



**BOARD OF SELECTMEN**  
**Meeting Agenda**  
**February 2, 2015**  
**Boxborough Town Hall**  
**Grange Meeting Room**

**1. CALL TO ORDER (TOWN ADMINISTRATOR'S OFFICE), 6:30 PM**

**2. EXECUTIVE SESSION**

*Move to convene in executive session in the Town Administrator's office to discuss strategy with respect to collective bargaining (all CBU's) and to reconvene in open session at 7:30 PM in the Grange Meeting Room to continue the regular business on the agenda*

**ROLL CALL  
VOTE:**

**N.B. Chair shall state: "To conduct such session in an open meeting may have a detrimental effect on the bargaining position of the Board."**

***RE-CONVENE IN GRANGE MEETING ROOM, 7:30 PM***

**3. ANNOUNCEMENTS**

**4. APPOINTMENTS**

*[Times are estimated; if you are interested in a particular matter, please plan to arrive 15 minutes earlier]*

- a) David Lindberg, Inspector of Buildings and members of the Steele Farm Advisory Committee, to provide an update on Steele Farm repairs, 7:30 PM
- b) Selina Shaw, Town Administrator to review proposed FY 16 Town Government budgets, 8:00 PM
- c) Tom Garmon, DPW Director, to review proposed FY 16 DPW budgets, 8:20 PM
- d) Police Chief Warren Ryder, 9 PM
  - i. Shift coverage
  - ii. Temporary promotion of officer to Sergeant  
*Move to approve the assignment of Police Officer Nathan Bowolick to temporarily fill the position of Sergeant, effective immediately, and until further notice*
- e) Citizens' concerns

**VOTE:**

*[Some members of the Finance Committee are expected to be present]*

**5. MINUTES**

- a) Regular session, January 5, 2015 **ACCEPT & POF**
- b) Regular session, January 12, 2015 **ACCEPT & POF**
- c) Executive session, December 15, 2014 **ACCEPT & POF**
- d) Executive session, January 12, 2015 **ACCEPT & POF**

**6. SELECTMEN REPORTS**

**7. OLD BUSINESS**

- a) Update on Minuteman Regional School District, BoS Chair Vince Amoroso to lead discussion
- b) FY 16 Budget
- c) Revised License Agreement between the Town of Boxborough and the Acton-Boxborough Regional School District allowing for installation of the cable within the Town's municipal space

Move to execute the Revised License Agreement between the Town of Boxborough and the Acton-Boxborough Regional School District allowing for the installation of cable within the Town's municipal space on poles located along Massachusetts Avenue between the Acton border and the Blanchard Memorial School

VOTE:

## 8. NEW BUSINESS

- a) Establish maximum useful life of Blanchard Memorial School Security, air paks, brush truck and dump truck
- i. Move that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the borrowings authorized by the vote of the Town passed on May 14, 2013 (Article 21) is hereby determined pursuant to G.L. c. 44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Blanchard Memorial School Security	\$40,000	10 years

VOTE:

- ii. Move that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the borrowings authorized by the vote of the Town passed on May 12, 2014 (Article 25) is hereby determined pursuant to G.L. c. 44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Air Paks	\$232,000	15 years

VOTE:

- iii. Move that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the borrowings authorized by the vote of the Town passed on May 13, 2014 (Article 27) is hereby determined pursuant to G.L. c. 44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Brush Truck	\$150,000	10 years

VOTE:

- iv. Move that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the borrowings authorized by the vote of the Town passed on May 13, 2014 (Article 28) is hereby determined pursuant to G.L. c. 44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Dump Truck	\$150,000	10 years

VOTE:

- b) Appointment of Board of Registrars member - Simon Bunyard, to fill the unexpired term of Hugh Fortmiller

Further to the recommendation of the Town Clerk, move to appoint Simon Bunyard to the Board of Registrars to fill the unexpired term of Hugh Fortmiller, effective immediately and ending on June 30, 2015

VOTE:

## 9. CORRESPONDENCE

ACCEPT & POF

- a) Internal Communications  
b) Minutes, Notices & Updates  
c) General Communications

## 10. PRESS TIME

## 11. CONCERNS OF THE BOARD

## 12. ADJOURN

4d ii



**BOXBOROUGH POLICE DEPARTMENT**  
520 Massachusetts Avenue, Boxborough, Massachusetts 01719  
Phone: (978) 264-1750 · Fax: (978) 268-5123

To: Board of Selectmen  
From: Chief Warren B. Ryder  
Date: January 22, 2015  
Re: Temporary Promotion

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I respectfully request authorization and appointment of Detective Nathan Bowolick to the position of "Acting Sergeant" to meet the immediate needs of the department. There has been a significant void in our department structure since November as one of the three Sergeants has been out of work with an injury. The duration and resolution of this injury is unknown at this point. The Sergeant position falls under the immediate supervision of the Police Chief and is responsible for the shift supervision of Patrol Officers. This Sergeant is also responsible for overseeing investigations, scheduling court appearances and administration of evidence and property control.

Detective Bowolick is currently ranked highest on the most recent promotional process (2011), has the knowledge, ability and skill to perform in this function. He has been with Boxborough Police for twelve years with the last nine as a police officer and detective.

The temporary promotion receives a 5% wage increase and will impact the department budget by \$58.<sup>46</sup> for a regular work week and \$2.<sup>19</sup> per hour of overtime. The assignment of "Acting Sergeant" will be for the term leave for the injured officer.

WBR/cop

Enc: Police Sergeant – Job Description

Section 5. EMPLOYEES called back to work for overtime by the Supervisor shall be paid a minimum of four (4) hours at their overtime rate. This shall not apply to Holdovers.

Section 6. All EMPLOYEES shall be offered and have the first right of refusal to all open shifts in rotation. If all EMPLOYEES have refused a shift, the Chief or his/her designee may fill that shift with a part-time Officer.

Section 7. No EMPLOYEE shall work more than sixteen (16) hours in any twenty-four (24) hour period without prior approval of the Chief or his/her designee. This section shall not apply to emergencies and court appearances.

## ARTICLE 14 - PROMOTIONS

Section 1. If a vacancy exists in a position within the bargaining unit and the EMPLOYER elects to fill that position, the position will be posted for a period of ten (10) calendar days. Interested employees shall submit written applications to the Chief by the deadline established in the posting. The posting requirement shall not apply to vacancies reasonably anticipated to be for less than six (6) months. Nothing in this Agreement shall preclude the EMPLOYER from hiring outside the Department or bargaining unit.

The parties recognize that the EMPLOYER shall have the right to select the individual who the EMPLOYER believes to be the best candidate for the position. In making its decision, the EMPLOYER shall consider criteria which may include but not be limited to:

- (a) Written examination
- (b) Oral board
- (c) Professional background and experience
- (d) Seniority, as determined by the provisions of Article 9
- (e) Quality of performance
- (f) Education

The Chief or his/her designee may reasonably determine the requisite experience the EMPLOYEES must possess in order to be eligible to apply for a given promotion.

### Section 2. TEMPORARY PROMOTION

- (a) Any EMPLOYEE specifically assigned by the Chief or his/her designee and approved by the Board of Selectmen to a higher position for one full shift or more shall be paid at Step 1 for the position being filled on a shift to shift basis for the duration of the assignment. An EMPLOYEE shall not suffer a reduction in pay.
- (b) An EMPLOYEE working out of rank for more than one calendar week (seven days) will receive compensation for that rank at not less than 5% over that EMPLOYEE'S regular base pay. An EMPLOYEE working as acting chief may negotiate a higher pay rate with the Board of Selectmen. An EMPLOYEE working out of rank at a lower rank will maintain his/her normal pay rate and suffer no loss in pay.

**Definition:**

Under the immediate supervision of the Police Chief or other superior officer, is responsible for the shift supervision of Patrol Officers. Responsible for the safeguarding of life and property, the prevention of crime, apprehension of criminals and the preservation of peace in compliance with federal, state and local laws, and performs related work as required.

**Distinguishing Characteristics:**

Work activities are varied and require independent action and judgment in addressing issues/problems, some of which are unusual in nature. Issues often require further research and investigation.

Errors could result in legal repercussions, inefficiencies, time loss, and loss of goodwill.

Contacts are with employees within and outside the Department, as well as the public. Contact with the public requires courtesy, tact and diplomacy as well as the ability to persuade and influence someone's actions.

Requires maintaining confidential department material, as well as maintaining the privacy of individuals who lodge complaints, or are being investigated, as allowed by law.

Leadership responsibilities include monitoring/reviewing officer performance, providing input to performance reviews, participating in the interviewing of new employees, providing orientation to new employees, assigning work, disciplining employees, providing training/coaching/counseling to officers and working with the Chief or superior officer in establishing and implementing action plans for improved officer performance. Participates in the development of the Department's operating and capital budgets.

Required to maintain physical fitness in order to perform a wide array of activities that necessitate physical agility and effort in the field.

**Examples of Work:**

Provide shift supervision; assign/review work activities; provide ongoing training, development, and performance feedback to Patrol Officers. Advise Patrol Officers regarding unusual situations and questionable matters.

Maintains current knowledge of departmental rules, policies, procedures, and developments in the law that affect the operation of the shift and department; keeps officers under his/her command abreast of changes.

Plans shift; reviews outstanding matters, daily log, investigations, warrants, summonses, subpoenas and other official papers to serve to ensure appropriate deployment of officers during the shift; updates officers under command of issues and work activities to be accomplished.

Monitors scheduling such as the filling of details and shifts.

Reviews and approves police reports, and citations generated by Patrol Officers. Produces own reports.

Conduct training and instruction programs, drills and classes.

Updates departmental records such as list of resident sex offenders, juvenile records, etc.

Prepares reports of officer infractions, and forwards to Chief for review.

Prepares weekly report of shift activity to Chief.

Monitors cells to ensure they are kept clean and up to code.

Performs responsibilities of Patrol Officer.

Performs other position related duties as assigned.

### **MINIMUM QUALIFICATIONS**

#### *I - Education and Experience*

Graduation from high school or GED equivalent and graduation from the basic training course for police officers (police academy) as directed by the Massachusetts Criminal Justice Training Council or obtain a waiver for having graduated from a police academy from another state that holds a reciprocal agreement with the Commonwealth of Massachusetts. Must be at least 21 years of age. Must pass a criminal and traffic record check, background investigation, physical and psychological examinations. Requires a minimum of 3 years' experience. Requires possession of a valid Class "D" and Class "M" Massachusetts drivers license.

#### *II – Knowledge, Ability and Skills*

##### Knowledge:

Current applicable federal, state and local laws;  
Department rules and regulations;  
Principals and practices of a municipal police administration and organization;  
Police requirements and limitations of police authority;  
Laws, governing custody of persons, search and seizure, admissibility and

Presentations of evidence and laws of arrest and court procedures;  
Basic computer operations and functions;  
Management theory and principles.

Ability:

Read and understand departmental policies and procedures, rules and regulations, laws and law enforcement documents;  
Learn the use and care of firearms;  
Remember names, faces, facts and details of incidents;  
Write clear, accurate and comprehensive reports;  
Analyze situations and adopt a quick, effective, and responsible course of action giving due regard to the surrounding hazards and circumstances of each situation.  
Operate a motor vehicle safely and skillfully;  
Keep all department information strictly confidential;  
Communicate effectively, both orally and in writing;  
Accomplish various clerical duties;  
Follow oral and written instructions;  
Work effectively with other employees;  
Engender public respect and confidence;  
Meet the general public with courtesy and tact;  
Demonstrate good judgment, character, reputation, superior poise, bearing, alertness, and emotional stability.  
Cope with situations firmly, courteously, and with the respect for the rights of others;  
Establish and maintain effective relationships with all those contacted in the course of work.

Skill:

In operating various equipment: firearms, radar, lidar, breathalyzer, handcuffs, baton, radios, and related equipment;  
In operating personal computer and general office equipment.

*III - Special Requirements*

Must be CORI (Criminal Offender Record Information) certified by the State and have valid Class D Motor Vehicle License, Firearms License, and First Responder Certification. (or within a specific time period?)

Must pass Police Department physical examination, and maintain appropriate physical fitness level.

*IV - Physical Requirements*

The physical demands listed are representative of those that must be met by the employee to successfully perform the essential functions of this job. Work frequently requires

talking, hearing, standing, walking and driving for extended work periods. Outside work require exposure to weather extremes, noise, and working around equipment with moving mechanical parts.

While performing the duties of this job, the employee is required to use hands to finger, handle, or feel objects, tools, or controls. Work requires reaching with hands and arms, carrying/lifting (sometimes over 100 pounds), pushing/pulling and restraining.

The employee must have good vision to read general documentation, instruments and maps for analytical purposes and the ability to distinguish color. Requires depth perception and close vision to operate vehicles and equipment. Requires manual dexterity in combination with eye-hand coordination for efficient operation of equipment and vehicles.

*The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position. This position description does not constitute an employment agreement between the Town and the employee and is subject to change by the town as the needs of the Town and requirements of the job change.*



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**January 5, 2015**

Approved: \_\_\_\_\_

**PRESENT:** Vincent Amoroso, Chair; Susan Bak, Member; Les Fox, Member; Jim Gorman, Member and Robert Stemple, Clerk [*Not present until after Firefighter CBU discussion*]

**ALSO PRESENT:** Selina Shaw, Town Administrator

**EXECUTIVE SESSION**

- At 6:30 PM Chair Amoroso moved to convene in executive session in the Town Administrator's office to discuss strategy with respect to collective bargaining (all CBU's) and to reconvene in open session at 7:30 PM in the Grange Meeting Room to continue the regular business on the agenda. Seconded by Member Fox. Approved 4-0 by a roll call vote: Fox, aye; Gorman, aye; Bak, aye; and Amoroso, aye [Member Stemple not present at the time of this vote]. The Chair noted that open meeting may have a detrimental effect on the bargaining position of the Board.

Chair Amoroso re-convened the meeting at 7:37 P.M. in the Grange Meeting Room of the Town Hall.

**ALSO PRESENT:** Cheryl Mahoney, Department Assistant

The documents discussed herein have been included with the file copy of the agenda packet for the above referenced date and are hereby incorporated by reference.

**ANNOUNCEMENTS**

- Chair Amoroso read the announcements.

**APPOINTMENTS**

- Steele Farm Advisory Committee Chair, Bruce Hager; members of the SFAC and BICAO David Lindberg were present to discuss drainage and dampness issues at Steele Farm's Levi Wetherbee House. SFAC Chair Hager was invited to open this discussion. The heating unit has been installed and the SFAC has been monitoring the conditions in the basement. The system has been set at its lowest temperature and seems to be doing its job. However, a significant amount of water has collected in the basement, probably due to December's heavy rains. This type of water infiltration could have contributed to the damage discovered this spring. After this new water issue was discovered there was concern about whether the French drain was functioning properly, which, it was believed was installed by the DPW 2005/2006. However, SFAC member Whitcomb has spoken to a former DPW Director and was advised that, though piping was put in to manage roof run-off he did not believe that a French drain was ever installed. While looking for the means to address the foundation/structural damage the stakeholders; the consulting engineer and perspective contractors have been working under the incorrect assumption that a French drain was present. At this point the SFAC would like the Town to consider installing a proper French drain around the farmhouse. There was discussion on possible alternatives, including installing a sump pump. The consensus was that DPW Director Garmon will be asked to go out; evaluate the situation and report his finding to the Selectmen. There was also a general discussion as to properly documenting the work done at Town properties and how such records could be maintained going forward.
- Conservation Committee Chair, Dennis Reip, was present to discuss proposed changes in the Commission's fee schedule. Reip provided background as to how the Commission manages the application process and the development & function of the existing schedule of fees. Reip reviewed the proposed changes and how the ConsCom determined these revisions – additions, re-categorizes and eliminations, specifically the changes to the Certificates of Compliance portions of the schedule. Member Stemple moved to approve the proposed changes to the Conservation Commission's fee schedule, effective immediately. Seconded by Member Fox. **Approved 5-0.**
- ConsCom Chair Reip remained to discuss Town access from Joseph Road to the Hager-Library parcel. There is a need for Joseph/Emanuel Roads residents to have access to the Hager Trails. When this area was being developed it was brought to ConsCom attention that the Town should have access to Hager land from this neighborhood that would benefit all. Records indicate that the developer granted a 50 foot paper road to the Town, however this access road never been developed and it

currently appears that the two abutting homeowners are using this parcel as a common drive and may not be aware that this area is actually owned by the Town. Reip confirmed that the abutters have not been contacted yet. Brigid Bieber, a Joseph Road resident, noted that there is a trail that neighbors use to get to the Hager property. There is a concern as to whether the legal property lines are correctly depicted in the plans and images in the packet. Bieber advised that she is aware of several residents in this development that have had issues with their property lines. It was suggested that the developer of the new adjoining development also be approached about providing access. BCT member Simon Bunyard advised that a "greenway" is a component of that development's concept. The property lines regarding this Town owned access road will be confirmed and the abutters will be contacted.

- A-B Regional School Comm. Vice-Chair, Brigid Bieber was present to discuss the process used by the ABRSC to evaluate the Superintendent. The Selectmen sought her input as they work on their own review process. She qualified her comments noting that four years ago the State significantly changed the evaluation tools and the way a school district is allowed to conduct a Superintendent's and other education professional's evaluations. These mandates are in addition to OML requirements. ABRSD does annual evaluations. The Supt. of ABRSD develops goals at the beginning of the year and these goals and his job description are used by the School Committee to evaluate his performance for that year. The Supt. provides periodic progress reports to the ABRSC regarding these goals and he seeks public feedback as to his performance during the year. In the spring each School Comm. member is provided a preapproved form which they are expected to complete. The completed forms are then delivered to just the Chair who then compiles this feedback in total. This compilation is then presented to the Committee in open session for discussion. Bieber noted that the School Comm. does not need to reach a consensus as to the Supt.'s performance evaluation. There was discussion whether the Supt.'s contract is contingent on meeting his goals and whether their evaluation is separate from determining any merit compensation.
- Police Chief Warren Ryder was present to discuss potential new positions for FY 16 – Police Lieutenant and Public Safety Dispatcher. The Chief referred to his memorandums on the respective positions and provided an overview of the changes and concerns his department has experienced in the past year. He addressed the proposed re-alignment of the department's structure – the Lieutenant position. He reviewed the current structure; issues/concerns about the existing structure and the benefits that could be realized by augmenting the administrative structure. He clarified that the lieutenant would be a non-union position; his intention is to work within the proposed budget; and this is simply creating this new position, promoting from within the current compliment of the department. The Selectmen thanked Chief Ryder for coming in to provide this information; however, they declined comment, at this time, as both proposals could have an effect on the respective on-going Collective Bargaining discussions currently in executive session. These items could be re-visited at a public meeting once the executive session discussions have been wrapped up for both these matters.

*The Board took Agenda Item #7b, out of order.*

#### **OLD BUSINESS**

- Member Gorman opened discussion on a proposed War Memorial. There were a significant number of residents present for this discussion. He noted the design and current condition of the two existing memorials and what precipitated his proposal. Any memorial that is created should be respectful, well thought out and able to stand the test of time. He would like to see WWI memorial's design used as a model for future memorials. He reviewed the component of his February 2014 proposal, including the location at the Town Common [Hill & Middle Rds.] and the grouping of the respective conflicts within the design. Since that time he has realized that identifying those who served and verifying their service will be more difficult than originally anticipated. Also subsequent to this presentation he has learned that there are concerns about the location and some the other aspects. He suggested that the creation of these memorials could be done incrementally, placing them outside of Town Hall until a permanent location could be determined. The Chair opened the floor for public comment. Frank Powers was opposed to the February proposal – scope of the site layout and size of memorials too big and not appropriate for a town this size; Town Common junction of two narrow, windy & busy roads; there is no off-street parking and it would be too close to the abutting homes. More appropriate locations – Town Hall or entrance of Flerra Meadows. Jeanne Kangas – though she acknowledged town should recognize veterans she also had concerns about scope & size. The Town Common is overgrown and should be cleaned up, but not for this proposal. Member Gorman should consider working with the Historical Comm. on this proposal. Frank Coolidge - agreement with Frank Powers comments. He lives by Common and doesn't want the trees cut down. Becky Neville – Cemetery Commission discussed this proposal this spring and did a site visit to South Cemetery to identify possible locations. It should be placed in a solemn location. She also suggested scaling back the size/scope. Chair Amoroso noted this location should be easily accessible to our residents. He had previously suggested Flerra but would like to also suggest the Sargent Library as possible locations. Anne Beklean noted that it should be placed along the Memorial Day parade route. Rosemary Sedgewick – agreed with previous comments and added other designs and sizes should be considered. There might be small and less expensive alternatives. She also voiced concern that all members of the military be recognized whether they died in active conflict or not. It was noted that criteria must be established to determine who should be memorialized for each conflict. Alexis Presti-Simpson – as a reservist and former active military she is proud the Town is coming together to

recognize the sacrifices of our service members. However, before doing anything we need to determine the purpose – why we would have this memorial and how to properly acknowledge their service. Simon Bunyard – he echoes comments that another look at the proposal is needed, specifically reducing the scale. He further suggested that others that put themselves in harms' way in the service of others [police, fire, doctors without borders, etc...] Barbara Tornstrom – biggest objection is lack of parking and using a large boulder as the design template. She also asked about funding. Member Gorman advised that it would come from a Town Meeting Article, further noting that this type of project could be eligible for CPA funding. The Chair suggested that a working group/taskforce be formed to investigate the scale, scope and location. The Cemetery Comm. Historical Comm. Public Celebrations & Ceremonies Comm. and Acton-Boxborough Cultural Council should be asked to participate. It was also suggested that a consultant could be hired to facilitate future meetings of the working group so as to obtain a consensus concerning design and location. The Mass. Dept. of Veterans Services will also be contacted. This should be done properly and money will need to be invested to get it right.

- No one asked to speak under the Citizens concerns.

## MINUTES

- Member Fox moved to accept the minutes for the regular session of December 15, 2014 as revised. Seconded by Member Gorman. **Approved 5-0.**
- The Selectmen passed over approval of the executive session minutes of December 15, 2014.

## SELECTMEN REPORTS

- Member Fox reported that he and Member Gorman attended the Spatial Needs Advisory Group's (SNAG) first meeting on Dec. 17<sup>th</sup>. They had a productive discussion with the consultant. Their next meeting should be the end of January.
- Member Stemple had nothing to report, but rather requested any current information as to the development on Cunningham Road "The Residence at Beaverbrook." Member Fox, as an abutter, provided what information he has received. They are drilling test wells; working with abutters to monitor the surrounding well systems and pump testing is schedule for January. He also confirmed that it is their intention to break ground in March. There was discussion on the history of this development since they initially filed their 40b application in 2008. It was determined that Planner Duchesneau should come in and provide an update to the Board on this development. It was suggested that the developer also be invited to this discussion.
- Chair Amoroso reported on a discussion he had with Dover Selectmember regarding the Minuteman School District. They compared notes on how their respective towns are addressing their future participation in the Minuteman District. Her comments seem to indicate that Dover also has an interest in withdrawing from District. His intention is to present as much information as possible at our Annual Town Meeting so residents can make an informed decision. The latest DESE memo seems to indicate that DESE would not be unfavorable to a community creating an alternative participatory relationship with Minuteman such as the proposed IMA. Of the 16 members, 6 towns have discussed possibly withdrawing. Boxborough is awaiting an A to B comparison as to what Boxborough obligations would be under the current and revised agreement.
- Member Gorman reported that Well-Being Comm. is pleased that CSC Abraham has already had been able to provide substantive assistance to several residents.

He also noted that he had attended the SNAG meeting along with Member Fox.

Member Gorman reported that he participated in a Capital Plan discussion with TA Shaw, BICAO Lindberg and FinCom members Subramanyam and Kail. An effort is underway to merge the FinCom generated Capital Planning spreadsheet and BIACO Lindberg's facilities and equipment data. They will meet again in late February.

He also reported he has had meetings with DPW Dir. Garmon on budget & articles and with Chief White on the budget & staffing.

Member Garmon also reported that he received a citizen complaint on possible bylaw violations concerning a business on Mass. Ave. and has related these concerns to BICAO Lindberg.

## OLD BUSINESS

- The Board re-opened discussion on the Department Head review process and re-capped their discussions of Dec. 15th as well as the input provided by ABRSC Vice-Chair Bieber earlier in the evening. ABRSC Vice-Chair Bieber was still present. There was some discussion about updating the existing review document. The Board agreed that specific goals and benchmarks should be developed for each of the department heads, against which he/she will be reviewed in the following year. It was agreed that each Selectman would provide input to the liaison for each of the department heads, with the respective liaison providing a compilation. The liaison will review the results with the department head, which will be followed up by a more general discussion in open session at a Selectmen's meeting sometime in mid-February.
- The Selectmen reviewed the latest version of the Board of Selectmen Rules, Regulations, Policies and Procedures. The only additional change was to minor a typographical correction. Member Bak moved to adopt the revised Rules, Regulations, Policies and Procedures as further amended tonight. Seconded by Member Fox. **Approved 5-0.**

## **NEW BUSINESS**

- The Board took up the Alcoholic Beverages Control Commission's annual request for a temporary population estimate for the Town of Boxborough. TA Shaw advised that this request applies more for communities that have a population influx during the summer and further noted that Boxborough does not experience any such population shift. Chair Amoroso moved that acting under authority granted in MGL ch138 §17 as amended, the Board of Selectmen estimates that there will be no temporary increase to the resident population of the Town of Boxborough as of July 10, 2015; the population will remain at approximately 5,000. Seconded by Member Stemple. **Approved 5-0.**
- TA Shaw advised that the ABCC has approved the Holiday Inn's Change of Manager application previously submitted by the Selectmen. The Selectmen signed the updated 2015 License.
- It was noted that the FY 2016 Budget, Version 1 has been distributed and TA Shaw advised that Chief White and Ryder will be coming to discuss their respective budgets on January 12<sup>th</sup>.
- Now that CPA has been implemented the State requires the Selectmen to set deadline for filing a CPA exemption application. It was determined that this deadline would be the same as those for similar exemption filing deadlines. Chair Amoroso moved to establish the deadline for the filing of applications for exemption from payment of the CPA surcharge for property owned and occupied by moderate-income seniors and low income residents on or before December fifteenth of each year to which the tax relates or within three months after the date on which the bill or notice is first sent, whichever is later. Seconded by Member Stemple. **Approved 5-0.**

## **CONCERNS OF THE BOARD**

- Member Gorman requested that a discussion on the proposal presented several months ago by BICOA Lindberg to renovate the Grange Meeting Room and the entrance to Grange Hall be placed on an upcoming agenda. It was also suggested that the public be invited to this discussion.
- Member Fox had a follow up comment on the previous discussion concerning maintaining records of projects and improvements at Town facilities, suggesting that perhaps they could be tracked through GeoTMS.

## **ADJOURN**

The meeting was adjourned at 10:12 PM.



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**January 12, 2015**

Approved: \_\_\_\_\_

**PRESENT:** Vincent Amoroso, Chair; Robert Stemple, Clerk; Les Fox, Member; Jim Gorman, Member and Susan Bak, Member

**ALSO PRESENT:** Selina Shaw, Town Administrator

**EXECUTIVE SESSION**

- At 6:30 PM Chair Amoroso moved to convene in executive session in the Town Administrator's office to discuss strategy with respect to collective bargaining (all CBU's) and to reconvene in open session at 7:30 PM in the Grange Meeting Room to continue the regular business on the agenda. Seconded by Member Fox. **Approved 4-0** by a roll call vote: Fox, aye; Gorman, aye; Bak, aye; and Amoroso, aye [Member Stemple not present at the time of this vote]. The Chair noted that open meeting may have a detrimental effect on the bargaining position of the Board.

Chair Amoroso re-convened the meeting at 7:40 P.M. in the Grange Meeting Room of the Town Hall.

**ALSO PRESENT:** Cheryl Mahoney, Department Assistant

The documents discussed herein have been included with the file copy of the agenda packet for the above referenced date and are hereby incorporated by reference.

**ANNOUNCEMENTS**

- Chair Amoroso read the announcements.

**APPOINTMENTS**

- Police Chief Warren Ryder was present to discuss the proposed FY 16 Police Department and Public Safety Dispatch Department budgets. The current FY 16 Police Dept. salary lines indicate a nominal increase, reflecting only step increases otherwise level funded but he qualified this by noting that this is pending the outcome of the collective bargaining discussions and the proposed administrative re-alignment. There was discussion about town project police details. Chief Ryder is fine with keeping police details for Town projects & events within his budget. There are no significant capital expenses anticipated in FY 16. The only infrastructure work would be the installation of the Middle Road radio subsystem. The software line reflects the acquisition of subscriptions for "cyber-crime" investigative software. He also does not see a significant increase in Public Safety Dispatch Dept. budget in general. He, again, qualified this as the final salary figures are contingent on CBA discussions. There is a one-time cost to purchase software for interfacing with fire callboxes and he anticipates some additional electrical costs for power meters at two new radio sites. He also provided an update on the regionalization of Animal Control responsibilities; his management of the administration of this program and that other communities have discussed joining.
- No one asked to speak under the Citizens concerns.

**MINUTES**

- Member Gorman moved to accept the minutes for the executive sessions of December 15, 2014, and January 5, 2015, as written. Seconded by Member Fox. **Approved- 4 (Members: Amoroso, Fox, Gorman, Bak); Disapproved - 0; and Abstained -1 (Member Stemple).**
- The Selectmen passed over approval of the regular session minutes of January 5, 2015.

**SELECTMEN REPORTS**

- Member Bak reported that the Personnel Board has been working on their portion of Public Safety CBU matters and the proposed Police department re-alignment. They are also working on the FY 16 Compensation Schedule.

- Member Fox reported that the Housing Board's consultant is presenting the Housing Production Plan to the Planning Board tonight.
- Chair Amoroso reported that he will be participating in a discussion with representatives from other towns that are also considering withdrawing from the Minuteman School District on Thursday morning.
- Member Gorman reiterated the announcement that starting in February the Town's Veterans' Agent will be holding office hours on Wednesday mornings at Town Hall.
- He also reported that the State has implemented new stricter regulations regarding the disposal of animal carcasses. The Animal Control officials are reviewing these new requirements and working to determine what will be their process and the cost of disposal going forward.

#### **OLD BUSINESS**

- Legal counsel for the Acton-Boxborough Regional School District has communicated to TA Shaw that they intend to seek further revisions to the License Agreement between the Town of Boxborough and the Acton-Boxborough Regional School District allowing for installation of the cable within the Town's Municipal Space, however there are no materials to present at this time so this matter will taken up at a later date.

#### **NEW BUSINESS**

- Member Fox moved to authorize the Chairman of the Boxborough Board of Selectmen to designate Robert T. Stemple as the Town's voting delegate at the MMA and MIA Annual Meetings to be held on January 24, 2015. Seconded by Member Bak. **Approved 5-0.**
- Chair Amoroso moved to call the annual town meeting, to begin on Monday, May 11, 2015, at 7 PM, to be held at the Blanchard Memorial School and if necessary, a special town meeting to be held within the annual town meeting. Seconded by Member Fox. **Approved 5-0.**
- The Board took up the Chapter 90 Reimbursement Request (\$288,813.65) & Final Report for Reclamation and Paving of Reed Farm Road. As it turns out the cost of this project came in less than anticipated. DPW Dir. Garmon will now be looking to identify the next priority locations. Flagg Hill and Pine Hill Roads remain top priorities. Dir. Garmon is preparing a road condition survey/study which should identify and additional locations going forward which he will be presenting to the Board when complete. Member Gorman reported that Dir. Garmon is also considering an article for the paving of other locations. There was discussion on the status of the Hill Road culvert project and the condition of the pavement on all of Hill Road. It was also reported that a letter was received today from Governor Baker advising that the Town's FY 15 Chapter 90 Apportionment has been increased to \$328,740. Member Stemple moved to authorize the submission of Chapter 90 Final Report and Reimbursement Request in the amount of \$288,813.65 for reclamation and paving of Reed Farm Road, and to certify conformance with applicable statutes and regulations. Seconded by Member Fox. **Approved 5-0.**
- The Board took up forwarding a Petition article submitted for Annual Town Meeting – "Restoring and Maintaining Constitutional Governance Resolution of Boxborough, MA" to the Board of Registrars. It was clarified that tonight's action is only to forward this petition article to the Board of Registrars and the Selectmen could consider any possible endorsement/recommendation in the future. It was suggested that the petitioner be invited in to discuss her article at a February meeting. Member Gorman moved to forward the above-named petition article to the Board of Registrars for certification of signatures and if certified, to place on the Annual Town Meeting warrant. Seconded by Member Fox. **Approved 5-0.**

#### **OLD BUSINESS (Continued)**

- The Board reviewed the initial FY 16 draft Budget. There was a discussion of the new growth and the commercial personal property numbers that were projected for FY 15. Overall, it looks good.

#### **APPOINTMENTS (Continued)**

- Fire Chief Randolph White was present to discuss the proposed FY 16 Fire Department budget. He noted that, with the exception of the overtime budget, most of FY 16 salary lines currently indicate nominal changes, but qualified this by noting that this is pending the outcome of the collective bargaining discussions. However he has submitted 21% increase to his overtime budget. This is because he has had difficulty getting per diem personnel to fill off-hours shifts, so in order to maintain coverage he has had to pull full-timers in for these shifts. He noted that he is already over FY 15 vehicle maintenance budget. This is due to the significant repair costs incurred for the truck scheduled for replacement. He is looking to fund close to his

current actuals to avoid this in FY 16. There was discussion on the timeframe to get the new apparatus delivered and operational and the status of the department's final specifications for the new vehicle. There was also discussion on the renovations that will be necessary to accommodate the new truck at the current station and the funding structure for both the vehicle and these renovations. Heating has been decreasing due to the installation of energy efficient improvements; however, electricity seems to go up annually. There was discussion on the improvements concerning the station's heating/cooling infrastructure currently on the Capital Plan. It was noted that energy efficiencies are a component of the Spatial Needs Assessment Study.

There was also discussion as to updates to the Capital Plan. TA Shaw advised that she, Member Gorman, FinCom Kail and BIACO Lindberg met at the end of last year on combining materials/information into one Capital Plan. She will follow up on this.

#### **CONCERNS OF THE BOARD**

- There was discussion about the process for responding to emails that Board members receive. There is no formal procedure at this time. TA will work on drafting a memorandum to define a procedure going forward. In the meantime, receipt of emails coming through the Selectmen's webpage link would be acknowledged by the Chair and those concerns taken under consideration. Concerns/comments received via email by individual Selectmen would be provided to the other Selectmen.

#### **ADJOURN**

- The meeting was adjourned at 9:00 PM.



### Comparison of Assessments for Next 3 Years Assuming 4 Pupil Enrollment

Revised Agreement	(182,034 + 163,905 + 155,566) = 501,505	or \$41,792 per student
Current Agreement	(96,628 + 117,348 + 115,762) = 329,738	or \$27,478 per student
Difference	<b>171,767</b>	<b>\$14,314</b>

Minuteman Regional School District												
Boxborough												
<u>Current Agreement</u>			<u>Revised Agreement compared to Current Agreement</u>									
Per Pupil Cost:	FY15		FY15		FY16 Projected		FY16 Projected		FY17 Projected			
			Minuteman		Minuteman		Minuteman		Minuteman			
			High School Students Only		Revised		Current		Revised		Current	
October 1, 2013 enrollment	5.0		Enrollment - Operational Assessment	7.0	5.0	5.0	5.0		4.3	4.0		
SPED Students enrolled	0.0		Enrollment - Capital Assessment	7.0	5.0	5.0	5.0		5.0	5.0		
Minimum Required Contribution	74,696		Minimum Required Contribution	74,696		75,824						
LESS: Min. Req. Cont. - PG students	1 (14,939)		LESS: Min. Req. Cont. - PG students	1 (14,939)		1 (15,470)						
Min. Req. Contribution - HS students only	59,757		FY15 - Min. Req. Cont. - HS students	4 59,757	59,757	4 60,354	60,354	4 60,958	60,958	60,958		
Operating Assessment	18,646		FY15 - Operating Assessment	1.84% 51,386	18,646	1.30% 45,789	36,417	1.09% 38,530	34,967	34,967		
Transportation	5,958		Transportation	1.84% 11,159	5,958 (3)	1.30% 8,121	6,459	1.09% 6,834	6,202	6,202		
SPED Assessment	-		SPED Differential (1)									
Debt	12,267		Capital Assessment (Per model)	59,732	12,267	49,640	14,118	49,244	13,635	13,635		
Min. Cont. + Remaining Operating	96,628		TOTAL	182,034	96,628	163,905	117,348	155,566	115,762	115,762		
# of High School students	4		# of High School students	4	4	4	4	4	4	4		
Cost per Student	24,157		Per Pupil Cost - Actual Enrollment	45,509	24,157	40,976	29,337	38,892	28,941	28,941		
(1) Effective FY16 Assessment formula, SPED services will no longer be assessed on a per student basis. In-District SPED costs will be included as part of the Operating Assessment.						<b>Assumptions:</b>						
						Increase In-district enrollment 5% in FY17						
						Decrease Out-of-District enrollment by 10% in FY17						
						Increase in FY17 Assessments by 1%						
(2) Capital Assessment based on preliminary total project cost estimate of \$125 Million with a 40% reimbursement rate from MSBA. Included in 'Revised' column only.						Increase Combined Effort by 1% in both FY16 and FY17						



**Decisions for Boxborough  
January 14, 2015**

1. Should Boxborough ratify the revised Minuteman Regional Agreement?
  2. If the Revised Agreement is ratified, should Boxborough withdraw from the district?
- 

**Probable Outcomes:**

**A. If the Revised Agreement is Ratified**

**Option #A1: Boxborough Stays in the District**

- Students from Boxborough continue to be treated equally with their peers from other member communities.
- Boxborough maintains a voice at the table to make policy decisions involving the future of education in the district.
- Boxborough is guaranteed access to career and technical education as an option for its high school age population.
- Boxborough and its residents, both young and old, continue to enjoy access to a wide range of educational programs and opportunities offered by Minuteman.
- Boxborough continues to support a viable educational option for the region.
- Boxborough continues to participate in project planning, district governance, and bonding decisions.
- Boxborough has guaranteed equal enrollment access with other district members.

**Option #A2. Boxborough Leaves the District**

- Boxborough loses all “say” over the future of career and technical education in the region.
- Boxborough ends a decades-long relationship with its regional vocational technical high school.
- Boxborough has no further role or responsibility for governance, capital planning, and bonding. The capital costs are those incurred after the vote to depart the region. Previous approved capital costs remain the town’s liability.
- Boxborough will need to make plans to provide vocational education options for Boxborough students who desire this form of education under the terms of Massachusetts General Laws Chapter 74.
- Students from Boxborough lose all access to the Minuteman in the Morning Program, a half-day program which enables high school students to earn a diploma at their

traditional high school at the same time they earn a vocational certificate from Minuteman.

- Boxborough loses any voice in the direction of the Minuteman Technology Outreach Program currently operating in Acton-Boxborough Regional School.
- Young women from Boxborough interested in pursuing careers in science, technology, engineering and math lose an opportunity to enroll, tuition free, in the Minuteman Women in STEM Initiative.
- Adults from Boxborough lose a 50% tuition discount when enrolling in Minuteman's post-graduate educational programs. Instead, adults from Boxborough would need to pay full tuition.
- Boxborough loses opportunities for Minuteman faculty and students to undertake municipal renovation and community service projects within the town.
- Qualified students from Boxborough could attend Minuteman on a space-available basis under the terms of an agreement between the Acton-Boxborough School Committee and the Minuteman School Committee. The cost will include state-mandated tuition *plus* a per-pupil share of capital costs, *plus* transportation, *plus* special education services required.
- Access to Minuteman programs by Boxborough students could be denied if Minuteman is at full enrollment and/or if the desired career & technical program is full with in-District students.
- Many towns have voted not to block an existing member town from leaving the District if the town elects to do so after the revised District Agreement is approved.

#### **B. If the Revised Agreement is Not Ratified**

- There is an increased likelihood that the Minuteman building project will fail, and that the district will lose an opportunity to secure at least a 40% state reimbursement.
- Boxborough will probably have no workable option to withdraw from the district. Without a change in the District Agreement, the town will need to secure approval from all 16 current members.
- Boxborough will continue to be responsible for governance and costs, including capital costs – with or without financial help from the state. District members will be responsible for maintaining Minuteman's buildings and campus. This means maintaining the existing facility and campus to meet student and staff safety requirements, town and state Code Requirements, and approved Educational Plan facilities upgrades. Capital costs will be included in Operation costs as they are now.

7c

### LICENSE AGREEMENT

This LICENSE AGREEMENT (this "License") is executed this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the **Town of Boxborough**, acting by and through its Board of Selectmen (the "Town"), and the **Acton-Boxborough Regional School District**, a Massachusetts regional school district acting by and through its duly authorized Superintendent, with a mailing address of 16 Charter Road, Acton, Massachusetts 01720 (the "District").

WHEREAS, the Town is the holder of a right to install and maintain telecommunications wires for municipal purposes within a designated space on certain poles located within the layout of Massachusetts Avenue, a public way of the Town (the "Municipal Space"), which poles are owned by one or more companies authorized under G.L. c.166, §21 to erect and maintain such poles for the transmission of intelligence or electricity (the "Pole Owners"); and

WHEREAS, the District desires to erect and maintain a telecommunications line for its use within the Municipal Space pursuant to such permission the Pole Owners may grant, and for that purpose has submitted a petition to the Town under G.L. c.166, §22 to provide for such location (the "Petition"), which Petition is incorporated herein and attached hereto as Exhibit A;

Now, therefore, in consideration of the mutual promises and covenants contained herein, the Town hereby grants to the District the non-exclusive right to enter and use the Municipal Space as duly authorized by the Pole Owners, subject to the following terms and conditions:

1. REFERENCE DATA

Date of License: \_\_\_\_\_, 2015

Mailing Address of Licensor: Board of Selectmen  
Town of Boxborough  
29 Middle Road  
Boxborough, Massachusetts 01719

Mailing Address of Licensee: Acton-Boxborough Regional School District  
District Central Office  
16 Charter Road  
Acton, Massachusetts 01720

Permitted Use: Installing, using, inspecting, maintaining, and repairing an aerial fiber optic communications cable, and related appurtenances, in the Municipal Space.

Term of License: This License shall remain in effect for such time as the District maintains the requisite approvals, permits and licenses required to undertake the Permitted Use, as further defined herein, or until otherwise terminated in accordance with the terms herein.

2. RIGHTS APPURTENANT

The District shall have, as appurtenant to the License hereby granted, the non-exclusive use, in common with others entitled thereto, of the Municipal Space for the period of this License and only for the purposes of the Permitted Use defined in Section 1.

3. CONDITION OF PREMISES

The District acknowledges and agrees that it accepts the Municipal Space in “as is” condition for the purpose of this License, and that the Town has made no representation or warranty regarding the fitness of the Municipal Space for the Permitted Use.

4. PERMITS

This agreement and all obligations hereunder are specifically dependent upon the issuance to the District of all approvals, permits and licenses required to undertake the Permitted Use at the Premises in accordance with all applicable laws, regulations and governmental requirements from those governmental agencies having jurisdiction, which approvals, permits and licenses shall include such permission as is needed from the Pole Owners.

5. ALTERATION OF THE PROPERTY

The District shall not make any alterations or improvements within the Municipal Space except to undertake the Permitted Use under this License, and to restore the Municipal Space as closely as practical to its condition prior to the exercise of the District’s rights, immediately after they are disturbed by said Permitted Use.

6. CONDUCT OF LICENSEE

Non-interference with the Town’s Operations

The District shall at all times conduct itself so as not to interfere in any way with the Town’s use of the Municipal Space.

Compliance with Laws

The District shall at all times perform the Permitted Use in accordance with all applicable laws, statutes, ordinances, regulations, permits, licenses, orders and requirements of governmental authorities and the Pole Owners, and with all requirements of its insurance policies.

Repair of Damage

The District shall neither cause nor suffer any waste of the Municipal Space, and shall restore or repair any and all damage to the Municipal Space and the Town’s facilities therein resulting from any act, failure to act or negligence of the District. This obligation shall survive the termination of the License.

Costs of Operations

The District shall be solely responsible for any and all costs, expenses, damages and liabilities associated with the exercise of its rights under this License.

7. RISK OF LOSS

The District agrees that it shall use and occupy the Municipal Space at its own risk, and the Town shall not be liable to the District for any injury or death to persons entering the Municipal Space pursuant to the License, or loss or damage to vehicles, equipment, structures or other personal property of any nature whatsoever of the District, or of anyone claiming by or through any of them, that are brought upon the Municipal Space, except if such injury, death, loss or damages is caused by the willful act or ~~gross~~-negligence of the Town, or its employees, agents, contractors or invitees.

8. INDEMNIFICATION

The District agrees to indemnify, defend and hold harmless the Town, to the extent permitted by law, against any claim by any person for any injury or death to persons or loss or damage to or diminution in value of any property relating in any way to the District's exercise of its rights under this license. By entering into this License, neither the Town nor the District has waived any governmental immunity or limitation of damages, which may be extended to them by operation of law.

9. INSURANCE

The District shall maintain, at its sole cost and expense, ~~comprehensive public liability insurance, including coverage for bodily injury, wrongful death and property damage, in an amount acceptable to the Town and sufficient to support the obligations of the District under the terms of this License to indemnify, defend and hold harmless the Town.~~ insurance coverage as listed below, and shall name the Town as an additional insured party.

- 1) General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$3,000,000 Annual Aggregate Limit.
- 2) Automobile Liability (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per accident.
- 3) Umbrella Liability of at least \$2,000,000/ occurrence, \$2,000,000/aggregate.

The District shall maintain worker's compensation insurance during the construction of any improvements on the Municipal Space, as required by law, including Employers Liability Part B.

The District agrees that any contractor performing work on behalf of the District at in the Municipal Space shall carry liability insurance in the amounts specified above, amounts reasonably satisfactory to the Town, as well as Products and Completed Operations, which shall

maintained for up to 3 years after the completion of the project, and shall name the Town as an additional insured party.

The District shall further require and provide to the Town from any of its agents engaged in the License Use a hold harmless agreement in favor of the Town.

Failure to obtain and keep in force said insurance, and failure to provide the Town with proof of same upon request, shall automatically terminate this License and any rights granted herein.

#### 10. RIGHTS OF LICENSOR TO ENTER

The Town reserves the right and the District shall permit the Town and its employees, contractors, agents and invitees to enter upon and use the Municipal Space at any time and for any and all purposes at the Town's sole discretion, provided that the Town's use shall not interfere with the District's Permitted Use.

#### 11. TERMINATION

This License is terminable by the Town following sixty (60) days written notice by certified U.S. Mail, return receipt requested, upon the District's failure to comply with the terms set forth herein. This License shall expire on the date specified in such notice. The Town may terminate this License upon default by the District of any covenant, condition, or term contained herein if such default is not cured by the District within sixty (60) days after receipt of written notice of default.

#### 12. MISCELLANEOUS

This License may not be modified except in writing, duly executed by both parties.

This License contains the entire agreement of the parties and there are no other agreements or understandings between the parties regarding the subject matter of the License.

If any portion of this License is declared to be illegal, unenforceable or void, then all parties to this License shall be relieved of all obligations under that portion; provided, however, that the remainder of this License shall be enforced to the fullest extent permitted by law.

The captions in this License are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this License or any of the provisions thereof.

This License shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, and any and all legal actions brought in connection with this License shall be brought in courts within the Commonwealth of Massachusetts.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**LICENSOR:** TOWN OF BOXBOROUGH  
By its BOARD OF SELECTMEN

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

**LICENSEE:** ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT

\_\_\_\_\_  
By: Glenn Brand  
Its: Superintendent, duly authorized

511120/BOXB/0502



To: Selina Shaw, Boxborough Town Administrator  
From: Glenn Brand, ABRSD Superintendent  
Date: January 6, 2015  
Re: ABRSD Fiber Attachment-License to utilize municipal space

Prior to signing the license agreement regarding Acton-Boxborough Regional School District's fiber cable attachment within the Town of Boxborough's municipal space, I requested our counsel to review the document. He has proposed four revisions to this document, which I am sharing with you below. While I understand that making edits to this document will result in requiring new approval from your Board of Selectmen, I feel his recommendations are fair and substantial enough to make this request. Since this project is fairly time-sensitive, perhaps we could have your counsel work directly with ours on these revisions new document to us? I would gladly provide contact information for our counsel should you agree to this plan of action.

Our counsel's four recommendations are as follows:

**1). Section 7 - Risk of Loss:**

This section provides that the District shall "use and occupy the Municipal Space at its own risk" and the Town shall not be liable to the District for any injury or death to persons entering the Municipal Space, or any other injuries or damages, unless such injury, death or loss is caused by the "willful act or gross negligence of the Town". This clause would result in the Town having no liability for ordinary negligence (in the event one of the Town's DPW trucks strikes a pole, resulting in severance of the District's fiber optic cable, for instance). As municipal entities, both parties are entitled to protections of the Mass. Tort Claims Act and it is our strong preference that each party be responsible for its own negligence (which is standard in most inter-municipal agreements). We suggest revising Section 7 to read as follows:

*The District agrees that it shall use and occupy the Municipal Space at its own risk. Pursuant to Section 4A of Chapter 40 of the Massachusetts General Laws, each of the parties shall be liable for the acts and omissions of its own employees and not for the employees of any other agency in the performance of any work or services under this Agreement. By entering into this Agreement, neither party has waived any governmental immunity or limitation of damages which may be extended to them by operation of law.*

We suggest simply modifying the section by removing the word "gross" before negligence, so that it reads: "The District agrees that it shall use and occupy the Municipal Space at its own risk, and the Town shall not be liable to the District for any injury or death to persons entering the Municipal Space pursuant to the License, or loss or damage to vehicles, equipment, structures or other personal property of any nature whatsoever of the District, or of anyone claiming by or through any of them, that are brought upon the Municipal Space, except if such injury, death, loss or damages is caused by the willful act or ~~gross~~ negligence of the Town, or its employees, agents, contractors or invitees."

**2). Section 8 - Indemnification:**

The License Agreement requires that the District indemnify the Town against claims related to the fiber-optic cable installation. Such a requirement is common for private companies. However, because the License Agreement is a contract between two municipal entities, it should incorporate the financial restrictions and limitations of liability provided by statute for governmental entities. Generally, a municipality or department is

not able to provide a blanket indemnification because such a clause would violate the provision of MGL c. 44, section 31, which prohibits a public entity from incurring liabilities in excess of appropriations (the liability arising from an indemnification clause is unknown and undeterminable). Therefore, Section 8 should be replaced in its entirety with the following (similar to the revisions to Section 7, above):

*Each of the Town and the District shall be liable for the acts and omissions of its own employees and not for the employees of any other under this License to the extent provided by Chapter 258 of the Massachusetts General Laws (the Massachusetts Tort Claims Act). **By entering into this License, neither the Town nor the District has waived any governmental immunity or limitation of damages which may be extended to them by operation of law.***

We do not object to the concept that the Town and the District should each be responsible for its actions, however, it should be clear that the District assumes full liability for its use of the space, regardless of whether such use occurs as a result of the actions of the District's employees, **or its agents, contractors, and invitees**. We understand the limitations on municipal indemnification provided by G.L. c.44, s.31, but we nonetheless commonly use this language in IMA's to make clear where liability lies, hence the inclusion of the phrase "to the extent permitted by law". We do not object to the language providing that neither party waives any immunity or limitation on damages extended by operation of law... We would like to maintain our language with the addition of the last sentence above, which I have emboldened.

### 3). Section 9 - Insurance:

This section also requires that the District indemnify the Town, and does not provide that the District is likely to retain a contractor to complete the installation of fiber-optic cable. In addition, this section leaves insurance obligations/amounts undefined. Therefore, we suggest replacing Section 9 in its entirety with the following:

*Prior to the District's exercise of any rights under this License, the District or its contractor or agent performing under this License shall provide to the Town Certificates of Insurance, naming the Town as an additional insured party, for the following insurance coverages:*

*(i) Workmen's Compensation coverage as required by statute; and*

*(ii) Comprehensive Public Liability Insurance with coverage for bodily injury of \$500,000 each person and \$1,000,000 each accident, and coverage for wrongful death and property damage of \$1,000,000 each accident.*

*Failure to obtain and keep in force said insurance, and failure to provide the Town with proof of same upon request, shall be grounds for termination of this License and any rights granted herein.*

We want to ensure requirement that adequate insurance be maintained at all times by the District. Insurance provided only by a contractor will not cover the entirety of the use. Insurance provided only by a contractor will not cover the entirety of the use. Our insurance representative provided us with the proposed coverages/limits. Additionally we were advised that the contractor should execute a hold harmless agreement. We suggest that language be modified as follows:

Section 9 - Insurance:

The District shall maintain, at its sole cost and expense, insurance coverage as listed below, and shall name the Town as an additional insured party.

- 1) General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$3,000,000 Annual Aggregate Limit. Products and Completed Operations should be maintained for up to 3 years after the completion of the project.
- 2) Automobile Liability (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per accident.
- 3) Umbrella Liability of at least \$2,000,000/ occurrence, \$2,000,000/aggregate.

The District shall maintain worker's compensation insurance during the construction of any improvements on the Municipal Space, as required by law, including Employers Liability Part B.

The District agrees that any contractor performing work on behalf of the District in the Municipal Space shall carry liability insurance in the amounts specified above, and shall name the Town as an additional insured party.

The District shall further require and provide to the Town from any of its agents engaged in the License Use a hold harmless agreement in favor of the Town.

Failure to obtain and keep in force said insurance, and failure to provide the Town with proof of same upon request, shall automatically terminate this License and any rights granted herein.

#### **4). Section 11 - Termination:**

The License Agreement gives the Town the right to terminate the License Agreement at any time, following a 60-day notice. Although this is not atypical of a "license" providing access to property, in light of the close relationship between the parties and the benefits of the fiber-optic cable installation to the Town and its residents, it is more reasonable to provide the District the right to cure a default under the License Agreement, prior to any termination. Therefore, I suggest replacing the first sentence of Section 11 with the following:

*The Town may terminate this License upon default by the District of any covenant, condition, or term contained herein if such default is not cured by the District within sixty (60) days after receipt of written notice of default.*

The proposed change to this section is fine.

8 a i

I, the Clerk of the Board of Selectmen of the Town of Boxborough, Massachusetts, certify that at a meeting of the board held \_\_\_\_\_, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the borrowings authorized by the vote of the Town passed May 14, 2013 (Article 21) is hereby determined pursuant to G.L. c.44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Blanchard Memorial School Security	\$40,000	___ Years

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located, or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the subject matter of this vote were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended.

Dated: \_\_\_\_\_,

\_\_\_\_\_  
Clerk of the Board of Selectmen

AM 17946042.1

AM 37850547.1



I, the Clerk of the Board of Selectmen of the Town of Boxborough, Massachusetts, certify that at a meeting of the board held \_\_\_\_\_, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the borrowings authorized by the vote of the Town passed May 12, 2014 (Article 25) is hereby determined pursuant to G.L. c.44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Air Paks	\$232,000	<u>15</u> Years

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located, or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the subject matter of this vote were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board of Selectmen

AM 17946042.1

AM 37850547.1



I, the Clerk of the Board of Selectmen of the Town of Boxborough, Massachusetts, certify that at a meeting of the board held \_\_\_\_\_, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the borrowings authorized by the vote of the Town passed May 13, 2014 (Article 27) is hereby determined pursuant to G.L. c.44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Brush Truck	\$150,000	<u>10</u> Years

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located, or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the subject matter of this vote were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board of Selectmen

AM 17946042.1

AM 37850547.1



I, the Clerk of the Board of Selectmen of the Town of Boxborough, Massachusetts, certify that at a meeting of the board held \_\_\_\_\_, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the borrowings authorized by the vote of the Town passed May 13, 2014 (Article 28) is hereby determined pursuant to G.L. c.44, §7(9) to be as follows:

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Dump Truck	\$150,000	<u>10</u> Years

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located, or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the subject matter of this vote were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board of Selectmen

AM 17946042.1

AM 37850547.1



86

**Selina Shaw**

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**From:** Elizabeth Markiewicz <emarkiewicz@boxborough-ma.gov>  
**Sent:** Wednesday, January 21, 2015 1:44 PM  
**To:** sshaw@boxborough-ma.gov  
**Subject:** Board of Registrars

Hi Selina,

This is to confirm that Simon Bunyard has agreed to be a member of the Board of Registrars. His initial term would be to 6/30/2015 to fill the unexpired portion of Hugh Fortmillers term.

Elizabeth A. Markiewicz  
Town Clerk  
29 Middle Road  
Boxborough, MA 01719  
978-264-1727

*Hours:*

*Mon-Thurs: 9am-2pm*

*Monday evenings: 7pm-9pm*





**Internal Communications and Outgoing Communications**  
**February 2, 2015**

1. Letter from Governor Charles Baker dated January 8, 2015, to Chairperson Vincent Amoroso, advising that FY 15 Chapter 90 local transportation aid funding has been increased and certifying that Boxborough FY 15 apportionment has been increased to \$328,740.
2. Letter and informational materials from the Mass. Rehabilitation Commission's Independent Living & Assistive Technology Services Director, Ann Shor, received January 20, 2015, regarding the Commonwealth's Home Modification Loan Program.
3. A copy of the Environmental Notification Form packet (ENF) that has been filed with the Secretary of Energy and Environmental Affairs related to the Jefferson at Beaver Brook project – received January 21, 2015. [*ENF Packet is available in the BoS for Review slot - Comments accepted for 20 days after filing*]





**Minutes, Notices and Updates**  
**February 2, 2015**

**Minutes**

1. Minutes of the Finance Committee meetings held December 15, 2014 and January 5, 2015.
2. Minutes of the Personnel Board meeting held January 7, 2015.
3. Minutes of the Conservation Commission meeting held January 7, 2015.

**Notices**

1. Notice of the 1<sup>st</sup> meeting of the Community Preservation Committee held January 14, 2015
2. Notice of an A-B Cultural Council meeting held January 20, 2015
3. Notice of a Historical Commission meeting held January 21, 2015
4. Notice of Finance Committee meetings:
  - a. Have been held January 26, 2015
  - b. To be held February 2, 2015
5. Notices Minuteman Regional School District related meetings:
  - a. School Committee meeting held January 20, 2015
  - b. School Building Committee to be held February 2, 2015
  - c. District Update Breakfast w/Agenda to be held February 6, 2015
6. Notices Acton-Boxborough Regional School District related meetings:
  - a. School Committee meeting held January 22, 2015
  - b. Acton Health Insurance Trust meeting held January 29, 2015
  - c. Supt.'s Interschool Council meeting to be held January 27, 2015
  - d. Regionalization Financial Oversight Subcommittee meeting to be held January 27, 2015
  - e. Budget Subcommittee meeting to be held January 28, 2015
  - f. Budget Subcommittee meeting held January 29, 2015
  - g. Special Education Parent Advisory Council meeting to be held January 28, 2015
7. Notice of a MART Advisory Board meeting held January 20, 2015
8. Notice of a CrossTownConnect meeting to be held January 30, 2015

9. Notice of a Boxborough Leadership Forum held January 28, 2015
10. Notice of a Personnel Board meeting to be held February 3, 2015
11. Notice of a Library Trustees meeting to be held February 10, 2015
12. Legal notice related to the Jefferson at Beaver Brook project notifying that an Environmental Notification Form has been filed with the Secretary of Energy and Environmental Affairs. Published January 15, 2015 [*ENF Packet is available in the BoS for Review slot - Comments accepted for 20 days after filing*]