time to allow for the backlog of Selectmen work that needs to be addressed first. It was offered that this can be something to consider at a later date. The Board discussed having the position report to the Town Manager as well as the Board of Selectmen. The Board agreed that it should stay the way it is where the Executive Assistant reports directly to the Board of Selectmen. The Board agreed that the scheduling of meeting rooms can be removed, as the Town Manager's Office handles this.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon, the Board voted unanimously to make the changes to the Executive Assistant to the Board of Selectmen Job Description and Job Posting as discussed.

The Board discussed posting the job internally and posting on the MMA website. Mr. Nunes offered that job postings are typically posted internally first.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted four in favor, one against, to post the position for the Executive Assistant to the Board of Selectman internally with a deadline for resume submissions to the Town Manager by August 5, 2016.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley, the Board voted unanimously to open the Special Town Meeting Warrant retroactive to July 12, 2016 and to close on August 19, 2016 at 5 PM.

Attorney Robert Mather was present for the discussion. Attorney Mather spoke briefly on the Eastwood Estate Roadway Layout request.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe, the Board voted unanimously to refer the Roadway Layout for Eastwood Estates to the Planning Board and schedule the Layout Hearing for August 22, 2016.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to authorize the Chairman to sign the contract for paper with WB Mason.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon, the Board voted unanimously to authorize the Chairman to sign the Wastewater Plant Upgrade – Change Order #3.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to award the bids and sign the authorization notes as read.

<u>Meeting with Representatives from Weston & Sampson regarding the CPA Recreational Feasibility Study</u>
Brandon Riley was present for the discussion. Mr. Riley provided a presentation on the CPA Recreational Feasibility Study progress. There was an overview of the parcels of land in Town that were considered. There was discussion on partnering with recreational companies such as Go Ape Tree Top Adventure, which might work well with the wetland areas that are prominent in town. It was noted that some companies only require the provision of a gravel parking lot and bathroom facilities to come in and run their operation.

Mr. Nunes spoke about working with the Conservation Agent on the Open Space Recreational Plan and noted that they will be appointing a Land Use Committee to talk about the various goals and objectives for the next seven years.

Neil Rosenthal, Town Resident, spoke in favor of the Land Use Committee and the potential recreational use of some of the land.

Upon motion made by Selectman Knowlton and seconded by Selectman McKinnon, the Board voted unanimously to follow Weston & Sampson and the Town Manager's recommendation to continue to work with the Town and Land Use Committee on the recreation study.

HEARINGS, MEETINGS, LICENSES

At 8:29 PM Selectman A. Frawley recused himself and stepped off the Board.

88 River Street – Discussion & Vote on Order Related to Determination of Nuisance
Attorney Jeffrey DeLisi was present for the discussion. Chairman Stewart referenced the findings as they are document in the summary of the Public Hearing – Nuisance, Source of Filth, and/or Cause of Sickness Injurious to the Public Health. There was a reading of the findings. Selectman McKinnon confirmed that this document does not conflict with any compliance requirements already in place. Chairman Stewart confirmed that Town Counsel has reviewed this document.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted, four in favor to order the following: A) the Business shall follow the Administrative Consent Order and Notice of Noncompliance (the "ACO", dated June 9, 2016, DEP file number ACO-SE-16-4001; B) the Business shall follow the Composting Facility Operation Plan for Compost Materials Removal and Odor Control dated June 8, 2016, submitted by the Business to DEP and referenced in DEP's ACO; C) the Business shall removal all material, including but not limited to organic materials and recycling materials, from the Business's property by February 1, 2017, regardless of any amendments allowed by DEP to the ACO, and regardless of the status of the ACO; D) the Business shall not accept any further material on the Business's property or any property adjacent to the Business, including but not limited to organic materials and recycling materials, regardless of what may be allowed or permitted by DEP, the zoning Board of Appeals, or any other federal, state, or local agencies; E) the Business shall utilize the Nasal Ranger Field Olfactometer every Monday, Wednesday, and Friday at the gate of the Business, at the corners of the Business property and River Street, at the intersection of River Street and Thompson Street, as well as any other times and/or locations requested by the Health Agent, and shall keep a log of the readings of the olfactometer; and F) the Business shall file a weekly written report to the Middleborough Town Manager and the Middleborough Health Agent, to be submitted by Wednesday at 10:00 am for the preceding week's activities, describing in detail the amount and location of the material removed from the property; the amount of material left on the property; the dates and times of any odor neutralizing or odor making agents utilized; the dates, times, and findings of the olfactometer utilization; and the dates and times of any odor complaints made by residents.

At 9:00 PM Selectman A. Frawley stepped back onto the Board.

88 River Street – Discussion on Structure Related to MGL Chapter 139 Section 1
Attorney Jeffrey DeLisi was present for the discussion. Chairman Stewart referenced the letter provided by a resident of River Street that has recorded that there is a structure that may be

deemed dangerous under Chapter 139 Section 1 and should be ordered to be demolished. Chairman Stewart noted that she did speak with Town Counsel, who had reached out to the Building Inspector and that there is a fence around the structure and that he recommends the Board not take action on it at this time but suggested that the Board speak with the Building Inspector. She noted that Mr. High's Attorney is present for the discussion. Chairman Stewart referenced the "Survey Board", made up of the Fire Chief, Police Sergeant and Local Structural Engineer, to perform a secondary inspection of a property that has been reported as unsafe.

Attorney DeLisi asked Selectman Frawley about recusing himself for this discussion. Selectman Frawley states that he has every right to participate in this discussion and he is positive he can be completely objective. He offered that this is about a collapsed building, nothing more, and nothing less.

Attorney DeLisi expressed being uncomfortable with this discussion. Selectman McKinnon questioned the Board's involvement in this process at this point and agrees with having the Survey Board review it.

Mr. Bob Whalen, Building Inspector read a narrative involving the roof collapse on February 15, 2015 and the placement of a placard condemning the building. He explained that the owner contact him at 8 AM the following day and received permission to remove the sections of the roof that collapsed, this work was done and there was no further issue. There was discussion on the remaining parts of the building and asbestos abatement that DEP has to authorize before the remainder of the roof can be removed.

Chairman Stewart asked that the Survey Board take a look at the structure and provide a report to the Selectmen. At that point it can be determined how to proceed.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon, the Board voted unanimously to request that the Survey Board generate a report on the condition of the 88 River Street Building in question.

Public Hearing – WRPD 360 Wareham Street

Jeff Younquist, Outback Engineering, was present for the discussion. Mr. Younquist reported to the Board that the ZBA special permit was granted and that it has provided the ability to expand the existing septic to meet the 180 seat requirement.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley, the Board voted unanimously to close the WRPD hearing for 360 Wareham Street.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe, the Board voted unanimously to find that the WRPD Application made by Outback Engineering for property located at 360 Wareham Street, Map 072, Lot 5571 is: 1) in harmony with the purpose and intent of the WRPD Bylaw and will promote the purposes of the Water Resource Protection Districts; 2) is appropriate to the natural topography, soils and other characteristics of the site to

be developed; 3) will not, during construction or thereafter, have an adverse environmental impact on the aquifer, recharge areas or water resources of the Town; and, 4) will not adversely affect the existing or potential water supply; it is further moved to accept the findings of the Zoning Board of Appeals relative to the conformance of the proposed septic system flows described on the referenced plans, and consistent with all applicable Title V regulations.

Public Hearing – D&D Harju Cranberries – Earth Removal Permit
Brian Grady, GAF Engineering, referenced the previous discussion that was with the Board in regards to closing out the outstanding permits. It was noted that Selectman Frawley and Chris Peck did an onsite of the property. Selectman Frawley spoke briefly about the variety of parcels that make up the Harju property. Brian Grady speaks briefly on the stabilization of slopes that need a few growing seasons and moving towards closing out the three permits. Selectman Knowlton asked how quickly asbuilts can be provided and Mr. Grady confirmed he can get those quickly.

Mr. Grady reviewed the application and referenced the farm plan and the need to construct an irrigation pond. He explained that in order to accomplish the irrigation pond it will require 180,000 sq ft of earth to be removed. Some of the earth removal will remain onsite or be relocated to other Harju property but the bulk will be sold and moved offsite. The irrigation pond will take up approximately 6 acres.

Chairman Stewart reviewed the July 7, 2016 comment letter sent from the DPW Director and requested that the applicant respond to those comments. There was discussion on the site lines at the entrance to the property, Chris Peck, spoke on doing some cutting in the Town's right of way to make the site lines clearer.

Chairman Stewart opened up the hearing for public comments.

Claire Cole, 199 Rock Meadow Street, referenced her records request that was sent to the Town on July 1, 2016 asking for copies of all pertinent information relating to the Harju project. She also referenced her request to view the Farm Plan. There was a brief discussion on the records request and that it was put through the Town Clerk's Office.

Ms. Cole spoke further on her observation that the bog has not been harvested in two years. She requested that the Board not act on this application until they have had a chance to receive the documents requested in the Public Records Request. She noted that there are approximately 60-65 houses between entrances and asked how much sand is for agricultural purposes. She questioned the need for water on the site and referenced the existing body of water onsite. Ms. Cole asked about a sufficient buffer from the neighbors so they do not have to look at a gravel pit.

Al Carmichael, 42 Purchase Street, explained that he has lived in his home for 43 years. There has always been a continuous ongoing cranberry operations and in some cases earth removal. He noted that out of all his timing living there he has not seen any accidents caused by the truck traffic on the roadway.

A resident from 183 Rocky Meadow Street, spoke about the need for significant amounts of water for the growing and harvesting of cranberries. He noted that his home is right beside the entrance to their property and he does not have any complaints. He offered that they do beautiful work.

Virginia Reimels, 183 Rock Meadow Street, spoke in favor of the project. She noted that small pond they current have onsite is not enough of a water supply for bogs today. She had not had any problems with truck traffic on the roadway. She offered that they are good neighbors and they do not have any problems with them.

John Zinkowski, 224 Purchase Street, noted that he has been at his property for 26 years and he has agricultural workers in his family. He referenced the struggle of cranberry growers and questioned whether what is being requested is really needed. He offered that it does not make economic sense as to why any farmer would switch from a dry harvest to a wet harvest. He feels that this is really an effort for sand and gravel removal and not to improve the harvesting of the existing bog.

Deborah Harju spoke about the Harju business. She noted that they have lived in this Town for 42 years and that they are 4th generation farmers and primarily cranberry growers. She explained that if you want people farming in this town you need to respect the cranberries and the farmers. She offered that it is discouraging listening to people who are disrespecting their family and that she has never heard such nonsense.

Julie Derby, Purchase Street, spoke about how the Harju's let them use their land and that they are great neighbors. She questioned the existing reservoir and asked why that cannot be enlarged instead of creating a new one.

Derek Harju answered a few of the resident's questions regarding the need to create a new reservoir and how the water will be utilized.

Sandy Fell, 279 Purchase Street, explained her location as being where Rocky Meadow meets Purchase and she noted that her home is directly downwind of any sand that becomes airborn from the Harju property. She asked about the sand that ends up in their yards and also asked if there is way to prevent the sand from ending up in their yard. She asked that further research be done on their request so a lot of unnecessary digging isn't done on their property.

David Santos, 265 Purchase Street, explained that he has to agree with everyone here, he has never had a problem with trucks on the roadway. He is often out riding his bike and has never had a bad encounter with the sand and gravel trucks. He offered that he is concerned that when

they take down the hill, where he is located right behind the hill, there will be large snow drifts that go up to his house, due to the wind. He feels that without the hill, his property will have no protection.

Ian Ward, Certified Farm Planner, spoke about the Harju Farming Plan and noted that he was the one that put it together. He spoke briefly on the demand for cranberries and the difficulty in getting contracts for the finished product.

The Members of the Board consider that the Farm Plan might not consider the density and existing water in the area. The Board also asked about the dust component and how that will be addressed along with a water truck for dust control. The Board discussed doing a peer review of the plans, this has not been done yet. The Board asked that the Farm Plan, application and drawings have a peer review.

Upon motion made by Selectman Dalpe and seconded by Selectman Knowlton, the Board voted three in favor, two against, to forward the Harju Earth Removal Plans, including the Farm Plan, for a peer review.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to continue the Earth Removal Permit Hearing for D&D Harju Cranberries to August 22, 2016 at 7:45 PM.

Public Hearing – Earth Removal Permit - Costello Dismantling
Gary James was present for the discussion. Mr. James provided an update on the plans. He offered that everything is complete and ready for final review.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to continue the hearing for Costello Dismantling, Earth Removal Permit to August 8, 2016 at 7:25 PM.

TOWN MANAGER'S REPORT
Mr. Nunes reviewed the road project schedule. Mr. Nunes discussed increasing the Director of OCED position from 32 hours to 40 hours. He agreed that it will be a priority for the Director to aggressively pursue grant funding to cover the increased hours.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to increase the OCED Director position from 32 hours to 40 hours.

CORRESPONDENCE
The Board has no comment on any correspondence.

EXECUTIVE SESSION
Upon motion made by Selectman McKinnon and seconded by Selectman Frawley, the Board voted to enter into Executive Session, not to return to Open Session, to discuss strategy with

respect to litigation and to conduct strategy sessions in preparation for negotiations with Non-Union Personnel. Polled vote: Selectman Frawley - Aye, Selectman Dalpe - Aye, Selectman Knowlton - Aye, Selectman Stewart - Aye and Selectman McKinnon – Aye.

ADJOURNMENT
The meeting ended at 11:30 PM.

Respectfully submitted by,

Colleen M. Lieb, Acting Executive Assistant