

**MIDDLETON SELECT BOARD**  
**MEETING AGENDA**  
**FULLER MEADOW SCHOOL, NATHAN MEDIA CENTER**  
**143 SOUTH MAIN STREET, MIDDLETON, MA 01949**  
**TUESDAY, APRIL 5, 2022**  
**7:00 PM**  
*This meeting is being recorded*

*This meeting will be a hybrid of in-person and remote via Zoom. To join the meeting remotely, go to:*

<https://us02web.zoom.us/j/81838804267?pwd=aThoMXZINW50K2hiN3NMaEh2VldNUT09>

7:00 pm     1. Business  
              a. Warrants: 2221  
              b. Minutes: March 29, 2022 with Charter Review Committee; February 5 and March 5, 2022 Joint Budget meetings  
              c. Town Administrator Updates and Reports

7:10 pm     2. Public Comment

7:20 pm     3. Review recommendation from Police Chief William Sampson to appoint Michael Sampson as a Reserve Officer; votes may be taken

7:25 pm     4. Review Disclosure of Financial Interest and Determination by Appointing Body relative to Police Chief William Sampson; votes may be taken

7:30 pm     5. Review recommendation of the Town Building Committee to award a contract for design services to Context Architecture; votes may be taken

7:40 pm     6. Review request of 99 Restaurant & Pub for a Change of Manager; votes may be taken

7:50 pm     7. Review request of Captain Pizza for reconsideration of liquor license and pledge of collateral; votes may be taken

8:00 pm     8. Review and discuss draft Committee Handbook; votes may be taken

8:10 pm     9. Review and sign Annual Town Meeting warrant; votes may be taken

8:20 pm     10. Review and discuss committee charge and membership for a Solid Waste Advisory Committee; votes may be taken:

8:30 pm     11. Announcements & Reports: Reserved for items the Chair did not reasonably anticipate prior to the posting of the agenda

Upcoming Events:	April 19	Regular SB Meeting
	May 3	Regular SB Meeting
	May 10	Annual Town Meeting, Howe Manning School
	May 17	Annual Town Election, Fuller Meadow School
	May 17 & 31	Regular SB Meetings

*The Board reserves the right to consider items on the agenda out of order. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.*

## CHARTER REVIEW COMMITTEE

### MEETING MINUTES

LIBRARY – FULLER MEADOW SCHOOL

MIDDLETON, MA 01949

March 29, 2020

5:00 PM

**Attending:** **Committee Members**  
George Dow  
Sharon Bainbridge  
Frank Twiss  
James Vining

**Selectboard Members**  
Brian Cresta  
Jeffrey Garber  
Kosta Prentakis  
Richard Kassiotis

#### Discussion:

1. Meeting called to order 5:30 PM
2. Motion to Approve Minutes for March 9, 2022 – Not voted on
3. Selectboard invited to attend meeting and discuss thoughts regarding Town Charter Review with Committee members:
  - Development – Refine process, enforce responsibilities
  - Quorum – Attendance usually Warrant Article driven. Once number decided, requested we provide explanation as to why
  - Recalls – Add Regional School Committee to recall process.
  - Appointing Authority remain as is. Day-to-day supervision power of Town Administrator over Department Heads
  - Get clarity from Town Counsel regarding power of Town Administrator over Department Heads such as Assessor and Library Director in day-to-day function
  - Assistant Town Administrator - Should position be stronger in Finance or HR?
  - Succession Plan if Town Administrator leaves/unable to perform. Who will take over?
  - Board of Assessors – Appointed vs elected
  - Town Clerk – Should this position be appointed or remain elected. Meet with Town Clerk for input
  - Citizen Petition language – State law that requires number of signatures must remain as is
  - Capital Committee – Remove?
  - Town Election/Town Meeting dates - Should they be moved to a Saturday in June? Speak with Town Clerk and Finance Director and discuss pros and cons.
  - Annual Town Meetings – Move to hold two ATMs per year vs. ATM & Special Town Meeting?
  - Upcoming Annual Town Meeting – Charter Review Committee should provide status update
  - Town Counsel review Charter for legal conflicts
4. Invite FINCOM, Town Clerk, Finance Director, Town Administrator, Assistant Town Administrator, Dept Heads to attend future meetings
4. Next meeting scheduled for April 19<sup>th</sup>. Time, guests and location TBD
6. Meeting adjourned at 7:30 PM

**MINUTES OF THE SELECT BOARD & FINANCE COMMITTEE  
FY2023 OPERATING BUDGET SUMMIT**

**Fuller Meadow School  
Nathan Media Center  
143 South Main Street, Middleton, MA 01949  
Saturday, February 5, 2022  
8:30 AM**

**SB Present:** Brian Cresta, Timothy Houten, Kosta Prentakis, Rick Kassiotis, Jeff Garber

**Finance Committee Present:** John Erickson, Richard Gregorio, Jason Vining, George Dow, Michelle Cresta; Toni Mertz (via Zoom)

**Others Present:** Town Administrator Andrew Sheehan, Assistant Town Administrator Jackie Bresnahan, Finance Director/Town Accountant Sarah Wood, other attendees as noted

**8:30 AM** With a quorum present Brian Cresta called the meeting to order.

**FY2023 Operating Budget overview:** **Town Administrator Andy Sheehan, Finance Director Sarah Wood**  
Town Administrator Andy Sheehan and Finance Director Sarah Wood presented an overview of the operating budget and details on revenue and expenses. All referenced budget information was made available on [www.middletonma.gov](http://www.middletonma.gov).

**Masconomet Regional School budget:** **Supt. Michael Harvey, Asst. Supt. Jeff Sands**  
The Masconomet Administration went over the budget process to date including cost implications for Middleton.

**Health Department and related departments:** **Health Director Derek Fullerton**  
Presentation from Derek Fullerton, including discussion of supplemental budget request. There was support for the Public Health Nurse hourly rate change supplemental budget request.

**Information Technology:** **IT Liaison Derek Fullerton and Assistant TA/HR Director Jackie Bresnahan**  
Presentation from Derek Fullerton on current IT budget and priorities with additional discussion on the Regional IT implementation of cyber security upgrades.

**Middleton Elementary School budget:** **Superintendent Scott Morrison, Deputy Superintendent Steve Greenberg**

The Middleton Elementary School budget was presented by the Tri-Town Union Administration. The Administration provided updates on operations and the Middleton contribution to the budget.

**Department of Public Works:** **Paul Goodwin**  
DPW Director Paul Goodwin presented on public works, cemetery, water, as well as providing some year to date updates on the snow and ice budget and operations

**Recess for lunch. Session resumed with next presented.**

**Flint Public Library:** **Interim Library Director Loretta Johnson**

Interim Library Director Loretta Johnson presented the library budget request with the support of Library Board of Trustees Chair Melissa Stankus. Of note, included additional hours for the Library Outreach Coordinator in the form of a supplemental request and, within the operating budget, the increase of the Director position to 40 hours/week, which would bring one of the last department head positions from 35 to 40 hours per week. The Select Board and FinCom also heard comments on the Library budget from Board of Trustees members Maria Paikos-Hantzis and Allison Sloan. Discussion ensued and the Board and FinCom took no action on the Library's supplemental request, but made note of their support for the library staff.

**Town Clerk's Office: Town Clerk Ilene Twiss**

Town Clerk Ilene Twiss presented the Clerk's Office budget, which included bringing both the Town Clerk and Assistant Town Clerk to 40 hours a week. This is consistent with other department head hours as well as the hours that Memorial Hall is open. The Clerk's Office currently opens at 9 am while other offices open at 8 a.m. There was consensus support for the change.

**Police Department: Chief William Sampson**

Presentation by the Chief on the Police Department budget as presented in the materials on [www.middletonma.gov](http://www.middletonma.gov).

**Fire Department: Chief Tom Martinuk**

Presentation by the Chief on the Fire Department budget as presented in the materials on [www.middletonma.gov](http://www.middletonma.gov). Additional discussion ensued about the SAFER grant and the cost implications of funding any positions created by the grant once the grant expires, which is a requirement upon acceptance of the grant as well as a discussion of the cost and safety impacts of the call volume at the Middleton House of Correction.

**General Discussion; review, discuss, and vote on supplemental requests**

Information about follow up budget meetings was provided by the Town Administrator. There was also a presentation by the Town Administrator and Assistant Town Administrator on supplemental requests for two new positions: an IT Project Manager and a Facilities Director. There was general consensus to have staff move forward with working on the IT project Manager position for FY 23, but postpone the Facilities position proposal for the FY 24 budget.

The next joint meeting will be the Capital Budget Summit at 8:30 am on March 5 at Fuller Meadow. The meeting adjourned at 3:20 PM.

Respectfully submitted,

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Jackie Bresnahan, Assistant Town Administrator

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Timothy Houten, BOS Clerk

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John Erickson, Finance Committee Co-Chair

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Richard Gregorio, Finance Committee Co-Chair

**MINUTES OF THE SELECT BOARD & FINANCE COMMITTEE  
FY2023 CAPITAL BUDGET SUMMIT**

**Fuller Meadow School  
Nathan Media Center  
143 South Main Street, Middleton, MA 01949  
Saturday, March 5, 2022  
8:30 AM**

**SB Present: Timothy Houten, Kosta Prentakis, Rick Kassiotis, Jeff Garber; Brian Cresta (via Zoom)**

**Finance Committee Present: John Erickson, Richard Gregorio, Jason Vining, George Dow (in person); Michelle Cresta, John Mahoney (via Zoom)**

**Others Present: Town Administrator Andrew Sheehan, Assistant Town Administrator Jackie Bresnahan, Finance Director/Town Accountant Sarah Wood, and other attendees as noted**

**8:30 AM      With a quorum present TH called the meeting to order.**

**8:31 AM      FY2023 Capital Budget overview and FY 22 Quarter 2 Report: Andy Sheehan, Sarah Wood**  
AS and SW presented an overview of the capital budget and details on the operating budget since the Operating Budget Summit on February 5, 2022. SW presented projected expenditures and provided an update on Quarter 2 of FY 2021. All referenced capital budget information was made available on [www.middletonma.gov](http://www.middletonma.gov).

**Council on Aging: Jillian Smith**

COA Director Jillian Smith presented the FY 23 capital request of a needs assessment for the Council on Aging. She answered questions from the Committee and of note it was indicated that this would be a useful tool for COA services, but also for use during the design of the new facilities project. It was determined that to get the benefit of the timing of the needs assessment with the facilities design that the project should be slated as an FY 22 capital project. That would allow work to begin after immediately Town Meeting, if appropriated, rather than having to wait until July 1.

**Middleton Elementary School budget: Superintendent Scott Morrison, Asst. Superintendent Steve Greenberg**

Presentation from the Schools for their request for Smart Boards as well as some operating budget updates from the February 5 OB Summit.

**Fire Department: Chief Tom Martinuk**

Presentation from Chief Martinuk, including a discussion on an additional \$40k in FY 22 funds due to cost increases for the fire truck that was funded and bonded from ATM 2021. The design of the truck is complete. The final cost increased due to materials costs increases and supply chain issues. Another \$40k is needed to complete the purchase. The boards discussed funding this as a supplemental request in FY22.

**Police Department: Chief William Sampson**

Chief Sampson presented his capital budget for FY 23 including, of note, additional protective vests. The Chief indicated there is a federal program that could cover most of the cost. The Federal deadline is June. There was consensus that the vests should join an FY 22 capital article with the fire truck and COA needs assessment.

### **Department of Public Works: Paul Goodwin**

Presentation on capital projects by Paul Goodwin. It was indicated that some of the projects as noted were with the use of CPA funds. SB and CPC member Kosta Prentakis noted that the CPC would hold their hearing and deliberations on March 28, 2022 and that they had all the needed information.

### **Transfer Station and Refuse**

DPW Director Goodwin stayed for a presentation from Town Administrator Sheehan on the trends and cost implications of the transfer station. Discussion ensued regarding the economic and budget impacts of the transfer station as well as the tonnage and usage. Members of both boards weighed in on funding strategies, operations ideas, and the need for public education regarding trash and waste. The staff was tasked with reviewing the fixed versus non-fixed (or uncontrolled costs) as well as fee structures for various levels of general fund subsidies for the March 31 Budget Hearing.

### **Other Requests: Inspectional Services, Council on Aging, Assessing, Board of Health; Town Clerk, Public Buildings, IT, Public Facilities Project; Administration: Andy Sheehan**

Town Administrator Sheehan reviewed the other requests with support from the ATA and Finance Director. There was consensus support for the IT supplemental request as well as the other requests.

### **General Discussion; review and discuss supplemental requests; operating budget update; update on compensation and classification implementation**

There were updates provided to the SB and Finance Committee on the Masconomet budget and their hearing on March 9<sup>th</sup>. There were also updates on the increase to the PEG budget for website storage, the inclusion of the Public Health Nurse supplemental budget request, and revenue increases for Meals Excise tax and the MELD PILOT agreement.

The next joint meeting on the operating and capital budgets will be the Budget Hearing at 7 pm on March 31 at the Flint Public Library. The meeting adjourned at 12:15 PM.

Respectfully submitted,

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Jackie Bresnahan, Assistant Town Administrator

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Timothy Houten, BOS Clerk

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John Erickson, Finance Committee Co-Chair

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Richard Gregorio, Finance Committee Co-Chair

**DISCLOSURE BY NON-ELECTED MUNICIPAL EMPLOYEE OF FINANCIAL INTEREST  
AND DETERMINATION BY APPOINTING AUTHORITY  
AS REQUIRED BY G. L. c. 268A, § 19**

<b>MUNICIPAL EMPLOYEE INFORMATION</b>	
Name:	William Sampson
Title or Position:	Chief of Police
Municipal Agency:	Middleton Police Department
Agency Address:	65 N. Main Street, Middleton, MA 01949
Office Phone:	978-774-4424
Office E-mail:	William.Sampson@MiddletonMA.gov
<p style="text-align: center;"><b>PARTICULAR MATTER</b></p> <p><b>Particular matter</b>            E.g., a judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, or finding.</p> <p><b>Your required participation in the particular matter:</b>            E.g., approval, disapproval, decision, recommendation, rendering advice, investigation, other.</p>	
<p style="text-align: center;"><b>FINANCIAL INTEREST IN THE PARTICULAR MATTER</b></p> <p><b>Write an X by all that apply.</b></p> <p> <input type="checkbox"/> I have a financial interest in the matter.  <input checked="" type="checkbox"/> My immediate family member has a financial interest in the matter.  <input type="checkbox"/> My business partner has a financial interest in the matter.  <input type="checkbox"/> I am an officer, director, trustee, partner or employee of a business organization, and the business organization has a financial interest in the matter.  <input type="checkbox"/> I am negotiating or have made an arrangement concerning future employment with a person or organization, and the person or organization has a financial interest in the matter.         </p>	
Financial interest	Please explain the financial interest and include a dollar amount if you know it.

A,

in the matter	My brother, if hired, would be compensated as a Reserve Police Officer for the hours he worked in this position. He would be compensated at the same rate all reserve police officers are paid.
Employee signature:	
Date:	03/05/22

#### DETERMINATION BY APPOINTING OFFICIAL

APPOINTING AUTHORITY INFORMATION	
Name of Appointing Authority:	
Title or Position:	
Agency/Department:	
Agency Address:	
Office Phone:	
Office E-mail	
DETERMINATION	
Determination by appointing authority:	As appointing official, as required by G.L. c. 268A, § 19, I have reviewed the particular matter and the financial interest identified above by a municipal employee. I have determined that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee.
Appointing Authority signature:	
Date:	
Comment:	

Attach additional pages if necessary.

**The appointing authority shall keep this Disclosure and Determination as a public record.**

## **INSTRUCTIONS FOR DISCLOSURE BY NON-ELECTED MUNICIPAL EMPLOYEE UNDER G.L. c. 268A, § 19**

### **FINANCIAL INTEREST IN A PARTICULAR MATTER**

#### **WHEN TO USE THE § 19 DISCLOSURE FORM**

You are an **appointed or non-elected municipal employee**, as defined by G.L. c. 268A, § 1(g). Your duties as a municipal employee include participating in a particular matter. You may not participate in the matter because one or more of the following individuals or entities listed below has a **financial interest in the matter**:

- You;
- Your **immediate family member** (you and your spouse, and each of your parents, children, brothers and sisters);
- Your **business partner**;
- A **business organization** for which you are serving as an **officer, director, trustee, partner or employee**;
- A **person or organization** with whom you are **negotiating or have made an arrangement about prospective employment**.

You may file a **§ 19 Disclosure** with your appointing authority describing the particular matter, your responsibilities in relation to it, and the financial interest that is preventing you from participating.

Your appointing authority has discretion to make a written **§ 19 Determination** that the financial interest you have identified is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from you as its employee. You may not participate in the particular matter unless your appointing authority files a written Determination allowing you to do so.

If you choose not to seek authorization to participate, and do not file a § 19 disclosure, you may need to inform your appointing authority or agency that you will not perform your duties as you usually would.

### **PARTICIPATION IN A PARTICULAR MATTER**

In a § 19 disclosure, you must explain in what way you participate in a particular matter.

A **particular matter** is any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination or finding.

You are expected to **participate** through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise.

Explain in what way you are required to participate – e.g., reviewing a proposal, approving an application, deciding about a grant, making a recommendation about a budget, providing advice about a case, conducting an investigation, performing a task or taking an action – in relation to the particular matter.

### **FINANCIAL INTEREST**

In the disclosure, you must explain the financial interest that prevents you from participating in a particular matter. You should include the dollar amount of the financial interest, if known.

A financial interest must be **direct and immediate or reasonably foreseeable** (and not remote, speculative or not sufficiently identifiable), and may be **large or small, positive or negative** – a gain or loss, a benefit or an obligation.

For example, a financial interest exists when the outcome of a particular matter may:

- Cause or prevent a **financial gain or loss**;
- Create or eliminate a **financial opportunity**;

- Determine who will make decisions affecting your or an immediate family member's **wages, hours or working conditions** as a municipal employee.

**Abutters and Owners of Nearby Property:** The following people are presumed to have a financial interest in a particular matter regarding real estate:

- An abutter;
- An abutter to an abutter within 300 feet of the property line;
- A person who may suffer an injury in fact which is different in kind or magnitude from that suffered by members of the general public.

**Competitors:** Your business interest will have a financial interest if the outcome of a particular matter would affect the financial interests of a competitor in a way that would likely decrease or increase your business or the business of your immediate family, your partner, or your private employer.

**FILING THE § 19 DISCLOSURE AND DETERMINATION**

**For the municipal employee**

Sign your completed Disclosure and submit it to your appointing authority.

**For the appointing authority**

You have received a § 19 Disclosure from a municipal employee who may not participate in a matter because of a financial interest in the matter. **You may make a written Determination** that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee. **You also may decide not to make this Determination.** If you make such a Determination, you should provide a copy to the employee. Keep a copy of the § 19 Disclosure as a public record.

If you need advice about completing the disclosure, please call the Attorney of the Day at (617) 371-9500 or e-mail the State Ethics Commission at [requestadvice@massmail.state.ma.us](mailto:requestadvice@massmail.state.ma.us).

Form revised August 2015

# Upton Connell & Devlin, LLP

6.

Contact for Joseph H. Devlin, Esq.  
171 High Street  
Newburyport, MA 01950  
617-514-2837  
617-514-2825

Main Office:  
112 Water Street, Suite 20  
Boston, Massachusetts 02111  
617-227-3277 (Tel)  
617-227-3222 (Fax)

March 16, 2022

Attn: Michelle Creasi, License Administrator  
Board of Selectmen  
48 South Main Street  
Middleton, MA 01949

RE: Change of Manager for an Annual Restaurant All Alcoholic Beverages License of  
99 West, LLC d/b/a 99 Restaurant & Pub, 245 South Main Street and 6 River  
Street, Middleton, MA

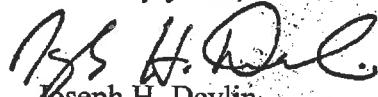
Dear Ms. Creasi:

Enclosed please find the following documents with regard to the above-referenced  
application:

- 1) Proof of payment to the ABCC in the amount of \$200.
- 2) ABCC Online Application Forms, including:
  - a. Monetary Transmittal Form.
  - b. Manager Application.
  - c. Applicant's Statement.
  - d. CORI Request Form.
- 3) Corporate Resolution naming authorizing the President, Charles Noyes, to apply for a  
manager change.
- 4) Proof of Citizenship for the manager of record.

Thank you very much for your time and cooperation. If you have any questions or need  
additional information, please feel free to call me at extension 101.

Sincerely yours,

  
Joseph H. Devlin  
Attorney at law

Enclosure

## Payment Confirmation

### YOUR PAYMENT HAS PROCESSED AND THIS IS YOUR RECEIPT

Your account has been billed for the following transaction. You will receive a receipt via email.



**Transaction Processed Successfully.**

**INVOICE #: b57a30cd-ee9a-40f4-a650-835a5d029a10**

Description	Applicant, License or Registration Number	Amount
FILING FEES-RETAIL	05528-RS-0704	\$200.00
		<b>\$200.00</b>

**Total Convenience Fee: \$0.35**

**Date Paid: 3/16/2022 4:49:01 PM EDT**

**Total Amount Paid: \$200.35**

#### Payment On Behalf Of

**License Number or Business Name:**  
05528-RS-0704

**Fee Type:**  
FILING FEES-RETAIL

#### Billing Information

**First Name:**  
Joseph

**Last Name:**  
Devlin

**Address:**  
112 Water St., Suite 201

**City:**  
Boston

**State:**  
MA

**Zip Code:**  
02109

**Email Address:**  
mcabot@ucdlaw.com

# APPLICATION AND FORMS



*The Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
www.mass.gov/abcc*

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION  
MONETARY TRANSMITTAL FORM**

**AMENDMENT-Change of Manager**

**APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL  
LICENSING AUTHORITY.**

**ECRT CODE: RETA**

**Please make \$200.00 payment here: ABCC PAYMENT WEBSITE**

**PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE  
PAYMENT RECEIPT**

**ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)**

**05528-RS-0704**

**ENTITY/ LICENSEE NAME** **99 West, LLC**

**ADDRESS** **245 South Main Street And 6 River Street**

**CITY/TOWN** **Middleton**

**STATE** **MA**

**ZIP CODE** **10949**

**For the following transactions (Check all that apply):**

<input type="checkbox"/> New License	<input type="checkbox"/> Change of Location	<input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)	<input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC)
<input type="checkbox"/> Transfer of License	<input type="checkbox"/> Alteration of Licensed Premises	<input type="checkbox"/> Change of License Type (i.e. club / restaurant)	<input type="checkbox"/> Pledge of Collateral (i.e. License/Stock)
<input checked="" type="checkbox"/> Change of Manager	<input type="checkbox"/> Change Corporate Name	<input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt)	<input type="checkbox"/> Management/Operating Agreement
<input type="checkbox"/> Change of Officers/ Directors/LLC Managers	<input type="checkbox"/> Change of Ownership Interest (LLC Members/ LLP Partners, Trustees)	<input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder	<input type="checkbox"/> Change of Hours
		<input type="checkbox"/> Other <input type="text" value=""/>	<input type="checkbox"/> Change of DBA

**THE LOCAL LICENSING AUTHORITY MUST MAIL THIS  
TRANSMITTAL FORM ALONG WITH  
COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:**

**Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
Chelsea, MA 02150-2358**



*The Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
www.mass.gov/abcc*

**AMENDMENT-Change of Manager**

**Change of License Manager**

**1. BUSINESS ENTITY INFORMATION**

Entity Name 99 West, LLC	Municipality Middleton	ABCC License Number 05528-RS-0704
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**2. APPLICATION CONTACT**

The application contact is the person who should be contacted with any questions regarding this application.

Name Joseph H. Devlin	Title Attorney	Email jdevlin@UCDLaw.com	Phone 617-514-2828 ext. 101
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**3A. MANAGER INFORMATION**

The individual that has been appointed to manage and control of the licensed business and premises.

Proposed Manager Name Robert Cappello	Date of Birth	SSN
Residential Address 107 Foster Street Unit 308, Peabody, MA 01960		
Email robertcap77@gmail.com	Phone 781-249-2991	
Please indicate how many hours per week you intend to be on the licensed premises 40		Last-Approved License Manager Brett Zimmerman

**3B. CITIZENSHIP/BACKGROUND INFORMATION**

Are you a U.S. Citizen?

Yes  No \*Manager must be U.S. citizen

If yes, attach one of the following as proof of citizenship: US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime?

Yes  No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition

**3C. EMPLOYMENT INFORMATION**

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
12/2013	Present	General Manager	99 Restaurant - Charlestown, MA	
5/2012	12/2013	Kitchen Manager	On the Hill Tavern - Somerville, MA	

**3D. PRIOR DISCIPLINARY ACTION**

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action?  Yes  No If yes, please fill out the table. Attach additional pages, if necessary, utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate.

Manager's Signature

Date

3/15/22

## APPLICANT'S STATEMENT

I,  the:  sole proprietor;  partner;  corporate principal;  LLC/LLP manager

Authorized Signatory

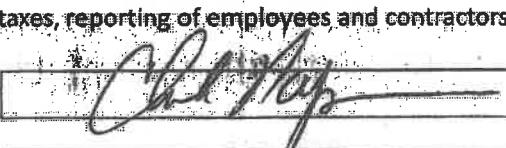
of

Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature: 

Date:

Title:



Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
Chelsea, MA 02150

JEAN M. LORIZIO, ESO.  
CHAIRMAN

CORI REQUEST FORM

The Alcoholic Beverages Control Commission ("ABCC") has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information ("CORI"). For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

ABCC LICENSE INFORMATION

ABCC NUMBER: #0405528	LICENSEE NAME: 99 West, LLC	CITY/TOWN: Middleton
--------------------------	-----------------------------	----------------------

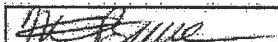
APPLICANT INFORMATION

LAST NAME: Cappello	FIRST NAME: Robert	MIDDLE NAME: Anthony	
MAIDEN NAME OR ALIAS (IF APPLICABLE): n/a	PLACE OF BIRTH: Cambridge, MA		
DATE OF BIRTH: 1/1/1960	SSN: 123-45-6789	ID THEFT/INDEX PIN (IF APPLICABLE):	
MOTHER'S MAIDEN NAME: Antonelli	DRIVER'S LICENSE #: 123456789	STATE LIC. ISSUED: Massachusetts	
GENDER: MALE	HEIGHT: 5'1	WEIGHT: 275	EYE COLOR: Green
CURRENT ADDRESS: 107 Foster Street Unit 505			
CITY/TOWN: Peabody	STATE: MA	ZIP: 01960	
FORMER ADDRESS: 603 Sherwood Forest Lane			
CITY/TOWN: Saugus	STATE: MA	ZIP: 01906	

PRINT AND SIGN

PRINTED NAME: Robert Cappello	APPLICANT/EMPLOYEE SIGNATURE: 
-------------------------------	---

NOTARY INFORMATION

On this: <u>March 15, 2022</u> before me, the undersigned notary public, personally appeared <u>Robert Cappello</u>
(name of document signer), proved to me through satisfactory evidence of identification, which were 
to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

NOTARY

DIVISION USE ONLY

SEARCHED	INDEXED
SERIALIZED	FILED
MARCH 15 2022	
MASSACHUSETTS STATE POLICE	
SEARCHED INDEXED SERIALIZED FILED	
MARCH 15 2022	
MASSACHUSETTS STATE POLICE	

MATTHEW S. BRUCE  
Notary Public  
Massachusetts  
My Commission Expires  
Feb 10, 2028



# **CERTIFICATE OF AUTHORIZATION**

## CORPORATE VOTE

The Board of Directors or LLC Managers of

99 West, LLC

Entity Name

duly voted to apply to the Licensing Authority of

Middleton

and the

City/Town

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

3/7/22

Date of Meeting

For the following transactions (Check all that apply):

Change of Manager

Other

"VOTED: To authorize

Charles Noyes

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint

Robert Cappello

Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,

Corporate Officer / LLC Manager Signature

Charlie Noyes  
(Print Name)

For Corporations ONLY

A true copy attest,

Corporation Clerk's Signature

(Print Name)



*The Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
www.mass.gov/abcc*

7.

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION  
MONETARY TRANSMITTAL FORM**

**APPLICATION FOR A NEW LICENSE**

**APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL  
LICENSING AUTHORITY:**

**ECRT CODE: RETA**

**Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)**

**PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE  
PAYMENT RECEIPT**

**ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)**

**ENTITY/ LICENSEE NAME**

**ADDRESS**

**CITY/TOWN**

**STATE**

**ZIP CODE**

**For the following transactions (Check all that apply):**

<input checked="" type="checkbox"/> New License	<input type="checkbox"/> Change of Location	<input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)	<input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC)
<input type="checkbox"/> Transfer of License	<input type="checkbox"/> Alteration of Licensed Premises	<input type="checkbox"/> Change of License Type (i.e. club / restaurant)	<input checked="" type="checkbox"/> Pledge of Collateral (i.e. License/Stock)
<input type="checkbox"/> Change of Manager	<input type="checkbox"/> Change Corporate Name	<input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt)	<input type="checkbox"/> Management/Operating Agreement
<input type="checkbox"/> Change of Officers/ Directors/LLC Managers	<input type="checkbox"/> Change of Ownership Interest (LLC Members/ LLP Partners, Trustees)	<input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder	<input type="checkbox"/> Change of Hours
		<input type="checkbox"/> Other <input type="text"/>	<input type="checkbox"/> Change of DBA

**THE LOCAL LICENSING AUTHORITY MUST MAIL THIS  
TRANSMITTAL FORM ALONG WITH  
COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:**

**Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
Chelsea, MA 02150-2358**

# Payment Confirmation

## YOUR PAYMENT HAS PROCESSED AND THIS IS YOUR RECEIPT

Your account has been billed for the following transaction. You will receive a receipt via email.



**Transaction Processed Successfully.**

**INVOICE #: b6607a1c-1c2a-4869-b7c0-7ce298ee28b9**

Description	Amount	Fee Type
FILING FEES-RETAIL	Scott & Matty Pizza Inc	\$200.00
		\$200.00

**Total Convenience Fee: \$4.70**

**Date Paid: 12/15/2021 9:56:01 AM EDT**

**Total Amount Paid: \$204.70**

### Payment On Behalf Of

**License Number or Business Name:**  
Scott & Matty Pizza Inc

**Fee Type:**  
FILING FEES-RETAIL

### Billing Information

**First Name:**  
Scott

**Last Name:**  
Kugel

**Address:**  
7 Barstow St.

**City:**  
Salem

**State:**  
MA

**Zip Code:**  
01970

**Email Address:**  
grampy766@gmail.com



*The Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
www.mass.gov/abcc*

**APPLICATION FOR A NEW LICENSE**

Municipality

**1. LICENSE CLASSIFICATION INFORMATION**

ON/OFF-PREMISES	TYPE	CATEGORY	CLASS
On-Premises-12	\$12 Restaurant	Wines & Malt Beverages with Cordials/Liquors Permit	Annual

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

Purchasing the Captain Pizza business located at 227 Maple St., Middleton MA 01949. Current business will continue without any interruption during sales transaction. Layout and menu will remain unchanged.

Is this license application pursuant to special legislation?  Yes  No Chapter  Acts of

**2. BUSINESS ENTITY INFORMATION**

The entity that will be issued the license and have operational control of the premises.

Entity Name	Scott & Matty Pizza Inc.	FEIN	87-3013958
DBA	Captain Pizza	Manager of Record	Scott B. Kugel
Street Address	227 Maple St., Middleton MA 01949		
Phone	978-815-1494	Email	grampy766@gmail.com
Alternative Phone		Website	captainpizzamiddleton.com

**3. DESCRIPTION OF PREMISES**

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

There will be no changes from last approved description.

Total Square Footage:	1400	Number of Entrances:	2	Seating Capacity:	38
Number of Floors	1	Number of Exits:	2	Occupancy Number:	38

**4. APPLICATION CONTACT**

The application contact is the person whom the licensing authorities should contact regarding this application.

Name:	Scott B. Kugel	Phone:	978-815-1494
Title:	President	Email:	grampy766@gmail.com

# APPLICATION FOR A NEW LICENSE

## 5. CORPORATE STRUCTURE

Entity Legal Structure	Corporation	Date of Incorporation	10/7/21
State of Incorporation	Massachusetts	Is the Corporation publicly traded? <input type="radio"/> Yes <input checked="" type="radio"/> No	

## 6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:  
**On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers** - At least 50% must be US citizens;  
**Off Premises(Liquor Store) Directors or LLC Managers** - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
Scott B. Kugel	77 Barstow St., Salem MA 01970		10/20/64
Title and or Position	Percentage of Ownership	Director/ LLC Manager US Citizen	MA Resident
President	100	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager US Citizen	MA Resident
		<input type="radio"/> Yes <input checked="" type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager US Citizen	MA Resident
		<input type="radio"/> Yes <input checked="" type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager US Citizen	MA Resident
		<input type="radio"/> Yes <input checked="" type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager US Citizen	MA Resident
		<input type="radio"/> Yes <input checked="" type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager US Citizen	MA Resident
		<input type="radio"/> Yes <input checked="" type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Additional pages attached?

Yes  No

### CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

Yes  No

# APPLICATION FOR A NEW LICENSE

## 6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

## 6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes  No

If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

## 6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

## 7. OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises.

- If the applicant entity owns the premises, a deed is required.
- If leasing or renting the premises, a signed copy of the lease is required.
- If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.
- If the real estate and business are owned by the same individuals listed in question 6, either individually or through separate business entities, a signed copy of a lease between the two entities is required.

Please indicate by what means the applicant will occupy the premises

Lease

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales?

Yes  No

# APPLICATION FOR A NEW LICENSE

## 8. FINANCIAL DISCLOSURE

A. Purchase Price for Real Estate	<input type="text"/>
B. Purchase Price for Business Assets	\$144,000.00
C. Other * (Please specify below)	<input type="text"/>
D. Total Cost	\$144,000.00

\*Other Cost(s): (i.e. Costs associated with License Transaction including but not limited to: Property price, Business Assets, Renovations costs, Construction costs, Initial Start-up costs, Inventory costs, or specify other costs):"

## SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
Total:	<input type="text"/>

## SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
North Shore Bank	\$144,000.00	Small Business Term Loan	<input checked="" type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input checked="" type="radio"/> No
			<input type="radio"/> Yes <input checked="" type="radio"/> No
			<input type="radio"/> Yes <input checked="" type="radio"/> No

## FINANCIAL INFORMATION

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

Small Business Loan

## 9. PLEDGE INFORMATION

Please provide signed pledge documentation.

Are you seeking approval for a pledge?  Yes  No

Please indicate what you are seeking to pledge (check all that apply)  License  Stock  Inventory

To whom is the pledge being made?

North Shore Bank

## 10. MANAGER APPLICATION

### A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed business and premises.

Proposed Manager Name	Scott B. Kugel	Date of Birth	10/20/64	SSN	
Residential Address	77 Barstow St., Salem, MA01970				
Email	grampy766@gmail.com	Phone	978-815-1494		
Please indicate how many hours per week you intend to be on the licensed premises			55		

### B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?\*

Yes  No \*Manager must be a U.S. Citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime?

Yes  No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary utilizing the format below.

Date	Municipality	Charge	Disposition

### C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
Jan 1999	Mar 2016	Owner	Kugel Construction	
Feb 1988	Dec 1998	Laborer	Kugel Construction	Rolf Kugel
2006	2019	Foster Care	Commonwealth of MA	

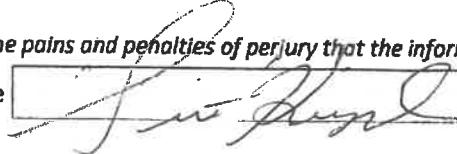
### D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action?  Yes  No If yes, please fill out the table. Attach additional pages, if necessary, utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature



Date

3/30/2022

## 11. MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement?  
If yes, please fill out section 11.

Yes  No

Please provide a narrative overview of the Management Agreement. Attach additional pages, if necessary.

**IMPORTANT NOTE:** A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does not pertain to a liquor license manager that is employed directly by the entity.*

### 11A. MANAGEMENT ENTITY

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in the management Entity (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name	Address	Phone		
<input type="text"/>	<input type="text"/>	<input type="text"/>		
Name of Principal	Residential Address	SSN	DOB	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

#### CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?  
If yes, attach an affidavit providing the details of any and all convictions.

Yes  No

### 11B. EXISTING MANAGEMENT AGREEMENTS AND INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 11A, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages; and or have an active management agreement with any other licensees?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

### **11C. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE**

Has any individual or entity identified in question 11A, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

### **11D. PREVIOUSLY HELD MANAGEMENT AGREEMENT**

Has any individual or entity identified in question 11A, and applicable attachments, ever held a management agreement with any other Massachusetts licensee?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Licensee Name	License Type	Municipality	Date(s) of Agreement

### **11E. DISCLOSURE OF LICENSE DISCIPLINARY ACTION**

Has any of the disclosed licenses listed in questions in section 11B, 11C, 11D ever been suspended, revoked or cancelled?

Yes  No  If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

### **11F. TERMS OF AGREEMENT**

a. Does the agreement provide for termination by the licensee?

Yes  No

b. Will the licensee retain control of the business finances?

Yes  No

c. Does the management entity handle the payroll for the business?

Yes  No

d. Management Term Begin Date

e. Management Term End Date

f. How will the management company be compensated by the licensee? (check all that apply)

\$ per month/year (indicate amount)

% of alcohol sales (indicate percentage)

% of overall sales (indicate percentage)

other (please explain)

**ABCC Licensee Officer/LLC Manager**

Signature:

Title:

Date:

**Management Agreement Entity Officer/LLC Manager**

Signature:

Title:

Date:

## APPLICANT'S STATEMENT

I, **Scott Kugel** \_\_\_\_\_ the:  sole proprietor;  partner;  corporate principal;  LLC/LLP manager  
Authorized Signatory  
of **Scott & Matty Pizza, Inc.** \_\_\_\_\_  
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature:



Date:

3/30/2022

Title:

PRESIDENT

D  
PC

# The Commonwealth of Massachusetts

William Francis Galvin

Secretary of the Commonwealth

One Ashburton Place, Boston, Massachusetts 02108-1512

FORM MUST BE TYPED

## Statement of Change of Supplemental Information Contained in Article VIII of Articles of Organization

FORM MUST BE TYPED

(General Laws Chapter 156D, Section 2.02 and Section 8.45; 950 CMR 113.17)

(1) Exact name of the corporation: Scott & Matty Pizza, Inc.

(2) Current registered office address: 77 Barstow Street, Salem, MA 01970  
(number, street, city or town, state, zip code)

(3) The following supplemental information has changed:

(check appropriate box)

Names and addresses of the directors, president, treasurer and secretary (an address need not be specified if the business address of the officer or director is the same as the principal office location):

President: Scott Kugel

Treasurer: Scott Kugel

Secretary: Scott Kugel

Director(s): Scott Kugel

Fiscal year end: \_\_\_\_\_  
(month, day)

Principal office address: \_\_\_\_\_  
(number, street, city or town, state, zip code)

Type of business in which the corporation intends to engage:  
\_\_\_\_\_  
\_\_\_\_\_

Other:  
\_\_\_\_\_

Signed by:



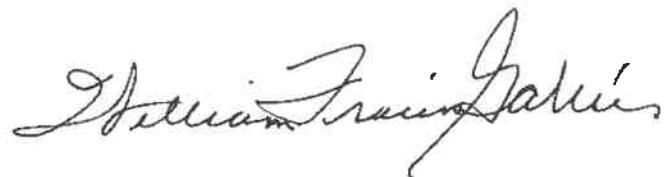
*(signature of authorized individual) Scott K. Benowitz, President*

- Chairman of the board of directors,
- President,
- Other officer,
- Court-appointed fiduciary.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

March 25, 2022 02:54 PM

A handwritten signature in black ink, appearing to read "William Francis Galvin". The signature is fluid and cursive, with "William" and "Francis" on the first line and "Galvin" on the second line.

WILLIAM FRANCIS GALVIN

*Secretary of the Commonwealth*



Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
Chelsea, MA 02150

JEAN M. LORIZIO, ESQ.  
CHAIRMAN

CORI REQUEST FORM

The Alcoholic Beverages Control Commission ("ABCC") has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information ("CORI"). For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

**ABCC LICENSE INFORMATION**

ABCC NUMBER: (IF EXISTING LICENSEE):	LICENSEE NAME:	CITY/TOWN:
---	----------------	------------

**APPLICANT INFORMATION**

LAST NAME: Kugel Sr.	FIRST NAME: Scott	MIDDLE NAME: Brian	
MAIDEN NAME OR ALIAS (IF APPLICABLE):	PLACE OF BIRTH: Stoneham		
DATE OF BIRTH: 10/20/1964	SSN:	ID THEFT INDEX PIN (IF APPLICABLE):	
MOTHER'S MAIDEN NAME:	DRIVER'S LICENSE #:	STATE LIC. ISSUED: Massachusetts	
GENDER: MALE	HEIGHT: 5	WEIGHT: 168	EYE COLOR: Hazel
CURRENT ADDRESS: 77 Barstow St.			
CITY/TOWN: Salem	STATE: MA	ZIP: 01970	
FORMER ADDRESS: 13 Osgood St.			
CITY/TOWN: Salem	STATE: MA	ZIP: 01970	

**PRINT AND SIGN**

PRINTED NAME: Scott B. Kugel Sr.	APPLICANT/EMPLOYEE SIGNATURE:
----------------------------------	-------------------------------

**NOTARY INFORMATION**

On this <u>15th December, 2011</u> before me, the undersigned notary public, personally appeared <u>Scott B Kugel Sr</u> (name of document signer), proved to me through satisfactory evidence of identification, which were to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.	
---	--

**DIVISION USE ONLY**

REQUESTED BY:

SIGNATURE OF CORI-AUTHORIZED EMPLOYEE

The DCII Identify Theft Index PIN Number is to be completed by those applicants that have been issued an Identity Theft PIN Number by the DCII. Certified agencies are required to provide all applicants the opportunity to include this information to ensure the accuracy of the CORI request process. ALL CORI request forms that include this field are required to be submitted to the DCII via mail or by fax to (617) 660-4614.



Commonwealth of Massachusetts  
Notary Public  
Chester Graham, Jr  
My Commission Expires 06/17/2027

**This is your official TIPS certification card. Carry it with you as proof of your TIPS certification.**

Congratulations!

This card certifies that you have successfully completed the TIPS (Training for Intervention ProcedureS) program. We value your participation and dedication to the responsible sale, service, and consumption of alcohol.

By using the techniques you have learned, you will help to provide a safer environment for your patrons, peers, and colleagues and reduce the tragedies resulting from intoxication, underage drinking, and drunk driving.

If you have any information you think would enhance the TIPS program, or if we can assist you in any way, please contact us at 800-438-0477.

Sincerely,

Adam F. Chafetz  
HCI President



For service visit us online at [www.gettips.com](http://www.gettips.com)

ID# 5595673 Name: Scott Brian Kugel  
Exam Date: 11/13/2024 Expiration Date: 11/13/2024

**TIPS** TIPS On Premise 3 CERTIFIED  
Issued: 11/13/2024 Expires: 11/13/2024  
ID# 5595673

Scott Brian Kugel  
Captain Pizza  
227 Maple St  
Middleton, MA 01949-2219

**II. CERTIFICATION OF BENEFICIAL OWNER(S)**

Persons opening an account on behalf of a legal entity must provide the following information:

**a. Name and Title of Natural Person Opening Account:**

Full Name (First, Last):	<i>SCOTT KVAGL</i>
Title:	<i>PRESIDENT</i>

**b. Name, Type and Address of Legal Entity for Which the Account is Being Opened:**

Legal Entity Name:	<i>SCOTT &amp; MATTY PIZZA, INC.</i>
Legal Entity Type:	<i>MASSACHUSETTS CORPORATION</i>
Legal Entity Address:	<i>77 BARSTOW STREET, SALEM, MA 01970</i>

**c. The following information for each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the legal entity listed above:**

Name	Date of Birth	Address (Residential/Business)	US Person (SSN)	Non-US Person <sup>1</sup>	% Ownership
<i>SCOTT KVAGL</i>	<i>10/20/64</i>	<i>77 BARSTOW ST, SALEM, MA</i>			<i>100%</i>

If no individual meets this requirement, please check box below:

Beneficial Owner Not Applicable

**d. The following information for one individual with significant responsibility for managing the legal entity listed above, such as:**

- An executive officer or senior manager (e.g., Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, Treasurer); or
- Any other individual who regularly performs similar functions.

(If appropriate, an individual listed under section (c) above may also be listed in this section (d)).

Name	Date of Birth	Address (Residential/Business)	US Person (SSN)	Non-US Person <sup>1</sup>	Title
<i>SCOTT KVAGL</i>	<i>10/20/64</i>	<i>77 BARSTOW ST, SALEM, MA</i>			<i>PRES.</i>

Check this box if there have been no changes to Beneficial Owners (section c.) and no changes to Individual with Significant Responsibility (section d.) since last completing this form.

I, *SCOTT KVAGL* (name of natural person opening account), hereby certify, to the best of my knowledge, that the information provided above is complete and correct.

Signature: *SCOTT KVAGL*

Date: *3/30/2022*

Legal Entity Identifier: *US PASSPORT # 529721085*

<sup>1</sup>In lieu of a passport number, non-US persons may also provide a Social Security Number (SSN), an alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

## LIQUOR LICENSE PLEDGE AGREEMENT

AGREEMENT as of April \_\_\_\_ , 2022, between **SCOTT & MATTY PIZZA, INC.**, a Massachusetts corporation having a principal address of 77 Barstow Street, Salem, Massachusetts (the "Pledgor") and **NORTH SHORE BANK, A Co-Operative Bank**, a Massachusetts cooperative bank having an address of 248 Andover Street, Peabody, Massachusetts (the "Pledgee").

WHEREAS, the Pledgor owns an All Alcoholic Beverage License; and

WHEREAS, the Pledgor desires to borrow **ONE HUNDRED FORTY FOUR THOUSAND AND 00/100 (\$144,000.00) DOLLARS** from the Pledgee to be evidenced by a Commercial Promissory Note ("Note") of the Pledgor of even date payable to the Pledgee in the principal amount of **ONE HUNDRED FORTY FOUR THOUSAND AND 00/100 (\$144,000.00) DOLLARS**; and

WHEREAS, as a condition to making such loan to the Pledgor, the Pledgee requires the Pledgor to pledge the All Alcoholic Beverage License in order to secure the payment of the Note and the performance of all other obligations of the Pledgor to the Pledgee, (collectively referred to as the "Obligations").

NOW, THEREFORE, in consideration of the aforesaid loan and the sum of One and 00/100 (\$1.00) dollar paid by the Pledgee to the Pledgor, the receipt of which is hereby acknowledged, the Pledgor hereby agrees as follows:

1. The Pledgor hereby pledges to the Pledgee the All Alcoholic Beverage License.
2. The Pledgee is hereby fully authorized and empowered, upon default in any of the Obligations and with the approval of the Town of Middleton Select Board and Massachusetts

Alcoholic Beverages Control Commission, to sell, assign and deliver the All Alcoholic Beverage License, at public or private sale, at its option, or that of anyone acting in its behalf, upon seven (7) days prior written notice to the Pledgor, and the Pledgee may bid and become the purchaser at any such sale. After deducting all legal or other expenses and costs of collection of the Obligations, the residue or any proceeds of sale shall be applied to the payment of principal, interest and all other sums then owing on the Obligations, in such order or preference as the Pledgee may determine, and any excess proceeds from the All Alcoholic Beverage License shall be returned to the Pledgor.

3. The Pledgor hereby waives demand, notice, protest and notice of acceptance of this Agreement, and assents to any extension or postponement of the time of payment or any other indulgence with respect to the Obligations, or, within ten (10) days prior written notice, to the release of the All Alcoholic Beverage License and/or the release of any party or person primarily or secondarily liable on the Obligations.

4. No delay or omission on the part of the Pledgee in exercising any right hereunder shall operate as a waiver of such right or any other right under this Agreement. A waiver on any one occasion shall not be construed as a bar to or waiver of any right and/or remedy on any future occasion.

5. The Pledgor from time to time will execute and deliver all such instruments as the Pledgee may reasonably request in order further to effectuate the purpose of this Agreement.

6. Upon payment in full of the Obligations and all interests accrued thereon, this Agreement shall terminate, and the Pledgee shall surrender and deliver to the Pledgor the All Alcoholic Beverage License, provided it has not theretofore been sold or disposed of pursuant to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Pledge Agreement under seal all as of the day, month and year first written above.

PLEDGOR:

**SCOTT & MATTY PIZZA, INC.**  
By:

---

**SCOTT KUGEL, PRESIDENT**

PLEDGEE:

**NORTH SHORE BANK, A CO-OPERATIVE BANK**  
by:

---

**SCOTT W. MYERS, VICE  
PRESIDENT**

LEASE RENEWAL

Agreement of Lease Renewal made this the 1<sup>st</sup> day of March 1, 2019 by and between Paula Johnson Of Middleton, MA and Donna Johnson of North Andover, MA Trustees of the Maple Street Family Trust ("Landlord") and Ekaterine Captain of 22 Daventry Court Lynnfield, MA ("hereinafter referred to as Tenant").

Premises shall mean 227 Maple Street rear Middleton MA. 01949 known as Captain Pizza Restaurant.

The Term of the Lease shall be Five (5) years commencing on March 1, 2019 and ending February 28, 2024.

RENEWAL OPTION:

Provided that Lessee is **not then in default of his obligations hereunder**, Lessee shall have the option To extend the term of this **Lease** for an additional Five (5) year period.

RENT:

Tenant agrees to pay to the Landlord without prior demand therefore and without any deduction Or set-off whatsoever and as fixed rent in the amount of **thirty-six thousand dollars** for the first Two years of the **Lease** payable in advance in monthly installments of **three thousand dollars** (\$3,000.00) Every month commencing March 1, 2019 ending February 28, 2021.

Third year rent increase 3% payable in monthly installments of **three thousand ninety dollars** (\$3,090.00) Commencing March 1, 2021 and ending February 28, 2022

Fourth year 3% increase payable in monthly installments of **\$3,182.70** commencing March 1, 2022 And ending February 28, 2023.

Fifth year 3% increase payable in monthly installments of **\$3,278.00** beginning March 1, 2023 and Ending February 28, 2024.

Tenant is responsible for maintaining and repairing all equipment in their space and keeping up to date With inspections required by Massachusetts Law.

ASSIGNMENT:

1. Assignment of Lease will be approved by Landlords when the following conditions are met.
2. The Assignee must be financially healthy and conduct a profitable business.
3. The Assignee must have an acceptable business reputation and no illegal activities and a positive Credit history.

Assignee must use the space according to the Landlord's rules (Restaurant).

5. The Assignee will maintain, in full force public liability insurance and furnish Landlord  
With a certificate of such policy.

This Agreement shall be governed, construed and interpreted by, through and Under the Laws of  
The Commonwealth of Massachusetts.

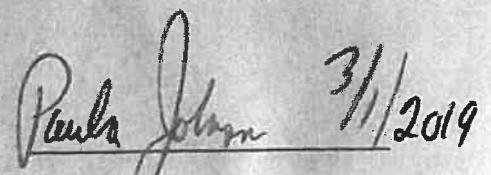
In WITNESS WHEREOF, the parties hereto have hereunder set their hands and seals the day and year  
first above written.



Tenant

Date

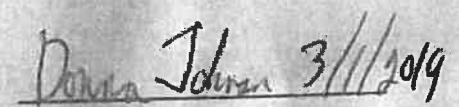
Ekaterine Captain



Landlord

Date

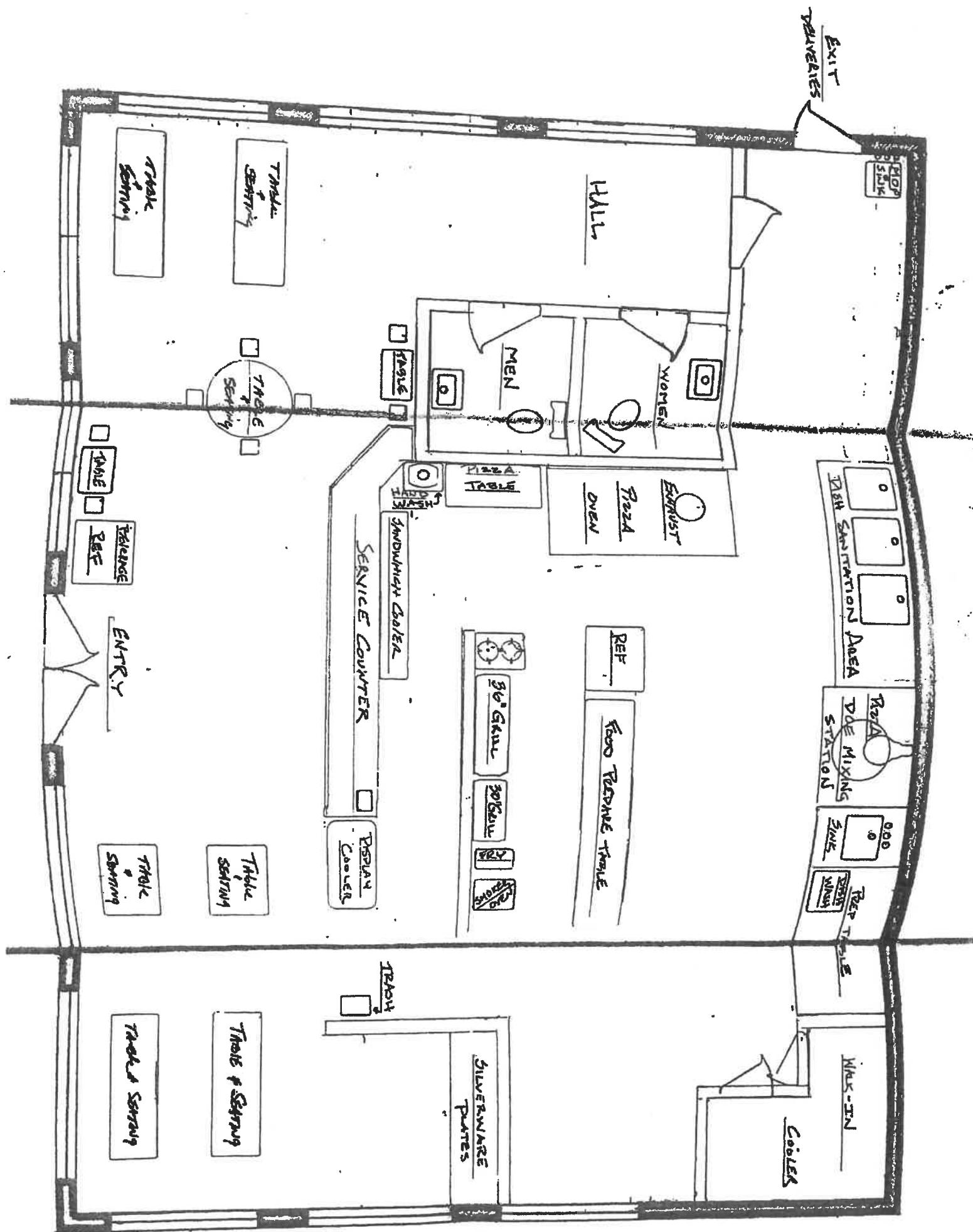
Paula Johnson



Landlord

Date

Paula Johnson



## ENTITY VOTE

The Board of Directors or LLC Managers of

Scott & Matty Pizza, Inc.

Entity Name

duly voted to apply to the Licensing Authority of

Middleton

and the

City/Town

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

March 30, 2022

Date of Meeting

For the following transactions (Check all that apply):

<input checked="" type="checkbox"/> New License	<input type="checkbox"/> Change of Location	<input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)	<input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC)
<input type="checkbox"/> Transfer of License	<input type="checkbox"/> Alteration of Licensed Premises	<input type="checkbox"/> Change of License Type (i.e. club / restaurant)	<input checked="" type="checkbox"/> Pledge of Collateral (i.e. License/Stock)
<input type="checkbox"/> Change of Manager	<input type="checkbox"/> Change Corporate Name	<input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt)	<input type="checkbox"/> Management/Operating Agreement
<input type="checkbox"/> Change of Officers/ Directors/LLC Managers	<input type="checkbox"/> Change of Ownership Interest (LLC Members/ LLP Partners, Trustees)	<input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder	<input type="checkbox"/> Change of Hours
		<input type="checkbox"/> Other	<input type="checkbox"/> Change of DBA

"VOTED: To authorize

Scott Kugel

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

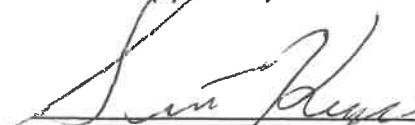
"VOTED: To appoint

Scott Kugel

Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,



Corporate Officer /LLC Manager Signature

For Corporations ONLY

A true copy attest,



Corporation Clerk's Signature

SCOTT KUGEL

(Print Name)

SCOTT KUGEL

(Print Name)

**RESIGNATION**

TO THE PRESIDENT, SECRETARY, AND MEMBERS OF THE BOARD OF DIRECTORS  
OF SCOTT & MATTY PIZZA, INC.:

I, **Matthew Rosa**, hereby resign, effective immediately, as Treasurer and Director of  
**Scott & Matty Pizza, Inc.**, a Massachusetts corporation.

EXECUTED AS AN INSTRUMENT UNDER SEAL THIS 24<sup>th</sup> DAY OF  
FEBRUARY, 2022.



Matthew Rosa  
MATTHEW ROSA

SCOTT & MATTY PIZZA, INC.

JOINT ACTION BY UNANIMOUS WRITTEN CONSENT  
OF DIRECTORS AND STOCKHOLDERS  
(IN LIEU OF SPECIAL MEETINGS)

FEBRUARY 24, 2022

The undersigned, being all of the directors and stockholders of Scott & Matty Pizza, Inc., a Massachusetts corporation (the "Corporation"), hereby waive all notice and call of a special meeting, and in lieu thereof, hereby consent to the following actions and adopt the following votes:

Ratification of Actions

VOTED: That all actions taken by the officers and directors of the Corporation prior to the date hereof are hereby ratified and confirmed.

Stock Transfer

VOTED: That, to the extent that approval is required, the transfer fifty (50) shares of the common stock of the Corporation, from Matthew Rosa to Scott Kugel, is hereby approved.

Stock Certificates

VOTED: To cancel stock certificate No. 2 issued to Matthew Rosa for 50 shares, and to issue new stock certificate No. 3 to Scott Kugel for 50 shares (which new certificate, together with existing Certificate No. 1 issued on October 7, 2021 to Scott Kugel for 50 shares, shall now represent all of the issued and outstanding stock of the Corporation). Scott Kugel (100 shares) is now the sole stockholder of the Corporation.

Resignation

WHEREAS, Matthew Rosa has tendered his resignation as an Officer and Director of the Corporation, the following actions and votes were adopted:

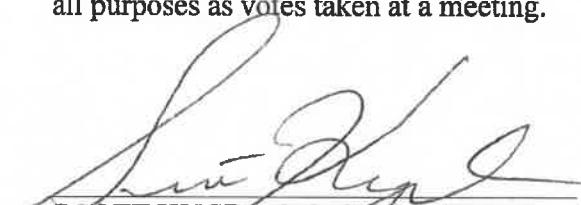
VOTED: To accept the resignation of Matthew Rosa as Treasurer of the Corporation, and to elect Scott Kugel to serve as Treasurer in accordance with the By-Laws, and until a successor is duly elected.

VOTED: To accept the resignation of Matthew Rosa as a Director of the Corporation.

General Authorization

VOTED: That the officers of the Corporation are hereby authorized from time to time on behalf of the Corporation to execute, acknowledge, and file any agreements, instruments, certificates, and documents referred to in the proceeding votes, and to take or cause to be taken all other actions in connection with the transactions referred to in the proceeding votes, as deemed in said officers' judgment to be necessary or desirable.

This Consent may be executed in one or more counterparts and shall be filed with the minutes of meetings of the stockholders and directors of this Corporation and shall be treated for all purposes as votes taken at a meeting.

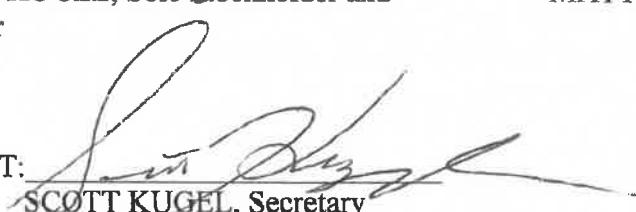


SCOTT KUGEL, Sole Stockholder and  
Director



MATTHEW ROSA

ATTEST:



SCOTT KUGEL, Secretary



8.

Town of Middleton, Massachusetts



# Committee Handbook

2022

Middleton Select Board

## A NOTE FROM THE MIDDLETON SELECT BOARD

January 2022

This handbook is intended as a guide for all Town Boards, Committees, and Commissions as well as the staff that provide support. It describes, in general terms, important requirements for the conduct of Town business and should prove useful to new and current members alike. It is intended to guide boards and committees whether members are elected or appointed.

Certain sections of the handbook refer to various provisions of the Massachusetts General Laws. Some committees are governed by individual statute, identified in the guide as MGL (Massachusetts General Laws) followed by the appropriate chapter and section. It is recommended that these sources be consulted whenever a specific problem is encountered involving a state statute or local by-law or regulation. Also helpful is the Inspector General's *Guide for Members of Public Boards and Commissions: How to be an Effective Member of a Public Board or Commission*. The Guide can be found at:

<https://www.mass.gov/doc/guide-for-members-of-public-boards-and-commissions/download>

This handbook provides a general description of procedures and summaries of important state statutes that govern the conduct of committees and their members, such as the Open Meeting Law and the Conflict-of-Interest Law.

Through voluntary service as an appointed or elected member of a board, committee, commission or council, citizens like you gain the opportunity to directly help the Town meet its current challenges and address its future needs and goals. Volunteers who serve on our committees are an essential part of running an effective and efficient local government. We hope it is also an informative and rewarding experience. The Select Board is deeply grateful to all who are willing to serve as a volunteer member of the government of the Town of Middleton.



<b>1. Becoming a Committee Member .....</b>	1
Elected Office.....	1
Qualifications for Appointment .....	1
Application Procedure.....	1
<b>2. Oath of Office.....</b>	2
Open Meeting Law .....	2
Conflict of Interest Law .....	2
<b>3. Term of Office .....</b>	2
<b>4. Vacancies &amp; Attendance.....</b>	3
Resignation .....	3
Attendance .....	3
Vacancies .....	3
Dissolution of Committee .....	3
<b>5. Organization of Boards &amp; Duties of Officers .....</b>	<u>34</u>
Election of Officers .....	<u>34</u>
Duties of Officers.....	<u>34</u>
<b>6. Adoption of Rules and Regulations.....</b>	4
<b>7. Meetings.....</b>	<u>45</u>
Open Meeting Law .....	5
Quorum.....	6
Conducting a Meeting .....	6
Executive Session.....	6
Remote Participation .....	7
Posting Meeting Agendas .....	8
Posting Emergency Meetings .....	9
Meeting Cancellations.....	9
Meeting Minutes .....	9
Public Hearings .....	10
<b>8. Use of Town Buildings.....</b>	11
<b>9. Conflict of Interest .....</b>	11

Bi-annual Required Ethics Training.....	11
If you have a Conflict of Interest .....	11
<b>10. Standards of Conduct for Appointed Town Officials.....</b>	<b>12</b>
Professional Conduct Expectations .....	12
Corrective Action.....	<u>12</u> <sup>13</sup>
Speaking for a Board or Committee .....	13
<b>11. Administration.....</b>	<b>13</b>
Public Records .....	13
Use of Town Counsel.....	13
Appointing Authorities .....	13
<b>12. Annual Report &amp; Town Meeting.....</b>	<b>13</b>
<b>13. Open Meeting, Deliberation, &amp; Electronic Communication.....</b>	<b><u>13</u><sup>14</sup></b>
Using Email .....	<u>13</u> <sup>14</sup>
Social Media Platforms.....	14
Electronic Messaging During a Meeting.....	14
HELPFUL LINKS .....	15
ATTACHMENT A: Model Agenda & Checklist.....	16
ATTACHMENT B: Public Body Checklist for Creating and Approving Meeting Minutes.....	18
ATTACHMENT C: Public Hearing General Steps .....	19

## 1. Becoming a Committee Member

### Elected Office

Board and committee members are either appointed or elected. Members on elected boards are chosen by registered voters at the Annual Town Election or at a Special Election. Elected boards and committees in Middleton include the Select Board, School Committee, members to the regional School Committee, Planning Board, Board of Assessors, Library Trustees, and Electric Light Commissioners. More information on elected boards and committees can be found in the Charter. One must be a registered voter to stand for election. Local boards and committees are non-partisan and candidates run without party affiliation.

### Qualifications for Appointment

All Middleton residents may apply for membership on any committee. The Select Board is the appointing authority for the majority of Town boards. The Town Moderator appoints the Finance Committee, Master Plan Committee, and committees created by action of Town Meeting.

With few exceptions, committee members are residents of the Town of Middleton. There may be occasional exceptions when an individual's unique skills or experience support the appointment of a non-resident and would be beneficial to the committee's work. In the event a committee member moves out of Middleton, the member or the committee chair shall promptly notify the appointing authority. This is most easily done by providing written notice to the Town Clerk.

The Town desires diversity in committee membership. Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin. In filling committee seats, appointing authorities rely on:

- Talent Bank applications;
- Recommendations from town organizations or individuals;
- Suggestions from the committee with a vacancy;

### Application Procedure

Residents who are interested in being considered for appointment should submit a [Talent Bank Application](#). This is available from either the Select Board's office or from the Town's website under "Select Board – Board and Committee Opportunities." The completed form should be returned to the Select Board or the appointing authority if not the Select Board. Applicants to any committee should inquire as to the time requirements of the specific committee and the frequency with which each committee meets.

The appointing authority shall have sole discretion to make such appointments or other changes as the appointing authority deems to be in best interest of the Town. Notices of vacancies on boards are posted on the Town's website [www.Middletonma.gov](http://www.Middletonma.gov). Applicants are encouraged to attend one or more meetings of the board on which they are interested to become familiar with the time commitment and other functions on that board.

Each committee or board is expected to:

- Encourage individuals to complete letters of interest to be appointed to a board or committee

- State the qualifications they are looking for in appointments.
- Make suggestions on potential members

Committees should not make any representation to candidates concerning the likelihood of appointment nor provide their suggestions with any rank order, but may invite prospective members to attend meetings to familiarize themselves with the work of the committee.

## **2. Oath of Office**

Written notification of appointment will be issued to newly appointed members and reappointed members. Appointees must report to the Town Clerk's office, within two weeks of being appointed, to be sworn to faithful performance of their duties prior to taking any official action as a member of the board (MGL Ch. 41 section 107). Failure to be sworn in leaves the member unable to participate. If an unsworn member participates, the board's actions are invalid. If litigation results from some action taken by a board, the case may be lost if any or all board members involved in the action have not taken the required oath.

### **Open Meeting Law**

The Town Clerk will give appointees information about the Open Meeting Law, as required by the Law and 940 CMR 29.04. Members are required to sign written acknowledgement of receipt.

### **Conflict of Interest Law**

Additionally, each year, all municipal employees (which include members of boards, committees and commissions) must be given a Summary of the Conflict of Interest law prepared by the State Ethics Commission and every two years, they must complete the online training program.

The online training program is available at: [www.muniprog.eth.state.ma.us](http://www.muniprog.eth.state.ma.us). Once you have completed the program online, you will be prompted to print a Certificate of Completion, which must be returned to the Town Clerk's office to be retained on file.

It is the responsibility of the committee chair to provide for the orientation of new members. This helps familiarize the individuals with the work of the committee, current projects, and town government operations in general as they may impact the committee's work.

## **3. Term of Office**

Unless prescribed by statute, Charter, Town Meeting vote, or specific committee charge, three years is the standard term of office. All terms of office are staggered so the entire committee does not turn over at once. This helps preserve continuity of knowledge and experience.

The three year term may not apply to ad-hoc committees appointed for a specific responsibility. The charge to the committee will include a specific time frame for submission of the committee's final report and dissolution of the committee.

## 4. Vacancies & Attendance

### Resignation

Any member who, for any reason, chooses to resign before a term is complete shall provide immediate written notice of the resignation to the Committee Chairperson, the Town Clerk, and the Select Board, and cite the effective date of resignation. As a courtesy, notice should also be provided to the committee chair and members. The remaining committee members may recommend individuals who have demonstrated an interest in the work of the committee for consideration as a replacement member. They will be considered along with others who have expressed an interest and have filed a Talent Bank Application.

The Select Board may remove appointed members of boards at its discretion. Removal from office is a rare occurrence. Removal may occur due to incapacity other than temporary illness, inefficiency, insubordination, and conduct unbecoming the office. Removal is discussed in more detail in the Charter. Elected members may be recalled, as described in the Charter.

### Attendance

Anyone appointed to a board is expected to attend regularly scheduled meetings. Excused absences reported to the board/committee chairperson prior to a regularly scheduled meeting shall be allowed.

### Vacancies

For vacancies on boards appointed by the Select Board, the appointment will be made at a regular Select Board meeting. Interim appointments to elected boards are governed by the provisions of MGL Chapter 41 Sections 10 and 11 unless otherwise provided by statute.

### Dissolution of Committee

Upon the dissolution of any committee, either by action of the appointing authority, or pursuant to an expiration date provided in the committee charge, all records, documents, correspondence and files concerning the committee's work should be organized in a reasonable and understandable manner and turned over to the Town Clerk for appropriate filing and archival storage. As appropriate, the Town Clerk may forward such records to another department.

## 5. Organization of Boards & Duties of Officers

### Election of Officers

Boards are normally organized with a chair, vice chair, and clerk. Boards should annually reorganize (elect officers). For elected boards, this is typically done immediately after the Annual Town Election. For appointed boards and committees this is most often done after annual reappointments in June. Following reorganization, please provide notice of the officers to the Town Clerk and Office of the Select Board. The board's webpage should be updated to identify the new officers.

### Duties of Officers

Chairperson:

- Presides at all meetings, decides questions of order;

- Calls meeting dates and times;
- Ensures that meeting and agendas are properly posted in accordance with the Open Meeting Law;
- Sets agenda topics;
- Represents the board before the appointing authority, other town bodies and the public, as required;
- Ensures that members are kept informed of meetings and attend regularly;
- Ensures that all members have taken the oath of office and acknowledged receipt of information from the Town Clerk with regard to the Open Meeting Law and Conflict of Interest Law;
- Ensures that a summary of the board's actions of the previous year are submitted to the Town Administrator for inclusion in the Annual Town Report;
- Exercises control over public meetings and hearings, ensures that the proper decorum is maintained and that such meetings and hearings are conducted in an orderly and appropriate manner.

Vice-Chairperson:

- The Vice-Chairperson acts as Chairperson in the absence of the Chair.

Clerk/Secretary:

- Signs correspondence on behalf of the committee.
- In the absence of paid staff, ensures that minutes of every meeting are taken, prepared, voted and filed with the Town Clerk in a timely manner, in accordance with the Open Meeting Law.
- Ensures that copies of documents and other exhibits used during meetings are provided and referenced in a list to be included in the approved meeting minutes, in accordance with the Open Meeting Law.
- In the absence of paid staff, performs any other clerical or administrative duties as required.

## **6. Adoption of Rules and Regulations**

State law permits some committees, such as the Board of Health, Conservation Commission, Planning Board, and Zoning Board of Appeals, to adopt rules and regulations. The procedures set forth in the relevant state law must be observed when adopting such rules and regulations. Other Committees' Rules and Regulations must be adopted by the Select Board. All fees are adopted by the Select Board. In the interests of transparency, the board or committee should provide advance notice of its intention to consider regulations. In some cases, it is a requirement to advertise and hold a public hearing relative to the proposed rules and regulations prior to adoption. Please check with the relevant section of the General Laws and the Town Clerk's Office for further details and clarification.

## **7. Meetings**

## Open Meeting Law

All boards and committees, whether appointed or elected, are required to follow the Open Meeting Law, MGL c 30A, § 18-25. All board members are required to take the time to familiarize themselves with the provisions of the Open Meeting Law (MGL c 30A, § 18-25) and its accompanying regulations (940 CMR 29.00). The Open Meeting Law sets forth specific requirements for posting, scheduling, conducting, and recording meetings. The purpose of the law is to promote the democratic process in assuring that deliberations and decisions made by our public officials are conducted openly, and not hidden from the public. Failure to follow the Open Meeting Law may result in the invalidation of actions taken at a meeting and could result in the imposition of a penalty upon the public body.

Meetings are open to the public and the chair may allow members of the public to speak, share opinions, or ask questions. Any person may record a meeting with a tape recorder or other means of audio reproduction and/or videotape equipment, provided they announce their intention to do so and there is no active interference with the conduct of the meeting.

More information of the Open Meeting Law is available on the Attorney General's website:

<http://mass.gov/ago/government-resources/open-meeting-law/>

For purposes of the Open Meeting Law, a “meeting” is defined as a deliberation by a public body with respect to any matter within the body’s jurisdiction. A “meeting” shall not include:

- An on-site inspection of a project or program, so long as the members do not deliberate;
- Attendance by a quorum of a public body at a public or private gathering, including a conference or training program or media, social or other event, so long as the members do not deliberate.
- Attendance by a quorum of a public body at a meeting of another public body that has complied with the requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate.
- A meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
- A session of a town meeting convened under MGL c39, §10 which would include the attendance by a quorum of a public body at any such session.

It is a violation of the Open Meeting Law to conduct serial meetings, telephone meetings, e-mail meetings, or to hold other such discussions outside of a duly posted meeting at which the public is deprived of the opportunity to attend and monitor the decision-making process. This includes “revolving door meetings,” which are individual conversations that occur in serial fashion in which a quorum of members participates and/or deliberates. “Deliberation” is defined as “an oral or written communication through any medium, including electronic mail, along with social media deliberations between or among a public body or any public business within its jurisdiction; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.”

Often there is a need for the chair or staff to communicate with committee members via email. A good email practice is to utilize the BCC function. That eliminates an inadvertent serial deliberation that can occur when a member replies all to an email. This advice goes for board members and staff.

## Quorum

In order for a board to call to order or take an official vote, a quorum must be present. A quorum is a simple majority of a governmental body, unless otherwise defined by law. A simple majority is based on the total number of full positions on a board, whether or not all available positions have been filled or are present. Once a quorum is present, a board may act by a majority of the quorum, unless otherwise provided by law.

State law requires a “super majority” vote in certain cases such as special permits and variances under MGL Chapter 40A. A super majority vote is a vote of at least four members of a five member board.

## Conducting a Meeting

Although most board discussions may seem too casual to be called debate, it is advisable for the board to observe a minimum of generally accepted procedures. Attentive guidance by the Chair and adherence to adopted procedures can increase efficiency as well as maintain objectivity.

The Chair should limit all participants to concise, non-repetitive statements. In some cases, establishing time limits may be advisable. All those members who wish to speak should be allowed to do so before anyone is invited to speak a second time. It is the chair’s choice whether to allow members of the public to address the public body at regular meetings; however, at a public hearing members of the public are allowed to speak. Although desirable, it is not necessary for the board to continue discussion until consensus is achieved. Other actions, such as calling for a vote, postponing until more information is available, or referring to a subcommittee may be required. It is recommended that committees seeking public input, incorporate an item related to “public input” or “public comment,” for example on their agenda. If this tool is used frequently, a chair may impose a time limit. Residents participating in a committee’s public hearing or public input should be prepared to share their name and street address prior to making public comment.

All votes must be taken publicly. The use of secret ballots is prohibited.

## Executive Session

The Open Meeting Law requires that all meetings of a governmental body be open to the public, except for a few limited purposes for which a board may enter into executive session.

All appointed boards are urged to consult with legal counsel (with prior authorization from the Town Administrator) if they have any questions as to the process and/or permissibility of entering into executive session.

Executive session is closed to the public, but the board must first convene in a duly posted open session. A majority of the members must vote by roll-call in favor of a motion to enter into executive session. The motion, as well as the posted agenda, must state the reason for the executive session and must state whether or not the board will return to open session. All votes taken in executive session must be recorded roll-call votes. Minutes must be taken during executive session; however, they will not be released until the matter discussed has been resolved. Once the matter has concluded and the minutes

have been approved, a copy should be provided to the Town Clerk. The Board shall regularly review executive session minutes for public release.

Executive session<sup>1</sup> may be held only for the following purposes:

- a. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.<sup>2</sup>
- b. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.
- c. To discuss strategy with respect to collective bargaining or litigation if any open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.
- d. To discuss the deployment of security personnel or devices, or strategies with respect thereto.
- e. To investigate charges of criminal misconduct or to consider the filing of criminal complaints.
- f. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.
- g. To comply with, or act under the authority of, any general or special law or general grant-in-aid requirements.
- h. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening.
- i. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity (see MGL Ch.30A sec. 21 for further provisions).
- j. To discuss trade secrets or confidential, competitively sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such government body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or selling or distributing electric power and energy.

### Remote Participation<sup>3</sup>

In August of 2014, the Middleton Select Board voted to authorize remote participation during public meetings pursuant to 940 CMR 29.10 and M.G.L. c4 sec. 7.

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<sup>1</sup> See Attorney General's website: <http://www.mass.gov/ago/government-resources/open-meeting-law> for further explanation of each example

<sup>2</sup> See MGL Ch. 30A sec. 21 for individual rights

<sup>3</sup> COVID-19 State of Emergency: On March 12, 2020, Governor Baker issued an "Emergency Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20 ("OML Order") which was to remain in effect until rescinded or until the State of Emergency was terminated, whichever happens first."

A quorum must be physically present at the meeting. The Chairperson, or a person authorized to chair the meeting in the Chairperson's absence must be physically present. All members, including the members participating remotely, must be clearly audible to each other. A member can participate remotely under the following reasons that make the member's presence unreasonably difficult:

- Personal illness
- Personal disability
- Emergency
- Military Service
- Geographic Distance

A member can participate remotely using the following types of media:

- Telephone, internet, or satellite enabled audio or video conferencing
- Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

A member wishing to participate remotely must notify the Chairperson as soon as possible before the meeting with the facts supporting the request. At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reasoning. This information must be included in the meeting minutes. All votes taken must be taken by roll call vote and recorded as such in the minutes, including in open session. Members participating remotely may participate in executive session but shall, at the start of that session, state that no other person is present and/or able to hear the discussion at the remote location.

## **Posting Meeting Agendas**

The Open Meeting Law Regulation (940 CMR 29.03) provide, in part, that "public bodies shall file meeting notices<sup>4</sup> sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meetings, excluding Saturdays, Sundays and legal holidays. The date and time that the notice is posted shall be conspicuously recorded thereon or therewith."

Meeting Notices and agendas must be posted in compliance with the specific instructions of the Town Clerk. Postings must be emailed to [notices@middletonma.gov](mailto:notices@middletonma.gov) and received in the Clerk's office 48 hours prior to the next meeting, not including weekends and holidays. Meeting notices must include the name

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*This OML Order temporarily suspended two major requirements of G.L. c. 30A, § 20:*

- *G.L. c. 30A, § 20 requirement that a public body meet in a public place that is physically open to the public. This resulted in public bodies being able to meet without the public physically present.*
- *G.L. c. 30A, § 20(d) and 940 CMR 29.10(4)(b) requirements that members of a public body be physically present to participate. This enabled members to satisfy quorum requirements and participate in meetings remotely by video call, or other means.*

*The COVID State of Emergency was lifted by the Governor on June 15, 2021. However, on June 16, 2021, Governor Baker signed another bill that allows for an extension of remote meetings and hearings by public bodies through April 1, 2022. This is the current status as of July 6, 2021.*

<sup>4</sup> See Attachment A: Sample Meeting Notice/Agenda

of the board, and the date, time, and location of the meeting<sup>5</sup>. Notices must also include a listing of the topics the chair reasonably anticipates will be discussed at the meeting. The chair must exercise good judgment when faced with issues not included on the agenda. Routine issues may be raised. New and/or potentially contentious issues may be noted but not acted upon. They should be placed on a future meeting agenda to allow for proper posting and public discussion.

## Posting Emergency Meetings

The filing and posting requirements for meeting notices do not apply to emergency meetings. Emergency is defined in 30A § 18i as a "sudden, generally unexpected occurrence or set of circumstances demanding immediate action". For example, a meeting of the Board of Health to take action with respect to a matter endangering the public health due to a sudden flooding of an area would be considered an emergency meeting. A meeting simply called in a hurry to take action prior to the expiration of a deadline would not qualify as an emergency meeting.

## Meeting Cancellations

In order to support a uniform procedure upon cancellation of Committee or Board meetings due to inclement weather or any other unforeseen event, outlined below is a procedure for notifying the public. The decision to cancel a meeting is up to the individual Committee or Board. Should it be necessary to cancel a meeting due to inclement weather or any other unforeseen event, the Committee Chair or the assigned staff person should notify the Town Clerk's Office of the cancellation. The Chairperson or staff person should arrange for the posting of a cancellation notice, as well as posting a note on the entrance to the building where the meeting is to take place; both should include the date, time, and location of the rescheduled meeting.

## Meeting Minutes

Section 22 of the Open Meeting Law requires every governmental body to "...create and maintain accurate minutes of all meetings, including executive session, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes."<sup>6</sup> Minutes should not be verbatim of all discussion during a meeting. Copies of documents and/or exhibits, such as pictures or maps, used by the body at a meeting shall, along with the minutes, are part of the official record of the session.

Minutes must include each of the following:

- The date, time and place of the meeting;
- A list of members present or absent;
- A summary of the discussions on each subject;
- A list of documents and/or exhibits used at the meeting;

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<sup>5</sup> For meetings that include an option to participate remotely through a virtual meeting service, a meeting hyperlink, password (if required), and a telephone number for call-in participants should be included along with the date, time, and location of meeting.

<sup>6</sup> See Attachment B: A Public Body Checklist for creating and approving meeting minutes

- The decisions made and the actions taken at each meeting, including a record of all votes (who moved and seconded motions).
- Names of additional participants (not including press or observers);
- Name of person taking minutes;
- Time the meeting convened and the time it was adjourned.

Meetings may not proceed without a designated secretary responsible for providing a written record of the meeting as prescribed by the Open Meeting Law. Audio or video recordings may not be used as permanent records of a meeting. The approval of the prior meeting's minutes should always appear as an agenda item to encourage timely completion and filing of the minutes.

Draft minutes may be sent to members for review prior to the meeting at which they are to be voted upon. Deliberation regarding the contents of the draft minutes of an open meeting must occur at an open meeting, not by e-mail or telephone (other than to point out scrivener's errors such as wrong date, time or place, wrong person named as present or absent, spelling errors.) Boards should strive for transparency, posting minutes on the town's website as soon as they have been approved.

It should be noted that the minutes of an open meeting, in whatever form (notes, draft, tape recording, etc.) are considered public records and must be made available to the public upon request, under the public records as defined under the provisions of Chapter 66 §§ 10 (a-c)v. If a meeting is tape recorded the recording should be retained until the minutes are adopted or any appeal periods or litigation have passed.

## Public Hearings

Some boards, including but not limited to the Select Board, Planning Board, Zoning Board of Appeals, Conservation Commission, Historical Commission, and the Board of Health, are occasionally required to hold a public hearing in accordance with Massachusetts General Laws. Hearings are held for the purpose of gathering information from which your board or committee can draw a conclusion. Written notices, the initiation of the hearing, and the written conclusions of a hearing may have strict legal time limitations that vary with the nature of the hearing and the Board. Several procedures are common to all hearings.

The Chairperson or other designated person should run the hearing and state the guidelines and time allowances before any testimony is given. All questions should be directed to the chair who in turn may ask for a response from the floor. It is suggested that each board/committee develop written guidelines that include:

- Ground rules, time limits, directing all questions to chair, etc. are set;
- During deliberations, findings of fact are noted;
- Decision is written using notes of discussion, fact and findings;
- Decision is filed in appropriate places.

An important aspect of the hearing process is that a decision must be based on the testimony and evidence submitted at the hearing or if written, entered into the record at the hearing. The decision must be based on facts and cannot be arbitrary. Hearsay and emotions are not evidentiary and should not impact the final decision.

A board member serving on a hearing panel must be neutral without having formed an opinion in advance. The purpose of the hearing is to determine all facts. Once fact finding is complete, the board can begin to develop a basis for an opinion based on those facts that have been identified and outlined. Any board member who is pre-disposed to a decision must consider recusing himself or herself from the hearing.

It is not required that a decision be arrived at on the date of the hearing. Boards and committees should take such time as they need and are legally entitled to in order to arrive at a decision.

## **8. Use of Town Buildings**

Every committee should establish a regular meeting schedule to suit the needs and convenience of the members. All meetings must be scheduled in a public location accessible to the disabled. The majority of boards and committees meet at either the Fuller Meadow School or the Flint Public Library. Scheduling of meetings must be done through the relevant facility contact. Contacts for each facility are available from the Town Administrator's Office.

## **9. Conflict of Interest**

Members of a board are considered municipal employees, regardless of their compensation, and as such, are subject to the Conflict of Interest Law. A copy of the law may be viewed online at [www.state.ma.us/ethics](http://www.state.ma.us/ethics). The purpose of the law is to ensure that the private financial interests and personal relationships of public employees do not conflict with their public obligations. A copy of this law and responsibilities is provided to each board member by the Town Clerk's office.

### **Bi-annual Required Ethics Training**

Each year, all municipal employees (which includes members of Boards, Committees and Commissions) must be given a Summary of the Conflict of Interest Law prepared by the Ethics Commission and, every two years, they must complete an online training program prepared by the Commission.

The online training program is available at [www.muniprog.eth.state.ma.us](http://www.muniprog.eth.state.ma.us). Once you have completed the program online, you will be prompted to print a Certificate of Completion, which must be provided to the Town Clerk's Office.

### **If you have a Conflict of Interest**

If a board member has a conflict of interest, that member must recuse themselves and leave the room. A recused member is not counted toward the quorum. However, members that wish to speak as an abutter or as someone with a particular interest to an item before their own board may do so. In such case they shall step down from their duties on the board and sit with other members of the public to speak about the project.

The law provides for the legal determination of Conflict of Interest status for any employee submitting a request to the appointing authority or State Ethics Commission. If board members have any questions

about whether or not their activities could be a conflict of interest, they should seek guidance from the Town Administrator.

A board member may also request a confidential opinion directly from the State Ethics Commission by contacting the Commission's Legal Division at 617-371-9500.

## **10. Standards of Conduct for Appointed Town Officials**

### **Professional Conduct Expectations**

Members of all boards, committees and commissions are expected to:

- Realize that their basic function is to make policy, not execute it, unless otherwise empowered by state and/or local laws.
- Be well informed concerning the state and local duties of the board on which the members serve.
- Always keep in mind that they represent the Town of Middleton and its residents.
- Accept their position as a means of unselfish public service, not to benefit personally, professionally, or financially from their position.
- Treat all members of the board, all applicants who come before the board, all staff members and the public with respect, despite differences of opinions.
- Treat all staff as professionals in a manner that respects the abilities, education, experience, and dignity of each individual.
- Give weight to the input and advice of professional staff, department heads, and other boards and committees.
- Share information obtained on pending issues with other board members.
- Conduct themselves in a manner that maintains public confidence in local government.
- Conduct official business in such a manner as to give the clear impression that they are not improperly influenced in the performance on their official duties.
- Abide by the ethics guidelines established under MGL Chapter 268A, making every effort to avoid any appearance of conflict, and properly disclosing any apparent conflict.
- Unless specifically exempt under MGL Chapter 30A, section 18-25 (Open Meeting Law), conduct the business of the public in a manner that promotes open and transparent government.
- Honor confidential matters not legally subject to disclosure that come before the board in executive session.

### **Corrective Action**

Anyone who feels that an appointed board member is acting inconsistently with these standards of conduct may take one or more of the following actions, as deemed necessary, in the order listed below:

- Speak privately with board member about their behavior in an effort to correct said behavior.
- Ask the Chairperson of the board to speak with the individual in an effort to correct said behavior.
- Bring the matter to the attention of the appointing authority.

## **Speaking for a Board or Committee**

An individual board member has a right to speak publicly as a private citizen but should not purport to represent the board or exercise the authority of the board except when specifically authorized by that body to do so. If members identify themselves as members when speaking as private citizens, it may be perceived that they speak for the board. Such a perception should be avoided.

## **11. Administration**

### **Public Records**

With few exceptions, every hard copy or electronic document and record (other than most audio or video recordings) made or received by a board or other public entity is presumed to be a public record under the Massachusetts Public Records Law (MGL Chapter 66). As such, the public has a right of access to these records.

Town boards and departments are also obligated to properly secure and maintain public records. Public records should never be kept in a home or on private property of a board member. A guide to the Massachusetts Public Record law: <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>

### **Use of Town Counsel**

Request for opinions or assistance from Town Counsel must be directed through the office of the Town Administrator.

### **Appointing Authorities**

The Select Board may require that the board chair report regularly to the appointing authority about the board's actions and plans. The Town Administrator helps in maintaining communication between the committee, staff, and appointing authority. If needed, the Chair may request a meeting with the appointing authority to resolve problems and report progress.

## **12. Annual Report & Town Meeting**

All committees must file an annual report of committee activities for the Annual Town Report. The chair or other designated member should detail committee membership including changes, and a concise explanation of accomplishments and future plans to be submitted to the Select Board on or before the Annual Town meeting. Boards and committees should be represented at all Town Meetings.

## **13. Electronic Communication and Social Media**

### **Using Email**

A member of a public body may email other public body members so long as the email does not reach a quorum of the public body. Communications between and among a quorum of a public body on matters within the jurisdiction of the public body must occur only during a noticed meeting. G.L. c. 30A, §§ 18,

20. A public body member may lawfully email a quorum of the public body only to discuss scheduling a meeting, distribute a meeting agenda, or to distribute reports or documents that will be discussed at a meeting, provided that no opinion of a member of the public body is expressed. See G.L. c. 30A, § 18.

Many boards and committees have been found to violate the Open Meeting Law by using the reply all feature of email. This often happens quite innocently. A common occurrence is when staff sends out a meeting packet or staff report to all committee members. One member then replies all with their thoughts. That step constitutes a serial deliberation, which is a violation of the Open Meeting Law. A good practice is to send staff reports and meeting packets using the blind copy feature (BCC); that prevents an innocent or unintentional serial deliberation among a quorum.

## Social Media Platforms

Public bodies may communicate with members of the public through social media platform such as Facebook, Twitter, and webpages. However, individual members must be careful not to engage in deliberation with the other members of the public body through such communications or appear to speak for the committee. If a member of a public body communicates directly with a quorum of the public body over social media platforms that communication may violate the Open Meeting Law. Public body members should proceed with caution when communicating via these platforms.

## Electronic Messaging During a Meeting

The Open Meeting Law does not address the issue of texting or other forms of electronic messaging. The Open Meeting Law encourages government transparency. The best practice is for public body members to avoid the use of electronic devices during meetings. The deliberative process must take place in view of the public during a posted meeting. Members of the public should be aware that emails, text messages, and phone logs are considered public records. As such they are discoverable and may be ordered to be released.

## HELPFUL LINKS

Middleton Talent Bank Application:

<https://www.middletonma.gov/DocumentCenter/View/567/Talent-Bank-Application-PDF?bId=>

Middleton Remote Participation Policy:

<https://middletonma.gov/DocumentCenter/View/1234/Remote-Participation-Policy?bId=>

Middleton Policy on Fraud Prevention and Detection:

<https://middletonma.gov/DocumentCenter/View/1243/Fraudulent-Financial-Activities-Policy?bId=>

Middleton Sexual Harassment Policy:

<https://middletonma.gov/DocumentCenter/View/1312/EEO-Discrimination-and-Sexual-Harassment-Policy?bId=>

State Guide: How to be an Effective Board and Commission Member:

<https://www.mass.gov/info-details/guide-for-members-of-public-boards-and-commissions-introduction>

State Website offering guidance for board & committee members:

<https://www.mass.gov/info-details/guide-for-members-of-public-boards-and-commissions-introduction>

Open Meeting Law Training videos:

<https://mass.gov/service-details/open-meeting-law-training-videos>

Open Meeting Law Guide:

[https://www.mass.gov/files/documents/2018/01/30/2017%20Guide%20with%20ed%20materials\\_revised%201-30-18.pdf](https://www.mass.gov/files/documents/2018/01/30/2017%20Guide%20with%20ed%20materials_revised%201-30-18.pdf)

Conflict of Interest Law Training and Guide:

<https://www.mass.gov/complete-conflict-of-interest-law-training-and-summaries>

Massachusetts Public Record law:

<http://www.sec.state.ma.us/pre/prepdf/guide.pdf>

**ATTACHMENT A: Model Agenda & Checklist**

[LETTERHEAD OF BOARD/COMMITTEE]

**NAME OF BOARD >** Middleton Town Board  
**DATE >** June 30, 2021  
**TIME >** 7:00 PM  
**LOCATION >** Fuller Meadow Media Room, 143 South Main Street, Middleton  
**REMOTE INFO >** Zoom Link (if provided): [zoom/](https://zoom.us)link  
**RECORDING NOTE >** [Add note here if the meeting is being recorded]

**TITLE >** Meeting Agenda

**MINUTES >** 1. Approval of Minutes  
a. May 4, 2021 Minutes

**HEARINGS, IF ANY >** 2. Continued Public Hearings  
a. 195 North Main Street – Main Street LLC – Special Permit to Allow a Restaurant Use

3. New Public Hearings  
a. 48 South Main Street – Town Common LLC – Variance to Allow a Residential use in a Business Zone

4. Old or New Business  
a. License Agreement for United Oak Construction to remove dam on Babble Brook  
b. Approval of Tripartite Agreement for the Waverly Peak Subdivision  
c. Review Draft Warrant

5. Staff Update (if any)

6. Announcements/Correspondence

7. Adjournment

Next Meeting: July 27

## Public Body Checklist for Posting a Meeting Notice

Issued by the Attorney General's Division of Open Government – September 25, 2017

### Notice Contents

- The notice contains the date, time, and location of the meeting. G.L. c. 30A, § 20(b).
- If the meeting is a joint meeting of several public bodies, the names of all bodies meeting are listed at the top of the notice.
- The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics are sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting, including executive session topics. G.L. c. 30A § 20(b); 940 CMR 29.03(1)(b).
- The notice is printed in a legible, easily understandable format. G.L. c. 30A, § 20(b).
- The date and time that the notice is posted is conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d). If the notice is amended within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended must also be conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d).

### Notice Publication

- The notice is published at least 48 hours before the meeting, not including Saturdays, Sundays and legal holidays. G.L. c. 30A, § 20(b).
- The notice is posted with the proper authority:
  - Local public bodies – Filed with the municipal clerk, who must post it in a location conspicuously visible to the public at all hours in or on the municipal building where the clerk's office is located, or to the municipal website if adopted by the municipality as the official method of posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.
  - State public bodies – Posted to a website, and a copy sent to the Secretary of State's Regulations Division. G.L. c. 30A, § 20(c).
  - Regional public bodies – Posted in every municipality within the region, unless the public body has adopted an alternative notice posting method. G.L. c. 30A, § 20(c); 940 CMR 29.03.
  - County public bodies – Filed with the office of the county commissioners and a copy of the notice is publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose, unless the county has adopted its website as the official method for posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. These checklists are updated periodically, so please check that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us). For more information on the Open Meeting Law, please visit [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).

ATTACHMENT B: Public Body Checklist for Creating and Approving Meeting Minutes

## Public Body Checklist for Creating and Approving Meeting Minutes

Issued by the Attorney General's Division of Open Government – September 25, 2017

- Minutes must accurately set forth the date, time, place of the meeting, and a list of the members present or absent. G.L. c. 30A, § 22(a).
- Minutes must include an accurate summary of the discussion of each subject. See G.L. c. 30A, § 22(a). The summary does not need to be a transcript, but should provide enough detail so that a member of the public who did not attend the meeting could read the minutes and understand what occurred and how the public body arrived at its decisions.
- The minutes must include a record of all the decisions made and the actions taken at each meeting, including a record of all votes. G.L. c. 30A, § 22(a).
- The minutes must include a list of all of the documents and other exhibits used by the public body during the meeting. G.L. c. 30A, § 22(a). Documents and exhibits used at the meeting are part of the official record of the session, but do not need to be physically attached to the minutes. See G.L. c. 30A, §§ 22(d), (e).
- If one or more public body members participated remotely in the meeting, the minutes must include the name(s) of the individual(s) participating remotely. 940 CMR 29.10(7)(b).
- If one or more public body members participated remotely in the meeting, the minutes must record all votes as roll call votes. 940 CMR 29.10(7)(c).
- Executive session minutes must record all votes as roll call votes. G.L. c. 30A, § 22(b).
- The minutes must be approved in a timely manner. G.L. c. 30A, § 22(c). A “timely manner” will generally be considered to be within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay. 940 CMR 29.11(2).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us). For more information on the Open Meeting Law, please visit [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).

## ATTACHMENT C: Public Hearing General Steps

1. Open Public Hearing
2. The Chairperson or designee will read the legal notice, announcing the nature and purpose of the hearing and identify the particular matter.
3. Order of Presentation
  - a. Presentation by Proponent
  - b. Receipt of recommendations from any Town agency, advisor, or officer
  - c. Questions from Board Members
  - d. Statements by members of the public
  - e. Rebuttal by Proponent
4. Close Public Hearing
5. Deliberate on Findings and Merit
6. Entertain Motions to render a decision or take the matter under advisement, announcing the intended date of decision.

# Town of Middleton

# Massachusetts

9



## ANNUAL TOWN MEETING

Tuesday, May 10, 2022

Howe Manning School Gymnasium  
26 Central Street, Middleton, MA

**Middleton Rail Trail:** We wish to acknowledge the partnership that has enabled the construction of the Middleton Rail Trail: Department of Public Works, Middleton Electric Light Department, Middleton Rail Trail Alliance (MiRTA), Planning Department, Conservation Commission, Community Preservation Committee, and Middleton's Legislative Delegation, Senator Bruce E. Tarr, Representative Sally P. Kerans, and Representative Bradly H. Jones, Jr.



*Middleton Rail Trail, Creeden Lane*

**Melissa Gaspar:** Special thanks and congratulations to Melissa Gaspar, Director of the Flint Public Library, who retired in 2022. Melissa led the Flint Public Library for 11 years. During her tenure the Flint Public Library saw increased library attendance and circulation as well as an increase in programs. We extend our best wishes for a long and happy retirement.

**Middleton Select Board**

Brian M. Cresta, Chair  
Timothy P. Houten, Clerk  
Kosta E. Prentakis

Richard W. Kassiotis, Jr.  
Jeffrey P. Garber

Andrew J. Sheehan, Town Administrator  
Jackie Bresnahan, Assistant Town Administrator/Human Resources Director

**TOWN OF MIDDLETON  
ANNUAL TOWN MEETING  
COMMONWEALTH OF MASSACHUSETTS  
MAY 10, 2022**

ESSEX s.s.

To the Constable of the Town of Middleton in the County of Essex:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in Elections and Town Affairs, to meet at the Howe Manning School Gymnasium, 26 Central Street, on Tuesday, May 10, 2022 at 7:00PM, then and there to act on the following articles:

**FY2022 AND PRIOR YEAR FINANCIAL ARTICLES**

**ARTICLE 1.** To hear Committee Reports.

**ARTICLE 2.** On petition of the Select Board and Finance Committee, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to fund the deficit incurred in the Department of Public Works Snow and Ice budget; or take any other action relative thereto.

**Purpose:** This article closes the deficit for Snow and Ice removal. The Snow and Ice deficit is typically funded through a transfer from Free Cash. At the time of printing the Snow and Ice deficit funding request is \$25,000. Requires a simple majority vote.

**ARTICLE 3.** On petition of the Select Board and Finance Committee, to see if the Town will vote to pay prior fiscal year bills; or take any other action relative thereto.

**Purpose:** This article authorizes payment of bills from prior fiscal years. Under General Law c. 44, s. 64, bills from prior fiscal years can only be paid if approved by Town Meeting unless funds were encumbered. Requires a 4/5 vote.

**ARTICLE 4.** On petition of the Select Board and Finance Committee, to see if the Town will vote to raise and appropriate, transfer between and among various accounts, or transfer from available funds to supplement the Fiscal Year 2022 operating budget; or take any other action relative thereto.

**Purpose:** This article transfers funds and supplement monies, if necessary, to meet departmental expenses in the current fiscal year ending on June 30, 2022. Requires a simple majority vote.

**ARTICLE 5.** On petition of the Select Board and Finance Committee, to see if the Town will vote to transfer a sum from the Water Enterprise Fund retained earnings to supplement the FY22 Water Department operating budget; or take any other action relative thereto.

**Purpose:** This article transfers monies to fund wages for the Water Department. The funds will come from the revenues of the Water Department. Requires a simple majority vote.

**ARTICLE 6.** On petition of the Select Board and Finance Committee, to see if the Town will vote to fund collective bargaining agreements; or take any other action relative thereto.

**Purpose:** This article funds costs associated with contracts negotiated with collective bargaining groups (public employee unions). At the time of printing the Middleton Benevolent Police Association is the only settled contract. The anticipated amount is \$75,000 to be transferred from Free Cash. Requires a simple majority vote.

**ARTICLE 7.** On petition of the Select Board and Finance Committee, to see if the Town will vote to raise and appropriate, transfer between and among various accounts, or transfer from available funds to supplement the Fiscal Year 2022 capital budget; or take any other action relative thereto.

**Purpose:** This article transfers funds and supplement monies to fund capital appropriations in the current fiscal year ending on June 30, 2022. These include additional funds for the Fire Department pumper truck, funds to undertake a needs assessment for the Council on Aging, and bullet proof vests for the Police Department. The total anticipated appropriation is \$63,000 to be transferred from Free Cash. Requires a simple majority vote.

## FY2023 FINANCIAL ARTICLES

**ARTICLE 8.** On petition of the Select Board and Finance Committee, to see if the Town will vote to set the salaries of elected officials pursuant to Massachusetts General Law Chapter 41, Section 108; or take any other action relative thereto.

**Purpose:** This article establishes the compensation of elected officials. The schedule of salaries which shows the compensation of employees is located in the back of the warrant book. Requires a simple majority vote.

**ARTICLE 9.** On petition of the Select Board and Finance Committee, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to fund the Omnibus Budget for Fiscal Year 2023; or take any other action relative thereto.

**Purpose:** This article requests approval of the Town's operating budget for the coming fiscal year beginning on July 1, 2022 and running through June 30, 2023. Detailed descriptions of revenues and expenditures are presented in the warrant book. Requires a simple majority vote.

**ARTICLE 10.** On petition of the Select Board and Community Preservation Committee, to see if the Town will vote to appropriate or reserve from the Community Preservation Fund annual revenues or available funds the amounts recommended by the Community Preservation Committee for debt service, community preservation projects, and other expenses in Fiscal Year 2023 with each item to be considered a separate appropriation; or take any other action relative thereto.

#### Proposed Fiscal Year 2023 Community Preservation Budget

The Community Preservation Committee recommends that the following amounts be appropriated or reserved from Fiscal Year 2023 Community Preservation Fund Revenues, unless otherwise specified for Fiscal Year 2023 Community Preservation Purposes with each item considered to be a separate appropriation:

<u>Purpose</u>	<u>Recommended Amount</u>	<u>Funding Source</u>
A) Reserves: Open Space	\$39,523.62	FY 2023 Estimated CPA Receipts
Reserves: Historic Resources	\$39,523.62	FY 2023 Estimated CPA Receipts
Reserves: Community Housing	\$39,523.62	FY 2023 Estimated CPA Receipts
B) Flint Library Debt Service	\$82,500.00	\$39,851.36 from Historic Resources Reserve and \$42,648.64 from Fund Balance
C) 11 South Main St. Debt Service	\$40,800.00	\$39,851.37 from Open Space Reserve And \$948.63 from Fund Balance
D) CPA Committee Admin. Expenses	\$1,200.00	From Fund Balance
<b>Community Preservation Total</b>	<b>\$243,070.86</b>	

**Purpose:** Each year the Town Meeting must appropriate or reserve for future appropriation at least 10% of the estimated annual fund revenues for acquisitions and initiatives in each of the following three categories of allowable community preservation purposes:

Open space (excluding recreational uses)  
Historic resources  
Community housing

The term “annual fund revenues” in Fiscal Year 2023 are estimated at \$330,000 and is composed of the estimated receipts from the local surcharge of \$265,000 and monies from the State Trust Fund, which will make its sixteenth payment in October of 2022 providing an additional estimated \$65,000 in matching funds based upon the local share raised in FY 2023. Requires a simple majority vote.

**ARTICLE 11.** On petition of the Select Board and Community Preservation Committee, to see if the Town will vote to appropriate from the Community Preservation Fund annual revenues the following amounts recommended by the Community Preservation Committee for new community preservation projects in Fiscal Year 2023 with each item to be considered a separate appropriation; or take any other action relative thereto.

<u>Purpose</u>	<u>Recommended</u>	<u>Funding Source</u>
	<u>Amount</u>	
Historic Monument Restoration	\$25,000.00	Fund Balance
Rail Trail	\$50,000.00	Fund Balance
<b>Community Preservation Total</b>	<b>\$75,000.00</b>	

**ARTICLE 12.** On petition of the Select Board and Finance Committee, to see if the Town will vote to authorize the spending limits of the following revolving funds established under the Town Bylaw and General Laws Chapter 44, Section 53E ½:

<b>Revolving Fund</b>	<b>Spending Limit</b>
Firearms License and Permits	\$10,000
Council on Aging	\$35,000
Recreation	\$15,000
Recreation Field Use	\$15,000
Stormwater Management	\$5,000

Or take any other action relative thereto.

**ARTICLE 13.**

On petition of the Select Board and Finance Committee, to see if the Town will vote to appropriate a certain sum from the Sewer Enterprise receipts to pay expenses and contractual services required to operate the Sewer Enterprise Fund for Fiscal Year 2023; or take any other action relative thereto.

**Direct Costs**

SESD Assessment	\$95,656
Expenses	\$100
<u>Extra/Unforeseen</u>	<u>\$1,000</u>
Total Direct Costs:	\$96,756

**Indirect Costs \***

Salaries and Wages	\$5,009
<u>Insurance &amp; Benefits</u>	<u>\$624</u>
Total Indirect Costs:	\$5,633

**Total FY2023 Budget**      **\$102,389**

*\*(to be raised and appropriated in the General Fund Operating Budget)*

Town shall raise the sum of \$96,756 or any other sum from the Sewer Enterprise Revenues and to approve the sum of \$5,633 of indirect costs appropriated in the general fund under Article 9 to be funded from Sewer Enterprise Revenues.

**Purpose:** This article funds the operation of that portion of the Town served by the South Essex Sewer District (SESD). The revenues fully fund the operating costs. Requires a simple majority vote.

**ARTICLE 14.** On petition of the Select Board and Finance Committee, to see if the Town will vote to appropriate a certain sum from the Water Enterprise receipts to pay expenses and contractual services required to operate the Water Enterprise Fund for Fiscal Year 2023; or take any other action relative thereto.

**Direct Costs**

Salaries and Wages	\$88,557
Debt Service	\$5,330
Expenses	\$64,100
<u>Extra/Unforeseen</u>	<u>\$50,000</u>
Total Direct Costs:	\$207,987

**Indirect Costs \***

Salaries and Wages	\$54,090
<u>Insurance &amp; Benefits</u>	<u>\$34,618</u>
Total Indirect Costs:	\$88,708

**Total FY2023 Budget**      **\$296,695**

*\*(to be raised and appropriated in the General Fund Operating Budget)*

Town shall raise the sum of \$207,987 or any other sum from the Water Enterprise Revenues and to approve the sum of \$88,708 of indirect costs appropriated in the general fund under Article 9 to be funded from Water Enterprise Revenues.

**Purpose:** This article funds the operation of the Water Department. The revenues fully fund the operating costs. Requires a simple majority vote.

**ARTICLE 15.** On petition of the Electric Light Commissioners, to see if the Town will vote to accept a sum of money from the earnings of the Electric Light Department, said sum to be used for the reduction of taxes; or take any other action relative thereto.

**Purpose:** Each year the Light Commission votes a sum to be used to reduce taxes. The FY2023 amount is expected to be \$262,979. Requires a simple majority vote.

**ARTICLE 16.** On petition of the Superintendent of Public Works, to see if the Town will vote to raise and appropriate such sums of monies as may be received from the Commonwealth of Massachusetts for the fiscal year commencing July 1, 2022 to install drainage, widen, pave, and otherwise improve any public way in accordance with the provisions of Chapter 90 of the Massachusetts General Laws; or take any other action relative thereto.

**Purpose:** Each year the Commonwealth of Massachusetts distributes funds to cities and towns to be used for the maintenance and upkeep of public ways. The usual distribution is approximately \$300,000. Requires a simple majority vote.

**ARTICLE 17.** On petition of the Select Board and Finance Committee, to see if the Town will vote to raise and appropriate, borrow or transfer from available funds to various reserve and trust funds; or take any other action relative thereto.

**Purpose:** This article transfers funds from Free Cash to various reserve funds, including stabilization funds and the Other Post-Employment Benefits (OPEB) Trust Fund. It is anticipated that \$100,000 will be transferred to the OPEB Trust Fund and \$52,000 transferred to the Special Education Stabilization Fund, both transfers to come from Free Cash. Requires a simple majority vote.

**ARTICLE 18.** On petition of the Select Board and Finance Committee, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to fund the Capital expenditures for Fiscal Year 2023; and to authorize the Town Administrator to sell or trade items rendered surplus by such purchases; or take any other action relative thereto.

Department/Location	Project	Expenditure
Dept. of Public Works	Replace Truck 12	81,700
	Stand-Up Leaf Blower	13,000
	Signs: Couture Field, Welcome to Middleton	20,000
	Paving	100,000
	Tree Work	20,000
	Pedestrian & Traffic Safety Impl. & Planning	20,000
	Replace Roll-Off Containers	30,000
<i>Public Works subtotal</i>		<b>\$ 284,700</b>
Police Department	New Police Cruiser	50,000
	AED Replacement	9,000
	Patrol Rifles	5,000
	Radar Gun - Cruiser	5,000
<i>Police subtotal</i>		<b>\$ 69,000</b>
Fire Department	Replace Marine 1	15,000
	Fire Alarm Materials	15,000
	Ice Rescue Sled	6,000
	Radio Equipment	72,800
	Train New Firefighter	27,303
<i>Fire subtotal</i>		<b>\$ 136,103</b>
Information Technology	Town Hall Network Storage Replacement	20,000
	Replace 6 Year Old Town Hall Server	27,000
	Replace 5 Year Old DPW Server	4,000
	Replace Police Department Host Server	20,000
	VMware Upgrade Step 2, License/Version	14,000
	Antivirus Next Generation Product Upgrade	4,800
<i>Information Technology subtotal</i>		<b>\$ 89,800</b>
Administration	DPW Salary Survey	10,000
	Inspectional Services Records Digitization	35,000
<i>Administration subtotal</i>		<b>\$ 45,000</b>
Elementary Schools	Replace Howe Manning Security	50,000
	Replace Interactive Smart Boards	155,000
<i>Elementary Schools subtotal</i>		<b>\$ 205,000</b>
Town Clerk/Elections	Election/Polling Equipment	7,200
	<i>Town Clerk/Elections subtotal</i>	
Assessors	NearMap and PushPin GIS Features	7,740
	<i>Assessors subtotal</i>	
Essex No. Shore Tech	Capital contribution	9,828
	<i>Essex Tech subtotal</i>	
<b>Capital Projects Total</b>		<b>\$ 854,371</b>

**Purpose:** This article requests approval of the capital budget for the coming fiscal year. Capital items are assets that have a useful life of five (5) or more years and a cost of more than

\$5,000. Regular capital investment is critical to maintaining the Town's infrastructure, including the vehicle fleet, buildings, equipment, and acquisition of land. Annually, a capital improvement plan (CIP) is developed looking ahead for the next five years. Year one of the CIP is the ensuing year's capital budget. The FY23 Capital Budget is proposed to be funded by \$834,371 from Free Cash. Note that capital items funded through the Community Preservation Fund are reflected in that warrant article; capital items funded through outside funds are not subject to appropriation. Requires a simple majority vote.

## **CITIZEN PETITIONS, BYLAW ADOPTIONS, AND REAL PROPERTY**

**ARTICLE 19.** To see if the Town will vote to amend subsection E(3) of Section IV (“Apportionment of Operating Costs”) of the Masconomet Regional School District Agreement, as recommended by the Masconomet Regional School District School Committee, by inserting the ***bold, italicized text***:

For Fiscal Year 2024, operating costs will be apportioned to member towns using the method outlined in G.L. c. 70, § 6. Operating assessments for each member town shall equal the sum of (i) such member town's required local contribution to the regional school district as determined by the Commissioner of Elementary and Secondary Education, and (ii) the product of (a) that portion of the regional school district's net school spending, as defined by G.L. c. 70, § 2, which exceeds ***the total required local contribution for all member towns, multiplied by (b) the ratio which such member town's October 1 pupil enrollment in the regional school district for the three (3) preceding fiscal years bears to the total pupil enrollment from all member towns during the same period.***

**Purpose:** This article, Amendment 13 of the Masconomet Regional Agreement, amends the Masconomet Regional Agreement by correcting a typographical error that inadvertently left off a clause of Subsection E(3) of Section IV when Amendment 11 was adopted. Requires a simple majority vote.

**ARTICLE 20.** To see if the Town will vote to amend subsection F (“Fiscal Year and Times of Payments of Apportioned Costs”) of Section IV (“Apportionment of Operating Costs”) of the Masconomet Regional School District Agreement, as recommended by the Masconomet Regional School District School Committee, by deleting the text shown in ~~strikethrough~~, and inserting the ***bold, italicized text***:

### F. Fiscal Year and Times of Payments of Apportioned Costs

~~The fiscal year or period of the District shall be the same as the fiscal period of the member towns as provided by law, and the word year or fiscal year or calendar year as it relates in this Agreement to a fiscal or budget year shall mean the fiscal year of the District.~~

~~Each member town shall pay to the District in each fiscal year its proportionate share, certified as provided in subsection V (C), of the capital and operating costs. Except as otherwise provided in subsection V (A), the annual share of each member town shall be paid in four (4) equal installments quarterly due on or before the following dates each year:~~

~~August 15~~

~~November 15~~

~~February 15~~

~~May 15~~

And replacing it with:

*F. The fiscal year or period of the District shall be the same as the fiscal period of the member towns as provided by law, and the word year or fiscal year or calendar year as it relates in this Agreement to a fiscal or budget year shall mean the fiscal year of the District.*

*Each member town shall pay to the District in each fiscal year its proportionate share, certified as provided in subsection V (B), of the capital and operating costs. Except as otherwise provided in subsection V (A), the annual share of each member town shall be paid in four (4) equal installments quarterly due on or before the following dates each year:*

*August 15*

*November 15*

*February 15*

*May 15*

**Purpose:** The purpose of this article, Amendment 14 of the Masconomet Regional Agreement, is to correct an error in Amendment 12 from 2021, which incorrectly referenced the removal of the second sentence when the third sentence was actually removed. This amendment also corrects an inaccurate reference to Section V(C), which should be renumbered to “V (B)” due to a previous amendment. Requires a simple majority vote.

**ARTICLE 21.** To see if the Town will vote to amend subsection (B) (“Final Maintenance and Operating Budget”) of Section V (“Budget”) of the Masconomet Regional School District Agreement, as recommended by the Masconomet Regional School District School Committee, by deleting the text shown in strikethrough, and inserting the bold, italicized text:

The Committee shall, not later than forty-five (45) days prior to the earliest date on which the business session of the annual town meeting of any member town is to be held (but in any event, not later than March thirty-first (31st) in each year) adopt an annual maintenance and operating budget for the ensuing fiscal year, ***by a two-thirds vote of all its members.*** Said budget to

include debt and interest charges and any other current capital costs as separate items, and shall apportion the amounts necessary to be raised in order to meet the said budget in accordance with the provisions of subsections IV (D) and IV (E). The amounts so apportioned to each member town shall, *not later than thirty days following adoption of the final annual budget*, be certified by the District treasurer to the treasurers of the *such* member towns, and each *member* town ~~shall be liable for and shall, at its next annual town meeting,~~ appropriate the amounts so certified to it. *Approval of the budget shall require an affirmative vote of the appropriating authorities of two-thirds of the member towns.*

**Purpose:** This article, Amendment 15 of the Masconomet Regional Agreement, affirms the statutory requirements that the School Committee must adopt a budget by a 2/3 majority vote of its members and that each town's annual town meeting must vote to appropriate the amounts certified to it by the regional district treasurer. Requires a simple majority vote.

**ARTICLE 22.** To see if the Town will vote to amend subsection B ("Procedure") of Section VII ("Amendments") of the Masconomet Regional School District Agreement, as recommended by the Masconomet Regional School District School Committee, by inserting the ***bold, italicized text***:

A proposal for amendment may be initiated by a majority vote of all the members of the Committee or by a petition signed by 10% of the registered voters of any one of the member towns. In the latter case, said petition shall contain at the end thereof, a certification by the town clerk of such member town as to the number of registered voters in said town according to the most recent voting list and the number of signatures on the petition which appear to be names on registered voters of said town. Any such proposal for amendment shall be presented to the secretary of the Committee, who shall mail or deliver a notice in writing to the Board of Selectmen of each of the member towns that a proposal to amend this agreement has been received and shall enclose of copy of such proposal (without the signatures in the case of a proposal by petition). The selectmen of each member town shall include in the warrant for the next annual or a special town meeting called for the purpose an article stating the proposal or the substance thereof. Such amendment shall take effect upon its acceptance by all of the member towns, acceptance by each town to be by a majority vote at a town meeting as aforesaid, *and approval of the Commissioner of Elementary and Secondary Education.*

**Purpose:** This article, Amendment 16 of the Masconomet Regional Agreement, clarifies that all amendments to the Regional Agreement must be approved by the Commissioner of Elementary and Secondary Education in order to take effect. Requires a simple majority vote.

**ARTICLE 23.** To see if the Town will vote to amend Section VIII ("Admission") of the Masconomet Regional School District Agreement, as recommended by the Masconomet Regional School District School Committee, by inserting the ***bold, italicized text***:

By an amendment of this agreement adopted under and in accordance with Section VII above, any other town or towns may be admitted to the regional school district upon adoption as therein

provided of such amendment and upon acceptance by the town or towns seeking admission of the agreement as so amended and also upon compliance with such provisions of law *and regulations* as may be applicable, and such terms as may be set forth in such amendment. *A new member may be admitted to the regional school district as of July 1 of any fiscal year, provided that all requisite approvals for such admission or withdrawal, including the Commissioner's approval, shall be obtained no later than the preceding December 31. The authorizing votes may provide for the deferral of said admission or withdrawal until July 1 of a subsequent fiscal year.*

**Purpose:** This article, Amendment 17 of the Masconomet Regional Agreement, clarifies the process and timelines through which a new town could be admitted to the Regional School District. Requires a simple majority vote.

**ARTICLE 24.** To see if the Town will vote to amend subsection A (“Procedure”) of Section IX (“Withdrawal”) of the Masconomet Regional School District Agreement, as recommended by the Masconomet Regional School District School Committee, by inserting the ***bold, italicized text:***

Any member town may withdraw from the regional school district by a majority vote of the voters present and voting on the question at an annual or special town meeting called for the purpose, such withdrawal to become effective on June 30 of the year named in the question, provided: (1) that in pursuance of such vote, the withdrawing town gives the regional school district at least one year’s written notice of its intention to withdraw, (2) that the said town has paid over to the District any costs which have been certified by the district treasurer to the treasurer of the withdrawing town, including the entire amount so certified for the year in which such withdrawal takes effect, and (3) that the said town shall remain liable to the District for its share of the indebtedness, including but not limited to Other Post-Employment Benefits (OPEB) and other liabilities of the District outstanding at the time of such withdrawal, and for interest thereon, to the same extent and in the same manner as if the town had not withdrawn from the District, except that such liability shall be reduced by any amount which such town has paid over at the time of withdrawal and which has been applied to the payment of such indebtedness or interest. An existing member may withdraw from the regional school district as of July 1 of any fiscal year, provided that all requisite approvals for such admission or withdrawal, including the Commissioner’s approval, shall be obtained no later than the preceding December 31. The authorizing votes may provide for the deferral of said admission or withdrawal until July 1 of a subsequent fiscal year.

**Purpose:** This article, Amendment 18 of the Masconomet Regional Agreement, clarifies the process through which a member town may withdraw from the regional district. Requires a simple majority vote.

**END OF ANNUAL TOWN MEETING WARRANT**

**TO THE TOWN CONSTABLE:**

You are hereby ordered to notify and warn said qualified voters to meet at the Fuller Meadow School, 143 South Main Street, Middleton, MA on **Tuesday, May 17, 2022**, next for the following purposes, VIZ: To choose by ballot the following Town Officers for the ensuing year:

One Constable for three years  
Two Select Board members for three years  
One Board of Assessors member for three years  
One Board of Assessors member for one year  
Two Elementary School Committee members for three years  
One Regional School Committee member for three years  
One Planning Board member for five years  
One Planning Board member for four years  
One Planning Board member for three years  
One Electric Light Commissioner for three years  
One Library Trustee for three years

**The Polls open at 7:00 a.m. and close at 8:00 p.m. Voting takes place at the Fuller Meadow School, 143 South Main Street, Middleton, MA.**

And you are hereby directed to service this Warrant by posting up attested copies thereof at:

Memorial Hall	Flint Public Library	Ferncroft Towers
Post Office	Howe Station Market	Fuller Pond Village

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereof, to the Town Clerk at time and place of meeting aforesaid.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand Twenty Two.

**MIDDLETON SELECT BOARD**

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A true copy Attest:

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Constable of the Town of Middleton

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Date Posted



## OFFICE OF THE TOWN ADMINISTRATOR

Town of Middleton  
Memorial Hall  
48 South Main Street  
Middleton, MA 01949-2253  
978-777-3617  
[www.middletonma.gov](http://www.middletonma.gov)

10.

## SOLID WASTE ADVISORY COMMITTEE CHARGE

The Middleton Select Board does hereby establish a Solid Waster Advisory Committee to evaluate options for the transfer station, including operations, financial implications, community need, and feasibility of implementation. The Committee will evaluate and provide reports to the Select Board on recommended strategies and actions.

The Committee shall consist of nine members:

- Two members of the Select Board
- Two members of the Finance Committee
- Two members at-large appointed by the Select Board
- The Town Administrator or their designee (ex-officio)
- The Public Works Director (ex-officio)
- The Finance Director or their designee (ex-officio)

The Committee will host at least one public forum and conduct at least one survey and provide periodic updates to the Select Board. The Committee shall consider options and make an initial written recommendation in March 2023 and a final written recommendation in March 2024 to the Select Board. The committee will be available for consultation and follow up questions until June 30, 2024, at which point is shall be dissolved.

## **Correspondence and informational materials**

## **Jackie Bresnahan**

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**From:** Mike WATKIN <ablade768@verizon.net>  
**Sent:** Friday, March 25, 2022 4:58 PM  
**To:** Jackie Bresnahan  
**Subject:** Resign

Hi Jackie, not sure if you are who I contact but I am offering my resignation for the industrial review board, I am planning on other volunteering at this time.

Thank you

Michael Watkin