MINUTES

For approval at the 8-12-13 meeting

DRAFT

Middleborough Board of Selectmen **July 29, 2013**
Meeting Minutes

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.

Chairman requested a moment of silence in memory of Firefighter David Alan Brier who passed away unexpectedly on July 22, 2013. Chairman asked that a letter of thanks be sent to surrounding town fire departments for assisting Middleborough during this difficult time. Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to send letters.

UNANTICIPATED

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to authorize Chairman to sign, and to send, letter to Mashpee Wampanoag Tribe re Pre-opening Mitigation money.

Adam Bond addressed Board to announce his plans for magic tricks that he intends to perform during Krazy Days festivities.

ANNOUNCEMENTS

Selectman Dalpe noted that the Towns of Middleborough and Fairhaven were awarded $894,657 of Community Development Block grant funds. Town Manager offered thanks to Jane Kudcey for all her hard work. Chairman offered thanks to the Town of Fairhaven Board of Selectmen and Planning department for doing a great job on this.

Police Chief Gates announced that former Police department janitor Louis Mattie, who had retired in the mid 80's, passed away.

Selectman Frawley announced that Lorenzo Grasso of Lorenzo's restaurant passed away over the weekend. Selectman Frawley noted that Mr. Grasso was the staple of the community and will be missed.

Selectman Knowlton announced that tickets are available at the Custom Decorator downtown for the Krazy Day's Outlaw Country Dance party.

MINUTES

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted to approve the 7/15/13 meeting minutes. Four in favor. Selectman Quelle abstained.

WARRANTS

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to authorize Chairman, or his designee, to sign Warrants for week ending 7/26/13.

Upon motion by Selectman Knowlton and seconded by Selectman Quelle, Board voted by Roll Call to go into Executive Session at 7:12 PM to discuss the discipline or dismissal of, or complaints or charges brought against, a public official, employee, staff member, or individual and to return into Open Session. Roll Call: B. Quelle, Yes; L. Dalpe, Yes; J. Knowlton, Yes; A. Frawley, Yes; S. McKinnon, Yes. Ended at 7:20 PM.

NEW BUSINESS

Police Chief Gates addressed Board. Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to reinstate Antonio L. Botta to the position of Police Officer with the Town of Middleborough, effective immediately.

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to hold the fall Special Town Meeting on Monday, October 7, 2013 at 7 PM at M.H.S.

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to close the STM Warrant (deadline for submission of articles) by 12 Noon on Friday, August 30, 2013. Board requested this information be posted to the Town's website as well as the date for STM.

Town Manager gave explanation re Purchase and Sales Agreement with Bertarelli Bros., Inc. Town Manager confirmed that Town Counsel has reviewed and approved the document for signing. Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to sign a Purchase & Sales Agreement with Bertarelli Bros, Inc. for a vacant parcel of land off Plymouth Street, Middleborough.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to declare two old police cruisers as surplus property, specifically,

- Unmarked 2001 Ford Crown Victoria VIN# 2FAFP71W31X135662
- Marked 2006 Ford Crown Victoria VIN#FAFP71W46X165213

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to pay invoice for MMA Annual dues in the amount of $2,710.

Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to authorize Chairman to authorize Town Manager to sign grant contract for emergency communications by signing the authorization form.

Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to authorize the Chairman to sign FY13 audit engagement letter with MLB CPA, LLP.

HEARINGS, MEETINGS, LICENSES

Board welcomed Andrew Danforth, Director of N.E. Resident Owned Communities (NEROC) Program re pending sale of Hillcrest and other mobile homes. They work in all the New England states with the exception of New Hampshire. Mr. Danforth explained the program and that they are seeking limited changes to the Rent Board Rules/Regulations as follows:

- Section 1 – definitions. Add new paragraph N as follows:

N. Resident Owned Park: A Mobile Home Park that is owned by a corporation or association where the (a) shareholders or members are individuals owning homes in the park and (b) over 51% of the owner of homes are shareholders or members of the park Owner.

M. Fair Net Operating Income: (1) Fair net operating income for a Mobile Home Park shall be that income which will yield, in the discretion of the Board, a reasonable return to the Owner of a Mobile Home Park, after all reasonable operating expenses. In consideration of whether the return is reasonable, the Board may consider any relevant evidence and standards, including, but not limited to: average returns for other similarly situated Parks, any operating expenses or debt service, any projected capital improvements, or any other factor that that may be presented. The Board shall evaluate all evidence presented by any party regarding the fair net operating income.

(2) Fair net operating income for a Resident Owned Park shall be that income which will enable the Owner of the Park to pay or provide with respect the Park for all operating expenses, capital expenses, contractual debt service and contractually mandated or shareholder/member approved reserves for capital expense and operating expenses.

Mr. Danforth informed the Board that Hillcrest is ready to buy its community and a P&S is expected from Edgeway Mobile Home Park by the end of the week. Hillcrest will be seeking financing within the next twenty days, therefore, it is important to them to have the changes made to the Rules & Regulations as immediately as possible. Chairman expressed his individual concerns in making these changes. Mr. Danforth offered that the changes will allow the homeowners to set their own rent amount, but with the Rent Board still in place. Selectman Knowlton questioned the difference between items N and M and the changes being proposed by ROC USA. Mr. Danforth explained that ROC's suggestions are not for discussion tonight. Selectman Frawley confirmed that these changes are needed in order for these residents to own these parks. Town Manager offered that these changes only add to the regulations. It does not take away from them. In response to a question by Selectman Dalpe, Mr. Danforth explained that ROC USA provides financing, his company will be the technical advisor, and the Park Owners will be required to have a property manager. Selectman Dalpe recognized Jesse Martinez being in attendance. Selectman Quelle offered thanks to Mr. Danforth and asked if he would speak about the 49% who opt out of the program. He responded that it is almost never split 51%-49%. Chairman asked if, with all of the Parks in this program, they ever dropped below 51%. Mr. Danforth responded, no. Attorney Bond offered that he has worked with Mr. Danforth on this. The changes are to add a cooperative and he explained the purpose for this. Chairman called upon Town Counsel to ask him, in his opinion, protecting the Town, if changing these regulations will hurt the Town to which he responded it would not. John Cormier of 20 Lisa Drive and Frank Cuddy of Hillcrest addressed the Board and

read aloud a vote by the residents of Hillcrest in favor 9-0 of asking the Rent Board to change the regulations. Mr. Cuddy spoke about this being an opportunity to make immediate repairs to the Park that have been lacking through the past two owners. He thanked the Board for its time. Upon motion by Selectman Frawley and seconded by Selectman Dalpe, Board voted unanimously to move forward with steps to make changes to the regulations.

TOBACCO VIOLATION HEARINGS

Health Officer Jeanne Spalding addressed the Board to explain that routine compliance checks were held and five businesses in Town were found to have sold tobacco products to minors. Super Petroleum was the only one to fall within the three year period of having had violated the tobacco regulations.

Shell, 63 Bedford Street

Chairman read aloud the violation hearing notice re Shell, 63, Bedford Street. Chairman called upon Mr. Chaudhry regarding Shell's violation on 6/23/13. He offered that an employee of the store sold to the minor and he has gone to class himself and had two employees certified recently through the Alcohol Intervention Methods program. He still has two employees to attend re-training. He has equipment at the store which will require a birthdate be punched in. Health Officer noted that this business has also failed to respond to its food code violation, even with multiple attempts by her office to get a response. She appreciates Mr. Chaudhry's offer that he is embarrassed, however, this has gone on since May 6th in an attempt to bring them into compliance. He asked which compliance she was referring to and she responded with detail. Chairman noted that the Board would be discussing the tobacco violation at present and the food violation after. Chairman asked Mr. Chaudhry if he is confident that using the machine that requires a clerk to input a birth date will prevent future sales to minors. Mr. Chaudhry offered that he is. Selectman Knowlton offered his concern that these violations are happening. Mr. Chaudhry responded that he doesn't think that some employees grasp the negative effect these violations will have on the livelihood of the owner. It is difficult to understand why they sometimes don't ask for an I.D. Selectman Knowlton responded that it is his responsibility, to which he agreed. Selectman Knowlton asked him what he can do about that. He responded that he tries to make sure this never happens. Health Officer Jeanne Spalding suggested that educating the employees and assuring consistent use of these electronic devices should help. Chairman closed the hearing. Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to impose a $100 fine and a five day suspension of tobacco product sales, effective August 1st through August 5, 2013.

FOOD CODE VIOLATION HEARING

Shell, 63 Bedford Street

Chairman read aloud the Food Code violation hearing notice re Shell, 63 Bedford Street. Health Officer reviewed the details of the violation and noted the multiple attempts to bring the business into compliance, all of which were unsuccessful. She went to the store herself and asked the clerk to contact the manager and she was unable to reach anyone. They do not have information if the food product was discarded and replaced. Mr. Chaudhry provided the Board with a handout of a printed copy of an emailed response he indicated he sent the Health office. The Board noted that he had

spelled the word Middleborough incorrectly in his email, and that, therefore, would explain why the office did not receive it. Chairman asked him why he didn't call the Health office to respond to the continued attempts to get a response. Initially he responded that he did, but upon further questioning, he indicated that he was unaware that there was still an issue. The Health Officer offered that she called each number she had for him, including the emergency contact number. He responded that he never got any messages from his staff. He offered that the freezer technician indicated that there was nothing wrong with the freezer, therefore, he saw no harm letting his employee take some of the food product home. Chairman requested that Mr.

Chaudhry confirm his contact numbers with the Health Officer. He offered that he thinks it was a lack of communication. Chairman closed hearing. Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to suspend the food service license for six days, effective Thursday, August 1st through Tuesday, August 6, 2013.

TOBACCO VIOLATION HEARINGS (continued)

Super Petroleum, Inc., 381 West Grove Street

Chairman read aloud the violation hearing notice re Super Petroleum, Inc., 381 West Grove Street. Operations Manager was present. Health Officer reviewed the details of the violation. The Operations Manager offered that they have no defense to offer. The employee has years of experience and is fully trained. She had a lack of judgment and she has offered her resignation multiple times. Their company policy is that anyone under the age of 30 should be carded. He has spoken to her and re-trained her and other employees. Selectman Frawley noted some discrepancy in the compliance report, specifically, that the report indicated it was a male clerk who made the sale. After some discussion, the Operations Manager offered that they accept that a violation did occur. Chairman closed hearing. Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to issue a $100 fine and a five day suspension of tobacco product sales, effective August 1st through August 5, 2013.

Capeway Convenience Store, 578 Wareham Street

Chairman read aloud the violation hearing notice re Capeway Convenience Store, 578 Wareham Street. Health Officer reviewed the details of the violation. Carson Colletti addressed the Board standing in place of her husband. She acknowledged that their employee did sell the product to the minor and that their policy has been if someone looks under 30 years old, they are to be carded, but now their policy is to card everyone. Selectman Quelle noted that the report shows that the store clerk did ask for an I. D. and the minor didn't have one, but the clerk sold to the minor anyway. Chairman closed the hearing. Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to impose a $100 fine and a five day suspension of tobacco product sales, effective August 1st through August 5, 2013.

Sunoco, 157 S. Main Street

Chairman read aloud the violation hearing notice re Sunoco, 157 S. Main Street. Health Officer reviewed the details, including that the product sold was a cigar for .73 cents. Vijay Brahmbhatt

addressed the Board and explained he had been absent that day and the person who filled in for him did not care. Chairman asked what he will do to ensure this doesn't happen in the future. He did not know what, therefore, Chairman suggested he speak with the Health Officer about the options, such as employee training. Chairman closed the hearing. Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to impose a $100 fine and a five day suspension of tobacco product sales, effective August 1st through August 5, 2013.

Cumberland Farms, 87 E. Grove Street
Chairman read aloud the violation hearing notice re Cumberland Farms, 87 E. Grove Street. Health Officer reviewed the details. There was no representative from Cumberland Farms present at the hearing. Chairman closed the hearing. Upon motion by Selectman Frawley and seconded by Selectman Knowlton, Board voted unanimously to impose a $100 fine and a 7 day suspension of tobacco product sales, effective August 1st through August 7, 2013.

Joe Arruda re Harju Earth Removal permit-Travel route-Alteration requested
At 9:25 PM Joe Arruda appeared before the Board re his request to alter the presently approved travel route for the Harju Earth Removal permit. Selectmen McKinnon and Quelle recused themselves at the recommendation of Town Counsel as they live on Wall and Plymouth Streets. Vice Chairman Frawley conducted the remainder of the hearing. Mr. Arruda reiterated that he has five trucks that already travel this route now, legally, from another job site in Carver to Bridgewater. He is not adding anymore trucks with his request. Selectman Knowlton expressed concern regarding the start time being the same time as school buses being on the roads as well as the deterioration of the road. Mr. Arruda offered he has been in business for 20 years and has never been cited. His drivers take special care. As for the wear on the roads, he does not feel that his trucks can be blamed for that. It's the same route he's been using for twenty years. The Carver pits start at 7 a.m. and Middleborough pits start at 7:30 pm. Relative to dust at the site, it is controlled by an irrigation system and he is unaware of any complaints regarding noise. Selectman Dalpe confirmed through Mr. Arruda again that there will not be any increase in trucks. Resident Bob Lessard addressed Board and presented a petition from residents opposed to the change in travel route from the site. He provided photographs of damage to the roadway, and alleged it has been caused by the trucks coming out of the pit and taking a left hand turn. Mr. Lessard read aloud a prepared letter citing his objections, concerns, and questions. Upon motion by Selectman Knowlton and seconded by Selectman Dalpe, Board voted not to grant the alternate route request. Selectman Frawley opposed. Motion carried. Chairman McKinnon and Selectman Quelle returned to the meeting.

TOWN MANAGER'S REPORT

The Textile recycling collection at the Middleborough Landfill has collected 3,300 pounds thus far.

Town Manager noted letter from the Town of Raynham supporting our preferred design for the Middleborough Rotary. It is hoped that we will receive additional letters of support from surrounding communities to present to the Department of Transportation. Congressman Keating visited Middleborough approximately two weeks ago has promised to advocate on our behalf with the Department of Transportation. There will be a meeting of the JTPG meeting in August where

Town Manager believes the JTPG will commit a year's worth of TIP funding towards the Rotary project since it is such a significant regional transportation project, and hopefully, they will also endorse our design as well. Now that the transportation funding is in place, it really is the time to get this moving forward.

We are in the midst of a Restoration window project at the Eastern Bank building. It is taking a little longer than we thought, but hopefully, it will soon be completed.

Eastern Bank has notified us that they are vacating the building by the end of October, although they have indicated they may stay as long as December. We've worked for over six months to keep them there, but as competitive as our offer was for a long-term lease, it wasn't enough. Banks are consolidating. The Town Manager has begun to work on an RFP to fill that space.

Selectman Frawley noted that many discussions about the downtown area have raised issues regarding parking. We actually do have a lot of parking in Middleborough, but as Selectman Knowlton has brought up, maybe we should discuss signage. Town Manager responded he is working on addressing this with DPW Director Chris Peck. Selectman Knowlton asked Town Manager about implementing 15 minute parking for everyone (merchants) on Centre Street. The Town Manager thinks further discussion is needed, and he would not, necessarily support that.

CORRESPONDENCE

#1 Selectman Quelle noted the Notice of Intent to sell land at 68 Purchase Street-61B Recreation land. Town Manager noted Ruth Geoffroy's memo that the notice is deficient and offered that the Board should think about whether it wishes to simply inform the Holton's of the insufficiency or decide that it is not interested in the land. Selectman Frawley offered that he thinks it would be worth discussion and suggested that the Board may want to get resident feedback. He would also like to hear further from the Town Planner and Conservation Agent. Board will discuss at its next meeting. Selectman Dalpe noted Conservation Commission Agent's memo and asked if we should get more updated resident input.

#3 Selectman Quelle commended the professionalism of Mark Belanger for submitting this Conflict of Interest Disclosure and noted that he fully supports Mr. Belanger continuing to sit on the CPA.

#2 Selectman Dalpe noted correspondence from the Town of Wareham. Upon motion by Selectman Dalpe and seconded by Selectman Knowlton, Board voted unanimously to send letter of support re House Bill 1115 Low & Moderate Income Housing.

#4 Selectman Dalpe congratulated Sherri Hartlen Neely on her recent appointment to the Library Board of Trustees.

#6 Selectman Knowlton noted the Bridge Inspection report for Wareham St./Nemasket River. Town Manager will verify if we made these repairs already.

#9 Selectman Knowlton noted MMA correspondence re Local Aid and offered his appreciation that they are fighting the good fight for us.

#5 Selectman Frawley noted the SRPEDD correspondence re Community Innovation Challenge Grant. Town Manager will contact Ross Perry to gather further information.

Selectman Frawley noted letter received re Project First Light.

#8 Selectman Frawley noted correspondence from Badger Wilderness Guides re Wilderness & Remote First Aid registration.

#8 Selectman McKinnon reiterated the benefits of participating in a Wilderness & Remote First Aid program.

UNANTICIPATED

Selectman Knowlton made announcement that the Board does not respond to anonymous correspondence.

Selectman Dalpe noted that the South Middleborough Rail Crossing's Risk Assessment is not finished. The gates were going up and down today with no one there nor any trains running as the gates were active. People are still trying to go around the gates.

Richard Young of 14 North Street informed the Board that the Cape Rail Flyer has a Facebook page on which he found information contradicting them saying that they can't reduce the speed of train.

Sherri Swindle of 82 Miller Street reiterated that they haven't done any public outreach.

Upon motion by Selectman Knowlton and seconded by Selectman Dalpe, Board voted unanimously to adjourn meeting at 10:43 PM.

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Jackie Shanley, Executive Assistant
BOARD OF SELECTMEN