



**BOARD OF SELECTMEN**  
**Meeting Agenda**  
**October 5, 2015**  
**Boxborough Town Hall**  
**Grange Meeting Room**

**1. CALL TO ORDER 7:00 PM**

**2. ANNOUNCEMENTS**

**3. APPOINTMENTS**

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

- a) Public Safety Communications Committee update, 7:05 PM  
*Move to accept the recommendation of the Public Safety Communications Committee and to set a public hearing to be held on October 19 to consider the removal of a street light from pole # 2-2X located on Middle Road behind the Museum; and further, to take any such additional actions as may be required pursuant to the recommendations of the Committee*

**VOTE:**

- b) Citizens concerns

**4. MINUTES**

- a) Regular session, September 14, 2015  
b) Regular session, September 21, 2015

**ACCEPT & POF**  
**ACCEPT & POF**

**5. SELECTMEN REPORTS**

**6. OLD BUSINESS**

- a) Bring Your Own Bottle (BYOB) - initial review of policy  
b) 2015 Employee/Volunteer Appreciation BBQ – After Action Report  
c) Performance evaluations – review input from Town Counsel  
d) Discussion of Master Plan and Implementation Plan and recommendations to MPUC  
*Move to forward the Board of Selectmen's proposed revisions to the Master Plan Implementation Plan to the Master Plan Update Committee*

**VOTE:**

**7. NEW BUSINESS**

- a) Cable coverage of other town boards – discussion  
b) Acton-Boxborough Capital and Space Planning Committee - discussion regarding potential Boxborough representatives - Tentative  
c) Acceptance of FY2016 Training Grant and EMD/Regulatory Compliance Grant  
*Move to accept the FY2016 Training Grant and EMD/Regulatory Compliance Grant in an amount of \$10,000 from the Commonwealth of Massachusetts Executive Office of Public Safety and Security*

**VOTE:**

- d) Reserve Fund Transfer - Steele Farm Building Maintenance

*Move to forward to the Finance Committee for approval the request to transfer a sum not to exceed \$10,596 from the Reserve Fund to 001-670-5821-SFBD*

**VOTE:**

**8. CORRESPONDENCE**

**ACCEPT & POF**

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

**9. PRESS TIME**

**10. CONCERNS OF THE BOARD**

**11. ADJOURN**

To: Boxborough Board of Selectmen  
Fr: Mac Reid, Public Safety Communications Committee Chairman  
Re: PSCC Recommendations

September 30, 2015

The Board of Selectmen on June 30, 2015 appointed seven members of the Boxborough community to an *ad hoc* Public Safety Communications Committee. Committee members George Elenbaas, Frank Hubley, Jeanne Steele Kangas, Maria Neyland, John Rosamond, Eric Wong, and I met on July 15, July 24, September 3, September 9, September 23, with our final meeting scheduled on October 5 to approve several meeting minutes. Chief Warren Ryder, Chief Randolph White, and Selectman Jim Gorman also attended our meetings providing technical and other support.

“The purpose of the committee [as designated by the Board of Selectmen] is to gather and review data concerning the feasible options for bringing the Boxborough public safety communications network to a satisfactory standard of operations, from its present unsatisfactory state.”

The recommendations of the PSCC eventually were based on three basic issues:

- 1) concerns/interests of neighbors;
- 2) potentially erecting the antennas on Liberty Fields; and
- 3) reviewing three possible locations near the Boxborough Museum.

We asked and received additional propagation studies from Chief Ryder and committee member Frank Hubley. Town Planner, Adam Duchesneau, provided us with large-scale topographical maps which included overlays of town-owned land. Chief Ryder and Chief White provided a great deal of background information based on their work on this subject for the past four to five years. PSCC member Eric Wong developed an excellent FAQ document for the Town web site.

Neighbors: Neighbors were carefully included in the process. We invited interested neighbors to our July 24<sup>th</sup> meeting which was held at the Boxborough Museum so that we all could walk around the neighborhood to look at alternatives. PSCC members, George Elenbaas and John Rosamond met with neighbors individually and in small groups to discuss the issues and listen to concerns. The neighbors who communicated with our committee throughout the process understood the PSCC recommendation for the Middle Road antenna location but continued with input on a specific location at that site. The PSCC recommendation to the BoS is that the precise location to the north of the

museum would be in conjunction with the abutters who have a direct line of sight to that part of the Museum.

Liberty Field Antenna Location: The PSCC eventually voted not to consider the Liberty Field site for the antennas for two main reasons: a) due to the significantly lower elevation (approximately 80 feet) than a Middle/Hill Road site, a 100-foot pole would have to be erected at an additional cost minimally of \$100,000; and b) propagation studies showed similar radio coverage for police (VHF), but significantly poorer coverage for fire (UHF), especially along Route 495 and the Holiday Inn area which are the busiest area for the Fire Department.

Middle Road Antenna Location: The PSCC eventually determined that the best location for the two antennas, that is, the location that creates the best coverage for both the police and fire radios, is on the town-owned land adjacent to the Boxborough Museum. The series of votes on September 23 by the PSCC, as stated below, provides definition to the recommendations of the PSCC to the Board of Selectmen.

I wish to thank the other six members of the Public Safety Communications Committee for their work on this committee and for their homework between meetings. We also thank Jeanne Steel Kangas, who took copious and excellent notes at our meetings which helped us continue to build on the previous meetings. [Minutes of the PSCC can be, or will be, found on the Town website.] Additionally, we wish to thank Police Chief Warren Ryder and Fire Chief Randall White for significant input into this process. Last, but not least, thank you also to Jim Gorman who attended all our meetings as liaison from the Board of Selectmen.

Final Recommendations of the Public Safety Communications Committee  
September 23, 2015

- Motion to not further consider Liberty Fields as a site for the antennas - VOTED unanimously.
- Motion to site the pole and antennas on the north side of the Museum, precise location to be determined, with appropriate mitigation for view issues of the neighbors - VOTED unanimously.
- Motion to place the antennas on the pole, either parallel to the pole and 12-18" away or on a horizontal arm, and about 10' above the 35' pole - VOTED unanimously.
- Motion that the pole be approximately 35' tall with 10' antennas mounted on a cross-arm not more than 6' long, the total height not to exceed 45' - VOTED unanimously.
- Motion to have the light on pole 2-2X removed and the pole also removed if possible - VOTED unanimously.

# PUBLIC SAFETY COMMUNICATIONS COMMITTEE

Report to Boxborough Board of  
Selectmen  
October 5, 2015

## Charge to PSCC

"The purpose of the committee is to gather and review data concerning the feasible options for bringing the Boxborough public safety communications network to a satisfactory standard of operations, from its present unsatisfactory state."

## PSCC Members

George Elenbaas  
Frank Hubley  
Jeanne Steele Kangas  
Maria Neyland  
Mac Reid, Chair  
John Rosamond  
Eric Wong

## PSCC Meeting Schedule

Wednesday, July 15, 2015  
Friday, July 24, 2015  
Thursday, September 3, 2015  
Wednesday, September 9, 2015  
Wednesday, September 23, 2015  
Monday, October 5, 2015

## What needs to be erected?

- Pole to support two antennas
- 1 antenna for VHF (Police) + 1 antenna for UHF (Fire)
- Each antenna 10 feet long

## 3 Basic Discussion Points

- 1) Concerns/interests of neighbors
- 2) Liberty Fields location
- 3) Hill Road (Museum) location

(brief review of Windemere Drive location)

## Neighbor Concerns

- Neighbors attended all meetings
- PSCC members met with individuals & groups of neighbors
- Neighbors participated in discussions of Museum pole locations
- Neighbor input given to BoS (Jim Gorman)

## Liberty Fields Location

Not supported:

- 1) Minimum \$100,000 additional cost
- 2) Poor radio coverage for Fire Department (Route 495 & Holiday Inn area)

## Museum Site

- Offers best coverage for town
- Near highest point in town
- Near geographic center of town
- Most economical

## PSCC Recommendations

- Erect pole & antennas on north side of Museum with foliage mitigation – specific location by BoS
- Pole to be approximately 35' tall
- Antennas mounted near top of pole on cross arm (= or < 6' wide)
- Total height not greater than 45'
- Remove light on pole 2-2X & remove pole (if possible)

## Great Support

- 7 PSCC members
- Police Chief Warren Ryder
- Fire Chief Randolph White
- Town Planner Adam Duchesneau
- BoS Liaison Jim Gorman

Questions

&

Comments



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**September 14, 2015**

**APPROVED:** \_\_\_\_\_

**PRESENT:** Vincent Amoroso, Chair; Susan Bak, Clerk; and Les Fox, Member

**ABSENT:** Jim Gorman and Robert Stemple

**ALSO PRESENT:** Selina Shaw, Town Administrator and Attorney Joseph Fair, Kopelman & Paige

**EXECUTIVE SESSION**

At 7:00 PM, Chair Amoroso moved to adjourn to executive session in the Town Administrator's Office to:

- a) conduct strategy session in preparation for negotiations with non-union personnel, and
- b) conduct contract negotiations with non-union personnel (tentative)

and to reconvene in open session in the Grange Meeting room to continue with the regular business on the agenda. It was noted that open meeting may have a detrimental effect on the bargaining position of the Board. Seconded by Member Bak. **Approved 3-0 by Roll Call vote – Fox “aye,” Bak “aye,” and Amoroso “aye.”**

Chair Amoroso re-convened the meeting at 7:51 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**

- The Board deferred the reading of the prepared announcements however Chair Amoroso did advise that tonight's regular session had been delayed so the Board could meet in Executive Session to discuss recent developments concerning Police Chief Ryder and to have discussed these concerns in open session could have had a detrimental effect on the bargaining position of the Town.

**APPOINTMENTS**

- Kevin Mahoney was present as a candidate for appointment as Temporary Constable. Further to the recommendation of the Town Clerk, Chair Amoroso moved to appoint Kevin Mahoney to serve as Temporary Constable for a term effective immediately and ending on May 16, 2016. Seconded by Member Bak. **Approved 3-0.**
- Mark White was present as a candidate for appointment to the Zoning Board of Appeals. White was thanked for his willingness to return to public service on a town board. Further to the recommendation of the ZBA Chair, Chair Amoroso moved to appoint Mark White to the Zoning Board of Appeals for a term effective immediately and ending on June 30, 2018. Seconded by Member Bak. **Approved 3-0.**
- Police Chief Warren Ryder was present to continue the discussion regarding his potential temporary appointment as Interim Police Chief in Townsend, MA. Members of the public were present for this discussion. Chair Amoroso provided background on the Chief's initial proposal, the Board's previous discussion on this and a summary of what has occurred subsequent to this initial discussion. Through this whole process the Selectmen overreaching concern is to preserve what Boxborough contracted for. Based on the information Chief Ryder provided at their Aug. 31<sup>st</sup> meeting, the Selectmen voted to allow him to submit a proposal to Townsend for this position, and if the position was offered to him the Selectmen would then explore the term under which he could undertake these additional responsibilities. The Chief agreed to this and even offered to execute a Memorandum of Understanding (MoU) with the Town of Boxborough if his proposal was accepted. Townsend has offered him the position of Interim Chief, so there now needs to be a discussion as to under what terms Boxborough would be willing to let him take on these additional responsibilities. There has also been a significant amount of communication received from residents on this and we are here tonight to discuss this input. The Selectmen discussed some of their concerns and those terms they feel must be negotiated; insuring that Boxborough's interests are protected while supporting the Chief's desire to participate in this endeavor.

Chief Ryder reiterated that Boxborough would always have priority and that he intends on fulfilling the terms of his existing contract with us. Chair Amoroso advised that there have been informal discussions with Townsend stakeholders and they are willing to consider a contract for just three months and formalize this and other terms with an Intermunicipal Agreement (IMA). There was an explanation of what an Intermunicipal Agreement is and how it would be used. The floor was opened for discussion. John Markiewicz asked to have the statement he previously submitted read into the record.

*"I have thought about this request and think it's important to separate the Person (Warren Ryder) from the Position (Chief of Police for the Town of Boxborough).*

*The Person:*

*Warren is an excellent chief and well-respected in Town. As chair of the Master Plan Boxborough2030 Committee, I have appreciated his participation and valuable input.*

*The Position:*

*Per the current contract, the Chief of Police is a full-time position with the expectation of 24/7 availability. I interpret that to mean that there is an expectation of the chief that, in terms of public safety, Boxborough receives 100% mindshare.*

*The Concerns:*

*• Allowing the chief to serve as Interim Police Chief for the Town of Townsend has no tangible/ measureable benefit to the Town of Boxborough*

*• Loss of Chief's 24/7/365 mindshare focused on Boxborough's Public Safety*

*• Potential overtime required by current police officers to cover for Chief's absence*

*• Potential negative impact on future contract negotiations with other town employees*

*• Less time for mentoring of new lieutenant*

*• Expectations of the Town of the Town of Townsend for the Interim Position (see attached public document describing the Townsend position and expectations) Demonstrates the need for a legally binding agreement between ALL concerned parties. Boxborough, Townsend and Ryder.*

*A vote to allow the current Chief to accept the interim position on Townsend creates many open issues which would need to be addressed to ensure that the taxpayers of Boxborough are getting the service they expect from the Chief of Police and that the public safety of the Town is in no way compromised."*

He also provided some additional comments. Dave Follett inquired about Chief Ryder's career development path. Chief Ryder responded noting while he is, currently, pursuing his Masters. This "sharing" of responsibilities would be a great learning opportunity and a chance to gain greater knowledge. Follett state that this could be considered an experiment, which could help with the regionalization of emergency services. A small step like this could lead to making regionalization a reality. Also we could be in Townsend's position at some point. Phil Kicelemos asked about the make-up of the Townsend Police Dept., if the Chief use his Boxborough vehicle when he is working for Townsend, the possible need to be available to Townsend during the work day, and other concerns. Chair Amoroso advised that these and other concerns would be negotiated through an IMA. Karim Raad asked why the Town is considering this when there are incidents that have occurred here in Boxborough that still need to be resolved and cited an example. Participating in even a 20% "shareable" relationship is not practical for Chief that is supposed to be on-call 24/7. If the Chief wants to move forward in his career we should let him go so he can. Mark White stated that he has supported Ryder throughout his career in town and as Police Chief. We have not been so lucky with Ryder's predecessors. White spoke the difficulties in retaining qualified employees. An IMA would be the best way to protect Boxborough's interest. He supports the comments regarding regionalization. It's the only practical alternative for communities like ours going forward. This would be a test for "sharing" these services. Chair Amoroso provided background on some of the joint FinCom/Selectmen discussions that have taken place in recent months concerning possible regionalization of emergency services. Simon Bunyard noted that we are lucky to have this type of Chief and lofty goals he is setting for himself. This "sharing" scenario would have practical applications if we move forward with regionalization. Regionalization is the only path for a healthy fiscal future. Chief Ryder addressed concerns Bunyard raised about the time commitment necessary to fulfill responsibility in Townsend. Amy Burke stated that she does not believe this "sharing" proposal follows "best practices" principals. She cited the case of other Mass. towns that attempted to share a Chief which turned into a "fire storm." Townsend is not an adjoining town, not even close. Anne Canfield reiterated the positive statements previously voiced concerning the Chief and supports the concept of regionalization, but it is a long road until it could be a reality. There are several pressing and controversial matters that need the Chief's attention [i.e. the Communications Upgrade project and his proposed overtime compensation for the new Lt.] and we do not want the Chief to lose his focus. Maria Neyland did not like this initially however after speaking to the Chief she now supports this proposal for many of the reasons cited by White and Bunyard. Given our size we need to be flexible. IMAs work. Hugh Fortmiller does not believe the additional responsibilities will detract from the Chief's work for us. We should be proud that others have recognized our employee's expertise and supports Ryder's effort to expand his career. He does have concerns about how he will be able to manage instances if he not physically present and who would be "holding down the fort" when he is not there. Also Boxborough needs to clearly know the commitment regarding responsibilities and hours involved in the role of Townsend's Interim Chief. Chief Ryder addressed Al Murphy's concerns about Townsend's time constraint and need to get a lawful chief in place during negotiations. Townsend wants to know they have a candidate ready to be appointed as Interim Chief however they are willing to wait and place their Lt. in command for a week while an IMA is negotiated. Chair Amoroso advised that, starting tomorrow, the Selectmen will begin efforts to get an IMA worked out. Steve Ballard advised that FinCom has made its concerns clear. He feels this is a bad idea, there is no significant benefit for the Town. The only one that benefits is Ryder. There are many unanswered questions; what has been happening in Townsend, and Townsend's compensation to us, just to name a few. This is a matter of public safety. The Chief's attention will be divided. If the Chief wants to move on, let him. In response to Neal Hesler's query, Chair Amoroso confirmed that Town Counsel had been brought in on this and had even attended their earlier Executive Session.

He further noted that the IMA would be negotiated in executive session. Dilip Subramanyam noted that at a recent Town Meeting we voted to bring Chief Ryder's compensation up to the market rate. He is now adequately compensated. He suggested an alternative - Chief Ryder take a three month leave of absence; putting the Lt. in charge. This would be a good test of the Chief's Succession Plan. With no more public comment Chair Amoroso acknowledged some of the other emails that the Selectmen received in the last few days, that shall be included in this meeting agenda packet, from: Deb Robinson, Rita Grossman, Selectman Gorman, Jay Bhatia, and Selectman Stemple. Chair Amoroso asked the Selectmen for closing comments. Selectman Fox noted that personally he feels that Chief Ryder is very qualified and this enterprise would build his credentials. Being a community that supports employee enrichment is an important position to take. Member Bak noted that the Town already actively supports professional development. Under his contract the Town even provides pays for it, as we do for his Masters program. Chair Amoroso closed by stating that the threshold concern is how to ensure Boxborough's interest. He thanked everyone for providing input.

- The Board passed over the follow-up discussion concerning the taxability of Fire Chief's vehicle use and will take it up on September 21<sup>st</sup>.
- There were no Citizens concerns.

#### **OLD BUSINESS**

- The Board took up the execution of an amendment to the Town's MoU with the ABRSD. ABRSD School Committee members, Brigid Bieber and Maria Neyland were present. This amendment is to memorialize the services provided to the District by the Town. Chair Amoroso moved to authorize Vincent M. Amoroso, Chair of the Boxborough Board of Selectmen, to execute the "First Amendment to the May 22, 2014 Memorandum of Understanding between the Acton-Boxborough Regional School District and the Town of Boxborough". Seconded by Member Bak. **Approved 3-0.**

#### **MINUTES**

- Member Fox moved to accept the minutes for the Regular session, July 20, 2015, as revised. Seconded by Member Bak. **Approved 3-0.**

#### **SELECTMEN REPORTS**

- Chair Amoroso reported that, as the Town's new representative to the Minuteman Regional School Committee, he had attended a special meeting held to review the data from a survey done concerning the proposed building project. Polling results support new school and district wide vote. No votes were taken. The Minuteman School Committee will continue to study this in order to determine that best way to proceed. He also reported that he met with Minuteman Building Project and Dover's Minuteman Rep. Ford Spaulding to discuss ways to get more financial aid from state for this project and to communicate with the member towns' Selectmen about simultaneously amending the District agreement with revised withdrawal terms. He has begun to reach out to his fellow Select board members within the Minuteman District on this. He has also spoken to Senator Eldridge about bringing forward an action to increase the state's financial support for the building project.
- Member Bak reported that two potential applicants attended a recent Community Preservation Comm. meeting to receive informal feedback on their proposals. The Housing Board is considering a housing funding program which incorporates an educational component. BICAO Lindberg spoke about Grange Meeting Room renovations.
- Member Fox reported that the Affordable Housing Trustees met with our fund managers to review how the AHT funds are performing. These accounts are doing okay. The Trustees were also educated as to constraints put on some accounts and the latitude allowed for others.

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

- Member Fox moved to authorize the submission of Chapter 90 Final Report and Reimbursement Request in the amount of \$520,364.64 for reclamation and paving of Flagg Hill Road, Pine Hill Road and Stonehenge Place and to certify conformance with applicable statutes and regulations. Seconded by Member Bak. **Approved 3-0.**
- As TA Shaw had left the room, discussion on Town Assessor Anderson's the final input on street address changes was tabled until she returned.
- Town Counsel has provided input and distributed. However, discussion of the Town's Performance evaluations process was tabled until the full board is present.

- Member Fox led a discussion of the Master Plan and Implementation Plan. He referred to Planner Ducheneau's cover note. The Selectmen were asked to provide feedback on all of the materials presented not just those items specifically identified as being under the Selectmen's purview.

#### **NEW BUSINESS**

- Chair Amoroso moved to accept with regrets and place on file the resignations, effective immediately, of Kathleen Smyers and Susie Allen. Seconded by Member Fox. **Approved 3-0.**
- The Board passed over discussion of the proposed meeting schedule and FY 17 budget timeline until the entire board is present and can participate in this discussion.

#### **CORRESPONDENCE**

- There was a brief discussion regarding the distribution of a letter from Minuteman School Supt. Ed Bouquillon.

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

- Discussion was re-opened on the Town Assessor's street address changes proposal. TA Shaw referred to the Town Assessor's memorandum provided. Based on the input received Town Assessor, Ruth Anderson is rescinding her request to change street numbers/addresses that are not currently in compliance with the Town's Street Numbering Bylaw.

#### **ANNOUNCEMENTS**

- Chair Amoroso read the prepared announcements.

#### **EXECUTIVE SESSION**

- It was determined that an Executive Session was no longer necessary.

#### **ADJOURN**

- The meeting was adjourned at 9:48 PM.



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**September 21, 2015**

**APPROVED:** \_\_\_\_\_

**PRESENT:** Susan Bak, Chair Pro Tem; Les Fox, Member; and Jim Gorman, Member

**ABSENT:** Vincent Amoroso, and Robert Stemple

**ALSO PRESENT:** Selina Shaw, Town Administrator and Cheryl Mahoney, Department Assistant

Chair Pro Tem Bak called the meeting to order at 7:00 P.M. in the Grange Meeting Room of the Town Hall.

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 Pro Tem Bak read the announcements

**APPOINTMENTS**

- Inspector of Buildings, David Lindberg, along with Charles Weeks, Inspector of Wires and Gary Corey, Plumbing Inspector were present to discuss inspectional fees. BICAO Lindberg opened the discussion. Both Weeks and Corey are long-time Town inspectors and have provided productive input and support the revision of the Town's current inspectional fee and related inspector compensation schedules. Improving these schedules has been an objective of his for some time, as they were last updated in 2008. He surveyed surrounding communities and compiled this data, along with the proposed increases, into the tables presented in the packet. This proposal reflects modest fee increases, but he is also proposing a re-structuring of the schedule to reflect current industry practices, and new code & appliances/technology [i.e. solar panel systems] requirements. As construction codes evolve, additional requirements have resulted in inspections becoming more complicated and labor intensive. Examples of the inequities within the current fee structure were provided. Insp. of Wires, Charlie Weeks spoke to the changes needed to the electrical tables. Weeks discussed why he does not support keeping the annual permitting category noting that he prefers having actual inspectional oversight. Plumbing Insp. Corey provided examples of what plumbing appliances and technologies that currently require inspections. The Selectmen commented that these proposed changes seem modest and reasonable. BIACO Lindberg advised that this presentation is just the first step in his efforts to update and improve building department services. He is not looking for any approvals tonight. He will now be reviewing the inspector compensation schedule, along with their software requirements. Once these reviews are complete he would like to come back before the Selectmen to request approval of his update recommendations for various building department administrative items.
- Town Accountant, Jennifer Barrett was present to follow up on discussions concerning the taxability of Fire Chief's vehicle use. Accountant Barrett referred to the memorandum that she had provided. She confirmed that she has had numerous discussions with Chief White regarding this situation. Member Gorman noted that Chief White has communicated to him that he would like to proceed pursuant to Option #3. He further noted that the Chief's current contract provides him use of an unmarked fire vehicle. There was discussion of Option #3 and the other options provided and a brief discussion of the Chief's use of the vehicle outside of work hours. The consensus was that it is the Town's obligation to honor the terms of his contract regardless of changes to the Federal Tax Code. Member Fox moved to support Option # 3, as provided in the Town Accountant's memorandum under agenda item #3b [but incorrectly indexed as item #6b in the packet]. Seconded by Member Gorman. **Approved 3-0.** FinCom member Gary Kushner requested and was provided an explanation as to the applicable changes to IRS tax code and why it does not affect other town owned vehicles.

*The Board took items #7 (a-b), out of order.*

**NEW BUSINESS**

- Conservation Commission Chair, Dennis Reip was present to discuss the property off of Flagg Hill Road being developed by Flagg Hill Road, LLC and the owner's willingness to deed a portion of the property over as conservation land and to provide a trial easement to the Town. ConsCom Chair Reip provided background on this owner's development of this property, the combined efforts of the various boards regarding this development. He explained that the proposed conservation parcel is primarily wetlands and described how the existing "unofficial" trails are formalized with the proposed trial easement. The Conservation Commission supports the acceptance of the owner's generous offer.

- Member Fox moved to approve the acceptance, for conservation and passive recreation purposes, of the parcel shown as “Open Space A” on a plan of land entitled “Plan of Land in Boxborough, Massachusetts –Flagg Hill Road” dated May 1, 2014, prepared for Flagg Hill Road, LLC by Land Engineering & Environmental Services, Inc., and recorded with the Middlesex South District Registry of Deeds as Plan No. 424 of 2014, to the Town of Boxborough, acting by and through its Conservation Commission. Seconded by Member Gorman. **Approved 3-0.**
- Member Gorman moved to approve the acceptance of Grant of Easements from Flagg Hill Road LLC the following perpetual easements in, over, through, upon and across certain portions of Grantor’s land located off of Flagg Hill Road in the Town of Boxborough, Middlesex County, Massachusetts as depicted on a plan of land entitled: “Plan of Land in Boxborough, Massachusetts – Flagg Hill Road” dated May 1, 2014, prepared for Flagg Hill Road, LLC by Land Engineering & Environmental Services, Inc., and recorded with the Middlesex South District Registry of Deeds as Plan No. 424 of 2014 (the “Plan”):
  - 1) A perpetual easement in those lands depicted as “20’ Wide Trail Easement” on the Plan, said easement premises encumbering each of Lots 1, 2 and 3 as shown on the Plan and having an area of 19,705 ± sq. ft. within Lot 1; 5,704 ± sq. ft. within Lot 2; and 32,468 ± sq. ft. within Lot 3; and
  - 2) A perpetual easement in those lands depicted as “Trail Easement 26,443 ± SQ. FT.” within Lot 1 on the Plan and “Trail Easement 22,947 ± SQ. FT.” within Lot 2 on the Plan. Seconded by Member Fox. **Approved 3-0.**

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

- Agricultural Commission Chair, John Neyland was present to discuss the waiver of filing fees for agricultural projects. ConsCom Chair Reip remained for this discussion. AgCom Chair Neyland would like to propose a blanket waiver of filing fees for agricultural projects. In the alternative he would like to request that the Selectmen consider waiving the applicable fees for two agricultural projects that are currently pending. One is for the Stanley Farmstead and the other is an agricultural use at the end of Fifer’s Lane on the Minute Man Air Field property. The issue of agricultural enterprises paying filing fees was brought to light with Bob Stanley’s attempts to establish his farmstead off of Stow Road. The Conservation Comm.’s current fee schedule does not recognize the development of a new agricultural enterprise. The ConsCom’s schedule would need to consider it a new business and those applicable fees are \$1,500.00, which is prohibitive. There can be issues as State law exempts agricultural use from many requirements and confusion when these agricultural laws/regulations clash with those concerning wetlands protection. Regardless AgCom would like to bring farmers into the conservation process so that there an environment of cooperation when it comes to these agriculture projects. Boxborough has designated itself a Farming Community and we don’t want to put barriers in the way of developing new agricultural opportunities, but make a clear path for promoting agricultural. After two years Bob Stanley has his Farm Plan ready for filing with the Town however the quoted fee would cause a significant financial burden. There was a discussion of the Conservation Commission’s fee schedule. ConsComm Chair Reip acknowledged that there is no category for the development of a new agricultural enterprise and that Mr. Stanley’s proposed fees would be significant. This is just the type of situation where the ConsCom would encourage an applicant to seek a fee waiver from the Selectmen and have done so with Mr. Stanley. The ConsCom’s fee schedule is not permanent and can be updated. They done just that in recent years and they are willing to revise as circumstances develop. However they have to work within the existing structure until revisions are formalized. Their fees are designed to cover the various costs incurred with processing an application. There was discussion as to possible ways to restructure the current fee schedule to encourage agricultural usage. Reip supports waiving the fee for Mr. Stanley; however he would not recommend a blanket agricultural fee exemption. He supports waivers being issued on a case-by-case basis. He provided some scenarios to illustrate his concerns. There was also discussion on the proposed agricultural use at the end of Fifer’s Lane. ConsCom was contacted about some tree clearing that had occurred. ConsCom approached Minute Man Airfield about filing a Request for Determination as to Applicability for this work. The ConsCom has no history of usage for this portion of the Minute Man property and would like create a usage history going forward. The ConsCom has no strong opinion on waiving the nominal, \$100.00, fee, and they have suggested that Minute Man also seek a waiver. AgCom Chair Neyland is fine with addressing agricultural usage fee waivers on a case by case basis but suggested the Selectmen could revisit a blanket exemption if these requests come in a little more frequently. Member Gorman moved to waive the \$1,500 fee for a Notice of Intent filed by Robert Stanley for the property located off of Tamarack Lane. Seconded by Member Fox. **Approved 3-0.** Member Gorman moved to waive the \$100.00 fee for a Request for Determination of Applicability filed by Cloud Land Farm for the property located at the end of Fifer’s Lane. Seconded by Member Fox. **Approved 3-0.**
- There were no Citizens concerns.

#### **MINUTES**

- The Board passed over review of the regular session minutes of September 14, 2015.
- Member Fox moved to accept the minutes for the Regular session, July 20, 2015 as further revised. Seconded by Member Gorman. **Approved 3-0.**

- Member Fox moved to accept the minutes for the executive session, September 14, 2015 as written. Seconded by Member Gorman. **Approved 3-0.**

#### **SELECTMEN REPORTS**

- Member Fox reported that Chair Amoroso has asked him to take over as the liaison to the Energy Committee. He willing to assume this assignment and EnCom Chair Nolde approves. The Selectmen supported him taking over as EnCom liaison.

He also reported that there is some surveying work going for water access for the new Jefferson at Beaverbrook development.

- Member Gorman reported that Public Safety Communication Comm. is making good progress and intends on having a recommendation ready to present at the October 5<sup>th</sup> Selectmen's meeting.

He also reported that the work to restore the crypts at No. Cemetery has begun.

Member Gorman reported that the work to survey the lower part of Hill Rd. for a retaining wall should begin this week. This cost of this work should be paid for out of the Whitcomb Fund.

He also reported that Picnic Street is the next road scheduled for paving, followed by portions of Burroughs and Hill Roads. This work should take place in early spring. There was discussion as to which roadways will be paid for from the 2015 paving article and how much is remaining in Chapter 90 funds. It was suggested that this paving schedule information be posted to the website and possibly as a tax bill insert.

He also reported that he had held his usual status meetings with the DPW Director and Fire Chief.

*The Board took item #7c, out of order.*

#### **NEW BUSINESS (Continued)**

- The Board discussed their proposed meeting schedule for January – May 2016 and proposed budget timeline. These dates reflect the Board's "best intention" schedule, but there are always contingencies and the schedule will be adjusted accordingly. It was confirmed that the Board would hold its Goals Workshop on October 24<sup>th</sup>. The Board reviewed the proposed budget timeline. The framework is essentially the same as in years past, however the Town Accountant has added the CPA timeline and the sundry boards' hearing schedules to the timeline. The Board provided input as to how well last year's FY 16 budget timeline worked. Member Fox moved to adopt the proposed meeting schedule for January – May 2016 as prepared and to forward the proposed budget timeline to the Finance Committee for input. Seconded by Member Gorman. **Approved 3-0.**

#### **OLD BUSINESS**

- Member Fox re-opened discussion of Master Plan and Implementation Plan and recommendations to Master Plan Update Committee. Member Fox advised he had met with MPUC Chair Markiewicz and Planner Duchesneau to begin to develop a structure for the upcoming review process along with the drafting of the Master Plan's Executive Summary. Member Fox distributed a memorandum of the Selectmen's compiled input. He provided an overview of this material. Some big ticket items have been identified, but by and large residents are happy; and want to maintain the status quo. Any change would have to be slight and gradual. They do not want economic development just to increase our tax base. However, they would encourage those businesses that would improve their quality of life. This would take a lot of effort. The articulation of goals and an analysis of what would be needed to encourage this type of economic development would be needed. The Board reviewed the more specific comments and edits suggested in Member Fox's memo and provided additional feedback. The overall observation was that there are too many specific action items and these should be simplified and distilled down within the Plan. The specifics can be articulated outside of the actual Plan. It would also be difficult to assign or track an actionable item in regards to some of the "Aspirations" provided. It was determined that Member Fox would incorporate in tonight's comments. The Board was asked to provide any further comments or proposed edits to Member Fox so they can, also, be compiled and incorporated into this memorandum so this matter can be re-visited at the October 5<sup>th</sup> meeting. Planner Dushenseau has requested feedback by the end of September but the Selectmen should have their input ready for him directly after they meet on October 5<sup>th</sup>.
- The Board passed over discussion regarding a possible Bring Your Own Bottle (BYOB) policy.

#### **EXECUTIVE SESSION**

- It was determined that an Executive Session was not necessary.

#### **ADJOURN**

- The meeting was adjourned at 9:27 PM.



6a

**Town of Boxborough  
Carry-In Liquor Policy  
(BYOB)**

**Policy**

No person or entity licensed as a common victualler shall allow the consumption of alcoholic beverages on the licensed premises, unless (1) it also holds a license to sell alcoholic beverages issued by the Local Licensing Authority (LLA) pursuant to G.L. c. 138, or (2) it is expressly permitted by the LLA to allow patrons to bring and consume their own alcoholic beverages into the licensed premises ("BYOB"). Such permission may only be granted by the Board as an express condition on the common victualler license.

It shall be the policy of the Town of Boxborough, through its licensing authority, to allow the possession and/or consumption of carry-in alcoholic beverages by a person of lawful age at those commercial food service establishments which have a Common Victualler License and have been issued a license by the LLA. The issuance of a License is permissive and at the sole discretion of the LLA. A License for carry-in alcoholic beverages shall be issued for no more than one year and must be reapplied for annually at the time of renewal of the Common Victualler's license. The hours during which the consumption of carry-in of alcoholic beverages is allowed shall be at the discretion of the licensing authority and shall be specified on the license. A License for carry-in alcoholic beverages shall be issued in the name of the manager and shall not be transferred to a new manager without the prior approval of the licensing authority.

**Regulations**

**1.0 Definitions**

- 1.1 Local Licensing Authority – Boxborough Board of Selectmen
- 1.2 Carry-in Alcoholic Beverages – wine and beer in previously unopened containers

**2.0 Carry-in Alcoholic Beverages License Requirements**

Any establishment which has been issued a Common Victualler's License and which applies for a Carry-in Alcoholic Beverages License allowing for the consumption of Carry-in Alcoholic Beverages on premises shall comply with all of the following regulations unless otherwise waived by the LLA.

- 2.1 The establishment shall have a valid Common Victualler's license that has been in good standing for at least one year in conformance with the LLA's licensing policy.
- 2.2 The establishment may not hold an alcoholic beverages license issued under the provisions of G.L. c. 138. (An establishment with a pouring liquor license and/or a package License is not permitted by law to also have a Carry-In alcoholic license).
- 2.3 Patrons are allowed to carry in only wine and beer, and only for personal consumption. All patrons wishing to carry-in wine or beer and all persons consuming wine or beer must be 21 years of age or

older. The maximum amounts of wine or beer that may be carried in by any given patron in the course of any given calendar day are: (a) one 750 milliliter (ML) container of wine, whether for one or two patrons, or (b) two containers of beer (not to exceed 24 ounces (OZ) in total) per patron. The manager of the establishment shall be responsible for ensuring compliance with these consumption limits.

2.4 Patrons bringing in alcoholic beverages for their personal consumption must order food from the menu and consume the food on the premises.

2.5 The staff assisting a patron with carry-in alcoholic beverages must be 18 years of age or older. Bus staff under the age of 18 shall not be allowed to clear from the tables containers from which carry-in alcoholic beverages were poured or consumed.

2.6 Alcoholic beverages are to be consumed inside the area licensed for consumption.

2.7 No alcoholic beverages may be served or handled by employees. This includes opening, pouring, storing, refrigerating or resealing. Employees may provide bottle openers, resealers and beer/wine "doggie-bags" for use by patrons. The establishment may provide patrons with empty glasses or cups, but shall not assess any additional cost to the patrons for doing so.

2.8 No alcoholic beverages may be removed from the premises unless resealed, and the resealed container is placed in a transparent, sealable plastic wine "doggie-bags" in the manner provided for in the Alcoholic Beverages Control Commission's regulations at 204 CMR 2.18(4).

2.9 The on-site, shift manager of the food service establishment with carry-in alcoholic beverages must verify the age of any individual consuming the alcoholic beverage who appears to be under the age of 30. Pursuant to G.L. Ch. 138, Section 34, patrons under the age of 21 shall not be allowed to consume carry-in alcoholic beverages.

2.10 Each onsite, shift manager must be trained in alcohol management (BAT) or server training course (TIPS) and shall provide proof of such training to the LLA.

2.11 Nothing in this policy shall preclude a food service establishment from imposing additional limits or restrictions on patrons with carry-in alcoholic beverages.

2.12 If the business is not operated in a manner that is consistent with these regulations, the licensing authority may, after notice to the Carry-In License holder and reasonable opportunity for a hearing, suspend or revoke the Carry-In License.

2.13 The applicant shall complete the Carry-in License Form and once the permit is generated must be visibly posted.

2.14 The Applicant shall complete the Carry-in Alcoholic Beverages License Application and once the License is issued it must be visibly displayed at the establishment.

### **3.0 Enforcement**

3.1 These regulations may be monitored, with and without notice, by agents of the LLA and the Town of Boxborough Police Department.

3.2 Any violation of the provisions of this section shall constitute grounds for suspension or revocation of the common victualler license. If the establishment is not operated in a manner that is consistent with these regulations, the LLA may, after written notice to the Carry-in Alcoholic Beverages License Holder and reasonable opportunity for a hearing, suspend or revoke the Carry-in Alcoholic Beverages License.

### **4.0 License Application Procedures**

4.1 The Applicant shall complete a Town of Boxborough Carry-in Alcoholic Beverages License Application Form.

4.2 Upon receipt of a request from a Common Victualler licensee to allow patrons to bring and consume alcohol on the licensed premises, the LLA shall conduct a public hearing on said request, notice of said hearing to be published in the manner set forth at G.L. c. 138, § 15A at the licensee's expense. At least ten days prior to such hearing, notice shall be advertised in a local newspaper with and shall be provided by certified mail to the direct abutters. Renewal of a Carry-in Alcoholic Beverages License shall not require a public hearing.

4.3 A copy of the Application shall be forwarded for comment to the Town of Boxborough Police Chief, Fire Chief, Inspector of Buildings and Tax Collector. The LLA may not act on the Application without having first received sign-offs from these departments.

4.4 The Applicant shall be responsible for the following fees and costs:

4.4.1 All costs of advertising and mailing for public hearing notice purposes.

4.4.2 An Initial License fee of \$TBD.

4.4.3 A Renewal fee of \$TBD.

4.5 The LLA may consider factors including, but not limited to, the public need or convenience, traffic, noise, size, type of business and the reputation of the applicant. Upon complete review of the material presented and all facts relevant to the application, the LLC may in its sole discretion issue a License hereunder including any appropriate conditions applicable thereto.

### **5.0 Term**

A License issued hereunder shall be valid for a period of one (1) year or until December 31 of the year issued whichever is the first to occur.



6c

**Selina Shaw**

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**From:** Joseph S. Fair <[REDACTED]>  
**Sent:** Friday, September 04, 2015 9:48 AM  
**To:** 'Vince Amoroso'  
**Cc:** Selina S. Shaw (sshaw@boxborough-ma.gov); John Giorgio  
**Subject:** Performance evaluations  
**Attachments:** Performance evaluations conducted by the Board of Selectmen (20.0 KB); FW: Department Head performance appraisals (34.6 KB)

Vince:

As you requested, I am writing to follow up on our telephone discussion regarding the Open Meeting Law ("OML") issues associated with the Board of Selectmen finalizing the performance evaluations of certain employees and how, if at all, the process can or should vary if it is anticipated that disciplinary action will be taken against an employee as a result of the issues raised in the evaluation. It is my understanding that individual members of the Board have already provided the Board liaison for each of the employees being evaluated with their individual comments on the employees' respective performances and that the liaison has compiled those comments into a composite evaluation which will ultimately be provided to each of the employees. It is my understanding that the employee would be present at the meeting at which the evaluation is discussed.

Based on the process that has been followed to date, it is my opinion that the Board of Selectmen would next have to hold a meeting to review the composite evaluations and approve them as the official evaluations of the Board. The Board would not necessarily be required under the Open Meeting Law to hold a full discussion on the contents of the evaluation. In my view, it would be permissible for the Board to distribute the composite to the Board members, take any questions from the Board regarding same and then vote on whether to approve or modify them or take some other related action. Once approved, the Board could inquire of the employee if he/she has any question or comments. To the extent that members of the public have any questions about the content of the evaluations, the Board is not obligated to take those questions, but a copy of the composite could be provided in response since such document would be subject to public disclosure under the Open Meeting Law and Public Records Law at that point. In the event the public inquires as to what action the Board intends to take against a given employee if the employee's evaluation is an unsatisfactory one, the Board could respond that any disciplinary action to be taken is a personnel matter and is not an appropriate discussion for Open Session.

To the extent that we discussed whether the process for the Board's review and approval of the composite should be different if disciplinary action is expected to follow, it is my recommendation that the same process be followed. To the extent disciplinary action will follow, an Executive Session can be scheduled for later in the same meeting or for a subsequent meeting. Since the OML would require that the affected employee be given notice of the Executive Session in writing at least 48 hours prior to the meeting, the employee would already be aware at the time the evaluation is discussed by the Board that a further discussion will be taking place, assuming that the Executive Session is scheduled for the same meeting that the evaluation is discussed by the Board.

While we also discussed the possibility of holding the Executive Session first and having the Board consider the evaluation and discipline at the same time, I have concerns that such an approach may be viewed by the Attorney General's Office as a circumvention of the OML since the end result would be that an employee was terminated or otherwise disciplined as a direct result of a performance evaluation that was never publicly discussed or voted on by the Board.

With respect to your inquiry about possible penalties if a violation is found, the Attorney General's Office does have the authority to fine boards for OML violations. However, such penalty is not typically imposed for unintentional violations. Instead, the Attorney General's Office typically orders that the Executive Session minutes be released to the public, admonishes the board for the violation and cautions against future violations. Under the disciplinary scenario we discussed, it could be argued that a public discussion of the evaluation would necessarily include a resulting discussion

about discipline thereby warranting that the whole discussion take place in Executive Session. It is likely, in my opinion however, that the Attorney General's Office would find that the discussion about the evaluation could have been separated from any discipline discussion and as a result, the public had a right to hear the evaluation portion of the discussion. For this reason, I have recommended that the process outlined above be followed for all of the evaluations regardless of whether discipline may follow.

In addition, I also noted that while it is my opinion that the above process would be in technical compliance with the OML even if the members of the Board choose not to ask any questions or make any comments about the evaluations during the Open Session, I cautioned that the absence of any discussion whatsoever could create an appearance that the Board's members had already discussed the evaluations outside of a meeting and prompt the filing of an OML complaint. Assuming no outside discussions had taken place, the Attorney General's Office would not likely find that the Board of Selectmen violated the OML in my opinion, but the Board would have to go through the time and expense of defending against any OML complaint that may be brought.

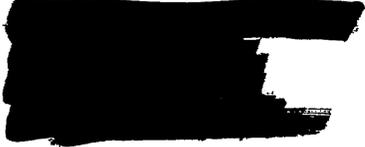
One variation that we did not discuss was the possibility of not having any of the employees present at the Open Session meeting at which the composition evaluations are presented to the Board and voted on. The advantage that this approach would have is that it would avoid the potentially uncomfortable situation that could arise out of the employee feeling that he/she must comment or defend against any of the statements that are contained in the evaluation. Instead, the Board, after voting in Open Session to accept the composite evaluation, could delegate to the liaison the task of reviewing and discussing the evaluation with the employee at some future date outside of a public meeting. Of course, the drawback to this approach is that the liaison may not be in a position to explain another liaison's comment or respond to some of the employee's questions if the liaison is not familiar with whatever events or performance issues led to a particular comment being made. In addition, not having the employee present at the meeting may give a misimpression among the public that the employee does not care enough to be there and/or that the Board is holding the meeting without the employee's knowledge. This approach would also result in the public seeing the evaluation before the employee has even had a chance to review it. As a result, I typically recommend against having a board review and vote on an evaluation without the employee being present. We did not cover this variation during our discussion, but I want to address it in case one of the members of the Board inquires about the possibility.

I believe the foregoing summarizes the multiple issues and scenarios we discussed, but if there is anything that you believe I have overlooked, please let me know. In addition, for your information I have also attached hereto copies of the two prior opinion e-mails that I had sent to the Town related to the subject of conducting performance evaluations of department heads.

Please feel free to contact me if you have any questions. Thank you

Joe

*Joseph S. Fair, Esq.*  
*Kopelman and Paige, P.C.*



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## Department Head Performance Appraisals

	Option	Downside	Question for Town Council	Response from Town Council
1	BoS liaison compiles written feedback from other Board members and creates a composite performance appraisal	<ul style="list-style-type: none"> <li>• How do we handle conflicting feedback?</li> <li>• Easy to give positive feedback, but difficult to give feedback where improvement is required particularly in a public forum – unless the performance is based strictly on <b>measurable and quantifiable goals</b></li> </ul>	<ul style="list-style-type: none"> <li>• Can the liaison <b>meet</b> with the department head <b>privately to discuss</b> the performance appraisal? If so, does the document become a public record?</li> <li>• Can the written performance appraisal be given to the department head without any discussion? If so, does the document become a public record?</li> <li>• Or must the appraisal be <u>delivered and discussed</u> during an open meeting?</li> </ul>	<ul style="list-style-type: none"> <li>• Concern that the AG's office would view this action as subterfuge designed to avoid the Open Meeting law.</li> <li>• Requirement that discussion of employee's performance by a multi-member board take place in open session</li> <li>• Yes, the composite evaluation becomes public. AG's office would say that the individual evaluations would become public</li> </ul> <p><u>Recommends</u> Non-member compile the evaluations</p>
2	Liaison creates the performance appraisal for department head without any written feedback from other Board members.	Opinion of one Board member <b>may not provide a balanced view of the actual performance</b> - unless the performance is based on measureable and quantifiable goals/objectives	<ul style="list-style-type: none"> <li>• Can the liaison meet with the department head privately to discuss the performance appraisal? If so, does the document become a public record</li> <li>• Or must the appraisal be <u>delivered</u> during an open meeting?</li> </ul>	<ul style="list-style-type: none"> <li>• If no written or verbal feedback from other Board members, the Liaison may write the performance evaluation and <b>deliver it privately</b>.</li> <li>• Written evaluation is exempt from disclosure under Public Records law.</li> </ul>
3	Do not do written performance appraisals	If there's a performance problem and no documented feedback, it makes it difficult to take whatever steps are necessary to terminate the employment		Not recommended.



## Selina Shaw

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**From:** Joseph S. Fair [REDACTED]  
**Sent:** Friday, December 05, 2014 3:01 PM  
**To:** 'Selina S. Shaw (sshaw@boxborough-ma.gov)'  
**Cc:** John Giorgio  
**Subject:** FW: Department Head performance appraisals  
**Attachments:** Department Head Performance Appraisals.docx

Selina:

I am writing in response to the follow-up questions contained in the attached document from Susan Bak regarding my earlier opinion on the subject of department head performance evaluation process. I can certainly appreciate her questions since this is an area of the law that is still somewhat undeveloped at least as it relates to the courts. As I noted previously, we are not in complete agreement with the Attorney General's interpretation of the Open Meeting Law as it relates to this area of the law and it is unknown whether a court would agree with the AG's interpretation. Notwithstanding this, however, the Attorney General's Office is responsible for the enforcement of the Open Meeting Law so the advice that we typically provide towns in this area is based on how we believe the Attorney General's Office would view the matter since it is likely that a court would give a certain amount of deference to the Attorney General's interpretation as the enforcing agency. With that caveat in mind, I will address each of the questions in the attached for each of the enumerated "options" to which they relate.

Option 1: Under this option, the Board liaison for a given department head would compile written feedback from the other Board members regarding the employee and create a composite performance evaluation based on same. Given the participation of a majority of the Board's members under this scenario, this option would have to be utilized in a manner that is consistent with the Open Meeting Law. As I previously advised, "[p]erformance evaluations and discussions of an employee's professional competence [by a multiple member board] must occur in open session." G.L. c. 30A, §21(a)(1); District Attorney for the Northern District v. School Committee of Wayland, 455 Mass. 561, 569 (2009). Thus, to the extent that Susan has asked whether the liaison could either meet with the department head privately to discuss the composite evaluation or simply provide the composite evaluation to the employee without any discussion, we would have concerns that the Attorney General would see this as a subterfuge designed to avoid the usual requirement under the Open Meeting Law that the discussion of an employee's performance by a multi-member board take place in open session. Given that the other Board members under this option would be involved in and thereby will have "participated" in the evaluation of this employee, albeit in writing, the Attorney General would likely find, in my opinion, that the Open Meeting Law would require the Board to discuss the employee's performance evaluation at a meeting and in open session. Thus, if this option were to be used, I would recommend that the composite evaluation be discussed by the Board and presented to the employee at a meeting and in open session. If this is done, then the composite evaluation would be a public record and subject to disclosure.

As I previously advised, however, it is not entirely clear at this time whether the individual Board member evaluations which are not discussed at a meeting would be considered by the Attorney General to be public records under the revised Open Meeting Law. At a minimum, it is clear that where a document is physically present, verbally identified, and the contents are discussed by members of a public body during an open session meeting; it has been "used" for purposes of the Open Meeting Law." OML 2013-64 citing OML 2012-42. In those cases where a document is used only by a non-member and not distributed to the body's members during a meeting, however, the Attorney General's Office has previously held that the document has not been "used" at the meeting for purposes of the Open Meeting Law. OML 2012-42. All of this would seem to suggest then that if individual evaluations are created by members of a public body and submitted to a non-member, e.g. Town Administrator, Administrative Assistant, etc., for compilation, but not discussed at the public body's meeting, the individual evaluations have not been "used" within the meaning

of the Open Meeting Law and would therefore not be subject to public disclosure. Although it is not entirely clear at this time if the Attorney General's Office would agree with this conclusion, in the event the Board of Selectmen elects to follow the Attorney General's guidance and have individual members submit evaluations for compilation into a master evaluation, I would recommend that the Board designate a non-member as the person responsible for compiling the evaluations and should refrain from any discussion or circulation of the individual evaluations among its members if it wishes to best preserve its ability to argue that the individual evaluations are exempt from public disclosure under the Open Meeting Law. If, however, the individual evaluations are provided to another Board member for compiling, then a greater potential exists for the Attorney General to conclude that, in addition to the composite evaluation, the individual evaluations would also be subject to public disclosure.

Option 2: In my opinion, having the individual Board liaison for a particular department head conduct the performance evaluation by himself/herself without any written or verbal feedback from any of the other Board members would fall outside of the Open Meeting Law and the various requirements related to same. As a result, the liaison could meet with the department head privately to discuss the evaluation and the evaluation would be exempt from disclosure under the Public Records Law as a personnel record. See Wakefield Teachers Association v. School Committee of Wakefield, 431 Mass. 792, 799 (2000). As Susan notes, however, the downside to this approach is that it excludes the other Board members from the process for that employee. As a result, the evaluation may not be an accurate assessment of the employee's overall performance since some Board members will potentially have had different experiences with the employee, both positive and negative.

Option 3: This option would call for the foregoing of performance evaluations altogether. This is not recommended for the reasons Susan has already cited along with a number of other reasons.

Please feel free to contact me if you or Susan have any questions. Thank you.

Joe

-----Original Message-----

From: Selina Shaw [mailto:sshaw@boxborough-ma.gov]  
Sent: Wednesday, November 19, 2014 5:47 PM  
To: Joseph S. Fair  
Cc: John Giorgio  
Subject: FW: Department Head performance appraisals

Good evening, Joe,

Meant to get this off to you sooner. Susan has been working very hard to understand what is permissible and even advisable, and what is not, with respect to Department Head performance reviews. She would like to bring this forward to the Board so they can get cracking with their reviews.

Susan organized her thoughts in the attached table and would like your responses to the questions posed. I am sure that she would also welcome any further comments that you may have on the matter. If you are able to get to this before Thanksgiving that would be great. If not, the following week would work. I have my thoughts on the some of the responses, but it is best to leave it to you. It's the public record ones which trip me up.

Look forward to your input.

Regards,  
Selina

Selina Shaw

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**From:** Joseph S. Fair [REDACTED]  
**Sent:** Wednesday, November 12, 2014 10:48 AM  
**To:** [REDACTED]  
**Cc:** Selina S. Shaw (sshaw@boxborough-ma.gov); John Giorgio  
**Subject:** Performance evaluations conducted by the Board of Selectmen

Susan:

I am writing in response to your inquiry last week regarding what process the Board of Selectmen may follow when conducting performance evaluations of employees. As I had mentioned when we spoke, there were a number of revisions to the Open Meeting Law that went into a few years back which altered to some extent the advice we had previously provided to clients on the subject. Additionally, the Attorney General's Office has issued a number of rulings, opinions and other published advice subsequent to the change in the law that are instructive on the issue. Although it is our opinion that the Attorney General's Office has interpreted some of the revisions to the Open Meeting Law too broadly as it relates to the subject of performance evaluations, particularly as it relates to whether the written performance evaluation instrument is no longer exempt from public disclosure as a "personnel record", the information that follows below reflects the positions that we believe the Attorney General's Office would likely take regarding the performance evaluation process. Furthermore, if the Attorney General's Office's interpretation of the Open Meeting Law as it relates to performance evaluations were to be challenged in court, there is a reasonable likelihood, in our opinion, that the Attorney General's interpretation would be given some deference by the court in light of the fact that the Open Meeting Law is a statute over which the Attorney General is responsible for enforcing.

Having said this, it continues to be the case that "[p]erformance evaluations and discussions of an employee's professional competence must occur in open session." G.L. c. 30A, §21(a)(1); District Attorney for the Northern District v. School Committee of Wayland, 455 Mass. 561, 569 (2009). However, to the extent that the Supreme Judicial Court ("SJC") had previously held in School Committee of Wayland that the actual drafting of the performance evaluation could take place in Executive Session so as to preserve the employee's privacy interests in his/her written performance evaluation instrument per the Public Records Law (see Wakefield Teachers Association v. School Committee of Wakefield, 431 Mass. 792, 799 (2000)), the Attorney General's Office has taken the view that written performance evaluations are no longer exempt under the revised Open Meeting Law. Instead, the Attorney General has ruled that "[s]imply stated, evaluations of the professional competence of public officials that are conducted by public bodies must be done publicly and in accordance with the requirements of the Open Meeting Law. Furthermore, all written evaluations completed by members of a public body, whether individual or comprehensive in nature, are public records and may be available to the public upon request following the completion of the evaluation process." OML-2011-24. In light of this, it is clear that the Attorney General's Office is of the opinion that the revised Open Meeting Law no longer allows a multi-member board to enter Executive Session for the purpose of drafting the written performance evaluation document itself.

With respect to the process that a multi-member board could now follow when conducting performance evaluations, the Attorney General's Office has provided the following guidance:

**May the individual evaluations of an employee be aggregated into a comprehensive evaluation?**

Yes. Members of a public body may individually create evaluations, and then submit them to an individual to aggregate into a master evaluation document to be discussed at an open meeting. Ideally, members of the public body should submit their evaluations for compilation to someone who is not a member of the public body, for example, an administrative assistant. If this is not a practical option, then the chair or other designated public body member may compile the evaluations. However, once the individual evaluations are submitted for aggregation there should be no deliberation among members of the public body regarding the content of the evaluations outside of an open meeting, whether in person or over email.

As the foregoing demonstrates, the Attorney General's Office has advised that members of a multi-member board may generate individual evaluations of an employee's performance and submit them to a designated individual who would in turn compile the members' individual submissions into a composite or master evaluation. Any and all discussion of the

composite evaluation and/or the individual evaluations by the members of the board, however, could only take place at a properly posted meeting in open session. To the extent that any of the individual evaluations and/or the composite evaluation are discussed by the board and used at a meeting, said evaluations would be considered public records under the Open Meeting Law. In this regard, the Attorney General's Office has offered the following:

**Are individual evaluations completed by members of public bodies public records?**

Yes. The Open Meeting Law carves out an exception from the personnel records exemption from the Public Records Law for "materials used in a performance evaluation of an individual bearing on his professional competence," that were created by members of a public body and used during a meeting. See G.L. c. 30A, §22(e). Individual evaluations created and used by members of a public body for the purpose of evaluating an employee are public records. Comprehensive evaluations that aggregate the individual public body members' evaluations are also public records if they are used during the course of a meeting. However, evaluations conducted by individuals who are *not* members of public bodies are *not* public records. For example, the individual evaluations created by municipal employees in response to a request for feedback on the town administrator are not public records, provided the employees completing the evaluations are not also members of the public body tasked with evaluating the town administrator's professional competency.

What is less clear, however, is whether evaluations which are not discussed at the meeting are considered public records under the revised Open Meeting Law. Interestingly, the Attorney General's Office states in the above that comprehensive evaluations are public records "if they are used during the course of a meeting." (emphasis added). Similarly, the Attorney General's Office notes that individual evaluations created and "used" by members of the public body for the purpose of evaluating an employee are public records. The Attorney General's Office has previously acknowledged that "[t]he Open Meeting Law does not define what it means for a document to be used at a meeting. At a minimum, it is clear that where a document is physically present, verbally identified, and the contents are discussed by members of a public body during an open session meeting; it has been "used" for purposes of the Open Meeting Law." OML 2013-64 citing OML 2012-42. In those cases where a document is used only by a non-member and not distributed to the body's members during a meeting, however, the Attorney General's Office has previously held that the document has not been "used" at the meeting for purposes of the Open Meeting Law. OML 2012-42. All of this would seem to suggest then that if individual evaluations are created by members of a public body and submitted to a non-member, e.g. Town Administrator, Administrative Assistant, etc., for compilation, but not discussed at the public body's meeting, the individual evaluations have not been "used" within the meaning of the Open Meeting Law and would therefore not be subject to public disclosure. Although it is not entirely clear at this time if the Attorney General's Office would agree with this conclusion, in the event the Board of Selectmen elects to follow the Attorney General's guidance above and have individual members submit evaluations for compilation into a master evaluation, the Board should designate a non-member as the person responsible for compiling the evaluations and should refrain from any discussion or circulation of the individual evaluations among its members if it wishes to preserve its ability to argue that the individual evaluations are exempt from public disclosure under the Open Meeting Law.

I hope the foregoing information is helpful. In the event that you or the Board of Selectmen have any questions, please do not hesitate to contact me.

Thank you.

Joe

*Joseph S. Fair, Esq.  
Kopelman and Paige, P.C.*

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and its attachments, if any, and destroy any hard copies you may have created and notify me immediately.

7b



**Acton-Boxborough Regional School District**  
**Superintendent's Office**  
16 Charter Road  
Acton, MA 01720  
978-264-4700 [www.abschools.org](http://www.abschools.org)

**Glenn A. Brand, Ed.D.**  
*Superintendent of Schools*

To: Members of the Acton –Boxborough Regional School Committee  
From: Glenn A. Brand  
Date: September 24, 2015  
Re: School Capital and Space Planning Committee

Throughout the last year it has become evident that there is an interest amongst members of our school community to establish a more refined focus on the capital and infrastructure needs of the district. With the recent launch of the Existing Conditions Study for the district, it is timely to consider formalizing such a focus as we begin to develop a clearer picture of the short and long-term needs of the district.

To this end, I am recommending that the School Committee establish a new committee that will focus on our infrastructure, capital and space planning needs. Perhaps most notable in this recommendation is my suggestion that this committee include a cross-section of members from the School Committee, town leaders, community and administrative representatives. A multifaceted approach will help ensure that all stakeholders in the Acton and Boxborough communities are informed of the related needs and priorities of the district moving forward.

With your approval to establish this committee, I would also recommend that you appoint two representatives to serve.

*Our Mission is to prepare all students to attain their full potential as life-long learners, critical thinkers, and productive citizens of our diverse community and global society.*

**ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT  
SCHOOL CAPITAL & SPACE PLANNING COMMITTEE**

**Overview:**

The *Acton-Boxborough Regional School District's School Capital & Space Planning Committee* (hereafter the Committee) will include regular members that represent the citizens of the two towns in addition to members of the school administration.

The work of the *Committee* will center on the following tasks:

- i) To review space usage alongside enrollment projections in the district's eight schools and pre-school facility.
- ii) To review the results of district-wide commissioned studies and reports that pertain to the district's buildings, grounds or campuses.
- iii) To assist in the annual review and development of the district's capital plan.

**Committee Members:**

The *Committee* shall include at a minimum the following members:

School Committee Representatives (2 – with one from each town)  
Community Volunteers (4 - with two from each town)  
Municipal/Town Representatives (2 with one from each town)  
Director of Facilities (1)  
Director of Personnel & Administrative Services (1)  
Superintendent of Schools (1)

\* Additional members of the ABRSD staff or administration may also be included as deemed appropriate.

The Committee will meet approximately every other month during the 2015-16 school year and report out to the ABRSD School Committee as necessary but no less than once a year. The Committee will also assist in the presentation of information related to the needs of the schools to citizens of the two towns from time-to-time as necessary and provide recommendations to the Superintendent as to how to disseminate relevant information.

7c



The Commonwealth of Massachusetts  
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY  
STATE 911 DEPARTMENT  
1380 Bay Street, Building C ~ Taunton, MA 02780-1088  
Tel: 508-828-2911 ~ TTY: 508-828-4572 ~ Fax: 508-828-2585  
[www.mass.gov/e911](http://www.mass.gov/e911)



**CHARLES D. BAKER**  
Governor

**DANIEL BENNETT**  
Secretary of Public Safety  
and Security

**FRANK POZNIAK**  
Executive Director

September 28, 2015

Selina S. Shaw  
Town Administrator  
Town of Boxborough  
520 Massachusetts Avenue  
Boxborough, MA 01719

Dear Ms. Shaw,

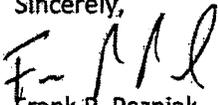
The Commonwealth of Massachusetts, State 911 Department would like to thank you for participating in the **FY 2016 State 911 Department Training Grant and EMD / Regulatory Compliance Grant** program.

For your files, attached please find a copy of the executed contract. Please note your contract start date is **September 28, 2015** and will run through June 30, 2016. Please keep in mind that there shall be no reimbursement for costs incurred prior to the effective date of the contract and all goods and services **MUST** be received on or before June 30, 2016.

Reimbursement requests should be submitted to the Department within **thirty (30) days** of the date on which the cost is incurred. We have made the request for payment forms available on our website [www.mass.gov/e911](http://www.mass.gov/e911). For any questions related to this process, please contact Michelle Hallahan at 508-821-7216. Please note that funding of reimbursement requests received more than three (3) months after the close of the fiscal year under which costs were incurred cannot be guaranteed.

If, in the future, you would like to make any changes to the authorized signatory, the contract manager, and/or the budget worksheet, please e-mail those proposed changes to [911DeptGrants@state.ma.us](mailto:911DeptGrants@state.ma.us). Grantees are strongly encouraged to submit final, year-end budget modification requests on or before April 30, 2016.

Sincerely,

  
Frank P. Pozniak  
Executive Director

cc: FY 2016 Training Grant and EMD / Regulatory Compliance Grant File

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at [www.mass.gov/osc](http://www.mass.gov/osc) under Guidance For Vendors - Forms or [www.mass.gov/osd](http://www.mass.gov/osd) under OSD Forms.

<b>CONTRACTOR LEGAL NAME:</b> Town of Boxborough (and d/b/a):	<b>COMMONWEALTH DEPARTMENT NAME:</b> State 911 Department <b>MMARS Department Code:</b> EPS
<b>Legal Address:</b> (W-9, W-4, T&C): 29 Middle Road Boxborough, MA 01719	<b>Business Mailing Address:</b> 1380 Bay Street, Building C, Taunton, MA 02780
<b>Contract Manager:</b> Selina S. Shaw	<b>Billing Address (if different):</b>
<b>E-Mail:</b> <a href="mailto:sshaw@boxborough-ma.gov">sshaw@boxborough-ma.gov</a>	<b>Contract Manager:</b> <i>Cindy Reynolds</i>
<b>Phone:</b> 978.264.1712 <b>Fax:</b> 978.264.3127	<b>E-Mail:</b> <a href="mailto:911DeptGrants@state.ma.us">911DeptGrants@state.ma.us</a>
<b>Contractor Vendor Code:</b> <i>VC6000191729</i>	<b>Phone:</b> 508-821-7299 <b>Fax:</b> 508-828-2585
<b>Vendor Code Address ID (e.g. "AD001"):</b> <i>AD001</i> (Note: The Address id Must be set up for EFT payments.)	<b>MMARS Doc ID(s):</b> CT EPS GRNT <b>RFR/Procurement or Other ID Number:</b> FY16 Training/EMD/Regulatory Compliance Grant
<p style="text-align: center;"><u>  X  </u> <b>NEW CONTRACT</b></p> <b>PROCUREMENT OR EXCEPTION TYPE:</b> (Check one option only) ___ <u>Statewide Contract</u> (OSD or an OSD-designated Department) ___ <u>Collective Purchase</u> (Attach OSD approval, scope, budget) <u>  X  </u> <u>Department Procurement</u> (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) ___ <u>Emergency Contract</u> (Attach justification for emergency, scope, budget) ___ <u>Contract Employee</u> (Attach <u>Employment Status Form</u> , scope, budget) ___ <u>Legislative/Legal or Other:</u> (Attach authorizing language/justification, scope and budget)	<p style="text-align: center;"><u>      </u> <b>CONTRACT AMENDMENT</b></p> Enter Current Contract End Date <u>Prior</u> to Amendment: _____, 20____ Enter Amendment Amount: \$ _____ (or "no change") <b>AMENDMENT TYPE:</b> (Check one option only. Attach details of Amendment changes.) ___ <u>Amendment to Scope or Budget</u> (Attach updated scope and budget) ___ <u>Interim Contract</u> (Attach justification for Interim Contract and updated scope/budget) ___ <u>Contract Employee</u> (Attach any updates to scope or budget) ___ <u>Legislative/Legal or Other:</u> (Attach authorizing language/justification and updated scope and budget)
The following <b>COMMONWEALTH TERMS AND CONDITIONS (T&amp;C)</b> has been executed, filed with CTR and is incorporated by reference into this Contract. ___ <u>Commonwealth Terms and Conditions</u> ___ <u>Commonwealth Terms and Conditions For Human and Social Services</u>	
<b>COMPENSATION:</b> (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. ___ <u>Rate Contract</u> (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <u>  X  </u> <u>Maximum Obligation Contract</u> Enter Total Maximum Obligation for total duration of this Contract (or <u>new</u> Total if Contract is being amended). \$ <u>10,000</u> .	
<b>PROMPT PAYMENT DISCOUNTS (PPD):</b> Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ___% PPD; Payment issued within 15 days ___% PPD; Payment issued within 20 days ___% PPD; Payment issued within 30 days ___% PPD. If PPD percentages are left blank, identify reason: <u>  X  </u> agree to standard 45 day cycle ___ statutory/legal or Ready Payments (G.L. c. 29, § 23A); ___ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)	
<b>BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT:</b> (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) <u>Contract is for the reimbursement of funds under the State 911 Department FY2016 Training and EMD/Regulatory Compliance Grant as authorized and awarded in compliance with grant guidelines and grantee's approved application.</u>	
<b>ANTICIPATED START DATE:</b> (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <u>  X  </u> 1. may be incurred as of the <u>Effective Date</u> (latest signature date below) and <u>no</u> obligations have been incurred <u>prior</u> to the <u>Effective Date</u> . ___ 2. may be incurred as of _____, 20____, a date <u>LATER</u> than the <u>Effective Date</u> below and <u>no</u> obligations have been incurred <u>prior</u> to the <u>Effective Date</u> . ___ 3. were incurred as of _____, 20____, a date <u>PRIOR</u> to the <u>Effective Date</u> below, and the parties agree that payments for any obligations incurred prior to the <u>Effective Date</u> are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.	
<b>CONTRACT END DATE:</b> Contract performance shall terminate as of <u>June 30, 2016</u> , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.	
<b>CERTIFICATIONS:</b> Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached <u>Contractor Certifications</u> (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable <u>Commonwealth Terms and Conditions</u> , this Standard Contract Form including the <u>Instructions and Contractor Certifications</u> , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in <u>801-CMR 21.07</u> , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.	
<b>AUTHORIZING SIGNATURE FOR THE CONTRACTOR:</b> X: <i>Selina S. Shaw</i> Date: <u>7/14/15</u> (Signature and Date Must Be Handwritten At Time of Signature)	<b>AUTHORIZING SIGNATURE FOR THE COMMONWEALTH:</b> X: <i>Frank Pozniak</i> Date: <u>9/24/15</u> (Signature and Date Must Be Handwritten At Time of Signature)
Print Name: <u>Selina S. Shaw</u> Print Title: <u>Town Administrator</u>	Print Name: <u>Frank Pozniak</u> Print Title: <u>Executive Director</u>

7d

Finance Committee



# Reserve Fund Transfer Request

Date: 9/30/15

It is requested by the undersigned that a sum not to exceed \$ 10,596 be transferred from the Reserve Fund to:

UMAS Acct. # 001-670-5821-SFBD

(Fund # - Dept. # - Object - Detail)

Description (e.g. Selectmen's expenses) Steele Farm Building Maintenance

An amount of \$90,000 was appropriated at Town Meeting for the CPC project (Line item #246-194-5821-1508) A Reserve Fund Transfer of \$7,000 was needed to fund the lowest bid contract. Those monies were transferred into the Steele Farm Bldg. Maint. Acct. The balance in the line item as of 9/30/15 (Date) is \$7,600. Additional funds are now requested for the reasons explained below. (Detailed explanation should include reasons for lack of funds, breakdown of known or estimated costs to be expended prior to June 30<sup>th</sup>, and any other pertinent information).

During the process of stripping the siding off the barn it was discovered that there was significant water and insect damage to the structural frame and wood sheathing boards of the barn. To maintain structural integrity this work must be completed now. Further, the work within the contract can not be completed without these repairs being first completed.

This request is for extraordinary or unforeseen expense and has been voted upon and approved by the majority of board or commission members, or in the case of a department, by the department head and Town Administrator, as indicated by the signatures below. Please also indicate name of board or commission.

<u>[Signature]</u>	(Signature)	<u>David Lindberg, Insp of Bldgs</u>	(Title)
<u>[Signature]</u>	(Signature)	<u>Selina Shaw, Town Administrator</u>	(Title)
<u>[Signature]</u>	(Signature)	<u>Edward Whitcomb, Chair- SFAC</u>	(Title)
<u>[Signature]</u>	(Signature)		(Title)

On the dates listed below, it was voted by the Board of Selectmen/Finance Committee to transfer the sum of \$ \_\_\_\_\_ from the Reserve Fund to UMAS Acct. # \_\_\_\_\_ to be used for the purposes and in the amounts indicated above.

<u>Board of Selectmen</u>	Date:	<u>Finance Committee</u>	Date:
_____		_____	
_____		_____	
_____		_____	
_____		_____	
_____		_____	

Copy to:	Initial Distribution Date Sent:	Notification of Finance Committee Action Date Sent:
Finance Committee	_____	_____
Department Head	_____	_____
Board of Selectmen	_____	_____
Town Administrator	_____	_____
Town Treasurer	_____	_____
Town Accountant	_____	_____



# Reserve Fund Transfer Request



Date: August 17, 2015

It is requested by the undersigned that the sum of \$ 7,000.00 be transferred from the Reserve Fund to:

UMAS Acct. # 001-670-5799-SFBD  
(Fund # - Dept # - Object - Detail)

Description (e.g. Selectmen's expenses) Steele Farm Bldg Maint

COPY

An amount of \$90,000 was appropriated at Town Meeting for the CPC project (Line item # 246-194-5821-1508) Because of the nature of the CPC account, the request is to transfer the monies to the Steele Farm "Department" line item indicated above. The balance in that line item as of Aug. 10, 2015 (Date) is \$ 600.00. An amount of \$ 600.00 was originally budgeted/appropriated. Additional funds are now requested for the reasons explained below. (Detailed explanation should include reasons for lack of funds, breakdown of known or estimated costs to be expended prior to June 30<sup>th</sup>, and any other pertinent information). Also, please list any previous requests for transfer during the fiscal year for this line item.

At the 2015 ATM, voters approved the CPC's request of \$90,000.00 for the renovation of the Steele farm barn exterior. The project was put out to bid. Two proposals were received and the low bid is \$ 96,750.00 by Kneeland Construction of Medford, MA. The transfer is requested to enable this project to be completed during this construction season.

This request is for extraordinary or unforeseen expense and has been voted upon and approved by the majority of board or commission members, or in the case of a department, by the department head and Town Administrator, as indicated by the signatures below. Please also indicate name of board or commission.

	(Signature)	<u>Chair Steele Farm Adv Comm</u>	(Title)
	(Signature)	<u>Town Administrator</u>	(Title)
	(Signature)	<u>Inspector of Building</u>	(Title)
	(Signature)		(Title)

On the dates listed below, it was voted by the Board of Selectmen/Finance Committee to transfer the sum of \$7,000.00 from the Reserve Fund to UMAS Acct. #001-670-5799-SFBD to be used for the purposes and in the amounts indicated above.

Board of Selectmen	Date:	Finance Committee	Date:
			8/20/15
			8/20/15
			8/20/15
	8-17-2015		8/20/15
			8/20/15

Copy to:	Initial Distribution Date Sent:	Notification of Finance Committee Action Date Sent:
Finance Committee	_____	_____
Department Head	_____	_____
Board of Selectmen	_____	_____
Town Administrator	_____	_____
Town Treasurer	_____	_____
Town Accountant	_____	_____

# KNEELAND

CONSTRUCTION CORPORATION

---

407R MYSTIC AVE SUITE 34B - MEDFORD MA 02155 TEL 781 393-9899  
FAX 781 393-0601 [www.kneelandconstruction.com](http://www.kneelandconstruction.com)

September 28, 2015

David Lindberg  
Inspector of Buildings  
29 Middle Road  
Boxborough, MA 01719

Via email: [mccartyg@weston.org](mailto:mccartyg@weston.org)

Re: Steele Farm Barn

Dear David,

Our price to replace 52 linear feet off rotted sill, 130 board feet of rotted sidewall plank sheathing and to repair/replace the rotted corner post at the northeast corner of the building is \$10,596.00. These figures coincide with the negotiations/conversation held on the job site by Jack Kenny from Kneeland and yourself on this date.

Please advise on how you would like to proceed.

Sincerely,

Carl O. Dumas  
Kneeland Construction Corporation

COD/sc





**Internal Communications and Outgoing Communications**  
**October 5, 2015**

1. Letter c/o of the MMA from MSA President [& Norwell Selectman] Ellen Allen, dated September 16, 2015, to the Selectmen inviting them to the MMA's Fall Conference for Selectmen to be held Saturday, October 3, 2015. #
2. Email communication from Mark White, dated September 19, 2015, to TA Shaw [cc. Selectmen] regarding Warren Ryder's Possible Townsend Role.#
3. Letter from the DLS Sr. Deputy Commissioner of Local Services, Sean Cronin, dated September 22, 2015, to Chairman Vince Amoroso congratulating Boxborough for entering into the Community Compact and providing an overview of the support that MassDOT will be providing as part of this partnership. \*
4. Communications regarding the Minuteman Regional School District:
  - a. Memorandum from Wayland Board of Selectmen Chair Cherry Karlson, dated September 21, 2015, to Chair, Boards of Selectmen of Minuteman Member Towns to request that an article to permit the Withdrawal of Wayland from the District be placed on a fall or spring Town Meeting Warrant.
  - b. Copy of a letter from Robyn Hunter [BoS Clerk], on behalf of the Town of Dover Board of Selectmen, dated September 24, 2015 to MRSC Chair Jeffrey Stulin, sharing Dover's position concerning the proposed building project and efforts to amend the Regional Agreement.
5. Memorandum from ABRSD Dir. Of Finance, Clare Jeannotte, dated October 1, 2015, to the A-B School Comm., Acton FinCom, Boxborough FinCom, Acton Selectmen and Boxborough Selectmen providing Financial Reporting per the Regional Agreement (Section 11 and Appendix A, Item 4e).\*
6. Copy of letter from Town Counsel, Jonathan Eichman, Kopelman & Paige, PC, dated September 29, 2015, to Attorney Michael Marsh, requesting that he record a Quitclaim Deed and Grant of Easement and accompanying materials [RE: Flagg Hill Road] with the Registry of Deeds.



8a (3)

# DLS

DIVISION OF LOCAL SERVICES  
MA DEPARTMENT OF REVENUE

Mark E. Nunnelly  
Commissioner of Revenue

Sean R. Cronin  
Senior Deputy Commissioner

September 22, 2015

Vince Amoroso  
Chairman, Board of Selectmen  
Town of Boxborough  
29 Middle Road  
Boxborough, MA 01719

Dear Chairman Amoroso:

Congratulations on entering into a Community Compact with the Baker-Polito Administration. Community Compacts create clear mutual standards, expectations, and accountability for both the state and municipalities as together we seek to create better government for our citizens.

We are excited to partner with Boxborough as you implement your chosen best practice:

*Regional Transportation Management Association: The Towns of Acton, Boxborough, Littleton, Maynard and Westford partner on CrossTown Connect (CTC) to expand transportation opportunities which promote economic development.*

Next Steps: MassDOT will:

- Play a leadership role and work with the 5 municipalities and the 2 regional transit agencies.
- Fund \$50K/yr for 3 years through CMAQ funding to support the CTC.
- Work with CTC to address first mile / last mile / reverse commute issues. The State is committed to changing the train schedule to make the current train arrive earlier in the morning and adding a second early morning train that will make it more viable to travel by transit to work. The implementation of these time changes cannot happen until construction is finished.
- Work with the CTC, the RTAs and local employers to convert the promise of reverse commuting into reality by investing and coordinating so that the last mile systems are created.
- Consider the need for additional parking for the Littleton transit station.

Sincerely,

Sean Cronin  
Senior Deputy Commissioner of Local Services

*Supporting a Commonwealth of Communities*

mass.gov/DLS  
P.O. Box 9569 Boston, MA 02114-9569  
(617) 626-2300

8a(5)



**Acton-Boxborough Regional School District**  
16 Charter Road  
Acton, MA 01720  
978-264-4700 www.abschools.org

To: Acton-Boxborough Regional School Committee, Acton Finance Committee, Boxborough Finance Committee, Acton Board of Selectmen, Boxborough Board of Selectmen

From: Clare Jeannotte, Director of Finance, Acton-Boxborough Regional School District

Date: October 1, 2015

RE: Financial Reporting per the Regional Agreement (Section 11 and Appendix A, Item 4e)

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Appendix A of the Agreement for a Regional School District for the Towns of Acton and Boxborough, Massachusetts (Regional Agreement), as revised effective July 1, 2004, under item 4 e states that:

“During each of the years from fiscal year 2015 to fiscal year 2019, the Region’s administration will report to the Regional School Committee and to the Finance Committee and the Board of Selectmen of each member town the per pupil costs of each elementary school. The purpose of this reporting will be to incentivize the convergence of per pupil costs at each elementary school. This reporting shall be made as part of the Annual Report described in Section 11.”

Section 11 of the Regional Agreement states that “The Committee shall on or before October 1 of each year submit an annual report to each of the member towns, containing a detailed financial statement, and a statement showing the method of computing the annual charges assessed against each town, together with such additional information relating to the operation and maintenance of the regional school as may be deemed necessary by the Committee or by the selectmen of any member town, and each member town shall include said report in its annual report.”

Thus, this section of the Annual Report is provided in accordance with the requirement of Appendix A, Item 4e.

Discussion:

The Region’s administration has worked with the Budget Subcommittee of the Acton-Boxborough Regional School District to determine a methodology for calculating per pupil costs

*Our Mission is to prepare all students to attain their full potential as life-long learners, critical thinkers, and productive citizens of our diverse community and global society.*

at each of the elementary schools in the region. These data are not currently calculated on a per school basis by the Department of Elementary and Secondary Education (DESE). To provide accurate reporting, consistent with the intent of the transition committee in drafting this requirement, we will report all expenditures that relate to student education directly, which includes expenditures for instructional services but excludes expenditures related to district leadership and administration, operation and maintenance of the plant, debt service, retirement and other fixed charges, programs with other school districts (e.g., out-of-district special education placements), and other related non-instructional expenditures.

Our approach will use data from the End-of-Year-Report (EOYR) for the fiscal year ended June 30, 2015 and the Student Information Management System (SIMS) data for October 1, 2014 counts of pupils in each school. We have decided to use the EOYR provided to the Department of Elementary and Secondary Education (DESE) as these data are reviewed by DESE, published and verifiable and, thus, provide the most accurate and transparent comparison across each of the elementary schools.

Because of this, however, the per pupil costs for each elementary school will not be available until at least January, but no later than March, 2016. Our EOYR is due to DESE by the end of October, 2015. DESE will then review the data and inform us of whether it is approved or whether information needs to be updated. In addition, agreed upon audit procedures are performed by our independent auditor under the guidelines published annually by DESE. Final approval from DESE typically comes in January or later the following year. Once we have approved data, we will compile the per pupil costs for each elementary school and share it with all of you and the public. Please let us know if you have any questions or concerns about this approach. To be clear, this is the approach we will use each year, so we will provide a general report like this one each October and then will provide an addendum the following January that provides the complete and approved data for the previous school year.

#### FOR INCLUSION IN THE ANNUAL REPORT:

As reported to each town at its 2015 Annual Town Meeting:

The Acton-Boxborough Regional School Committee created a sub-committee in the fall of 2013 to review the projected financial benefits of Regionalization proposed by the Regional School District Study Committee (RSDSC) and presented to both Town meetings in the spring of 2013.

*Our Mission is to prepare all students to attain their full potential as life-long learners, critical thinkers, and productive citizens of our diverse community and global society.*

The expectation is that the sub-committee will be in existence for five years. It currently consists of the following members:

- Acton Selectman - Janet Adachi
- Acton Finance Committee – Bob Evans
- Acton-Boxborough Regional School Committee– Michael Coppolino (Acton)
- Acton-Boxborough Regional School Committee – Mary Brolin (Boxborough)
- Boxborough Selectman – Vince Amoroso
- Boxborough Finance Committee – Jim Ham

The sub-committee held four public meetings in October, December, January and most recently, on March 26<sup>th</sup> [2015] and was supported by Central Office staff, including Superintendent Glenn Brand, Clare Jeannotte and Marie Altieri.

After reviewing in detail projected financial benefits, and comparing those with the budget approved by the Acton-Boxborough Regional School Committee to be presented here at Town Meeting, we concluded unanimously that: (1) the proposed FY '16 budget exceeds the Regionalization Study Group's projections, driven largely by lower than expected revenues, which accounts for approximately 60% of the discrepancy. In addition, expenses were higher, including significant increases in the District's OPEB contribution and Middlesex Retirement fees, as well as greater administrative costs attributable to State mandates, in particular the new educator evaluation system. And (2) the projected regionalization savings, cost cutting, and increased Regional transportation aid are accurate and consistent with estimates that were presented at both Acton and Boxborough Town Meetings in the Spring of 2013.





**Minutes, Notices and Updates**  
**October 5, 2015**

**Minutes**

1. Vocational Education Advisory Committee minutes from the meeting held August 25, 2015
2. Personnel Board minutes from the meeting held August 28, 2015.

**Notices**

1. Notices of A-B School Regional School District related meetings:
  - a. A-BRSC Policy Subcommittee meeting held September 24, 2015
  - b. Regular School Committee meeting held October 1, 2015
2. Notices of Vocational Education Advisory Committee meetings:
  - a. Held September 28, 2015
  - b. Held October 1, 2015
3. Notice of a Public Safety Communication Committee meeting to be held October 5, 2015
4. Notice of a Personnel Board meeting to be held October 7, 2015
5. Notice of a Library Trustees meeting to be held October 20, 2015
6. Legal Notices from Zoning Board of Appeals for a Public Hearings to be held October 20, 2015 to consider an application submitted by:
  - a. Phaneuf RT dba Lawn Barber, Inc. to erect a sign at the property located at 1034 Massachusetts Avenue.
  - b. Cummings Architects on behalf of Diana Lipari and Richard Hilton for building additions within the W-District buffer zone at the property located at 394 Littlefield Road.
  - c. Ed Whitcomb on behalf of SFAC for a special permit for building repairs within a W-District buffer zone at the property located at 484 Middle Road (Steele Farm).
  - d. Bonnie Shope, dba Veterinary Dental Services LLC to erect a sign at the property located at 530 Massachusetts Avenue.
7. Notices of Nashoba Associated Boards of Health related meetings held October 1, 2015:
  - a. Executive Committee Meeting
  - b. Quarterly Meeting