

NEW BUSINESS

9-10-12

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CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough
Massachusetts

Town Manager

508-947-0928
FAX 508-946-2320

MEMORANDUM

TO: Board of Selectmen

FROM: Charles J. Cristello, Town Manager 

RE: Recommendation to Adopt Earth Removal Permit Regulations

DATE: September 7, 2012

I have attached a set of draft regulations from Town Counsel Dan Murray that will allow you to hire a consultant to advise you on future earth removal applications. He recommends that you advertise and hold a public hearing before adopting them. I suggest that you do so at your next meeting on September 17, 2012.

Please feel free to call me if you have any questions.

BOARD OF SELECTMEN
EARTH REMOVAL BY-LAW REGULATION – OUTSIDE CONSULTANTS

- SECTION 1. The Board of Selectmen (hereafter the Board) may employ outside consultants to assist the Board in carrying out its responsibilities under the Earth Removal By-Law. The Board may require an applicant for an earth removal permit under said By-Law to pay to the town reasonable fees for the employment by the Board of outside consultants to assist the Board with respect to its responsibilities under law and arising out of or in connection with an application for an earth removal permit or the grant of an earth removal permit.
- SECTION 2. Upon receipt by the Board of an application for an earth removal permit, the Board may send a bill to the applicant for the estimated cost of reasonable fees for employment by the Board of outside consultants. The Board may send a bill to the applicant for the cost of reasonable fees for employment by the Board of outside consultants if the amount in a bill for the estimated costs is not sufficient to pay for employment of outside consultants or if a bill for estimated costs has not been sent by the Board. The applicant shall pay all bills sent by the Board within thirty days of the date of the bill.
- SECTION 3. The Board shall notify the applicant in writing of the Board's selection of each consultant. The applicant shall have an administrative appeal from the selection of any consultant. The appeal shall be to the Board. The grounds for such appeal shall be limited to claims that a consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The required time limits for action upon an application by the Board shall be extended by the duration of an administrative appeal. In the event that no decision is made by the Board within one month following the filing of an appeal, the selection made by the Board shall stand. All appeals shall be in writing and filed with the Town Clerk not later than fourteen days after the date of the notice to applicant of the selection of a consultant.
- SECTION 4. The Treasurer shall establish a separate special account into which all fees received from applicants with respect to consultants shall be deposited. The special account including interest, if any, shall be expended at the direction of the Board without further appropriation provided that such funds shall be expended only in connection with carrying out the Board's responsibilities under law. Any excess amount in the account attributable to a specific project including accrued interest, if any, shall be paid to the applicant or to the applicant's successor in interest, if applicable, at the completion of the project. The Board shall provide a final report of the account attributable to the project to the applicant or to the applicant's successor in interest, if the successor in interest is entitled to receive any excess. The Board may require proof that an applicant's successor in interest is entitled to receive any excess amount before authorizing payment of any excess to a successor in interest.

AUTHORITY FOR REGULATION; General Laws, Chapter 122 of Acts of 2012

REGULATION ADOPTED BY THE BOARD OF SELECTMEN – September 10, 2012

Massachusetts State Lottery Commission

60 Columbian Street

Braintree, Massachusetts 02184-1738

Licensing Fax: (781) 849-5554

*Steven Grossman
Treasurer and Receiver General*

*Paul R. Sternburg
Executive Director*

August, 22 2012

Town of Middleborough
Town Clerk
10 Nickerson Ave.
Middleborough, Ma. 02346

Dear Sir/Madam:

In accordance with Massachusetts General Laws, chapter 10, section 27A, (as amended on 5/20/96), you are hereby notified that an application for a Keno license has been received by the Massachusetts State Lottery Commission, (MSLC) from:

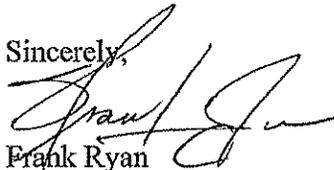
All Veterans Canteen Inc.
30 Station St.
Middleborough, Ma. 02346

If the city/town objects to the issuance of the Keno license, it must claim its right to a Hearing before the MSLC within twenty-one (21) days of receipt of this letter.

In accordance with section 27A (b), the objection of the city or town must be "as a result of an official action" taken by said city or town regarding the Keno applicant. In order to be fair and apply the same criteria to all cities, towns, and applicants, the MSLC defines and "official action" to be one in which the applicant appeared, or was given the opportunity to appear, before the licensing authority to discuss the issue at the local level in an open hearing or meeting prior to the Hearing at the MSLC.

Please address your written objection to William J. Egan, Jr., General Counsel, Massachusetts State Lottery Commission, 60 Columbian Street, Braintree, MA 02184.

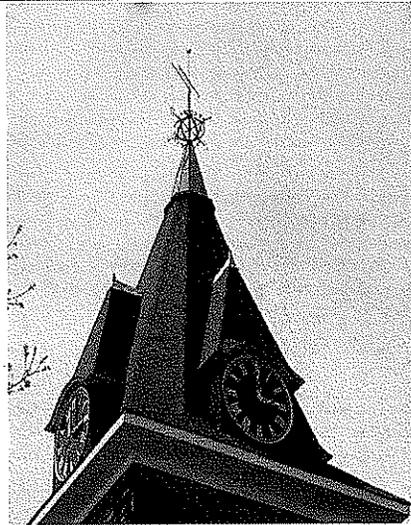
Sincerely,



Frank Ryan

Manager, Key Accounts

CERTIFIED MAIL 7011 2000 0001 7140 0875



Fall Festival and Craft Fair

September 29, 2012

9A.M. to 2P.M.

Rain Date September 30, 2012 - 11:30 to 3:30

Board of Selectmen
Town of Middleborough
Town Hall
Middleborough, MA

We are again requesting permission to use barriers to block off Plymouth Street in front of the North Congregational Church on Saturday, September 29, 2012 from 8AM to 3PM for our annual Fall Festival/Craft Fair. There is also a rain date of Sunday, September 30, 2012 in which we would like to block off the road from 10:30 to 4:00, if necessary.

We are sending this message to the highway, police and fire departments. We are also requesting that the barriers from the highway department are made available to us, as they have been in the past.

If you have questions or concerns, please contact me directly at 508-947-8609.

Sincerely yours,
Gordon Cass, North Congregational Church
PO Box 1209
Middleborough, MA 02346

CC: Police Department, Fire Department, Highway Department



August 10, 2012

Board of Selectmen
Town of Middleboro
Town Hall
Middleboro, MA 02346

Dear Selectmen:

The Lydia Cobb-Quequechan Chapter of the Massachusetts Daughters of the American Revolution respectfully requests that you issue a Proclamation for Constitution Week, September 17-23, 2012. Enclosed is a sample proclamation you may use as a guide.

Please return the signed Proclamation using the enclosed self-addressed, stamped envelope. If you have any questions regarding the Proclamation, feel free to contact me. Thank you for joining us in the 225th anniversary celebration of the signing of the United States Constitution.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Rubano".

Kathleen Rubano
Chairman, Constitution Week
Lydia Cobb-Quequechan Chapter, DAR
312 Highview Avenue
Somerset, MA 02726
(508) 676-1627
Email: kathleenrubano@mac.com



NEWS

DAR National Headquarters
1776 D Street NW
Washington, DC 20006
www.dar.org

FOR IMMEDIATE RELEASE

August 20, 2012

Press contact:

Kathleen Rubano

(508) 676-1627

kathleenrubano@mac.com

AMERICA CELEBRATES U.S. CONSTITUTION DAR Promotes Constitution Week Awareness

WASHINGTON, DC –September 17, 2012, begins the national celebration of Constitution Week. The weeklong commemoration of America's most important document is one of our country's least known official observances. Our Constitution stands as a testament to the tenacity of Americans throughout history to maintain their liberties and freedom, and to ensure those unalienable rights to every American.

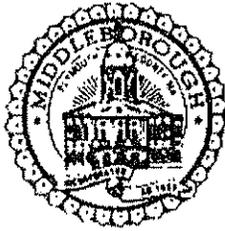
The tradition of celebrating the Constitution was started many years ago by the Daughters of the American Revolution (DAR). In 1955, the Daughters petitioned Congress to set aside September 17-23 annually to be dedicated for the observance of Constitution Week. The resolution was later adopted by the U.S. Congress and signed into Public Law #915 on August 2, 1956 by President Dwight D. Eisenhower. The aims of the celebration are to (1) emphasize citizens' responsibilities for protecting and defending the Constitution, preserving it for posterity; (2) inform the people that the Constitution is the basis for America's great heritage and the foundation for our way of life; and (3) encourage the study of the historical events which led to the framing of the Constitution in September 1787.

The United States of America functions as a Republic under the Constitution which is the oldest document still in active use that outlines the self-government of a people. This landmark idea that men had the inalienable right as individuals to be free and live their lives under their own governance was the impetus of the American Revolution. Today, the Constitution stands as an icon of freedom for people around the world.

"We must remember and teach that those who wrote the Constitution believed that no government can *create* freedom, but that government must *guard* freedom rather than encroach upon the freedoms of its people" stated Merry Ann T. Wright, President General of the DAR. "The Constitution by itself cannot guarantee liberty. A nation's people can remain free only by being responsible citizens who are willing to learn about the rights of each arm of government and require that each is accountable for its own function. Therefore, Constitution Week is the perfect opportunity to read and study this great document, which is the safeguard of our American liberties. We encourage all citizens across the country to take time this week to guard that which is committed to us by our forefathers... our freedom."

DAR has served America for 121 years as its foremost cheerleader. In 1928, the Daughters began work on a building as a memorial to the Constitution. John Russell Pope, architect of the Jefferson Memorial, was commissioned to design the performing arts center, known as DAR Constitution Hall. Today, DAR Constitution Hall is the only structure erected in tribute to the Constitution of the United States of America.

Known as the largest women's patriotic organization in the world, DAR has over 165,000 members with approximately 3,000 chapters in all 50 states and 11 foreign countries. The DAR has long promoted patriotism through commemorative celebrations, memorials, scholarships and activities for children, and programs for new immigrants. For more information about DAR and its programs visit www.dar.org or call (202) 628-1776.



CONSTITUTION PROCLAMATION 2012

WHEREAS: It is the privilege and duty of the American People to commemorate the two hundred twenty-fifth anniversary of the drafting of the Constitution of the United States of America with appropriate ceremonies and activities; and

WHEREAS: Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE I, Alfred P. Rullo, Jr., by virtue of the authority vested in me as Chairman of the Board of Selectmen of the Town of Middleborough, do hereby proclaim the week of September 17 through 23 as

CONSTITUTION WEEK

and urge all citizens to study the Constitution, and reflect on the privilege of being an American with all the rights and responsibilities, which that privilege involves.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town of Middleborough to be affixed this 10th day of September of the year of our Lord two thousand twelve.

BOARD OF SELECTMEN



Town of Middleborough

Massachusetts

Board of Selectmen

APPLICATION FOR LICENSE (PLEASE TYPE OR PRINT CLEARLY)

DATE 8-27-2012
NAME OF APPLICANT BILL SECKINGER
ADDRESS OF APPLICANT 13 HARDING ST. LAKEVILLE
ASSESSORS MAP & LOT _____
DAYTIME TELEPHONE 508-923-0505

NAME OF BUSINESS MUCKEY'S LIQUOR
OWNER OF PROPERTY TO BE LICENSED BILL SECKINGER
ADDRESS OF PROPERTY TO BE LICENSED 200 OAK POINT DRIVE
ASSESSORS MAP & LOT _____

TYPE OF LICENSE REQUESTED (Check One)

2nd Hand _____ WRPD _____
Class I Automobile Dealer License _____ Earth Removal Permit _____
Class II Automobile Dealer License _____ Liquor License ONE-DAY
Class III Automobile Dealer License _____ Other FULL LIQUOR
Entertainment _____

Anticipated Start Date for Business: 9-13-2012
Days & Hours of Operation: 5PM TO 10 PM
Days/Hours/Description for Entertainment GOLF DURING DINNER

Has the applicant previously held a similar license in the Town of Middleborough or elsewhere?
If yes, explain:

YES AT 200 OAK POINT DRIVE

Signature Bill Seckinger

DATE OF HEARING: 9.10.12

APPROVED/DENIED

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

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

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? na



Town of Middleborough

Massachusetts

Board of Selectmen

APPLICATION FOR LICENSE (PLEASE TYPE OR PRINT CLEARLY)

DATE 8-27-2012
NAME OF APPLICANT BILL SECKINGER
ADDRESS OF APPLICANT 13 HAWKING ST. LAKEVILLE
ASSESSORS MAP & LOT _____
DAYTIME TELEPHONE 508-923-0505

NAME OF BUSINESS MUCKEY'S LIQUOR
OWNER OF PROPERTY TO BE LICENSED BILL SECKINGER
ADDRESS OF PROPERTY TO BE LICENSED 200 OAK POINT DRIVE
ASSESSORS MAP & LOT _____

TYPE OF LICENSE REQUESTED (Check One)

2nd Hand _____ WRPD _____
Class I Automobile Dealer License _____ Earth Removal Permit _____
Class II Automobile Dealer License _____ Liquor License ONE-DAY
Class III Automobile Dealer License _____ Other FULL LIQUOR
Entertainment _____

Anticipated Start Date for Business: 9-15-2012
Days & Hours of Operation: 5PM TO 10 PM
Days/Hours/Description for Entertainment: DINNER + DANCE

Has the applicant previously held a similar license in the Town of Middleborough or elsewhere?
If yes, explain:

YES AT 200 OAK POINT DRIVE

Signature Bill Seckinger

DATE OF HEARING: 9-10-12

APPROVED/DENIED

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

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

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? na



Town of Middleborough
Massachusetts
Board of Selectmen

APPLICATION FOR LICENSE
(PLEASE TYPE OR PRINT CLEARLY)

DATE 8-27-2012
NAME OF APPLICANT Bill Seckinger
ADDRESS OF APPLICANT 13 HARDING St. Lakewood
ASSESSORS MAP & LOT _____
DAYTIME TELEPHONE 1-508-923-0505

NAME OF BUSINESS Muckey's Liquor
OWNER OF PROPERTY TO BE LICENSED Bill Seckinger
ADDRESS OF PROPERTY TO BE LICENSED 200 OAK POINT DRIVE
ASSESSORS MAP & LOT _____

TYPE OF LICENSE REQUESTED (Check One)

2nd Hand _____ WRPD _____
Class I Automobile Dealer License _____ Earth Removal Permit _____
Class II Automobile Dealer License _____ Liquor License ONE-DAY
Class III Automobile Dealer License _____ Other FULL LIQUOR
Entertainment _____

Anticipated Start Date for Business: 10-3-2012
Days & Hours of Operation: 5PM TO 10PM
Days/Hours/Description for Entertainment Muckey's GOLF OUTING

Has the applicant previously held a similar license in the Town of Middleborough or elsewhere?
If yes, explain:

YES AT 200 OAK POINT DRIVE

Signature Bill Seckinger

DATE OF HEARING: _____

APPROVED/DENIED

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

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

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? na



Town of Middleborough
Massachusetts
Board of Selectmen

APPLICATION FOR LICENSE
(PLEASE TYPE OR PRINT CLEARLY)

DATE 8-27-2012
NAME OF APPLICANT Bill Seckinger
ADDRESS OF APPLICANT 13 HARDING ST LAKESVILLE
ASSESSORS MAP & LOT _____
DAYTIME TELEPHONE 1-508-923-0805

NAME OF BUSINESS MUCKEY'S LIQUOR
OWNER OF PROPERTY TO BE LICENSED BILL SECKINGER
ADDRESS OF PROPERTY TO BE LICENSED 200 OAK POINT DRIVE
ASSESSORS MAP & LOT _____

TYPE OF LICENSE REQUESTED (Check One)

2nd Hand _____ WRPD _____
Class I Automobile Dealer License _____ Earth Removal Permit _____
Class II Automobile Dealer License _____ Liquor License ONE-DAY
Class III Automobile Dealer License _____ Other FULL LIQUOR
Entertainment _____

Anticipated Start Date for Business: 10-13-2012
Days & Hours of Operation: 5 PM to 10 PM
Days/Hours/Description for Entertainment full liquor for Middleboro Library

Has the applicant previously held a similar license in the Town of Middleborough or elsewhere?
If yes, explain: YES AT 200 OAK POINT DRIVE

Signature Bill Seckinger

DATE OF HEARING: _____ APPROVED/DENIED _____

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

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

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? na



Town of Middleborough
Massachusetts
Board of Selectmen

APPLICATION FOR LICENSE
(PLEASE TYPE OR PRINT CLEARLY)

DATE 8-27-2012
NAME OF APPLICANT Bill Seckinger
ADDRESS OF APPLICANT 13 HANDING ST. LAKEVILLE
ASSESSORS MAP & LOT _____
DAYTIME TELEPHONE 508-923-0505

NAME OF BUSINESS Muckey's LIQUOR
OWNER OF PROPERTY TO BE LICENSED BILL SECKINGER
ADDRESS OF PROPERTY TO BE LICENSED 200 OAK POINT DRIVE
ASSESSORS MAP & LOT _____

TYPE OF LICENSE REQUESTED (Check One)

2nd Hand _____
Class I Automobile Dealer License _____
Class II Automobile Dealer License _____
Class III Automobile Dealer License _____
Entertainment _____
WRPD _____
Earth Removal Permit _____
Liquor License ONE ONLY
Other BEER + WINE

Anticipated Start Date for Business: 10-24-2012
Days & Hours of Operation: 6 PM TO 10 PM
Days/Hours/Description for Entertainment FEST of Middleboro

Has the applicant previously held a similar license in the Town of Middleborough or elsewhere?
If yes, explain:

YES AT 200 OAK POINT DRIVE

Signature Bill Seckinger

DATE OF HEARING: _____

APPROVED/DENIED

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

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

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? n/a

I, the Clerk of the Board of Selectmen of the Town of Middleborough, Massachusetts, certify that at a meeting of the board held _____, 2012, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the \$762,000 borrowing authorized by the vote of the Town passed June 11, 2012 (Articles 10, 11 and 12) is hereby determined pursuant to G.L. c.44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Fire Engine	\$450,000	<u>15</u> Years
Command Vehicle	40,000	<u>5</u> Years
Loader	152,000	<u>15</u> Years
Dump Truck	50,000	<u>10</u> Years
Pickup/ Plow	50,000	<u>10</u> Years
Police Equipment (Tasers)	20,000	<u>5</u> Years

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located, or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the subject matter of this vote were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended.

Dated: _____, 2012

Clerk of the Board of Selectmen

Central Baptist Church

Officemanager@cbcmiddleboro.org

August 27, 2012

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

RE: Use of Town Hall Parking Lot

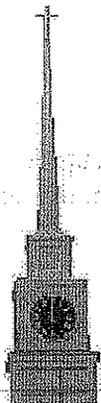
We would like to request the use of the Town Hall parking lot for our seventh annual *Trunk or Treat* program. This will be on Wednesday, October 31, 2012 from 5:00 p.m. to about 8:00 p.m. Children in the community will be invited to come to the parking lot where cars from our church will have their trunks open with candy to be given out in a safe and friendly environment. Previous years have proven this to be a positive and popular event.

Thank you for your consideration of this request and for your past support.

Sincerely,



Terri Perkins
Office Manager
Central Baptist Church

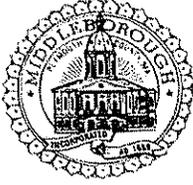


MIDDLEBOROUGH POLICE DEPARTMENT

99 NORTH MAIN STREET
MIDDLEBOROUGH, MA 02346

(508) 947-1212

Fax (508) 947-1009



Bruce D. Gates
Chief of Police

August 14, 2012

Board of Selectmen
Town Hall
Middleborough, MA 02346

Honorable Board,

As a result of Civil Service implementing MACS, Massachusetts Automated Civil Service, a new computerized system of administering records a letter will need to be sent to them. The letter would indicate who would have access to the new MCAS system on behalf of the Board. The letter should indicate whom the appointing authority designee(s) is.

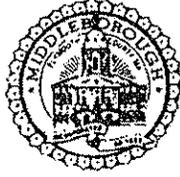
It would be my recommendation that the Board designate their Confidential Secretary, The Administrative Assistant to the Chief of Police and the Chief of Police as designees.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Bruce D. Gates". The signature is written in black ink and is positioned above the printed name and title.

Bruce D. Gates,
Chief of Police

C/c: Charles Cristello



WARRANT FOR SPECIAL TOWN MEETING

Middleborough, Massachusetts

To Bruce D. 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, October 1, 2012 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 2013, 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, an existing appropriation or account, or other available source for unpaid bills from prior years, or act anything thereon.

ARTICLE 3. 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, or other available source to fund sick leave buy-backs 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, to be placed into the Stabilization Fund, or act anything thereon.

ARTICLE 5. 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 be placed into the Other Post-Employment Benefits Liability Trust Fund, or act anything thereon.

ARTICLE 6. To see if the Town will vote to raise and appropriate and/or transfer \$60,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation of account or other available source or by borrowing to purchase a 20/30 passenger special needs school bus with a wheelchair lift for the School Department, or act anything thereon.

ARTICLE 7. To see if the Town will vote to raise and appropriate and/or transfer \$170,488 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source or by borrowing to purchase computers, servers, monitors, printers, and related hardware and software for various Town departments, or act anything thereon.

ARTICLE 8. To see if the Town will vote to rescind various debt authorization(s) voted at previous town meeting(s) for capital projects and 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 capital projects voted at previous town meetings(s), or act anything thereon.

ARTICLE 9. To see if the Town will vote to raise and appropriate and/or transfer the sum of \$50,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing for the Department of Public Works for all relevant and necessary expenses associated new stormwater activities required by the EPA/DEP, or act anything thereon.

ARTICLE 10. To see if the Town will vote to raise and appropriate the sum of \$220,000.00 by borrowing under General Laws, Chapter 44, by borrowing from the Massachusetts Water Pollution Abatement Trust pursuant to General Laws Chapter 29C, or by raising and appropriating said sum from some other source for the purpose of funding the Town's program to repair, replace or upgrade septic waste disposal systems, or act anything thereon.

ARTICLE 11. To see if the Town will vote to raise and appropriate and/or transfer the sum of \$158,000 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source or by borrowing for the purpose of a revaluation update and interim updates for the Board of Assessors of commercial and industrial real estate and personal property, and completion of a satisfactory certification and satisfactory interim update, or act anything thereon.

ARTICLE 12. To see if the Town will vote to appropriate \$5,150 from the Historic Resources Reserve of the Community Preservation Fund to fund Phase I of the Middleborough Town Clerk's project for preservation of historic town records by conducting an assessment of said town records as preparation of restoring, preserving and microfilming said records including a computerized document management system; said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereon.

Sponsored by the Community Preservation Committee

ARTICLE 13. To see if the Town will vote to appropriate \$3,000 from the Historic Resources Reserve of the Community Preservation Fund to fund signage at fourteen (14) burial grounds of early settlers and historic leaders of our colonial community and veterans of the Revolutionary War, War of 1812 and Civil War; said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereon.

Sponsored by the Community Preservation Committee

ARTICLE 14. To see if the Town will vote to authorize the Board of Selectmen to amend the Landfill Operations Agreement between the Town of Middleborough and Waste Management of Massachusetts, Inc. dated February 15, 2006 for the operation of the Brook Street Landfill pursuant to General Laws, Chapter 44, Section 28C (g) on such terms and conditions as the Board of Selectmen determines, or act anything thereon.

ARTICLE 15. To see if the Town will vote to authorize the Board of Selectmen to enter into an agreement with the Town of Lakeville to provide water service to existing water customers in the Town of Lakeville on such terms and conditions as the Board of Selectmen determines, or act anything thereon.

ARTICLE 16. To see if the Town will vote to adopt the following by-law:

Section 1. The Town of Middleborough Historical Commission (the "Commission") shall have authority on behalf of the Town to maintain the following historic, private cemeteries in Middleborough:

- Fall Brook Cemetery
- Halifax Cemetery
- Pierce Cemetery
- Reed Cemetery / Marion Road
- Sachem Street Cemetery
- Summer Street Cemetery
- Taunton Street Cemetery

Authority to maintain the said cemeteries shall include maintenance of burial lots in the cemeteries. Maintenance shall be limited to materials and services provided in connection with such maintenance.

Section 2. The Commission may engage one or more persons or parties to provide maintenance at the cemeteries or to make agreements on behalf of the Commission for such maintenance.

Section 3. The Commission shall be authorized to expend available income from the cemetery trust funds which relate to said cemeteries and which are held by the Town Treasurer and Collector of Taxes for maintenance expenses with respect to said cemeteries. Provided that the available income from a trust fund for a particular cemetery may be expended for maintenance expenses relating solely to that particular cemetery. And provided that the Commission shall not incur maintenance expenses for a particular cemetery which exceed the available income from the trust fund for that particular cemetery.

ARTICLE 17. To see if the Town will vote to adopt the following by-law:

Non-Criminal Disposition By-Law

Section 1. Violation of any Town by-law identified in Section 2 hereof may in the discretion of the Town officer who is the appropriate enforcing person be enforced in the manner provided under Section 21D of Chapter 40 of the Massachusetts General Laws. The enforcing person taking cognizance of a violation of any such by-law which the enforcing person is empowered to enforce, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours not later than twenty-one days after the date of such notice. The non-criminal fine for each such violation shall be the amount identified in Section 2 hereof.

Section 2. The by-laws which are subject to this by-law and related penalties/fines are as follows:

<u>By-law</u>	<u>Penalty/Fine</u>
By-law regarding use of highways and streets (Adopted under Article 5 of March 7, 1927 Town Meeting)	\$ 20.00
By-law regarding public consumption of alcoholic beverages (Adopted under Article 7 of November 26, 1973 Town Meeting)	\$ 50.00
By-law regarding obstruction of roadway with snow or ice (Adopted under Article 11 of March 13, 1972 Town Meeting)	\$ 50.00
By-law regarding public use of marijuana (Adopted under Article 17 of May 26, 2009 Town Meeting)	\$300.00

Section 3.

The phrase “enforcing person” as used in this by-law shall mean any Town of Middleborough police officer with respect to any violation.

Section 4.

The provisions of Section 21D of Chapter 40 of Massachusetts General Laws shall apply to enforcement actions under this by-law, or act anything thereon.

ARTICLE 18. To see if the town will vote to amend the zoning by-laws by making the following changes as part of a recodification:

ITEM 1. Delete the following sections of the current Zoning By-law in their entireties, including amendments thereof:

Section I	Purpose
Section II	Definitions
Section III	Establishment of Districts
Section IV	Use Regulation
Section V	Area Regulations
Section VI	General Regulations

Section VII	Administration
Section VIII	Inlands Wetland District
Section IX	Development Opportunities (DO) District
Section X	Adult Mobile Home Parks
Section XI	Flood Plain District – Regulation of Flood Hazard Areas
Section XII	Water Resource Protection Districts By-Law (WRPD)
Section XIII	General Use District
Section XIV	Associate Member - Planning Board
Section XV	Adult Entertainment District
Section XVI	Open Space & Resource Preservation Development District
Section XVII	Business District
Section XVIII	Commercial Development (CD) District

ITEM 2. Substitute the following new Sections therefore:

Section 1.0	Purpose and Authority
Section 2.0	Districts
Section 3.0	Use Regulations
Section 4.0	Dimensional Requirements
Section 5.0	General Regulations
Section 6.0	Special Regulations
Section 7.0	Special Residential Regulations
Section 8.0	Overlay District Regulations
Section 9.0	Administration and Procedures
Section 10.0	Definitions

or act anything thereon.

ARTICLE 19. To see if the Town will vote to amend the Zoning By-laws by deleting Section XI in its entirety and substituting the following new Section XI therefore:

SECTION XI

FLOOD PLAIN DISTRICT (FPD)

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

7. Eliminate new hazards to emergency response officials;
 8. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding;
 9. Avoid the loss of utility service which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
 10. Eliminate costs associated with the response and cleanup of flooding conditions; and,
 11. Reduce damage to public and private property resulting from flooding waters.
- B. **APPLICABILITY.** The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Middleborough designated as Zone A and AE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Middleborough are panel numbers 25023C0303J, 25023C0304J, 25023C0308J, 25023C0309J, 25023C0311J, 25023C0312J, 25023C0313J, 25023C0314J, 25023C0316J, 25023C0317J, 25023C0318J, 25023C0319J, 25023C0328J, 25023C0329J, 25023C0336J, 25023C0337J, 25023C0338J, 25023C0339J, 25023C0343J, 25023C0431J, 25023C0432J, 25023C0433J, 25023C0434J, 25023C0442J, 25023C0451J, 25023C0452J, 25023C0453J, 25023C0454J, 25023C0456J, 25023C0458J, 25023C0459J, 25023C0461J, 25023C0462J, 25023C0466J, and 25023C0467J dated July 17, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Conservation Commission.
- C. **BASE FLOOD ELEVATION AND FLOODWAY DATA.**
1. Floodway Data. In Zones A, and AE, along watercourses that have not had a regulatory floodway designated the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 2. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is less, within unnumbered A Zones.
- D. The Flood Plain District is hereby established as an overlay district. All development in the District, including structural and non-structural activities, whether permitted by right or by special permit shall be in compliance with the Wetlands Protection Act, Chapter 131 Section 40 of the Massachusetts General Laws and with the following:
1. The section of the Massachusetts' State Building Code which addresses floodplain areas (currently 780 CMR);
 2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
 3. Inlands Wetlands Restriction, DEP (currently 310 CMR 13.00); and,
 4. Minimum Requirements for Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15.00, Title 5)

- E. The boundaries of the Flood Plain District shall be determined by scaling distances in the said Maps except where elevations are provided in Zone AE. Where there appears to be a conflict between a mapped boundary and actual field conditions FEMA should be consulted for formal review and map revision. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.
- F. Notification of Watercourse Alteration. In a riverine situation, the Town Planner shall notify the following of any alteration or relocation of a watercourse:
1. Adjacent Communities
 2. NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
 3. NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110
- G. COMPLIANCE. No structure or land shall be used and no structure shall be located extended, converted or structurally altered without full compliance with the terms of this Section, the State Building Code and other applicable regulations.
- H. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Section to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this Section imposes greater restrictions, the provision of this Section shall prevail.
- I. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood and erosion protection required by this Section is considered reasonable for regulatory purposes and is based on scientific methods of study. Larger floods may occur. This Section does not imply that areas outside the Flood Hazard District boundaries or land uses permitted within such districts will be free from flooding or flood damages. This Section shall not create liability on the part of the Town of Middleborough or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.
- J. REGULATORY FLOOD PROTECTION ELEVATION FOR MIDDLEBOROUGH. Within Zone A where the base flood elevation is not provided for on documents referred to in Subsection 8.1.2, the applicant shall produce any already existing, reasonable base flood elevation data and such data shall be submitted to the Buildings Inspector for development criteria.
- K. PERMITTED USES. The following uses which have low flood damage points and do not threaten other lands during times of flood are encouraged within the Special Hazard Areas (Zones A and AE), provided they are not prohibited by any other zoning regulations or other Bylaws and do not require storage of materials, structures, flood control works, or substantial filling or grading. But no use shall be permitted which adversely affects the capacity of the channels of floodways of streams, drainage ditches or any other drainage facility or system. (See FEMA List)
1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
 2. Forestry and nursery uses.
 3. Conservation of water, plants and wildlife.

4. Wildlife management area, foot, bicycle and/or horse paths.
5. Temporary non-residential structures used in connection with fishing, growing harvesting, storage or sale of crops raised on the premises.
6. Buildings lawfully existing prior to the adoption of these provisions.
7. Municipal uses such as water works, pumping stations and other essential services.
8. Outdoor recreational uses including fishing, boating, play areas, beaches, beach cabanas not suitable for dwellings, boardwalks and steps to permit access across swamps or marshes, pavilions and other similar small platforms, lifeguard stations, golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, temporary structures for sale for food and refreshments, arts and crafts.
9. Residential uses such as lawns, gardens, parking areas and structures for storage not designed for human habitation.

L. OTHER USE REGULATIONS

1. Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
2. In Zone AE, along watercourses within the Town of Middleborough, that have a regulatory floodway designated on the Plymouth county FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. All subdivision proposals must be designed to assure that:
 - a. Such proposals minimize flood damage;
 - b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and,
 - c. Adequate drainage is provided to reduce exposure to flood hazards.
4. Existing and proposed contours of site and elevations of existing and proposed structures must be included on plan proposal.
5. There shall be established a routing procedure which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health and Building Inspector for comments which will be considered by the appropriate permitting Board prior to issuing applicable permits.

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

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

The area may be designated as Zone A, AO, AH, AI-30, AE, A99, VI-30, VE, or V.
 BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

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

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

DISTRICT: Section XI, the Flood Plain District.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The agency administering the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

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

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

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

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

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

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

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

ONE-HUNDRED-YEAR FLOOD: See Base flood.

REGULATORY FLOODWAY: See Floodway.

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

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

construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

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

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

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

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

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

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

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

ARTICLE 20. To see if the Town will vote to authorize the Municipal Light Board to purchase a parcel of land off the westerly side of Bedford Street in Bridgewater, MA believed to be owned now or formerly by Stiles & Hart Brick Company, containing 37.68 acres of land more or less being shown on Bridgewater Assessors Map 126 as Lot 7 on terms and conditions approved by the Municipal Light Board, to authorize the Municipal Light Board to use available funds of the Municipal Gas and Electric Department to pay the purchase price for the land, and to authorize the Board of Selectmen to make a confirmatory order of taking of the land by eminent domain, or at anything thereon.

ARTICLE 21. To see if the Town will vote to accept Silo Lane as a Town way as laid out by the Board of Selectmen and to authorize the Selectmen to acquire by eminent domain or by gift the fee in the way as shown on the road layout plan, on file with the Town Clerk entitled "Acceptance/Layout Plan, Silo Lane, 'Tispaquin Farms' a Chapter 40B Development in Middleborough, MA, (Plymouth County) Prepared For T..F. Development, Inc." which plan is dated September 3, 2008, and any related easements, or act anything thereon.

ARTICLE 22. To see if the Town will vote to accept Londonderry Lane as a Town way as laid out by the Board of Selectmen and to authorize the Selectmen to acquire by eminent domain, or by gift, the fee in the way and related easements as shown on the road layout plan, on file with the Town Clerk entitled "As Built/Layout Plan of Londonderry Lane within Salem Heights a

Subdivision in Middleboro, MA” dated June 11, 2001, drawn by R.I.M. Engineering Co., Inc. and any related easements, or act anything thereon.

ARTICLE 23. To see if the Town will vote to authorize the Board of Selectmen to make an exchange of land by conveyance of a parcel of Town land off Meadowbrooke Lane in Middleborough shown as Lot 1684 on Assessors Map 32 to Stephen and Maureen Bonfiglioli or other party in exchange for conveyance to the Town of a parcel of land on the easterly side of Thompson Street believed to be owned by Stephen and Maureen Bonfiglioli shown as Lot 5834 on Assessors Map 24 on such terms and conditions as the Board determines, or act anything thereon.

ARTICLE 24. To see if the Town will vote to authorize the Board of Selectmen to release to Stephen and Maureen Bonfiglioli or other party the Town’s interest in a drainage easement acquired in an Order of Taking by Eminent Domain dated January 30, 2012 of Meadowbrooke Lane and Bon View Circle recorded in the Plymouth County Registry of Deeds in Book 40950, Page 274, such drainage easement being located on Lot 7 (Lot 924 on Assessors Map 33) and shown on the plan recorded with said order of taking, and to authorize the Board of Selectmen to acquire in exchange for such release by deed and/or taking by eminent domain a drainage easement on said Lot 7 and adjoining Lot 8 (Lots 924 and 951 on Assessors Map 33) on such terms and conditions as the Board determines, or act anything thereon.

Given, under our hands at Middleborough, this 10th day of September, 2012.

ALFRED P. RULLO, JR.

ALLIN FRAWLEY

STEVEN P. SPATARO

BEN QUELLE

STEPHEN J. MCKINNON

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 **13th day of September, 2012**, that date being more than fourteen days before the time specified for said meeting.

BRUCE D. GATES, Police Chief