

MINUTES

For approval at the 5-14-12 meeting

**Middleborough Board of Selectmen
Meeting Minutes**

April 23, 2012

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

In attendance were: Selectmen A. Rullo, A. Frawley, B. Quelle, and S. McKinnon and Confidential Secretary J. Shanley

The meeting was broadcast live by MCCAM and recorded by MCCAM and Verizon.

UNANTICIPATED

Selectman Frawley reminded everyone of the Canoe race scheduled for this coming Saturday and extended an invitation to the Board members and anyone from the public interested in participating.

Ed Beaulieu from Oak Point addressed Board on behalf of the Future of Middleborough Trust, The Middleborough Lion's Club, The Middleborough Rotary, and the 4H Club. He announced that during the last week in July, they will be bringing the Royal Lipizon Stallions to Middleborough. Tickets will be available soon at multiple locations. This will be a fundraiser and will take place on the 4H Club property on Thompson Street.

ANNOUNCEMENTS/RECOGNITION

Chairman read aloud announcement re COA Volunteer Celebration Recognition dinner to be held on Wednesday, May 2nd at the Riverside restaurant.

On behalf of the Friends of the Library Danielle Bowker thanked all of those who attended the Loretta Lorrow show the other night. This Thursday night at 6:30 PM, the Friends will be having a jewelry sale fundraiser at the library.

MINUTES

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to approve 4/9/12 meeting minutes,

Upon motion by Selectman Quelle and seconded by Selectman McKinnon, Board voted unanimously to approve 4/11/12 meeting minutes.

Upon motion by Selectman Quelle and seconded by Selectman McKinnon, Board voted unanimously to approve 4/9/12 Executive Session meeting minutes

NEW BUSINESS**Open Meeting Law Violation complaint filed by Michael Solimini**

Chairman summarized the basis of the complaint and the process for responding to it. Town Counsel confirmed that the Chairman was correct in his summary. The Board has 14 business days to respond from the date that the complaint was filed. The complaint was filed on 4/10/12. Selectman McKinnon offered that the complaint made some valid points, however, he doesn't

NEW BUSINESS

Open Meeting Law Violation complaint filed by Michael Solimini (continued)

believe the complaint was under the knowledge that the Board had at its meeting on 4/9/12. It was his position that allowing the Senator to speak was not a violation as it was the State Senator who appeared unexpectedly before the Board and there was nothing voted on surrounding that discussion. Selectman Quelle offered that he thinks if we have an agenda item posted, we shouldn't consider something like this as unanticipated. He gave credit to Selectman Frawley for having had spoken up that evening against allowing the Senator to speak. Selectman Frawley expressed his position that he does not actually think the Board violated the Open Meeting Law as nothing could have been more unexpected than to have Senator Pacheco walk into the meeting at 8:30 p.m. He noted that the Board only asked the Senator if he would be willing to support the Board's position by signing a letter to the Governor. Chairman Rullo offered that the Board could not reasonably expect Senator Pacheco to have had attended its meeting on 4/9/12. He had spoken to the Senator the week prior and was advised by the Senator that he had a prior engagement. Therefore, the item was pulled from the draft agenda in advance of its posting. He did not think it appropriate for the Board to deny the Senator the opportunity to speak. He offered that he did allow the discussion to go on too long. We did not take any action that evening and we did not vote on anything. He does not believe the Board violated the Open Meeting Law and asked Town Counsel to confirm if the Board's interpretation of the Open Meeting Law is accurate. Town Counsel addressed the Board and indicated that it is clear that the Board's position is that it did not violate the Open Meeting Law. Michael Solimini addressed the Board and offered that this has been a very good deliberation this evening. He went on to say that he does like the flexibility that the Chairman offered in allowing the Senator to speak. He offered that, to him, it's a gray area to have had gone back to "Unanticipated" on the agenda that evening. He offered that his concern is that the public may have left the meeting not expecting this discussion. The Casino issue raises a lot of emotions whether you're for it or against it. He thinks it is unreasonable that the Senator spoke about it for an hour. He agrees that no votes were taken. He didn't think it was right to allow the Senator to ramble for an hour and seven minutes and he wasn't happy with that. Going forward, under "Unanticipated", if the Board is going to allow anything to be brought up at anytime, he would like to see that put in writing and made formal. Chairman responded that he was not going to disrespect the State Senator and not when the Board had wanted his input on the issue at hand. He also offered that he had jumped around the agenda, which he sometimes does, but the Board agreed to return to Unanticipated and allow the discussion. Mr. Solimini also offered that the A.G. also recommends limiting discussion under Unanticipated. He suggests putting a time limit on it. Mr. Solimini offered that the AG strongly urges postings for controversial issues. Mr. Solimini told the Chairman that he allowed the Senator to hijack the meeting and that is the violation. Selectman Frawley noted that until recently "Unanticipated" was at the end of the agenda and people had to wait until late into the evening to speak and he does not think this Board should be penalized for returning to Unanticipated if needed. Chairman offered that while the Casino is a controversial issue, the Board was only asking the Senator to support the Board by writing a letter. Brian Giovanoni addressed Board and offered that the Board did anticipate the topic of Casino discussions with the State legislators on Wednesday, April 11, 2012. This is what he found to be a violation. He does appreciate that the Board allows anyone to speak at anytime.

NEW BUSINESS (continued)

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to write a letter, after confirming with Town Counsel, to the Attorney General in response to the complaint. Mr. Solimini offered that he is very satisfied with tonight's deliberation and will not continue to pursue his complaint re Open Meeting Law Violation. The purpose of his complaint was to have a discussion on what occurred. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to authorize Chairman to draft written response this week with Town Counsel.

Danielle Bowker introduced two appointees to the Library Board of Trustees. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to appoint George Davey to a three-year term, expiring on 3/31/15 and Sara Cederholm to a three-year term, expiring on 3/31/14, as members of the Library Board of Trustees. Chairman thanked them for their willingness to serve.

HEARINGS, MEETINGS, LICENSES

Fireside Grille

Mark Gildea addressed Board re Change of Manager for the Fireside Grille. Applicant was present. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to approve.

Dave's Diner

Chairman opened public hearing at 7:48 PM on application filed by Dave's Diner for a New Liquor license changing from serving on Wines & Malt beverages to serving All Alcoholic beverages. Manager John Spinetto addressed Board. Chairman noted that the Board did not have the authority to approve a 10 a.m. serving time on Sundays at this time. Chairman asked to hear any other comments/questions. Hearing none, Chairman declared hearing closed. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to approve.

WRPD - Tispaquin Street Fall Brook Culvert

Chairman opened public hearing at 7:51 PM on WRPD application filed by Middleborough DPW re Tispaquin Street Fall Brook Culvert by reading aloud the public hearing notice. DPW Director A. Bagas addressed the Board and introduced Environmental Partners Group Project Manager Ryan Trahan to explain the project. Selectman Frawley asked if they will be done by 7/1/12. Mr. Trahan indicated that they can't begin until 7/1/12 and then they have 45 days to complete the project. Selectman McKinnon asked if this was the same stream raised by a resident at a recent meeting. Chairman responded yes and further explained to the engineer what the concerns of the resident were. The Edward Lee of 33 Tispaquin Street asked where the road is going to be shut down/traffic stopped. A. Bagas offered that they will have signs at Wareham Street that say road closed and signs past Mr. Lee's house. Unfortunately, there will not be any detour streets as there aren't any. It's probably going to be an inconvenience at first until people get used to it. All we can do is put as many signs up as possible. The road will be closed 30-45 days, beginning 7/9 through approximately August 16, 2012. Mr. Lee's concern is that people won't pay attention to the signs

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WRPD - Tispaquin Street Fall Brook Culvert (continued)

and will be forced onto Gibbs Road, which is not an accepted Town road. Camp Avoda opens in June and you will have even more traffic. You may not have any way to solve these concerns, but he wanted to bring to the Board's attention as he may appear before the Board again when the project moves forward. Chairman asked him to keep the Board aware, but suggested that there doesn't appear to be another solution. Mr. Lee agreed. Another resident who lives on the other side of Tispaquin Street addressed the Board and suggested that the signs might indicate that the road only goes to a certain number to help make drivers aware. A. Bagas offered that this is part of their plan. Hearing no other questions/comments, Chairman declared hearing closed. Upon motion by Selectman Frawley and seconded by Selectman Quelle, the Board found 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 Frawley and seconded by Selectman McKinnon, Board voted unanimously to grant the special permit to The Middleborough Department of Public Works to for the replacement of the Tispaquin Street culvert and appurtenant work 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.H.3 d.(i) 'limited projects' based on the plans dated January 31, 2012 prepared by Environmental Partners Group, Inc. with the following condition:

1. That the proposed environmental protection measures be completed as part of this project.

Andy Bagas announced that the DPW has a rain barrel program in place and barrels are on display in the Town Hall lobby and at the DPW.

He also announced that next Friday night, May 4th, the DPW will hold a fundraiser for Mike O'Brien at the Middleborough Elk's Club.

Michael Solimini addressed Board and asked Mr. Bagas for an update on the Plymouth Street Bridge. Mr. Bagas offered that there isn't any update. They sent a letter to MA D.O.T. and haven't heard back.

Tispaquin Family Campground for a 2012 Campground Permit

Chairman opened public hearing at 8:08 PM on application made by Ralph & Barbara Holton of Tispaquin Family Campground for a 2012 Campground Permit by reading aloud the public hearing notice. Chairman summarized the ongoing Board of Health issues with the campsite and offered the floor to Barbara Holton. Mrs. Holton addressed the Board and read aloud a prepared statement,

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Tispaquin Family Campground for a 2012 Campground Permit (continued)

including a reference that this current Board of Selectmen is unaware of the history regarding the issues surrounding this campground as it was not the sitting Board through the years. She further asked the Board to set aside the animosity it has for her and allow the 2012 permit. Chairman asked her if she has complied with the required septic system installation. She offered that she has a tight tank plan from her engineer and would submit the plan as part of the license agreement and it would be installed by 5/30/12. Chairman asked if the engineer is still engaged by her. She offered that he completed his work by completing the plans and at this point it goes to an installer. Health Officer offered that it's been a whole year and she still has not received any septic plans and the engineer indicated he is no longer working for the Holtons. The conditions have not changed. The only new information the Health Officer has received was from the engineer indicating that he is no longer employed by the Holtons. Chairman noted to Mrs. Holton that the Board offered to allow her the 56 sites plus the safari last year and she indicated that wouldn't be enough for her to run her business. Mrs. Holton raised personal concerns she has with the KOA campsite. Chairman responded that the KOA has been working diligently to make million dollar improvements to its septic. Mrs. Holton offered that she had five Title V's done and they passed. I have a plan, but I am not going to submit/install unless I know that I am going to get a license. Town Counsel explained that the design capacity for this campground is for 49 units. There was a lawsuit brought by the Holtons against the Town and the Town won. The Holton's appealed and it was dismissed because the Holtons failed to file the appeal in a timely manner. The court ordered a preliminary injunction in 2011 to prevent certain zoning violations from continuing. One of the requirements of the Preliminary Injunction was that the units at the campground could not exceed 57 units. The Holtons violated that injunction. There is a hearing scheduled this week for a contempt complaint. It is the certain design capacity requirements for a specific number of units that is the issue before the Board. Chairman offered that her septic system is a health issue per the Town's Health Officer, Town Counsel, and the courts and she is asking him/Board to ignore health risks to the public. He is not going to ignore the advice he is being given. It is his responsibility and his position on the matter. Mrs. Holton offered that she agreed that the system does not meet today's requirements, but neither do any other campgrounds in Town. Health Officer explained that other camping facilities in Town have gone through the Health department and have upgraded their systems. We have been in court for 8 years now, and if, at anytime in these 8 years, they had done the same, we would no longer be in Court. She noted that the system can accommodate 49 units. No plans have been submitted and no work has been done in 8 years. Chairman asked to hear further comments. Summertime campground resident Bill Smith asked if the calculation is based on 7 days per week 365 days/yr. Health Officer responded that it is based on gallons per day – code criteria. Chairman offered that the calculations are determined by the State and asked Town Counsel if it was part of the court findings. Town Counsel responded, yes. When asked if it was upheld by the Court, he responded, yes. B. Holton offered that she knows what the calculations are and said she could work with the DEP. Chairman asked why she hasn't already. She responded that the DEP told her engineer it wasn't necessary for her and her husband to attend the meeting with the DEP and her engineer was not the appropriate person to represent her at that meeting because he knew nothing about the campground. Mrs. Holton informed the Board that she did file an Equal Protection

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Tispaquin Family Campground for a 2012 Campground Permit (continued)

lawsuit against this Town and she doesn't want to go through with it. Lynne Cleveland, 28 year camper, offered that the septic system has never failed. Tricia Smith, camper, and her husband's 32 family members have also been camping at TFC for years and offered that Barbara has rules and makes sure that they are followed by the campers. She offered that they spend a lot of money shopping here in Town. Nobody's looking at the facts or at what she's willing to do. Chairman noted that this is not personal against Mrs. Holton and this Board has one responsibility and that is to the public regarding public health/safety. Mrs. Holton offered that she has a plan and would submit it, but won't if not going to get a permit. Jim Bragart, TFC camper, offered that he thought he understood what the Chairman was trying to say and read a prepared statement re common sense. Adam Bond of Rock Street asked how much time Mrs. Holton would need if she submitted plans for 115 sites and suggested that accepting that would save litigation costs. Chairman offered that if a plan is submitted by the Holtons that is approved by the Health Agent, then the Holtons can re-apply for consideration. Chairman closed the hearing and invited Health Officer to podium, reiterating what was being suggested. Health Officer would certainly support it if it meets DEP criteria as she has indicated over the past 8 years. Town Counsel was asked if this would this would cause him to hold off on the contempt hearing. Town Counsel explained that the hearing is a zoning enforcement action and unrelated to the decision before the Board tonight. Selectman McKinnon asked Health Officer if there is a fee required. Health Officer explained that if it's a tight tank it is to be submitted to DEP and the fee is determined by them. Health Officer indicated that there are 125 to 150 units at the campground. Selectman Quelle addressed Mrs. Holton noting that by her saying give me a license first and then I will begin to do what I was supposed to do over the past eight years was not a good way to proceed. He noted that he was not coming out of this meeting any better than last year. Selectman McKinnon noted that this was his fourth time sitting through this application hearing. He shared that he spoke with a camper today and has no doubt that the Holtons run a tight ship, but he has to abide by the laws. Selectman Frawley offered that this wasn't his 1st hearing either, but as he's said in the past, he's rooting for the Holtons. The plans aren't doing anyone any good sitting at her attorney's office. You have the plans, submit them. Mrs. Holton noted that she and the engineer parted ways, but we did it amicably and she would get him back to make changes if needed. Selectman Frawley reiterated that the plans are not doing any good sitting in the lawyers office and until they are submitted wherever they need be, we can't do anything. Chairman summarized that the Board of Health must abide by the regulations and right now the campground is in violation. He doesn't like going to court over these matters either. It has been the Board's consistent position that it would grant a license when the campground is in compliance with the septic system. Health Officer offered that it is a DEP application process. DEP will ask our Health Officer if we are in agreement with the plan. Chairman offered that the DEP process can take some time. Health Officer offered that the tight tank is a fairly straight forward process. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve the application for 49 units only. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to rescind vote. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to grant same number of units as approved last year upon

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Tispaquin Family Campground for a 2012 Campground Permit (continued)

research by the Health Officer. Chairman asked Mrs. Holton if she intended to abide by whatever is approved tonight. Mrs. Holton responded she would if the vote was for 97 units. Mrs. Holton screamed at the Board to deny the license and threatened the Board that she will sue the Town. Mrs. Holton exited the meeting. Health Officer addressed the Board and indicated that the Board never approved a permit at all last year. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to rescind the vote. Chairman explained why the Board rescinded and explained that the Board will vote upon at next Monday's meeting with the number of units that the Board last issued a license for nine years ago. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to table until next Monday.

NEW BUSINESS

Agreement for Nursing Services between Middleborough & Lakeville

Health Officer addressed Board and indicated that all was fine with the agreement except for body art. Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to approve.

HEARINGS, MEETINGS, LICENSES

ATM Draft Article #21 – Voter I.D.

Brian Giovanoni explained that this would apply to the spring Town Election or Special Elections caused by vacancy or town meeting and would require people to show an i.d. The Board of Registrar determines what that i.d. will be. If someone forgets their i.d., they can still vote by placing vote in an envelope and have it confirmed by the Town Clerk's office within 3 days. Chairman pointed out what would happen if half or more don't have an i.d. It could hold up election results for three days. Selectman McKinnon asked how it will affect nursing homes. Mr. Giovanoni responded that it wouldn't because they vote absentee ballot. He further offered that other communities are doing this and that 19 out of 50 states require it. Chairman asked if he spoke with the Registrar and if he knows of any concerns she may have. He indicated that her concern seemed to be you could reduce the number of people who show up at Town Meeting if they don't have an i.d. Since she will have to enforce, we should make it easy for her by allowing her to pick whatever form of i.d. she prefers. Selectman Frawley asked if this is even legal in MA. Mr. Giovanoni indicated that it is. Selectman Frawley asked about fees for i.d.'s noting that you can't make someone pay to vote. Gary Silva, another petitioner of this article explained that this is already established in MA General Laws. He also offered that the Board should be commended for its patience this evening.

ATM Draft Article #31 Drainage Easement for Stone Street

Chairman read aloud. No questions or discussion ensued.

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NEW BUSINESS

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to appoint Annette Holmes to the COA Board of Directors for a three-year term expiring on 11/1/13.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to refer Zoning Recodification articles to the Planning Board. Chairman explained reason for referral. Brian Giovanoni offered that it took a significant amount of work and time for the recodification.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve the 2012-2013 Certificate of Registrations relative to Storage of Flammables, as presented, subject to receipt of all required documentation.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to approve 2012-2013 Second Hand and Pawnbroker/Junk Dealer/Old Metals licenses as presented, subject to receipt of all required documentation.

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to waive \$50 Second Hand license renewal fee for Wee Ones as they very recently obtained and paid for an original license.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve request from Samuel Fuller School to place advertisement sign on the Town Hall lawn for its upcoming road race.

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to appoint Stephen J. McKinnon as the Board's 2012-2013 representative to the SRPEDD Commission.

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to appoint Charles J. Cristello as the 2012-2013 JTPG Delegate and Ruth McCawley Geoffroy as the JTPG Alternate.

CORRESPONDENCE

#4 Selectman Quelle noted email from Barbara Erickson of the Assessor's office. He offered that he discussed it with the Town Manager and found it unprofessional and an inappropriate use of Town property and Town time. He noted that he had instructed the Town Manager to deal with it as he sees fit.

#27 Selectman Quelle offered that he appreciated the letter sent to the Governor by State Representative Orrall re the I.G.A. with the Mashpee Wampanoag Tribe.

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CORRESPONDENCE (continued)

#12 Selectman Frawley offered congratulations to and welcomed Peter LePage as a newly elected member to the Finance Committee.

#23 Selectman Frawley noted the canoe race sponsored by the Middleboro Parks department & the Taunton River Watershed Alliance scheduled for 4/28/12 with a rain date of 4/29/12.

#28 Selectman Frawley and Selectman McKinnon noted that neither of them would be able to attend the MA Complete Streets course on 4/26/12.

#7 Selectman McKinnon noted correspondence from the Conservation Commission indicating that the Mill building looks to be in tough shape and asked the Board's Secretary to ask the Town Manager if we can have our abandoned building committee look into.

#14 Selectman McKinnon noted correspondence from Senator Kerry re Natural Gas Act.

#21 Selectman McKinnon noted fundraiser benefit to be held for DPW employee Mike O'Brien at the Elk's Club on 5/4/12.

#5 Selectman McKinnon noted correspondence from Judy Bigelow Costa expressing concerns re the ability for people to hear the Board's meetings.

Chairman Rullo noted that the Board had received an emailed copy of a letter to the Governor from Senator Pacheco requesting a meeting.

#20 Chairman Rullo noted correspondence re Bristol Plymouth Regional Technical School assessment.

Upon motion by Selectman Quelle and seconded by Selectman Frawley, Board voted unanimously to adjourn meeting at 10:20 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

CERTIFICATES OF REGISTRATION FOR FUEL STORAGE 2012

FACILITY	ADDRESS OF TANKS	OWNER
A.L. Prime Energy	414 West Grove Street	414 West Grove Street Trust
A.L. Prime Energy	26 High Street	A.L. Prime Energy Consultant
Amerigas	413 Wareham Street	Petrolane Division of Quantum Chemical
Bedford St. Shell	63 Bedford Street	Arslan & More, Inc.
Belben's Auto Repair, Inc.	760 Centre Street	TJ HD Corp.
W.L. Byrne, Inc.	210 Wood Street	W.L. Byrne, Inc.
Chickering Trucking	164 Everett Street	David and Alan Chickering
Christmas Tree Shops, Inc.	64 Leona Drive	Terry Ryan
Coletti Bros. Oil	576 Wareham Street	Peter and Anthony Coletti
Cumberland Farms, Inc.	200 Centre Street	Eclipse Division
Cumberland Farms, Inc.	87 East Grove Street	Eclipse Division
Cumberland Gulf	150 South Main Street	Eclipse Division
E. Briggs Oil Co., Inc.	144 Everett Street	E. Briggs Oil Co., Inc.
EKS Corporation	157 South Main Street	Trickett Realty Trust
F.G. Adams Co., Inc.	188 East Grove Street	F.G. Adams Co., Inc.
Gas Depot	5 Station Street	Raheel Gafoor
Gates, Shane	43R Smith Street	Shane Gates
Gerson Co.	3 Sumner Avenue	Steven Crowell
Harju, Kenneth	253 France Street	Kenneth Harju
Jim's Automotive	355 Wareham Street	James R. Walker
Kitchen, Nancy	609 Wareham Street	Nancy Kitchen
KVMG, Inc.	407 Wareham Street	KVMG, Inc.
Logan, William	113 East Grove Street	William Logan
Middleborough Gas & Electric	37 Wareham Street	Town of Middleborough
New England Farms	47 Harding Street	Delta Realty
Nemasket Healthcare Center	314 Marion Road	Atrium Nursing Center, LTD.
New England Farms	447 Wareham Street	Delta Realty
Nichols Trucking	34 Vine Street	John and Barbara Nichols
Ocean Spray Cranberries, Inc.	Bridge & Wood Street	Charles Hall
Roby's Propane Gas, Inc.	100 West Grove Street	Roby's Propane Gas, Inc.
Rock Village Cranberry Co.	26 Highland Street	James Paduch
Russell Lawton Cranberries	221 Thomas Street	Russell and Mark Lawton

CERTIFICATES OF REGISTRATION FOR FUEL STORAGE 2012

FACILITY	ADDRESS OF TANKS	OWNER
Super Petroleum	381 West Grove Street	ASD Realty Trust
Super Petroleum	554 West Grove Street	John and Deanne Dupuis
Shell Oil Co.	2 West Grove Street	Colbea Enterprises, LLC
Standish Oil Co.	62 Cambridge Street	John and Helen Lucas
Standish Oil Co.	66 Cambridge Street	John and Helen Lucas
Staples Savard Oil	228 Bedford Street	Weathermark Investments, Inc.
Stop and Save	160 Centre Street	Badat, Inc.
Tribou Commercial Realty Trust	101 Sproat Street	Tribou Commercial Realty Trust
Middleboro Petroleum	99 West Grove Street	United Gas
Verizon New England	15 Jackson Street	Verizon New England
Woods Pond Cranberry	154 Thomas Street	Lawrence Pink

Second Hand/Pawnbroker/Junk Dealer/Old Metals Licenses

Effective 5/1/12 - 5/1/13

Store Name	Location	Contact Name	License Type
Gregory Scot Jewelry & Loan	45 Centre Street	Scot Dean	Pawnbroker and "Junk Dealer/ 2nd Hand/ Old Metals"
Wee Ones	5 Wareham St., Suite B	Caitlin Whitmore	2nd Hand
The Historic Tinkham House	125 Miller Street	Jeanne Gillen	2nd Hand
Whimsical Eye	47 Oak Street	Linda Dixon	2nd Hand
Ragz	370 Centre Street	Kimberly Henderson Kimberly Hymel Patricia Tubman	2nd Hand
Alco Jewelry & Antique's Exchange	19 South Main Street	Robert Cohen Gary Epstein Dan Dunn	2nd Hand
Twice As Nice	749 Centre Street	Mary Donofrio	2nd Hand

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April 30, 2012

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

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

The meeting was broadcast live by MCCAM and recorded by MCCAM and Verizon.

UNANTICIPATED

Selectman Frawley requested that mosquito spraying take place early this year before it becomes a problem.

Judy Bigelow Costa noted the successful job fair held at Town Hall last week. Also, Networking Support Plus meets weekly at the library on Wednesdays from 12 Noon until 1:30 PM.

Chief Gates noted complaint received today regarding door-to-door solicitation in Town this past weekend. Solicitation is not allowed without registering with the Police department, however, "donation" requests are exempt from the law. Dawn to dusk are the allowed hours.

Chairman announced that Sacred Heart Parish Hall was requesting a One-day All Alcoholic beverages liquor license for Saturday, May 5, 2012 from 6 pm – 10 pm. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to approve with request by Selectman Spataro that the church be asked to fill out appropriate form.

ANNOUNCEMENTS & RECOGNITIONS

Selectman Frawley thanked Parks & Recreation department and Middleborough Fire Department for their participation in Saturday's Nemasket River Canoe race. P&R held the event and the Fire department had multiple firemen located at various locations along the river. He congratulated various people as winners in multiple categories. Results of the race are attached.

Selectman McKinnon noted that the Fire department has been busy these past few weeks with brush fires. He reminded the public of dry weather and the dangers with outside fires at present.

Selectman Quelle reminded everyone of the fundraiser to be held this Friday at the Elks to help the family of DPW employee Mike O'Brien.

B. Giovanoni announced the Middleborough Friend's annual COA Pancake breakfast to be held on Saturday at the COA. Tickets are available at the COA. Money raised from the breakfast is donated to the COA.

MINUTES

None voted.

NEW BUSINESS

Paul Provencher announced the Memorial Day Veterans' events. Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve all events requested. Selectman McKinnon requested that they be placed on a community bulletin board. Town Manager offered that we started a community bulletin board through the Library and Chamber of Commerce. He thinks this should go on this community calendar rather than on the Town website. Mr. Provencher will make contact with the library to do that.

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to approve application by The Cabin restaurant to serve alcoholic beverages from 8 a.m. to 1 a.m. on Mondays.

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to approve One-day Wines & Malt Beverages liquor licenses for N.E. Bartending Services at the Alley Theatre from 6 pm to 10 pm on 5/11, 5/19, & 5/24/12.

Town Manager reviewed the new retiree health insurance policy. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve at the recommendation of the Town Manager.

Town Manager reviewed the Health Insurance Renewal form from MIIA. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve and authorized Chairman to sign.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously not to exercise the Chapter 61/61A Tax Program Option for the Estate of Edward W. Parks.

Town Manager recommended against approving waiver of custodial/security fee as requested by John Healy, Student Advisor relative to the upcoming prom to be held in the Town Hall Auditorium noting that we have consistently charged for school events and these events require a lot of clean up by our custodial personnel. Additionally, we are waiving the set up fee. Upon motion by Selectman Frawley and seconded by Selectman Spataro, Board voted unanimously to waive Friday set-up date of custodial/security fees. Selectman Frawley volunteered to act as security.

Town Manager offered that MG&E Chairman Healy indicates that the Commission is available for a joint meeting on 5/24 or 6/4. Chairman asked Board members to get a list of questions to the Board's Secretary by Friday. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to send letter with suggested dates.

HEARINGS, MEETINGS, LICENSES

Edgeway Mobile Home Park Phase I & II Update

Jamie Bisonett from Prime Engineering addressed Board. He reviewed the punch list for Phase I with the Board. He indicated that Attorney Marsan notified him 30 minutes ago that he had an emergency tonight and could not attend to explain his half of the updates. Mr. Bisonett explained that they have all splash patio blocks in place. In fact, they had purchased extra. Selectman Frawley asked if they are different than what is on the plans. Mr. Bisonett responded that they are not. They only showed on the plans that cement objects would be used. Selectman Frawley asked if there was any reason he wouldn't use splash pads that people use under their gutters. Mr. Bisonett offered that it may be the price difference, which is \$5 per piece compared to \$1 per piece. Selectman McKinnon asked if it wouldn't make more sense to have the angeled splash pads that divert water away from the house. He answered that in some cases, yes it would, however, for the most part, they are pointed in that direction. He offered to walk through with the Selectmen to show them. Selectman Frawley offered that the Board's frustration was not directed at him. The Owner/Operator giving limited notice not to be in attendance is unacceptable and to use patio blocks as opposed to splash pads, to save a couple of bucks, isn't worth it. Chairman asked Mr. Bisonett to pass along to the Owner/Operator the Board's displeasure with the choice in splash patio blocks. Selectman Quelle offered similar comments that the displeasure was not directed at him. Upon motion by Selectman Spataro and seconded by Selectman Frawley, Board voted unanimously to ask the engineer to bring a message back to the Owner/Operator to replace splash patio blocks with splash pads. Jamie Bisonett offered that the Owner/Operator had asked us what is normally acceptable and commonly used. If this is what the Board wants, he will bring the message back to the Owner/Operator and attorney.

Stone chips around the mobile home skirts have now been completed by the landscaping company. Selectman Frawley noted that the resident at 11 Lyn Lane had white stone all around her house and that she would like the same replaced. Mr. Bisonett said o.k., however, it was his understanding that the agreement was to replace anything disturbed with something same or similar. He will take a look at it. He reported that loam and sand had been replaced around the units. Mr. Bisonett offered that they are hoping to get approval from DEP and the Town re septic issues. Most of loam and sand placement has been done, but will do more after septic issues are addressed. Selectman Frawley asked if there can be a plan in place to replace plants, where needed, to which Mr. Bisonett responded that he will check on.

#5 re shrubs - covered in #4

#7 legal issue with residency within the Park which doesn't pertain to him

#8 resident unclear if wanting gutters installed. Attorney Marsan is looking for clarity and will let Mr. Bisonett know.

#9 legal issue

#10 Attorney Marsan working on

#11 Comcast – Mr. Bisonett explained that when they called Comcast to run cable into Middleborough, the cost almost prevented them from a willingness to do it. They've explained to him that there is one channel difference and they are not willing to change that. Duplicating the process would make this cost prohibitive. Chairman asked Town Manager if our Cable Committee could look into. Town Manager agreed. Upon motion by Selectman McKinnon and seconded by

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Selectman Quelle, Board voted unanimously to get Permanent Cable Committee involved with getting cable access to Middleborough residents in Edgeway Park.

Mr. Bisonett received correspondence from the Attorney which originated from the residents re fire hydrant. He's not sure how this is an engineering issue at all. It has been very dry out and not sure water hydrants are sufficient to put out a fire.

Selectman Frawley raised #6 on punch list given to the Board tonight. Mr. Bisonett will present to the owner/operator and attorney. Spring and fall inspections are recommended by Selectman Frawley.

Selectman McKinnon raised #1 re gutters-overflows. Mr. Bisonett acknowledged that some units still have legitimate flow concern. He has some ideas. He wants to take some samples and is working on a long-term solution. He did view during some of the heavy rains. For the most part, you could hear water running down the pipes, but also for the most part, he believes there has been strong improvement to the site.

Chairman noted that we need to get Attorney Marsan in here and suggested next Monday.

Selectman Frawley asked if there was any way to compel Attorney Marsan and the Park

Owner/Operator to attend a meeting. Chairman responded that he doesn't know that there is. Mr. Bisonett indicated that Attorney Marsan truly did intend to be here tonight, but that he called with a health emergency re someone else.

Mr. Bisonett indicated that the Health department has been kept informed re Phase II and right now is with the Planning Board for peer review. He hopes to submit septic system plans next week for approval.

Anne McGann asked about the overflows as many of the residents have problems with water pouring out. She asked the engineer if he could work to make them remain stable. Mr. Bisonett responded, yes. She would like her gutters cleaned. She also clarified that the resident at 11 Lyn Lane would like white stone replaced on just one side of her home where it was disturbed. She offered that communication is not good re schedule of activity. It would be helpful if the residents could be provided with a schedule. Mr. Bisonett explained that they took notes of what was out there and replaced what had been there as far as sand and/or loam and the guys doing the work said they had dialogue with a lot of residents at the Park.

Louisa Brown, 162 Wesley Circle, announced that she needs splash pads and the overflows are not working at both ends. That's where her water was and remains. With the cement block, water will just sit and form into ice with these concrete blocks. She also indicated that the Comcast salesperson for their Park said it was possible to get all stations to everyone in the Park. She told Louisa it was possible and that she had gotten permission from Attorney Marsan to do so. Mr. Bisonett agreed that Louisa is in the worst spot regarding water as she is at the bottom of the hill. They are putting in a catch basin for her. If her overflow needs adjustment, they will look at. They are going to look at the cement blocks and discuss, and as he said he spoke with someone at Comcast, but that person should have a boss, etc. but he was quickly told no.

TOBACCO REGULATION HEARING

Middleborough Youth Advocates representative Ed Rand introduced Judith Kirkandoll who works for Seven Hills Behavioral Health Tobacco Free Community Partnership. She announced that she was present to support the MYA in its request to amend the Tobacco regulations. Spokespersons Casey Schnetzer and Elizabeth Bell provided a Power Point presentation for the Board on its proposed amendments to the Town's Tobacco and Nicotine Delivery Product Sales Regulations. Discussion ensued. Board agreed to take matter under advisement and vote on May 21, 2012. Proposed regulations attached. Handout attached.

ANNUAL TOWN MEETING ARTICLES REVIEW

Chairman Rullo read aloud articles 1-5.

Selectman Frawley read aloud articles 6-10.

Selectman McKinnon asked the Capital Planning Chairman how many tasers were covered by Article #10. He answered, 30.

Selectman Spataro read aloud articles 11-15.

#13 Glenn Montapert questioned the additional money for the Town Hall Cupola. Town Manager explained that we had two change orders beyond what we bid. We had more rot than first known and to the dome itself. We had to have roof removed to replace beam. We borrowed \$200,000 and had a grant of \$30,000. Mr. Montapert offered that it appeared to be an exorbitant amount of money. Town Manager disagreed noting that it was more than just the cupola. It was the dome as well. The dome was an involved structure. You never know what you're going to get into with historic structures. Selectman Frawley shared that it had been discussed at the Capital Planning meeting the other night, but it was concluded that there were no other options. Selectman Spataro offered that everything we had done was custom. Chairman offered that this is one of the most historical buildings in Town. This was money well spent. Jane Lopes offered that she has heard concerns about money spent on the cupola and shutters. These are investments in historic buildings and the fact that we have taken care of these buildings and are in the National Historic Register, demonstrates that people take pride in these historical buildings. Selectman Spataro asked if the MG&E could have put up plastic shutters on their building. Jane Lopes responded that they could have, but you would never get any state money for that building. Glenn Montapert acknowledged that he did not know the MG&E building is a historical building. Sue Dube offered that the MG&E building is not on the National Register and the work on it cost \$40k. Neil Rosenthal offered that it was well worth spending the money on the cupola.

#16-20 Selectman McKinnon read aloud.

#20 Town Manager spoke about FEMA requirements.

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#21 Selectman Quelle read aloud. Town Manager noted that this fee is charged to the applicant.

#22 & 23 Selectman Quelle read aloud.

#24 Chief Gates spoke about Non-Criminal Disposition By-Law

Mimi Duphily offered that she thinks this article needs more clarification as it doesn't say you would be paying the Town Clerk. Chief Gates explained that Section 21D covers it. She then asked if we can charge the people delivering to SEMASS. She also suggested that if it does go to Wareham Court, it does not come back to Town right. Chief Gates confirmed that it does come back to the Town. Willy Duphily asked the Chief if these are all his requests or someone else's. Chief Gates responded that he had looked at all of our bylaws and picked what he thought we might enforce, though we not enforce some of these. W. Duphily asked for clarification on snow & public way obstruction. Chief Gates responded that he thinks it would only get used if the MPD or DPW asked someone to remove and they refused. They would probably get a ticket. Brian Giovanoni offered that he is assaulted every time he walks past Kramer Park with the vulgarity these kids shoot at him.

#25 Selectman Quelle read aloud. Police Chief reviewed.

#'s 26, 27, 28 Chairman Rullo read aloud. Town Manager summarized #28, explained #29, and summarized #30.

#31 Selectman Frawley read aloud. – Voter I.D. By Law – Brian Giovanoni explained article. Chairman asked if we ever had this problem in this Town. Brian responded not that he is aware of, but it could become one very easily. Sue Dube asked how many other towns or cities in MA have this in place. Mr. Giovanoni responded that he doesn't know, but will know by 6/10 and that there will be an information sheet with information on it for Town Meeting.

#32 Selectman Frawley read aloud. Chairman explained article.

SPECIAL TOWN MEETING

#'s 1, 2, & 3 Selectman Frawley read aloud. Town Manager explained.

UNFINISHED BUSINESS

Tispaquin Family Campground Annual Permit Application

Health Officer informed Board that its Board's Secretary put a copy of the plan in my mailbox this morning, but she hadn't reviewed it yet.

Chairman recommended that the Board vote to deny the permit until the Camp Owner complies. Selectman McKinnon offered that he believed there was a question last week as to what we

approved before re number of sites and believes this clears that up (material submitted by Health Officer). Chairman agreed, but also noted that when the Board had asked the operator if she would comply with the number of sites we approve, she said no. He questioned why the Board should issue the license for 57 sites if she won't comply. Selectman Spataro noted that he had been absent last week, but did get the DVD of the meeting, and the material, and would be voting. Barbara Holton addressed Board and brought up the KOA campground. Chairman informed her that he is going to allow her to speak if she speaks about her request and not other campgrounds. Mrs. Holton responded that there is nothing that says that she is not complying. Chairman offered that the Health Officer and the Courts said so. Mrs. Holton responded that's because you lied. I was grandfathered in re septic system Title V law. I'm the only one going through this because I live in Middleborough and Middleborough hates me. Chairman thanked her for her comments. Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to deny the application asking for 113 units. Health Officer added that the Title V reports the Health department received in its office show that 4 out of 6 systems at Tispaquin Family Campground failed.

Selectman Quelle left the meeting.

TOWN MANAGER'S REPORT

The NPDES Stormwater Report that we are required to submit has been submitted on time.

We have been notified by MIIA that we are eligible for approximately \$2,500 in premium credits.

CORRESPONDENCE

#4 Selectman Frawley noted the upcoming Old Colony Planning Council meeting scheduled for 5/17/12 with guest speaker Stephen Crosby, Chairman, MA Gaming commission and asked if anyone planned to attend. Town Manager noted that he may attend.

Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted by Roll Call to go into Executive Session at 10:45 PM to discuss strategy relative to Contract Negotiations (Non Union Personnel) - Police Chief and not to return into Open Session. Roll Call: A. Rullo, Yes; A. Frawley, Yes; S. Spataro, Yes; S. McKinnon, Yes. Ended at 10:48 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

**Town of Middleborough
Middleborough Board of Health**

**Tobacco and Nicotine Delivery Product Sales Permit
Regulation Restricting the Sale of Tobacco Products
And Nicotine Delivery Products**

A. Statement of Purpose:

The Board of Health of the Town of Middleborough, Massachusetts, acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws and such other authority as it possess has enacted the following Regulations Affecting the Sale, Location, Vending and Distribution of Tobacco Products and Nicotine Delivery Products in the Town of Middleborough in the interest and preservation of public health effective [May 1, 2012], pursuant to a vote of the Board of Health.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Middleborough Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece, not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

E-Cigarette: Any electronic Nicotine Delivery Product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Health Care Institution: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and subject to the provisions of 247 CMR 6.00. Health care institution includes, but is not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices and dentist offices.

Minor: Any individual who is under the age of eighteen (18).

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine Delivery Product includes, but is not limited to, e-cigarettes.

Permit Holder: Any person engaged in the sale or distribution of tobacco or nicotine delivery products directly to consumers who applies for and receives a tobacco and nicotine delivery product sales permit or any person who is required to apply for a tobacco and nicotine delivery product sales permit pursuant to these regulations, or his or her business agent.

Self-Service Display: Any display or RYO machine from which customers may select or make a tobacco product or a Nicotine Delivery Product without assistance from an employee or store personnel.

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, kreteks, snuff, blunt wraps, loose tobacco or tobacco in any of its forms.

Bidis: A thin, often flavored Indian cigarette made of tobacco wrapped in a leaf.

Kreteks: A cigarette product composed of tobacco, ground cloves and other additives.

Snuff: A preparation of finely pulverized tobacco that can be drawn up into the nostrils by inhaling, also called smokeless tobacco.

Blunt Wraps: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes, any other tobacco product or Nicotine Delivery Product.

Roll-Your-Own (RYO) machine: A mechanical device, by whatever manufacturer made and by whatever name known, that is designed to roll and wrap tobacco into products.

D. Tobacco and Nicotine Delivery Product Sales to Minors Prohibited:

1. No person shall sell tobacco or nicotine delivery products or permit tobacco or nicotine delivery products to be sold to a minor; or not being the minor's parent or legal guardian, give tobacco or nicotine delivery products to a minor.

2. Required Signage

- a. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
- b. The owner or other person in charge of a shop or other place used to sell nicotine delivery products at retail shall conspicuously post a sign stating that "The sale of nicotine delivery products to minors under 18 years of age is prohibited.". The notices shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

3. Identification: Each person selling or distributing tobacco or nicotine delivery products shall verify the age of the purchaser by means of valid government-issued photographic identification containing the bearer's date of birth and that the purchaser is 18 years old or older. Verification is required for any person under the age of 27. All tobacco retailers in the town of Middleboro are required to verify purchaser's age with an electronic age verification device on every tobacco purchase.

4. All retail sales of tobacco or nicotine delivery products must be face-to-face between the seller and the buyer.

(Exemption for approved vending machine.)

E. Tobacco and Nicotine Delivery Product Sales Permit:

1. No person shall sell or otherwise distribute tobacco or nicotine delivery products at retail within Middleborough without first obtaining a Tobacco and Nicotine Delivery Product Sales Permit issued annually by the Middleborough Board of Health. Only owners of establishments with a permanent, non-mobile location in Middleborough are eligible to apply for a permit and sell tobacco products or nicotine delivery products at the specified location in Middleborough.

2. As part of the Tobacco and Nicotine Delivery Product Sales Permit application process, the applicant will be provided with the Middleborough Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco and nicotine delivery product sales about state and local laws regarding the sale of tobacco and nicotine products as indicated in this regulation.

3. Each applicant who sells tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a Tobacco and Nicotine Delivery Product Sales Permit can be issued.

4. The fee for a Tobacco and Nicotine Delivery Product Sales Permit shall be determined by the Middleborough Board of Health annually. All such permits shall be renewed annually by January 1. Renewal applications are to be submitted to the Health Department by November 30th prior to expiration of existing permits.

5. A separate permit is required for each retail establishment location selling tobacco or nicotine delivery products.

6. Each Tobacco and Nicotine Delivery Product Sales Permit shall be displayed at the retail establishment in a conspicuous location.

7. No Tobacco and Nicotine Delivery Product Sales Permit holder shall allow any employee to sell tobacco products or nicotine delivery products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement that is written in the primary language of the employee that he/she has read and understands the regulation and applicable state and local laws, a copy of which will be placed on file in the office of the employer.

8. A Tobacco and Nicotine Delivery Product Sales Permit is non-transferable. A new owner/operator of an establishment that sells tobacco or nicotine delivery products must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

9. Issuance of a Tobacco and Nicotine Delivery Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation and with the understanding that compliance checks may be conducted on a periodic basis.

10. A Tobacco and Nicotine Delivery Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

F. Free Distribution:

No commercial entity shall distribute or furnish or cause to be furnished or distributed without charge, any nicotine delivery products, cigarettes, cigars or other tobacco products in any public place or any event open to the public. A public place means public streets, sidewalks, buildings, parks, playgrounds and other public property or places of public assembly.

G. Out-of-Package Sales:

1. No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

2. Roll-Your-Own machines are prohibited.

H. Self-Service Displays:

All self-service displays of tobacco products and/or nicotine delivery products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked, unless location does not allow under-18 without parent or legal guardian.

I. Vending Machines:

All tobacco and/or nicotine delivery product vending machines are prohibited unless approved by the Health Department in a location that is only accessible by adults over 18 years of age.

J. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Health Care Institutions:

No health care institution located in Middleborough shall sell or cause to be sold tobacco or nicotine delivery products. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products.

K. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Educational Institutions:

No educational institution located in Middleborough shall sell or cause to be sold tobacco or nicotine delivery products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

L. Violations:

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco and/or nicotine delivery products. For Section D (1) (Tobacco and Nicotine Delivery Product Sales to Minors Prohibited), each violation will be viewed as a separate violation, the violator shall receive:

- a. In the case of a first violation, a fine of one hundred dollars (\$100.00) and may include up to 7 day suspension consecutive business days.
- b. In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit may be suspended for up to 15 consecutive business days.
- c. In the case of three or more violations within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the Tobacco and Nicotine Delivery Product Sales Permit may be suspended for up to thirty (30) consecutive business days or the Board of Health may revoke the Tobacco and Nicotine Delivery Product Sales Permit.

2. For Sections D.(2) Required Signage, D.(3) Identification, D.(4) Face-to-Face Sales, E. Tobacco And Nicotine Delivery Product Sales Permit , F. Cigar Sales Regulated, G. Free Distribution, H. Out of Package Sales, I. Self-Service Displays, J. Vending Machines, K. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Health Care Institutions, and/or L. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Educational Institutions, the violator shall receive a fine of one hundred dollars (\$100.00) for each offense and for each day the offense occurs.

3. Refusal to cooperate with inspections pursuant to this regulation may result in the suspension of the Tobacco and Nicotine Delivery Product Sales Permit for up to thirty (30) consecutive business days or revocation of the Tobacco and Nicotine Delivery Product Sales Permit after a hearing before the Board of Health.

4. Any permit holder who engages in the sale or distribution of tobacco or nicotine delivery products directly to a consumer without a valid permit or while his or her permit is suspended may be subject to the suspension of all board of health issued permits for up to thirty (30) consecutive business days and/or fined up to two hundred dollars (\$200.00) accordingly after a Board of Health hearing. Subsequent violations may result in suspension or permanent revocation of the Tobacco and Nicotine Delivery Product Sales Permit, fines and/or legal action.

5. The Middleborough Board of Health shall provide notice of the intent to suspend a Tobacco and Nicotine Delivery Product Sales Permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. **After a hearing, the Middleborough Board of Health may suspend the Tobacco and Nicotine Delivery Product Sales permit, levy fines, or set conditions on the business operation if the Board finds that a sale to a minor occurred.** For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products and nicotine delivery products shall be removed from the retail establishment location upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit. Failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of this regulation.

Each day any violation exists shall be deemed to be a separate offense.

M. Enforcement:

Enforcement of this regulation shall be by the Middleborough Board of Health or its designated agent(s).

Any citizen who desires to register a complaint pursuant to the regulation may do so by contacting the Middleborough Board of Health or its designated agent(s) in the Health Department.

N. Severability:

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

O. Effective Date:

This regulation shall take effect on May 1, 2012.

OPPOSE

underhanded
TOBACCO
tactics

Snus (pronounced “snoose”)

Moist snuff in small teabag-like pouches. Used like snuff, but no spitting.



Health Effects:

- Increased risk of pancreatic and oral cancers.
- Needs refrigeration or carcinogenic nitrosamines build up.
- One pouch can contain 2 mg-19 mg of nicotine. (Cigarettes have less than 2mg of nicotine, on average.)

Common Brands:

Camel Snus: Mellow, Frost

Marlboro Snus: Rich, Mild, Mint, Spice

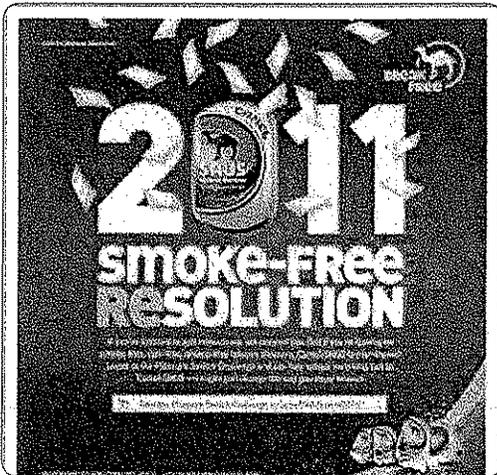
*Triumph (Swedish Brand)**

Other common snuff brands as a 'pouch' variety

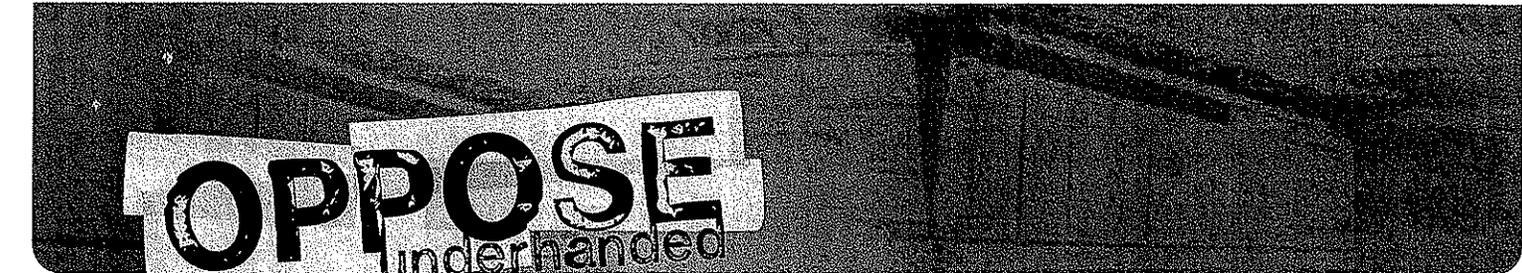


What's the Tactic?

- Heavily marketed by the tobacco industry as a product that can be used where smoking is prohibited
- Sold with candy-like flavors that mask the stronger taste of tobacco
- Packaged in tins similar to those used for mints
- Snus is cheap, so it is easy for kids to purchase as an impulse buy—a can of 12 pouches can cost as little as \$2.00.



*Has its origins in Scandinavia. Is illegal everywhere in Europe except for Sweden and Norway.



OPPOSE

underhanded

TOBACCO

tactics

The tobacco industry is targeting your kids— right in your own backyard.

The tobacco industry knows that to stay in business, it needs to hook young people.

The tobacco industry uses three tactics in its efforts to hook kids on tobacco products: price, packaging, and availability. The tobacco industry is selling products in colorful and fun packaging that attracts young people, pricing these products cheaply to encourage impulse buys. These cheap tobacco products are available to young people in a variety of locations, from gas stations to pharmacies.

Adolescents are especially harmed by tobacco.

Adolescents' brains are still developing. The nicotine in tobacco products can produce structural and chemical changes in the developing brain that make young people vulnerable to future alcohol and other drug addiction and mental illness.¹

Because of the way nicotine changes the adolescent brain, people who start smoking as adolescents smoke more and have a harder time quitting than people who start as adults.²

Stand with us to OPPOSE the tobacco industry's targeting of young people.

- **Sign the position statement** in support of higher prices for tobacco products and efforts to curtail the availability of tobacco products. These are two key strategies we can use to fight the industry's tactics.
- **Support local policy actions**, such as those banning the sale of cheap single cigars, banning the sale of tobacco in pharmacies, and those that strengthen regulations that prevent youth access to tobacco. Learn more and sign up for email alerts about policy actions in your community at OPPOSE.NING.COM
- **Look around.** What's the tobacco industry up to in your community? Talk with your kids about tobacco and ask them what they see.
- **Spread the word.** Many people think the tobacco problem is solved. It's not. The youth cigarette smoking rate continues to decrease in Massachusetts, but 7,000 young people still become cigarette smokers every year in our state. And young people's use of other tobacco products has increased. In 2009, for the first time, high school students used tobacco products other than cigarettes at a higher rate than cigarettes (17.6% as opposed to 16%).³

¹ Many published studies have shown this, including: Abreu-villaca, Y. et al (2003). Short-term adolescent nicotine exposure has immediate and persistent effects on cholinergic systems: Critical periods, patterns of exposure, dose thresholds. *Neuropsychopharmacology*, 28, pp. 1935-1949.

² *ibid.*

³ Massachusetts Youth Risk Behavior Survey, 1999-2009

Municipal Tobacco Control Technical Assistance Program

Donald J. Wilson, Director
 c/o Massachusetts Municipal Association
 One Winthrop Square
 Boston, Massachusetts 02110

(617) 426-7272
 FAX (617) 695-1314
 djwilson@mma.org

SUMMARY OF LOCAL EFFORTS REGARDING TOBACCO SALES BANS IN PHARMACIES

<u>MUNICIPALITY (POP. RANK)</u>	<u># AFFECTED</u>	<u>ENACT DATE-EFF. DATE-TIME LAPSE-POLICY TYPE</u>
Boston (1)	88	12/11/08 – 2/11/09 (2 months) – health regulation
Needham (56)	4	7/14/09 – 10/1/09 (2.5 months) – health regulation
Newton (11)	8	11/16/09 – 11/16/09 (n/a) – city ordinance
Everett* (39)	5	7/19/10 – 8/15/10 (1 month) – health regulation
Walpole (79)	5	10/12/10 – 10/21/10 (2.5 weeks) – health regulation
Lancaster (215)	0	12/2/10 – 2/1/11 (2 months) – health regulation
Southboro (107)	4	12/15/10 – 2/13/11 (2 months) – health regulation
Oxford (142)	3	2/7/11 – 3/1/11 (3 weeks) – health regulation
Fall River (9)	22	3/22/11 – 4/12/11 (3 weeks) – city ordinance
Wakefield (73)	4	3/19/11 – 6/1/11 (2 weeks) – health regulation
Westford (83)	3	5/9/11 – 7/1/11 (2 months) – health regulation
Worcester (2)	34	5/10/11 – 6/24/11 (6 weeks) – city ordinance
Wellesley (65)	4	4/28/11 – 6/1/11 (6 weeks) – health regulation
Somerville (12)	10	5/19/11 – 7/1/11 (6 weeks) – health regulation
Westwood (134)	2	6/14/11 – 6/30/11 (2 weeks) – health regulation
Chatham (227)	1	6/20/11 – 7/7/11 (2.5 weeks) – health regulation
Hatfield (269)	0	3/22/11 – 4/1/11 (1.5 weeks) – health regulation
Lowell (4)	12	11/2/11 – 1/1/12 (8.5 weeks) – health regulation
New Bedford (6)	20	11/3/11 – 1/1/12 (8.5 weeks) – health regulation
Brookline (18)	8	11/15/11 – 4/9/12 (AG approval) – town bylaw
Wareham (87)	5	11/30/11 – 1/12/12 (6 weeks) – health regulation
North Attleboro (58)	7	12/6/11 – 1/1/12 (3.5 weeks) – health regulation
Revere (24)	6	12/9/11 – 1/1/12 (3 weeks) – health regulation
Winchester (90)	2	12/13/11 – 1/1/12 (3 weeks) – health regulation
Concord (103)	3	11/20/11 – 2/14/12 (8 weeks) – health regulation
Springfield (3)	17	3/21/12 – 5/21/12 (2 months) – health regulation
Fitchburg (35)	6	3/28/12 – 6/1/12 (2 months) – health regulation
Leominster (34)	9	4/18/12 – 6/1/12 (6 weeks) – health regulation
TOTAL: 28	293	

# AFFECTED BY COMPANY	
CVS	93
Rite Aid/Brooks	40
Walgreens	52
Walmart	8
Target	7
Costco	1
Kmart	1

# AFFECTED BY COMPANY	
Shaws Market	6
Star Market	2
Stop & Shop	16
Big Y Supermarket	3
Price Chopper	2
Hannaford	3
Independent Pharmacies	58

*One pharmacy is both a retailer and wholesaler. Tobacco sales to wholesale customers only, with conditions.

NOTE: Some Target and Kmart stores may have pharmacies but neither company sells tobacco per company policy. 30% of state's population lives in listed municipalities. (1,903,825 out of 6,349,000 residents)

A Technical Assistance Project for cities and towns funded through a Massachusetts Department of Public Health grant to the Massachusetts Municipal Association.

EDGEWAY HOMEOWNER'S ASSOCIATION
17 Lyn Lane
Middleborough, MA 02346

April 26, 2012

Mr. Corey Farcas, Trustee of Edgeway
Attorney Gerard Marsan, representing Corey Farcas

Gentlemen:

Because the office has not been staffed since July, 2011, and calls made and messages left on the office answering machine were not addressed, we are writing you with our concerns and complaints.

- The Homeowner's Association has not received a copy of the Park Rules approved in 2011. You may recall the Park has not had approved rules since 2006.
- We ask that the Park Rules be conspicuously posted, such as the bulletin board in front of the office, to be available for all residents at all times.
- There have been problems lately with unregistered people living in the parks (Twin Coach) some of whom are creating problems. We feel you must follow the rule to update registration by June 30th of each year, as required by law to protect the residents. (Section 3, Middleborough Rules and Regulations)
- We also have a concern that you should share with us. We have experienced a dry winter and spring this year, the lack of water to fight fires, and the one and only exit in the park shared by both parks, Twin Coach and Edgeway, brings us to the safety of fire pits some residents may enjoy. We are asking you to ban these portable pits or fireplaces in both parks for the safety of all residents, at least for the time being.
- There are rules prohibiting storage of equipment in driveways for months creating an eyesore. We ask you to identify and require these residents to remove this type of equipment from the property. Rules must be the same for all residents.

The above concerns and complaints are all reasons to staff the office so problems can be reported and resolved in a timely manner. We take great pride in

our homes and investment and work hard to maintain the lots we rent from you thereby protecting you investment also.

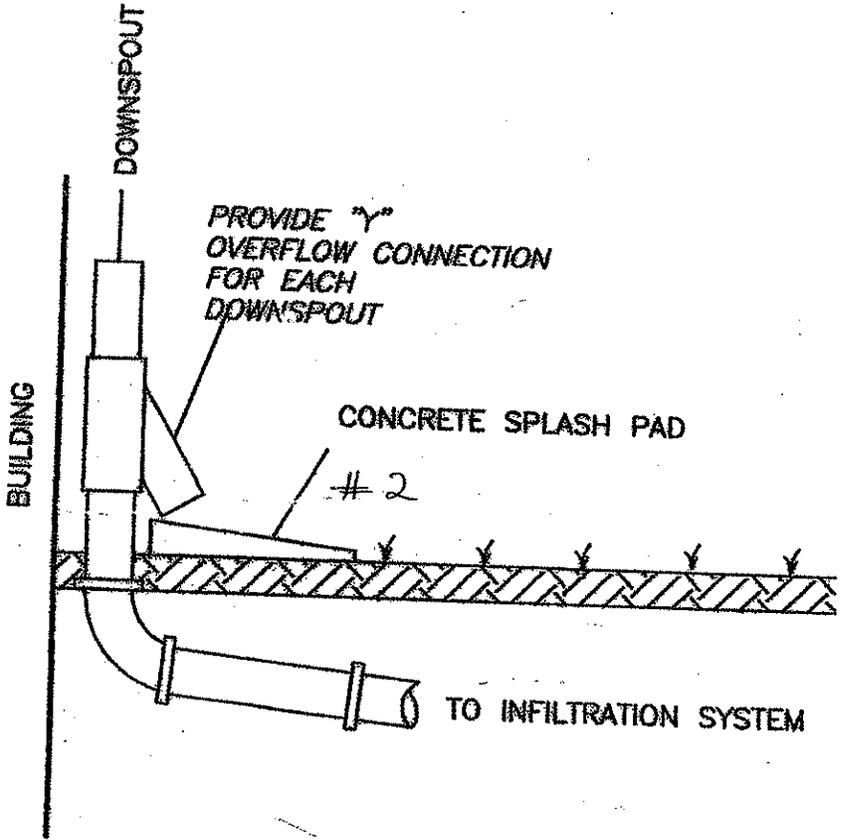
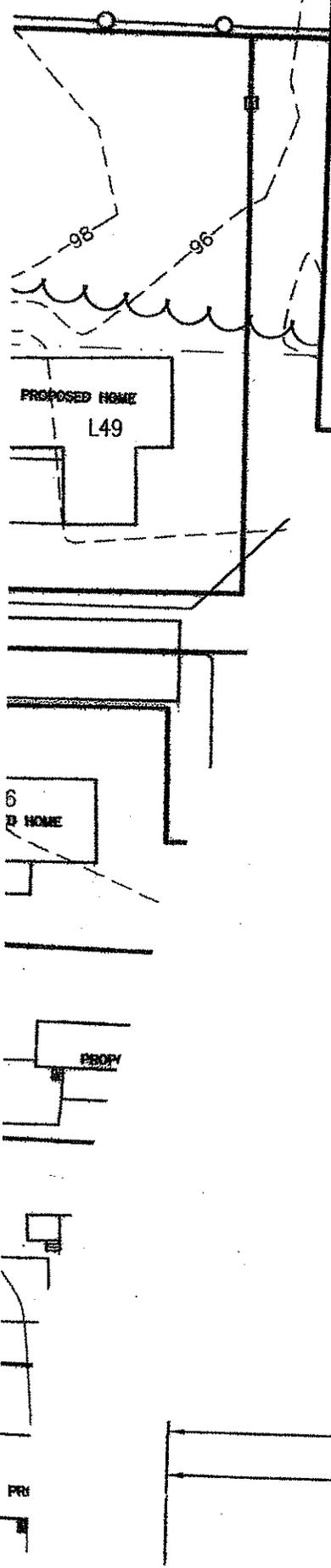
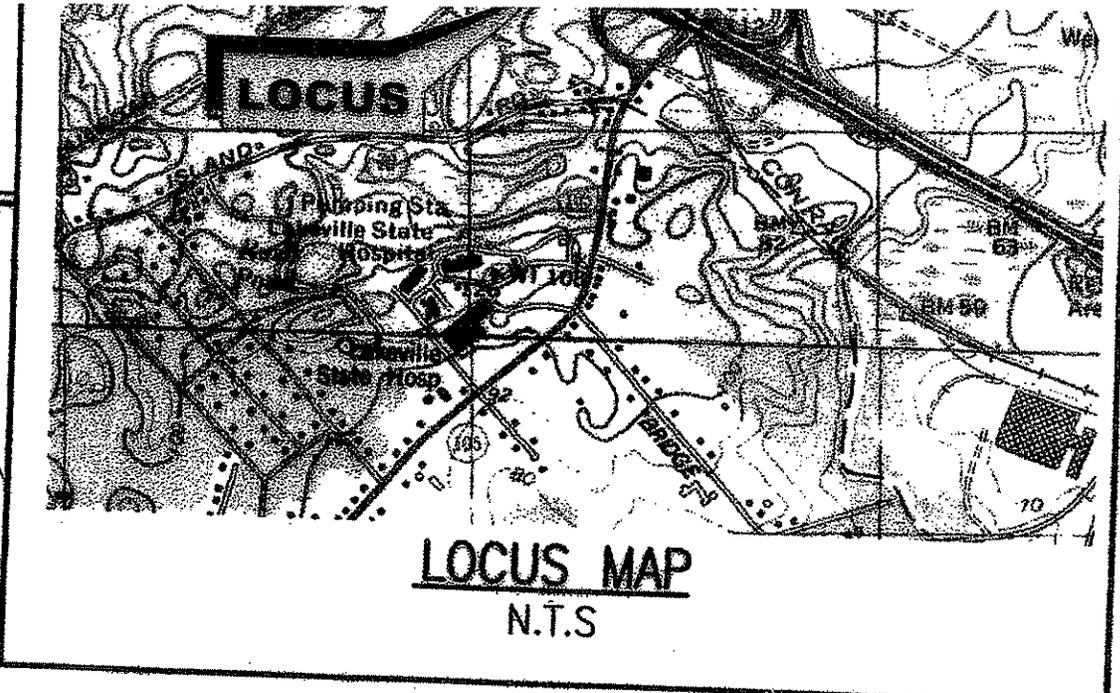
Thank you.

Edgeway Homeowner's Association

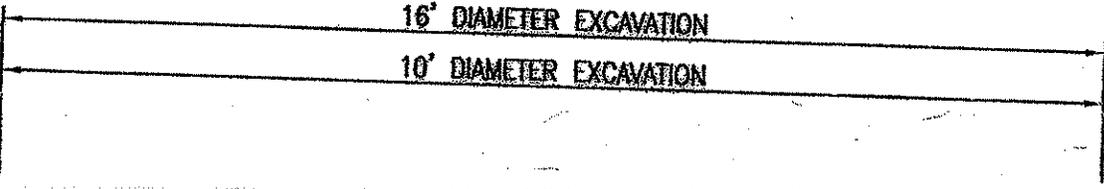
cc: Middleborough Rent Control Board
Andrew Sheely, Attorney General's Office
James A. Jemison, Department of Housing and Community Development
Alana Murphy, Department of Housing and Community Development
Attorney Denzil McKenzie representing Nicholas Beaulieu

EDGEWAY PHASE I PUNCH LIST

1. To check and permanently adjust all overflows, preferably in the rain.
2. Splash pads are different than plans. (Patio Blocks)
3. Bob Malcom, 52 Lyn Lane, has not had gutters installed. He was in Florida. Town and Edgeway did have his address.
4. How did you decide who was getting loam and sand?
5. Resident at 11 Lyn Lane had white stone all around her house. She would like the same.
6. When will gutters be checked and cleaned. There could be some blockage causing problems.
7. Communication is poor. No explanation of what's to happen.



DETAIL OF ROOF OVERFLOW SYSTEM
NOT TO SCALE



Jacqueline Shanley

From: Selectman Allin Frawley
Sent: Monday, April 30, 2012 6:58 PM
To: Jacqueline Shanley
Subject: FW: Canoe Race

-----Original Message-----

From: Fran Cass
Sent: Mon 4/30/2012 1:24 PM
To: Selectman Allin Frawley
Subject: Canoe Race

Results of the Canoe Race April 28, 2012

Kayak

Tandem	1st	John and Jack Knowlton	58:26
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Men's Kayak	1st	Eric Zabloski	59:50
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	2nd	Paul MacDonald	60:02
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	3rd	Colin MacDonald	61:39
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Youth	1st	Ryan Stopka	52:02
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Senior	1st	Al Short	75:30
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Female	1st	Robin Manning	72:50
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Senior Female	1st	Diane Sanford	83:30
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Canoe

Single Men	1st	Allin Frawley	58:20
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Tandem Men	1st	Seth Pomeroy & Josh Deyoung	52:57
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2nd	Dennis Collins & Chuck Draper	53:51
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3rd	Mike & Mark Pomeroy	62:36
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25 Total Boats

Chairman opened meeting by inviting those in attendance to join in the Pledge of Allegiance.

In attendance were Selectmen A. Rullo, A. Frawley, B. Quelle, S. McKinnon and Board's Confidential Secretary J. Shanley. Town Manager was attending Finance Committee meeting.

The meeting was broadcast live by MCCAM and recorded by MCCAM and Verizon.

ANNOUNCEMENTS

Selectman Frawley noted that he had attended Mike O'Brien's fundraiser on Friday night and offered his thanks to all those who organized the event.

Chairman announced Water department will begin the refilling of the Barden Hill water tank on Wednesday 5/9/12 and expect it to take approximately three weeks with a slight decrease in water pressure. They expect to be back online by 5/30.

The DPW & Waste Management will sponsor a Bulky Items Collection Day on Saturday, May 19, 2012 from 8 a.m. to 2 p.m. at the Middleboro Landfill on Plympton Street.

NEW BUSINESS

Upon motion by Selectman Frawley and seconded by Selectman Quelle, Board voted unanimously to appoint Mary Cole as a member of the Cultural Council.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted unanimously to approve Town Hall rental for Northbrook Academy on 5/18 & 5/19 and for tech week as May 14-18 from 2 pm to 5 pm, subject to Northbrook providing security personnel fees.

Upon motion by Selectman McKinnon and seconded by Selectman Quelle, Board voted unanimously to approve and sign the Special and Annual Town Meeting Warrants.

CORRESPONDENCE

#7 Selectman Frawley noted Conservation Commission writing letter of support re Assawompset Pond-Firm Yield Study Funding. He thinks this study is the first step in the right direction in gathering information regarding the ongoing problem of water levels dropping in the Nemasket River. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to send letter to state and federal delegation and surrounding Towns and their Conservation Commissions.

Selectman Frawley noted that the Herring Fisheries Commission is meeting at 7 PM tomorrow night.

HEARINGS, MEETINGS, LICENSES

Joint Meeting with Finance Committee re FY'13 School department budget

Town Manager joined meeting. At 7:15 PM Board held joint meeting with the Finance Committee re FY'13 School department budget. School Superintendent Michael Malone provided a Power Point presentation.

WRPD – Fuller Street Development

At 8:20 PM Chairman opened public hearing on application for a WRPD permit filed by Fuller Street Development, LLC by reading aloud the public hearing notice. Chairman noted that the applicant had requested a continuation. Upon motion by Selectman Frawley and seconded by Selectman McKinnon, Board voted unanimously to continue hearing to 5/21/12 at 7:30 PM.

UNFINISHED BUSINESS

Selectman Frawley noted that he and the Town Manager met with Lakeville representatives last week to discuss an Intermunicipal Water Agreement. Twin Coach/Edgeway Park Owner/Operator would make arrangements to tie into Lakeville water supply. Town Manager explained that we are not really involved. Selectman McKinnon asked the Town Manager if there are any problems, would we be able to put lien in place on the Town of Lakeville. Town Manager responded that he doesn't think that is necessary in this agreement. Town Manager offered that they also discussed was doing the same for the already existing Lakeville residents who would need water from Middleborough, which we said yes to.

Upon motion by Selectman McKinnon and seconded by Selectman Frawley, Board voted by Roll Call to go into Executive Session at 8:30 PM to discuss strategy relative to Collective Bargaining and Pending Litigation and not to return into Open Session. Roll Call: A. Rullo, Yes; A. Frawley, Yes; B. Quelle, Yes; S. McKinnon, Yes. Ended at 9:50 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN