



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**August 27, 2012**

**Approved: October 15, 2012**

**PRESENT:** Les Fox, Chair; Frank Powers, Clerk; Raid Suleiman, Member; Vincent Amoroso, Member; and Robert Stemple, Member

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

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

**ANNOUNCEMENTS**

Chair Fox read the announcements.

**APPOINTMENTS**

- Ray Renzoni was present to discuss serving as the Town's Interim Building Inspector/Code Administration Officer. Further to the recommendation of the Town Administrator, Chair Fox moved to appoint Ray Renzoni as the Interim Building Inspector/Code Administration Officer for a term effective immediately until October 15, 2012, or until a successor is appointed, whichever is sooner. Seconded by Member Powers. **Approved 5-0.**
- Boy Scout Eagle Candidate, Mark Vicik, provided the Selectmen with the details of his Eagle Scout project, the restoration of the Ice House at Steele Farm. The Selectmen thanked him for his service to the Town and congratulated him for his induction into the Eagle Court of Honor. Chair Fox read the Selectmen's commendation:  
*"Be it known that the Board of Selectmen of the Town of Boxborough hereby commends and extends its warmest congratulations to Mark Thomas Vicik, Boy Scout Troop #1, Boxborough on his induction into the Eagle Court of Honor and be it further known that the Boxborough Selectmen extend best wishes for future success. Signed this day, August 27, 2012, Leslie R. Fox, Chairman Board of Selectmen."*
- Boxborough School Committee Chair, Maria Neyland, was present to report and discuss the vacancy on the Boxborough School Committee as a result of the recent resignation of Bruce Sabot. Notice of same was provided to Chair Fox. BSC Chair Neyland reviewed the process moving forward. Filling this vacancy would be a joint Selectmen and School Committee decision. There was also discussion that the local BSC member may want to jump to the now vacant regional/local position, if that local member was selected then a subsequent vote would, immediately, be needed to fill the local vacancy.

**MINUTES**

- Member Powers moved to accept the Regular Session minutes for the July 11, 2012; June 25, 2012; July 2, 2012; and July 30, 2012, as revised. Seconded by Member Stemple. **Approved 5-0.**
- Member Suleiman moved to accept the Executive Session minutes for the July 30, 2012, as written. Seconded by Member Stemple. **Approved 4-0-1 (Member Powers abstained, as he had not had the opportunity to review them).**

**SELECTMEN REPORTS**

- Member Powers reported that he attended the August 1<sup>st</sup> ConsCom meeting where it was determined that the MMAF hearing again be continued; this time to September 5<sup>th</sup>.
- He also reported that he had attended the August 6<sup>th</sup> BLF meeting, but he would defer to Chair Fox as to reporting on those discussions.

- Member Powers reported that the CoA welcomed its two newest members, Liz West and Lauraine Harding, at their last meeting. Developing protocols for cooling centers was also discussed.
- Chair Fox reported that he has participated in several negotiation sessions with the Fire and Police union representatives.
- He reported on the BLF meeting items which included: the current status of Free Cash; and issues with cable coverage, or lack of coverage, of regional school committee and regionalization study committee meetings. FinCom will be reviewing the current level of Free Cash.
- He reported that the Stow Road Concept Development Comm. will be hosting a booth at the Harvest Fair to again solicit public input as to potential uses for the 72 Stow Road property.
- Chair Fox also reported on BITcom related activities. Discussions are continuing on the VoIP project. Three candidates for the IT Support Technician position have been interviewed and TA Shaw will be meeting with the one that stood out.
- Members Stemple and Suleiman advised that they had nothing new to report.
- Member Amoroso reported that he had filled in for Member Suleiman at a recent EnCom meeting.
- He also reported on recent Regionalization Study Committee activities. Boxborough's 5% new construction discount in the current agreement was one of the items being reviewed. There has been some resistance to allowing this as part of the proposed K-6 terms. There has also been discussion as to the distribution of the projected savings.

#### **OLD BUSINESS**

- BHC Chair, Alan Rohwer; SFAC Chair, Ed Whitcomb and Members, Bruce Hager & John Skinner; John Fallon, BHS; Rita Gibes-Grossman; and Chris Rodstrom, TTOR were present for continued discussion regarding the Steele Farm preservation restriction. Town Counsel had recently responded to a number of questions and provided suggested red-line edits to the document. The primary topic discussed related to Counsel's proposed changes to *Section D – Extinguishment*. All of stakeholders present expressed concerns related to the \$1.00 extinguishment clause, which they stated would not provide a strong disincentive to extinguish. Further, they opined that the state agencies would likely not agree with the new language, which deviates so much from the normal structure of a restriction. Rodstrom also noted that language could be included to ensure that damages paid by Grantor, i.e. the Town, could be used only for a similar purpose – reinvesting in another conservation restriction. Fallon also spoke to proposed changes to *Section G- Legal Remedies*, and opined that this likely would not pass muster. It was agreed to schedule a meeting with Town Counsel and the stakeholders in the next couple weeks and to keep the process moving forward.
- The Board took up discussion on the Town's response to MassHousing regarding the Minuteman Village of Boxborough project. Chair Fox summarized some of the changes made since the Selectmen last reviewed this document. There has been clarification as to the number of units; further elaborations on safety issues; additional language regarding Town Center zoning; and the treatment of condominium fees. Additional revisions were made by the Selectmen. There was discussion regarding the "Boxborough Meadows" settlement agreement and its possible effect on the "Minuteman Village of Boxborough" letter, under review. TA Shaw will send a copy of the Boxborough Meadows settlement agreement to Chair Fox and Member Amoroso.
- Discussion was opened on the matter of the Amicus brief, which accompanied the appeal filing in the matter of Lunenburg v. Housing Appeals Committee. It was noted that the Selectmen had previously discussed this matter and had agreed to support Lunenburg in its appeal.
- Discussion was re-opened on the Selectmen's Meeting Schedule. It was determined that the October 1<sup>st</sup> meeting would be cancelled and replaced with a meeting on October 15<sup>th</sup>. Also the 2012 Goals Workshop will be re-scheduled to October 27<sup>th</sup>. Member Powers moved to adopt the revised meeting schedule as presented on August 27, 2012. Seconded by Member Stemple. **Approved 5-0.**
- The Board reviewed latest draft the Town of Boxborough Policy for Hager Well Incident Response. Chair Fox moved to forward the updated "Town of Boxborough Policy for Hager Well Incident" to the Board of Health for review and to consider the updated policy adopted by the Board of Selectmen if there are no objections brought forward by the Board of Health. Seconded by Member Stemple. **Approved 5-0.**

## **NEW BUSINESS**

- Further to the request of the Town Clerk, Member Stemple moved to appoint John Fallon as Temporary Constable for a term effective immediately until December 31, 2012. Seconded by Member Powers. **Approved 5-0.**
- Member Powers provided information on the Amendment (“Amendment 1”) to the Central Middlesex Emergency Response Association (CMERA) Interlocal Agreement for Joint Negotiation and Purchase of Advanced Life Support Emergency Medical Services. Member Powers moved to ratify and execute Amendment 1 to Central Middlesex Emergency Response Association (CMERA) Interlocal Agreement for Joint Negotiation and Purchase of Advanced Life Support Emergency Medical Services. Seconded by Member Stemple. **Approved 5-0.**

## **CORRESPONDENCE**

- There was discussion on the memorandum from Town Counsel regarding CPA.

## **CONCERNS OF THE BOARD**

- Member Powers brought up the project involving the laying out of cones at the intersection of Burroughs Road and Stow Road. He would like receive an update on the status of this project; an explanation as to the authority needed for this project; and the formal process, if any, involved in the town changing the layout of roadways. It was determined that Planner Hughes, the Planning Board, Police Chief Ryder and DPW Director Garmon would be asked to come in to update the Selectmen and discuss these concerns. It was further noted that the abutters and the interested parties would be also be invited to this discussion.
- Though not on the agenda, TA Shaw asked that the Selectmen consider the disposition of the worn metal /grey upholstered chairs in the Morse/Hilberg meeting room. Member Amoroso moved to declare the 20 metal/grey upholstered chairs as surplus and to set a price of \$10.00 per chair. Seconded by Member Powers. **Approved 5-0.**

## **EXECUTIVE SESSION**

- At 9:55 PM, Member Powers moved to adjourn to executive session to discuss strategy with respect to collective bargaining (Massachusetts Coalition of Police, Local 200, Police and Boxborough Professional Firefighters, Local 4601) and to adjourn immediately thereafter. Seconded by Member Stemple. **Approved 5-0. by Roll Call Vote: Powers “aye,” Fox “aye,” Stemple “aye,” Suleiman “aye,” and Amoroso “aye.”**

## SELECTMEN'S ANNOUNCEMENTS

AUGUST 27, 2012

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

- Many of our young people will be **returning to school tomorrow, August 28<sup>th</sup>** so you are asked to use care and have patience while driving, especially during the morning commute.
  
- **This year's State Primary will be held on Thursday, September 6<sup>th</sup>.** Polls are open from 7:00 a.m. – 8:00 p.m. Sample ballots are posted at the Town Clerk's Office and electronic copies can be accessed through a link Town Clerk's page. **Absentee Ballot** applications can be downloaded from the Town's website or are available at the Town Clerk's office and the deadline to apply for an absentee ballot is Wednesday, September 5<sup>th</sup>, at noon.
  
- The American Red Cross will be holding a **Blood Drive this Thursday, August 30<sup>th</sup>** from 2:00 PM to 7:00 PM at the Boxborough Holiday Inn. Donors will receive a Dunkin' Donuts gift card and can register to win Red Sox tickets.

- **Central Mass Mosquito Control** personnel intend to be in Town to investigate residents' mosquito complaints, August 28<sup>th</sup>, September 5<sup>th</sup> and September 11<sup>th</sup>. Complaints about mosquitoes may be made by calling the CMMCP at 508-393-3055. The CMMCP spraying schedule is posted on their phone system daily after 3:30 PM and also available on their website: [www.cmmcp.org](http://www.cmmcp.org).
  
- The Board of Health wants residents to be aware that there has been an increase incidence of **tick-borne illness** in the area. Residents should use commonsense when outdoors to protect themselves and their pets from ticks. Links to information on ticks and how to protect yourself can be found under "NEWS" on the Town's homepage or on the Board of Health's webpage.
  
- The **Well-Being Committee** is conducting an on-line survey of Boxborough residents regarding their family's health and well-being. The input received will be used to help develop programs to address wellness issues. Go to the Link on the Town's website under "NEWS" to provide your opinion with this on-line survey.

- **This year's Hazardous Waste Day** will take place on Saturday, October 27<sup>th</sup> from 9:00 AM to 1:00 PM, at the Highway Barn, 577 Mass Ave. not the Transfer Station. An informational flyer has been posted at the Town Hall, Transfer Station, on the Town's website and various locations around Town. The Town will be charged for each car that comes in so residents are encouraged to work with their neighbors and consolidate items into one vehicle.
  
- The Towns of Acton and Boxborough are considering expanding the **Regional School District** to include grades Pre-K through 12. Residents are invited to provide their input to the Regionalization Study Committee. An informational flyer was included in your recent real estate tax bills with the Committee's internet contact information.
  
- The **Stow Road Concept Development Committee** continues its effort to reach out to residents to hear what you would like to see built at 72 Stow Road. There will be a booth and update at Boxborough's Harvest Fair on Sept 8. In the meantime you learn more by going to the Link on the Town's website under "NEWS" for background on the project and to provide your opinion by completing a brief on-line "Suggestion Box" survey.

- The Town is also conducting a **Transit Service Survey** to better understand the transportation needs of residents. Go to the Link on the Town's website under "NEWS" to provide your opinion by completing a brief on-line survey or to print out a paper copy for submission.
  
- The Boxborough Historical Society will be conducting their **2012 Tour of historic homes** in Boxborough on Saturday, September 22<sup>nd</sup>. The tour will start at the Boxborough Museum, 575 Middle Road, and consist of visits to nine homes, including three homes that will be seen for the first time this year. One of them is the Boaz Brown house, c.1730, also known as the "Muster" house, where local residents mustered as Minutemen on that historic day of April in 1775. Tickets are \$20.00 per person and can be ordered by contacting Jeanne Kangas, Christine Robinson or Alan Rohwer.
  
- **The Acton-Boxborough Farmers' Market** is located on Pearl Street just off of Mass Ave./Route 111 in West Acton Village. The market will run through October and is open on Sundays from 10 AM to 1 PM.
  
- **The Boxborough Harvest Fair**, previously known as the Agricultural Fair, will be held from 11:00 AM – 4:00 PM on Saturday, September 8<sup>th</sup> at the

Boxborough Town Hall and UCC Church. The fair program was mailed to residents earlier this month. Please go to their website for more information.

- 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: Airport Study Committee (1), ZBA (1 alternate member), Housing Board (1), BITcom (2), ConsComm (1), Design Review Board (1 at-large member), Energy Committee (1), Recreation Commission (4) and the Steele Farm Advisory Committee. Also, the Town Moderator is seeking 3 volunteers to serve on the Finance Committee. Please consider participating on a town board. 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)
- To sign up for the American Red Cross **Blood Drive** or for more details go to their website [www.redcrossblood.org](http://www.redcrossblood.org) or call 1-800-RED-CROSS.
- Information on the **Regionalization Study Committee** can be found on the web at: [www.ab.mec.edu](http://www.ab.mec.edu) or email your comments to: [rsd\\_study\\_comm@mail.ab.mec.edu](mailto:rsd_study_comm@mail.ab.mec.edu).
- For more information or to order tickets for the Boxborough Historical Society's **2012 Tour of historic homes** contact Planning Committee members: Jeanne Kangas (978-263-8495) Christine Robinson (978-263-6246); or Alan Rohwer (978-263-3944)
- For more information on the **Acton-Boxborough Farmers Market** go to [www.abfarmersmarket.org](http://www.abfarmersmarket.org) ; or find them on Facebook – Acton-Boxborough Farmers Market.
- To start planning on entering or for more information on the **2012 Boxborough Harvest Fair** go to [www.boxboroughfair.org](http://www.boxboroughfair.org) ; or find them on Facebook - Boxborough Harvest Fair.



**BOARD OF SELECTMEN**  
**Meeting Agenda**  
**August 27, 2012**  
**Boxborough Town Hall**  
**Grange Meeting Room**  
**REVISED**

**1. CALL TO ORDER, 7:30 PM**

**2. ANNOUNCEMENTS**

**3. APPOINTMENTS**

[Please be advised that times are approximate; please plan to arrive 15 minutes earlier than scheduled]

- a) Appointment of Interim Building Inspector - Ray Renzoni, for a term effective immediately until October 15, 2012, or until a successor is appointed, whichever is sooner **VOTE:**
- b) Recognition of BSA Eagle Candidate, Mark Vicik
- c) Maria Neyland, Boxborough School Committee Chair, re: vacancy on BSC
- d) Citizens' concerns

**4. MINUTES**

- a) Regular session, June 11, 2012 **ACCEPT & POF**
- b) Regular session, June 25, 2012 **ACCEPT & POF**
- c) Regular session, July 2, 2012 **ACCEPT & POF**
- d) Regular session, July 30, 2012 **ACCEPT & POF**
- e) Executive session, July 30, 2012 **ACCEPT & POF**

**5. SELECTMEN REPORTS**

**6. OLD BUSINESS**

- a) Steele Farm preservation restriction
- b) Minuteman Village of Boxborough – response to MassHousing
- c) Amicus brief - Lunenburg v. Housing Appeals Committee
- d) BoS Meeting Schedule  
Cancel meeting scheduled for October 1; re-schedule for October 15  
[Meeting already scheduled for September 24; October 8 is a holiday]
- e) Updated Town of Boxborough Policy for Hager Well Incident Response **VOTE:**  
**VOTE:**

**7. NEW BUSINESS**

- a) Appointment of Temporary Constable - John Fallon for a term effective immediately until December 31, 2012 **VOTE:**
- b) Ratification and execution of Amendment 1 to Central Middlesex Emergency Response Association (CMERA) Interlocal Agreement for Joint Negotiation and Purchase of Advanced Life Support Emergency Medical Services **VOTE:**

**8. CORRESPONDENCE**

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

**9. PRESS TIME**

**10. CONCERNS OF THE BOARD**

**11. EXECUTIVE SESSION**

*Move to adjourn to executive session to discuss strategy with respect to collective bargaining (Massachusetts Coalition of Police, Local 200, Police and Boxborough Professional Firefighters, Local 4601) and to adjourn immediately thereafter*

**ROLL CALL  
VOTE:**

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

**12. ADJOURN**

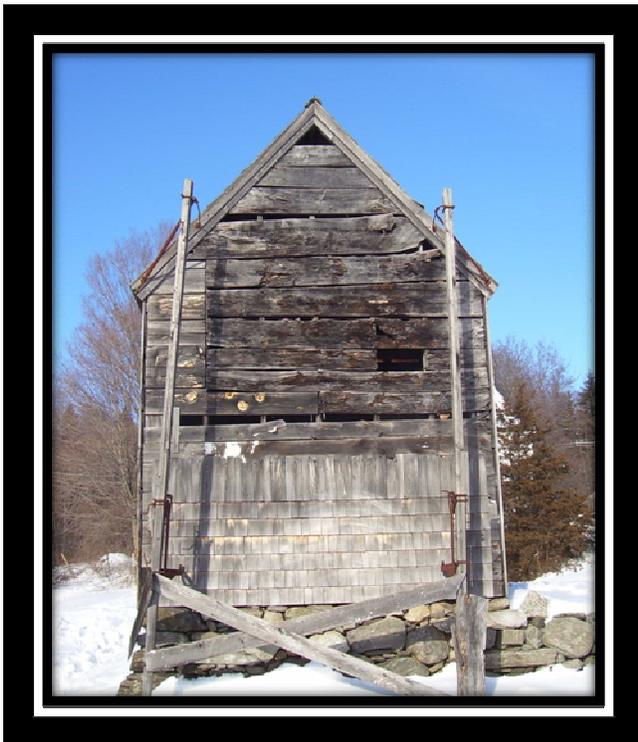
My name is Mark Vicik and I am a sixteen year old member of Boy Scout Troop 1 located in Boxborough, Massachusetts. This September marks my eleventh year in the Boy Scouts of America, where I began as a Cub Scout and worked my way into the senior leadership position in this Boy Scout troop. Based on my work with the troop as well as the time spent camping, I was elected into the Order of the Arrow, Boy Scouts of America's national honor society. Most recently, I was hired as staff at Camp Splitrock, a local Cub Scout camp that I attended nine years earlier, and have spent my summer sharing what I've learned with young scouts. The 2012 camp staff has been acknowledged as one of the best in camp history for providing a rewarding scouting experience while accepting voluntary pay reductions allowing the camp to survive in these challenging economic times.. The opportunity to be a part of a group like the one at Camp Splitrock is one of many life-changing experiences scouting has afforded me. I have spent the last three years as a competitive rifle shooter and winter biathlete, and these interests can be traced back to my first time shooting a rifle at a Boy Scout camp. I have always loved the outdoors and these experiences culminated two years ago in a two week backpacking trip through Philmont Scout Ranch in New Mexico. I recently completed my requirements for the rank of Eagle and have scheduled the ceremony and a celebration for September 2. I look forward to being recognized by Boy Scouts of America, and, for approximately the next year before entering college, I hope to share my scouting experiences with younger members of the organization.

My Eagle Scout project was the restoration of a turn-of-the-century icehouse located on municipal land in Boxborough (see photos below). From the beginning, I looked at my Eagle project not as a hurdle to overcome, but as a chance to make a positive impact in my community. Growing up, I spent time running, skiing, and walking my dog on the Steele Farm property where stands a historic farmhouse, barn, and ice house. The ice house, built around 1904, belonged to a dairy farmer and was used to store ice to preserve milk through the summer. The building, the largest of its kind still locally standing, is one of the last remaining symbols of the once booming New England ice shipping industry. Thirteen years ago, it was moved to Steele Farm with the expectation it would be renovated. From the time of the move, it suffered minor fire and significant weather damage becoming the unsightly structure that I saw on my runs growing up. With the chance to save the historical building and the overwhelming support of my town and troop, we undertook the renovations. I led a great group of volunteers in the rebuilding of the heavily damaged south wall, the replacement of the interior and floor, and the painting of the building to a historically accurate color. Throughout the project, I worked with the head of the town historical society to educate others at events such as town festivals about the significance of the building and the work being done to save it. In total, approximately 250 hours of work went into saving the town landmark.

The passion for history and leadership that fueled my Eagle Project shaped my plans for the future as well. Next year, I expect to graduate from Acton-Boxborough Regional High School and plan to enter college majoring in history or international relations. Scouting has instilled in me a strong appreciation of the responsibilities of a citizen, and after college, I am considering service to our country as an army officer. Eventually, I would like to attend law school and would welcome a career in international law or as a diplomat to a foreign government.

Yours in Scouting,

Mark Vicik



3c

23 August, 2012

To: Boxborough School Committee Chair

From: Bruce Sabot

Maria:

Over eight years ago I decided to run for the local/regional school committee because I felt change was needed. At the local level our students were doing okay but it appeared they were falling behind as the curriculum was somewhat outdated. In addition, our professional development for our teachers needed to be expanded and our school administration had become less engaged with the parents and the community.

Since then much has changed for the better. We brought on Dr. Curtis Bates as the Superintendent/Curriculum Director. Working with the teachers, Dr. Bates revamped the curriculum which resulted in our students being better prepared for when they moved to regional school district. We invested wisely in technology which has allowed us to put Smartboards in every classroom and provide computers to all students and staff. We started our own Extended Day program which put money back into the district instead giving it to the region. We have used school choice in a very intelligent and respectful way to provide additional revenue to the school district. The list goes on.

It is now time for me to make a life changing decision. Based on a decision I have made I can no longer serve as a member of this committee. Please accept this letter as my resignation from the Boxborough School Committee. It has been an honor and a privilege to represent the community at the local and the region, to work with the administration of the Boxborough School District and to collaborate with my fellow school committee members. No one truly knows or understands the time commitment and dedication this position requires. We do not do it for the money, rather we do it because we deeply care about our community and the education of our children.

The future ahead for the Box borough School District is still cloudy but if I may share my view as I depart the stage here is what I believe has to happen. Regionalization has to occur for the good of our students and ultimately the town. We really have no other option. This committee with the support of the Regionalization Sub-committee needs to make our town understand that no solution is perfect and we need to make some concessions in some areas while holding firm in others. I am confident that we will eventually get there. I am sorry I will not be able to witness the success first hand.

In closing I would like to thank the teachers and staff at Blanchard who educated my son Aaron and daughter Arielle. They are better students because of the education they received at Blanchard. I would like to thank Kathy Bower who was a big help to me especially during the two terms that I served as Chairperson of the committee. Next I would like to thank Dr. Curtis Bates and his past and current leadership team. Curt's vision for the school district has helped make the district what it is today. As the school committee was evaluating the various future directions for the district, Curt willingly took on

more responsibility. He did that despite several health challenges he personally faced and numerous situations that occurred within the district and required large amounts his time. His dedication and commitment to the school district is unparalleled. Thank you Curt for your partnership and extreme optimism. Finally I want to thank Maria, Brigid, Mary and Tina. Our working relationship has always been one of respect and partnership. We all shared the same goals for the school district and we did not let town politics get in the way. I applaud your dedication, thank you for your friendship and wish you continued success in the future.

Best regards,

A handwritten signature in cursive script that reads "Bruce Sabot". The signature is written in dark ink and is positioned above the printed name.

Bruce Sabot

## POLICY ON JOINT ELECTIONS

**BACKGROUND:** On occasion, due to resignations or lack of candidates for elections, it is necessary for an elected Board/Committee and the Board of Selectmen to jointly elect a member of that Board/Committee to serve until the next Annual Town Election in May.

**State Law** requires that:

- The resignation is effective when delivered to the Town Clerk
- The Board/Committee must notify the Board of Selectmen, in writing, within 30 days of the resignation or lack of election. If not, only the Board of Selectmen may participate in the election of the new member.
- There must be seven days notice given of the Board of Selectmen Meeting at which the Election will take place.
- The Election must be done in a joint meeting.
- The Election must be a roll call vote.
- A majority of those eligible to vote must vote for the successful candidate.
- All phases of the process must follow the Open Meeting Law.

**By policy**, the Board of Selectmen requires that the election

- Be fair and open and appear to be fair and open
- Be joint between the two Boards

### **Fair and Open**

The application process will be carried out by the Board/Committee needing a new member.

- 1)Application process should be public
  - announced in an Open Meeting
  - notices posted in the appropriate places (Town Hall, etc.)
  - publicity in the Beacon
- 2)Application process should be clear
  - how to apply and when
  - formal end date

### **Joint**

- 1)If there are more than three candidates, the Board needing the member may conduct preliminary screening if desired but to no less than three finalist candidates. The Board of Selectmen should not be provided with one candidate.
- 2)Joint interviews should be held of the candidates/finalists



**PART I** ADMINISTRATION OF THE GOVERNMENT  
(Chapters 1 through 182)

**TITLE VII** CITIES, TOWNS AND DISTRICTS

**CHAPTER 41** OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS

**Section 11** Appointment to fill vacancy in town office

Section 11. As used in this section, the term "vacancy" includes a failure to elect. If a vacancy occurs in any town office, other than the office of selectman, town clerk, treasurer, collector of taxes or auditor, the selectmen shall in writing appoint a person to fill such vacancy. If there is a vacancy in a board consisting of two or more members, except a board whose members have been elected by proportional representation under chapter fifty-four A, the remaining members shall give written notice thereof, within one month of said vacancy, to the selectmen, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified.





**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**June 11, 2012**

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

**PRESENT:** Les Fox, Chair; Frank Powers, Clerk; Raid Suleiman, Member (arrived at 7:50PM); Vincent Amoroso, Member; and Robert Stemple, Member

**ALSO PRESENT:** Selina Shaw, Town Administrator 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 Fox called the meeting to order at 7:32 P.M. in the Grange Meeting Room of Town Hall.

There were some technical issues as the beginning of the broadcast.

#### **APPOINTMENTS**

- Police Chief Warren Ryder was present to discuss several compensation and personnel related matters. Discussion opened on the compensation rate for special police officer. Member Powers provided background on this matter. The Chief was present to discuss the department's historic practices regarding pay for special officers working details and collective bargaining contract terms. It was noted that the Personnel Plan is silent on the compensation of special officers working details. Now that the Chief has been made aware that there are concerns he would like to encourage the Personnel Board to review this matter so there is a clear process & procedures as we move forward. The Chief broke down the rates in the material he provided. There was discussion on some of the concerns that need to be addressed. Member Powers moved to authorize Police Chief Ryder to send a memorandum to the Personnel Board to recommend the rates for special and town details until the personnel plan can be revised. Seconded by Member Amoroso. **Approved 4-0-1 (Suleiman abstained).**

Chief Ryder also was present to discuss whether the State's mandatory retirement age applies to Special Police Officer/Detailed Officer. The Chief explained that a one of his Special Officer has reached this mandatory retirement age and he would like to allow this individual to continue to serve with the Department. The Chief discussed a published opinion from PERC on this issue. Attorney General has determined that they will not be issuing an opinion on this issue. TA Shaw advised that a poll of surrounding communities resulted in a mixed response. Town Counsel's opinion on this was discussed. Member Powers moved that this special/detail officer be informed that he will be retired effective Monday, June 18, 2012. Seconded by Member Stemple. **Approved 4-0-1 (Suleiman abstained).** Chief Ryder was directed to inform this officer of this decision.

#### **SELECTMEN REPORTS**

- Member Suleiman reported that the Energy Committee is working with DPW Director Garmon on the Transfer Station study and improvements. Kelly Brown of the DOER was at the last EnCom meeting to discuss the Green Communities Act and the issues that make Boxborough ineligible to participate.

He also reported that he and Member Amoroso attended the recent 495 Metro West Partnership event. While there he had a discussion with Littleton's TA Keith Bergman to see if we could reach out to LELWD about our efforts in pursuing the creation of a public water infrastructure. He also had a discussion on expanding regional transportation services with MART's Executive Director, Mohammed Khan.

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

- Members of the Boxborough School Committee, Maria Neyland, and Mary Brolin were present to discuss the (K-6) regionalization study process. Members of the Finance Committee and other interested parties were present. BSC member Neyland spoke to the materials the Regional Study Committee had provided. She reviewed the current make up of the Study Committee; the recruitment/appointment of additional members; the potential voting or non-voting ratios and the ABRSC's

proposed timeline. Although she is no longer a Selectman, it was suggested that Becky Neville could be appointed as the Selectmen's designate. Neville was present and spoke to her possible participation. School Committee members, Brolin and Neyland, spoke in favor of Neville's appointment. Selectmen Amoroso, put himself forth for consideration as the Selectmen's appointee to the ABRSC and provided his reasons for wishing to participate. FinCom member Jim Ham advised that he is the proposed FinCom designate.

## ANNOUNCEMENTS

Clerk Powers read the announcements.

## SELECTMEN REPORTS (Continued)

- Member Amoroso reported that he had attended the 2012 MMA Selectmen's forum. While there he had a conversation with a Selectman from Stow about Stow not having a Transfer Station facility; the significant costs to Stow residents for private waste disposal; and the possibility of Stow residents paying to use our transfer station. This could be investigated within the context of the Transfer Station study. Who would be involved in this investigation and issues & concerns with this proposal were discussed.

Member Stemple reported that he attended the AB High School Awards night and presented this year's Hammond Scholarship to Dipti Jasararia.

- Chair Fox thanked Member Suleiman for his service as Chair over the past year.

Chair Fox reported on the regional dispatch development efforts. The investigative group's report was reviewed at a meeting in Sudbury which he, Member Stemple and TA Shaw attended. At this time there are no concrete plans to move forward with further development of this concept.

He reported that he recently attended an Affordable Housing Forum in Carlisle.

He reported that he continues to participate in contract negotiations with the Town's various unions.

Chair Fox reported that the Stow Rd Concept Development Committee will have a booth at Fifers Day; to obtain public input on development of this site.

- Member Powers reported that he also continues to participate in union negotiations and negotiation team meetings.

He reported that the Well-Being Committee will also have a booth at Fifer's Day. They will be conducting a survey seeking public input on residents' well being. They are also discussing the creation of Wellness University; similar to what done in Acton.

Member Powers reported that progress is being made by the ConsCom and MMAF in resolving long outstanding issues concerning the Order of Conditions for the portion of MMAF land in Boxborough. MMAF's Environment Scientist submitted a proposed remediation plan. ConsCom's consultant reviewed the plan and provided input, which has been communicated back to MMAF. The parties are cooperating and are hopefully approaching a resolution.

## MINUTES

- Member Suleiman moved to accept the minutes for the Regular Session of March 26, 2012 and April 2, 2012, as revised and the Executive session (Contract Negotiating Team) minutes of May 15, 2012; May 16, 2012 (#1); May 16, 2012 (#2); May 21, 2012; May 29, 2012; June 5, 2012; and June 6, 2012, as written. Seconded by Member Powers. **Approved 5-0.**

## OLD BUSINESS

- The Selectmen reviewed the proposed meeting schedule revisions (June 4, 2012 – January 7, 2013). Further revisions were made and the annual Goals Workshop was set for September 8, 2012. There was also discussion on possible dates and locations for the annual Employee/Volunteer Appreciation event.

## NEW BUSINESS

- Member Amoroso opened discussion on the letter to our federal legislators on regulations concerning campaign financing that were generated as a result of the *Citizens United* Supreme Court decision. This letter is a direct result of his Sense of the Meeting, Citizen's Petition put forth and supported at this year's Town Meeting. Member Amoroso moved to authorize Chair Fox to send and execute letters to our federal legislators regarding regulations concerning campaign financing as a result of the *Citizens United* case. Seconded by Member Powers. **Approved 5-0.**

## OLD BUSINESS (Continued)

- The Selectmen opened discussion on liaison responsibilities for the coming year. Background as to liaison assignments; an overview of these responsibilities and how the Selectmen manage these tasks were discussed. Liaisons responsibilities for FY 13 were assigned. The intention is to review these assignments in six months. A copy of the FY 13 Liaison List is attached and incorporated by reference.

## CONCERNS OF THE BOARD

- Discussion re-opened on the proposed make up of the Regional School Study Committee. Member Suleiman moved to appoint Selectman, Vincent Amoroso, to the School Regionalization Study Committee. Seconded by Member Powers. **Approved 5-0.**
- Member Powers reported that changes have been completed to the BCC lease. It will now be forwarded to UCC and Town Counsel for review.

## EXECUTIVE SESSION

- At 10:24 PM, Chair Fox moved to adjourn to executive session to discuss strategy with respect to collective bargaining (Massachusetts Coalition of Police, Local 200A - Dispatch; Massachusetts Coalition of Police, Local 200 and Boxborough Professional Firefighters, Local 4601; and to adjourn immediately thereafter. Seconded by Member Powers. **Approved 5-0 by Roll Call Vote: Fox "aye," Powers "aye," Suleiman "aye," Stemple "aye," and Amoroso "aye."**



**Board of Selectmen Committee/Liaison List FY 2013**

**Current BoS Assignments/Positions**

**X = Primary Member**

**L = Liaison**

Assignment	L. Fox	F. Powers	V. Amoroso	R. Stemple	R. Suleiman
<b>BoS Chairmanship</b>	X				
<b>BoS Clerk</b>		X			
<b>Committees/Teams</b>					
Acton-Boxborough Cultural Council					L
Agricultural Commission	L				
Airport Study Committee		L			
BHB (Housing Board)	L				
BIT.Com	L				
BLF (2)	X	X			
Cemetery Commission		L			
Conservation Commission			L		
Contract Negotiating Team	X	X			
CoA (Council on Aging)		L			
Design Review Board				X	
Energy Committee					L
Finance Committee				L	
Board of Health					L
Historical Commission		L			
K-6 Regional Study Committee			X		
Library				L	
Municipal Affordable Housing Trust	X				
Personnel Board					L
Planning Board (including Master Plan Steering)	L				
Public Celebrations & Ceremonies Committee		L			
Recreation Commission					L
School Committee				L	
Steele Farm				L	
Water Resources					X
Well-Being Committee		L			
Zoning Board of Appeals	L				
<b>Departments</b>					
Fire/Emergency Management		L			
Police	L				
Public Safety Dispatch				L	
Public Works			L		
Town Hall					L
<b>External</b>					
MAGIC/ MAPC	X	x			
I-495			x		X
MBTA				X	
MART		X			





**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**June 25, 2012**

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

**PRESENT:** Les Fox, Chair; Frank Powers, Clerk; Raid Suleiman, Member; Vincent Amoroso, Member; and Robert Stemple, 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 Fox called the meeting to order at 6:30 P.M. in the Grange Meeting Room of Town Hall.

**ANNOUNCEMENTS**

Chair Fox read the announcements.

**APPOINTMENTS**

- Fire Chief Randolph T. White was present to discuss the status of the hose wagon refurbishment and the Assistance to Firefighters Grant for communication equipment. Town Accountant Michael Guzzo was also present. Chief White updated the Selectmen on the hose wagon refurbishment - referring to his memorandum, supporting documentation and photos, provided. During the refurbishment work, the contractor discovered that the pump mechanism was beyond repair. This additional work was not anticipated when Chief White had prepared his estimated cost for this project. The Chief also reported that there are several safety equipment upgrades that he feels are necessary for the safety of his crew and to bring the vehicle up to current standards. The existing safety equipment is original to the vehicle (1984). These safety equipment upgrades were already calculated into this project. Town Accountant Guzzo provided his input on the funding component. Chief White and Accountant Guzzo will work together on this.
- Chief White discussed the status of the Town's application for the Assistance to Firefighters Grant for communication equipment. The Town has applied for this Grant program numerous times, but never been awarded funding. He will be applying again, but this time he is taking a regional approach (Boxborough, Stow & Littleton) for improved radio frequency equipment. Chief White explained what this project would entail; the infrastructure needs that will be addressed and Boxborough's proportional participation in this project. The Chiefs and the Town Administrators from these communities have been working together on this application. Chief White asked for the Selectmen's support in this and requested that our various legislators also be approached about supporting this application. The State Fire Marshal will also be asked to support this. The preparation of this application has become a shared effort and any assistance is welcome. Member Powers moved to authorize Chief White to submit the AFG application along with the towns of Littleton and Stow, and further to authorize Chair Les Fox to submit a letter on behalf of the Board in support of the regional Assistance to Firefighters Grant application. Seconded by Member Stemple. **Approved 5-0.**
- The Selectmen took up the appointment/re-appointment of the members to various town boards:
  - ◇ Nancy Kumaraswami and Marion Powers and ABCC candidate, Todd Davis, were present to update the Selectmen on ABCC activities; for Kumaraswami's and Powers' re-appointment to the Acton-Boxborough Cultural Council; and to introduce Todd Davis as a candidate for appointment. Member Suleiman moved to re-appoint Nancy Kumaraswami, and Marion Powers to the Acton-Boxborough Cultural Council and to also appoint Todd Davis to the Acton-Boxborough Cultural Council for all for terms of three years from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**

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

#### **NEW BUSINESS**

- Member Powers moved to accept with regrets and place on file the resignation of Patricia Gayowski from the Council on Aging. Seconded by Member Suleiman. **Approved 5-0.**

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

- ◇ CoA Members, Barbara Wheeler, Sonali Bhatia, and Frank Sibley and CoA candidate, Liz West, were present to update the Selectmen on CoA activities; for Bhatia's & Sibley's re-appointment and to discuss the appointment of Liz West and Lauraine Harding. Member Powers moved to re-appoint Sonali Bhatia, Frank Sibley and to also appoint Liz West to the Council on Aging all for terms of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Suleiman. **Approved 5-0.** Though she was not present, Member Powers moved to appoint Lauraine Harding to the Council on Aging, to complete the unexpired term of Patricia Gayowski, term effective June 25, 2012 through June 30, 2013. Seconded by Member Suleiman. **Approved 5-0.**
- ◇ Tamar MacFadyen provided an update on Board of Registrars activities; noting that she has enjoyed her time on the Board. Member Powers moved to re-appoint Tamar MacFadyen to the Board of Registrars for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**
- ◇ Brian Morrison was present seeking appointment to the Agricultural Commission. He spoke about his roots in Town and protecting our agricultural heritage. Chair Fox moved to appoint Brian Morrison to the Agricultural Commission for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**
- ◇ Rebecca Neville was present seeking appointment to the Cemetery Commission. She was the Cemetery Commission's liaison while she was a Selectman. She noted that it is important that potential future cemetery sites be identified. Member Powers moved to appoint Rebecca Neville to the Cemetery Commission for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Suleiman. **Approved 5-0.**
- ◇ Chair Fox moved to appoint Robert Stemple to the Design Review Board as the Selectmen's designee for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**
- ◇ Member Suleiman moved to re-appoint Francis J. Powers to the Metropolitan Area Planning Council (MAPC), as an alternate member for a term effective immediately through April 30, 2015, or until a successor is appointed by this Board. Seconded by Member Stemple. **Approved 5-0.**
- ◇ Member Suleiman moved to re-appoint Francis J. Powers to the Montachusett Regional Transit Authority (MART) Representative (June 30, 2013) for one year term, from July 1, 2012 to June 30, 2013, or until a successor is appointed by this Board. Seconded by Chair Fox. **Approved 5-0.**
- ◇ Kevin Mahoney was present seeking appointment to the Historical Commission. Member Powers moved to appoint Kevin Mahoney to the Historical Commission for a term of two years, from July 1, 2012 to June 30, 2014, or until a successor is appointed by this Board. Seconded by Chair Fox. **Approved 5-0.** Subsequently, BHC members Shirley Warren and Alan Rohwer appeared and updated the Selectmen on Historical Commission activities, for Warren's & Rohwer's re-appointment and to discuss the appointment of Kevin Mahoney and Trena Minudri to the Commission. Member Powers moved to re-appoint Shirley Warren and Alan Rohwer to the Historical Commission for terms of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Suleiman. **Approved 5-0.**

*The Board took Agenda Item 7b, 4 (a-e), 7c and 7d, out of order.*

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

- The Selectmen took up discussion on a DPW Reserve Fund Transfer Request for Fuel Expenses. Member Stemple moved to forward to the Finance Committee for approval the request to transfer \$1,700 from the Reserve Fund to account #001-429-5400-5482, Public Works – Fuel Expense. Seconded by Member Powers. **Approved 5-0.**

#### **MINUTES**

- Member Powers moved to accept the minutes for the Regular Session of April 30, 2012, as revised and the Executive Sessions of June 11, 2012, June 19, 2012; June 19, 2012 (BoS Contract Negotiating Team); and June 20, 2012 (BoS Contract Negotiating Team) as written. Seconded by Member Suleiman. **Approved 5-0.**

## NEW BUSINESS (Continued)

- Member Powers opened discussion on the ratification and execution of agreement with the United Church of Christ, Congregational (UCC), Boxborough, for the lease of Fellowship Hall. Town Meeting approved the Selectmen's execution of this lease. Member Powers reviewed the general terms of the lease. Member Powers moved to ratify and authorize Selectmen Chair, Les Fox, to execute a lease agreement between the Town and the United Church of Christ Congregational (UCC), Boxborough, for the purpose of using the Fellowship Hall as a community center for the period July 1, 2012 through June 30, 2014. Member Suleiman. **Approved 5-0.**

## APPOINTMENTS (Continued)

- ◊ Dennis Reip provided an update on Conservation Commission activities and their objectives for the coming year. Member Amoroso moved to re-appoint Dennis Reip to the Conservation Commission for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Suleiman. **Approved 5-0.**
- ◊ Abby Reip and Larry Grossman were present to update the Selectmen on Energy Committee activities and to be re-appointed to the Energy Committee. Member Amoroso moved to re-appoint Abigail Reip and Larry Grossman to the Energy Committee for terms of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Suleiman. **Approved 5-0.**

## NEW BUSINESS (Continued)

- Member Stemple opened discussion on his submitted Disclosure by Special Municipal Employee of Financial Interest in a Municipal Contract. Member Stemple advised that he has an opinion from Town Counsel regarding his service as a Selectman and also working as a per-diem firefighter. It was opined that there is no apparent conflict however it was advised that a public disclosure should still be filed with the Town. Chair Fox moved to approve the exemption filed by Robert T. Stemple under c.268A § 20(d) regarding his financial interest in a contract made by the Boxborough Fire Department. Seconded by Member Powers. **Approved 5-0.**

## SELECTMEN REPORTS

- Member Powers reported on the last Council on Aging meeting. There was discussion on this year's re-appointments and of those new members appointed tonight. The demand for MART van services has increased and there was an in-depth discussion as to the Town's transportation assessment; calculations/formulas and allocations.

He also reported that he has participated in several contract negotiation meetings.

He reported that he participated in the Friday's Selectmen's meeting concerning a personnel matter.

Member Powers further reported that he has been participating in the UCC lease negotiations.

- Member Stemple reported that he will be attending his first FinCom meeting on July 9<sup>th</sup>.
- Member Suleiman reported that he also attended Friday's Selectmen's meeting.

He further reported that he continues to meet with the Town Hall staff as part of TA Shaw's evaluation/review process.

- Member Amoroso reported that the ConsCom is considering recommending the acquisition of land off of Liberty Square Rd. They will be investigating this matter over the next several months. They are hoping to have something to present to the Selectmen for next year's Town Meeting.

He also reported on the Regional School Study Committee. He has attended his first meeting as the Selectmen's representative. He advised the Selectmen of the Committee's rough timeline and the group's efforts in community outreach and soliciting input. A flyer advertising the Committee's website is going out in the upcoming property tax bills in both communities. They intend to provide an on-line survey on the Study Committee's website. The newspaper will be contacted about establishing a regular section for information from this group.

- Chair Fox reported that he participated in a recent BLF meeting. A major item was a wrap up of this year's ATM and budget preparation. Interest was also expressed in re-establishing an Economic Development group. Member Suleiman and FinCom Chair Raad have offered to work on this. The intention is to discuss this at the Selectmen's Goals Workshop in September.

He reported that he participated in the union discussions with Member Powers.

Chair Fox reported that he manned Stow Road booth at Fifer's Day and was pleased with the interest shown and the input received. The intention is to have a similar booth as the Harvest Fair.

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

- There was discussion on the recent filing submitted regarding the proposed Minuteman Village development off of Stow Road. Chair Fox provided a summary and update on the materials submitted and activities related to it.
- FinCom Chair Raad and Member Niro were present and updated the Selectmen on recent FinCom activities, the selection of Officers for FY 13 and the five vacancies they will have on their board as of July 1<sup>st</sup>. Also FinCom Chair Raad notified the Selectmen that he would be willing to be re-appointed as the FinCom representative of the Affordable Housing Trust.

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

- Ed Whitcomb was present to discuss his re-appointment to the Steele Farm Advisory Committee and to discuss the status of the Steele Farm preservation restriction. Member Stemple moved to re-appoint Edward Whitcomb to the Steele Farm Advisory Committee for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Suleiman. **Approved 5-0.**
- Chris Rodstrom of the Trustees of the Reservation (TTOR); Alan Rohwer, Historical Commission and Edward Whitcomb and Bruce Hager, Steele Farm Advisory Committee, were present to review the status of the Steele Farm preservation restriction. Representatives of the Boxborough Historical Society and Boxborough Conservation Trust and other interested parties were also present. Chair Fox provided background on this and Rohwer provided an update on the group's efforts. They have received input from both of the necessary state agencies, and preliminary approval of the proposed language. It will need to be vetted by various Town boards/committees and then the public. Tonight's discussion is a prelude to submitting it to Town Counsel. There was review of some of the terms in this document. The current language is within "the margins" of acceptable verbiage for these state agencies. There have been changes to some of the technical wording to satisfy these agencies. Hager offered to forward informational materials that may address some of the items being discussed tonight. There was discussion on the stakeholders' roles and responsibilities. BHC Chair Rohwer opined that the National Register material addresses the historical aspects. The Selectmen will submit questions/concerns, within the next thirty days, to be collated for forwarding to Town Counsel. It is important that we engage the public as we move forward.

#### **ADJOURN**

- At 9:45 PM Member Powers moved to adjourn. Seconded by Member Suleiman. **Approved 5-0.**



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**July 2, 2012**

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

**PRESENT:** Les Fox, Chair; Frank Powers, Clerk; Raid Suleiman, Member; Vincent Amoroso, Member; and Robert Stemple, Member

**ALSO PRESENT:** Selina Shaw, Town Administrator 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 Fox called the meeting to order at 7:01 P.M. in the Grange Meeting Room of Town Hall.

**ANNOUNCEMENTS**

Chair Fox read the announcements.

**APPOINTMENTS**

- DPW Director, Tom Garmon, was present to discuss the use of snow and ice surplus funds to purchase a spreader. Member Amoroso provided background on this proposal; Dir. Garmon's rationale for this acquisition and the proposed funding. Dir. Garmon described the condition of existing equipment and the proposed equipment's benefits. FinCom has given their support and the Town has also sought direction from the DOR. Member Amoroso moved to authorize DPW Director Tom Garmon to use a portion of the available surplus balance in the Public Works Snow and Ice other expense line items for the purpose of acquiring a spreader in an amount not to exceed \$14,000, subject to agreement by the Finance Committee. Seconded by Member Suleiman. **Approved 5-0.**
- The Selectmen took up the appointment/re-appointment of the members to various town boards:
  - ◇ Airport Study Committee Chair, Anne Canfield and ASC candidate, Cindy Markowitz, were present to update the Selectmen on ASC activities; to discuss Canfield's re-appointment and Markowitz's appointment. Member Powers moved appoint Cindy Markowitz to the Airport Study Committee for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Stemple. **Approved 5-0.** Member Powers moved to re-appoint Anne Canfield to the Airport Study Committee for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Amoroso. **Approved 5-0.**
  - ◇ Personnel Board members, Anne Canfield and Pat Flanagan were present to update the Selectmen on Personnel Board activities; Canfield's & Flanagan's re-appointment and to discuss the proposed appointment of Sheila Bauer. Member Suleiman moved to re-appoint Anne Canfield and Pat Flanagan to the Personnel Board both for terms of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**
  - ◇ Karen Warner was present for re-appointment as the Zoning Board of Appeals' Alternate member. There was discussion about anticipated change in the make up of the ZBA Board in the near future. Chair Fox moved to re-appoint Karen Warner as an alternate member of the Zoning Board of Appeals for a one year term, from July 1, 2012 to June 30, 2013, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**
  - ◇ Al Murphy was present to update the Selectmen on the activities of the Housing Board, Foxborough Affordable Housing Trust and the Stow Road Concept Development Committee; and to be re-appointed to the Foxborough Affordable Housing Trust. Chair Fox moved to re-appoint R. Allen Murphy to the Foxborough Affordable Housing Trust of a term of two years, from July 1, 2012 to June 30, 2014, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.** Though she was not able to attend the Selectmen also took up Joan Meyer's re-appointment. Chair Fox moved to re-appoint Joan Meyer to the Foxborough Housing Board for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**

- ◇ Boxborough Information Technology Committee member, Guillermo Chang, was present to update the Selectmen on BITcom activities, specifically the VOiP roll-out and to be re-appointed to BITcom. Chair Fox moved to re-appoint Guillermo Chang to the Boxborough Information Technology Committee for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.** Though he was not able to attend the Selectmen also took up Eric Wong's re-appointment and there was discussion on Wong's efforts to revamp the Town's website. Chair Fox moved to re-appoint Eric Wong to the Boxborough Information Technology Committee for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**
- ◇ Conservation Commission member, Richard Williamson, was present to discuss ConsCom activities; and his re-appointment. Member Amoroso moved to re-appoint Richard Williamson to the Conservation Commission for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Member Suleiman. **Approved 5-0.**
- ◇ Lori Lotterman of the Public Celebrations & Ceremonies Committee was present to discuss her time on the PCCC; some of this year's activities and her re-appointment. Member Powers moved to re-appoint Lori Lotterman to the Public Celebrations & Ceremonies Committee for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Chair Fox. **Approved 5-0.** Town Clerk Markewicz swore in those that were present.

The Selectmen took up the re-appointment/appointment of the candidates that were not present, but have confirmed that they are willing to serve:

- ◇ Member Powers moved to re-appoint Trena Minudri to the Public Celebrations & Ceremonies Committee for a term of three years, from July 1, 2012 to June 30, 2015, or until a successor is appointed by this Board. Seconded by Chair Fox. **Approved 5-0.** Also, Member Powers moved to appoint Trena Minudri to the Historical Commission for a one year term, from July 1, 2012 to June 30, 2013, or until a successor is appointed by this Board. Seconded by Chair Fox. **Approved 5-0.**
- ◇ Karim Raad has agreed to continue to serve as the Finance Committee's representative on the Boxborough Affordable Housing Trust. Chair Fox moved to re-appoint Karim Raad to the Boxborough Affordable Housing Trust for a term of two years, from July 1, 2012 to June 30, 2014, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**
- ◇ Chair Fox moved to re-appoint Christian Habersaat to the Zoning Board of Appeals for a term of three years, from July 1, 2012 to June 30, 2013, or until a successor is appointed by this Board. Seconded by Member Suleiman. **Approved 5-0.**
- ◇ Member Suleiman moved to appoint Sheila Bauer to the Personnel Board for a term of two years, from July 1, 2012 to June 30, 2014, or until a successor is appointed by this Board. Seconded by Member Powers. **Approved 5-0.**

## MINUTES

- Member Powers moved to accept the minutes for the Regular Session and the Executive Session both of June 22, 2012, as written. Seconded by Member Stemple. **Approved 5-0.**

## SELECTMEN REPORTS

- Member Amoroso reported on and updated the Selectmen on the Regionalization Study Committee's activities, including web posting of information and links so residents can provide input.
- Member Suleiman reported that the Personnel Board is discussing possible changes to the Town's employee compensation structure. This is a long term project.
- Member Stemple reported that the previous FinCom meeting was cancelled but he intends to be at their meeting next Monday.
- Chair Fox reported that BITcom has been reviewing concerns regarding the ViOP installation. The next step is for the installation at Police & Fire. They are also looking into acquiring a new, more "user-friendly" domain name for the Town.

He also reported that the Joint Housing Board/Stow Road Concept Development Committee meeting could not be held last week due to quorum issues.

Chair Fox reported that he continues to participate in collective bargaining discussions.

- Member Powers reported that he had met with Fire Chief White and discussed carrying over vacation time.

He also reported that this afternoon an agreement was reached with the Dispatch Union. The terms will now be submitted to Town Counsel for review. Discussion continues with the Police Union.

## NEW BUSINESS

- The Selectmen took up the annual employee appointments. Chair Fox moved to appoint:

Donald	Morse	Animal Control Officer
Donald	Morse	Animal Inspector
Donald	Morse	Cemetery Superintendent
Phyllis	Tower	Dog Officer
David	Birt	Election Warden
Richard	Golden	Election Warden
Phyllis	Tower	Field Driver
Michael	Guzzo	Town Accountant
Duane	Adams	Town Assessor
Elizabeth	Hughes	Town Planner
Margaret	Dennehy	Town Treasurer
Craig	Martin	Call Inspector of Buildings and Code Administration Officer
Tom	Argento	Electrical Inspector
Charles	Weeks	Assistant Electrical Inspector
Gary	Corey	Inspector of Gas & Plumbing
Norman	Card, Jr.	Assistant Inspector of Gas & Plumbing
Kopelman & Paige. PC		Town Counsel
Nicholas A.	DiMauro	Sergeant
Warren J.	O'Brien	Sergeant
Brett A.	Pelley	Sergeant
Nathan W.	Bowolick	Patrol Officer
Patrick S.	Colburn	Patrol Officer
Philip M.	Gath	Patrol Officer
Jeffrey C.	Landgren	Patrol Officer
Benjamin M.	Lavine	Patrol Officer
Edward W.	Pokornicki, Jr.	Patrol Officer
Robert R.	Romilly, Jr.	Patrol Officer
Gordon N.	Clark	Special Police Officer
Steven P.	Duffy	Special Police Officer
Patrick E.	Mortimer	Special Police Officer
Robert	DaCosta	Special Police Officer
Brandon	Bruin	Special Police Officer
Peter	Kinnas	Special Police Officer
Katelyn	Pfeifer	Special Police Officer
Sean	Dineen	Special Police Officer
Phyllis	Tower	Lock-up Attendant
Richard	Tower	Lock-up Attendant
Amy	Waxman	Lock-up Attendant
Gary	Whitaker	Lock-up Attendant

all for terms commencing July 1, 2012 and ending on June 30, 2012; and to appoint John J. Jennings III as Inspector of Buildings and Code Administration Officer for a term commencing July 1, 2012 and ending on August 12, 2012. Seconded by Member Powers. **All appointees approved 5-0, except the police.** Member Suleiman recused himself from Police Dept. re-appointments so the Police Department re-appointments were **Approved 4-0-1 (Suleiman abstained).**

- There was discussion on the input that has been received by both Chief Ryder and Chief White suggesting that their respective official appointments/titles be augmented to include specific responsibilities:
  - ◊ Chair Fox moved to appoint Warren B. Ryder as Keeper of the Lock Up, Dispatch Center Co-Director and Deputy Emergency Management Director for a term commencing July 1, 2012 and ending on June 30, 2014. Seconded by Member Powers. **Approved 4-0-1 (Suleiman abstained).**
  - ◊ Member Powers moved to appoint Randolph T. White as Dispatch Center Co-Director for a term commencing July 1, 2012 and ending on June 30, 2014. Seconded by Chair Fox. **Approved 5-0.**

- The Board took up approval on several Reserve Fund Transfer Requests. The back-up documentation was reviewed and background was provided for these requests.
  - ◊ Chair Fox moved to forward to the Finance Committee for approval the request to transfer \$15,225.92 from the Reserve Fund to account #001-210-5100-5114, Police Department Salary – Full Time Officers. Seconded by Member Powers. **Approved 4-0-1 (Suleiman abstained).**
  - ◊ Chair Fox moved to forward to the Finance Committee for approval the request to transfer \$6,739.38 from the Reserve Fund to account #001-210-5200-5242, Police Department Repair & Maintenance – Building & Grounds. Seconded by Member Powers. **Approved 4-0-1 (Suleiman abstained).**
  - ◊ Member Stemple moved to forward to the Finance Committee for approval the request to transfer \$4,515.48 from the Reserve Fund to account #001-221-5200-5119, Dispatch Salary – Full Time. Seconded by Chair Fox. **Approved 5-0.**
- Chair Fox moved to accept with regrets and place on file the resignation of Robert Zurek from the Stow Road Concept Development Committee effective April 4, 2012. Seconded by Member Suleiman. **Approved 5-0.**
- There was discussion on the status of Minuteman Regional High School feasibility study and the recent communications received from other member towns on this matter. Cheryl Mahoney, as the Minuteman School Comm. Rep. participated in the discussion. It was determined that Mahoney would submit a request to the Minuteman School Comm. that they hold an evening Forum to discuss the “Out-of-District” enrollment issue, and that all stakeholders & state legislators be invited to participate. This will be discussed further at an upcoming meeting.
- There was discussion on the FEMA Grant for the Emergency Generator(s) and the project, in general. FEMA has awarded Boxborough a grant for this project. There was discussion on the timeline and issues/concerns related to this project. Member Powers moved to accept the Federal Emergency Management Agency Hazard Mitigation Grant in the amount of \$177,117 for the purpose of funding the acquisition of emergency generators for the Blanchard Memorial School and the Hager well house. Seconded by Chair Fox. **Approved 5-0.** As part of FEMA’s prescribed procedures a Project Manager must be appointed. Member Powers moved to appoint Boxborough Fire Chief, Randolph T. White, to serve as Project Manger for the Boxborough Emergency Generators Project for a term commencing immediately and ending on June 6, 2015. Seconded by Chair Fox. **Approved 5-0.**
- The Selectmen took up execution of the final paperwork to complete the process for the acceptance of Hughes Lane as a public way. Chair Fox moved to accept the deed for Hughes Lane, pursuant to the authority granted by the vote under Article 40 of the May 14, 2012 Town Meeting, General Laws Chapter 82, Section 21 and any other authority in any way appertaining. Seconded by Member Powers. **Approved 5-0.** The developer is also deeding over an undeveloped parcel in this subdivision to the Conservation Commission. Chair Fox moved to accept the deed for a parcel of land situated on Hughes Lane shown as Parcel C on a plan entitled, “Fair Oaks Park Definitive Subdivision of Land in Boxborough, Massachusetts” Prepared for: Landwest Development, LLC, dated: September 2002, revised March, 2003, May 28, 2003 and July 29, 2003, by Acton Survey & Engineering, Inc. which plan is recorded with the Middlesex South District Registry of Deeds as Plan No. 218 of 2004 (“Plan”), pending acceptance by the Conservation Commission pursuant to the authority granted under G.L. c. 40 § 8C. Seconded by Member Powers. **Approved 5-0.**
- The Selectmen took up discussion on the acceptance of the FY 2013 State 911 Department Regional Public Safety Answering Point and Regional Secondary Public Safety Answering Point and Regional Emergency Communication Center Development Grant. Chair Fox moved to accept the FY 2013 State 911 Department Development Grant in the amount of \$28,400 to conduct a feasibility study for a Regional Emergency Communication Center (“RECC”) with the town of Littleton. Seconded by Member Powers. **Approved 5-0.**
- The Selectmen took up the re-adoption of Designer Selection Procedures. The memorandum “Adoption of Design Selection Procedures” was reviewed and discussed. Member Stemple moved to re-adopt Designer Selection Procedures pursuant to the state designer selection law G.L. c. 7, §§38A½-O. Seconded by Chair Fox. **Approved 5-0.**
- The Selectmen discussed the Police Chief’s request to carryover unused accrued vacation time and voicing their concerns regarding this matter. Further to the request of Police Chief Warren Ryder, Chair Fox moved to authorize the Chief to carry over unused accrued vacation leave in excess of the 200 hours allowed by contract (approximately 74 hours excess at 6/20/12). Seconded by Member Stemple. **Approved 4-0-1 (Suleiman abstained).**

- Though not on the agenda, it was related that Fire Chief Randolph White similarly requests; that he also be allowed to carryover accrued vacation time. There was additional discussion on this. Staff should be using vacation time in a timely manner. It is the Selectmen's purview to determine if and what amount they will allow an employee to carry over. Further to the request of Fire Chief Randolph White, Member Powers moved to authorize the Chief to carry over unused accrued vacation leave in excess of the 200 hours allowed by contract (approximately 147.9 hours excess at 6/20/12). Seconded by Chair Fox. **Approved 5-0.**

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

- There was discussion on preparations for the Appreciation Event and assigning tasks.

#### **ADJOURN**

- At 9:05 PM Member Powers moved to adjourn. Seconded by Member Amoroso. **Approved 5-0.**





**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**July 30, 2012**

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

**PRESENT:** Les Fox, Chair; Frank Powers, Clerk; Raid Suleiman, Member; Vincent Amoroso, Member; and Robert Stemple, Member

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

At 7:01 PM Chair Fox called the meeting to order in the Town Administrator's Office.

**EXECUTIVE SESSION**

- Member Suleiman moved to adjourn to executive session to discuss strategy with respect to collective bargaining (Massachusetts Coalition of Police, Local 200A, Dispatch) and to reconvene in open session in the Grange Meeting Room to continue with the business on the agenda. Seconded by Member Powers. **Approved 5-0 by Roll Call Vote: Suleiman "aye," Fox "aye," Powers "aye," Stemple "aye," and Amoroso "aye."**

Chair Fox stated that "To conduct such session in an open meeting may have a detrimental effect on the bargaining position of the Board."

Chair Fox reconvened the meeting at 7:35 P.M. in the Grange Meeting Room of 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.

**APPOINTMENTS**

- Chair Fox announced that the Town and the Massachusetts Coalition of Police, Local 200A, Dispatch have reached an agreement on a contract and reviewed some the terms. Elaine Delorme was present representing the Union. Chair Fox outlined some of the terms of this agreement. Member Powers moved to ratify and execute the Agreement between the Town of Boxborough and Massachusetts Coalition of Police, Local 200A, Dispatch for the period July 1, 2012 through June 30, 2015, subject to the approval by Town Meeting of the appropriation necessary to fund the cost items of the first year of the Agreement. Seconded by Member Suleiman. **Approved 5-0.**
- Chair Fox discussed the status of Emergency Medical Dispatch (EMD) services in Town; how the Boxborough Public Safety Dispatch is currently providing this service and eventual transfer of these responsibilities to an external EMD provider. Member Powers moved to ratify and execute the Memorandum of Agreement between Town of Boxborough and Massachusetts Coalition of Police, Local 200A – Dispatch, related to compensation for Performance of EMD duties, effective July 1, 2012 until such time that said EMD duties are transferred by the Town to an external certified EMD resource. Seconded by Member Suleiman. **Approved 5-0.**

**ANNOUNCEMENTS**

- Chair Fox read the announcements.

**MINUTES**

- Member Powers moved to accept the minutes for the Regular sessions of April 23, 2012; May 7, 2012; & May 23, 2012 and the Executive Sessions of June 18, 2012 (Contract Negotiating Team, Fire) & July 27, 2012 (Contract Negotiating Team, Police), as revised and Executive Session of June 16, 2012 (Contract Negotiating Team, Police); June 20, 2012 (Contract Negotiating Team, Police) & July 25, 2012 (Contract Negotiating Team, Fire), as written. Seconded by Member Stemple. **Approved 5-0.**

## SELECTMEN REPORTS

- Member Powers reported that the Police Union has re-opened negotiations with the Town and have had one meeting so far. The negotiation team continues its discussions with the Firefighters.

He also reported that the tick-borne illnesses were a significant concern at the last Well-being Committee meeting.

- Chair Fox reported that he has participated in a number of contract negotiation sessions since the last Selectmen's meeting.

He reported that the Stow Road Concept Development Committee met last week to review the input received at Fifer's Day. They intend to have a similar booth at the Harvest Fair to solicit additional input.

- Member Suleiman reported that the Personnel Board is investigating converting the Town's compensation model from a step to a merit/performance based system. TA Shaw has obtained information from other communities on this. He further noted that some Town employees have expressed interest as to why there is not an employee representative on the Personnel Board.

## OLD BUSINESS

- The Selectmen re-opened discussion on Town of Boxborough Policy for the Hager Well Incident Response. Member Powers related his discussions with the Board of Health on the Selectmen's proposed revisions and other concerns. The Board of Health voted to approve these suggested revisions and made some themselves. A minor grammatical change to the title was suggested. School Committee member Neyland asked for and received clarification as to the notification process. Chair Fox moved, contingent upon the approval of the Board of Health, to adopt the "Town of Boxborough Policy for Hager Well Incident Response", dated 18 July 2012, as revised. Seconded by Member Powers. **Approved 5-0.**
- Discussion opened on the enacting of an order of taking for a sidewalk easement. TA Shaw provided background; noting that it had been determined that this action was the best way to accomplish the gifting of this land due to some convoluted title issues came to light. The Warners have been very cooperative and have agreed to this action. In accordance with the provisions of Massachusetts General Laws, Chapter 79, and the vote under Article 35 of the May 14, 2012 Annual Town Meeting, as well as any other enabling authority, Member Stemple moved to take a permanent easement for public sidewalk purposes over, in, through, under and upon that land shown as "Easement Area = 299 ± S.F." on a plan entitled: "Plan of Land in Boxborough, Mass. Owned by: Karen, Barbara & Joseph Warner at 709 Mass Ave. – Boxborough," dated Jan. 30, 2012 and prepared by Goldsmith, Prest & Ringwall, Inc., to be recorded herewith. Seconded by Member Powers. **Approved 5-0.**
- The Selectmen re-opened discussion on the proposed Minuteman Village of Boxborough development, and reviewed a draft response to MassHousing on this proposal. Chair Fox cited some of the significant concerns that are detailed in this letter. Based on the information that is provided in this letter the Selectmen are requesting that MassHousing not approve this development proposal. Consensus was that letter was well done, comprehensive and the contributing boards were thanked for their hard work. Audience members provided additional input. Member Powers moved to authorize the Chairman, on behalf of the Board of Selectmen, to submit to MassHousing the final input provided from town departments and boards related to the proposed Minuteman Village of Boxborough affordable housing development. Seconded by Member Suleiman. **Approved 5-0.**
- The Selectmen re-opened discussion on the proposed Steele Farm preservation restriction, and reviewed the compiled questions/concerns that are to be submitted to Town Counsel. Chair Fox reviewed some of the concerns presented. This document will also be forwarded to the stakeholders. Audience members provided additional input. Member Powers moved that the Town Administrator submit to Town Counsel for review and response the compiled questions/concerns of the Board of Selectmen and the draft preservation restriction, dated June 1, 2012; further that the TA submit in parallel the compiled questions/concerns to the Steele Farm Advisory Committee, the Historical Commission, the Boxborough Conservation Trust, Boxborough Historical Society and The Trustees of Reservations. Seconded by Member Amoroso. **Approved 5-0.**

## NEW BUSINESS

- The Selectmen called the State Primary Election for Thursday, September 6, 2012. Member Stemple moved to notify and warn the inhabitants of the Town of Boxborough who are qualified to vote in Primaries to vote at Ward 0; Precinct 1, Boxborough Town Hall, Grange Meeting Room, 29 Middle Road, Boxborough on Thursday, the sixth day of September, 2012, from 7AM to 8 PM to cast their votes in the State primaries for the candidates of political parties for the following offices: Senator in Congress, for the Commonwealth; Representative in Congress, Third District; Councillor, Third District; Senator in General Court, Middlesex & Worcester District; Representative in General Court, Thirty-seventh Middlesex District; Register of Deeds,

Middlesex Southern District; Clerk of Courts, Middlesex County; and Sheriff (To Fill Vacancy), Middlesex County. Seconded by Member Suleiman. **Approved 5-0.**

- Member Amoroso provided an update on the various AB Regionalization Study Committee (ABRSC) activities. Members of the AB Regional Study Committee were present. Member Amoroso referred to materials that were provided; outlining the work of the ABRSC and its breakout study groups; some of their findings; and the concerns brought to light. Audience members provided additional input. The matter of significant concern for Boxborough – the potential make up this school committee and voting strength as discussed. Both towns would have to approve an agreement. There was discussion about the timing and mechanics of putting an agreement forward for Town Meeting approval. They are meeting again next week. The ABRSC members were thanked for their hard work.
- Citizen's Concerns – Maria Neyland stated that she would like to see the Selectmen's agenda packets posted on the web prior to their meetings.

#### **CORRESPONDENCE**

- There was discussion on Town Counsel's Municipal Client Memorandums regarding ADA Compliance, Trial Accessibility and Updates on the Open Meeting Law, Remote Participation Option. It was determined that a closer look needs to be taken at both of these matters.

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

- Member Suleiman noted that he had forwarded a draft summary of TA Shaw's performance review to the Selectmen. He would like to have their input for the next Selectmen's meeting.

#### **ADJOURN**

- At 10:05 PM Member Powers moved to adjourn. Seconded by Member Suleiman. **Approved 5-0.**



62

**From:** Jeanne McKnight [mailto: [REDACTED]]  
**Sent:** Monday, August 20, 2012 10:06 PM  
**To:** lesfox@ [REDACTED]; Selina Shaw  
**Cc:** John Giorgio; Cheryl.Mahoney@town.boxborough.ma.us  
**Subject:** RE: Steele Farm Preservation Restriction and Selectmen Questions

Les and Selina:

Attached is a document in question and answer format responding to the questions you compiled regarding the draft conservation/preservation restriction that the Board of Selectmen propose to grant to The Trustees of Reservations and the Boxborough Historical Society, Inc., as co-holders. Also attached is a revised conservation restriction with changes addressing some of the issues raised by the questions, and additional changes that I recommend. I am on vacation this week, but could arrange a time for a telephone conference by cell phone, and I will be back in the office on Monday, August 27<sup>th</sup>. My cell phone number is [REDACTED], and I am checking e-mails frequently as well.

Jeanne

Jeanne S. McKnight, Esq.  
Kopelman and Paige, P.C.  
101 Arch St.  
12th floor  
Boston, MA 02110  
(617) [REDACTED] (Direct Line)  
(617) 654-1735 (Fax)

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 attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

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**From:** John Giorgio  
**Sent:** Tuesday, July 31, 2012 1:56 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: Steele Farm Preservation Restriction and Selectmen Questions

Jeanne;

I believe that you have had some involvement in the Steele Farm matter in the past. Could you take a look at this and either handle it yourself or assign it out?

I thought that we went to town meeting on this. I will ask Selina for a copy of the vote.

NB: Deadline.

Thank you

John W. Giorgio, Esq.  
Kopelman and Paige, P.C.  
101 Arch Street  
12th Floor  
Boston, MA 02110

Phone: (617) 556-0007

Fax: (617) 654-1735

Mobile Phone: [REDACTED]

**From:** Selina S. Shaw [mailto:selina.shaw@town.boxborough.ma.us]  
**Sent:** Tuesday, July 31, 2012 1:31 PM  
**To:** John Giorgio  
**Cc:** Les Fox  
**Subject:** Steele Farm Preservation Restriction and Selectmen Questions

Good afternoon, John,

Slowly but surely, we are moving forward with the process to complete the preservation restriction on Steele Farm. We are now ready to forward to you for counsel's review and input the latest draft of the restriction, which has had an initial vetting by the appropriate state agencies (Mass Historical Commission's Michael Steinitz and Massachusetts Executive Office of Environmental Affairs' Irene del Bono. I am sending in word for easily editing and also as a pdf, which includes the National Register of Historic Places Nomination Form.

I am also including a list of questions and concerns that have been raised by the Board of Selectmen and some citizens. We would like Counsel to review and address each of the issues that have been brought forward. Again, I am sending as a word documents so that counsel's responses can be easily inserted.

I will be out of the office starting on August 10 and will not be returning until August 27. Please provide your response directly to BoS Chair Les Fox, with a cc to me. I have not yet spoken with Les, but I expect that the Board may like to take up the matter under old business at their next meeting on August 27; therefore, a response to Les by the 20<sup>th</sup> to allow some time for discussion may be a good timeframe. Les?

Regards,  
Selina

Selina S. Shaw  
Town Administrator  
29 Middle Road  
Boxborough, MA 01719  
978-263-1116, ext. 101  
978-264-3127 (fax)  
<http://www.town.boxborough.ma.us>

*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.*

## Questions for Town Counsel regarding Steele Farm Preservation Restriction

What would be the impact should one of the Grantee holders of the restriction dissolve, or no longer become unable to act? TToR is not likely to be a concern, but what about the Boxborough Historical Society? Would it be required to replace with a new holder? What is the process in that case?

*Both the Boxborough Historical Society, Inc. ("BHS") and The Trustees of Reservations ("TTOR", together the "Grantee") are non-profit corporations that by law are not supposed to dissolve without disposing of their real property assets. The draft conservation restriction (the CR) provides in Section I that the Grantee may assign the CR to a different entity provided that as a condition of any assignment, Grantee requires that the purpose of the CR continue to be carried out and the assignee qualifies under G.L. c.184 of MGL as eligible to hold a perpetual CR. The CR recites that each of BHS and TTOR are eligible to hold both conservation restrictions and historic preservation restrictions, so BHS and TTOR could presumably assign their respective interest to the other prior to dissolution. The process would be for either BHS or TTOR to record with the Middlesex South District Registry of Deeds an assignment of the CR. Section I also requires compliance with Article 97 of the Amendments to the Massachusetts Constitution ("Article 97") with regard to such assignment "if applicable" – in my opinion, Article 97 does not apply to the assignment of interests in land by private corporations.*

### **Preamble**

Page 1, Preamble: The site is described about 2/3 down in the first paragraph as "a parcel of land of approximately 34 acres and 10 rods". Since an acre is a unit of area (160 square rods) and a rod is a unit of length this description is in error. Need to revise to use commensurate measures – eg., all acres, or acres + square rods. This can be resolved by examining the deeds and revising the description accordingly.

*Both the 1994 deed to the Town and the prior 1954 deed to the Steele family gave the acreage as 34 acres and 10 rods, thus I do not want to speculate that 10 square rods was meant. I revised the description to say the property has 34 acres and 10 rods "as described in the below-referenced deed" and I added that the Premises is shown on the Town Assessor's map as having 36.14 acres.*

### **B. Reserved Rights**

#### Recreational Activities

Page 5, Section B. Reserved Rights, Paragraph (2) Recreational Activities: How can we ensure that recreational activities that are not listed explicitly in the Reserved Rights can be accommodated in future and not excluded or challenged as not being "in the spirit of the restriction" as interpreted by the holders of the restriction? For example, do we need to add such

items such as "snowshoeing, amateur astronomy in both daylight and night-time hours, kite-flying, model aircraft flying and model rocketry", because there might be constituency in the future? How much freedom and right would the town have to add things in future that are not explicitly prohibited? How can we guard against interpretation of the "spirit of the restriction" from being used to unreasonably constrain the town?

*I have added snowshoeing and the other activities you mentioned to the list of examples of allowed passive recreation activities, and also referred to the Management Agreement saying that any use described in the Management Agreement is also allowed. As to guarding against unreasonable interpretations by the Grantee, the CR provides that Grantee approvals required under the CR shall not be unreasonably denied.*

Can the permissible recreational activities be called out in the management plan which may be modified from time to time, giving the town sufficient freedom? Presumably revisions to the management plan would need to be approved by the holders of the restriction. What happens to the review and approval process if the two holders (TToR and BHS) don't agree? How is agreement reached in that case? (see section below on Management Plan)

*I have added that recreational uses described in the Management Plan are also allowed. Since the Management Plan does not actually require "approval" by the Grantee, but only that it be prepared "in consultation with" the Grantee, the Grantee may object to this change, but since the recreational use must still be of a passive nature (i.e., not playfields such as baseball or soccer fields or playcourts such as tennis or basketball) this change may be acceptable.*

*As to Grantee's review and approval process and what happens if the two Grantees don't agree, Section C.1. provides that where Grantee's approval is required under B(1) Maintenance of Historic Structures, BHS shall notify TTOR of BHS's decision, which TTOR shall either affirm or reverse, and TTOR's decision shall be final as to the Grantee. TTOR is the sole decision maker as to other Grantee decisions in the CR.*

### Agriculture

Page 5, Section B. Reserved Rights, Paragraph (6) Agriculture: It has been suggested to add in the parenthetical statement concerning allowed practices "...planting of trees, shrubs and flowers **for shade, ornament or fruit-bearing purposes**, planting and harvesting of Christmas trees..." The point being to explicitly preserve the possibility of recreating orchards, where a future restriction holder might say that it is not in the spirit of the restriction.

*I have added the language you suggest with regard to shade, ornament or fruit-bearing.*

### Forestry

Page 6, Section B. Reserved Rights, Paragraph (8) Forestry. The document should have an authoritative reference to current or best practices such as in Paragraph (6) Agriculture where the U.S. Cooperative Extension Service is referenced. What is the analogous reference for forestry?

*The CR provides that the Town shall implement forestry in accordance with a forest management plan prepared by a professional forester, and provide the Grantee with written notice and a cutting plan 30 days prior to any forestry activity. Since the forest management plan does not require Grantee approval, I recommend not adding any additional restrictions or references further limiting the forest management plan. The Commonwealth of Massachusetts employs a State Forester, but I assume you do not want to add that the forest management plan must be approved by the State Forester.*

#### Parking

Page 7, Section B. Reserved Rights, Paragraph (16) Parking: We should state a specific number of parking spaces on the generous side and include language that explicitly allows, without prior approval of the Grantee "replacing or repairing asphalt, concrete or hard-packed gravel surfaces with similar surfaces to maintain the integrity and surface of the existing designated parking area."

*I have added that the town may expand the parking area for a specified number of additional spaces, leaving the amount to be filled in; I also added that the parking area may be constructed and replaced (as well as repaired, maintained and used). I thought "replaced" would be sufficient without further limiting the Town by requiring similar surfaces be used.*

#### **D. Extinguishment**

Page 8. Please explain the provisions of paragraphs sections 1, 2, and 3 of this paragraph in the event that the town should decide in the future that the property should be used for a purpose clearly outside the scope of the intended uses of this restriction. For example, suppose that the town (for whatever reason) determines that the property should be used as a site for some municipal purpose not foreseen at this time. It appears that such use would not be permitted as an amendment to the restriction.

*The concept of Section D is that if the CR is extinguished, the Grantee is entitled to receive a payment equal to the difference between the present value of the Premises, unrestricted, and the value of the Premises as restricted by the CR, which is likely to be a substantial portion of the value of the Premises, which the Town paid \$424,000 in 1994 and is likely to be worth much more now if it were to be sold unrestricted. For example, if the value of the Steele Farm now, unrestricted, is \$1 million, and it is only worth \$300,000 as a restricted property, the Town would need to pay \$700,000 to the Grantees if the Restriction were extinguished. I have changed these provisions so that the Grantor and the Grantee agree that the value of the Restriction is \$1.00. I think this is appropriate under these circumstances, where the Town is granting the Restriction gratuitously, without any payment by the Grantee or any requirement of law or requirement of any state agency or grant. As to amendments to the Restriction, they are provided for under Section but any amendment "must be consistent with the purposes of this Restriction."*

- In that case, is eminent domain the only avenue open to the town to alter the use of the property?

- If there is some avenue other than eminent domain open to the town, please identify that avenue and how it would work.
- In the case of eminent domain, does the Commonwealth of MA or some court become involved in this process and, if so, how?
- What would be required of the town to execute an eminent domain process?
- In accordance with paragraph D1, there appears to be a real property right that is conveyed to the Grantee with a fair market value, and in paragraph D2, that the Grantee would be entitled to some proceeds in the case of extinguishment.
- If the property were to be used for some municipal purpose and not sold to a private entity, what would be the specifics of the extinguishment process and what would be the financial liability of the town, if any, to the Grantee?

*In my opinion, eminent domain is the only sure way for the Town to be able to use the Premises for a use that is not consistent with the purposes of the Restriction, for example, as the site for a public school or other municipal use. I have made changes to the Restriction to provide that the Grantees waive appraisal and damages of more than \$1.00 if the Town were to take the Restriction, or any provision of the Restriction by eminent domain for a public purpose. The Grantees could, with this change, file a complaint seeking to have the taking invalidated if the Town attempted to wipe out the Restriction so that the Premises may be used for a purpose that is not a bona-fide public purpose (for example, if the Town wiped out the Restriction by taking to be able to sell the land), but if the Grantees waive appraisal and damages, the Grantees could not sue for additional damages from a bona-fide taking for a public purpose. To exercise eminent domain, for most purposes (water and sewer purposes are exceptions and do not require a Town Meeting vote) a Town Meeting vote is required, and if an appropriation is needed (even \$1.00) the vote must be a 2/3 vote. Land or an interest in land cannot be taken for general municipal purposes, but only for a specific purpose, and cannot be taken for the purpose of conveyance to a private party, unless pursuant to an urban renewal plan approved by the State.*

#### **E. Access**

Page 9, Section E. Access, Paragraph (2): Need to make the access rights consistent with the Permissible Recreational Activities, and the method and process for identifying and modifying them from time to time.

*Since the rights granted to the public are expressly subject to reasonable terms and conditions determined by the Grantor for such access, I did not make any change to this section, but if you want to add an express reference to the Management Plan, that could be added.*

#### **G. Legal Remedies of Grantee**

Page 9. How can we limit the town's obligations and liabilities for restoration?

*I added "if feasible and subject to appropriation." I also deleted the provisions whereby the Town will reimburse the Grantee for costs of enforcement. Again, since the grant of the Restriction is gratuitous on the part of the Town, I do not think it is reasonable for the Town to also have to bear any expense. This does not render the Restriction unenforceable, in my*

*opinion, because the Town could be subject to a court order to stop some activity, and be subject to penalties for contempt of a final court order.*

## **M. Amendment**

Page 9. This paragraph indicates that both Grantor and Grantee may jointly amend the restriction provided that no amendment shall be allowed that affects the qualification of the restriction under applicable laws or that is inconsistent with the purposes of the restriction.

If in the future, it becomes desirable (or necessary) on the part of the town to modify the restriction, presumably the town would propose an amendment that would be evaluated by the Grantee and subsequently by the MA Secretary of Energy and Environmental Affairs and the MA Historical Commission. What is the process for proceeding if the town and the Grantee or Secretary of Energy and Environmental Affairs or the MA Historical Commission do NOT agree on the proposed amendment? What recourse does the town have and how would a town process proceed (e.g, would this be addressed by a Board or Committee/Commission or would it be taken up by a town meeting)? Please identify what sort of vote would be required on the part of the town, if a vote is involved (e.g., if this would be addressed by town meeting, would the vote be a simple majority, or a different percentage?).

*I have inserted that the Town may act by and through the Board of Selectmen, so an amendment does not need to be approved by Town Meeting. If the Grantees or the MA EEA Secretary will not agree to an amendment sought by the Town, the Town's only recourse in that case would be either to bring suit in court arguing that the Grantees or the MA EEA Secretary acted unreasonably in not approving the amendment, or to take the Restriction as a whole, or some provision of the Amendment, by eminent domain, as discussed above.*

## **Q. Miscellaneous**

### Baseline Documentation

Page 12, Section Q. Miscellaneous, Paragraph (9): It is our understanding that the Baseline documentation is in two parts – buildings and land. The filing for National Register of Historic Places appears to satisfy the requirement for baseline building documentation. TToR has indicated they will prepare the baseline documentation for the land. We need to ensure this is consistent with the possible evolution of uses and management of the land, according to the land management plan. In other words, the baseline land document should not preclude the types of activities and uses we currently envision.

*The baseline documentation should simply be a description of the property as it exists so that any change from current conditions can be documented, and there is no disagreement between the Grantor and the Grantee as to the current condition of the Premises. If properly drafted, the baseline document should not preclude any activities, since it merely describes the present condition of the Premises.*

## Management Plan

Page 12, Section Q. Miscellaneous, Paragraph (11) Management Plan: The Town needs the freedom and ability to evolve the Management Plan within the broad construct of the restriction. For example, add language such as the following, "This management plan shall be amendable from time to time to resolve conflicts or ambiguities that may arise in the enforcement of this restriction in future, regarding the permissibility of specific activities identified by residents that are unforeseen in the present restriction and are perhaps neither explicitly allowed nor prohibited."

*I have added that the Management Plan may be amended from time to time in consultation with the Grantees. If you think the additional language describing the purpose of such amendments is needed, it could be added, but I think a broad statement that the Management Plan may be amended should suffice.*

Other issues – water supply:

*I expanded the number and type of water supply buildings and structures that would be allowable. Also, I highlighted the Grantee approval provisions of Section B.14, thinking that you may wish to provide that water supply use is simply allowed, without requiring the approval of the Grantee.*

*Jeanne S. McKnight, Esq., Kopelman and Paige, August 20, 2012.*

457020/BOXB/0099

CONSERVATION AND HISTORIC PRESERVATION RESTRICTION  
to  
THE TRUSTEES OF RESERVATIONS  
and  
BOXBOROUGH HISTORICAL SOCIETY

STEELE FARM, BOXBOROUGH, MASSACHUSETTS

THE TOWN OF BOXBOROUGH, with an address of 29 Middle Road, Boxborough, MA 01719, being the sole owner of the granted premises and intending hereby to bind itself and its successors and assigns, who are collectively referred to herein as "Grantor", acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, hereby grants, with quitclaim covenants, to The Trustees of Reservations, a Massachusetts charitable corporation established under Chapter 352 of the Acts of 1891, and qualified to hold Conservation and Preservation Restrictions in accordance with Chapter 184 of the Massachusetts General Laws, and having an address at 572 Essex Street, Beverly, MA, 01915, its successors and permitted assigns, and the Boxborough Historical Society, Inc., qualified to hold Conservation and Preservation Restrictions in accordance with Chapter 184 of the Massachusetts General Laws, having an address at 29 Middle Road, Boxborough, MA, 01719, its successors and permitted assigns, (collectively the "Grantee"), in perpetuity and exclusively for conservation and historic preservation purposes, as a gift, the following described Conservation and Historic Preservation Restriction (hereinafter, the "Restriction") on a parcel of land described in the below-referenced deed as having of approximately 34 acres and 10 rods more or less, and shown on Town Assessor's map as having 36.19 acres, located at 484 Middle Road in the Town of Boxborough, Massachusetts, said parcel being described in Exhibit A, attached hereto, and shown in the sketch plan in Exhibit B, attached hereto ("Premises"), said exhibits A and B being incorporated into this Restriction by this reference. For Grantor's title to the Premises, see deed from James T. Van Buren, guardian of the estate of Myrtle J. Steele, to the Town of Boxborough, recorded on August 25, 1994 in the Middlesex South District Registry of Deeds, Book 24806, Page 143.

Purpose. This Conservation and Historic Preservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. Its purpose is to assure that the Premises will be retained in perpetuity predominantly in its natural, scenic, and open condition, and for agricultural, ~~and forestry,~~ recreational and water supply uses, and for the preservation of its historic structures and landscape, and to prevent any use of the Premises that will materially impair or interfere with the conservation and historic values of the Premises.

The intent of this Restriction is to provide ~~additional~~ protections consistent with the goals of the residents of the Town of Boxborough when the property was acquired in 1994, and to maintain the lands and buildings in the appearance and style of an 18<sup>th</sup> and 19<sup>th</sup> century working farm characteristic of Boxborough's rural, agricultural heritage, and to promote ongoing public education, enjoyment and use.

The public benefits resulting from conservation and preservation of the Premises include, without limitation:

- (1) Protection of Scenic Resources. The Premises comprise part of a highly scenic landscape visible from Middle Road. Protection of the Premises will preserve the scenic character of Middle Road and scenic views of an open, historic agricultural landscape.
- (2) Historic Preservation. The Premises are included in the National Register of Historic Places as the Levi Wetherbee Farm, listed on December 12, 2006 (NRHP #06001128). The National Register of Historic Places Nomination Form is hereby attached hereto and incorporated into this Restriction as Exhibit D. Protecting the Premises will preserve a farmhouse, a barn and an icehouse and its associated rural, agricultural landscape dating to the mid-19<sup>th</sup> century.
- (3) Protection of Agriculture. Protection of the Premises will allow for continued productive agricultural activities and will conserve important soils classified by the United States Department of Agriculture's Natural Resource Conservation Service as Prime Agricultural Soils (Sudbury fine sandy loam).
- (4) Protection of Wildlife Habitats. Conservation of the Premises will protect habitat (including grasslands, meadows, woodlands and wetlands) used by a variety of wildlife, including nesting grassland birds. The protection of the Premises will enhance the ecological value and integrity of adjacent, similarly protected lands, including the Beaver Brook Meadow.
- (5) Protection of Recreational Resources. Preservation of the Premises will preserve the public's use and enjoyment of Steele Farm for passive recreation and compatible public events.
- (6) Aquifer Protection. The Premises is located near, or itself may become, a potential municipal drinking water well site. Protection of the Premises will contribute to the preservation of this public water supply.
- (7) Furtherance of Government Policy, Boxborough. Protection of the Premises is consistent with the Town of Boxborough's most recently completed Open Space and Recreation Plan (2002) and the Boxborough Master Plan (2002).
- (8) Furtherance of Government Policy, Massachusetts. Protection of the Premises is in furtherance of the policy of the Commonwealth of Massachusetts, Department of Conservation and Recreation, Heritage Landscape Inventory Program, which recommends the permanent protection of Steele Farm in the Boxborough Reconnaissance Report/Freedom's Way Landscape Inventory.

The terms of this Restriction are as follows:

A. Prohibited Uses. Except as provided in the reserved rights set forth in paragraph B below, the Grantor will neither perform nor allow others to perform the following acts and uses, which are expressly prohibited on, above and under the Premises:

- (1) Any alterations to or removal of existing buildings;
- (2) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;
- (3) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit; alteration of the existing natural topography of the Premises; withdrawal of surface or ground water from the Premises.
- (4) Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (5) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (6) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, or archaeological conservation;
- (7) The use, temporary or permanent parking, or storage of motorcycles, motorized trail bikes, snowmobiles and all other motor vehicles, except as provided in paragraph B below, or as necessary for the police, firefighters or other governmental agents to carryout their lawful duties;
- (8) The disruption, removal, or destruction of the stone walls or granite fence posts on the Premises;
- (9) Conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises; conveyance of a part or portion of the Premises, or division or subdivision of the Premises for conservation purposes, shall be permitted with the written consent of the Grantee; conveyance of the Premises in its entirety shall be permitted, provided that any such conveyance is subject to, and consistent with, the terms of this Restriction;
- (10) The use of the Premises for:
  - a. subsequent transferal of development rights to any property, whether or not adjacent to the Premises;
  - b. use in any calculations involving development of this or any other property, whether or not adjacent to the Premises, in any manner whatsoever.

- (11) Any other use of the Premises or activity thereon that is inconsistent with the purpose of this Restriction or that would materially impair significant conservation interests unless necessary in an emergency for the protection of the conservation and historic interests that are the subject of this Restriction.

B. Reserved Rights. All acts and uses not prohibited in paragraph A are permissible, provided they do not materially impair the purposes of this Restriction. The following acts and uses, otherwise prohibited in Paragraph A, are permitted, but only if such uses and activities do not materially impair the purpose of this Restriction or other significant conservation interests:

- (1) Maintenance of Historic Structures. With prior written approval of Grantee, alterations to the existing buildings' exteriors are allowed, providing that they are (a) clearly of minor nature and not affecting the characteristics which contribute to the architectural, archeological and historical integrity of the Premises, or (b) the Grantee determines that it will not impair such characteristics after reviewing plans and specifications submitted by the Grantor, or (c) required by casualty or other emergency promptly reported to the Grantee. Any activity shall be carried out in a manner consistent with the United States Secretary of the Interior's "Standards for Treatment of Historic Properties, with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (36 CFR 67 and 68)," an excerpt of which is attached hereto as Exhibit C, as these may be amended from time to time (hereinafter the "Secretary's Standards"). With prior written notice to Grantee, the maintenance, restoration or alteration of the existing buildings' interiors is permitted.

i. The Barn With the prior written approval of the Grantee, the barn may be extended beyond the limits of its original perimeter solely for the purposes of fully implementing uses consistent with the purposes of this Restriction. In no such case shall such extension diminish the architectural quality or style as originally designed and constructed nor the general profile or architectural features.

ii. Minor Structures The construction, maintenance, repair and replacement of (1) minor structures for use by the public for educational and passive recreational purposes, such as but not limited to interpretive signs, exhibits, shelters and benches, (2) ancillary decorative or landscape structures as may be desirable in support of the historic landscape restoration program or restoration of historic landscape elements, and (3) minor structures needed for compliance with the American with Disabilities Act (ADA) standards. All such structures shall be designed and located so as not to have deleterious impact on the Historic and Conservation Values of the Property Premises.

Notwithstanding the foregoing provisions if, after an inspection, the Building Inspector finds that a building subject to this Restriction poses an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate repairs or demolition of the building or

structure, then the Building Inspector may issue an emergency repair or demolition permit. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Grantees before such repairs or demolition can take place.

- (2) Recreational Activities. Hiking, horseback riding, cross-country skiing, sledding, dog walking, jogging, bird and nature watching, camping, mountain biking, snowshoeing, amateur astronomy in both daylight and night-time hours, kite-flying, model aircraft flying, model rocketry, camping with permit and other non-motorized-outdoor recreational activities (including activities permitted pursuant to Paragraph B(1), above and activities described in the Management Plan referred to in Section A.11. of this Restriction) that do not materially alter the landscape or degrade environmental quality.
- (3) Events. The use of the Premises, including the existing buildings, for public or private events, including but not limited to official Town festivals (such as winter fest and employee/volunteer recognition functions), historic re-enactments, concerts, or private functions, such as weddings or reunions, and erection of temporary tents, provided that any event does not materially alter the landscape or degrade environmental quality.
- (4) Trails. The construction, maintenance and marking of trails for pedestrian use, mountain biking and horseback riding, including the construction, maintenance, repair and replacement of boardwalk trails or footbridges where such use is consistent with the purposes of the Restriction.
- (5) Wood Roads. The maintenance of presently existing wood roads, as identified in the baseline documentation report completed prior to the grant of this Restriction, located on the Premises substantially in their present condition, or as reasonably necessary for the uses permitted herein, and, with the prior written permission of Grantee, the construction of new wood roads for such purposes.
- (6) Agriculture. Agricultural, horticultural, and animal husbandry operations carried on in accordance with the then-current scientifically-based practices recommended by the U.S. Cooperative Extension Service, U.S. Natural Resources Conservation Service, or other government or private natural resource conservation and management agencies then active, and to the extent possible, with respect to, and in accordance with, the scenic, historic and ecological values of the property (including but not limited to the clearing and cultivation of fields, the mowing and grazing of meadows, the haying of the grasslands, the selective planting of trees, shrubs and flowers, including without limitation those for shade, ornament or fruit-bearing purposes, planting, cultivating and harvesting of Christmas trees, keeping of farm animals and bees, small-scale commercial activities in association with such operations, and community gardens).

- (7) Field Expansion. With prior written approval of Grantee, the expansion of existing fields for agricultural, animal husbandry, or horticultural use.
- (8) Forestry. In accordance with generally accepted forest management practices, (a) selective pruning and cutting to prevent, control or remove hazards, disease or insect damage, fire or to preserve the present condition of the Premises, including vistas wood roads and trails; (b) harvesting trees for use or sale on the Premises; and (c) following notice to Grantee, the cutting of trees for any purpose, including, without limitation, commercial timber production, in accordance with a forest stewardship plan, prepared by a professional forester, that is designed to protect the conservation and historic values of the Premises, including without limitation, scenic, historic and ecological values. Grantor agrees to provide a copy of the forest management plan to the Grantee. Where Grantor intends to implement a forest management plan, Grantor agrees to provide Grantee written notice and a cutting plan 30 days prior to any forestry activity.
- (9) Composting. The stockpiling, occasional burning, and composting of stumps, tree and brush limbs and similar biodegradable materials originating on the Premises in locations where the presence of such activities will not have a deleterious impact on the purposes (including scenic values) of this Restriction.
- (10) Wildlife Habitat Improvement. With prior written approval of Grantee, and in consultation with the Conservation Commission, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species.
- (11) Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (Massachusetts General Laws, Chapter 9, section 27C, 950 C.M.R. 70.00), or the appropriate successor official.
- (12) Signs. The erection, maintenance and replacement of signs with respect to hunting, trespass, rules for use of the property, trail access, identity and address of the property, the Grantee's interest in the property, and the protected conservation and historic values.
- (13) Access to Well Site on Adjacent Lands. The use of the Premises to gain access to adjacent, Town-owned lands (including without limitation the so-called "Picnic Trust" property), that may be the location of one or more future municipal drinking water wells, but only where there are no feasible alternative routes that would bypass the Premises. Temporary access to the Picnic Trust land include activities required for the exploration and testing drinking of water well sites and construction of a one or more drilled or driven wells. Permanent access to a constructed municipal well or wells on the Picnic Trust site or other Town-owned

land shall be permitted to maintain, repair or replace the well(s), and to construct, route and service underground utility lines needed to operate the well(s), including electric power and pipes to carry the water from the well(s), as long as any access is carried out in a manner that preserves the existing conditions of the Premises to the greatest possible extent.

- (14) Water Supplywell. [**Subject to the prior written approval of the Grantee?**], the site exploration and testing, design, installation, maintenance and replacement of a new public water supply well or wells and related water supply structures, including without limitation pumps, pump houses, water mains, water filtration system and any other building or structure used for public water supply purposes, and any access thereto and related parking facility on the Premises. [A request for approval of a well must be accompanied by any environmental impact studies and documentation deemed necessary by Grantee to determine the impact of the activity on the conservation and historic values of the Premises.]
- (15) Motorized Vehicles. The use of motorized vehicles by the Grantor or its agents as necessary in exercising any of the reserved rights in this paragraph B, provided that such use shall be limited to roads to the extent possible and shall be conducted so as not to cause erosion or other adverse impacts on the conservation and historic values of the Premises. The use of mobility assistance devices by persons with disabilities, for access to and within the Premises, provided that such use and access do not create a hazard to the safety of either the user of such device or other persons on the Premises.
- (16) Parking. The construction, replacement, repair, maintenance, use and expansion to not more than X additional parking spaces, and, with prior written approval of Grantee, further expansion of the existing designated parking area, now accommodating XX parking spaces, shown in Exhibit B, for permitted activities on the Premises.

The exercise of any right reserved by Grantor under this paragraph B shall be in compliance with all the Town of Boxborough bylaws and regulations, including then-current Zoning By-Law, Wetlands Bylaw, and all other land use and environmental regulations, the Wetlands Protection Act (Massachusetts General Laws Chapter 131, Section 40) and all other applicable federal, state laws and regulations. The inclusion of any reserved right in this paragraph B requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position as to whether such permit should be issued.

C. Notice and Approval. Whenever notice to or approval by Grantee is required under the provisions of paragraphs A or B, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the Grantor's commencement of the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the

proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Restriction.

1. Where Grantee's approval is required under paragraph B(1) *Maintenance of Historic Structures*, the Boxborough Historical Society, Inc. ("BHS"), its successor or assign, shall, within thirty (30) days of receipt of Grantor's request, notify The Trustees of Reservations ("TTOR"), its successor or assign, of BHS's decision. Following receipt of BHS's notice, but in no case later than sixty (60) days following TTOR's receipt of Grantor's written request, TTOR shall either affirm or reverse the decision of BHS. TTOR's decision shall in all cases be final and controlling as to Grantee. In the event that no decision is received from BHS within said thirty (30) days, TTOR shall proceed to issue its decision within sixty (60) days of receipt of Grantor's written request. Failure of TTOR to act within said sixty (60) days shall be deemed to constitute approval of either BHS's decision, if one has been issued, or, in the absence of BHS's decision, of Grantor's request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time. Grantee's approval shall not be unreasonably withheld, but shall be granted only upon a showing that the proposed activity will not materially impair the purposes of this Restriction.

2. Where Grantee's approval is required under all other provisions of paragraphs A or B, TTOR shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefor, provided that the Grantor's request complies in every respect with the requirements of this paragraph. TTOR's approval shall not be unreasonably withheld, but shall be granted only upon a showing that the proposed activity will not materially impair the purposes of this Restriction. Failure of TTOR to respond in writing within such 60 days to a request which complies with the requirements of this paragraph shall be deemed to constitute approval by TTOR of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time.

#### D. Extinguishment.

1. Grantee's Receipt of Property Right. The Grantor(s) and the Grantee agree that the donation of this Restriction gives rise for purposes of this paragraph to a real property right, immediately vested in the Grantee, with a fair market value of \$1.00 that is equal at least to the proportionate value that this Restriction, determined at the time of the gift and documented in the Baseline Documentation Report, bears to the value of the unrestricted Premises at that time.

2. Right of Grantee to Recover Proportional \$1.00 Value at Disposition. If circumstances arise in the future that render the purpose of this Restriction impossible to accomplish, this Restriction can be terminated, released or extinguished, whether in whole or in part, only by proceedings consistent with MGL 184 Sections 31-33 or judicial proceedings in a court of competent jurisdiction. In case of any such extinguishment or other release of the Restriction, then Grantee, on a subsequent sale, exchange or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with paragraph D.1, above, subject, however, to any applicable law that expressly provides for a different disposition of proceeds, after complying with the terms of any gift, grant or funding requirements. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

3. Grantor/Grantee Cooperation Regarding Public Action. Whenever all or any part of the Premises or any interest therein is taken by public authority other than the Town of Boxborough under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action.

4. Allocation of Expenses upon Disposition. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and the Grantee in shares proportional to their interests in the Premises, as described in paragraphs D.1 and D.2, above, after complying with the terms of any gift, grant or funding requirements.

5. Continuing Trust of Grantee's Share of Proceeds of Conservation Restriction Disposition. The Grantee shall use its share of the proceeds solely within the Town of Boxborough in a manner consistent with the conservation purposes of this grant.

6. Extinguishment by Eminent Domain by Town of Boxborough. Whenever the entirety or any provision of this Restriction is taken by eminent domain by the Town of Boxborough for a public purpose under G.L. c.79 or any special act, no damages or \$1.00 in accordance with paragraph D.1, above shall be due to the Grantee, and Grantee hereby waives any right to an appraisal or award of additional damages.

E. Access. The Restriction hereby conveyed does not grant to Grantee, to the public generally, or to any other person any right to enter upon the Premises except as follows:

1. Grantor hereby grants to the Grantee and its representatives the right to enter the Premises (a) at reasonable times and in a reasonable manner for the purpose of regular monitoring and inspecting the same to determine compliance herewith, including the right to access the Premises over roads and rights of way owned by the Grantor and any rights of way or other access ways now or hereafter available to Grantor for access to the Premises, and (b) after 30 days' prior written notice, to take any and all actions with respect to the Premises as may be necessary or appropriate, with or without order of court, to remedy, abate or otherwise enforce any violation hereof.

2. Grantor hereby grants to the public the right to enter upon the Premises for passive outdoor recreational uses of the Premises in a manner that is consistent with the Permitted Uses in Section B, above, and M.G.L. Chapter 40, Section 8c and M.G.L. Chapter 132A, Section 11 and Sections 2b and 2d, such as walking, jogging, cross-country skiing, sledding, fishing, birding, horseback riding, hiking, dog walking, picnicking, wildlife observation, camping with permit and other similar activities, subject to reasonable terms and conditions determined by the Grantor for such access.

F. Grantee's Right to Post Identifying Signage. The Grantee shall have the right to post signs, no more than one foot by one foot in size, on the boundaries of the Premises, identifying

the interest of the Grantee in the Premises, and informing the public of the nature and public benefit of the conservation and preservation of the Premises.

G. Legal Remedies of Grantee. The rights hereby granted shall include the right to enforce this Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief, if feasible and subject to appropriation, requiring restoration of the Premises to their condition prior to such violation (it being agreed that Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee. ~~Grantor covenants and agrees to reimburse Grantee for all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Restriction or in taking reasonable measures to remedy or abate any violation thereof, provided that a violation of this Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred.~~ By its acceptance of this Restriction, Grantee does not undertake any liability or obligation relating to the condition of the Premises, including with respect to compliance with hazardous materials or other environmental laws and regulations. Any election by the Grantee as to the nature and timing of its actions pursuant to its right to enforce this Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

H. Acts Beyond Grantor's Control. Nothing contained in this Restriction shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including, but not limited to, fire, flood, storm and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. The parties to this Restriction agree that in the event of damage to the Premises from acts beyond the Grantor's control, if it is desirable that the Premises be restored, the parties will cooperate in attempting to restore the Premises if feasible.

I. Duration and Assignability. The burdens of this Restriction shall run with the Premises and shall be enforceable against Grantor in perpetuity. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Restriction. The Grantor appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor agrees itself to execute any such instruments upon request. The benefits of this Restriction shall be in gross and shall not be assignable by Grantee, except in the following instances from time to time: (i) as a condition of any assignment, Grantee requires that the purpose of this Restriction continue to be carried out; (ii) the assignee, at the time of assignment, qualifies under Section 32 of Chapter 184 of the Massachusetts General Laws, as an eligible donee to receive this Restriction directly; and (iii) Grantee complies with the provisions required by Article 97 of the Amendments to the State Constitution, if applicable. Grantor and Grantee intend that the restrictions arising hereunder shall take effect when all requisite signatures pursuant to Section 32 of Chapter 184 of the General Laws have been obtained and the document has been recorded in the Middlesex South District Registry of Deeds. This Restriction shall be recorded in a timely fashion.

J. Subsequent Transfers. Grantor agrees to incorporate by reference the terms of this Restriction in any deed or other legal instrument by which Grantor conveys any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the proposed transfer of any such interest at least twenty (20) days prior to the date of such transfer. Failure of Grantor to do so shall not impair the validity of this Restriction or limit its enforceability in any way

K. Termination of Rights and Obligations. Notwithstanding anything to the contrary contained herein, the rights and obligations under this Restriction of any party holding any interest in the Premises terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to transfer, and liability for the transfer itself if the transfer is in violation of this Restriction, shall survive the transfer.

L. Estoppel Certificates. Upon request by Grantor, Grantee shall within forty-five (45) days execute and deliver to Grantor any document, including an estoppel certificate, that certifies the status of Grantor's compliance with any obligation of Grantor contained in this Restriction, or that otherwise evidences the status of this Restriction, as may reasonably be requested by Grantor.

M. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor, acting by and through its Board of Selectmen, and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including sections 31-33 of Chapter 184 of the General Laws of Massachusetts; any amendment shall be consistent with the purposes of this Restriction, and shall not affect its perpetual duration. Any amendment shall occur only in exceptional circumstances. Any amendment shall be consistent with the purposes of this Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and the Massachusetts Historical Commission or as required by applicable statutes in effect at the time of the proposed amendment and, if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution. Any such amendment shall be recorded in the ~~Middlesex~~ SouthMiddlesex South District Registry of Deeds.

N. Effective Date. This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative Approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded in the Middlesex South District Registry of Deeds.

O. Recordation. The Grantee shall record this instrument in timely fashion in the Middlesex South District Registry of Deeds.

P. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed to the party to be notified, at the address last known to the notifying party, or to such address as is reasonably ascertainable.

Q. Miscellaneous

- (1) Controlling Law. The interpretation and performance of this Restriction shall be governed by the laws of the Commonwealth of Massachusetts.
- (2) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Restriction shall be liberally construed in favor of the grant to effect the purpose of this Restriction and the policy and purpose of Mass. Gen. Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.
- (3) Severability. If any provision of this Restriction shall to any extent be held invalid, the remainder shall not be affected.
- (4) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Restriction, all of which are merged herein.
- (5) Joint Obligation. The obligations imposed by this Restriction upon the parties that together comprise "Grantor" shall be joint and several.
- (6) Captions. The captions in this instrument have been inserted solely for convenience of reference. They are not a part of this instrument and shall have no effect upon construction or interpretation.
- (7) Pre-existing rights of the Public. Approval of this Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials, by the Secretary of Energy and Environmental Affairs, and by the Massachusetts Historical Commission is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises. Any such pre-existing rights of the public, if any, are not affected by the granting of this Restriction.
- (8) Counterparts. This Restriction may be executed in counterparts and shall constitute a single agreement whether or not all signatures appear on a single copy hereof.
- (9) Baseline Documentation. In order to establish the present condition of the Premises and the conservation and historic values thereon which are protected by this Conservation Restriction, so as to enable the Grantee to monitor future uses of the Property and to assure compliance with the terms hereof, Grantor and Grantee have prepared an inventory of the relevant features and conditions of the Premises (the "Baseline Documentation Report"), and agree that the same is an accurate representation of the condition of the Premises as of the date of the execution of this Restriction. Verified originals of the Baseline Documentation Report will be deposited with the Grantor and in the permanent records of the Grantee.

(10) Subordination. Grantor represents, and Grantee relies on Grantor's representation, that the Premises are free from any lien, encumbrance, or other interest by any third party in the Premises.

(11) Management Plan. Grantor and Grantee recognize the importance of and need for a property management plan for the Premises. In order to achieve the purpose of this Restriction, the Grantor shall develop a written management plan, consistent with the Conservation Restriction, in consultation with the Grantee that is designed to balance the multiple permitted uses and protect the conservation and historic preservation values of the Premises. Such Management Plan may be amended from time to time by Grantor, in consultation with Grantee.

No documentary stamps are required, as this Restriction is a gift.

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We, the undersigned, being a majority of the Selectmen of the Town of Boxborough, Massachusetts, hereby certify that at a meeting duly held on \_\_\_\_\_, 20\_\_ the Selectmen voted to grant the foregoing Conservation and Historic Preservation Restriction to \_\_\_\_\_ and \_\_\_\_\_ pursuant to M.G.L. Chapter 184, Section 32.

Executed under seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Selectmen:

\_\_\_\_\_  
Leslie Fox, Chair

\_\_\_\_\_  
Frank Powers, Clerk

\_\_\_\_\_  
Vincent Amoroso

\_\_\_\_\_  
Raid Suleiman

\_\_\_\_\_  
Robert Stemple

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My commission expires:

ACCEPTANCE OF GRANT

The above Conservation and Historic Restriction is accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THE TRUSTEES OF RESERVATIONS

By \_\_\_\_\_  
Kathryn Abbott  
Acting President

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires:

ACCEPTANCE OF GRANT

The above Conservation and Historic Preservation Restriction is accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BOXBOROUGH HISTORICAL SOCIETY, INC.

By Duncan Brown, President

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My commission expires:

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to The Trustees of Reservations has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32.

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Richard K. Sullivan, Jr., Secretary of Energy and  
Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires:

APPROVAL BY MASSACHUSETTS HISTORICAL COMMISSION  
COMMONWEALTH OF MASSACHUSETTS

The undersigned Executive Director and Clerk of the Massachusetts Historical Commission hereby certifies that foregoing preservation restriction agreement has been approved pursuant to Massachusetts General Law, chapter 184, section 32.

Date: \_\_\_\_\_

\_\_\_\_\_  
BRONA SIMON, Executive Director  
And Clerk

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned notary public, personally appeared Brona Simon, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purposes.

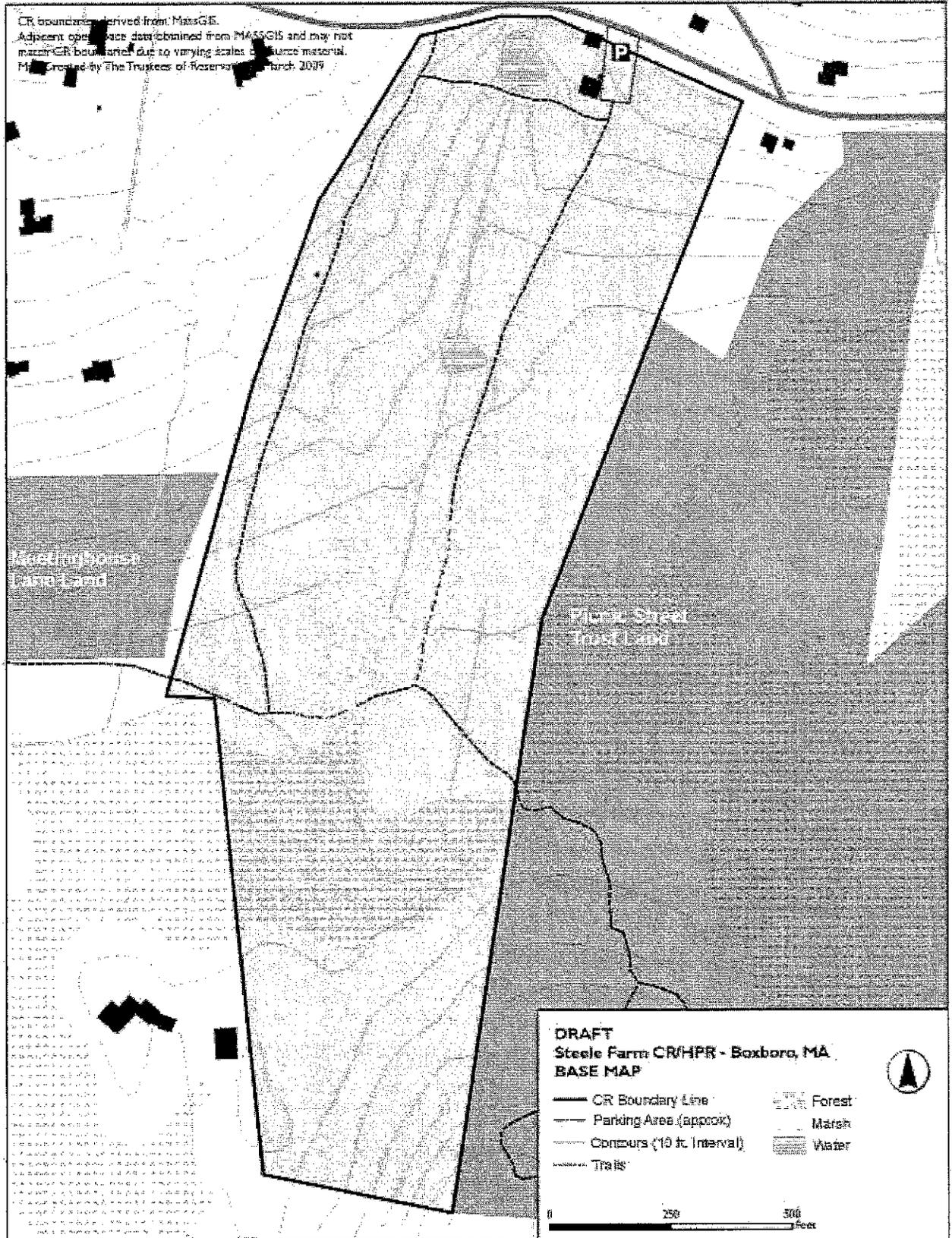
\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

**Exhibit A**

The Premises consist of a parcel of land located at 484 Middle Rd.in Boxborough, Massachusetts, lying on the South side of Middle Road, shown as 07-3-125-0.0 on a plan entitled Boxborough Assessor's Map, prepared by Boxborough Assessor , dated FY 03 and on Exhibit B herein. The Premises are bounded and described as follows:

For Grantor's title to the Premises, see Middlesex South Registry of Deeds Book 24806, Page 143.

## Exhibit B – Sketch Plan of the Premises



## Exhibit C

### Standards for the Treatment of Historic Properties

#### PART 68—THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

**Authority:** The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); sec. 2124 of the Tax Reform Act of 1976, 90 Stat. 1918; EO 11593, 3 CFR part 75 (1971); sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

**Source:** 60 FR 35843, July 12, 1995, unless otherwise noted.

##### § 68.1 Intent.

The intent of this part is to set forth standards for the treatment of historic properties containing standards for preservation, rehabilitation, restoration and reconstruction. These standards apply to all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund. 36 CFR part 67 focuses on “certified historic structures” as defined by the IRS Code of 1986. Those regulations are used in the Preservation Tax Incentives Program. 36 CFR part 67 should continue to be used when property owners are seeking certification for Federal tax benefits.

##### § 68.2 Definitions.

The standards for the treatment of historic properties will be used by the National Park Service and State historic preservation officers and their staff members in planning, undertaking and supervising grant-assisted projects for preservation, rehabilitation, restoration and reconstruction. For the purposes of this part:

(a) *Preservation* means the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(b) *Rehabilitation* means the act or process of making possible an efficient compatible use for a property through repair, alterations and additions while preserving those portions or features that convey its historical, cultural or architectural values.

(c) *Restoration* means the act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

(d) *Reconstruction* means the act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building, structure or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

### § 68.3 Standards.

One set of standards—preservation, rehabilitation, restoration or reconstruction—will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, the extent of documentation available and interpretive goals, when applicable. The standards will be applied taking into consideration the economic and technical feasibility of each project.

(a) *Preservation.* (1) A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.

(2) The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color and texture.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(b) *Rehabilitation.* (1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

(2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(9) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) *Restoration.* (1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.

(2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces and spatial relationships that characterize the period will not be undertaken.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.

(6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.

(7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding

conjectural features, features from other properties, or by combining features that never existed together historically.

(8) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(9) Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(10) Designs that were never executed historically will not be constructed.

(d) *Reconstruction.* (1) Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture and such reconstruction is essential to the public understanding of the property.

(2) Reconstruction of a landscape, building, structure or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.

(3) Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.

(4) Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color and texture.

(5) A reconstruction will be clearly identified as a contemporary re-creation.

(6) Designs that were never executed historically will not be constructed.

**Exhibit D**

Copy of The National Register of Historic Places Nomination Form (NRHP #06001128), which is a historic baseline.

[ **NOTE: At The Massachusetts Historical Commission's instruction, a image of the National Register Nomination Form is to be added here.**]

457022/BOXB/0099



**Selina S. Shaw**

**From:** Alan Rohwer [alan.rohwer@verizon.net]  
**Sent:** Sunday, August 19, 2012 11:55 AM  
**To:** bruce4570@verizon.net; lesfox@comcast.net; selina.shaw@town.boxborough.ma.us; leahjen@verizon.net; johnfallon@verizon.net; crodstrom@ttor.org; alan.rohwer@verizon.net; DReip@dewberry.com  
**Subject:** Re: Re: Selectmen questions regarding preservation restriction

All:

Thanks to Bruce for his comments. All I have to add involves the description of the property, see comments in the attached document.

1. The 34 acres 10 rods comes from the deed on file with the South Middlesex Registry of Deeds (image attached). The image of the deed description is also supposed to be included in Exhibit A, per BHC's request.
2. The unit "rod" can be used as a linear or as an area unit, interestingly enough.
3. There is an inconsistency between the acreage stated in the deed and that shown on the assessor's maps (36.19 acres). I used the deed acreage in the Preamble.

I am putting the BoS meeting of August 27 on my calendar.

- Alan

--  
 Alan Billingsley Rohwer  
 Boxborough, MA, U.S.A 01719  
 42.4763 N, 71.4972 W. 95 m elev.  
 "You can learn not to want what you want, to recognize desires but not be controlled by them"  
 - The Buddha

On 08/18/12, Bruce Hager<bruce4570@verizon.net> wrote:

Hello Les, Selina, et al.,

I have attached a copy of the questions with my responses to some questions (where I feel qualified or motivated to comment). Also attached are supporting documents mentioned in my comments. I look forward to seeing you all on 8/27.

Bruce Hager

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

**From:** Les Fox  
**To:** 'Selina Shaw'; 'Rita Grossman'; 'John Fallon'; 'Chris Rodstrom'; 'Alan Rohwer'; 'Bruce Hager'; 'Dennis Reip'  
**Sent:** Wednesday, August 01, 2012 8:00 PM  
**Subject:** RE: Selectmen questions regarding preservation restriction

Thanks Selina.

Yes  please send any comments to me by Aug 22 so we will be prepared for a discussion on Aug 27.



## Questions for Town Counsel regarding Steele Farm Preservation Restriction

### Preamble

Page 1, Preamble: The site is described about 2/3 down in the first paragraph as "a parcel of land of approximately 34 acres and 10 rods". Since an acre is a unit of area (160 square rods) and a rod is a unit of length this description is in error. Need to revise to use commensurate measures – eg., all acres, or acres + square rods. This can be resolved by examining the deeds and revising the description accordingly.

**Comment [BH1]:** I have no idea where this language originated. The acquisition documents from 1994 and the present assessor's map indicate the property is 36.19 acres.

### **B. Reserved Rights**

#### Recreational Activities

Page 5, Section B. Reserved Rights, Paragraph (2) Recreational Activities: How can we ensure that recreational activities that are not listed explicitly in the Reserved Rights can be accommodated in future and not excluded or challenged as not being "in the spirit of the restriction" as interpreted by the holders of the restriction? For example, do we need to add such items such as "snowshoeing, amateur astronomy in both daylight and night-time hours, kite-flying, model aircraft flying and model rocketry", because there might be constituency in the future? How much freedom and right would the town have to add things in future that are not explicitly prohibited? How can we guard against interpretation of the "spirit of the restriction" from being used to unreasonably constrain the town?

Can the permissible recreational activities be called out in the management plan which may be modified from time to time, giving the town sufficient freedom? Presumably revisions to the management plan would need to be approved by the holders of the restriction. What happens to the review and approval process if the two holders (TToR and BHS) don't agree? How is agreement reached in that case? (see section below on Management Plan)

#### Agriculture

Page 5, Section B. Reserved Rights, Paragraph (6) Agriculture: It has been suggested to add in the parenthetical statement concerning allowed practices "...planting of trees, shrubs and flowers *for shade, ornament or fruit-bearing purposes*, planting and harvesting of Christmas trees..." The point being to explicitly preserve the possibility of recreating orchards, where a future restriction holder might say that it is not in the spirit of the restriction.

**Comment [BH2]:** I can't think of any objection to this.

#### Forestry

Page 6, Section B. Reserved Rights, Paragraph (8) Forestry. The document should have an authoritative reference to current or best practices such as in Paragraph (6) Agriculture where the U.S. Cooperative Extension Service is referenced. What is the analogous reference for forestry?

**Comment [BH3]:** The reference would presumably be "Massachusetts Forestry Best Practices Manual" (file name forstbmp.pdf), which is attached to this mailing.

## Parking

Page 7, Section B. Reserved Rights, Paragraph (16) Parking: We should state a specific number of parking spaces on the generous side and include language that explicitly allows, without prior approval of the Grantee "replacing or repairing asphalt, concrete or hard-packed gravel surfaces with similar surfaces to maintain the integrity and surface of the existing designated parking area."

## **D. Extinguishment**

Page 8. Please explain the provisions of paragraphs sections 1, 2, and 3 of this paragraph in the event that the town should decide in the future that the property should be used for a purpose clearly outside the scope of the intended uses of this restriction. For example, suppose that the town (for whatever reason) determines that the property should be used as a site for some municipal purpose not foreseen at this time. It appears that such use would not be permitted as an amendment to the restriction.

- In that case, is eminent domain the only avenue open to the town to alter the use of the property?
  - If there is some avenue other than eminent domain open to the town, please identify that avenue and how it would work.
- In the case of eminent domain, does the Commonwealth of MA or some court become involved in this process and, if so, how?
- What would be required of the town to execute an eminent domain process?
- In accordance with paragraph D1, there appears to be a real property right that is conveyed to the Grantee with a fair market value, and in paragraph D2, that the Grantee would be entitled to some proceeds in the case of extinguishment.
- If the property were to be used for some municipal purpose and not sold to a private entity, what would be the specifics of the extinguishment process and what would be the financial liability of the town, if any, to the Grantee?

## **E. Access**

Page 9, Section E. Access, Paragraph (2): Need to make the access rights consistent with the Permissible Recreational Activities, and the method and process for identifying and modifying them from time to time.

## **G. Legal Remedies of Grantee**

Page 9. How can we limit the town's obligations and liabilities for restoration?

**M. Amendment**

Page 9. This paragraph indicates that both Grantor and Grantee may jointly amend the restriction provided that no amendment shall be allowed that affects the qualification of the restriction under applicable laws or that is inconsistent with the purposes of the restriction.

**Comment [BH4]:** I am not qualified to comment knowledgeably on legal questions, but I have attached the document "Amending Massachusetts Conservation Restrictions, the Legal Perspective", which discusses this process and provides references.

If in the future, it becomes desirable (or necessary) on the part of the town to modify the restriction, presumably the town would propose an amendment that would be evaluated by the Grantee and subsequently by the MA Secretary of Energy and Environmental Affairs and the MA Historical Commission. What is the process for proceeding if the town and the Grantee or Secretary of Energy and Environmental Affairs or the MA Historical Commission do NOT agree on the proposed amendment? What recourse does the town have and how would a town process proceed (e.g, would this be addressed by a Board or Committee/Commission or would it be taken up by a town meeting)? Please identify what sort of vote would be required on the part of the town, if a vote is involved (e.g., if this would be addressed by town meeting, would the vote be a simple majority, or a different percentage?).

**Q. Miscellaneous**

**Baseline Documentation**

Page 12, Section Q. Miscellaneous, Paragraph (9): It is our understanding that the Baseline documentation is in two parts – buildings and land. The filing for National Register of Historic Places appears to satisfy the requirement for baseline building documentation. TToR has indicated they will prepare the baseline documentation for the land. We need to ensure this is consistent with the possible evolution of uses and management of the land, according to the land management plan. In other words, the baseline land document should not preclude the types of activities and uses we currently envision.

**Comment [BH5]:** A copy of the TToR's "Conservation Restriction Baseline Documentation Outline" (file name FY2013\_BDR\_contents\_outline\_update.pdf) is attached. This document clearly outlines the contents of the Baseline Documentation package. The package isn't a policy document, it is a snapshot of the existing state of the property at the time the restriction is executed. Present activities are grandfathered. If the BoS has a vision of future activities that wouldn't fall within the present document's allowed uses, we should discuss this, not with respect to the BDR package, but rather the allowed uses in the CR/HPR document.

**Management Plan**

Page 12, Section Q. Miscellaneous, Paragraph (11) Management Plan: The Town needs the freedom and ability to evolve the Management Plan within the broad construct of the restriction. For example, add language such as the following, "This management plan shall be amendable from time to time to resolve conflicts or ambiguities that may arise in the enforcement of this restriction in future, regarding the permissibility of specific activities identified by residents that are unforeseen in the present restriction and are perhaps neither explicitly allowed nor prohibited."

**Comment [BH6]:** I don't see the need for this. Activities which are not allowed under the CR/HPR could not be allowed under the management plan. The management plan will be the Town's guide for various operations and activities on the property, such as the existing camping rules, but will not supercede the CR/HPR. It should be subject to revision as required, so long as everything specified in the management plan falls within the terms of the CR/HPR, or so it seems to me.





6b

BOXBOROUGH BOARD OF SELECTMEN  
29 Middle Road, Boxborough, Massachusetts 01719  
Phone: (978) 263-1116 • Fax: (978) 264-3127  
[www.town.boxborough.ma.us](http://www.town.boxborough.ma.us)

Leslie R. Fox, Chair      Francis J. Powers, Clerk      Vincent M. Amoroso      Robert T. Stemple      Raid M. Suleiman

August 27, 2012

Mr. Michael Busby  
40B Project Coordinator  
Massachusetts Housing Finance Agency  
One Beacon Street  
Boston, MA 0208

RE Minuteman Village, Boxborough, MA, PE-518

Dear Mr. Busby,

We are writing in response to your June 5<sup>th</sup> letter soliciting comments on the proposed Minuteman Village development, which has been brought forward by James Fenton, Michael Jeanson and John Lyons. The Board of Selectmen has gathered inputs from the relevant Town boards, commissions and departments, which it has organized, summarized and presented below. The comments provided in this letter do not preclude the Town or other parties from introducing additional matters bearing on the proposed project for consideration should a comprehensive permit hearing be held.

The Selectmen have a number of grave concerns regarding the project, which are enumerated below.

1. Foremost are the serious public safety concerns evidenced by the failure to address adequate egress and ingress, the location of the entry road situated between two senior housing developments, the inadequacy of plans for fire protection, as well as roads that are too narrow to sustain emergency vehicles, especially given the density of the project. The proponents are proposing road widths of 22 feet, requiring a waiver of subdivision standards of 24 feet. In the developer's prior Boxborough Meadows Ch. 40B development, a request for 22-foot road width was granted and subsequently has proved to be a public safety and road maintenance concern. Residents' vehicles are commonly parked on the roadways, impeding passage of fire apparatus.
2. The proposed development calls for private roadways, which would have to be maintained by homeowners or condominium associations. This would place an additional burden on residents through increased association fees to cover costs of road maintenance. The Boxborough Housing Board (BHB) has found that such fees can be an excessive burden to affordable housing residents. Privately maintained roads are detrimental to affordability. However, the inadequate specifications of the proposed roadways would prevent the Town from accepting these ways as public.
3. The proponents' application does not disclose requested information related to their previous Boxborough Meadows Ch. 40B development in Boxborough. Further, the proponents have failed to satisfactorily complete this prior project, which is still in non-compliance with an Order of Conditions for wetlands replication, preventing the Town from accepting the development roadways as public ways. The Town has received numerous complaints from Boxborough Meadows residents on this matter.
4. The proposed project has failed to address the Town's housing needs, as described in the May 15<sup>th</sup> Housing Needs Assessment, which should serve as the guiding document to address proposed affordable housing development in town.

5. The proponent's land acquisition costs are highly suspect and appear to be contrived to lower the proforma estimate of profit margin.
6. The project development plans are flawed, as described in the Planning Board's summary. Contrary to indications within the application, the project fails to meet a number of the Commonwealth's Sustainable Development Principles.
7. The Board of Selectmen has received letters of opposition from the associations for Sheriff's Meadows and Tisbury Meadows, both of which abut the proposed Minuteman Village development, and lie astride the proposed approach from Stow Road. Both Sheriff's and Tisbury Meadows are age-restricted senior housing, with many residents in their 70's and 80's and older. They have expressed serious concerns about the noise and traffic hazards that would result from both construction vehicle activity as well as Minuteman Village residential traffic from Stow Road. They are concerned for the safety and integrity of their private wells, which will be impacted by blasting for Minuteman Village. They believe that the scale of the proposed development will diminish their quality of life.
8. The Boxborough School Committee has voiced concerns regarding lack of adequate and safe school bus access on private roads as well as the effect of an increased student population and the potential need to increase staff.

This letter concludes with additional detailed comments from the Board of Selectmen concerning deficiencies of the application itself.

The Selectmen echo the concerns, which are appended below, from the Town departments and boards and thank MassHousing for the opportunity to provide our comments. We hope that MassHousing will seriously weigh the Town's input. In view of the serious deficiencies and concerns presented, we respectfully request that MassHousing deny a Project Eligibility Letter to Minuteman Village of Boxborough, LLC.

#### **Planning Board**

1. The developer's cover letter to MassHousing states that they met with Town of Boxborough officials and the BHB to discuss the project details. This is severely misleading. The developer's engineer and consultant met informally with the Town Planner, who expressed concern about many of the issues that are still being raised by the Planning Board in this letter. The developer subsequently met with the BHB, and although they were informed that the Housing Board was completing a housing needs assessment and that 96 three-bedroom units would not fill an affordable housing gap, the developer obviously chose to ignore this input.
2. **MassHousing Application Page 2, Item 1:** The application states that local zoning (Town Center) allows for a significantly higher density than proposed. This is misleading. The area in Boxborough that is zoned as Town Center is specifically intended for mixed uses, and single-family dwellings are permitted by special permit only in conjunction with commercial development. The permitted density of a mixed commercial and residential development does not apply to a development comprised solely of single-family dwellings. The higher density allowed by right in the Town Center Zone District is reserved exclusively for multi-family duplex units reserved for seniors. The Town Center Zone District was specifically adopted to provide for mixed-use development with primary commercial uses and secondary residential uses. The Town Center Zoning looked to allow residential duplex units for seniors as a component of a mixed-use development. It was never intended that the property be solely developed with senior duplexes.
3. **MassHousing Application Page 2, Item 2:** The tabular analysis is misleading and incorrect. The overall property size may be consistent with the Minimum Lot Size, but the Town Center Zoning requires that single-family dwellings in a mixed-use development should be located on their own lot. Taking the total buildable acreage of 44.9 acres divided by 96 units calculates to 20,473 s.f. per dwelling unit. The minimum lot size in the Town Center District is 40,000 s.f. for a single family dwelling in a mixed-use project. A Variance is required.
4. **MassHousing Application Page 3, Item 1(a & b):** The project development site is comprised of seven parcels; six of them owned by James Fenton and Michael Jeanson under the guise of Boxborough Town Center, LLC and one owned by John Lyons under Mane Realty Trust. The six parcels owned by Mr. Fenton

and Mr. Jeanson were purchased from Mr. Lyons. If the beneficial interest of the sellers and the buyers are the same going further back than 1995, how can the "Total Purchase Price" in the application possibly be valid? This is further called into question by the fact that the current total assessed value for the seven parcels is only \$1,842,300. Even considering the lesser of the two inconsistent amounts listed as the purchase price in the application, \$8,785,000 vs. \$9,785,000, \$8.8 million represents a percentage increase of 377% over the assessed value.

5. The developer has not provided any documentation that shows they have the right of ingress and egress or the right to construct the entrance road off Stow Road, which is not owned by them.
6. **MassHousing Application Page 4, Item 2:** This statement is false. The South Acton Train Station and the Littleton Train Station are just over 4 miles from the site, and due to the lack of bicycle or pedestrian accommodations, the only way to get there is by car.
7. **MassHousing Application Page 5, Item 7:** The application states the condominium fees for the market rate units and the affordable units are to be the same. This will be a significant burden on the affordable homeowners. As noted in the *Massachusetts Land Use Report* on August 30, 2010, "...affordable units owners...will have to come up with more money to pay for special assessments... Special assessments occur for a variety of reasons – sometime unforeseen circumstances arise, but often they are the result of poor condominium management, inferior building materials or construction techniques in the original construction, and insufficient reserves" (*Attachment ??*). The project will require a significant on-site public water supply and sewage disposal system and distribution with testing and maintenance as required by DEP, and a private roadway and drainage system that will have to be maintained and plowed by the homeowner's association. Furthermore, as noted in the attached construction summary report for Tisbury Meadows, which was built by the proponents of Minuteman Village, the cost individual homeowners may incur due to inferior building construction could be substantial (*Attachment ??*). The developer has not provided any documentation as to the reasonableness of the estimated condominium fee and this should be factored into the economic viability of the project.
8. **MassHousing Application Page 6, Preliminary Construction Budget:** The validity of the construction budget is questionable given the issues of related parties' interests directly impacting site acquisition cost and several budget line items. The developers propose to have interlocking family businesses doing site preparation and land clearing, landscaping, residential construction and identify a direct spouse or relative as the project consultant and the marketing agent. The purported land acquisition purchase price does not adhere to accepted standards of arm's-length-transactions applicable to this proposal, resulting in a flagrantly inflated cost basis for the land, and deceitfully lowering the estimated profit margin.
9. **MassHousing Application Page 7, Developer/Applicant Qualifications:** This section requires the developer to identify any other 40B project(s). The developer fails to list the Boxborough Meadows Comprehensive Permit of 48 units. Even if that project is included, the Board questions the developer's ability and competence in developing, managing and being able to adhere to the cost certification rules of the Comprehensive Permit Law for a project that is two times larger than any other project they have done.
10. **MassHousing Application Page 10, Certification 2(e):** The developer fails to identify the lawsuit between the Town of Boxborough and the developers as principals of Boxborough Meadows LLC.
11. **MassHousing Application Page 10, Certification 2(f):** The developer fails to mention that as the principals of the Boxborough Meadows Comprehensive Permit, they have failed to carry out the obligations in connection with that Comprehensive Permit as it relates to road acceptance, wetland replication and receiving a Certificate of Compliance under their Order of Conditions.

12. **MassHousing Smart Growth Scorecard Page 2, Method 2:** The project must meet 5 of the Commonwealth's *Ten Sustainable Development Principles*. The Planning Board does not believe that a project that can check only a single box under one of the Principles meets the Commonwealth's intent for sustainable development and a developer should not be given credit for meeting that Principle.
13. **MassHousing Smart Growth Scorecard Page 2, Criteria 1:** This project is not multi-family housing. It is 96 single-family dwellings that have to be included in a condominium association because of a shared water and sewage disposal system. This project is not compact or clustered so as to preserve undeveloped land. It is compact and clustered because of the extent of wetlands that are not developable. Why is the "Other" box checked when all the developer is doing is double counting the previous inaccurately checked "Multi-family housing" box? This project does not mix uses or add new uses to an existing neighborhood, does not produce multi-family housing, does not utilize existing water and/or sewer infrastructure and does not meet this Principle. Just because the developer proposes a higher density and perforce excludes land that is otherwise undevelopable does not constitute "preservation".
14. **MassHousing Smart Growth Scorecard Page 2, Criteria 2:** There is no open space or passive recreation identified in this project. The area within the project that is not being developed is primarily wetland and swamp or steep slopes. Again, the developer checks the "Other" box and double counts a previous box. The project fails to meet this Principle.
15. **MassHousing Smart Growth Scorecard Page 3, Criteria 4:** Is the project considered to meet the Energy Star equivalent by having the developer put in Energy Star rated appliances? That does not meet the intent of this Principle. Why not make the project a Green Project or LEED certified? The development does not incorporate alternative technologies for water and wastewater. Given the fact that Boxborough does not have any public water or sewer facilities, the developer is required to provide water and wastewater on-site. Because of the number of units proposed, the developer is not able to let each dwelling unit have its own water well and sewage disposal system so on-site private public water supply and groundwater discharge sewage disposal systems are proposed. This is standard under DEP requirements and does not conserve any resources. The project design is for catch basins and detention ponds. This is not an LID technique. Therefore, the Planning Board questions whether the project meets this Principle just because Energy Star appliances will be installed in the dwelling units.
16. **MassHousing Smart Growth Scorecard Page 4, Criteria 5:** How does the project expand the term of affordability? The developer is only providing the minimum number of required affordable units. The developer should not be taking credit for expanding the terms of affordability just because they are planning to donate two units that are 311 s.f. to 729 s.f. smaller than the other affordable units. Again, the developer checks the "Other" box and double counts a previous box.
17. **MassHousing Smart Growth Scorecard Page 4, Criteria 6:** Unless the developer is taking credit for people to walk on the sidewalk or ride their bike in the road within the development, there is no increase in bike and pedestrian access. There may be a sidewalk on Massachusetts Avenue at the intersection of Stow Road, but there is no connection to this project. This would be especially dangerous for the residents in the units off Massachusetts Avenue. Boxborough is within the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area and is not classified as a rural area by the Federal Census. The project fails to meet this Principle.
18. **MassHousing Smart Growth Scorecard Page 5, Criteria 9:** The project is not consistent with a municipally supported regional plan as it relates to the 495 MetroWest Development Compact. In the Compact, the Town identified the Town Center area as a Priority Development Site for its mixed-use zoning and ability to add a truly needed economic commercial opportunity to the Town with a residential component in a village setting. The village mixed use development model has been shown in other Massachusetts communities to be much more effective in meeting the Commonwealth's *Ten Sustainable Development Principles* as it relates to Concentrated Development, Being Fair, Conserving Resources, Expanding Housing Opportunities, Provide Transportation Options, Increase Job Opportunities, Fostering Sustainable Businesses,

and Planning Regionally. Again, the developer checks the "Other" box and double counts a previous box. The project fails to meet this Principle.

19. **Project Development Plans:** The Board strongly urges that a Project Eligibility Letter *not* be granted for this development until the developer addresses the significant public safety issue of only one road in and out for 88 units and the dangerous location of the proposed Patriot Lane off Route 111 for another 8 units (Massachusetts Avenue). The entrance road Minuteman Drive is directly between two senior housing developments. If there were an emergency at either one of these senior housing developments, a fire engine and other apparatus would block the road. It appears the developer is proposing a gated emergency access road onto Priest Lane, but it is not known how this would function for the residents in the development or whether it is even acceptable from a public safety perspective. Furthermore, there is an overwhelming public safety concern with the construction of this project and the movement of all construction equipment between two senior housing developments.

As shown on the plan, Patriot Lane is located at a point where Route 111 begins to bend going west, creating a dangerous situation for vehicles wanting to turn in and out of the project.

20. **Project Development Plans:** The Board strongly urges that a Project Eligibility Letter *not* be granted for this development until the developer addresses the significant public safety issue with fire protection. The Town of Boxborough does not have any public water supply. There is an existing fire pond located on the property adjacent to Route 111, but this would not be accessible for use in fighting a fire in those units within the larger development off Stow Road. The developer is proposing two fire cisterns. Some of the proposed dwelling units are located over 1,300 feet from a cistern.
21. **Project Development Plans:** The developer is proposing that the roads be 22 feet wide. As evidenced in the Boxborough Meadows Comprehensive Permit development, this roadway width has caused significant public safety issues. Emergency vehicles have been hampered in their efforts to get through because of the density of the project, the close proximity of the units and vehicles parking in the road.
22. **Project Development Plans:** The project contains approximately 1.17 miles of roadway with catch basins, detention ponds and two rotaries with what appears to be a combination of paving and brick to accommodate the turning radius of fire engines and school buses. The Town's Department of Public Works is not equipped to handle this additional infrastructure. The cost for maintenance and snowplowing should be factored into the condominium fees since the Planning Board would not recommend that Town Meeting accept the roads as public ways.
23. **Project Development Plans:** Pursuant to the Planning Board's Subdivision Rules & Regulations, a standard development of this size would be required to provide a suitable park for recreation purposes. The Board does not believe by any reasonable standard that the proposed outdoor half basketball court is sufficient.

### Housing Board

The BHB recently completed a Housing Needs Assessment, dated May 15, 2012, which assessed and quantified needs for Boxborough and nearby towns (Attached). The results of the assessment will be used to determine the type of housing that should be developed under Town housing initiatives as well as private developments, and to prepare an update for the Town's Housing Production Plan and Boxborough Master Plan.

The developers were told about the housing assessment when they met with the BHB in February 2012 and were informed that 96 three-bedroom units did not appear to meet a current housing need. Unfortunately, the proposed development disregards the assessment and does not address the housing gaps identified by it. This is a serious disconnect that must be addressed. The Housing Needs Assessment should be the guiding document for any proposed affordable housing development in Boxborough, such as Minuteman Village.

The Housing Needs Assessment shows that Boxborough housing stock is expected to increase by about 2.6% over the next ten years, absent any Ch. 40B developments. This is consistent with statewide projections. However, Ch. 40B developments can easily drive a four-fold increase in the number of housing units over this same period.

Housing unit growth in Boxborough under Ch40B will not be merely a small perturbation on the nominal growth rate. Rather, it will be the single most important and determinant factor driving increase in housing stock and Town population.

Consequently, it is critical that the proposed Minuteman Village development deliver housing that is actually needed by Boxborough and nearby towns. The current form of the Minuteman Village proposal is far off the mark. The Housing Board requests that the proponents significantly revise their proposal in order to provide housing that is consistent with the affordable housing gaps identified in the Housing Needs Assessment.

## **Primary Conclusions of the 15 May 2012 Housing Needs Assessment**

### Boxborough's Housing Needs

1. Managed Care Facilities
  - Continuing care retirement communities
  - Assisted living
  - Independent living
2. Low-Income Rental Housing
  - 24 to 64 one- and two-bedroom apartments
  - 600 to 1200 s.f.
  - Renting at \$400 to \$1000 per month
  - Funding from Low Income Housing Tax Credits for portion of construction cost
3. Single Family Units for Seniors
  - Rental housing or single family housing sold for less than \$400K
  - Living space and bedroom on first floor
4. Single family Homes for Families
  - Sold to families for less than \$400K
  - Typical size 1200 to 1800 s.f.
  - Four bedrooms

### Demographics and Projections

According to the 2010 census, Boxborough actually has 451 single-family homes or apartments that sell or rent below the housing limits defined as affordable by DHCD. These units are not deed restricted and therefore are not included in the DHCD SHI, but if they were counted towards Boxborough's Ch. 40B goal, 21.8% of the Boxborough housing would sell or rent at or below the affordable prices.

Growth in the senior population is the single largest demographic factor driving future Boxborough housing needs. According to MAPC and the assessment, the senior population (over 60) will increase by more than 50% by 2020, and will be the most rapidly growing population segment in Boxborough. The assessment projects that the senior population will to grow by 72% to 1,226 individuals by 2020, an increase of 523 seniors. This population will include seniors who wish to downsize but stay in Boxborough, seniors who require assisted living or managed care facilities, and single persons on fixed incomes that require housing after the death of a spouse. In many cases, the \$200K asset limit will disqualify a senior for 40B for-sale housing, leaving rental housing as the only viable alternative for seniors. It is essential that affordable housing developments properly serve this growing segment of Boxborough, not only for housing, but for contingent needs such as shared communal space for group and individual activities. It will be especially important to address accessibility needs for mobility-impaired and handicapped individuals.

Most economic forecasts predict that the economy will recover only gradually over the next several years, resulting in a continuation of unfavorable market for single-family ownership of affordable housing units. Even in good economic times, the burdens of home ownership can be overwhelming to individuals and families in the affordable housing market. The BHB has seen direct evidence of this in their monitoring of affordable units in

Boxborough. The resale of affordable units has been very difficult, and rising condominium fees and assessments have often transformed an affordable condominium into an unaffordable condominium. We have concluded that affordable housing needs can be better served through development of well-conceived rental housing in many cases.

Housing for the downsizing trend is a growing challenge everywhere. The typical downsizer has modest or even good income with some assets, but can no longer afford, or wish to carry the burden of, the large single-family house that was well suited to their child-raising years. They would like attractive mid-market housing suited to their current needs. There is some overlap between this segment and the 60+ group. The BHB requests that the proponent present a creative approach to addressing the housing needs of both groups, through a combination of rental and ownership units. Sales prices need not be tied strictly to the 80% AMI guideline, but should be considered in the context of the whole project serving multiple needs.

#### Rental Units

Currently, rental units comprise about 21% of housing in Boxborough, which is somewhat higher than comparable nearby rural neighboring towns. Depending on the number of bedrooms, between 55% and 71% of the existing apartments in Boxborough have rents that are less than Ch40B affordable rents. Boxborough needs rental apartments for residents who earn less than \$42,500, which is equal to 30% to 60% of the AMI. Other key needs that are identified in the Housing Needs Assessment include Town employees and current residents who wish to downsize their accommodations and remain in town. About 60% of Town employees qualify for some form of 40B affordable housing. Of these, the overwhelming majority cannot afford for-sale 40B affordable housing, but can afford rental Ch40B housing. A large proportion of rental units within a revised Minuteman Village concept would be entirely consistent with both the current state of Boxborough housing and the needs of affordable occupants.

#### For-Sale Housing

This window of affordability created by mortgage requirements and Ch40B income limits eliminates a large number of people who would like to purchase an affordable home, including senior citizens and new families. For example, a three-bedroom 40B affordable single-family home will cost \$197,000, and the buyer must earn \$61,609, but no more than \$65,000. The Housing Needs Assessment indicates that a large number of local workers, such as police officers, firefighters, and school teachers fall in the \$60K - \$120K income range that cannot be helped by 40B affordable housing. In contrast, families in this income range could be helped by moderately priced (~\$400K) market-rate housing. The conclusion in the Needs Assessment is that in 2010 there are 31 families with four or more children that earned less than the AMI for the area (\$96K) and required a four bedroom unit. The average assessed value of a four bedroom unit in 2010 was \$583K (range \$530K to \$600K) and the monthly payment was \$3,522/mo. A family with four children earning less than the AMI of \$96K can afford 30% of their salary or \$2400 on housing cost. Hence, there are no affordable four bedroom units in Boxborough that a family with four children can afford.

#### General concerns

1. Land acquisition cost basis is not based on an arms-length transaction as required by law and DHCD regulation. Further, the valuation of the property is inconsistent with recent sales of undeveloped nearby land.
2. The number of related-party entities involved in the Minuteman Village development would obscure the developer's cost basis and profitability.
3. The housing comparables presented in the proposal are not in fact for comparable units in the development. The comparables identified in the application are single-family dwellings on 60,000 square foot lots with a dwelling over 2,500 s.f. and a private on-site water well and sewage disposal system.
4. The application specifically asks the developers to list any other 40B projects. The developers failed to disclose their ownership in the Boxborough Meadows Comprehensive Permit development in Boxborough, and that they were defendants in the lawsuit brought by the Town of Boxborough.

The BHB notes that factors such as those listed above were precisely what led to the lawsuit with the same developers in the Boxborough Meadows development. The need for local monitoring and oversight is all too apparent.

#### Summary BHB Recommendations

1. Revise the proposal to include a significant portion of rental units. This will address the ownership burden described above for affordable occupants. Show how Low Income Housing Tax Credits can be used to advantage for both the developer and occupants.
2. Devise a plan whereby the 25% rule for counting in rental developments can be used to maximize Boxborough's SHI count for the project.
3. Provide a less homogeneous style of detached single-family housing to better serve the demographics described above. Consider a mix of detached, townhouse, duplex/triplex, single and multiple level units.
4. Specifically address the 60+ needs, including accessibility. Provide mix of rental and ownership units.
5. Provide for some TBD proportion of ADA-compliant accessible units.
6. Provide credible housing market comps for all styles of housing proposed.

#### Conservation Commission

- The developers will have to file a Notice of Intent with the Commission for work in the wetland resource areas and 100-foot buffer zone for the installation of water and sewer lines.
- In the MassHousing Application, the developer fails to disclose that they are currently in non-compliance with the now expired Order of Conditions (OoC) for Boxborough Meadows because the wetland replication area required by the OoC was never created. The lack of a Certificate of Compliance from the Conservation Commission is preventing road acceptance by the Town, which, much to the dissatisfaction of the residents of Boxborough Meadows, prevents Town maintenance and repair of the road. MassHousing should require the developer comply with the Boxborough Meadows Comprehensive Permit prior to filing an application with the Town for Minuteman Village.

#### Fire Department

- A single means of open ingress and egress for a development of this size is insufficient. The existence of only one road off of Stow Road, in and out of the major portion of the project consisting of 88 units, poses a significant public safety issue.
- The proposed gated emergency access off Freedom Circle is not acceptable for the following reasons:
  1. These roads within this development, including the emergency access road, will be private ways. The homeowner's association will be responsible for ensuring that vehicles never block the gate, towing any such vehicles, maintaining the gate, and clearing the access road in the winter. This is an unacceptable solution that could have significant consequences to life and property.
  2. There are too many issues with a gated emergency access. If the gate were chained or padlocked, this would require emergency responder's to exit their vehicle, unlock a Knox Box to access the keys, and then open the gate. This would be devastating to emergency situations when seconds count, especially in a dense development where the structures will only be 15 feet apart. If an electric gate were used, the gate would have to be inspected and maintained on a regular basis, again at the expense of the homeowner's association, as well as fitted with an alternative power source during power outages.
  3. Given the density of the project and the proximity of the houses, it is likely that mutual aid would be requested to help protect adjacent structures during a fire. Response time for mutual aid, if needed, would be critical and having to deal with an emergency access gate is unacceptable.

- The proposed ingress and egress of Patriot Lane off Route 111 Massachusetts Avenue is a significant public safety issue due to the dangerous location of the proposed entrance.
- The entrance road, Minuteman Drive, is situated directly between two senior housing developments. The developer is not proposing any alteration to the existing driveway entrance off Stow Road. The existing driveway does not appear to be adequately configured to handle the proposed level of the development. These roads within this development, including the proposed entrance off Stow Road, would greatly impact emergency access. In the event of a fire within Sheriffs Meadow or Tisbury Meadow, the entrance into the Minuteman Village would most likely be closed due to apparatus placement and laying of hose. If the entrance into Minuteman Village became impassable, this would greatly impact the safety and wellbeing of residents of Minuteman Village.
- The two proposed fire cisterns within the primary development are inadequate given the distance from the cisterns to the furthest dwelling. A fire cistern is required for the secondary development, Patriot Lane off Massachusetts Avenue. This significant public safety concern is compounded by the close proximity of the dwelling units. The Town has no public water supply system and the developer is proposing only two fire cisterns. Additional fire protection and/or suppression should be provided within the units.
- The developer is proposing that the roads be 22 feet wide. This is not acceptable for public safety due to the density of the project, the close proximity of the units, vehicles parking in the road and the inability of emergency vehicles to get through, especially in winter.

**Police Department**

- The Patriot Lane access road off of Massachusetts Avenue poses a serious risk to motoring public as it is exposed to a blind incline to the west and an incline and curve to the east.
- The single access road to the larger development is insufficient for the population living in this area. Additionally, the Police Chief is concerned about the proposed road dissecting the senior housing complex and the volume of vehicles that would be utilizing the roadway.
- The proposed development indicates that it will be maintained privately. The Police Chief is apprehensive that a private contractor may not be as responsive to a public safety concern as the Town's Department of Public Works.
- The Chief's last concern is that of parking. In a similar complex in town, there is serious congestion caused by the narrow roadway and lack of off-street parking. The Chief would like to see a two-car garage unit with paved parking for at least four cars along with adequate width roadways.

**Boxborough School Committee**

The Boxborough School Committee Chair met with the Town Planner in an effort to estimate the number of children the school could expect to enroll from this development. Based on a commonly used formula, it was estimated that the development would house approximately 134 children under the age of 18 (not all the children would be of elementary school age). Using breakdowns of other similar developments, the best estimate would be as follows:

Ages 0-5	27
Ages 5-12 (Blanchard)	64
Ages 12-18 (AB Regional)	43

An increase of 64 additional students (equal to approximately 2.5 sections) would have a direct impact on the Blanchard memorial School budget. Over the past 5-7 years, we have seen a dramatic drop in the student population at Blanchard from a high of almost 600 students in 2005 to 435 in 2012, with further enrollment decline expected over the next couple of years. We have aggressively budgeted to address this decline by decreasing the number of buses transporting students, the number of sections and teachers in each grade, as well as decreasing the number of hours for other staff that support a smaller number of students. In order to accommodate an increase of 64 students we expect we would need to increase the number of teachers, support staff and buses. In addition, based on the state's average, 14% of all students are in need of Special Education services, so we would likely see an increase in SPED cost, which, as we know, can be extremely expensive.

There is also another concern regarding Minuteman Village's proposed "Private Road". Currently our Superintendent works closely with the DPW to ensure that the roads are open and that buses can get through. This is especially important during the winter when dealing with weather related road conditions. If this is a private road we are concerned about the quality and timeliness of winter plowing sufficient to allow school bus access in particular.

### **Board of Selectmen**

The Town submits that MassHousing should not issue a Project Eligibility Letter for the Project, in light of the applicant's lack of candor in identifying past projects and lawsuits in which its principals have been involved.

On page 7 of its application package, the applicant purports to identify "any other 40B projects...in which the applicant or a related party has or had an interest." The applicant lists eight such projects. Conspicuously absent from the applicant's list is the Boxborough Meadows project. Boxborough Meadows is a 48-unit project developed in the Town, pursuant to a comprehensive permit granted by the Town's Zoning Board of Appeals. The developer of the Boxborough Meadows project was Boxborough Meadows, LLC. The two managers of Boxborough Meadows LLC are Michael J. Jeanson and James Fenton—the very same principals of Minuteman Village of Boxborough, LLC. See Exhibit A, printout of Secretary of State Corporation Database Summary Screen for Boxborough Meadows, LLC; Exhibit B, copy of Comprehensive Permit for Boxborough Meadows project, dated January 24, 2001.

The applicant's failure to identify the Boxborough Meadows project can hardly be viewed as an oversight. Nor is this the only instance of the applicant's failure to fully disclose the past activities of its principals. On page 11 of its application, the applicant purports to explain its response to Certification question 2(e), which inquires as to whether "any of the Applicant Entities [have] been a defendant in a lawsuit involving fraud, gross negligence, misrepresentation, dishonesty, breach of fiduciary responsibility or bankruptcy." In response to this question, the applicant identifies only a single lawsuit against its principals (Fenton and Jeanson), brought by the Town of Acton. The applicant's response is misleading in at least two respects.

First, the applicant misrepresents the outcome of the lawsuit brought by the Town of Acton (as well as the related False Claims Act Complaint filed against Messrs. Fenton and Jeanson by the Massachusetts Attorney General) regarding the so-called Crossroads Chapter 40B project. The lawsuit was not, as the applicant avers, simply "resolved by an Agreement for Dismissal [with] no liability against Mr. Fenton or Mr. Jeanson." Rather, resolution of the matter involved a settlement, in which Messrs. Fenton and Jeanson, through their development entity, agreed to perform construction work for the Town of Acton, in lieu of repaying over \$750,000 in excess profits owed to the Town.<sup>1</sup> It is disingenuous for the applicant to suggest that the case was simply dismissed without acknowledging that the dismissal was part of a settlement, under which its principals were required to conduct extensive renovations to property owned by the Town of Acton.

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<sup>1</sup> Of interest is the Inspector General's June 19, 2008 report and findings regarding the Crossroads development at issue in that litigation. A true and accurate copy of that report is attached hereto as Exhibit C.

Second, and even more significant, is the applicant's complete failure to acknowledge another lawsuit brought against its principals by the Town of Boxborough. Specifically, the Town sued Boxborough Meadows, LLC, Mr. Fenton and Mr. Jeanson in 2003 (less than ten years ago), based upon those parties' failure to adhere to the limited dividend requirements associated with the Boxborough Meadows project (i.e. the same project that the applicant coincidentally omitted from its list of prior projects on page 7 of the application), as well as the Summerfields comprehensive permit project. A true and accurate copy of the Complaint in the matter of Town of Boxborough v. Boxborough Meadows, LLC, et al. is attached as Exhibit D. The Town's claims against the defendants in that case included (among others) Fraud/Misrepresentation, Unfair and Deceptive Trade Practices, Unjust Enrichment and Conversion. These claims fall squarely within Certification question 2(e) on page 10 of the application, yet the applicant failed to acknowledge this lawsuit in its application.

While the applicant may claim (as it did with respect to the Acton lawsuit) that the Boxborough Meadows lawsuit was "resolved by an Agreement for Dismissal [with] no liability against Mr. Fenton or Mr. Jeanson" (see application page 10), the fact is that the matter was resolved pursuant to a Settlement Agreement, whereby those individuals and their various development entities were required to pay the Town **\$1.18 million**, among other obligations. A true and accurate copy of the executed Settlement Agreement is attached hereto as Exhibit E. Though the Settlement contains the standard language that the defendants were not acknowledging liability, the substantial amount of this monetary settlement demonstrates the merit and severity of the Town's claims against the applicant's principals and their development entities.

James Fenton, one of the members of Minuteman Village of Boxborough, LLC, signed the Certification on page 10 of the application on behalf of the applicant, and he did so "**under penalties of perjury.**" [Emphasis added]. It is clear that Mr. Fenton's certification was at best incomplete, and possibly was perjurious. Indeed, it would not be credible for Mr. Fenton to claim he simply forgot about the lawsuit, in which he and his partner were required to pay the Town of Boxborough over one million dollars to settle the Town's claims that they fraudulently concealed excess profits related to their Chapter 40B developments in Boxborough. Therefore, it appears that the applicant intentionally omitted this information from a Certification signed under the penalties of perjury.

In light of the above, the Town respectfully submits that Messrs. Fenton and Jeanson are **not** suitable applicants, and MassHousing should therefore deny a Project Eligibility Letter for the proposed Minuteman Village project for this reason.

We hope that the inputs that we have provided above will be helpful in your consideration of the *Minuteman Village* application for project eligibility. If we can be of further assistance, please contact Selina Shaw, Town Administrator or Elizabeth Hughes, Town Planner.

Sincerely,

Les Fox,  
Chairman  
Boxborough Board of Selectmen





**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**April 30, 2012**

**Approved: June 25, 2012**

**PRESENT:** Les Fox, Member; Frank Powers, Member; and Rebecca Neville, Member

**ABSENT:** Selectmen - Raid Suleiman & Christine Robinson

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

Member Fox called the meeting to order at 7:31 P.M. in the Grange Meeting Room of Town Hall.

Member Neville moved to appoint Les Fox as Chair Pro Tem. Seconded by Member Powers. **Approved 3-0.**

**ANNOUNCEMENTS**

- Chair Pro Tem Fox read the announcements.

Chair Pro Tem Fox moved to take Agenda Item #7d, out of order. Seconded by Member Powers. **Approved 3-0.**

**NEW BUSINESS**

- There was discussion on a request from the Town of Lunenburg to participate in an amicus brief in the matter of Lunenburg Zoning Board vs. Housing Appeals Committee et al (SJC No. 11102). Housing Board Chair, Al Murphy, was present for this discussion. This case was filed by the Town Lunenburg because of matters involving 40B definitions and thresholds. There was discussion on the circumstances and merits of this case. Boxborough has similar concerns. BHB Chair Murphy strongly urged the Selectmen to support this request. Member Powers moved to support the Town of Lunenburg in its request to participate in an amicus brief in the matter of Lunenburg Zoning Board vs. Housing Appeals Committee et al (SJC No. 11102) Seconded by Member Neville. **Approved 3-0.**

**MINUTES**

- Member Powers moved to accept the minutes for the Executive Session of – April 24, 2012; April 26, 2012 & April 27, 2012 (BoS Contract Negotiating Team), as written. Seconded by Member Neville. **Approved 3-0.**

**SELECTMEN REPORTS**

- Member Neville reported that she had attended BLF. The Pre-town meeting discussions went well.

She reported that the Agricultural Commission reviewed the proposed Right to Farm bylaw in preparation for Town Meeting.

Member Neville also reported that she attended the ABCC Grant reception.

- Member Powers reported that the Well-being Committee is considering a “Healthy Community Initiative.” He further advised that the Well-being Comm. will be hosting a booth “Boxborough Cares” at Fifer’s Day.
- Chair Pro Tem Fox reported that he and Member Powers had had several meetings with Chief White.

He further reported that he and Member Powers had had several meetings with Police.



COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SJC-11102

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LUNENBURG ZONING BOARD OF APPEALS,

Plaintiff-Appellant

v.

HOUSING APPEALS COMMITTEE and  
HOLLIS HILLS, LLC,

Defendants-Appellees

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ON APPEAL FROM A JUDGMENT OF THE SUPERIOR COURT

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BRIEF OF THE TOWN OF HOPKINTON,  
THE TOWN OF BOXBOROUGH, THE TOWN OF NORTON,  
THE TOWN OF TOWNSEND, AND THE TOWN OF TYNGSBOROUGH

AMICI CURIAE

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TABLE OF CONTENTS

Table of Authorities. . . . . ii

    Table of Cases. . . . . ii

    Table of Statutes. . . . . iii

    Table of Other Authorities. . . . . iv

Statement of the Issues. . . . . 1

Statement of the Case. . . . . 1

Statement of the Facts. . . . . 1

Summary of Argument. . . . . 2

Argument. . . . . 2

I. The HAC Erred by Finding that the Proposed  
Development Was Consistent with the Town's  
Comprehensive Wastewater Management Plan, and  
Thereby Unilaterally Expanded the Town's Sewer  
Service Area. . . . . 2

II. The HAC Erred by Ruling that Affordable Market-  
Rate Housing Could Not Be Considered When  
Balancing Housing Need Against Local Concerns. 13

III. The HAC is Without Authority to Trump State Law  
in General and the Doctrine of "Infectious  
Invalidity", In Particular, as Neither the  
Statute Nor Relevant Regulations (G.L. c.40B,  
s.20-23 and 760 CMR 56.00 et seq.) Empowers the  
HAC or a Local Board of Appeals to Override  
Statewide Requirements Set by the Legislature and  
State Agencies. . . . . 19

Conclusion. . . . . 29

Certification Pursuant to Rule 16. . . . . 31

Addendum . . . . . follows brief



**STATEMENT OF THE ISSUES**

1. Did the Housing Appeals Committee ("HAC") err by finding that the development was consistent with the Town of Lunenburg's Comprehensive Wastewater Management Plan, notwithstanding the fact that the project would unilaterally expand the Town's sewer district?
2. Did the HAC err by ruling that affordable market rate units cannot be considered when balancing Housing Need against Local Concerns pursuant to 760 CMR 56.07(3)(b)?
3. Did the Housing Appeals Committee ("HAC") err in approving a comprehensive permit project where a division of land made to accommodate the proposed project suffered from "infectious invalidity"?

**STATEMENT OF THE CASE**

The *Amici* hereby adopt the Statement of the Case contained in the Brief of the Plaintiff/Appellant.

**STATEMENT OF FACTS**

The *Amici* hereby adopt the Statement of Facts contained in the Brief of Plaintiff/Appellant.

### SUMMARY OF ARGUMENT

In Section I (pp. 2-12), the *Amici* argue that in light of the significant planning, permitting, and regulatory oversight involved in a municipal Comprehensive Wastewater Management Plan, the HAC erred by ignoring the Town of Lunenburg's plan and allowing the unilateral expansion of the Town's sewer system service area. In Section II (pp. 13-18), the *Amici* argue that the HAC erred in its application of the regulations by failing to consider the availability of affordable market rate housing. In Section III (pp. 19-29), the *Amici* argue that the doctrine of "infectious invalidity" is state law that the HAC cannot waive.

### ARGUMENT

Body of Argument provided in complete copy of Brief.

this Court has repeatedly held—that the Legislature did not grant local boards of appeals or the Housing Appeals Committee the power to waive state law. Consistent with those unwavering holdings, the *Amici* respectfully suggest that the Court should reject the HAC's actions in this particular matter with respect to the common law doctrine of infectious invalidity and conclude that as a matter of law, the HAC lacks the authority to permit a dimensional nonconformity by a comprehensive permit developer if the use of adjoining land they own can avoid or diminish the nonconformity (infectious invalidity).

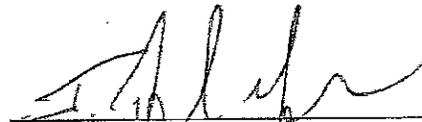
#### CONCLUSION

For the foregoing reasons, the *Amici* respectfully request that the Court issue judgment vacating the decision of the Superior Court and affirming the underlying decision of the Lunenburg Zoning Board of Appeals.

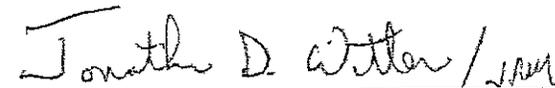
Respectfully submitted,

The Town of Hopkinton,  
The Town of Boxborough,  
The Town of Norton,  
The Town of Townsend, and  
The Town of Tyngsborough

By their attorneys,



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6d

**Board of Selectmen Meeting Schedule  
June 4, 2012 - January 7, 2013**

<b>Date</b>	<b>Business</b>
<b>June</b>	
4th	No meeting
11th	Meeting
12th, 7 PM	BLF
18th	No meeting
25th, 7 PM	Meeting- Appoint-a-thon, part 1
<b>July</b>	
2nd, 7 PM	Meeting - Appoint-a-thon, part 2
9th	No meeting [Les away July 7 - 14]
16th	Meeting [Bob away July 13 - 16]
23rd	No meeting
30th	Meeting
<b>August</b>	
6th	No meeting [Raid away August 1 - 23]
13th	No meeting - NO QUORUM [Vince away August 12 - 19; Bob away August 10 - 20] [TA away August 10 - 25]
20th	No meeting
27th	Meeting
<b>September</b>	
3rd	No meeting [Labor Day]
8th (Saturday)	Goals Workshop
10th	Meeting
17th	No meeting
24th	Meeting
29th	<i>Appreciation Event</i>
<b>October</b>	
1st	Meeting [R. Suleiman away 9/30 - 10/5; F. Powers away week of 9/30]
8th	No meeting [Columbus Day] [TA away October 5 through October 12, ICMA & vacation]
15th	<b>Proposed Meeting date - instead of October 1</b>
22nd	Meeting
29th	No meeting
<b>November</b>	
5th (Morse-Hilberg)	Meeting [TA away November 9 though November 12]
12th	No meeting [Veterans Day Holiday]
19th	Meeting - Public hearing - FY 12 Min Res Factor; Tax Rate Setting
26th	No meeting
<b>December</b>	
3rd	Meeting
10th	No meeting
17th	Meeting - Renewal of Licenses (alcohol, used car, common victuallers, etc.)
24th	No meeting [TA out December 24 through January 1]
31st	No meeting
<b>January</b>	
7th	Meeting





6e

**BOXBOROUGH BOARD OF SELECTMEN**  
29 Middle Road, Boxborough, Massachusetts 01719  
Phone: (978) 263-1116 • Fax: (978) 264-3127  
www.town.boxborough.ma.us

Raid M. Suleiman, Chair      Christine L. Robinson, Clerk      Leslie R. Fox      Rebecca R. Neville      Francis J. Powers

## Town of Boxborough Policy for Hager Well Incident Response

### Section 1-Purpose

As the owner of the public water supply well, the Town is responsible for maintaining the water supply in conjunction with 310CMR22.00 of the State Environmental Code, The Massachusetts Drinking Water Regulations (regulations). The town recognizes that there needs to be a documented process for steps the town departments should take in the event of a water sample indicating a positive presence of coliform or other violation of the most recent version of the Massachusetts drinking water standards.

### Section 2- Procedures

In the event of a confirmed positive test, the following procedure shall be followed.

1. A licensed contractor will notify the DPW of the positive test, including specific details regarding the severity of the problem.
2. The DPW will notify the named contact persons at the consumer sites: School, Library, Police and Fire, by phone or in person and a follow up email, including details regarding the problem severity.
3. The DPW will notify the BOH by phone and a follow up email.
4. The DPW will notify the Hager Well Group contacts by email. This email group is maintained by the DPW and consists of all organizations that could be affected by Hager Well incidents. A complete list of subscribers is available at the DPW.
5. All contacts will confirm by email that they have received notification.
6. Each department head will take action according to their individual department policy.

7. After the required number of successive test results are clear, per the regulations noted above, a Nashoba Board of Health representative, on behalf of the Boxborough BOH, will inform all departments that the water supply has returned to compliance with the most recent version of the Massachusetts drinking water standards for the parameter(s) tested.

DRAFT

72

**Selina S. Shaw**

---

**From:** Elizabeth Markiewicz [elizabeth.markiewicz@town.boxborough.ma.us]  
**Sent:** Tuesday, August 07, 2012 10:01 AM  
**To:** 'Selina S. Shaw'  
**Cc:** 'Bob Stemple'; 'Frank Powers'; 'Les Fox'; 'Raid Suleiman'; 'Vince Amoroso'  
**Subject:** Appointment of temporary constable

Hi Selina,  
Dick Golden will be unavailable for the September 6 state primary. I would like to request that the BOS appoint John Fallon as constable for a term ending December 31, 2012.  
Thanks,  
Liz

Elizabeth Markiewicz, CMMC  
Town Clerk  
29 Middle Rd.  
Boxborough, MA 01719  
Ph: 978-263-1116 x117  
Fax: 978-264-3127



**CENTRAL MIDDLESEX  
EMERGENCY RESPONSE ASSOCIATION (CMERA)**

**INTERLOCAL AGREEMENT  
FOR JOINT NEGOTIATION  
AND PURCHASE OF ADVANCED LIFE SUPPORT  
EMERGENCY MEDICAL SERVICES**

**AMENDMENT 1**

This agreement is hereby amended to add the following to **Article 1 – Authority and Purpose:**

Emergency Medical Dispatch service will be provided upon request to any CMERA participating community.

**IN WITNESS WHEREOF**, the Participating Community identified below, by its duly authorized officers, has executed this Agreement.

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

Board of Selectmen of the Town of \_\_\_\_\_

Date:



**CENTRAL MIDDLESEX  
EMERGENCY RESPONSE ASSOCIATION  
(CMERA)**

**INTERLOCAL AGREEMENT  
FOR JOINT NEGOTIATION  
AND PURCHASE OF ADVANCED LIFE SUPPORT  
EMERGENCY MEDICAL SERVICES**

**ARTICLE 1**

**AUTHORITY AND PURPOSE**

This Agreement is entered into in accordance with Massachusetts G.L. Chapter 7, § 22B, which enables municipalities to join in collective procurement for the provision of municipal services. The purpose of the Central Middlesex Emergency Response CMERA is to provide regional emergency medical services through a private vendor, in concert with the local hospital, which services are procured collectively pursuant to this agreement. These services so procured will be primarily Advanced Life Support (ALS) services, as well as related emergency transportation, training, billing and record-keeping. These services may be expanded, augmented, and modified as the participating municipalities mutually agree during the term of the Agreement.

**ARTICLE 2**

**DEFINITIONS**

2.1 Advanced Life Support (ALS) Services. Advanced Life Support Services, also known as ALS Services, means emergency medical care for sustaining life, including defibrillation, airway management, and drugs and medications. For purposes of this Agreement, ALS Services shall also include emergency transportation, training, billing and record-keeping related to the provision of ALS Services.

2.2 Central Middlesex Emergency Response Association. The Central Middlesex Emergency Response Association is a group of municipalities which has been formed to provide regional Emergency Medical Services, and may be referred to by the acronym CMERA.

2.3 Emerson Hospital or "Emerson". A full-service regional medical center located on Old Road to Nine Acre Corner, in Concord, MA.

2.4 Participating Community or Participating Communities. A Participating Community is one or more of the following named municipal corporations -- the Towns of Acton, Boxborough, Carlisle, Concord, Lincoln, Littleton, Maynard, Stow, Sudbury, and Weston, -- and such other communities as may join the CMERA from time to time.

### ARTICLE 3

#### CMERA MEMBERSHIP.

3.1 **Participating Communities.** The Participating Communities in this Agreement are the signatories to the Agreement. It is understood that other communities may join the CMERA in the future pursuant to Article 12 and become a Participating Community.

3.2 **Removal of Participating Community.** Any Participating Community may be removed from the CMERA in accordance with Article 4.

3.3 **Voluntary Withdrawal from CMERA.** Any Participating Community may withdraw from the CMERA during the period from October \_\_\_ 2010 to June 30, 2011 upon providing not less than 60 days advanced written notice to the Executive Board of such intent to withdraw from the CMERA. After June 30, 2011, withdrawal from the CMERA shall be in conformance with Article 4 of this Agreement.

### ARTICLE 4

#### TERMS OF AGREEMENT AND PARTICIPATION

4.1 **Term.** This Agreement shall take effect on October \_\_, 2010, or on the date that three or more participating communities execute this Agreement, whichever occurs later. This Agreement shall continue in full force and effect for a period of twenty-five (25) years, subject to amendment in accordance with Article 12 of this Agreement, and for so long as two or more Participating Communities continue to maintain membership in the CMERA.

4.2 **Withdrawal.** Any Participating Community may withdraw from the CMERA, at the community's discretion, by notifying the Executive Board of the CMERA in writing of its intent to withdraw not less than six (6) calendar months prior to withdrawal from the CMERA, and such withdrawal shall not be effective until the end of the fiscal year after the expiration of such six-month notification.

4.3 **Removal.**

4.3.1 Any Participating Community may be removed from the CMERA should it fail to meet any financial, contractual or other obligation to the

CMERA, after having been provided a reasonable opportunity to cure any issue of non-performance, upon a two-thirds vote of the representatives of the Participating Communities at a duly posted meeting of the CMERA.

4.3.2 Notwithstanding 4.3.1 above, any Participating Community which is determined by the Executive Board to be more than sixty (60) days in arrears on any payments owed to the CMERA may, upon the recommendation of the Executive Board, be terminated from participation in the CMERA and from the services provided under this Agreement, upon a majority vote of the representatives of the Participating Communities at a duly posted meeting. Such termination shall not affect the liability of the Participating Community for all financial obligations incurred under this Agreement.

4.3.3 The Executive Board may, by majority vote, take other appropriate action in lieu of termination to correct payment delinquency.

## ARTICLE 5

### REQUIREMENTS OF PARTICIPATION

All Participating Communities shall comply with the following conditions of participation:

5.1 Execute Emergency Medical Services Affiliation Agreement with Emerson Hospital, in the form attached hereto, within two weeks of executing this Agreement or joining the CMERA pursuant to Article 12.

5.2 Agree to a single patient billing agent, as designated by the Executive Board, pursuant to contractual arrangements contemplated in Article 7.

5.3 Adopt uniform billing rates and policies for ALS Services, as may be set from time to time in accordance with subsections 7.3 and 7.4 of this Agreement, said uniformity intended to ensure that all patients in the region or regions of the Participating Communities are charged the same amount for the same services. (The billing rate in 2010 is currently the equivalent of Medicare + 200%)

5.4 Participate in system-wide data collection efforts intended to identify system needs, to properly deploy system resources, and to assist in the assessment of service delivery and patient care.

## ARTICLE 6

### GOVERNANCE OF THE CMERA.

6.1 **Membership.** Each Participating Community in the CMERA shall be represented by of the Chief Executive or Chief Administrative Officer of the Participating Community, or his or her designee, and the Fire Chief of the Participating Communities, or his or her designee ("representative" or "member").

**6.2 Executive Board.** An Executive Board shall be established comprised of four Chief Executive or Chief Administrative officers from among the Participating Communities, or their designees; and four Fire Chiefs from the Participating Communities, or their designees, elected by and from among the Chief Executive and Administrative officers and by and from the Fire Chiefs, respectively, of the Participating Communities. The Chief Executive or Administrative officers and Fire Chiefs elected to serve on the Executive Board need not come from the same Participating Communities. Executive Board members shall serve for a term of two years or until removed by majority vote of the CMERA membership. Executive Board members may be elected for successive terms.

### **6.3 Meetings**

**6.3.1 Annual Meeting.** The representatives of the Participating Communities to the CMERA shall meet at least once annually to hear reports on the financial condition of the CMERA, the status of current contracts, and other matters of interest to the Participating Communities. Said meeting shall be called by the Chair of the Executive Board in June of each year, unless otherwise agreed to by the members of the Executive Board.

**6.3.2 Time and Place of Other Meetings.** The CMERA shall adopt a schedule of meeting dates, times and locations for the conduct of ordinary business and shall establish a reasonable procedure for notice to the members concerning special meetings.

**6.3.3 Quorum.** A quorum shall consist of not less than fifty-one percent (51%) of the representatives of the CMERA and not less than five (5) members of the Executive Board. In the event of a tie vote, the vote shall be deemed to be a negative vote.

**6.3.4 Open Meetings.** The CMERA shall conduct its business in conformance with the Open Meeting Law, G. L. Chapter 30A, §§ 18-25 and regulations promulgated thereunder, including the posting of meeting notices of a regional public body, and procedures and reasons for entering into executive session. Proper records and minutes shall be kept in conformance with the law, shall be distributed to representatives of the Participating Communities and to the CEO of Emerson Hospital, and access to such records shall be made available upon reasonable request as provided by law.

**6.3.5 Notice to Emerson Hospital.** The CEO of Emerson Hospital or his or her designee, shall be notified in writing and invited to attend each meeting of the CMERA and the Executive Board and may, when appropriate and necessary, be included in executive sessions.

### **6.4 Officers.**

**6.4.1 Chair and Vice Chair of CMERA.** The representatives of all the Participating Communities of the CMERA shall elect, by majority vote of the

representatives in attendance at a duly called meeting at which a quorum is present, a Chair and a Vice Chair to act in the absence of the Chair (CMERA Chair and Vice Chair), who shall serve for terms of twelve (12) months, beginning July 1 and ending June 30, unless replaced prior to expiration of the term by majority vote of the representatives of the Participating Communities.

**6.4.2 Chair and Vice Chair of Executive Board.** The members of the Executive Board shall, by majority vote at a duly called meeting at which a quorum is present, elect a Chair and a Vice Chair to act in the absence of the Chair, who each shall serve for terms of twelve (12) months, beginning July 1 and ending June 30, unless replaced prior to expiration of the term by majority vote of the Executive Board members. The Chair and Vice Chair of the Executive Board may serve successive terms, if so elected.

**6.4.3** The CMERA Chair and Vice Chair may also serve as Chair and Vice Chair of the Executive Board, if elected to each of the offices.

**6.4.4 Secretary of CMERA and of Executive Board.** The CMERA Chair shall appoint from among the representatives of the Participating Communities a Secretary of the CMERA, and the Chair of the Executive Board shall appoint from Executive Board members a Secretary of the Executive Board, each of whom shall be responsible for the records and minutes of the respective meetings. The CMERA Secretary may also serve as the Secretary of the Executive Board, if so elected, and each Secretary may serve successive terms, if so elected.

**6.4.5 Custodian of Records.** The Executive Board shall select from among officials of the Participating Communities a custodian of the records of the CMERA. The Secretary of the CMERA and the Secretary of the Executive Board shall coordinate with such custodian the retention of CMERA records in accordance with the public records law.

## ARTICLE 7

### ADMINISTRATION

**7.1** Administrative authority shall be vested in the Executive Board.

**7.2 Procurement, Purchasing and Contracting.** The Executive Board shall have the authority to negotiate and execute contracts, subject to final approval by majority vote of the CMERA representatives of the Participating Communities at a duly posted meeting, and subject to the availability of funds in the CMERA account, for services including emergency medical, consulting, financial, and other services necessary for the completion of the CMERA's business.

**7.2.1** The Executive Board may, subject to approval by a majority vote of the CMERA membership at a duly posted meeting, contract with Emerson Hospital or any other provider of Emergency Medical Services for the benefit of the member communities.

(a) The Participating Communities anticipate execution of a contract between CMERA and Emerson Hospital for the purposes of securing the ALS Services for the benefit of each of the Participating Communities on terms and conditions negotiated by the Executive Board and approved by majority vote of the representatives of the Participating Communities.

(b) The Participating Communities anticipate that, pursuant to the contract with Emerson Hospital referred to in 7.2.1 (a) above, the CMERA will be able to secure ALS Services for the benefit of the Participating Communities performed by a third party vendor, which will operate under a contract with Emerson Hospital and under the Massachusetts Department of Public Health/Office of Emergency Services ALS Service license and Basic Life Support Affiliation Agreement with by Emerson Hospital, substantially in the form attached hereto.

7.2.2 The Executive Board may engage consultants, subject to approval of the representatives of the Participating Communities, to carry out medical oversight and management, financial and administrative tasks, and to pay costs associated with the administration of this Agreement.

7.2.3 The Executive Board may also require such financial and operational reporting by contractors as the Board deems appropriate.

7.3 **Billing Rates.** The Executive Board, subject to ratification by majority vote of the Participating Communities, shall set billing rates, fees and/or charges for ALS Services in the Participating Communities, provided pursuant to this Agreement.

7.4 **Billing Policies.** The Executive Board of the CMERA, subject to ratification by majority vote of the Participating Communities, shall establish billing policies, including a policy governing the waiver of fees and charges in cases of financial hardship.

7.5 **Other Policies.** The Executive Board shall have the authority to adopt other policies for the CMERA, including policies regarding service, training, and relationships with customers and vendors. Such policies shall take effect upon the date determined by the Executive Board and shall remain in effect unless amended or rejected by majority vote of the membership meeting at a duly posted meeting for which notice of a proposed new or revised policy has been provided to the representatives of the Participating Communities at least 48 hours in advance.

7.6 **Other Rates and Charges.** Rates, fees and/or charges for services and contracts for service shall be approved by the Executive Board and ratified by a majority vote of the membership at a duly posted meeting.

7.7 **Mutual Aid Services.** The Executive Board may authorize the provision of ALS Services to and within the territory of a non-participating community, upon such community's request, subject to terms and conditions set forth in an Inter-municipal Agreement negotiated under G. L. c. 40, §4A or otherwise. Such ALS Services provided to a non-participating community shall be subject to assessment of a

flat-rate charge, as determined by the Executive Board. If the Executive Board decides to authorize such services to a non-participating community, it will endeavor to amend existing contracts including with Emerson and its third party vendor, as necessary.

7.8 **Other Officers.** In addition to election of Chair and Vice Chair, the Executive Board may elect from its membership any other officers that it deems appropriate and to establish any subcommittee for whatever purpose it deems appropriate and consistent with the terms of this Agreement. Not more than 2 members of the Executive Board may serve on any sub-committee, including the Finance Committee established under Article 10.

7.9 The Executive Board shall have such other authority as may be delegated in writing by the representatives of the Participating Communities.

## ARTICLE 8

### COMMUNICATION.

It shall be the responsibility of each representative to the CMERA to communicate all matters relating to the business of the CMERA to the representative's respective executive officers of each Participating Community. Meeting notices, minutes and other records will be directed to the official offices of the representatives to the CMERA .

## ARTICLE 9

### ESTABLISHMENT OF RATES, FEES AND/OR CHARGES.

The goal of the Participating Communities is for residents and patients in each Participating Community to pay the equitable fees and charges for similar services. This goal requires coordination and consensus on matters such as the amounts that shall be billed within each community to private insurers, public insurers and for patients without insurance coverage. The CMERA, acting through the Executive Board, shall develop policies and procedures which result in the equitable treatment of the residents of each Participating Community.

## ARTICLE 10

### FINANCIAL MANAGEMENT AND RECORDKEEPING.

10.1 The Executive Board shall appoint a Finance Committee, which shall be comprised of not less than three (3) members selected from among the representatives of the Participating Communities to the CMERA. Finance Committee members shall serve for one-year terms beginning on July 1 and may serve for successive terms. In the event there is a vacancy on the Finance Committee for whatever reason, the Executive Board shall appoint a replacement.

10.2 The Finance Committee shall elect a chair each year. The Committee shall advise the Executive Board and the representatives of the Participating Communities on matters concerning the finances of the CMERA, including contract charges, service rates, retained earnings, distributions to Participating Communities, and such other matters as the Executive Board may determine.

## ARTICLE 11

### SERVICE QUALITY AND CONTRACTOR PERFORMANCE

It is the goal of the CMERA to provide consistent, high-quality care to all patients. An effort shall be made through contract vendors to assess patient satisfaction with the emergency medical services provided. Complaints concerning service shall be reviewed with the Fire Chief or designee of the patient's community. Serious or repeat service complaints may be referred to the Executive Board for review with the service provider and/or Emerson Hospital, as appropriate.

## ARTICLE 12

### AMENDMENT PROCEDURE, NEW MEMBERS

12.1 **Amendment.** This Agreement may be amended at any time, provided that not less than two-thirds of the representatives to the CMERA vote to accept the amendment at a duly posted meeting of the CMERA.

12.2 **New Members.** New communities may join in this Agreement and become Participating Communities, commencing on a mutually agreed upon date, provided that not less than two-thirds of the representatives of the then existing Participating Communities so agree, as determined by a vote of the representatives at a duly posted meeting of the CMERA, and provided that the new Participating Community endorse this Agreement, and any amendments thereto, through its duly authorized officer. Such additional Participating Communities shall not be responsible for any deficit existing prior to the effective date of their joining the CMERA, nor will they benefit from any surplus or contract credit available to CMERA members prior to the effective date of Participation.

## ARTICLE 13

### INDEMNIFICATION AND HOLD HARMLESS PROTECTION.

13.1 Each Participating Community agrees that as a precondition for entering into this Agreement, the Participating Community shall indemnify and hold harmless its own representatives to the CMERA from personal financial loss and expense, including reasonable legal fees and costs, if any, to the full extent permitted by all applicable statutes. Indemnification shall be provided such representatives for liability arising from all activities directly related to the establishment of this Agreement and all related activities arising as a result of such person's service to CMERA, commencing

on or after the effective date of this Agreement through and including the date which such representative terminates his or her position as a representative to the CMERA, including membership on the Executive Board and on any of the CMERA's committees.

13.2 This hold harmless protection shall include indemnification for any claim, demand, suit, judgment, damages, expenses, injuries of any kind related to any act or omission, except for intentional violation of the civil rights of any person, arising as a result of such representative's service to CMERA or its Executive Board or committees, including travel to and from meetings relating to service with the CMERA, communications and all other acts related to service with CMERA on behalf of the Participating Community.

## ARTICLE 14

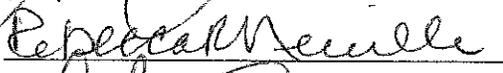
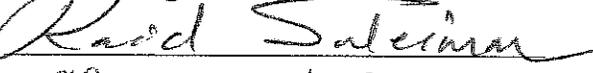
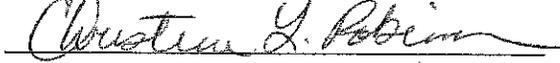
### MISCELLANEOUS

14.1 This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

14.2 This Agreement may be executed in one or more than one counterparts and all so executed shall constitute one agreement binding upon all the Participating Communities that are signatories hereto.

14.3 This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof.

**IN WITNESS WHEREOF**, the Participating Community identified below, by its duly authorized officers, has executed this Agreement.

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

Board of Selectmen of the Town of Boxborough

Given under our hands this 5<sup>th</sup> day of November, 2010



**Internal Communications and Outgoing Communications**  
**August 27, 2012**

1. July 2012 Monthly Construction Activity Report from the Building Department, dated August 1, 2012.\*
2. Communications from Town Counsel, Kopelman & Paige, P.C.:
  - a. Memorandum to Municipal Clients from Attorneys Lauren Goldberg and Shirin Everett, dated July 26, 2012, regarding Significant Amendments to the Community Preservation Act – Use of Funds\*
  - b. Copy of a letter from Town Counsel, George Pucci, dated July 27, 2012, to Nancy & Donald Copeland, 498 Stow Road concerning the continued encroachment on the Flerra Meadow Conservation Land.
  - c. Copy of coverletter from Town Counsel, Jonathan Eichman, dated August 16, 2012, to TA Shaw, regarding the recording at the Registry of Deeds of two deeds related to Hughes Lane.
3. Letter from U.S. Senator, Scott Brown, dated July 17, 2012, to Chairman Leslie Fox, responding to the Selectmen's submission of the resolution regarding election reform and providing an update on the legislative activities regarding same. #
4. Letter from U.S. Representative, Niki Tsongas, dated August 2, 2012, to Leslie Fox, responding to the information that the Selectmen provided on the recent Town Meeting resolution calling for a constitutional amendment to overturn the *Citizens United* decision. She provided a summary of this decision and background on her efforts regarding same. #
5. Letter from MassDOT Budget Director, Paul Jay, dated July 31, 2012, to Chair Raid Suleiman, advising that, on July 27<sup>th</sup>, Governor Patrick signed the FY 13 Chapter 90 apportionment – for \$200 Million.
6. Letter and informational material from Comcast's Senior Mgr of Gov't & Community Relations, Timothy Kelly dated July 30, 2012, to the Board of Selectmen advising of Xfinity Programming Changes.
7. Coverletter from MBTA Advisory Board Executive Director, Paul Regan, dated August 7, 2012, to "Chief Elected Official" accompanying Memorandum dated July 26, 2012, regarding the Municipal Elections to the Boston MPO; 2012 MPO Election Nomination Papers; and other attached miscellaneous informational material.
8. Letter from Mary Ruggiero, Mass DOR Program Coordinator II, dated August 3, 2012, to "Municipality Accountant, Finance & Budget Director, CEO, Auditor or MIS Director" thanking them for using the DOR's APIF on-line filing process and updating them on the effectiveness of the program.

# Indicates that the item had been previously distributed.

\* Indicates that the item is included in the agenda packet as well as in the general notebook.

9. Letter from Chief Michael Goetz, of the FEMA Region I, Risk Analysis Branch, dated August 7, 2012, to Selectmen Chair, Leslie Fox, following up on FEMA's February 2011 Discovery Meeting regarding Risk Mapping, Assessments & Planning and advising of an upcoming Flood Study Review meeting on August 27, 2012, in Carlisle.
10. Communications from Town Counsel, Kopelman & Paige, P.C.:
  - a. Copy of coverletter from Attorney Jonathan Eichman, dated August 9, 2012 to Attorney Michael Marsh, regarding the recording of documents related to 709 Mass. Ave. at the Registry of Deeds.
  - b. Copy of letter from Attorney Thomas McEnaney, dated August 14, 2012, to Library Director Strapko regarding the Library Painting Contract.
11. Communication from Comcast (Xfinity)'s Sr. Mgr of Gov't & Community Relations, Timothy Kelly:
  - a. Letter dated August 9, 2012, to the Board of Selectmen accompanying their Report for the period April – June 2012 and Quarterly Franchise Fee Payment – August 2012 in the amount of \$2,708.90.
  - b. Informational materials on their "Internet Essentials" program.
12. Email communication, PEG Grant Report 2<sup>nd</sup> Quarter 2012, and check for their 2<sup>nd</sup> Quarter PEG payment of \$13,249.33 from Kathy Booker, Verizon New England, Inc., dated August 15, 2012, to Town Administrator Selina Shaw.

# Indicates that the item had been previously distributed.

\* Indicates that the item is included in the agenda packet as well as in the general notebook.

82(1)

\*



**BOXBOROUGH BUILDING DEPARTMENT**  
29 Middle Road, Boxborough, Massachusetts 01719  
Phone: (978) 263-1116 • Fax: (978) 264-3127  
[www.town.boxborough.ma.us](http://www.town.boxborough.ma.us)

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To: Board of Selectmen ✓  
Town Planner  
Town Assessor  
Finance Committee  
School Committee  
From: Building Department  
Date: August 1, 2012  
RE: Building Department Monthly Construction Activity Report

The Building Department has released the July 2012 Construction Activity Report. A copy is attached.

ma



## Building Department Monthly Construction Activity CY 2012

	January	February	March	April	May	June	July	August	Sept.	October	November	December	Y-T-D Total
<b>Residential:</b>													0
Single Family - new													44
Additions/Alterations	8	3	10	8	11	4							13
Repairs			2		1	2	8						1
Foundation Only					1								4
Pool/Spa				1	1	1	1						
Void													0
Accessory Apartment													
<b>Business:</b>													0
New													8
Additions/Alterations	3	1	1		1		2						
<b>Other:</b>													0
Construct. trailers													2
Tents							2						3
Cell Tower / Antenna	1		1		1								4
Demolition		1		1	2								1
Foundation Only	1												2
Mechanical /Sheet Met	1	1											5
Woodstove	2	1	2										2
Signs					2								2
Shed/Barn				2									0
Change of Use													0
<b>Totals:</b>													91
Number of Permits	16	7	16	12	20	7	13	0	0	0	0	0	2,813,289
Construction Cost	1,508,792	128,600	405,142	172,600	357,755	100,150	140,250						25,508
<b>Total Fees</b>	9,640	1,403	4,495	2,128	5,222	1,077	1,543						0
<b>Fines Collected</b>													0



# Permit Listing Report

by District

Printed On: Wed Aug 01, 2012

Date Range: Issued between 07/01/2012 And 07/31/2012

SQL Statement: ([Type of Permit]="Building")

District	Address (Work Location)	District	Zoning	Owner	Work Category	Est. Cost	Proposed Use And Detail		
Permit Type	Permit No	Online Permit No	Permit Status	Date Issued	Contractor (Phone #)	Work Description	Fees Paid	Check #	
Building	55 INCHES BROOK LN BP-2013-0001		OPEN	CLARK, PAUL A & SANDRA E Jul-11-2012	ROOF CLARK, PAUL A & SANDRA E	\$7,970.00 Strip and re-roof	\$80.00	9040	
Building	55 SARGENT RD BP-2013-0002		OPEN	GRAY, BRUCE & DEBORAH Jul-11-2012	Bathroom Remodel GRAY, BRUCE & DEBORAH	\$5,000.00 Bathroom Remodel	\$50.00	7619	
Building	33 PICNIC ST BP-2013-0003		A/T OPEN	BOSWORTH, GREGORY M Jul-12-2012	Deck Gerard Caruso (978) 692-4173	\$14,280.00 Replace Deck	\$143.00	cash	
Building	1233 MASS AV BP-2013-0004		SIGNED OFF	MARINONI PAUL, TR 1233 MASS AVE REATLY TR Jul-18-2012	Repair MARINONI PAUL, TR 1233 MASS AVE REATLY TR	\$24,000.00 Emergency Repairs	\$240.00	4662	
Building	271 PICNIC ST BP-2013-0005		OPEN	LUKAS, SCOTT E & LUKAS, CYNTHIA DORSEY Jul-18-2012	Outdoor Spa LUKAS, SCOTT E & LUKAS, CYNTHIA DORSEY	\$1,200.00 Outdoor Spa with support frame 3 Foot self closing gate required on existing deck	\$50.00	8795	
Building	BALDWIN -MACINTOSH LN (62 MACINTOSH LN) BP-2013-0006		A/R OPEN	FELONEY, ANN E. Jul-18-2012	Kitchen Remodel Dattilo & Reidy, Inc	\$19,000.00 Replace Existing Kitchen	\$190.00	5855	



# Permit Listing Report

by District

District	Address (Work Location)	District	Zoning	Owner	Work Category	Est. Cost	Proposed Use And Detail		
Permit Type	Permit No	Online Permit No	Permit Status	Date Issued	Contractor (Phone #)	Work Description	Fees Paid	Check #	
Building	242 ADAMS PL BP-2013-0007		OPEN	RFP VI HOTEL BOXBOROUGH-O,LLC Jul-24-2012	TENT/TEMP. TRAILER A Tent For Rent, Inc.	\$0.00 Temp Tent 120'x100' No sides on Tent Use on August 6, 2012	\$25.00	2785	
Building	240 SUMMER RD BP-2013-0008		OPEN	ERIKSON, MILDRED L Jul-25-2012	ROOF RL Robinson	\$1,800.00 Strip and Re-roof	\$50.00	4666	
Building	30 MIDDLE RD BP-2013-0009		OPEN	UNITED CHURCH OF CHRIST, CONGREGATIONAL OF BOXBOROUGH Jul-25-2012	Repair Turner Construcion Company	\$500.00 Emergency Repair of Bulk Head Stairs	\$0.00	na	
Building	31 INCHES BROOK LN BP-2013-0010		OPEN	SEGER, ROBERT F & SUSAN B Jul-25-2012	Front Entry Replacement Hancock Builders	\$24,000.00 Front Entry-Replacement	\$240.00	14344	
Building	1197 MASS AV BP-2013-0011		OPEN	CANN PETER, TR CANN REALTY TRUST Jul-26-2012	Siding CANN PETER, TR CANN REALTY TRUST	\$2,500.00 re-side house			
Building	877 DEPOT RD BP-2013-0012		OPEN	PRABHAKAR, VAIDEESWARAN PRABHAKAR, SATHYA Jul-31-2012	Kitchen Remodel Capstone General Contracting (508) 799-4463	\$40,000.00 Kitchen Remodel - Replacement Windows			
Building	159 SWANSON RD BP-2013-0013		OPEN	Setra Systems Inc Jul-31-2012	TENT/TEMP. TRAILER Setra Systems Inc	\$0.00 Temporary Tent 30'x100' August 6, 2012	\$25.00	11964	



# Permit Listing Report

*by District*

District	Address (Work Location)	District	Zoning	Owner	Work Category	Est. Cost	Proposed Use	And Detail	
Permit Type	Permit No	Online Permit No	Permit Status	Date Issued	Contractor (Phone #)	Work Description	Fees Paid	Check #	
<b>District ( ) TOTALS:</b>						<b>ESTIMATED COST:</b>	<b>\$140,250.00</b>	<b>NUMBER OF PERMITS:</b>	<b>13</b>
						<b>FEES INVOICED:</b>	<b>\$1,543.00</b>	<b>FEES PAID:</b>	<b>\$1,093.00</b>
							<b>BALANCE:</b>	<b>\$450.00</b>	
<b>GRAND TOTALS:</b>						<b>ESTIMATED COST:</b>	<b>\$140,250.00</b>	<b>NUMBER OF PERMITS:</b>	<b>13</b>
						<b>FEES INVOICED:</b>	<b>\$1,543.00</b>	<b>FEES PAID:</b>	<b>\$1,093.00</b>
							<b>BALANCE:</b>	<b>\$450.00</b>	





July 26, 2012

MEMORANDUM TO MUNICIPAL CLIENTS

**Received**  
7-30-12

To: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL  
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY  
COMMUNITY PRESERVATION COMMITTEE

Re: Significant Amendments to the Community Preservation Act – Use of Funds

“An Act to Sustain Community Preservation,” Chapter 139 of the Acts of 2012, was signed by the Governor on July 9, 2012. The Act contains many anticipated changes to General Laws Chapter 44B, the Community Preservation Act (the “CPA”). Most of the substantive changes fall into two categories: amendments to the purposes for which CPA funds may be used, particularly for recreational land and land for community housing, and changes to the source of revenues that may be deposited by municipalities into the local Community Preservation Act Fund. This Memorandum explores the amendments regarding the purposes for which CPA funds may be used, while a separate Memorandum analyzes the fiscal impacts of the amendments to the CPA.

Land for Recreational Use

1. *Existing Land for Recreational Use*

Prior to the passage of the Act, G.L. c.44B, §5(b)(2) provided that CPA funds could not be used to rehabilitate or restore recreational land unless that land was originally acquired or created using CPA funds. In Seideman v. City of Newton, 452 Mass. 472 (2008), the City proposed to use CPA funds to undertake a large-scale, multi-year project consisting of a comprehensive redesign and replacement of existing recreational facilities and installation of new recreational elements. The Court found that such improvements constituted rehabilitation of recreation land and, because the City had not acquired or created the parks with CPA funds, the City could not use CPA funds to undertake such improvements.

In essence, the Act reverses the outcome of Seideman. The Act amends G.L. c.44B, §5(b)(2) to specifically authorize municipalities to use CPA funds for the rehabilitation or restoration of land for recreational use regardless of whether the land was originally acquired or created with CPA funds. (Note that comparable changes were not made to allow CPA funds to be used for rehabilitation of land acquired or created with other than CPA funds for open space or community housing purposes.) A consistent revision was also made to the definitions section of the CPA, G.L. c.44B, §2, defining “rehabilitation” to include “capital improvements,” and expressly providing that, “with respect to land for recreational use, rehabilitation shall include the replacement of playground equipment and other capital improvements to the land or the facilities thereon which make the land or the related facilities more functional for the related recreational use.” This amendment provides

Memorandum to Municipal Clients  
Page 2

considerable latitude to municipalities to use CPA funds to improve existing recreational land and facilities.

2. *Capital Improvements*

The insertion in G.L. c.44B, §2 of the definition of the term “capital improvement” is also a significant amendment to the CPA. Municipalities intending to use CPA funds to rehabilitate land and/or facilities for recreational, open space, historic, or community housing purposes must ensure that such projects meet the new definition of a “capital improvement.” A “Capital Improvement” is defined as:

reconstruction or alteration to, or of, real property that (1) materially adds to the value of the real property, or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself, and (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time” (emphasis added).

As before, CPA funds cannot be used for regular “maintenance”, which is now defined as “incidental repairs which neither materially add to the value of the property nor appreciably prolong the property’s life, but keeps the property in a condition of fitness, efficiency, and/or readiness.”

3. *Miscellaneous*

Be aware that the Act explicitly prohibits the use of CPA funds for artificial turf for athletic fields.

Prior to the Act, G.L. c.44B, §6 provided that municipalities must expend, or reserve for later spending, not less than 10% of the annual revenues for three purposes, including open space purposes, but prohibited the use of such open space funds for recreational purposes. The Act has removed this prohibition, thereby allowing funds required to be spent or reserved for open space to be used for recreational purposes.

Community Housing

1. *“Support” of Community Housing*

The CPA allows municipalities to expend CPA funds to acquire, create, preserve and support community housing. Prior to the Act, the CPA did not define the term “support,” and the failure to do so created ambiguity in determining what activities support community housing, particularly as to whether municipalities could grant loans or grants of CPA funds directly to income-eligible individuals and households. The Act resolves some of the ambiguity. While the Act does not include a definition of the term “support,” it lists activities that would be considered to be in “support of community housing,” including, but not limited to the following:

Memorandum to Municipal Clients  
Page 3

“programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing, or to housing, for the purpose of making housing affordable” (emphasis added).

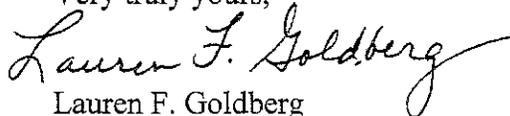
2. *A Focus on Housing*

The Act also clarifies that while municipalities may grant financial assistance to income eligible buyers or renters, CPA funds must be expended for the purpose of making the housing affordable, as quoted above. Thus, in order for municipalities to use CPA funds “for the purpose of making housing affordable,” it is our opinion that the residence itself must be subject to an affordable housing deed restriction preserving the future affordability of the residence. If housing is deed-restricted for community housing purposes, municipalities may expend CPA funds to “preserve and support” such housing. Moreover, since municipalities acquire or create affordable housing by using CPA funds to obtain restrictions on housing that is not restricted for affordable housing purposes, CPA funds may also be appropriated for the “rehabilitation and restoration” of such housing. Examples of other permissible uses of CPA funds for community housing purposes include, without limitation, acquiring property that is or will be subject to an affordable housing deed restriction; granting funds to a buyer to subsidize the difference between the market price and the affordable price of a property that will be subject to an affordable housing deed restriction; granting CPA funds to an affordable housing trust to create housing subject to affordable housing deed restrictions; providing a private homeowner whose property is already deed restricted funds for the “preservation” of such housing; using CPA funds to preserve municipally-owned housing that is already subject to an affordable housing restriction; and using CPA funds to preserve the affordability of properties that would otherwise be at risk of becoming “unaffordable” due to expiring restrictions.

3. *Money from CPA for Restrictions*

General Laws c.44B, §12(a) provides that “a real property interest” acquired with CPA “shall be bound by a permanent restriction,” enforceable by the municipality, the Commonwealth, or nonprofit, charitable corporations or foundations. Since the enactment of the CPA, municipalities have struggled to find eligible organizations that are amenable to holding such restrictions, and have often been asked to pay such organizations for the cost of holding and enforcing such deed restrictions. The Act now clearly states, consistent with our prior advice to municipalities, that the legislative body of the municipality may use CPA funds to pay a fee to “a non-profit organization created pursuant to chapter 180 [charitable corporations] to hold, monitor and enforce” such deed restrictions.

Very truly yours,



Lauren F. Goldberg



Shirin Everett





**Minutes, Notices and Updates  
August 27, 2012**

**Minutes**

1. Zoning Board of Appeals Minutes of the meeting held July 10, 2012
2. Conservation Commission Minutes of the meeting held July 18, 2012

**Notices**

1. Notices of Board of Selectmen meetings:
  - a. To be held August 27, 2012
  - b. Contract Negotiating Team [Executive Session]
    - i. Held August 1, 2012 [Fire] – Updated
    - ii.
      - Held August 2, 2012 [Police]
      - Held August 2, 2012 [Police] - Updated
2. Notice of a Boxborough Leadership Forum held August 6, 2012
3. Notice of a Council on Aging meeting held August 9, 2012.
4. Notice of a Cemetery Commission meeting to be held August 13, 2012
5. Notice of a Boxborough Information Technology Committee meeting to be held August 14, 2012.
6. Notice of a Recreation Commission meeting to be held August 16, 2012. – *Cancelled*
7. Notice of an Agricultural Commission meeting held August 15, 2012.
8. Notice of a Stow Road Concept Development Committee meeting held August 22, 2012.
9. Notice of a Boxborough School Committee meeting held August 23, 2012.
10. Notice of a Personnel Board meeting to be held August 30, 2012.
11. Job Posting – Inspector of Buildings/Code Administration Officer.
12. Decision No. 2012-02 from the Zoning Board of Appeals, dated August 1, 2012, denying, Patrick & Harriet Moran's application for both a variance for a longstanding setback nonconformity to a single family dwelling and a Special Permit for 2 reduced frontage lots for the properties identified as 94 and 100 Chester Road.

13. Legal notice of Public Hearing of the Conservation Commission to be held on August 15, 2012, to consider the Request for Determination of Applicability filed by B&C Associates on behalf of the Applewood Community Corp. to decommission a well at the property located on Cortland Lane.
14. Legal Notice/Invitation for Bids – Purchase and Installation of 1,000 linear feet of 4' mesh chainlink fencing at the Blanchard Memorial School.
15. Job Posting from the Boxborough School District – Phys.Ed./Health Teacher.
16. Hearing Notice from the Mass. Dept. of Telecommunications & Cable, dated August 6, 2012, to the Chair of the Boxborough Board of Selectmen as the "issuing authority" for a evidentiary hearing regarding rates proposed by Comcast. Hearing to be held September 12, 2012.
17. Save the Date notification for the "Working for the GREEN" Conference to be held on October 18, 2012.
18. DHCD Conference Notice – *Chapter 40B: Past, Present & Future* to be held September 28, 2012.
19. Invitation to the LELWD Centennial Gala to be held September 14, 2012, at the Boxborough Holiday Inn. #

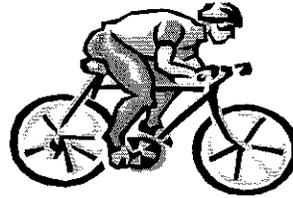
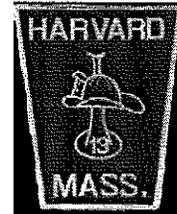


**General Correspondence**  
**August 27, 2012**

1. 2012 Boxborough Harvest Fair Program.
2. August 2012 Newsletter, *OARS*, from the Organization for the Assabet River.
3. Notice of a Red Cross Blood Drive to be held August 30, 2012 at the Boxborough Holiday Inn.



Harvard Firefighters Association  
3<sup>rd</sup> Annual  
Ken Harrod Memorial Bike Ride



**Dear Board of Selectman,**

**The Harvard Firefighters Association** will be having our 3<sup>rd</sup> bike ride in honor of one of our members. We are asking for your support as we work to bring the community together in sharing the beauty of Harvard and our surrounding communitiesour town. We anticipate registering over 200+ bicycle riders for the bike ride to be held on Saturday, September 22, 2012. The route begins at The Harvard Fire Station and covers a course throughout the most scenic parts of Harvard and our surrounding towns ending back at the Harvard Fire Station. Please see the attached route map.

We are asking for your approval to allow our riders to come through your town. We are available to discuss any specific rules or items that you would need us to adhere to in order to make this a successful event.

Through the funds that are raised we will be able to support the following:

- The Harvard Firefighters' Benevolence Fund
- The Harvard Firefighters' Scholarship Fund
- The Harvard Firefighters' Equipment Fund
- The Student Awareness of Fire Education Program
- The Harvard Firefighters' Family Crisis Fund
- Sponsorship of Harvard Youth Sports

We appreciate your time and attention and if you would please reply to us with your approval via email or telephone that would be perfect.

Sincerely  
Bill Barton – Chairperson  
Harvard Firefighter  
508-241-1879  
[bill.barton@mckesson.com](mailto:bill.barton@mckesson.com)



Leg (mi)	Total (mi)	Name	Directions
0.0	0.0	Turn Right	Turn right onto MA-110 W/ MA-111 S/ Ayer Rd
0.2	0.2	Turn Left	Turn left onto Old Littleton Rd
3.5	3.7	Straight	Continue onto Oak Hill Rd
1.1	4.8	Straight	Continue onto Sanderson Rd
0.1	5.0	Turn Right	Take the 1st right onto Taylor St
1.9	6.9	Turn Right	Slight right onto Hill Rd
1.1	8.0	Turn Left	Slight left onto Picnic St
0.7	8.7	Turn Left	Turn left onto Middle St
0.8	9.5	Straight	Continue onto Stow Rd
1.4	10.9	Straight	Continue onto Boxboro Rd
1.1	12.0	Turn Right	Take the 1st right onto Packard Rd
0.1	12.1	Turn Right	Take the 1st right onto Taylor Rd
2.4	14.5	Straight	Continue onto Eldridge Rd
0.7	15.2	Turn Left	Turn left onto Stow Rd
1.2	16.4	Straight	Continue onto East End Rd
0.4	16.8	Turn Right	Take the 1st right onto Sugar Rd
2.0	18.8	Turn Right	Turn right onto Golden Run Rd
0.8	19.6	Turn Left	Turn left onto Harvard Rd
1.2	20.8	Straight	Continue onto Manor Rd
0.3	21.1	Turn Right	Turn right onto Wattaquodock Hill Rd
0.1	21.2	Turn Left	Take the 1st left onto Berlin Rd
2.4	23.6	Straight	Continue onto Highland St
1.2	24.8	Straight	Continue straight onto Carter St
0.3	25.1	Turn Right	Turn right onto MA-62 W/ Central StContinue to follow MA-62 W
0.1	25.3	Turn Left	Take the 1st left onto Linden St
0.0	25.3	Turn Left	Take the 1st left onto South St
1.8	27.0	Turn Right	Take the 1st right onto Pleasant St
0.6	27.6	Turn Right	Pleasant St turns slightly right and becomes Whitney St
0.9	28.5	Turn Right	Take the 3rd right onto Maynard St
0.7	29.2	Turn Left	Turn left onto Howard St
0.3	29.5	Straight	Continue onto Brewer St

0.5	30.0	Turn Right	Turn right onto Green St
1.3	31.3	Turn Left	Turn left onto Ball St
0.8	32.1	Turn Right	Turn right onto Rocky Pond Rd
0.8	32.9	Turn Right	Turn right onto Warren St
0.7	33.6	Straight	Continue onto Green St
0.5	34.2	Turn Left	Slight left onto Mile Hill Rd
1.5	35.6	Turn Right	Turn right onto Linden St
1.2	36.8	Turn Left	Take the 2nd left onto Barnes Rd/ Barnes Hill Rd/ Barnes Hill Rd
0.1	36.9	Straight	Head north on Barnes Rd/ Barnes Hill Rd/ Barnes Hill Rd toward Richard Dr Continue to follow Barnes Rd
0.7	37.6	Turn Left	Turn left onto West St
0.3	37.9	Turn Right	Take the 1st right onto Randall Rd
0.4	38.3	Turn Left	Slight left onto Lancaster Rd
1.4	39.7	Straight	Continue onto Mc Nulty Rd
0.1	39.8	Turn Right	Turn right onto Wattaquadock Hill Rd
0.3	40.2	Turn Left	Slight left onto Ballville Rd
1.5	41.7	Turn Right	Turn right toward Wilder Rd
0.1	41.8	Straight	Continue straight onto Wilder Rd
0.7	42.5	Turn Left	Turn left onto Sampson Rd
0.6	43.1	Turn Right	Slight right onto Green Rd
0.0	43.2	Turn Left	Slight left onto Vaughn Hill Rd
1.5	44.7	Straight	Continue onto MA-110 E/ Still River Rd
1.7	46.4	Turn Left	Turn left onto Prospect Hill Rd
1.9	48.3	Turn Right	Slight right onto Depot Rd
1.1	49.5	Turn Right	Slight right onto MA-110 W/ MA-111 S/ Ayer Rd
0.2	49.7	Turn Right	Take the 1st right onto Elm St

Created by [www.BikeRouteToaster.com](http://www.BikeRouteToaster.com)