MINUTES

For approval at the 5-9-11 meeting

Middleborough Board of Selectmen DRAFT **May 2, 2011**
Meeting Minutes

Chairman opened meeting at 7:04 PM by inviting those in attendance to join in the Pledge of Allegiance.

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

OTHER
Chairman noted that Board has a revised version of the Board's procedures in their packets. He asked that they review prior to it being forwarded to Town Counsel.

Brian Giovanoni announced that the School Committee will present the 2011/2012 School Budget at 7:30 PM at the Nichols Middle School.

Lakeville Board of Selectmen Chairman Derek Maksy addressed Board to say that his Board would like to be better neighbors and work together with the Town of Middleborough. They hope they can work on an IMA with Middleborough. He looks forward to working with the Town. Chairman thanked him and offered that the Board looks forward to future discussions.

MiMi Duphily announced that Greener Horizons did the landscaping of islands near Dave's Diner again. They will be do further landscaping in Town. The Middleborough Friend's Pancake Breakfast is this Saturday. Sheep Day at Soule Homestead is also this Saturday. There is a get together at Eastern Bank tomorrow regarding Christmas Holiday decorations. The Middleborough Friends are also in the process of putting a new roof on the Animal Control Shelter.

MINUTES
Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted to approve 4-25-11 meeting minutes. Four in favor. B. Quelle abstained.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted to approve 4-25-11 Executive Session meeting minutes. Four in favor. B. Quelle abstained.

NEW BUSINESS
Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve market and music dates as presented with 6/11 as an additional date.

Town Manager reviewed Sovereign Bank Parking Lot lease with Board. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve request to revoke license for Storage of Flammables at 35 East Main Street as requested by Winthrop Atkins.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve name "Trading Post Path" for a new access path to South Purchase Estates located off Wareham Street on M94, L6416.

UNFINISHED BUSINESS
Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve Seasonal Water Use Restrictions as required by DEP.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve SCADA System Upgrade Change Order. Selectman Spataro extended his thanks to Water department Superintendent Joe Silva.

Board continued discussion relative to 4/25/11 request from Robert Poillucci's request for water usage @ 6 Bridge Street in Lakeville. Chairman began by giving overview of history re HESS & its request for water connection/usage. Discussion ensued. Lakeville Board of Selectmen Chairman Derek Maksy addressed Board and offered that he wants Middleborough to understand that whatever gets done relative to a potential IMA, it has to benefit both Towns. Mr. Poillucci addressed Board and asked if consideration of an IMA would go to Town Meeting. Chairman noted he didn't think it could happen within short time left and he would not support this individual request without an IMA. Selectman McKinnon recommended putting place holder on warrant for consideration of water use only, not sewerage, for Lakeville. Selectman Frawley agreed. Discussion ensued. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted to put as holder on Annual Town Meeting Warrant. Three in favor. Selectman Spataro opposed. Chairman Rullo abstained.

Jane Lopes addressed Board to clarify water restriction matter. It doesn't relate to how much water we have. It's for DEP to show that we are conserving water.

<u>Edgeway Rent Control Hearing</u>
Chairman opened Edgeway Rent Control hearing at 7:53 PM. Board's secretary read into the record the public hearing notice. Chairman announced that, because Park Owner, Corey W. Farcas, is ill this evening, his attorney Gerard Marsan would most likely ask to continue the hearing. Chairman requested Attorney Marsan to sign Notice of Appearance, which he did. Attorney Marsan addressed Board to announce that his client asked that he appear tonight to personally request that the hearing be continued as his client is ill. Attorney Marsan submitted tax returns, income & expense statements and an appraisal. Chairman requested secretary mark as Exhibits B1 through B3. Town

Manager asked Chairman to ask Attorney Marsan if he is available 5/23/11. Attorney Marsan responded that he has a trial two days later and would rather not be here. He

explained that he doesn't think it's appropriate as he is preparing witnesses for a trial that week with people from this Town. Selectman Frawley responded that, with all due respect, the folks at Edgeway have been waiting a long time and noted that the Board granted this continuance with Attorney Marsan's last minute request. Selectman Frawley offered that he thinks it's only fair if Attorney Marsan & his client make themselves available for the 23rd. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to continue the hearing to 5/23 at 7:30 PM.

Upon motion by Selectman Rullo and seconded by Selectman McKinnon, Board voted by Roll Call to go into Executive Session at 8:06 PM to discuss strategy relative to Pending Litigation and to return into Open Session. Roll Call: S. McKinnon, Yes; A. Frawley, Yes; S. McKinnon, Yes; B. Quelle, Yes; A. Rullo, Yes. Ended at 9 PM.

Tispaquin Family Campground Area Annual Application Hearing
Chairman opened public hearing at 9 PM on application by Tispaquin Family Campground Area for an annual permit. Barbara Holton addressed Board and noted the material she had submitted for the Board's packets. She wanted to read into the minutes the letter that she had written to Town Counsel, which she proceeded to do with the Chairman's permission. Discussion ensued. Catherine Hassett addressed Board and noted no improvements have been made year after year and though Mrs. Holton has hired an engineer, nothings been done yet. Ms. Hassett noted that the Health department would recommend denying the permit. The Holton's engineer George Collins of Collins Civil Engineering Group, Inc. addressed Board to propose an inspection of the campsite. He doesn't see any imminent health issues. He explained that it will take several months to inspect system the septic system and quantify what needs to be enlarged, upgraded, or brought up to code. He suggested that interim measures need to be implemented so they can continue to generate revenue to sustain the campground and move forward with potential work needed. Chairman noted that the business has been operating for a number of years in violation. Engineer Collins noted that he is also working with the KOA and attempted to share information relative to same, however, Chairman noted the KOA is not before the Board this evening and he would not entertain discussion on KOA at this time. Chairman noted that the Health department has informed the Board that the septic system is not designed with necessary capacity for number of camping units. Chairman asked Catherine Hassett if they've been approached about what the engineer is proposing/plans by the Holtons. She indicated that the engineer has spoken to Jeanne Spalding, but everything is preliminary, nothing definite. Selectman Frawley asked the engineer if it is in his opinion that the present system can handle the present number of units. Engineer responded that he doesn't have enough information to determine that. In response to question by Selectman McKinnon, engineer indication that he just began working with the Holton's last week. Selectman Spataro asked engineer what level of

review he has done if he's only been working on the project for, and indicate that there's no eminent danger. Engineer answered that the drinking water would show if there was a problem. There would be tell tale signs and there's no evidence that they've had any emergency pumping. Selectman McKinnon asked engineer if he's done Title V inspection or any inspection. Engineer responded that he had not. Sue Dube approached podium and asked engineer if he has tested the water. Engineer responded that it was tested monthly. He confirmed it is down gradient. Chairman asked to hear any further questions/comment. Hearing none, Chairman declared hearing closed. Motion made by Selectman McKinnon and seconded by Selectman Spataro, for discussion, to approve license as previously approved by Health department. Selectman Spataro asked if the Board would be willing to continue the hearing until Health Officer Jeanne Spalding could come in with definitive background information first.
Selectman Frawley assured the Holton's that this is a clean slate, is not a witch hunt, and is encouraged not only that they have their engineer here but are working towards rectifying the outstanding issues. However, he additionally noted that with that being said, their engineer can't tell the Board anything concrete and the Town's Health department tells the Board that the current septic system won't accommodate the number of camper units they presently have. He offered that he can't overrule that or support 100 campsites without any evidence that the system can support that. Chairman noted that the motion before the Board is to approve a license for 49 units and he has a problem with that because he lacks confidence that the Holton's will abide by the 49 units only. Barbara Holton offered that the KOA has failures and are using the engineer with replacements to be done in October and inspections along the way. Selectman Quelle noted that KOA is not before the Board. He recognized Mrs. Holton and asked her how many engineers she has hired. Barbara Holton responded that they had engineers in the '80's and again now. Selectman Quelle noted that it doesn't appear to be in the spirit of cooperation to have only consulted with engineers these two times, and yet, by her own admission, spent the last 28 years fighting the Town. On the motion: One in favor. Selectmen Spataro, Frawley, and Quelle opposed. Chairman abstained. Motion did not carry. Motion made by Selectman Spataro and seconded by Selectman Frawley, to continue hearing and request Jeanne come up with a list of what they need to do to improve their septic system. Selectman McKinnon asked why the Board would need the Health Officer to say what is needed when the engineer should be able to say. The engineer hasn't done any of the necessary calculations and inspections. He noted that Mrs. Holton has been before the Board for past few years and he questioned why it would be up to our Health Officer. Chairman offered that he doesn't want our Health Officer going out and getting an engineer to determine what the Holtons need to do.
Selectman Quelle reminded the Board that this is an application hearing with a simple yes or no answer required. He noted that the Health Officer met with him and indicated that this is a health issue and her department would not support this application at this time. Mrs. Holton pointed out to the Board that they just got out of court and learned she has to make adjustments. She offered that it was because she believed all along that she was going to win that she hadn't taken action through an engineer sooner. Motion did not

carry. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to deny permit for 113 units. Chairman declared hearing closed at 10 PM.

TOWN MANAGER'S REPORT
Upon motion by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to hold Town Clerk interviews on 5/16/11.

Town Manager noted draft Special & Annual Town Meeting Warrants within his report and noted that Board will review & vote for approval on 5/9/11.

Town Manager noted letter to Michael O'Brien offering him the position of Sanitation Department Refuse Collector/Operator, effective 4/29/11, pending a pre-employment physical and CDL drug and alcohol screening.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to declare the following DPW department vehicles as surplus:
1988 Chevrolet GMT 400 Pickup truck
1987 Chevrolet V30CON

Town Manager noted letter from Sheriff's office Assistant Superintendent of Law Enforcement James Muscato announcing that funding is no longer available to continue the operation of the Plymouth Bristol Emergency Alert/Notification System (also known as the Communicator), effective 7/1/11. Town Manager offered that he will find out more about it.

BILL
Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve payment of bill to Menders, Torrey & Spencer, Inc. for the removal of the Town Hall Cupola in the amount of $4,810.02.

CORRESPONDENCE
#2 Selectman Frawley questioned the significance of this insurance claim loss. Selectman McKinnon explained that the Board receives copies informationally.

#4 Selectman Frawley thanked the Finance Committee for providing budget information.

#6 Selectman Frawley noted correspondence from Ocean Spray and offered that he would support a TIF Agreement with them.

#7 Selectman Frawley offered that he would be happy to attend the Community Service Honoree's Luncheon on 5/15 at Lorenzo's Restaurant honoring George Andrade, Sr. & Marilyn Chammas.

#10 Selectman Frawley noted email from Sue Dube and asked if the Board has heard from the MG&E yet. Chairman responded that the Board had not, but that the two groups will get together, noting that, at the moment, there is a lot going on, including preparing for Town Meeting.

#10 Chairman Rullo offered his thanks to Sue Dube for submitting a significant amount of information.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted to adjourn meeting at 10:15 PM.

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Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN