



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**October 19, 2015**

APPROVED: November 16, 2015

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

**ABSENT:** Robert Stemple

**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 Amoroso called the meeting to order at 7:02 PM in the Grange Meeting Room of Town Hall.

**ANNOUNCEMENTS**

Chair Amoroso read the announcements

**PUBLIC HEARING**

- At 7:09 PM, Chair Amoroso opened a public hearing to consider the removal of the street light from pole #2-2X, located in the vicinity of 575 Middle Road, behind the Boxborough Museum. A list of those present for this hearing is attached and incorporated by reference. Fire Chief Randolph White opened the discussion. One of the recommendations provided by the Public Safety Communications Committee (PSCC) was to remove this pole, which necessitated this hearing. The PSCC was created to investigate issues raised by neighbors about a proposed installation of a communication pole in this area. During PSCC discussions, neighbors suggested that this street light was a nuisance and they would like to see it removed. Neither this pole nor the attached light are necessary for the proposed communications project. Chief White went on to describe the communication improvements that could now be provided to the Museum as the communication project moves forward. The Selectmen provided their input. Chair Amoroso then invited public comments. John Yauckoes of 561 Middle Road opposed the removal of this light and sees no justification for this action. He asserted that illuminating public buildings is the cornerstone of public safety. He walks the family's dogs at night and has seen cars in this lot that leave when he approaches the area. There may be suspicious activities occurring. Police Chief Warren Ryder, who had just arrived, responded to Mr. Yauckoes' concerns. There are several other Town-owned properties, such as Flerra Meadows and Steele Farm that do not have illuminated lots. The Historical Commission supports the removal of this light and is working on installing motion sensor-activated lighting at the Museum. John Rosamond, 429 Hill Road and a PSCC member, noted that without exception, all of the other abutters that had provided input want this light removed. There was discussion as to what other security improvements were possible. As there was no further discussion, Chair Amoroso closed the hearing. Member Gorman moved to request Littleton Electric Light and Water Department to remove the street light from pole #2-2X, located in the vicinity of 575 Middle Road behind the Boxborough museum, as well as to remove the pole on which the light is situated. Seconded by Member Fox. **Approved 4-0.**

**APPOINTMENTS**

- Stefano Caprara was present to be considered for appointment as an alternate member on the Zoning Board of Appeals (ZBA). Caprara advised that he is an attorney with experience in real estate and contract law. Further to the recommendation of the ZBA Chairman, Chair Amoroso moved to appoint Stefano Caprara to serve as an alternate member on the Zoning Board of Appeals for a term commencing immediately and ending on June 30, 2016. Seconded by Member Bak. **Approved 4-0.**
- Personnel Board Chair Anne Canfield and Board members Hugh Fortmiller and Becky Neville were present to discuss their findings related to the job description for Department Assistant. Canfield thanked the Town's Department Assistants and their respective Department Heads/Board Chairs for their help in this review process. She referred to their October 19<sup>th</sup> Memorandum which was provided in the agenda packet. The Personnel Board was asked to consider a job description for a new proposed position, Department Administrator. As part of their investigation, they reviewed the current Department Assistant job description (approved in 2007); surveyed and interviewed six of the seven current Department Assistants, and spoke to their respective supervising Department Heads and/or Board Chairs. Based on the input received, they determined that the 2007 Department Assistant job description was pretty much on target for all of the Town's support positions, and they suggested just

some minor changes to make the document current. There was discussion as to certain tasks that some of the Selectmen felt were beyond the norm. Canfield referred to the memo to explain that the distinction is that Department Assistants do not implement directives, nor is executive decision-making involved in the responsibilities discussed. It was noted that personnel who had good communication with their supervisors and received consistent feedback seemed content with their responsibilities. There was discussion on the multi-level support position structure that existed prior to the 2005 consultant's evaluation. Canfield noted that, although these Department Assistants have varying skill levels and responsibilities, the pay grades are designed to compensate those that have more experience. Sticking with one defined support position allows the Town to maintain the integrity of its personnel structure. There was discussion about working environments at the various facilities. The Town Hall support staff are able to pitch in and provide cross-support to their co-workers. The DPW Department Assistant, however, does not have the same support, and her workspace at the DPW facility is a poor working environment that has extreme smells [i.e., fumes] and noise [i.e., heavy equipment], and it is, in actuality, a temporary structure erected many years ago that needs to be replaced. These conditions are detrimental and make the DPW Department Assistant's job very difficult, and these issues need to be addressed. There was a general discussion about the issues involved in renovating the DPW building. The Personnel Board was thanked for their input. It was determined that the proposed updates to the existing job description would be voted on at the next Selectmen's meeting.

- Police Chief Warren Ryder was present to review several proposed Police Department policies and procedures, namely the *Oath of Office*, *Code of Conduct: Non-Sworn Personnel*, *Mission Statement and Organizational Values*, *Disposal of Criminal Justice Information*, *Shift Briefing (Roll Call)*, *Safe Haven Act*, and *Anti-Harassment and Discrimination*. The Department is in the process of reviewing their policies and procedures. During this re-assessment, it was determined that several policies needed to be put into place. These proposed policies were developed from Massachusetts General Law and from verbiage provided by various law enforcement sources. There was discussion regarding the purpose of some of the proposed policies. Revisions, both substantive and grammatical, were suggested by the Selectmen. It was noted that Town Counsel's input would be helpful on several items in these documents. Chief Ryder advised that he typically does not submit policies for Town Counsel's review; however, he can certainly do so. He further advised that he does have other draft policies pending. The Board determined that all of these pending draft policies should be forwarded to TA Shaw for submission to Town Counsel. The Selectmen will invite Chief Ryder back in to continue this discussion once Town Counsel have provided input.
- Police Chief Warren Ryder and Fire Chief Randolph T. White were present to update the Board on Public Safety Communications Upgrades. Chief Ryder gave background on the 2014 Town Meeting-approved project. At that time, the intent was to use microwave technology for direct communication; however, the PSCC recommendations will significantly reduce the broadcast pole's height, so microwave technology is no longer an option. The alternative is using fiber optics to link the sites, Swanson Rd., Hager property and Middle Rd. (Museum) to the Police Station, which will now require work crews to lay this fiber along with the requisite police details. Part of this project will also be the connecting the wide area network (WAN) to the Museum to provide internet and phone service to the building. This portion of the fiber optic link installation may be covered using Cable funds. Exterior work at the Museum should be completed before the winter. The Request for Bid Quotes has been published under Massachusetts State Contracts, with responses due after November 1. Generator specifications for the site are also out for bid. The basic equipment installation shall be accomplished within budget. Replacement of Police radios will be conducted as part of the normal turnover process.
- There were no Citizens' Concerns.

## MINUTES

- Member Gorman moved to accept the minutes for the regular session, October 5, 2015, as revised. Seconded by Member Bak.  
**Approved 4-0.**

## SELECTMEN REPORTS

- Member Fox reported that the Selectmen's input on the Draft Master Plan and Implementation Plan has been submitted to the Master Plan Update Committee (MPUC) and that the Board's input has generated additional discussions. The MPUC is meeting to review the collective feedback on Tuesday. He further noted that the previous Master Plan was a decent document; the problem seems to be due to the lack of follow-through.
- Member Bak reported that the Vocational Education Advisory Committee (VEAC) was very impressed by their tour of Minuteman Regional High School on Monday. The intention is now to tour Nashoba Valley Technical High School. The VEAC is meeting tomorrow morning (October 20).
- Chair Amoroso reported that he had heard back from some of our neighboring towns regarding the Minuteman building project. The Acton Selectmen support the project and a district-wide ballot. He will be participating with other member town selectmen in an upcoming meeting in Weston to discuss Minuteman issues. At this meeting, he intends to push for a straw poll on these

issues. The Minuteman School Committee (MMSC) has yet to vote on whether hold a district-wide vote, which requires two-thirds approval by the MMSC to pass.

- Member Gorman reported that he had received a complaint from a resident about the recent proliferation of temporary signs along Route 111. He will reach out to Building Inspector/Code Administration Officer (BICAO) Lindberg regarding this.

He also reported that they discussed the potential of alternative site(s) at their recent Space Needs Advisory Group (SNAG) meeting. Chief Ryder advised that they are awaiting additional information on this. It was also suggested that the DPW could eventually repurpose the Fire Station if an alternative site was secured.

Member Gorman also reported that the basic restoration work has been completed on the North Cemetery crypt(s), and the site is secured. Other areas of concern were identified during this project, but they can wait for now.

## **OLD BUSINESS**

- The Board reviewed the proposed Carry-in Liquor Policy (BYOB). Chief Ryder remained for this discussion. Some of tonight's revisions were based on the input provided by Chief Ryder. He noted a BYOB policy should communicate to these license-holders that the Boxborough Police are there to provide assistance if they cannot manage an unruly patron. There was also discussion of the "re-sealed container, *aka doggie-bag*" regulation and further revisions to the proposed language. Chair Amoroso moved to approve the Carry-in Liquor Policy\_rev2\_101915, as further revised. Seconded by Member Gorman. **Approved 4-0.**
- BXBTB Video Production Supervisor Kirby Dolak was present to discuss cable coverage of other town boards. Dolak advised that this item was generated by the capital planning process, the Grange Meeting Room improvements, and the resulting infrastructure improvement discussions. Dolak reviewed the permutations under which BXB-TV currently broadcasts meetings. There are infrastructure and equipment updates, staffing requirements, and general renovations that would be needed to improve our broadcast capabilities. These items would need capital planning. He also noted the components that would be necessary if the Town chooses to broadcast other Boxborough meetings. At this time, Boxborough has chosen to broadcast only on its Government Channel and not to activate its other public access channel(s). The Selectmen noted that having On-Demand access for recorded meetings would be useful. It was suggested that input could be sought from the Town boards on this. Dolak spoke to his experience with Littleton's recording and broadcasting multiple Town meetings and where they are in their capital planning process regarding broadcast improvements. There was discussion about the variables involved in multi-meeting broadcasting, using various meeting sites, mobility issues, and levels of broadcast capability/quality. Dolak asked what is the Town's goal – to simply document meetings, or to create other alternate recording studio locations beyond the Grange Room. The Selectmen requested that Dolak develop cost options. There was discussion as to what components would be considered essential in developing a proposal. Dolak suggested that an "equipment tier" structure for any proposal would be the most efficient.
- The Board took up the Acton-Boxborough Regional School Committee (ABRSC) request for the Selectmen to designate representatives to the ABRSC's newly formed School Capital and Space Planning Subcommittee, as presented by ABRSC member Maria Neyland at their October 5<sup>th</sup> meeting. Chair Amoroso moved to designate Finance Committee members Gary Kushner and Ted Kail to serve on the Acton-Boxborough Regional School Committee's School Capital and Space Planning Subcommittee. Seconded by Member Bak. **Approved 4-0.**

## **NEW BUSINESS**

- Member Fox moved to authorize Vincent M. Amoroso, Chair of the Boxborough Board of Selectmen, to designate Les Fox, Selectman and Metropolitan Area Planning Council (MAPC) representative, to vote in the Boston Region Metropolitan Planning Organization (MPO) elections being held at the MAPC Fall Council Meeting on October 29, 2015. Seconded by Member Bak. **Approved 4-0.**

## **CONCERNS OF THE BOARD**

- The Chair recognized TA Shaw. She suggested that the Board eliminate their Nov. 30<sup>th</sup> meeting as it is unclear whether this third meeting date in November is still necessary. The Board decided to cancel their scheduled November 30<sup>th</sup> meeting.

## **EXECUTIVE SESSION**

- At 8:57 PM, Chair Amoroso moved to adjourn to executive session in the Town Administrator's office to discuss strategy with respect to collective bargaining (MassCOP Local 200–Boxborough Police Officers) and to adjourn immediately thereafter. He further stated that to conduct such a session in an open meeting might have a detrimental effect on the bargaining position of the Board. Seconded by Member Bak. **Approved 4-0 by Roll Call: Fox "aye;" Bak "aye;" Gorman "aye;" and Amoroso "aye."**

**SELECTMEN'S ANNOUNCEMENTS**  
**OCTOBER 19, 2015**

- **Selectmen Agenda packets are available** from links on the Town's website, from the calendar or the Selectmen's webpage. <http://www.boxborough-ma.gov/board-of-selectmen>
  
- The **2015 Deer Hunting Archery Season opens today, October 19<sup>th</sup>** and runs through November 28<sup>th</sup>. This will be followed by Shot Gun and then Primitive Weapon or Muzzle season. Please be aware that, in Boxborough, hunting is only allowed on private land with permission of the owner and not allowed on any town-owned property. For everyone's safety and enjoyment please remember to exercise some trail safety commonsense during Hunting Season. A list of suggested Trail Safety Rules and other resources may be found in Links to "Helpful Information" on the Conservation Commission's webpage.
  
- **The Sargent Memorial Library has launched its new evening hours.** They are now open Monday through Thursday evenings until 8:00 PM. Please go to the Library's webpage for if you would like more information.
  
- The **LittleBoxSolar** community solar program **ends October 30<sup>th</sup>**. Those that have received a proposal from New England Clean Energy, have until 5:00 PM on Friday, October 30<sup>th</sup>, to decide to save with solar by submitting their signed proposal. Don't miss out!
  
- Police Chief Warren Ryder and the Police Department want our residents to have a safe and Happy Halloween. **Halloween**, which is celebrated on Oct. 31, falls on a Saturday this year, and the Chief is recommending "Trick or Treating" between 5:30-7:00 p.m. Safety tips may be found by clicking on the link from the Boxborough home page under News & Announcements.
  
- **Residents may have noticed their FY 16 Real Estate Tax Bill appear a little different** from previous years. The information provided is the same, however it is formatted differently; for example, the bill's legal verbiage is now on the front instead of on the back. If your bank or mortgage company directly pays your taxes they will continue to do so; however property owners also receive a copy of these bill for their records, pursuant to Mass. General Law. Please note 2<sup>nd</sup> Quarter Real Estate Taxes are due by November 2<sup>nd</sup>. Please contact Tax Collector Patrick McIntyre with any questions, comments or concerns.

- **The Town's Video On Demand service**, which features Board of Selectmen and recordings of other public meetings, can now be viewed by the following link the from homepage of the Town website on the left hand side under Resources - **BXB-TV On Demand** - <http://bxbtv.pegcentral.com/index.php>
  
- Are you 18 or older with two years or more of video, audio experience and are willing to work on an as needed basis, then **BXBTV**, our government channel broadcast provider, is looking for you. **Qualified candidates** would assist with the filming of various town related meetings and events. If you feel you have the necessary skills please submit your resume to BXBTV Video Production Supervisor, Kirby Dolak - Littleton Cable TV, 37 Shattuck St., Littleton, MA 01460 or submit via email to [kdolak@littletonma.org](mailto:kdolak@littletonma.org)
  
- There is still space available in the Recreation Commission's **fall fitness program line-up**. **There are offerings for** adults with a "Boot Camp" and Fusion Fitness with Holly Kuovo of Fitting Fitness In. They are also offering both adult and children Tae Kwon Do programs run by Rick Barrett. To register or for more information please go to the Town's website.
  
- Friends of the Boxborough Library will hold their **Fall Book Sale** at the Sargent Memorial Library from 9:00 AM to 2:00 PM on **Saturday, Nov. 7<sup>th</sup>**. A preview sale for members will take place Friday, Nov. 6<sup>th</sup> from 7:00 PM to 9:00 PM (Memberships are always available at the door). Your gently used books can be donated for this sale during the week of Nov. 2<sup>nd</sup>, during regular Library hours (*No VCR "Video Tapes" or magazines, Please*). The funds from this sale support many programs that help to make our Library a special place.
  
- **This year the Town introduced its new online application and payment service for Transfer Station Stickers and Bulk Item Disposal Vouchers.**
  - **If you are over 65**, your sticker and bulk voucher fees are waived; however, you need to apply from the links provided specifically for Seniors on the Transfer Station's webpage <http://www.boxborough-ma.gov/transfer-station> or you can apply for either by mail or in person at Town Hall.
  - If you are looking to **dispose of bulk items**, please consider donating your items to the local not-for-profit organization, Household Goods (HGRM) [www.hgrm.org](http://www.hgrm.org). They are happy to accept clean, functional items in good working condition. Please refer to the Transfer Station webpage or call the DPW for more information.

- We invite you to explore the Town's website [www.boxborough-ma.gov](http://www.boxborough-ma.gov). Information such as the **Transportation options** available for those living or working in Boxborough has been posted on our Homepage under Resources. You can also go to the **Community Services Coordinator** webpage to learn more about how she is able to assist residents in identifying resources available from various support services and agencies and to help them to navigate the process.
  
- The **Veteran Services Officer** Donald Morse is holding office hours on Wednesday mornings at Town Hall. For more information and to access links to Veterans Resources, please go to the Veterans Services webpage. To arrange an appointment outside of the Wednesday morning office hours, contact Department Assistant Denise Monteiro at 978-264-1726.
  
- **Town Departments** welcome your questions and feedback on services. Please contact them through the email hyperlink appearing on each department's webpage, 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 Board of Selectmen continues to look for volunteers willing to serve on the various **Town boards and committees**, many of which have openings: Acton-Boxborough Cultural Council (2), Conservation Commission (1), Design Review Board (1 at-large member), Housing Board (1), Public Celebrations & Ceremonies Committee (2), Recreation Commission (1), Steele Farm Advisory Committee (3) and the Well-Being Committee has (2 at-large vacancies). Also, the Town Moderator is seeking one (1) volunteer 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.
  
- The **Selectmen want to hear from you**, and we invite residents to contact them regarding issues of concern. The Board can be contacted via email from the link on the Selectmen's webpage.



**BOARD OF SELECTMEN**  
**Meeting Agenda**  
**October 19, 2015**  
**Boxborough Town Hall**  
**Grange Meeting Room**

**1. CALL TO ORDER**

**2. ANNOUNCEMENTS**

**3. PUBLIC HEARING, 7:05 PM**

To consider the removal of the street light from pole #2-2X, located in the vicinity of 575 Middle Road, behind the Boxborough museum

*Move to request Littleton Electric Light and Water Department to remove the street light from pole #2-2X, located in the vicinity of 575 Middle Road behind the Boxborough museum, as well as to remove the pole on which the light is situated*

**VOTE:**

**4. APPOINTMENTS**

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

a) Stefano Caprara, candidate for appointment as an alternate member on the ZBA, 7:10 PM  
*Further to the recommendation of the Zoning Board of Appeals Chairman, move to appoint Stefano Caprara to serve as an alternate member on the Zoning Board of Appeals for a term commencing immediately and ending on June 30, 2016*

**VOTE:**

b) Members of the Personnel Board (a quorum may be present) to discuss findings related to job description of Department Assistant, 7:15 PM

c) Police Chief Warren Ryder, 7:40 PM

i. Review of policies and procedures (*Oath of Office; Code of Conduct: Non-Sworn Personnel; Mission Statement and Organizational Values; Disposal of Criminal Justice Information; Shift Briefing (Roll Call); Safe Haven Act; Anti-Harassment and Discrimination*)

**VOTE:**

ii. (Possibly with Fire Chief Randolph T. White) Update on Public Safety Communications Upgrades

d) Citizens concerns

**5. MINUTES**

a) Regular session, October 5, 2015

**ACCEPT & POF**

**6. SELECTMEN REPORTS**

**7. OLD BUSINESS**

a) Carry-in Liquor Policy (BYOB)

*Move to approve the Carry-in Liquor Policy\_rev2\_101915 as presented (... or as further revised)*

**VOTE:**

b) Cable coverage of other town boards - discussion

c) Acton-Boxborough Capital and Space Planning Committee – designation of Boxborough representatives (Finance Committee members Gary Kushner and Ted Kail)

*Move to designate Finance Committee members Gary Kushner and Ted Kail to serve on the Acton-Boxborough Regional School Committee's School Capital and Space Planning Committee*

**VOTE:**

- d) Performance evaluations – further review of input from Town Counsel and agree on the process to “present” the Department Head performance evaluations

**VOTE:**

## **8. NEW BUSINESS**

- a) MPO Delegation

*Move to authorize Vincent M. Amoroso, Chair of the Boxborough Board of Selectmen to designate Les Fox, Selectman and MAPC representative, to vote in the MPO elections being held at the MAPC Fall Council Meeting on October 29, 2015*

**VOTE:**

## **9. CORRESPONDENCE**

**ACCEPT & POF**

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

## **10. PRESS TIME**

## **11. CONCERNS OF THE BOARD**

## **12. EXECUTIVE SESSION**

*Move to adjourn to executive session in the Town Administrator's office to discuss strategy with respect to collective bargaining (MassCOP Local 200 – Boxborough Police Officers) and to adjourn immediately thereafter*

**ROLL CALL  
VOTE:**

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

## **13. ADJOURN**

Removal of Street Light

TOWN OF BOXBOROUGH  
BOARD OF SELECTMEN  
NOTICE OF PUBLIC HEARING  
STREET LIGHT REMOVAL

Pursuant to the Policy for Installation and Removal of Street Lights, the Boxborough Board of Selectmen will hold a public hearing on Monday, October 19, 2015 at 7:05 p.m. in the Grange Meeting Room, Boxborough Town Hall, 29 Middle Road, to consider the removal of a street light from Pole #2-2X, located in the vicinity of 575 Middle Road behind the Boxborough Historical Museum.

All are invited to attend.

Per Order  
Boxborough Board of Selectmen

THE SUN **CLASSIFIED** THURSDAY, OCTOBER 8, 2015 21

**Public Notice**

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

**STREET LIGHT REMOVAL**  
Pursuant to the Policy for Installation and Removal of Street Lights, the Boxborough Board of Selectmen will hold a public hearing on Monday, October 19, 2015 at 7:05 p.m. in the Grange Meeting Room, Boxborough Town Hall, 29 Middle Road, to consider the removal of a street light from Pole #2-2X, located in the vicinity of 575 Middle Road behind the Boxborough Historical Museum. All are invited to attend.

Per Order Boxborough Board of Selectmen

October 8, 2015



**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)

## **Policy for Installation and Removal of Street Lights**

This policy and process creates a framework for the review of street light requests and establishes a formal approval process, thereby reducing the potential for unwarranted installation of new or removal of existing lights. This policy allows for situations to be evaluated on an as-needed basis, while helping to maintain the town's rural character. Because a primary determinant in approving the installation or removal of street lights will be public safety, the town will bear the costs of their installation or removal.

Step 1) Anyone seeking installation of a new street light or removal of an existing one shall submit a request to the Board of Selectmen stating the reasons why a street light is needed for safety concerns within the roadway or is no longer needed. A request for a new street light shall indicate which existing pole location is preferred.

Step 2) The Selectmen will request the input from other Town Departments (i.e. Police, Town Planner, Public Works Director) on the potential impacts and necessity of the request. If a new light is proposed, LELD will provide a recommendation to the Selectmen on whether a 50-watt or 100-watt is needed, depending on the circumstances.

Step 3) The Selectmen will hold a public hearing, giving 10 days' written notice to abutters. For the purposes of this policy, an abutter is a residential, business or commercial property within 600 feet of the proposed street light location.

Step 4) The Selectmen will make a determination on the request and send notification to the property owner and LELD.

Step 5) LELD will schedule the installation or removal as time permits.

**ATTENDANCE**

Public Hearing to consider the Removal of the Street Light from Pole #2-2X,  
located in the vicinity of 575 Middle Road.

**October 19, 2015**

NAME	ADDRESS
Randolph T. White, Fire Chief	Boxborough Fire
John Rosemond	Hill Road
Anne K. Cantfield	628 Stow Rd
Stefano Caporaso	432 Stow Rd.
Tomas	

**PLEASE SIGN IN**  
**October 19, 2015**

4a

From: Thomas P. Gorman [mailto: [REDACTED]]  
Sent: Thursday, October 01, 2015 3:39 PM  
To: 'Adam Duchesneau'  
Subject: RE: New ZBA Member

Adam:

I would be supportive of Stefano joining the board. I'd be happy also to touch base with him if he has any questions

Thanks,

Tom

From: Adam Duchesneau [mailto:aduchesneau@boxborough-ma.gov]  
Sent: Tuesday, September 29, 2015 8:25 AM  
To: Thomas P. Gorman  
Subject: New ZBA Member

Hi Tom,

I reached out to a contact I have in town through a grad school connection from Cornell to gauge his interest in joining a Town board or commission. Come to find out, he was interested in joining the Zoning Board of Appeals and I told him we had an alternate member position open. His name is Stefano Caprara and he is an attorney in Acton. Here is his firm's website: <http://www.caprara-law.com/>. Seems like he could be a good fit for the ZBA and, at a minimum, he could be the primary alternate to take a little pressure off of Chris who I know is very busy. Perhaps in the longer term we can get Stefano to become a full ZBA member as well.

In any event, I wanted to get your take on having Stefano on the ZBA as an alternate member and I also wanted to see if you had any questions. If you are supportive of Stefano's appointment to the ZBA, I will have Selina put his appointment on the Board of Selectmen's agenda for Monday, October 19th and then he would be able to act on some of the cases where necessary at the ZBA's next meeting on Tuesday, October 20th.

Please let me know your thoughts when you have a chance. Thanks.

Adam

Adam L. Duchesneau, AICP  
Town Planner  
Town of Boxborough | 29 Middle Road | Boxborough, MA 01719  
t 978-264-1723 | f 978-264-3127 | ADuchesneau@Boxborough-MA.gov  
Boxborough: A Rural, Engaged Community for All  
[www.boxborough-ma.gov](http://www.boxborough-ma.gov)

**Resident Interest Form**

Name: Stefano G. Caprara Phone: [REDACTED]

Address: 432 Stow Road, Boxborough, MA 01719

Occupation: Lawyer

Special Training/Education: BA (Econ); JD

Experience/General Interest: Business Law; Real Estate Law

Amount of time available: 1-2 meetings per month

Date submitted: 09/23/15 E-mail Address: [REDACTED]

- Acton-Boxborough Cultural Council
- Agricultural Commission
- Board of Health\*
- Boxborough Emergency Reserve Corps
- Board of Registrars
- Board of Selectmen\*
- Boxborough Housing Board
- Cemetery Commission
- Community Preservation Committee
- Conservation Commission
- Council on Aging
- Design Review Board
- Energy Committee
- Finance Committee
- Historical Commission
- Library Board of Trustees\*
- Permanent Building Committee
- Personnel Board
- Planning Board\*
- Public Celebrations and Ceremonies Committee
- Recreation Commission
- School Committee\*
- Steele Farm Advisory Committee
- Well-Being Committee
- Zoning Board of Appeals

The filling out of this form does not assure appointment. All committee vacancies will be filled by citizens deemed most qualified to serve in a particular capacity. If you are interested in serving on an appointed town committee please fill out this form and mail to: **Town Administrator, Town Hall, 29 Middle Road, Boxborough, MA 01719**

**\*Indicates an elected board**

**TO:** Board of Selectmen  
**FROM:** Personnel Board  
**RE:** Department Assistant: Job Description (2007)  
**CC:** Selina Shaw, Town Administrator; Tom Garmon, DPW Director; Randolph T. White, Fire Chief; Warren Ryder, Police Chief and Department Assistants  
**DATE:** October 19, 2015

This document details the steps that two two-member teams of the Personnel Board (PB) followed while reviewing the 2007 Job Description for Department Assistant (DA) and the proposed Department Administrator Job Description. It also states the conclusion reached and voted by the full PB.

### Step 1

Prior to meeting with the three DAs assigned to each team, the team discussed and reviewed each DA's completed Position Analysis Questionnaire (PAQ). The team also reviewed the existing 2007 Job Description for DA.

### Step 2

Each team then spent approximately an hour with each DA assigned to them; during this time, the team discussed the DA's completed PAQ and asked questions about tasks involved in the performance of her job. In discussing complex tasks, DAs were asked to walk the PB team through the task step-by-step and to explain the ultimate decision-making process. Upon completion of each meeting, the team compared the individual's responses to the 2007 Department Assistant Job Description.

### Step 3

As a point of reference at the PB's Sept. 23 meeting, the difference between the meanings of the words *assistance* and *administration* was discussed. (From Webster's Dictionary)

- **administration:** performance of management or executive duties
- **assistance:** the act of assisting or the help supplied

After completing Steps 1–3 and much discussion, the PB findings are:

- While each DA is required to handle complex tasks during the performance of ~~her~~ the DA's particular job, **the majority of the tasks that every DA described can best be defined as assisting, i.e. providing support for the performance of a management or executive duty.**
- The tasks the DAs encounter in their particular jobs vary greatly and depend largely on the department(s) they support. However, there are also many tasks that are common to all departments, such as tracking documents, completing governmental forms, insuring that schedules are met on time, assisting in the bid process, monitoring time-sensitive dates to insure that schedules are met, tracking funds, dealing with the public, communicating with governmental agencies, *etc.*

### Conclusion

- At our Sept. 23 PB meeting, PB teams discussed their findings with each other. **We concluded that while tasks may vary depending on the department supported, in all cases, the 2007 Department Assistant Job Description fits the content and level of complexity of each department's DA.**
- As a final step, the Personnel Board has revised the Department Assistant Job Description for clarification and updating. (Please see attached document.)

## Department Assistant Job Description May 2007-Oct. 2015

### **Definition:**

Responsible for providing administrative, clerical, and record keeping support for the department.

### **Distinguishing Characteristics:**

Works under the administrative direction of a Department Head and/or the Town Administrator within policies of the Board of Selectmen.

Work activities require independent action and judgment as Department's department's supervisor is not always available to address issues. Work activities and decisions are varied in nature and require solving commonly encountered problems as well as unusual problems.

Unusual cases or questionable matters are referred to the position's manager for resolution. Department Assistant S should be in regular communication with Department Head and/or appropriate Town Board regarding the resolution of unusual cases or questionable matters.

Errors could cause a moderate delay in operations, and rework that typically involves using the resources of others in the department and possibly other departments to correct.

Contacts are with employees within and outside the Department, as well as with the public and government agencies.

Requires working cooperatively with others and answering the public's questions with courtesy and tact. Often required to explain Department's procedure and services and gain cooperation of the public.

Negligible physical effort required in performing the duties under typical office conditions. Work is basically office-type but may require non-sedentary duties involving moderate physical efforts.

### **Examples of Work may include the following tasks:**

Screens incoming mail, calls, and visitors and answers questions or directs them to appropriate Department Head(s), staff member, or staff in another department. Takes messages. Addresses matters that do not require personal attention or action of the Department Head. Assembles information for ~~department head~~ Department Head or staff member in order to be prepared to respond to inquiries.

Maintains appointment schedule of department staff, as requested. May be responsible for coordinating Coordinates travel and hotel arrangements for department staff.

Prepares correspondence, memoranda, forms, reports, agendas, minutes, bid

specifications, hearing notices, permits, abatements, lists, bylaws, etc. using wordprocessing, spreadsheets, and presentation software. Proof reads material before finalizing. Copies, **scans**, faxes, and **mailssends materials**.

Sets-up, maintains and manages filing system. Maintains department's confidential records.

**Tracks budgets and Monitors-monitors** expenditures against budget and maintains associated records; compiles financial data for the development of the department's operating and capital budgets. Requires the use of spreadsheets and databases.

Collects fees. Prepares documentation for receipts; coordinates receipts and collections with Town departments. Maintains financial reports.

**Posts agendas and minutes; Schedules-schedules** appointments; makes meeting arrangements; distributes notices; takes and transcribes minutes; performs follow-up activities after meetings.

Prepares department payroll including tracking time worked, sick leave, vacation leave, and over-time.

**May prepare- Prepares** department's accounts receivable, e.g., police detail billing, ambulance billing, etc.

Prepares department's accounts payable for processing.

Assists in the preparation of grants, compiles information and performs research as needed to respond to grant requirements.

Monitors office supplies and coordinates purchasing within approved spending limits. Prepares requisitions for supplies and equipment.

**May coordinate-Coordinates** the distribution of request-for-proposals or bids for the department, responds to vendor's inquiries according to purchasing law, **opens** bids and **notifies** bidders of successful bidder.

**Liaises with Town's IT consultant on hardware and software issues, troubleshooting as appropriate.**

**Updates and maintains department/board web pages.**

**Secondary Responsibilities may include the following tasks:**

***SECONDARY RESPONSIBILITIES***

**May coordinate-Coordinates** the work of **office/clerical employees or** volunteers. **Leadership**

~~activities-Activities~~ include assigning/reviewing work, ~~conducting-assisting with~~ orientation for new employees/~~volunteers, and~~ providing performance feedback ~~on volunteers, and~~ ~~recommending hiring decisions.~~

~~May prepare- Prepares~~ information and ~~beis~~ responsible for the production of the department's submission to the Annual Town Report.

~~May require maintenance of software systems.~~  
Provides back-up to other department staff.

Performs other position-related duties, as assigned.

## ***QUALIFICATIONS***

### **RECOMMENDED MINIMUM QUALIFICATIONS:**

#### ***I – Education and Experience***

A minimum of three to five years in a responsible clerical position. Completion of a standard high school course with business school training highly desirable. Or, any combination of required knowledge, skills and abilities.

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

**Knowledge:** Good knowledge of office terminology, procedures and equipment, command of business arithmetic and English. Some knowledge of elementary bookkeeping. Knowledge of document formats.

**Ability:** Ability to wordprocess at an acceptable speed. Ability to establish and maintain effective working relationships with subordinates, town officials, and the general public. Ability to communicate effectively in written and oral form. Ability to manage several projects at one time. Ability to maintain complex records and prepare reports from such sources. Ability to get along well with others. Ability to make decisions in accordance with laws, ordinances, regulations and established policies. Ability to make relatively complex mathematical computations rapidly and accurately.

**Skills:** Proficiency in computer applications, including knowledge of spreadsheets, databases, word processing, Internet research and appropriate software applications. Organizational and office management skills. Requires skill in the use of office equipment including personal computer, copier, calculator, facsimile and adding machine. Must have clerical aptitude, good judgement, tact and courtesy.

#### ***III - Special Requirements***

Ability to become bonded may be required. May be required to pass a CORI (Criminal Offender Record Information) check ~~and/or meet other government requirements.~~

***IV - Physical Requirements***

The physical demands listed are representative of those that must be met by the employee to successfully perform the essential functions of this job. Reasonable accommodation may be made to enable individuals with disabilities to perform the essential functions of the job. Work is generally performed under typical office conditions. Position requires the ability to operate a keyboard and standard office equipment at efficient speed. Ability to operate a computer and view screen for extended periods of time. The employee is frequently required to use hands to finger, handle, or feel objects, tools, or controls, and reach with hands and arms. The employee is frequently required to sit, talk and hear. Specific vision requirements include close vision, distance vision, and the ability to adjust focus. Occasionally carries and/or lifts items, weighing no more than 25 pounds. Requires access to other town departments.

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

Position description received by: \_\_\_\_\_ Date: \_\_\_\_\_





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

To: Board of Selectmen  
From: Chief Warren B. Ryder  
Date: October 1, 2015  
Re: New Policies

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In July of 2015 the Boxborough Police Department began the difficult and laborious process of examining all of its current procedures and processes in preparation for achieving certification from the Massachusetts Police Accreditation Commission. During this self-assessment phase it was discovered that further documentation in the form of written policies was needed. I offer for your review and consideration the following new polices in this first round of updates and additions to our established procedures.

- Policy and Procedure No. 1.1.1: Oath of Office
- Policy and Procedure No. 1.1.2: Code of Conduct: Non-Sworn Personnel
- Policy and Procedure No. 1.1.3: Mission Statement and Organizational Values
- Policy and Procedure No. 1.20: Disposal of Criminal Justice Information
- Policy and Procedure No. 1.21: Shift Briefing (Roll Call)
- Policy and Procedure No. 1.22: Safe Haven Act
- Policy and Procedure No. 4.10: Anti-Harassment and Discrimination

WBR/cop

Cc:



## OATH OF OFFICE

POLICY & PROCEDURE NO. <b>1.1.1</b>	ISSUE DATE: _____
	EFFECTIVE DATE: _____
Policy to be issued upon BoS approval or 30 days after submission, if no BoS action taken	REVISION DATE: _____

### I. APPOINTMENTS

Prior to assuming sworn status all personnel appointed as Police Officers to the Boxborough Police Department shall appear before the Town Clerk and take and subsequently abide to the following oath of office to enforce the law and uphold the nation's constitution or basic law of the land, and where applicable, those of government subdivisions. This original document is to be kept in the personnel file and a copy given to the officer.

### II. OATH OF OFFICE

The oath of office for Boxborough Police Officers is as follows:

“Do you solemnly swear that you will faithfully and impartially discharge and perform to the best of your ability all the duties incumbent upon you as a Police (rank) to which you have been appointed, in accordance with the bylaws of the town and the laws of the commonwealth?”



## CODE OF CONDUCT: NON-SWORN PERSONNEL

<b>POLICY &amp; PROCEDURE NO.</b> <b>1.1.2</b>	ISSUE DATE: _____
	EFFECTIVE DATE: _____
Policy to be issued upon BoS approval or 30 days after submission, if no BoS action taken	REVISION DATE: _____

### **I. GENERAL CONSIDERATIONS AND GUIDELINES**

Non-sworn employees of the Police Department are required to abide by the same ethical standards as sworn officers. They are an integral part of police operations, dealing with the public on a daily basis. Conduct standards are found in Section 4 of the Rules and Regulations Manual of the Department.

### **II. POLICE DEPARTMENT MANUAL AND DEPARTMENT ORDERS**

Non-sworn employees are issued the same manual as sworn officers. All employees are required to pass a written examination, prepared by the Chief or his designee on an annual basis demonstrating their knowledge of this manual.

### **III. TRAINING**

All employees shall receive annual training in the Code of Ethics. Training may be established through a Training Brief sent out electronically or reviewed at Roll Call. **[1.1.2]**



# MISSION STATEMENT AND ORGANIZATIONAL VALUES

<p><b>POLICY &amp; PROCEDURE</b> <b>1.1.3</b></p>	<p>ISSUE DATE:</p>
	<p>EFFECTIVE DATE:</p>
<p>Policy to be issued upon BoS approval or 30 days after submission, if no BoS action taken</p>	<p>REVISION DATE:</p>

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The primary purpose of the Boxborough Police Department is to provide a high level of safety, security and service for all members of the general public. As a regulatory agency of local government, the police department has the direct responsibility for the preservation of the public peace, for the reduction of the opportunity to commit crime, and for the effective delivery of a wide variety of police services. A large suburban society free from crime and disorder remains an unachieved ideal. Nevertheless, consistent with the values of a free society, it is the primary objective of the Boxborough Police Department to as closely as possible approach that ideal.

Peace in a free society depends on voluntary compliance with the law. The primary responsibility for upholding the law therefore lies not with the police, but with the people. Since crime is a social phenomenon, crime prevention is the concern of every person living in society. Society employs full time professional police to prevent crime, to deter it and when that fails, to apprehend those who violate the law. Crime is a symptom of ills within society which is not the responsibility of the department to cure. The department is responsible, however, for interacting with the community to generate mutual understanding so that there may be public support for crime prevention.

Community involvement is essential to facilitate a free flow of information between the public and the department, to assist in the identification of problem areas and to inform the public of crime statistics and trends. Additionally, knowledge of the community is necessary so that each department employee may be instilled with a sense of concern for the crime problems and law enforcement needs in his or her assigned area of responsibility.

The mission of the Boxborough Police Department is to form such a lasting partnership with the members of the community, working together to make the Town of Boxborough a model for society to follow: approaching that "ideal" of being free from crime and disorder.  
**[12.2.1(a)]**

## **II. ORGANIZATIONAL VALUES**

The value statement of the Boxborough Police Department:

- A. Maintenance of the highest standards of integrity and ethics;
- B. Excellence and teamwork in the performance of duty;
- C. Protection of Constitution Rights;
- D. Problem solving for continuous improvement;
- E. Continuous planning for the future; and
- F. Performing public service and law enforcement tasks so as to provide leadership to the police profession.

## DISPOSAL OF CRIMINAL JUSTICE INFORMATION

<p>POLICY &amp; PROCEDURE NO. <b>1.20</b></p>	<p>ISSUE DATE: _____</p>
<p>Policy to be issued upon BoS approval or 30 days after submission, if no BoS action taken</p>	<p>EFFECTIVE DATE: _____</p>
	<p>REVISION DATE: _____</p>

### I. GENERAL CONSIDERATIONS AND GUIDELINES

The manner in which Criminal Justice Information (CJI) is disposed of is an extremely important issue. Improper disposal of CJI could put employees, the department, the Department of Criminal Justice Information Services (DCJIS) and/or the FBI at risk.

### II. POLICY

It is the policy of the Department to:

- A. Ensure that procedures are in place to protect sensitive and classified information, employees (sworn and non-sworn) and the department.
- B. To require that all employees (sworn and non-sworn), contractors, temporary staff, and other workers with access to DCJIS and FBI systems and/or data, sensitive and classified data, and media are in compliance with the proper methods for disposal of CJI.
- C. Ensure that all equipment that processes, stores, and/or transmits CJI and classified and sensitive data that is owned or leased by the department are in compliance with the proper methods for disposal of CJI.

### III. PROCEDURES

A. When no longer usable, hard drives, diskettes, tape cartridges, CDs, ribbons, hard copies, print-outs, and other similar items used to process, store, and/or transmit CJI and classified and sensitive data shall be properly disposed of in accordance with the measures described herein.

1. Physical media (print-outs and other physical media) shall be disposed of by shredding, using the shredders located in the dispatch center.

If there is a large amount of physical media that needs to be destroyed, it may be placed in one or more of the temporary storage lockers in the reports room. A call number and an 'OF' number shall be assigned in the IMC system in order to track the media. Once an 'OF' number is assigned to an Officer [s]he generate a report documenting that the media needs to be destroyed. The report shall be forwarded to the officer's supervisor for review. The supervisor shall arrange for the destruction of the media.

2. Electronic media (hard-drives, tape cartridges, CDs, printer ribbons, flash drives, printer and copier hard-drives, etc.) will be properly disposed of by the following method:

**Destruction** – a method whereby magnetic media is physically destroyed by crushing, disassembling, etc., ensuring that the platters have been physically destroyed so that no data can be retrieved.

B. IT systems that have been used to process, store, or transmit CJI and/or sensitive and classified information shall not be released from department control until the equipment has been sanitized and all stored information has been cleared using the above method.

## **SHIFT BRIEFING (ROLL CALL)**

<b>POLICY &amp; PROCEDURE 1.21</b>	ISSUE DATE:
	EFFECTIVE DATE:
Policy to be issued upon BoS approval or 30 days after submission, if no BoS action taken	REVISION DATE:

### **I. GENERAL CONSIDERATIONS AND GUIDELINES**

- A. The Department provides twenty-four (24) hour per day police coverage to the Town of Boxborough. It recognizes the importance of a standardized procedure for the daily transference of information to all patrol personnel.

### **II. POLICY**

- A. It is the policy of this department to conduct shift briefing activities at the beginning of each patrol shift (0700, 1500, and 2300 hours). The shift briefing will provide officers with specific information regarding daily patrol activity. All patrol personnel coming on duty are required to be present, available for immediate assignment, and attentive during this briefing.
- B. All officers on duty including detective(s) shall attend roll call unless they are previously assigned to other duties by the Detective Sergeant. Detective(s) will brief patrol officers on important cases and activities of the Detective Bureau.

### **III. PROCEDURES [41.1.2]**

- A. Prior to the end of each patrol shift, the Shift Supervisor or Senior Patrol Officer (SPO) will print a Daily Log utilizing the appropriate function within the department computer system.
- B. The Shift Supervisor or SPO of the off-going shift will review the Daily Log.
- C. The Shift Supervisor or SPO of the off-going shift will verbally communicate to the incoming Shift Supervisor or SPO of relative shift information, i.e. number of detainees, unusual occurrences, ongoing incidents, outstanding calls, safety hazards, etc.
- D. It is the responsibility of the incoming Shift Supervisor or SPO to review the Daily Log, the electronic roll call and teletypes from prior shifts to determine any information that should be included in this briefing.
- E. The shift change procedure will include the assignment of tasks, patrol areas, weapons, vehicles, as well as other equipment and supplies as needed.
- F. The Shift Supervisor or SPO shall use the shift briefing to disseminate Departmental paper work, court paper work, and other information that is pertinent or will assist officers in their tasks.
- G. Utilizing the Daily Log and electronic roll call, the Shift Supervisor or SPO will verbally summarize the activity from the previous shift calling particular attention to unusual situations, potential and actual police hazards, wanted persons, stolen vehicles, and such reports that might indicate crime trends or patterns.
- H. Detectives attending the Shift Briefing may update officers with criminal intelligence information, and unusual situations, potential and actual police hazards and wanted person's information. The Detective(s) may also provide officers with a written patrol alert detailing the criminal intelligence information.
- I. The Shift Supervisor or SPO shall use the shift briefing to inspect and ensure that officers are carrying and wearing

approved equipment and uniform apparel. The Shift Supervisor shall be responsible for addressing any non-compliance through progressive discipline. The SPO shall be responsible for reporting any non-compliance to a Supervisor.

- J. At the completion of shift briefing, the Shift Supervisor or SPO will destroy the generated Daily Log by shredding.
- K. At the completion of shift briefing, the Shift Supervisor or SPO will place all other information (Alerts, BOLO's, TTY's, etc...) on the appropriate clipboard. The clipboards shall be stored in the Dispatch Center and accessible to all officers for review.

#### **IV. SHIFT BRIEFING TRAINING**

The daily Shift Briefing (Roll Call) activity should not be confused with other training that may be conducted during the shift briefing period.



# SAFE HAVEN ACT

<b>POLICY &amp; PROCEDURE 1.22</b>	ISSUE DATE:
	EFFECTIVE DATE:
Policy to be issued upon BoS approval or 30 days after submission, if no BoS action taken	REVISION DATE:

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The **Safe Haven Act of Massachusetts** allows a parent or guardian to **legally abandon** newborn infants 7 days old or younger at a hospital, police station, or manned fire station **without facing criminal prosecution**. The Safe Haven Act is an amendment to **Chapter 119 of the Massachusetts General Laws, section 39 ½**.

The Safe Haven Act defines the following terms:

- A. **Newborn Infant:** A baby 7 days old or younger.
- B. **Voluntary Placed, voluntary placement or voluntary abandonment:** Voluntarily leaving the newborn infant with an appropriate person at a designated facility.
- C. **Designated Facility:** Hospital (it is preferred the newborn specifically be taken to an acute care hospital emergency department), police departments or manned fire station; the locations stipulated by the Safe Haven Laws.

- D. **Appropriate person:** Someone at a designated facility who is able to insure that the newborn infant is safe; for example, the triage person in a hospital emergency department or duty officer in a police station.
- E. **Notification:** An immediate notice is to be filed with the Department of Children and Families (DCF) on voluntary abandonment of the newborn infant.

## II. OFFICER RESPONSIBILITIES

When a parent or guardian voluntarily leaves a newborn infant 7 days of age or younger with at the Boxborough Police Department, and there are no signs of abuse or neglect officers shall:

- A. **Immediately contact Emergency Medical Services (EMS) Boxborough Fire Department** to respond and assess the child's condition on site and then transport to the hospital.
- B. **If one or more of the parents or guardian is available:**
  - 1. Thank them for bringing the infant to a safe place.
  - 2. Ask if they would be willing to provide any information that would assist in planning for the future care of the child. Inform them that situations often arise, or children have questions, as they grow older, that only they as parents can address. **You are required to encourage the parent to provide the information but the parent shall not be required to provide such information.** The Officer accepting the infant shall make every effort to solicit the following information from the parent placing the newborn infant:

- a. the name of the newborn infant
  - b. the name and address of the parent placing the newborn infant
  - c. the location of the newborn infant's birthplace
  - d. information relative to the newborn infant's medical history
  - e. the infants biological family's medical history
  - f. any other information that might reasonably assist the department in determining the best interest of the child, including whether the parent or guardian plans on returning to seek future custody of the child.
- C. **Notify DCF.** Notification is accomplished by following the standard 51A process and filing a Mandated Reporter form. DCF will work with the officer to ensure that the child's needs are met and any subsequent transitions of care are coordinated. **Officers shall immediately contact the DCF at Risk Hotline for mandated Reporting 1-800-792-5200 and file the mandatory Abuse and Neglect Report 51A within 48 hours of making the oral report. [41.2.6]**

### **III. Abandonment of Infant under age 10**

Per M.G.L. Ch. 119 Sec. 39: Whoever abandons an infant under the age of ten within or without any building, or, being its parent, or being under a legal duty to care for it, and having made a contract for its board or maintenance, absconds or fails to perform such contract, and for four weeks after such absconding or breach of his contract, if of sufficient physical and mental ability, neglects to visit or remove such infant or notify the department of his inability to support such infant, shall be punished by imprisonment in a jail or house of correction for not more than two years; or , if the infant dies by reason of such abandonment, by imprisonment in a jail or house of correction for not more than two and one half years or in the state prison for not more than five years. **[41.2.6]**

# ANTI-HARASSMENT AND DISCRIMINATION

POLICY & PROCEDURE NO.  <b>4.10</b>	ISSUE DATE:
Policy to be issued upon BoS approval  or  30 days after submission, if no BoS action taken	EFFECTIVE DATE:
	REVISION DATE:

## I. GENERAL CONSIDERATIONS AND GUIDELINES

- A. Massachusetts General Law Chapter 151B prohibits unlawful discrimination because of race, color, religious creed, national origin, ancestry or sex.

Employees and applicants for employment with a police agency have a right to be free from harassment and discrimination. Harassment and discrimination in the workplace is unlawful. This police department will not tolerate such conduct in the workplace, whether by superiors, coworkers or even non-employees. Further, any retaliation against an individual who has complained about harassment or discrimination or retaliation against individuals for cooperating with an investigation of a harassment or discrimination complaint is unlawful and will not be tolerated. **[26.1.3(5)(6)]**

- B. Individuals who are victimized by harassment or discrimination have statutory remedies that include filing a complaint with an administrative agency and/or the courts, both on a state and federal level. The department has developed this policy to familiarize employees with applicable legal guidelines.

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Policy & Procedure – Anti-Harassment & Discrimination

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- C. This policy affords those who feel they are victims of harassment and discrimination with a procedure for making the department aware of the problem and allowing it to attempt to remedy the situation. It is the policy of this department to promptly investigate all complaints of harassment and discrimination. When it has been determined that inappropriate conduct has occurred, the department will act promptly to eliminate such conduct and impose any necessary corrective action, including disciplinary action where appropriate.
- D. This policy shall be provided annually to all department employees and to all new employees at the time of their employment.

## **II. DEFINITION OF HARASSMENT**

- A. Harassment is defined as any conduct that denigrates or shows hostility towards an individual or individuals because of his/her race, color, religious creed, national origin, sex, sexual orientation, ancestry, age, handicap or other such category protected under the law that:
  - 1. Has the purpose or effect of creating an intimidating, humiliating, hostile, or offensive work environment, or
  - 2. Has the purpose or effect of unreasonably interfering with an individual's work performance.
- B. Examples of Harassment:
  - 1. Epithets or slurs based on an individual or group's race, color, religious creed, national origin, sex, sexual orientation, ancestry, age, handicap or other such category protected under the law.
  - 2. Other verbal or physical conduct that denigrates or shows hostility or aversion towards an individual or group based on race, color, religious creed, national origin, sex, sexual orientation, ancestry, age, handicap or other such category protected under the law.

### **III. DEFINITION OF DISCRIMINATION**

- A. Discrimination is defined as the unequal and unlawful treatment of persons *in employment related decisions* because of race, color, religious creed, national origin, sex, sexual orientation, ancestry, age, handicap or other such category protected under the law.
- B. Examples of Discrimination:
1. Any conduct where the Department bases:
    - a. Employment decisions solely on the race of different applicants; or
    - b. Assignment solely on the age of the employee.

### **IV. PROCEDURE**

#### **A. Responsibilities of All Employees**

1. Each employee is personally responsible for the following:
  - a. Shall not engage in harassing, sexually harassing, or discriminatory behavior.
  - b. Shall cooperate in the investigation of complaints of alleged harassment, sexual harassment, and discrimination by providing any information [s]he possesses concerning the matters being investigated.
  - c. Shall actively participate in the Department's efforts to prevent and eliminate harassment, sexual harassment, and discrimination, and to maintain a working environment free from such unlawful discrimination.

**B. Responsibilities of Supervisors**

1. Aggressively monitor the workplace to prevent and detect harassment, sexual harassment, and discrimination.
2. Take appropriate corrective action to stop all types of harassment, sexual harassment, and discrimination.
3. Assist any employee in filing a complaint, or obtaining information on the Department's Anti-Harassment and Discrimination Policy.
4. Immediately report incidences of harassment, sexual harassment, or discrimination to the Chief and/or his designee.

**C. Liability and Sanctions**

1. Any employee found to have engaged in harassment or discrimination in violation of this policy is subject to disciplinary action up to and including termination of employment.
2. Retaliation against an individual that has complained about harassment or discrimination or has cooperated with an investigation of a harassment or discrimination complaint is such a serious violation of this policy and the law that disciplinary action, most likely discharge, will be taken.
3. **Employees** may be **personally liable** if they engage in harassing, sexually harassing, or discriminatory behavior.
4. **Supervisors** may potentially be **personally liable** if they **knew or should have known** about incidents of sexual harassment, and did not take appropriate corrective action.
5. The Department may not be held responsible in harassment, sexual harassment, and discrimination cases if it can show that it took prompt and appropriate corrective action.

**D. Reporting Procedures**

1. Any employee who believes [s]he has been the victim of harassment shall report this fact, either orally or in writing, as soon as possible to his/her supervisor. The supervisor shall report such information, through the chain of command, to the Chief.
  
2. If the employee believes that the nature of the harassment or the identity of the alleged perpetrator is such that [s]he is not comfortable discussing the situation with her/his immediate supervisor, the employee may contact the next higher level of supervision in the chain of command above the supervisor or, if this is not appropriate, should report the matter to the Chief. If a supervisor is contacted, [s]he shall report such information, through the chain of command, to the Chief.
  
3. In the event the employee feels it is not appropriate to contact the Chief, [s]he may contact the Town Administrator at:

Boxborough Town Hall  
29 Middle Road  
Boxborough, MA 01719  
978-264-1712

**E. Investigations****1. Informal Proceedings**

- a. The supervisor, individual in the chain of command or the Chief who receives the initial

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Policy & Procedure – Anti-Harassment & Discrimination

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complaint may propose informal remedies. If the complainant agrees to pursue this approach, the supervisor, individual in the chain of command or the Chief will meet with the alleged harasser, relate the fact that a harassment incident or practice has been reported, and propose a remedy.

- b. If the informal remedy is accepted by the alleged harasser, the situation shall be monitored closely by the supervisor, individual in the chain of command or the Chief to determine whether the work climate changes or whether there are further incidents. If the complainant reports that the situation has not been rectified or if the alleged harasser declines to agree to informal adjustment, the complainant will be encouraged to file a formal complaint.
- c. The Chief shall be notified when a complaint is received and informal proceedings are instituted and the Chief shall maintain records reflecting the substance of the informal remedy agreement.

## 2. **Formal Proceedings**

- a. An employee may institute a formal procedure by filing a written complaint with the Chief.
- b. A thorough investigation will be conducted by the Chief or his/her designee, which shall include attempting to obtain statements from the alleged harasser and co-workers of the complainant and alleged harasser. The Chief should resolve the matter within 30 business days of receipt of the complaint.
- c. The Chief shall maintain records of all complaints, investigations, and actions taken.
- d. The Chief or his/her designee shall handle complaints with confidentiality, sensitivity and

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Policy & Procedure – Anti-Harassment & Discrimination

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due concern for the dignity of all parties involved.

- e. In a situation where the complainant and the alleged harasser will continue working in the same general area or environment during or after the completion of the investigation, it may be necessary or appropriate for the Chief to clearly define the terms of the continued professional interaction.
- f. In a situation where the complainant is transferred to another position during or after the completion of the investigation, there shall not be a detrimental change in the terms and conditions of the complainant's employment. This includes but is not limited to: a demotion or a decrease in pay, responsibilities, benefits, or prestige.

### 3. Findings

- a. In the event that an investigation is conducted regarding a harassment, sexual harassment, or discrimination complaint, the findings shall be:
  - 1. Sustained.
  - 2. Not Sustained.
  - 3. Exonerated.
  - 4. Unfounded.
- b. Cases in which the complainant has withdrawn their complaint shall be classified as **Withdrawn**. Cases that are recommended for an alternative resolution shall be classified as **Referred**. In all cases, a record will be made in the case file. All findings, withdrawals and referrals shall be reviewed and approved by the Chief or his designee.

**4. Confidentiality**

- a. The department will maintain the confidentiality of the allegations of the complaint, the complainant and the alleged harasser to the extent lawful and practical without handicapping the department's ability to perform an investigation.

**F. Other Legal Remedies**

1. Following the procedures outlined above does not preclude a complainant from seeking legal remedies outside this process.
2. A complaint may be filed with one or both of the following:

**United States Equal Employment Opportunity Commission (EEOC)**

John F. Kennedy Federal Building  
Government Center  
Room 475  
Boston, MA 02203  
(617) 565-3200

**Massachusetts Commission Against Discrimination (MCAD)**

Boston Office:  
One Ashburton Place, Rm 601  
Boston, MA 02108  
(617) 727-3990

Springfield Office:  
State Office Building  
436 Dwight St., Rm 220  
Springfield, MA 01103  
(413) 739-2145

3. Complainants are cautioned that following department complaint procedures does not affect the 180 day statute of limitations for filing discrimination complaints with the MCAD or the 300 day statute of limitations for filing discrimination complaints with the EEOC.
4. Some courts have found that a complainant's unreasonable failure to follow a department's complaint or grievance procedure may limit his/her ability to recover certain kinds of damages.



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

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

**PRESENT:** Vincent Amoroso, Chair; Susan Bak, Clerk; Robert Stemple, Clerk; Les Fox, Member; and Jim Gorman, 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 Amoroso called the meeting to order at 7:02 P.M. in the Grange Meeting Room of Town Hall.

**ANNOUNCEMENTS**

Chair Amoroso read the announcements

**APPOINTMENTS**

- Public Safety Communications Committee (PSCC) Chair Mac Reid, members of the PSCC, Police Chief Warren Ryder and Fire Chief Randolph White were present to provide the Selectmen with the PSCC's findings and recommendations. Member Stemple moved to accept the recommendation of the Public Safety Communications Comm. and to set a public hearing to be held on October 19<sup>th</sup> to consider the removal of a street light from pole # 2-2X located on Middle Rd behind the Museum; and further, to take any such additional actions as may be required- pursuant to the recommendations of the Committee. Seconded by Member Bak. Member Gorman suggested that this motion be modified so the Chiefs can have authority to implement some of the PSCC recommendations. PSCC Chair Reid spoke to the Memorandum and PowerPoint presentation provided in the agenda packet. He thanked Chief Ryder, Chief White and Town Planner Duchesneau for their contributions and cooperation. He reviewed the PSCC's charge; background on the Communications Upgrade Project; project specifications & related issues. He related their outreach efforts concerning the neighbors of the proposed Museum lot location. He provided their findings as to the various potential pole locations. PSCC Chair Reid summarized their recommendations, as voted on September 23<sup>rd</sup>, and provided in their memorandum: the communications pole be sited on the north side of the Museum, mitigate neighbors' view issues, along with the pole & antennas attachments specifications and removal of the existing street light in the museum parking lot. Chiefs Ryder and White also provided their input. They anticipate having information on the final pole location on the Museum lot by the October 19<sup>th</sup> Selectmen's meeting. They are hoping to have the exterior work done before winter. There was discussion on the proposed removal of the existing street light and the related process. Member Stemple accepted a friendly amendment and moved to accept the recommendation of the Public Safety Communications Committee and to set a public hearing to be held on October 19 to consider the removal of a street light from pole # 2-2X located on Middle Road behind the Museum; and further, to take any such additional actions as may be required pursuant to the recommendations of the Committee, including authorizing the Chiefs to pursue the installation of the antennas. Seconded by Member Bak. **Approved 5-0.**

- There were no Citizens Concerns.

*The Selectmen took Agenda Items 7d and 7a, out of order.*

**NEW BUSINESS**

- Steele Farm Advisory Committee Chair Ed Whitcomb and member Jeanne Steele Kangas were present to discuss their Reserve Fund Transfer Request to address unanticipated additional repairs disclosed during the Steele Farm Barn project, currently under way. The Contractor, Kneeland Construction found more rot was exposed than they anticipated when they stripped away the siding, specifically the rot that exists in portions of the barn's sill. BICAO Lindberg discussed this additional work with the contractor and they have agreed to an amount lower than their initial change order submission; further they have agreed that there will be no additional costs submitted. This project is already underway; we need to move forward and complete the work. The Selectmen voiced their concerns. Though this was originally approved as a CPA funded project tonight's RFT brings the total project cost to over \$100,000. This is the second RFT that has been requested for this project and the Reserve Fund comes directly from the Town's coffers. This is a significant amount to preserve this structure. The Finance Committee has advised that

they also have these concerns and some others. Member Stemple moved to forward to the Finance Committee for approval the request to transfer a sum not to exceed \$10,596 from the Reserve Fund to 001-670-5821-SFBD. Seconded by Member Bak. **Approved 5-0.**

- Acton-Boxborough Regional School Committee (ABRSC) member, Maria Neyland was present to discuss the ABRSC's proposed formation of a Capital and Space Planning Committee. Neyland discussed the proposed composition of this Committee and referred to Supt. Brand's memorandum provided in the agenda packet. It is their intention to have two municipal leaders represented from both Acton and Boxborough respectively. The formation of this committee can be attributed to the Boxborough representatives urging the District, over the last few years, to develop a "Capital Plan" similar to what is used in Boxborough. As far as she knows, this is the first time the District has developed this type of capital planning. The intention is for this to be a standing committee whose purpose will be to develop recommendations for the ABRSC. This group is separate from the A-B Joint Finance Analysis Committee, which was initiated when the Regional Agreement was recently amended and whose term only encompasses the first five years of the Agreement, as amended. There was discussion as to the Selectmen identifying a designate; possibly even a FinCom member. The ABRSC would like the Selectmen's recommendations by October 15<sup>th</sup>. They have also put the word out that they are seeking community representatives, again from Acton and Boxborough respectively.
- There was also a review of the Financial Reporting per the Regional Agreement prepared by ABRSD Dir. of Finance, Clare Jeannotte. Cost savings from regionalization were on target, even though costs were higher & revenues were lower than projected.

*The Selectmen took Agenda Item 6a, out of order.*

#### **OLD BUSINESS**

- The Selectmen opened discussion on their initial review of a proposed Bring Your Own Bottle (BYOB) policy. Though there was concern about some of the phraseology used it was noted that the proposed language still needs to be reviewed by Town Counsel and they may clarify and tighten some of the wording that was noted. It was agreed that the language in paragraph 13 was redundant and would be deleted. There was also concern about the standards and rules that a BYOB business owner would need to adhere to and the trainings that would be required under the proposed policy. It was determined that the Selectmen would defer further action on adopting a BYOB policy until Police Chief Ryder could investigate and provide input as to how neighboring communities respond to incidents at these BYOB establishments and manage those situations that can arise in allowing BYOB.

#### **MINUTES**

- Member Gorman moved to accept the minutes for the regular sessions of September 14, 2015, and September 21, 2015, as revised. Seconded by Member Bak. **Approved 5-0.**

#### **SELECTMEN REPORTS**

- Member Gorman reported that he felt the SPCC achieved good results while staying on target and delivering their recommendations in a timely manner. A workable compromise was reached that the neighbors can support.

He reported that the new DPW worker is scheduled to start on October 19<sup>th</sup>.

Member Gorman asked ABRSC member Neyland to stay for his report on the Hager Well. This morning he met with DPW and contractor 2<sup>nd</sup> Wind to review the condition of Hager Well filtration system. He provided a summary of the issues that are of concern. The Town will be contracting with 2<sup>nd</sup> Wind to do an initial analyzes the existing system to provide recommendations. Their report should be delivered in 4-6 weeks. An upgrade to the filtration could possibly run \$40,000-\$50,000. It was noted that Neyland was asked to stay because the IMA between the Town and the AB District includes the District sharing a proportional cost for the operation and maintenance of this shared water system. As this potential work and related costs would affect the Blanchard School, Neyland asked that, the District's Facilities Mgr. J.D. Head be brought in to this discussion. She also noted that the District would like the cost projection as soon as possible so it can be bracketed for budgeting purposes. She will advise the Supt.'s office that this project may be going forward at some point. The IMA will also be reviewed. There was discussion concerning the plumbing repairs that were necessary last year on the eve of the regionalization of the Blanchard School.

He also reported that the Public Safety Space Needs Advisory Group is meeting on Tuesday.

- Chair Amoroso reported that the Appreciation Event was a great success. He displayed the "drink cozies" that had not been ready in time for the event. Attendees can come to Town Hall and pick theirs up.

He reported that he has now attended several Minuteman School Comm. meetings as Boxborough's representative. The School Comm. is going forward with the proposed building project and discussing how to get all of the 16 member towns to approve project and related funding. Still under discussion are the options of going to Town Meeting for approval or District-wide vote. Either action requires 2/3 approval of the School Committee to proceed. It is possible that they will revisit amending the agreement. There is also a voluntary meeting on Oct. 28<sup>th</sup> in Weston which the member town Selectmen have been invited to attend to discuss these and other concerns affecting the Minuteman District. 11 of the 16 member towns were represented the last time this type of meeting was held.

- Member Bak reported on the Vocational Education Advisory Comm. They have met twice since her last report; one was to attend a building project presentation at Minuteman. There does not seem to be a lot of consensus among member towns on the project. Member Fox noted that slack should be factored into any building project; not "right-sized" to address just the current needs. VEAC continues to collect data, and has scheduled tours of Minuteman and Nashoba facilities. She outlined Nashoba's enrollment tiers as explained by a member of the Nashoba School Comm. She also reported that Ayer recently joined the Nashoba School District with a one-time buy-in of \$500,000. However Member Bak did not know what Ayer was paying as a sending town before joining. Chair Amoroso opined that it is cheaper for out-of-district towns to send their students than it is for district communities. There are 3 reasons why to be in a district – guaranteed student placement; voice in District governance; and transport costs are folded into District assessment. He provided his perspective on MSBA enrollment number as to the proposed Minuteman project. If the Minuteman District fails to meet the MSBA June 2016 approval deadline the reimbursement commitment will drop from the current 40% to no more than 32%. He also referred to a letter from the Dover Selectmen that he notes reflects the disparity of interest within the Minuteman District. Member Bak continued, noting that VEAC is interviewing Minuteman parents and students, and summarized the feedback received so far. The consensus is that they love school and programs but are disappointed in the lack of language and music/performing arts programs.
- Member Fox reported that a draft regionalization report has been provided by Chief Ryder and he would like the Selectmen to discuss it at their next meeting.

He also reported that though he has been unable to attend Energy Comm. meetings so far as their new liaison he has met with EnCom Chair Nolde and has been copied on the Committee's meeting notes and emails.

Member Fox also reported that he met with Al Murphy and Susan Connelly from Mass Housing Partnership concerning the proposed RFP of the development of the Stow Road site. The State has provided input on their working draft. They would now like to circulate this document to the former members of the Stow Rd. Development Comm. to receive their input; then to the Selectmen and finally submit to Town Counsel to finalize the language so this Request for Proposals can be published.

- It was also reported that the Jefferson at Beaverbrook Development is underway. Chief Ryder has circulated a memo regarding the closing of Cunningham Rd. for the new development. Tree clearing has started for the new access road. Chief White has advised that they need to establish water service for fire suppression before construction can begin. The general project parameters were reviewed. As a 40B project this development will put us over the State's threshold.

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

- The Board discussed the 2015 Employee/Volunteer Appreciation BBQ and reviewed the After Action Report. The consensus was that the event was a success and that the Board should continue to offer this annually. Actual consumption, location, and inclement weather options were reviewed. It was suggested that music could be provided next year. The "drink cozies" will also be distributed to the attendees.
- The Selectmen reviewed Town Counsel's input and recommendations for performance evaluations; specifically the process outline, managing unsatisfactory evaluations, as opposed to disciplinary issues, and the public's access to these written evaluations. Tonight's discussion was to conduct an initial review of Town Counsel's input. The Selectmen were asked to further review and digest this information.
- Member Fox led the discussion of Master Plan and Implementation Plan and recommendations to MPUC. Overall our community is happy with the status quo. He referred to the marked up version of the Implementation Plan in the agenda packet and displayed on screen. These mark-ups are based on the input provided by himself and the other Selectmen. Any further revision/comments received tonight will be incorporated live so the Selectmen's final input can be provided to Planner Dushesneau. There will be a lot of "whittling down" before the MPUC meets on Oct. 20<sup>th</sup>. Much of the documents structure comes from the general concept of how it "should be" rather than how Boxborough manages these concerns. It was also noted that deleting some sections could impact other sections of the overall plan, affecting the overall structure. It is important to keep goals broad in order to allow latitude in implementing. Wording should be as simple as possible so not to obscure intent. An overreaching item is that the Town will need to establish a Master Plan review process with stakeholder meeting periodically to

discuss the identified Aspiration and Action items. It was determined that edits would stand unless a Selectman wanted to pull it out and discuss. Member Fox reviewed those sections with comments or edits and the Selectmen provided additional input. Chair Amoroso moved to forward the Board of Selectmen's proposed revisions to the Master Plan Implementation Plan to the Master Plan Update Committee. Seconded by Member Gorman. **Approved 5-0.**

#### **NEW BUSINESS**

- There was a brief discussion concerning possible cable coverage of other town boards' meetings. It was determined that would be a more expansive discussion at a future meeting.
- Member Gorman moved to accept the FY2016 Training Grant and EMD/Regulatory Compliance Grant in an amount of \$10,000 from the Commonwealth of Massachusetts Executive Office of Public Safety and Security. Seconded by Member Bak. **Approved 5-0.**

#### **ADJOURN**

- The meeting was adjourned at 10:31 PM.

**Selina Shaw**

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**From:** Les Fox <lesfox@comcast.net>  
**Sent:** Thursday, October 15, 2015 1:57 PM  
**To:** Jim J. Gorman; Robert Stemple; 'Susan Bak'; Vince Amoroso  
**Cc:** Selina Shaw  
**Subject:** FW: BoS Comments on Boxborough2030 Implementation Plan

Folks,

I will bring this up under Selectmen's reports on Monday and invite your comments and discussion then. The MPUC meets Tuesday evening and will be discussing inputs from all the boards on the MP. Anyone who wishes to join me will be welcome.

Les

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**From:** Adam Duchesneau [<mailto:aduchesneau@boxborough-ma.gov>]  
**Sent:** Wednesday, October 14, 2015 11:14 AM  
**To:** Les Fox  
**Subject:** BoS Comments on Boxborough2030 Implementation Plan

Hi Les,

Sorry to bother you on your time away (which I hope you are enjoying), but I wanted to reach out regarding the Board of Selectmen's comments on the Boxborough2030 Implementation Plan prior to the MPUC meeting on Tuesday, October 20<sup>th</sup>, and I know you won't be back until just before it.

One of the biggest items that I heard at the initial MPUC meeting back in October 2014, as well as at the Public Kickoff in November 2014, was that MPUC members and the public wanted the new Master Plan to have "teeth" and they did not want the Plan to simply sit on the shelf. The proposed edits from the BoS call for the removal of many of the Action items in the Implementation Plan. I would argue that removing such a large number of the Action items significantly reduces the "teeth" of the Plan that MPUC members and the public were calling for. Without Action items, all that is left in the Implementation Plan are Aspirations, Goals, and Strategies, which I would view as being at too high a level to give proper direction or accountability to various entities in Town. The makeup and preferences of boards and committees will change over the life of this Master Plan and we want to be sure that each of these entities has direction on particular items they should be undertaking.

In the BoS comments you indicated that "The tactical or operational recommendations are the ordinary regular business of the relevant boards. They don't need help tracking what they do. The current draft is too cluttered with minor tactical actions that are part of the ongoing work." I agree that some of the Action items could possibly be removed and others could be reworded (which is one item I believe Manisha and her team are working on), but I think the wholesale deletion of so many Action items greatly changes the Implementation Plan and takes the "teeth" right out of it. In five years we want to be sure there are specifics in place to hold boards and commissions accountable. Action items are needed to give specific direction to responsible parties to take action. Without them, the Strategies in the Plan will just float without direction and there is a high probability the Strategies will not be acted upon. It will be very easy for entities to simply pass the buck to other entities or not follow through where vigorous and involved action made need to take place.

Additionally, Manisha and I feel pretty strongly that the "Close Knit and Welcoming" Aspiration should be retained in the Implementation Plan. This was an Aspiration derived from the Master Planning Process and was the number two Aspiration people wanted to promote in town as indicated by the responses at Fifer's Day. The only Aspiration to surpass it was the one calling for maintenance of the rural character and celebration of the town's heritage. While I do not disagree with your note that this Aspiration may be difficult to turn into realistic actions, I don't think this means we should abandon an attempt to realize and enhance this Aspiration in the community, especially with the strong support it received at Fifer's

Day. And again, I would really prefer there to be specific Action items associated with this Aspiration so there are some actions in place that boards and committees should be undertaking to achieve the Aspiration. That is not to say that entities cannot or should not undertake additional actions to promote this Aspiration, but having some actions specifically called out in the Plan provides a starting point, at a minimum, to further this Aspiration.

These are just some thoughts Manisha and I had after reading through the Board of Selectmen's comments and discussing them, and I wanted you to have a little better understanding on where we were coming from before the next MPUC meeting. In any event, we can discuss these items further at the meeting on the 20<sup>th</sup>. See you then and enjoy the rest of your time away.

Adam

Adam L. Duchesneau, AICP  
Town Planner  
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***Boxborough: A Rural, Engaged Community for All***  
[www.boxborough-ma.gov](http://www.boxborough-ma.gov)

7a

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

**Policy**

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

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

**Regulations**

**1.0 Definitions**

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

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

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

- 2.1 The establishment shall have a valid Common Victualler's license that has been in good standing for at least one year in conformance with the LLA's licensing policy.
- 2.2 The establishment may not hold an alcoholic beverages license issued under the provisions of G.L. c. 138. (An establishment with a pouring liquor license and/or a package License is not permitted by law to also have a Carry-In alcoholic license).
- 2.3 Patrons are allowed to carry in only wine and beer, and only for personal consumption. All patrons wishing to carry-in wine or beer and all persons consuming wine or beer must be 21 years of age or older. The maximum amounts of wine or beer that may be carried in by any given patron in the course of any given calendar day are:  
(a) one 750 milliliter (ML) container of wine, whether for one or two patrons, or (b) two containers of beer (not

to exceed 24 ounces (OZ) in total) per patron. The manager of the establishment shall be responsible for ensuring compliance with these consumption limits.

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

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

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

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

2.8 No alcoholic beverages may be removed from the premises unless resealed, and the resealed container is placed in a transparent, sealable plastic wine “doggie-bags” in the manner provided for in the Alcoholic Beverages Control Commission’s regulations at 204 CMR 2.18(4). The resealed bottle shall be placed in a one-time-use tamper-proof transparent bag that ensures that the patron cannot gain access to the bottle while in transit after the bag is sealed. The bag shall be securely sealed before the patron leaves the establishment.

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

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

2.11 The on-site shift manager shall be responsible for ensuring that no patron becomes intoxicated and shall request assistance from the Boxborough Police Department as needed.

~~2.12.12~~ Nothing in this policy shall preclude a food service establishment from imposing additional limits or restrictions on patrons with carry-in alcoholic beverages.

~~2.12–2.13~~ If the business is not operated in a manner that is consistent with these regulations, the licensing authority may, after notice to the Carry-In License holder and reasonable opportunity for a hearing, suspend or revoke the Carry-In License.

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

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

### **3.0 Enforcement**

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

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

### **4.0 License Application Procedures**

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

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

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

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

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

4.4.2 An Initial License fee of \$50.

4.4.3 A Renewal fee of \$50.

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

### **5.0 Term**

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





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

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

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

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

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

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

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

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

**Overview:**

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

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

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

**Committee Members:**

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

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

Gram Kushner  
Ted Kail

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

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

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Department Head Performance Evaluations  
Proposed Process  
For Discussion Purposes 10/19/15

- Liaison prepares evaluation
- Liaison provides draft in BoS packet
- BoS may ask questions of liaison or comment upon the evaluation
- BoS votes to approve as written, or modify
- Liaison will review voted evaluation with department head
- Department head may address selectmen at BoS meeting if any concerns
- Evaluation will be placed in personnel file



## Selina Shaw

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

Vince:

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

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

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

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

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

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

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

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

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

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

Joe

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

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

## Department Head Performance Appraisals

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



## Selina Shaw

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

Selina:

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

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

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

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

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

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

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

Joe

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

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

Good evening, Joe,

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

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

Look forward to your input.

Regards,  
Selina

**Selina Shaw**

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

Susan:

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

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

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

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

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

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

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

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

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

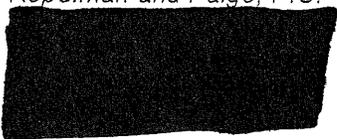
What is less clear, however, is whether evaluations which are not discussed at the meeting are considered public records under the revised Open Meeting Law. Interestingly, the Attorney General's Office states in the above that comprehensive evaluations are public records "if they are used during the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

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

Thank you.

Joe

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



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8 a



**MBTA Advisory Board**

177 Tremont Street, Boston, MA 02111  
Tel: (617) 426-6054 Fax: (617) 451-2054

October 7, 2015

Received  
10-7-2015

TO: Chief Elected Officials

FR: Paul Regan, Executive Director, MBTA Advisory Board  
Marc Draisen, Executive Director, Metropolitan Area Planning Council

**RE: Municipal Elections to the Boston Region Metropolitan Planning Organization**

We are pleased to forward the 2015 MPO Ballot, the candidates' statements of candidacy, and the election procedures for the elected municipal seats on the Boston Region Metropolitan Planning Organization (MPO).

This year there are four (4) municipal open seats on the MPO. The Town of Arlington is running unopposed for the At-Large Town seat. The City of Newton is running unopposed for the At-Large City Seat. The City of Woburn is running unopposed for the North Suburban Planning Council seat. The town of Norwood is running unopposed for the Three Rivers Interlocal Council seat.

**Key Dates and Locations:**

October 28, 2015                      Absentee Ballots Due  
5:00 PM delivered by mail or in person (No Fax or Email) to:  
BOSTON REGION MPO ELECTIONS  
Metropolitan Area Planning Council  
60 Temple Place, 6<sup>th</sup> Floor  
Boston, MA 02111

October 29, 2015                      MPO Municipal Election  
At MAPC Fall Council Meeting, 9:00AM  
University of Massachusetts-Boston Campus Center,  
100 Morrissey Boulevard, Boston, MA

### **Voting Rules:**

One vote may be cast by each of the Chief Elected Officials of the 101 municipalities in the Boston region, for each open seat (there are 4 open seats). Ballots may be cast by one of the following ways:

1. By the CEO, in-person, on October 29, 2015 at MAPC Fall Council Meeting.
2. By Absentee Ballot, delivered by mail or in-person to MAPC by 5:00 PM the day before the election, October 28, 2015.
3. By a designee, in-person, on October 29, 2015 at MAPC Fall Council Meeting.

Each Chief Elected Official or their designee, regardless of which sub-region they are in, or whether they represent a city or a town, may cast one vote for each of the two open MPO seats (for a total of 4 votes cast).

### **Appointing Designees:**

Designees shall present a signed letter or signed MPO Ballot by the CEO of the municipality they are representing, to MAPC staff prior to the election or by 9:00 AM on the day of the election. Designees may represent only one municipality in the election.

### **Certification of Results:**

The results of the election shall be certified by the Chairman of the MPO by 12 noon on Friday October 30, 2015.

### **First MPO Meeting:**

The Boston Region MPO regularly meets at 10:00 AM on the first and third Thursdays of every month. Candidates that are elected to the MPO are asked to plan to attend their first MPO meeting on November 5, 2015 at 10:00 AM. The meeting is estimated to last two hours but may last longer. It will be held in conference rooms 2 and 3 in the State Transportation Building, 10 Park Plaza, Boston.

We appreciate the interest shown by the candidates in choosing to serve in these seats on the MPO and for your interest in this important matter. We look forward to your participation. Please contact Eric Bourassa at MAPC (617-933-0740) or Paul Regan, Executive Director of the MBTA Advisory Board (617-426-6054), if you have any questions concerning this election.

# 2015 MPO Absentee Ballot

The MPO Election will be held on Thursday, October 29, 2015  
At MAPC Fall Council Meeting, 9:00 AM  
University of Massachusetts-Boston Campus Center, 100 Morrissey Boulevard, Boston, MA

**Absentee ballots must be delivered by October 28, 2015  
via mail or in person (No Fax or Email) by 5 PM to:  
BOSTON REGION MPO ELECTIONS  
Metropolitan Area Planning Council  
60 Temple Place, 6<sup>th</sup> Floor  
Boston, MA 02111**

Each Chief Elected Official, regardless of which sub-region they are in, or whether they represent a city or a town, may cast one vote for each of the four open MPO seats.

## Chief Elected Official may:

### Vote for only one from the North Suburban Planning Council

Woburn                      Scott Galvin, Mayor

### Vote for only one from the Three Rivers Interlocal Council

Norwood                      Paul A. Bishop, Chair Board of Selectmen

### Vote for only one At-Large City

Newton                      Setti Warren, Mayor

### Vote for only one At-Large Town

Arlington                      Kevin F. Greeley, Chair Board of Selectmen

Municipality \_\_\_\_\_ Chief Elected Official \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or type name)

(see back for more information)

**Fill this box out only if you (Mayor or Chair Board of Selectman) are appointing someone to vote in your place in person on October 29<sup>th</sup> at the MAPC Fall Council Meeting.**

**Designation of alternate (by Mayor or Chair Board of Selectman):**

**I hereby authorize \_\_\_\_\_ to cast the ballot for \_\_\_\_\_**  
**(name) (municipality)**

\_\_\_\_\_  
**Chief Elected Official (signature)**

\_\_\_\_\_  
**Date**



**Internal Communications and Outgoing Communications**  
**October 19, 2015**

1. Letter from MassDOT, General Manager, Frank DePaolat, dated September 29, 2015, to Chairman Amoroso, regarding the [road] salting at Commuter Rail "Highway/Railway" Crossings [Depot & Sargent Roads].
2. Application Review Request from the Boxborough Planning Department ("Notice Only" for Board of Selectmen) for a Scenic Road Permit & Stone Wall Removal or Alternation filed by John & Maria Neyland for the property located at 201 Picnic Street. [*Packet is available for review in Town Planner's office.*]#
3. Letter from MMA, Exec. Dir & CEO, Geoffrey Beckwith, dated October 7, 2015, inviting "Municipal Leader[s] to register for the Annual MMA Conference to be held January 2016 [accompanied by event brochure]. #

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**Minutes, Notices and Updates**  
**October 19, 2015**

**Minutes**

1. Conservation Commission minutes from the meetings held September 2, 2015 & September 16, 2015.
2. Finance Committee minutes from the meetings held July 27, 2015; August 20, 2015 and September 21, 2015.
3. Personnel Board minutes from the meeting held September 23, 2015.
4. Public Safety Communication Committee minutes from the meetings held July 15, 2015; July 24, 2015; September 3, 2015; September 9, 2015; September 23, 2015 and October 5, 2015.
5. Vocational Education Advisory Committee minutes from the meeting held September 16, 2015

**Notices**

1. Notice of a Public Safety Space Needs Advisory Group meeting to be held October 6, 2015
2. Notices of A-B School Regional School Committee meetings:
  - a. Policy Regionalization Financial Oversight Subcommittee meeting held October 6, 2015
  - b. Budget Subcommittee meeting held October 14, 2015
  - c. Outreach Subcommittee meeting held October 14, 2015
  - d. Regular School Committee meeting held October 15, 2015
3. Notice of an AgCom meeting held October 13, 2015
4. Notice of a Recreation Commission meeting held October 13, 2015
5. Notice of an Energy Committee meeting held October 14, 2015
6. Notice of a Historical Commission meeting held October 14, 2015
7. Notices of Finance Committee meetings:
  - a. Held October 19, 2015
  - b. To be held November 2, 2015

8. Notices of Vocational Education Advisory Committee meetings:
  - a. Held October 19, 2015 [Minuteman site visit]
  - b. To be held October 20, 2015
9. Notice of a Personnel Board meeting held October 19, 2015 [BoS meeting attendance – Quorum notice]
10. Notice of a Well-Being Committee meeting to be held October 20, 2015
11. Notice of the issuance of an Order of Conditions, [DEP File No.113-524] to Glen Kaufmann of Meridian Homes, Inc. for the property owner by Dolly Bjorkland and located at 205 Flagg Hill Road, Assessor's Map 20, Parcel 66.
12. Legal Notices from:
  - a. Assessor's Office notifying Taxpayers of the Disclosure of FY 2016 Proposed Real Estate Values.
  - b. Board of Selectmen for a Public Hearing to be held on October 19, 2015, to consider the Removal of a Street Light from Pole #2-2X, located in the vicinity of 575 Middle Road behind the Boxborough Historical Museum.
  - c. Conservation Commission for a Public Hearing to be held October 21, 2015 to consider a Notice of Intent to work on the restoration of disturbed wetland and BVW area at the property owned by Lewis Bushie and Yuan Xi located at 173 Liberty Square Road.