

HEARINGS, MEETINGS, LICENSES
10-26-09



Town of Middleborough
Office of Economic & Community Development
20 Centre Street
Middleborough, MA 02346
Tel: 508-946-2402, Fax: 508-946-2413

October 22, 2009

Memorandum

To: Chair Patrick Rogers and Board Members Marsha Brunelle, Muriel Duphily, Stephen McKinnon, and Alfred Rullo

From:  Anna M. Nalevanko, Director, Office of Economic & Community Development

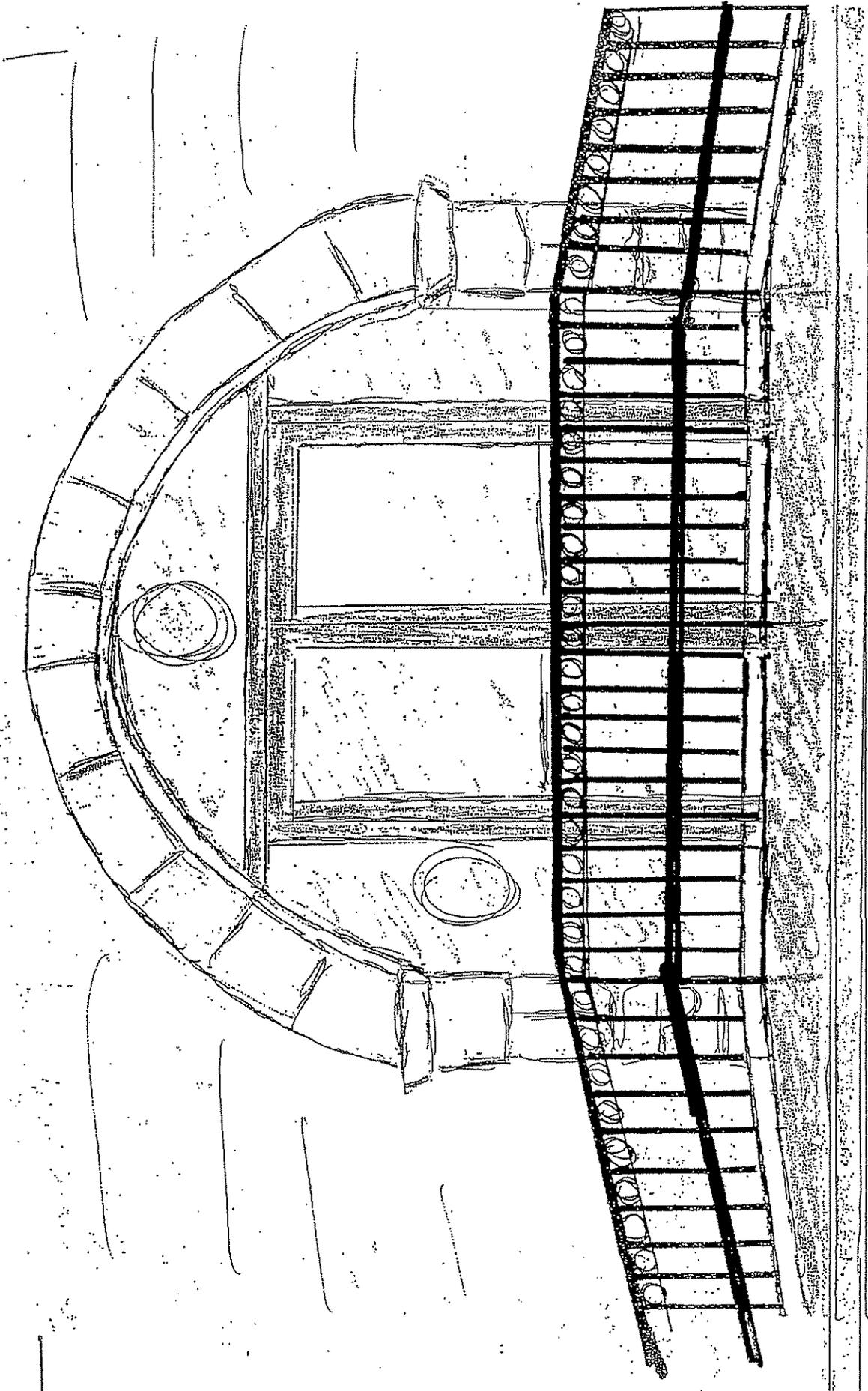
RE: Update on Railing Installation at Entrance to 20 Centre Street Building

The railing installation project at the entrance to 20 Centre Street is ready to move forward. Attached is the design for the railing and details for installation of granite curbing and railing.

The Middleborough Historical Commission and Middleborough Commission on Disabilities were presented with the design and installation options and both commissions voted to approve the attached.

Before beginning work you requested to review the final plans. I will be available at your October 26th meeting to answer any questions relating to this. Thank you.

C: Charles Cristello, Town Manager



Approved by Middleborough Disabilities Commission on 9-16-09

Historical Commission approved design, awaiting approval on 18 inch accessibility rail

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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 

C: Andrew Bagas, DPW Director
Joseph Ciaglo, Wastewater Superintendent
Paul Anderson, Water Superintendent

Date: October 23, 2009

Subject: *Request for Signs and Rate Survey*

In addition to giving you his first report as DPW Director on Monday evening, Mr. Bagas would also like to discuss his requests for stop signs and a no parking sign which he wrote to you about last month. I have enclosed them again here for your review.

I have also enclosed memos from Wastewater Superintendent Joseph Ciaglo and Water Superintendent Paul Anderson regarding the 2009 Tighe & Bond annual rate surveys of communities in Massachusetts. You will be happy to learn that Middleborough's sewer rate ranks 22nd out of 204 communities and that our water rate is slightly above the mid-point.

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Andrew P Bagas
D P W Director

Town of Middleborough
Massachusetts
Department of Public Works
48 Wareham Street
Middleborough, MA 02346
Phone 508-946-2480 Fax 508-946-2484

DIVISIONS

Highway
Sanitation
Insect & Pest Control
Tree Warden
Wastewater
Water

September 24, 2009

To: Board of Selectmen

From: Andrew Bagas

A handwritten signature in cursive script, appearing to read "Andrew Bagas".

RE: Parking on Centre Ave

Police Chief Gates and I recommend that the Board of Selectmen vote to approve No Parking on the westerly side of Centre Ave from utility pole #2 to the intersection of Everett Square.

This will enhance safety conditions and reduce the potential for accidents at this location.

CC: Town Manager
Police Chief

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D P W Director

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DIVISIONS
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September 24, 2009

To: Board of Selectmen

From: Andrew Bagas

A handwritten signature in black ink, appearing to read "Andrew Bagas".

RE: Intersection of West Street at May Street and LeBaron Ave

At the intersection of West Street at May Street and LeBaron Ave there are no traffic controls. It is a blind intersection with buildings close to the roadways.

Police Chief Gates and I recommend that the Board of Selectmen vote to approve a stop sign on May Ave northbound at West Street and a stop sign on Lebaron Ave southbound at West Street.

This will enhance safety conditions and reduce the potential for accidents at this location.

CC: Town Manager
Police Chief

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OF THE WORLD



Town of Middleborough
Massachusetts

Paul Anderson
Water Superintendent

Department of Public Works
48 Wareham Street
Middleborough, MA 02346
Phone 508-946-2482 Fax 508-946-2484

October 21, 2009

To: Charles J. Cristello
Town Manager

From: Paul Anderson
Water Superintendent

Re: Water Rates Comparison

Tighe&Bond performs an annual water rate survey comparing the rates of communities in Massachusetts. In the 2009 survey, the "typical" yearly homeowner's cost associated with water was calculated assuming consumption of 120 hundred cubic feet (90,000 gallons) per year.

The typical annual cost in Massachusetts range from a low of \$113.00 per household to a high of over \$1,962.00, the average is \$426.00 per household; this represents an increase of 16.8% over the 2006 average. Rates are affected by the size of the community, the age of the infrastructure and how aggressive towns are with maintaining the infrastructure.

Middleborough is in the mid-range of all the communities surveyed at an annual cost of \$467.79. Rates increase and decrease primarily due to weather patterns, utilities (electric, gas, chemicals) and necessary capital projects; operating budgets are relatively consistent and have little impact.

Please do not hesitate to contact me with any concerns or questions.

Cc. Andrew Bagas, Director of Public Works

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OF THE WORLD



Town of Middleborough
Massachusetts

Department of Public Works
48 Wareham Street

Middleborough, MA 02346

Phone 508-946-2485 Fax 508-946-2484

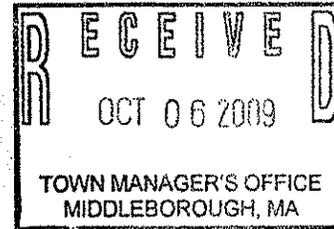
Joseph M Ciaglo
Wastewater Superintendent

October 06, 2009

To: Charles J. Cristello
Town Manager

From: Joseph M. Ciaglo
Wastewater Supt.

Re: Sewer Rates



I have reviewed the 2009 Massachusetts Sewer Rate Survey produced by Tighe & Bond.

The survey is based upon the use of 90,000 gallons of water per year.

The attached sheet shows the rates in ascending order.

The lowest rate is \$ 168.00 per year, the highest \$ 1,632.00.

The average rate is \$ 584.00.

Middleborough has a rate of \$ 278.00 per year, ranking number 22 out of 204 communities, number 1 being the lowest.

I hope you find this of interest.

cc: Andrew P. Bagas, DPW Director

TIGHE + BOND 2009 SEWER SURVEY

	TOWN / CITY	ANNUAL COST
	ADAMS	\$0.00
	ERVING	\$0.00
1	MEDWAY	\$168.00
2	DALTON	\$170.00
3	LEOMINSTER	\$192.00
4	PITTSFIELD	\$193.00
5	WEST SPRINGFIELD	\$200.00
6	GRAFTON	\$203.00
7	BILLERICA	\$216.00
8	DARTMOUTH	\$223.00
9	SOUTH HADLEY	\$225.00
10	SUNDERLAND	\$226.00
11	RAYNHAM	\$228.00
12	LUDLOW	\$240.00
13	EAST LONGMEADOW	\$252.00
14	CLINTON	\$258.00
15	METHUEN	\$258.00
16	AGAWAM	\$259.00
17	WESTFIELD	\$262.00
18	LANCASTER	\$264.00
19	TAUNTON	\$271.00
20	MONSON	\$275.00
21	WILLIAMSTOWN	\$286.00
22	MIDDLEBOROUGH	\$287.00
23	STURBRIDGE	\$292.00
24	BURLINGTON	\$299.00
25	AUBURN	\$300.00
26	LONGMEADOW	\$300.00
27	WARREN	\$300.00
28	WILIAMSBURG	\$300.00
29	SPRINGFIELD	\$305.00
30	WINCHESTER	\$313.00
31	SHREWSBURY	\$315.00
32	LOWELL	\$325.00
33	WOBURN	\$328.00
34	BROCKTON	\$337.00
35	CHELMSFORD	\$339.00
36	DIGHTON	\$342.00
37	SAUGUS	\$344.00
38	BRIDGEWATER	\$360.00
39	DRACUT	\$360.00
40	GREAT BARRINGTON	\$360.00
41	ROCKLAND	\$360.00
42	SALISBURY	\$360.00
43	UPTON	\$366.00
44	GRANBY	\$367.00

TIGHE + BOND 2009 SEWER SURVEY

45	PALMER	\$370.00
46	ANDOVER	\$371.00
47	AMHERST	\$372.00
48	ORANGE	\$372.00
49	RUSSELL	\$380.00
50	PLAINVILLE	\$383.00
51	LAWRENCE	\$384.00
52	SPENCER	\$384.00
53	DEERFIELD	\$389.00
54	TYNGSBOROUGH	\$396.00
55	WILBRAHAM	\$396.00
56	LEICESTER OXFORD-ROCHDALE	\$400.00
57	WESTBOROUGH	\$406.00
58	ARLINGTON	\$407.00
59	EASTHAMPTON	\$408.00
60	MARLBOROUGH	\$409.00
61	PEABODY	\$410.00
62	WORCESTER	\$410.00
63	HAVERHILL	\$422.00
64	BUCKLAND	\$425.00
65	MILFORD	\$426.00
66	HUDON	\$431.00
67	PLYMOUTH	\$431.00
68	FRAMINGHAM	\$438.00
69	HOPEDALE	\$440.00
70	FRANKLIN	\$441.00
71	BARNSTABLE	\$442.00
72	WARE	\$444.00
73	FALL RIVER	\$445.00
74	MEDFIELD	\$445.00
75	SOUTHWICK	\$446.00
76	NORTH ATTLEBOROUGH	\$451.00
77	FITCHBURG	\$454.00
78	FALMOUTH	\$457.00
79	NORTHBOROUGH	\$458.00
80	ABINGTON	\$460.00
81	LEICESTER - HILLCREST	\$460.00
82	DOUGLAS	\$472.00
83	GREENFIELD	\$475.00
84	MILLIS	\$477.00
85	EDGARTOWN	\$480.00
86	GARDNER	\$486.00
87	HOLYOKE	\$486.00
88	CHICOPEE	\$488.00
89	EVERETT	\$493.00
90	SCITUATE	\$500.00
91	BELLINGHAM	\$502.00
92	GROVELAND	\$503.00
93	ATHOL	\$504.00
94	HATFIELD	\$504.00
95	NEW BEDFORD	\$508.00
96	WHITMAN	\$510.00

TIGHE + BOND 2009 SEWER SURVEY

97	NORTHAMPTON	\$516.00
98	SHELBURNE	\$516.00
99	SWAMPSCOTT	\$522.00
100	MONTAGUE	\$524.00
101	CHARLEMONT	\$525.00
102	MALDEN	\$532.00
103	HARDWICK VILLAGES	\$535.00
104	LEICESTER	\$540.00
105	SOUTHBRIDGE	\$542.00
106	LENOX	\$545.00
107	HADLEY	\$552.00
108	SALEM	\$554.00
109	UXBRIDGE	\$558.00
110	NORTHFIELD	\$560.00
111	BLACKSTONE	\$562.00
112	IPSWICH	\$566.00
113	OXFORD	\$574.00
114	BEVERLY	\$576.00
115	WILMINGTON	\$576.00
116	MANSFIELD	\$578.00
117	FOXBOROUGH	\$581.00
118	NORWOOD	\$587.00
119	TEMPLETON	\$587.00
120	WEBSTER	\$589.00
121	NORTH ANDOVER	\$591.00
122	BOSTON WATER & SEWER	\$593.00
123	MATTAPOISETT	\$600.00
124	PEPPERELL	\$614.00
125	CHATHAM	\$637.00
126	SUTTON	\$638.00
127	DUDLEY	\$639.00
128	WALTHAM	\$643.00
129	WALPOLE	\$645.00
130	RANDOLPH	\$652.00
131	ACUSHNET	\$660.00
132	WAREHAM	\$662.00
133	BELCHERTOWN	\$663.00
134	DANVERS	\$667.00
135	TEWKSBURY	\$678.00
136	MARBLEHEAD	\$680.00
137	FAIRHAVEN	\$690.00
138	LYNN	\$692.00
139	MILLBURY	\$693.00
140	CHELSEA	\$697.00
141	BOURNE	\$699.00
142	AYER	\$700.00
143	BROOKLINE	\$714.00
144	WESTMINSTER	\$718.00
145	BARRE	\$720.00
146	HOLDEN	\$724.00
147	BEDFORD	\$725.00
148	NEWBURYPORT	\$725.00

TIGHE + BOND 2009 SEWER SURVEY

149	WINCHENDON	\$726.00
150	BRAINTREE	\$734.00
151	AMESBURY	\$741.00
152	NEWTON	\$744.00
153	CANTON	\$746.00
154	NORTON	\$752.00
155	WEST BOYLSTON	\$764.00
156	MAYNARD	\$766.00
157	SOMERVILLE	\$767.00
158	WESTWOOD	\$770.00
159	HOLBROOK	\$772.00
160	WATERTOWN	\$782.00
161	HULL	\$790.00
162	NORTH BROOKFIELD	\$791.00
163	CONCORD	\$795.00
164	WELLSLEY	\$798.00
165	RUTLAND	\$804.00
166	LEICESTER - CHERRY VLY	\$820.00
167	NORTHBRIDGE	\$822.00
168	HUNTINGTON	\$828.00
169	MEDFORD	\$828.00
170	NANTUCKET ISLAND-WANNACOMET	\$828.00
171	WEYMOUTH	\$828.00
172	QUINCY	\$843.00
173	NANTUCKET	\$858.00
174	NAHANT	\$870.00
175	CAMBRIDGE	\$874.00
176	LEXINGTON	\$874.00
177	WINTHROP	\$877.00
178	LEE	\$889.00
179	MELROSE	\$890.00
180	STOUGHTON	\$895.00
181	NATICK	\$906.00
182	READING	\$911.00
183	HINGHAM	\$912.00
184	MARSHFIELD	\$917.00
185	ATTLEBORO	\$934.00
186	STONEHAM	\$936.00
187	HOPKINTON	\$942.00
188	DEDHAM	\$970.00
189	REVERE	\$977.00
190	WAKEFIELD	\$988.00
191	NEEDHAM	\$998.00
192	OAK BLUFFS	\$1,020.00
193	MILTON	\$1,023.00
194	COHASSET	\$1,032.00
195	ASHLAND	\$1,046.00
196	MERRIMAC	\$1,050.00
197	BELMONT	\$1,062.00
198	GLOUCESTER	\$1,088.00
199	ROCKPORT	\$1,098.00
200	MARION	\$1,128.00

TIGHE + BOND 2009 SEWER SURVEY

201	MANCHESTER	\$1,374.00
202	ACTON	\$1,467.00
203	GROTON	\$1,486.00
204	ASHBURNHAM	\$1,632.00

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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 *CA*

C: Andrew Bagas, DPW Director
Paul Anderson, Water Superintendent

Date: October 23, 2009

Subject: **Recommendation to Move Forward with a Water Rate Increase and other Water Matters**

Enclosed please find an analysis of our water usage and a projection of our revenue under our current rates and the rates we delayed earlier this year. Fortunately we ended FY 2009 with a surplus of approximately \$200,000 despite a decline in consumption over the last two quarters, which you can see on page 2. However, we are projecting a deficit of over \$300,000 for FY 2010 using the current rates on page 4 and taking into account the decrease of 20% in consumption we have experienced this year. The proposed rates on page 5 were the rates scheduled to go into effect last February. Using these rates and taking into account a collection rate of 95% we hope to break even in FY 2010. They represent a 10.3 % increase in the usage charge for most customers. We are likely to need the third phase of the increase, which was originally presented to you in 2007, at the beginning of FY 2011. Those rates are presented on page 6.

While Water Superintendent Paul Anderson is at your meeting on Monday we also have several other matters to bring before you. There is a request for an abatement detailed in a memo from Mr. Anderson, which we both support. There is also a new contract with Stantac in the amount of \$30,000 to authorize them to continue work on the Mizaras well site, which is being funded from a previous appropriation. There is also an amendment to the Tighe & Bond Contract in the amount of \$25,000 for them to close out the Wareham Street water main project, which as we all know has been a very difficult project to bring to completion. Finally, we would like to introduce a request from MCI - Bridgewater for a temporary water connection. A letter from them explaining their request is enclosed.

Please feel free to contact me with any questions.

MIDDLEBOROUGH WATER DEPARTMENT
Water Rate Meeting
9-29-09 -1:30pm

1. Consumption for 1st billing (7/09) in FY 2010 is down 20% - page 2
2. Consumption for 4th billing (5/09) in FY 2009 was down 14% - page 2
3. Consumption for 3rd billing (2/09) in FY 2009 was down 12% - page 2
4. Billing Analysis based last 3 billings of FY 09 and 1st billing of FY 10 – page 3
 1. Billing totaled 68,206,800 CF – page 3
 - 571,291 CF – Current rates billed metered consumption
 - 642,090 CF – Previous study metered consumption
5. Proposed Rates – Pages 4-6
6. Aged Receivables – Page 7

MIDDLEBOROUGH WATER DEPARTMENT

Consumption By Commitment

Hundred Cubic Feet	2010	2009	2008	2007
August Billing	147,455	189,126	180,808	157,891
November Billing		208,908	210,940	199,874
February Billing		132,265	150,820	126,466
May Billing		101,433	117,226	148,950
Finals/Ocean Spray Consumption	11,317	85,260	74,197	52,239
Total	158,772	716,992	733,991	685,420

MIDDLEBOROUGH WATER DEPARTMENT
 CUMULATIVE BILLED USAGE

Schedule 4

Quarterly Billing

Usage Blocks Cubic Feet	No. Meters in Block	Cumulative Meters Through Block	Total use of Bills Stopped in Block	Cumulative use Bills Stopped in Block	Total use to this Block of all Bills Passing Block	Cumulative Billed Usage	Cumulative Billed Usage %
0	6165	28,992	0	0	0	0	0.00%
1 500	2187	22,827	757700	757,700	10,320,000	11,077,700	16.24%
501 1,000	4140	20,640	3365800	4,123,500	16,500,000	20,623,500	30.24%
1,001 1,500	4329	16,500	5600800	9,724,300	18,256,500	27,980,800	41.02%
1,501 2,000	3540	12,171	6326000	16,050,300	17,262,000	33,312,300	48.84%
2,001 2,500	2485	8,631	5679800	21,730,100	15,365,000	37,095,100	54.39%
2,501 3,000	1655	6,146	4601600	26,331,700	13,473,000	39,804,700	58.36%
3,001 4,000	1840	4,491	6415800	32,747,500	10,604,000	43,351,500	63.56%
4,001 5,000	884	2,651	3973800	36,721,300	8,835,000	45,556,300	66.79%
5,001 6,000	497	1,767	2745300	39,466,600	7,620,000	47,086,600	69.04%
6,001 7,000	276	1,270	1794300	41,260,900	6,958,000	48,218,900	70.70%
7,001 8,000	190	994	1430300	42,691,200	6,432,000	49,123,200	72.02%
8,001 9,000	133	804	1,134,400	43,825,600	6,039,000	49,864,600	73.11%
9,001 10,000	96	671	918,300	44,743,900	5,750,000	50,493,900	74.03%
10,001 15,000	224	575	2,751,400	47,495,300	5,265,000	52,760,300	77.35%
15,001 20,000	100	351	1,731,800	49,227,100	5,020,000	54,247,100	79.53%
20,001 25,000	52	251	1,156,400	50,383,500	4,975,000	55,358,500	81.16%
25,001 30,000	47	199	1,294,300	51,677,800	4,560,000	56,237,800	82.45%
30,001 40,000	52	152	1,810,000	53,487,800	4,000,000	57,487,800	84.28%
40,001 50,000	24	100	1,061,700	54,549,500	3,800,000	58,349,500	85.55%
50,001 60,000	11	76	597,100	55,146,600	3,900,000	59,046,600	86.57%
60,001 70,000	5	65	323,900	55,470,500	4,200,000	59,670,500	87.48%
70,001 80,000	12	60	908,900	56,379,400	3,840,000	60,219,400	88.29%
80,001 90,000	2	48	161,300	56,540,700	4,140,000	60,680,700	88.97%
90,001 100,000	6	46	570,000	57,110,700	4,000,000	61,110,700	89.60%
100,001 200,000	14	40	2,065,500	59,176,200	5,200,000	64,376,200	94.38%
200,001 300,000	11	26	2,650,600	61,826,800	4,500,000	66,326,800	97.24%
300,001 400,000	8	15	2,727,900	64,554,700	2,800,000	67,354,700	98.75%
400,001 500,000	5	7	2,227,800	66,782,500	1,000,000	67,782,500	99.38%
500,001 600,000	1	2	541,300	67,323,800	600,000	67,923,800	99.59%
600,001 700,000	0	1	0	67,323,800	700,000	68,023,800	99.73%
700,001 800,000	0	1	0	67,323,800	800,000	68,123,800	99.88%
800,001 900,000	1	1	883,000	68,206,800	0	68,206,800	100.00%
		28,992		68,206,800			

Middleborough Water Department

CURRENT RATES

FY 2010 Budget

\$4,033,665

Miscellaneous Revenue

Private Fire Protection			\$70,000	
Tax Liens Redeemed			\$8,035	
Costs and Interest			\$477	
Water Tower Rental			\$24,657	
Water Renewals			\$853	
Water Charges			\$81,915	
Water Repairs			\$6,921	
Water Construction			\$9,420	
Cross Connection			\$26,618	
Water Development			\$28,724	
Water Application			\$2,500	
Water Liens			\$230,613	
Meter Testing			\$0	
Water Demands			\$37,920	
Special Assessment			\$1,445	
Earnings on Investments			\$26,614	
Miscellaneous Revenue			\$85	
Transfer from Wastewater			\$56,064	
Total Miscellaneous Revenue				\$612,861

Water Sales

Minimum Charge -				
5/8"	5,492	\$30.54	\$670,903	
3/4"	42	\$39.53	\$6,641	
1"	75	\$57.51	\$17,253	
1 1/4"	2	\$80.89	\$647	
1 1/2"	43	\$102.47	\$17,625	
2"	72	\$156.42	\$45,049	
3"	15	\$300.27	\$18,016	
4"	4	\$462.11	\$7,394	
6"	3	\$911.67	\$10,940	
8"	2	\$1,451.13	\$11,609	
Total	5,750		\$806,077	\$806,077
1st Step Rates 500-2,500	260,174	\$2.72	\$707,673	
2nd Step Rates 2,501-25,000	182,634	\$4.03	\$736,015	
3rd Step Rates over 25,000	128,483	\$6.73	\$864,691	
Total Water Sales	571,291			\$2,308,379

Surplus / Deficit

(\$306,348)

Middleborough Water Department

BASED ON 2009 RATES

FY 2010 Budget

PROPOSED

\$4,033,665

Miscellaneous Revenue

Private Fire Protection			\$70,000	
Tax Liens Redeemed			\$8,035	
Costs and Interest			\$477	
Water Tower Rental			\$24,657	
Water Renewals			\$853	
Water Charges			\$81,915	
Water Repairs			\$6,921	
Water Construction			\$9,420	
Cross Connection			\$26,618	
Water Development			\$28,724	
Water Application			\$2,500	
Water Liens			\$230,613	
Meter Testing			\$0	
Water Demands			\$37,920	
Special Assessment			\$1,445	
Earnings on Investments			\$26,614	
Miscellaneous Revenue			\$85	
Transfer from Wastewater			\$56,064	
Total Miscellaneous Revenue				\$612,861

Water Sales

Minimum Charge -				
5/8"	5,492	\$36.22	\$795,681	
3/4"	42	\$46.61	\$7,830	
1"	75	\$67.40	\$20,220	
1 1/4"	2	\$94.43	\$755	
1 1/2"	43	\$119.38	\$20,533	
2"	72	\$181.75	\$52,344	
3"	15	\$348.06	\$20,884	
4"	4	\$535.17	\$8,563	
6"	3	\$1,054.91	\$12,659	
8"	2	\$1,678.61	\$13,429	
Total	5,750		\$952,898	\$952,898
1st Step Rates 500-2,500	260,174	\$3.00	\$780,522	
2nd Step Rates 2,501-25,000	182,634	\$4.73	\$863,859	
3rd Step Rates over 25,000	128,483	\$7.92	\$1,017,585	
Total Water Sales	571,291			\$2,661,966
Surplus / Deficit				<u><u>\$194,061</u></u>

Middleborough Water Department

BASED ON 2010 RATES

FY 2010 Budget

\$4,033,665

Miscellaneous Revenue

Private Fire Protection			\$70,000	
Tax Liens Redeemed			\$8,035	
Costs and Interest			\$477	
Water Tower Rental			\$24,657	
Water Renewals			\$853	
Water Charges			\$81,915	
Water Repairs			\$6,921	
Water Construction			\$9,420	
Cross Connection			\$26,618	
Water Development			\$28,724	
Water Application			\$2,500	
Water Liens			\$230,613	
Meter Testing			\$0	
Water Demands			\$37,920	
Special Assessment			\$1,445	
Earnings on Investments			\$26,614	
Miscellaneous Revenue			\$85	
Transfer from Wastewater			\$56,064	
Total Miscellaneous Revenue				\$612,861

Water Sales

Minimum Charge -

5/8"	5,492	\$39.70	\$872,130	
3/4"	42	\$50.46	\$8,477	
1"	75	\$71.99	\$21,597	
1 1/4"	2	\$99.97	\$800	
1 1/2"	43	\$125.80	\$21,638	
2"	72	\$190.37	\$54,827	
3"	15	\$362.56	\$21,754	
4"	4	\$556.28	\$8,900	
6"	3	\$1,094.38	\$13,133	
8"	2	\$1,740.11	\$13,921	
Total	5,750		\$1,037,175	\$1,037,175

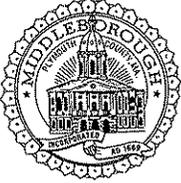
Metered Sales

1st Step Rates 500-2,500	260,174	\$3.25	\$845,566	
2nd Step Rates 2,501-25,000	182,634	\$5.65	\$1,031,882	
3rd Step Rates over 25,000	128,483	\$9.58	\$1,230,867	
Total Water Sales	571,291			\$3,108,315
Total Revenue				\$4,758,351
Surplus / Deficit				\$724,686

Middleborough Water Department

Aged Receivables

31-60 Days	61-90 Days	91-120 Days	Over 120 Days
\$ 199,107.11	\$193,198.97	\$ 212,414.14	\$ 506.73



Town of Middleboro

Water Division - Department of Public Works
48 Wareham Street, Middleboro, Massachusetts
508-946-2482
Fax 508-946-2484



Paul Anderson
Water Superintendent

October 5, 2009

To: Board of Selectmen

From: Paul Anderson *PA*
Water Superintendent

Re: Request for Abatement

Attached is a request for abatement I am recommending for approval to Robert Leite of 25 East Grove Street for the sum of \$2,295.60.

The Water Department Staff were unable to gain access to read the water meter at this location and the bill had to be estimated. Upon gaining access it was determined that the estimated value was higher than the meter registered.

This is not a common occurrence and the staff and I will investigate options to avoid such events in the future.

Please do not hesitate to contact me with any concerns or questions.

Cc. Charles J. Cristello, Town Manager
Andrew Bagas, Director of Public Works
Joseph M. Ciaglo, Wastewater Superintendent

002 0145 00 01 Screen?
ROBERT LEITE
 25 EAST GROVE STREET

Meter Loc.
 Meter ID#
 Rate 05 WA 1 1/2" WATER METER QUARTERLY
 Sewer 25 SW 1 1/2" SEWER METER QUARTERLY

ECR#	Date	Reading	Cons	Type	Date	Reading	Cons	Type
CUR	9/30/2009	7400	100	E				
1	6/30/2009	7300	100	E	13	5782	60	E
2	3/31/2009	7200	100	E	14	5722	60	E
3	12/31/2008	7100	100	E	15	5662	60	E
4	9/30/2008	7000	100	E	16	5602	60	E
5	6/30/2008	6900	100	E	17	5542	54	E
6	3/31/2008	6800	100	E	18	5488	53	E
7	12/31/2007	6700	100	E	19	5435	167	E
8	9/30/2007	6600	100	E	20	5268	50	E
9	6/30/2007	6500	100	E	21	5218	47	E
10	3/31/2007	6400	100	E	22	5171	184	H
11	12/31/2006	6300	103	E	23	4987	40	E
12	9/30/2006	6197	415	R	24	4947	40	E

Average Cons: 100

Meter# 01 of 01

F1=Toggle Sewer F2=Toggle Amt F4=Lookup F9=Notes F10=Inv F24=MoreKeys

9/23/09 LTR SENT FOR ACCESS

9/28/09 1:00 APPT - READ 0690580/

Account#: 2-0145-00-01 ROBERT LEITE
25 EAST GROVE STREET

Start Date:

A/R Desc	<u>PAYMENT</u> 8/27/2009	<u>BILLING</u> 7/22/2009	<u>PAYMENT</u> 6/24/2009	<u>BILLING</u> 5/15/2009	<u>PAYMENT</u> 3/13/2009
WATER	459.12	459.12	459.12	459.12	459.12
SEWER	312.99	312.99	312.99	312.99	312.99
WATER PEN	.00	.00	.00	.00	.00
	.00	.00	.00	.00	.00
WATER FIN	.00	.00	.00	.00	.00
	.00	.00	.00	.00	.00
FIRE PROT	.00	.00	.00	.00	.00
SEWR FINA	.00	.00	.00	.00	.00
TRASH	52.00	52.00	54.00	54.00	54.00
	.00	.00	.00	.00	.00
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TOTALS:	824.11	824.11	826.11	826.11	826.11

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F3=Exit F12=Cancel F14=Filter

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2295.60	1564.95

59 aug cons

UT3005M4 BBLV
9/29/2009 07:06:37

Utility Billing System
Inquiry - Transaction History Detail

FILTER - ALL

Account#: 2-0145-00-01 ROBERT LEITE
25 EAST GROVE STREET

Start Date:

A/R Desc	<u>BILLING</u> 2/19/2009	<u>PAYMENT</u> 11/26/2008	<u>BILLING</u> 11/10/2008	<u>PAYMENT</u> 8/11/2008	<u>BILLING</u> 7/30/2008
WATER	459.12	459.12	459.12	459.12	459.12
SEWER	312.99	312.99	312.99	312.99	312.99
WATER PEN	.00	.00	.00	.00	.00
	.00	.00	.00	.00	.00
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FIRE PROT	.00	.00	.00	.00	.00
SEWR FINA	.00	.00	.00	.00	.00
TRASH	54.00	54.00	54.00	54.00	54.00
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TOTALS:	826.11	826.11	826.11	826.11	826.11

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ROBERT LEITE
25 EAST GROVE STREET

Meter Loc.
 Meter ID#
 Rate 05 WA 1 1/2"
 Sewer 25 SW 1 1/2"

WATER METER QUARTERLY
 SEWER METER QUARTERLY

ECR#	Date	Reading	Units	Cons	Type	Date	Reading	Cons	Type
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1	6/30/2009	7300		100	E	13 6/30/2006	5782	60	E
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4	9/30/2008	7000		100	E	16 9/30/2005	5602	60	E
5	6/30/2008	6900		100	E	17 6/30/2005	5542	54	E
6	3/31/2008	6800		100	E	18 3/31/2005	5488	53	E
7	12/31/2007	6700		100	E	19 12/31/2004	5435	167	E
8	9/30/2007	6600		100	E	20 9/30/2004	5268	50	E
9	6/30/2007	6500		100	E	21 6/30/2004	5218	47	E
10	3/31/2007	6400		100	E	22 3/31/2004	5171	184	H
11	12/31/2006	6300		103	E	23 12/31/2003	4987	40	E
12	9/30/2006	6197		415	R	24 9/30/2003	4947	40	E
Average Cons:				100					

Meter# 01 of 01

F1=Toggle Sewer F2=Toggle Amt F4=Lookup F9=Notes F10=Inv F24=MoreKeys

9/23/09 LTR SENT FOR ACCESS
9/28/09 1:00 APPT - READ 0690580/

FILTER - ALL

Account#: 2-0145-00-01 ROBERT LEITE
 25 EAST GROVE STREET

Start Date:

A/R Desc	PAYMENT 8/27/2009	BILLING 7/22/2009	PAYMENT 6/24/2009	BILLING 5/15/2009	PAYMENT 3/13/2009
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SEWER	312.99	312.99	312.99	312.99	312.99
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WATER FIN	.00	.00	.00	.00	.00
	.00	.00	.00	.00	.00
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SEWR FINA	.00	.00	.00	.00	.00
TRASH	52.00	52.00	54.00	54.00	54.00
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TOTALS:	824.11	824.11	826.11	826.11	826.11

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F3=Exit F12=Cancel F14=Filter

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459.12	312.99
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2295.60	1564.95

59 avg cons

FILTER - ALL

Account#: 2-0145-00-01 ROBERT LEITE
 25 EAST GROVE STREET

Start Date:

A/R Desc	BILLING 2/19/2009	PAYMENT 11/26/2008	BILLING 11/10/2008	PAYMENT 8/11/2008	BILLING 7/30/2008
WATER	459.12	459.12	459.12	459.12	459.12
SEWER	312.99	312.99	312.99	312.99	312.99
WATER PEN	.00	.00	.00	.00	.00
	.00	.00	.00	.00	.00
	.00	.00	.00	.00	.00
WATER FIN	.00	.00	.00	.00	.00
	.00	.00	.00	.00	.00
FIRE PROT	.00	.00	.00	.00	.00
SEWR FINA	.00	.00	.00	.00	.00
TRASH	54.00	54.00	54.00	54.00	54.00
	.00	.00	.00	.00	.00
	.00	.00	.00	.00	.00
TOTALS:	826.11	826.11	826.11	826.11	826.11

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F3=Exit F12=Cancel F14=Filter



Stantec Consulting Services Inc.
5 Dartmouth Drive Suite 101
Auburn NH 03032
Tel: (603) 669-8672
Fax: (603) 669-7636

Stantec

July 22, 2009
Project No. 191710019

Mr. Paul Anderson, P.E., Superintendent
Middleborough Water Department
48 Wareham Street
Middleborough, MA 02346

Reference: Proposed Water Source – Mizaras Site

Dear Paul:

Stantec Consulting Services Inc. (Stantec, formerly dba Jacques Whitford) is currently active on four projects under three budgets for the Town of Middleborough Water Department (the Town). In order to update an out-dated contractual agreement between Jacques Whitford (now Stantec) and the Town, we submitted a new contract for the continuing work during the summer of 2008. The Town sent the new contract to the Town Counsel, who, after numerous changes, approved the contract as to form. In order for the Work Order for each project to be consistent with the date of the new agreement, Stantec is providing a new (in some instances, revised) Scope of Work and Cost Estimate to present the scope and cost of the remaining work. Due to the fact that both the Onges Site and the Mizaras Site were part of the same initial budget in 2005, this letter provides a short history of the Onges Site and a new scope and costing for the proposed work at the Mizaras Site.

BACKGROUND

The Onges Site, located off Tispiquin Road just west of Wood Pond, was a volunteer site that was investigated by Jacques Whitford by seismic methods, test drilling, and installation of an eight-inch evaluation test well and the completion of an extended pumping test. In addition, detailed wetland delineation was completed. Jacques Whitford recommended to the Town that the site may be viable for the development of a medium-sized supply source and has encouraged the Town to negotiate a reasonable cost to acquire the land. No additional work at the site is anticipated under the current agreement, which was based on the August 25, 2005 proposal to the Town. If the Town is able to acquire the land at a reasonable cost, significant additional permitting work will be required including additional test pumping, water quality analysis, development of a wellhead protection area (WHPA), and reporting to meet Mass DEP requirements. A proposal to complete this work will be provided to the Town under separate cover, if requested.

The Mizaras Site, located along the Taunton River just east of the Plymouth Street Bridge over the Taunton River, was a potential water supply site for the Town in the early 1950s. Due to its low anticipated yield and distance from the town center, the site was forgotten for 45 years, although the land around the potential well site had been purchased by the Town. In the late

Stantec

July 28, 2009

Paul Anderson, P.E., Superintendent

Page 2 of 4

1990s, Jacques Whitford reviewed the available old engineering reports, completed seismic testing, test well and piezometer installation, a wetland delineation, installation of an eight-inch evaluation test well, a sustained pumping test, required water quality testing, and subsequent data analysis. Estimated yield from the well was tentatively calculated at roughly 700,000 gallons per day (0.7 mgd). Significant work remains under the existing agreement, which was based on the August 25, 2005 proposal to the Town. This includes development of a numerical model of groundwater flow, determination of the WHPA, completion of the Source Final Report, and a Request to Construct. These tasks will be presented in more detail, below.

PROPOSED SCOPE OF WORK (All at the Mizaras Site)

Task A: Numerical Model of Groundwater Flow

Stantec will prepare a numerical model of groundwater flow using the widely used code MODFLOW® through the data preprocessor Groundwater Vistas®. Previously generated boundary conditions and aquifer characteristics will be entered into the model and manipulated within observed variability until the model simulates a steady-state condition at the site. The stress incurred by the extended pumping test will then be entered into the model and the accuracy of the response will be evaluated and input parameters adjusted until both the static and pumping flow conditions are accurately simulated.

Task B: Development of the Wellhead Protection Area

The calibrated model will then be used to simulate the stress of 180 days of constant pumping with no recharge to the aquifer. The resultant drawdown cone will be used to determine the zone of contribution to the well from within the aquifer. This area will be delineated as Zone II. All areas flowing towards the Zone II will be designated as Zone III.

Task C: Source Final Report

All of the work completed over the course of the investigations at the site will be compiled and submitted in a Source Final Report to the MaDEP, using the format prescribed in Chapter 4.6 of the MaDEP *Guidelines and Policies for Public Water Supplies*. Included in the report will be all hydraulic data in both tabular and graphic format, water quality data, the Calculated Approved Yield, and the potential impact of the well on nearby sensitive receptors.

Task D: Water Management Permit and ENF

Along with the Source Final Report, numerous additional documents are, or may be, required by the MaDEP. The Water Management Plan Permit Application, as described in 310 CMR 36.00, is the largest of these requirements as it includes a synopsis of the entire water withdrawal within the Town and a summation of policies and practices within the town to mitigate water losses and otherwise protect the environment. An Environmental Notification Form (ENF) is also required.

Stantec

July 28, 2009
Paul Anderson, P.E., Superintendent
Page 3 of 4

SERVICES NOT INCLUDED

Permit to Construct – This will be submitted with the plans and specifications for the pumping station and connecting water main. Design of these facilities will be completed under a separate contract.

Inter-Basin Transfer Permit – It is unknown whether this permit is necessary at this time. If it is found that it must be obtained, the scope and fee will be provided.

Wetlands Permitting – None of the permits associated with wetlands are included: a Notice of Intent, a MaDEP Wetlands 401 Major Product Certification, or a 404 Application to the Army Corps of Engineers. These permits may be necessary for construction of the infrastructure and will be included in the design contract if necessary.

SCHEDULE

The following schedule has been developed based on an anticipated contract approval by September 1, 2009, our current workload, the time required to complete the task, and the review time needed by the MaDEP regulators under favorable conditions.

<u>Task</u>	<u>Completion Date</u>
Model Development	December 1, 2009
WHPA Delineation	January 1, 2010
Source Final Report	February 15, 2010
Water Management Permit and ENF	April 15, 2010

COST ESTIMATE

The funding for both the Onges and Mizaras sites were included under a single requisition for \$250,000. The basis for this request was an estimate provided to the Town estimating work at the Onges site to total \$50,000 and for the lengthier and more complex work at the Mizaras site, a total of \$200,000 was estimated. To date, approximately \$75,000 have been accrued at the Onges Site, \$25,000 over the original estimate presented in the summer of 2005. There have been several reasons for the additional costs at the Onges Site, including re-drilling the eight-inch well and the inclusion of an unanticipated high-density wetland mapping task. All additional tasks were approved by the Town. No additional work at the Onges Site is anticipated under this Agreement.

Of the \$250,000 appropriated, only \$30,000 remains in the available budget. This is due to overruns at the Onges Site and the use of this budget by the Water Department to pay other site-related contractors (survey and engineering of potential site access locations). Due to increasing costs and increasing regulatory oversight, the actual cost to complete the scheduled tasks is likely closer to \$55,000. The available funds (\$30,000) should be adequate to complete the modeling task and the determination of the WHPA (Tasks A and B). Unfortunately,

Stantec

July 28, 2009

Paul Anderson, P.E., Superintendent

Page 4 of 4

completion of the expansive Source Final Report and associated permitting requirements cannot be completed with the remaining funds.

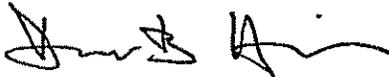
Stantec proposes to continue to bill the project through the completion of Task B in a manner consistent with previous activities. **Work through the completion of Task B will not exceed the remaining funds (\$30,000).** Billings will be monthly on a Time-and-Material, Not-to-Exceed basis. The billing will be based on the Stantec Standard Rate Schedule (effective January 2009). Stantec reserves the right, via contract (see Section 1 of the current agreement), to adjust labor rates on January 1 of each year. Stantec agrees not to adjust rates in excess of five percent per annum.

Recommendations

Stantec recommends that the Water Department seek an additional \$25,000 in funding for the Mizaras project to allow its timely completion. We hope this meets your needs. If you have any other questions or concerns, please call the undersigned.

Sincerely,

STANTEC CONSULTING SERVICES INC.



David B. Hill, P.G.
Senior Associate

DBH/dbh

STANTEC TERMS AND CONDITIONS

THIS AGREEMENT, made this 17th day of August, 2009 by and between Stantec Consulting Services, Inc. (hereinafter called "Stantec", located at 5 Dartmouth Drive in Auburn, NH and the Town of Middleborough (hereinafter called "Client"), located at 48 Wareham Street in Middleborough, MA 02346.

The parties agree as follows:

The Contract Documents (hereinafter called "Contract Documents") for this Agreement consist of these Stantec Terms and Conditions, any authorizations for work (hereinafter called "Work Orders") issued hereunder, any proposals, any attachments, exhibits, specifications and/or drawings, attached to, or referenced in, the Work Order, and all modifications issued after the execution of this Agreement.

1. Services: Payment

Stantec agrees to perform the Services as set forth in the Work Orders (the "Services"), subject to the Terms and Conditions stated herein. For time and material charges, labor charge rates will be in accordance with the prevailing Standard Rate Schedule (see Attachment A) and will be revised on January 1 of each year. Labor rates will not be increased in excess of five percent per year. The Client shall designate in writing a person to act as the Client's representative with respect to the Services. Such person shall have complete authority to transmit instructions, receive information, and interpret and define the Client's policies and decisions with respect to the Services.

2. Expenses for Time and Material Charges

- a. Reimbursable Expenses. Direct non-salary expenses will be billed at cost. This will include:

- I. Transportation and living expenses incurred for assignments outside of the Stantec office area, including use of rental cars.
- II. FAXs (i.e., outside FAX use in hotel).
- III. Shipping charges for plans, equipment, etc.
- IV. Outside reproduction of drawings, reports, and correspondence.
- V. Purchase of dedicated special equipment or rental for project use.

Automobile expenses for personal or company vehicles will be charged per mile plus toll charges in accordance with the prevailing Schedule of Fees, for travel from a Stantec office to the project and return, and for travel at the job in conduct of work.

- b. Subcontractor Charges. Stantec prefers that all associated contractors bill directly. However, in the event that subcontracting is chosen, a 10 percent handling fee will be added to the cost for services such as surveying, drilling, heavy equipment operation, laboratory analyses, drafting, typing, and computing services provided by outside contract personnel.
- c. In-House Charges. When appropriate, Stantec will utilize its in-house facilities to complete the Services. This includes equipment for performing geophysical, chemical, and hydrogeologic measurements, sampling, etc., general communication equipment (FAX, telephone, Internet, etc.), and equipment/supplies for binding/reproductions. These items will be charged at a unit rate in accordance with the prevailing Schedule of Fees.
- d. Services of Others. On occasion, Stantec engages the specialized services of individual consultants or other companies to participate in a project. When considered necessary, these firms or other consultants will be used with client approval, and their costs plus a 10 percent service charge must be paid prior to release of the consultant's work, unless otherwise agreed.
- e. Invoices. Invoices will be submitted once a month for services performed and expenses incurred during the previous month or upon completion of the Services or discrete portion(s) thereof. Payment will be due upon receipt. Interest will be added to accounts in arrears net 30 days of invoice date at the rate of one and one-half (1 and 1/2) percent per month (18 percent per annum) or the maximum rate allowed by law, whichever is

less, of the outstanding balance. The Client will reimburse Stantec for all reasonable attorney's fees, court costs, and other costs incurred to effect or ensure collection from the Client if the Client fails to make payment within 30 days of the invoice date. Any payments received by Stantec shall be applied to outstanding invoices in whatever order of priority Stantec deems appropriate.

3. On-Site Services During Project Completion

When Stantec's Services are provided on the job site, it is understood that the owner and/or contractors will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during the performance of the work, and compliance with OSHA regulations, and that these requirements will apply continuously and not be limited to normal working hours except for working conditions of Stantec personnel and personnel of contractors/subcontractors retained directly by Stantec. Any monitoring of the contractor's performance conducted by Stantec personnel does not include review of the adequacy of the contractor's safety measures in, on, or near the work site. Additionally, Stantec takes no responsibility for budgetary or schedule matters associated with the contractor's performance other than for contractors retained directly by Stantec, nor does Stantec take any responsibility for the adequacy and reliability of any procedure or analyses performed by the contractor.

4. Access

The Client will furnish Stantec with access and right of entry onto any premises that are subject of the Proposal, and if such premises are not owned by the Client, the Client represents and warrants that it has full permission to allow Stantec onto the premises. Such access, right of entry or permission shall be sufficient to enable the performance by Stantec of the Services. Stantec will take reasonable precautions to minimize damage to the land from its operations, but Stantec has not included in its fee the cost of the repair of damage that may result from its operations. If Stantec is required to restore the land to its former condition, this will be accomplished and the cost will be added to Stantec's fee.

5. Reliance on Client

The Client shall be obligated to furnish to Stantec all existing studies, reports and other available data, and work done by the Client or by other contractors retained by the Client pertinent to the Services (such information, materials and work are referred to herein collectively as the "Client Work"). Stantec shall be entitled to rely upon all such information and work in performing the Services.

During the course of this work, Stantec may also rely on certain information provided by state and local officials and other parties and on information contained in the files of state and local agencies available to Stantec at the time of the study (such information is referred to herein as the "Official Information"). Stantec shall not attempt to independently verify, and shall have no responsibility for, the accuracy, completeness, workmanship or any other aspect of the Official Information and the Client Information, except where explicitly a part of the Proposal.

The Client agrees to indemnify Stantec, its present and future officers, directors, owners, agents, employees, successors and assigns (an "Indemnitee") from any and all liability, loss or damage which an Indemnitee is legally obligated to pay, including, without limitation, liability, loss or damage arising from bodily injury, illness, death, property damage or any other source and reasonable attorneys' fees and investigative and discovery costs, resulting from or relating to inaccuracy or deficiency of the Client Work and Official Information.

6. Underground Structures

It is the responsibility of the Client to provide Stantec with assistance in locating underground structures and utilities in the vicinity of any construction, exploration or investigation. If neither party can confirm the location, the Client

agrees to accept all liabilities and costs associated with the repair, replacement or restoration of any damage to underground utilities caused by Stantec or its subcontractor(s) in the performance of the Services. Stantec shall also rely upon third party sources in order to determine the existence and location of any underground structures and utilities of any kind. The Client hereby acknowledges that Stantec may rely on such third party advice, so long as such third party is a reasonable source for such information, without any requirement that Stantec shall make independent evaluation or investigation of such underground structures and utilities. In the event that the information supplied by third parties is incorrect, the Client acknowledges that Stantec shall not be responsible for any damage or any consequential damage done to any such subsurface structures or utilities.

7. Compliance with Recommendations

In the course of the performance of the Services, the Client and Stantec agree that Stantec may from time to time render advice and make recommendations consistent with its professional judgment relating to any matter relevant to the performance of the Services, which matter may or may not be within the scope of such Services. If the Client fails to abide by any such advice or recommendation, Stantec shall have the right, in its discretion, either to renegotiate the terms of this Agreement and the scope of its Services or to immediately terminate the Agreement without any further recourse by the Client to Stantec, in which case the payment provisions of section 17 below shall determine the amounts to be paid for the Services provided by Stantec to such time of termination.

8. Samples

If it is necessary for the performance of the Services for Stantec or any subcontractor to take samples of any sort, including, without limitations, samples of soil, rock, or water, such samples shall be the property of Stantec or such subcontractor, until the costs incurred in collecting and delivering such samples has been remitted to Stantec or such subcontractor, at which time the samples will be delivered to and become the property of the client.

9. Ownership of Documents

All documents which Stantec prepares, including, without limitation, drawings, estimates, analyses specifications, field notes, and data (including any copies thereof) and all copyrights relating thereto are and remain the property of Stantec. The Client may, at its expense, obtain a set of reproducible plans or copies of documents, in consideration of which the Client will use them solely in connection with the project to which they relate. Stantec will retain all pertinent records relating to the Services for a period of two (2) years following submission of a report by Stantec, during which period the records will be made available to the Client at all reasonable times after full payment of Stantec fees and expenses.

10. No Third Party Reliance

All Services are provided solely for the benefit of the Client and not for the benefit of any other party. No party other than the Client shall be entitled to rely on the Services or any information, documents, records, data, interpretations, advice or opinions or other materials given to the Client by Stantec in the performance of the Services. The Services relate solely to the specific project for which Stantec has been retained under this Agreement and shall not be used or relied upon by the Client or any third party for any variation of this project, any other project or any other purpose. Any unpermitted use by the Client or any third party shall be at the Client's or such third party's own risk. The Client agrees to indemnify Stantec, its present and future officers, directors, owners, agents, employees, successors and assigns (an "Indemnitee") from any and all liability, loss or damage which an Indemnitee is legally obligated to pay, including, without limitation, liability, loss or damage arising from bodily injury, illness, death, property damage or any other source and reasonable attorneys' fees and investigative and discovery costs, resulting from or relating to any unpermitted use of the Services or of any information, documents, records, data,

interpretations, advice or opinions or other materials given to the Client by Stantec.

11. Standard of Care

Stantec agrees to use reasonable care, skill, competence and judgment in the performance of its Services hereunder which are generally consistent with professional standards for scientists and engineers providing similar services at the same time, in the same locale, and under like circumstances.

12. Disclaimer

THE CLIENT AGREES THAT EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, Stantec MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, ORAL OR WRITTEN, EXPRESSED OR IMPLIED; AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.

13. Disclosure to Authorities

The Client agrees that in the course of the performance of the Services, Stantec may come upon matters that Stantec believes, in its professional judgment, are necessary or advisable to disclose to appropriate authorities under federal, state or local law. The Client agrees that Stantec shall be entitled to make such disclosure, and Stantec shall provide the Client with copies of any disclosures so made. Stantec shall have no liability to the Client or to any other person or entity for making any such disclosures. Stantec may rely upon the advice of counsel and follow such counsel's advice in determining whether or not to make any such disclosure.

14. Independent Contractor Status

Stantec is an independent contractor and shall not be regarded as a partner, employee or agent of the Client for any purpose.

15. Unexpected Contingencies

- a) If (i) Stantec is unable to commence or complete the Services within the time set forth in this Agreement because of any Unexpected Contingency (as defined in subsection (b) below, or (ii) Stantec's performance of any covenant, agreement, condition or term of the Agreement is prevented, delayed, made impossible or otherwise interfered with by an Unexpected Contingency, then, at Stantec's option, Stantec shall either (x) terminate the Agreement and be paid by the Client as provided in section 17 below, (y) renegotiate the Terms and Conditions set forth in the Agreement on a basis satisfactory to Stantec, or (z) suspend performance during the continuance of any Unexpected Contingency and for a reasonable time thereafter and extend the time for its performance of the Services. Stantec shall not be liable under any circumstances to the Client for any failure of Stantec to perform the Services to the extent that such failure is caused in whole or in part by any Unexpected Contingency.
- b) For purposes of this Agreement, an "Unexpected Contingency" shall mean (i) any consequence arising out of inaccurate information, advice, or instructions provided by the Client or any third party, (ii) strikes, walkouts, riots, unavoidable accidents, inclement weather, acts of God or the public enemy or unavailability of transportation, (iii) any lawful order issued by the United States government or any other federal, state or local government authority, (iv) any unforeseen or unexpected contingency, the nonoccurrence of which was expressly or impliedly assumed in the Agreement, or (v) any other cause beyond Stantec's reasonable control.

16. Failure to Pay

If payment of invoices by the Client is not made as required in this Agreement, Stantec may, at any time and at its option, suspend further work entirely or suspend further work until the Client restores payment to a current basis and, if Stantec desires, provides advance payments for further Services. In the event

Stantec engages counsel to collect overdue payments, the Client will reimburse Stantec for all reasonable attorney's fees, court costs and other costs related to collection of overdue payments.

17. Payment on Early Termination of Agreement

If Stantec or the Client terminates this Agreement prior to the performance in full of Stantec's Services, the Client shall remain fully liable for, and shall promptly pay Stantec for, all Services and expenses to the date of termination.

18. Litigation

It is understood that unless expressly implied by the Services outlined in this Agreement that the Services do not include professional services provided by Stantec for any legal action or suit. Fees for these services will be as stated in the Standard Rate Schedule.

19. Performance Time Period

The dates of performance shall be interpreted as a material consideration in this Agreement; however, in no event shall dates be constructed as falling within the meaning of "time is of the essence". The term of this agreement shall be from August 17, 2009 to August 17, 2011.

20. Indemnity for Toxic and Hazardous Materials

Stantec has neither created nor contributed to the creation of any hazardous, radioactive, toxic, pollutant, or otherwise dangerous substance or condition, or asbestos, at the site, and our compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposures to such substances or conditions. Further, in seeking our consulting services, you acknowledge that we may not have professional liability or other liability insurance, and may not be able to obtain such insurance at reasonable cost, for claims involving the presence or potential presence of pollutants and asbestos. Consequently, you are requesting us to undertake potentially uninsurable obligations for your benefit. Therefore, to the full extent permitted by law, you agree to indemnify, defend and hold harmless Stantec and its subcontractors, consultants, agents, officers, directors and employees from and against all claims, damages, losses and expenses, whether direct, indirect, economic, or consequential, including but not limited to fees and charges of attorneys and court and arbitration costs, arising out of, related to, or based upon; a release of pollutants; or bodily injury (including death), property damage or other economic loss, caused by release, removal, remedial action or investigation of pollutants; or removal or investigation of, or remedial action taken because of the release or suspected release of pollutants; or the assessment of fines or penalties related to pollutants; or in any way related to asbestos. Excluded from the indemnification requirements under the prior sentence shall be claims arising from, or in connection with, the materials identified in the first sentence of this section, which were introduced to a job or project site by Stantec and/or its subcontractors, consultants, agents, officers, directors or employees.

21. General Indemnification

Each party agrees to indemnify the other party, its present and future officers, directors, owners, agents, employees, successors and assigns (an "Indemnitee") from any and all liability, loss or damage which an Indemnitee is legally obligated to pay, including, without limitation, liability, loss or damage arising from bodily injury, illness, death, property damage or any other source and reasonable attorneys' fees and investigative and discovery costs, to the extent that it is caused by or arises out of the negligence or willful misconduct of the indemnifying party or a breach of this Agreement by the indemnifying party arising out of, or in conjunction with the services.

22. Limitation of Liability

The Client shall be obligated to promptly report any failure by Stantec to conform to the agreed standard of care in writing to Stantec within eighteen (18) months after completion of the Services, where upon Stantec shall at its option, correct such nonconformity or reimburse the Client the price of the nonconforming work provided. Stantec and its subcontractor(s) shall in no event be liable to the Client, any successors in interest or any beneficiary or assignee for punitive, consequential, or indirect damages arising out of this Agreement or any breach thereof, whether based upon loss of use or lost profits, revenue or interest, whether or not such loss or damage is based on contract, warranty, negligence, indemnity or otherwise.

For the additional consideration of the value of the rights and duties created by this provision, the sufficiency and adequacy thereof being acknowledged hereby by Stantec and Client, and notwithstanding anything to the contrary contained in this Agreement, the aggregate liability of Stantec, its present and future officers, directors, owners, agents, employees, successors and assigns for any and all claims, damages, injuries, losses (including reasonable lawyers' fees and legal costs) and other liabilities of any kind under this Agreement, including, without limitation, for negligence, gross negligence, and breach of contract, fundamental or otherwise, shall not exceed \$50,000 for Phase I Environmental Site Assessments and \$1,000,000 for all other Services.

23. Miscellaneous

- a) The headings in this Agreement are for convenience and shall not affect the construction hereof.
- b) This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts.
- c) This Agreement shall constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof and may not be amended except in a writing signed by both parties. The terms of this Agreement shall not be altered or added to by any subsequent terms and conditions proposed by the Client without express written agreement to that effect from Stantec.
- d) All terms and provisions shall be binding upon and ensure to the benefit of and be enforceable by the parties and their successors and assigns, provided that no party may assign its rights or obligations hereunder without the prior written consent of the other party.
- e) Stantec agrees to carry commercially reasonable levels of General Liability, Professional Liability (see Attachment B), and Auto Insurance. Stantec further agrees to carry the state-mandated level of Workman's Comp. Insurance.
- f) Stantec agrees to comply with applicable laws in carrying out the Services.
- g) The Work Order Authorizations attached to this Agreement are governed by the within Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the date first set forth above.

Stantec:

By: _____

Title: _____

Date: _____

Client:

Board of Selectmen

Date: _____

Approved as to form:

Middleborough Town Council



Stantec

WORK ORDER AUTHORIZATION NO. 1

PROJECT NAME/NUMBER.PHASE: 191710019 **DATE:** 23-OCT-09

CLIENT NAME/ADDRESS: Town of Middleborough Water Department/48 Wareham Street, Middleborough, MA, 02346

LOCATION OF SERVICES: Off Plymouth Street, Middleborough, MA

SCOPE OF WORK:

- 1) See attached Letter of July 22, 2009
- 2) _____
- 3) _____
- 4) _____

ATTACHMENTS:

- 1) Letter of July 22, 2009
- 2) _____
- 3) _____

CONTRACT PRICE: \$ 30,000

SCHEDULE: START DATE: November 1, 2009

COMPLETION DATE: August 17, 2011

SUBJECT TO THE TERMS AND CONDITIONS OF THE STANTEC AGREEMENT WITH CLIENT DATED : 17-AUG-09

FOR JACQUES WHITFORD:

Signature

David B. Hill, Senior Associate
Printed Name and Title

DATE: October 23, 2009

FOR CLIENT:

Signature

Printed Name and Title

DATE: _____

**AMENDMENT NO. 2
AGREEMENT
FOR
ENGINEERING SERVICES RELATED TO
WATER DEPARTMENT FY07 CAPITAL IMPROVEMENT PROJECTS**

**BOARD OF SELECTMEN
TOWN OF MIDDLEBOROUGH, MASSACHUSETTS**

This Amendment made this _____ day of _____, 2009, by and between the Town of Middleborough, Massachusetts ("TOWN"), as represented by its as represented by its Board of Selectmen, and Tighe & Bond, Inc. ("ENGINEER") amends an AGREEMENT dated December 4, 2006, as previously amended on May 12, 2008 by Amendment No. 1. Remaining terms are unchanged.

SECTION 1 - SCOPE OF WORK

- A. The original and previously amended scope of work is hereby amended to include professional engineering services as detailed in the Invoice and Progress Summary Reports submitted with Project Invoices and detailed in Attachment A - Scope of Work, attached hereto and made a part hereof.

SECTION 2 - COMPENSATION

The original compensation value is hereby amended as follows:

- A. The original hourly compensation value of \$329,000 relative to **Wareham Street Water Main Improvements Bidding and Construction Phase Engineering Services** is hereby increased by \$25,000, for the portion of the services as described in Attachment A of this Amendment that cannot be completed under the original compensation amount, to a revised upper limit value \$354,000.

SECTION 4 - PROJECT SCHEDULE

ENGINEER shall work with the TOWN coordinated schedules for the various portions of the PROJECT.

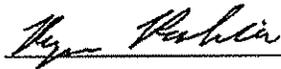
IN WITNESS WHEREOF, TOWN has caused these presents to be signed by its duly authorized agent for the purpose, and ENGINEER has caused these presents to be signed by its duly authorized representative on the day and year first written above.

In the presence of:

MIDDLEBOROUGH BOARD OF SELECTMEN

In the presence of:

TIGHE & BOND, INC.





Omer H. Dumais, Jr. P.E.
Vice President

J:\M\M0417-Middleborough\M0417\Agree\Amendment#2.doc

Attachment A

Scope of Work Modification
Water Department FY07 Capital Improvement Projects

SCOPE OF WORK

Section 1.A.1.3 - Wareham Street Water Main Improvements Bidding and Construction Phase Engineering Services of the original AGREEMENT is amendment as follows:

As reported each month in our Invoice and Progress Summary Reports, several unanticipated scope items not included in our original budget require an amendment. The additional project schedule combined with the out of scope items described below have resulted in depleting the engineering services budget and requires additional engineering budget to complete the remaining work and project close-out.

The remaining work is somewhat unclear as the Contractor Bonding Surety, First Sealord Surety, has exercised their Power of Attorney and is now working to complete the project. This Amendment assumes that the railroad crossing on Spruce Street will be completed by Town forces and will not require additional engineering services.

Unanticipated Scope Items include the following:

Mass Highway (MHD) Access Permit

A revised MHD Access Permit was secured for purposes of commencing construction activities during the winter shut-down period as stipulated in the MHD permit. In association with the Contractor, the Town petitioned MHD to amend the permit with specific work restrictions, procedures, and work hours. Several meetings were held with Town officials and MHD officials to revise the permit conditions.

Additionally, in May of 2008, MHD was again petitioned to amend the permit to reflect current operations and to amend work hours under the original permit.

Railroad Permit / License

Work continues on the permit license for the railroad crossing on Spruce Street. A permit application was submitted to Executive Office of Transportation (EOT) based on coordination and crossing requirements of Bay Colony Railroad. Since the submittal, EOT has replaced Bay Colony with Mass Coastal Railroad. In addition to the review of the proposed railroad jacking, Mass Coastal has requested consideration for a surface crossing. Currently T&B is working with both EOT and Mass Coastal to facilitate the permit license while exploring the possibility of a surface crossing with a new precast concrete at grade crossing.

Work effort has exceeded the budgeted hours for this task. Due to the complexity and uncertainty involved with this work, 84 hours were budgeted and included in the Agreement. Continued effort on this permit license has been billed through the construction phase services.

Utility Related Abatement Measure (URAM)

On May 6, 2008, while installing the new water main on Spruce Street, near the intersection of Spruce Street and Locust Street, in Middleborough, sheen was observed on soil and groundwater within the water main excavation. Upon encountering the residual contamination, work ceased. A URAM Notification was prepared in accordance with the Massachusetts

Contingency Plan (MCP), 310 CMR 40.0460, for the work to be conducted. The purpose of the work under this URAM is to support installation activities of the new water main. No alternative location is feasible since the proposed main runs through this area of Spruce Street.

A construction change order was be prepared for the Contractor for this work. Engineering efforts were billed through the construction phase services portion of the Agreement.

Payment Procedures

Due to financial difficulties of the Contractor, their bonding company, First Sealord Surety (FSS, has assumed financial control of the project through their power of attorney. As such T&B has been asked to coordinate and facilitate all activities relative to periodic payments on the project. These activities include assistance and support to the Town in dealing with requests for payment of stored materials, generation of additional payment requisitions, and preparation of change orders to reflect changes to the Contract language. Engineering efforts have been billed through the construction phase services portion of the Agreement.

Extended Project Schedule

As a result of the financial difficulties of Heller & Smith and the take-over by the surety First Sealord Surety, FSS, the project has extended beyond the anticipated construction completion date of December 31, 2008. FSS is currently hiring construction companies to complete the work remaining on the project. Engineering efforts have been billed through the construction phase services portion of the Agreement for the extended project schedule.

CC: Andy Bagas
Paul Anderson



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Department of Correction
Division of Resource Management
21 Needham Street
Norfolk, Massachusetts 02056
(508) 544-5301
www.mass.gov/doc



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

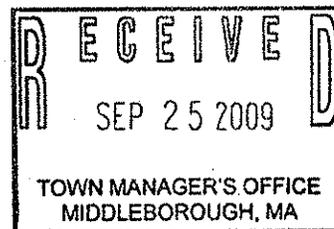
Kevin M. Burke
Secretary

Harold W. Clarke
Commissioner

James R. Bender
Ronald T. Duval
Veronica M. Madden
Deputy Commissioners

September 23, 2009

Mr. Charles J. Cristello
Town Manager
Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02346



**Re: Request for Meeting
Temporary Water Service
MCI Bridgewater**

Dear Mr. Cristello:

The intent of this letter is to follow up on informal discussions between the MA Department of Correction (DOC), Division of Resource Management and representatives from the town of Middleborough Water Department.

MCI-Bridgewater is under an Administrative Consent Order (ACO) from the Department of Environmental Protection due to unacceptable levels of lead in its water distribution system. In the last few years, MCI Bridgewater has exceeded the Action Limit for lead under the Federal and State requirements for the Lead and Copper Rule. Elevated lead levels in water samples began approximately the same time Taunton's Water Treatment facility switched their secondary disinfectant from free chlorine to chloramines. Water quality testing confirms that chloramines and unstable water chemistry may be the contributing factor to the elevated lead levels at MCI-Bridgewater.

Since January, the DOC, with the help of a Water Quality Engineer from Weston and Sampson has been conducting extensive on site water quality tests and have commissioned a water quality study to identify solutions to allow MCI-Bridgewater to comply with the Lead/Copper rule.

At a meeting with DEP officials this August, a consensus was reached for MCI-Bridgewater to conduct a year long full scale demonstration study with water that utilizes only free chlorine as the secondary disinfectant to verify that this would rectify the situation.

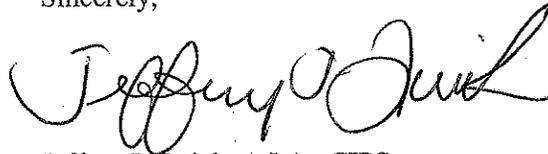
Therefore, based on the proximity of Middleborough's water distribution system to MCI-Bridgewater we are requesting a meeting with the Town to discuss the feasibility of providing water to MCI-Bridgewater on a temporary basis so the DOC can conduct the full-scale Demonstration Study.

The MCI-Bridgewater complex has an annual daily consumption of 245,000 gallons per day with the maximum demands occurring during the winter. The existing system has two water storage tanks (a 1.250 MG storage tank and a .500 MG elevated tank). The existing water tanks and pumping system are more than sufficient to meet peak and fire flow demands at the MCI Bridgewater complex and therefore providing flexibility that would eliminate the need to draw water from the Middleborough Water Distribution System during their peak demands.

We are requesting that you or your representative contact Margaret Bacon, PE, at the Department of Corrections Division of Resource Management Office, 978-369-8899 ext. 10 or Me Bacon@doc.state.ma.us to set up a suitable meeting time and location so we can discuss this matter with you and your staff in more detail.

In advance we thank you for your co-operation in this matter.

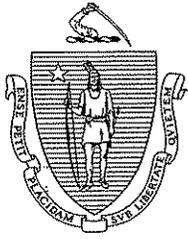
Sincerely,



Jeffrey J. Quick, A.I.A., CIPS
Director
Division of Resource Management

cc: William Nunnery, PE (Weston & Sampson)
Margaret E. Bacon, P.E., Deputy Director, DRM
File: S:\Resource Management\Bridgewater Correctional Complex\DRM 2009-19 DEPA Admin Consent Order\m-boro temp water req.doc

CC: andy bagas
paul andrews



The Commonwealth of Massachusetts
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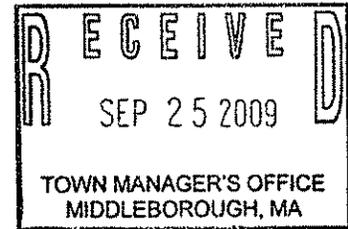
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Sincerely,



Jeffrey J. Quick, A.I.A., CIPS
Director
Division of Resource Management

cc: William Nunnery, PE (Weston & Sampson)
Margaret E. Bacon, P.E., Deputy Director, DRM
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Incorporated 1669
336 Years of Progress



CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough
Massachusetts

508-947-0928
FAX 508-946-2320

Town Manager

MEMORANDUM

To: Board of Selectmen

From: Charles J. Cristello, Town Manager *ca*

Date: October 23, 2009

Subject: *Rules and Regulations for Mobile Home Park Accommodations, Rents and Evictions*

I have attached a revised set of draft Rules and Regulations for Mobile Home Park Accommodations, Rents, and Evictions based on the comments we received in writing and at the public hearing last month. Town Counsel Daniel Murray and I reviewed all the comments this week and made the following revisions, highlighted in yellow, that clarify and improve upon the language in the initial draft:

- Section 1 B. establishes a threshold for capital improvements
- Section 1 I. distinguishes between rent and fees for optional or discretionary activities
- Section 1 M broadens the definition of operating income
- Section 3 requires an updated registration annually, copies to be provided to tenants if requested in writing
- Section 3.6 allows for the submittal of a representative Rental Housing Agreement rather copies of each agreement in a mobile home park.
- Section 7 makes it clear that a capital improvement rent increase will cease after the improvement is paid off.
- Section 9 I. eliminates the requirement to submit a current appraisal
- Section 10 A. 5 establishes that an eviction hearing will be noticed within twenty one (21) days of application

There are also some minor wording clarifications that you will notice in yellow.

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

**TOWN OF MIDDLEBOROUGH RULES AND REGULATIONS FOR MOBILE HOME
PARK
ACCOMMODATIONS, RENTS, AND EVICTIONS**

In accordance with Chapter 703 of the Acts of 1985, after hearing in accordance with Mass. Gen. Laws, Chapter 30A, Sec. 2, the Rent Board hereby adopts the following rules and regulations for the purpose of regulating rents, minimum standards for the use or occupancy of mobile home park accommodations, and evictions with respect to mobile home park accommodations in mobile home parks within the Town of Middleborough.

Section 1 – Definitions:

- A. Board:** The Rent Board is the Town of Middleborough Board of Selectmen established by a vote under Article 5 of the warrant for the Middleborough Town Meeting of March 10, 1986.
- B. Capital Improvements:** Any substantial rehabilitation, addition or improvements which appreciably add to the value of the property or prolongs its life or both, but not including ordinary repairs and maintenance, **provided such rehabilitation, addition or improvements shall cost at least \$5,000 and have a useful life of at least five (5) years.**
- C. Mobile Home:** A structure, built in conformance to the National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A mobile home is also known as a “manufactured home” as defined in General Laws Chapter 140, Section 32Q.
- D. Mobile Home Park:** A lot or tract of land used for the site of three or more mobile homes occupied for dwelling purpose and licensed pursuant to General Laws Chapter 140, Section 32B. A mobile home park is also known as a manufactured housing community as defined in General Laws Chapter 140, Section 32F.
- E. Mobile Home Park Accommodations:**
1. The lot or space in a Mobile Home Park upon which is located a Mobile Home not owned by the holder of the license of said park and used and occupied as a one family dwelling unit or available for such use and occupancy.

2. A Mobile Home in a Mobile Home Park owned by the licensee of a mobile home park and used and occupied by a Tenant as a one family dwelling unit or available for such use and occupancy.
- F. **Housing Services:** Services or facilities provided by an Owner or required by law or by the terms of a rental housing agreement to be provided by an Owner to a Tenant in connection with the use and occupancy of any mobile home park accommodation, which may include without limitation: Services, furniture, furnishings and equipment, repairs, decorating and maintenance, provisions of light, heat, hot water, cold water, telephone, kitchen, bath and laundry facilities and privileges, use of yard and other common areas, janitor service, refuse removal, parking facilities, lawn water sprinkler services, vehicle or equipment storage, and any other benefit, privileges or facility connected with the use or occupancy of any mobile home park accommodations.
- G. **Owner:** The individual who holds a license granted pursuant to Mass. Gen. Laws, Chapter 140, Section 32B, to conduct, control, manage or operate directly or indirectly a mobile home park in any manner including, but not limited to, a partnership, corporation or trust.
- H. **Operating and maintenance expenses:** The reasonable expenses of operating and maintaining a mobile home park including, but not limited to, maintenance, repair, management fee, real estate broker's commission to someone other than the Owner, insurance, utilities not included within the rent, but not including mortgage interest and amortization or an allowance for obsolescence or depreciation.
- I. **Rent:** The consideration, including any bonus, benefit, gratuity or charge contingent or otherwise, demanded or received for or in connection with the use or occupancy of a mobile home park accommodation or for housing services or for the transfer of a lease of a mobile home park accommodation, exclusive of the license fee collected by the Owner and paid to the Town under General Laws Chapter 140, Section 32G; excluding therefrom, however, the consideration paid by a shareholder of a Cooperative Housing Corporation organized pursuant to General Laws Chapter 157B for a share of said corporation, a propriety lease, and any maintenance fees associated therewith. Rent shall include fees and charges for services assessed by the owner to a Tenant by an Owner ~~whether or not the services may be provided to a Tenant at the option of the Tenant~~, **but not for fees charged for discretionary or optional activities and/or services which may be offered for recreational activities, conveniences, etc.**
- J. **Rental Housing Agreement:** An agreement between an Owner and a Tenant for use and occupancy of a mobile home park accommodation and/or housing services, specifically excluding, however, any agreement for occupancy of a mobile home park accommodation between a Cooperative Housing Corporation as a defined in Massachusetts General Laws Chapter 157B and a shareholder of said corporation.

K. **Tenant:** A tenant, lessee, or other person entitled under the terms of a rental housing agreement with the Owner for the use and occupancy of any mobile home park accommodation; excepting for this definition, however, any person who occupies a mobile home park accommodation pursuant to a proprietary lease as defined in General Laws Chapter 157B at Section 4, as a shareholder of a Chapter 157B Cooperative Housing Corporation.

L. **Fair Market Value:** Fair Market Value of property shall mean the current assessed valuation of the property or other valuation that the Board on basis of evidence presented before it considers more appropriate to the circumstances of the case before it. The Board shall evaluate all evidence presented by any party regarding the fair market value.

M. **Fair Net Operating Income:** Fair net operating income shall be that income which will yield a return to the Owner of a Mobile Home Park, after all reasonable operating expenses, on the fair market value of the Mobile Home Park, equal to the debt service rate for similar-type property generally available from institutional first mortgage lenders, **a reasonable fair-market yield spread over the debt service rate** or other rates of return that the Board on the basis of evidence presented before it considers more appropriate to the circumstances of the case. The Board shall evaluate all evidence presented by any party regarding the fair net operating income.

Section 2 – Maximum Rent:

- A. The maximum rent for mobile home park accommodations which a park owner may charge a tenant shall be as follows:
1. For mobile homes which are in existence, occupied by a tenant or occupant and subject to a rental housing agreement on the date these Rules and Regulations are adopted, the maximum rent shall be the rent set forth in Addendum A.
 2. For new mobile homes which have not been previously sold by the park owner and are not occupied by a tenant or occupant under a rental housing agreement on the dates these Rules and Regulations are adopted, the maximum rent shall be the rent set by a rental housing agreement between the park owner and the tenant or occupant of the home. The maximum rent may be higher or lower than the maximum rent for other mobile homes in the park when the rental housing agreement is made.
 3. For mobile homes which were previously sold by the park owner and/or occupied by a tenant or occupant under a rental housing agreement which is no longer in effect, the maximum rent shall be the rent set by a new rental housing agreement between the park owner and the new tenant or occupant of the home. The maximum rent shall not exceed the following:

- a) If the park owner is offering new mobile homes for sale at the time the new rental housing agreement is made, the maximum rent shall not exceed the rent then being offered to purchasers of new mobile homes.
 - b) If the park owner is not offering new mobile homes for sale at the time the new rental housing agreement is made, the rent shall not exceed the highest rent then being paid by other tenants/occupants in the park.
4. Maximum rent for mobile home park accommodations may be adjusted from time to time by the Board pursuant to Section 4 and Section 5 of these Rules and Regulations. Maximum rent for mobile home park accommodations may also be adjusted under a rental housing agreement which provides for a rent adjustment based on application of a yearly consumer price index factor as described in Section 4-D.
- B. No increase in maximum rent for a mobile home accommodation shall be effective unless:
1. The increase is approved by the Board pursuant to Section 4 and Section 5.
 2. The increase is based on a yearly consumer price index factor approved by the Board; or
 3. The increase is provided for by a yearly consumer price index factor under a rental housing agreement.

Section 3 – Registration:

The Board shall require registration of all mobile home park accommodations on forms approved by it within ninety (90) days of the approval of these regulations **and annually on June 30th**. **A copy of registration shall be provided to tenants of the mobile home park upon their written request.** Any new or additional accommodation must be registered prior to occupancy thereof. No petition for an upward adjustment of maximum rent shall be accepted by the Board until all statements and information required to be filed under this Section 3 have been filed and any such petition prior to such filing shall not be entertained by the Board. The Board shall require the following:

1. The legal name, address and business telephone of the owner;
2. The identification of each unit of mobile home park accommodations;
3. The legal name, address and business telephone of the manager;
4. The identification of each Tenant in the mobile home park, including the date the Rental Housing Agreement began, the date on which it terminates, or whether it is a tenancy at will, and the amount of rent due each month;

5. The lot type, if necessary, to distinguish different types of lots for which the owner charges different rents, including the description of the basis(es) for charging the rent differential;
6. A copy of all Rental Housing Agreements **(or a copy of a representative Rental Housing Agreement which is substantially the same for all mobile home park accommodations involved in the registration)** and any rules and regulations applicable to each Rental Housing Agreement. The owner shall update the registration annually by June 30th of each year.

The registration forms shall be signed by the Owner under the penalties of perjury.

Section 4 – Adjustment of maximum rent:

- A. The Board shall, by order or regulation as provided in Section 5, make such individual or general adjustments, either upward or downward, of the maximum rent established by Section 2 for any mobile home park accommodations as may be necessary to remove hardships or correct inequities for both Owner and Tenant, and make adjustments for capital improvements / equipment and in so doing shall observe the principle of maintaining rents at levels which will yield to Owners a fair net operating income for such mobile home park accommodations.
- B. The Board by regulation may establish further standards and rules consistent with the foregoing. The Board may promulgate a schedule of standard rental increases or decreases for improvement or deterioration in specific services and facilities.
- C. Notwithstanding any other provision of this section, the Board may refuse to grant an upward adjustment of maximum rent if it determines that the affected mobile home park accommodation does not comply with the State Sanitary Code or the Town of Middleborough codes or by-laws or any other applicable code, ordinance or state law regulating the conditions of housing accommodations, and if it determines that such lack of compliance is due to the failure of the Owner to provide normal and adequate repairs and maintenance. The Board may refuse to make a downward adjustment of maximum rent if it determines that the Tenant is more than thirty (30) days in arrears in payment of rent unless such arrearage is due to a withholding of rent under the provisions of Section 8A of Chapter 239 of the General Laws or if the Tenant is in substantial violation of any enforceable rule of the mobile home park or if the Tenant is in violation of any laws or ordinances which protect the health and safety of other mobile home park residents.
- D. In setting or adjusting rent for mobile home park accommodations under Section 4 and Section 5, the Board may approve yearly adjustments of the rent based on application of a consumer price index factor as described in this subsection. A rental housing agreement may provide for yearly adjustments of the rent based on application of a consumer price index factor as described in this subsection. The yearly consumer price index factor authorized by these Rules and Regulations shall be based on the Consumer Price Index for All Urban Consumers (CPI-U): U.S. City

Average, All Items (unadjusted) (1982-84=100) published by the Bureau of Labor Statistics, U.S. Department of Labor, or if such index is no longer published, such other or successor index which is approved by the Board. Yearly adjustments in rent based on a consumer price index factor shall be calculated by determining the increase or decrease in the index by comparing the current monthly index ("current CPI") to the monthly index for the same month one (1) year prior to the month when the yearly adjustment is being determined ("prior CPI"). The difference between the current CPI and the prior CPI shall be divided by the prior CPI to derive a percentage increase or decrease. The percentage increase or decrease shall then be multiplied by the existing rent to determine the amount of the rent increase or decrease. For example, if the current CPI is 3% more than the prior CPI, the existing rent will increase by 3%.

- E. The Board in adjusting maximum rent for a mobile home park may equalize rent for all substantially similar or comparable units mobile home park accommodations in those cases where the maximum rent which is to be adjusted is not equalized before adjustment.

Section 5 – Rent Adjustment Proceedings:

- A. **Individual Adjustment of Maximum Rent.** The Board shall consider an adjustment of rent for an individual mobile home park accommodation upon receipt of a petition for adjustment filed by the Owner or Tenant of such mobile home park accommodation or upon its own initiative. Such petition shall be made on a form approved by the Board. The Board shall notify the Owner, if the petition was filed by the Tenant, or the Tenant, if the petition was filed by the Owner, of the receipt of such petition and of the right of either party to request a hearing in writing within thirty (30) calendar days of receipt of such notice or the Board may schedule a hearing on its own initiative. If a hearing is timely requested by either party or if the action is undertaken on the initiative of the Board, notice of the time and place of the hearing shall be furnished to the Owner and Tenant and the hearing shall be conducted before the Board. The Board may consolidate petitions and actions relating to mobile home park accommodations in the same mobile home park, and all such petitions and actions may be considered in a single hearing.
- B. **General Adjustment of Maximum Rent by Regulation.** Upon application or petition by an Owner or Tenant, the Board may make a general adjustment by percentage or otherwise of the rental levels for mobile home park accommodations subject to such conditions, if any, as the Board shall determine. Prior to making such adjustment, a public hearing shall be held before the Board. Notice of the time, place, and purpose of such hearings shall be published at least once in a newspaper having a general circulation in the Town, and posted in the Town Hall, both not less than seven (7) days prior to such hearings.

- C. **Limitation of Petition for Individual Adjustment.** Notwithstanding any other provision of this section, the Board may, without holding a hearing, refuse to adjust the maximum rent for an individual mobile home park accommodation and may dismiss any petition for adjustment if a decision has been made with regard to the maximum rent for such mobile home park accommodation within twelve (12) months or if the Board finds that the petition for adjustment is filed for purposes of harassment or for other purpose not intended herein.
- D. Hearing, conducted pursuant to Section 5 above shall be conducted as adjudicatory hearings in accordance with the provision of Massachusetts General Laws Chapter 30A, Sections 10, 11 and 12. Rules and procedures for the conduct of said hearings shall be those rules and regulations outlined in 801 CMR 1.00 et seq. for the conduct of adjudicatory hearings before State administrative agencies, which the Board hereby adopts and shall implement as its own rules and regulations for the conduct of adjudicatory proceedings. Within thirty (30) days of the filing of a petition, the Board shall meet and determine whether to proceed on such petition pursuant to the formal or informal rules as outlined in 801 CMR 1.00 et seq. or under other procedures and shall indicate its determination as to which rules and procedures shall be followed in its notice of agency action to affected parties, and in the public notice of said hearing.
- E. All decisions made by the Board under this Section shall be rendered in writing within 30 (thirty) days from the date the Board closes the public hearing on the petition.
- F. The Board shall levy a filing fee upon any and all parties that make application to request a rent adjustment for a mobile home accommodation. The filing fee for any individual rent adjustment requested pursuant to Section 5 of these rules and regulations shall be \$50.00. The filing fee for a general rent adjustment pursuant to Section 5B of these regulations shall be ~~\$10.00 per unit~~ **\$300.00** for which a general adjustment is requested. The applicant for a **general rent adjustment** shall also pay the sum of \$100.00 to cover advertising costs. Filing fees and advertising costs shall be paid by check payable to the Town of Middleborough at the time of the filing of a petition.

Section 6 – Incorporation of Administrative Procedure Act and 801 CMR 1.00

The provisions of Massachusetts General Law Chapter 30A including those provisions giving agencies the power to issue, vacate, modify, and enforce subpoenas shall be applicable to the Board as if said Board were an agency of the Commonwealth, as well as, those provisions relating to judicial review of an agency order. The rules and regulations at 801 CMR 1.00 et seq. as adopted by the Secretary of Administration for Massachusetts for application and use by state agencies for the conduct of both formal and informal adjudicator hearings shall be the rules and regulations and procedures adopted for use before The Board for the hearing of all petitions for rent adjustment, and for eviction, unless at the time of the filing of the petitions and before the notice of agency action shall be published, the Board shall by vote determine to use an

alternative procedure which nonetheless shall be consistent with the provisions of Massachusetts General Laws Chapter 30A, Section 10, 11, and 12.

Section 7 – Capital Improvements and Capital Equipment Rent Adjustment

A. Pre-Approval

A park owner or management may file a petition for the purpose of obtaining pre-approval from the Board for an increase in maximum rent to offset the cost of a substantial and necessary capital improvement or purchase of capital equipment. The procedures set forth in Section 5 above for individual rent adjustment petitions shall be used for capital improvement or capital equipment petitions. The park Owner or Management shall file with the petition for pre-approval any and all information relating to the cost of and need for financing the capital improvement or capital equipment purchase. Any pre-approval given by the Board shall also be deemed an approval of such financing. The Board shall consider whether the improvement is necessary and the reasonableness of the cost of the improvement in considering a rent increase to support the cost of the improvement. The rent increase shall be conditioned upon satisfactory and final approval of the improvement.

B. Final – Approval

Upon completion of capital improvement or purchase of capital equipment for which a park owner or management has received pre-approval, the Board may give final approval of the increase in maximum rent(s). Final approval shall only be given by the Board upon submission of satisfactory evidence by the park owner or management that the capital improvement has been satisfactorily completed or the capital equipment has been purchased and that the costs incurred for such improvement are equal to or exceed the cost upon which pre-approval was given. In the event that such costs are less than the original estimated costs, the maximum rent shall be increased only to the extent that it reflects such costs. The Board shall hold a public hearing upon submission by the park owner or management of evidence of completion of the capital improvement or purchase of equipment. **A capital improvement/capital equipment rent increase approved by the Board shall be identified and separated from the remainder of the rent charge and eliminated from the rent charge when the approved rent increase has produced income equal to the cost of the improvement or equipment including the cost of debt service incurred in connection with such improvement or equipment.**

Section 8 – Conference of Jurisdiction

The Wareham Division of the District Court Department shall have original jurisdiction concurrently with the Superior Court, of all petitions for review brought pursuant to Section 14 of Chapter 30A of the General Laws. The Superior Court shall have jurisdiction to enforce Chapter 703 of the Acts of 1985 and may restrain violations thereof.

Section 9 – Information to be supplied in Connection with Petitions for Adjustment:

Upon receipt by the Board of a petition for adjustment of maximum rent by an Owner, the Board may request documents, which information may include but not be limited to:

- A. Reviewed Financial statements certified by a CPA for the three (3) years preceding the year of the filing of the petition; such statements should clearly set forth income, sources of income, and a detailed breakdown of operating expenses.
- B. An interim updated financial statement showing income and operating expenses for the current year.
- C. A complete and current balance sheet.
- D. A statement of the number of employees, job titles and job descriptions of any employee whose employment relates to the affected mobile home park.
- E. Current capital improvements and dates of completion.
- F. Proposed capital improvements and proposed dates of completion.
- G. Proposed budget for the year in which the increase is to be effective.
- H. A statement of the rate of return sought and the assessed valuation of the property.
- I. ~~A statement of the fair market value of the park property supported by a current appraisal by a certified appraiser.~~

In any case where the Owner seeking an upward adjustment in rent owns and operates more than one mobile home park, all financial documentation submitted shall pertain solely to the operation of the mobile home park for which the upward adjustment is sought.

Upon receipt by the Board of a petition for a downward adjustment of maximum rent, the Board may request documents which information may include but not be limited to:

- A. Written reason for such downward adjustment; and
- B. Any evidence financial or otherwise, supporting such downward adjustment.

Section 10 – Evictions:

- A. Pursuant to the provisions of General Laws, Chapter 140, Section 32J, as amended, no Owner shall terminate any lease or tenancy and/or bring an action to recover possession of a mobile home park accommodation unless;
 - 1. the Tenant has failed to pay the rent to which the Owner is entitled;
or
 - 2. the Tenant is in substantial violation of an enforceable rule of the mobile home park; or
 - 3. the Tenant is in violation of a law or ordinance which protects the health or safety of other mobile home park residents; or
 - 4. there is a discontinuance in good faith by the Owner of the use of part or all of the land owned and licensed as a mobile home park subject to any existing contractual right between the Owner and the Tenant located in the mobile home park. No such discontinuance shall be valid for any mobile home sold by the licensee and for which a mobile home site was made available at the time of the said

sale by the licensee for a period of five (5) years from the date of said sale.

- B. The Owner must provide the Board with satisfactory evidence that all notice requirements as to any alleged violation have been provided to the Tenant in a timely manner and the Tenant has failed to cure the alleged violation in a timely manner, all as set forth in General Laws, Chapter 140, Section 32J as amended.
- C. 1. An Owner shall file an application in duplicate for obtaining a certificate of eviction with a filing fee of \$50.00 for each unit for which eviction is sought. The fee shall be paid by check or money order made payable to the Town of Middleborough and presented at the time of filing the application for a certificate of eviction.
2. An application for certificate of eviction shall be signed by the Owner under the pains and penalties of perjury and shall describe in complete detail the proposed basis (or bases) for eviction and the facts in support of such basis (or bases). A copy of the lease and the rules and regulations of the mobile home park Owner shall be submitted with the application where the Tenant is claimed to have violated either the lease or the park regulations.
3. An application for certificate of eviction which fails to comply with the foregoing provisions of this paragraph "C" shall not be processed until such defects have been corrected or removed.
4. The Board shall, by certified mail, return receipted requested, forward to the Tenant or Tenants listed on the application for a certificate of eviction and to the park Owner a copy of the application for a certification of eviction as received, together with a notice of the date, time and place of the hearing.
5. **The Board shall send a notice of hearing by mail with respect to an application for a Certificate of Eviction within twenty-one (21) days of receipt of an application.** An application or an amended application for eviction shall be scheduled for a hearing not less than ten (10) days or more than **twenty-one (21) days** from the date on which the notice of hearing is mailed as aforesaid by the Board to the parties. Hearings shall be conducted by the Board and shall be adjudicatory hearings following the procedures set forth in Massachusetts General Laws, Chapter 30A.
6. A request for postponement of the hearing will be granted for good cause shown.
7. At the hearing the Owner shall have the burden of establishing the facts and basis for the eviction. Testimony shall be taken under oath and any party shall have the right to cross-examine witnesses of the other party and to introduce evidence in support of its position.

8. A written order granting or denying a certificate of eviction shall be issued by the Board within **thirty (30)** days of the date of the final hearing and its order denying a certificate of eviction shall be a defense in any summary process action commenced by the Owner against the Tenant or Tenants named on the application for a certificate of eviction.

D. No Owner shall seek recovery of possession of a mobile home park accommodation in a summary process-eviction case unless the Board issues a certificate of eviction therefor.

E. The provisions of this section shall be construed as additional restrictions on the right to recover possession of a mobile home park accommodation. No provision of this section shall entitle any person to recover possession of such a mobile home park accommodation. Upon a decision of said Board concerning the granting or withholding of a certificate of eviction, either party concerned may appeal to the Wareham Division of the District Court Department or the Plymouth Division of the Superior Court Department.

Section 11 – Severability:

If any provision of these rules and regulation or the application of such provision to any person or circumstance shall be held invalid by a final judgment of a court of competent jurisdiction, the validity of other provisions or the application of such provision to other persons or circumstances shall not be thereby affected.

Section 12 – Forms

Any forms adopted pursuant to the provisions of these rules and regulations shall be submitted to the Board under the pains and penalties of perjury.

◆◆◆ LAW OFFICE OF CRAIG MEDEIROS ◆◆◆

Ace Tax Service ■
Tax Preparation and Consulting

Attorney-At-Law ■
Real Estate, Estate Planning and Tax Law

Ace Real Estate
Real Estate Sales and Development

September 18, 2009

Town of Middleboro Board of Selectmen
Attn: Jackie Shanley, Secretary
Nickerson Avenue
Middleboro, MA 02346

RE: Earth Removal Permit #07-3
Ryan Vlaco

Dear Members of the Board,

I am writing on behalf of my client, Ryan Vlaco, concerning the above-referenced earth removal permit, a copy of which is attached hereto. With respect to such permit, I hereby respectfully request the following:

- 1) That such permit be amended to include only Map 97 Lot 2655 as shown on the attached plan (also being shown as remaining land of 11.8+/- acres on said Plan).

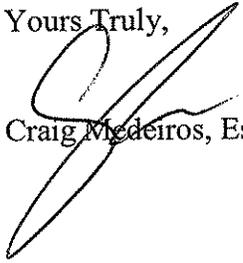
The aforesaid earth removal permit purportedly covers Map 97 Lot 3478, as shown on the Assessors Maps of the Town of Middleboro, which includes Lots 101 through 108, inclusive, as well as the remaining land of 11.8+/- acres as shown on the attached plan. However, my client has only owned and conducted earth removal upon Lot 105, Lot 106, and the remaining land of 11.8+/- acres as shown on the attached plan.

With respect to Lots 105 and 106 my client respectfully requests a partial certificate of compliance with respect to such Lots. The work to be performed upon such Lots has been completed and single family residences have been constructed on such parcels. However, in order to convey such properties, my client needs to obtain a release of the earth removal permit which currently encumbers such lots.

- 2) That such permit be renewed for an additional one year period at the discretion of the Board of Selectmen, as provided for in Paragraph 1 of the above-referenced permit.

If you have any further questions or concerns regarding the same please do not hesitate to contact me. I sincerely appreciate your prompt assistance in this matter.

Yours Truly,


Craig Medeiros, Esquire

Incorporated 1669
340 Years of Progress



CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough

Massachusetts

Department of Public Works

48 Wareham Street

Middleborough, MA 02346

Phone 508-946-2480 Fax 508-946-2484

Andrew P Bagas
D P W Director

DIVISIONS

Highway

Sanitation

Insect & Pest Control

Tree Warden

Wastewater

Water

October 14, 2009

TO: Board of Selectmen

From: Andrew Bagas

A handwritten signature in black ink, appearing to read "Andrew Bagas".

RE: Ryco Gravel Removal permit # 07-3 Pine Street

Ryan Vlaco is requesting a partial certificate of compliance with respect to his earth removal permit on Lots 105 and 106. Earth removal activity is still taking place on the remaining land.

At the rear of Lot #106, earth material that could be classified as existing topsoil has been spread. The material and vegetation do not appear to meet Seeding & Mulching conditions of his permit.

At the rear of Lot #105, the final grading in the rear yard of the newly constructed dwelling does not match the proposed finished contours as shown on the earth removal permit. The hill with the 3:1 slope has been removed and it is now a gradual slope. Although I do not find any adverse effects to this final grade, it is necessary that I point this out to the Board. Lot #105 does not appear to meet Seeding & Mulching conditions. Also, there is some construction material that needs to be removed from the rear of the lot near the irrigation reservoir.

Cc: Craig Medeiros

Jacqueline Shanley

From: Andy Bagas
Sent: Wednesday, September 09, 2009 2:47 PM
To: Jacqueline Shanley
Subject: RE: Vlaco E.R. Conditions

Jackie: As a follow-up to Mr. McLeod's complaint, I inspected the site. My conversation today with Ryan Vlaco was that he did not realize his ER permit had expired. He will file for an extension. Also, a recent field survey revealed that he did not remove all the material that was permitted, so he was clearing more trees along the ridge to remove the gravel so that the cranberry bog could be constructed. He stated that the trees he is cutting are more than 20 feet from the abutters' properties. Regarding the complaint about tires, PVC pipe, etc. being buried under the sloping material, he stated he would remove it. Andy

From: Jacqueline Shanley
Sent: Wednesday, September 09, 2009 10:48 AM
To: Andy Bagas
Subject: Vlaco E.R. Conditions

Andy,

See attached.

Jackie



Town of Middleborough

CONSERVATION COMMISSION
MEMORANDUM

TO: Board of Selectmen
CC: Charlie Cristello, Town Manager
Jeanne Spalding, Health Officer
Andy Bagas, DPW Superintendent
Robert Whalen, Building Commissioner
Planning Board
FROM: Patricia J. Cassady, Conservation Agent 
RE: Complaint received regarding Earth Removal Permit #07-3 (next to Order of Conditions DEP file # 220-1070)
DATE: September 9, 2009

The Conservation Department received two complaints regarding property owned by Mr. Ryan Vlaco for land off of Pine Street (Map 97, Lot 3478) that trees were being cut and there was construction debris dumped. I conducted a site visit today at 1 pm to see if the alterations were in conservation's jurisdiction.

Currently there is an Order of Conditions for the abutting property (Map 97, Lot 2655), which Mr. Vlaco also owns and is a retreat lot where there is an existing house. This Order of Conditions is under DEP File #220-1070 and was issued September 4, 2008 and is valid till September 4, 2011.

The earth removal location (Map 97, Lot 3478) is out of the Conservation Commission's jurisdiction, however we are still concerned that there is unstable ground that could eventually end up within our jurisdiction, that being within 100-feet of a wetland and within 200-feet of the Weweantic River. Silt was observed within the ditches to the existing bog in the front of Mr. Vlaco's house. Some debris was observed within the location of the earth removal.

The earth removal permit expired on April 2, 2009. I have spoken to Mr. Vlaco on this matter as well as the concerns that the commission may have if the site is not stabilized and he agreed that he needs to stabilize the area, update his earth removal permit and resolve the other issues with the neighbors.

If you have any questions regarding this matter, please give the office a call.

pjc

Oct. 23. 2009 1:25PM

Town Manager Middleborough

No. 2486 P 1

Attn: Susan



Town of Middleborough
Massachusetts

BOARD OF SELECTMEN

APPLICATION FOR LICENSE
(PLEASE TYPE OR PRINT CLEARLY)

DATE 10/22/2009

NAME OF APPLICANT Ryan Vlass

ADDRESS OF APPLICANT P.O. Box 107, 17 Pine Street, Middleboro, MA 02346

ASSESSORS MAP & LOT 97-2655

NAME OF BUSINESS N/A

OWNER OF PROPERTY TO BE LICENSED Ryan Vlass

ADDRESS OF PROPERTY TO BE LICENSED 17 Pine Street, Middleboro, MA

ASSESSORS MAP & LOT 97-2655 (Lots 97-3433 and 97-3422 are requested to be released).

TYPE OF LICENSE REQUESTED: (Check One)

2nd Hand Furniture _____
Class I License _____
Class III License _____
Common Victualer _____

2nd Hand Clothing _____
Class II License _____
Liquor License _____
Other Earth Removal Permit _____

Anticipated Start Date for Business October 27, 2009

Hours requested: Monday Through Friday 7:30 a.m. to 4:30 p.m.

Has the Applicant previously held a similar license in the Town of Middleborough or elsewhere? If yes, explain:

Yes. This is an application to renew and revise an existing earth removal permit.

Signature [Signature]

DATE OF HEARING 10/26/2009

APPROVED/DENIED

Do not write below line: To be Completed by Treasurer/Collector:

Please inform this department, as well as the Board of Selectmen, as to whether or not the above listed property owner/applicant/petitioner owes the Town of Middleborough any outstanding taxes and/or municipal charges that remain unpaid for more than one year.

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? No

[Signature]

CRANBERRY CAPITAL
OF THE WORLD



Phone: 508-946-2405

Fax: 508-946-0058

Town of Middleborough

Massachusetts

BOARD OF SELECTMEN

Patrick E. Rogers

Muriel C. Duphily

Marsha L. Brunelle

Alfred P. Rullo, Jr.

Stephen J. McKinnon

MEMORANDUM

TO: Board of Selectmen

FROM: Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

DATE: 10/23/09

RE: Ryan Vlaco Earth Removal - Trucks Without Permit Identification

A handwritten signature in black ink, appearing to read "Jackie Shanley".

Please be advised that David Phinney, 39 Pine Street, called to say that Mr. Vlaco's trucks do not have the required permit stickers on them.

To: The Town of Middleboro
From: Dennis & Donna McLeod
Re: Excavation at 17 Pine Street
Middleboro Ma
Date: Sept 23, 2009

To whom it May Concern,

We are writing in regard to a situation that my wife and I are very concerned about. Approximately two years ago an excavation permit was granted to Ryco excavation corp. that had purchased land abutting our property and that of Glen And JoAnn Hayes.

Ryco Corp. was granted this permit on the premise that the finished product would be a cranberry bog. After 2 years there is no sign of it, clearly Ryco Corp was only interested in excavating the very profitable sand, the existing cranberry bogs haven't even been maintained. In addition, one would question the real objective with this project once you have seen the condition of the existing cranberry bog. This is clearly not a cranberry farmer with experience or concern for their cranberry crops.

In this two-year period we have had to suffer through seeing a beautiful forest clear-cut and destroyed, and endless stream of 18 wheel dump trucks in and out of this property and up and down Pine St. Bulldozers and other related construction devises, creating endless dust and noise turning this property into what is now a sand and gravel pit. Giant mountains of loom and other materials are what we now see looking out from our back yards. In addition, construction vehicles are left on the site causing the potential for fuel leaks in soil that could not only contaminate our wells but also on land that will produce cranberries.

This has created a very dangerous condition, excavation in excess of fifteen feet has created potential for cave in conditions because of the soft sand and the tree stumps that have been buried as fill. Children being curios are naturally drawn to sights like this which. My wife has attempted to verbally warn our neighbors of the dangers so tragedy could be averted. The danger warning sign's, which would only be understood by child that could read, have long disappeared only to be put back up recently when Ryco was questioned about his intentions.

Backfilling and sloping of this site has been very slow and upon closer inspection we spotted construction debris being buried. Debris included tree stumps, construction stairs, old steel fencing, rusted barrels, PVC pipes, rubber tubes and construction wrappings as well as old automobile tires. Please consider the fact that we noticed these conditions very recently. We are extremely concerned about other areas where backfilling had

already been completed before we realized what was happening. Most of the work has been completed when we, along with most of our neighbors, are at work during the day.

This was reported to the conservation committee and the Board of Health and it is our understanding that the visible debris was to be taken care of by Ryco.

Up to this point we have remained silent as we felt the Town of Middleboro would oversee the project and ensure what was proposed to the Board of Selectman would be completed within the specifications presented. On or about the September 8th we came home to find even more trees clear cut, with no notice to abutters to within 25 ft of our property lines. We along with many neighbors questioned the tree removal crew to find out that Ryco intends to excavate even more sand because of a surveying error. Also, during this conversation the tree removal crew explained to us that now that the additional trees have been removed, the remaining trees on our land could be lost due to the lack of wind protection in a storm.

How can land be surveyed three times since we purchased our beautifully wooded area be incorrectly surveyed? We find this totally unacceptable and we intend to have our property surveyed to determine how there could have been an error.

Ryco's excavation permit has been expired; we have learned that he would have to apply for an extension of the existing permit.

We would respectfully ask that this be denied. We would also request a cease and desist order for all further excavation and furthermore request a full inspection of the entire site to ensure there are no further environmental risks associated with this project based on the proximity to our water wells in the neighborhood. Please note our water well is in close proximity to the debris spotted recently with a depth of only approximately 20 ft deep

We would also ask that the promised bog be constructed on the existing land that has already been cleared in a timely matter as promised. If possible, we would also like to explore the possibility of requiring making Ryco Corp. put up a bond to ensure prompt compliance in this matter.

Thank you in advance for your support in this urgent matter.

Dennis and Donna McLeod
47 Whispering Pines Dr
Middleboro, Ma

A handwritten signature in cursive script, appearing to read "Dennis and Donna McLeod". The signature is written in dark ink and is positioned at the bottom of the page, below the typed name and address.

March 20, 2007

Kevin Forgue
GAF Engineering, Inc.
266 Main Street
Wareham, MA 02571

RE: Request for Earth Removal Permit
Vlaco – Pine Street, Middleboro

Dear Mr. Forgue,

At their meeting held on Monday, March 19, 2007 the Board of Selectmen voted to approve the application filed by GAF Engineering, Inc. on behalf of Ryan Vlaco for an Earth Removal Permit for property located on Pine Street, Middleborough, MA, Assessors Map 097 Lot 3478, for a period of two (2) years, with a possible one year extension.

The Order of Conditions for the project will be set at the meeting scheduled for Monday, April 2, 2007 at 7:45 PM.

The meeting will be held in the Selectmen's Meeting Room in the Town Hall, 10 Nickerson Avenue.

Please contact this office if you need any further information.

Sincerely,

Diane Henault, Secretary
BOARD OF SELECTMEN

cc: Board of Selectmen
Ryan Vlaco

CRANBERRY CAPITAL
OF THE WORLD



Phone: 508-946-2405

Fax: 508-946-0058

Town of Middleborough
Massachusetts

BOARD OF SELECTMEN

Wayne C. Perkins
Lincoln D. Andrews
Adam M. Bond
Marsha L. Brunelle
Steven P. Spataro

April 3, 2007

Ryan Vlaco
P.O. Box 107
Middleboro, MA 02346

RE: Earth Removal Conditions
Permit #07-3

Dear Mr. Vlaco,

Enclosed herewith is an original set of Earth Removal Conditions for the project in the name of Ryan Vlaco, located on Pine Street, Middleborough, MA.

Please be sure to file the Conditions at the Plymouth County Registry of Deeds, and provide the Selectmen with proof of same.

Sincerely,

Diane Henault, Secretary
BOARD OF SELECTMEN

encl

cc: Board of Selectmen
Conservation Commission
Assessors Office

Conditions for Earth Removal

RYAN VLACO
Pine Street
Middleborough, Massachusetts
Assessors Map 097 and Lot 3478
98,500cubic yards

1. This permit is valid for two (2) years and may be renewed for up to one (1) year thereafter at the discretion of the Board of Selectmen after meeting with the applicant.
2. Hours of operation are limited from 7:30 A.M. to 4:30 P.M. Operation is only allowed on Monday through Friday. Motors of earth removal equipment, including trucks hauling material to and from the site, are not to be started or run until 7:30 A.M. Trucks are not to line up before the start time or sit idling. There will be no jake braking.
3. No operation is allowed on Saturday, Sunday or Town Hall observed holidays:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents Day	Veteran's Day
Patriots Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
July 4 th	Christmas Day
4. All excavated areas not part of the bogs will be topsoiled and planted per the specification on the plan or at the direction of the Board. All top and subsoil shall be stripped from the operation area and stockpiled for use in restoring the area after the removal operation has ceased. A minimum of four inches of topsoil must be put back in place.
5. Excessive erosion is to be controlled as determined by the Board of Selectmen or its agent.
6. An initial review to confirm compliance with permit conditions and restrictions must be performed by the Board's Agent before the commencement of any earth removal activities. The fee for this review is \$ 400.00, due and payable at the time the permit holder notifies the Board's Agent that all requirements of the permit which must be done prior to commencement of work have been accomplished, and the permit holder is ready for the Agent to perform the initial review.

7. Quarterly reviews must be performed by the Board's Agent every three months following commencement of earth removal work. These reviews will include a field review and plan review to determine on-going compliance with the permit. The fee for each such review is \$ 400.00, due and payable to the Town three months after the commencement of earth removal on the lot and every three months thereafter for the duration of the permittal project.
8. The plans, entitled, "Plan to Accompany Earth Removal Application – Pine Street – Middleborough, MA - Prepared for Ryan Vlaco", dated February 14, 2007 is incorporated herein by reference and is part of this permit, and must be adhered to strictly. Failure to do so constitutes a violation of this condition of the Permit. A copy of the Plan and Order of Conditions must be kept on the lot at all times when the lot is being worked, pursuant to this permit.
9. A bond, or acceptable alternative surety, in the amount of \$ 50,000 will be required to indemnify the Town for damage to private or Town property and for use by the Town for site closure in the event of abandonment of the project.
10. Standard highway signs warning of heavy trucks entering the highway shall be erected as directed by the Board of Selectmen or their Agent and be in place prior to commencement of removal operations.
11. The Selectmen, Conservation Commission, Town Manager or their Agents shall be free to inspect the premises at any time during normal working hours with or without prior notice to the permit holder.
12. The permit holder is advised that no work may commence until he has filed a Notice of Intent under Chapter 131, Section 40, and received an Order of Conditions from the Conservation Commission. A violation of the Order of Conditions issued by the Conservation Commission shall be a violation of this permit.
13. The permit holder shall adhere to all State laws pertaining to covering loads and weight loads.
14. Any spillage on public ways or private property shall be cleaned up by the permit holder or its agent.
15. All access to and from the permitted property will be Right or Left on Pine Street to Rte. 28 or Rte. 58
16. The Board of Selectmen may, following a public hearing, revoke the permit, modify or revise the conditions of the permit and/or impose a fine if they find

that the permittee, or any agent of the permittee, violates any condition of this permit.

17. No refining or screening of material is allowed on the permitted property except the screening of sand and loam to be used for on-site cranberry bogs, gravel for on-site roadways and loam for final on-site grading and seeding.
18. The Town Manager is authorized to act as the Selectmen's Agent in the administration and enforcement of this permit.
19. The haul road and loading area must be watered regularly to keep dust from blowing from the property. Gravel may be required to be added to the haul road by the Board's Agent to assist in dust control.
20. This permit is not transferable, except by vote of the Board of Selectmen. Notice of a pending sale or transfer must be provided to the board. The Board may, in its discretion, hold a public hearing to consider the transfer of this permit to the prospective buyer of the property.
21. During operations, where the excavation working face will have a depth of more than 15 feet with a slope in excess of 1:1, a fence at least three (3) feet high shall be erected to limit access to that excavation.
22. No area shall be excavated so as to cause accumulation of freestanding water, except in conjunction with a storage pond for cranberry bogs as shown on the record plans. Permanent drainage shall be provided as needed in accordance with good conservation practices. Drainage shall not lead directly into or from streams or ponds, except as shown in the plan.
23. No excavation shall be closer than 200 feet to an existing public way unless specifically permitted by the Selectmen. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise reduction purposes.
24. Bog pumps will be powered electrically, or in the alternative, mufflers will be installed on pumps to reduce noise.
25. Two by Three foot signs will be erected every 500' along the property line. The signs will display the permit number, the name and phone number of the permit holder's agent and the name and phone number of the Board of Selectmen's Agent, together with the words "NO TRESPASSING-EARTH REMOVAL IN PROGRESS".
26. All trucks hauling from the site must display a sign on the rear of the truck in an area that will be unobstructed and clearly in view displaying the words "TOWN OF MIDDLEBOROUGH PERMIT # 07-3".

27. A copy of this Earth Removal Order of Conditions shall be filed with the Registry of Deeds by the Permit holder as a notice to all that these conditions restrict work on the lot under the permit.
28. A Certificate of Compliance will be issued by the Board of Selectmen when the project is completed. The Certificate of Compliance will operate to release the lot from the conditions of the permit and terminate the permit. The Certificate of Compliance must also be filed with the Registry of Deeds by the permit holder.

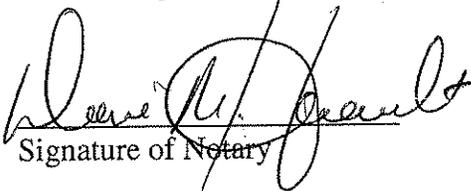


Wayne C. Perkins, Chairman
BOARD OF SELECTMEN

4-4-07
Date

Commonwealth of Massachusetts
County of Plymouth

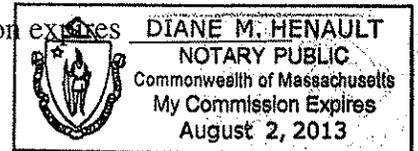
On this 4th day of April, 2007, before me the undersigned Notary Public, personally appeared Wayne C. Perkins, proved to me through satisfactory evidence of identification which was ~~were~~ personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose(s).



Signature of Notary

(Seal)

My commission expires



July 24, 2007

Ryan Vlaco
P.O. Box 107
Middleboro, MA 02346

RE: Earth Removal Permit #07-3
Modification

Dear Mr. Vlaco,

At their meeting held on Monday, July 23, 2007 the Board of Selectmen voted to approve your request to modify the plan for ER Permit #07-3 to revise the layout for the proposed irrigation reservoir to the area at the rear of lots 105 and 106 as shown on the revised plan dated April 9, 2007.

Please contact this office if you need further information.

Sincerely,

Diane Henault, Secretary
BOARD OF SELECTMEN

cc: Board of Selectmen
Glenn Amaral

Jacqueline Shanley

From: Andy Bagas
Sent: Wednesday, September 30, 2009 2:23 PM
To: Jacqueline Shanley
Subject: RE: Trucks on France Street

Jackie:

After receiving your message about a resident identifying himself as Michael O'Neil and reporting 50 trucks at Ryco's gravel removal operation I made a site visit. There was no evidence of material being removed since my last visit on September 11, 2009 and certainly no evidence of 50 trucks hauling from the site.

Further, I checked with the Town Clerk's office. There is no Michael O'Neil registered at 39 France Street. The G & E did not have a Michael O'Neil at that address.

I called the phone number provided to you by Michael O'Neil. It was answered by an employee of "Health Center" who stated there was no one there named Michael O'Neil.

On September 30th I met with Ryan Vlaco on site. He informed me that there was no removal of material from the site and that there would not be any until his permit extension was approved. Also, all work on his site thus far has been in compliance with his permit.

Andy

From: Jacqueline Shanley
Sent: Monday, September 28, 2009 9:31 AM
To: Andy Bagas
Subject: RE: Trucks on France Street

Andy,

Did you get message details from the original call (or are you looking for something further)? In case you didn't get it, Mr. O'Neil reported that there were at least 50 trucks going in empty and leaving with tarps over the top. He said he saw some with the name Ryco on them and some with "J.J. Corp." on them (these went by 10 times).

Mr. O'Neil (Michael) lives at 39 Fran Street. His number is 947-7558.

Anyway, I told him I would get back to him today, so if you need anything further, please let me know.

Jackie

From: Andy Bagas
Sent: Monday, September 28, 2009 9:13 AM
To: Jacqueline Shanley
Subject: RE: Trucks on France Street

Jackie: If he calls again have him call here so I can get detailed info. Andy

From: Jacqueline Shanley
Sent: Monday, September 28, 2009 9:03 AM
To: Andy Bagas
Subject: RE: Trucks on France Street

10/1/2009

Andy,

Thanks. I did get a call from the same man that the trucks had stopped going by (early afternoon) and then he called again after 3 pm to say that they had started up again. Knowing DPW closes at 3 pm, I told him I'd check in with you today.

Jackie

From: Andy Bagas
Sent: Monday, September 28, 2009 7:30 AM
To: Jacqueline Shanley
Subject: Trucks on France Street

Jackie: On Friday afternoon I looked at Tispaquin and France Streets for gravel trucks but did not see any. I also did not see any activity at Ryan Vlaco's bog. Andy