MINUTES

For approval at the 5-24-10 meeting

DRAFT

Middleborough Board of Selectmen **May 17, 2010**
Meeting Minutes

Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted by Roll Call to go into Executive Session to discuss strategy relative to Pending Litigation. Roll Call: S. McKinnon, Yes; A. Rullo, Yes; M. Brunelle, Yes; M. Duphily, Yes; S. Spataro, Yes. Chairwoman announced Board would reconvene into Open Session immediately following. Ended at 7:05 PM.

Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted by Roll Call to go into Open Session at 7:10 PM. Roll Call: S. McKinnon, Yes; A. Rullo, Yes; M. Brunelle, Yes; M. Duphily, Yes; S. Spataro, Yes.

Chairwoman invited Dalton Kane of Boy Scout Troop 96 to lead the meeting in the Pledge of Allegiance.

Chairwoman read aloud the attached statement re IGA Between the Town of Middleborough and the Wampanoag Tribe.

Upon motion by Selectman Rullo and seconded by Selectman Spataro, Board voted unanimously to authorize the Town Manager and our outside legal counsel to draft a letter initiating the IGA's Dispute Resolution process.

NEW BUSINESS
Upon motion by Selectwoman Duphily and seconded by Selectman McKinnon, Board voted unanimously not to object to Capeway Store, 578 Wareham Street, receiving a KENO monitor to display the game.

Minutes
Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted unanimously to approve 5/10/10 meeting minutes with changes as requested by Selectwoman Duphily.

NEW BUSINESS
Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted unanimously to approve a One-day All Alcoholic Beverages Liquor license to the Bartending Service of New England for a Class Reunion event to be held at 307 Wood Street on 7/17/10 from 4 PM until 8 PM.

Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted unanimously to approve the 4th of July parade to be held on Saturday, July 3, 2010 with notice to be sent to the Police and Fire Chiefs.

Chairwoman read aloud Board's Annual Appointments. Selectman McKinnon questioned whether the proposed Town Counsel Charter change would affect anything. Chairwoman responded that it would not. Upon motion by Selectman Spataro and

seconded by Selectwoman Duphily, Board voted unanimously to approve its Annual Appointments for 2010 as is presented on the attached.

HEARINGS, MEETINGS & LICENSES

Conservation Agent Patricia Cassady addressed Board and explained brief changes to the JA-MAR Conservation restriction. Upon motion by Selectman Spataro and seconded by Selectwoman Duphily, Board voted unanimously to approve the changes and to sign the restriction.

TOWN MANAGER'S REPORT

Town Manager announced that a FEMA Kickoff meeting is scheduled for tomorrow at 1:30 PM at Middleborough Fire Station headquarters re reimbursement of the Town's expenses due to the heavy rain storm in March.

Town Manager recommends that the Board refer request from Chief Gates and DPW Director Bagas for a Stop sign re Cherry Street eastbound at Sachem Street to Safety Officer. Safety Officer will make recommendation to Board and provide a diagram at that time.

Town Manager spoke about the Wastewater Treatment Plant and how it had been inundated with water during the March heavy rain storm. Town Manager recognized the staff at the plant for getting the plant back in shape. They worked very hard. He particularly offered his thanks to Todd Goldman who has been filling in. Town Manager referenced letter from CDM in which they offer how very impressed they were at what the staff has done there. Selectwoman Duphily asked if there is a plan to have procedural matters written down for future reference. Town Manager responded that this will be done. Selectman McKinnon asked about some valve work mentioned in the CDM report. Town Manager doesn't know the magnitude of that, but they will look into that as well.

HEARINGS, MEETINGS & LICENSES

Legislative Delegation

Chairwoman announced that the Board invited the Town's legislative delegation here to talk about what's happening on Beacon Hill relative to the state budget. Representative Straus indicated that the House took no money from the state's Rainy Day fund. His perspective is that we have a difficult year as of 7/1/10 and a difficult year 365 days after that. State program spending will be down in terms of local aide. They are trying to be cautious. Representative Calter noted that the budget is still a moving target. The House and Senate had agreed a few months ago to give the Town's a four percent local aid cut so that the Town's could prepare their budgets. Local aid, early childhood education, higher education, family services, mental health, public health, public safety, environment, labor and work-force development are all agencies that are being reduced, possibly even greater than by 4%. He spoke of possible sales and income taxes roll backs to 5%. If that passes, it will mean further cuts and we will be looking at a deficit of a

little under five billion dollars. That burden will further decimate all of these programs and cause further significant cuts to local aid.
Representative Canessa addressed Board. Local aid has always been his number one priority. There are other opportunities to provide other financial resources to the Town. One being grants for Economic and Community Development. One of those opportunities is the Ring Road and Rotary here in Middleborough. Optimistic that Town will make out well on this initiative. That is money that the Town would be getting. They are in constant communication with the Town Manager about many other projects that have been applied for. They have brought down various secretaries to the Town and shown them these projects. He noted that having that visual helps when the representatives call them to keep on top of the projects.
Selectman Rullo thanked the representatives for coming. He is concerned about revenue projections and asked what their expectations are for 2011. Representative Calter offered that the revenue projections are valid. Representative Straus agreed and offered that they have resisted to falling prey to a whole series of positive numbers that are out there that show we are coming out of the economic crisis. Representative Canessa concurred with Straus.
Selectman McKinnon asked the representatives what they are going to do about cutting that down special education expenses. He asked them if they are going to cut the funding down, would they also be cutting the mandate. Representative Canessa noted that special education is largest example of unfunded mandates. They've been working on a municipal relief package to regionalize some services as a way to save costs and make services more efficient. As it relates to special education, it's an opportunity for some of these schools to look into. Selectman McKinnon has a 2009 document written by Bob Sprague that he will send to the representatives for their review.
Representative Calter offered that the mandates don't go without any compensation to the Towns. The debits or credits we are taking from our budget are meaningless. What matters is rethinking and reorganizing. Special Education was increased in the House Budget. The Town's reimbursement was increased. Early childhood education was decreased. He suggested that we need to rethink how we provide government services. It is his view that this is a wonderful opportunity to rethink this now.
Selectman Spataro asked if we kept all of the money that we generate in Town and send to the state, would we be better off. He asked the representatives to give us perspective as to what type of cuts you are having in Boston and compare them to municipal cuts.
Representative Calter informed the Board that he has one aide who was furloughed the week before Christmas. She has five children. He was furloughed for a week. Thirty seven aides were laid off at Christmastime.
The reorganization in transportation resulted in hundreds of layoffs as a way of cutting costs for greater efficiency. Pensions have changed since reform.
Representative Straus offered that each of the representatives work in different program areas. He suggested that they put a list together for the Board as he thinks it's a valid question and the general public wants to know that they are not the only ones experiencing cuts.

Selectwoman Duphily suggested that the representatives bring the secretaries through the Route 44 rotary at 3:30 or 4 PM during the week and they will see how difficult it is for the townspeople to get through it. Representative Canessa responded that they can certainly put that together. If we fix this correctly, there is opportunity for significant economic development and job growth, not just for the community, but for the region. Representative Calter added that they put a lot of pressure on the Lt. Governor about this issue, which is now beginning to show some results.
Chairwoman Brunelle asked if they could explain in what area they see 45,000 new jobs becoming available.
Representative Calter responded that they are not coming from the construction industry. Life science, clean energy and biotec are showing increases. They are hoping to see major uptake in construction this spring.
Chairwoman Brunelle asked what they see beyond 2012 that makes you think things will improve. Representative Straus offered that he didn't mean to create the impression that things will be better after the next two fiscal years.
Representative Canessa suggested that we should expect a two to four year lag before government plays catch up to what private economy is actually doing.
Representative Calter believes better days are ahead. It shouldn't be a surprise that our economy crashed. Where we ended up is the only logical place we could end up based on being out of control. When there is good corporate citizenship and good government then good things eventually happen. When we do the right thing in rapid succession over a period of time, good things happen.
Selectwoman Brunelle asked if the grant monies available re economic development are matching type grants. Representative Canessa responded that it depends on the grants. The representatives sang the Town Manager's praises for his communication with them and for what the Town has applied for. Through that communication they have been able to find out what the Town has applied for relative to state resources. It is critically important. Please continue to utilize them because that is what they are there for. The Town Manager has done an excellent job letting them know. They thanked the Town Manager for his advocacy. There is a lot of grant money out there, though it can be hard to find. Town Manager wanted to say how much our state representatives have worked on behalf of the Town over these past few years. He thanked them for all that they have been doing.
Chairwoman Brunelle offered the opportunity for questions from the audience
Brian Giovanoni offered that 40B projects have caused influx of expenses that the Town has no control of. He suggested we push to get mobile homes included in the 40B. Representative Straus agreed it is sorely in need of reform.
Chief Benjamino offered his appreciation to Representative Calter coming to his office today and asking him his thoughts on what the impact is on the Fire Department regarding these budget cuts. The Chief asked what steps the representatives are taking to insure the safety of the public safety personnel that are providing public safety to the citizens. Representative Calter responded that he has family members who are in public safety positions. There is no money. The Town and the state are doing the best it can do.

We are putting people on the front line in danger. Representative Canessa added that it's a situation we are faced with in every community. Representative Canessa noted that New Bedford had 30-35 firefighters laid off last year. Those folks got rehired. He is very proud to say he had Jim Allen, Union President for the Fire Department in New Bedford, tell him that we are the only state in the entire country to take that federal public safety money and turn it over into the communities to re-hire public safety personnel that have been laid off.
Relative to home foreclosures, Adam Bond asked the representatives if they can change the law regarding non-judicial sales controlled by state law.
Representative Straus acknowledged that the matter raised by Mr. Bond was detailed and involved complex legal issues, and therefore, he couldn't give an immediate response. He suggested that the best the representatives can do is offer to check into this and they can get back to Mr. Bond.
Representative Canessa asked that if anyone is aware of anyone who is perpetrating predatory lending please let them or the Attorney General's Office know.
Mr. Belanger asked if they would speak to CPA as a tool that might help Middleborough control its own destiny. Representative Straus responded that the heart of the CPA bill is for folks in each community to decide for themselves. Communities that got into CPA early had a higher percent of state pool matching funds.
Chairwoman thanked the representatives for coming in.

Tispaquin Family Campground
Barbara Holton addressed Board. Chairwoman informed Mrs. Holton that she is being treated as fairly as other campsite owners. Barbara Holton stated that her campground has to be in compliance with Title V but that the KOA campsite does not. Chairwoman disagreed. Selectman Rullo noted that the Board of Health can only deal with the septic issue, and not zoning issues. He additionally noted that the K.O.A. is not before the Board. The only issue before the Board of Health is the Tispaquin Family Campground septic issues. Health Officer J. Spalding offered that if Mrs. Holton is willing to abide by the previous agreement she had with the ZBA for 57 sites, she will support a license. If not, then she will not support a license.
Selectwoman Duphily asked Mrs. Holton if she had applied for the correct permits/licenses at the time that she originally enlarged her campground sites. Mrs. Holton responded that she went to court and got the correct licensing. Selectwoman Duphily asked her if she went to the Town. Mrs. Holton responded that she went to the court when she found out she could appeal. Mrs. Holton indicated that she has been running a business on this property for 26 years, and noted that there's never been an illness or a problem. She went on to note that she keeps track of everything and makes sure there are no health issues that endanger the health or safety of anyone. She offered that her neighbors want the campground there. She indicated that she is willing to work with MA DEP and put in a tight tank, but suggested that nobody wants to work on that basis, and instead want to send her out to get an engineer. She indicated that she is only open for a few months – seasonal.

Chairwoman Brunelle asked Mrs. Holton if she was willing to amend her application to 57 campsites. Mrs. Holton responded that she was not willing to do that because it is over 47 and she might endanger somebody's health. She added that she is willing to work with DEP. Chairwoman asked Mrs. Holton if she is willing to amend her application to 57 campsites instead of 113. Mrs. Holton answered that she is not willing, that she wants 113. Chairwoman asked if there were any questions by anyone in the audience. Hearing none, Chairwoman declared the hearing closed. Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted unanimously to deny permit as the present septic system will not support 113 campsites.

CORRESPONDENCE

3 - Finance Committee Revenue and Expense Summary - Town Manager confirmed that we are on the same page.

Selectman Rullo updated the Board re Brockton taskforce meeting he attended last Thursday. He will give Board's secretary a copy of the regulations to distribute to the rest of the Board.

Selectwoman Duphily asked why there are no air monitors near us. Selectman Rullo offered that the DEP said that was enough monitoring. There is no requirement for them to establish anymore.

Selectman McKinnon noted that the Board would be discussing Fossil Fuel Moratorium on 5/24/10.

Adam Bond addressed the Board to say that the statement that was read tonight was a good start re casino. His suggestion to add a little bit of emphasis to the dispute resolution letter and incentive to cut the ten days is to open the warrant and insert an article where the Town would declare the IGA terminated by its terms and by notice of the Tribe. The Board would be instructed by Town Meeting to send a letter revoking support of the land in Trust as previously submitted and vigorously opposing the land being taken in Trust by any other means with copies being sent to the B.I.A., the Congressional Delegation and the Governor.

Chairwoman Brunelle informed Mr. Bond that the Town Meeting Warrant has been closed and published and cannot be opened at this time. Mr. Bond suggested that, in that case, there are other avenues that could be considered.
Chairwoman Brunelle thanked Mr. Bond and noted that the Board is reviewing all of its options.

Richard Young addressed Board to ask who the outside counsel is that is being hired and if we can pay them with casino funds. Chairwoman Brunelle responded that it is Dennis

Whittlesey and that we can pay him through casino funds. He also asked if the Board agrees or disagrees with statement in letter from the Tribe that they made it clear several weeks ago that the Casino was going to New Bedford. Chairwoman responded that the Board disagrees.

Allin Frawley – past two weeks he has been having hard time accessing Selectmen information on the website. Something changed or moved. Chairwoman asked Mr. Frawley for his telephone number and offered to call him directly. A. Bond and B. Giovanoni explained how they have been accessing the information, but agree that the link is missing.
Mr. Frawley asked what is going on with the website. Town Manager responded that he anticipates it will be up and running by the second week in June.
Mr. Frawley noted that the Wampanoag Tribe has a support letter from the Town of Middleborough which reads "for the development for an Indian Casino on the subject land". Mr. Frawley shared that he interprets that to mean that if the Tribe intends to do anything else with that land, it does not have a letter of support from the Town of Middleborough.
Mr. Frawley expressed concern that someone on behalf of the Tribe is not being truthful as to when they notified the Town of their intentions to build the Casino in New Bedford. Chairwoman Brunelle responded that, at this point in time, because it is pending litigation, the Board will have no further comment unless, or until, it can release that information.
Mr. Frawley questioned the Town Manager having had been allowed to meet with the Tribe alone on Wednesday when it had been agreed that we invite the Tribe in for a public meeting.
Chairwoman Brunelle clarified that it had been agreed at the Board's meeting on 5-10-10 that she would ask the Town Manager to call the Tribe to ask if it had a response.
Mr. Frawley offered that it is his hope that the Board will be a little more attentive to the rest of this process as the initial letter was sent on 2/25/10 and was answered on 4/6/10. He indicated that we cannot wait that long to begin this process.

Brian Giovanoni addressed the Board and offered that he likes how reserved the Board has been. Mr. Giovanoni added that, in his opinion, anyone who disrespects this table and this Board, disrespects this Town. He would like to see people respect the community.

Mr. Belanger addressed the Board to note that he urges the Board to make as quick and as clean an exit from this (Casino issue) as it possibly can. He also asked who he would talk to about the mess left over from sandbags that had been placed at Pratt Farm during the rainstorms in March. Town Manager responded that DPW Director Andy Bagas is already planning to clean up the area.

Upon motion by Selectman Rullo and seconded by Selectwoman Duphily, Board voted unanimously to adjourn meeting at 9:43 PM.

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Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

TOWN OF MIDDLEBOROUGH

For Release: May 17, 2010

The Town of Middleborough has been notified by the Mashpee Wampanoag Tribe that it is terminating the Intergovernmental Agreement executed by the Town and the Tribe on July 28, 2007, which provides for development of a casino and resort project pursuant to the federal Indian Gaming Regulatory Act.

The Board of Selectmen and Town Administration have worked diligently towards development of this project, including the sale to the tribal developers of the site upon which the project is to be located and decisions to forgo other development opportunities which might have infringed on terms of the IGA. At all times, the Town and its various components have acted in good faith and with full public disclosure.

The Board has consulted with its outside legal counsel about the Tribe's announced abrogation of the Agreement, and concluded that the IGA is valid and enforceable. With this, the Town intends to invoke the IGA's Dispute Resolution provisions, including enforcement of the Agreement pursuant to Section 24.I(2). This decision will be formally delivered to the Tribe pursuant to the IGA's Notice provisions, and formal discussions will commence within 10 days thereafter.

Notwithstanding these developments, the Town continues to look forward to working with the Tribe on this Indian casino project which offers a unique economic opportunity for both parties.