



TOWN OF MIDDLEBOROUGH OFFICIAL MEETING POSTING

NAME OF PUBLIC BODY: Board of Selectmen/Rent Board

DAY AND DATE OF MEETING: Monday, April 30, 2012

TIME OF MEETING: 7:00 PM

LOCATION OF MEETING (INCLUDING ADDRESS): Town Hall, 10 Nickerson Avenue

MEMBER OF PUBLIC BODY POSTING MEETING: Jackie Shanley, Confidential Secretary to Board of Selectmen

POSTED BY TOWN CLERK'S OFFICE: *April 26, 2012 4:25 PM gff*

***FOR CANCELLATIONS**

MEMBER OF PUBLIC BODY CANCELLING MEETING: [Type text]

CANCELLATION POSTED BY TOWN CLERK'S OFFICE: DATE:

TIME:

AGENDA

1. Pledge of Allegiance
2. Unanticipated
3. Announcements & Recognitions
4. Minutes: 4-23-12 and 4-25-12 minutes to be voted on at 5-7-12 meeting
5. New Business -- 7:05 PM
 - a. Vote to approve Middleboro Veterans' Council Memorial Day activities.
 - b. Vote to approve expansion of hours to serve alcoholic beverages for The Cabin restaurant, wishing to open for business on Mondays.
 - c. Vote to approve One-day Wines & Malt beverages liquor licenses for N.E. Bartending Services at the Alley Theatre from 6 pm to 10 pm on 5/11, 5/19, & 5/24/12.
 - d. Vote to adopt a new policy on retiree health insurance.
 - e. Vote to sign Health Insurance Renewal form from MIIA.
 - f. Vote not to exercise the Chapter 61/61A Tax Program Option for: Estate of Edward W. Parks, Miller Street, M99, L4264, 3548, 3518, 2633, 1899, & 2748.
 - g. Vote on request from School Student Advisor John Healey re waiver of Town Hall Custodial/Security personnel fees re prom.
 - h. Discuss date to hold joint meeting with MG&E
6. Hearings, Meetings, Licenses
 - 7:30 PM Edgeway Mobile Home Park Phase I & Phase II Update
 - 7:50 PM Public Hearing re Consideration of Amending Tobacco Regulations -- M.Y.A. Presentation
 - 8:15 PM Public Hearing on Warrants for Special & Annual Town Meeting
7. Unfinished Business
 - a. Tispaquin Family Campground -- continue discussion from 4/23/12 & vote
8. Town Manager's Report
9. Correspondence
10. Executive Session - Contract Negotiations (Non Union Personnel) -- Police Chief
11. Adjourn

**Middleborough Board of Selectmen
Meeting Minutes**

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

In attendance were Selectmen A. Rullo, A. Frawley, S. Spataro, B. Quelle, and S. McKinnon, Town Manager C. Cristello, and Confidential Secretary J. Shanley.

The meeting was broadcast live by MCCAM and recorded by MCCAM and Verizon.

UNANTICIPATED

Selectman Frawley suggested that a discussion re mosquito spraying take place early this year before it becomes a problem.

Judy Bigelow Costa noted the successful job fair held at Town Hall last week. Also, Networking Support Plus meets weekly at the library on Wednesdays from 12 Noon until 1:30 PM.

Chief Gates noted complaint received today regarding door-to-door solicitation in Town this past weekend. Solicitation is not allowed without registering with the Police department, however, "donation" requests are exempt from the law. Dawn to dusk are the allowed hours.

Chairman announced that Sacred Heart Parish Hall was requesting a One-day All Alcoholic beverages liquor license for Saturday, May 5, 2012 from 6 pm – 10 pm. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to approve with request by Selectman Spataro that the church be asked to fill out appropriate form.

ANNOUNCEMENTS & RECOGNITIONS

Selectman Frawley thanked Parks & Recreation department and Middleborough Fire Department for their participation in Saturday's Nemasket River Canoe race. P&R held the event and the Fire department had multiple firemen located at various locations along the river. He congratulated various people as winners in multiple categories. Results of the race are attached.

Selectman McKinnon noted that the Fire department has been busy these past few weeks with brush fires. He reminded the public of dry weather and the dangers with outside fires at present.

Selectman Quelle reminded everyone of the fundraiser to be held this Friday at the Elks to help the family of DPW employee Mike O'Brien.

B. Giovanoni announced the Middleborough Friend's annual COA Pancake breakfast to be held on Saturday at the COA. Tickets are available at the COA. Money raised from the breakfast is donated to the COA.

MINUTES

None voted.

NEW BUSINESS

Paul Provencher announced the Memorial Day Veterans' events. Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve all events requested. Selectman McKinnon requested that they be placed on a community bulletin board. Town Manager offered that we started a community bulletin board through the Library and Chamber of Commerce. He thinks this should go on this community calendar rather than on the Town website. Mr. Provencher will make contact with the library to do that.

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to approve application by The Cabin restaurant to serve alcoholic beverages from 8 a.m. to 1 a.m. on Mondays.

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to approve One-day Wines & Malt Beverages liquor licenses for N.E. Bartending Services at the Alley Theatre from 6 pm to 10 pm on 5/11, 5/19, & 5/24/12.

Town Manager reviewed the new retiree health insurance policy. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve at the recommendation of the Town Manager.

Town Manager reviewed the Health Insurance Renewal form from MIIA. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve and authorized Chairman to sign.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously not to exercise the Chapter 61/61A Tax Program Option for the Estate of Edward W. Parks.

Town Manager recommended against approving waiver of custodial/security fee as requested by John Healy, Student Advisor relative to the upcoming prom to be held in the Town Hall Auditorium noting that we have consistently charged for school events and these events require a lot of clean up by our custodial personnel. Additionally, we are waiving the set up fee. Upon motion by Selectman Frawley and seconded by Selectman Spataro, Board voted unanimously to waive Friday set-up date of custodial/security fees. Selectman Frawley volunteered to act as security.

Town Manager offered that MG&E Chairman Healy indicates that the Commission is available for a joint meeting on 5/24 or 6/4. Chairman asked Board members to get a list of questions to the Board's Secretary by Friday. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to send letter with suggested dates.

HEARINGS, MEETINGS, LICENSES

Edgeway Mobile Home Park Phase I & II Update

Jamie Bisonett from Prime Engineering addressed Board. He reviewed the punch list for Phase I with the Board. He indicated that Attorney Marsan notified him 30 minutes ago that he had an emergency tonight and could not attend to explain his half of the updates. Mr. Bisonett explained that they have all splash patio blocks in place. In fact, they had purchased extra. Selectman Frawley asked if they are different than what is on the plans. Mr. Bisonett responded that they are not. They only showed on the plans that cement objects would be used. Selectman Frawley asked if there was any reason he wouldn't use splash pads that people use under their gutters. Mr. Bisonett offered that it may be the price difference, which is \$5 per piece compared to \$1 per piece. Selectman McKinnon asked if it wouldn't make more sense to have the angeled splash pads that divert water away from the house. He answered that in some cases, yes it would, however, for the most part, they are pointed in that direction. He offered to walk through with the Selectmen to show them. Selectman Frawley offered that the Board's frustration was not directed at him. The Owner/Operator giving limited notice not to be in attendance is unacceptable and to use patio blocks as opposed to splash pads, to save a couple of bucks, isn't worth it. Chairman asked Mr. Bisonett to pass along to the Owner/Operator the Board's displeasure with the choice in splash patio blocks. Selectman Quelle offered similar comments that the displeasure was not directed at him. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to ask the engineer to bring a message back to the Owner/Operator to replace splash patio blocks with splash pads. Jamie Bisonett offered that the Owner/Operator had asked us what is normally acceptable and commonly used. If this is what the Board wants, he will bring the message back to the Owner/Operator and attorney.

Stone chips around the mobile home skirts have now been completed by the landscaping company. Selectman Frawley noted that the resident at 11 Lyn Lane had white stone all around her house and that she would like the same replaced. Mr. Bisonett said o.k., however, it was his understanding that the agreement was to replace anything disturbed with something same or similar. He will take a look at it. He reported that loam and sand had been replaced around the units. Mr. Bisonett offered that they are hoping to get approval from DEP and the Town re septic issues. Most of loam and sand placement has been done, but will do more after septic issues are addressed. Selectman Frawley asked if there can be a plan in place to replace plants, where needed, to which Mr. Bisonett responded that he will check on.

#5 re shrubs - covered in #4

#7 legal issue with residency within the Park which doesn't pertain to him

#8 resident unclear if wanting gutters installed. Attorney Marsan is looking for clarity and will let Mr. Bisonett know.

#9 legal issue

#10 Attorney Marsan working on

#11 Comcast – Mr. Bisonett explained that when they called Comcast to run cable into Middleborough, the cost almost prevented them from a willingness to do it. They've explained to him that there is one channel difference and they are not willing to change that. Duplicating the process would make this cost prohibitive. Chairman asked Town Manager if our Cable Committee could look into. Town Manager agreed. Upon motion by Selectman McKinnon and seconded by

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Selectman Quelle, Board voted unanimously to get Permanent Cable Committee involved with getting cable access to Middleborough residents in Edgeway Park.

Mr. Bisonett received correspondence from the Attorney which originated from the residents re fire hydrant. He's not sure how this is an engineering issue at all. It has been very dry out and not sure water hydrants are sufficient to put out a fire.

Selectman Frawley raised #6 on punch list given to the Board tonight. Mr. Bisonett will present to the owner/operator and attorney. Spring and fall inspections are recommended by Selectman Frawley.

Selectman McKinnon raised #1 re gutters-overflows. Mr. Bisonett acknowledged that some units still have legitimate flow concern. He has some ideas. He wants to take some samples and is working on a long-term solution. He did view during some of the heavy rains. For the most part, you could hear water running down the pipes, but also for the most part, he believes there has been strong improvement to the site.

Chairman noted that we need to get Attorney Marsan in here and suggested next Monday.

Selectman Frawley asked if there was any way to compel Attorney Marsan and the Park

Owner/Operator to attend a meeting. Chairman responded that he doesn't know that there is. Mr. Bisonett indicated that Attorney Marsan truly did intend to be here tonight, but that he called with a health emergency re someone else.

Mr. Bisonett indicated that the Health department has been kept informed re Phase II and right now is with the Planning Board for peer review. He hopes to submit septic system plans next week for approval.

Anne McGann asked about the overflows as many of the residents have problems with water pouring out. She asked the engineer if he could work to make them remain stable. Mr. Bisonett responded, yes. She would like her gutters cleaned. She also clarified that the resident at 11 Lyn Lane would like white stone replaced on just one side of her home where it was disturbed. She offered that communication is not good re schedule of activity. It would be helpful if the residents could be provided with a schedule. Mr. Bisonett explained that they took notes of what was out there and replaced what had been there as far as sand and/or loam and the guys doing the work said they had dialogue with a lot of residents at the Park.

Louisa Brown, 162 Wesley Circle, announced that she needs splash pads and the overflows are not working at both ends. That's where her water was and remains. With the cement block, water will just sit and form into ice with these concrete blocks. She also indicated that the Comcast salesperson for their Park said it was possible to get all stations to everyone in the Park. She told Louisa it was possible and that she had gotten permission from Attorney Marsan to do so. Mr. Bisonett agreed that Louisa is in the worst spot regarding water as she is at the bottom of the hill. They are putting in a catch basin for her. If her overflow needs adjustment, they will look at. They are going to look at the cement blocks and discuss, and as he said he spoke with someone at Comcast, but that person should have a boss, etc. but he was quickly told no.

TOBACCO REGULATION HEARING

Middleborough Youth Advocates representative Ed Rand introduced Judith Kirkandoll who works for Seven Hills Behavioral Health Tobacco Free Community Partnership. She announced that she was present to support the MYA in its request to amend the Tobacco regulations. Spokespersons Casey Schnetzer and Elizabeth Bell provided a Power Point presentation for the Board on its proposed amendments to the Town's Tobacco and Nicotine Delivery Product Sales Regulations. Discussion ensued. Board agreed to take matter under advisement and vote on May 21, 2012. Proposed regulations attached. Handout attached.

ANNUAL TOWN MEETING ARTICLES REVIEW

Chairman Rullo read aloud articles 1-5.

Selectman Frawley read aloud articles 6-10.

Selectman McKinnon asked the Capital Planning Chairman how many tasers were covered by Article #10. He answered, 30.

Selectman Spataro read aloud articles 11-15.

#13 Glenn Montapert questioned the additional money for the Town Hall Cupola. Town Manager explained that we had two change orders beyond what we bid. We had more rot than first known and to the dome itself. We had to have roof removed to replace beam. We borrowed \$200,000 and had a grant of \$30,000. Mr. Montapert offered that it appeared to be an exorbitant amount of money. Town Manager disagreed noting that it was more than just the cupola. It was the dome as well. The dome was an involved structure. You never know what you're going to get into with historic structures. Selectman Frawley shared that it had been discussed at the Capital Planning meeting the other night, but it was concluded that there were no other options. Selectman Spataro offered that everything we had done was custom. Chairman offered that this is one of the most historical buildings in Town. This was money well spent. Jane Lopes offered that she has heard concerns about money spent on the cupola and shutters. These are investments in historic buildings and the fact that we have taken care of these buildings and are in the National Historic Register, demonstrates that people take pride in these historical buildings. Selectman Spataro asked if the MG&E could have put up plastic shutters on their building. Jane Lopes responded that they could have, but you would never get any state money for that building. Glenn Montapert acknowledged that he did not know the MG&E building is a historical building. Sue Dube offered that the MG&E building is not on the National Register and the work on it cost \$40k. Neil Rosenthal offered that it was well worth spending the money on the cupola.

#16-20 Selectman McKinnon read aloud.

#20 Town Manager spoke about FEMA requirements.

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#21 Selectman Quelle read aloud. Town Manager noted that this fee is charged to the applicant.

#22 & 23 Selectman Quelle read aloud.

#24 Chief Gates spoke about Non-Criminal Disposition By-Law

Mimi Duphily offered that she thinks this article needs more clarification as it doesn't say you would be paying the Town Clerk. Chief Gates explained that Section 21D covers it. She then asked if we can charge the people delivering to SEMASS. She also suggested that if it does go to Wareham Court, it does not come back to Town right. Chief Gates confirmed that it does come back to the Town. Willy Duphily asked the Chief if these are all his requests or someone else's. Chief Gates responded that he had looked at all of our bylaws and picked what he thought we might enforce, though we not enforce some of these. W. Duphily asked for clarification on snow & public way obstruction. Chief Gates responded that he thinks it would only get used if the MPD or DPW asked someone to remove and they refused. They would probably get a ticket. Brian Giovanoni offered that he is assaulted every time he walks past Kramer Park with the vulgarity these kids shoot at him.

#25 Selectman Quelle read aloud. Police Chief reviewed.

#'s 26, 27, 28 Chairman Rullo read aloud. Town Manager summarized #28, explained #29, and summarized #30.

#31 Selectman Frawley read aloud. – Voter I.D. By Law – Brian Giovanoni explained article. Chairman asked if we ever had this problem in this Town. Brian responded not that he is aware of, but it could become one very easily. Sue Dube asked how many other towns or cities in MA have this in place. Mr. Giovanoni responded that he doesn't know, but will know by 6/10 and that there will be an information sheet with information on it for Town Meeting.

#32 Selectman Frawley read aloud. Chairman explained article.

SPECIAL TOWN MEETING

#'s 1, 2, & 3 Selectman Frawley read aloud. Town Manager explained.

UNFINISHED BUSINESS

Tispaquin Family Campground Annual Permit Application

Health Officer informed Board that its Board's Secretary put a copy of the plan in my mailbox this morning, but she hadn't reviewed it yet.

Chairman recommended that the Board vote to deny the permit until the Camp Owner complies. Selectman McKinnon offered that he believed there was a question last week as to what we

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approved before re number of sites and believes this clears that up (material submitted by Health Officer). Chairman agreed, but also noted that when the Board had asked the operator if she would comply with the number of sites we approve, she said no. He questioned why the Board should issue the license for 57 sites if she won't comply. Selectman Spataro noted that he had been absent last week, but did get the DVD of the meeting, and the material, and would be voting. Barbara Holton addressed Board and brought up the KOA campground. Chairman informed her that he is going to allow her to speak if she speaks about her request and not other campgrounds. Mrs. Holton responded that there is nothing that says that she is not complying. Chairman offered that the Health Officer and the Courts said so. Mrs. Holton responded that's because you lied. I was grandfathered in re septic system Title V law. I'm the only one going through this because I live in Middleborough and Middleborough hates me. Chairman thanked her for her comments. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to deny the application asking for 113 units. Health Officer added that the Title V reports the Health department received in its office show that 4 out of 6 systems at Tispaquin Family Campground failed.

Selectman Quelle left the meeting.

TOWN MANAGER'S REPORT

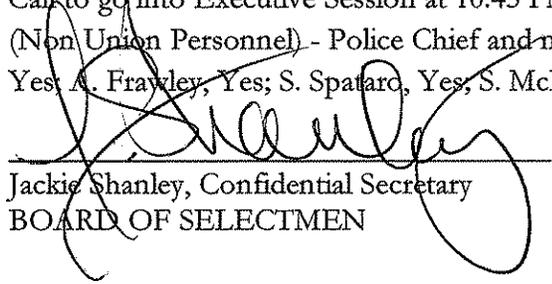
The NPDES Stormwater Report that we are required to submit has been submitted on time.

We have been notified by MIIA that we are eligible for approximately \$2,500 in premium credits.

CORRESPONDENCE

#4 Selectman Frawley noted the upcoming Old Colony Planning Council meeting scheduled for 5/17/12 with guest speaker Stephen Crosby, Chairman, MA Gaming commission and asked if anyone planned to attend. Town Manager noted that he may attend.

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted by Roll Call to go into Executive Session at 10:45 PM to discuss strategy relative to Contract Negotiations (Non Union Personnel) - Police Chief and not to return into Open Session. Roll Call: A. Rullo, Yes; A. Frawley, Yes; S. Spataro, Yes; S. McKinnon, Yes. Ended at 10:48 PM.



Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

**Town of Middleborough
Middleborough Board of Health**

**Tobacco and Nicotine Delivery Product Sales Permit
Regulation Restricting the Sale of Tobacco Products
And Nicotine Delivery Products**

A. Statement of Purpose:

The Board of Health of the Town of Middleborough, Massachusetts, acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws and such other authority as it possess has enacted the following Regulations Affecting the Sale, Location, Vending and Distribution of Tobacco Products and Nicotine Delivery Products in the Town of Middleborough in the interest and preservation of public health effective [May 1, 2012], pursuant to a vote of the Board of Health.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Middleborough Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece, not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

E-Cigarette: Any electronic Nicotine Delivery Product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Health Care Institution: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and subject to the provisions of 247 CMR 6.00. Health care institution includes, but is not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices and dentist offices.

Minor: Any individual who is under the age of eighteen (18).

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine Delivery Product includes, but is not limited to, e-cigarettes.

Permit Holder: Any person engaged in the sale or distribution of tobacco or nicotine delivery products directly to consumers who applies for and receives a tobacco and nicotine delivery product sales permit or any person who is required to apply for a tobacco and nicotine delivery product sales permit pursuant to these regulations, or his or her business agent.

Self-Service Display: Any display or RYO machine from which customers may select or make a tobacco product or a Nicotine Delivery Product without assistance from an employee or store personnel.

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, kreteks, snuff, blunt wraps, loose tobacco or tobacco in any of its forms.

Bidis: A thin, often flavored Indian cigarette made of tobacco wrapped in a leaf.

Kreteks: A cigarette product composed of tobacco, ground cloves and other additives.

Snuff: A preparation of finely pulverized tobacco that can be drawn up into the nostrils by inhaling, also called smokeless tobacco.

Blunt Wraps: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes, any other tobacco product or Nicotine Delivery Product.

Roll-Your-Own (RYO) machine: A mechanical device, by whatever manufacturer made and by whatever name known, that is designed to roll and wrap tobacco into products.

D. Tobacco and Nicotine Delivery Product Sales to Minors Prohibited:

1. No person shall sell tobacco or nicotine delivery products or permit tobacco or nicotine delivery products to be sold to a minor; or not being the minor's parent or legal guardian, give tobacco or nicotine delivery products to a minor.

2. Required Signage

- a. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
- b. The owner or other person in charge of a shop or other place used to sell nicotine delivery products at retail shall conspicuously post a sign stating that "The sale of nicotine delivery products to minors under 18 years of age is prohibited.". The notices shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

3. Identification: Each person selling or distributing tobacco or nicotine delivery products shall verify the age of the purchaser by means of valid government-issued photographic identification containing the bearer's date of birth and that the purchaser is 18 years old or older. Verification is required for any person under the age of 27. All tobacco retailers in the town of Middleboro are required to verify purchaser's age with an electronic age verification device on every tobacco purchase.

4. All retail sales of tobacco or nicotine delivery products must be face-to-face between the seller and the buyer.

(Exemption for approved vending machine.)

E. Tobacco and Nicotine Delivery Product Sales Permit:

1. No person shall sell or otherwise distribute tobacco or nicotine delivery products at retail within Middleborough without first obtaining a Tobacco and Nicotine Delivery Product Sales Permit issued annually by the Middleborough Board of Health. Only owners of establishments with a permanent, non-mobile location in Middleborough are eligible to apply for a permit and sell tobacco products or nicotine delivery products at the specified location in Middleborough.

2. As part of the Tobacco and Nicotine Delivery Product Sales Permit application process, the applicant will be provided with the Middleborough Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco and nicotine delivery product sales about state and local laws regarding the sale of tobacco and nicotine products as indicated in this regulation.

3. Each applicant who sells tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a Tobacco and Nicotine Delivery Product Sales Permit can be issued.

4. The fee for a Tobacco and Nicotine Delivery Product Sales Permit shall be determined by the Middleborough Board of Health annually. All such permits shall be renewed annually by January 1. Renewal applications are to be submitted to the Health Department by November 30th prior to expiration of existing permits.

5. A separate permit is required for each retail establishment location selling tobacco or nicotine delivery products.

6. Each Tobacco and Nicotine Delivery Product Sales Permit shall be displayed at the retail establishment in a conspicuous location.

7. No Tobacco and Nicotine Delivery Product Sales Permit holder shall allow any employee to sell tobacco products or nicotine delivery products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement that is written in the primary language of the employee that he/she has read and understands the regulation and applicable state and local laws, a copy of which will be placed on file in the office of the employer.

8. A Tobacco and Nicotine Delivery Product Sales Permit is non-transferable. A new owner/operator of an establishment that sells tobacco or nicotine delivery products must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

9. Issuance of a Tobacco and Nicotine Delivery Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation and with the understanding that compliance checks may be conducted on a periodic basis.

10. A Tobacco and Nicotine Delivery Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

F. Free Distribution:

No commercial entity shall distribute or furnish or cause to be furnished or distributed without charge, any nicotine delivery products, cigarettes, cigars or other tobacco products in any public place or any event open to the public. A public place means public streets, sidewalks, buildings, parks, playgrounds and other public property or places of public assembly.

G. Out-of-Package Sales:

1. No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.
2. Roll-Your-Own machines are prohibited.

H. Self-Service Displays:

All self-service displays of tobacco products and/or nicotine delivery products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked, unless location does not allow under-18 without parent or legal guardian.

I. Vending Machines:

All tobacco and/or nicotine delivery product vending machines are prohibited unless approved by the Health Department in a location that is only accessible by adults over 18 years of age.

J. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Health Care Institutions:

No health care institution located in Middleborough shall sell or cause to be sold tobacco or nicotine delivery products. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products.

K. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Educational Institutions:

No educational institution located in Middleborough shall sell or cause to be sold tobacco or nicotine delivery products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

L. Violations:

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco and/or nicotine delivery products. For Section D (1) (Tobacco and Nicotine Delivery Product Sales to Minors Prohibited), each violation will be viewed as a separate violation, the violator shall receive:

- a. In the case of a first violation, a fine of one hundred dollars (\$100.00) and may include up to 7 day suspension consecutive business days.
- b. In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit may be suspended for up to 15 consecutive business days.
- c. In the case of three or more violations within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the Tobacco and Nicotine Delivery Product Sales Permit may be suspended for up to thirty (30) consecutive business days or the Board of Health may revoke the Tobacco and Nicotine Delivery Product Sales Permit.

2. For Sections D.(2) Required Signage, D.(3) Identification, D.(4) Face-to-Face Sales, E. Tobacco And Nicotine Delivery Product Sales Permit , F. Cigar Sales Regulated, G. Free Distribution, H. Out of Package Sales, I. Self-Service Displays, J. Vending Machines, K. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Health Care Institutions, and/or L. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Educational Institutions, the violator shall receive a fine of one hundred dollars (\$100.00) for each offense and for each day the offense occurs.

3. Refusal to cooperate with inspections pursuant to this regulation may result in the suspension of the Tobacco and Nicotine Delivery Product Sales Permit for up to thirty (30) consecutive business days or revocation of the Tobacco and Nicotine Delivery Product Sales Permit after a hearing before the Board of Health.

4. Any permit holder who engages in the sale or distribution of tobacco or nicotine delivery products directly to a consumer without a valid permit or while his or her permit is suspended may be subject to the suspension of all board of health issued permits for up to thirty (30) consecutive business days and/or fined up to two hundred dollars (\$200.00) accordingly after a Board of Health hearing. Subsequent violations may result in suspension or permanent revocation of the Tobacco and Nicotine Delivery Product Sales Permit, fines and/or legal action.

5. The Middleborough Board of Health shall provide notice of the intent to suspend a Tobacco and Nicotine Delivery Product Sales Permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. **After a hearing, the Middleborough Board of Health may suspend the Tobacco and Nicotine Delivery Product Sales permit, levy fines, or set conditions on the business operation if the Board finds that a sale to a minor occurred.** For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products and nicotine delivery products shall be removed from the retail establishment location upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit. Failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of this regulation.

Each day any violation exists shall be deemed to be a separate offense.

M. Enforcement:

Enforcement of this regulation shall be by the Middleborough Board of Health or its designated agent(s).

Any citizen who desires to register a complaint pursuant to the regulation may do so by contacting the Middleborough Board of Health or its designated agent(s) in the Health Department.

N. Severability:

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

O. Effective Date:

This regulation shall take effect on May 1, 2012.

OPPOSE

underhanded
TOBACCO
tactics

Snus (pronounced “snoose”)

Moist snuff in small teabag-like pouches. Used like snuff, but no spitting.



Health Effects:

- Increased risk of pancreatic and oral cancers.
- Needs refrigeration or carcinogenic nitrosamines build up.
- One pouch can contain 2 mg-19 mg of nicotine. (Cigarettes have less than 2mg of nicotine, on average.)

Common Brands:

Camel Snus: Mellow, Frost

Marlboro Snus: Rich, Mild, Mint, Spice

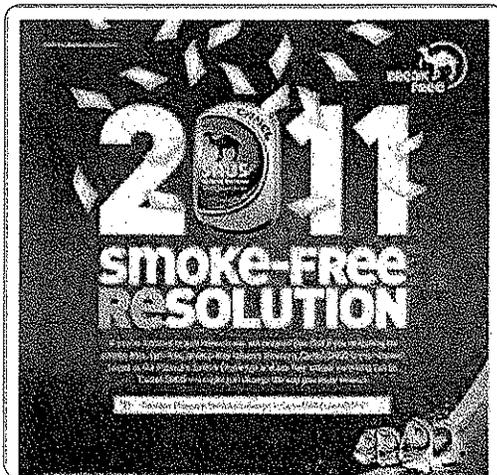
*Triumph (Swedish Brand)**

Other common snuff brands as a 'pouch' variety



What's the Tactic?

- Heavily marketed by the tobacco industry as a product that can be used where smoking is prohibited
- Sold with candy-like flavors that mask the stronger taste of tobacco
- Packaged in tins similar to those used for mints
- Snus is cheap, so it is easy for kids to purchase as an impulse buy—a can of 12 pouches can cost as little as \$2.00.



*Has its origins in Scandinavia. Is illegal everywhere in Europe except for Sweden and Norway.

OPPOSE

underhanded
TOBACCO
tactics

The tobacco industry is targeting your kids— right in your own backyard.

The tobacco industry knows that to stay in business, it needs to hook young people.

The tobacco industry uses three tactics in its efforts to hook kids on tobacco products: price, packaging, and availability. The tobacco industry is selling products in colorful and fun packaging that attracts young people, pricing these products cheaply to encourage impulse buys. These cheap tobacco products are available to young people in a variety of locations, from gas stations to pharmacies.

Adolescents are especially harmed by tobacco.

Adolescents' brains are still developing. The nicotine in tobacco products can produce structural and chemical changes in the developing brain that make young people vulnerable to future alcohol and other drug addiction and mental illness.¹

Because of the way nicotine changes the adolescent brain, people who start smoking as adolescents smoke more and have a harder time quitting than people who start as adults.²

Stand with us to OPPOSE the tobacco industry's targeting of young people.

- **Sign the position statement** in support of higher prices for tobacco products and efforts to curtail the availability of tobacco products. These are two key strategies we can use to fight the industry's tactics.
- **Support local policy actions**, such as those banning the sale of cheap single cigars, banning the sale of tobacco in pharmacies, and those that strengthen regulations that prevent youth access to tobacco. Learn more and sign up for email alerts about policy actions in your community at **OPPOSE.NING.COM**
- **Look around.** What's the tobacco industry up to in your community? Talk with your kids about tobacco and ask them what they see.
- **Spread the word.** Many people think the tobacco problem is solved. It's not. The youth cigarette smoking rate continues to decrease in Massachusetts, but 7,000 young people still become cigarette smokers every year in our state. And young people's use of other tobacco products has increased. In 2009, for the first time, high school students used tobacco products other than cigarettes at a higher rate than cigarettes (17.6% as opposed to 16%).³

¹ Many published studies have shown this, including: Abreu-villaca, Y. et al (2003). Short-term adolescent nicotine exposure has immediate and persistent effects on cholinergic systems: Critical periods, patterns of exposure, dose thresholds. *Neuropsychopharmacology*, 28, pp. 1935-1949.

² *ibid.*

³ Massachusetts Youth Risk Behavior Survey, 1999-2009

Municipal Tobacco Control Technical Assistance Program

Donald J. Wilson, Director
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 FAX (617) 695-1314
 djwilson@mma.org

SUMMARY OF LOCAL EFFORTS REGARDING TOBACCO SALES BANS IN PHARMACIES

<u>MUNICIPALITY (POP. RANK)</u>	<u># AFFECTED</u>	<u>ENACT DATE-EFF. DATE-TIME LAPSE-POLICY TYPE</u>
Boston (1)	88	12/11/08 – 2/11/09 (2 months) – health regulation
Needham (56)	4	7/14/09 – 10/1/09 (2.5 months) – health regulation
Newton (11)	8	11/16/09 – 11/16/09 (n/a) – city ordinance
Everett* (39)	5	7/19/10 – 8/15/10 (1 month) – health regulation
Walpole (79)	5	10/12/10 – 10/21/10 (2.5 weeks) – health regulation
Lancaster (215)	0	12/2/10 – 2/1/11 (2 months) – health regulation
Southboro (107)	4	12/15/10 – 2/13/11 (2 months) – health regulation
Oxford (142)	3	2/7/11 – 3/1/11 (3 weeks) – health regulation
Fall River (9)	22	3/22/11 – 4/12/11 (3 weeks) – city ordinance
Wakefield (73)	4	3/19/11 – 6/1/11 (2 weeks) – health regulation
Westford (83)	3	5/9/11 – 7/1/11 (2 months) – health regulation
Worcester (2)	34	5/10/11 – 6/24/11 (6 weeks) – city ordinance
Wellesley (65)	4	4/28/11 – 6/1/11 (6 weeks) – health regulation
Somerville (12)	10	5/19/11 – 7/1/11 (6 weeks) – health regulation
Westwood (134)	2	6/14/11 – 6/30/11 (2 weeks) – health regulation
Chatham (227)	1	6/20/11 – 7/7/11 (2.5 weeks) – health regulation
Hatfield (269)	0	3/22/11 – 4/1/11 (1.5 weeks) – health regulation
Lowell (4)	12	11/2/11 – 1/1/12 (8.5 weeks) – health regulation
New Bedford (6)	20	11/3/11 – 1/1/12 (8.5 weeks) – health regulation
Brookline (18)	8	11/15/11 – 4/9/12 (AG approval) – town bylaw
Wareham (87)	5	11/30/11 – 1/12/12 (6 weeks) – health regulation
North Attleboro (58)	7	12/6/11 – 1/1/12 (3.5 weeks) – health regulation
Revere (24)	6	12/9/11 – 1/1/12 (3 weeks) – health regulation
Winchester (90)	2	12/13/11 – 1/1/12 (3 weeks) – health regulation
Concord (103)	3	11/20/11 – 2/14/12 (8 weeks) – health regulation
Springfield (3)	17	3/21/12 – 5/21/12 (2 months) – health regulation
Fitchburg (35)	6	3/28/12 – 6/1/12 (2 months) – health regulation
Leominster (34)	9	4/18/12 – 6/1/12 (6 weeks) – health regulation
TOTAL: 28	293	

# AFFECTED BY COMPANY	
CVS	93
Rite Aid/Brooks	40
Walgreens	52
Walmart	8
Target	7
Costco	1
Kmart	1

# AFFECTED BY COMPANY	
Shaws Market	6
Star Market	2
Stop & Shop	16
Big Y Supermarket	3
Price Chopper	2
Hannaford	3
Independent Pharmacies	58

*One pharmacy is both a retailer and wholesaler. Tobacco sales to wholesale customers only, with conditions.

NOTE: Some Target and Kmart stores may have pharmacies but neither company sells tobacco per company policy. 30% of state's population lives in listed municipalities. (1,903,825 out of 6,349,000 residents)

A Technical Assistance Project for cities and towns funded through a Massachusetts Department of Public Health grant to the Massachusetts Municipal Association.

EDGEWAY HOMEOWNER'S ASSOCIATION

17 Lyn Lane
Middleborough, MA 02346

April 26, 2012

Mr. Corey Farcas, Trustee of Edgeway
Attorney Gerard Marsan, representing Corey Farcas

Gentlemen:

Because the office has not been staffed since July, 2011, and calls made and messages left on the office answering machine were not addressed, we are writing you with our concerns and complaints.

- The Homeowner's Association has not received a copy of the Park Rules approved in 2011. You may recall the Park has not had approved rules since 2006.
- We ask that the Park Rules be conspicuously posted, such as the bulletin board in front of the office, to be available for all residents at all times.
- There have been problems lately with unregistered people living in the parks (Twin Coach) some of whom are creating problems. We feel you must follow the rule to update registration by June 30th of each year, as required by law to protect the residents. (Section 3, Middleborough Rules and Regulations)
- We also have a concern that you should share with us. We have experienced a dry winter and spring this year, the lack of water to fight fires, and the one and only exit in the park shared by both parks, Twin Coach and Edgeway, brings us to the safety of fire pits some residents may enjoy. We are asking you to ban these portable pits or fireplaces in both parks for the safety of all residents, at least for the time being.
- There are rules prohibiting storage of equipment in driveways for months creating an eyesore. We ask you to identify and require these residents to remove this type of equipment from the property. Rules must be the same for all residents.

The above concerns and complaints are all reasons to staff the office so problems can be reported and resolved in a timely manner. We take great pride in

our homes and investment and work hard to maintain the lots we rent from you thereby protecting you investment also.

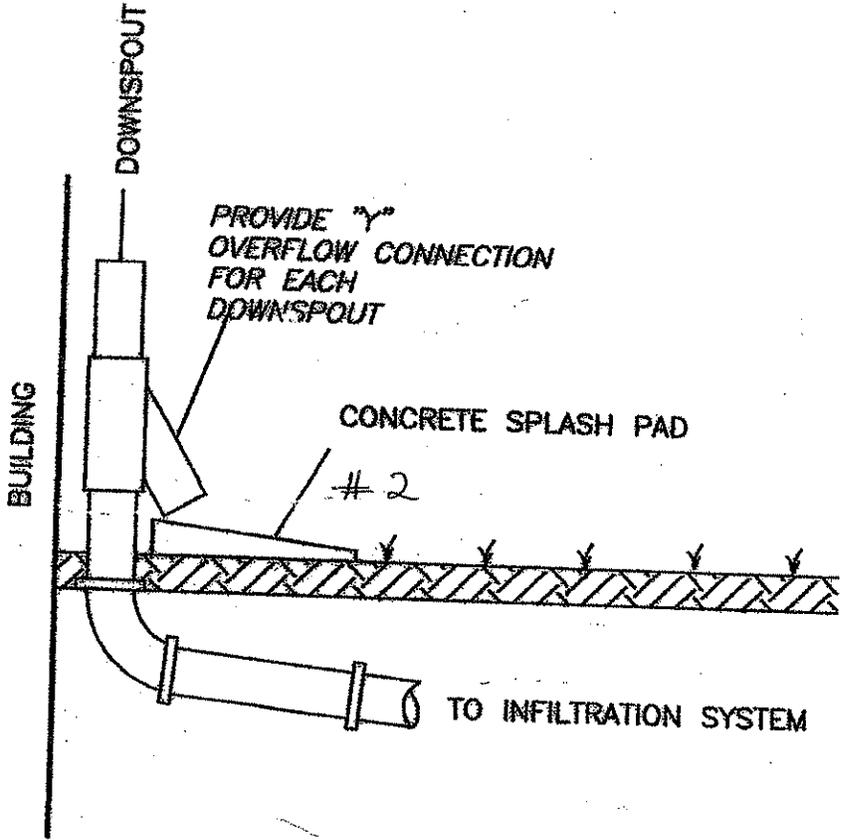
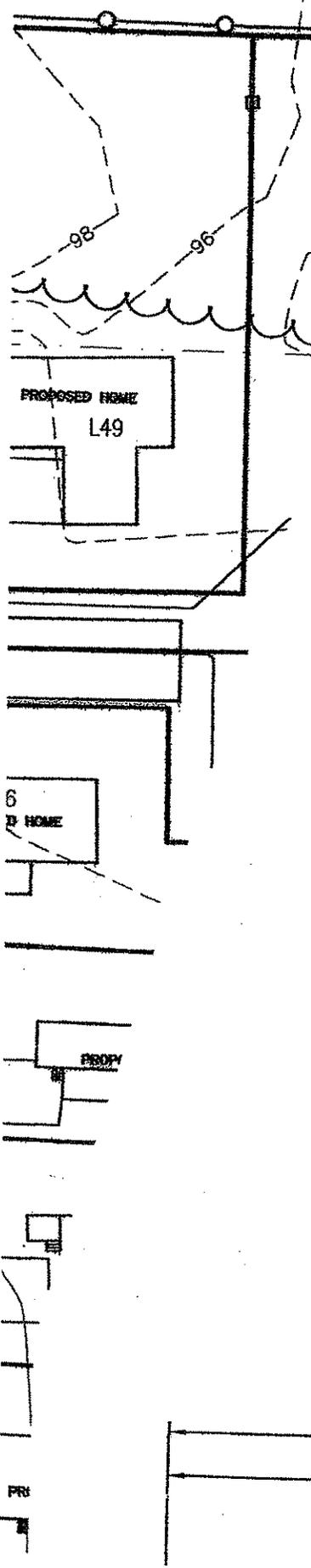
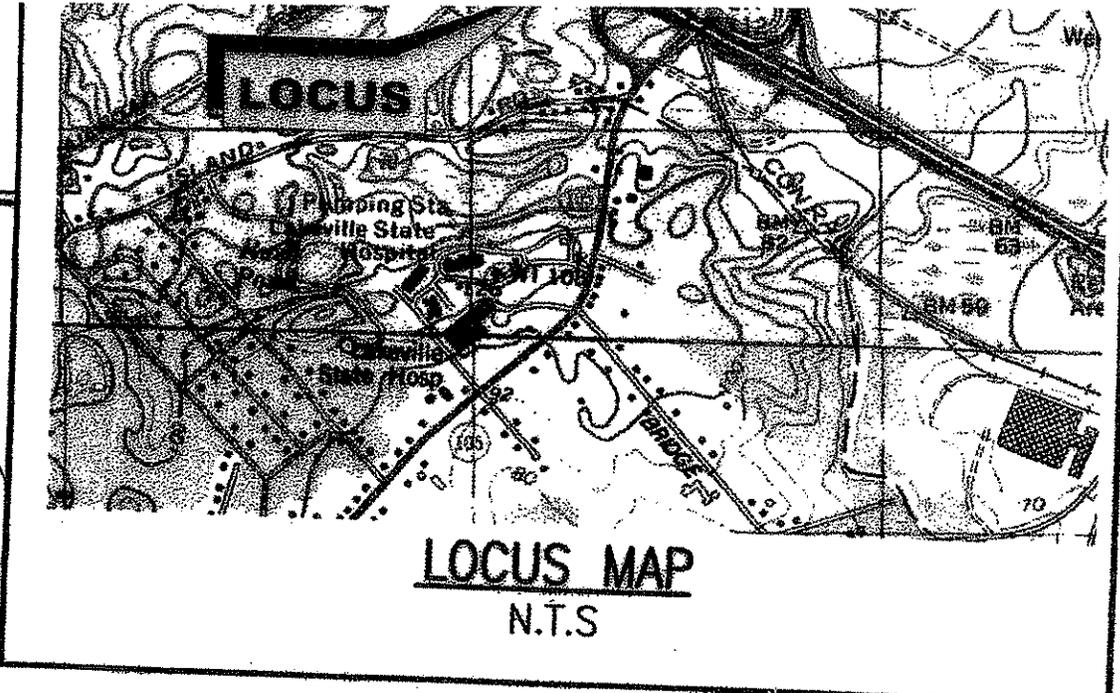
Thank you.

Edgeway Homeowner's Association

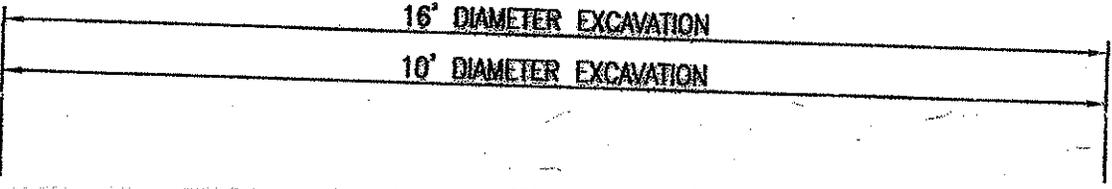
cc: Middleborough Rent Control Board
Andrew Sheely, Attorney General's Office
James A. Jemison, Department of Housing and Community Development
Alana Murphy, Department of Housing and Community Development
Attorney Denzil McKenzie representing Nicholas Beaulieu

EDGEWAY PHASE I PUNCH LIST

1. To check and permanently adjust all overflows, preferably in the rain.
2. Splash pads are different than plans. (Patio Blocks)
3. Bob Malcom, 52 Lyn Lane, has not had gutters installed. He was in Florida. Town and Edgeway did have his address.
4. How did you decide who was getting loam and sand?
5. Resident at 11 Lyn Lane had white stone all around her house. She would like the same.
6. When will gutters be checked and cleaned. There could be some blockage causing problems.
7. Communication is poor. No explanation of what's to happen.



DETAIL OF ROOF OVERFLOW SYSTEM
NOT TO SCALE



Jacqueline Shanley

From: Selectman Allin Frawley
Sent: Monday, April 30, 2012 6:58 PM
To: Jacqueline Shanley
Subject: FW: Canoe Race

-----Original Message-----

From: Fran Cass
Sent: Mon 4/30/2012 1:24 PM
To: Selectman Allin Frawley
Subject: Canoe Race

Results of the Canoe Race April 28, 2012

Kayak

Tandem	1st	John and Jack Knowlton	58:26
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Men's Kayak	1st	Eric Zabloski	59:50
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2nd	Paul MacDonald	60:02
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3rd	Colin MacDonald	61:39
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Youth	1st	Ryan Stopka	52:02
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Senior	1st	Al Short	75:30
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Female	1st	Robin Manning	72:50
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Senior Female	1st	Diane Sanford	83:30
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Canoe

Single Men	1st	Allin Frawley	58:20
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Tandem Men	1st	Seth Pomeroy & Josh Deyoung	52:57
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2nd	Dennis Collins & Chuck Draper	53:51
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3rd	Mike & Mark Pomeroy	62:36
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25 Total Boats