

**SPECIAL TOWN MEETING
OCTOBER 3, 2016**

Special Town Meeting was called to order at 7:06 PM by Town Moderator, Wayne C. Perkins, who declared a quorum present in the Middleborough High School Auditorium.

The Moderator invited Reverend Steve DelSignore, Pastor of St. Andrews Traditional Anglican Church to offer the invocation.

The Veterans' Council led the meeting in the Pledge of Allegiance. The Moderator then introduced the following, Emily St. Laurent, 23-year old resident of Lakeville, but Middleborough holds a special place in her heart. Her father Joseph St. Laurent was raised in Middleborough by Paul and Claire St. Laurent. Emily has been a parishioner at Sacred Heart Parish throughout her life and continues to stay involved. She has sung in the church choir for 17 years and is a regular cantor. She has volunteered on annual confirmation retreats for the parish for 8 years. Emily has recently graduated with her Master's Degree in Child Life and Family Studies from Wheelock College. While at college Emily participated in sports, music, and community outreach. Throughout Emily's life, she has continued to stay connected to her community which includes her parish and the Burtwood School of Performing Arts where she first found her love for performing. Ms. Laurent sang the National Anthem. The Moderator acknowledged and thanked the members of the Middleborough High School Student Council for acting as pages and counters for the evening.

Voted unanimously to allow as necessary the following non-resident individuals to address Town Meeting: Robert G. Nunes, Town Manager; Steven Dooney, Town Accountant; Lance Benjamino, Fire Chief; Joseph Silva, Water Superintendent; Christopher Peck, DPW Director; Kathleen Piatelli, School Department Business Manager; Ellen Driscoll, Chief Technology Director for the Middleborough Public Schools; Ruth Geoffroy, Town Planner; Paul Branagan, Principal of the Middleborough High School; Robert Buker, Health Officer; Jason Bloom, Library Director; Ben Levesque and Tom Mahanna of Tighe & Bond; and Attorney Robert Mather; and further for approval of taking a voice vote first on those votes requiring a super majority.

Before any action was taken, the Moderator asked if everyone had a copy of the warrant articles. He stated copies were available in the lobby. In addition, he noted the articles and motions would be projected on the screen for Town Meeting. He reminded those in attendance to turn off all cell phones and pagers other than the Police Chief and Fire Chief; a motion to amend must be in writing for the record allowing time for those to write out the amendment if needed; anyone who would like to address the meeting to use the microphone stating their name and address to be recognized by the Moderator; debate and questions are healthy but to maintain order should be directed through the Moderator and as always maintain civility as Town Meeting is not the place for personal attacks or derogatory comment.

The Moderator certified that the warrant had been posted, served and returned in a proper fashion by Police Chief Joseph M. Perkins.

The following act on was taken:

ARTICLE 1: Voted by majority vote to appropriate \$70,227.00 from taxation to the appropriate line items in FY 2017 budgets as established by the Town Accountant to fund the following departments:

<i>Department</i>	<i>Dept. No</i>	<i>Account</i>	<i>Line Item</i>	<i>Amount</i>
Assessor	141	511101	Reg. Pay Clerical FT	\$977.00
Council on Aging	541	512900	Day Care Health Coord.	\$20,600.00
Town Manager	123	542400	Printing	\$3,000.00
Veterans	543	511121	Reg. Pay Temporary	\$13,000.00
Conservation	171	573100	Dues	\$475.00
Conservation	171	514600	Longevity	\$175.00
Planning	175	531600	Contracted Services	\$12,000.00
Office of Economic and Community Development	185	511143	Reg. Pay Director	\$20,000.00

- Further voted by majority vote to transfer \$28,881.58 from Employee Benefits, Workers Compensation, number 919, account 517100 to Library, number 610, account 511176 and \$3,118.42 from Employee Benefits, Workers Compensation, number 919, account 517100 to Library, number 610, account 558100.
- Further voted by majority vote to transfer \$609,038.00 from Free Cash to Debt Services, number 01.710. account 591000, maturing principal.
- Further voted by majority vote to transfer \$500,000.00 from Wastewater Retained Earnings Enterprise Account to Wastewater Debt Services, number 60.710, account 591000, maturing principal.
- Further voted unanimously to appropriate \$12,055.98 from taxation to account #511101 (Reg. Pay Clerical FT) of the Veteran Services Department for the Town of Middleborough FY 2017 budget.
- Further voted unanimously to transfer all monies from account #511121 (Reg. Pay Clerical Temp.) to account #511101 (Reg. Pay Clerical FT) in the Veterans' Services Department for the Town of Middleborough FY 2017 budget.

(NOTE: Article 1 appears as voted. Kindly refer to end of Article for Record of Amendments and Motions for Article 1)

RECORD OF AMENDMENTS AND MOTIONS FOR ARTICLE 1:

Original motion: *A motion was made and seconded to appropriate \$70,227.00 from taxation to the appropriate line items in FY 2017 budgets as established by the Town Accountant to fund the following departments:*

<i>Department</i>	<i>Dept. No</i>	<i>Account</i>	<i>Line Item</i>	<i>Amount</i>
<i>Assessor</i>	<i>141</i>	<i>511101</i>	<i>Reg. Pay Clerical FT</i>	<i>\$977.00</i>
<i>Council on Aging</i>	<i>541</i>	<i>512900</i>	<i>Day Care Health Coord.</i>	<i>\$20,600.00</i>
<i>Town Manager</i>	<i>123</i>	<i>542400</i>	<i>Printing</i>	<i>\$3,000.00</i>
<i>Veterans</i>	<i>543</i>	<i>511121</i>	<i>Reg. Pay Temporary</i>	<i>\$13,000.00</i>
<i>Conservation</i>	<i>171</i>	<i>573100</i>	<i>Dues</i>	<i>\$475.00</i>
<i>Conservation</i>	<i>171</i>	<i>514600</i>	<i>Longevity</i>	<i>\$175.00</i>
<i>Planning</i>	<i>175</i>	<i>531600</i>	<i>Contracted Services</i>	<i>\$12,000.00</i>
<i>Office of Economic and Community Development</i>	<i>185</i>	<i>511143</i>	<i>Reg. Pay Director</i>	<i>\$20,000.00</i>

- *Further voted by majority vote to transfer \$28,881.58 from Employee Benefits, Workers Compensation, number 919, account 517100 to Library, number 610, account 511176 and \$3,118.42 from Employee Benefits, Workers Compensation, number 919, account 517100 to Library, number 610, account 558100.*
- *Further voted by majority vote to transfer \$609,038.00 from Free Cash to Debt Services, number 01.710, account 591000, maturing principal.*
- *Further voted by majority vote to transfer \$500,000.00 from Wastewater Retained Earnings Enterprise Account to Wastewater Debt Services, number 60.710, account 591000, maturing principal.*

A motion was made and seconded to amend Article 1 to appropriate \$12,055.98 from taxation to account #511101 (Reg. Pay Clerical FT) of the Veteran Services Department for the Town of Middleborough FY 2017 budget; further moved to transfer all monies from account #511121 (Reg. Pay Clerical Temp.) to account #511101 (Reg. Pay Clerical FT) in the Veterans' Services Department for the Town of Middleborough FY 2017 budget. After the motion was made and seconded, Town Manager Robert G. Nunes read the following Agreement for the record: The Town of Middleborough ("Town") and

AFSCME Council 93, Local 1700 (“Middleborough Clerical/ COA Union” or “Union”) hereby agree as follows:

1. The Town will hire an entry level Clerk to work in the office of the Veterans Agent. The position will be classified, and treated as, a “Temporary Clerk” pursuant to the parties’ Collective Bargaining Agreement (“CBA”) for 10 (ten) months after the individual chosen for the position begins work.
2. The Temporary Clerk will work up to, but not more than, 19 (nineteen) hours a week from the start date through the week ending July 1 2016. Thereafter, the Temporary Clerk will work approximately 10 (ten) hours a week.
3. The parties will have further discussions about the future of this Temporary Clerk position beyond 10 (ten) months, including whether, and under what terms, it should continue to be filled.
4. To the extent that this Agreement conflicts with any of the terms of the parties’ CBA, the terms of this Agreement shall prevail.
5. This Agreement and the terms herein may not be used to prejudice the position of the parties in any pending or future matter and, therefore, shall not be admissible in any matter or proceeding except a proceeding to enforce its terms.

The Town Manager further stated if this motion passes, it would be a violation of the above-referenced Agreement.

Motion passed by majority vote.

ARTICLE 2: Voted unanimously to transfer the sum of \$1,798.96 from Free Cash in order to pay previous years, unpaid bills, for the following:

- H.T. Drummond \$997.50
- H.T. Drummond \$487.50
- South Coast Media \$313.96

ARTICLE 3: Voted by majority vote to appropriate \$105,703.00 from taxation to fund the Police Department’s collective bargaining agreements.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 4: Voted by majority vote to appropriate \$21,000.00 from Free Cash to fund a contract settlement in the Office of the Board of Selectmen.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 5: Voted unanimously to appropriate \$33,680.00 from Free Cash to fund the purchase of a Public Records Request Management Application and an Online Permitting Application for the Information Technology Department and other town departments.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 6: Voted by majority vote to appropriate \$4,735.33 from Free Cash to fund vacation and personal time buyback for the Office of Economic and Community Development.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 7: Voted by majority vote to appropriate \$30,000.00 from Free Cash to remove asbestos from a town owned structure located on Cambridge Street, Map ID 50I, Parcel 3472.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 8: Voted by majority vote to postpone this article indefinitely.

ARTICLE 9: Voted by majority vote to appropriate \$2,609.75 from taxation to pay for the lease of an electric vehicle for the Building Department.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 10: Voted by majority vote to appropriate \$6,382.00 from Free Cash for an archeological study related to the new septic system and handicap accessible ramp and bathrooms at the Oliver House estate property located on Plymouth Street.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 11: Voted by majority vote to appropriate \$200,000.00 from Free Cash to be placed into the Other Post-Employment Benefits Liability Trust Fund.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 12: Voted unanimously to appropriate \$750,000.00 by borrowing for all relevant and necessary expenses associated with the design and construction of a water treatment plant and associated improvements for the East Main Street wells for the Water Department, said sum to be in addition to the sum appropriated under Article 13 of the warrant for the 2015 Annual Town Meeting, and to meet this appropriation, to authorize the Treasurer with the approval of the Board of Selectmen, to borrow said sum under Chapter 44 of the General Laws.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 13: Voted unanimously to appropriate \$53,020.00 from the Open

Space/Recreation Resources Reserve of the Community Preservation Fund for the purpose of repair/replace Bridge #3 at Oliver Mill Park; including up to \$5,000 for in-house project management and oversight; said funds to be expended under the direction of the Community Preservation Committee.

Board of Selectmen Recommended Favorable Action

Finance Committee Recommended Favorable Action

Community Preservation Committee Recommended Favorable Action

ARTICLE 14: Voted by majority vote to appropriate \$34,100.00 from the Historic Resources Reserve of the Community Preservation Fund for the purpose of conducting a Historic Stonework Assessment & Prioritization Plan at Oliver Mill Park; including up to \$5,100 for in-house project management and oversight; said funds to be expended under the direction of the Community Preservation Committee.

Board of Selectmen Recommended Favorable Action

Finance Committee Recommended Favorable Action

Community Preservation Committee Recommended Favorable Action

ARTICLE 15: Voted by counted vote of 150 yes, 7 no, to appropriate \$822,000 for the acquisition by gift, negotiated purchase or eminent domain of a certain parcel of land together with buildings thereon of approximately 81.09 +/- acres known as “Lion’s Head”, owned or formerly owned by Sarah Jigerjian and Mary Jigerjian, as described on Assessors Map 21 Parcel 1411 and Map 12, Parcel 4585, and any costs incidental and related thereto, for the purpose of conservation and passive recreation purposes, to be managed and controlled by the Conservation Commission of the Town in accordance with M.G.L Chapter 40, Section 8C, as amended, and any other relevant state statutes relating to conservation; that to meet this appropriation, pursuant to the recommendation of the Community Preservation Committee, the Treasurer with the approval of the Board of Selectmen is authorized to borrow up to \$822,000 under G.L. c.44B, G.L. c.44, §7(3), and/or any other enabling authority; that the Town Manager, Board of Selectmen and the Conservation Commission be authorized to file on behalf of the Town any and all applications deemed necessary for grants and/or reimbursements under the Self-Help Act (M.G.L. Chapter 132A, Section 11) or any other applications for funds in any way connected with the scope of this acquisition; and the Town Manager, the Board of Selectmen and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments, including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B, as may be necessary on behalf of the Town to effect said acquisition; that said conservation restriction may be granted to the Wildlands Trust or any other organization qualified and willing to hold such a restriction; provided that, the purchase and borrowing authorized hereunder shall be contingent upon the Town receiving a grant award from the Commonwealth of Massachusetts of \$400,000.00 or more; and provided further, that the amount of any bonds or notes authorized hereunder shall be reduced by the amount of any grant funds or other contributions received prior to the issuance of such bonds or notes.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

(NOTE: Article 15 appears as voted. Kindly refer to end of Article for Record of Amendments and Motions for Article 15)

RECORD OF AMENDMENTS AND MOTIONS FOR ARTICLE 15:

Original motion: *A motion was made and seconded to appropriate \$800,000 for the acquisition by gift, negotiated purchase or eminent domain of a certain parcel of land together with buildings thereon of approximately 81.09 +/- acres known as "Lion's Head", owned or formerly owned by Sarah Jigerjian and Mary Jigerjian, as described on Assessors Map 21 Parcel 1411 and Map 12, Parcel 4585, and any costs incidental and related thereto, for the purpose of conservation and passive recreation purposes, to be managed and controlled by the Conservation Commission of the Town in accordance with M.G.L Chapter 40, Section 8C, as amended, and any other relevant state statutes relating to conservation; that to meet this appropriation, pursuant to the recommendation of the Community Preservation Committee, the Treasurer with the approval of the Board of Selectmen is authorized to borrow up to \$800,000 under G.L. c.44B, G.L. c.44, §7(3), and/or any other enabling authority; that the Town Manager, Board of Selectmen and the Conservation Commission be authorized to file on behalf of the Town any and all applications deemed necessary for grants and/or reimbursements under the Self-Help Act (M.G.L. Chapter 132A, Section 11) or any other applications for funds in any way connected with the scope of this acquisition; and the Town Manager, the Board of Selectmen and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments, including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B, as may be necessary on behalf of the Town to effect said acquisition; that said conservation restriction may be granted to the Wildlands Trust or any other organization qualified and willing to hold such a restriction; provided that, the purchase and borrowing authorized hereunder shall be contingent upon the Town receiving a grant award from the Commonwealth of Massachusetts of \$400,000.00 or more; and provided further, that the amount of any bonds or notes authorized hereunder shall be reduced by the amount of any grant funds or other contributions received prior to the issuance of such bonds or notes.*

A motion was made and seconded to amend Article 15 to increase the total amount to \$822,000; motion passed by counted vote of 169 yes, and 4 no.

ARTICLE 16: Voted by majority vote to transfer \$9,000 from Account # 26-930-573-264 - Woloski Park project in the Open Space Resources Reserve of the Community Preservation Fund to Account # 26-931-573-262- Oliver Estate Rehab project in the Historic Resources Reserve; said funds to be expended under the direction of the Community Preservation Committee.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action
Community Preservation Committee Recommended Favorable Action

ARTICLE 17: Voted by majority vote to amend the handicapped and disabled veterans parking by law adopted under Article 4 of the October 22, 1984 Special Town Meeting by deleting Section (d) the penalty clause of the by-law, and replacing it with the following:

Section (d):

(1)The penalty for violation of this by-law shall be Three Hundred Dollars (\$300.00) for each offense

(2)Any unauthorized vehicle parked or standing in violation of this by-law shall be removed in accordance with Section 22D of General Laws Chapter 40.

Board of Selectmen Recommended Favorable Action

Finance Committee Recommended Favorable Action

(NOTE: Article 17 appears as voted. Kindly refer to end of Article for Record of Amendments and Motions for Article 17)

RECORD OF AMENDMENTS AND MOTIONS FOR ARTICLE 17:

Original motion: *A motion was made and seconded amend the handicapped and disabled veterans parking by law adopted under Article 4 of the October 22, 1984 Special Town Meeting by deleting Section (d) the penalty clause of the by-law, and replacing it with the following:*

Section (d):

(1)The penalty for violation of this by-law shall be Three Hundred Dollars (\$300.00) for each offense

(2)Any unauthorized vehicle parked or standing in violation of this by-law shall be removed in accordance with Section 22D of General Laws Chapter 40.

A motion was made and seconded to amend Article 17 to amend Section (d) as follows:

First Offense \$100.00

Second Offense \$200.00

Third Offense \$300.00

Motion failed *by majority vote.*

ARTICLE 18: Voted by majority vote to adopt the following by-law:

HANDICAPPED PARKING FINES

Section 1. All funds received by the Town from fines assessed for violations of handicapped parking laws, by-laws, rules or regulations in the Town shall be allocated to the Town's Commission on Disability.

Section 2. Funds received and allocated under Section 1 shall be deposited in a separate account and shall be used solely for the benefit of persons with disabilities and shall otherwise be subject to the provisions of Section 22G of Chapter 40 of the General Laws.

Board of Selectmen Recommended Favorable Action

ARTICLE 19: Voted unanimously vote to transfer the care, custody, management and control of 157 Wood Street Map 59 Lot 5999 .23 acres of land (10,019 sq. ft. of land +/-),

159 Wood Street Map 59 Lot 6074 .12 acres of land (5,227 sq. ft. of land +/-), 161 Wood Street Map 59 Lot 6073 .23 acres of land (9,934 sq. ft. of land +/-), 163 Wood Street Map 59 Lot 6057 .23 acres of land (10,019 sq. ft. of land +/-), 0 Wood Street Map 65 Lot 414 2.84 acres of land (123,560 sq. ft. of land +/-), from the Board of Selectmen to the Park Commission for recreational use.

Board of Selectmen Recommended Favorable Action

ARTICLE 20: Motion **FAILED** by counted vote of 62 yes, 81 no, to adopt the Massachusetts Stretch Energy Code (on file with the Town Clerk) by adopting the following by-law:

MASSACHUSETTS STRETCH ENERGY CODE

Section 1. The Massachusetts Stretch Energy Code (the “code”) is hereby adopted and incorporated in this by-law. The code shall be in effect in the Town, and the Building Commissioner shall administer and enforce the code.

Section 2. The purpose of the code is to regulate the design and construction of buildings for the effective use of energy.

Section 3. The code is found in Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code.

Section 4. The code version which is hereby adopted shall be the code version which is in effect on the date this by-law is adopted.

Board of Selectmen Recommended Favorable Action

ARTICLE 21: Voted by counted vote 139 yes, 2 no, to accept Brookside Drive and Fidelity Lane as Town ways as laid out by the Board of Selectmen, to authorize the Selectmen to acquire by eminent domain or by gift the fee in said ways as shown on the road layout plan on file with the Town Clerk entitled “Road Layout Plan of Brookside Drive and Fidelity Lane – Middleborough, Massachusetts 02346” consisting of three sheets, dated August 9th, 2016, and prepared by Outback Engineering, Inc., and any related easements as shown on said plan, to authorize the Board to complete construction of the ways and related easements, to raise and appropriate \$400,000.00 by borrowing for the cost of construction, and to meet this appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$400,000.00 under General Laws, Chapter 44 and to authorize the Board of Selectmen to assess betterments for the cost of construction under General Laws, Chapter 80, or act anything thereon.

Board of Selectmen Recommended Favorable Action

Finance Committee Recommended Favorable Action

ARTICLE 22: Voted unanimously to appropriate the following surety sums for the following purposes in connection with a subdivision known as “Brookside Estates” as follows:

AMOUNTS

PURPOSES

- | | |
|---|---|
| 1. \$400,000.00 (plus including accrued interest) | Construction of roads and related infrastructure without limitation drainage facilities. |
| 2. \$30,000.00 (plus accrued interest) | Work within the Colarusso Drive layout and in Colarusso Woods subdivision related to construction Brookside Estates subdivision. |
| 3. \$2,000.00 (plus accrued interest) | Patch and repair of utility trench cut across Brookside Drive in connection with house construction on Lot 14, Brookside Estates subdivision. |

and to authorize the Board of Selectmen to use the respective appropriations for the respective specified purposes.

Board of Selectmen Recommended Favorable Action
Finance Committee Recommended Favorable Action

ARTICLE 23: Voted unanimously to accept Captain Hall Road, Augustus Way, Hayden Way and Leland Way as Town ways as laid out by the Board of Selectmen and to authorize the Selectmen to acquire by eminent domain or by gift, the fee in the ways as shown on the road layout plans, on file with the Town Clerk entitled Roadway Acceptance Plan, Captain Hall Road, Eastwood Estates, Middleborough, Massachusetts, Greystone Realty, Inc.”, which plan is dated February 4, 2016, and being page 1 of 4 pages; Roadway Acceptance Plan, Augustus Way, Eastwood Estates, Middleborough, Massachusetts, Greystone Realty, Inc. which plan is dated February 4, 2016, and being page 2 of 4 pages; Roadway Acceptance Plan, Hayden Way, Eastwood Estates, Middleborough, Massachusetts, Greystone Realty, Inc., which plan is dated February 4, 2016, and being page 3 of 4 pages; and Roadway Acceptance Plan, Leland Way, Eastwood Estates, Middleborough, Massachusetts, Greystone Realty, Inc., which plan is dated February 4, 2016, and being page 4 of 4 pages; and also the related easements as shown on the above referenced plans and subdivision plan on file with the Town Clerk entitled “Subdivision ‘Eastwood Estates’ in Middleborough, Massachusetts, Prepared For Greystone Realty, Inc. Date: March 20, 2006”, consisting of 20 pages, which plan is recorded at the Plymouth County Registry of Deeds in Plan Book 51, Page 1080; and as shown on a plan of land entitled “Plan of Modification of Definitive Subdivision ‘Eastwood Estates’ in Middleborough, Massachusetts, Prepared For Greystone Realty, Inc. Date: February 13, 2008” , consisting of 2 pages, which plan is recorded at the Plymouth County Registry of Deeds in Plan Book 54, Page 229.

Board of Selectmen Recommended Favorable Action

Voted unanimously to dissolve the meeting at 9:09 PM.

A true copy, attest:

ALLISON J. FERREIRA
Town Clerk