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# **MINUTES**

**For approval at the 6-3-13 meeting**

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

In attendance were: Selectmen S. McKinnon, A. Frawley, B. Quelle, L. Dalpe and J. Knowlton, Town Manager C. Cristello and Executive Assistant J. Shanley.

Meeting was broadcast live by MCCAM and recorded by MCCAM and Verizon.

**UNANTICIPATED**

Resident Brian Giovanoni asked if anyone was audio recording and noted that anyone who wishes to audio record the meeting is required, under federal law, to announce it & indicate who they are. Stacey Coutts of 19 Plymouth Street had a video/audio recorder that she decided to put away at the direction of Richard Barlow.

Selectman Frawley noted emails received from various Boards of Selectmen in surrounding communities re the Plymouth County Commissioners. The Commission is close to bringing long overdue audit reports up-to-date. The Commission also voted unanimously, at one of its meetings, to give itself a 100% raise. The Commission is meeting on 5/23/13 at 7 PM at Kingston Town Hall. Selectman Frawley will attend the meeting. Selectman Quelle, Board representative to the Plymouth County Advisory Board, offered to deliver any comments that the Board members, or the public, may have, to the Advisory Board. Chairman McKinnon offered his input on the improvements they have made with the audits, however, as far as the pay raise goes, just finding out about it, didn't allow opportunity for it to be placed on the Selectmen's agenda tonight. He offered that the Board could certainly discuss it as it will affect the Town, if even in a small way. Selectman Frawley suggested that he would like to gather more information before the Board responds. Board agreed Selectman Quelle will attend the meeting on 5/23/13 and provide report to the Board of Selectmen on June 3, 2013.

Selectman Dalpe noted that she and Chairman McKinnon attended Emergency Preparedness Meeting held at the Elks on Sunday. They are thinking of holding the event annually. Selectman Dalpe highly recommended the public attend as it was very informational. Chairman agreed it was very beneficial.

Tracey Marzelli of 108 S. Main Street offered that she was at a meeting last Wednesday at the State House and the Wampanoag Tribe's attorney, Howard Cooper, testified that they had sent a letter to the Town of Middleborough regarding the IGA in Middleborough one year ago, and he was ignored and that Middleborough failed to show up. Town Manager noted that we are in the process of looking for such a letter, but have yet to locate. Selectman Frawley offered that he's called the Tribe repeatedly himself and has never received any return phone calls. He attended the Taunton City Council meeting last Tuesday and spoke to Mr. Emmett Hayes and asked him to call the Town Manager. This was the day before Attorney Cooper testified at the State House that Middleborough

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hasn't been in touch with them. Attorney Cooper is mistaken or misrepresenting the truth and we still have not heard back from them.

**ANNOUNCEMENTS & RECOGNITIONS**

Paul Provencher reminded the Board and the public of the planned Memorial Day events.

Selectman Knowlton noted that he was invited to the new officer installation at the VFW Post yesterday. Wayne Packard is the Commander. It was a wonderful ceremony. It's great to see that our Veterans' are being taken care of.

Selectman Knowlton reminded the public that the Massasoit spring cleanup day will be on Saturday, June 1<sup>st</sup> from 9 a.m. until 1 p.m. at 1361 Middleboro Ave., E. Taunton.

Selectman Knowlton also offered that the Oliver Mill River race was a big success this past weekend. Selectman Frawley offered thanks to the Fire department for being available at the race and to the Park's department for holding the event.

Selectman Frawley announced that Soule Homestead will offer a free film at 7 PM on June 13<sup>th</sup> called "Genetic Roulette" about the genetic modification of food today.

Chairman announced a vacancy on the Library Trustees. Those interested should contact Library Director Danielle Bowker.

Chairman announced the Plymouth Career Center & Middleboro On The Move Veteran's & General Public Career Fair to be held on Wednesday, May 22<sup>nd</sup> from 10 a.m. to 2 p.m. at The Elks Lodge, 24 High Street, Middleborough.

**MINUTES**

Upon motion by Selectman Quelle and seconded by Selectman Frawley, Board voted unanimously to approve the 5/13/13 regular meeting minutes.

**WARRANTS**

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to authorize the Chairman, or his designee, to sign Warrants for week ending 5/17/13.

**NEW BUSINESS**

3.3 acre parcel off Thompson Street-Stephen & Maureen Bonfiglioli

Town Manager gave overview. Steve Bonfiglioli addressed Board to offer further input. Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to award a 3.3 acre parcel off Thompson Street to Stephen and Maureen Bonfiglioli in exchange for a 1.9 acre parcel.

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1.4 acre parcel on Cross Street-Douglas F. Green

Town Manager gave overview. Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to award a 1.4 acre parcel on Cross Street to Douglas F. Green in exchange for a 1.6 acre parcel.

Letter of Credit – Earth Removal Permit for W. L. Byrne, Inc.

Board's Executive Assistant Jackie Shanley explained that W.L. Byrne, Inc. wishes to do business with Rockland Trust in place of Eastern Bank and offered that she had spoken with representatives at Eastern Bank, Rockland Trust, & W. L. Byrne, Inc. and had received approval of the new Letter of Credit by Town Counsel. Town Manager explained that applicants for Earth Removal permits are required to provide sureties to the Town and a Letter of Credit is one method for doing so. Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to authorize Chairman to sign the release form, releasing Eastern Bank from its Letter of Credit.

Chairman read aloud Warrant for Special State Election for June 25, 2013. Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to approve & sign.

Discount Liquors, 422 W. Grove Street - no objections to the State Lottery Commission providing them with a KENO monitor –no vote taken.

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to approve a One-day Beer & Wine liquor license for The Bartending Service of N.E. for 6/1/13 from 6 PM to 11 PM at the Alley Theatre, 133 Center Street.

Upon motion by Selectman Dalpe and seconded by Selectman Frawley, Board voted unanimously to approve a One-day Beer & Wine liquor license for The Bartending Service of N.E. for 5/31/13 from 6 PM to 11 PM at the Alley Theatre, 133 Center Street.

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to approve new access path name "Meetinghouse Path" located after 20 Plympton Street, for 3 existing homes set off Plympton Street with one common driveway

Diane C. Steward addressed the Board to introduce herself and her background. Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to approve the Town Manager's appointment of Diane C. Steward to the Conservation Commission for a two-year term through June 30, 2015.

**HEARINGS, MEETINGS, LICENSES**

COA Director Andrea Priest addressed Board to explain the SHINE Grant renewal. Shine Regional Director Mary Bessey was also present. Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to authorize Chairman to sign the SHINE Grant renewal.

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COA Director Andrea Priest also explained the GATRA services offered. Chairman asked if services would be available to commute residents from Lakeville to Middleborough if they want to attend Krazy Days. Ms. Priest explained that it, or other special requests, can be arranged with special permission and advanced knowledge. Selectman Frawley requested that this information be put on the Town's website.

Edgeway Mobile Home Park – Hearing re request action on criminal complaint

Town Manager explained that Attorney Burke had filed a motion with the Court to prevent the Board from pursuing any action relative to the implementation of a \$100/day fine as well as to compel the Town of Middleborough to issue the Park its license. He had a scheduled court date for today, but Town Counsel could not make it. In order to facilitate a date on which both attorneys could attend Court, we needed to agree to put off any action that the Board might take this evening until June 10, 2013 because it looked like they probably won't find a mutually agreeable Court date until the first week of June. Upon motion by Selectman Knowlton and seconded by Selectman Frawley, Board voted unanimously to continue/postpone until 7:30 PM on June 10<sup>th</sup>. Selectman Quelle questioned why Attorney Burke would file a request with the Court to stop the Board before the Board had even determined what it would do and questioned why Attorney Burke's absence this evening would prevent the Board from moving forward. Town Manager explained that we assured Attorney Burke that we would postpone tonight's hearing with his agreement to postpone today's Court date since our Town Counsel could not be there today. Resident Diane Stewart asked if the Board can retroactively fine the Park since it did give notice of tonight's hearing. Chairman responded that the Board can't fine the Park, but only ask Town Counsel to file with the Court to ask for the \$100/day fine. Selectman Frawley asked if we want to get Special Counsel to represent us on this. Town Manager responded that he did not think that was necessary. Louisa Brown addressed Board and asked what would happen if Attorney Murray continues to not be available to meet with Attorney Burke. Chairman responded that he was relatively certain that the two attorneys will be meeting.

Railroad Safety-Seasonal Passenger Train to Cape Cod

Brian Maroney, Sr. Track Engineer with Jacobs Engineering of New Bedford and Tracey Kauffman, Deputy Director of Safety Assurance and Control with the MBTA, addressed the Board. Ms. Kauffman offered that she could answer any questions relative to safety. Chairman explained that the Board is concerned about the high speed train that will be coming through Middleborough. Ms. Kauffman offered that they completed the safety audit last week on all of the railroad crossings. There are still some areas that need brush clearing, additional signage, or signage improvement. In response to concerns raised by the Chairman re the close proximity of Rock Village church & a daycare to one of the at-grade crossings, Ms. Kauffman responded that they are working closely with the Police and Fire departments as part of their community outreach. They may not have gotten to this area yet, but they have folks coming out tomorrow and the day after. Our schools have been very proactive and are working with them. They have flyers that are going home to families. The schools will make announcements to the students for a couple of days regarding safety hazards and there are reverse 911 calls planned for homes. They have been to various public places in Town, such as senior centers and grocery stores. They offered to reach out to additional facilities if the Board had any specific requests. Selectman Frawley asked why Middleborough was informed so late of this train coming. Neither representative could answer that question. Ms. Kauffman did offer

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that they strategically target this time frame as far as getting the message to kids so that the information will be fresh in their minds. Selectman Frawley asked if they could lower speed from 50mph to 30mph in Middleborough and they suggested the Town would need to contact the CCRA (Cape Code Regional Authority). Town Manager will get the contact information to Selectman Frawley. Mr. Maroney offered they have improved the track and that new signs are being put up and markings are being re-painted. Spruce Street has not been done yet with markings because the state is using thermo plastic. Middleborough should be all set for Friday night. There are still Railroad ties and soil that need to be removed. It's ongoing. Fencing can become a safety hazard because as much as it may deter someone from going onto the right-of-way, it may also trap someone on the right-of-way. The MBTA Police are coming here tomorrow and are working very closely with the Chief of Police and the Chiefs in surrounding communities. The Chief met with them one week and one half ago and it was a very productive meeting per Tracey Kauffman. Train schedules may be found at CapeFlyer.com.

Selectman Quelle asked what type of audible alerts the trains will be making. Mr. Maroney responded that he can't address the freight, but the MBTA horn blowing will be per the schedule. He suggested residents can expect the following timing: Ten minutes after it leaves Middleborough, it will get to Miller Street, and after another five minutes or so, it will get to Spruce Street. Selectman Frawley offered that he does appreciate these representatives coming in and the tough schedule, but this is scary and he disagreed that this isn't new. He also noted that there are some well-known fishing spots gotten to best via those railroad tracks. There are kids who don't know this is illegal. The representatives asked Selectman Frawley to email them the location of the fishing spots to verify they are aware of the correct locations. Chairman McKinnon noted the residential changes to the area since 1980 and noted that we found out about this train coming through the newspaper. Selectman Knowlton asked if the assessment has been shared with the Chiefs. Ms. Kauffman responded that it's being drafted right now. Tomorrow or Wednesday will be test runs first to test for trespassers and she does not know if the assessment will be shared with the Chiefs. We have been working closely with the Chiefs. Selectman Quelle suggested that our 2000-2010 census report will show significant change in population since the 1980's. Brian Giovanoni questioned that we are going to have a train rolling on Friday and haven't finished safety measures yet. Mr. Maroney responded that while they have been rushed, they have not skimped on anything. Ms. Kauffman offered that grade crossings have an elevated level of risk and they couldn't assess that until they were done, which they are pretty close to being. She offered that they are required to close these items out before the trains will be allowed to operate. Some outstanding items are strong recommendations of things we would like to do, but they will not stop the train from running on schedule as planned. We want to do everything we can to minimize the hazards and risks. Brian Giovanoni asked if the signs at the crossings will be lighted so that they can be read at night. They responded that they are unaware of any requirements that the signs be lit. Miller Street resident Diane Bassett offered that Hershey Street in Hingham has a gate, and they want one on Miller Street. Resident Dave Cavanaugh, whose home abuts the grade crossing at Rock Village offered that he has several concerns, specifically, there has been no dust control while working, they totally cut down natural buffers, left piles of rail ties, destroyed a drainage ditch near his house, and cut down all of the vegetation along the right of way. He offered that ATV's and dirt bikes use those tracks daily. He also offered that they did restore the Miller Street crossing very well. He suggested that there could be some limited fencing behind the daycare

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and Rock Village, but significant fencing would destroy the animal crossings. Ms. Kauffman asked him for a copy of his concerns. Mr. Maroney indicated that he had seen Mr. Cavanaugh's official complaints and the slash has been removed, the used tires will be removed, brush cutting is required so bus drivers can see, and the 2<sup>nd</sup> kind of brush cutting is for drivers to see. Trees are not allowed to touch the trains so clearing was done for that purpose as well. He has alerted the contractor about his drainage ditch. Ms. Kauffman offered that she will have more people here tomorrow and can take pictures of the church and daycare area and will hand out flyers. We have a program called Operation Lifesaver and we can put this location on the radar. They will take a look at it and if they decide on recommendations, they will make them. Resident Sherri Swindle of 82 Miller Street addressed Ms. Kauffman & Mr. Maroney re Community outreach and told them that they made no effort to talk with the residents in the area. Glenn Montapert suggested that the assessment report should be shared with the Town. Ms. Kauffman will request it. Resident Diane Stewart asked if there is audio and lit signage further away in the woods approaching the tracks. Ms. Kauffman responded that she doesn't have the authority to consider that request. Mr. Maroney offered that they will be restoring the right-of-way gates, but not by this Friday. It will prevent larger vehicles from entering the right-of-way. Diane Stewart noted that the church shakes when the trains pass by now at 30 mph and asked what type of damage may be done to the buildings at 50 mph. Ms. Swindle added that she is not opposed to trains or to living near them. She is opposed to the way this whole thing was done.

Selectman Quelle suggested that it is very unwise, as a train service, to start without finishing all of your safety measures. Ms. Kauffman responded that all safety measures will be in place as it is required. Mr. Maroney said if all safety measures are not met, the train will still run, but not at 50 mph. Selectman Frawley thanked Mr. Maroney and Ms. Kauffman for coming down and talking to the Town and explained to them that, as they leave hearing the frustrations, it's because they are the first two people to come here and discuss this with the Town and what they're hearing is fear. He again offered that he would appreciate it if they can get the speed through Middleborough down from 50 to 30 mph. Chairman McKinnon asked if the (blue) warning signs can be lit. MG&E Commission member Glenn Montapert will check to see if there is any street lighting at the location. Chairman thanked them for coming.

Richard W. Barlow re 19 Plymouth Street

Richard W. Barlow re 19 Plymouth Street asked why Joyce Ryan was allowed to speak about him & Stacey Coutts at the 4/8/13 hearing re a Title V Inspection Order for 19 Plymouth Street.

Selectman Frawley informed Mr. Barlow that he too, was allowed to speak at that hearing, but he hadn't attended. Mr. Barlow indicated that this was because the Health department told him he didn't have to be present. Selectman Frawley explained to Mr. Barlow that he wasn't required to be present this evening either, but it is an individual choice to attend.

Chairman McKinnon attempted multiple times to explain that the only matter before the Board of Health on 4/8/13 was the Title V Inspection matter, and continually asked Mr. Barlow if he had something relative to the Title V to address with the Board this evening. Mr. Barlow made numerous attempts at pointing out items that he considered are in need of repair on the property located at 19 Plymouth Street. Stacey Coutts called the Board a bunch of liars. Mr. Barlow responded by advising Ms. Coutts that it's not the Board that's the issue.

Chairman McKinnon continued to explain that the only matter before the Board on 4/8/13 was to determine if the homeowner would be required to have a Title V Inspection completed at this

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location and that the Board would only entertain discussion this evening if it was specifically relative to the Title V matter. Stacey Coutts kept speaking over Mr. Barlow. Mr. Barlow told Ms. Coutts to be quiet. Mr. Barlow asked a question about the Board of Health, but was confusing the Board of Health with the Health department. Chairman McKinnon clarified that the Selectmen are the Board of Health, to which Ms. Coutts responded in a disrespectful manner mimicking the Chairman. Mr. Barlow told the Board he wants an apology for being accused of something they didn't do. Chairman McKinnon responded that the Board never accused them of anything. Mr. Barlow and Ms. Coutts acknowledged that it was Ms. Ryan that made the accusation, but they wanted the Board to apologize for allowing her to say it. Mr. Barlow continued by informing the Board that he wanted to explain about the things that are wrong with the house at 19 Plymouth Street. Chairman McKinnon explained that there would be no further discussion if they were going to talk about anything but the Title V matter. Stacey Coutts began cursing at the Board. Chairman McKinnon advised them that they could leave the meeting and pointed out to them that there was a child in attendance. Ms. Coutts continued to curse at the Board. Mr. Barlow and Ms. Coutts were told to leave the meeting at least ten times before they eventually complied.

**TOWN MANAGER'S REPORT**

Middleborough's application for Startup Certification for our Local Emergency Planning Committee has been approved. This will make us eligible for future grants. Town Manager credited the good work of the Fire Chief & the Committee.

MIIA released some additional participation credits in the amount of approximately \$3,700, which will go towards this year's budget.

**CORRESPONDENCE**

#13 Chairman McKinnon noted the FEMA Reimbursement "Blizzard 2013" meeting that the Fire Chief held today. Town Manager noted Selectman Dalpe, several department heads, and three FEMA representatives were in attendance. Chairman asked, and the Town Manager confirmed that direct administrative costs relative to grant work, do qualify for reimbursement.

#3 Selectman Quelle noted that 88 River Street continues to be an issue, but is being addressed through the Conservation Agent.

#9 Selectman Quelle noted letter re litter. It isn't unheard of re citizens living around our landfill – just bringing attention to this letter.

#13 Selectman Dalpe – FEMA reimbursement for debris removal. Town Manager will meet with Andy Bagas to determine how to separate the reimbursement for debris removal from reimbursement for snow removal.

Selectman Dalpe confirmed with Town Manager that MG&E is filing for FEMA reimbursement separate from the Town.

#12 Selectman Knowlton noted part-time Library Technician position available at the library.

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#9 Selectman Knowlton asked if Middleboro Mess Movers might be helpful in picking up the littered area mentioned in this piece of correspondence.

#11 Selectman Knowlton noted that the Middleboro Retirees Insurance Group is meeting on 5/21/13.

#2 Selectman Frawley noted that the first cleanup day for Nemasket River is on Saturday June 15.

#9 Selectman Frawley suggested that the Town buy some cameras that take snap shots and maybe we can get their picture and send it to the Environmental Police. He encouraged the public to report anyone littering. He praised Middleborough Mess Movers, specifically, Melissa Guimont and her group who walk around Town for hours and pick up trash.

#5 Selectman Dalpe noted correspondence re mosquito spraying. She noted how important this is. She requested this information be posted to the Town's website.

Chairman noted that the Mess Movers can always use extra hands and encouraged the public to volunteer.

Upon motion by Selectman Knowlton and seconded by Selectman Frawley, Board voted unanimously to adjourn at 9:26 PM.

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Jackie Shanley, Executive Assistant  
BOARD OF SELECTMEN