

MINUTES

For approval at the 10-19-09 meeting

**Middleborough Board of Selectmen
Meeting Minutes**

October 7, 2009

Chairman opened meeting at 7:00 PM.

In attendance were Selectmen P. Rogers, M. Brunelle, M. Duphily, S. McKinnon. Selectman Rullo was unable to attend due to a family emergency.

Upon motion by Selectman McKinnon and seconded by Selectwoman Brunelle, Board voted to approve a one-day liquor license for the Professional Bartending Service, LLC for a wedding to be held this Saturday, October 10, 2009 from 2:30 PM until 7:30 PM at 22 East Main Street, subject to verification that all taxes and municipal fees have been paid.

Three in favor. P. Rogers abstained.

Chairman opened the tax classification hearing and read the hearing notice. Mr. Anthony Freitas came forward to present the recommendation of the Board of Assessors to maintain the current tax shift of 5% due to the state of the economy. His goal in the future would be to eliminate the shift. Chairman noted the professionalism of the report. Selectman McKinnon inquired about two figures in the report and Mr. Freitas answered. Chairman inquired about breaking out the debt exclusion amount from the rest of the tax bill. Ms. Erickson will look into it. Upon hearing no other comments, Chairman closed the hearing. Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board voted to support the recommendation of the Board of Assessors to maintain the tax classification without modification.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted unanimously to adjourn meeting at 7:22 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

**Middleboro Board of Selectmen
Meeting Minutes**

October 5, 2009

Chairman opened meeting at 6:00 PM at Middleborough High School.

In attendance were Selectmen P. Rogers, M. Brunelle, M. Duphily, S. McKinnon and A. Rullo.

ANNOUNCEMENTS

Tax Classification Hearing will be held on Wednesday, October 7, 2009 at 7:00 PM at Town Hall.

NEW BUSINESS

Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted to approve Middleborough Friends request for placement of sign on Town Hall lawn from 10/7/09 until 11/7/09. Selectwomen Brunelle and Duphily disclosed that they are members of the Middleborough Friends.

Four in favor. P. Rogers abstained.

Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted to approve Middleborough Friends request to rent the Town Hall Auditorium on 11/7/09. Selectwomen Brunelle and Duphily disclosed that while they are members of Middleborough Friends, they are voting as Selectwomen.

Four in favor. P. Rogers abstained.

Upon motion by Selectman McKinnon and seconded by Selectwoman Brunelle, Board voted to approve vacation day for Board's secretary.

Four in favor. P. Rogers abstained.

Chairman questioned why it was necessary to put item on agenda. Board's secretary explained that she had been instructed to do so as the entire Board has to vote on the request. Selectwoman Brunelle addressed the Chairman's question indicating that the Board has a right to know when the secretary will be out of the office.

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board voted to send letter, re the subject of evictions, to all three mobile home parks.

Three in favor. A. Rullo abstained and disclosed he would not vote on Mobile Home Park issues. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to authorize Chairman to sign letter to MA Housing re The Groves at Middleborough Village - 40B.

Four in favor. P. Rogers abstained.

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HEARINGS, MEETINGS & LICENSES

Chairman continued Elliot Schneider, Wareham Realty Street Realty Trust WRPD Hearing from 9-14-09. E. Schneider told Board he met with abutters and resolved outstanding concerns. He spoke with their attorney and advised him of tonight's hearing. No abutters were present this evening. Selectman McKinnon asked Mr. Schneider if there will be any vehicle repair on site. Mr. Schneider responded that there would not be any. Selectman Rullo asked if there would be any storage of fluids, to which Mr. Schneider responded that there would not be. Chairman noted various Town Department comments. Upon motion by Selectwoman Brunelle and seconded by Selectwoman Dughily, Board voted to approve WRPD permit finding that this project is in harmony with the purpose and intent of the WRPD Bylaw and will promote the purposes of the Water Resource Protection Districts, further that it is appropriate to the natural topography soil and other characteristics of the site to be developed; that it will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge areas; and further will not adversely affect any potential water supply. Four in favor. P. Rogers abstained.

At 6:16 PM Chairman opened MG&E/Outback Engineering, Benson Street public hearing by reading aloud public hearing notice. Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to continue to 10/19/09. Four in favor. P. Rogers abstained.

At 6:17 PM Chairman opened G. Lopes Construction and Red Dog Earth Removal public hearing by reading aloud public hearing notice. Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to continue to 10/19/09. Four in favor. P. Rogers abstained.

TOWN MANAGER'S REPORT

Town Manager asked Board what procedure it customarily follows when need to install stop sign(s). Selectwoman Brunelle advised that the Board simply votes it. Town Manager will find out origin of requests, which were received by the DPW, and will put both items on 10/26 agenda.

Selectman McKinnon expressed his continued interest in discussing the WRPD process and noted that the Board had talked about having an engineer review WRPD applications. He would like to educate himself and the Board better. Town Manager noted that the Board intends to discuss WRPD process in the future. Selectwoman Dughily noted that she expects each department to respond that they have reviewed the WRPD applications, even if they have no comments. Town Manager explained that the frustration of department heads is that the Board is relying on their expertise while, at the same time,

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these departments are consulting professional engineers to review similar applications for their own departments.

CORRESPONDENCE

#7 Fall Conference for Selectmen – A. Rullo and S. McKinnon will attend.

#9 Plymouth County Pension – Town Manager will draft letter for Board to sign.

#12 Town Manager will attend “Debriefing on Entering the GIC on 10/9/09.

Selectwoman Brunelle asked if Town Manager has heard anything further on Rollback Taxes. Town Manager said he is going to testify on the issue tomorrow morning.

Selectwoman Dumphily asked Town Manager if he’s heard anything from Town Counsel on the Eric Bagge case and when it is scheduled. Selectman McKinnon responded that it is scheduled for this Friday and that he knows as he has been subpoenaed by Mr. Bagge’s attorney.

Upon motion by Selectman Rullo and seconded by Selectwoman Brunelle, Board voted unanimously to adjourn meeting at 6:35 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

**Middleborough Board of Selectmen
Meeting Minutes**

September 28, 2009

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

In attendance were Selectmen P. Rogers, M. Brunelle, M. Duphily, S. McKinnon and A. Rullo.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve 9-14-09 meeting minutes.

ANNOUNCEMENTS

Special Town Meeting is scheduled for 10/5/09 at 7 PM at Middleborough High School.

A Dedication of Memorial Park in honor of Victor Sylvia was held this evening at 6 PM at Town Hall. Selectwoman Duphily explained that the park and bench just outside the doors to Town Hall were set up in memory of Mr. Sylvia. She asked the public to think of him and his dedication to the Town of Middleborough when they see the park. Chairman Rogers thanked Selectwoman Duphily for all she did to put this tribute together.

The deadline to submit letters of interest for those wishing to serve on the Personnel Board is 9/30/09.

NEW BUSINESS

Upon motion by Selectman Rullo and seconded by Selectwoman Brunelle, Board voted to approve amended license for Belben Auto Repair, subject to confirmation of all taxes and municipal charges having been paid. Selectman Rullo and Chairman thanked Mr. Heneine for cleaning up this site.
Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted to approve Burt Wood School of Performing Art's Town Hall auditorium rental for 12/11/09, 3/19/10, and 6/11/10. Selectwoman Brunelle volunteered to act as security
Three in favor. M. Brunelle and P. Rogers abstained.

Upon motion by Selectman McKinnon and seconded by Selectwoman Brunelle, Board voted to approve rental of Town Hall auditorium by Phyllis Barbato on 11/21/09 from 3 pm until 11 pm to hold an Eagle Court of Honor for Anthony Barbato. Selectwoman Duphily reminded Mrs. Barbato that no candles with flames are to be used inside of Town Hall. Phyllis Barbato addressed Board and indicated that some members of the Conservation Commission will attend the event to represent the Town. Anthony's project was to clean the Nemasket River by the Plymouth Street bridge. He made a

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portage for people to get safely out of the river. He has continued and will continue to maintain the area.

Four in favor. P. Rogers abstained.

Veterans' Officer P. Provencher addressed the Board and indicated that they had a great turnout at the Open House for Dr. Sterling McLean, who was a family practice doctor in Middleborough fifty years ago. Mr. Provencher thanked everyone who turned out. It was also noted that the Taste of Middleborough will be held on October 8th in the Eastern bank building.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to approve all Veterans' Day related activities.

Four in favor. P. Rogers abstained.

Stephen Morin addressed Board to ask when he can put up advertisement sign for Nemasket River Production theatre production. Selectwoman Duphily stated that he can put sign up now. Selectwoman Brunelle asked that the sign be moved every couple of days and that it is removed upon end of production on 10/25/09.

Selectman McKinnon will open Town Hall for him this Saturday. Selectwoman Brunelle will open on Sunday, if available, otherwise Mr. Morin is to call Selectman McKinnon. If neither is available, he may call Selectwoman Duphily.

OLD BUSINESS

Resort Funds – Police Station Building Study Committee

Chairman read aloud letter from re St. Luke's Hospital proposal.

S. Morin addressed Board to say that he works for Congressman Frank as his aide. He will assist the Town in getting whatever support it needs. Chairman asked Mr. Morin to get his email address to Town Manager.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to authorize Chairman to sign letter to Congressman Frank.

Four in favor. P. Rogers abstained.

HEARINGS, MEETINGS, LICENSES

Chairman opened the Tax Classification Hearing by reading aloud the attached public hearing notice. Upon motion by Selectwoman Duphily and seconded by Selectman McKinnon, Board voted to continue the Tax Classification Hearing to Wednesday, October 7, 2009 at 7:00 PM.

Four in favor. P. Rogers abstained.

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BILL

Upon motion by Selectman McKinnon and seconded by Selectwoman Brunelle, Board voted to pay bill in the amount of \$660.00 to SouthCoast Media Group.
Four in favor. P. Rogers abstained.

TOWN MANAGER'S REPORT

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to authorize Town Manager to draft letter to all four State Representatives, on behalf of the Board, asking for assistance with our pension appropriation for the coming fiscal years.
Four in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to declare 1997 For Crown Victoria, VIN # 2FALP71W4VX224701 as surplus.
Four in favor. P. Rogers abstained.

Town Manager informed Board that there is a legislative hearing on 10/6/09 re Home Rule Petition – Roll Back Taxes.

HEARINGS, MEETINGS & LICENSES

Mobile Home Rules & Regulations

Chairman opened at 7:45 PM. Selectman Rullo recused himself as his brother is a resident at Oak Point. Chairman asked Board not to approve the draft forms (questionnaires) yet as part of the Rules & Regulations. Chairman read aloud public hearing notice as is attached. Town Manager spoke briefly about the comparisons of Mobile Home Rules & Regulations established in other towns. Chairman asked to hear comments from the public. Ellen Grant President of the Homeowner's Association for Edgeway Mobile Home Park, addressed Board. She indicated that Edgeway Mobile Home Park is dangerously lacking in proper lighting and also lacking in cable access. She publicly thanked Charles Jeans for his many years of service as prior President of Edgeway Mobile Home Park Association. Mr. Jeans spoke. He briefly reviewed his letter previously submitted to the Board. He thanked the Board for its efforts.

Chairman noted questions presented by Ellen Grant and informed those in attendance that the Board's attempt here is to hear comments so that it can clarify or improve the Rules & Regulations. Chairman additionally noted that the Board was given a lot of duties over the years, too many. He further indicated that if the Board would like to discuss if it would like an Ad hoc committee to make recommendations to the Board, it will need to discuss. Chairman noted that his concern is that, with its plate overflowing, the Board of Selectmen would not be able to give this matter justice, but will need to discuss after hearing public comments. Ellen Grant addressed Board and recommended that the Committee consist of the public and one member of the Board of Selectmen.

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A male resident of Hillcrest Mobile Home Park spoke of concerns re capital improvements, noting that he sees no adjustment in the rules and regulations being proposed. He further noted that the new owners/managers offered them a lease one year

ago (five-year lease). They were asked to sign leases and were told that they would be given copies, but have yet to see them, making those leases null and void in his opinion. He doesn't recommend appointing non-elected officials as the Rent Control Board and suggested rotating at least one member of the Board of Selectmen on an Ad hoc committee. Margo King of Edgeway Park addressed the Board and read aloud the present Rules & Regulations (R&R). She has the R&R of Raynham to distribute, which she says are very concise. She spoke about their leases and noted that Hillcrest residents all pay the same amount. Chairman pointed out the established forms to be filled out by the residents of the mobile home parks. She read from the Raynham R&R and will provide a copy. Robert McDonald, 145 Wesley Circle, Edgeway told the Board that he keeps asking the owner of Edgeway for a plot plan, but they only gave him a tiny drawing and he's never been given a driveway. John Tramontana of Lynn Way addressed the Board and indicated that Edgeway park still has original roads since 2000 and that the driveways are still rough coated like the roads. He submitted a copy of the original flyer advertising the amenities offered by Edgeway with the title "Edgeway Park Fee \$280.00/month". Selectwoman Duphily noted that Attorney Marsan of Edgeway Park was present and asked to hear comments from him. Attorney Marsan stated that he thinks the proposed R&R are pretty good and that they mirror alot of other Towns. It's an easy start. He noted that CPA's won't send out certified financials and that they can run between 15-18k dollars. He asked that something else be considered because of the cost. Process of determining evictions, it doesn't give a time limit within which to call that hearing. Town Manager will review. Attorney Marsan pointed out that the proposed R&R say to review financials, but do not say certified. It was agreed that Town Counsel is to review the process of eviction. New resident to Edgeway Mobile Home Park, Louisa Brown, indicated that if there is going to be an Ad hoc Committee, she thinks someone from each park should be involved on it and at least one member of the Board of Selectmen should be on it. Chairman announced that the Board will try to reconvene on 10/26/09 to work on changes and continue hearing to then and make best effort to get all accomplished by 10/31/09. Selectwoman Brunelle asked Town Counsel if we have any issues with a separate C.P.I. with Oak Point and the other mobile home parks. Town Counsel explained that these proposed draft Rules & Regulations are written to allow park owners to establish a C.P.I. Town Manager further explained that if there is no rental agreement, there could be no C.P.I. Ellen Grant offered that, compared to other parks, the residents at Edgeway Mobile Home Park do not have the basics, such as street lights and cable. She further added that rents fluctuate. Ms. Grant suggested that the Board speak with the Fire and Police departments about safety issues due to insufficient lighting. Chairman thanked everyone for contributing this evening.

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Upon motion by Selectwoman Brunelle and seconded by Selectman McKinnon, Board voted to continue discussion to 10/26/09.
Four in favor. P. Rogers abstained.

OLD BUSINESS

St. Luke's Hospital proposal

Upon motion by Selectman Rullo and seconded by Selectman McKinnon, Board voted to support the use of pre-planning resort money to fund a conceptual design study of St. Luke's Hospital as a potential site for a new police station and not to exceed \$10,000.
Four in favor. Selectman Rogers abstained.

Town Manager noted that the Staff Planner position has been eliminated, and therefore, we will now use OECD Director more. Town Manager believes we can get by right now with OECD Director and clerical staff.

Selectwoman Brunelle offered that in consideration of the hours having decreased significantly in the Planning Department, she is hesitant to support the additional hours for the Junior Clerk.

Selectman McKinnon asked how the OECD Director position has been paid for in the past. Town Manager explained that it was grant funded until a couple of years ago when we supplemented with pre-planning money. Selectman McKinnon noted that we still don't have any real time line on the resort and he doesn't want to tie this money up if it all goes away in a month. Town Manager explained that we would need to re-evaluate if/when it does.

Selectwoman Dumphily suggested we fund until the end of December 2009, and if nothing happens, we won't need Junior Clerk.

Selectman Rullo acknowledged that support staff is important.

Upon motion by Selectwoman Dumphily and seconded by Selectman McKinnon, Board voted to accept funding the Planning Board Junior Clerk position and the OECD Director position with Casino Pre-Planning monies, but to revisit at end of 12/09 to see if still needed. Selectman McKinnon wants detailed report of grants applied for.

Three in favor. M. Brunelle opposed. P. Rogers abstained.

Town Manager presented Board with a letter from Dickinson Wright dated 9/25/09, which he believes addresses all outstanding issues regarding Mashpee Wampanoag Pre-Opening Mitigation Payments. Attached.

OTHER

Chairman announced that the Board would finish up WRPD for Elliot Schneider at its 6 PM meeting prior to the start of Special Town Meeting on 10/5/08.

CORRESPONDENCE

#3 MG&E 6/9/09 meeting minutes – mention putting solar panels on their garage roof for energy efficiency. Selectman McKinnon thinks that's great and would like to see it

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expanded. He suggested that maybe we could work out something with companies that build these solar panels. Town Manager suggested we ask the Green Energy Committee to come in at the end of October and send them a copy of the MG&E minutes.

#7 "The Municipal Wire" newsletter – Selectwoman Brunelle requested copy be sent to cable committee.

#8 Letter from Personnel Board – Selectwoman Brunelle asked that Town Manager have them look at job descriptions such as GMEG Union for updating and/or pull together comparative information to prepare for negotiations – comparable communities. Town Manager explained that the Personnel Board's charge is specifically targeted for non-union employees. Selectwoman Brunelle asked if they can gather information without having a charge. Town Manager said he needs to do it anyway, but they could for job descriptions.

#20 Roux Associates, Inc. - send copy to the Citizen's Environmental Health Impact Committee (CEHIC).

#8 Letter from Personnel Board - Selectman McKinnon asked if we have a Town Employee Handbook. Town Manager explained that it doesn't make sense to have one for only two employees. Selectwoman Brunelle suggested that maybe the Personnel Board could develop something informational about generalized information on topics such as health insurance or the operation of the Town. Town Manager reminded the Board that they already gave us feedback on that a year ago. Selectwoman Brunelle noted that they had a purpose and she would like to see them address some of our personnel issues.

#4 - 2010 Census training to improve mail response – Selectman Rullo asked if it is worthwhile to send someone. Town Manager will check with Town Clerk to see if they get involved in it.

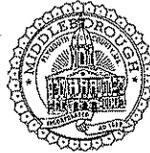
#18 Flu shots for employees cancelled.

Chairman told Town Manager that he'd like Jeanne Spalding to make announcement of vaccines.

#26 EEE Announcement - Reminder to follow standard precautionary measures.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

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336 Years of Progress



CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough
Massachusetts

Town Manager

508-947-0928
FAX 508-946-2320

MEMORANDUM

To: Board of Selectmen

From: Charles J. Cristello, Town Manager 

cc: Ruth McCawley Geoffroy, Town Planner
Anna Nalevanko, Director, OECD

Date: September 25, 2009

Subject: *Use of Resort Pre-Planning Funds*

I have attached a letter from Attorney Dennis Whittlesey regarding use of pre-planning funds from the Wamponoag tribe. Hopefully, this letter answers the remaining questions regarding the use of these funds.

I have also attached a memo from Ruth Geoffroy with an amount (\$68,552) to continue funding a clerk in her office and the Economic and Community Development Director for the remainder of the fiscal year. You will note that we have not included funding for the Staff Planner at this time. Ms. Rowley has resigned from her position and we are currently not requesting funds to replace her. However, should resort activities or other development activities begin to accelerate we will return to you with a request to fund that position.

I have also attached a summary of the resort-related work being done by the Economic Development Director.

Please feel free to call me if you have any questions.



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DENNIS J. WHITTLESEY
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September 25, 2009

Via E-Mail and U.S. Mail

Mr. Charles Cristello, Town Manager
TOWN OF MIDDLEBOROUGH
10 Nickerson Avenue
Middleborough, Massachusetts 02346

Re: Mashpee Wampanoag Pre-Opening Mitigation Payments.

Dear Mr. Cristello:

This letter is written in response to your request that we opine as to the continuing responsibilities of the Mashpee Wampanoag Tribe's obligations concerning the Pre-opening Mitigation – Planning Payments to the Town of Middleborough which have been made to the Town pursuant to the Intergovernmental Agreement ("IGA") with the Town dated July 28, 2007.

At issue is the Pre-opening Mitigation - Planning Payments as provided for at Section 5.A of the IGA. As we have discussed, the Town has relied on Section 5.A in utilizing past payments to fund a full time Staff Planner in the Middleborough Planning Department as specifically agreed upon by the Tribe and the Town in order to free up the Town's Planning Director Ruth Geoffroy to work closely with both governments on all casino/resort-related matters. Other involved staff personnel have included a part-time Planning Department Clerk and Economic and Community Development Director.

We are advised by you and other officials of the Town that all of the funds from the Planning Payments received to date have been dedicated to, and exclusively utilized for, the purpose of mitigating the Town's staff and outside consulting costs for supporting the planning, development, and coordination of the Tribe's Gaming Project, excluding costs relating to offsite permit issuance by the Town. In this regard, the Town has previously provided to the Tribe a summary of projects and expenses that the Town is currently undertaking or has completed related to the agreed use of these funds, and the Tribe has neither objected to nor even questioned any of those disbursements.

By letter dated August 19, 2009, Tribal Chairman Cedric Cromwell affirmatively conceded the validity and acceptability of the tribal Pre-opening payments made through that date, and declared that the Tribe has no intention of seeking the return of any money previously disbursed by the Tribe as Pre-opening Mitigation Payments. Moreover, we have carefully reviewed the provisions of Section 5.A, and can confirm to

C o u n s e l o r s A t L a w

DETROIT BLOOMFIELD HILLS LANSING GRAND RAPIDS ANN ARBOR
WASHINGTON, D.C.

Mr. Charles Cristello, Town Manager
September 25, 2009
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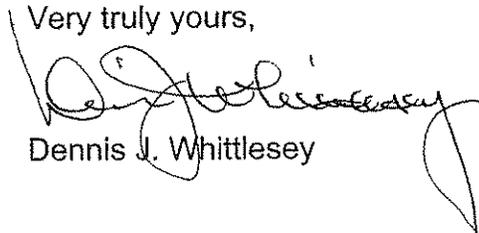
you that the Tribe does not have a contractual right to demand return of payments which have been dedicated to, and exclusively utilized for, the purpose of mitigating the Town's staff and outside consulting costs for supporting the planning, development, and coordination of the Tribe's Gaming Project, excluding costs relating to offsite permit issuance by the Town.

Finally, we should note that the Town has no contractual relationship with the Tribe's developers and investors. Thus, although they apparently were the financial resource providing funds from which the Tribe made disbursements, including the Pre-opening Payments to the Town, the Town has no duty to them. Consequently, there is no obligation on the Town to make restitution to the Tribe's developers and investors for the Pre-opening Payments it has received.

Thus, payments satisfying the above-stated conditions do not have to be repaid by the Town, as Chairman Cromwell stated in his letter cited above.

If there are further questions, please do not hesitate to raise them.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dennis J. Whittlesey", written over a printed name.

Dennis J. Whittlesey

DJW/nr

DC 38743-1 143475

**Middleborough Board of Selectmen
Meeting Minutes**

September 21, 2009

Chairman opened meeting at 6:00 PM at Middleborough High School, prior to the start of Special Town Meeting.

In attendance were Selectmen P. Rogers, M. Duphily, M. Brunelle, S. McKinnon and A. Rullo.

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board voted unanimously to sign the Dog Warrant.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted unanimously to adjourn meeting at 7:30 PM.



Eileen S. Gates
Town Clerk