



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**March 19, 2012**

**Approved: April 23, 2012**

**PRESENT:** Raid Suleiman, Chair; Christine Robinson, Clerk; Frank Powers, Member; Rebecca Neville, Member and Les Fox, Member

**ABSENT:** Selina Shaw, Town Administrator

**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.

Chair Suleiman called the meeting to order at 7:15 P.M. in the Grange Meeting Room of Town Hall.

*The Selectmen took Agenda Items # 7c, 8a and 5a, out of order*

*At this point, Chair Suleiman turned chairmanship over to Member Robinson and recused himself from discussion on Agenda Items #7c and 8a.*

**OLD BUSINESS**

- Member Powers re-opened discussion on the revisions to Police Department Policies. Most of these revisions were minor changes to the previously presented language. Member Powers moved to accept the Police Department policies for: Interacting with the Mentally Ill; Transportation of Detainees; Holding Facility; Detainee Processing; Detaining Prisoners; Temporary Holding Facilities and Protective Custody, as revised. Seconded by Member Neville. **Approved 4-0-1 (Suleiman abstained).**

**NEW BUSINESS**

- Member Powers presented a Reserve Fund Transfer Request related to the installation of two new, gas powered, tankless hotwater tanks at the Police Station. FinCom has been advised of this request. Member Powers moved to forward to the Finance Committee for approval the request to transfer \$1,888.30 from the Reserve Fund to account #01-210-5200-5242 (Police Dept Expense Repair Building/Grounds). Seconded by Member Fox. **Approved 4-0-1 (Suleiman abstained).**

*Chairmanship was returned to Chair Suleiman.*

**MINUTES**

- Member Neville moved to accept the minutes for the Regular session of February 6, 2012, as revised. Seconded by Member Powers. **Approved 5-0.**

**ANNOUNCEMENTS**

- Chair Suleiman read the announcements.

*The Selectmen took Agenda Items # 6, and 7b, out of order*

**SELECTMEN REPORTS**

- Member Neville and Member Robinson had nothing new to report.
- Member Powers reported that he and Member Fox had met with the Police union this morning.

He also reported that the Well-Being Committee has concerns that FinCom has eliminated the mental health component from the Board of Health's FY 13 budget.

- Member Fox reported on items before the Housing Board. The BHB has been contacted by the Acton Housing Authority regarding the existing agreement that AHA has with Boxborough - allowing our residents to apply for housing in Acton. AHA is seeking some form of reciprocation. A developer has advised the BHB that they are in the initial stages of developing 40B housing in the Old Town Center. Planner Hughes has forwarded the preliminary information. Also the Housing Board has retained a consultant to do a Housing Needs Assessment.

He also reported that the Public Employee Committee is working on the mitigation plan for FY 13 health insurance benefits. He outlined some of the procedures and deadlines that must be adhered to.

Member Fox also reported that he and DPW Garmon had a very informative discussion with representatives of Waste Management Partners regarding recycling, compacting, and hauling.

- Chair Suleiman reported he has been working to prepare for BLF.

He also reported that the Energy Committee is working on its Town Meeting presentation.

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

- Discussion was opened on Annual/Special Town Meeting. Members of the School Committee were present to this discussion. It was noted that the School Committee's "Sense of the Meeting" article will be the first item of business on the second night of Town meeting. The School Committee will be providing revised language for the warrant. Based on communications with Town Counsel it was determined that the article regarding Teachers Union agreement would be removed from the warrant. Member Neville moved that the proposed article to approve the cost items of the collective bargaining agreement between the School Committee and the Boxborough Teachers' Union be removed from Boxborough's 2012 Town Meeting warrant. Seconded by Member Powers. **Approved 5-0.**

It was clarified that the Special Town Meeting Article regarding the leasing of the Boxborough Community Center is being presented by the Selectmen not the Council on Aging. The Selectmen began to vote their article recommendations and assigning the writing of said recommendations. Discussion was suspended so the public hearing could be conducted.

### **PUBLIC HEARING**

- At 7:50 PM Chair Suleiman opened the public hearing to consider the proposed laying out and acceptance of Hughes Lane. The public hearing process and procedures were reviewed. No member of the public was present for this hearing. The recommendations supporting this from DPW Director Garmon, Town Planner Hughes & the consulting engineer; plans and the proposed warrant article were reviewed. The hearing was closed at 7:55 PM. Member Fox moved to approve the laying out of Hughes Lane per the final as-built plans. Seconded by Member Powers. **Approved 5-0.**

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

- The Town Meeting discussion continued. There will be no change to the current ordering of the articles. The consensus was that any discussion on the third sergeant position would be handled under the operating budget article. The Emergency Medical Dispatch Capital Article for computer software and training has been pulled, since the vendor will be providing these items. Discussion was, again suspended, so the School Study Committee could do their presentation

### **APPOINTMENTS**

- Regional School Study Committee member, Mary Brolin, spoke to a PowerPoint presentation regarding the Administrative Structure Options that are currently under review. Other members of the Study School Committee were also present. Brolin reviewed and summarized the issues facing the Boxborough School District. The existing administrative structure is unsustainable. This presentation's focus was on the unionizing or "job sharing" option; a follow up to the regionalizing option presentation of March 13<sup>th</sup>. She reviewed the positive and negative aspects of the unionizing option and comparisons to regionalization. There was discussion about potential concerns and the issues that would need to be addressed if Town Meeting decided to support exploring regionalization. It was determined that the Selectmen would provide recommendation(s) on this Sense of the Meeting article.

**OLD BUSINESS (Continued)**

The Selectmen completed their discussion on article recommendations.

<b>Special Town Meeting</b>				
<b>Department/Board</b>	<b>Nature of Article</b>	<b>Author of Recomm</b>	<b>Vote to Recomm</b>	<b>Comments</b>
Minuteman Regional	Amend FY 12 Assessment [add'l capital share of Trades Hall remediation project]	MM Rep. Mahoney		
BoS CoA	Lease of Community Center from UCC	Powers	FP/RN 4-1	

<b>Annual Town Meeting</b>				
<b>Department/Board</b>	<b>Nature of Article</b>	<b>Author of Recomm</b>	<b>Vote to Recomm</b>	<b>Comments</b>
	Choose Town Officers	Pro forma	RN/LF 5-0	
	Receive Reports	Pro forma	RN/LF 5-0	
	Set Salaries and Compensation of Officers	Pro forma	RN/LF 5-0	
Personnel Board	Amend Schedules A & B	Neville	RN/LF 5-0	
Finance Committee	Approve the cost items of the collective bargaining agreement between the Town and the Massachusetts Coalition of Police, Local 200, Police	Powers	LF/FP4-0-1	
Finance Committee	Approve the cost items of the collective bargaining agreement between the Town and the Boxborough Professional Firefighters Association, Local 4601	Powers/Fox	LF/FP 5-0	
Finance Committee	Approve the cost items of the collective bargaining agreement between the Town and Massachusetts Coalition of Police, Local 200A, Dispatch	Powers/Fox	LF/FP 5-0	
<del>Finance Committee</del>	<del>Approve the cost items of the collective bargaining agreement between the Boxborough School Committee and the Boxborough Teachers Association</del>			Voted to remove RN/FP 5-0
Finance Committee	Town Operating Budget	Deferred to 3/26	Deferred to 3/26	
Boxborough School Committee	Sense of the meeting – Boxborough School District/ Blanchard Elementary School Administrative Structure - Job Sharing, K-12 Regionalization with Acton			1 <sup>st</sup> Item 2 <sup>nd</sup> Night
	K - 12 Regionalization with Acton	Neville	LF/CR 5-0	
	Job Sharing	Neville	RN/CR 1-4	
	<b><i>Rescind vote pending actual Article language from SC.</i></b>		RN/FP 4-1	
AB Regional S. C.	AB Regional Schools Lower Fields	None		
Finance Committee	Transfer \$ from Free Cash to Stabilization Fund	Suleiman	RN/FP 5-0	
Board of Selectmen (Treasurer)	Transfer \$ from Free Cash to OPEB Trust Fund	Suleiman	RN/FP 5-0	
Board of Selectmen/ Boxborough School Comm/ Library Board of Trustees	Emergency Generators – Hager Well & Blanchard Memorial School	Neville	RN/FP 5-0	
Board of Selectmen (DPW)	Generator – Public Works (CP)	Fox	LF/RN 5-0	
Board of Selectmen (DPW)	Field Mower – Public Works (CP)	Fox	LF/RN 5-0	
Board of Selectmen (DPW)	Consultant to perform preliminary design study of Transfer Station	Fox	LF/RN 5-0	
Board of Selectmen	Capital Improvements:	Suleiman	CR/RN 5-0	

<b>Annual Town Meeting</b>				
<b>Department/Board</b>	<b>Nature of Article</b>	<b>Author of Recomm</b>	<b>Vote to Recomm</b>	<b>Comments</b>
(Town Hall)	Painting exterior <b>(CP)</b>			
Board of Selectmen (Town Hall)	Add 10 hr./week staff position to provide support to Tax Collector & Treasurer [for est. purposes, used 30C on Sched B and rounded to next \$100]	Suleiman	CR/RN 5-0	
Board of Selectmen (Police Department)	Refurbish/rebuild a 2006 marked police cruiser <b>(CP)</b>	Powers/Robinson	FP/RN 4-0-1	
Board of Selectmen (Police Department)	Police Cruiser (Chief's command vehicle)	Powers/Robinson	FP/RN 4-0-1	
Board of Selectmen (Fire Department)	Install AC system in day room and office areas <b>(CP)</b>	Neville	RN/LF 5-0	
BoS (Fire Department)	Emergency Response Command Vehicle <b>(CP)</b>	Neville	RN/LF 5-0	
<del>BoS (Public Safety Dispatch)</del>	<del>Emergency Medical Dispatch – Training, Quality Assurance &amp; Related Software</del>			Vendor providing
Boxborough School Committee	Capital Improvements: Replace roof <b>(CP)</b>	None		
Boxborough School Committee	Capital Improvements: Repair of Blanchard Memorial School's mortar and masonry <b>(CP)</b>	None		
Boxborough School Committee	Capital Improvements: Carpet replacement <b>(CP)</b>	None		
Boxborough School Committee	Capital Improvements: Replace current gym & library lighting <b>(CP)</b>	None		
Boxborough School Committee	Capital Improvements: Fencing around school perimeter <b>(CP)</b>	None		
Boxborough School Committee	Two way radios <b>(CP)</b>	None		
Boxborough School Committee	Bill of a Prior Fiscal Year (MTRS)	None		
Library Board of Trustees	Capital Improvements: Paint exterior <b>(CP)</b>	None		
Planning Board	Consultant to conduct build-out analysis	None		
Conservation Commission	Transfer to ToB Conservation Trust Fund <b>(CP)</b>	Powers/Robinson	FP/LF 5-0	
Agricultural Commission	Right to Farm Bylaw	Neville	RN/LF 5-0	
Planning Board	Amend Zoning Bylaw – to add a definition for Landscaping Services Use and Landscaping Contractor Use... and to amend Table of Uses to so include	None		
Planning Board	To acquire by eminent domain an easement for sidewalk purposes (Middle Road from Mass Ave to Town Hall) NB: Need to take by eminent domain. Acquisition was approved last year, but motion was for it to be gifted...	None		
Board of Selectmen	Establish Revolving fund for field permit fees – to be used to help offset field maintenance expense	Robinson	CR/FP 5-0	
Petition Article (Frances Nolde)	Sense of Meeting - Resolution to Support Passage of a Constitutional Amendment Defining Rights of Individual Persons	Suleiman	Pass over	
Petition Article (Philip Kicelemos)	All funding articles to be approved by election (in addition to Town Meeting vote)	Neville	Pass over	
Board of Selectmen [Consent]	Close out old articles:	Pro Forma	RN/LF 5-0	
Board of Selectmen [Consent]	Road acceptance – Hughes Lane	Pro Forma	RN/LF 5	

Annual Town Meeting				
Department/Board	Nature of Article	Author of Recomm	Vote to Recomm	Comments
[Consent]	Personal real estate exemptions – increase in exemptions (purely housekeeping... each year need to accept Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988)	Pro Forma	RN/LF 5	
[Consent]	Chapter 90 appropriation (Reimbursable)	Pro Forma	RN/LF 5	
Board of Selectmen [Consent]	Revolving Fund - GIS Assessor Map (for the payment and expenditure of fees to update the GIS Assessor Map) (\$5,000) – amend to include collection of fees from copying to be used for plotter supplies expense	Pro Forma	RN/LF 5	
Board of Selectmen [Consent]	Reauthorize Revolving Funds: <ul style="list-style-type: none"> <li>• Community Gardens (\$2,000)</li> <li>• Electrical Inspection (\$50K)</li> <li>• Plumbing and Gas Inspection (\$15K)</li> <li>• Fire Arms Permits (\$2,000)</li> <li>• Library Fines (\$7,500)</li> <li>• Dog License Fees (\$4,000)</li> <li>• Steele Farm (\$10,000)</li> <li>• Integrated Preschool Program (\$44,000)</li> <li>• ConsComm Wetland Bylaw (\$20,000)</li> <li>• Senior Van (for expenses and revenues associated with operation of the van) (\$4,000)</li> <li>• Fire Alarm System Maintenance (\$4,100)</li> </ul>	Pro Forma	RN/LF 5	

**CONCERNS OF THE BOARD**

- There was discussion on the proposal, by a resident, to renovate the Steele Farm barn. Ms. Kealty will be asked to present this at a meeting after the warrant is set. The stakeholders will also be informed of the meeting date, once set.
- Member Powers advised that the pump for the water system at the Police Station has failed and needs to be replaced. This failure affects not just the potable water but also the fire suppression systems. Chief Ryder has consulted with DPW Dir. Garmon and the contractor that manages the public water system on this.

**ADJOURN**

- At 9:47 PM, Member Neville moved to adjourn. Seconded by Member Robinson. **Approved 5-0.**

## SELECTMEN'S ANNOUNCEMENTS

MARCH 19, 2012

*The necessary contact information is available at the end of these announcements.*

- **Boxborough's Annual Town Meeting** will be held on **Monday, May 14<sup>th</sup>** at the Blanchard Memorial School. More details will be provided in the coming months.
  
- **The FY 2013 budget process has begun. The current draft budget is available on the Town's website (Home page, under "NEWS").** You are encouraged to attend Selectmen, Finance Committee, School Committee and Library Trustee meetings at all times, but especially during the budget season. Please check the web calendar for meeting dates. Your input is important.
  
- **Nomination papers are still available for elected town offices** at the Town Clerk's office, Boxborough Town Hall, 29 Middle Road. The annual Town Election will be held May 21<sup>st</sup>. Offices that will be on this year's ballot are:
  - 2 seats on the Board of Selectmen, and
  - 2 seats on the Library Board of Trustees.There is also one seat available on the:
  - Board of Health
  - Planning Boardand the Local School Committee, and on both the Regional and Local Committees. The positions of:
  - Tax Collector, and
  - Town Moderatorwill also be on the ballot. The last day to file completed papers is, April 2<sup>nd</sup> at 5:00 PM.

- All dogs in Massachusetts are required to be licensed annually. **The deadline to renew your dog license for 2012 was March 10<sup>th</sup>.** If you have not already licensed your dog, you will now be charged a late fee of \$25.00. Applications can still be obtained at Town Hall or downloaded from the town website.
  
- Town Departments welcome your questions and feedback on services. Please contact them through the email hyperlink appearing on each department's web page, give them a call or stop in to chat. If you are unable to stop in during normal office hours, don't hesitate to call and make an appointment for a mutually convenient time outside of normal hours.
  
- The Selectmen want to hear from you and invite residents to contact them regarding issues of concern. The Board can be contacted via e-mail from the link on the Selectmen's webpage.
  
- The Board of Selectmen continues to look for volunteers willing to serve on the various Town boards and committees, many of which have openings. Please consider participating. You will find it to be a worthwhile and rewarding experience. No matter what your knowledge or interest is, we can use your help in making Town government work.

- Contact information is available on the town website: <http://www.town.boxborough.ma.us> or you may call Town Hall at 978-263-1116 if you have any questions.
  
- The Selectmen can be contacted directly at [selectmen@town.boxborough.ma.us](mailto:selectmen@town.boxborough.ma.us).
  
- If you wish to find out more about volunteer opportunities on Town boards or committees contact Town Administrator Selina Shaw [Selina.shaw@town.boxborough.ma.us](mailto:Selina.shaw@town.boxborough.ma.us)
  
- For more information on Dog licensing or the Annual Town Election can be found on the Town Clerk's webpage or you may call Town Clerk, Liz Markiewicz at 978-263-1116 extension 117.



**BOARD OF SELECTMEN**  
**Meeting Agenda**  
**Boxborough Town Hall**  
**Grange Meeting Room**  
**March 19, 2012**

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

**2. ANNOUNCEMENTS**

**3. APPOINTMENTS**

- a) School Committee – Administrative Structure Options
- b) Citizens' Concerns

**4. PUBLIC HEARING**

- a) Proposed laying out and acceptance of Hughes Lane, 7:40 PM  
*Move to approve the laying out of Hughes Lane per the final as-built plans*

**VOTE:**

**5. MINUTES**

- a) Regular session, February 6, 2012

**ACCEPT & POF**

**6. SELECTMEN REPORTS**

**7. OLD BUSINESS**

- a) FY 13 Budget
- b) Annual/Special Town Meeting
- c) Police Department Policies
  - i. *Interacting with the Mentally Ill*
  - ii. *Transportation of Detainees*
  - iii. *Holding Facility*
  - iv. *Detainee Processing*
  - v. *Detaining Prisoners*
  - vi. *Temporary Holding Facilities*
  - vii. *Protective Custody*

**8. NEW BUSINESS**

**9. CORRESPONDENCE**

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

**ACCEPT & POF**

**10. PRESS TIME**

**11. CONCERNS OF THE BOARD**

**12. ADJOURN**



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Laying Out of Public Ways – Hughes Lane

**LEGAL NOTICE  
BOXBOROUGH BOARD OF SELECTMEN  
PUBLIC HEARING**

The Board of Selectmen will hold a public hearing on Monday, March 19, 2012 at 7:40 p.m. in the Grange Meeting Room, Boxborough Town Hall, 29 Middle Road, on the proposed laying out and acceptance of Hughes Lane.

All are welcome to attend.

Per Order  
Board of Selectmen

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**LAYING OUT OF PUBLIC WAYS  
HUGH LANES  
LEGAL NOTICE  
BOXBOROUGH BOARD OF  
SELECTMEN  
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The Board of Selectmen will hold a public hearing on Monday, March 19, 2012 at 7:40 p.m. in the Grange Meeting Room, Boxborough Town Hall, 29 Middle Road, on the proposed laying out and acceptance of Hughes Lane.

All are welcome to attend.

Per Order  
Board of Selectmen

AD#12697358  
Beacon Acton 3/8/12

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**ARTICLE 42 ROAD ACCEPTANCE – HUGHES LANE\*\***

(Majority vote required)

To see if the Town will accept as a public way the following street or portion thereof, as laid out by the Board of Selectmen according to a plan on file with the Town Clerk and to authorize the Board of Selectmen to take the fee or easement in said street by eminent domain or otherwise, including easements for drainage, utility or other purposes where shown on said plan or described in the Order of Layout:

Hughes Lane

The metes and bounds description of Hughes Lane are as follows:

See Exhibit A attached hereto

The parcel herein described is shown as Hughes Lane on a plan entitled, "Fair Oaks Park, Definitive Subdivision of Land in Boxborough, Massachusetts", Prepared for: Landwest Development, LLC, Date: September, 2002, Revised March, 2003, May 28, 2003 and July 29, 2003, recorded on March 8, 2004 as Plan No. 218 of 2004.

Subject to and together with easements and restrictions of record insofar as the same may be still in force and applicable.

And to authorize the Board of Selectmen to acquire, by purchase, eminent domain, gift or otherwise, for highway purposes, the fee or any lesser interests, as well as easements for drainage, utility, sidewalk, slope and otherwise, in any lands that may be necessary for said Town way; and to determine whether the Town will appropriate money therefor to be provided by taxation, by appropriation from available general funds, by borrowing under the provisions of Chapter 44 of the General Laws or otherwise or take any action relative thereto.

The easements conveyed are described as follows:

1. The perpetual right and construction easement over, under and upon that certain strip of land forty (40') feet wide situated adjacent to and parallel with Hughes Lane, on the above referenced plan, for the purpose of accommodating completion and maintenance of the subdivision roadway and drainage system, including but not limited to, drainage structures and facilities, lot grading, easement monumenting, and loaming and seeding. Without limiting the generality hereof, said easement includes the right to perform grading, and to deposit fill and other material necessary for the construction, drainage, support, and maintenance of said Hughes Lane and includes the right to enter upon said areas with materials, vehicles and equipment in order to effectuate this easement.
2. The perpetual right and easement over, under and upon that portion of land being shown as "50' Wide Drainage and Sidewalk Easement" over a portion of Lot BZ on the above referenced plan, for the purpose of installing, constructing, and maintaining drainage facilities of all types and kinds and for the purpose of the construction, reconstruction and maintenance of sidewalks. Without limiting the provisions hereof, said grant of easement includes the right to enter onto said Lot BZ, with any and all material and equipment necessary to effectuate this easement, the right to install, construct and maintain any and all drainage facilities, and the right to pass and repass over the sidewalks once constructed, within the easement area that may be necessary to effectuate the easement. If the Grantee exercises any rights under this reservation, then, the Grantee shall reasonably restore the disturbed premises to the approximate condition then in existence prior to the exercise of any rights herein. Said Easement Area is more particularly described as Easement A on Exhibit B attached hereto.
3. The perpetual right and construction easement over, under and upon that certain strip of land situated adjacent to and parallel with the northeasterly boundary of Lot 8 with Lot BZ and being shown as "Drainage and Public Access Easement", on the above referenced plan, for the purpose of installing, constructing and maintaining drainage facilities of all types and kinds, together with the right to enter

onto the easement area by foot or with vehicles and machinery, for the purpose of access and maintaining the drainage facilities and detention basin situated within the "Drainage and Public Access Easement" area on said Lot BZ, and for the purpose of access, by foot only, to Parcel C as shown on the Plan. Said Easement Area is more particularly described as Easement B on Exhibit B attached hereto.

4. The perpetual right and construction easement over, under and upon that certain strip of land situated adjacent to and parallel with the northeasterly boundary of Lot 8 with Lot BZ and being shown as "Drainage and Public Access Easement", on the above referenced plan, for the purpose of installing, constructing and maintaining drainage facilities of all types and kinds, together with the right to enter onto the easement area by foot or with vehicles and machinery, for the purpose of access and maintaining the drainage facilities and detention basin situated within the "Drainage and Public Access Easement" area on said Lot 8, and for the purpose of access, by foot only, to Parcel C as shown on the Plan. Said Easement Area is more particularly described as Easement C on Exhibit B attached hereto
5. The perpetual right and construction easement over, under and upon that certain strip of land on Lot 5A being shown as "Drainage and Public Access Easement", on a plan entitled, Plan of Land, Hughes Lane, Boxborough, Massachusetts" Prepared for: Landwest Development, LLC, 148 Park Street, No. Reading, MA 01864, dated February 1, 2005, and recorded with the Middlesex South District Registry of Deeds as Plan No. 401 of 2005, for the purpose of installing, constructing and maintaining drainage facilities of all types and kinds, together with the right to enter onto the easement area by foot or with vehicles and machinery, for the purpose of access and maintaining the drainage facilities and detention basin situated within the "Drainage and Public Access Easement" area on said Lot 8, 5A, and for the purpose of access, by foot only, to Parcel C as shown on the Plan. The Easement Area is also shown on the above first referenced plan. Said Easement Area is more particularly described as Easement D on Exhibit B attached hereto.
1. The perpetual right and construction easement over, under and upon that certain strip of land on Lot 5A being shown as "Access Easement", on a plan entitled "Easement Plan, Lots 5A & 6A, Hughes Lane, Boxborough, Massachusetts, Prepared for: Landwest Development, LLC, 148 Park Street., No. Reading, MA 01864, Scale: 1 inch = 60 feet, Date: July 7, 2005, and recorded with the Middlesex South District Registry of Deeds as Plan No. 1057 of 2005, the above referenced plan, for the purpose of installing, constructing and maintaining drainage facilities of all types and kinds, together with the right to enter onto the easement area by foot or with vehicles and machinery, for the purpose of access and maintaining the drainage facilities and detention basin situated within the "Access Easement" area on said Lot 8, 5A, and for the purpose of access, by foot only, to Parcel C as shown on the Plan. Said Easement Area is more particularly described as Easement E on Exhibit B attached hereto.
6. The perpetual right and easement over, under and upon that portion of land being shown as "50' Wide Drainage and Sidewalk Easement" over a portion of Lot 1 on the above first referenced plan, for the purpose of installing, constructing, and maintaining drainage facilities of all types and kinds and for the purpose of the construction, reconstruction and maintenance of sidewalks. Without limiting the provisions hereof, said grant of easement includes the right to enter onto said Lot 1, with any and all material and equipment necessary to effectuate this easement, the right to install, construct and maintain any and all drainage facilities, and the right to pass and repass over the sidewalks once constructed, within the easement area that may be necessary to effectuate the easement. If the Grantee exercises any rights under this reservation, then, the Grantee shall reasonably restore the disturbed premises to the approximate condition then in existence prior to the exercise of any rights herein. Said Easement Area is more particularly described as Easement A on Exhibit F attached hereto.

All installation, maintenance, use, repair, replacement and removal hereby authorized shall be done in such a manner as not to interfere unreasonably with the surface or aerial uses of said Easement Area. Whenever any surface is disturbed by authority of this instrument, it shall be restored with reasonable promptness to substantially its condition prior to such disturbance.

PROPOSED WARRANT ARTICLE  
D. BRUCE WHEELER, TRUSTEE OF FAIR OAKS PARK REALTY TRUST

To see if the Town will accept as a public way the following street or portion thereof, as laid out by the Board of Selectmen according to a plan on file with the Town Clerk and authorize the Board of Selectmen to take the fee or easement in said street by eminent domain or otherwise, including easements for drainage, utility or other purposes where shown on said plan or described in the Order of Layout:

Hughes Lane

The metes and bounds description of Hughes Lane are as follows:

See Exhibit A attached hereto

The parcel herein described is shown as Hughes Lane on a plan entitled, "Fair Oaks Park, Definitive Subdivision of Land in Boxborough, Massachusetts", Prepared for: Landwest Development, LLC, Date: September, 2002, Revised March, 2003, May 28, 2003 and July 29, 2003, recorded on March 8, 2004 as Plan No. 218 of 2004.

Subject to and together with easements and restrictions of record insofar as the same may be still in force and applicable.

And to authorize the Board of Selectmen to acquire, by purchase, eminent domain, gift or otherwise, for highway purposes, the fee or any lesser interests, as well as easements for drainage, utility, sidewalk, slope and otherwise, in any lands that may be necessary for said Town way; and to determine whether the Town will appropriate money therefor to be provided by taxation, by appropriation from available general funds, by borrowing under the provisions of Chapter 44 of the General Laws or otherwise or take any action relative thereto.

The easements conveyed are described as follows:

1. The perpetual right and construction easement over, under and upon that certain strip of land forty (40') feet wide situated adjacent to and parallel with Hughes Lane, on the above referenced plan, for the purpose of accommodating completion and maintenance of the subdivision roadway and drainage system, including but not limited to, drainage structures and facilities, lot grading, easement monumenting, and loaming and seeding. Without limiting the generality hereof, said easement includes the right to perform grading, and to deposit fill and other material necessary for the construction, drainage, support, and maintenance of said Hughes Lane and includes the right to enter upon said areas with materials, vehicles and equipment in order to effectuate this easement.

2. The perpetual right and easement over, under and upon that portion of land being shown as "50' Wide Drainage and Sidewalk Easement" over a portion of Lot BZ on the above referenced plan, for the purpose of installing, constructing, and maintaining drainage facilities of all types and kinds and for the purpose of the construction, reconstruction and maintenance of sidewalks. Without limiting the provisions hereof, said grant of easement includes the right to enter onto said Lot BZ, with any and all material and equipment necessary to effectuate this easement, the right to install, construct and maintain any and all drainage facilities, and the right to pass and repass over the sidewalks once constructed, within the easement area that may be necessary to effectuate the easement. If the Grantee exercises any rights under this reservation, then, the Grantee shall reasonably restore the disturbed premises to the approximate condition then in existence prior to the exercise of any rights herein. Said Easement Area is more particularly described as Easement A on Exhibit B attached hereto.

3. The perpetual right and construction easement over, under and upon that certain strip of land situated adjacent to and parallel with the northeasterly boundary of Lot 8 with Lot BZ and being shown as "Drainage and Public Access Easement", on the above referenced plan, for the purpose of installing, constructing and maintaining drainage facilities of all types and kinds, together with the right to enter onto the easement area by foot or with vehicles and machinery, for the purpose of access and maintaining the drainage facilities and detention basin situated within the "Drainage and Public Access Easement" area on said Lot BZ, and for the purpose of access, by foot only, to Parcel C as shown on the Plan. Said Easement Area is more particularly described as Easement B on Exhibit B attached hereto.

4. The perpetual right and construction easement over, under and upon that certain strip of land situated adjacent to and parallel with the northeasterly boundary of Lot 8 with Lot BZ and being shown as "Drainage and Public Access Easement", on the above referenced plan, for the purpose of installing, constructing and maintaining drainage facilities of all types and kinds, together with the right to enter onto the easement area by foot or with vehicles and machinery, for the purpose of access and maintaining the drainage facilities and detention basin situated within the "Drainage and Public Access Easement" area on said Lot 8, and for the purpose of access, by foot only, to Parcel C as shown on the Plan. Said Easement Area is more particularly described as Easement C on Exhibit B attached hereto

5. The perpetual right and construction easement over, under and upon that certain strip of land on Lot 5A being shown as "Drainage and Public Access Easement", on a plan entitled, Plan of Land, Hughes Lane, Boxborough, Massachusetts" Prepared for: Landwest Development, LLC, 148 Park Street, No. Reading, MA 01864, dated February 1, 2005, and recorded with the Middlesex South District Registry of Deeds as Plan No. 401 of 2005, for the purpose of installing, constructing and maintaining drainage facilities of all types and kinds, together with the right to enter onto the easement area by foot or with vehicles and machinery, for the purpose of access and maintaining the drainage facilities and detention basin situated within the "Drainage and Public Access Easement" area on said Lot 8, 5A, and for the purpose of access, by foot only, to Parcel C as shown on the Plan. The Easement Area is also shown on the above first referenced plan. Said Easement Area is more particularly described as Easement D on Exhibit B attached hereto.

6. The perpetual right and construction easement over, under and upon that certain strip of land on Lot 5A being shown as "Access Easement", on a plan entitled "Easement Plan, Lots 5A & 6A, Hughes Lane, Boxborough, Massachusetts, Prepared for: Landwest Development, LLC, 148 Park Street., No. Reading, MA 01864, Scale: 1 inch = 60 feet, Date: July 7, 2005, and recorded with the Middlesex South District Registry of Deeds as Plan No. 1057 of 2005, the above referenced plan, for the purpose of installing, constructing and maintaining drainage facilities of all types and kinds, together with the right to enter onto the easement area by foot or with vehicles and machinery, for the purpose of access and maintaining the drainage facilities and detention basin situated within the "Access Easement" area on said Lot 8, 5A, and for the purpose of access, by foot only, to Parcel C as shown on the Plan. Said Easement Area is more particularly described as Easement E on Exhibit B attached hereto.

7. The perpetual right and easement over, under and upon that portion of land being shown as "50' Wide Drainage and Sidewalk Easement" over a portion of Lot 1 on the above first referenced plan, for the purpose of installing, constructing, and maintaining drainage facilities of all types and kinds and for the purpose of the construction, reconstruction and maintenance of sidewalks. Without limiting the provisions hereof, said grant of easement includes the right to enter onto said Lot 1, with any and all material and equipment necessary to effectuate this easement, the right to install, construct and maintain any and all drainage facilities, and the right to pass and repass over the sidewalks once constructed, within the easement area that may be necessary to effectuate the easement. If the Grantee exercises any rights under this reservation, then, the Grantee shall reasonably restore the disturbed premises to the approximate condition then in existence prior to the exercise of any rights herein. Said Easement Area is more particularly described as Easement A on Exhibit F attached hereto.

All installation, maintenance, use, repair, replacement and removal hereby authorized shall be done in such a manner as not to interfere unreasonably with the surface or aerial uses of said Easement Area. Whenever any surface is disturbed by authority of this instrument, it shall be restored with reasonable promptness to substantially its condition prior to such disturbance.

Exhibit A  
**LEGAL DESCRIPTION**

**HUGHES LANE  
BOXBOROUGH, MASSACHUSETTS**

A certain road located in Middlesex County, Massachusetts in the Town of Boxborough which has been laid out for acceptance as a public way. This roadway was originally shown on a plan entitled, Fair Oaks Park, Definitive Subdivision of Land in Boxborough, Massachusetts", Prepared for: Landwest Development, LLC, Date: September, 2002, Revised March, 2003, May 28, 2003 and July 29, 2003, recorded on March 8, 2004 as Plan No. 218 of 2004, Middlesex South District Registry of Deeds.

Beginning on the westerly sideline of Hughes Lane at the intersection of Massachusetts Avenue at a concrete bound with a drill hole being located S 76° 15' 01" E 21.27' from a Massachusetts highway bound.

Thence along the southerly sideline of Massachusetts Avenue S 76° 15' 01" E 90.00' to an iron pin set in concrete being the point of beginning

Thence on a curve to the left with a radius of 20' a distance of 31.42' to a concrete bound with a drill hole.

Thence S 13° 44' 59" W 217.48' to a concrete bound with a drill hole.

Thence on a curve to the right with a radius of 1,525.00' a distance of 220.18' to a concrete bound with a drill hole.

Thence S 22° 01' 19" W 532.64' to a concrete bound with a drill hole.

Thence on a curve to the right with a radius of 69.00' a distance of 324.38' to a concrete bound with a drill hole.

Thence on a curve to the left with a radius of 20.00' a distance of 31.19' to a concrete bound with a drill hole.

Thence N 22° 01' 19" E 443.65' to a concrete bound with a drill hole.

Thence on a curve to the left with a radius of 1,475.00' a distance of 212.96' to a concrete bound with a drill hole.

Thence N 13° 44' 59" E 217.48' to a concrete bound with a drill hole.

Thence on a curve to the left with a radius of 20.00' a distance of 31.42' to a concrete bound with a drill hole on the sideline of Massachusetts Avenue being the point of beginning.

Containing 62,121 SF and is 50' wide as laid out by said plan.

Exhibit B

**EASEMENT DESCRIPTIONS  
HUGHES LANE  
BOXBOROUGH, MASSACHUSETTS**

Easement A

LOT BZ

Drainage and sidewalk easement

Drainage and sidewalk easement on Lot BZ located in Fair Oaks Park on the easterly sideline of Hughes Lane as shown on Plan Number 218 of 2004 recorded in the Middlesex Registry of Deeds Southern District.

Beginning on the southerly sideline of Hughes lane at the intersection of Massachusetts Avenue at a concrete bound with a drill hole.

Thence along the southerly sideline of Massachusetts Avenue S 76 15 01 E 335.08' to a corner.

Thence continuing along Massachusetts Avenue S 66 15 26 E 172.72' to a corner of Parcel C.

Thence along Parcel C S 23 44 34 W 50.00' to a corner.

Thence N 66 15 26 W 168.35' to a corner.

Thence N 76 15 01 W 350.71' to the sideline of Hughes Lane.

Thence along Hughes lane N 13 44 59 E 30.00' to a concrete bound with a drill hole.

Thence on a curve to the right with a radius of 20.00' a distance of 31.42' to a concrete bound with a drill hole being the point of beginning.

Containing 26,086 SF+/-

Easement B

LOT BZ

Drainage and public access easement

Drainage and public access easement on Lot BZ located in Fair Oaks Park on the easterly sideline of Hughes Lane as shown on Plan Number 218 of 2004 recorded in the Middlesex Registry of Deeds Southern District.

Beginning at the lot line between Lot BZ and Lot 8 on the easterly sideline of Hughes Lane.

Thence along the lot line between lot BZ and Lot 8 S 76 15 01 E 333.51' to a corner.

Thence N 70 57 35 W 330.49' to the sideline of Hughes Lane.

Thence by the sideline of Hughes lane S 22 01 19 W 30.80' to the point of beginning.

Containing 5,083 SF+/-

Easement C

LOT 8

Drainage and public access easement

Drainage and public access easement on Lot 8 located in Fair Oaks Park on the easterly sideline of Hughes Lane as shown on Plan Number 218 of 2004 recorded in the Middlesex Registry of Deeds Southern District.

Beginning at the lot line between Lot BZ and Lot 8 on the easterly sideline of Hughes Lane.

Thence along the lot line between lot BZ and Lot 8 S 76 15 01 E 333.51' to a corner.

Thence along Lot BZ N 66 15 26 E 128.99 to a corner at Parcel C.

Thence along Parcel C S 29 32 06 W 180.52' to the corner of Lot 7.

Thence along Lot 7 N 71 12 52 W 141.68' to a corner.

Thence N 19 02 25 E 147.72' to a corner.

Thence N 70 57 35 W 286.64' to the sideline of Hughes Lane.

Thence along Hughes Lanes N 22 01 19 E 10.62' to the point of beginning.

Containing 36,029 SF+/-

Easement D

LOT 5A

Drainage and public access easement

Drainage and public access easement on Lot 5A located in Fair Oaks Park on the southerly sideline of Hughes Lane as shown on Plan Number 218 of 2004 recorded in the Middlesex Registry of Deeds Southern District.

Beginning at the lot line between Lot 5A and Lot 4 on the southerly end of Hughes Lane.

Thence S 32 18 57 E 104.72 to a stone wall at lane now or formerly Zartarian.

Thence along the stonewall and land of Zartarian S 63 34 46 E 6.78' to a corner.

Thence along the stonewall and land of Zartarian S 53 21 07 E 23.65' to a corner.

Thence along the stonewall and land of Zartarian S 45 53 02 E 49.83' to a corner at land nor or formerly Childs.

Thence along Childs land S 44 34 14 E 298.46' to Parcel C.

Thence along Parcel C N 29 32 06 E 232.59' to the corner of Lot 6.

Thence along Lot 6 N 57 33 26 W 228.77' to a corner.

Thence S 32 26 34 W 155.18' to a corner.

Thence N 45 53 02 E 145.82' to a corner.

Thence N 32 18 57 W 55.10' to the sideline of Hughes Lane.

Thence on a curve to the right with a radius of 69.00' a distance of 32.60' to the point of beginning.

Containing 52,307 SF+/-

Easement E

LOT 5A

Access easement

Access easement on Lot 5A located in Fair Oaks Park on the easterly sideline of Hughes Lane as shown on Plan Number 1057 of 2005 recorded in the Middlesex Registry of Deeds Southern District.

Beginning at the lot line between Lot 5A and Lot 6A on the easterly side of Hughes Lane.

Thence along Lot 6A S 12 17 19 E 13.34' to a concrete bound with a drill hole.

Thence along Lot 6A S 76 03 01 E 51.12' to a concrete bound with a drill hole.

Thence along Lot 6A S 46 00 19 E 33.64' to a concrete bound with a drill hole.

Thence along Lot 6A S 57 33 26 E 69.95' to a corner.

Thence S 32 26 34 W 20.00' to a corner.

Thence N 57 33 26 W 71.96' to a corner.

Thence N 46 00 19 W 33.30' to a corner.

Thence N 76 03 01 W 56.29" easterly sideline of Hughes Lane.

Thence on a curve to the left with a radius of 69.00' a distance of 3.85' to a concrete bound with a drill hole.

Thence along the easterly sideline of Hughes Lane N 22 01 19 E 28.45' to the point of beginning.

Containing 3,253 SF+/-

Easement F

Lot 1

Sidewalk and Drainage easement.

Sidewalk and Drainage easement on Lot 1 in Fair Oaks Park located at the intersection of Hughes Lane with Massachusetts Avenue as shown on Plan Number 218 of 2004 recorded in the Middlesex Registry of Deeds Southern District.

Beginning at the intersection of Lot 1 and land now or formally woods with the southerly sideline of Massachusetts Avenue at the centerline back of a Massachusetts highway bound.

Thence by Massachusetts Avenue S 76 15 01 E 21.27 to a concrete bound with a drill hole at the intersection of Hughes Lane.

Thence along Hughes Lanes on a curve to the right with a radius of 20.00' a distance of 31.42' to a concrete bound with a drill hole.

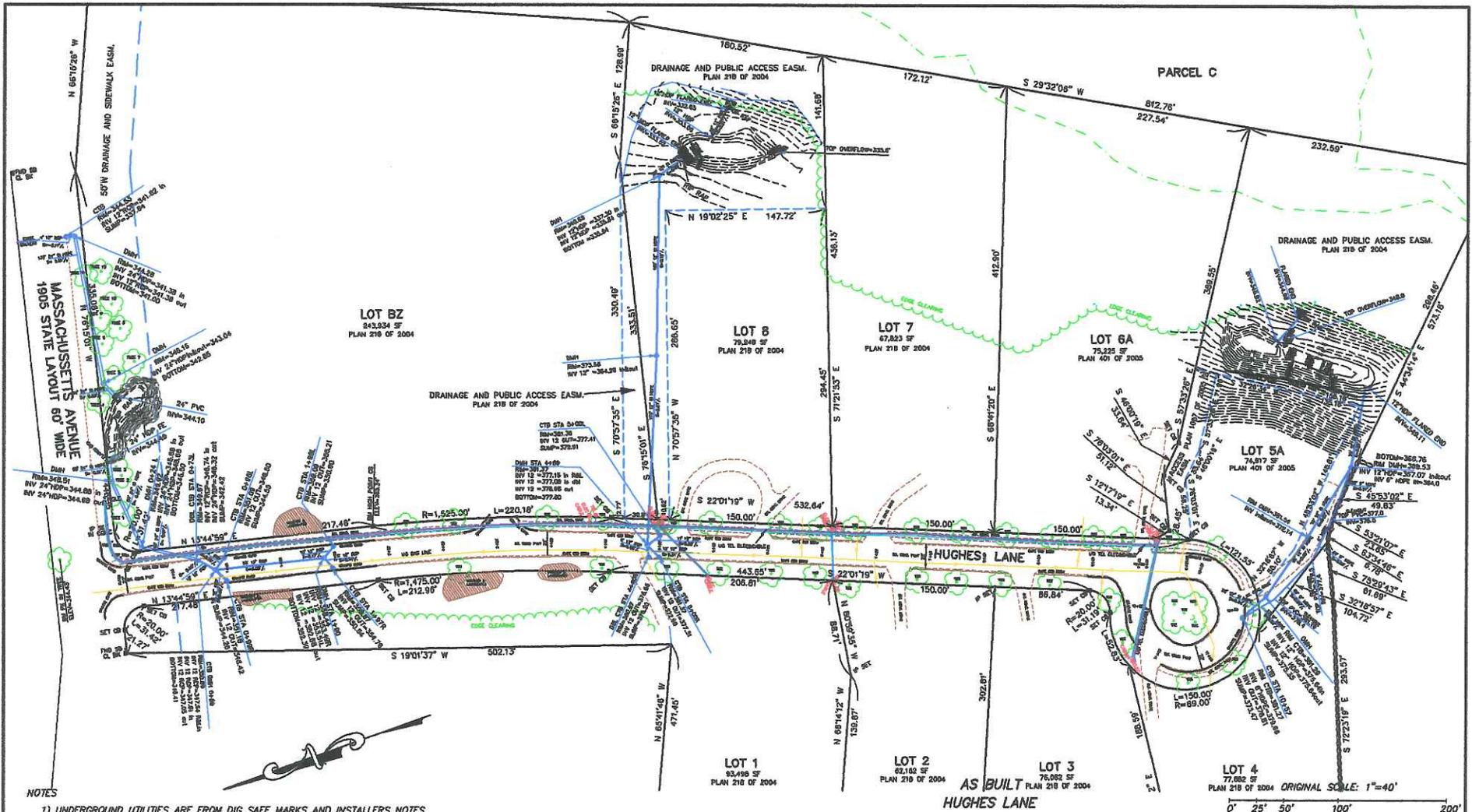
Thence along Hughes Lane S 13 44 59 W 30.00' to a corner.

Thence N 76 15 01 W 45.89' to land now or formally Woods.

Thence along land of Woods N 19 01 37 E 50.21' to the centerline back of a Massachusetts highway bound being the point of beginning.

Containing 2,093 SF+/-





- NOTES
- 1) UNDERGROUND UTILITIES ARE FROM DIG SAFE MARKS AND INSTALLERS NOTES. DIG SAFE SHOULD BE CALLED OUT TO PHYSICALLY MARK OUT UNDERGROUND UTILITIES PRIOR TO ANY EXCAVATION.
  - 2) INFORMATION ON THIS PLAN IS THE RESULT OF AN ON THE GROUND SURVEY.

REVISED 1/16/12  
 JANUARY 4, 2007  
 DATE

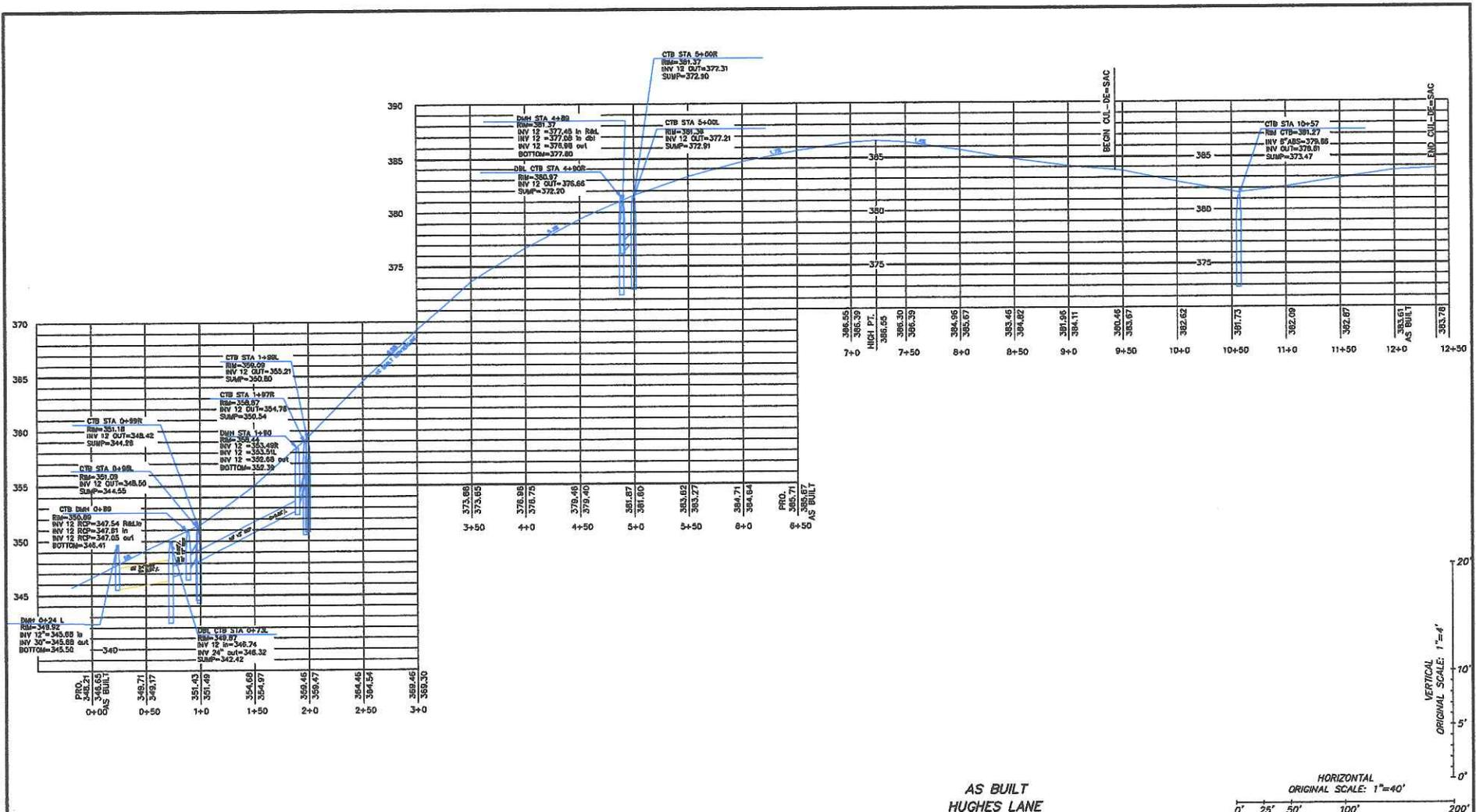


ROSE MARY CHALK  
 P.L.S. NO. 32090

<b>BOXBOROUGH PLANNING BOARD</b>
APPROVAL UNDER SUBDIVISION CONTROL
LAW NOT REQUIRED.
DATE:

SHEET 1 OF 2  
 PLAN OF LAND IN  
 BOXBOROUGH, MASS.  
 FOR  
 LANDWEST DEVELOPMENT,  
 LLC. REVISED 1/16/12  
 SCALE: 1"=40' JANUARY 4, 2007  
 ROSE LAND SURVEY  
 P.O. BOX 384  
 WEST GROTON, MASS. 01472  
 978-433-9320  
 JOB NO. R-129 PLAN NO. M-285AB





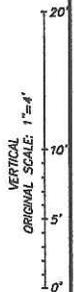
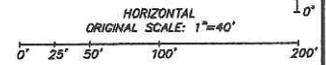
- REFERENCES:
- 1) PLAN 218 OF 2004
  - 2) PLAN 401 OF 2005
  - 3) PLAN 402 OF 2005
  - 4) PLAN 1057 OF 2005

REVISED 1/16/12  
 JANUARY 4, 2007  
 DATE



ROSE MARY CHAULK  
 P.L.S. NO. 32090

AS BUILT  
 HUGHES LANE



**BOXBOROUGH PLANNING BOARD**  
 APPROVAL UNDER SUBDIVISION CONTROL  
 LAW NOT REQUIRED.  
 DATE: \_\_\_\_\_

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SHEET 2 OF 2  
 PLAN OF LAND IN  
 BOXBOROUGH, MASS.  
 FOR  
 LANDWEST DEVELOPMENT,  
 LLC. REVISED 1/16/12  
 SCALE: 1"=40' JANUARY 4, 2007  
 ROSE LAND SURVEY  
 P.O. BOX 384  
 WEST GROTON, MASS. 01472  
 978-433-9320  
 JOB NO. R-129 PLAN NO. M-285AB



42

**From:** DPW [mailto:dpw@town.boxborough.ma.us]  
**Sent:** Monday, March 19, 2012 1:48 PM  
**To:** Elizabeth Hughes; 'Becky Neville'; Christine Robinson; 'Frank Powers'; 'Les Fox'; 'Raid Suleiman'; 'Selina Shaw'  
**Cc:** Cheryl.Mahoney@town.boxborough.ma.us  
**Subject:** Re: Hughes Lane

Good afternoon,

Over the past year, I have done several visual inspections of the roadway and found the road to be in good condition with no evidence of any issues. I recommend that the Town accept the roadway. Once accepted, this road will be added to the DPW maintenance schedule.

Thomas Garmon  
Director, DPW  
Town of Boxborough  
978-263-1600  
[dpw@town.boxborough.ma.us](mailto:dpw@town.boxborough.ma.us)

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

**From:** Elizabeth Hughes  
**To:** 'Becky Neville' ; Christine Robinson ; 'Frank Powers' ; 'Les Fox' ; 'Raid Suleiman' ; 'Selina Shaw'  
**Cc:** Cheryl.Mahoney@town.boxborough.ma.us ; 'Tom Garmon (DPW)'  
**Sent:** Monday, March 19, 2012 11:36 AM  
**Subject:** FW: Hughes Lane

Good morning everyone,

Attached is the review letter from the Town's consulting engineer regarding Hughes Lane. There are no issues with the construction of the roadway that impact the functionality of the road or require modifications prior to accepting the road as a public way.

Please let me know if you need anything else at this time and whether you would like me to attend the meeting tonight.

Elizabeth

Elizabeth Hughes, Town Planner  
Town of Boxborough  
29 Middle Road  
Boxborough, MA 01719  
(978) 263-1116 x112  
(978) 264-3127 fax



# *PLACES Site Consultants, Inc.*

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PLANNING, LANDSCAPE ARCHITECTURE, CIVIL ENGINEERING & SURVEYING

March 19, 2012

Boxborough Planning Board  
29 Middle Street  
Boxborough, MA 01719

Re: Hughes Lane  
As-Built Plan Review  
PLACES Project No. 818

Dear Board Members:

This office has reviewed the As-built plans for Hughes Lane by Rose Land Survey dated Jan. 16, 2012 and the original approved plans dated July 29, 2003 and modification dated February 12, 2004. In addition, we have contacted the contractor who constructed the drainage system who has confirmed that there were field changes made in the size (upgraded to larger pipe size) approved by the Town Engineer at the time of construction.

We have several minor drafting errors (transposed numbers and one missing structure) but none of these impact on the public hearing but should be corrected for the record plans. I will be identifying these under a separate letter to get the final plans completed.

Please contact the undersigned at the Littleton office should you have further questions or need clarification of these comments. Thank you.

Very truly yours,  
PLACES Site Consultants, Inc.  
BY:

Susan E. Carter, P.E., LEED AP  
Project Manager

---

510 King St., Suite 9, Littleton, MA 01460  
(978) 486-0334 Fax: (978) 486-0447  
places.littleton@verizon.net

694 Main Street, Suite 3, Holden, MA 01520  
(508) 829-0333 Fax: (508) 829-0904  
places @verizon.net





**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**February 6, 2012**

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

**PRESENT:** Raid Suleiman, Chair; Christine Robinson, Clerk; Frank Powers, Member; Rebecca Neville, Member and Les Fox, Member

**ALSO PRESENT:** Selina Shaw, Town Administrator (appeared at: 7:50 PM) and 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.

Chair Suleiman called the meeting to order at 7:30 P.M. in the Grange Meeting Room of Town Hall.

**ANNOUNCEMENTS**

Chair Suleiman read the announcements.

**MINUTES**

- The Selectmen passed over approval of the Regular Session minutes of January 23, 2012.
- Member Powers moved to accept the minutes for the Regular Session of January 9, 2012, as revised. Seconded by Member Neville. **Approved 5-0.**
- Member Powers moved to accept the minutes for the Executive Sessions of January 30, 2012 and January 31, 2012, as written. Seconded by Member Neville. **Approved 4-0-1 (Powers abstained)**

**SELECTMEN REPORTS**

- Member Neville reported that she attended a recent Personnel Board meeting.

She also reported on school related activities:

The work of the Regional School Study Committee continues. Potential savings have been identified. There has also been discussion on the enrollment trends/projections.

The School Committee also continues its exploration of the other two proposed models.

Discussion continues on the proposed ABRHS lower fields improvement project. Acton CPA funding is no longer being considered and the Current funding proposal is to have the District bond a portion.

**DOG HEARING**

At 7:45 PM Chair Suleiman convened a dog hearing to consider further complaints filed regarding, the dog(s), owned by Janine Bush, 109 Steele Lane, Foxborough. Chair Suleiman reviewed the dog hearing process and ground rules: order of testimony (complainant, complainant's witnesses, owner/keeper, owner/keeper's witnesses); 10 minute limit on testimony per witness; witnesses shall not be permitted to question one another; civility; swearing in of witnesses, i.e. testimony on oath; and no verbatim transcription of the proceedings, but minutes will be taken. Town Clerk Markiewicz, swore in those who intended to provide testimony, Thomas Keim, Teresa Lee and Foxborough Dog Officer, Phyllis Tower. The list of those present for this hearing is provided and incorporated by reference. Mr. Keim asked why a formal hearing was necessary, instead of just issuing a violation citation. Chair Suleiman advised that this was not the first violation of the dog control bylaw or hearing concerning the dogs owned by Ms. Bush. Chair Suleiman summarized the findings of the August 23, 2010 hearing and expressed concern that Ms. Bush is not complying with the Board's order. It was further noted that this is not the first reported violation since the Selectmen's 2010 order was issued. Before opening the discussion portion of the hearing, Chair Suleiman stated that dog owner, Janine Bush, had advised she would not be attending and a statement she had provided would be read during the owner/keeper response portion of the hearing procedure. The Complainant in the current matter, Thomas Keim, was invited to testify. Keim testified that he had never been bitten before in all his years of jogging and described the actions he takes when he is approached by an aggressive dog. Chair Suleiman read Ms. Bush's written statement into the record. Dog Officer, Phyllis Tower, testified that although she had spoken on the phone with both Mr. Keim and yourself, she was not present during the incident and relied on Mr. Keim's complaint and statement. It was noted that all parties in the complaint had agreed that Mr. Keim was bitten by

Buddy. After testimony was concluded, the Board of Selectmen discussed the matter. It was confirmed that although Ms. Bush had previously appeared before the Selectmen for a dog hearing, this was the first reported incident involving Buddy. Member Powers sought clarification regarding whether or not Buddy was wearing the electric fence collar at the time of the incident. Keim stated that he was more concerned other matters to notice the dog's collar. He did state that he had not noticed if Ms. Bush's daughter had the collar in her possession when she retrieved the dog but that the dog was clearly in distress (yelping) when the girl brought the dog back onto Bush's property. Member Powers sought input from the Dog Officer on the effectiveness of electric fences and whether they could be penetrated. The Dog Officer confirmed that while an electric fence system serves as a deterrent, it is not 100% foolproof and should not be used as the sole means of control; it is a tool that is effective when combined with direct owner supervision. The Dog Officer then recommended three options to the Board for controlling these dogs owned by Ms. Bush: while outside the house, an adult must walk the dogs on a lead/leash in combination with a restraining collar, such as a Martindale or choke chain; the dogs must wear a correctly fitted muzzle at all times while outside the house and be directly supervised by an adult. The muzzle should be used in combination with the electric fence; or the installation of an outdoor kennel, at least six feet in height. Such installation should be inspected by a building official and a Selectman to verify that it is secure and in compliance with the issued order. The Dog Officer presented examples of each of these options. The Selectmen were polled and the consensus was that Ms. Bush would be presented with all three options. She would be required to choose one of these options and implement it within 10-14 days of receiving notification of this order. It was further clarified that should she choose to build a kennel structure she would have to implement one of the two other options until the kennel was completed and approved. Also it would be communicated that if there are further problems Ms. Bush would be brought back before the Selectmen and stricter enforcement options could be implemented. Mr. Keim stated he felt this determination was reasonable.

Chair Suleiman, on behalf of the Selectmen, made the following order:

Pursuant to provision of the General Law Chapter 140 §157 the Town held a hearing on February 6, 2012. Witnesses, including the complainant, were duly sworn and testified. Exhibits were presented which are incorporated into this decision by reference. It was determined that on November 26, 2011, "Buddy" a dog, owned by Janine Bush of 109 Steele Lane, did leave the Bush property and without provocation; did attack Thomas Keim on a public way, biting him on the leg. This incident occurred in violation of a standing order previously issued by the Selectmen on August 23, 2010. It is determined by this Board that within ten to fourteen days of receiving notification of this order, dog owner Janine Bush shall implement one of three above-mentioned options to control her dog. She shall have the choice to determine which option to implement; however, said choice shall be made in consultation with the Dog Officer, Phyllis Tower. If the dog's owner elects to build a kennel structure, she shall implement one of the other two options until the kennel has been completed and approved as indicated above. The Dog Officer shall report back to the Board of Selectmen to confirm the owner's compliance with this order. The Board emphasized that any further violations of this or the previous order or of the Dog Control Bylaw would be subject to more severe penalties.

Mr. Keim agreed that the Board's determination in the matter was reasonable.  
The hearing was closed at 8:15 PM.

## **APPOINTMENTS**

The Selectmen took up discussion on athletic field maintenance in Boxborough. DPW Director, Tom Garmon, was present for this discussion. David Scheuer of Acton-Boxborough Youth Sports was unable to be here. TA Shaw and Dir. Garmon have met with ABYS representatives and members of the Boxborough Recreation Commission to discuss ABYS's concerns as to how field maintenance will be managed now that the new field usage policy is in place. ABYS has no intention of pulling back on its commitment as to field maintenance in Boxborough, however they do have some concerns, specifically the mechanisms for the lining of the fields for non-ABYS users and how to handle the coordination of field usage specification requests (field lining) between the Town and ABYS. There was discussion as to what responsibilities ABYS had previously taken on and how to manage field management as we move forward. At this meeting there was discussion about having similar meetings periodically in order to keep the lines of communication, among the stakeholders, open and creating a Memorandum of Agreement to address respective responsibilities & clarify procedures. The Selectmen instructed TA Shaw to prepare an initial draft of an MOA. The Selectmen would like to keep an eye on the new field usage procedures as we move forward and review its progress at an upcoming meeting.

## **SELECTMEN REPORTS (Continued)**

- Member Powers reported that he had participated in a meeting with the police union this morning.

He also reported that TA Shaw has contacted the candidate for the building inspector position and he is coming in next week.

Member Powers reported that he has prepared an initial draft of a letter to the MBTA Advisory Council providing the Selectmen's input on proposed increases and cuts in services. Member Fox will review same.

- Member Fox reported that MAPC will also be drafting a letter to the MBTA Advisory Council providing their input on these proposed changes.

Member Fox reported that he attended a MAGIC meeting. Our regional representative is moving on and Acton's Franny Osman has agreed to take on this responsibility. He also learned that at least three other towns are, also, in discussion on expanding/improving playing fields.

- Member Robinson reported that the Police Advisory Board is having another meeting next week.
- Member Neville reported that a representative from Stone Consulting will be coming in to present their report on the department head compensation survey. The Library Board of Trustees, and the department heads will be invited to attend. Hard copies will be provided at the meeting. The Selectmen should have electronic copies by the end of the week, and were asked were to provide their questions/concerns to TA Shaw as soon as possible. She will forward them onto Stone Consulting so the consultant can address them when they present their report. It was determined that next week's meeting will convene at 6:30 PM and this shall be the first item on the agenda.

#### **NEW BUSINESS**

- A draft of a proposed Code of Conduct was provided for the Selectmen to review so they could provide input at a future meeting.

#### **APPOINTMENTS**

- Finance Committee member, Gary Kushner and other members of the Committee, were present to discuss the Town's Capital Plan. Kushner provided a PowerPoint presentation on this. The Capital Plan is a tool – a view forward in order to anticipate expenses and dollar amounts are intended as placeholders. An expense is considered a capital expenditure if it is \$5,000 or greater. Also, though not technically "Capital expenditures," expenses that are in excess of \$5,000 in a department's operating budget are in the Capital Plan for planning purposes. Department heads provide the information and have input as to when items should be addressed. There was a review of the preliminary list of proposed capital articles and other expenditures scheduled for FY 13. There was discussion on anticipating needs and future years' items; the status of the "debt", currently existing & as we move forward; and the levy & Prop. 2 ½ mechanisms. The intention is to do a more in-depth review of the proposed capital articles with the FinCom at the February 27<sup>th</sup> meeting. The Capital Plan will be a component of the FinCom's ATM report.

#### **OLD BUSINESS**

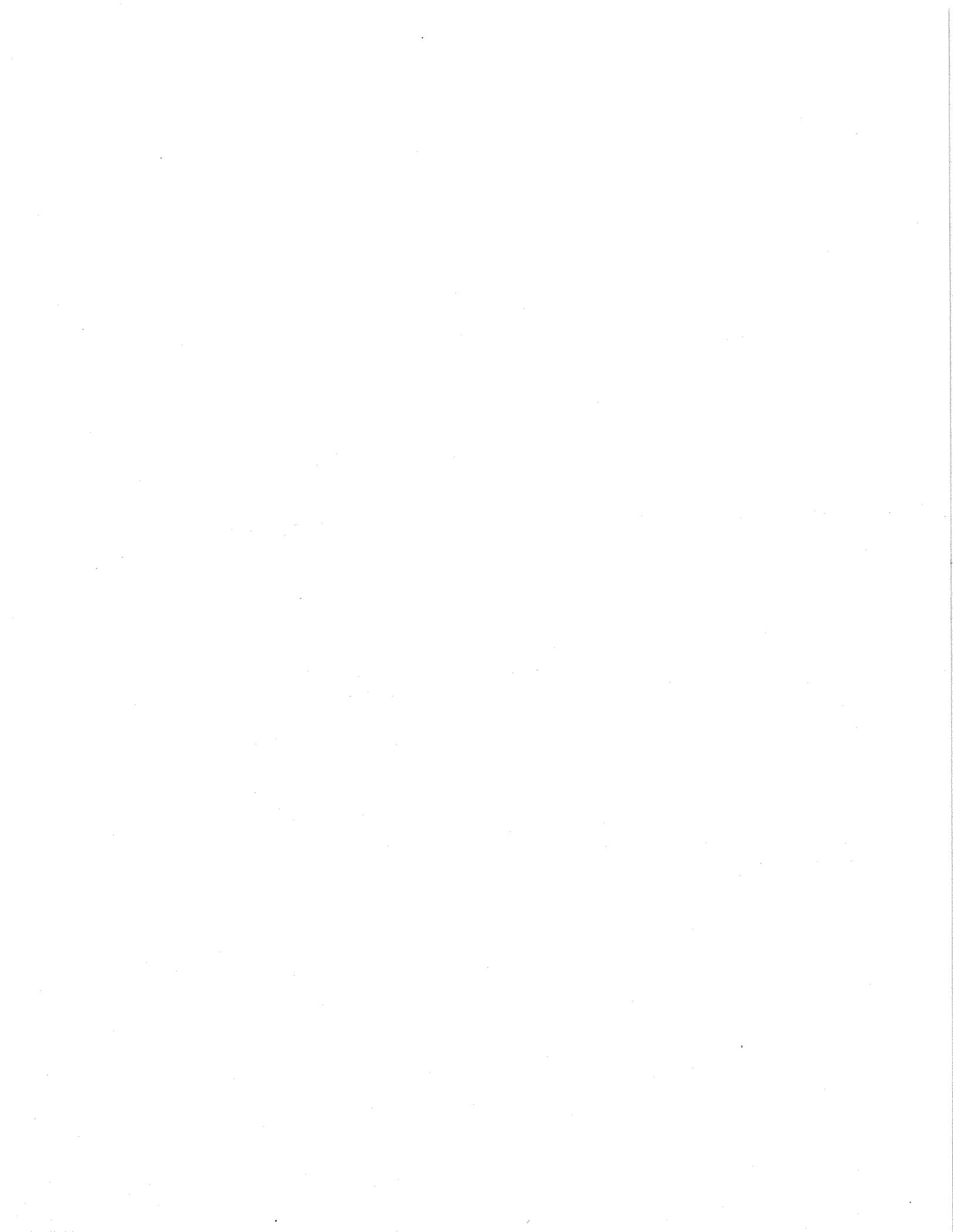
- The Selectmen re-opened discussion on Annual/Special Town Meeting. FinCom members were present for this discussion. The list of articles provided tonight is just preliminary and for informational purposes. There was discussion on some of the proposed articles, such as: the proposed PAYT sense of the meeting article; the School's administrative model options; new revolving fund for field use; and FinCom's proposed collective bargaining articles.
- FY 13 budget matters were addressed during the Capital Plan and the Annual/Special Town Meeting discussions so no further discussion was needed at this time.

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

- TA Shaw informed the Selectmen that Rep. Benson's office advised her today that there in a hearing on the Acton Water District legislation tomorrow. None of the Selectmen are able to attend and TA Shaw has a previous commitment. Rep Benson's aide has advised that a letter of support from the Selectmen should be sufficient. Member Fox moved to draft a letter in support of the pending Acton Water District legislation and send it to Rep. Benson. Seconded by Member Powers. **Approved 5-0.**

#### **ADJOURN**

- At 10:07 PM Member Neville moved to adjourn. Seconded by Member Powers. **Approved 5-0.**





**Internal Communications and Outgoing Communications**  
**March 12, 2012**

1. Letter from MEMA Recovery, Mitigation & Technical Services Section Chief, Richard Fitzgerald, and DCR's State Hazard Mitigation Officer, Richard Zignarelli, dated March 12, 2012, to Selectmen Chair Suleiman advising that they have forwarded Boxborough's DR-1959 Hazard Mitigation Grant Program application, for Initiative Emergency Shelter and Emergency Service Water Well Generator onto FEMA along with their recommendation for funding. #
2. Email Communications between Town Counsel, Attorney Joseph Fair, Kopelman & Paige, P.C, Chair Suleiman, TA Shaw and others, commencing on March 13, 2012, , concerning Warrant article – School's CBAs.\*
3. Correspondence from Comcast [aka Xfinity]'s Senior Manager of Government & Community Relations, Timothy Kelly, to the Board of Selectmen:
  - a. Dated March 9, 2012, regarding Municipal [*Service Issues*] Reporting Procedure
  - b. Dated March 12, 2012, regarding Digital Network Enhancement.

\* Indicates that the item is included in the agenda packet as well as in the general notebook.  
# Indicates that the item had been previously distributed.



92(2)



**Subject:** Follow up Question for J. Fair Re: Warrant article - School CBA's

**From:** Joseph S. Fair <JFair@k-plaw.com>

**To:** Raid Suleiman <sraid@yahoo.com>

**Cc:** Selina Shaw <selina.shaw@town.b Roxborough.ma.us>; John Giorgio <JGiorgio@k-plaw.com>

**Sent:** Wednesday, March 14, 2012 4:25 PM

**Subject:** RE: Follow up Question for J. Fair Re: Warrant article - School CBA's

Raid:

With the exception of warrant articles that are petitioned for in accordance with state statute, as well as any statutory requirements or local charter or bylaw provisions setting forth what articles must be included on the Town Meeting warrant, the decision as to what articles appear on the warrant rests with the Board of Selectmen. In my opinion, there is no legal prohibition against placing an article on the warrant that purports to seek approval of a school union CBA, but as I indicated in my prior opinion, it would have no legal effect in my view. Further, it has been my experience that school union CBA's typically are not voted on separately at town meetings. Nonetheless, in cases where Town Meeting is going to be asked to vote on an article that is non-binding in nature, we generally recommend that the Town Meeting at least be advised of the non-binding nature of the article prior to voting so that it is clearly understood that the vote itself is essentially serving as a measure of the "sense of the meeting" and nothing more. Since it is my understanding that the article at issue here is not a petitioned one and that there is no locally adopted requirement that such an article be included on the warrant, the Board would not be required to include the article at issue on the warrant. However, there is nothing in the law that would prohibit the Board from doing so either. Ultimately, it is a policy decision for the Board to make.

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

Joe

*Joseph S. Fair, Esq.*

*Kopelman and Paige, P.C.*

*101 Arch Street, 12th Floor*

*Boston, MA 02110*

*(617)556-0007*

*(617)654-1735 (fax)*

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**From:** Raid Suleiman [mailto:sraid@yahoo.com]

**Sent:** Wednesday, March 14, 2012 1:44 PM

**To:** Joseph S. Fair

**Cc:** Selina Shaw

**Subject:** Fwd: Follow up Question for J. Fair Re: Warrant article - School CBA's

Hi Joe,

Would you please address the BSC question addressed below.

Best Regards,

Raid

Begin forwarded message:

**From:** Thomas Bieber <tbbieber@verizon.net>

**Date:** March 14, 2012 1:30:19 PM EDT

**To:** Sabot Bruce <bruce\_sabot@comcast.net>, Suleiman Raid <sraid@yahoo.com>

3/14/2012

Cc: Neyland Maria <[jmneyland@verizon.net](mailto:jmneyland@verizon.net)>

Subject: Follow up Question for J. Fair Re: Warrant article - School CBA's

Raid,

Can we go back to Joe and ask whether it is legal to even include the Article in the Warrant to begin with? Per what the opinion says below (my highlights in Red), Joe seems to focus on whether it needed (as opposed to whether it is legal to include it in the warrant in the first place) given the Town vote has no effect on whether the Agreement is legally binding. Seems to me it is misleading to the voters to include a Warrant article funding approval for the BTA Agreement if the Town Meeting Vote has no effect.

Thanks- Brigid

Joe's words below: " As such, it is my opinion that specific Town Meeting warrant articles for school CBA's are not needed and further, any Town Meeting action that were to be taken on such articles if they were included on the warrant would not affect whether the CBA's are legally binding on the Town or not in my view."

On Mar 14, 2012, at 11:31 AM, Bruce Sabot wrote:

Sorry, but my life has been absolutely crazy. I meant to forward this yesterday.

Here is the bottom line response from Joe...and more details below.

"...the requirement that a CBA be brought before the legislative body for an appropriation does not apply to school committee agreements in towns such as Boxborough where the school department's budget is voted as a bottom line budget. As such, it is my opinion that specific Town Meeting warrant articles for school CBA's are not needed and further, any Town Meeting action that were to be taken on such articles if they were included on the warrant would not affect whether the CBA's are legally binding on the Town or not in my view."

Best regards,

Bruce Sabot

Email: [bruce\\_sabot@comcast.net](mailto:bruce_sabot@comcast.net)

Phone: +1 978 263 1876

Fax: +1 978 263 4644

Mobile : +1 617 797 8215

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**From:** "Cheryl A. Mahoney" <[Cheryl.Mahoney@town.boxborough.ma.us](mailto:Cheryl.Mahoney@town.boxborough.ma.us)>  
**To:** "Bruce Sabot" <[bruce\\_sabot@comcast.net](mailto:bruce_sabot@comcast.net)>, "Karim Raad" <[raadkarim@gmail.com](mailto:raadkarim@gmail.com)>  
**Cc:** "Selina Shaw" <[selina.shaw@town.boxborough.ma.us](mailto:selina.shaw@town.boxborough.ma.us)>, "Raid Suleiman" <[sraid@yahoo.com](mailto:sraid@yahoo.com)>, "Kathy Bower" <[kbower@boxboroughschool.org](mailto:kbower@boxboroughschool.org)>  
**Sent:** Tuesday, March 13, 2012 3:48:22 PM  
**Subject:** RE: Warrant article - School CBA's

Bruce & Karim,

Please see Town Counsel, Joe Fair's response on this query.

3/14/2012

Thanks,  
Cheryl  
978-263-1116 x 103

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When writing or responding, please be aware that the Secretary of State has determined that most email is a public record and, therefore, may not be kept confidential. If you have received this communication in error, please notify me immediately by replying to this message. Thank you.

Please consider the environment before printing this email

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From: Raid Suleiman [<mailto:sraid@yahoo.com>]  
Sent: Tuesday, March 13, 2012 3:41 PM  
To: Cheryl Mahoney  
Cc: Selina Shaw  
Subject: Fw: Warrant article - School CBA's

Hi Cheryl,

Please forward Joe's email to the SC and the FinCom. Also include the email as part of the correspondence.

Now I am off to catch a cab to head to DC. Please call or email if you have any questions.

Best Regards,

Raid

----- Forwarded Message -----

From: Joseph S. Fair <[JFair@k-plaw.com](mailto:JFair@k-plaw.com)>  
To: Selina Shaw <[selina.shaw@town.boxborough.ma.us](mailto:selina.shaw@town.boxborough.ma.us)>  
Cc: [sraid@yahoo.com](mailto:sraid@yahoo.com); John Giorgio <[JGiorgio@k-plaw.com](mailto:JGiorgio@k-plaw.com)>  
Sent: Tuesday, March 13, 2012 1:22 PM  
Subject: Warrant article - School CBA's

Selina:

I was speaking to School Committee member, Brigid Bieber, on the FMLA leave issue that I had previously copied you on and she advised me that the Board of Selectmen had authorized her at last night's meeting to obtain an opinion from us regarding the placement of a separate article on the Town Meeting warrant for appropriation of the cost items of collective bargaining agreements (CBA's) reached between the School Committee and the school

unions. Specifically, the question was whether or not this was appropriate or necessary in light of the fact that the School Department budget is voted as a bottom line budget.

With respect to Town Meeting voting on CBA's, G.L. c. 150E, §7(b) states in relevant part as follows:

The employer...shall submit to the appropriate legislative body within thirty days after the date on which the agreement is executed by the parties, a request for an appropriation necessary to fund the cost items contained therein; provided, that if the general court is not in session at that time, such request shall be submitted at the next session thereof. If the appropriate legislative body duly rejects the request for an appropriation necessary to fund the cost items, such cost items shall be returned to the parties for further bargaining. The provisions of the preceding two sentences shall not apply to agreements reached by school committees in cities and towns in which the provisions of section thirty-four of chapter seventy-one are operative.

As the underlined portion reflects, the requirement that a CBA be brought before the legislative body for an appropriation does not apply to school committee agreements in towns such as Boxborough where the school department's budget is voted as a bottom line budget. As such, it is my opinion that specific Town Meeting warrant articles for school CBA's are not needed and further, any Town Meeting action that were to be taken on such articles if they were included on the warrant would not affect whether the CBA's are legally binding on the Town or not in my view.

If you need a more formal opinion on this issue, or if you have any questions, please feel free to contact me. Thank you.

Joe  
Joseph S. Fair, Esq.  
Kopelman and Paige, P.C.  
101 Arch Street , 12th Floor  
Boston , MA 02110  
(617)556-0007  
(617)654-1735 (fax)

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**Minutes, Notices and Updates  
March 19, 2012**

**Minutes**

1. Minutes of the Personnel Board meeting held February 29, 2012.
2. Minutes of the Recreation Commission meeting of March 13, 2012.
3. Minutes of the Zoning Board of Appeals meeting of February 7, 2012.
4. Minutes of the Finance Committee meeting of March 5, 2012.

**Notices**

1. Notices of Finance Committee meetings:
  - a. To be held March 19, 2012
  - b. To be held March 24, 2012 [Sat.].
  - c. To be held March 26, 2012.
2. Notice of a Well-Being Committee meeting held March 14, 2012.
3. Notice a Cemetery Commission meeting to be held March 20, 2012.
4. Notice of a Boxborough Leadership Forum meeting to be held March 20, 2012.
5. Notices of Board of Selectmen meetings:
  - a. Meeting to be held March 16, 2012 [Health Insurance Review panel selection]
  - b. Regular Meeting to be held March 19, 2012.
  - c. Contract Negotiating Team [Executive Session]:
    - i. To be held March 22, 2012
    - ii. To be held April 5, 2012.
6. Notices of Boxborough School Committee related meetings:
  - a. Meeting to present the administrative structure options of Job Sharing and Option "C" to the Board of Selectmen to be held March 19, 2012.
  - b. BLF meeting to be held March 20, 2012.
7. Notice of an Agricultural Commission meeting to be held March 20, 2012.
8. Notice of an Airport Study Committee meeting to be held April 25, 2012.
9. Decision No. 2012-01 from the Zoning Board of Appeals, dated March 13, 2012, granting the special permit application for the operation of an auto repair business "Kaizen Tuning, LLC" and for the installation of a free standing sign at the property located at 873 Massachusetts Avenue.

