TOWN OF MIDDLEBOROUGH OFFICIAL MEETING POSTING

NAME OF PUBLIC BODY: Board of Selectmen/Board of Health
DAY AND DATE OF MEETING: Monday, May 9, 2016
TIME OF MEETING: 7:00 PM
LOCATION OF MEETING (INCLUDING ADDRESS): Town Hall, 10 Nickerson Avenue
MEMBER OF PUBLIC BODY POSTING MEETING: Colleen Lieb, Acting Executive Assistant
POSTED BY TOWN CLERK'S OFFICE:
**FOR CANCELLATIONS*
MEMBER OF PUBLIC BODY CANCELLING MEETING: [Type text]
CANCELLATION POSTED BY TOWN CLERK'S OFFICE: *DATE*: *TIME*:

AMENDED AGENDA

1. **Pledge of Allegiance**
2. **Unanticipated**
3. **Announcements & Recognitions**
4. **Minutes:** May 2, 2016, May 27, 2015, October 5, 2015 and November 18, 2014
5. **Warrants:** Vote to authorize Chairman, or her designee, to sign Warrants for week ending May 7, 2016
6. **New Business:**
   a. Request from Middleborough Veterans' Council to approve Memorial Day Parade on Monday, May 30th at 10 AM and to hold the annual Memorial Day Ceremony at the Veteran's Memorial Park at the conclusion of the parade.
   b. Request from Middleborough Veteran's Council on behalf of the John F. Glass VFW Post #2188 to hold their annual poppy drive from May 26th through May 30th.
   c. Vote to grant permission to keep the Town Manager on the School Committee Negotiations Subcommittee.
   d. Request from Mitchell Memorial Club to modify existing Liquor License to include upper and lower parking lots for outside functions.
   e. Vote to appoint a designee to the SRPEDD Commission.
   f. Electric Vehicles Grant – Evan Melillo
   g. Vote to reappoint Norman Diegoli to the Zoning Board of Appeals with a term to expire June 2021.
   h. Vote to appoint Jack Healey 2nd Associate Member to the Zoning Board of Appeals.
   i. Amelia Tracy – 17 Jericho Road – Pole Relocation Discussion & Plantings
7. **Hearings, Meetings, Licenses**
   7:30 PM **NEW Pole Hearing** – Relocate Pole 63 on West Grove Street
   7:35 PM **NEW Pole Hearing -** Install Pole 88 ½ West Grove Street
   7:40 PM **NEW Pole Hearing** – Relocate Poles 87 & 88 West Grove Street
   7:45 PM **NEW Pole Hearing -** Install Two Poles 85S & 86S Everett Street
   7:48 PM WRPD – Public hearing – Application made by B&T Realty Trust for property located at Benson Street, Map 100, Lot 4025 (continued from May 2, 2016)
   8:10 PM Earth Removal Permit – Application made by Fuller Street Development LLC for property located at Fuller Street, Map 024, Lot 5555 & Map 033, Lot 686 (continued from April 19, 2016)
   Vote to extend existing Earth Removal Permit for Fuller Street Development.
   8:16 PM Earth Removal Permit – Application made by W.L. Byrne for property located at Chestnut Street, Map 062, Lot 2726 (continued from April 11, 2016)
   Vote to extend existing Earth Removal Permit for W.L. Byrne.
   8:30 PM WRPD – Public hearing – Application made by the Town of Middleborough, for property located off 55 Plain Street, Map 013, Lot 6384 (continued from May 2, 2016)
   8:45 PM Hearing - 88 River Street Nuisance, Source of Filth and/or Cause of Sickness Injurious to the Public Health. (continued from May 2, 2016)
8. **Town Manager's Report**
   a. Police Station Building Project
      - Update
   b. Online Permitting
9. **Correspondence**
10. **Adjourn**

Board of Selectmen **May 9, 2016**
Meeting Minutes

Chairman Stewart opened the meeting at 7:02 PM and asked everyone present to join her in the Pledge of Allegiance.

In attendance were: Selectman A. Frawley, L. Dalpe, J. Knowlton, D. Stewart and S. McKinnon; Bob Nunes, Town Manager and Acting Executive Assistant, Colleen Lieb

UNANTICIPATED

R. Geoffroy, Planning Director, requested the Board hold an Emergency Executive Session either tonight or in the next 48 hours for the purpose of discussion property acquisition at Woloski Park. There is an issue that has come up with one of the houses that is going up for auction.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to hold an Emergency Executive Session tonight at 8:11 PM.

ANNOUNCMENTS AND RECOGNITIONS

Selectman Frawley spoke on the Annual River Race to be held May 14, 2016 at Bridge Street. Proceeds go to various Park Department programs.

Selectman Dalpe spoke about the COA Volunteer Dinner and thanks all the volunteers that make up thousands of hours of work. If anyone is interested in volunteering, the COA is looking for Meals on Wheels drivers.

Selectman Dalpe spoke about the Ghost Tours and how to purchase online.

Selectman McKinnon talks about the upcoming Bulky Waste Collection day. He also speaks on the upcoming Litter Lifters.

Arthur Battistini speaks on the upcoming Annual Meeting of the Friends of the Middleborough Cemeteries. He also inquired on the status of the records request. Chairman Stewart noted those were received and will be forwarded to Selectman Dalpe to forward to the Tourism Committee.

Rich Young, School Committee Chairman, referenced the press release from the Police Chief and commended him and his detectives on their hard work in finding the individual.

Brian Giovanoni, School Committee, spoke about the upcoming School Committee meeting that will be held on Thursday, 6:30 PM at the Nichols Middles School and is open to the public.

MINUTES

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to approve the May 2, 2016 regular meeting minutes as presented.

Selectman Knowlton speaks about the need for more detail in the minutes that have Executive Sessions. These will be held and reworked. Chairman Stewart asked the members who want to rework the minutes provide detail to the Assistant by Wednesday and if there is no further information than they can be presented for approval.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon, the Board voted unanimously to approve the May 27, 2015 regular meeting minutes as presented.

WARRANTS

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to approve and authorize the Chairman, as a designee to sign the warrants for the week ending May 7, 2016.

NEW BUSINESS

Paul Provencher, Veteran's Agent is present for the discussion.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley the Board voted unanimously to approve the request from the Veteran's Council to approve Memorial Day Parade and route to be held on Monday, May 30th from 10 AM and further moved to hold the annual Memorial Day Ceremony at the Veteran's Memorial Park at the conclusion of the parade.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to approve the request from the Veteran's Council on behalf of the John F. Glass VPW Post #2188 to hold their annual poppy drive from May 26th through May 30th.

Rich Young, School Committee Chairman is present for the discussion.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to grant permission to keep the Town manager on the School Committee Negotiations Subcommittee.

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to approve the request from the Mitchel Memorial Club to modify the existing liquor license to include upper and lower parking lots for outside functions.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted unanimously to reappoint Selectman McKinnon as the Board's designee to the SRPEDD Commission.

Evan Melillo, Assistant to the Town Manager, is present for the discussion. Evan presented to the Board how applying for several electric vehicle grants will benefit the Town. The Board asks questions on the presentation. Evan noted that he has spoken to both the Police Chief and the Fire Chief and they have agreed to try the electric vehicles. There was discussion on charging stations and what their installation requirements are.

Upon motion made by Selectman Frawley and seconded by Selectman Dalpe the Board voted unanimously to allow the Town to apply for the grants to receive the all-electric vehicles.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted unanimously to reappoint Norman Diegoli to the Zoning Board of Appeals with a term to expire June 30, 2021.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted to appoint John F. Healey as the 2nd Associate Member to the Zoning Board of Appeals with a term to expire June 30, 2021.

Amelia Tracy – 17 Jericho Road – Pole Relocation Discussion & Plantings
Chairman Stewart explained to Ms. Tracy that the Pole Relocation has been continued to June 6, 2016 and cannot be discussed any sooner than that date.

Amelia Tracy spoke to the Board about the plantings that were installed and provided pictures of the work. She noted that Nextsun is 95% done with the plantings. Selectman McKinnon pointed out to Ms. Tracy that she did not email him as she had agreed to do so, regarding Mr. Mederios and his property. Ms. Tracy agreed that she did not email Selectman McKinnon as requested. It is noted that Mr. Mederios is happy with the work.

Amelia Tracy acknowledged that they cannot discuss the pole relocation that has been continued to June 6, 2016 so she would like to seek permission to an alternative proposal and no longer move forward with the June 6th hearing. Chairman Stewart explained that the Board cannot authorize alternative options; they do not have the authority to do so. Bill Taylor expressed concern with the alternate plan as it relates to an "aerial right-of-way". The Board members present agree not to act on the alternative proposal.

HEARINGS, MEETINGS & LICENSES
Bill Taylor is present for all the Pole Hearing discussions.

Pole Hearing – Relocate Pole 63 on West Grove Street
Chairman Stewart read the legal notice and opened the hearing. Bill Taylor explained the proposal to relocate the pole 63 at the Cranberry Village Apartments. Chairman Stewart asked if there were any questions or comments. There are none.

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

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to approve the request to relocated Pole 63 as presented.

Pole Hearing – Install Pole 88 ½ West Grove Street
Chairman Stewart read the legal notice and opened the hearing. Bill Taylor explained the request for a new pole to accommodate the bridge project. Chairman Stewart opened the hearing up for public comment. There is no comment.

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

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to approve the request to install Pole 88½ West Grove Street as presented.

Pole Hearing – Relocate Poles 87 & 88 West Grove Street
Chairman Stewart read the legal notice and opened the hearing. Bill Taylor explained the request to relocate Poles 87 and 88 as it relates to the bridge project. Chairman Stewart opened the hearing up for public comment. There is no comment.

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

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to approve the request to relocated Poles 87 & 88 as presented.

Pole Hearing – Install Two Poles 85S & 86S Everett Street
Chairman Stewart read the legal notice and opened the hearing. Bill Taylor explained the request to install two Poles 85S and 86S on Everett Street. Chairman Stewart opened the hearing up for public comment. There is no comment.

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

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to approve the installation of two Poles 85S & 86S as presented.

WRPD – Benson Street, map 100, Lot 4025
Jason Youngquist, Outback Engineering is present for the discussion. Chairman Stewart opened the continued hearing. Jason Youngquist referenced the final sign off letter from Atlantic Design. There is a brief discussion on the two recommendations made by Atlantic Design.

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

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

Motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously that it finds that the proposed use:

a. Is in harmony with the purpose and intent of the WRPD By-law and will promote the purposes of the Water Resource Protection Districts.
b. Is appropriate to the natural topography, soils and other characteristics of the site to be developed.
c. Will not, during construction or thereafter, have an adverse environmental impact on the aquifer, recharge areas, water resources of the Town.
d. Will not adversely affect any existing or potential water supply.

It was further voted unanimously to grant a special permit to allow for a portion of the proposed driveway to be located within the 25' buffer to the bordering vegetated wetlands. Driveway is for a proposed single family home based on recommendations by the Conservation Commission as requested in the applicant's application under the Water Resource Protection District By-law pursuant to Section 8.2.7 WRPD Z4, based on the plans titled 'Wetland Crossing Plan at Benson Street in Middleborough MA" for B&T Realty Trust, P.O. Box 265, Middleborough, MA, Assessor's Map 100, Lot 4025, prepared by Outback Engineering, dated November 3, 2015, with the following conditions:

1. The Board requests a copy of the Order of Conditions or other correspondence for the Conservation Commission should be provided to the Board; and
2. The Board requires some sort of permanent visual barrier (fence, vegetation, signs, etc.) at the limit of the 25ft no disturb zone to prevent further/future encroachment onto it.

<u>Earth Removal Permit - Fuller Street, Map 024, Lot 5555 & Map 033, Lot686</u>
Chairman Stewart opened the continued hearing. Fred Storch, Fuller Street Resident, referenced his letter to the Board and asked if he would have a chance to speak at the next hearing. Chairman Stewart confirms he can. Mr. Storch introduced his neighbor who also would like to speak at the next hearing.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted unanimously to continue the hearing for the Earth Removal Permit for Fuller Street Development for property located at Fuller Street to May 23, 2016 at 7:40 PM.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to extend the expiration date of the existing Earth Removal Permit for the Fuller Street Development to May 23, 2016.

EXECUTIVE SESSION
Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted at 8:11 PM to enter into Executive Session to return to Open Session for the purposes of

discussion a land acquisition that would be detrimental to the Town if discussed in Open Session. Polled vote: A. Frawley - Aye, L. Dalpe - Aye, J. Knowlton - Aye, D. Stewart - Aye and S. McKinnon – Aye

At 8:50 PM the Board of Selectmen returned to Open Session.

Upon motion made by Selectman McKinnon and seconded by Selectman Frawley the Board voted unanimously to hold an Emergency Executive Session on Wednesday, May 11, 2016 at 5 PM for the purpose of discussing a land acquisition that would be detrimental to the Town if discussed in open session.

HEARINGS, MEETINGS & LICENSES (continued)

Earth Removal Permit – Application made by W.L. Byrne for property located at Chestnut Street, Map 062, Lot 2726

Chairman Stewart opens the hearing and notes the applicant has requested a continuance and an extension of the existing permit as the project is pending comment from the peer review.

Upon motion made by Selectman Dalpe and seconded by Selectman Frawley the Board voted unanimously to continue the hearing for the Earth Removal Permit for W.L. Byrne for property located at Chestnut Street to May 23, 2016 at 7:50 PM.

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to extend the expiration date of the existing Earth Removal Permit for W.L. Byrne to May 23, 2016.

WRPD – Town of Middleborough for property located off 55 Plain Street, Map 013, Lot 6384

Chairman Stewart opens the hearing and notes the applicant has requested a continuance to allow for Conservation Commission review.

Upon motion made Selectman Frawley and seconded by Selectman Dalpe the Board voted unanimously to continue the WPRD hearing for the Town of Middleborough for property located off 55 Plain Street to June 6, 2016 at 7:30 PM.

Hearing - 88 River Street Nuisance, Source of Filth and/or Cause of Sickness Injurious to the Public Health

Chairman Stewart opened the continued hearing.

At 9:03 PM Selectman Frawley stepped down from the Board for the discussion.

Chairman Stewart asked that anyone who is planning to testify to stand up, raise their right hands and be sworn in. She asked do you solemnly swear to testify to the truth, the whole truth and nothing but the truth. Those who stood said they do.

Donald Cooper, Nixon Peabody, explained that his firm is representing Ron High and A Plus at the hearing tonight. He presented to the Board a document dated May 9, 2016 RE: "In the Matter of 88 River Street, Middleborough submission of A-Plus Waste & Recycling Services, LLC."

Upon motion made by Selectman Dalpe and seconded by Selectman McKinnon the Board voted unanimously to accept the presented document into the record.

Selectman McKinnon requested that the documents be scanned and sent to the residents and any other parties involved in the matter.

Mr. Cooper referenced the affidavit that attests to the facts in the statement. He noted that Tab A is a schematic of all the "windrows" of the site, they are individually numbered and are shown as green ovals. Tab B is the "windrow" temperature monitoring log, He noted that Mr. High would say that this is a key document as they monitor the temperature of the "wind rows" which has to be maintained. Since the UAO has been put into place by DEP the requirement to monitor temperature has been greatly increased from the standards in the industry. Tab C is an activity log for the business that has been in place since the UAO. A Plus has only turned the "windrows" when they are directed to only. Mr. Cooper referenced the notations that there was no "windrow" activity when the wind direction is toward River Street. Under the UAO they cannot start activities if the wind is in that direction and if activities are in progress when the wind changes the activities stop. Tab D is the prior notice of activities that A Plus is required to provide to DEP on any work to be done. Mr. Cooper spoke about the emails and noted that A Plus is in close contact with DEP on any activity.

Mr. Cooper stated that the Boards jurisdiction is over whether or not there is odor at the site currently. He referenced the Chairman's previous action at the hearing and expresses his hope that the hearing stays similarly focused on that issue. He states the question as to whether there is an ongoing nuisance with the site since the UAO. He says that there is not discussion on whether this was the case in 2013, 2014 or 2015. Since the issuance of the UAO Order on March 23, 2016 A Plus has been operating under that UAO. It is part of the record already. Mr. Cooper summited that regardless of what may or may not have been smelled prior to the UAO there is not a nuisance situation currently, therefore he feels that this Board should find that there is no nuisance and take no action on this at this time. He further referenced the MGL that A Plus must operate under and as such specific regulations that are applicable to A Plus are enforceable by DEP and not by the Board of Selectmen. He states that A Plus objects to this procedure as it is outside of this Board's scope because its composting activities are subject to DEP jurisdiction. He also stated that his firm is dealing also with a private suit that happened on March 26, 2016 by several neighbors. They are also representing A Plus in the enforcement action with the Attorney General's office in regard to the UAO. He states that even it was the same situation prior to March, not that he is saying that it was, the UAO is what is important now. The UAO has stopped new organics from coming into the site and haven't been for six weeks. He noted that the rules in which A Plus has to operate are very strict and that his client is taking measures to stop odors and comply with DEP standards.

Mr. Cooper noted that he is on the Conservation Commission in his Town and he uses the example of the group trying to determine what the next step should be, the one where you ask the experts. He asked who that expert would be. He answered that it would be DEP, who is in charge of composting operations in the State. If the Board orders something that is not consistent with the DEP he will be forced to go to court to sort the matter out.

Chairman Stewart clarifies that the hearing is being held under the Board of Health statues. Mr. Cooper states that he understands that. Mr. Cooper further explains that the DEP has ordered everything that they possibly can be done to abate orders so there is nothing for this Board to do. He noted that the material that is onsite must be managed and that is what DEP is handling currently.

Mr. Cooper notes two items. The first is that A Plus was unable to retain an attorney to represent him on this matter due to the Board's objecting to the length of time it would take for him to find a local attorney. Mr. Cooper is present and representing the client but he still objects to not being allowed to find a local attorney. Chairman Stewart acknowledges this for the record and states that Mr. High stated that he needed 20 days to get an attorney but did not provide any specific reason for the request. Mr. Cooper stated that it was his understanding that the letter specifically mentioned the need to find local representation. The second item is to point out that one of the members of the Board of Selectmen was compromised not only his status to sit on the panel because of public statements made to a radio and the press. They disqualify him to participate and it also disqualifies the Board for hearing the matter because they could be unduly influenced by his opinion. He urges the Board to take no action on this matter.

Ron High, A Plus Waste, introduced himself to the Board and stated that he currently manages the A Plus Waste operation at 88 River Street. He noted that he is present with his wife, Rebecca, his Director of Compliance, Lou Tasiopoulos. He would like to talk about the history of the property and provide an overview of some of things they are doing differently since the UAO was issued on March 23, 2016.

Ron explained that he and Rebecca have six children; they are ages from 3 years old up to 15 years old. He was taught by his parents and coaches about character and to work hard, be honest, be fair and things will prevail in the future. He noted that his children are at the facility quite often. His children work with him on the weekends. He noted that his youngest daughter is with him one if not two days per week on the site due to daycare restrictions. He has never once had any of his children complain about being nauseous, vomiting, bloody noses, having burning eyes or throat and they do work outside, play in the woods, swim in the river and spend a lot of time there.

Ron spoke about the history of the site, which is in an industrial zoned section of Town. It was previously a brick factory, built in the late 1960's when it was abandoned in 1990. He came across it in 2004, and because of he does have children, he as concerned with the environment so he put together a team that could acquire and remediate the existing environmental issues at that time. The property at that time was an extreme environmental concern in the neighborhood and

in the Town. In January of 2008 they began the environmental cleanup, five months prior to A Plus Waste and Recycling purchasing the property in May of 2008. He pushed forward to begin the work because the project was that important to him. He noted that they spent four years doing the physical part of the cleanup, which is all documented with different state and local agencies. He noted that even up until today there is ongoing monitoring of the site with wells and checking on the status of the environmental plan.

Mr. High spoke about how A Plus Waste began composting at the site in 2010 and then in 2014 they started receiving Group 2 Organics. He explained that he would like to speak on the activities after March 23, 2016 since he has pending litigation his unable to comment on anything prior to that. He stated that on March 23, 2016 DEP issues the UAO and it had a dramatic and immediate effect on not only the business but on his immediately and extended family. He states that they are doing everything possible to remedy the situation with DEP and to make it a much better harmonious environment for the entire neighborhood.

Mr. High spoke about how A Plus Waste is not receiving any new organic material on site. He noted that they have not received any since March 23, 2016. As of April 15, 2016 under the supervision of DEP we are allowed to start to sell finished product on the site. We are in daily communication with DEP about the activities on the site. The number one priority, even though they are closed at this time, is the safety of the site. The material on site has to be managed to prevent nuisance odors and catching fire.

Mr. High spoke about the testing equipment that has been implemented to test odors. He refers to a piece of equipment called a "nasal ranger" or a field olfactory monitoring system. He noted they evaluating enhanced weather stations to monitor the wind, this would be put up on River Street. He spoke about the shifting winds and that they cannot do any activity when there is a north, north-west wind blowing toward the residents on River Street. Currently there is only activity allowed when there is a south to south-west wind. He explained that if they start working and the wind suddenly changes they have to cease their operation. He spoke about an odor neutralizing agent that they have been using. He clarifies that this is not an odor masking agent but an odor neutralizing agent. This can be used on specific areas where odor is detected. Another practice they are doing is to cover the piles with a carbon blanket, which is five inches of finished material right on the source of the areas identified. They are looking into an electronic message system that neighbors can access if there are possible nuisance issues on River Street and what their response plan is.

Chairman Stewart asked Mr. High about the odor neutralizing agent and asked for further explanation. Mr. High explained it is Bioworld and he can provide the documentation to the Board. Chairman Stewart asked when Mr. High brought in equipment to test for odors. Mr. High said that they purchased the nasal ranger the week after March 23, 2016. Chairman Stewart asked how that is working.

Lou Tasiopoulos, Director of Compliance at A Plus Waste, explained the nasal ranger as something that identifies odors. It has a tight seal around the mouth and you inhale ten times.

He noted that they take two readings, one reading when the work is being completed and a second reading up the street and sometimes a third reading further up the street. He further explained the nasal ranger as being able to reduce the smell down to a specific smell and noted there is a dial on the side. The dial is used to narrow the smell. He explained that since they have be utilizing the device they have not had a reading above a "2". This is out of 7 in total then it goes down to 4, then 2 and then 0. They monitor it daily, once at 9 AM and once at 4 PM.

Chairman Stewart asked Mr. Tasiopoulos if he has taken readings on the days when the piles were being turned. He states that he does. She asked if he takes the reading right when the piles are turned. He confirmed that he does and if there is even a slight smell the work stops. He is being very respectful of that.

Chairman Stewart confirmed Mr. High's statement that he began composting in 2010. Mr. High answered yes. Chairman Stewart asked what materials he was bringing in at that time. Mr. High answered similar materials and then deferred back to the pending litigation and not commenting on anything prior to March 23, 2016. Chairman Stewart clarifies with Mr. High that he is not going to comment on anything prior to March 23, 2016. Mr. High said just composting ma'am.

Chairman Stewart asked Mr. High how many piles he has on the site today. Mr. High said thirty windrows ma'am. Chairman Stewart asked what the sizes of the piles are. Mr. High refers to the dimensions noted in the exhibit. He explained that none of the piles are higher than 12ft and that DEP was onsite and took complete measurements of all the windrows. Chairman Stewart asked when he was in compliance with the piles. Mr. High explained how from March 2, 2016 on they have been compliant with the width and height requirement for the windrows. He confirms that they exceed the required height prior to March 2, 2016.

Chairman Stewart asked Mr. High what are the materials in the piles. Mr. High said leave, yard waste and Group 2 organics. Chairman Stewart asked what Group two organics is. Mr. High explained that Mass DEP defines Group 2 organics as food, vegetative materials and manures. Chairman Stewart asked what percentage is Group 2 and what percentage are leaf and yard waste. Mr. High said that he doesn't know the number off the top of his head and that he will have to look in the database. Mr. High referenced the annual composting report that is filed online and it is a public document.

Chairman Stewart asked Mr. High prior to March 23, 2016 how often he was turning windrows. Mr. High said, once again, that he will only comment on items after the March 23, 2016 date. He said that today they are not turning windrows unless the temperature is over 150 degrees and they have to notify the DEP, Town of Middleboro, Town of Halifax and the Middleboro Fire Chief.

Chairman Stewart asked Attorney Cooper if he has any case law that says that the Board of Selectmen can't consider evidence prior to March 23, 2016. She explained that the Board has already taken testimony. Attorney Cooper spoke about the Board's jurisdiction and respectfully suggests that if they are going to make a finding on nuisance odor it needs to be recent as in the

last six to eight weeks. Chairman Stewart asked for a legal brief on the matter and Attorney Cooper agrees to provide one.

Chairman Stewart asked Mr. High that if he is going to turn the windrows what method is used to do that and how long does it take. Mr. High answered that they use excavator, loader, bulldozer and how long it takes depends on the size of the windrow. Chairman Stewart asked Mr. High to take her through the turning of windrow #1. Mr. High said that they scoop five yards at a time, the machine gets on top of the windrow and shifts the pile ten feet and then brings it back ten feet, fluffs the pile and aerating it. This takes approximately 2-3 hours. Chairman Stewart asked if he only has one pile of finished material on the site. Mr. High says that there are two piles of finished material. Chairman Stewart asked how many cubic yards is there of finished material. Mr. High answered 12,000 cubic yards. Chairman Stewart asked if they currently have an Odor Management Plan. Mr. High said yes and they will provide a copy of the plan. They have a 2016 plan.

Chairman Stewart opened the hearing up for Board comment.

Selectman Knowlton asked Mr. High if he currently has any other businesses or locations besides the River Street operation. Mr. High said that this is his business, his only operation. Selectman Knowlton confirmed that they do not have any activity when the wind is blowing. Mr. High explained that if they are working and the wind suddenly picks up from the north, north-east they will cease working. Selectman Knowlton asked Mr. High for clarification on the bioworld neutralizing agent and when it is used. Mr. Tasiopoulos spoke about how the neutralizing agent is used as they turn the piles. He estimates it has been used 20-25 piles.

Selectman Dalpe referenced the email complaints and noted that the Town continues to go out there and investigate the smells and they are still happening. Chairman Stewart confirms that all the issues were brought into compliance after the March 23, 2016 date. They did a full onsite inspection on March 2, 2016 and it is an understanding that A Plus Waste is appealing that order. Mr. High said yes they are negotiating with DEP on the matter. Selectman Dalpe asked how he envisions this ending for his company. Mr. High thinks that ultimately it will come back to DEP and us abiding by the rules that are imposed. His company is closed and he has been fined. He says that he hopes to work with the residents to resolve the matter.

Selectman McKinnon asked Mr. High if he has ever operated a composting facility prior to starting the one on River Street. Mr. High says no that he has been involved in solid waste since 2000.

Chairman Stewart requested the records of the material that was coming in prior to March 23, 2016. Attorney Cooper agrees to provide the materials.

Chairman Stewart opened the hearing up for additional resident testimony.

Rich Medeiros, 87 River Street, says that there is lot of issue with odor at the sight. He states that the odor has caused health issues and made his family sick. He speaks about his stress level which has increased due to the issues with the facility. He feels there is no need for it; he would like to be left alone. Chairman Stewart asked him to describe the odor he has experienced in the last 6-7 weeks or prior to that. He says odor is subjective. She asked what he smells. Mr. Medeiros explained that he works in produce and that he has smelled tons of rotten produce and the smell from the facility is more disgusting than that. Chairman Stewart asked him when the last time he noticed odor was. He said that afternoon when he was out mowing his lawn, the wind blew and it was bad. Chairman Stewart asked if he or his family had experienced headaches or other physiological issues. Mr. Medeiros speaks of family members who visited at Easter 2016 and were complaining of headaches. He says that it has been horrible.

Selectman McKinnon noted that he will ask each resident who testifies if they have received an email address and a phone number to contact about odor complaints. Mr. Medeiros confirmed he has received the email information.

Anthony Capilli, 14 Thompson Street, Halifax, testified that he purchased his home in 2011 and said occasionally there would be odor. He said that in the last year the smell has been really bad. He said that after the implementation of the UAO, was a Friday in April, he took his daughter outside to play and they couldn't stay outside for five minutes. He explained that he had to take her to a park in Halifax. He said that the smell is a light sour garbage smell and on the really bad days it's a powerful composting smell. It is bad. He says that he is in the south southwest direction they get the smell. Chairman Stewart asked if he knows how far his property is from the facility. Mr. Capilli says he saw it on a diagram once and thinks its 800ft.

Selectman McKinnon noted that he will ask each resident who testifies if they have received an email address and a phone number to contact about odor complaints. Mr. Capilli confirmed he has received the email information.

Shawn Vance, 11 Thompson Street, Halifax, expressed concerned about hearing how when the wind changes the activity in the facility has to stop because of the odor and points out that he lives in the south south-west area and would like them to stop working so the odor does not come their direction either. There are eight or nine houses in that area that do not want to smell that in their direction. His family loves the country and the kids want to play outside and they can't. They tell him it stinks. Chairman Stewart asked Mr. Vance to describe the smell, how long they last. Mr. Vance explains that since the UAO he has not been putting in complaints because he thought the DEP was notifying them that it would smell. He will not report the odors when he smells them.

Mr. Vance spoke about the construction of his house and how it is able to adequately keep the smell out. He would like to be able to open his windows in the summertime. He spoke about last summer and one day in particular when there was a smell in his home. They checked the garbage disposal and found nothing. They opened their door and were hit with a wall of bad

odor and it was seeping into the house. He estimates they are 1600ft away. He says that the smell can sit there for 2-3 hours or hang in early morning.

Selectman McKinnon noted that he will ask each resident who testifies if they have received an email address and a phone number to contact about odor complaints. Mr. Vance confirmed he has received the email information.

Sarah Robbins, 103 River Street, expressed her concern with the masking agent that is being used to treat the piles added to the chemicals and bi-products that are going into the air. She expressed concern with the bacteria traveling in the air and getting into their homes that they are breathing every day. She talks about being a stay-at-home mom that more times than not has to leave her home because the smell is so over powering. She explained that she is west of the property. She said that the smell is like a dumpster. She will immediately get a headache and nausea from the odor. She moved into her neighborhood in April of 2014 and smelled the odor immediately. She said that the smell has let up in the past few weeks because there are no new materials being brought in and the masking agent is being used. She expressed concern that if he opens his operation back up, regardless of all the steps taken, the smells will return.

Chairman Stewart asked how often she has smelled the smell over the last 6-7 weeks. Ms. Robbins said that she has smelled the smell ten times and that when it is really windy the odor doesn't stay long. Chairman Stewart asked how often she smelled the smell prior to March 23, 2016. Ms. Robbins said she would smell the smell every day and it would hang in the air for a while. Usually a few hours. Chairman Stewart asked when the last time she smelled the smell was. Ms. Robbins said today. That around 9-10 am she could smell the odor and knew it was going to be a warm day, so she went to a friend's house. She stated that she has to leave her home because the smell was so bad.

Selectman McKinnon asked if she has received an email address and a phone number to contact about odor complaints. Ms. Robbins confirmed she has received the email information.

Joe Padula, 25 Thompson Street, explained that he has a tree buffer and he isn't that close to the property but every once in a while he does get a smell. He tells the story that he was visiting his neighbor, the operation was closed and they weren't turning any windrows. He was having a good time, they were having a beer and chatting when suddenly the wind changed direction and then he had to leave because the smell was that bad. Chairman Stewart asked if he remembered when that incident occurred. Mr. Padula thinks it was November or December of 2015.

Robert Buker, Health Officer, testified that he was at the 88 River Street property was a Frodau within the last two weeks, it was 11 AM and at that time there was no odor. Chairman Stewart asked Mr. Buker if prior to that had he been out to the site. He said yes. Chairman Stewart asked him if when he was there did he notice an odor. He said yes. Mr. Buker testified that every time he has gone to the River Street property there is a noticeable odor. He says that most of the time the odor is like a sour garbage smell. He explained that when he would put himself in areas at a distance in the direct wind it was sustained but when he went to other properties at

various places in the neighborhood it would be intermittent. He said that sometimes it would be strong and sometimes faint. Chairman Stewart referenced previous resident testimony about material in the roadway that fell from a truck coming out of the 88 River Street facility; she asked if he had witnessed the material. Mr. Buker confirmed that he saw the track marks coming from Auburn Street leading up to the 400 to 500 ft up and down the road. Chairman Stewart asked if it was the same odor from the facility. Mr. Buker could not be sure.

Chairman Stewart asked Mr. Buker if he has received any resident complains in the last 6-7 weeks and if so how many. Mr. Buker said that he has received an average of 3 to 4 complaints a day from residents that in the vicinity of the property.

Selectman Knowlton asked Mr. Buker if is familiar with the updated odor abatement plan. Mr. Buker says that he is not. He states that the most recent was he has seen is 2013 or 2014. He has not seen the most recent version.

Mr. Buker presented a memo to the Zoning Board that was written by the previous health agent, Jeanne Spaulding regarding the 88 River Street facility. He presented a copy of the memo to the Board for the record.

Upon motion made by Selectman Dalpe and seconded by Selectman Knowlton the Board voted unanimously to accept into the record a memo from Jeanne Spaulding Health Agent to the Zoning Board regarding the 88 River Street property dated September 2013.

Jared Tracy, 84 River Street, spoke in regards to the odor at 88 River Street, he has had animals on his property, long before A Plus Waste and odor was never an issue. The facility opened and whenever there was an odor issue, the finger was pointed at his livestock so he moved his livestock to another location and the smell has not gone away. The odor is unbearable. Chairman Stewart asked what the smell is like. Mr. Tracy explained that it's a pungent odor almost like rotten garbage.

Chairman Stewart reported that Town Counsel had received a call today from the Attorney General's Office to say that they were going to send down some documents related to this hearing so based on that she is recommending a motion to continue the hearing to May 23rd.

Upon motion made by Selectman Frawley and seconded by Selectman McKinnon the Board voted unanimously to continue the 88 River Street Nuisance, Source of Filth and/or Cause of Sickness Injurious to the Public Health hearing to May 23, 2016 at 8:00 PM.

TOWN MANAGER'S REPORT

The Town Manager reported that the Police Station Building Committee will be holding an information meeting and onsite relative to the project. The site walk will be held on May 18, 2016 at 10 AM. He noted that so far nineteen firms have expressed interest. The Town Manager also reported that online permitting is moving forward in the Building Department.

CORRESPONDENCE

There was no correspondence referenced.

ADJOURNMENT

Upon motion made by Selectman McKinnon and seconded by Selectman Dalpe the Board voted unanimously to adjourn at 10:30 PM.