

NEW BUSINESS

4-23-12



Allison J. Ferreira
Town Clerk

TOWN OF MIDDLEBOROUGH

Town Clerk's Office
Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

RECEIVED

APR 10 2012
BOARD OF SELECTMEN
MIDDLEBOROUGH, MA

April 10, 2012

Board of Selectmen
Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02346

Dear Honorable Members of the Board of Selectmen:

Enclosed please find an Open Meeting Law Complaint form received by the Town Clerk's Office on April 10, 2012 from Michael Solimini in relation to your April 9, 2012 Board of Selectmen meeting.

I have attached a copy of the Open Meeting Law Complaint Process from the Attorney General's Office for your convenience. As referenced in Step 2, the public body's response time is 14 business days from the date on which the complaint was filed.

Should you have any questions or concerns, please do not hesitate to contact our office at (508) 946-2415.

Very truly yours,

Allison J. Ferreira
Town Clerk

/ajf



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Michael Last Name: Solimini

Address: 3 Otis Pratt Lane

City: Middleboro State: MA Zip Code: 02346

Phone Number: +1 (508) 272-8160 Ext. _____

Email: michael.solimini@comcast.net

Organization or Media Affiliation (if any): Public

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Middleboro Selectmen

Specific person(s), if any, you allege committed the violation: The board

Date of alleged violation: 04-09-2012

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

Senator Pacheco received an invite from the Middleboro Selectmen in advance of the posted 4-09-12 Selectman's meeting to discuss Middleboro's Casino Contract with the Wampanoag's. This topic was not placed on the 4-09-12 agenda, and since an invite was sent, the chair should have anticipated and posted this topic on the agenda.

Additionally, Selectman Frawley urged the chair to publically post this topic on a future agenda, as he felt discussing this during this meeting would be a violation of open meeting law. Discussion regarding the legality under the Open Meeting Law took place. The chair felt this topic fell under unanticipated, and that the senator should be allowed to speak on this issue, and he allowed discussion. A member from the public addressed the chair that the posted agenda item "unanticipated" had already occurred. The chair allowed discussion with the senator on this un-posted topic for over 1 hour.

At the conclusion of this discussion, Representative Orral arrived. Discussion for representative Orral was not allowed.

In sum, *See Attached # 04-10-12*

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

I would like the Board to discuss the duration and controversial nature of this topic, and why the board allowed discussion for over 1 hour, on this topic. As stated by one member of this board, this topic has divided the town and is therefore recognized by the board as controversial. The AG office strongly urges controversial topics introduced under unanticipated to be correctly posted.

Review, sign, and submit your complaint

Read this important notice and sign your complaint.

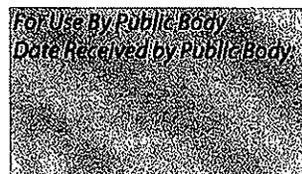
Under most circumstances your complaint will be considered a public record and be available to any member of the public upon request.

I understand that when I submit this complaint the Attorney General's Office cannot give me legal advice and cannot act as my personal lawyer.

I certify that the information contained on this form is true to the best of my knowledge.

Signed: *[Signature]*

Date: 04-10-12



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At the conclusion of this discussion, Representative Orral arrived. Discussion for representative Orral was not allowed.

In sum,

Discussions' regarding the casino contract is clearly controversial. An invite to the senator and representatives was sent well in advance and therefore the chair should have reasonable anticipated discussion and the topic could have been posted. During the meeting the chair was reminded several times this could be a violation of Open Meeting Law yet he allowed deliberation for well over 1 hour. 1 hour of discussion in my opinion is not limiting the discussion under the flexibility of unanticipated topics And lastly representative Orral was not allowed the same privilege to speak on the topic.

I would like the Board to discuss the duration and controversial nature of this topic, and why the board allowed discussion for over 1 hour on this topic. As stated by one member of this board, this topic has divided the town and is therefore recognized by the board as controversial. The AG office strongly urges controversial topics introduced under unanticipated to be correctly posted.

The Official Website of the Attorney General of Massachusetts

Mass.Gov

Attorney General Martha Coakley



[Home](#) > [Government](#) > [The Open Meeting Law](#) >

Open Meeting Law Complaint Process

Step 1: Filing a Complaint with the Public Body

A complaint must be filed in writing with a public body within 30 days of the date the alleged violation, or if the alleged Open Meeting Law violation could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered. The complaint must be filed using the Open Meeting Law complaint form available on the Attorney General's website. Public bodies, or in the case of local public bodies the municipal clerk, should provide members of the public with a copy of the complaint form upon request.

Click to download a copy of the [Attorney General's Open Meeting Law complaint form \(PDF\)](#).

Step 2: Public Body's Response

Within 14 business days of the date on which the complaint was filed, the public body must review the complaint and send to the AGO a copy of the complaint along with a description of any action taken to resolve the issue that was raised by the complaint. Within seven business days of the date that the complaint was filed, the public body may request additional information from the person making the complaint if necessary to resolve the complaint. The person making the complaint shall provide the additional information to the public body within 10 business days, and the public body shall have 10 additional business days (total 24 business days from the date complaint was originally filed) to act on the complaint and notify the AGO. The public body may request additional time to consider taking remedial action and must make that request in writing to the AGO, to the Attention of the Director of the Division of Open Government. The AGO may, at its discretion, grant additional time to the public body if it determines there is a showing of good cause to grant the extension.

Step 3: Filing a Complaint with the Attorney General

If the person who brought the complaint is not satisfied with the action taken by the public body, that person may file a copy of the complaint, along with any other materials the person making the complaint believes are relevant, with the AGO. The AGO may decline to investigate complaints that are filed with the Attorney General more than 90 days after the alleged Open Meeting Law violation, unless an extension was granted to the public body or the person making the complaint demonstrates good cause for the delay.

Step 4: Attorney General's Investigation

After reviewing a complaint and supporting materials, the AGO will determine whether there is reasonable cause to believe that the Open Meeting Law has been violated, and if so, whether to conduct a formal investigation. The AGO may request additional information from the person making the complaint. In the event that the AGO opens a formal investigation, the public body shall provide the Attorney General with such information and documents as may be requested. The AGO has the authority compel the production of documents, take oral testimony, and convene a hearing as may be necessary. The AGO will resolve complaints within a reasonable period of time, generally 90 days.

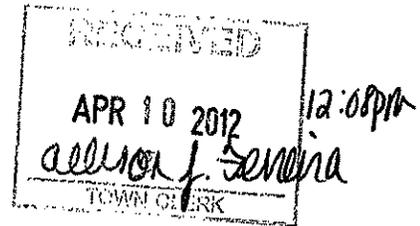
Step 5: Attorney General's Findings

The AGO will make findings, and where a violation has occurred, may order remedial action. If the AGO determines, after investigation, that the Open Meeting Law has been violated unintentionally, then the AGO will resolve the investigation by informal action or by formal ruling for more significant violations. The AGO may order remedial action by the public body directing immediate and future compliance with the law, attendance at a training session, release of records, or other appropriate action.

Where the AGO seeks to reinstate an employee or nullify the action of a public body as a remedy for the violation, the AGO will ordinarily convene a hearing to take testimony from witnesses to determine the appropriate remedy. If the AGO has reasonable cause to believe that the Open Meeting Law has been violated intentionally, the AGO may convene a hearing to determine whether the violation was intentional, whether the public body, one or more of its members, or both, were responsible, and whether to impose on the public body a civil penalty of up to \$1,000 for each violation.



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108



OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Office of the Attorney General's Division of Open Government is responsible for interpreting and enforcing the Open Meeting Law. Pursuant to G.L. c. 30A, §23, the Open Meeting Law requires that, prior to filing a complaint with the Attorney General, complaints must first be filed with the public body that is alleged to have committed the violation. The complaint must be filed with the public body within 30 days of the alleged violation, or if the alleged Open Meeting Law violation could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered. The complaint must set forth the circumstances which constitute the alleged violation, giving the public body an opportunity to remedy the alleged violation.

Please complete the entire form, providing as much information as possible, to assist the public body in responding to your complaint. You may attach additional materials to your complaint if necessary. The public body may request additional information if necessary. The Division of Open Government will not, and public bodies are not required to, investigate anonymous complaints.

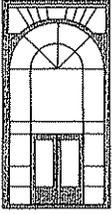
Complaints alleging a violation of the Open Meeting Law by a local public body must be filed with the clerk of the city or town where the alleged violation occurred. Complaints alleging a violation by a county, regional or state public body must be filed with the chair of the public body.

If you are not satisfied with the action taken by the public body in response to your complaint, you may file a copy of your complaint with the Attorney General 30 days after filing your complaint with the public body. The complaint must include this form and any documents relevant to the alleged violation. A complaint may be filed either by mail or by hand with the:

Office of the Attorney General
Division of Open Government
One Ashburton Place
Boston, MA 02108

The Attorney General may decline to investigate a complaint that is filed with the Attorney General more than 90 days after the alleged OML violation, unless an extension was granted to the public body or the complainant demonstrates good cause for the delay.

Window
to the World



Middleborough Public Library
102 North Main St., Middleborough, MA 02346

Danielle M. Bowker
Director

April 11, 2012

Board of Selectmen
Town of Middleborough
10 Nickerson Ave.
Middleborough, MA 02346

Dear Chairman Rullo and Members of the Board,

As was stated in a previous letter to the Selectmen, vacancies existed on the Library Board of Trustees. Two individuals have come forward and offered to serve. Following a discussion of their qualifications at the April 9, 2012 Trustees meeting, the Trustees have decided to submit their names to your Board for consideration.

On behalf of the Library Board of Trustees, I request that the Selectmen appoint the following to said Board:

Mr. George Davey
73 Pleasant St.
Middleborough, MA

Mrs. Sara Cederholm
44 Chadderton Way
Middleborough, MA

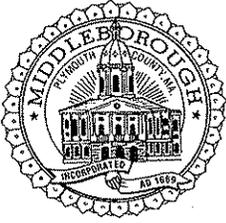
Mrs. Cederholm will fill the term that expires on March 31, 2014 and Mr. Davey will fill the term that expires on March 31, 2015.

Sincerely,

A handwritten signature in cursive script that reads "Danielle Bowker".

Danielle Bowker
Library Director

* BOTH ARE 3-YEAR TERMS.
J. Rullo



LEONARD E. SIMMONS
SENIOR MULTI-SERVICE CENTER
Middleborough Council On Aging
558 Plymouth Street, Middleborough, MA 02346

Andrea M. Priest

Executive Director

508-946-2490

508-946-2489 (FAX)

508-946-4446 (TDD)

April 12, 2012

Board of Selectmen
Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02346

Dear Chairman Rullo,

My appointment to the Council on Aging Board of Directors expired November 1, 2011.

This letter is notification that I wish to continue in my duties as a board member on the Council on Aging Board of Directors.

Respectfully yours,

Ms. Annette Holmes
5 Eddy Street
Middleborough, MA 02346



Town of Middleborough

Massachusetts

TOWN PLANNER
Ruth McCawley Geoffroy

Planning Board

Telephone (508) 946-2425
Fax (508) 946-1991

April 20, 2012

Board of Selectmen
Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02346

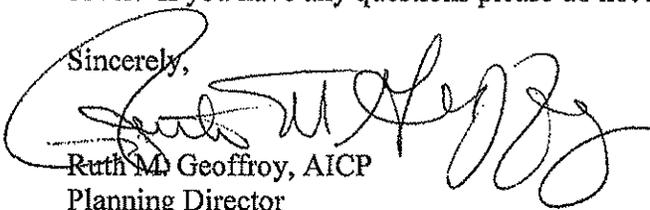
Honorable Board,

Attached please find the final drafts of the Zoning Bylaw Recodification and backup Flood Plain Overlay District Bylaw that were the result of two years of work by the Zoning Bylaw Recodification Task Force assisted by Attorney Mark Bobrowski. The Task Force completed these documents last evening making all final edits. The Recodified Bylaw and backup Flood Plain Bylaw are now ready for your referral to the Planning Board on 4/23/12 for legal advertisement and public hearing to be held on 5/22/12.

As you are aware, the article for the Recodification will involve deleting all of the sections of the current Zoning Bylaw and their amendments and replacing it with the Recodified Bylaw. This will require a 2/3 vote of Town Meeting. The Flood Plain Overlay District article has been submitted as a backup only, in case the Recodification fails to pass. The Flood Plain Section contains changes that are required to be made by the National Flood Insurance Program, and if they are not made the Town will be ineligible to participate in the program and homeowners will lose Flood Insurance protection.

We have submitted the Town Meeting article language for both bylaws under separate cover. If you have any questions please do not hesitate to contact me.

Sincerely,


Ruth M. Geoffroy, AICP
Planning Director

Encl

ARTICLE _____. To see if the Town will vote to amend the Zoning By-laws by deleting Section XI in its entirety and substituting the following new section therefore:

SECTION XI

FLOOD PLAIN OVERLAY DISTRICT (FPD)

- A. PURPOSE. It is the purpose of this Section to promote the public health, safety and general welfare and to minimize losses by provisions designed to:
1. Restrict or prohibit uses which are dangerous to health, safety or property due to water or erosion hazards or which cause damaging increases in erosion, erosion hazards, flooding or flood velocities;
 2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 3. Discourage individuals from buying lands which are unsuited for intended purposes because of flood hazard;
 4. Control filling, grading and mineral extraction which may increase flood damage;
 5. Regulate the construction of levees, jetties and other works which may increase flood damage to lands which may be subject to flooding;
 6. Ensure public safety through reducing the threats to life and personal injury;
 7. Eliminate new hazards to emergency response officials;
 8. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding;

9. Avoid the loss of utility service which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
10. Eliminate costs associated with the response and cleanup of flooding conditions; and,
11. Reduce damage to public and private property resulting from flooding waters.

B. **APPLICABILITY.** The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Middleborough designated as Zone A and AE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Middleborough are panel numbers 25023C0303J, 25023C0304J, 25023C0308J, 25023C0309J, 25023C0311J, 25023C0312J, 25023C0313J, 25023C0314J, 25023C0316J, 25023C0317J, 25023C0318J, 25023C0319J, 25023C0328J, 25023C0329J, 25023C0336J, 25023C0337J, 25023C0338J, 25023C0339J, 25023C0343J, 25023C0431J, 25023C0432J, 25023C0433J, 25023C0434J, 25023C0442J, 25023C0451J, 25023C0452J, 25023C0453J, 25023C0454J, 25023C0456J, 25023C0458J, 25023C0459J, 25023C0461J, 25023C0462J, 25023C0466J, and 25023C0467J dated July 17, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Conservation Commission.

C. BASE FLOOD ELEVATION AND FLOODWAY DATA.

1. Floodway Data. In Zones A, and AE, along watercourses that have not had a regulatory floodway designated the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is less, within unnumbered A Zones.

D. The Flood Plain District is hereby established as an overlay district. All development in the District, including structural and non-structural activities, whether permitted by right or by special permit shall be in compliance with the Wetlands Protection Act, Chapter 131 Section 40 of the Massachusetts General Laws and with the following:

1. The section of the Massachusetts' State Building Code which addresses floodplain areas (currently 780 CMR);
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. Inlands Wetlands Restriction, DEP (currently 310 CMR 13.00); and,
4. Minimum Requirements for Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.00, Title 5)

E. The boundaries of the Flood Plain District shall be determined by scaling distances in the said Maps except where elevations are provided in Zone AE. Where there appears to be a conflict between a mapped boundary and actual field conditions FEMA should be consulted for formal review and map revision. The person contesting the location of the

district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

F. Notification of Watercourse Alteration. In a riverine situation, the Town Planner shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities

2. NFIP State Coordinator

Massachusetts Department of Conservation and Recreation

251 Causeway Street, Suite 600-700

Boston, MA 02114-2104

3. NFIP Program Specialist

Federal Emergency Management Agency, Region I

99 High Street, 6th Floor

Boston, MA 02110

G. COMPLIANCE. No structure or land shall be used and no structure shall be located extended, converted or structurally altered without full compliance with the terms of this Section, the State Building Code and other applicable regulations.

H. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Section to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this Section imposes greater restrictions, the provision of this Section shall prevail.

I. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood and erosion protection required by this Section is considered reasonable for regulatory purposes and is based on scientific methods of study. Larger floods may occur. This Section does not imply that areas outside the Flood Hazard District boundaries or land uses permitted

within such districts will be free from flooding or flood damages. This Section shall not create liability on the part of the Town of Middleborough or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

J. REGULATORY FLOOD PROTECTION ELEVATION FOR MIDDLEBOROUGH.

Within Zone A where the base flood elevation is not provided for on documents referred to in Subsection 8.1.2, the applicant shall produce any already existing, reasonable base flood elevation data and such data shall be submitted to the Buildings Inspector for development criteria.

K. PERMITTED USES. The following uses which have low flood damage points and do not threaten other lands during times of flood are encouraged within the Special Hazard Areas (Zones A and AE), provided they are not prohibited by any other zoning regulations or other Bylaws and do not require storage of materials, structures, flood control works, or substantial filling or grading. But no use shall be permitted which adversely affects the capacity of the channels of floodways of streams, drainage ditches or any other drainage facility or system. (See FEMA List)

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Conservation of water, plants and wildlife.
4. Wildlife management area, foot, bicycle and/or horse paths.
5. Temporary non-residential structures used in connection with fishing, growing harvesting, storage or sale of crops raised on the premises.
6. Buildings lawfully existing prior to the adoption of these provisions.
7. Municipal uses such as water works, pumping stations and other essential services.

8. Outdoor recreational uses including fishing, boating, play areas, beaches, beach cabanas not suitable for dwellings, boardwalks and steps to permit access across swamps or marshes, pavilions and other similar small platforms, lifeguard stations, golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, temporary structures for sale for food and refreshments, arts and crafts.
9. Residential uses such as lawns, gardens, parking areas and structures for storage not designed for human habitation.

L. OTHER USE REGULATIONS

1. Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
2. In Zone AE, along watercourses within the Town of Middleborough, that have a regulatory floodway designated on the Plymouth county FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. All subdivision proposals must be designed to assure that:
 - a. Such proposals minimize flood damage;
 - b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and,
 - c. Adequate drainage is provided to reduce exposure to flood hazards.

4. Existing and proposed contours of site and elevations of existing and proposed structures must be included on plan proposal.
5. There shall be established a routing procedure which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health and Building Inspector for comments which will be considered by the appropriate permitting Board prior to issuing applicable permits.

M. FLOOD PLAIN (OVERLAY) DISTRICT DEFINITIONS: For the purposes of Section XI, the following terms are defined below:

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

The area may be designated as Zone A, AO, AH, AI-30, AE, A99, VI-30, VE, or V.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

COASTAL HIGH HAZARD AREA: An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone VE.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT: Section XI, the Flood Plain District.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The agency administering the National Flood Insurance Program. FEMA provides a Nation wide

flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: An examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

MANUFACTURED HOME (MOBILE HOME): A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

MANUFACTURED (MOBILE) HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

NEW CONSTRUCTION: For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, new construction means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

ONE-HUNDRED-YEAR FLOOD: See Base flood.

REGULATORY FLOODWAY: See Floodway.

SPECIAL FLOOD HAZARD AREA: An area having special flood and/or flood-related erosion hazards and shown on an FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30 or VE.

STRUCTURE: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance coverage purposes, means a walled and roofed building other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

ZONE A: The one hundred (100) year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available Federal, State, local or other data.

ZONE AE (for new and revised maps): The one hundred (100) year floodplain where the base flood elevation has been determined.

ZONE AH AND ZONE AO: The one hundred (100) year floodplain with flood depths of one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where the velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

ZONE A99: Areas to be protected from the one hundred (100) year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONE X: Areas identified in the community flood insurance study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.



Allison J. Ferreira
Town Clerk

TOWN OF MIDDLEBOROUGH
Town Clerk's Office
Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

MEMORANDUM

TO: Board of Selectmen

FROM: Allison J. Ferreira, Town Clerk

DATE: April 19, 2012

RE: *Certificates of Registration for Fuel Storage – 2012*

Attached please find a list of Certificates of Registration for Fuel Storage to be renewed for 2012. I have included the name of the facility, address of the tanks and the owners on the attached spreadsheets.

Our office mailed reminder notices with the Certificate of Registration forms and Workers' Compensation Insurance Affidavits to all the owners. Kindly vote to renew the Certificates of Registration for Fuel Storage subject to the receipt of all required documentation being filed with the Town Clerk's office.

Should you have any questions or concerns, please do not hesitate to contact me.

CERTIFICATES OF REGISTRATION FOR FUEL STORAGE 2012

FACILITY	ADDRESS OF TANKS	OWNER
A.L. Prime Energy	414 West Grove Street	414 West Grove Street Trust
A.L. Prime Energy	26 High Street	A.L. Prime Energy Consultant
Amerigas	413 Wareham Street	Petrolane Division of Quantum Chemical
Bedford St. Shell	63 Bedford Street	Arslan & More, Inc.
Belben's Auto Repair, Inc.	760 Centre Street	TJ HD Corp.
W.L. Byrne, Inc.	210 Wood Street	W.L. Byrne, Inc.
Chickering Trucking	164 Everett Street	David and Alan Chickering
Christmas Tree Shops, Inc.	64 Leona Drive	Terry Ryan
Coletti Bros. Oil	576 Wareham Street	Peter and Anthony Coletti
Cumberland Farms, Inc.	200 Centre Street	Eclipse Division
Cumberland Farms, Inc.	87 East Grove Street	Eclipse Division
Cumberland Gulf	150 South Main Street	Eclipse Division
E. Briggs Oil Co., Inc.	144 Everett Street	E. Briggs Oil Co., Inc.
EKS Corporation	157 South Main Street	Trickett Realty Trust
F.G. Adams Co., Inc.	188 East Grove Street	F.G. Adams Co., Inc.
Gas Depot	5 Station Street	Raheel Gafoor
Gates, Shane	43R Smith Street	Shane Gates
Gerson Co.	3 Sumner Avenue	Steven Crowell
Harju, Kenneth	253 France Street	Kenneth Harju
Jim's Automotive	355 Wareham Street	James R. Walker
Kitchen, Nancy	609 Wareham Street	Nancy Kitchen
KVMG, Inc.	407 Wareham Street	KVMG, Inc.
Logan, William	113 East Grove Street	William Logan
Middleborough Gas & Electric	37 Wareham Street	Town of Middleborough
New England Farms	47 Harding Street	Delta Realty
Nemasket Healthcare Center	314 Marion Road	Atrium Nursing Center, LTD.
New England Farms	447 Wareham Street	Delta Realty
Nichols Trucking	34 Vine Street	John and Barbara Nichols
Ocean Spray Cranberries, Inc.	Bridge & Wood Street	Charles Hall
Roby's Propane Gas, Inc.	100 West Grove Street	Roby's Propane Gas, Inc.
Rock Village Cranberry Co.	26 Highland Street	James Paduch
Russell Lawton Cranberries	221 Thomas Street	Russell and Mark Lawton

CERTIFICATES OF REGISTRATION FOR FUEL STORAGE 2012

FACILITY	ADDRESS OF TANKS	OWNER
Super Petroleum	381 West Grove Street	ASD Realty Trust
Super Petroleum	554 West Grove Street	John and Deanne Dupuis
Shell Oil Co.	2 West Grove Street	Colbea Enterprises, LLC
Standish Oil Co.	62 Cambridge Street	John and Helen Lucas
Standish Oil Co.	66 Cambridge Street	John and Helen Lucas
Staples Savard Oil	228 Bedford Street	Weathermark Investments, Inc.
Stop and Save	160 Centre Street	Badat, Inc.
Tribou Commercial Realty Trust	101 Sproat Street	Tribou Commercial Realty Trust
Middleboro Petroleum	99 West Grove Street	United Gas
Verizon New England	15 Jackson Street	Verizon New England
Woods Pond Cranberry	154 Thomas Street	Lawrence Pink

CRANBERRY CAPITAL
OF THE WORLD



Phone: 508-946-2405

Fax: 508-946-0058

Town of Middleborough

Massachusetts

Board of Selectmen

MEMORANDUM

TO: Board of Selectmen

FROM: Jackie Shanley, Confidential Secretary

DATE: April 23, 2012

RE: Second Hand, Pawnbroker, Junk Dealer, and Old Metals Licenses

Attached please find a list of licenses expiring on 5/1/12. These licenses must be renewed by the Board of Selectmen annually.

I have mailed renewal applications to each licensee. Please vote to renew, as presented, subject to receipt of all required documentation being filed with the Selectmen's office.

Thank you.

Attachment

Second Hand/Pawnbroker/Junk Dealer/Old Metals Licenses

Effective 5/1/12 - 5/1/13

Store Name	Location	Contact Name	License Type
Gregory Scot Jewelry & Loan	45 Centre Street	Scot Dean	Pawnbroker and "Junk Dealer/2nd Hand/Old Metals"
Wee Ones	5 Wareham St., Suite B	Caitlin Whitmore	2nd Hand
The Historic Tinkham House	125 Miller Street	Jeanne Gillen	2nd Hand
Whimsical Eye	47 Oak Street	Linda Dixon	2nd Hand
Ragz	370 Centre Street	Kimberly Henderson Kimberly Hymel Patricia Tubman	2nd Hand
Alco Jewelry & Antique's Exchange	19 South Main Street	Robert Cohen Gary Epstein Dan Dunn	2nd Hand
Twice As Nice	749 Centre Street	Mary Donofrio	2nd Hand

To whom it may concern-

I am asking that you
Please waive the \$50-
renewal fee for may 1st 2012

- As I just obtained my
license on April 13th 2012
w/ a \$50 fee.

Thank you for your time.



Caitlin Whitmore

owner of: wee ones

Jacqueline Shanley

From: Robert Ewell <ewellrobert@gmail.com>
Sent: Monday, April 16, 2012 3:25 PM
To: Jacqueline Shanley
Subject: Re: Samuel Fuller School Race

Jackie,

The Samuel Fuller School Race is coming up. It is May 12th this year. We were hoping you could grant us permission to place our sign on the town hall lawn again. If we could set it up on the April 28th, that would be perfect. I know I'm contacting you late.

Thank you very much.

Robert Ewell
race director

On Thu, Mar 17, 2011 at 3:24 PM, Jacqueline Shanley <jshanley@middleborough.com> wrote:

Good Afternoon Mr. Ewell:

The Board of Selectmen voted to approve your request at its meeting held on 3/14/11.

? last
? year

Best wishes for a successful race.

Jackie

From: Robert Ewell [<mailto:ewellrobert@gmail.com>]
Sent: Wednesday, March 02, 2011 10:32 PM
To: Jacqueline Shanley
Subject: Samuel Fuller School Race

Jacqueline,



SOUTHEASTERN REGIONAL PLANNING & ECONOMIC DEVELOPMENT DISTRICT
88 BROADWAY ♦ TAUNTON, MA 02780-2557

Acushnet
Attleboro
Berkley
Carver
Dartmouth
Dighton
Fairhaven
Fall River
Freetown
Lakeville
Mansfield
Marion
Mattapoisset
Middleborough
New Bedford
N. Attleborough
Norton
Plainville
Raynham
Rehoboth
Rochester
Seekonk
Somerset
Swansea
Taunton
Wareham
Westport

April 3, 2012

Chair, Board of Selectmen
20 Center Street - 2nd Floor
Middleborough, MA 02346

Dear Sir/Madam:

Every year at this time, **Mayors, Boards of Selectmen and Planning Boards** are requested to make 3 critical appointments to the Commission of the **Southeastern Regional Planning and Economic Development District (SRPEDD)**.

1. In accordance with Chapter 40B, Section 12, **Mayors and Selectmen** shall appoint themselves, or a delegate to represent them, on the SRPEDD Commission.
2. **Planning Boards** shall also appoint one of their members, or a delegate to represent the board, for your community's second seat on the SRPEDD Commission.
3. **Mayors and Boards of Selectmen** are also requested to appoint a representative (and an optional alternate) to the **Joint Transportation Planning Group (JTPG)**, which advises on matters of transportation policy and funding priorities.

These appointments will fill the term from May 23, 2012 through May 31, 2013.

In 2010-2011, your community was represented by the following appointees:

SRPEDD Commission: (Does not allow for an alternate.)

Mayor/Board of Selectmen Representative: Stephen McKinnon
Planning Board Representative: Ruth McCawley Geoffroy

JTPG: (Appointed by the Mayor/Board of Selectmen)

Delegate: Charles Cristello
Alternate (optional): Ruth McCawley Geoffroy

Attached are Information Sheets and Appointment Forms for the SRPEDD Commission (in yellow) and the Joint Transportation Planning Group (JTPG).

Please give this request some consideration, fill out the forms and return by April 30. If you have any questions, please call, fax or email (njbumbaugh@srpedd.org) Nancy Bumbaugh at this office.

Sincerely,

Randall Kunz
Chairman, SRPEDD Commission

cc: SRPEDD Commissioners, JTPG Members & Alternates



FACT SHEET

SRPEDD COMMISSION

Your delegate will be expected to participate in the activities of the District, which will include:

- * setting regional policy in transportation, land use and economic development;
- * working with other local representatives on regional solutions to the problems facing all cities and towns;
- * determine where federal transportation funding should be spent in the region (Transportation Improvement Program (TIP));
- * priority setting for economic development projects throughout the region (Comprehensive Economic Development Strategy (CEDS));
- * reviews of developments in the region for environmental and traffic impact;
- * learning about activities in neighboring cities and towns in the region.

In addition, your city or town must have an appointed commission delegate to qualify for Municipal Assistance time from SRPEDD.

The Commission meets on the fourth Wednesday of the month, approximately 8-10 times a year. (The Executive Committee meets on those months the Commission does not.) There is a guest speaker at many meetings, addressing diverse topics of interest to the region.

Appointing a delegate who is able to attend meetings is important. Please stress to your appointee that they are expected to attend meetings and communicate back to their appointing board.

If an appointee cannot attend a meeting, the appointing board can authorize (by letter/Fax to SRPEDD) another individual to attend on behalf of the City/Town.

2012-2013 SRPEDD COMMISSION DELEGATE APPOINTMENT FORM

Please be advised that _____ has been appointed to
represent the (check one) Mayor [], Bd. of Selectmen [], Planning Bd. []
of the City/Town of _____ on the SRPEDD Commission for the period
May 23, 2012 to May 31, 2013.

Signature: _____

(Mayor; Chair, Board of Selectmen; Chair, Planning Board)

Date: _____

Please Verify Contact Information for SRPEDD Commissioner Appointees

SRPEDD Name: _____

Delegate: Street: _____

City/Town: _____

Telephone: _____

Email Address: _____

**PLEASE RETURN THIS FORM BY MAIL OR FAX (508-823-1803)
BY APRIL 30
NANCY BUMBAUGH - SRPEDD, 88 BROADWAY, TAUNTON, MA 02780**



FACT SHEET

JOINT TRANSPORTATION PLANNING GROUP (JTPG) AT SRPEDD

The Joint Transportation Planning Group (JTPG) is the regional advisory group for all issues pertaining to transportation in southeastern Massachusetts. It consists of representatives of the chief local elected officials from each of our 27 member cities and towns. Each year, we ask that each municipality appoint or reappoint its designee to the JTPG to serve a term commencing May 23, 2012 through May 31, 2013.

Meeting approximately eight times per year on the first Wednesday of the month, the primary responsibilities of the JTPG are:

- Advise the Massachusetts Highway Department, Federal Highway Administration, SRPEDD Commission, and regional transit authorities on transportation issues related to the region;
- Prepare the Transportation Improvement Program (TIP), the document that programs all federally funded transportation projects;
- transportation planning process; and
- Provide a forum for citizen participation in the transportation planning process.

Appointing a delegate who is able to attend meetings is important. Please stress to your appointee that they are expected to attend meetings and communicate back to their appointing board.

If an appointee cannot attend a meeting, an alternate (optional) can be appointed to attend on behalf of the City/Town.



JOINT TRANSPORTATION PLANNING GROUP (JTPG)

MUNICIPAL REPRESENTATIVE APPOINTMENT 2012 - 2013

Please be advised that the following individual, _____ has been appointed to represent the City/Town of _____ on the *Joint Transportation Planning Group* for the period May 23, 2012 to May 31, 2013.

Signed: _____
Mayor/Chair, Board of Selectmen

Please Verify Contact Information for JTPG Appointees

JTPG

REPRESENTATIVE

Name: _____

Street: _____

City/Town: _____

Telephone: _____

Fax: _____

Email address: _____

(If Appointed) Please Verify Contact Information for JTPG Alternates

ALTERNATE:

(OPTIONAL)

Name: _____

Street: _____

City/Town: _____

Telephone: _____

Fax: _____

Email address: _____

PLEASE RETURN THIS FORM BY MAIL OR FAX (508-823-1803)
BY APRIL 30
NANCY BUMBAUGH - SRPEDD, 88 BROADWAY, TAUNTON, MA 02780



OFFICE OF
SELECTMEN
TELEPHONE (508) 946-8803
FAX (508) 946-0112

Town of Lakeville

Town Office Building
346 Bedford Street
Lakeville, MA 02347

April 11, 2012

Alfred P. Rullo, Chairman
Middleborough Board of Selectmen
Middleborough Town Hall
10 Nickerson Avenue
Middleborough, MA 02346

RE: Agreement for Nursing Services between
Towns of Middleborough and Lakeville

Dear Chairman Rullo:

Enclosed please find two (2) original, executed copies of the Agreement between the Towns of Middleborough and Lakeville for the Middleborough Health Department to provide nursing services to the Lakeville Board of Health. Would you please have the agreements executed by your Board, and return one (1) original copy to our office.

We are appreciative of Middleborough's willingness to provide the Town of Lakeville with these services.

Sincerely,

Rita A. Garbitt
Town Administrator

Enclosure

Agreement made by and between the Town of Middleborough acting by and through its Board of Selectmen (hereafter "Middleborough") and the Town of Lakeville acting by and through its Board of Selectmen (hereafter "Lakeville").

The parties hereto covenant and agree as follows:

1. Middleborough acting through its Health Department shall provide the following services for the Town of Lakeville Board of Health:

SCOPE OF SERVICES

I. General Administration - Procedures

- Receive all reports relative to communicable disease identified as reportable by the Department of Public Health, process all reports notifying the status and follow up investigation with the patient and with physician referrals.
- Make contact with patients and physicians for follow-up.
- Refer patients to resources for treatment and care guidelines.
- Maintain contact with the Lakeville Board of Health relative to trends in illness in the schools and the community.
- Provide monthly reports to the Lakeville Board of Health on Communicable Disease Investigation and Reporting Activities.

II. Communicable Diseases

- Investigate and report all diseases dangerous to the public health and reportable to Massachusetts Department of Public Health.
- Investigate outbreak of suspected food poisoning and obtain food intake history and request specimens as needed.
- Restrict employment of food handlers when necessary under the guidelines of Massachusetts Department of Public Health.
- Provide health information and health education to patients and families to prevent further disease spread.

III. Tuberculosis Control

- Investigate and report tuberculosis cases to tuberculosis control.
- Investigate and check all contacts and possible sources of disease.
- Ensure prompt diagnostic follow-up of patients and suspects.
- Monitor medications of patients and tuberculin positive contacts.
- Coordinate with state and patient's doctor for follow through.

IV. Public and Semi Public Swimming Pools

- Inspect all public and semi public pools in the Town of Lakeville for compliance with the State Department of Public Health regulation **105 CMR 435.000 Minimum Standards for Swimming Pools (State Sanitary Code: Chapter V)**
- Review of pre-opening pool water quality reports.
- Review and verification of Certified Pool Operators credentials.
- Conduct scheduled pre-opening pool inspections for compliance with code which will include: safety inspection, facilities inspection, mechanical/filtration equipment inspection and recordkeeping.
- Conduct plan review for proposed new or remodel public and semi public pools
- Optional with Lakeville Board of Health written request:
 - conduct complaint investigations
 - conduct additional inspections during operational season

2. Middleborough shall perform the services for Lakeville for a term commencing on January 29, 2012 and ending on January 28, 2013.

3. Middleborough's Health Department employees shall provide the services. All administrative support and equipment needed to perform the services shall be the responsibility of Middleborough and its Health Department. The services shall be performed during normal, regular working hours of the Middleborough Health Department (Monday, Tuesday, Wednesday and Friday from 8:30 a.m. to 5:00 p.m., excepting legal holidays and time off). The primary nurse contact is also certified for food inspections.

4. Lakeville shall monitor this agreement through the Board of Health. Lakeville shall pay Middleborough for the services rendered hereunder by Middleborough at the rate of forty dollars (\$40.00) per hour for each hour that a Middleborough Health Department employee is engaged in carrying out services for Lakeville hereunder. Middleborough shall bill Lakeville monthly for services performed. Each monthly bill shall include the cost of services for the month prior to the bill. Lakeville shall pay Middleborough the amount of each bill within thirty days of the date of billing.

5. Middleborough Health Department personnel will meet with the Lakeville Board of Health at a minimum annually for a joint review of services provided under this agreement and to discuss modification or amendment of the agreement on which the parties may agree.

6. Either party may terminate this agreement at any time by written notice to the other party. Any such termination shall take effect sixty (60) days after the date a notice of termination is given. The parties may also by mutual agreement terminate this agreement.

7. This agreement is made pursuant to and shall be subject to the provisions of General Laws Chapter 40, Section 4A.

Witness the hands and seals of the undersigned this 9th day of April, 2012.

Town of Middleborough
By:

Board of Selectmen

Town of Lakeville
By:

Daniel J. McLean

John B. ...

John B. ...

Board of Selectmen



A hearing will be held by the Board of Selectmen on Monday, April 23, 2012 at 7:30 PM in the Selectmen's Meeting Room at the Town Hall, located at 10 Nickerson Avenue, Middleborough, MA for the purpose of discussing application made by Dave's Diner, Inc., d.b.a. Dave's Diner for an All Alcoholic beverages liquor license, property located at 390 West Grove Street, Middleboro, MA, Assessors Map 48, Lot 4758, Middleborough, MA. Anyone desiring to be heard on this matter should appear at the time and place designated.

Alfred P. Rullo, Jr.
Stephen J. McKinnon
Steven P. Spataro
Allin Frawley
Ben Quelle
BOARD OF SELECTMEN

Publish: April 5, 2012

*Payment forthcoming in mail advertiser # 300074



Town of Middleborough Massachusetts

BOARD OF SELECTMEN

APPLICATION FOR LICENSE (PLEASE TYPE OR PRINT CLEARLY)

DATE 3/5/12
 NAME OF APPLICANT DAVE'S DINER, Inc. - David Fisher
 ADDRESS OF APPLICANT 390 W. Grove St.
 ASSESSORS MAP & LOT 048-4758
 DAYTIME TELEPHONE 508 923 4755

NAME OF BUSINESS DAVE'S DINER Fisher + DIA Fisher
 OWNER OF PROPERTY TO BE LICENSED DAVID FISHER + DIA FISHER
 ADDRESS OF PROPERTY TO BE LICENSED 390 W. Grove St.
 ASSESSORS MAP & LOT 048 4758

TYPE OF LICENSE REQUESTED (Check One)

- | | |
|---|---|
| <input type="checkbox"/> 2 nd Hand Furniture | <input type="checkbox"/> 2 nd Hand Clothing |
| <input type="checkbox"/> Class I License | <input type="checkbox"/> Class II License |
| <input type="checkbox"/> Class III License | <input checked="" type="checkbox"/> Liquor License <u>All-Alcoholic</u> |
| <input type="checkbox"/> Common Victualler | <input type="checkbox"/> Automatic Amusement |
| <input type="checkbox"/> Entertainment | <input type="checkbox"/> Other |

Anticipated Start Date for Business Currently open
 Hours requested: Mon thru Sat 8AM - Midnight
Sunday 10AM - Midnight

Has the Applicant previously held a similar license in the Town of Middleborough or elsewhere?
 If yes, explain: We currently have a Wine & Malt Beverage license.

Signature [Handwritten Signature]

DATE OF HEARING 4.23.12 APPROVED/DENIED

Do not write below line: To be Completed by Treasurer/Collector: _____

Please inform this department, as well as the Board of Selectmen, as to whether or not the above listed property owner/applicant/petitioner owes the Town of Middleborough any outstanding taxes and/or municipal charges that remain unpaid for more than one year.

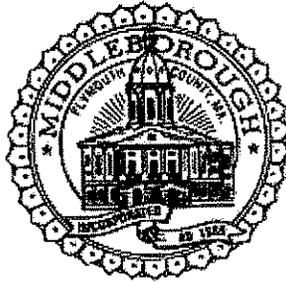
Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? NO

[Large Handwritten Signature]

Jacqueline Shanley

From: Jeanne Spalding
Sent: Wednesday, April 18, 2012 4:56 PM
To: Jacqueline Shanley

Dave's Diner



**TOWN OF MIDDLEBOROUGH
HEALTH DEPARTMENT**

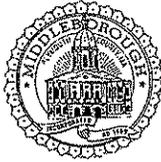
Jeanne Spalding, RS, CHO
Health Officer
Hours: 9am-5pm

PH: 508-946-2408
FX: 508-946-2321

MEMO

TO: Board of Selectmen
FROM: Jeanne Spalding, Health Officer
DATE: April 18, 2012
RE: Dave's Diner "All Alcoholic" License application

The Health Dept. has no objections to the application for an "All Alcoholic" license for this business.



Town of Middleborough
20 Centre Street, Second Floor
Middleborough, Massachusetts 02346

Robert J. Whalen
Building Commissioner
Tel. 508-946-2426
Fax 508-946-2305

April 18, 2012

Middleborough Board of Selectmen
Middleborough Town Offices
10 Nickerson Ave
Middleborough, MA 02346

Subject: Application for All Alcoholic Liquor License at 390 West Grove Street,
Assessors' Map: 048 Lot: 4758, GU/WRPD Z2.

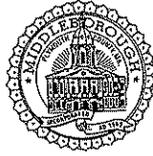
Dear Board,

I have reviewed the application for an All Alcoholic Beverages License submitted by
David Fisher for Dave's Diner located at 390 West Grove Street.
I have no comment.

Respectfully submitted,

Robert J. Whalen
Building Commissioner

RJW/d



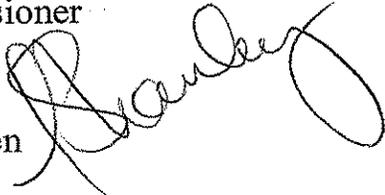
Town of Middleborough

Massachusetts

Board of Selectmen

MEMORANDUM

TO: Building Commissioner
Health Officer

FROM: Board of Selectmen 

DATE: 4/11/12

RE: Application re New "All Alcoholic" Beverages
Liquor license, Dave's Diner, Inc., dba Dave's Diner, 390 W.
Grove Street.

Please be advised that the above referenced matter is scheduled before the Board of Selectmen on 4-23-12 at 7:30 PM.

The applicant is applying for a license to serve All Alcoholic beverages as opposed to Wines & Malt beverages.

Please provide this office with any concerns, objections, and/or requirements in granting this license.

Thank you.

Attachments

cc: Board of Selectmen
Town Manager

The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street
 Boston, MA 02114
www.mass.gov/abcc

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
 MONETARY TRANSMITTAL FORM**

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

CHECK PAYABLE TO ABCC OR COMMONWEALTH OF MA: \$200.00

(CHECK MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL)

CHECK NUMBER

3203

IF USED EPAY, CONFIRMATION NUMBER:

A.B.C.C. LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY):

070000054

LICENSEE NAME:

DAVE' DINER, INC.

ADDRESS:

390 W. GROVE ST.

CITY/TOWN:

MIDDLEBORO

STATE MA

ZIP CODE

02346

TRANSACTION TYPE (Please check all relevant transactions):

- | | | | |
|---|--|--|---|
| <input checked="" type="checkbox"/> New License | <input type="checkbox"/> New Officer/Director | <input type="checkbox"/> Pledge of License | <input type="checkbox"/> Change Corporate Name |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Pledge of Stock | <input type="checkbox"/> Seasonal to Annual |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Transfer of Stock | <input type="checkbox"/> Change of License Type |
| <input type="checkbox"/> Cordials/Liqueurs Permit | <input type="checkbox"/> New Stockholder | <input type="checkbox"/> Issuance of Stock | <input type="checkbox"/> Other |
| <input type="checkbox"/> 6-Day to 7-Day License | <input type="checkbox"/> Management/Operating Agreement | <input checked="" type="checkbox"/> Wine & Malt to All Alcohol | |

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS TRANSMITTAL FORM ALONG WITH THE CHECK, COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:

**ALCOHOLIC BEVERAGES CONTROL COMMISSION
 P. O. BOX 3396
 BOSTON, MA 02241-3396**

CORPORATE RESOLUTION AND CERTIFICATE OF INCUMBANCY

DAVE'S DINER, INC.

Dina E. Fisher, as Clerk of the Corporation, acting in her corporate capacity as a corporate officer of DAVE'S DINER, INC., a Massachusetts corporation, does hereby certify that said corporation is duly organized and existing under the laws of the Commonwealth of Massachusetts, and that at a duly called special meeting of the directors and shareholders of DAVE'S DINER, Inc. held on February 29, 2012 at which meeting a quorum was present, the following vote, which vote has never rescinded or revoked, was passed:

VOTED: That the President be hereby authorized and directed in the name and on behalf of the Corporation and in his discretion, to execute and deliver on behalf of the corporation all documents necessary to obtain an All Alcoholic Beverages License for the restaurant known as Dave's Diner, in Middleborough, Massachusetts.

VOTED: That John P. Spinetto shall be the authorized Manager of Record as regards thereto.

As Clerk of the Corporation, I further certify that the following person or persons are currently duly elected officers of Dave's Diner, Inc.:

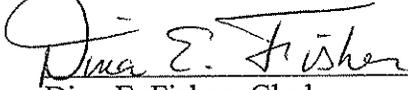
President	David T. Fisher
Treasurer	Joan C. Fisher
Clerk	Dina E. Fisher

I DO FURTHER CERTIFY that the above vote has not been altered, amended, rescinded or repealed.

VOTED: To adjourn.

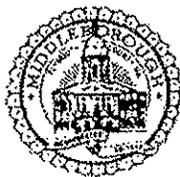
A true copy,

Attest:



Dina E. Fisher- Clerk

March 5, 2012



The Board of Selectmen will hold a public hearing in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, April 23, 2012 at 7:50 PM, for the purpose of discussing an application filed by the Middleborough Department of Public Works for a Special Permit under the Water Resource Protection District By-law, to replace the Tispaquin Street Fall Brook culvert and Appurtenant Work within twenty-five (25) feet of a fresh water wetland as a limited project. This project is located as Map 66 and 72, Lots 622, 669, 772, 784, 6325, 5414, and 5466, Wood Street, WRPD Z4. Anyone wishing to be heard on this matter should appear at the time and place designated.

Alfred P. Rullo, Jr.
Stephen J. McKinnon
Steven P. Spataro
Allin Frawley
Ben Quelle
BOARD OF SELECTMEN

Publish: April 5, 2012 and April 12, 2012

*Please bill: Attn: Andy Bagas
Town of Middleborough DPW
48 Wareham Street
Middleborough, MA 02346

Jacqueline Shanley

From: Rich Tabaczynski <rtaab@atlanticcompanies.com>
Sent: Thursday, April 19, 2012 3:31 PM
To: Jacqueline Shanley; Charles Cristello
Subject: FW: Tispaquin Street/Fall Brook Report

Charles,

Andy Bagas called and he had the following responses to my numbered comments:

1. The culvert has been in existence prior to April 1, 1983
The Notice of Intent and Order of Conditions was issued as limited project.
2. The "Proposed Environmental Protection Measures" will be part of the contract construction documents.
3. The compensatory flood storage area may move to a different location at the discretion of the ConComm.
4. The location of the wetland replication areas are to be determined.

Richard J. Tabaczynski, P.E.

Vice President

Atlantic Design Engineers, Inc.

P.O. Box 1051

Sandwich, Massachusetts 02563

P: (508) 888 – 9282

F: (508) 888 – 5859

C: (508) 274 – 1712

From: Rich Tabaczynski [<mailto:rtaab@atlanticcompanies.com>]
Sent: Thursday, April 19, 2012 11:53 AM
To: 'Jacqueline Shanley'
Cc: 'Charles Cristello'
Subject: RE: Tispaquin Street/Fall Brook Report

Attached please find our initial review letter. Please call if you have any questions.

Richard J. Tabaczynski, P.E.

Vice President

Atlantic Design Engineers, Inc.

P.O. Box 1051

Sandwich, Massachusetts 02563

P: (508) 888 – 9282

F: (508) 888 – 5859

C: (508) 274 – 1712

From: Jacqueline Shanley [<mailto:jshanley@middleborough.com>]
Sent: Tuesday, April 17, 2012 9:49 AM
To: rtaab@atlanticcompanies.com
Subject: Tispaquin Street/Fall Brook Report

Good Morning Rich,

The Town Manager says your proposal looks fine, but we need to get your report by Thursday as this is scheduled for Monday night, April 23rd. Please let me know if you will be able to get it to me.



DESIGN ENGINEERS, LLC.

ENGINEERS & ENVIRONMENTAL SCIENTISTS



April 19, 2012

Board of Selectmen
c/o Mr. Charles J. Christello, Town Manager
Town Hall Building
10 Nickerson Avenue
Middleborough, MA 02346

*Re: Initial Engineering Review
Culvert Replacement – Tispaquin Street/Fall Brook
ADE Project #2518.19*

Dear Board Members:

Atlantic Design Engineers, LLC (ADE) has completed our initial engineering review of site plans and application materials for the above referenced project relative to a Special Permit request under the Water Resource Protection District (WRPD) bylaw. The plans are revised dated 03/20/12 and are prepared by Environmental Partners Group for the Town of Middleborough DPW.

We have the following comments:

1. The WRPD bylaw does not specifically address or mention activities related to culvert replacement like those proposed for this project. Culvert replacement activities require work directly in wetland areas and work within the 25 foot zone that is unavoidable due to the nature of the project (replacing a culvert that channels a stream connecting wetlands on both sides of a roadway). However, in our opinion, the Board could consider the project as falling under Section XII.H.3.d.(i) – "limited projects as defined by 310 CMR 10.53 (3)", which includes maintenance, repair, improvement of culverts which existed prior to April 1, 1983. Several items the Board should confirm:
 - Was the existing culvert in place prior to April 1, 1983?
 - Was the Notice of Intent submitted and the subsequent Order of Conditions issued as a "limited project"?
2. We recommend that all of the "Proposed Environmental Protection Measures" listed in the March 21, 2012 letter from Environmental Partners that accompanied the Special Permit should be either incorporated into the plans or made a part of the conditions of approval.
3. The plans show a 2 cubic foot compensatory flood storage area. Without calculations, we cannot confirm whether this is of adequate size or at the proper elevation.

P.O. Box 1051
Sandwich, MA 02563
(508) 888-9282 • FAX 888-5859
email: ade@atlanticcompanies.com
www.atlanticcompanies.com



Board of Selectmen
c/o Mr. Charles J. Christello, Town Manager
Initial Engineering Review Culvert Replacement - Tispaquin Street
April 19, 2012- Page 2

4. We did not see any wetland replication areas shown on the plans. Typically these would be required to offset the wetland areas that are being permanently disturbed (such as the areas of the new headwalls, embankment and rip rap aprons). We assume these replication areas would also be in the 25' zone to wetlands and therefore will need to be part of the Special Permit under Section XII.H.3.d.(ii) - creation of wetland replacement

If you have any questions, please do not hesitate to call me at (508) 888-9282.

Sincerely,

ATLANTIC DESIGN ENGINEERS, LLC.

A handwritten signature in cursive script, appearing to read 'Richard J. Tabaczynski'.

Richard J. Tabaczynski, P.E.
Vice President



Town of Middleborough
20 Centre Street, Second Floor
Middleborough, Massachusetts 02346

Robert J. Whalen
Building Commissioner
Tel. 508-946-2426
Fax 508-946-2305

April 18, 2012

Middleborough Board of Selectmen
Middleborough Town Offices
10 Nickerson Ave
Middleborough, MA 02346

RE: W.R.P.D. Application Tispaquin Street, Middleborough Assessor's Map: 066 & 072
Lots: 622, 669, 772, 784, 6325, 5414 and 5466 Wood Street, WRPD Z4.

Honorable Board,

I have reviewed the application submitted by Andy Bagas, Director of Middleborough Public Works and plans drawn by Environmental Partners Group for a special permit for the replacement of Tispaquin Street Fall Brook Culvert and Appurtenant work.

I would support this request.

Respectfully submitted,

Robert J. Whalen
Building Commissioner

RJW/d

MEMORANDUM

TO: Board of Selectmen

CC: Ruth Geoffroy, Town Planner
Jeanne Spalding, Health Officer
Robert Whalen, Building Commissioner

FROM: Patricia Cassady, Conservation Agent

DATE: April 18, 2012

RE: W.R.P.D. Application: Tispaquin Street Fall Brook Culvert

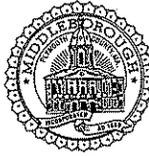
The above-mentioned W.R.P.D application was reviewed by the Conservation Commission through a Notice of Intent recently and was issued an Order of Conditions under DEP file # SE220-1166 on February 16, 2012.

The project was filed as a limited project and therefore falls under one of the exemptions for work in a zone 4 special permit uses: (d)(i): There shall be no building, structure or land disturbing activity within twenty five (25) feet of a "fresh water wetland" as defined by MGL Ch. 131, Section 40 – Massachusetts Wetlands Protection Act or a "wetland" as defined by 33 CFR 328.3 and 40 CFR 230.3, the regulations promulgated under Section 404 of the Federal Clean Water Act, as of the effective date of this By-law *except that necessary for: (i) limited projects as defined by 310 CMR 10.53 (3), in which case this project qualifies as such.*

Under the Order of Conditions there will be replication/replacement of the impacted bank, bordering vegetated wetland, land under water bodies and waterways, and bordering land subject to flooding (floodplain).

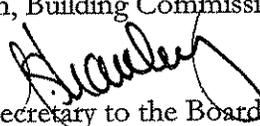
If you have any questions regarding this application don't hesitate to contact the Conservation Department at 508-946-2406.

pjc



Town of Middleborough
Massachusetts
Board of Selectmen
MEMORANDUM

TO: Ruth Geoffroy, Town Planner
Patricia Cassady, Conservation Commission Agent
Jeanne Spalding, Health Officer
Robert Whalen, Building Commissioner

FROM: Jackie Shanley 
Confidential Secretary to the Board of Selectmen

DATE: April 11, 2012

SUBJECT: W.R.P.D. Application

Attached is a W.R.P.D. application filed by DPW for a Special Permit under the Water Resource Protection District By-law.

The Selectmen will conduct a hearing on this application on **Monday, April 23, 2012, at 7:50 PM.**

Further information and a copy of the plan are attached.

All remarks or concerns regarding the request must be returned to the Selectmen's Office no later than **Wednesday, April 18th by 12 Noon.**

Even if you have no comments to make regarding the plan, please send a note stating that you have reviewed the plans.

Please contact the Selectmen's Office if you have any further questions.

Attachments

xc: Board of Selectmen
Town Manager

**TOWN OF MIDDLEBOROUGH
WATER RESOURCE PROTECTION DISTRICT
PETITION SUBMITTAL CHECKOFF SHEET**

Applicant must initial each item or the application/petition will not be accepted.

No.	Description	Initial	N/A
1.	The plan has a cover page showing the location of the water supply Zone 2 and 3, with the proposed project site identified.	<u> <i>ES</i> </u>	<u> </u>
2.	The plan has street location(s), number, buildings and driveway and shows the acreage of the lot in square feet.	<u> <i>ES</i> </u>	<u> </u>
3.	The plan shows existing waterways adjacent, on or near the property.	<u> <i>ES</i> </u>	<u> </u>
4.	The plan is stamped by BOTH a registered Land Surveyor and a Civil Professional Engineer. Note: If the site has no approval required other than a home lot then a Land Surveyor stamp will be accepted.	<u> <i>ES</i> </u>	<u> </u>
5.	The plan contains topography, wetland delineations, local storm water discharge points, on site drainage systems and septic systems.	<u> <i>ES</i> </u>	<u> </u>
6.	The plan provides details for work done or proposed for any component outlined in No. 5 (above).	<u> <i>ES</i> </u>	<u> </u>
7.	The submittal contains the abutters list.	<u> <i>ES</i> </u>	<u> </u>
8.	The submittal contains calculations for any proposed on site stormwater retainage, storage tanks and spill containment, on site drainage and recharge.	<u> </u>	<u> <i>ES</i> </u>
9.	The submittal contains a statement that the project has been designed to minimize large scale lot disturbances and has implemented methods to encourage infiltration of site runoff and preservation of groundcover.	<u> <i>ES</i> </u>	<u> </u>
10.	The submittal contains a statement that there will be no removal of soil closer than four (4) feet to the groundwater table, as determined through Title 5 Soil Evaluation methods.	<u> <i>ES</i> </u>	<u> </u>

No.	Description	Initial N/A
11.	The submittal contains a statement that if there is to be storage of hazardous wastes, sludges, deicing chemicals, fertilizers or oil, that appropriate methods have been provided to contain any spillage.	 _____
12.	The submittal contains a statement that outside stored material will have no impact to the groundwater.	 _____

Jacqueline Shanley

From: Ryan J. Trahan <rjt@envpartners.com>
Sent: Monday, March 26, 2012 2:06 PM
To: Jacqueline Shanley
Cc: Charles Cristello
Subject: WRPD Amendment

Hi Jackie,

After discussing our submittal with Mr. Cristello, we would like to amend our submittal to indicate relief from the WRPD Z4 Use Regulations under Special Permit Uses, item d. We will be disturbing land within 25 feet of a fresh water wetland, however, this is a limited project. So I believe we should be granted an exemption from this special permit.

Please let me know if you need anything further.

Thanks,
Ryan

Ryan J. Trahan, P.E.
Project Manager

Environmental Partners Group, Inc.
A Partnership for Engineering Solutions
1900 Crown Colony Drive, Suite 402
Quincy, MA 02169

Tel: 617.657.0253 (direct)
Mobile: 617.216.7360
Fax: 617.657.0201

Hyannis:
297 North Street, Suite 311
Hyannis, MA 02601

Woburn:
18 Commerce Way, Suite 2000
Woburn, MA 01801

www.envpartners.com

BOARD OF SELECTMEN
MIDDLEBOROUGH, MASSACHUSETTS

PETITION
FOR PUBLIC HEARING

This Petition, when completed and signed, must be filed with the Town Clerk, Town Hall, Middleborough, Massachusetts.

Middleborough, MA _____, 2012

To the Board of Selectmen
Middleborough, Massachusetts

I/We hereby petition your Board for a public hearing for a Special Permit which is subject to Board of Selectmen approval under the Water Resource Protection Districts By-Law.

- A. Replacement of Tispaquin Street Fall Brook Culvert and Appurtenant Work – The Middleborough Department of Public Works is planning to replace the existing Fall Brook culvert, which failed in Summer 2011. The culvert crosses Tispaquin Street approximately 2300 feet north of Wareham Street. All work will be within the Town right-of-way. The work under this project is within Assessor Maps 66 and 72; Zoning District Residential Rural (RR); and WRPD Zoning Overlay District Z4.

This project qualifies as a limited project [310 CMR 10.53(3)(k)] and was presented before the Conservation Commission on February 16, 2012 and received an Order of Conditions on March 5, 2012. 

- B. See attached certified abutters list.

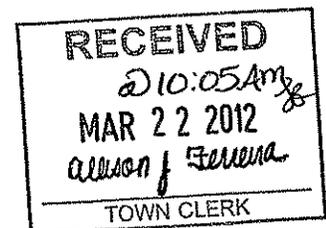
- C. Respectively Submitted

Signature: 

Printed Name: Andrew Bagas

Address: 48 Wareham Street
Middleborough, MA 02346

Telephone Number: 508-946-2480



March 21, 2012

Ms. Allison J. Ferreira, Town Clerk
Town of Middleborough
Bank Building
20 Centre Street, 1st Floor
Middleborough, MA 02346

RE: Petition for Public Hearing
Water Resource Protection District Permit Request for
Replacement of Tispaquin Street Fall Brook Culvert and Appurtenant Work
Tispaquin Street, Middleborough, MA

Dear Ms. Ferreira:

On behalf of the Town of Middleborough Department of Public Works, Environmental Partners Group, Inc. is submitting this Petition for Public Hearing for a Water Resource Protection District permit request for the Replacement of Tispaquin Street Fall Brook Culvert and Appurtenant Work project in accordance with the Water Resource Protection District By-Law.

Project Description

The Fall Brook stone box culvert, which crosses Tispaquin Street approximately 2300 feet north of Wareham Street, is approximately 5 feet wide by 4 feet high by 25 feet long. A section of the culvert recently failed. The DPW has made temporary repairs to allow traffic to continue to utilize this section of Tispaquin Street. Emergency repairs to the culvert included stabilizing the culvert sidewalls and installing a steel plate, which spans the culvert.

The DPW would like to permanently replace the existing culvert with an open-bottom precast concrete box culvert, which would be placed on a concrete foundation (footing). Concrete head and wing walls would also be added. Drainage improvements would include placing riprap on slopes adjacent to the culvert and installing permanent turf reinforcement to prevent erosion. A guard rail would be installed for vehicular safety.

The project site is located within the Zoning District Residence Rural and the Water Resource Protection Overlay District Z4. The project site is also located within the FEMA floodplain Zone A. The project site is not within an Outstanding Resource Water or Priority or Estimated Habitat for Endangered Species.

Impacts to Wetland Resource Areas

The proposed culvert replacement project will have temporary impacts on adjacent wetland resources. We have submitted a Notice of Intent to the Conservation Commission and received an Order of Conditions dated March 5, 2012, which is enclosed.

Proposed Environmental Protection Measures

In order to mitigate impacts to wetland resource areas during construction activities, the following environmental protection measures will be provided:

- Erosion and sedimentation control devices (i.e. filter sock) will be installed along the top of the bank as shown on Sheet C-2 and per the detail on Sheet C-5. These control devices will control sedimentation and erosion from the upland areas and also serve to define the upland limits of work. Erosion and sedimentation control devices will be inspected daily during the construction period.
- Stockpiles of aggregate materials (gravel, sand, and stone) will not be maintained on-site. Materials will be delivered on an as-needed basis.
- Streambed material excavated will be stockpiled separately of all other construction materials and will be placed on a plastic liner with haybales or filter sock surrounding the stockpile.
- During construction, disturbed areas will be kept to a minimum, and all disturbed areas will be stabilized with riprap, pavement or reinforced loam and seed after construction.
- Mid-weight turbidity curtains will be temporarily installed within Fall Brook to mitigate impacts to water quality outside of the construction area. The turbidity curtains will also serve to define the limits of work within the wetland resource areas. The turbidity curtains will be inspected daily during the construction period. Limits and a detail of the turbidity curtain are shown on Sheet C-5.
- The temporary portable dam systems, shown on Sheet C-5, were selected to minimize impacts to the wetland resource areas during construction. Miscellaneous debris observed within the dewatered area will be removed. Any natural materials (e.g. boulders, logs) observed in the dewatered area will be maintained. Since the Order of Conditions was issued, we have requested the Conservation Commission consider a design change to allow General Contractors to utilize sand bags instead of a portable dam. The use of sand bags would reduce the cost of construction to the Town and the impacts on the stream and wetland bottom would be very similar to the portable dam.
- Temporary by-pass pumping will be installed to pump water from upstream to downstream of Fall Brook in order to maintain existing stream flow and mitigate any stormwater flow from Tispaquin Pond. The pumping system suction inlet will be floated above the pond bottom to avoid disturbance to the wetland bottom. The pumping system discharge will be installed to reduce flow velocity and direct it away from the wetland bottom to avoid scouring. The by-pass pumping system will be inspected daily during construction. The pumps will be installed within secondary containment to prevent the release of any hazardous material to the surrounding soils, groundwater, surface water or wetland resource areas. Spill containment materials will be maintained on-site during the construction period and all refueling activities will be supervised. The pumps will be enclosed by security fencing to prevent vandalism.
- The temporary portable dam structures and by-pass pumping system will only be maintained during the culvert replacement, which is proposed for the period between July 1, 2012 and September 30, 2012 in accordance with Army Corps of Engineers time of year restrictions for a Category 1 project.

Public Notification

A copy of the certified abutter's list is enclosed. Each abutter will be notified via certified mail once a Public Hearing meeting date has been determined.

Summary

The Town of Middleborough Department of Public Works is proposing to replace the existing Tispaquin Street Fall Brook Culvert to return the structure to the drainage flow patterns which existed prior to its recent failure.

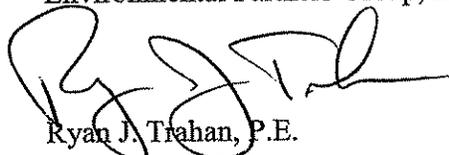
The project will alter wetland resources during construction, due to the nature of the work. Installation of head and wing walls, riprap on bank slopes, and guard rail posts will be installed. The intent of these structures is to prevent further erosion of wetland resources, maintain the structural integrity of the new culvert, and provide for a safe vehicular crossing.

This project has been designed to minimize large disturbances and will not alter any natural drainage or flow patterns. Stream bed material removed will be reused within the proposed culvert. Outside stored materials will have no impact to the groundwater.

Secondary containment will be installed to prevent the release of any hazardous material to the surrounding soils, groundwater, surface water or wetland resource areas. Spill containment materials will be maintained on-site during the construction period and all refueling activities will be supervised.

If you should have any questions or require additional information, please do not hesitate to contact me at (617) 657-0253. I can also be reached via e-mail at rjt@envpartners.com

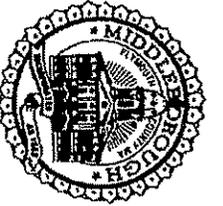
Very Truly Yours,
Environmental Partners Group, Inc.



Ryan J. Trahan, P.E.
Project Manager

Enclosed: 12 Sets of Design Plans
Certified Abutter's List
Order of Conditions
Filing Fee of \$50 payable to Town of Middleborough
Advertisement Fee of \$143 payable to Middleboro Gazette

CC: Andrew Bagas, Director of Public Works
file



Middleborough Assessor's Office
10 Nickerson Avenue
Middleborough, MA 02346

ABUTTER'S LIST CERTIFICATION PAGE*

Date: 3/14/2012

BOARD OF SELECTMEN

Board Name for Certification

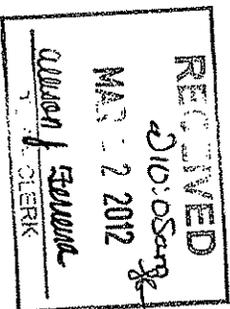
This abutter's list is to certify that the owner's names and mailing address's are correct for the map and lots below.

072-622, 072-669, 072-772, 072-784, 066-6325, 066-5414 & 066-5466

Lori Ruthertford, Junior Clerk
Middleborough Board of Assessors

(This list consists of 1 pages with 7 abutter's lots)

*Please note there is no additional charge for this page and it is intended to certify the information on the preceding or attached document (s)



LOCUS

LOCATION

OWNER NAME

APPLICANT NAME

CONTACT #

PAGE

DATE

3/14/2012

CERTIFYING OWNERS AND ADDRESSES OF MAP & LOTS BELOW

MULTIPLE

MULTIPLE

RYAN J TRAHAN, P E

1 OF 1

REASON FOR PROJECT

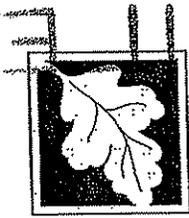
WRPD

NAME OF BOARD

BOARD OF SELECTMEN



MAP	LOT	UNIT	OWNER NAME	C/O OWNERS NAME	MAILING ADDRESS	CITY	ST	ZIP
			HANNAH B SHAW HOME FOR AGED, INC		299 WAREHAM ST	MIDDLEBORO	MA	02346
	72	622	LEE, EDWARD J III & SHEILA J		33 TISPAQUIN ST	MIDDLEBORO	MA	02346
	72	669	CENTRAL CONGREGATIONAL CHURCH		2 WEBSTER ST	MIDDLEBORO	MA	02346
	72	772	HUNT, ROBERTA		6 GIBBS RD	MIDDLEBORO	MA	02346
	72	784	HUNTER, ROBERTA		41 TISPAQUIN ST	MIDDLEBORO	MA	02346
	66	6325	HOUSER, JASON		44 BLACK BROOK PATH	MIDDLEBORO	MA	02346
	66	5414	RAU, SUSAN & LUCKRAFT, ROBERT		P O BOX 1411	MIDDLEBORO	MA	02346
	66	5466	LEONARD, RONALD F & MICHELLE A			MIDDLEBORO	MA	02346



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 SE220-1166
 MassDEP File #

eDEP Transaction #
 Middleborough
 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Plymouth
 a. County
 N/A Right-of-way
 c. Book
 b. Certificate Number (if registered land)
 d. Page
 2/16/2012
 c. Date of Issuance
7. Dates: 1/4/2012 a. Date Notice of Intent Filed 2/16/2012 b. Date Public Hearing Closed 2/16/2012 c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
 Replacement of Tispaquin Street Fall Brook Culvert and Appurtenant Work
 Town of Middleborough, Massachusetts
 Environmental Partners Group
 b. Prepared By Ryan J. Trahan
 Civil Reg. Prof. Engineer
 1/31/2012
 d. Final Revision Date e. Scale
 f. Additional Plan or Document Title g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
 Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
 d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
 g. Groundwater Supply h. Storm Damage Prevention i. Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE220-1166
MassDEP File #

eDEP Transaction #
Middleborough
City/Town

B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>57</u> a. linear feet	<u>57</u> b. linear feet	<u>23</u> c. linear feet	<u>23</u> d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	<u>78</u> a. square feet	<u>78</u> b. square feet	<u>78</u> c. square feet	<u>78</u> d. square feet
6. <input checked="" type="checkbox"/> Land Under Waterbodies and Waterways	<u>67</u> a. square feet	<u>67</u> b. square feet	<u>65</u> c. square feet	<u>65</u> d. square feet
	<u>4.4</u> e. c/y dredged	<u> </u> f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	<u>375</u> a. square feet	<u>375</u> b. square feet	<u>359</u> c. square feet	<u>359</u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>3,500</u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u>3,500</u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u>0</u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 SE220-1166
 MassDEP File #

eDEP Transaction #
 Middleborough
 City/Town

B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

- | | Proposed
Alteration | Permitted
Alteration | Proposed
Replacement | Permitted
Replacement |
|--|---|---|--|--|
| 10. <input type="checkbox"/> Designated Port Areas | Indicate size under Land Under the Ocean, below | | | |
| 11. <input type="checkbox"/> Land Under the Ocean | <u> </u>
a. square feet | <u> </u>
b. square feet | | |
| | <u> </u>
c. c/y dredged | <u> </u>
d. c/y dredged | | |
| 12. <input type="checkbox"/> Barrier Beaches | Indicate size under Coastal Beaches and/or Coastal Dunes below | | | |
| 13. <input type="checkbox"/> Coastal Beaches | <u> </u>
a. square feet | <u> </u>
b. square feet | <u> </u>
c. nourishment
cu yd | <u> </u>
d. nourishment
cu yd |
| 14. <input type="checkbox"/> Coastal Dunes | <u> </u>
a. square feet | <u> </u>
b. square feet | <u> </u>
c. nourishment
cu yd | <u> </u>
d. nourishment
cu yd |
| 15. <input type="checkbox"/> Coastal Banks | <u> </u>
a. linear feet | <u> </u>
b. linear feet | | |
| 16. <input type="checkbox"/> Rocky Intertidal Shores | <u> </u>
a. square feet | <u> </u>
b. square feet | | |
| 17. <input type="checkbox"/> Salt Marshes | <u> </u>
a. square feet | <u> </u>
b. square feet | <u> </u>
c. square feet | <u> </u>
d. square feet |
| 18. <input type="checkbox"/> Land Under Salt Ponds | <u> </u>
a. square feet | <u> </u>
b. square feet | | |
| | <u> </u>
c. c/y dredged | <u> </u>
d. c/y dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | <u> </u>
a. square feet | <u> </u>
b. square feet | <u> </u>
c. square feet | <u> </u>
d. square feet |
| 20. <input type="checkbox"/> Fish Runs | Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above | | | |
| | <u> </u>
a. c/y dredged | <u> </u>
b. c/y dredged | | |
| 21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage | <u> </u>
a. square feet | <u> </u>
b. square feet | | |



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE220-1166
MassDEP File #

eDEP Transaction #
Middleborough
City/Town

B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. Restoration/Enhancement *:

_____ a. square feet of BVW

_____ b. square feet of salt marsh

23. Stream Crossing(s):

_____ a. number of new stream crossings

_____ b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE220-1166 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order (the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:

- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See attached

Standard Conditions

DEP File #: SE 220-1166

Applicant: Middleborough DPW

1. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order of Conditions (OOC) at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance (COC) is issued, for the limited purpose of evaluating compliance with this OOC.
2. The term "applicant" as used in this OOC shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this OOC. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the COC.
3. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this OOC, and that are created or modified after the issuance date of this OOC, along with a statement that this OOC shall supersede any conflicting contractual arrangements, plans or specifications.
4. The applicant shall provide a copy of this OOC to the person or persons supervising the activity that is the subject of this OOC, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this OOC.
5. If any change is made in the above-described plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00, the applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
6. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this OOC, and to procure all required permits or approvals before any work commences. These reviews, permits and approvals may include but are not limited to the following:
 - a. Review by the U.S. Army Corps of Engineers for any Category 2 or Individual Permit activity, and procurement of any permits or approvals identified by the Corps;
 - b. Review by the Department of Environmental Protection (DEP) and procurement of any permits or approvals identified by DEP;

Standard Conditions

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Applicant: Middleborough DPW

- c. Review by the Massachusetts Natural Heritage and Endangered Species Program for any projects within estimated and/or priority habitat and any permits or approvals identified by the Program;
 - d. Review by local planning boards, boards of health, zoning boards, and building inspectors, and procurement of any permits or approvals required by these boards or agencies.
7. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones (unless authorized to do so) under cover and surrounded by a double-staked row of hay bales to prevent contact with rain water.
 8. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this OOC, except as are expressly permitted by this OOC or the plans approved herein.
 9. There shall be no pumping of water from wetland resource areas.
 10. All waste products, grubbed stumps, slash, construction materials, etc. shall be deposited at least 100 feet from wetland resource areas unless specified in this OOC.
 11. No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this OOC or expressly authorized by the Commission or their agent.
 12. Any material placed in wetland resource areas by the applicant without express authorization under this OOC shall be removed by the applicant upon demand by the Conservation Commission or its agent.
 13. There shall be no underground storage of fuel or other hazardous substance in areas within the jurisdiction of the Conservation Commission.
 14. Removal and storage of hazardous waste, if in an area subject to protection under the Wetlands Protection Act shall be as follows:
 - a. Removal and storage shall be conducted only when approved and directed by DEP, the U.S. Environmental Protection Agency (EPA) or other applicable state or federal agency under which remedial activities are

Standard Conditions

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Applicant: Middleborough DPW

- b. directed and shall be conducted in the manner specified in the Notice of Intent and appropriate agency directives.
 - c. All hazardous materials, products and waste produced, stored or removed must be handled, treated and disposed of in accordance with local, state and federal law regulating such materials and must be located outside of the buffer zone to wetland resource areas, unless specifically authorized by the OOC and appropriate state and federal licensing and permitting agencies.
 - d. No hazardous waste shall be introduced or discharged into or toward wetland resource areas.
 - e. No hazardous waste shall be introduced or discharged into the sanitary or sewage systems in such a manner which will result in an impact to wetland resource areas unless approved by the Conservation Commission, board of health, DEP and/or EPA.
 - f. Identification of all types of hazardous materials used, produced or stored shall be submitted to the Conservation Commission in writing.
15. No trash dumpsters will be allowed within 100 feet of areas subject to protection under the Wetlands Protection Act unless authorized by the OOC.
16. This OOC shall pertain to the roadways, utilities within the roadway layout, and associated drainage facilities. Individual lot construction, including driveways, lot utilities, sewage and water, if under the Commission's jurisdiction, shall require individual Notices of Intent and/or Requests for Determination.
17. This OOC authorizes only the activity described on the approved plans(s) and approved documents referenced in this OOC. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission or its agent.

Strict compliance with these Standard Conditions may be waived when in the judgment of the Conservation Commission such action is in the public interest and not inconsistent with the Wetlands Protection Act.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The Conservation Commission hereby finds (check one that applies):

a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.
 This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

2/16/2012
 1. Date of Issuance
 FOUR
 2. Number of Signers

Signatures:

Don Burgen
Steven Ventresca

by hand delivery on
 Date 3/5/2012

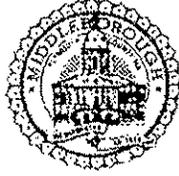
by certified mail, return receipt requested, on
 Date _____

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



A public hearing will be held in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, April 23, 2012 at 8 PM for the purpose of discussing the request made by Ralph & Barbara Holton d.b.a. Tispaquin Family Campground for a Family Type Campground Permit for property located at 68 Purchase Street, Middleboro, MA. Anyone desiring to be heard on this matter should appear at the time and place designated.

BOARD OF SELECTMEN

Alfred P. Rullo, Jr.
Stephen J. McKinnon
Steven P. Spataro
Allin Frawley
Ben Quelle

Publish: April 5, 2012 Middleboro Gazette

Please bill: Town of Middleborough c/o Board of Selectmen's office, 10 Nickerson Ave.

CRANBERRY CAPITAL
OF THE WORLD



Phone: 508-946-2405

Fax: 508-946-0058

Town of Middleborough

Massachusetts

Board of Selectmen

March 28, 2012

Ralph & Barbara Horton
Tispaquin Family Campground
68 Purchase Street
Middleboro, MA 02346

RE: Application for 2012 Campground Permit

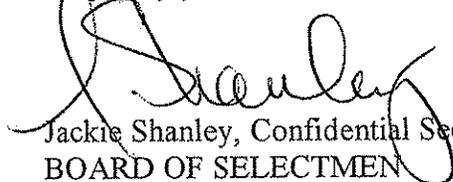
Dear Mr. & Mrs. Holton:

There will be a hearing on Monday, April 23, 2012 at 8 PM regarding the above referenced matter.

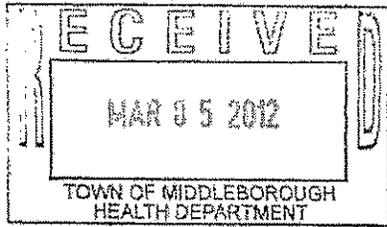
The hearing will be held in the Selectmen's Hearing room in the Town Hall, 10 Nickerson Avenue, Middleborough.

Please contact this office if you need any further information.

Very truly yours,


Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

cc: Board of Selectmen
Town Manager
Health Officer



Fee: \$200.00

TOWN OF MIDDLEBOROUGH
BOARD OF HEALTH

TO THE BOARD OF HEALTH OF THE TOWN OF MIDDLEBOROUGH:

Application is hereby made for a permit to OPERATE A FAMILY TYPE CAMPGROUND

Name of Applicant: Ralph Holton

Applicant's Address: 68 Purchase St

Type of Facility: Family Type Campground No. of Units: See Attachments A-E

Facility Address: 68 Purchase St Tel. No:

If applicant is a partnership, full name and residence of all owners:

N/A

If applicant is a corporation, full name and address of:

President: N/A

Treasurer: _____

Clerk: _____

Ralph Holton
Signature

3/5/12
Date

Information to support the granting of 2012 Tispaquin Family Camping Area (TFCA)

1. Copy of 1999 application. Application approved with no conditions of any septic repair or replacement needed at that time. (See attachment A)
2. This license was repeated in 1991, 1992, and 1993. No septic issues or improvements needed.
3. It is the practice of the Board of Health (BOH) to issue licenses greater than the zoning approval. The Kampground of America (KOA) received a campground license of 276 units which is over the license for 205 allowed by zoning. (See attachment B)
4. B.O.H changed the number of units on the TFCA campground license to coincide with a zoning case in 1994 which had nothing to do with the design flow or capacity of the septic systems.
5. Expansion in the use of the septic systems has never occurred since the use is the same today as it was in 1990.
6. Title V's were done in 2002 and passed. Title V's were also done in 2011 and passed. Copies of Title V's are at the town hall B.O.H.
7. To require the TFCA to comply with today's title V codes for campground that are just being established is discriminative, unequal, and needs to stop. Not following the same rules for the same business' not only in this town but in this state has nearly put us all out of business.
8. There is no expanded use of the septic 1990 to present the use is the same. Stepping in the late 90's early 2000 Jeanne Spalding States "the insufficiency of design flow was not immediately evident to her as Health Officer when she first started employment with the town. It was not until they were requested to go out because of the complaints lodged with the town manager that she became aware that there were excessive units." During this same time an inspection

was done at the KOA with the same results and nothing was done. A 2001 routine inspection (See attachment B) shows the KOA had excessive units. The 205 zoning board approval was considerably less than the 276 allowed by the B.O.H. As far as complaints lodged with the town manager I have never seen a written complaint in the file of the TFCA that supports this statement. Citing insufficiencies in design flow of older systems is common as older systems do not comply with today's design flow. Every campground in this town and many in this state do not meet the current design flows. In the 1990s KOA was licensed for 276 units while the TFCA was licensed for 113 units both campgrounds still have what they had then now. To contend there was an expansion at the TFCA and none at the KOA is totally unequal. There is one difference. During KOA's last title V inspections some of their systems failed. They're now making costly repairs that still won't bring them up to today's code for 276 campsites but fortunately with the help of the DEP the KOA will not have to upgrade to today's code. I believe with the cooperation and support from all involved the DEP will treat the TFCA equal to what they have done for others in this town as well as this state. Citing insufficiency's in septic and trying to portray a campground as not a temporary use in order to achieve a judgment is false as the towns own definition of a campground is temporary (See attachment C taken from the definitions of the new zoning by laws pg93)

9. (Attachment D) is a letter+ attachments) written and delivered to Mr. Cristello dated January 19, 2012. As of this date I have yet to receive a response. Please read and believe me when I say what happened to TFCA all these years is wrong and though I tried to settle this matter not exposing any one person as the coordinator of this horrible in justice I'm afraid it may be the only way to explain to the towns people why a town would spend so much money on something so wrong.

In closing please look at the changes that have been made in the issuance of the campground licenses in 2011 (See attachment E) no number of units are even listed on the license. The information along with the application can all be verify by anyone willing to take the time to thumb through 28 years of cruel unequal practices performed on the TFCA in the files at Town Hall.

Att. A

TOWN OF MIDDLEBOROUGH

BOARD OF HEALTH

To the Board of Health of the Town of Middleborough:

Application is hereby made for a permit to Operate a family type
campground under 105 CMR 440

Ralph and Barbara Holton d/b/a Tispaquin Family Campground
Name of Applicant

Family Type Campground

Type of Facility

68 Purchase Street, Middleborough, Ma. 02346
No. Street Town Zip Code

Telephone No. 947-7444 Units See Attachment A

If applicant is a partnership, full name and residence of all partners:

N/A

If applicant is a corporation, full name and address of:

President N/A

Treasurer _____

Clerk _____

Signature _____

Date May 22, 1990

NOTE: Attachment B. Details supportive facilities.

ATTACHMENT A

Units Requested for 1990 Season:

1. 113 individual campsites with cold water and electric supplied to the site.
2. 8 Cabins without kitchen or bath to use in manner comparable to tent.
3. One Safari Field for up to 35 campers.

ATTACHMENT B

AFFIDAVIT OF RALPH AND BARBARA HOLTON

Supportive Facilities

We, Ralph and Barbara Holton make the following affidavit that there are in existence the following facilities to support our 1990 Tispaquin Family Campground application and the units requested.

1. The requested campsites are supported by three bath/toilet buildings containing the following, and all are available for exclusive camping use:

- A. Bath/Toilet Building (North)
Men: 2 toilets, 2 showers, 2 sinks.
Women: 2 toilets, 2 showers, 2 sinks.
Sub Tot: 4 toilets, 4 showers, 4 sinks.

- B. Bath/Toilet Building (Middle)
Men: 3 toilets, 2 showers, 2 sinks.
Women: 3 toilets, 2 showers, 2 sinks.
Sub Tot: 6 toilets, 4 showers, 4 sinks.

- C. Bath/Toilet Building (South)
Men: 4 toilets, 0 showers, 2 sinks.
Women: 4 toilets, 0 showers, 2 sinks.
Sub Tot: 8 toilets, 0 showers, 4 sinks.

- D. TOTALS
The toilet/bath facilities total each sex:
9 toilets, 4 showers, 6 sinks.

Gnd. Total: 18 toilets, 8 showers, 12 sinks.

On the basis of the rules contained in 105 CMR 440.07 and 404.08 there are enough showers, toilets and sinks to

fulfill the requirements for a campground of 240 sites.

Less facilities are allowable when there are "self contained" camping units as is mostly our situation.

2. The above facilities discharge into on-site sewage disposal systems functioning to Title 5 standards. There is no evidence of break out or failure.
3. There are three gray water dumping stations, two at the southern end and one of the northern end of the property. There is a sewage dumping station for self-contained camping units at the north end of the property. In addition the Owner provide at unit pump out to transfer to the dumping stations.
4. There is an on-site well for potable water functions under Department of Environmental Protection supervision for a non-community public water supply.
5. Each individual campsite has a minimum width of 25 feet and 1200 square feet of area plus 200 square feet for paving. These "minimums" are state standards, all exceed the standard.
5. The sites are as shown on a plan of existing sites signed by the Holtons and the Building Inspector and dated July 12,

1989. This plan is referred to as Exhibit 5 in Court documents.

6. The density of sites to the acre is under four campsites per acre on the basis of the total request before you and assuming full occupancy.
7. No portion of the Safari Field is more than 500 feet from a toilet facility.
8. The main access to the site is via a signed driveway off Purchase Street. The driveway passes the owner's residence and control is exercised over access. There is also an alternative means of access via the south end to Purchase Street. The owners reside on the premises year round.
9. It is our information and belief that the campground is in full compliance with the rules and regulations of the Department of Environmental Protection and the Town Board of Health.
10. A copy of the campground rules is attached.
11. The required license fee is tendered herewith.

This affidavit made subject to pains and penalties of
perjury this 23rd day of May, 1990.

Ralph F. Holton
Owner

Barbara A. Holton
Owner

COMMONWEALTH OF MASSACHUSETTS

Plymouth, s.s.

Middleborough
May 23, 1990

Before me personally appeared the above named Ralph F. Holton and Barbara A. Holton and having been sworn to the truth of the foregoing acknowledged that the foregoing affidavit was made by them and each of them under the pains and penalties of perjury this 23d day of May 1990.

Joseph P. Hannon
Notary Public
My Commission Expires: 10/11/91

A++ B
Routing Inspection today (12 July 01)

1. found 171 sites occupied this date.
 (31 Tents + 125 CAMPERSITE. + 15 CABINS)
2. Rest Room / Showers Buildings - very clean and in good order.

3. Sea Pool - ✓ life guard on duty

4. Main Laundry / store -

5. ~~Need to discuss w/ owner~~ - (Bill N.)
 I did
 a - Lic for 276 sites - Bill include Site fields
 b - ZBA Approval for 205 sites
 c - He thought this is 1986 and the Lic. number is same and he did not apply for any change/increase.
 He showed me his In House Computer System - tracking Site occupancy.

Example:

Sat - 29	JUN (F)	216
30	" - (SA)	243
1 July	(Sun)	221
2	" - (M)	217
3	" - (TU)	232
→ 4	JUL " (W)	230 ←
5	(TH)	235
6 - 12		264

Removal -
 Day 267

W. DeBratto

A + T. C.

Aviation field: A facility at which common carriers or private aircraft, including helicopters, may be landed and take flight, stored or hangared, maintained or repaired, and accessory uses thereto.

Building: A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

Building height: As per the State Building Code. In the GU District, this term shall mean the distance between the average grade of the ground at the front of the building and the roof of the building; excluding roof structures (such as heating, ventilating and air conditioning equipment) normally located on or built above the roof and not devoted to human occupancy.

Building, principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Business or professional office: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, which is primarily used for recreational purposes and retains an open air or natural character.

Child Care Center: A day care center or school age child care program, as those terms are defined in G.L. c. 15D, s. 1A.

Club or lodge, private: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

Commercial active recreation, outdoor: Drive-in theatre, golf course/driving range, sports club, horseback riding stable, practice field, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this ordinance.

Commercial passive recreation, outdoor: horseback riding or stable, camping, bathing beach, game preserve, or other commercial recreation activity carried on in whole or in

A t.t. D

Town Manager
Town of Middleborough
10 Nickerson Ave.
Middleborough, MA 02346

January 19, 2012

Re: Tispaquin Family Camp Area

Mr. Cristello,

I have attempted to meet with you to discuss the Tispaquin Family Camp Area (TFCA). I have sent you a lot of information about the Campground and the treatment that we have received over the past 28 years. As of yet I have had no response or interaction with you as the new Town Manager. The Town Manager is the driving force behind the Town (see attached) In the past 28 years the old Town Manager was more than active in the case of the TFCA he was the driving force. While I know if you look hard enough into a situation you will always find something to complain about. There really isn't and wasn't much here. If you look through the files there aren't in 28 years but a couple of gray water complaints that were addressed. The zoning on the other hand hosts a number of issues of which I've deluged into and found that according to Town records it appears Zoning for campgrounds that already existed when the by laws were written were not subject to them. The zoning by laws must be for new construction. Looking through public records the first part of January I found that zoning decisions regarding campground were either removed or lost and the ones that weren't removed are not being enforced. This information leads me to believe the zoning decisions for TFCA should also be removed and the zoning case to be moot. (see attached). Listening to one side of a story is not the answer. The Boards and the Departments in this Town say they don't want to put the TFCA out of business that they want to help well let's get together and prove it. I have plans I have Title V's that were done 2011 these documents should support my claims. Let's stop wasting my money and the Town's on this 28 year old witch hunt. On Dec 6, 2011 President Obama spoke to the People in Osawatomie (see attached) he said and I quote "I believe that this Country succeeds when everyone gets a fair shot, when everyone does their fair share, and when everyone plays by the same rules." I know you as the Town Manager have the power to fix what went on here and we can move on with all our lives. I have also enclosed an article about a recent situation in another City that shows how things can be worked through.

Thank you,

Barbara A Holton
Ralph F. Holton

Barbara A. Holton
Ralph F. Holton
68 Purchase St.
Middleboro, MA 02346
508-947-7444
bholton68@hotmail.com

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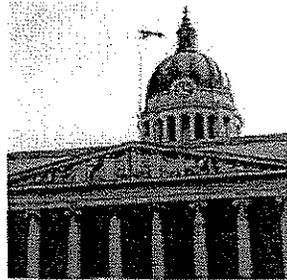
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Town Manager Job Description

By Al Bondigas, eHow Contributor



Although cities and towns may adjust the job to suit their own needs, the town manager serves as chief executive officer to his municipality. Unlike the elected mayor and council

members, he is a professional manager. Whether the position is called town manager, town administrator or city manager, he directs the town's multiple departments and sets the tone to how the town operates. In a sense, he is hired to run a multimillion-dollar business.

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The Manager's Power

Many cities and towns use the council-manager governance system, which makes the manager the actual chief of city operations. In addition to running the departments, the manager and staff often have the power to propose and recommend council actions. The manager and staff usually prepare reports to council members on pending council actions. In addition, the manager may have the power to spend money in an emergency, though he may need to go to the council with a full report after.

Oversees Everything

The town manager oversees all departments, from police and fire to public works and finance. The nature of the job requires him to know all aspects of a town's operation. He needs decision making and personnel skills, must know his way around sewers and building codes, and should know how to build a multimillion-dollar budget. He may hire administrators to run the departments, though his decisions are subject to council approval.

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Becoming a Manager

A town manager normally has a strong background in municipal operations,

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New York Town Supervisor Job Description



including a college degree in public administration or political science. He tends to work his way up the ranks, spending time as a town department head before becoming a manager. While a town council may appoint one of its own department heads as an interim manager should the top spot become vacant, the council is likely to look elsewhere and go for experience when choosing a permanent manager. Because of this, the town manager is likely to be an outsider. It is rare that a town chooses a longtime resident as a town manager.

Pay and Working Conditions

The town manager negotiates his contract with the town council before he is hired, and can command a six-figure salary with full benefits. He may also be issued a town vehicle. Some cities and towns may require the manager to live in town, but that is not always required. The job is physically and mentally demanding, and a successful manager needs to be able to juggle several crises and keep the town council happy at the same time.

Serves at Council's Pleasure

The town manager answers to the mayor and council, which sometimes creates tension. The council, elected by town citizens, has the power to fire a manager and sometimes will if the manager proposes changes that go against the council's own agenda.

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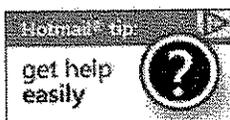
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Town of Middleborough - Public Records Response

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1/09/12
Reply

1 attachment (3.0 MB)

Hotmail Active View



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<<Public Records Request for Barbara Holton 1-9-12.pdf>> Ms. Holton,

Please allow this e-mail to serve as a response to your public records request dated December 27, 2011, for zoning board decisions of 5/6/1974, 11/12/1975, 5/12/1981 and 1/24/1983. As discussed, this office did not have copies of the 5/6/1974 or 11/12/1975 decisions you requested. We directed you to the Zoning Office to research your request with Tammy Mendes. We also provided you with books to review in our office. Upon your review of our records, attached please find all the pages you marked for copies.

Please note you will not be charged a fee for the copies as you requested they be sent to you via e-mail.

Should you have any questions or concerns, please do not hesitate to contact me at aferreira@middleborough.com or (508) 946-2415. Kindly confirm receipt of this e-mail.

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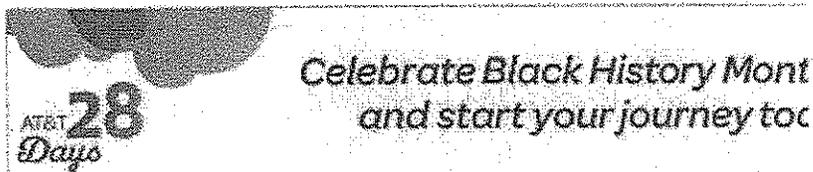
Regards,
Allison J. Ferreira
Town Clerk
Town of Middleborough
20 Centre Street
Middleborough, MA 02346
(508) 946-2415 phone
(508) 946-2308 fax
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Obama in Kansas speech, channels Teddy Roosevelt

By Joy-Ann Reid
3:24 PM on 12/06/2011

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President Obama addresses gestures while speaking at Osawatomie High School in Osawatomie, Kansas, Tuesday, Dec. 6, 2011. Obama was in Kansas to deliver a major speech on the economy. (AP Photo/Charlie Riedel)

President Barack Obama traveled to his late mother's home state of Kansas on Tuesday to deliver a speech in which the 44th president channeled the 26th: Theodore "Teddy" Roosevelt.

Obama began his remarks by noting his Kansas roots: "It is great to be back in the state of Kansas," the president said. "As many of you know, I've got roots here. I'm sure you're all familiar with the Obamas of Osawatomie. Actually, I like to say that I got my name from my father, but I got my accent -- and my values -- from my mother. She was born in Wichita. Her mother grew up in Augusta. And her father was from El Dorado. So my Kansas roots run deep."

As the Washington Post noted, it was in the town of Osawatomie that Theodore Roosevelt launched his "New Nationalism" progressive agenda on Aug. 31, 1910. It was also the town where John Brown launched his famous, bloody raids in opposition to slavery.

Obama's speech was focused on the economy and jobs, and also in the issue of income inequality, which has captured increased national attention in recent months, amid the Occupy Wall Street protests.

"Today, we are still home to the world's most productive workers and innovative companies," Obama said. "But for most Americans, the basic bargain that made this country great has eroded. Long before the recession hit, hard work stopped paying off for too many people. Fewer and fewer of the folks who contributed to the success of our economy actually benefitted from that success. Those at the very top grew wealthier from their incomes and investments than ever before. But everyone else struggled with costs that were growing and paychecks that weren't - and too many families found themselves racking up more and more debt just to keep up."

The president is pushing for passage of his American Jobs Act, which has been rejected in whole, and in several of its parts, by the Republican-Controlled House and by Republican filibusters in the Senate. The president is traveling around the country pushing for increased infrastructure spending -- rebuilding roads, bridges and schools -- and for an extension of the payroll tax cut passed in December 2010, financed by increased taxes on the wealthy.

Republicans oppose the tax hike on the top 1 percent, and have proposed "paying for" the middle class tax break with spending cuts.

In making the case for his programs, Obama drew on Roosevelt, who famously broke from the Republican Party to form an independent, "Bull Moose" party in 1911. An excerpt from the speech:

Well, I'm here to say they are wrong. I'm here to reaffirm my deep conviction that we are greater together than we are on our own. I believe that this country succeeds when everyone gets a fair shot, when everyone does their fair share, and when everyone plays by the same rules. Those aren't Democratic or Republican values; 1 percent values or 99 percent values. They're American values, and we have to reclaim them.

You see, this isn't the first time America has faced this choice. At the turn of the last century, when a nation of farmers was transitioning to become the world's industrial giant, we had to decide: would we settle for a country where most of the new railroads and factories were controlled by a few giant monopolies that kept prices high and wages low?

Would we allow our citizens and even our children to work ungodly hours in conditions that were unsafe and unsanitary? Would we restrict education to the privileged few? Because some people thought massive inequality and exploitation was just the price of progress.

Theodore Roosevelt disagreed. He was the Republican son of a wealthy family. He praised what the titans of industry had done to create jobs and grow the economy. He believed then what we know is true today: that the free market is the greatest force for economic progress in human history. It's led to a prosperity and standard of living unmatched by the rest of the world.

But Roosevelt also knew that the free market has never been a free license to take whatever you want from whoever you can. It only works when there are rules of the road to ensure that competition is fair, open, and honest. And so he busted up monopolies, forcing those companies to compete for customers with better services and better prices. And today, they still must. He fought to make sure businesses couldn't profit by exploiting children, or selling food or medicine that wasn't safe. And today, they still can't.

Read the full speech here.

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City, Business Owners Fight Over Right To Open

Quincy's Decisions Prove Costly in Court

POSTED: 9:14 am EST December 8, 2011
UPDATED: 5:31 pm EST January 6, 2012

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BOSTON -- A Team 5 investigation is raising new questions about the unfriendly atmosphere some small business owners claim is becoming a costly problem for both them and taxpayers in the city of Quincy, Mass.

Judy Chen is a third-generation Chinese-American who knows a lot about long, drawn-out battles. She served as a counter-intelligence officer in Iraq during Operation Desert Shield and is now trying to serve the people of Quincy at a new sports bar similar to the one her family owns in Canton, Mass.

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"It would provide jobs, it would provide more taxes for the city. I think it would bring more people to the downtown area who would frequent the shops and restaurants," said Chen.

Despite that, city officials won't let her open.

"They said the traffic and the parking would be detrimental to the community," said Chen.

Chen and her company Jet Eight Corp. filed a lawsuit back in 2008 against the Quincy Zoning Board of Appeals for denying their application to change the use of their two-story commercial building on Hancock Street. Four years later, a judge ruled the board's conclusion had "no rational basis."

Judge Keith Long sent the case back to the Zoning Board of Appeals with instructions to approve the application, but almost a year after that judgment, Chen's sports bar is still not open for business.

"Why hasn't the city said OK, let's try do our best to work with Jet Eight?" asked Team 5 Investigates' reporter Sean Kelly.

"I think we have," responded Mayor Tom Koch.

Meantime, the city continues to do everything it can to stop Michael Fang, who Team 5 Investigates first told you about in July.

Fang is suing the city in land court for not letting him open an Asian supermarket.

"They're not the kind of jobs we want the citizens of Quincy to have," said Quincy City Councilor Brian McNamee.

"Sometimes businesses aren't a great fit in the spots they choose," said Koch.

These aren't isolated cases. In the last five years, Team 5 Investigates found many businesses have taken the city to court over permitting, zoning and licensing issues. Most of the time they win, but not without huge costs.

Steve Hebert won almost \$200,000 from the city of Quincy after a judge ruled they violated his civil rights trying to stop him from getting his coffee shop, Java Java, off the ground.

"It became a nightmare and cost me everything financially," said Hebert.

In the end, Hebert never opened because legal fees wiped him out.

"At one point, we had a trial to determine if coffee was a like or similar food to pizza and the judge laughed them out of court," said Hebert.

“Does that seem ridiculous to you that it would reach a point where people are trying to compare coffee and bagels to pizza?” asked Kelly.

“I think they kind of fall into a similar category,” answered Koch.

How much money have cases like these cost taxpayers? Team 5 Investigates spent four months trying to find out but was unable to get the data from the city.

“Do you think taxpayers have a right to know how much money has been spent to fight some of these cases in court?” asked Kelly.

“Oh, I think the taxpayers have a right to know every bit about our budget,” answered Koch.

“How come we haven’t been given the exact figures?” asked Kelly.

“I’m not sure, I’ll have to look into it,” said Koch.

“You’ll get us those figures?” asked Kelly.

“Sure,” said Koch.

But the mayor never did. Instead Koch told Team 5 Investigates he has a strong record of bringing businesses to the downtown area and he’s not worried about accusations that the city is going out of its way to keep new businesses out.

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A.H. E

Number 11-11

COMMONWEALTH OF MASSACHUSETTS

Town of Middleborough
Board of Health

Boston Cape Cod KOA
428 Plymouth Street

This is to Certify that:

IS HEREBY GRANTED A PERMIT

COPY

Fee \$0.00

To operate a Family Type Campground in accordance with 195 CMR 400.00 Chapter
VI Minimum Standards for Developed Family Type Campgrounds, local regulation
promulgated by the Board of Health & M.G.L. Chapter 140 Sec. 31B Camping Season
March 1 through December 31st.

This permit is granted in conformity with the Statutes and ordinances relating
thereto, and expires December 31, 2011 unless sooner suspended or revoked.

Date: March 28, 2011

For the Board of Health
Judith C. Spaulding
Judith C. Spaulding
Health Officer
JCS