Middleborough Board of Selectmen **June 7, 2010**
Meeting Minutes

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve a One-day Wines & Malt Beverages liquor license for Muckey's Liquors for 6/15/10 and 6/18/10 from 1 PM until 10 PM at Oak Point Club House, 200 Oak Point Drive, Middleborough.

Upon motion by Selectman Spataro and seconded by Selectman Rullo, Board voted unanimously to support Annual Town Meeting Article 14 (attached).

Upon motion by Selectman Spataro and seconded by Selectman Rullo, Board voted unanimously to table Annual Town Meeting Article 20 (attached).

Upon motion by Selectman Spataro and seconded by Selectman Rullo, Board voted unanimously to deny request from LaRouche group wishing to present a resolution for the Board's consideration as the matter is not a local government issue.

Chairwoman Brunelle announced the new award of the Boston Post Cane. It will be presented to Muriel V. Howard on Sunday at the Hannah B. Shaw Nursing Home.

Upon motion by Selectman McKinnon and seconded by Selectwoman Duphily, Board voted unanimously to adjourn meeting at 6:45 PM and to reconvene at 7:00 PM at the Special Town Meeting.

Upon motion by Selectman McKinnon and seconded by Selectwoman Duphily, Board voted unanimously to adjourn meeting at 10:45 PM at the close of Annual Town Meeting.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

WARRANT FOR SPECIAL TOWN MEETING

Middleborough, Massachusetts

To Bruce Gates, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the **Auditorium of the Middleborough High School**, on **Monday, May 17, 2010 at 7:00 P.M.**, to act on the following articles:

ARTICLE 1. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source, to supplement and/or adjust departmental budgets for Fiscal Year 2010, or act anything thereon.

ARTICLE 2. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, the Wastewater Enterprise Unreserved/Retained Earnings account or other available source, to supplement and/or adjust departmental budgets for Fiscal Year 2010, or act anything thereon.

ARTICLE 3. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, the Water Enterprise Development account, the Water Unreserved/Retained Earnings Account, or other available source, to supplement and/or adjust departmental budgets for Fiscal Year 2010, or act anything thereon.

ARTICLE 4. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source for unpaid bills from prior years, or act anything thereon.

ARTICLE 5. To see if the Town will vote to raise and appropriate and/or transfer a sum of money of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, the Wastewater Enterprise Unreserved/Retained Earnings account, or other available source to fund sick leave buy-backs or act anything thereon.

ARTICLE 6. To see if the Town will vote to accept the provisions of General Laws, Chapter 44, Section 53F ½ and establish an Enterprise Fund for the Rubbish/Trash Collection, Removal and Disposal Division of the Department of Public Works in accordance with said Section 53F ½ for Fiscal Year 2011 and subsequent years, or act anything thereon.

ARTICLE 7. To see if the Town will vote to accept G.L. c. 64L, s. 2(a) and to impose a local sales tax upon the sale of restaurant meals originating within the Town by a vendor at the rate of 0.75 percent of the gross receipts of the vendor from the sale of restaurant meals, or act anything thereon.

Given, under our hands at Middleborough, this 21st day of April, 2010.

BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the **29th day of April, 2010**, that date being more than fourteen days before the time specified for said meeting.

BRUCE GATES
Police Chief

ANNUAL MEETING WARRANT

Middleborough, Massachusetts

To Bruce Gates, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the **Auditorium of the Middleborough High School**, on **Monday, May 17, 2010, at 7:30 P.M.**, to act on the following articles:

ARTICLE 1. To hear the report of any committee or officer of the Town, to appoint any committee, or act anything thereon.

ARTICLE 2. To see if the Town will vote to raise and appropriate a sum of money by taxation or from available funds in the treasury to defray expenses of the Town for the fiscal year beginning on July 1, 2010, relating to all or any of its officers, boards or departments and for purposes authorized by law, to vote to fix the salary and compensation of all elected officers, or act anything thereon.

ARTICLE 3. To see if the Town will vote to transfer from the income from the sales of gas and electricity for the purpose of fixing the tax rate a sum of money to the Assessors for the purpose of fixing the tax rate for Fiscal Year 2011, or act anything thereon.

ARTICLE 4. To see if the Town will vote to transfer $66, 736 from the receipts reserved for the Water Pollution Abatement Trust Loan Repayment Account in order to meet the Town's obligation for payment of the Water Pollution Trust Loan, or act anything thereon.

ARTICLE 5. To see if the Town will vote pursuant to Section 53E ½ of Chapter 44 of the General Laws, as amended, to authorize and/or reauthorize establishment of one or more revolving funds for the purpose of funding certain activities and operations of certain departments and programs of the Town during Fiscal Year 2011, or act anything thereon.

Municipal Fire Alarm System	**Not to exceed $15,000.00**
Hazardous Materials Incident Training & Materials	**Not to exceed $50,000.00**
Recycling Program	**Not to exceed $100,000.00**
Herring Fishery Program	**Not to exceed $100,000.00**
Composting Bin Program	**Not to exceed $2,500.00**
Recreation and Sports Program	**Not to exceed $100,000.00**
Zoning Map, Bylaws and Subdivision Rules & Regulations	**Not to exceed $2,500.00**

ARTICLE 6. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source to fund one or more collective bargaining agreements, or act anything thereon.

ARTICLE 7. To see if the Town will vote to raise and appropriate and /or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source for the purpose of reimbursing Town employees and retired Town employees and other persons enrolled in the Town's health insurance plans for some of the increases in health insurance HMO and PPO deductibles and co-payments paid by said employees and retirees and other persons during Fiscal Year 2011 and in excess of the amounts of such deductibles and co-payments applicable during Fiscal Year 2010, and to pay any related costs, or act anything thereon.

ARTICLE 8. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by striking out in its entirety Section 9 pertaining to the Town Treasurer and Collector of Taxes and inserting in place thereof the following:

SECTION NINE: The Selectmen shall appoint a suitable qualified person to the office of Town Treasurer and Collector of Taxes. The existing elective office of Town Treasurer and Collector of Taxes shall be continued until the person appointed to the office of Town Treasurer and Collector of Taxes shall have qualified, at which time the elective office of Town Treasurer and Collector of Taxes shall terminate. The Selectmen shall appoint the person who is serving in the elective office of Town Treasurer and Collector of Taxes as the initial appointee as Town Treasurer and Collector of Taxes who shall receive not less than the compensation and benefits to which the elected Town Treasurer and Collector of Taxes was entitled unless modified by an employment contract which may be established. The Town Treasurer and Collector of Taxes shall have and exercise all the powers and rights and be subject to all the duties and liabilities now or hereafter conferred or imposed by law upon town treasurers and town collectors of taxes. The Selectmen by majority vote after notice and hearing may remove the Town Treasurer and Collector of Taxes from office for cause. The Selectmen shall forthwith appoint a suitable qualified person to fill any vacancy in the office of Town Treasurer and Collector of Taxes resulting from death, resignation, retirement, removal or other cause. The Selectmen shall determine the compensation of the Town Treasurer and Collector of Taxes and may establish an employment contract with the Town Treasurer and Collector of Taxes for a period of time to provide for salary, fringe benefits and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of duties of office, liability insurance, vacation and leave, or act anything thereon.

ARTICLE 9. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by amending subsections (A) and (B) to Section 17 of the Town Charter as follows

(A) The Board of Selectmen shall annually appoint and determine the compensation of an Attorney at Law or law firm to act as Town Counsel.

(B) The Board of Selectmen shall have the authority to prosecute, defend, and compromise all litigation to which the town is a party, and to appoint and determine the compensation of special counsel to assist the Town Counsel whenever in their judgment it may be necessary, or act anything thereon.

ARTICLE 10. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by adding the following subsections to Section 19 of the Town Charter to add specified powers and duties of the Town Manager:

(K) To prepare and submit an annual operating budget to the Selectmen. The proposed budget shall include, but not be limited to a listing of the funds requested by all boards, committees, officers, and departments of the town; shall be balanced and show both proposed expenditures and anticipated revenues. The Board of Selectmen, after reviewing the proposed budget and making changes it deems appropriate, shall submit its recommended budget to the Finance Committee on or before the twentieth day of January of each year for review and recommendation to town meeting.

(L) To prepare annually a five year financial forecast of town revenue, expenditures and general finance condition of the town. The forecast shall be submitted to the Selectmen who shall make it available to the public.

(M) To be responsible on behalf of the Selectmen for the negotiation, administration and enforcement of collective bargaining agreements and other employment agreements, exclusive of agreements made by the School Committee and the Municipal Light Board. The Town Manager in carrying out duties hereunder may engage labor counsel as he deems necessary and as approved by the Selectmen.

Notwithstanding the foregoing, the Selectmen shall retain the sole authority to approve and execute all collective bargaining agreements negotiated by the Town Manager on the Board's behalf, or act anything thereon.

ARTICLE 11. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact special legislation to provide that any agreement for a term of more than two (2) years made by the Town with any other governmental unit under the provisions of Section 4A of Chapter 40 of the General Laws respecting the sale by the Town of Middleborough of water or wastewater treatment services shall be subject to authorization by the Town Meeting, or act anything thereon.

ARTICLE 12. To see if the Town will vote to authorize the Board of Selectmen to enter into an agreement for disposal by the Town of refuse, garbage and other solid waste on such terms and conditions as the Board may determine, or act anything thereon.

ARTICLE 13. To see if the Town will vote to transfer to the Board of Selectmen the care, custody, management and control of two parcels of land shown as Lots 1 and 2 on a plan of land dated February 10, 2002, drawn by Outback Engineering and recorded in the Plymouth County Registry of Deeds as Plan No. 250 of 2002 and also shown on the Assessors' Map described below, for the purpose of sale of the parcels, and to authorize the Board of Selectmen to sell and convey the parcels on such terms and conditions as the Board of Selectmen may determine, or act anything thereon.

	Map #	Parcel #	Location	Land Area
1.	48	3832	West Grove Street	5.62 acres
2.	48	3042	West Grove Street	28.30 acres

ARTICLE 14. To see if the Town will vote to transfer the care, custody, management and control of the Rock Village School property at 63 Miller Street shown as Lot 923 on Assessors Map 87 to the Board of Selectmen for the purpose of sale of the property, and to authorize the Board of Selectmen to sell the property on such terms and conditions as the Board determines, or act anything thereon.

ARTICLE 15. To see if the Town will vote to transfer to the Board of Selectmen the care, custody, management and control of a parcel of land on Lake Shore Drive at Navaho Lake Shores shown as Lot 5856 on Assessors Map 35, also shown as Lot 36 on a plan of Whispering Pines dated April 1952, for the purpose of sale or conveyance of the parcel, and to authorize the Board of Selectmen to sell and/or convey the parcel to Frances Stanizzi or other person(s) on such terms and conditions as the Board of Selectmen determines including conveyance for nominal consideration, or act anything thereon.

ARTICLE 16. To see if the Town will vote to authorize the Board of Selectmen to acquire easements in two parcels of land by gift, purchase or eminent domain in connection with the project to rehabilitate the Summer Street Bridge over the Taunton River, such parcels being shown on a plan entitled "Preliminary Right of Way Plans for Summer Street Bridge – Bridgewater/Middleborough" dated October 9, 2009 revised December 22, 2009 prepared by Jacobs Engineering Group as follows:

Parcel #	Property Owner	Area
E-1	Brooks	270 square feet
E-2	Pocius	498 square feet

, or act anything thereon.

ARTICLE 17. to see if the Town will vote to authorize the Board of Selectmen to acquire easements in parcels of land by gift, purchase or eminent domain in connection with the project to mitigate pollution to the Nemasket River, or act anything thereon.

ARTICLE 18. To see if the Town will transfer the management and control of a parcel of land on Wareham Street (Route 28) shown as Lot 4356 on Assessors Map 110 to the Middleborough Gas & Electric Department Light Board for purposes of the Gas & Electric Department Light Board for purposes of the Gas & Electric including without limitation leasing all or a part of the parcel to a third party, and to authorize the Light Board to lease all or part of the property to Algonquin Gas Transmission, LLC or other party on such terms and conditions which may be approved by the Light Board, or act anything thereon.

ARTICLE 19. To see if the Town will vote to include acquisition of a Supervisory Control and Data Acquisition (SCADA) system, a mixing system for the Barden Hill storage tank, a dome for the East Grove Street well, and pump station modifications, to the water system improvements project voted under Article 12 of the warrant for the September 23, 2003 Special Town Meeting, or act anything thereon.

ARTICLE 20. To see if the Town will vote to appropriate the sum of $6,000,000 for the purpose of improving the water system; and further to authorize the Town through the Treasurer, with the approval of the Board of Selectmen, to borrow said $6,000,000.00, or any portion thereof, and issue bonds or notes therefore under Section 8(4) of Chapter 44 of the General Laws or any other enabling authority, or Chapter 29C of the General Laws; and further to authorize the Treasurer with the approval of the Board of Selectmen, to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, or any other fund established in connection with the Safe Water Drinking Act, and in connection therewith to enter into a loan agreement and/or security agreement with the Trust, or any other such pertinent fund administrator, and otherwise to contract with the Trust and/or the Department of Environmental Protection with respect to such loan and with respect to any federal or state aid available for the project, or for the financing thereof, or for reimbursement of costs incurred in connection therewith' and further to authorize the Board of Selectmen to enter into a project

regulatory agreement with the Department of Environmental Protection, to extend all funds available for the project, and to take any other action ordered to the purposes of carrying out the project, or act anything thereon.

ARTICLE 21. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to allow the Board to impose reasonable fees for the employment of outside consultants under the provisions of General Laws Chapter 44, Section 53G in connection with its review of earth removal permit applications under the Town's Earth Removal By-law, or act anything thereon.

ARTICLE 22. To see if the Town will vote to amend its Earth Removal By-law by deleting the first four sentences of the first paragraph of Section 5 and replacing them with the following:

Section 5

An earth removal permit may be issued for a period of up to three (3) years. If a project is not completed during the initial permit period, a permit may be extended up to one (1) year beyond the initial permit period, provided, however, that no permit may be extended unless an application therefore is filed no later than three (3) months before expiration of the initial permit period. If an earth removal project is not completed during the initial permit period and any permit extension period, a new permit to complete the project shall be required, provided, however, that a new permit to complete a project may not be issued until three (3)years have elapsed after expiration of the initial permit period and any permit extension period. Any project which is the subject of an earth removal permit or extension permit and which permit is in effect on January 1, 2010 shall not be subject to a three (3) year delay after expiration before issuance of a new permit to complete the project as set forth in the previous sentence. An applicant for a new permit to complete a project shall comply with all requirements of the by-law and regulations in effect when the application for a new permit is filed, or act anything thereon.

ARTICLE 23. To see if the Town will vote to support continued discussions regarding the potential acquisition, by the Town, of the former St. Luke's Hospital property at Center Street and Oak Street for a police station or other municipal use, or act anything thereon.

ARTICLE 24. To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitting by said Act, including the acquisition, creation and preservation of open space, the acquisition and preservation of historic resources, the acquisition, creation and preservation of land for recreational use, the creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided under said Act; to levy a 1% surcharge of the annual real estate tax against real property, to accept a $100,000 exemption from the surcharge, as well as the exemption of property owned and occupied by a person who would qualify for low income housing or low or moderate income senior housing in the town, as permitted under Section 3(e) of said Act; or to take any other action relative thereto.

By Petition

ARTICLE 25. To see if the town meeting will vote to enact the following addition to the Town Charter:

To see if the Town meeting will vote to enact the following addition to the Town Charter:

TERM LIMITS

Beginning with the 2011 Annual Town Election, no elected Town Official shall serve more than 2 consecutive terms of office at any one time. Additionally, any Town Official who has served 2 consecutive terms, shall not be able to run for the same Board or position until his or her successor has served at lease one full term.

By Petition

ARTICLE 26. To place on the town meeting warrant and article to accept Gibbs Road as a street in Middleboro.

By Petition

Given, under our hands at Middleborough, this 21st day of April, 2010.

BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the **29th day of April, 2010**, that date being more than seven days before the time specified for said meeting.

BRUCE GATES
Police Chief