# MINUTES

**for approval on 9/19/16**

**Middleboro Board of Selectmen** **September 12, 2016**
**Meeting Minutes**

DRAFT

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, Selectman L. Dalpe, J. Knowlton and S. McKinnon and D. Stewart; Town Manager R. Nunes and Executive Assistant, Colleen Lieb.

**UNANTICIPATED**

Anne Ladd, 5 Barrows Street, spoke to the Board regarding the landlord of 5 Barrows Street. Ms. Ladd expressed concern that the landlord is misleading Ms. Juno, Health Department and Mr. Whalen, Building Inspector. She offered that she is waiting on a determination from the Fire Department because she smelled gas this afternoon. She explained that the landlord switched the furnace over from oil to gas and that no permits were pulled to do the work. She spoke about how the house is unsafe and that most recently her daughter had the porch collapse on her and now there is a personal injury case in addition to the breach of contract. Ms. Ladd explained that the landlord was told to keep up the property and that there was a signed agreement but the landlord is not doing what needs to be done.

Chairman Stewart spoke on her conversation with Ms. Juno who is working with the landlord to resolve the violations. Chairman Stewart further explained that the Building Inspector has seen the property and given 45 days for the landlord to come into compliance.

Selectman Frawley explained that this is the first time that he has heard about the situation and he would like to take some time to review the matter and request documentation from the Health and Building Inspectors. It is not clear at this time whether a hearing or meetings are needed at this point. The Chairman will reach out and get updates on this. Selectman Frawley assures Ms. Ladd that they will look into the matter and notify her on next steps.

**ANNCOUNCMENTS AND RECOGNITIONS**

Selectman Frawley announced that the roof repair on the MECC has come in $250,000 under budget. This is good news and should be carried in the newspapers. Selectman Frawley also thanked Chief Lance Benjamino for the 9/11 Tribute that was held on September 11th at the Fire Station.

Selectman Dalpe announced the Ghost Tours will be held for the next two Saturday's at 7:30 PM or 9:30 PM. Use Eventbrite GHOSTLOVER code to get a 20% discount on tickets. Selectman Dalpe also spoke about the upcoming Herring Run Festival.

Selectman McKinnon spoke about the upcoming Middleborough Mess Movers date of Saturday, September 17th from 9 AM to 11 AM. Interested parties should meet at the Town Hall parking lot at the time designated.

Announcements are made for the Sacred Heart Food Pantry 5k Run/Walk to benefit the Sacred Heart Food Pantry and the Bat Run 5k Run/Walk to benefit childhood cancer research, to be held Sunday, September 18th.

Jane Lopes announced the 25th Annual Soule Homestead Harvest Fair and Folk Music Festival.

Arthur Battistini announced the results of the State Primary Election and the fact that only 741 residents turned out at the polls.

Dave Cavanaugh recognized Dr. Michael Bednarski, who volunteers with the Herring Commission has accepted a position as Deputy Director for the State of Virginia. Congratulations Dr. Bednarski.

Paul Provencher, noted that the gold ribbons have migrated out to the Veteran's Memorial Park in support of Veteran's as well as Childhood Cancer.

Brian Giovanoni spoke about the mock active shooter situation that was put on at the Burkland School a few weeks back. It was noted that other area police and law enforcement groups also attended. Mr. Giovanoni also spoke on the upcoming 1st Community Forum.

**MINUTES**
Upon motion made by Selectman Frawley and seconded by Selectman McKinnon, the Board voted unanimously to approve the August 8 2016 minutes as presented.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted three in favor and one abstention, to approve the August 29, 2016 minutes as presented.

**WARRANTS**
Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to approve and authorize the Chairman, as a designee to sign the warrants for the weeks ending September 17, 2016.

**NEW BUSINESS**
*Rob Desrosiers, Chairman School Building Committee was present for the discussion.*

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley, the Board voted three in favor and two against, to designate Selectman Diane Stewart as the Chairman of the Selectmen Designee on the School Building Committee and to designate Allin Frawley to fill the now vacant At-Large Seat on the School Building Committee, effective immediately and to direct he Town Manager to notify the MSBA of this action.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to re-appoint Derek Adamiec and appoint John Healey to the Weston Forest Committee for a three year term to expire on June 30, 2019.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon, the Board voted unanimously to reappoint Connie Miller and Robert Mosely as member of the Agricultural Commission for a three year term to expire on June 30, 2019.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon, the Board voted unanimously to appoint Robert Sisson and Denise Session as alternates to the Agricultural Commission for three year terms.

Chairman D. Stewart reiterates prior to the Class II discussions that this is not a hearing and will only be a discussion regarding the inspection findings of the Class II License holders. Selectman Frawley clarifies that he would like to discuss with the automotive dealers what the situation was and then discuss how Class II violations will be handled going forward.

Topham Automotive

*Brian Topham, Owner – Topham Automotive, was present for the discussion.* Brian Topham spoke about the various vehicles on his property. He asked if there was a list of the vehicles that were found on the lot at the time of inspection. Chairman Stewart confirmed that there was no list of vehicles done at the inspection. Mr. Topham explained that without a specific list he can't say what each of the vehicles purpose was. He noted that he had three cars for sale at the time of the inspection. He also had trade in's and cars that were going to the auction.

Chairman Stewart confirmed that the limit on the Class II License for Topham Automotive was a limit of six vehicles for sale. Selectman Knowlton spoke about how the license for six vehicles and at the time of inspection there was four times that amount on the lot. Mr. Knowlton expressed concern about this business and other business having excessive amounts of vehicles on their property.

Selectman McKinnon spoke about how as long as the owner had no more than six cars for sale, he does have an auto repair business. Mr. Topham explained that car sales are 1/3 of his business. The Board discussed if there is any documents that show what the total allowable number of vehicles is on the property for the Class II's licenses. The Board further discusses with Mr. Topham the vehicles that were on his property. Mr. Topham explained some are getting ready to be put on the road, some are for dealerships, some are trade ins, some are going to auction and some are being junked.

Gabriel Jacob & Issac, Inc.
*Nick Khoury, Owner – Gabriel, Jacob & Issac, Inc. was present for the discussion.* Nick Khoury explained that he has fifteen vehicles for sale on his lot. He explained some of the vehicles on his lot are for repair, that sometimes it takes time to get the parts to fix them and the cars are on the lot for a while. Chairman Stewart asked how the vehicles for sale are distinguished from the other cars. He explained that he has price stickers on the vehicles for sale, on the right rear window.

Selectman Frawley spoke about the next steps on the Class II licensing. The Board briefly discussed things that need to be defined such as, the total number of cars allowed on the lot and clearly marking the cars that are for sale. The Board discussed the upcoming Car License renewals and working with the Building Inspector to determine the number of vehicles allowed on each lot and incorporating more information on the Class II licenses.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to Go Gold for Cancer Awareness month and sign the proclamation.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to approve the September 24, 2016 Fall Festival and Craft Fair to be hold at the North Congregational Church from 8 AM to 4 PM and notify the DPW to place moveable barriers for the blocking of Plymouth Street in front of the Church.

Request to Surrender Earth Removal Permit
*Robert Thomas was present for the discussion.* Mr. Thomas explained that he is back before the Board for consideration of surrendering the Earth Removal Permit and the Board authorizing the release of the cash surety bond to allow him to pay for the finish work that needs to be completed to close out the permit. Mr. Thomas offered that he doesn't feel it is setting a president if the Board only gives back $10,000 of his cash surety bond so he can do the work himself and the Town will still have the $40,000. He reassures the Board that he only needs $10,000 to complete the project. He explained that he does not have the resources to finish the project because the Town holds all the resources he has left. He asked the Board to reconsider and if they would be willing to suspend the quarterly inspections until everything is complete.

Mr. Nunes, Town Manager, spoke on the discussions that took place with the DPW Director and the Treasurer & Collector regarding the owner contracting the work, getting it done and then coming back before the Board to have the surety released. Mr. Thomas explained that he received two quotes, if he does it himself the cost will be $10,000 to rent equipment and do it himself or he received a quote from a contract in the amount of $25,000. Mr. Thomas stated that he does not know when he will be able to do the work because he will have to raise the money himself to do it and requested that the quarterly inspections be waived. The Board will not release the surety at this time but agree to meet quickly to release the surety once the work is done so the contractor can be paid.

Jack Healey, resident, asked the Board to discontinue New Business and moved on to the scheduled hearings.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley, the Board voted unanimously to begin the hearings.

**HEARINGS, MEETINGS, LICENSES**

Hearing – Earth Removal Permit Application filed by D&D Harju Cranberries, LLC, purchase Street, Map 063, Lot 3435 and Map 062, Lot 2411 (continued from 8/22/16)

*Kevin Forgue – GAF Engineering was present for the discussion.* Kevin Forgue explained that they have completed the peer review and addressed all the comments and questions. The plans have been revised and there are no further comments.

Chairman Stewart opened the hearing up for public comment. There is no comment.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to close the hearing.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalope, the Board voted unanimously to approve the Earth Removal Permit for D&D Harju Cranberries, LLC, Permit #16-3 for 178,790 cubic yards to expire 9/12/2019 with a possible one year extension and including any conditions suggested by Atlantic Design.

Hearing – WRPD Application made by Pilling Engineering for property located on Fuller Street Map 025, Lot 1026 Zoning Resident Rural, WRPD District Z4

*Todd Pilling – Pilling Engineering was present for the discussion.* Chairman Stewart read into the record the legal notice. Green cards were provided.

Todd Pilling explained that the project has already been in front of the Conservation Commission and that it is for a proposed driveway. Mr. Pilling referenced the small stretch of 40ft of driveway that will require wetland filing and wetland replication. There was a quick review of the peer review letter submitted from Atlantic Design on the project. There was discussion on the signs to mark the 25ft buffer to the wetlands. Keith McLaughlin, provided input on the sign and his opinion about not putting it on private property. It was noted that the Board of Selectmen can request signs be installed and the intent is to make sure the owners are aware of the wetlands and the no disturbance requirement. Mr. Pilling will provide his comments and revised plans to Atlantic Design for a second review.

Chairman Stewart opened the hearing up for public comment. There is no comment.

Upon motion made by Selectman Dalpe and seconded by Selectman Knowlton, the Board voted unanimously to continue the hearing for the WRPD Application for Fuller Street to September 26, 2016 at 7:45 PM.

Hearing – Roadway Acceptance – Eastwood Estates (Captain Hall Road, Augustus Way, Hayden Way and Leland Way (continued from 8/22/16)
*Attorney Robert Mather and Marcus Baptiste, Owner were present for the discussion.* Attorney Mather provided green cards. He explained that the layout is for Greystone Estates and consists of four roadways, Capital Hall Road, Augustus Way, Hayden Way and Leland Way. He also explained that the roadway releases have all been signed and provided to the Board. This project was approved by the Zoning Board and is a 40B project. Attorney Mather explained that the Zoning Board has approved and provided the final sign off on the completion of the project and roadway.

Chairman Stewart opened the hearing up for public comment.

Jennifer Wolfe, Property Owner in Eastwood Estates, spoke in favor of the acceptance and offered support for the project.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to close the hearing.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe, the Board voted unanimously to vote as Town Ways, Captain Hall Road, Augustus Way, Hayden Way and Leland Way as shown on the road layout plans, on file with the Town Clerk entitled "Roadway Acceptance Plan, Captain Hall Road, Eastwood Estates, Middleborough, Massachusetts, Greystone Realty Inc.", which plan is dated February 4, 2016, and being page 1 of 4 pages; "Roadway Acceptance Plan, Augustus Way, Eastwood Estates Middleborough, Massachusetts Greystone Realty", which plan is dated February 4, 2016, and being page 2 of 4 pages, "Roadway Acceptance Plan Hayden Way, Eastwood Estates, Middleborough, Massachusetts, Greystone Realty, Inc.", which plan is dated February 5, 2015 and being page 3 of 4 pages; and "Roadway Acceptance Plan of Land for Leland Way, Eastwood Estates, Middleborough, Massachusetts, Greystone Realty, Inc, which plan is dated February 4, 2016, and being page 4 of 4 pages; including related easements as shown on the above referenced plan and the Subdivision Plan entitled "Subdivision 'Eastwood Estates' in Middleborough, Massachusetts, prepared for Greystone Realty, Inc." dated, March 20, 2006, consisting of 20 pages, which plan is recorded at the Plymouth County Registry of Deeds in Plan Book 51, page 1080; and as shown on a Plan of Land entitled "Plan of Modification of Definitive Subdivision 'Eastwood Estates' in Middleborough Massachusetts, Prepared for Greystone Realty Inc," dated February 13, 2008, consisting of 2 pages, which plan is recorded at the Plymouth County Registry of Deeds in Plan Book 54, Page 229.

Hearing – Earth Removal Permit made by Foresite Engineering Inc. For property located at 375 Wareham Street, Map 073, Lot 5813
*Frank McDonald Jeff Russell, Ed Shine, Sue Okolita and other YMCA Representatives were present for the discussion.* Chairman Stewart opened the hearing and read the legal notice. Green cards are returned.

Frank McDonald provided a presentation of the proposed project. He noted that the project engineer was not able to attend the meeting because he is on his honeymoon. He explained the programs that are held at the 375 Wareham Street property and discussed the earth removal which is proposed to create athletic fields. The YMCA is in need of more sports fields. He expressed their willingness to do whatever it takes to move the project forward.

The Board discussed the requirement of a WRPD permit and the need to speak with the Zoning Board about a change of use.

Chairman Stewart opened the hearing up for public comment. There is no comment.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to continue the hearing for Earth Removal Permit for 375 Wareham Street to September 26, 2016 at 8 PM.

**NEW BUSINESS (continued)**
Upon motion made by Selectman Dalpe and second by Selectman McKinnon, the Board voted unanimously to return to New Business.

Evan Melillo, Assistant to the Town Manager, provided a presentation to the Board on the two electric vehicle options. The first is the Nissan Leaf and the second is a BMW. The Board discussed the two options. It was clarified several times that if the Board voted to go with the BMW option it will not cost the Town any additional funds. It was noted that these are leased vehicles.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe, the Board voted unanimously to approve the BMW I-3 lease option for zero dollars to the Town.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley, the Board voted unanimously to sign the FY '18 61B Recreational Land Classification of town owned land of 25 acres on Soule Street.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon, the Board voted unanimously to approve the payment of $125 to Russ Frade to be paid from the Oliver Estate Revolving Fund.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to sign the "Lyda Cobb-Quequechn Chapter of the Massachusetts Daughters of the American Revolution Proclamation"

**HEARINGS, MEETINGS, LICENSES (continued)**

Special Town Meeting Warrant Review

*Wayne Perkins – Town Moderator was present for the discussion.*

Article One – Supplement to FY '17 budget article. Robert Nunes, Town Manager, reviewed the list of supplements to be presented on Article.

Article Two – The unpaid bills from previous year's article. Mr. Nunes reviewed the three unpaid bills.

Article Three – The Police Department collective bargaining Stabilization Fund article. Mr. Nunes reported that the figure is $105,703.00.

Article Four – This is the settlement with the previous Executive Assistant in the amount of $21,000.00.

Article Five – This is for Public Records request Management Application and an Online Permitting Application. Allison Ferriera – Town Clerk and Tara Pirraglia – IT Director both spoke on their respective projects

Article Six – This is for Sick Leave Buy Back in the amount of $4,735.33.

Article Seven – This is for asbestos removal on a Town owned structure on Cambridge Street in the amount of $30,000.

Article Eight – This is to air conditioning for the first floor of the Town Hall Annex Building. The unit has been in disrepair for since before the summer. Selectman Knowlton questioned whether this is necessary at this point in time. Mr. Nunes spoke about attempting to attract business to lease the open half of the first floor of the Annex and noted that it is difficult to promote without that amenity. This article is going to be held.

Article Nine – This is funding for the Electric Vehicle Lease for a vehicle in the Building Department in the amount of $2,609.75. This will be reimbursed by grant funding.

Article Ten – This is to fund an archaeological study related to the new septic system and handicap accessible ramp and bathrooms at the Oliver House in the amount of $6,382.00.

Article Eleven – This is funding for the Other Post-Employment Benefits Liability Trust Fund n the amount of $200,000.

Article Twelve – This is to fund additional money for a water treatment plant and associated improvements for the East Main Street wells for the Water Department. Mr. Nunes offered to

have Tighe & Bond, Chris Peck – DPW and Joe Silva – Water Department come in at the next meeting to discuss the details of this project. This article is going to be held.

Article Thirteen – This is to use $53,020 from the Open Space/Recreation Resources Reserve of the Community Preservation Fund to repair/replace Bridge #3 at Oliver Mill Park with an additional $5,000 for in-house project management.

Jane Lopes – Chairman of the Community Preservation Committee, spoke on the article and the dire repair needed for all the bridges at Oliver Mill Park.

Article Fourteen – This is for a study in the amount of $34,100 from the Historic Resources Reserve of the Community Preservation Fund for the purpose of conducting an Historic Stonework Assessment & Prioritization Plan at Oliver Mill Park.

Ms. Lopes spoke in detail on the need for the study of the stonework down at Oliver Mill Park in order to determine the best historic repair practice and structural review of the entire park. Ms. Lopes spoke about all of the bridges and the needs for repairs to those as well as stonework that needs to be fixed in the sluiceways. Selectman McKinnon spoke about what grant funding would be available for this work. Selectman Knowlton spoke about the high cost of the study. Selectman Frawley spoke about a similar project in West Bridgewater. Ms. Lopes explained that the estimated cost of the study was based on the West Bridgewater project and could be lower than what was estimated. Selectmen McKinnon asked Ms. Lopes to clarify the management project costs and how they were figured. Ms. Lopes explained how the cost was calculated. The Board discussed the repairs and the history of previous repairs at the Oliver Mill Park. This article is going to be held.

Article Fifteen – This is for the purchase of 81.09 acers known as the Lion's Head project and it will tie into adjacent Open Space and Conservation land.

Patricia Cassady – Conservation Commission Agent, discussed the project and the request for CPA funds in the amount of $268,000. Ms. Cassady further explained the borrowing of the total amount of the funds to purchase the land and how part of the funding will come from the Nature Conservancy Grant in the amount of $400,000. If this grant funding is not received then the project will not move forward. The total borrowing cost will not exceed $668,000.

Article Sixteen – This article is to transfer administrative funding from the Woloski Park project to the Oliver Estate project. Jan Lopes, Community Preservation Committee Chairman, spoke about the transfer of the funds and the need for them to be allocated to the Oliver Estate Project.

Article Seventeen – This article was advertised in the newspaper and a discussion will be held on it at the September 19 2016 meeting.
Article Eighteen – This article was advertised in the newspaper and a discussion will be held on it at the September 19, 2016 meeting.

Article Nineteen – This article is to transfer the care, custody, management and control of 157 Wood Street 159 Wood Street, 161 Wood Street and 0 Wood Street property from the Board of Selectmen to the Park Commission for recreational use. Fran Cass – Park Superintendent, spoke about the transfer of the parcels and the plans for new athletic fields.

Article Twenty - This article was advertised in the newspaper and a discussion will be held on it at the September 19, 2016 meeting.

Article Twenty One – This is the roadway acceptance article for Brookside Drive. This article will be held and discussed at the September 19, 2016 meeting, after the Brookside Roadway Layout hearing.

Article Twenty Two – This is in regard to the surety taking for the Brookside Drive project. This article will be held and discussed at the September 19, 2016 meeting.

Article Twenty Three – This is the roadway acceptance article for Eastwood Estates.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to recommend favorable action on Articles 1 through 7, Articles 9 through 11, Article 13, Article 15 and Article 19.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe, the Board voted four in favor, one against, to recommend favorable action on Article 16.

**TOWN MANAGER REPORT**
The Town Manager provided a review of the monthly Economic Development Report. There was a review of the Market Study Analysis. Mr. Nunes offered to have the group come in and discuss the report with the Board.

**CORRESPONDENCE**
#5 Selectman Frawley referenced that there were no OUI Last Drink Date for the Town of Middleborough.

#3 Selectmen Stewart referenced the Eversource vegetation cutting that is scheduled to be done down on the Rochester/Carver areas.

#1 Selectman Stewart discussed the letter from Attorney Fagen regarding the Nutel Communications, Inc.

**EXECUTIVE SESSION**
Upon motion made by Selectman McKinnon and seconded by Selectmen McKinnon to enter into Executive Session, not to return to Open Session, for the purpose of discussing the Police Patrol Officers Contract Negotiations.
Polled vote: Selectman A. Frawley - Aye, Selectman L. Dalpe - Aye, Selectman Knowlton – Aye, Selectman McKinnon – Aye and Selectman Stewart - Aye

**ADJOURNMENT**
The meeting ended at 10:30 PM.

Respectfully submitted by,

Colleen M. Lieb, Executive Assistant