

# **MINUTES**

**For approval at the 8-6-12 meeting**

**Middleborough Board of Selectmen  
Meeting Minutes**

June 25, 2012

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. Spataro, S. McKinnon, and A. Frawley, Town Manager C. Cristello, and Confidential Secretary J. Shanley.

**UNANTICIPATED**

None.

**ANNOUNCEMENTS**

Selectman McKinnon congratulated and thanked everyone, including volunteers, who worked to open the Pierce General Store and Archeological Center.

**MINUTES**

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve 5/30/12 meeting minutes.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted to approve 6/4/10 meeting minutes. Three in favor. Selectman Spataro abstained.

**NEW BUSINESS**

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to ratify the Town Manager's appointment and re-appoint of Green Energy Committee members, as presented (attached). Motion made by Selectman McKinnon and seconded by Selectman Frawley to include all appointments to be effective 7/1/12 and end in 2014. Unanimous.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve the submittal of a proposal to apply to the DHCD for funds to rehabilitate the mixed use building located at 21 South Main Street in the downtown business district. Jane Kudcey of the OECD explained that this is a pre-application process at this point.

Alissa Kotowski of Boston College addressed Board to explain request to place an Earth Scope Seismic Station on the Soule Homestead property. Letter of support was submitted by Frank Albani of Soule Homestead. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to agree to sign a finalized permit, subject to it incorporating all requirements by Town Counsel.

Chairman updated audience re Taunton Casino Environmental Impact and the goal of the Board to make sure that the Governor and its legislative delegation deal with mitigation issues. Town Manager offered that he has provided the Board with details on this issue and other issues. He asked that the Board review and provide him with comments. It has to be in the B.I.A.'s office by

7/2/12, therefore, will need to be mailed by this Friday. Public comments are welcome, and should be sent to the Town Manager immediately. Town Manager encouraged anyone from the public who has their own comments to send a hard copy directly to the B.I.A. Selectman Frawley requested the mailing address be placed on the Town's website. Town Manager agreed. Selectman McKinnon noted that there is an MPO meeting tomorrow evening and he will bring them the material provided by the Town Manager.

### **HEARINGS, MEETINGS, LICENSES**

Wayne Perkins, representing Middleborough on the Move, addressed the Board to present various requests re Krazy Days, which is scheduled for 8/3 and 8/4/12:

- To close off streets as follows: S. Main St. at Nickerson Ave.; Wareham St. at Clifford St.; N. Main St. at Pierce St; and Centre St. at Union St. from 8 a.m. to 7 p.m. each of the two days.
- Two "One-day" Wine & Malt beverages liquor licenses for Muckey's Liquors with a roped off area.
- An Entertainment license for each of the two days with live music.
- The Use of the Town Hall lawn for a performance by the Pasa Fino horses coming to conduct a show.

Board agreed it would prefer further detail of information on what, if any, wear & tear the horses may cause on the Town Hall lawn.

Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to approve items 1-4, as presented.

### **Hillcrest MHC, LLC Public Hearing – Petition for Rent Increase (continued from 5/30/12)**

Chairman noted some answers have not been provided and suggested that the hearing needs to be continued. Attorney Kraus addressed Board and asked for clarification. Chairman explained what he wants to know. Attorney Kraus will provide. Chairman noted that the Board wants to know what action has been taken to collect outstanding rents and whether or not they have been collected. The Board also wants to know how much they paid for Hillcrest Mobile Home Park.

Chairman explained that there is a separate process/petition for Capital Improvements.

Attorney Kraus offered that they thought they were including/consolidating their request for Capital Improvements into this application proceeding. Chairman noted that the Rules & Regulations are very clear that it is a separate process. Park resident Betty Walmer offered that Betty Wadsworth informed her that they have 3 quotes for replacing the meter, but the tenants only saw one. She wanted to know if they have the other two. Attorney Kraus responded that they would be happy to provide, but it's not part of the equation. Betty Walmer asked if they can present a bid from someone they know to which Attorney Kraus responded, yes, as long as the Town's Water department is o.k. with it. He indicated that they should contact Betty Wadsworth.

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Frank Cuddy offered that much of the material the residents received from Attorney Kraus wasn't needed because the house was taken out of the equation. There weren't any capital expenses over \$5,000. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted to continue to 7/9/12 at 7:25 PM. Three in favor. Selectman Spataro abstained.

Public Record's Request Process

Mark Belanger addressed Board and offered that Town Clerk Allison Ferreira has been fantastic, quick, and responsive to all of his public records requests. He feels that he makes a fair amount of requests, which prompted his thought to change the public records request by filing all requested information onto the Town's website so that others who may request, or want, copies of the same information, would be able to easily access same. Town Clerk addressed the Board and offered her appreciation to Mr. Belanger for his positive comments. She stressed to the Board that her office is not adequately staffed at the present time. She presented the Board with a summary of her thoughts and concerns relative to establishing this process. Selectman McKinnon asked her if she would email the Selectmen a copy of the 18 exemptions to which she agreed. In response to Chairman, she explained that part of it would be I.T. related, which is also short staffed at present. She also noted that a requestor may want to remain private. Mr. Belanger agreed and confirmed he would anticipate only the document and not the name of who requested it. Chairman suggested she could try it to see exactly how/if it could be done. She explained that she does not have access to the main web page. Selectman Frawley commended the Town Clerk for the terrific job she is doing. He noted that much of what he requested through public records, relative to the MG&E, was also requested by others, and would be an example of how it might eventually save the Town Clerk's office time. At this point in time, Selectman Frawley doesn't think it would be fair to ask the Town Clerk to put this process in place. Chairman thinks that it's a good idea and should be discussed further and considered at some point. Mr. Belanger suggested setting up a separate directory for the Town Clerk's office. He doesn't think Ms. Ferreira should be responsible to create a web page and be in charge of it, but rather the I.T. department. Selectman McKinnon agreed that this is not the job of the Town Clerk. He does think this information needs to be organized. He offered concerns such as not everyone is web savvy. It would need to be set up through I.T. and there has to be an established way to put the information in there. Someone would have to maintain the website and he's not sure we have the dynamics for that right now. Chairman would like to look at this a little further. Motion made by Selectman Spataro and seconded by Selectman Frawley, for discussion, to table matter until further information can be obtained relative to I.T. and how this would be established. Town Manager offered that if he had more opportunity to work with I.T. on anything, this would not be his priority. He'd rather spend more time improving our electronic activities, our web page, and the like. It's been his professional experience that most public record requests are not duplicated. Motion amended by Selectman Frawley and seconded by Selectman McKinnon to bring this up again in January. Unanimous.

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Mr. Belanger also offered that he thinks all Committee's and Board's should be on the Town's website. Upon motion by Selectman Frawley and seconded by Selectman Spataro, Board voted unanimously to have future discussion re Web content with I.T.

Mr. Belanger questioned the manner in which the meeting packet material is posted online. He would prefer the ability to have writable pdf's. Jane Lopes offered that if all departments could use word documents, it would be helpful.

Edgeway Mobile Home Park Matter (continued from 6/18/12)

Town Manager shared that he has heard there may be an Administrator put in place for Edgeway and we may be dealing with a new attorney (that person) moving forward. Selectman Frawley offered that he has been asked by the residents at Edgeway, what is taking so long. In response to Selectman Spataro, Town Manager clarified that the heirs have an Administrator about to be in place. Lyn Dwyer of Edgeway addressed Board to say matter has been continued over and over and she noted that there was a court order in place that included a deadline. She asked if there is something in place to address this and when Phase I is going to be done, and when Phase II will begin. Chairman responded that the Board has heard all of the same information as the residents. Town Manager asked the residents to give the Board an update. Louisa Brown addressed the Board. She indicated that the overflows are not properly put on. The stone is in place and the splashguards are in place. They showed Board and Town Manager a photo of the overflows. Town Manager agreed they need to be corrected. Louisa noted that the overflows are not long enough. Louisa noted that the communication is still very poor. Selectman Frawley offered that with a court appointed Administrator, we will be dealing with a different management style. He acknowledged the lengthy process this has been and asked for the resident's patience, noting that this appointment of an Administrator may, in fact, be an opportunity. Louisa Brown credited this Board for all it has done and offered that the lack of communication has been very depressing. She asked if they can know name of new attorney. Town Manager responded that he has not been named yet. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to continue to 7/9/12 at 8 PM.

**BILLS**

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve payment to SouthCoast Media Group in the amount of \$4,057.28.

**TOWN MANAGER'S REPORT**

Town Manager noted that the Town has received an additional \$24,000 grant towards the expense of repairing the Town Hall Cupola.

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We also received \$21,140. from the Peirce Trustees for the purchase of a replacement police cruiser as well as a security camera for the downtown area.

Selectman McKinnon suggested removing the three references re Taunton water from the Intermunicipal Water Agreement document with the Town of Lakeville. Town Manager agreed.

Town Manager appointed Elizabeth Gazerro as Assistant Town Clerk, GMEG, Administrative Services, Step 1, with an hourly pay rate of \$25.39 per hour.

**CORRESPONDENCE**

Selectman Frawley offered his thanks to Dominic Tigano for his letter of appreciation re proposed casino in E. Taunton.

Selectman Frawley offered his thanks to State Representative Orrall for her letter re mitigation/Tribal Casino in Taunton.

Selectman Frawley offered his thanks to State Senator Pacheco for his Casino related correspondence.

#7 – DHCD/CDBG Monitoring Report Grant #630. Town Manager offered that a clean bill of health is a very good thing. He congratulated Jane Kudcey for all of the hard work she's put in to keep things in order running the Office of Community and Economic Development since last September. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to send letter to Jane for her Personnel file.

Selectman McKinnon noted the Audit reports that the Board members received this week in their packets. He has several questions he'd like to discuss at some point. Chairman offered that he sat in on the exit interview with the Auditors and he thinks it's a good idea to discuss as a future agenda item.

Town Manager updated Board regarding the computerized tracking of Personnel Leave Time. Our goal is to have it all done by January 1<sup>st</sup>. He had a meeting last week with departments. We are on our way to having the new procedure in place.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted by Roll Call to go into Executive Session at 8:41 PM to discuss strategy relative to Pending Litigation and not to return into Open Session. Roll Call: S. Spataro, Yes; A. Frawley, Yes; S. McKinnon, Yes; A. Rullo, Yes. Ended at 9:15 PM.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN

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*335 Years of Progress*



CRANBERRY CAPITAL  
OF THE WORLD



**Town of Middleborough**  
**Massachusetts**

Town Manager

508-947-0928  
FAX 508-946-2320

June 15, 2012

Brian Kowalski  
14 Indian Meadow Road  
Middleborough, MA 02346

*Re: Green Energy Committee*

Dear Mr. Kowalski:

I am happy to appoint you to the Green Energy Committee subject to the approval of the Board of Selectmen pursuant to Massachusetts General Laws Chapter 40, Section 8C. This appointment will run to 2014.

By copy of this letter, I am asking the Selectmen to approve your appointment at their meeting on *Monday, June 25, 2012*.

Following your appointment by the Board of Selectmen, please visit the Town Clerk's Office to be sworn in.

Thank you for your willingness to serve the Town of Middleborough.

Very truly yours,

A handwritten signature in black ink, appearing to read "Charles J. Cristello".

Charles J. Cristello  
Town Manager

cc: Board of Selectmen  
Allison Ferreira, Town Clerk

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CRANBERRY CAPITAL  
OF THE WORLD



**Town of Middleborough**  
**Massachusetts**

Town Manager

508-947-0928  
FAX 508-946-2320

June 15, 2012

Jeffrey Stevens  
1 Weston Avenue  
Middleborough, MA 02346

*Re: Green Energy Committee*

Dear Mr. Stevens:

I am happy to appoint you to the Green Energy Committee subject to the approval of the Board of Selectmen pursuant to Massachusetts General Laws Chapter 40, Section 8C. This appointment will run to 2014.

By copy of this letter, I am asking the Selectmen to approve your appointment at their meeting on *Monday, June 25, 2012*.

Following your appointment by the Board of Selectmen, please visit the Town Clerk's Office to be sworn in.

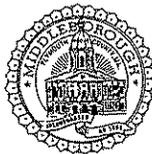
Thank you for your willingness to serve the Town of Middleborough.

Very truly yours,

Charles J. Cristello  
Town Manager

cc: Board of Selectmen  
Allison Ferreira, Town Clerk

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CRANBERRY CAPITAL  
OF THE WORLD



## Town of Middleborough

Massachusetts

Town Manager

508-947-0928  
FAX 508-946-2320

June 15, 2012

Stephen Bonfiglioli  
237 Thompson Street  
Middleborough, MA 02346

*Re: Green Energy Committee*

Dear Mr. Bonfiglioli

I am happy to reappoint you to the Green Energy Committee subject to the approval of the Board of Selectmen pursuant to Massachusetts General Laws Chapter 40, Section 8C. This appointment will run to 2013.

By copy of this letter, I am asking the Selectmen to approve your appointment at their meeting on *Monday, June 25, 2012*.

Following your appointment by the Board of Selectmen, please visit the Town Clerk's Office to be sworn in.

Thank you for your willingness to serve the Town of Middleborough.

Very truly yours,



Charles J. Cristello  
Town Manager

cc: Board of Selectmen  
Allison Ferreira, Town Clerk

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CRANBERRY CAPITAL  
OF THE WORLD



**Town of Middleborough**  
**Massachusetts**

Town Manager

508-947-0928  
FAX 508-946-2320

June 15, 2012

Charles R. Chace  
104 Wall Street  
Middleborough, MA 02346

*Re: Green Energy Committee*

Dear Mr. Chace:

I am happy to reappoint you to the Green Energy Committee subject to the approval of the Board of Selectmen pursuant to Massachusetts General Laws Chapter 40, Section 8C. This appointment will run to 2015.

By copy of this letter, I am asking the Selectmen to approve your appointment at their meeting on *Monday, June 25, 2012*.

Following your appointment by the Board of Selectmen, please visit the Town Clerk's Office to be sworn in.

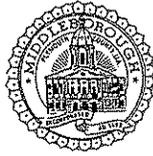
Thank you for your willingness to serve the Town of Middleborough.

Very truly yours,

Charles J. Cristello  
Town Manager

cc: Board of Selectmen  
Allison Ferreira, Town Clerk

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CRANBERRY CAPITAL  
OF THE WORLD



**Town of Middleborough**  
**Massachusetts**

Town Manager

508-947-0928  
FAX 508-946-2320

June 15, 2012

Ms. Juli Gould  
14 Indian Meadow Road  
Middleborough, MA 02346

*Re: Green Energy Committee*

Dear Ms. Gould:

I am happy to reappoint you to the Green Energy Committee subject to the approval of the Board of Selectmen pursuant to Massachusetts General Laws Chapter 40, Section 8C. This appointment will run to 2015.

By copy of this letter, I am asking the Selectmen to approve your appointment at their meeting on *Monday, June 25, 2012*.

Following your appointment by the Board of Selectmen, please visit the Town Clerk's Office to be sworn in.

Thank you for your willingness to serve the Town of Middleborough.

Very truly yours,

Charles J. Cristello  
Town Manager

cc: Board of Selectmen  
Allison Ferreira, Town Clerk

**Middleborough Board of Selectmen  
Meeting Minutes**

 **DRAFT**

**July 9, 2012**

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

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

**UNANTICIPATED**

Selectman Frawley noted that the 5<sup>th</sup> Annual Travis Albert Circle of Friends Poker Run will be held on Saturday, August 4<sup>th</sup>. Tickets are for sale at Century 21 North Main Street, Carver and at Andrew's Family Automotive at 79 Main Street, Lakeville. This event is to be held at the PATC in Taunton. This is a memorial scholarship for high school students.

Selectman Frawley asked the Town Manager to look into the intersection of Cedar, Plympton, and Carmell Streets where the incident took place as he heard from a number of people in the area that it's getting out of control with car burn outs, traffic, and dangerous activity. Town Manager agreed noting an informal roadside shrine there due to a death in that location. It attracts and perpetuates that type of behavior. He has taken Chief Gates there in the past to look at. He suggests a policy be put in place indicating that these shrines be taken down after a certain period of time so as to not take away from the homes in the area. Selectman McKinnon doesn't think roadside shrines should have a policy, but we could have police patrol area for those who are burning out with tire marks. Town Manager will review with Police Chief.

Mark Belanger asked if we've heard back yet from the A.G. re the Voter I.D. Bylaw. Town Manager responded that we didn't get anything in writing, other than from the State Elections division just prior to Town Meeting. Mr. Belanger thinks it is incumbent of the Town to share that information with the voters prior to voting on something illegal. Brian Giovanoni responded. Mr. Belanger asked Mr. Giovanoni if the petitioners of the article had the information prior to Town Meeting to which he answered, yes, at approximately 6:15 PM.

Selectman McKinnon noted that the 4<sup>th</sup> of July parade was a success. He further noted that there had been a tragic accident that evening. He thanked all emergency personnel who were involved with this matter.

**MINUTES**

None.

**NEW BUSINESS**

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to pass SERSG Regional Administrator appointment as Special Municipal Employee by Town Counsel.

Selectman McKinnon suggested adding language to letter to Tribe re mitigation funds that they are delinquent by two years and to include copies to the BIA and the Governor, and all pertinent people. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to do so.

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**July 9, 2012**

Krazy Days matter this agenda was cancelled.

Town Manager explained process for designer selection and feasibility study re new Police station. He has known Mr. Garrity for years and this is his specialty. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to authorize the Town Manager to consult Robert Garrity, Esquire, re designer selection for the Police Station feasibility study in an amount not to exceed \$2,000.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to hold the fall Special Town Meeting on Monday, October 1, 2012 with Friday, August 17<sup>th</sup> as the deadline to submit articles. Board agreed to post to web and distribute to departments, committees, and boards.

**HEARINGS, MEETINGS, LICENSES**

“No Parking” signs – Downtown area

Mimi Dumphily addressed Board to discuss “No Parking” signs in the downtown area. She serves on the Downtown Beautification Committee. She clarified that everything done, is paid for through donations and not through taxes. She would like to see these signs removed from the downtown area. She believes that they are not being enforced anyway. She has spoken with the DPW Director, the Chief of Police, the Town Manager, and the MG&E. She asked that the Board take a look at and consider her request. Chairman Rullo offered that he had discussed the matter with the Town Manager. They agreed that some of the signs could possibly be moved up higher on their brackets. Town Manager had some removed last year that appeared to be redundant. He feels that having no signs would cause a problem, not allowing parking spaces for downtown shopping. The signs help to avoid gridlock. Chairman offered that the Board would take under advisement and will discuss at future meeting. Selectmen McKinnon and Frawley confirmed that the Police department does, in fact, issue tickets.

Hillcrest MHC, LLC Public Hearing from 6/25/12

At 7:25 PM Chairman continued Hillcrest MHC, LLC Public Hearing from 6/25/12. Chairman noted that all information requested by the Board has been received. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to close the hearing. Chairman noted that the Board would now begin discussion and deliberation on the matter and noted it is for the Board only. The Chairman would not be taking questions/comments from others. The Board may not make a decision this evening, but rather take under advisement. Chairman reviewed his handout “Draft Calculation Hillcrest Rent Increase, Average Three Years, 2010 thru 2012”. Selectman Frawley thanked the Chairman for the time and expertise he contributed in determining these calculations. He agreed with the Chairman’s calculations. Selectman Spataro noted that he cannot participate in voting on this matter. Selectman McKinnon offered his appreciation to the Chairman for his contributions in formulating these calculations. He further noted his observations of the material that had been presented to the Board throughout the hearings on this application for rent increase. He noted that the Chairman’s recommendation represents a 20% increase in year one and year two, however, he noted that residents will most likely not receive a 20% increase in income each of those years. He recommended a \$38/year increase, specifically noting that the owner waited ten years to apply for this request and should be

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**July 9, 2012**

responsible for its own business model. Chairman noted that the regulations require this Board to allow owners to earn a fair market value and that the Board must ensure that the Park is being run appropriately. In his opinion, it would be unfair to drop the rate that low as it would not allow the owner to earn a fair return. Selectman Frawley suggested an increase of \$77 divided over a period of three years. Selectman McKinnon reiterated his position relative to much of the financials that had been presented. He also questioned why the owner didn't come in sooner. He agreed to go along with the \$77/month increase over three years. Selectman Spataro noted that it is a fair return today, but with inflation, it would not be over the following two years. He also applauded the Chairman for his work with the financial calculations. Chairman did note that it was the owner who failed to repair the water meter and that is why he adjusted the figures regarding the meter usage. He also acknowledged that an increase for the residents is difficult, however, noted that it has been 16 years since they have had one. He agreed he could agree with a three-year spread. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted \$26/month over three years. Three in favor. S. Spataro abstained. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted to authorize Chairman to draft the Decision with Town Counsel. Three in favor. S. Spataro abstained. Chairman announced the Decision would be released within the next 30 days.

Hillcrest MHC, LLC Application for Certificate for Eviction of resident William Kupchun

At 7:51 PM Chairman opened public hearing on the application made by Hillcrest MHC, LLC for a Certificate of Eviction by reading aloud the public hearing notice. Chairman reviewed the procedures by which the hearing would be conducted. Chairman noted that he does not anticipate tonight's hearing to be continued. Board took brief recess to allow witnesses to sign the appearance sheet. Chairman continued hearing at 8 PM. Attorney Joseph Kelleher addressed Board and reviewed purpose of application by Hillcrest MHC, LLC. He noted he has an updated Tenant Statement (Owner Exhibit #1). Attorney Kelleher advised the Board that Mr. William Kupchun is behind in his rent in the amount of \$3,631.00 and of steps taken in an attempt to get into a payment plan with resident William Kupchun. At certain points, they would not receive agreed upon payments, and at others, they would receive checks that would bounce. He offered that the Park has received complaints from other residents of activities at the address of Mr. Kupchun that have been disruptive to other residents in the Park.

William Kupchun addressed Board and noted that he had submitted a packet to the Board this evening, including documentation from three neighbors indicating that they haven't heard any disruptive noise from his residence. He gave the Board a history of his living at Hillcrest. He offered that he originally moved there to live with his brother. His brother passed away and he met up with some people who he extended an open door to, but he told them to move on in March. He has had some financial difficulties. He noted that nobody notified him of noise issues, until he received a letter from Attorney Kelleher. He noted a couple of checks he had sent for rent payments and they were returned to him. Chairman explained it was due to insufficient funds. He went to Harbor One to establish direct payments, but the bank told him they would need to hear from Hillcrest, MCH, LLC. He offered that he is suffering from some physical and psychological difficulties and noted that his son is now handling his finances. He does have some payments that he is ready to make. Chairman noted the documents that had been provided to the Board by Hillcrest, MHC, LLC (Exhibits #B1-B5). Attorney Kelleher offered that the only documents they intend to submit have been submitted, but asked the Chairman if he could ask questions of Mr.

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Kupchun. Mr. Kupchun agreed. He asked Mr. Kupchun if he had been served with a Notice to Quit on 4/4/12. Mr. Kupchun could not recall, however, he did acknowledge his signature on the Certified Mail receipt when shown by Attorney Kelleher. Attorney Kelleher asked Mr. Kupchun if he recognized the amount of rent he owes. Mr. Kupchun offered that he does not dispute what he owes in rent. Betty Wadsworth was questioned by Attorney Kelleher. She was asked if she had received complaints. She answered yes, specifically, that there were young girls coming and going from his home all hours of the night offering services. She received an unsigned letter referencing traffic and she doesn't know if that means vehicles or drug trafficking. She noted complaint dated February 2012 from resident regarding gasoline being siphoned from their vehicles. Attorney Kelleher presented as (Owner Exhibit #2). Selectman McKinnon questioned accepting these letters, especially those that are unsigned as exhibits. Chairman allowed, noting that it will be up to the Board as to the weight it gives the letters. Chairman asked Ms. Wadsworth the time in which the complaints were received. She said over a period of time and it was investigated over a period of months. Chairman noted that none of the residents allegedly filing these complaints were present tonight to which she answered no. In response to question by Selectman Frawley, Attorney Kelleher indicated that a search warrant had been issued by the Middleborough Police department, however, it was agreed upon that the reason for the search was not for reasons of violation of the Rent Rules & Regulations. Mr. Kupchun addressed Board and agreed he is in arrears of rent. He went to two banks to try and get out of his financial situation, but was denied by both. He would like to arrange for a payment plan. Chairman explained that the Board does not have the authority to take part in agreeing to a payment plan, but to decide if an eviction is warranted. Attorney Kelleher offered that they are willing to work with a payment plan, but they would like to do that through a court order. Mr. Kupchun made closing statement that he agrees with obtaining a court order to establish a payment plan. Attorney Kelleher offered he is willing to withdraw on the rules violation, based on the testimony tonight that Mr. Kupchun has admitted he is behind on rent. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to close the hearing. Chairman noted that the Park Owner has cited two reasons for eviction – rent and violation of Park rules. The resident has admitted to being in arrears in rent, which is sufficient to issue the Certificate of Eviction, however, they have withdrawn the violation of Park rules. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to issue the Certificate of Eviction. Chairman encouraged a settlement be worked on and noted that the Certificate will be issued. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to authorize Chairman to work with Town Counsel on drafting a Decision.

Edgeway Mobile Home Park Matter (continued from 6/25/12)

At 8:35 PM Chairman continued the Edgeway Mobile Home Park matter from 6/25/12. Attorney Gerard Marsan addressed the Board. He reviewed the status of the Punch list and noted the Punch list provided today through Prime Engineering and requested that the Board close the matter. In response to Selectman McKinnon, Town Manager explained that based on the Settlement Agreement, we have to issue the Park its license. Chairman noted we signed an agreement that they complete Phase I to improve the condition of the Park. With the certification by Prime Engineering, it is evident that Phase I is complete. We are obligated by the Settlement Agreement to close this hearing, rule in favor not to roll back rents, and ask the Health department to issue the Park license for 2012. By 9/15/12 the retaining wall and all plantings must be complete. Selectman

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Meeting Minutes**

**July 9, 2012**

Spataro asked Attorney Marsan if they intend to sell any units, to which he replied that if they sell any, the agreement is that the money goes into an Escrow account and funds put towards what is left to be done in the Park. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to close the hearing. Selectman Frawley still thinks things are not done because downspouts are on upside down. Chairman moved to deliberation and discussion. He noted that the Park owner met the requirements under the court ordered agreement and now this Board must abide by its responsibilities under this agreement. Selectman McKinnon reviewed the timeline of the entire Phase I process. He offered that this all could have been done last year if the Park Owner hadn't dragged his feet. He doesn't have a lot of faith that Phase II will go smoothly. He acknowledged that the residents have been through a lot throughout this process. He motioned to roll back the rents by \$10/month based on what the residents have been through. Chairman agreed that the residents were treated miserably by the Park Owner, but noted that the justification for rent rollback being proposed by Selectman McKinnon does not fall within the Rules and Regulations. Selectman Frawley likes the idea of rolling back rents, but agrees that the Board can't based on the settlement agreement. He would be in favor, however, that if the Board has to take the Park license away again in the future, it invoke the \$100/day penalty fee upon the Park owner. Chairman reminded Attorney Marsan that the Board and the residents will be paying attention as things move forward and if they do not follow through, they will be back before the Board. Selectman Spataro offered that these are homes and not apartments with ease of moving. He acknowledged that the tenants did due diligence, but also offered that the Town Manager deserved recognition. He additionally recognized Attorney Marsan, referring to him as having acted in the capacity similar to a Project Manager. Selectman McKinnon withdrew his motion. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted in favor of not rolling back rents due to condition of the Park and to ask the Health department to issue the Park license for 2012.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to authorize Chairman to work with Town Counsel to draft an opinion. Chairman noted that the Board, as the Board of Health, it would not support selling of units without required upgrade of septic system.

Dave's Diner – Alteration of Premises

At 9:02 PM Chairman opened public hearing on the application made by Dave's Diner, Inc., d.b.a. Dave's Diner for an Alteration of Premises by reading aloud the public hearing notice. Chairman welcomed David Fisher, owner of Dave's Diner who explained that he would like to have the patio included in the description of the liquor license. Chairman asked if anyone had any comments/questions. Hearing none, Chairman declared hearing closed. Upon motion by Selectman Frawley and seconded by Selectman Spataro, Board voted unanimously to approve.

Harry's Bar & Grille – Alteration of Premises

At 9:05 PM Chairman opened public hearing on the application made by HTF, Inc., d.b.a. Harry's Bar & Grille for an Alteration of Premises by reading aloud the public hearing notice. Owner, David Fisher explained that he would like to have the patio included in the description of the liquor license. Chairman asked to hear further comments/questions. Hearing none, Chairman declared hearing closed. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve.

**Middleborough Board of Selectmen  
Meeting Minutes**

**July 9, 2012**

Center Ave., LLC, d.b.a. Center Ave. Café, 160 Center Ave. – application for Pledge of License.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve.

**TOWN MANAGER'S REPORT**

Town Manager noted proposed Terms for Permanent Cable Committee Members. This will be a future agenda item.

**CORRESPONDENCE**

#2 EOEa – Selectman McKinnon commented on Non-Compliance/Dam Safety Order-Stoney Brook Pond Dam correspondence.

#1 Selectman Frawley noted Land into Trust application/Town's non-support of application letter from Paula Hart, Director of Indian Gaming. He suggested asking all members of our delegation to try and get a copy of this document. Adam Bond offered that he talked to Becky at BIA in Mr. Keel's office, trying to track down FIA request. Becky said it would be about 10 days before anybody gets the Land into Trust documents. If we can get Senator Brown or anyone at Federal level to move things along, it would be helpful. He asked the Board if it would entertain asking Mr. Keel to speak with surrounding communities and explain what the actual ramifications are so we understand our rights under Federal guidelines as this is in Federal hands right now. He's asking the Board to consider writing him a letter. He suggested sending a letter around to surrounding communities involved. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to issue letter.

#3 Selectman Frawley noted correspondence from Representative Orrall's office re Mitigation meeting on 7/12/12 from 3 – 6 PM. Chairman will attend with either the Town Manager or Ruth Geoffroy. Selectman Frawley will also attend.

#5 Selectman Frawley noted correspondence from Conservation Commission re Rockland Industries site. Town Manager volunteered to call the State and ask where the report is.

#8 Chairman noted that the Town Clerk's office has a vacancy. Those interested should contact the Town Clerk's office.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted by Roll Call to go into Executive Session at 9:26 PM to discuss strategy relative to Pending Litigation (Dispute with Mashpee Wampanoag Tribe and Collective Bargaining (employee disciplinary matter) and not to return into Open Session. Roll Call: S. Spataro, Yes; A. Frawley, Yes; S. McKinnon, Yes; A. Rullo, Yes. Ended at 10:15 PM.

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Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN