

**Middleborough Board of Selectmen  
Meeting Minutes**

**August 10, 2009**

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

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

Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted to approve meeting minutes of 7-27-09.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted to approve Executive Session meeting minutes of 7-27-09.

Three in favor. P. Rogers abstained.

**ANNOUNCEMENTS**

Chairman reminded the audience that the public hearing regarding Mobile Homes & Rent Control is scheduled for 9/28/09 and the deadline to submit public comments is 8/24/09.

**NEW BUSINESS**

Upon motion by Selectman Rullo and seconded by Selectwoman Brunelle, Board voted to approve one-day Entertainment license for Lorenzo's Restaurant, 500 West Grove Street for August 13, 2009 during the hours of 5 PM until 10 PM.

Three in favor. P. Rogers abstained.

Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted to approve a Common Victualler's license for Sophia's Pizza, 337 W. Grove Street with hours of operation as 9:30 A.M. to 9:30 PM Monday through Sunday.

Three in favor. P. Rogers abstained.

Elliot Schneider of Fuller Street Development Trust addressed Board to request an exchange of his previously paid \$50,000 (representing bond) with a "letter of credit" for Earth Removal permit approved in May 2009. He hasn't applied for letter of credit with bank yet. Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted to approve change of surety for this project subject to the successful acceptance of a letter of credit from the bank. Board noted, for the record, all outstanding debt has been paid to the Town Treasurer/Collector.

Three in favor. P. Rogers abstained.

Police Chief Bruce Gates addressed the Board to present request for a pay increase for Matrons. He explained that the situation is not unique to the Town of Middleborough. Other Towns have increased the pay rate to encourage an interest in serving as Matrons. Middleborough is averaging a need for twice per month. The increase is covered by the budget and much cheaper than paying a female police officer overtime. Anyone hired would be contingent upon successful completion of a four hour training class at the

**Middleborough Board of Selectmen  
Meeting Minutes**

**August 10, 2009**

Sheriff's department. Upon motion by Selectman Rullo and seconded by Selectwoman Dumphily, Board voted to accept Chief's proposal increasing the pay rate for Matrons to \$25 for the first hour and \$12 for each hour after.

Three in favor. P. Rogers abstained.

Chief addressed Board and indicated that he wants to hire a police officer going through the "laid off" list. Five individuals were interviewed. They were all re-hired by the Town of Fall River. They went deeper into the list and found someone that doesn't need training. The interviewers found Steve Valerio to be the best candidate. Selectwoman Brunelle asked if this hire will impact the anticipated 1.5% budget cut. Chief responded that, even with the cut, it will be within budget. Town Manager indicated that he is comfortable with this hiring as the Chief is comfortable that it will be covered by budget. Upon motion by Selectwoman Dumphily and seconded by Selectman Rullo, Board voted to make a Conditional Offer of Employment to Steve Valerio, 404 Bradford Ave., Apt. 2, Fall River, MA, subject to the passing of a physical examination, psychological testing process and the pre-screening testing.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Dumphily, Board voted to approve Middleborough Fine Arts Department Town Hall rental dates for 5/5, 5/7, & 5/8/09 Three in favor. P. Rogers abstained. Selectwoman Dumphily requests that the Art department be reminded that there is to be no artwork taped to the walls. Selectwoman Brunelle requested that all future applicants provide emergency cell phone numbers (a number to reach them during the events).

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Dumphily, Board voted to approve an Entertainment license and Sunday Entertainment license for the Riverside Restaurant, 58 E. Grove Street with the following hours 8 a.m. to 12 a.m. Monday – Saturday and 12 pm to 12 a.m. Sundays.

Three in favor. P. Rogers abstained.

**HEARINGS, MEETINGS, LICENSES**

Lincoln Andrews addressed the Board with an update on the remediation of the Green School. The contaminated soil removal was removed within five hours as opposed to within 3-4 days as first anticipated. DEP standards were complied with. The anticipated overall cost has lessened by approximately \$5-6k. Incorporated as a business, have collected \$10,300 and still have pledges to collect making the total over \$14k. The structural repairs are about \$21k. They need to have roof put on for the winter and then can begin applying for grants. The roof will cost \$4-5k additional. They need \$11,090 to finish project and get it weather tight. He asked the Board if it would consider putting it on the Warrant to ask the townspeople if they would like to help bring it to weather tight status. He also asks to put this building in some sort of Trust for the Town so that it can't be sold. He'd like to see this become a Town community resource. The Town Clerk has

**Middleborough Board of Selectmen  
Meeting Minutes**

**August 10, 2009**

a real need for a voting precinct for handicapped individuals. He envisions Town-wide uses, not only school uses. He hasn't had discussion with Superintendent to confirm he wants to give the building up to the Town, but he is confident that he will.

Selectwoman Brunelle strongly encouraged fundraising efforts and reminded Mr. Lincoln that the Town is in the midst of difficult financial times. She indicated that she would like confirmation from the school that it agrees to hand building over to the Town. Mr. Andrews stressed that this school building is a piece of history and he would like to give the Townspeople a choice if they would like to contribute the \$9k to stabilize the building. Town Manager noted that we will have to have a Green School article relative to payment for the soil removal, therefore, maybe once the Board sees where free cash stands, it may wish to make its decision at that time.

Chairman read into the record the attached relative to Water Notes.

Upon motion by Selectman Rullo and seconded by Selectwoman Dumphily, Board voted to approve promise to pay Eastern Bank \$350,000 to be taken out of Water Revenue.

Two in favor. P. Rogers abstained. M. Brunelle abstained.

Chairman read into the record the attached relative to Septic Betterments Title V.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted to approve Note to Water Pollution Abatement Trust.

Three in favor. P. Rogers abstained.

Water Superintendent Paul Anderson appeared before the Board. Chairman Rogers welcomed Mr. Anderson as a new employee of the Town. Mr. Anderson indicated that he is impressed with the water system and commended Dick Tinkham and the DPW Water Department staff. He also shared the following:

- Wareham Water Main project – near completion – working on punch list to track what needs to be finalized.
- Inspector coming to take look at elevator tank – trying to buy some time with maintenance.
- Ten roads are left from the \$10 million article – working with Amory Engineers to see which are necessary and which can be done in-house to save the Town money.
- There is approximately \$3.2 million left in that article.
- E. Grove Street is beautiful site but it can't run on its own (the well). Well sites are supposed to have all chemical pumps flow based. It makes sure that chemical injections are in sink with the amount of gallons that are pumped at all times. Not all wells in Middleborough have this, however, Middleborough is not the only Town that does not. He is looking in-house to see what can be done.

The SR loan is a very low interest loan and can save 10's maybe 100's of thousands of dollars. He is trying to secure that funding. Mr. Anderson noted that he feels truly fortunate to be here and thanked the Board for the opportunity. Chairman said he should be looking at prioritization of these projects and reprioritize as he sees necessary.

Selectman Rullo asked when the Board might see his list of priorities and anticipated costs. Mr. Anderson indicated that he expects it to be available in a couple of weeks.

**Vernon Street Well Variance to Septic System**

Chairman reviewed the request based on the initial hearing that began in March 2009. Attorney David Gay representing Mr. Grady addressed the Board and reviewed that a consultant was to be hired to determine if the variance request regards to whether the reduction of the separation distance between the proposed septic system and the existing and proposed wells would affect the portability of the water in the wells. However, the consultant did not review that specifically, and the consultant engineer needed additional information from the design engineer to make an informed decision. The Board of Health asked the assistance of the Planning department in making such decision. Therefore, Middleborough Planning Department Construction Administrator Paul Fellini was acquired to review this issue. He reviewed the ground water flow in regards as to what direction the water was flowing during the 5% ground water exceedence level. The determination was that the ground water was flowing down gradient towards the Taunton River as well as the Poquoy Brook and therefore would not adversely affect the water quality at the wells.

Attorney Gay explained that they have no problem with the conditions as have been recommended to the Board. Mr. Grady provided an update for the benefit of the public. Chairman read aloud, for the record, response provided by Health Officer J. Spalding. Selectwoman Brunelle asked if this goes forward and there's future problems, is the homeowner or developer responsible. Attorney Gay reiterated that they had two engineers review the project so that these problems won't exist. Attorney Gay offered that any buyer will buy this home at a discount because of requirements and they will certainly make it clear to any potential buyer. He further indicated that it would all be on record for any future buyers and there has to be disclosures made by law. Selectwoman Dumphily indicated that she is really bothered by this as someone will buy this home and they may not be knowledgeable enough to understand the disclosures. Attorney Gay responded that it meets all of the standards and the only thing before the Board is the engineering, which clearly shows as appropriate. Selectman Rullo asked if they would be raising the elevation prior to building the house. Mr. Grady responded that they would raise over 100 cubic yards in the flood zone and four to five feet of fill in the front of the house. Ms. Frappier addressed the Board. She met with abutters to this property Mr. and Mrs. Thomson this week. She submitted attached letter of concerns and suggestions regarding this project. Paul Falini addressed Board. He drew up and provided Board with plans that highlight existing conditions of the grade, showing proposed and existing conditions of the property. David Thompson of 6 Vernon Street addressed Board and read into the record the attached letter that he provided to the Board at this evening's meeting. Brian Giovanoni addressed the Board and offered that if the Board puts restrictions on this then the Town will have to continually monitor and review, which will be an additional expense (ongoing) and it's not worth it to the Town. Chairman asked for any further comments from the audience. Hearing none, Chairman declared hearing

**Middleborough Board of Selectmen  
Meeting Minutes**

**August 10, 2009**

closed. Upon motion by Selectman Rullo and seconded by Selectwoman Brunelle, Board voted to deny variance.

Three in favor. P. Rogers abstained.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to accept conditions for Edward Viera Earth Removal permit, with all conditions applicable from Conservation Commission, and detail to be filled in on application.

Three in favor. P. Rogers abstained.

**OLD BUSINESS**

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board voted to approve draft Pokanoket Tribal letter response.

Three in favor. P. Rogers abstained.

**HEARINGS, MEETINGS, LICENSES**

Chairman announced that the WRPD Sippican Commerce Park extension request has been concluded. Town Counsel advised the Board that it does not have the authority to grant such an extension.

**TOWN MANAGER'S REPORT**

DPW Director Andrew P. Bagas has been hired starting Monday, August 17, 2009. Mr. Bagas was highly recommended by the Town of Bridgewater and by former DPW Highway Superintendent Don Boucher.

Town Manager gave Board an update of the Green Energy Committee.

Selectman Rullo would like to see some goals and goal target dates established, and a read out relative to item #3 and item #4 (attached). Town Manager offered that the Committee might like to come before the Board in the fall to report and maybe they'd like the Board to suggest goal dates.

Town Manager reported that the Town is anticipating going live with the new website in the middle of November.

Town Manager provided the Board with a memo from Chairman Rogers and Town Manager on their meeting with Waste Management regarding various items discussed.

Waste Management will appear before the Board in October to discuss further.

Selectwoman Brunelle made suggestions that the landfill liner could be re-used for something such as fish ponds, blasting mats or be recycled. Town Manager will mention to Waste Management to see if this might be a possibility not thought of.

Town Manager and Board's Secretary provided Board with a memorandum notifying the Board that we will begin to distribute all correspondence, confidential correspondence and outgoing correspondence electronically to the Board. An index will still be provided

**Middleborough Board of Selectmen  
Meeting Minutes**

**August 10, 2009**

to the Board in its packets. Selectwoman Brunelle asked if we could look into future electronic version of maps for permit applications.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted to go forward with plan to address \$1.6 million shortfall that Town Manager has proposed.

Three in favor. P. Rogers abstained.

Town Manager announced that the Board's Policy Book has been discovered.

**OTHER**

Selectwoman Duphily noted letter of interest to serve as Constable and the Town's response in outgoing correspondence. She informed the Board that she had been approached by Constable Karen Blair and Linda Raymond wanting the Town to allow additional constable appointments. Selectwoman Duphily asked if the Board would consider adding two more. Selectwoman Brunelle responded that she hasn't heard a real need from the public and would be reluctant at this time. Chairman Rogers explained that the Board had addressed this issue four years ago and decided to reduce the number at that time and doesn't receive any complaints that the public is not being served.

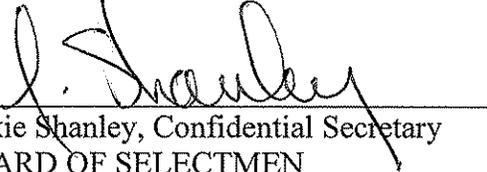
**CORRESPONDENCE**

- #1 trash disposal bags – Selectwoman Brunelle thanked author from Taunton for her letter.
- #1 Selectman Rullo noted that the author also re-emphasized the importance of recycling and he thinks that the effort to recycle in Town needs to be re-energized.
- #22 personnel board – vacancy available – Board will take letters of interest until 9/30/09.
- #25 Albert Dube – upgrading Rte 105 – Town Manager will send response letter.
- #2 Bridge inspection – state responsible.
- #19 Gibbs Road intersection – trash pickup problem – Town Manager – we are sending letter to remind residents not to put trash out too early. Town Manager will look into Town Regulations on this and notify Mr. Frawley.
- #18 A.C.O. letter – Thomas Stevens – Town Manager will follow up with A.C.O. and possibly Police Chief and report back to Board.

**Middleborough Board of Selectmen  
Meeting Minutes**

**August 10, 2009**

Upon motion by Selectwoman Brunelle and seconded by Selectman Rullo, Board voted by Roll Call to go into Executive Session at 10 PM to discuss strategy relative to Collective Bargaining and Pending Litigation. Chairman announced Board would not return into Open Session. Roll Call: M. Brunelle, Yes; A. Rullo, Yes; M. Duphily, Yes; P. Rogers, Yes.



---

Jackie Shanley, Confidential Secretary  
BOARD OF SELECTMEN

AUGUST 10, 2009  
6 VERWON ST.  
MIDDLEBORO, MASS  
02346

DEAR SELECTMAN:

WE, DAVID & JUDY THOMPSON OF 6 VERWON ST. MIDDLEBORO ARE THE ABUTTIERS TO THE PROPOSED PROJECT ON PLOT 4669. IT IS TOO CONDUCTIVE TO WETLANDS. WE STILL REMAIN AGAINST ANY ALTERATIONS TO THIS PROPERTY BY STRIPPING, DIGGING & FILLING IN ORDER TO RAISE THE PROPERTY ELEVATION HIGHER THAN OUR PROPERTY. THERE ARE  $7\frac{1}{2}$  ACRES ON THIS PROPERTY. THERE IS ONLY ABOUT  $\frac{3}{4}$  OF AN ACRE WITHIN THE WETLAND FLAGS. THE REST GETS FLOODED EVERY YEAR DURING THE SPRING FLOODING CAUSED FROM MELTING SNOW & RAIN. <sup>DR.</sup> WALTER HEWITSON, THE BIOLOGIST FOR THE PROJECT, SAID IT WAS THE STRANGEST PIECE OF PROPERTY HE HAD EVER WORKED ON. HE ALSO SAID HE PROBABLY SHOULD HAVE BROUGHT THE FLAGS UP FURTHER.

MY LAND FLOODS SEVERELY EVERY SPRING ALSO & WATER BACKS UP WHEN THE "WILD & SCENIC" TAUNTON RIVER RISES TO 8' & OVERFLOWS IT'S BANKS IN BACK OF OUR PROPERTY, THEREBY RESTRICTING THE FLOW OF THE POQUOY BROOK WHICH FLOWS THROUGH BOTH OUR PROPERTIES FROM ENTERING THE TAUNTON RIVER. MASSIVE FLOODING THEN OCCURS & ALL THE

WATER BACKS UP TO WITHIN 20 FT OF MY SEPTIC SYSTEM. I CANNOT RELOCATE MY SEPTIC SYSTEM BECAUSE OF MY LOT DESIGN & LOCATION OF MY WELL. WATER FOR DRINKING.

MY WIFE & I HAVE LIVED HERE SINCE 1960, SO WE CERTAINLY KNOW HOW THE BROOK & RIVER REACT UNDER THESE ADVERSE CONDITIONS. WE HAVE SEEN PLOT 4669 COMPLETELY UNDER WATER. AT THAT TIME WE COULD NOT DRINK OUR WATER & OUR SEPTIC SYSTEM WAS COMPLETELY UNDER WATER. THE WELL WATER WAS ALL MURKEY. MY WELL IS 205' DEEP. THE CASING IS DOWN 65' TO BEDROCK & IS 100' FROM MY SEPTIC SYSTEM. ATTORNEY GAY WAS WRONG AT THE LAST MEETING WHEN HE STATED THAT THE PROPOSED NEW WELL CANNOT GET TAIANTED BECAUSE IT IS DOWN TO BEDROCK.

AS THE ATTORNEY SAID IN OUR OPINION THE LANDOWNER IS ONLY TRYING TO MAKE MONEY ON THE PROPERTY FOR HIS RETIREMENT BENEFIT. HE IS NOT GOING TO LIVE THERE. WHAT ABOUT MY WIFE & I, WE ARE ALREADY RETIRED, AND WORRIED ABOUT MORE FLOODING ON MY PROPERTY BECAUSE THE WATERSHED WILL BE GONE. (THE TREES). ALSO, LIKE JEAN SPAULDING SAID, THIS COULD CAUSE MORE RESTRICTIONS ON ME & MY WIFE IN THE FUTURE. ALSO THE NEW HOME OWNERS WILL NO DOUBT HAVE

## PROBLEMS IN THE FUTURE.

WITH THE 50 OR SO TALL WHITE PINES GONE & LAND STRIPPED THE WILDLIFE WILL BE AFFECTED BECAUSE OF THIS ALTERATION. THIS PROPERTY SHOULD BE PRESERVED FOR THEIR SAKE.

IF THE VARIANCES FOR THIS PROJECT ARE GRANTED IT WOULD NOT BE A MOVIE TOWARD "SMART GROWTH" IN MIDDLEBORO. THIS ACTION COULD CREATE A LOOPHOLE FOR OTHER LOTS IN A WETLAND IN TOWN OF MIDDLEBORO TO BE ACCEPTED AS HOUSE LOTS.

THANK YOU,

David E. Thompson

Julia L. Thompson.

---



1 Brendon Heights, Middleborough, MA 02346

August 10, 2009

Middleborough Board of Selectmen  
10 Nickerson Avenue  
Middleborough, MA 02346

RE: Vernon Street Variance Request

Dear Members of the Board:

This weekend I met with David & Judy Thompson to review the Vernon Street request for variances that is pending before the Board. As a project designer and environmental consultant, they thought I might comment on the subject project. I begin with apologies for the lateness of this correspondence but I have not had much lead time.

From a conservation perspective there are certainly problematic items. Unfortunately, as the project was 'reviewed' some years ago by the Conservation Commission, it is too late to question the plan in that venue.

There is, however, another condition that should be addressed. The property is mapped by the Natural Heritage and Endangered Species Program [NHESP] as both Priority and Estimated Habitat. As such the project need to be reviewed by NHESP under the Massachusetts Endangered Species Act [MESA]. The Thompson's were not sure whether or not the current project had already been through that review.

Construction of a single family home and its appurtenances are not exempted activities within mapped habitat. I point out that project review is not tied to the presence of wetlands. I have provided below an excerpt from NHESP's web site. Anyone can and should be requiring project review - Building Inspector, Planning Board, Selectmen, etc.

*Can I do work on my property if it falls within Estimated Habitat or Priority Habitat?  
If a project falls within Priority Habitat, the project must be reviewed by the NHESP for MA Endangered Species Act compliance, whether or not the filing of an NOI is required.*

Did the applicant investigate any alternative septic systems that could do a better job of attenuating viruses or other pathogens? Such investigation and details of alternatives would seem advisable in such a sensitive area and in light of the variances requested.

Further, as with projects that come before the BOS under other regulations such as WRPD, I do not believe that variances should be given just for the asking. It negates and undermines the purpose and intent of having the regulation or bylaw in the first place. There is a reason why we have a 200' separation between leaching and drinking wells. Nothing seems to have been presented that would indicate that the 200' separation is not valid in this case.

However, should the Board feel the variances are reasonable, some deed restrictions as to the use of the property seem warranted. At a minimum a deed restriction on the number of bedrooms. The Board might also consider reducing the number of bedrooms from three to two. Any variances should be tied to a set of architectural with the proviso that any change in the architectural would require the applicant to come back before the board. There could certainly be a prohibition of any future renovations or additions that could be *adapted* as use for a bedroom. [The operative word being "adapted".] I have attached a sample which is frequently used in other communities. You may have other concerns that could be included in a deed restriction. In addition to reducing or prohibiting any increase in flow, a deed restriction will also serve as a 'heads-up' to a future homeowner.

More subjectively, this is one miserable piece of land for development. Anyone can be a developer but ultimately someone is going to invest in this home, live there, and have to cope. It will be a house on a mound in a flooded swamp. When you look at the flooding history of the Thompson's lot and the subject property, it seems nonsensical that anyone would want a house there. I am not a hydro-geologist, but the Thompson's photos as well as their groundwater monitoring over the many years seem to be compelling evidence of the severity of the flooding problems.

The proximity to highly sensitive wetlands, the flood plain and its flooding history, priority habitat for rare and endangered species, and the need for significant variances seem enough to conclude that some lots are simply not suited for development.

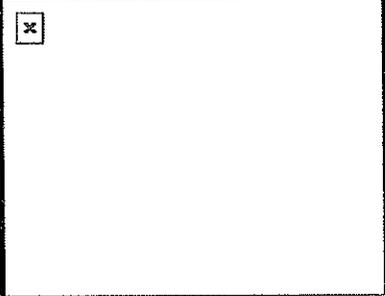
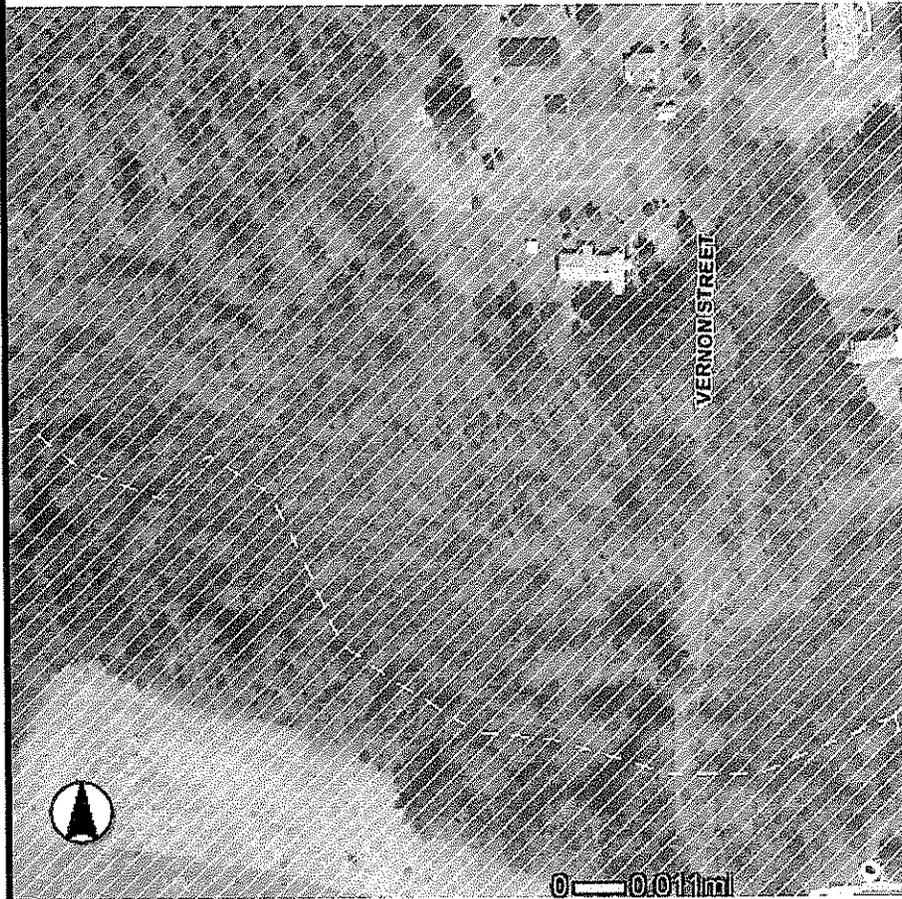
Again, I apologize for the lateness of this input. On behalf of the Thompson's I thank you for your cautious and considered deliberation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara Frappier', with a long horizontal line extending to the right.

Barbara Frappier

### 2008 Priority Habitat and Estimated Habitat Natural Heritage & Endangered Species Program



**Legend**

**EOT-OTP Roads Names**

**EOT-OTP Roads**

- Limited Access Highway
- Multi-lane Hwy, Not Limited Access
- Other Numbered Hwy

**NHESP 2008 Priority Habitats of Rare Species and also Estimated Habitats of Rare Wildlife**

**NHESP 2008 MA Priority Habitats of Rare Species**

**Color Orthos 2005**

HATCHED  
AREAS  
MAPPED  
ARE  
MAPPED  
HABITAT

Potential

Pot
-----

NHER Est

NH Est
-----------

NHERP Cei

NH Cei
-----------

NHERP Pri

NH Pri
-----------

Color Orth



MA Towns

Ma
Bol
Pol
TOW
MTI
COA





# TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue  
Buzzards Bay, MA 02532



Cynthia A. Coffin  
Health Agent

## Notice of Deed Restriction

Notice is hereby given of the approval by the Town of Bourne Board of Health of variances for the property located at 48 Chickadee Lane, as shown on the Town of Bourne Assessor's book as Map 38.3, Parcel 136. The deed for this property is recorded at the Barnstable County Registry of Deeds, Book 01079, Page 0278. The engineered plan was prepared by Warwick & Associates, Inc. and is dated March 20, 2008, approved by the Bourne Board of Health on March 26, 2008.

LANE, BOURNE

There will be a three-bedroom deed restriction on this property. Bedrooms are as defined in Title 5, 310 CMR: 15.00, and the Board of Health regulation dated effective April 24, 1992 regarding bedroom Definition. This property will be served by an Alternative Technology Septic System, i.e. a MicroFast system, for purposes of nitrogen removal. Said system is also to include an ultraviolet disinfection unit. The architectural records of record received by the Board of Health on January 15, 2008, are dated April 9, 2003. (See attached Exhibit A)

*C. A. Coffin*

2/28/08

SAMPLE

3/5



# Falmouth Health Department

FALMOUTH TOWN HALL • 59 TOWN HALL SQUARE • FALMOUTH, MASSACHUSETTS 02540  
(508) 548-7611 - EXT. 254 • FAX (508) 457-2511

February 15, 2000

FALMOUTH BOARD OF HEALTH - LOCAL UPGRADE APPROVAL

41 SUNSET POINT ROAD

OWNER OF RECORD - LOUIS S. & MARILYN CORSINI

Dear Mr. & Mrs. Corsini,

On January 24, 2000, the Falmouth Board of Health held a hearing for a State Local Upgrade Approval, at your request, under the provisions of Title 5 of the State Environmental Code - 310 CMR 15.410 Variance - Standard of Review - and 310 CMR 15.403 - Local Upgrade Approval - to allow a proposed upgrade to the existing subsurface sewage disposal facilities serving your property at 41 Sunset Point Road to be constructed according to plans of the system by J.E. Landers-Cauley, P.E. dated January 4, 2000. The specific local upgrade approval sought was as follows:

310 CMR 15.211 - MINIMUM SETBACK DISTANCES:

<u>RELATIONSHIP:</u>	<u>REQUIRED SETBACK:</u>	<u>PROPOSED:</u>
Property line to Soil Absorption System	10 feet	5 feet
Soil absorption system to slab foundation	10 feet	6 feet

On the basis of the Board of Health determination that the requested state regulation local upgrade approval substantially conformed to the requirements of 310 CMR 15.402, 15.403, 15.404, 15.405 and 15.411 the Board voted their approval of the requests on this date, January 4, 2000. The following conditions apply to this decision:

1. There shall be no modification to the existing four bedroom house that could be adapted for use as an additional bedroom. For application of this condition, a bedroom is defined in 310 CMR 15.002: Definitions.

LOT 49 (SEC B) PLAN 11518-X  
CTF 132530

SAMPLE

4/20/00 SR 49 (Sec B) 11518-X

2. All shower and faucet fixtures in the facility shall be retrofitted with flow restrictor devices.
3. The septic tank must be pumped at two year intervals.
4. There shall be no garbage grinder allowed.
5. This variance expires two years and 90 days from the date of the Board of Health decision and must be exercised in its entirety within this period or it shall lapse and become null and void.
6. This local upgrade approval, local regulation variance and conditions shall be recorded at the Barnstable County Registry of Deeds in the chain of title for this property. A copy of the recorded document must be provided to the Health Department for these approvals to be in full force and effect.

Sincerely,



David Carignan  
Health Agent

DC:rlh

**BARNSTABLE REGISTRY OF DEEDS**

(Please Note: The following statements are an essential part of the permanent note record. Read them carefully before signing this certificate. Advise Edwards Angell Palmer & Dodge LLP of any inaccuracy.)

**Town of Middleborough, Massachusetts**

**\$300,000 Community Septic Management Program Interim Loan Note**

CERTIFICATE

We, the Selectmen and the Treasurer of the Town of Middleborough, Massachusetts, certify that we have signed the \$300,000 zero percent Interim Loan Note (the "Note") of the Town dated August 1, 2009 and payable on August 1, 2012. The Note bears the Town seal, which is also affixed to this certificate.

We further certify that Loan Agreement No. T5-97-1077-G with the Massachusetts Water Pollution Abatement Trust (the "Trust") dated as of July 1, 2009 providing for the Interim Loan evidenced by the Note, and that Project Approval Certificate and Regulatory Agreement No. T5-97-1077-G with the Department of Environmental Protection relating to the Project financed by the Note have been signed by the Treasurer and we hereby confirm those Agreements. Capitalized terms used in this certificate and not otherwise defined shall have the same meanings given those terms in the Loan Agreement and Chapter 29C of the General Laws (the "Enabling Act"). The Loan Agreement and the Project Approval Certificate and Regulatory Agreement are sometimes referred to collectively in this certificate as the "Agreements".

We, the Selectmen and the Treasurer, also certify as follows:

1. Authority. The Note is issued pursuant to the Enabling Act, Chapter 111, Section 127B½ of the General Laws (the "Applicable Bond Act") and a vote of the Town passed May 26, 2009 (Article 5).

Execution of the Agreements was further authorized, ratified, approved and confirmed by a vote of the Selectmen passed August 10, 2009 (the "Selectmen's Vote").

2. Other Debt. No other debt has been incurred under that vote of the Town.

3. Representations under Section 2 of the Loan Agreement.

(i) The Town is a Local Governmental Unit as defined in the Enabling Act with full legal right and authority under the Enabling Act and the Applicable Bond Act to authorize, execute and deliver the Agreements, to execute, issue and deliver the Note, to undertake the Project, and to carry out and consummate all transactions contemplated by the foregoing.

(ii) The Town has duly and validly authorized the execution and delivery of the Agreements and the Note and all approvals, consents and other governmental proceedings necessary for the execution and delivery of any of the foregoing or required to make them the legally binding obligations of the Town that they purport to be in accordance with their terms have been obtained or made.

(iii) No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body is pending or, to our knowledge, threatened seeking to restrain or enjoin the execution or delivery or performance of any of the Agreements or the Note or the carrying out of the Project; or contesting or adversely affecting the validity of the Agreements or the Note or the power of the Town to assess and collect taxes, rates and charges to pay the Loan Repayments; and neither the corporate existence of the Town nor the title to office of any of us or any other Authorized Officer of the Town executing the Agreements or the Note is being contested.

(iv) The authorization, execution and delivery of each of the Agreements and the Note, and performance of each of them, will not constitute a breach of, or a default under, any law, ordinance, resolution, agreement, indenture or other instrument to which the Town is a party or by which it or any of its properties is bound.

(v) The Loan Agreement, the Interim Loan and the Note are valid obligations of the Town, for the payment of which its full faith and credit are pledged, enforceable in accordance with their terms and the terms of the Enabling Act and the Applicable Bond Act, and payable as to principal, premium, if any, and interest (to the extent not paid from other sources) from taxes which may be levied upon all taxable property within the territorial boundaries of the Town, without limit as to rate or amount.

4. No Default. As of this date, no Event of Default or Default, as applicable, and no event which with the passage of time or the giving of notice may become or may be declared to be an Event of Default or a Default, has happened and is continuing under either of the Agreements.

5. Loan Questionnaire. The statements and information set forth in the Loan Questionnaire submitted by the Town to the Trust in connection with the Interim Loan are true and correct in all material respects on this date as if made on this date.

6. Use of Project and Interim Loan Proceeds.

(a) No Reimbursement. The proceeds of the Interim Loan and the Note may be used, in part, to reimburse the Town for capital expenditures previously made. Any such expenditures were made pursuant to G.L. c. 44, §20A and the rules and regulations of the State Director of Accounts and any such expenditure was documented by a "Report of Advance of Funds in Lieu of Borrowing" filed with the Director. Any such expenditures were made within 18 months prior to this date. At the time of the filing of

any report referred to above the Town reasonably expected to reimburse the expenditures with the proceeds of a borrowing.

(b) Prior Bonds or Notes. No proceeds of the Interim Loan or the Note will be used to pay or retire any bonds, notes or other evidence of indebtedness previously issued by the Town.

(c) Use of Proceeds. The proceeds of the Interim Loan and the Note will be used by the Town to fund a Community Septic Management Program pursuant to G.L. c.111, §127B½. The Town will requisition funds from the Trust pursuant to the Loan Agreement only to the extent the Board of Health of the Town has entered into an agreement or agreements with owners of residential property relating to the repair, replacement and/or upgrade of septic systems on such residential property to be financed with such funds pursuant to G.L. c.111, §127B½.

We, the Selectmen, the Treasurer and the Town Clerk, further certify as follows:

(a) Authorization, Execution and Delivery of Documents. The Loan Agreement, the Project Approval Certificate and Regulatory Agreement and the Note have been duly authorized, executed and delivered. None of those instruments has been amended or supplemented since its date (except such amendments or supplements which have been approved by the Trust or the Department, as applicable) or repealed and each such instrument remains in full force and effect as of this date.

(b) Signatures and Incumbency. The signatures of the Treasurer and the Selectmen as appearing below are the genuine signatures of the persons who held those offices when the Agreements and the Note were signed and when they were delivered.

(c) Proceedings. No proceeding essential to the execution, delivery or issue of the Agreements and the Note has been repealed or amended except as stated in paragraph (1) above, and no proceedings have been taken relating to the Agreements and the Note other than those certified to Edwards Angell Palmer & Dodge LLP.

(d) Bylaws. The bylaws or votes described below are the only bylaws or standing votes of the Town affecting the authorization, sale or issue of the Note, including the calling and conduct of town meetings, or the authorization, execution or delivery of the Agreements, and there has been no change therein affecting those matters in any way except as may be indicated below:

Town of Middleborough Bylaws as revised through September 24, 2001.

(e) Home Rule. The Town has not adopted a home rule charter and the Town has not amended or repealed any special law relating to the Town through the use of home rule procedures.

(f) Selectmen's Vote. Attached hereto is a true copy of the Selectmen's Vote, which has not been amended or repealed and remains in full force and effect on this date.

(g) Development Districts. The Town has not established any development districts pursuant to G.L. c.40Q.

Dated: \_\_\_\_\_, 2009  
(Date of delivery of the Note -  
to be left blank until delivery)

Patricia E. Rogers

Margaret C. Dwyer  
Alfred P. Dwyer

Selectmen

Judy M. MacFarland  
Treasurer

\_\_\_\_\_  
Town Clerk

(Town Seal)

BOS111 12405407.1

No. 1

United States of America  
The Commonwealth of Massachusetts

\$300,000

TOWN OF MIDDLEBOROUGH  
COMMUNITY SEPTIC MANAGEMENT PROGRAM INTERIM LOAN NOTE

PRINCIPAL AMOUNT: Three Hundred Thousand Dollars

MATURITY DATE: August 1, 2012

The Town of Middleborough, Massachusetts (the "Borrower"), for value received, promises to pay to the Massachusetts Water Pollution Abatement Trust (the "Trust"), upon presentation and surrender hereof, the Principal Amount specified above, or such lesser amount as shall have been advanced from time to time to the Borrower on account of this note in accordance with the Loan Agreement hereinafter referred to, on the Maturity Date specified above or, if earlier or later, the Closing Date for the permanent Loan determined in accordance with the Loan Agreement, at the principal corporate trust office of U.S. Bank National Association, in the City of Boston, Massachusetts. The date and amount of each advance made on account of this note shall be endorsed on the Schedule of Advances on the reverse hereof by an authorized officer of the Trust. No interest shall accrue and be payable on the Principal Amount of this note.

This note is issued pursuant to Chapter 29C and Chapter 111, Section 127B½ of the General Laws as amended for the purpose of financing costs of a community septic management loan program in anticipation of the proceeds of a loan to the Borrower under and pursuant to Loan Agreement No. T5-97-1077-G dated as of July 1, 2009 between the Trust and the Borrower. This note is a general obligation of the Borrower and the full faith and credit of the Borrower are pledged to the payment of the principal of this note.

Dated: August 1, 2009

Countersigned:

*Patrick E. Logan*

*Michael C. Murphy*  
*August P. Butler*

Selectmen

TOWN OF MIDDLEBOROUGH

By *Judy M. Mansueto*  
Treasurer

(TOWN SEAL)

# The Commonwealth of Massachusetts Certificate of Town Clerk

Note Number(s): 1972

## Town Treasurer's Record

Town of Middleborough

1. Date of Town Meeting Authorizing Loan May 26, 2009

2. Purpose of Loan Water Bonds

*Note: Attach a Municipal Purpose Loan Form for lines 1 to 7 for all multiple purpose loans.*

3. Total Amount of Loan Authorized \$ 350,000.

4. Amount of Previous New Issues of this Loan \$ 0.00

5. Paydowns on this Issue (if required) \$ 0.00

6. Amount of this Issue \$ 350,000.

7. Balance of this Loan Unissued \$ 0.00

*Note: Amount Authorized minus Previous New Issues minus This Issue (New Money) equals Unissued Balance.*

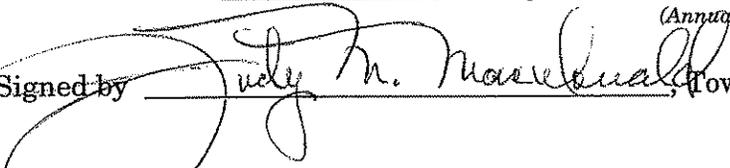
8. Issue Date August 18, 2009 Date Due August 18, 2010

9. Payable to Eastern Bank

10. Payable at Uni Bank for Savings 39 Church Street Whitinsville, Ma 01588

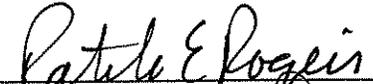
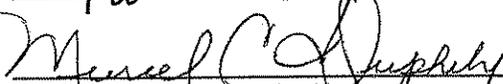
11. Rate of Interest 1.70 % Payable at Maturity

*(Annually, semi-annually or at maturity)*

12. Signed by , Town Treasurer

**TO THE DIRECTOR OF ACCOUNTS: THIS CONSTITUTES OUR AUTHORIZATION TO DELIVER THE NOTE(S), WHEN CERTIFIED, TO THE PURCHASER(S) SPECIFIED ON LINE 9 ABOVE.**

COUNTERSIGNED AND APPROVED BY:

 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Selectmen  
and a  
majority  
thereof

In the presence of: \_\_\_\_\_, Town Clerk  (complete right side)

No. 1972

\$ 350,000.

The Commonwealth of Massachusetts  
Town of Middleborough  
*This Note is exempt from Taxation in Massachusetts*

Date of Issue August 18 2009

For Value Received, the inhabitants of the Town of Middleborough

by their Treasurer, hereto duly authorized by vote of said Town passed on May 26, 2009

S. T. M.

or by Massachusetts General Laws Chapter 44, Section 8, or both,

promise to pay to Eastern Bank or order

at Uni Bank For Savings 39 Church Street, Whitinsville, MA 01588

the sum of Three Hundred & Fifty Thousand 00/100 Dollars

on August 18, 2009, with interest at an annual rate of 1.70 % payable at maturity.

Countersigned and Approved

Patricia E. Rogus

Majority of

Manuel C. Dugally  
Richard P. Dudley

the Board of

Selectmen

Signed

Walter M. MacBee

Treasurer

Town of Middleborough

**Town Seal**

To be affixed here

I certify that this note was countersigned and approved by the Selectmen in my presence.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Town Clerk

The Commonwealth of Massachusetts  
Department of Revenue, Boston

I hereby certify that this note appears to have been duly issued in accordance with the provisions of Chapter 44 of the Massachusetts General Laws and that there is on file in this office, where they may be inspected, certifications by the Town Clerk of a true copy of the Town Treasurer's record of the issue of this note and, where applicable, of a true copy of the vote of the duly warned town meeting authorizing the loan, together with certifications that the signatures appearing upon said note are those of the duly qualified Treasurer and the majority of the Board of Selectmen.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Accounts

Town Copy

Town of Middleborough  
Massachusetts

\$350,000.00

Bond Anticipation Note  
Water

Dated: August 18, 2009

Due: August 18, 2010

\*\*\*\*\*

Certificate and Covenant as to Tax-exempt Status of Notes

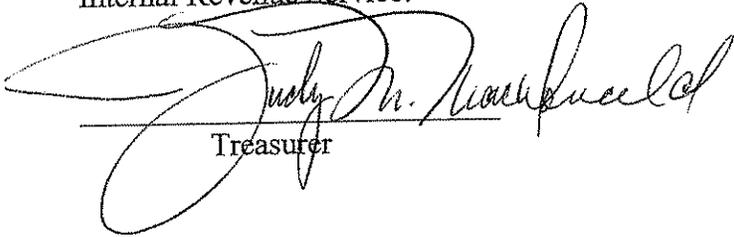
We, the Treasurer and Selectmen of the Town of Middleborough, Massachusetts (the "Issuer"), certify and covenant on behalf of the Issuer as follows in connection with the issuance of its Notes described above and the exclusion of interest thereon from gross income for federal income tax purposes under the Internal Revenue Code of 1986 as amended (the "Code"):

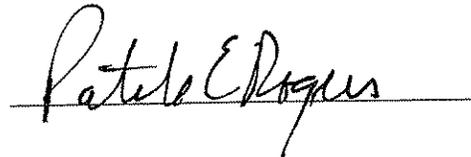
1. The Issuer will take all lawful action necessary to comply with requirements of the Code that must be satisfied subsequent to the issuance of the Notes in order that interest on the Notes be or continue to be excluded from gross income for federal income tax purposes.

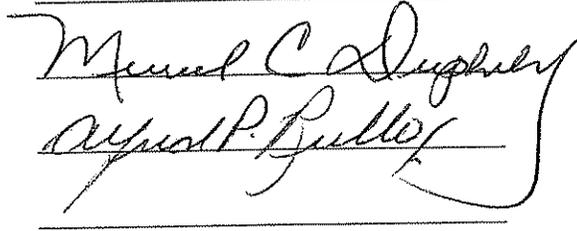
2. The Notes are hereby designated as "qualified tax-exempt obligations" for the purposes of Section 265(b) of the Code. We certify that the reasonably anticipated amount of tax-exempt obligations, including the Notes, that will be issued by the Issuer and all subordinate entities during the current calendar will not exceed \$30,000,000.

Dated: August 18, 2009

I, the undersigned Treasurer hereby certify that, as required by the Code, I have this day filed Form 8038G, a copy of which is attached, with the Internal Revenue Service.

  
Treasurer

  
\_\_\_\_\_

  
\_\_\_\_\_

  
\_\_\_\_\_

Selectmen

**Information Return for Tax-Exempt Governmental Obligations**

Under Internal Revenue Code section 149(e)

See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

<b>Part I Reporting Authority</b>			If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name <b>Town of Middleborough, Massachusetts</b>	2 Issuer's employer identification number <b>04 : 6001221</b>			
3 Number and street (or P.O. box if mail is not delivered to street address) <b>20 Centre Street, 3rd Floor</b>	Room/suite	4 Report number <b>3 2009-2</b>		
5 City, town, or post office, state, and ZIP code <b>Middleborough, MA 02346</b>		6 Date of issue <b>8/18/2009</b>		
7 Name of issue <b>\$350,000.00 Bond Anticipation Note</b>		8 CUSIP number		
9 Name and title of officer or legal representative whom the IRS may call for more information <b>Judy MacDonald, Treasurer</b>		10 Telephone number of officer or legal representative <b>( 508 ) 946-2419</b>		

<b>Part II Type of Issue (check applicable box(es) and enter the issue price)</b> See instructions and attach schedule	
11 <input type="checkbox"/> Education	11
12 <input type="checkbox"/> Health and hospital	12
13 <input type="checkbox"/> Transportation	13
14 <input type="checkbox"/> Public safety	14
15 <input checked="" type="checkbox"/> Environment (including sewage bonds)	15 <b>351,032.50</b>
16 <input type="checkbox"/> Housing	16
17 <input type="checkbox"/> Utilities	17
18 <input type="checkbox"/> Other. Describe <input type="checkbox"/>	18
19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input checked="" type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/>	

<b>Part III Description of Obligations. Complete for the entire issue for which this form is being filed.</b>				
(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21 <b>08/18/2010</b>	<b>\$ 351,032.50</b>	<b>\$ 350,000.00</b>	<b>1.00</b> years	<b>1.3959 %</b>

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>				
22 Proceeds used for accrued interest	22	0		
23 Issue price of entire issue (enter amount from line 21, column (b))	23	351,032.50		
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	1,032.50		
25 Proceeds used for credit enhancement	25	0		
26 Proceeds allocated to reasonably required reserve or replacement fund	26	0		
27 Proceeds used to currently refund prior issues	27	0		
28 Proceeds used to advance refund prior issues	28	0		
29 Total (add lines 24 through 28)	29	1,032.50		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	350,000.00		

<b>Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)</b>	
31 Enter the remaining weighted average maturity of the bonds to be currently refunded	0.00 years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	n/a years
33 Enter the last date on which the refunded bonds will be called	n/a
34 Enter the date(s) the refunded bonds were issued	n/a

<b>Part VI Miscellaneous</b>	
35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35 n/a
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a n/a
b Enter the final maturity date of the guaranteed investment contract	37a n/a
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the name of the issuer and the date of the issue	
38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box <input checked="" type="checkbox"/>	
39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box <input type="checkbox"/>	
40 If the issuer has identified a hedge, check box <input type="checkbox"/>	

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

**Sign Here**

Signature of issuer's authorized representative: *Judy MacDonald* Date: **8/18/2009**

Judy MacDonald, Treasurer  
 Type or print name and title

**From:** Jeff Stevens  
**Sent:** Tuesday, August 04, 2009 10:10 PM  
**To:** Allison Ferreira

Allison,  
Please pass on the Green Energy Cmt. "Mission" & Goals to the Town Manager. Thanks,  
Jeff Stevens

### **Green Energy Committee Mission**

**It is the Mission of the Middleboro Green Energy Committee to encourage the efficient use of energy, the development of alternative energy sources, and to decrease the negative impact of energy consumption, in town government and in the community.**

### **Green Energy Committee Goals:**

1. Improve the efficient use of energy in town owned buildings, while maintaining the safety and comfort of town employees.
  - Assess current energy use in town buildings
  - Determine and provide recommendations for physical upgrades to town buildings that can improve energy efficiency and reduce the carbon footprint with a reasonable pay back time.
  - Provide recommendations to town employees where changes in work practices and building use may be implemented to eliminate unnecessary energy use
  - Eliminate harmful environmental practices
2. Serve as an active public voice for energy conservation and wise environmental practices by sharing information with the community on energy and environmental conservation, energy efficient homes and possibilities of green energy generation.
3. Determine the availability of State and Federal grant opportunities for green energy projects and where possible, work with the town government to obtain grants to implement energy saving and non-polluting features in new construction or upgrading of town buildings.
4. Study and report on the development of alternatives to fossil fuels and the application of renewable energy sources.
5. Advocate for policies, practices, and legislation that promote efficient and clean energy use and share information about policies, practices, and legislation that can benefit the community and improve our local environment.