SELECTMEN:

THE EXECUTIVE SESSION MINUTES OF 9/12/11 WILL BE VOTED ON AT THE 9/26/11 MEETING.

JACKIE

MINUTES

For approval at the 9-19-11 meeting

Middleborough Board of Selectmen
Meeting Minutes

DRAFT

September 12, 2011

Chairman opened meeting at 7:00 PM by inviting those in attendance to join in the Pledge of Allegiance.

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

Town Manager left meeting briefly to attend Finance Committee meeting.

UNANTICIPATED
Connor Stearns of 42 Benton Street asked if there are any plans for curfews relative to EEE. Chairman responded that has been more positive testing of EEE. Middleborough Health department has recommended that all activities in Middleborough from dawn to dusk be cancelled. Brian Giovanoni noted that weekly spraying by Plymouth County Mosquito Control is being done at the Schools.

ANNOUNCEMENTS
Chairman announced that the meeting was being broadcast by MCCAM and Verizon.

Brewster Ambulance Service will be holding a free CPR training session for residents at Baptist Church from 6 PM until 9 PM at the Central Baptist Church.

The Town Clerk's office online payment services system is up and running. They presently accept MasterCard and Visa. They are working towards accepting Discover card as well.

Selectman Frawley requested that the Brewster Ambulance Service CPR Class be posted on the Town's website. Board's secretary will follow up, but had already requested this information be posted.

Selectman McKinnon reminded the public that there will be an election for Precincts 2 and 4 one week from tomorrow at the High School.

Chairman Rullo thanked Fire Chief Benjamino, the Fire department staff, and all of the volunteers for yesterday's 911 Memorial Ceremony.

Selectman Quelle recognized the Middleborough School department, volunteers, and the crossing guards noting that it had poured out on the first day of school and it was the same for drop off time on 9/8/11. All children were placed where they were supposed to be. Additionally, now that school is back in session, please be vigilant of children while you are driving and they are waiting for buses and walking to school.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to issue a proclamation to Steven R. Olson, Jr. who was awarded "Soldier of the Year".

MINUTES
Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted to approve 8/22/11 meeting minutes with change to top of page five as discussed. Four in favor. Selectman Rullo abstained.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 8/31/11 meeting minutes.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 8/31/11 Executive Session meeting minutes.

NEW BUSINESS
Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to approve Town Hall auditorium rental request for Mary Anne Casserly on 10/2/11 from 8 A.M. until 4 P.M.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to authorize the use of the Town Hall parking lot as a pick up station for the Pratt Farm Fall Festival to be held on 9/24/11 from 9 A.M. to 4 P.M. with a rain date of 10/1/11.

Chairman read aloud memorandum submitted by Veterans' Director requesting annual permission to use his Town vehicle to travel to Rhode Island to transport Veterans. Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve One-day All Alcoholic Beverages Liquor licenses for Muckey's Liquors as follows:

9/15/11 from 2 PM to 10 PM
9/19/11 from 5 PM to 11 PM
9/20/11 from 5 PM to 11 PM
9/24/11 from 5 PM to 11 PM
10/5/11 from 5 PM to 11 PM

at 200 Oak Point Drive.

<u>Edgeway Mobile Home Park</u>
Chairman recognized that members of Edgeway Mobile Home Park Homeowner's Association were in attendance. Board broke from New Business to allow the Association members an opportunity to be heard.
Louisa Brown of Edgeway Mobile Home Park addressed the Board and read aloud a prepared statement. She noted that during the recent hurricane, they didn't know who to call. There is no one working in the office at Edgeway. It's September and they have not seen a bulldozer. The rent has nothing to do with the settlement and September 15th. Town Counsel's past opinions have been wrong. The law contradicts what he has said. Town Manager returned to meeting.

Chairman responded that while the Board does rely on its Town Manager and Town Counsel for information, each Board member makes its own individual decisions – vote. He noted that the Board has continued the matter until 9/26/11 at which time we will render a decision and that we are working on obtaining opinions from outside counsel. The Chairman made three phone calls to the Attorney General's office today.
Louis Brown – No work has been started and we are in the middle of September. Nothing is being done. Chairman responded that the Board will be discussing the settlement discussions/plans in Executive Session tonight.
Selectman Frawley offered that he agrees that the rent issue is separate from the settlement agreement matter. We are working on obtaining outside counsel for an opinion. We are working on your behalf and we are working towards a solution. We understand your frustrations and ask for your patience and to give us a little more time. Anne McGann spoke. She told the Board to use its power and asked liaison Selectman Quelle to present update. Selectman Quelle provided update. He offered that it's his understanding there is a family legal matter going on with the owners of Edgeway. He too has contacted the Attorney General's office. He is encouraged that we are looking for someone who has strong experience in these matters (outside counsel). He reminded the tenants that nothing is closed on the 26th. The difference here is that people are going to be making a promise (settlement) to a judge. He was very upset, as were other members of the Board, that the owner/operator did not start even one of the Phase I projects when it was supposed to. Things are going to be decided upon very soon. He apologized for their frustration. Selectman McKinnon asked what message or response they are getting if/when they call the Edgeway Park office. Louisa Brown responded that Michael will respond, but he has to pay out of his own pocket and he's tired of it. Selectman McKinnon asked her to confirm that they are receiving response/services. She responded that Mike was out sick during the hurricane so they had no one to contact or receive a response from.
Louisa Brown offered that the Board has the power. Carol Robertson, 23 Lyn Lane asked if the 9/15/11 court date will be postponed if Attorney Marsan is not present. Town Manager responded that Attorney Marsan won't be there and it won't be postponed. Paul Robertson asked the Board why it won't make a decision after nine years of these issues. Chairman reiterated that the Board is doing its best to get the matters in the Park corrected.

NEW BUSINESS
Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve a One-day All Alcoholic beverages liquor license for The New England Bartending Service, LLC as follows:

- 9/17/11 from 6 PM until 11 PM

at the Alley Theatre, 133 Center Street.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve a One-day All Alcoholic beverages liquor license for The New England Bartending Service, LLC as follows:

- 9/24/11 from 6 PM until 11 PM

at the Alley Theatre, 133 Center Street.

HEARINGS, MEETINGS, LICENSES

Chairman opened public hearing at 7:45 PM by reading aloud public hearing notice on application for Road Layout re Meadowbrooke Lane and Bon View Circle. Town Manager confirmed that the Planning Board has certified this subdivision as complete. Town Manager explained that the Board is to layout the road tonight and Town Meeting will vote on it at the Special Town Meeting on 10/3/11. Chairman asked to hear any comments from the public. Hearing none, Chairman declared hearing closed. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to accept layout.

Chairman opened public hearing at 7:49 PM on application made by the Town DPW for a WRPD Special Permit at Wood Street by reading aloud public hearing notice. DPW Director Andy Bagas addressed Board. Chairman noted that this is the first time that the Board has had the Town's outside engineer review a WRPD application/project and provide guidance. Chairman asked to hear any comments/objections. Brian Giovanoni thanked the Board for establishing the new procedure of having these application reviewed by an engineer. Hearing no other comments, Chairman declared hearing closed. The Board 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.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to grant the special permit to The Middleborough Department of Public Works to replace the existing culvert under Wood Street at Fall Brook within twenty-five (25) feet of a fresh water wetland as requested in the Applicant's application under the Water Resource Protection District By-law pursuant to Section XII. G. 3 (i) based on the plans dated April 2011 prepared by AECOM Technical Services with the following conditions:

That the Applicant provide final plans to the Board prior to construction to include the following:

a) 25' Zone surrounding the wetlands

b) Details related to de-watering activities to ensure no direct dewatering to the wetland areas

c) Construction details on how the culvert, foundations, wingwalls, etc. will be constructed in the stream bed without causing downstream siltation.

d) Additional plans and information on the wetland replication area, which appears to be proposed farther north at the culvert off of Wood Street.

Chairman noted that these projects have also been reviewed by our Town Departments, including, Conservation, Planning, and Building.

Selectman Spataro asked A. Bagas where they are with the Town's responsibilities in picking up branches. Director responded that they may have one or two more locations to pick up from, but other than that, they are done. He will be sending out notices to residents asking them to remove branches/debris from sidewalks if they haven't already done so.

Town Manager updated the Board that it is not the State Fire Marshal that decides about brush burning after all, but that there are no plans to allow for it at this time of year. Selectman Spataro asked that the Board be notified when they are done so that the Board can announce to the public so that they can be sure to clean up sidewalks in preparation for winter.

Chairman opened public hearing at 7:58 PM on application made by Ferdinand J. Kiley, III for a WRPD Special Permit at 35 East Main Street re Residences at Star Mill by reading aloud public hearing notice. Applicant's attorney, David C. Manoogian addressed Board and introduced Mr. Kiley's sister who was in attendance. He further extended Mr. Kiley's regrets to not be in attendance, but explained that he was unable to attend due to a medical condition. He reviewed the engineer's other recommendations, finding some to be incorrect as our engineer overlooked that they are taking down some of the structures. Layout sheet number 3 with revision was handed out and the revision was explained to the Board. Town Manager explained the changes to be done and that the applicant is agreeing to get them done. In response to question posed by Selectman McKinnon, it was noted that the Heritage Plan revision date is 9/12/11. Selectman Frawley asked to have his recollection refreshed regarding a woman whose home is in the parking lot. Attorney M. responded that they offered to buy it, but she was not interested. In response to question by Selectman Spataro, it was noted that some of the structures being removed are a number of closed and opened loading docks, free standing accessory buildings, and components of the actual buildings. Alot of the connecting structures that connected the buildings is being eliminated. Chairman asked to hear any further comments from the Board/audience. Hearing none, Chairman declared hearing closed. The Board 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.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to grant a special permit to Ferdinand J. Kiley, III, to install a reinforced soil lawn paver emergency access driveway, to install a drainage out fall, and for the creation of wetland replacement totaling 5,064 square feet over two areas located within twenty-five (25) feet of the fresh water wetlands as requested in the Applicant's application under the Water Resource Protection District By-law pursuant to Section XII. G. 3 (a) and (i) based on the plans dated 8/1/11 prepared by Advanced Concepts Engineering Corporation for the Heritage Companies and revised on 9/12/11 with the following conditions:

1. That the Applicant minimizes cuts into the existing ground so that the cuts are at least two to three feet above the historically high groundwater noted and established in 2005 in plans prepared for the Town by its consulting engineers, Weston & Sampson, in connection with the interceptor sewer improvement project.
2. That the Applicant reconstruct the three structures in place incorporating four feet deep sediment sumps and grease and oil hoods installed on the outlet pipes to optimize, to the extent practicable, the quality of the stormwater discharged through these three structures.
3. That the Applicant assure that both future lots will remain in full compliance with the impervious ground cover requirements in Section XII. G. 3 (j).
4. That the Applicant relocate four parking spaces to the northwesterly side of the expanded parking area as suggested by Atlantic Design and shown on the revised plan.

Attorney Manoogian thanked the Board, all Town Departments, Town Manager, and the Board's Secretary for being very helpful. He offered that the Board has terrific departments.

Selectman McKinnon offered word of concern re Mr. Kiley's status and Selectman Spataro asked that they extend the Board's best wishes for a speedy recovery.

NEW BUSINESS

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve name Box Turtle Path for an access path located on Purchade Street, Map 29, Lot 3612 for four house lots.

Chairman read aloud memo from Office of Economic Development Director Anna Nalevanko dated 9/6/11 re FY2012 MassWorks Grant Application. Selectman Frawley left meeting room briefly at 8:26 PM. Chairman explained that the grant request consists of four general tasks related to:

- Geometric and safety improvements to Everett Square
- Geometric and safety improvements at the intersection of Centre Street and Oak Street
- Reconstruction of the existing parking lot located between Pearl Street and Oak Street
- Traffic calming, roadway geometry, and safety improvements on East Main Street

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted 4-0 to support applying for this grant.

Town Manager gave brief summary of the 10/3/11 STM Warrant articles. A public hearing will be held on 9/26/11 to review/discuss the articles. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to publish the warrant.

GASB 45 discussion – Chairman suggested turning to the summary page for the results and reviewed the information. Selectman Frawley returned to meeting at 8:34 PM. Chairman continued to review. Selectman Spataro left the meeting room at 8:35 PM. Chairman explained that the Town is going to continue to work on trying to stabilize health care expenses. Selectman Spataro returned to the meeting at 8:38 PM. Chairman requested report be posted to website. Selectman Quelle pledged to do all he can to keep the gains. Selectman Frawley offered that it is important for the Town and public to stay on top of its state legislators.

Selectman McKinnon received a notice from Plymouth County Registry of Deeds as the Town's representative of the Plymouth County Advisory Board. They have rehired five people that they laid off They laid off on 6/30/09. They've done some software upgrades as well and think they will be a little more efficient. They wanted to thank everyone for their support.

TOWN MANAGER'S REPORT

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to send letter addressed to Senator Pacheco and State Reps re the adverse effects of the potential closing of Wareham District Court.

Selectman McKinnon informed Town Manager that while he and the Chairman were at the Fire Station yesterday, they noted that there are several crosswalks in front of the school and Fire Station that are no longer visibly marked and should be repainted. Town Manager will address with DPW Director.

CORRESPONDENCE

Selectman Quelle noted that mosquito spraying will take place tomorrow night. There is no sign that EEE is going away anytime soon. This is going to become an annual problem. He thinks the State House needs to look into for perhaps a general appropriation. He asked if the Town should call State legislators and ask why there isn't a general appropriation. Town Manager noted that the state controls aerial spraying. B. Giovanoni suggested that by looking at the 2010 Annual Report, you would see what numbers of EEE they found in 2009. We are seeing an increase in findings of EEE. We are waiting for the first frost. The test they found in 2009 is scary. Selectman Quelle is going to contact his State Representative and will bring information back to the Board. Upon motion made by Selectman Spataro and seconded by Selectman Quelle, Board voted unanimously to write letter to the Governor. Selectman McKinnon suggested sending a letter to surrounding Towns suggesting that we all get on this together. Selectman Spataro suggested we forward surrounding towns a copy of our letter to the Governor.

Selectman McKinnon noted letters from Moderator re CEHIC appointments and the meeting that the Board had last March about letter that was supposed to be sent re Rockland Industries. Selectmen Quelle and Frawley indicated that Senator Pacheco sent the letter last week. Town Manager offered that he thinks our consultant dropped the ball and hadn't transmitted to the Senator what was supposed to be transmitted.

#4 Chairman noted that the re-dividing of precincts was approved. Town Manager will check with Town Clerk as to who sends out notification to residents.

Chairman received correspondence for class action lawsuit re prescription drugs. He gave document to Town Manager who will follow up.

Upon motion by Selectman Frawley and Seconded by Selectman McKinnon, Board voted by Roll Call to go into Executive Session to discuss strategy relative to Collective Bargaining and Pending Litigation at 9:05 PM and not to return into Open Session. Roll Call: S. Spataro, Yes; A. Frawley, Yes; S. McKinnon, Yes; B. Quelle, Yes; A. Rullo, Yes. Ended at 11:25 PM.

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Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN