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July 14, 2010

## VIA HAND DELIVERY

Town of Middleboro  
Town Manager  
10 Nickerson Avenue  
Middleboro, MA 02346

Town of Middleboro  
Board of Selectmen  
10 Nickerson Avenue  
Middleboro, MA 02346

### **Re: Public Records Request**

Dear Sir or Madam:

Pursuant to the Massachusetts Public Records Law, M.G.L. c. 66, §§ 1 *et seq.* and the regulations promulgated thereunder at 950 C.M.R. §§ 32.00 *et seq.*, on behalf of the Mashpee Wampanoag Tribe ("Tribe"), I hereby request copies of the following "public records"<sup>1</sup> in the possession, custody or control of the Town of Middleboro, including but not limited to the Middleboro Town Manager, the Middleboro Board of Selectmen, and/or Middleboro Town Counsel for the time period commencing on January 1, 2007 through and including the date of response:

1. All communications<sup>2</sup> between the Town of Middleboro, Board of Selectmen, or Town Counsel, or anyone acting on their behalf or on the behalf of any Town official, department or employee with any member or representative of the Tribe.
2. All video and/or audio tapes of all public hearings and/or public meetings before the Board of Selectmen concerning the Tribe, the Intergovernmental Agreement ("IGA"), and/or the proposed gaming facility.
3. All video and/or audio tapes of the Middleboro Special Town Meeting held on July 28, 2007.

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<sup>1</sup> The term "public records" is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of the state or local agency, department, board, commission, or other government entity, unless falling within a statutory exemption. G.L. c. 4, § 7(26).

<sup>2</sup> The word "communication" or "communications" means any oral or written transmittal, recording, or transcribing of information or request for information or request for information made from one person to another person, whether in person, by telephone, by e-mail, or by any other means, or a document made only for the purpose of recording a communication, idea, design, program, fact, statement, opinion or belief.

4. All video and/or audio tapes of all public meetings and/or public hearings of the Board of Selectmen which describe or refer to the Special Town Meeting on July 28, 2007.
5. All minutes of public meetings and/or public hearings of the Board of Selectmen which describe or refer to the Tribe, the IGA, and/or the proposed gaming facility.
6. All minutes of public meetings and/or public hearings of the Board of Selectmen which describe, refer to, or constitute communications with the Bureau of Indian Affairs, including but not limited to the letter sent on or about July 12, 2010.
7. All documents which describe, refer to, or constitute communications with the Bureau of Indian Affairs, including but not limited to the letter sent on or about July 12, 2010.
8. All minutes or record of proceedings of the Special Town Meeting on July 28, 2007.
9. All documents prepared by or on behalf of Town Counsel which describe or refer to the Tribe, the IGA, and/or the proposed gaming facility.
10. All documents which describe, refer to, or constitute communications between or among Town Counsel, the Board of Selectmen, the Town Manager, and/or any other elected or appointed officials or employees of the Town of Middleboro regarding the Tribe, the IGA, and/or the proposed gaming facility.
11. All documents which describe, refer to, or constitute communications between any town official, including Town Counsel, the Town Manager, and any member of the Board of Selectmen, and any third party, including but not limited to any media outlet, regarding the Tribe, the IGA, and/or the proposed gaming facility.
12. All documents which describe or refer to the validity, enforceability, and/or exclusivity of the IGA.
13. All documents which describe, refer to, or constitute drafts of the IGA.
14. All documents which describe, refer to, or constitute proposed amendments or revisions to the IGA.
15. All documents which describe, refer to, or constitute communications by or among the members of the Board of Selectmen regarding the votes taken at the Special Town Meeting on July 28, 2007.

16. All documents which describe, refer to, or constitute any votes taken or decisions made by the Board of Selectmen to appoint one or more individuals to negotiate the IGA with the Tribe.
17. All documents which describe or refer to the role of Adam Bond in the negotiation of the IGA with the Tribe.
18. All documents which refer to or constitute communications between or among the Board of Selectmen, Town Manager, Town Counsel, and/or any other elected or appointed officials or employees of the Town of Middleboro regarding the development of an Indian gaming facility in Middleboro.
19. All documents which describe or refer to the costs incurred and money paid by the Town of Middleboro in supporting the planning, development, and coordination of the proposed gaming facility.
20. All documents which describe, refer to, or constitute any votes taken or decisions made by the Board of Selectmen, Town Manager, Town Counsel, and/or any other elected or appointed officials or employees of the Town of Middleboro about what to do with the \$250,000 annual mitigation payments received from the Tribe.
21. All documents which describe or refer to the payment of attorneys' fees from the \$250,000 annual mitigation payments received from the Tribe, including but not limited to any payments made since July 2007.
22. All documents which constitute or refer to communications between the Town of Middleboro, or anyone acting on its behalf, or anyone acting on their behalf or on the behalf of any Town official, department or employee, on the one hand, and the Department of the Interior or the Bureau of Indian Affairs concerning the Tribe, the IGA, and/or the proposed gaming facility.

Under the Public Records Law, you have ten (10) calendar days to respond to this request. Your response must be either an offer to provide the requested materials or a written denial. If any portion of this request is denied, please identify and segregate exempt and non-exempt records, describe each record withheld, identifying the author of the record, the addressee, if any, the date, and detail the specific basis for withholding the requested materials pursuant to the regulations.<sup>3</sup> Pursuant to 950 C.M.R. § 32.06(5), we request that you waive the fees associated with this public record request where disclosure would clearly benefit the public interest. Alternatively, if you are unable to waive your fees, please provide us with a written,

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<sup>3</sup> 950 C.M.R. § 32.08 (1)

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good faith estimate of the applicable copying, search time and segregation time fees to be incurred prior to complying with this public records request in accordance with 950 C.M.R. § 32.06(2). I note that charges for time spent to determine whether records are public or non-public may not be included in any reasonable fees you believe to be appropriate.

Thank you for your attention to this matter. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "HMC Cooper", written in a cursive style.

Howard M. Cooper

HMC/cp

cc: Daniel F. Murray, Esq. (by mail)  
J. Owen Todd, Esq.  
Heidi A. Nadel, Esq.