



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**October 15, 2012**

**Approved: November 5, 2012**

**PRESENT:** Les Fox, Chair; Frank Powers, Clerk; Raid Suleiman, Member; Vincent Amoroso, Member; and Robert Stemple, Member - *arrived late at ≈ 8:25PM*

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

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

Chair Fox called the meeting to order at 7:34 P.M. in the Grange Meeting Room of Town Hall.

**ANNOUNCEMENTS**

- Chair Fox read the announcements, further noting that - recorded A-B Regional School Committee meetings are now being broadcast on Boxborough's Government Channel; and that the preliminary information on potential warrant articles for the January 7<sup>th</sup> Special Town Meeting is due into TA Shaw by October 18<sup>th</sup>. He also announced the passing of former Selectman, Richard "Dickie" Golden and information on the memorial gathering on October 26, 2012. Member Suleiman introduced two Boxborough residents, Seniors at A-B High School, who are attending tonight's meeting as part of their political studies curriculum.

**APPOINTMENTS**

- Citizens' concerns – Rita Grossman asked about the proposed renovations to the Grange Meeting Room. TA Shaw provided an update explaining some of the components involved in these renovations and the sequence in which some items would need to be addressed.

**MINUTES**

- Member Powers moved to accept the minutes for the Regular Session of August 27, 2012, the Special session - joint meeting of BoS and BSC, September 20, 2012, & the Regular Session of September 24, 2012, as revised, and Executive Session of September 10, 2012, & Executive Session - Contract Negotiating Team, Police of September 12, 2012, as written. Seconded by Chair Fox. **Approved 4-0.**
- The Selectmen passed over approval of the Executive session of September 24, 2012.

*It was moved and seconded to take Agenda Item 6b, out of order.*

**OLD BUSINESS**

- Discussion was re-opened on the proposed Steele Farm preservation restriction. BHC Chair, Alan Rohwer; SFAC member, Bruce Hager and BCT President, Rita Grossman were present for this discussion. There was a review of the concerns previously raised and how they were now addressed in the latest revision. Those present agreed with the current language; and that no further changes were required. Those items revised/updated: the number of parking spaces [Section B 16] is now defined and illustrated in Exhibit E; the TOR has agreed that 75% of future fair market would be the identified damages due at extinguishment [Section D 1]; It was clarified that # 3 and # 5 under this same section concerning "Taking" must remain as the terms therein are distinct to each of the identified entities - Boxborough and an outside entity "authorized under law." It was determined that this "final draft" working copy, will be submitted to the state and signed once the state approves the final language. There was discussion regarding the timeframe for this process. Chair Fox moved to accept changes in "final draft" dated 10/15/12 and to forward it along with the supporting documentation and a cover letter to appropriate state agencies for review. Seconded by Member Powers. **Approved 4-0.**

## SELECTMEN REPORTS

- Member Amoroso reported on the Regionalization Study Committee. They seem to have reached a consensus on the three outstanding issues and will be offering the following recommendations:
  - ◊ Boxborough's 5% discount for capital funding – the resolution was that this proviso would remain unchanged for those capital expenses concerning Grades 7-12; but the discount would not be applied to items concerning Grades K-6.
  - ◊ The sharing of the resulting cost savings, if the regionalization goes through – the resolution was that for the initial five years of this new district the distribution of these savings would be that Boxborough gets 35% and Acton 65%.
  - ◊ As to the potential make up of the board – the recommendation of the RSC is that the Board would consist of 3 Boxborough members and 5 Acton members with Acton votes being weighted.

Now that a consensus has been reached on these items the RSC will be forwarding its recommendation/report to the A/B Regional School Committee seeking input; then to the respective Boards of Selectmen and FinComs. The intention is then to seek input from the respective sundry town boards. Once this input has been reviewed a draft of a regionalization agreement can be prepared. The RSC intends to have draft agreement ready to present to the Towns next spring. Amoroso further noted that the Boxborough School Committee member, Mary Brodin and FinCom member, Jim Ham, are also working on the possible alternatives management plans to present along with the RSC findings at a Special Town Meeting. There was discussion on “working dates” for convening special town meetings in Boxborough and Acton. The Selectmen determined that April 29, 2013 would be the optimal date for this Special Town Meeting and that Tuesday, April 30<sup>th</sup> will be held as a possible carryover date if needed. There was also discussion on the effect of the latest state aid projections on Boxborough, Acton and the Region; along with the way that the state's calculates these numbers. There is an effort being made to get the state to re-visit this calculation, as the projected amount would seem to be a disincentive to regionalizing.

- Member Suleiman reported that the Energy Committee discussed the Town's possible adoption of a “Stretch Code.” It was determined that this would be a long term project so they will not be undertaking this at present. They also discussed the adoption of energy use reduction goals for the Town. EnCom is looking to review the DPW's usage data for the new recycling compactor. Discussion continues on seeking eligibility for Green Communities programs. EnCom is reaching out to the few communities that are serviced by municipal power companies but have been allowed to participate.

He also reported that the Personnel Board continues to examine changing to a performance/merit based compensation system. They have voted to recommend changing the Tax Collector position from elected to appointed. They also considered a similar change to the Town Clerk's position; however they determined that they would only be acting on the Tax Collector position at this time. They intend to have an article seeking this change to the Tax Collector position on the Special Town Meeting warrant.

- Chair Fox reported on the VoIP project. He, Matt Frost, TA Shaw & Jay Bhatia have had several meetings with the proposed vendor(s) to review specifications, public safety communications needs and user cost projections. They will be coming back to the Town with a “Statement of Numbers”. The Town is looking at a two month timeframe, once terms are finalized.

Member Stemple joined the Board at ≈ 8:25 PM

- Member Powers reported on CoA activities. There will be a reception for the annual senior art show at the Library on November 15<sup>th</sup>. The Community Center lease payments will be a line item in the CoA's FY 14 budget. There has been discussion about our relationship with Minuteman Senior Services; the services this agency provides and their annual “assessment” to the Town. It has been determined that this is not an assessment; but is in fact, a donation. He further noted that Minuteman has advised that they are doubling our “assessment” for FY 14. TA Shaw expanded on this noting that Minuteman actually submitted a statement in FY 13 for this doubled amount but she advised them this was not the amount budgeted for FY 13 and that Boxborough could only pay the amount that had been funded. Discussion continues on this and the CoA Coordinator is conducting research and reaching out to other member communities regarding Minuteman. The Town's relationships with other service agencies were also discussed.
- Member Stemple reported that he had participated in discussions with FinCom to address the concerns raised about the budget submission management processes for the FY 14 budget season. He will expand on this during discussion of this item later in the meeting.

He also reported on the recent Boxborough School Committee meeting. Creating presentations for alternatives to the considered regionalization of schools [K-6] were among the items discussed. Member Amoroso also attended this meeting.

## OLD BUSINESS (Continued)

- Member Powers summarized recent efforts to recruit a permanent Building Inspector/Code Administration Officer. The resulting pool of candidates were not favorable to our needs. The Search Committee is recommending that there be further discussion on this and possible adjustments to this recruitment process. He further noted that in the meantime, the appointment of the Interim Building Inspector needs to be extended. Mr. Renzoni has agreed to extend his appointment until December 31<sup>st</sup>. Further to the recommendation of the Town Administrator, Member Powers moved to re-appoint Ray Renzoni as the Interim Building Inspector/Code Administration Officer for a term effective immediately until December 31, 2012, or until a successor is appointed, whichever is sooner. Seconded by Member Suleiman. **Approved 5-0.**
- Member Stemple opened discussion on the FY 14 budget process and timeline. There were issues/concerns that were raised during the FY 13 budget change management process. As a result he, TA Shaw and members of FinCom recently met to discuss these issues/concerns which resulted in several changes that should address resolve these issues. There will now be chronological tracking of all changes to a budget. Justification and back up information will need to be provided for any change. Email communications on updates to a budget will be communicated in tandem. The current practices that shall remain are that changes will be submitted no later than Thursday so that the Town Accountant can incorporate them in, for issuance of the latest revision on Friday. It was re-affirmed that the Town Accountant will be transmitting just one revision per week (Fridays). It was noted that these revisions will be dated. It will still be the liaison's responsibility to facilitate communication on budget matters between their board and their liaised department/boards.
- There was a review of proposed timeline; budget past practices and recommendations for FY 14. It was determined that the "BOGEY" (working percentage) for non-union employees in schedule B for FY 14 would be an increase of 2%. It was noted that Personnel Board has not made their recommendation yet. The revised timeline was reviewed. Some items/dates needed to be shifted due to the Special Town Meeting being held in January. Final warrant is set for April 1<sup>st</sup> and final budgets are due in February.
- The Board reviewed timeline for Special Town Meeting to be held on January 7, 2013, and there was discussion as to the three collective bargain agreement funding articles and other potential articles.

## NEW BUSINESS

- Member Stemple moved to notify and warn the inhabitants of the town of Boxborough who are qualified to vote in the State Election to vote at Ward 0/precinct 1, Boxborough Town Hall, 29 Middle Road, Boxborough, MA on Tuesday, the sixth day of November 6, 2012 from 7:00 AM to 8:00 PM to cast their votes in the State Election for the candidates for the following offices and questions:

### OFFICES

Electors Of President And Vice President - For This Commonwealth

Senator In Congress - For This Commonwealth

Representative In Congress - Third District

Councillor - Third District

Senator In General Court - Middlesex & Worcester District

Representative In General Court - 37th Middlesex District

Clerk Of Courts - Middlesex County

Register Of Deeds - Middlesex Southern District

Sheriff (Middlesex County Only) - Middlesex County

### QUESTIONS

#### #1: LAW PROPOSED BY INITIATIVE PETITION

This proposed law would prohibit any motor vehicle manufacturer, starting with model year 2015, from selling or leasing, either directly or through a dealer, a new motor vehicle without allowing the owner to have access to the same diagnostic and repair information made available to the manufacturer's dealers and in-state authorized repair facilities.

#### # 2: LAW PROPOSED BY INITIATIVE PETITION

This proposed law would allow a physician licensed in Massachusetts to prescribe medication, at a terminally ill patient's request, to end that patient's life... Certain qualifications must be met...

### #3: LAW PROPOSED BY INITIATIVE PETITION

This proposed law would eliminate state criminal and civil penalties for the medical use of marijuana by qualifying patients.

### #4: THIS QUESTION IS NOT BINDING

Shall the state senator from this district be instructed to vote in favor of a resolution calling upon Congress to propose an amendment to the U.S. constitution affirming that (1) corporations are not entitled to the constitutional rights of human beings, and (2) both Congress and the states may place limits on political contributions and political spending?

Seconded by Member Suleiman. **Approved 5-0.**

- Chair Fox opened the discussion on the adoption of MART's Drug and Alcohol Program Policy for Council on Aging van operators, by providing a summary of materials provided in agenda packet. The past practice has been to simply passively affirm that we agree with their policy, we must now formally adopt and formally agree to abide by their policy. Member Powers moved to adopt MART's Drug and Alcohol Program Policy for CoA van operators and to submit adoption in writing to MART, confirming that the Town:
  - 1) will abide by the regulations stated in 49 CFR Part 40, as amended and 49 CFR Part 655, as amended;
  - 2) is a willing member of the Consortium and will follow the directive of the Drug and Alcohol Program Manager; and
  - 3) shall designate the Council on Aging Coordinator to be the Designated Employee Representative (DER)Seconded by Member Amoroso. **Approved 5-0.** It was noted that there seems to have been a disconnect as to whom should have been receiving these communications. TA Shaw advised that this has been resolved and, in the future, MART will distribute similar communications to all of those parties that need to be notified. There was further discussion as to van service operational plans & procedures if enforcement is necessary. TA Shaw will advise MART as to tonight's vote.
- The family of former Selectman Richard Golden intends to hold a remembrance at the Library, subject to the Library Trustees approval, on Friday, October 26<sup>th</sup>. The family is also seeking permission to serve complementary beer and wine at this event. Chair Fox moved to authorize the family of Richard Golden to serve beer and wine at a memorial service for Richard Golden, being held from 4 – 6 PM at the Sargent Memorial Library on October 26, 2012, subject to the conditions specified on the application, and further, to waive the fee. This authorization shall be subject to the approval of the Boxborough Board of Library Trustees. Seconded by Member Powers. **Approved 5-0.**

### CORRESPONDENCE

- There was discussion on the public records request received from the Minuteman Village developer; the status of the Town's response and the production of the applicable documents.

### CONCERNS OF THE BOARD

- Scheduling issues have arisen with the October 27<sup>th</sup> date for the Goals Workshop. It was determined that it would be re-scheduled to November 3<sup>rd</sup>.

### EXECUTIVE SESSION

- At 9:27 PM, Chair Fox stated that to conduct such session in an open meeting may have a detrimental effect on the bargaining position of the Board, then Member Powers moved to adjourn to executive session to consider the purchase, exchange, lease or value of real estate and to adjourn immediately thereafter. Seconded by Member Suleiman. **Approved 5-0 by Roll Call Vote: Fox "aye," Stemple "aye," Suleiman "aye," Amoroso "aye," and Powers "aye."**

## SELECTMEN'S ANNOUNCEMENTS

OCTOBER 15, 2012

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

- A remembrance will be held on October 26<sup>th</sup>, from 4-6 PM at the Sargent Memorial Library in honor of **Richard Golden**, who passed away on October 5<sup>th</sup>. In addition to serving on this Board, Dick served the town in many other capacities including, Constable, Election Warden and as a member of the Finance Committee and the Personnel Board.
  
- We would like to thank everyone who joined us for our 5<sup>th</sup> Annual **Appreciation Event** here at Town Hall on September 29<sup>th</sup>. We had a great time and hope you did too. We would especially like to thank the Tom Garmon and the DPW for helping with the set up, Cheryl Mahoney for coordinating invitations and responses and Carlson's Orchard, Holiday Inn Boxborough and Roche Brothers for their generous donations. We hope to see you all at the next one.

- A sample ballot for the **November 6<sup>th</sup> Federal & State Election** is posted at the Town Clerk's Office and there is an electronic copy on the Town's website which can be accessed through a link Town Clerk's page.
  
- **This Wednesday, October 17<sup>th</sup>** is the last day for residents **to register to vote** in order to be eligible to vote in this Election. The Town Clerk's office will be open on Wednesday from 9am-8pm to assist you in registering.
  
- **Absentee ballots** are now available in the Town Clerk's office for those who are not able to get to the polls on November 6<sup>th</sup>. You may vote in person at Town Hall or a ballot can be mailed to you. The application deadline for an absentee ballot is Monday, November 5<sup>th</sup> at noon. Applications are available at the Town Clerk's office or can be downloaded from the Town Clerk's webpage.
  
- The **2012 Deer Hunting** Archery Season opened today, October 15<sup>th</sup> and will run through November 24<sup>th</sup>. This will be followed by Shot Gun and then Muzzle season. For everyone's safety and enjoyment please remember to exercise some trail safety commonsense during Hunting Season. A listing of suggested Trail Safety Rules may be found on the Town's website.

- Town Boards and Departments are reminded to send the scope and intent of potential articles that they would like the Selectmen to consider for placement on the **January 7, 2013 Special Town Meeting** warrant to Town Administrator, Selina Shaw, by Thursday, October 18<sup>th</sup>.
  
- To help reduce back-ups on Mass Ave and improve safety for student drop-off and pick-up and a new “flow-through” **school traffic pattern** was implemented at the Blanchard Memorial School last week. For more information please go the School’s website: <http://www.boxboroughschool.org>
  
- Pre-recorded **Acton-Boxborough Regional School Committee meetings** are now broadcast every day at 5:00 PM on both Comcast’s Channel 9 and Verizon's Channel 39. Residents can also tune-in and view the public meetings playback schedule, to find out when these and other meetings are scheduled for broadcast.
  
- The **Friends of the Council on Aging will hold a luncheon** Wednesday, October 31<sup>st</sup> at 12:00 noon in the Boxborough Community Center, 30 Middle Road across from Town Hall. This month Attorney Cathleen Summers of Summers, Summers & Associates will be there to provide information to assist us in understanding the basics of estate planning, elder law; dealing with issues concerning your health

and financial decision making and to answer your related questions. All seniors are welcome and admission is free, but as we are anticipating another large crowd so please call the COA office to make a reservation.

- On Saturday, November 3<sup>rd</sup> the **Friends of the Boxborough Library** will hold their Fall **book sale at the Sargent Memorial Library from 9:00 a.m. to 2:00 p.m.** A preview Sale for members will take place Friday, November 2<sup>nd</sup> from 7:00 p.m. to 9:00 p.m. (Memberships will be available at the door). Donations of your gently used hardcovers, paperbacks, textbooks, technical manuals and audiovisual items are requested for this sale, but no magazines, please. Items will be accepted at the Library the week of October 29<sup>th</sup> during regular operating hours.
  
- The Nashoba Boards of Health will be conducting a **Seasonal Flu Clinic** in Boxborough on Monday, October 22<sup>nd</sup>, from 3:00 to 6:00 PM at the Blanchard School. This clinic is free and open to Boxborough residents. Additional information is available on the Town's website.

- Even though fall is upon us, residents should be mindful that your outdoor activity may, still, expose you to a number of **insects which can transmit disease**. Prevention is your best defense. Residents should use commonsense to protect themselves and their pets from exposure. Links to information on how to protect yourself can be found under “NEWS” on the Town’s homepage or on the Board of Health’s webpage.
  
- **This year’s Hazardous Waste Day** will take place on Saturday, October 27<sup>th</sup> from 9:00 AM to 1:00 PM, at the Highway Barn, 577 Mass Ave. not the Transfer Station. An informational flyer has been posted at the Town Hall, Transfer Station, on the Town’s website and various locations around Town.

- The Boxborough Police Department and the Governor's Auto Theft Strike are sponsoring a **“VIN Etching Day.”** on **October 27<sup>th</sup>** from 9:00 a.m. to 2:00 p.m. at the Boxborough Fire Station at 502 Massachusetts Avenue. This process entails marking on all windows, with the car's own unique Vehicle Identification Number (VIN), making your vehicle less wanted by car thieves. A certificate will be issued which can be submitted to your insurer to receive a discount on their comprehensive auto insurance. There is a \$10.00 (**CASH ONLY**) fee for this etching service. No appointment is necessary, and vehicles will be done on a first-come, first-served basis. Go to the Boxborough Police Department website for more information.
  
- The **Well-Being Committee** is conducting an on-line survey of Boxborough residents regarding their family's health and well-being. The input received will be used to help develop programs to address wellness issues. Go to the Link on the Town's website under **“NEWS”** to provide your opinion with this on-line survey.

- The Towns of Acton and Boxborough are considering expanding the **Regional School District** to include grades Pre-K through 12. Residents are invited to provide their input to the Regionalization Study Committee. An informational flyer was included in your recent real estate tax bills with the Committee's internet contact information.
  
- The **Stow Road Concept Development Committee** continues its effort to reach out to residents to hear what you would like to see built at 72 Stow Road. You learn more by going to the Link on the Town's website under "NEWS" for background on the project and to provide your opinion by completing a brief on-line "Suggestion Box" survey.
  
- Town Departments welcome your questions and feedback on services. Please contact them through the email hyperlink appearing on each department's web page, give them a call or stop in to chat. If you are unable to stop in during normal office hours, don't hesitate to call and make an appointment for a mutually convenient time outside of normal hours.

- The Selectmen want to hear from you and invite residents to contact them regarding issues of concern. The Board can be contacted via e-mail from the link on the Selectmen's webpage.
  
- The Board of Selectmen continues to look for volunteers willing to serve on the various Town boards and committees, many of which have openings: Airport Study Committee (1), ZBA (1 alternate member), Housing Board (1), BITcom (2), ConsComm (1), Design Review Board (1 at-large member), Energy Committee (1), Personnel Board (1), Recreation Commission (4) and the Steele Farm Advisory Committee. Also, the Town Moderator is seeking 3 volunteers to serve on the Finance Committee. Please consider participating on a town board. You will find it to be a worthwhile and rewarding experience. No matter what your knowledge or interest is, we can use your help in making Town government work.

- Contact information is available on the town website: <http://www.town.boxborough.ma.us> or you may call Town Hall at 978-263-1116 if you have any questions.
- The Selectmen can be contacted directly at [selectmen@town.boxborough.ma.us](mailto:selectmen@town.boxborough.ma.us).
- If you wish to find out more about **volunteer opportunities** on Town boards or committees contact Town Administrator Selina Shaw [Selina.shaw@town.boxborough.ma.us](mailto:Selina.shaw@town.boxborough.ma.us)
- For more information on the November 6<sup>th</sup> Election, voter registration or absentee ballots go to the Town Clerk's webpage or you may call Town Clerk, Liz Markiewicz at 978-263-1116 extension 117.
- For more information on the new "flow-through" **school traffic pattern** at the Blanchard Memorial School. Please go their website <http://www.boxboroughschool.org>.
- Please call Marcia McNeil in the COA office (978-263-1116 extension 118) to make reservations for the **FCoA Luncheon on October 31<sup>st</sup>**.
- For more information on the **Friends of the Boxborough Library** Fall **book sale** email the Friends at: [friendsofthelibrarybx@gmail.com](mailto:friendsofthelibrarybx@gmail.com).
- Additional information on insect borne disease can be found at the following websites [www.cdc.gov/ticks](http://www.cdc.gov/ticks) and [www.mass.gov/dph/wnv](http://www.mass.gov/dph/wnv) or by contacting us at the Boxborough Board of Health office 978 263 1116 x115 or on the Town's website.
- Go to the Boxborough Police Department website [www.boxboroughpolice.com](http://www.boxboroughpolice.com) for more information on the **October 27<sup>th</sup> "VIN Etching Day."**
- Information on the **Regionalization Study Committee** can be found on the web at: [www.ab.mec.edu](http://www.ab.mec.edu) or email your comments to: [rsd\\_study\\_comm@mail.ab.mec.edu](mailto:rsd_study_comm@mail.ab.mec.edu).

3) shall designate the Council on Aging Coordinator to be the Designated Employee Representative  
(DER)

- c) Request to serve wine/beer – memorial observance

**VOTE:**

**VOTE:**

## **8. CORRESPONDENCE**

**ACCEPT & POF**

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

## **9. PRESS TIME**

## **10. CONCERNS OF THE BOARD**

## **11. EXECUTIVE SESSION**

- a) Real estate – 593 Massachusetts Avenue and 530 Massachusetts Avenue

*Move to adjourn to executive session to consider the purchase, exchange, lease or value of real estate  
and to adjourn immediately thereafter*

**ROLL CALL**

**VOTE:**

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

## **12. ADJOURN**



**BOARD OF SELECTMEN**  
**Meeting Agenda**  
**October 15, 2012**  
**Boxborough Town Hall**  
**Grange Meeting Room**

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

**2. ANNOUNCEMENTS**

**3. APPOINTMENTS**

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

- a) Citizens' concerns

**4. MINUTES**

- |  |              |
|--|--------------|
| a) Regular session, August 27, 2012  | ACCEPT & POF |
| b) Executive session, September 10, 2012                                     | ACCEPT & POF |
| c) Executive session (Contract Negotiating Team, Police), September 12, 2012 | ACCEPT & POF |
| d) Special session - joint meeting of BoS and BSC, September 20, 2012        | ACCEPT & POF |
| e) Regular session, September 24, 2012                                       | ACCEPT & POF |
| f) Executive session, September 24, 2012                                     | ACCEPT & POF |

**5. SELECTMEN REPORTS**

**6. OLD BUSINESS**

- a) Interim Building Inspector  
*Further to the recommendation of the Town Administrator, move to re-appoint Ray Renzoni as the Interim Building Inspector /Code Administration Officer for a term effective immediately until December 31, 2012, or until a successor is appointed, whichever is sooner* **VOTE:**
- b) Steele Farm preservation restriction  
*Move to accept changes in "final draft" dated 10/15/12 and to forward to appropriate state agencies for review* **VOTE:**
- c) Review FY 14 budget process and timeline
- d) Review timeline for STM to be held on January 7, 2013

**7. NEW BUSINESS**

- a) Warrant for State Election to be held on Tuesday, November 6  
*Move to notify and warn the inhabitants of the town of Boxborough who are qualified to vote in the State Election to vote at Ward 0/precinct 1, Boxborough Town Hall, 29 Middle Road, Boxborough, MA on Tuesday, the sixth day of November 6, 2012 from 7:00 AM to 8:00 PM to cast their votes in the State Election for the candidates for the following offices and questions [read names of candidates and each of the 4 questions on the attached]* **VOTE:**
- b) Adoption of MART's Drug and Alcohol Program Policy for CoA van operators  
*Move to adopt MART's Drug and Alcohol Program Policy for CoA van operators and to submit adoption in writing to MART, confirming that the Town:*
- 1) will abide by the regulations stated in 49 CFR Part 40, as amended and 49 CFR Part 655, as amended;
  - 2) is a willing member of the Consortium and will follow the directive of the Drug and Alcohol Program Manager; and

**STATE ELECTION  
NOVEMBER 6, 2012**

**OFFICES**

ELECTORS OF PRESIDENT AND VICE PRESIDENT - FOR THIS COMMONWEALTH  
SENATOR IN CONGRESS - FOR THIS COMMONWEALTH  
REPRESENTATIVE IN CONGRESS - THIRD DISTRICT  
COUNCILLOR - THIRD DISTRICT  
SENATOR IN GENERAL COURT - MIDDLESEX & WORCESTER DISTRICT  
REPRESENTATIVE IN GENERAL COURT - 37TH MIDDLESEX DISTRICT  
CLERK OF COURTS - MIDDLESEX COUNTY  
REGISTER OF DEEDS - MIDDLESEX SOUTHERN DISTRICT  
SHERIFF (MIDDLESEX COUNTY ONLY) - MIDDLESEX COUNTY

**QUESTIONS**

**#1: LAW PROPOSED BY INITIATIVE PETITION**

This proposed law would prohibit any motor vehicle manufacturer, starting with model year 2015, from selling or leasing, either directly or through a dealer, a new motor vehicle without allowing the owner to have access to the same diagnostic and repair information made available to the manufacturer's dealers and in-state authorized repair facilities.

**# 2: LAW PROPOSED BY INITIATIVE PETITION**

This proposed law would allow a physician licensed in Massachusetts to prescribe medication, at a terminally ill patient's request, to end that patient's life... Certain qualifications must be met...

**#3: LAW PROPOSED BY INITIATIVE PETITION**

This proposed law would eliminate state criminal and civil penalties for the medical use of marijuana by qualifying patients.

**#4: THIS QUESTION IS NOT BINDING**

Shall the state senator from this district be instructed to vote in favor of a resolution calling upon Congress to propose an amendment to the U.S. constitution affirming that (1) corporations are not entitled to the constitutional rights of human beings, and (2) both Congress and the states may place limits on political contributions and political spending?



4a



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

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

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

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

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

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

**ANNOUNCEMENTS**

Chair Fox read the announcements.

**APPOINTMENTS**

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

**MINUTES**

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

**SELECTMEN REPORTS**

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

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

#### OLD BUSINESS

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

## **NEW BUSINESS**

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

## **CORRESPONDENCE**

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

## **CONCERNS OF THE BOARD**

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

## **EXECUTIVE SESSION**

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





**BOARD OF SELECTMEN  
BOXBOROUGH SCHOOL COMMITTEE  
Meeting Minutes  
September 20, 2012**

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

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

Boxborough School Committee -- Maria Neyland, Chair; Brigid Bieber, Vice Chair; and Tina Stevens

**ALSO PRESENT:** Boxborough School District Superintendent, Dr. Curtis Bates; Cheryl Mahoney, Department Assistant and Candidates: Mary Brolin, Kurt Hayes, Gary Kushner & Abigail Reip.

**ABSENT:** Selina Shaw, Town Administrator

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

Boxborough School Committee Chair, Maria Neyland, called the meeting to order at 8:23 P.M. in the Grange Meeting Room of Town Hall.

Chair Neyland thanked the candidates for their willingness to participate in this format. She provided background as to what led to tonight's meeting and the process/procedures for these discussions. She specified that the new member would be determined by majority vote by both the School Committee and the Board of Selectmen. She gave the overview of the current vacancy and described the open term(s) as to this vacant position. She noted that though a current sitting member of the School Committee, Mary Brolin has been segregated from any School Committee or Selectmen communications in anticipation of these discussions.

**INTERVIEW OF CANDIDATES TO FILL SCHOOL COMMITTEE VACANCY**

Chair Neyland opened the interview process by asking the candidates to introduce themselves and to provide an opening statement.

Prior to her opening statement, Mary Brolin announced that she was recusing herself from the School Committee for the purposes of these discussions, and then provided her opening statement. The other candidates then provided their respective opening statements.

There was one question asked by each of the Board of Selectmen and School Committee, which was then responded to by each of the candidates. The panel of candidates rotated the order in which they responded to each question.

After the final question was answered by the panel, BSC Chair Neyland opened the floor for discussion and deliberation. There was another review of the process/procedures and the May 2013 election process. It was noted that these were four very high caliber candidates. Their knowledge and passion are an asset to our community.

**APPOINTMENT TO AB REGIONAL SCHOOL COMMITTEE (BY ROLL CALL VOTE OF THE SELECTMEN AND SCHOOL COMMITTEE.**

The following was the result by Roll Call vote:

<u>Selectmen</u>	<u>Vote</u>	<u>School Committee</u>	<u>Vote</u>
Les Fox:	Brolin	Maria Neyland:	Brolin
Frank Powers:	Brolin	Brigid Bieber:	Brolin
Bob Stemple:	Hayes	Tina Stevens:	Brolin
Raid Suleiman:	Brolin		
Vince Amoroso:	Brolin		

Final Vote: Seven (7) votes for Brolin and one (1) vote for Hayes.

Mary Brolin accepted the appointment and then announced that she resigned from her current seat on the Local School Committee, effective immediately, and that she would be submitting her written resignation to the Town Clerk.

**APPOINTMENT TO LOCAL SCHOOL COMMITTEE (BY ROLL CALL VOTE OF THE ELECTMEN AND SCHOOL COMMITTEE.**

With the preceding vote and Brolin's resignation there was now a vacancy on the Local School Committee. A roll call vote was taken to fill this position.

<u>Selectmen</u>	<u>Vote</u>	<u>School Committee</u>	<u>Vote</u>
Les Fox:	Kushner	Maria Neyland:	Kushner
Frank Powers:	Hayes	Brigid Bieber:	Kushner
Bob Stemple:	Kushner	Tina Stevens:	Hayes
Raid Suleiman:	Kushner		
Vince Amoroso:	Hayes		

Final Vote: Five (5) votes for Kushner and three (3) vote for Hayes.

All of the candidates were again thanked for their participation and encouraged to consider running for the School Committee in May 2013.

**ADJOURN**

At 9:47 PM:

School Committee Member Bieber moved to adjourn. Seconded by School Committee Member Stevens. **Approved 3-0.**  
Selectman Powers moved to adjourn. Seconded by Selectman Stemple. **Approved 5.0.**



**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**September 24, 2012**

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

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

**ABSENT:** Raid Suleiman

**ALSO PRESENT:** Selina Shaw, Town Administrator; Finance Committee: Chair, Karim Raad & members Neal Hesler; Dilip Subramanyam, Jim Ham, Susan Bak, and Jeff Scott

Chair Fox called the meeting to order at 7:03 PM in the Town Administrator's office. Chair Fox stated that to conduct such sessions in an open meeting may have a detrimental effect on the bargaining position of the Board.

**EXECUTIVE SESSION**

Member Powers moved to adjourn to executive session to discuss strategy with respect to collective bargaining (Massachusetts Coalition of Police, Local 200, Police and Boxborough Professional Firefighters, Local 4601) and to reconvene in open session in the Grange Meeting Room at approximately 7:45 PM to continue with the regular business on the agenda. Seconded by Member Amoroso. **Approved 4-0 by Roll Call Vote: Fox "aye," Powers "aye," Amoroso "aye" and Stemple "aye."**

Chair Fox reconvened the meeting, in Open Session at 8:20 P.M. in the Grange Meeting Room of Town Hall.

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

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

**ANNOUNCEMENTS**

Chair Fox read the announcements.

**APPOINTMENTS**

- The Selectmen took up the ratification and execution of two agreements. Summarizations of the terms of each of these agreements were provided.
  - ◊ Shawn Gray and Eoin Bohnert were present representing Boxborough Professional Firefighters, Local 4601. Member Powers moved to ratify & execute the Agreement between the Town of Boxborough and Boxborough Professional Firefighters, Local 4601 for the period July 1, 2012 through June 30, 2015, subject to the approval by Town Meeting of the appropriation necessary to fund the cost items of the first year of the Agreement. Seconded by Member Amoroso. **Approved 4-0.**
  - ◊ Member Powers moved to ratify & execute the Agreement between the Town of Boxborough and Massachusetts Coalition of Police, Local 200, Police for the period July 1, 2012 through June 30, 2015, subject to the approval by Town Meeting of the appropriation necessary to fund the cost items of the first year of the Agreement. Seconded by Member Stemple. **Approved 4-0.**

Background was provided on these negotiations and there was discussion as to the Special Town Meeting process necessary to obtain approval of these appropriations.

- Members of the Finance Committee were present to discuss the FY 14 budget process, and the draft FY 14 budget timeline/task outline was reviewed. There are not real changes to the time frame structure for FY 14. It is based on previous years' and is designed to incorporate Selectmen meetings. FinCom Chair Raad advised that FinCom would like to see some revisions to the existing budget "change submission process." FinCom is recommending that any changes after January 15<sup>th</sup> go directly to FinCom and then they would forward to the Accountant. There was discussion as to the breakdown in the communication concerning budget change submissions during the FY 13 budget process. There was a consensus that there was a loss of some control of the management process last year and that there needs to be a better job done in tracking changes and the providing rationales for changed items. There was a review of how the current process is supposed to work. It is the responsibility of the

department head to provide back-up materials and detailed descriptions of changes throughout the budget process. These changes should be communicated to the FinCom and Selectmen through their respective liaisons and the Accountant so that this information is provided in parallel. It was determined that Member Stemple will work with FinCom to review the process and prepare recommended changes to the process, if needed.

*The Board took agenda item #8a, out of order.*

#### **NEW BUSINESS**

- The Board took up discussion on the potential timeline for a Special Town Meeting. The Finance Committee remained for this discussion. A proposed timeline, with a meeting date of December 10, 2012, was reviewed. The consensus of both the FinCom and the Selectmen was that January 7, 2013, was preferable for this Special Town Meeting; and that the timeframe would be adjusted to reflect this new date. TA Shaw advised that this alternative date has been vetted by the School and there are no conflicts. Member Amoroso moved to call a special town meeting, on Monday, January 7, 2013, to be held at the Blanchard Memorial. Seconded by Member Stemple. **Approved 4-0.**

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

- Judi Resnick was present regarding the use of Steele Farm on Sunday, October 14<sup>th</sup> for a Vizsla Fun Day. Resnick explained that her organization, the Vizsla Club of Western New England holds an annual social gathering for member families and their dogs. She provided information on the Vizsla breed of dog, the VCWNE organization and the planning for this event. This is the first time they have held this event at Steele Farm. SFAC Chair, Ed Whitcomb, confirmed that the SFAC has given their approval. At this time the actual times have not been determined but Resnick anticipates an 11:00 AM – 3:00 PM timeframe. The dogs that will be attending will be under the owners' control – voice command “recall trained” or will be on-leash. Owners are aware that they are to clean up after their pets. The Board suggested that information on this event be published in the Beacon and posted at Steele Farm so that other users of the property can be made aware of this event and plan accordingly. Chair Fox moved to approve the use of the Steele Farm property on October 14, 2012, for a Vizsla Fun Day. Seconded by Member Powers. **Approved 4-0.**

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

#### **OLD BUSINESS**

- BHC Chair, Alan Rohwer; SFAC Chair, Ed Whitcomb and Members, Bruce Hager & Judi Resnick; John Fallon, BHS; Rita Gibes-Grossman; and Norm Hanover, ConsCom were present to discuss the recent proposed revisions to the Steele Farm preservation restriction and to review Town Counsel additional input on the same. Some of the specific items discussed public water system access; the number of parking spaces and extinguishment. It was determined that, for now, the number parking spaces would be identified by [TBD] and TTOR will be consulted on a working number. The further revisions to *Section D – Extinguishment* were reviewed. It was determined that the benchmark for the monetary value would be seventy-five percent (75%) of the “appraised/fair market” value. TTOR will be advised of this determination. Member Power moved to seventy-five percent (75 %) as the proportional value under Section D1. Seconded by Member Stemple. **Approved 4-0.** If this was exercised, the intention is that the settlement amount would be shared equally among the stakeholders and the purpose of these funds would be to acquire another parcel that could be preserved in kind. There was additional discussion on some of the wording within Section - D. Town Counsel will be consulted on this wording. There was also discussion as to the next step in this process. It is possible that the final document could be approved and ready for the Board's signature next month.

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

- Under Citizens' concerns, Moderator Fallon announced that there are currently three openings on the Finance Committee and he is seeking volunteer who are willing to take on these responsibilities.

#### **SELECTMEN REPORTS**

- Member Amoroso reported on Regionalization Study Committee activities. A new financial statement has been circulated based on recently projected Chapter 70 reimbursement. This could change the financial impact previous breakout reported by the RSC as to potential cost savings. There has been communication with the State about how our communities could get some of this money back. Boxborough School Committee Chair, Maria Neyland, was present and commented that the Town should be mindful that RSC discussions should also include whether Boxborough School staff and faculty health insurance coverage would be absorbed into the Acton Health Trust or if they their coverage would remain with the Town. This could affect Boxborough's membership in the Minuteman Nashoba Health Trust. Member Amoroso noted that the SRC is aware of this concern and the A/B Regional School Committee has been approached about addressing these concerns.

- Member Stemple reported that the only meeting he had attended was last week's Joint School Committee/Selectmen meeting.
- Chair Fox reported that he attended the September 18<sup>th</sup> BLF meeting.

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

Chair Fox provided an update on the Town's VoIP project. Information Systems Coordinator, Matt Frost, was present. This working group consists of: BITcom Chair Bhatia, IS Coord Frost, TA Shaw, Chief Ryder, Chief White and himself. Presently there are two leading vendors. There are several upcoming meetings to discuss how to proceed, and then the procurement process will begin.

#### **SELECTMEN REPORTS (Continued)**

Member Power reported that the Fire Department is preparing an Emergency Medical Zone Plan, which will be coming before the Selectmen for approval.

He also reported that has been in discussion with Chief White regarding the fueling specifications for the proposed emergency generators. Chief White has advised that diesel fueling is a required. Member Powers related the Chief explanation as to the background and the rationale behind this specification. There was discussion as to the operation of the Town's existing emergency generators. Member Powers will continue to review the specifications for this project.

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

- Arrangements for Saturday's Appreciation Event were reviewed.

#### **MINUTES**

- The Selectmen passed over approval of the minutes for the Executive sessions of September 10, 2012 and September 12, 2012.
- Member Powers moved to accept the minutes for the Regular Sessions of July 16, 2012 and September 10, 2012, as revised. Seconded by Member Stemple. **Approved 4-0.**

#### **ADJOURN**

- At 10:47 PM Member Power moved to adjourn. Seconded by Member Amoroso. **Approved 4-0.**



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

STEELE FARM, BOXBOROUGH, MASSACHUSETTS

THE TOWN OF BOXBOROUGH, with an address of 29 Middle Road, Boxborough, MA 01719, being the sole owner of the granted premises and intending hereby to bind itself and its successors and assigns, who are collectively referred to herein as "Grantor", acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, hereby grants, with quitclaim covenants, to The Trustees of Reservations, a Massachusetts charitable corporation established under Chapter 352 of the Acts of 1891, and qualified to hold Conservation and Preservation Restrictions in accordance with Chapter 184 of the Massachusetts General Laws, and having an address at 572 Essex Street, Beverly, MA, 10915, its successors and permitted assigns, and the Boxborough Historical Society, Inc., qualified to hold Conservation and Preservation Restrictions in accordance with Chapter 184 of the Massachusetts General Laws, having an address at 29 Middle Road, Boxborough, MA, 01719, its successors and permitted assigns, (collectively the "Grantee"), in perpetuity and exclusively for conservation and historic preservation purposes, as a gift, the following described Conservation and Historic Preservation Restriction (hereinafter, the "Restriction") on a parcel of land described in the below-referenced deed as having 34 acres and 10 rods more or less, and shown on Town Assessor's map as having 36.19 acres, located at 484 Middle Road in the Town of Boxborough, Massachusetts, said parcel being described in Exhibit A, attached hereto, and shown in the sketch plan in Exhibit B, attached hereto ("Premises"), said exhibits A and B being incorporated into this Restriction by this reference. For Grantor's title to the Premises, see deed from James T. Van Buren, guardian of the estate of Myrtle J. Steele, to the Town of Boxborough, recorded on August 25, 1994 in the Middlesex South District Registry of Deeds, Book 24806, Page 143.

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

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

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

CONSERVATION AND HISTORIC PRESERVATION RESTRICTION

to  
THE TRUSTEES OF RESERVATIONS  
and  
BOXBOROUGH HISTORICAL SOCIETY

STEELE FARM, BOXBOROUGH, MASSACHUSETTS

THE TOWN OF BOXBOROUGH, with an address of 29 Middle Road, Boxborough, MA 01719, being the sole owner of the granted premises and intending hereby to bind itself and its successors and assigns, who are collectively referred to herein as “Grantor”, acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, hereby grants, with quitclaim covenants, to The Trustees of Reservations, a Massachusetts charitable corporation established under Chapter 352 of the Acts of 1891, and qualified to hold Conservation and Preservation Restrictions in accordance with Chapter 184 of the Massachusetts General Laws, and having an address at 572 Essex Street, Beverly, MA, 10915, its successors and permitted assigns, and the Boxborough Historical Society, Inc., qualified to hold Conservation and Preservation Restrictions in accordance with Chapter 184 of the Massachusetts General Laws, having an address at 29 Middle Road, Boxborough, MA, 01719, its successors and permitted assigns, (collectively the "Grantee"), in perpetuity and exclusively for conservation and historic preservation purposes, as a gift, the following described Conservation and Historic Preservation Restriction (hereinafter, the “Restriction”) on a parcel of land described in the below-referenced deed as having 34 acres and 10 rods more or less, and shown on Town Assessor’s map as having 36.19 acres, located at 484 Middle Road in the Town of Boxborough, Massachusetts, said parcel being described in Exhibit A, attached hereto, and shown in the sketch plan in Exhibit B, attached hereto("Premises"), said exhibits A and B being incorporated into this Restriction by this reference. For Grantor’s title to the Premises, see deed from James T. Van Buren, guardian of the estate of Myrtle J. Steele, to the Town of Boxborough, recorded on August 25, 1994 in the Middlesex South District Registry of Deeds, Book 24806, Page 143.

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

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

The terms of this Restriction are as follows:

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

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

conservation interests unless necessary in an emergency for the protection of the conservation and historic interests that are the subject of this Restriction.

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

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

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

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

Notwithstanding the foregoing provisions if, after an inspection, the Building Inspector finds that a building subject to this Restriction poses an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate repairs or demolition of the building or structure, then the Building Inspector may issue an emergency repair or demolition permit. The Building Inspector shall then prepare a report explaining

the condition of the building and the basis for his decision, which shall be forwarded to the Grantees before such repairs or demolition can take place.

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

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

any access is carried out in a manner that preserves the existing conditions of the Premises to the greatest possible extent.

- (14) Water Supply. ~~[Subject to the prior written approval of the Grantee?], the~~ The site exploration and testing, design, installation, maintenance and replacement of a new public water supply well or wells and related water supply structures, including without limitation pumps, pump houses, water mains, water filtration system and any other building or structure used for public water supply purposes, and any access thereto and related parking facility on the Premises. ~~[A request for approval of a well must be accompanied by any environmental impact studies and documentation deemed necessary by Grantee to determine the impact of the activity on the conservation and historic values of the Premises.]~~
- (15) Motorized Vehicles. The use of motorized vehicles by the Grantor or its agents as necessary in exercising any of the reserved rights in this paragraph B, provided that such use shall be limited to roads to the extent possible and shall be conducted so as not to cause erosion or other adverse impacts on the conservation and historic values of the Premises. The use of mobility assistance devices by persons with disabilities, for access to and within the Premises, provided that such use and access do not create a hazard to the safety of either the user of such device or other persons on the Premises.
- (16) Parking. The construction, replacement, repair, maintenance, use and expansion to not more than ~~X-three (3)~~ additional parking spaces (600 square feet), and, with prior written approval of Grantee, further expansion of the existing designated parking area, now accommodating ~~XX~~ nine (9) parking spaces (1,800 square feet), shown in Exhibit ~~BE~~ ("Steele Farm Existing & Potential Parking"), for permitted activities on the Premises.

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

C. Notice and Approval. Whenever notice to or approval by Grantee is required under the provisions of paragraphs A or B, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the Grantor's commencement of the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Restriction.

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

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

D. Extinguishment.

1. Grantee's Receipt of Property Right. The Grantor(s) and the Grantee agree that the donation of this Restriction gives rise for purposes of this paragraph to a real property right, immediately vested in the Grantee, with a fair market value that is equal at least to the proportionate value (seventy-five percent (75 %) that this Restriction, determined at the time of the gift and documented in the Baseline Documentation ~~Report (\$ \_\_\_\_\_)~~, ~~bears~~Report bears to the value of the unrestricted Premises at that time ~~(\$ \_\_\_\_\_)~~.

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

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

4. Allocation of Expenses upon Disposition. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and the Grantee in shares proportional to their interests in the Premises, as described in paragraphs D.1 and D.2, above, after complying with the terms of any gift, grant or funding requirements. The Trustees of Reservations and the Boxborough Historical Society, Inc., as co-holders, shall share equally in any proceeds due to the Grantee under the provisions of section D of this Restriction.

5. Extinguishment by Eminent Domain by Town of Boxborough. Whenever the entirety or any provision of this Restriction is taken by eminent domain by the Town of Boxborough for a public purpose under G.L. c.79 or any special act, damages calculated in accordance with paragraph D.1, above shall be due to the Grantee, based upon an appraisal by an independent appraiser obtained by the Grantor and Grantee hereby waives any right to an award of additional damages.

6. Proceeds to be Held in Trust by Grantee. The Grantee shall hold all proceeds paid to the Grantee under section D of this Restriction in trust to be used to acquire real property or interests in real property, including without limitation restrictions, which real property shall be located within the Town of Boxborough, for conservation purposes and/or for historic preservation purposes, and, whether or not the Town of Boxborough holds the fee ownership interest in the Premises at the time the proceeds is paid to the Grantee, the Grantee shall consult with the Board of Selectmen (or the officer or board then acting as chief executive officer of said municipality) upon the site or sites chosen for such acquisition, and The Trustees of Reservations and the Boxborough Historical Society, Inc. shall consult with each other in the choice of such sites. If the fee ownership interest in any real property is acquired by the Grantee with said trust funds, the property shall be held in trust in perpetuity for such conservation and/or historic preservation purposes and if a restriction is acquired, it shall be a perpetual conservation restriction and/or historic preservation restriction pursuant to G.L. c.84, §§31-32. If any circumstance arises whereby a court of competent jurisdiction determines that this trust is no longer able to be accomplished by either Grantee, the remainder of the funds held by that Grantee shall be given to the Town of Boxborough to be held in trust for conservation and/or historic preservation purposes.

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

1. Grantor hereby grants to the Grantee and its representatives the right to enter the Premises (a) at reasonable times and in a reasonable manner for the purpose of regular monitoring and inspecting the same to determine compliance herewith, including the right to access the Premises over roads and rights of way owned by the Grantor and any rights of way or

other access ways now or hereafter available to Grantor for access to the Premises, and (b) after 30 days' prior written notice, to take any and all actions with respect to the Premises as may be necessary or appropriate, with or without order of court, to remedy, abate or otherwise enforce any violation hereof.

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

F. Grantee's Right to Post Identifying Signage. The Grantee shall have the right to post signs, no more than one foot by one foot in size, on the boundaries of the Premises, identifying the interest of the Grantee in the Premises, and informing the public of the nature and public benefit of the conservation and preservation of the Premises.

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

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

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

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

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

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

M. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor, acting by and through its Board of Selectmen (or the officer or board then acting as chief executive officer of said municipality) if the Town of Boxborough is still the owner of the Premises, and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including sections 31-33 of Chapter 184 of the General Laws of Massachusetts; any amendment

shall be consistent with the purposes of this Restriction, and shall not affect its perpetual duration. Any amendment shall occur only in exceptional circumstances. Any amendment shall be consistent with the purposes of this Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and the Massachusetts Historical Commission or as required by applicable statutes in effect at the time of the proposed amendment and, if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution. Any such amendment shall be recorded in the Middlesex South District Registry of Deeds.

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

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

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

Q. Miscellaneous

(1) Controlling Law. The interpretation and performance of this Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

(2) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Restriction shall be liberally construed in favor of the grant to effect the purpose of this Restriction and the policy and purpose of Mass. Gen. Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

(3) Severability. If any provision of this Restriction shall to any extent be held invalid, the remainder shall not be affected.

(4) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Restriction, all of which are merged herein.

(5) Joint Obligation. The obligations imposed by this Restriction upon the parties that together comprise "Grantor" shall be joint and several.

(6) Captions. The captions in this instrument have been inserted solely for convenience of reference. They are not a part of this instrument and shall have no effect upon construction or interpretation.

(7) Pre-existing rights of the Public. Approval of this Restriction pursuant to M.G.L Chapter 184, Section 32 by any municipal officials, by the Secretary of Energy and Environmental Affairs, and by the Massachusetts Historical Commission is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises. Any such pre-existing rights of the public, if any, are not affected by the granting of this Restriction.

(8) Counterparts. This Restriction may be executed in counterparts and shall constitute a single agreement whether or not all signatures appear on a single copy hereof.

(9) Baseline Documentation. In order to establish the present condition of the Premises and the conservation and historic values thereon which are protected by this Conservation Restriction, so as to enable the Grantee to monitor future uses of the Property and to assure compliance with the terms hereof, Grantor and Grantee have prepared an inventory of the relevant features and conditions of the Premises (the “Baseline Documentation Report”), and agree that the same is an accurate representation of the condition of the Premises as of the date of the execution of this Restriction. Verified originals of the Baseline Documentation Report will be deposited with the Grantor and in the permanent records of the Grantee.

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

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

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

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

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

Selectmen:

\_\_\_\_\_  
Leslie R. Fox, Chair

\_\_\_\_\_  
Francis J. Powers, Clerk

\_\_\_\_\_  
Vincent M. Amoroso

\_\_\_\_\_  
Robert T. Stemple

\_\_\_\_\_  
Raid M. Suleiman

COMMONWEALTH OF MASSACHUSETTS

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

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

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

ACCEPTANCE OF GRANT

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

THE TRUSTEES OF RESERVATIONS

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

COMMONWEALTH OF MASSACHUSETTS

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

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

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

ACCEPTANCE OF GRANT

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

BOXBOROUGH HISTORICAL SOCIETY, INC.

By Duncan Brown, President

COMMONWEALTH OF MASSACHUSETTS

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

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

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

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
COMMONWEALTH OF MASSACHUSETTS

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

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

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

COMMONWEALTH OF MASSACHUSETTS

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

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

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

APPROVAL BY MASSACHUSETTS HISTORICAL COMMISSION  
COMMONWEALTH OF MASSACHUSETTS

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

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

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

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, SS.

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

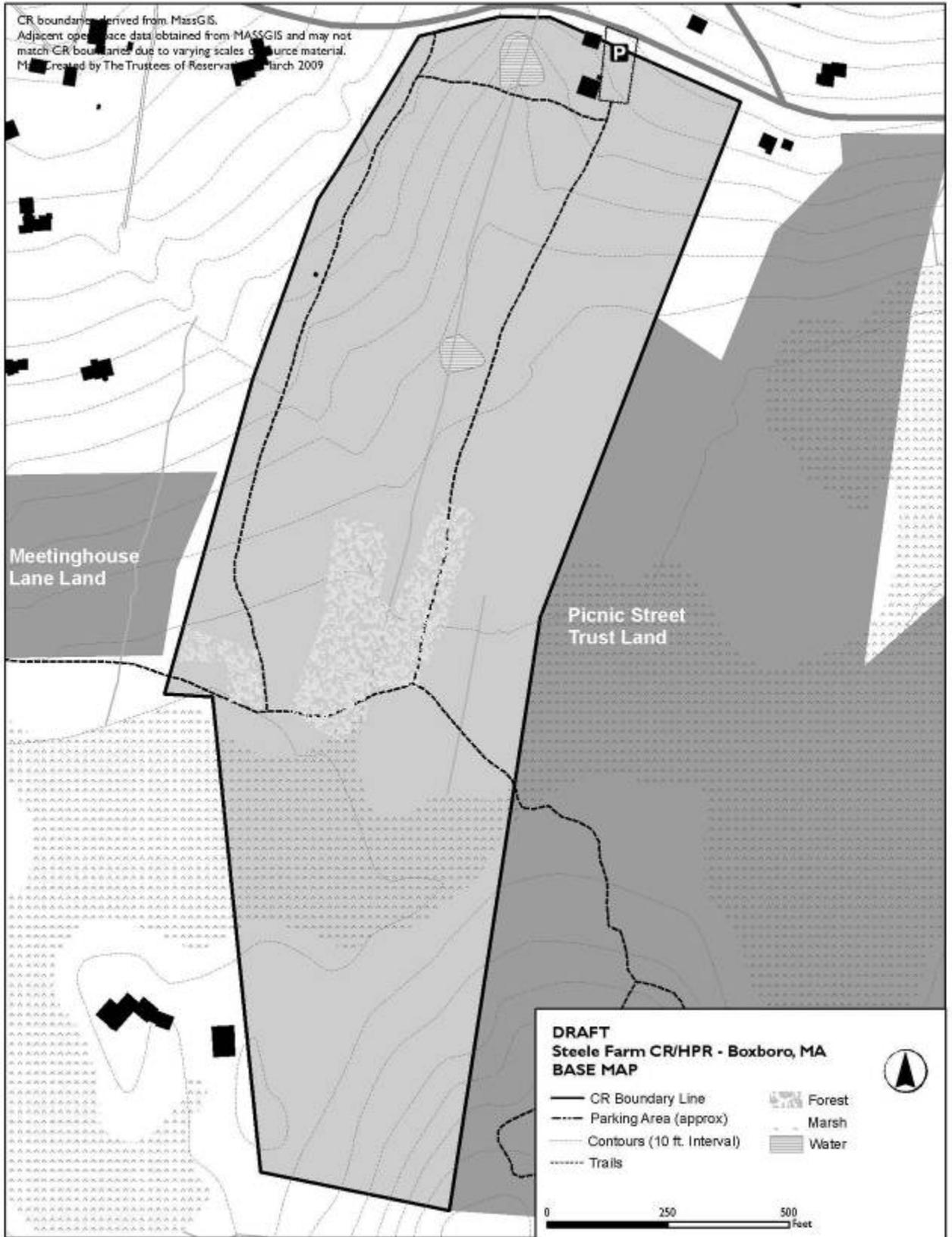
\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

### **Exhibit A**

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

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

# Exhibit B – Sketch Plan of the Premises



## Exhibit C

### Standards for the Treatment of Historic Properties

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

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

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

##### § 68.1 Intent.

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

##### § 68.2 Definitions.

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

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

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

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

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

### § 68.3 Standards.

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

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

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

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

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

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

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

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

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

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

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

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

- (4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.
  - (5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
  - (6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
  - (7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
  - (8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
  - (9) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
  - (10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (c) *Restoration.*
- (1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.
  - (2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces and spatial relationships that characterize the period will not be undertaken.
  - (3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.
  - (4) Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.
  - (5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
  - (6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.
  - (7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding

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

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

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

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

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

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

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

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

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

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

**Exhibit D**

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

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

Exhibit E  
Town of Boxborough, Massachusetts



Steele Farm Existing & Potential Parking



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

STEELE FARM, BOXBOROUGH, MASSACHUSETTS

THE TOWN OF BOXBOROUGH, with an address of 29 Middle Road, Boxborough, MA 01719, being the sole owner of the granted premises and intending hereby to bind itself and its successors and assigns, who are collectively referred to herein as "Grantor", acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, hereby grants, with quitclaim covenants, to The Trustees of Reservations, a Massachusetts charitable corporation established under Chapter 352 of the Acts of 1891, and qualified to hold Conservation and Preservation Restrictions in accordance with Chapter 184 of the Massachusetts General Laws, and having an address at 572 Essex Street, Beverly, MA, 10915, its successors and permitted assigns, and the Boxborough Historical Society, Inc., qualified to hold Conservation and Preservation Restrictions in accordance with Chapter 184 of the Massachusetts General Laws, having an address at 29 Middle Road, Boxborough, MA, 01719, its successors and permitted assigns, (collectively the "Grantee"), in perpetuity and exclusively for conservation and historic preservation purposes, as a gift, the following described Conservation and Historic Preservation Restriction (hereinafter, the "Restriction") on a parcel of land described in the below-referenced deed as having 34 acres and 10 rods more or less, and shown on Town Assessor's map as having 36.19 acres, located at 484 Middle Road in the Town of Boxborough, Massachusetts, said parcel being described in Exhibit A, attached hereto, and shown in the sketch plan in Exhibit B, attached hereto ("Premises"), said exhibits A and B being incorporated into this Restriction by this reference. For Grantor's title to the Premises, see deed from James T. Van Buren, guardian of the estate of Myrtle J. Steele, to the Town of Boxborough, recorded on August 25, 1994 in the Middlesex South District Registry of Deeds, Book 24806, Page 143.

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

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

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

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

The terms of this Restriction are as follows:

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

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

conservation interests unless necessary in an emergency for the protection of the conservation and historic interests that are the subject of this Restriction.

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

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

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

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

Notwithstanding the foregoing provisions if, after an inspection, the Building Inspector finds that a building subject to this Restriction poses an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate repairs or demolition of the building or structure, then the Building Inspector may issue an emergency repair or demolition permit. The Building Inspector shall then prepare a report explaining

the condition of the building and the basis for his decision, which shall be forwarded to the Grantees before such repairs or demolition can take place.

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

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

any access is carried out in a manner that preserves the existing conditions of the Premises to the greatest possible extent.

- (14) Water Supply. The site exploration and testing, design, installation, maintenance and replacement of a new public water supply well or wells and related water supply structures, including without limitation pumps, pump houses, water mains, water filtration system and any other building or structure used for public water supply purposes, and any access thereto and related parking facility on the Premises.
- (15) Motorized Vehicles. The use of motorized vehicles by the Grantor or its agents as necessary in exercising any of the reserved rights in this paragraph B, provided that such use shall be limited to roads to the extent possible and shall be conducted so as not to cause erosion or other adverse impacts on the conservation and historic values of the Premises. The use of mobility assistance devices by persons with disabilities, for access to and within the Premises, provided that such use and access do not create a hazard to the safety of either the user of such device or other persons on the Premises.
- (16) Parking. The construction, replacement, repair, maintenance, use and expansion to not more than three (3) additional parking spaces (600 square feet), and, with prior written approval of Grantee, further expansion of the existing designated parking area, now accommodating nine (9) parking spaces (1,800 square feet), shown in Exhibit E (“Steele Farm Existing & Potential Parking”), for permitted activities on the Premises.

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

C. Notice and Approval. Whenever notice to or approval by Grantee is required under the provisions of paragraphs A or B, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the Grantor’s commencement of the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Restriction.

1. Where Grantee’s approval is required under paragraph B(1) *Maintenance of Historic Structures*, the Boxborough Historical Society, Inc. (“BHS”), its successor or assign, shall, within thirty (30) days of receipt of Grantor’s request, notify The Trustees of Reservations (“TTOR”), its successor or assign, of BHS’s decision. Following receipt of BHS’s notice, but in no case later than sixty (60) days following TTOR’s receipt of Grantor’s written request, TTOR

shall either affirm or reverse the decision of BHS. TTOR's decision shall in all cases be final and controlling as to Grantee. In the event that no decision is received from BHS within said thirty (30) days, TTOR shall proceed to issue its decision within sixty (60) days of receipt of Grantor's written request. Failure of TTOR to act within said sixty (60) days shall be deemed to constitute approval of either BHS's decision, if one has been issued, or, in the absence of BHS's decision, of Grantor's request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time. Grantee's approval shall not be unreasonably withheld, but shall be granted only upon a showing that the proposed activity will not materially impair the purposes of this Restriction.

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

#### D. Extinguishment.

1. Grantee's Receipt of Property Right. The Grantor(s) and the Grantee agree that the donation of this Restriction gives rise for purposes of this paragraph to a real property right, immediately vested in the Grantee, with a fair market value that is equal at least to the proportionate value ( seventy-five percent ( 75 %) that this Restriction, determined at the time of the gift and documented in the Baseline Documentation Report bears to the value of the unrestricted Premises at that time.

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

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

4. Allocation of Expenses upon Disposition. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and the Grantee in shares proportional to their interests in the Premises, as described in paragraphs D.1 and D.2, above, after complying with the terms of any gift, grant or funding requirements. The Trustees of Reservations and the Boxborough Historical Society, Inc., as co-holders, shall share equally in any proceeds due to the Grantee under the provisions of section D of this Restriction.

5. Extinguishment by Eminent Domain by Town of Boxborough. Whenever the entirety or any provision of this Restriction is taken by eminent domain by the Town of Boxborough for a public purpose under G.L. c.79 or any special act, damages calculated in accordance with paragraph D.1, above shall be due to the Grantee, based upon an appraisal by an independent appraiser obtained by the Grantor and Grantee hereby waives any right to an award of additional damages.

6. Proceeds to be Held in Trust by Grantee. The Grantee shall hold all proceeds paid to the Grantee under section D of this Restriction in trust to be used to acquire real property or interests in real property, including without limitation restrictions, which real property shall be located within the Town of Boxborough, for conservation purposes and/or for historic preservation purposes, and, whether or not the Town of Boxborough holds the fee ownership interest in the Premises at the time the proceeds is paid to the Grantee, the Grantee shall consult with the Board of Selectmen (or the officer or board then acting as chief executive officer of said municipality) upon the site or sites chosen for such acquisition, and The Trustees of Reservations and the Boxborough Historical Society, Inc. shall consult with each other in the choice of such sites. If the fee ownership interest in any real property is acquired by the Grantee with said trust funds, the property shall be held in trust in perpetuity for such conservation and/or historic preservation purposes and if a restriction is acquired, it shall be a perpetual conservation restriction and/or historic preservation restriction pursuant to G.L. c.84, §§31-32. If any circumstance arises whereby a court of competent jurisdiction determines that this trust is no longer able to be accomplished by either Grantee, the remainder of the funds held by that Grantee shall be given to the Town of Boxborough to be held in trust for conservation and/or historic preservation purposes.

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

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

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

F. Grantee's Right to Post Identifying Signage. The Grantee shall have the right to post signs, no more than one foot by one foot in size, on the boundaries of the Premises, identifying the interest of the Grantee in the Premises, and informing the public of the nature and public benefit of the conservation and preservation of the Premises.

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

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

I. Duration and Assignability. The burdens of this Restriction shall run with the Premises and shall be enforceable against Grantor in perpetuity. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Restriction. The Grantor appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor agrees

itself to execute any such instruments upon request. The benefits of this Restriction shall be in gross and shall not be assignable by Grantee, except in the following instances from time to time: (i) as a condition of any assignment, Grantee requires that the purpose of this Restriction continue to be carried out; (ii) the assignee, at the time of assignment, qualifies under Section 32 of Chapter 184 of the Massachusetts General Laws, as an eligible donee to receive this Restriction directly; (iii) Grantee complies with the provisions required by Article 97 of the Amendments to the State Constitution, if applicable; and (iv) while the Town of Boxborough continues to be the holder of the fee ownership interest in the Premises, said Town, acting by and through its Board of Selectmen (or the officer or board then acting as chief executive officer of said municipality) approves the assignee in writing, which approval shall not unreasonably be denied. Grantor and Grantee intend that the restrictions arising hereunder shall take effect when all requisite signatures pursuant to Section 32 of Chapter 184 of the General Laws have been obtained and the document has been recorded in the Middlesex South District Registry of Deeds. This Restriction shall be recorded in a timely fashion.

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

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

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

M. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor, acting by and through its Board of Selectmen (or the officer or board then acting as chief executive officer of said municipality) if the Town of Boxborough is still the owner of the Premises, and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including sections 31-33 of Chapter 184 of the General Laws of Massachusetts; any amendment shall be consistent with the purposes of this Restriction, and shall not affect its perpetual duration. Any amendment shall occur only in exceptional circumstances. Any amendment shall be consistent with the purposes of this Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and the Massachusetts Historical Commission or as required by applicable statutes in effect at the time of the proposed

amendment and, if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution. Any such amendment shall be recorded in the Middlesex South District Registry of Deeds.

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

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

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

Q. Miscellaneous

(1) Controlling Law. The interpretation and performance of this Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

(2) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Restriction shall be liberally construed in favor of the grant to effect the purpose of this Restriction and the policy and purpose of Mass. Gen. Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

(3) Severability. If any provision of this Restriction shall to any extent be held invalid, the remainder shall not be affected.

(4) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Restriction, all of which are merged herein.

(5) Joint Obligation. The obligations imposed by this Restriction upon the parties that together comprise "Grantor" shall be joint and several.

(6) Captions. The captions in this instrument have been inserted solely for convenience of reference. They are not a part of this instrument and shall have no effect upon construction or interpretation.

(7) Pre-existing rights of the Public. Approval of this Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials, by the Secretary of Energy and Environmental Affairs, and by the Massachusetts Historical Commission is not to be construed

as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises. Any such pre-existing rights of the public, if any, are not affected by the granting of this Restriction.

(8) Counterparts. This Restriction may be executed in counterparts and shall constitute a single agreement whether or not all signatures appear on a single copy hereof.

(9) Baseline Documentation. In order to establish the present condition of the Premises and the conservation and historic values thereon which are protected by this Conservation Restriction, so as to enable the Grantee to monitor future uses of the Property and to assure compliance with the terms hereof, Grantor and Grantee have prepared an inventory of the relevant features and conditions of the Premises (the "Baseline Documentation Report"), and agree that the same is an accurate representation of the condition of the Premises as of the date of the execution of this Restriction. Verified originals of the Baseline Documentation Report will be deposited with the Grantor and in the permanent records of the Grantee.

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

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

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

(remainder of page left intentionally blank)

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

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

Selectmen:

\_\_\_\_\_  
Leslie R. Fox, Chair

\_\_\_\_\_  
Francis J. Powers, Clerk

\_\_\_\_\_  
Vincent M. Amoroso

\_\_\_\_\_  
Robert T. Stemple

\_\_\_\_\_  
Raid M. Suleiman

COMMONWEALTH OF MASSACHUSETTS

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

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

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

ACCEPTANCE OF GRANT

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

THE TRUSTEES OF RESERVATIONS

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

COMMONWEALTH OF MASSACHUSETTS

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

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

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

ACCEPTANCE OF GRANT

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

BOXBOROUGH HISTORICAL SOCIETY, INC.

By Duncan Brown, President

COMMONWEALTH OF MASSACHUSETTS

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

\_\_\_\_\_, 20\_\_

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

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

My commission expires:

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
COMMONWEALTH OF MASSACHUSETTS

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

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

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

COMMONWEALTH OF MASSACHUSETTS

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

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

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

APPROVAL BY MASSACHUSETTS HISTORICAL COMMISSION  
COMMONWEALTH OF MASSACHUSETTS

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

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

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

COMMONWEALTH OF MASSACHUSETTS

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

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

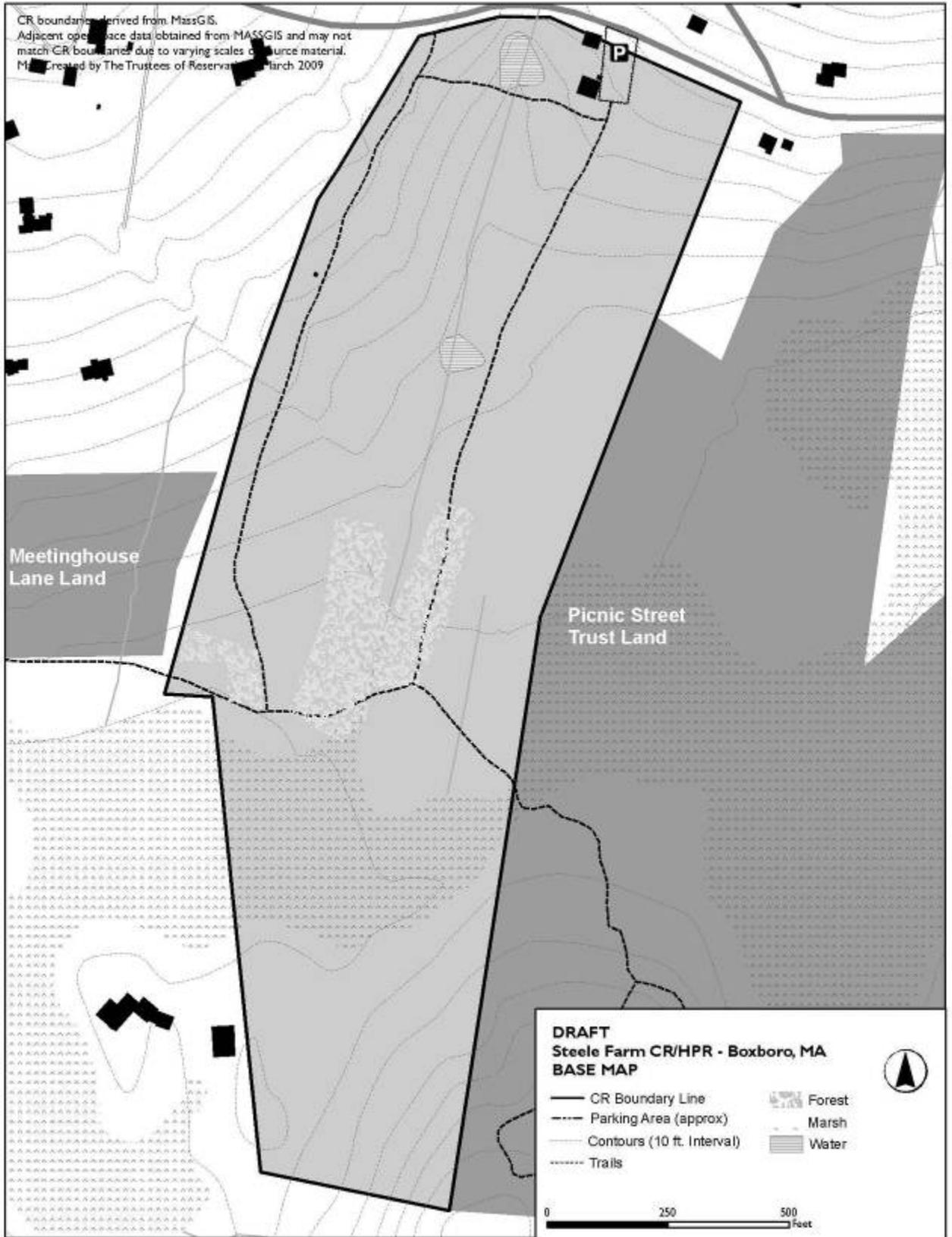
\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

**Exhibit A**

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

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

# Exhibit B – Sketch Plan of the Premises



## Exhibit C

### Standards for the Treatment of Historic Properties

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

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

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

##### § 68.1 Intent.

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

##### § 68.2 Definitions.

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

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

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

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

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

### § 68.3 Standards.

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

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

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

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

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

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

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

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

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

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

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

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

- (4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.
  - (5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
  - (6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
  - (7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
  - (8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
  - (9) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
  - (10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (c) *Restoration.* (1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.
- (2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces and spatial relationships that characterize the period will not be undertaken.
  - (3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.
  - (4) Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.
  - (5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
  - (6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.
  - (7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding

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

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

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

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

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

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

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

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

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

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

**Exhibit D**

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

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

Exhibit E  
Town of Boxborough, Massachusetts



Steele Farm Existing & Potential Parking



6c

## BUDGET & WARRANT ARTICLE TIMELINE

### FY 2014

#### FOR DISCUSSION PURPOSES 10/15/12

October 15	<p>BoS discusses budgetary guidelines:</p> <ul style="list-style-type: none"> <li>▪ <b>Prepare a zero-based budget.</b> Budget managers (i.e. dept heads/committee chairs) should prepare their budgets from the bottom up, starting from <b>zero</b>. (The prior year's budget should <b>NOT</b> be used as the base). Define the level of budget necessary for the operation of the department/board and identify the key underlying assumptions. <b>Be prepared to provide a rationale for your budgetary decisions identifying how the funding requested relates to the level of service proposed.</b> Salaries will be tied to contractual obligations, or for those employees under the Personnel Plan, to Schedule B. For the purposes of preparing the first pass at the budget, Schedule B wages should be calculated with a <b>1%</b> increase and a step increase where appropriate.</li> </ul>
October TBD	<p>Staff Meeting</p> <ul style="list-style-type: none"> <li>▪ Relate budget message.</li> <li>▪ Review budget process and timeline.</li> </ul> <p>(Already provided a glimpse to folks on Sept 28)</p>
October 19	Accountant distributes budget packages (hard and soft copies) to all departments and committees.
October 19 – November 16	Budget managers prepare budgets with assistance provided by TA and Accountant if requested. Mechanical issues, as well as questions regarding growth, operations, etc. and clarifications on budget guidelines, should be directed to TA.
November 16	Deadline for returning budget packages to Accountant (hard and soft copies). Any submitted without summary document will be returned to preparer. Budget managers shall also submit intent and scope of proposed capital warrant articles for Annual Town Meeting (hard copy to accountant; soft copy to TA).
November 16 – 30	Accountant, with assistance from admin support staff (or senior tax work-off participant), assembles budget books for TA, BoS & FinCom.
December 3	BoS and FinCom receive budget books.
December 5 – 12	BoS liaisons, along with respective FinCom liaisons, meet individually with primary department heads (Police, Fire, Dispatch, DPW, and TA) to begin first review of budgets, ensuring consistency with budget guidelines and working with department heads to make reductions or other changes as necessary. Dept heads revise budgets accordingly...
December 17	<p>Cursory review of budgets (&amp; warrant articles) by BoS. Selectmen note "red flag issues" and determine which board/departments they would like to invite in for further discussion. BoS liaison and TA work with those budget managers to revise budgets as necessary and to schedule appointment with full BoS on January x and February x as needed...</p> <p>FinCom starts review of budgets, receiving additional input/clarification as necessary from TA and budget preparers. If needed, FinCom will prepare additional analyses and run scenarios.</p> <p>[N.B. BoS will determine appropriate service levels]</p>

January 14, 7 p.m. start	BoS meeting. BoS and FinCom meet with 2 primary department heads on alternating basis to review budgets.
January 28, 7 p.m. start	BoS meeting. BoS and FinCom meet with remaining 2 primary department heads on alternating basis to review budgets.
February 4	BoS meeting. Board meets with boards/committees as necessary to review budgets.
February 11	BoS meeting. Board meets with additional boards/committees as necessary to review budgets.
February 25	BoS meeting. BoS closes warrant to any new articles. [BoS liaison to the committee/department will work with sponsor of article and will be responsible for writing the recommendation on behalf of the BoS, as well as presenting at ATM. If liaison is away, Chair will assign responsibility to another member].
March 11	BoS meeting. Joint Public Hearing (BoS & Personnel Board) on any proposed Personnel Plan changes (may try to move this up, depending upon other proposed changes to Personnel Plan). Public hearing on any other proposed general bylaws.
March 14 (Thurs.)	Departments/Committees submit final language for warrant articles in electronic format to TA.
March 18	BoS meeting. BoS finalizes language for warrant articles.
March 21 (Thurs.)	Committees submit recommendations in electronic format to TA. (Recommendations should apply only to the scope and responsibility of the board).
March 25	BoS meeting. Final deadline for written recommendations. Meet with FinCom and determine funding sources for articles. FinCom deadline for the FinCom Report
April 1	BoS meeting. Absolute final votes (BoS/FinCom) on budget & warrant articles. BoS signs warrant.
April 26 (Fri.)	Last possible date for warrant to be posted by Constable and mailed to town's residents.

NB: "Committee," "Board," and "Commission" are used synonymously.  
Budget manager and dept head/committee used synonymously as well...

Still to be added to timeline: deadlines re: Capital Plan

## PROCESS

**Communication is key to a successful budget process. Budget managers must communicate to the Board of Selectmen and Finance Committee through their liaison and likewise, the BoS and FinCom must ensure that budget managers are fully apprised of any and all proposed changes to their submitted budgets. To this end, we are implementing some additional steps in the process.**

- In order to maintain control of the master budget, only the Accountant will update the electronic master file.
- **After the initial submission of budgets to the Accountant by November 16, any and all proposed revisions will be handled as detailed below.**
  1. Revisions must be submitted to Accountant by **10 a.m. on the Thursday** in order to be included in that week's revisions. Revisions submitted after that time will be included in the following week's revisions.
  2. Each time that a budget manager proposes revisions to the department/board budget, the budget manager will complete two sets of documents to detail the proposed revisions:
    - a) **Budget worksheet.** Budget manager will ensure that all numbers tie out to any subsidiary salary worksheets.
    - b) **Budget revision form.** The revision document will be in the form of a spreadsheet, which will be provided in the budget package by the Town Accountant. The spreadsheet for each department will be used to keep a running total and explanation of **all** changes submitted since the initial budget. The spreadsheet will have columns for date, expense line item, amount of revision, explanation, FinCom response and BoS response. Additionally, the form will list the total departmental budget, per the original submission.
      - i. The starting point for the first revision will be the original submitted department budget. The budget manager will list proposed revisions line by line, listing amounts and the explanation for each proposed revision. The budget manager will then sum the total of the revisions and the original submitted budget to arrive at a "Sub-Total Dept. Budget with revisions."
      - ii. The starting point for subsequent revisions will be the last "Sub-Total Dept. Budget with revisions."
      - iii. Budget manager shall submit a revision form via email to: BoS liaison and Chair, FinCom liaison and Chair and the Town Accountant. Budget manager will submit budget worksheet only to the Town Accountant.
  3. Town Accountant will ensure that proposed revisions are properly reflected on budget worksheet and that budget worksheet is in balance with subsidiary salary worksheets.
  4. As soon as revised budget is voted respectively by FinCom and BoS, the liaisons will record the action taken on the budget revision form and send by email to the department manager, FinCom and BoS Chairs, FinCom and BoS liaisons and the Town Accountant.
- Accountant will update **electronic** budget file and provide **electronically** to Town Clerk, for placement on the town's website **no more than once a week, on Fridays**. There will be two versions: 1) for internal use with password protected access and 2) a public display version which excludes salary worksheets.
- Accountant will also provide an **electronic** summary document showing a listing of the revised budgets and an explanation of the changes from the previous version.
- Accountant will include revision date on the budget and updated detail line items.
- Accountant will distribute electronic copies (paper copies will be provided by request) of individual revised department/committee budgets only to the affected department heads and committees.

FY 14 Budget  
BUDGET REVISION FORM

Department Name \_\_\_\_\_

Department Number \_\_\_\_\_

	Date	Expense Category	Amount	Explanation	FinCom	BoS
Total Dept Budget Submitted	11/16/2012					

Proposed Revisions

Sub-Total Dept Budget with revisions \$ -

Proposed Revisions

Sub-Total Dept Budget with revisions             
Proposed Revisions

Sub-Total Dept Budget with revisions             
Proposed Revisions

Sub-Total Dept Budget with revisions









## ADMINISTRATION MEMO

**To:** Town Clerk, Moderator, Town Counsel, Departments, Boards, Committees and Commissions, Blanchard Memorial School, A/B Regional Schools and Minuteman Regional High School  
**From:** Selina Shaw, Town Administrator *M*  
**Cc:** Board of Selectmen  
**Date:** October 3, 2012  
**Re:** Special Town Meeting (STM) – January 7, 2013

At their meeting on September 24, the Board of Selectmen voted to call a Special Town Meeting to be held on Monday, **January 7, 2013, starting at 7 PM** in the Blanchard Memorial School gymnasium. The main driver for calling the STM is to seek town meeting's approval of the appropriation necessary to fund the cost items of the first year of the collective bargaining agreements for the dispatch, fire and police collective bargaining units, which the selectmen have recently ratified and executed subject to this approval. The Board will be entertaining the inclusion of other articles on the warrant. Please note that the warrant closes on November 5th.

The following schedule should help you through the process.

Special Town Meeting will be held on Monday, January 7, 2013	
<b>Thursday, October 18</b>	➤ Last date by which to submit the intent and scope of proposed warrant articles in electronic format to TA: selina.shaw@town.boxborough.ma.us
<b>Thursday, November 1</b>	➤ Submit final language for warrant articles in electronic format to TA: selina.shaw@town.boxborough.ma.us
<b>Monday, November 5</b>	➤ Board of Selectmen closes warrant and finalizes language on warrant articles.
<b>Thursday, November 15</b>	➤ Submit recommendations in electronic format to TA: selina.shaw@town.boxborough.ma.us. Recommendations should apply to the scope and responsibility of the board.
<b>Monday, November 19</b>	➤ Final votes on warrant articles. ➤ Deadline for written recommendations. BoS will meet with FinCom to determine funding sources for articles.
<b>Monday, December 3</b>	➤ Warrant to be signed by BoS
<b>Wednesday, December 19</b>	➤ Warrant to be posted by Constable and mailed to Town's residents

If you are planning to submit a warrant article and would also like a written recommendation to be included in the warrant, please make sure that your board has met to write and vote on the recommendation **before November 15**.

Thank you for your cooperation in meeting our deadlines. As always, please don't hesitate to contact me with any questions.



7a

**COMMONWEALTH OF MASSACHUSETTS**

**WILLIAM FRANCIS GALVIN**

**SECRETARY OF THE COMMONWEALTH**

**WARRANT FOR STATE ELECTION**

**SS.**

To the Constables of the City/Town of **BOXBOROUGH**

**GREETING:**

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said city or town who are qualified to vote in the State Election to vote at

**WARD 0/ PRECINCT 1**

**BOXBOROUGH TOWN HALL, 29 MIDDLE ROAD, BOXBOROUGH, MA**

on **TUESDAY, THE SIXTH DAY OF NOVEMBER, 2012**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the State Election for the candidates for the following offices and questions:

- ELECTORS OF PRESIDENT AND VICE PRESIDENT . . . . .FOR THIS COMMONWEALTH
- SENATOR IN CONGRESS . . . . . FOR THIS COMMONWEALTH
- REPRESENTATIVE IN CONGRESS. . . . . THIRD DISTRICT
- COUNCILLOR . . . . . THIRD DISTRICT
- SENATOR IN GENERAL COURT . . . . . MIDDLESEX & WORCESTER DISTRICT
- REPRESENTATIVE IN GENERAL COURT . . . . . 37<sup>TH</sup> MIDDLESEX DISTRICT
- CLERK OF COURTS. . . . . MIDDLESEX COUNTY
- REGISTER OF DEEDS . . . . . MIDDLESEX SOUTHERN DISTRICT
- SHERIFF (MIDDLESEX COUNTY ONLY) . . . . . MIDDLESEX COUNTY

**QUESTION 1: LAW PROPOSED BY INITIATIVE PETITION**

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 1, 2012?

**SUMMARY**

This proposed law would prohibit any motor vehicle manufacturer, starting with model year 2015, from selling or leasing, either directly or through a dealer, a new motor vehicle without allowing the owner to have access to the same diagnostic and repair information made available to the manufacturer's dealers and in-state authorized repair facilities.

The manufacturer would have to allow the owner, or the owner's designated in-state independent repair facility (one not affiliated with a manufacturer or its authorized dealers), to obtain diagnostic and repair information electronically, on an hourly, daily, monthly, or yearly subscription basis, for no more than fair market value and on terms that do not unfairly favor dealers and authorized repair facilities.

The manufacturer would have to provide access to the information through a non-proprietary vehicle interface, using a standard applied in federal emissions-control regulations. Such information would have to include the same content, and be in the same form and accessible in the same manner, as is provided to the manufacturer's dealers and authorized repair facilities.

For vehicles manufactured from 2002 through model year 2014, the proposed law would require a manufacturer of motor vehicles sold in Massachusetts to make available for purchase, by vehicle owners and in-state independent repair facilities, the same diagnostic and repair information that the manufacturer makes available through an electronic system to its dealers and in-state authorized repair facilities. Manufacturers would have to make such information available in the same form and manner, and to the same extent, as they do for dealers and authorized repair facilities. The information would be available for purchase on an hourly, daily, monthly, or yearly subscription basis, for no more than fair market value and on terms that do not unfairly favor dealers and authorized repair facilities.

For vehicles manufactured from 2002 through model year 2014, the proposed law would also require manufacturers to make available for purchase, by vehicle owners and in-state independent repair facilities, all diagnostic repair tools, incorporating the same diagnostic, repair and wireless capabilities as those available to dealers and authorized repair facilities. Such tools would have to be made available for no more than fair market value and on terms that do not unfairly favor dealers and authorized repair facilities.

For all years covered by the proposed law, the required diagnostic and repair information would not include the information necessary to reset a vehicle immobilizer, an anti-theft device that prevents a vehicle from being started unless the correct key code is present. Such information would have to be made available to dealers, repair facilities, and owners through a separate, secure data release system.

The proposed law would not require a manufacturer to reveal a trade secret and would not interfere with any agreement made by a manufacturer, dealer, or authorized repair facility that is in force on the effective date of the proposed law. Starting January 1, 2013, the proposed law would prohibit any agreement that waives or limits a manufacturer's compliance with the proposed law.

Any violation of the proposed law would be treated as a violation of existing state consumer protection and unfair trade-practices laws.

*A YES VOTE* would enact the proposed law requiring motor vehicle manufacturers to allow vehicle owners and independent repair facilities in Massachusetts to have access to the same vehicle diagnostic and repair information made available to the manufacturers' Massachusetts dealers and authorized repair facilities.

*A NO VOTE* would make no change in existing laws.

## **QUESTION 2: LAW PROPOSED BY INITIATIVE PETITION**

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 1, 2012?

### **SUMMARY**

This proposed law would allow a physician licensed in Massachusetts to prescribe medication, at a terminally ill patient's request, to end that patient's life. To qualify, a patient would have to be an adult resident who (1) is medically determined to be mentally capable of making and communicating health care decisions; (2) has been diagnosed by attending and consulting physicians as having an incurable, irreversible disease that will, within reasonable medical judgment, cause death within six months; and (3) voluntarily expresses a wish to die and has made an informed decision. The proposed law states that the patient would ingest the medicine in order to cause death in a humane and dignified manner.

The proposed law would require the patient, directly or through a person familiar with the patient's manner of communicating, to orally communicate to a physician on two occasions, 15 days apart, the patient's request for the medication. At the time of the second request, the physician would have to offer the patient an opportunity to rescind the request. The patient would also have to sign a standard form, in the presence of two witnesses, one of whom is not a relative, a beneficiary of the patient's estate, or an owner, operator, or employee of a health care facility where the patient receives treatment or lives.

The proposed law would require the attending physician to: (1) determine if the patient is qualified; (2) inform the patient of his or her medical diagnosis and prognosis, the potential risks and probable result of ingesting the medication, and the feasible alternatives, including comfort care, hospice care and pain control; (3) refer the patient to a consulting physician for a diagnosis and prognosis regarding the patient's disease, and confirmation in writing that the patient is capable, acting voluntarily, and making an informed decision; (4) refer the patient for psychiatric or psychological consultation if the physician believes the patient may have a disorder causing impaired judgment; (5) recommend that the patient notify next of kin of the patient's intention; (6) recommend that the patient have another person present when the patient ingests the medicine and to not take it in a public place; (7) inform the patient that he or she may rescind the request at any time; (8) write the prescription when the requirements of the law are met, including verifying that the patient is making an informed decision; and (9) arrange for the medicine to be dispensed directly to the patient, or the patient's agent, but not by mail or

courier.

The proposed law would make it punishable by imprisonment and/or fines, for anyone to (1) coerce a patient to request medication, (2) forge a request, or (3) conceal a rescission of a request. The proposed law would not authorize ending a patient's life by lethal injection, active euthanasia, or mercy killing. The death certificate would list the underlying terminal disease as the cause of death.

Participation under the proposed law would be voluntary. An unwilling health care provider could prohibit or sanction another health care provider for participating while on the premises of, or while acting as an employee of or contractor for, the unwilling provider.

The proposed law states that no person would be civilly or criminally liable or subject to professional discipline for actions that comply with the law, including actions taken in good faith that substantially comply. It also states that it should not be interpreted to lower the applicable standard of care for any health care provider.

A person's decision to make or rescind a request could not be restricted by will or contract made on or after January 1, 2013, and could not be considered in issuing, or setting the rates for, insurance policies or annuities. Also, the proposed law would require the attending physician to report each case in which life-ending medication is dispensed to the state Department of Public Health. The Department would provide public access to statistical data compiled from the reports.

The proposed law states that if any of its parts was held invalid, the other parts would stay in effect.

*A YES VOTE* would enact the proposed law allowing a physician licensed in Massachusetts to prescribe medication, at the request of a terminally-ill patient meeting certain conditions, to end that person's life.

*A NO VOTE* would make no change in existing laws.

### **QUESTION 3: LAW PROPOSED BY INITIATIVE PETITION**

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 1, 2012?

#### **SUMMARY**

This proposed law would eliminate state criminal and civil penalties for the medical use of marijuana by qualifying patients. To qualify, a patient must have been diagnosed with a debilitating medical condition, such as cancer, glaucoma, HIV-positive status or AIDS, hepatitis C, Crohn's disease, Parkinson's disease, ALS, or multiple sclerosis. The patient would also have to obtain a written certification, from a physician with whom the patient has a bona fide physician-patient relationship, that the patient has a specific debilitating medical condition and would likely obtain a net benefit from medical use of marijuana.

The proposed law would allow patients to possess up to a 60-day supply of marijuana for their personal medical use. The state Department of Public Health (DPH) would decide what amount would be a 60-day supply. A patient could designate a personal caregiver, at least 21 years old, who could assist with the patient's medical use of marijuana but would be prohibited from consuming that marijuana. Patients and caregivers would have to register with DPH by submitting the physician's certification.

The proposed law would allow for non-profit medical marijuana treatment centers to grow, process and provide marijuana to patients or their caregivers. A treatment center would have to apply for a DPH registration by (1) paying a fee to offset DPH's administrative costs; (2) identifying its location and one additional location, if any, where marijuana would be grown; and (3) submitting operating procedures, consistent with rules to be issued by DPH, including cultivation and storage of marijuana only in enclosed, locked facilities.

A treatment center's personnel would have to register with DPH before working or volunteering at the center, be at least 21 years old, and have no felony drug convictions. In 2013, there could be no more than 35 treatment centers, with at least one but not more than five centers in each county. In later years, DPH could modify the number of centers.

The proposed law would require DPH to issue a cultivation registration to a qualifying patient whose access to a treatment center is limited by financial hardship, physical inability to access reasonable transportation, or distance. This would allow the patient or caregiver to grow only enough plants, in a closed, locked facility, for a 60-day supply of marijuana for the patient's own use.

DPH could revoke any registration for a willful violation of the proposed law. Fraudulent use of a DPH registration could be punished by up to six months in a house of correction or a fine of up to \$500, and fraudulent use of a registration for the sale, distribution, or trafficking of marijuana for non-medical use for profit could be punished by up to five years in state prison or by two and one-half years in a house of correction.

The proposed law would (1) not give immunity under federal law or obstruct federal enforcement of federal law; (2) not supersede Massachusetts laws prohibiting possession, cultivation, or sale of marijuana for nonmedical purposes; (3) not allow the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana; (4) not require any health insurer or government entity to reimburse for the costs of the medical use of marijuana; (5) not require any health care professional to authorize the medical use of marijuana; (6) not require any accommodation of the medical use of marijuana in any workplace, school bus or grounds, youth center, or correctional facility; and (7) not require any accommodation of smoking marijuana in any public place.

The proposed law would take effect January 1, 2013, and states that if any of its part were declared invalid, the other parts would stay in effect.

*A YES VOTE* would enact the proposed law eliminating state criminal and civil penalties related to the medical use of marijuana, allowing patients meeting certain conditions to obtain marijuana produced and distributed by new state-regulated centers or, in specific hardship cases, to grow marijuana for their own use.

*A NO VOTE* would make no change in existing laws.

#### Question 4: THIS QUESTION IS NOT BINDING

Shall the state senator from this district be instructed to vote in favor of a resolution calling upon Congress to propose an amendment to the U.S. constitution affirming that (1) corporations are not entitled to the constitutional rights of human beings, and (2) both Congress and the states may place limits on political contributions and political spending?

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2012.  
(month)

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

City Council or Selectmen of: \_\_\_\_\_  
(City or Town)

\_\_\_\_\_  
(Indicate method of service of warrant.)

\_\_\_\_\_, 2012.  
Constable (month and day)

Warrant must be posted by **October 30, 2012**, (at least *seven days prior* to the **November 6, 2012**, State Election).



MONTACHUSETT REGIONAL TRANSIT AUTHORITY  
1427R Water Street, Fitchburg, Massachusetts 01420  
(978)345-7711 - 1-800-922-5636 - FAX: (978) 345-9867

Administrator  
Mohammed H. Khan

Member Communities  
Fitchburg  
Leominster  
Gardner  
Ashburnham  
Shirley  
Ayer  
Lancaster  
Sterling  
Hubbardston  
Royalston  
Littleton  
Winchendon  
Ashby  
Templeton  
Westminster  
Hardwick  
Lunenburg  
Harvard  
Bolton  
Boxborough  
Stow

Rec'd by TA  
10/1/12

TO: MART CONSORTIUM MEMBERS  
FROM: Bonnie J. Mahoney, Program Director  
DATE: August 20, 2012  
SUBJECT: New MART Drug & Alcohol Program Policy

MART has been asked by the Federal Transit Administration (FTA) to update our Drug and Alcohol Policy to reflect modifications in the regulations (49 CFR Part 40 and 49 CFR Part 655, as amended), and submit the new policy to them by October 19, 2012. During FTA's review of our existing policies it was also determined that the operators/agencies which are a part of the MART Consortium did not have drug and alcohol programs of their own, but instead deferred to MART's policy. This has been deemed insufficient for compliance with DOT's regulations.

Therefore as part of MART's new policy, the language has been revised to require all Consortium members who are employers, of employees whose job functions classify them as safety-sensitive under these regulations, to devise a policy statement or adopt MART's policy officially under approval of their local governing board or authorizing official. The adoption of this policy must be in writing, submitted to us, with the correct authorizing signature. The written statement of adoption must include the following:

1. Statement that (the employer) will abide by the regulations stated in 49 CFR Part 40, as amended and 49 CFR Part 655, as amended.
2. Statement that (the employer) is a willing member of the Consortium and will follow the directive of the Drug and Alcohol Program Manager.
3. Each employer must identify a contact person, either by name or title, to be the Designated Employee Representative for your agency. The DER is the person within your organization who is responsible for all communications with the MART Consortium Coordinator, and all other aspects of the drug and alcohol program. The DER will need to be trained by the MART Consortium on the necessary tasks which may include learning how to identify "Reasonable Suspicion" signs and symptoms.

Most of your agencies are already following most of these procedures and will only need to assign your written consent to the program. Some of you may need to make adjustments within your organization. MART will be happy to assist in any way that we can, including providing the necessary training.

This new policy will be presented to the MART Advisory Board for adoption at the next board meeting on September 12, 2012. Attached please find a draft copy of the new policy, which will be finalized after its adoption.

Please feel free to contact myself directly at 978-665-2290 with any questions or concerns.



MONTACHUSETT AREA REGIONAL TRANSIT



*Administrator*  
Mohammed H. Khan

MONTACHUSETT REGIONAL TRANSIT AUTHORITY  
1427R Water Street, Fitchburg, Massachusetts 01420  
(978)345-7711 - 1-800-922-5636 - FAX: (978) 345-9867

*Member Communities*  
Fitchburg  
Leominster  
Gardner  
Ashburnham  
Shirley  
Ayer  
Lancaster  
Sterling  
Hubbardston  
Royalston  
Littleton  
Winchendon  
Ashby  
Templeton  
Westminster  
Hardwick  
Lunenburg  
Harvard  
Bolton  
Boxborough  
Stow

**DRAFT**

**Policy Adopted by:**

**Montachusett Regional Transit  
Advisory Board**

**on**

**September 12, 2012**

*(Pending)*

**Drug and Alcohol Policy**

**Version 4**

# Drug and Alcohol Policy

Montachusett Regional Transit Authority  
(MART)  
1427R Water Street  
Fitchburg, MA 01420  
Phone 800-922-5636 • Fax 978-345-9867

## Table of Contents

PURPOSE OF THE POLICY .....	1
APPROVAL AND DISSEMINATION .....	1
DEFINITIONS .....	1
CONTACT PERSONS .....	1
COVERED EMPLOYEES .....	2
PROHIBITED SUBSTANCES .....	2
PROHIBITED CONDUCT .....	2
PRE-EMPLOYMENT TESTING .....	3
REASONABLE SUSPICION TESTING .....	3
POST-ACCIDENT TESTING .....	4
RANDOM TESTING .....	5
RETURN TO DUTY TESTING.....	5
FOLLOW-UP TESTING .....	5
DIRECT OBSERVATION.....	6
ALCOHOL RE-TESTING .....	6
TESTING PROCEDURES .....	6
TEST REFUSAL .....	6
DILUTE SPECIMEN.....	7
CONSEQUENCES OF A FAILED OR REFUSED TEST .....	7
SPLIT SAMPLE.....	7
VOLUNTARY REHABILITATION AND COUNSELING .....	8
PRESCRIPTION DRUG USE .....	8
EMPLOYEE TRAINING.....	8
ADMINISTRATIVE REQUIREMENTS .....	8
CONTRACTOR OVERSIGHT .....	9
ATTACHMENT A .....	10
ATTACHMENT B.....	11
ATTACHMENT C: REASONABLE SUSPICION TESTING REFERRAL FORM.....	12
ATTACHMENT D: POST-ACCIDENT DRUG AND ALCOHOL TESTING DECISION MAKER FORM ...	14
ATTACHMENT E.....	16
ATTACHMENT F .....	18
ATTACHMENT G .....	19

## **Purpose of the Policy**

The Montachusett Regional Transit Authority (MART) is a recipient of federal transit funds, and as such must comply with the Federal Transit Administration's (FTA) Drug and Alcohol Abuse Program. 49CFR Part 655 defines an "Employer" as a recipient or other entity that provides mass transportation service, or which performs a safety-sensitive function for such recipient or other entity. This term includes sub-recipients, operators, and contractors. MART contracts with multiple operators who provide that transportation service and perform the safety-sensitive functions, and as such is considered an employer under this rule. Any operator providing transportation service, or using MART vehicles, and being reimbursed by MART, and who perform safety-sensitive functions must comply. MART has developed a D&A Consortium to run the testing program and has created a single testing pool which encompasses all its operators and contractors. MART is also responsible for oversight of all our contractors to ensure their compliance.

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. All drug and alcohol testing is conducted in accordance with these regulations. All covered employees are required to submit to drug and alcohol tests as a condition of employment and may be tested at anytime during which safety-sensitive functions are performed.

Copies of Parts 655 and 40 are available in the Drug and Alcohol Program Manager's (DAPM) office and can be found on the internet at the Office of Drug & Alcohol Policy & Compliance's website <http://www.dot.gov/ost/dapc/index.html>.

## **Approval and Dissemination**

49 CFR Part 655.15 requires this policy statement be adopted by the MART Advisory (local governing) Board. MART also requires, in its oversight of the operators under MART, that all our contractors either adopt MART's Drug and Alcohol (D&A) Policy, or institute their own FTA compliant program, and that their local governing board, or other authorizing official, approves such an adaptation.

MART, and its contractors, must also provide written notice to every covered employee, and to representatives of employee organizations, of the employer's anti-drug and alcohol misuse program. MART suggests using an Employee Receipt of Policy statement which the employee signs and returns to the employer. An example is included in Attachment A.

## **Definitions**

49 CFR Part 655.4 defines various terms used throughout this policy.

## **Contact Persons**

The Grants Program Director is designated by MART to be the Drug and Alcohol Program Manager (DAPM) and can answer employee questions about the Agency's anti-drug use and alcohol misuse program. Each operator or contractor should state in their policy statement the name or position at their organization who will serve as the Designated Employer Representative (DER) who can answer these questions as well. The General Manager of MART's operating company is the contact person for the MART Consortium as a whole and can also be used as a resource.

## **Covered Employees**

The categories of employees, and any person applying for such positions, which are subject to the provisions of this part (policy) are considered "covered employees." You are a covered employee if you perform any of the following safety-sensitive functions:

- Operation of a revenue service vehicle, in or out of revenue service
- Maintenance (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service.
- Controlling dispatch or movement of a revenue service vehicle
- Operation of a non-revenue vehicle requiring a commercial driver's license (CDL)
- Carry a firearm for security purposes

If an operator uses volunteers to perform safety-sensitive functions, they are subject to this policy if:

- The volunteer is required to hold a CDL
- The volunteer receives remuneration in excess of his/her actual expenses incurred while engaged in the volunteer activity

See Attachment B for a list of covered positions by job title.

## **Prohibited Substances**

Consumption of these products is prohibited at all times:

- Marijuana (THC)
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine (PCP)

Alcohol is prohibited while performing safety sensitive duties. Please see the section below on "Prohibited Conduct" for more restrictions related to alcohol consumption.

## **Prohibited Conduct**

All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended. Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.

Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee must take an alcohol test, if the covered employee claims the ability to perform his or her safety-sensitive function.

No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions. No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

MART shall not permit any covered employee to perform, or continue to perform, safety-sensitive functions if it has actual knowledge that the covered employee has used alcohol in any of the above circumstances.

### **Pre-employment Testing**

A verified negative pre-employment drug test result is required before an employee or applicant can first perform safety-sensitive duties. An existing employee transferring from a non-safety-sensitive job to a safety-sensitive position must also submit to a pre-employment drug test. If a pre-employment test is cancelled, an employee must take another pre-employment test with a verified negative result before an employee can perform safety-sensitive duties for the first time.

A verified negative pre-employment drug test result is also required for covered employees who have not performed a safety-sensitive function for more than 90 consecutive calendar days, were removed from the random testing pool, and plan to return to a safety-sensitive function.

When a covered employee or applicant has previously failed or refused a pre-employment drug test, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in Part 655.62.

### **Reasonable Suspicion Testing**

MART shall conduct a drug and/or alcohol test when MART has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

The determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor or other company official who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.

MART may direct a covered employee to undergo reasonable suspicion testing for alcohol if the aforementioned observations were made only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

If an alcohol test is not administered within two hours following the determination to conduct a reasonable suspicion test, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the determination to test, cease attempts to administer an alcohol test and update the record with the reasons for not administering the test.

## Post-accident Testing

All safety-sensitive employees shall be subject to post-accident alcohol and controlled substances testing under the following circumstances.

Fatal Accidents: As soon as possible following an accident involving the loss of human life, DOT drug and alcohol tests shall be conducted on each surviving covered employee operating the mass transit vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, shall be tested.

Non-fatal Accidents: As soon as possible following a non-fatal accident, DOT drug and alcohol tests are required if one of the following conditions is met; unless the covered employee can be completely discounted as a contributing factor based on the best information available at the time of the decision.

1. An accident results in bodily injuries requiring immediate medical treatment away from the scene
2. If a mass transit vehicle is involved, and one or more vehicles receive disabling damage and have to be towed from the scene. Disabling damage means damage which prevents the departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs.
  - a. Includes: vehicles that could have been operated but would have been further damaged if so operated
  - b. Excludes: damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail lights, turn signals, horn, or windshield wipers that makes the vehicle inoperative.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, is tested.

If an alcohol test is not administered within two hours following the time of the accident, prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the determination to test, cease attempts to administer an alcohol test and update the record with the reasons for not administering the test. A drug test should be taken as soon as possible but within 32 hours of the accident.

The decision not to administer a drug and/or alcohol test under this section shall be based on the employer's determination, using the best available information at the time of the decision that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision making process used to reach the decision not to test.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the DOT requirements provided such test conforms to the applicable Federal, State, or local testing

requirements, and that the test results are obtained by the employer. Such test results may be used only when the employer is unable to perform a post-accident test within the required period.

The employer must use the Post Accident Decision Form found in Attachment D to document the reason for such testing or the decision not to test.

## **Random Testing**

Random drug and alcohol tests are unannounced, unpredictable, immediate, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed. Testing rates will meet or exceed the minimal annual percentage rate set each year by the DOT Administrator. The current year testing rates can be viewed on line at <http://www.dot.gov/ost/dapc/rates.html>.

The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, all covered employees shall have an equal chance of being tested each time selections are made.

Each covered employee who is notified of selection for random drug or random alcohol testing shall proceed to the test site immediately. A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime of the day when safety-sensitive functions are performed.

## **Return to Duty Testing**

MART does not directly employ any safety-sensitive employees. All covered employees work for the operators under contract with MART for the performance of these functions. The individual operators and contractors must decide whether or not their employees will be allowed to return to duty after a refusal to submit to a test, a verified positive drug test result, and/or a confirmed alcohol test of 0.04 or greater. If the employer allows that employee to return to safety-sensitive functions, they must follow the procedures outlined in 49 CFR Part 40, as amended, before reinstatement of duties.

## **Follow-up Testing**

Employees returning to duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing as directed by the Substance Abuse Professional (SAP). The number and frequency of such follow-up testing shall be directed by the SAP. The employee will be subject to follow-up testing for a period of 1 to 5 years as determined by the SAP. All testing will be conducted in accordance with Part 40, subpart O. Employee is responsible for all costs associated with substance abuse rehabilitation. The employer will provide information concerning locations to receive such assistance, and employees may or may not use such information.

## **Direct Observation**

MART may direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test.

## **Alcohol Re-Testing**

If an employer chooses to permit a covered employee to perform a safety-sensitive function within 8 hours of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04, the employer shall retest the covered employee to ensure compliance with the provisions of section 655.35 of subpart D. The covered employee may not perform safety-sensitive functions unless the confirmed alcohol test result is less than 0.02.

## **Testing Procedures**

All drug and alcohol testing will be conducted as required in 49 CFR Part 40, as amended.

## **Test Refusal**

The employer shall require a covered employee to submit to a post-accident drug and alcohol test required under section 655.44 of this subpart, a random drug and alcohol test required under section 655.45 of this subpart, a reasonable suspicion drug and alcohol test required under section 655.43 of this subpart, or a follow-up drug and alcohol test required under section 655.47 of this subpart. No employer shall permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions. When an employee refuses to submit to a drug or alcohol test, the procedures outlined in 49 CFR Part 40, as amended, shall be followed.

Please refer to 49 CFR Part 40 subpart I (drugs) and 40 subpart N (alcohol) which defines in detail what actions by an employee constitute a "refusal to test" and other problems surrounding testing. To summarize a covered employee has refused to take a DOT test if:

1. Fail to appear for any test (except a pre-employment test) within a reasonable time
2. Fail to remain at the testing site until the testing process is complete
3. Fail to provide a urine (drug) or saliva/breath (alcohol) specimen for any test
4. Fail to permit an observed or monitored collection when required
5. Fail to provide a sufficient amount of urine or saliva/breath without a valid medical explanation
6. Fail to take an additional test when directed to
7. Fail to undergo a medical examination or evaluation as directed by the MRO or DER
8. Fail to cooperate with any part of the testing process
9. Fail to sign Step 2 of alcohol test form (ATF)
10. Admit to the collector or MRO that you adulterated or substituted the specimen OR the MRO has verified an adulterated or substituted test result.
11. If an employee normally voids through self-catheterization, and declines to do so.
12. For an observed collection, fail to follow the observer's instructions to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
13. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
14. For pre-employment tests only: failure to appear, aborting the collection before the test commences, or failure to remain at the site prior to commencement of test is NOT a test refusal.

## **Dilute Specimen**

If the MRO informs MART (the employer) that a negative test was 'dilute', the following actions must be taken:

1. An immediate recollection under direct observation must be conducted if the creatinine concentration is between 2-5 mg/dl requires (see §40.155(c)).
2. Concentration greater than 5 mg/dl but less than 20 mg/dl does not require retesting, but the employer may choose to do so. All employees must be treated equally if this is the employer's policy, and direct observation is not required.

Dilute negative results below 2 mg/dl are considered to be a substituted (refusal) test (see §40.145(e2)).

## **Consequences of a Failed or Refused Test**

Immediately following notification from a medical review officer (MRO) or a consortium/third party administrator (C/TPA) that a covered employee has a verified positive drug test, or from a Breath Alcohol Technician (BAT) that a covered employee has a confirmed alcohol (BAC at or above 0.04) test result, or a test refusal, the DER must take action to see that the employee is immediately removed from safety-sensitive duties. Disciplinary actions that follow will defer to the operator/contractor's company drug and alcohol policy.

Following a BAC of 0.02 or greater, but less than 0.04 – the employee is to be immediately removed from safety sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration of less than 0.02.

No employer shall take any action under this part against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an employer with authority independent of this part from taking any action otherwise consistent with law.

If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs.

Before allowing the covered employee to resume performing a safety-sensitive function, the employer shall ensure the employee meets the requirements of 49 CFR Part 40, as amended, for returning to duty, including taking a return to duty drug and/or alcohol test.

## **Split Sample**

When the MRO has verified a drug test as positive for a drug or drug metabolite, or as a refusal to test because of adulteration or substitution, the MRO must notify the employee of his/her right to have the split specimen tested and of the procedures for requesting a test of the split specimen (see §40.153).

MART, under the conditions of the Consortium, will guarantee that the cost for the split specimen test is covered in order for a timely analysis of the sample. However the employee is required to pay for the

split specimen test in the event the split specimen test comes back positive, MART will pay for the split specimen test if the resulting test is determined to be negative by the MRO.

## **Voluntary Rehabilitation and Counseling**

This section will not apply to any employee who tests positive through the testing program, and is independent of FTA regulations. The employee must voluntarily seek treatment through this section prior to being notified of a pending drug and/or alcohol test or involved in a situation that requires a reasonable suspicion or post-accident FTA drug and/or alcohol test.

Employees are personally responsible for seeking treatment for alcohol and/or controlled substance dependence. Any voluntary request by an employee for assistance with his/her alcohol and/or controlled substance dependency will remain as confidential as possible and shall not be used, in itself, as a basis for disciplinary action.

The costs of such visits with the SAP shall be borne by the employee. The employee may use any available accumulated leave in accordance with the company's leave policies in order to participate in extended counseling and/or rehabilitation. If the employee requests that the purpose of the leave not be disclosed to his/her immediate supervisor, the department head shall maintain confidentiality regarding the reason for the leave.

## **Prescription Drug Use**

The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. It is, however, the employee's responsibility to inform the physician of the employee's job duties and determine from the physician, or other health care professional, whether or not the prescribed drug may impair their job performance or mental or motor function. It is the responsibility of the employees to remove themselves from service if they are unfit for duty.

## **Employee Training**

Each employer shall establish an employee education and training program for all covered employees. Please refer to §655.14 "Education and training programs" for more details on this policy component.

## **Administrative Requirements**

The employer is required to maintain records of its anti-drug and alcohol misuse program as provided in §655 Subpart H. The records shall be maintained in a secure location with controlled access. Please refer to §655.71 for the specific periods of retention and the types or records required by the regulations. Examples of record types include records related to the collection process, test results, referral and return to duty and follow-up testing, employee training, and copies of the annual reports to FTA.

A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the covered employee's use of prohibited drugs or misuse of alcohol, including any records pertaining to his or her drug or alcohol tests. The employer shall provide promptly the records requested by the employee. Access to a covered employee's records shall not be contingent upon the employer's receipt of payment for the production of those records.

The employer shall permit access to all facilities utilized, records compiled, and data disclosed to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its employees. Please refer to §655.73 for the specific details regarding access to records and other circumstances regarding the release of these records or the information enclosed therein. The MART Consortium keeps the records of all member agencies in a single secure location specified for the anti-drug and alcohol misuse program. Any consortium member can gain access to their employee records. MART in its oversight activities also has access to these records.

Records shall also be made available to a subsequent employer upon receipt of a written request from the covered employee. Subsequent disclosure by the employer is permitted only as expressly authorized by the terms of the covered employee's request. The employer is also required to request this same information from the previous employer when hiring a new covered employee. Please distribute the release form found in Attachment E to the potential employee in order to obtain this information. A copy of the completed forms will need to be sent to the MART Consortium Coordinator for the records.

MART, as the FTA recipient, is required to annually prepare and maintain a summary of the results of its anti-drug and alcohol misuse testing programs performed during the previous calendar year (January 1 through December 31), and submit it to FTA's Office of Safety and Security, or its designated agent, by March 15th. Please refer to the results §655.72 for details on this process.

## **Contractor Oversight**

MART, as the FTA recipient/grantee, is required to conduct oversight of all operators/contractors who receive federal funds thru contracts and agreements with MART to ensure compliance with 49 CFR Part 40, as amended and 49 CFR Part 655, as amended. MART has three operating companies, a sub-contract with a private taxi operator, member communities' Council-On-Aging agencies, and an agreement with a not-for-profit agency to provide transportation throughout MART's service region. A MART Consortium was formed to manage the large number of covered employees that these agencies bring under the aforementioned DOT requirements. All consortium members fall under the oversight of MART. A comprehensive list of all the contractors and agencies involved in the MART Consortium is included in Attachment F.

The following oversight activities will be conducted for compliance:

- Quarterly review by the MART DAPM of the program records
- Monthly verification of the testing summaries by the Consortium Coordinator
- Periodic, unannounced, inspections of the collection sites by the Consortium Coordinator
  - Watch the testing process in action (See Attachment G for a FTA drug test checklist)
  - Verify certifications of current staff
- Request copies of any new certifications of testing staff, MRO & SAP on an annual basis
- Annual review by the MART DAPM of the training logs
- Annual verification and compilation of the FTA MIS Report.

## ATTACHMENT A

### Employee Receipt of Policy

Name: \_\_\_\_\_  
(Print)

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

ID Number: \_\_\_\_\_

Job title: \_\_\_\_\_

Attached is a copy of the Drug and Alcohol Policy, dated \_\_\_\_\_

Your signature below certifies that you have received a copy of the policy. Please sign and return this

form to \_\_\_\_\_ . Please contact \_\_\_\_\_

at phone #: \_\_\_\_\_ if you have any questions.

\_\_\_\_\_  
(Employee Signature)

## ATTACHMENT B

Covered employees by job title:

- General Manager
- Assistant General Manager
- Maintenance Supervisor
- Mechanic
- Cleaner
- Driver
- Dispatcher
- Security
- COA Director (if they substitute for a Dispatcher)

If any contractor uses different terminology than above, then those job titles would have to be included in their Policy Statement.

# ATTACHMENT C

## REASONABLE SUSPICION TESTING REFERRAL FORM

This form is to be used to document the decision to administer a reasonable suspicion drug or alcohol test by a supervisor or company official who is trained in detecting the signs and symptoms of drug use and alcohol misuse. After a direct observation of the employee's appearance, behavior, speech and/or body odors, please check ALL the indicators that resulted in your decision to administer a reasonable suspicion test based on the signs and symptoms that the safety-sensitive employee has used a prohibited drug and/or engaged in alcohol misuse. (Please refer to 49 CFR Part 655.43 for further explanation)

Employee Name: \_\_\_\_\_

Employee Number: \_\_\_\_\_ Job Title: \_\_\_\_\_

Supervisor/Co. Official: \_\_\_\_\_

Date of Determination: \_\_\_\_\_ Time of Determination: \_\_\_\_\_

Name(s) of Witness, if any: \_\_\_\_\_

### APPEARANCE, PHYSICAL INDICATORS, SPEECH OR BODY ODORS

- |  |  |
|--|--|
| <input type="checkbox"/> Flushed or very pale complexion       | <input type="checkbox"/> Slurred, thick, slowed          |
| <input type="checkbox"/> Excessive sweating or skin clamminess | <input type="checkbox"/> Incoherent, nonsensical, silly  |
| <input type="checkbox"/> Bloodshot or watery eyes              | <input type="checkbox"/> Loud, boisterous                |
| <input type="checkbox"/> Dilated or constricted pupils         | <input type="checkbox"/> Repetitious, rambling           |
| <input type="checkbox"/> Nystagmus (jerky eye movement)        | <input type="checkbox"/> Cursing, inappropriate language |
| <input type="checkbox"/> Unfocused, blank stare                | <input type="checkbox"/> Rapid, pressured                |
| <input type="checkbox"/> Runny/bleeding nose                   | <input type="checkbox"/> Excessive talkativeness         |
| <input type="checkbox"/> Dry mouth, wetting lips frequently    | <input type="checkbox"/> Exaggerated enunciation         |
| <input type="checkbox"/> Odor of alcohol                       | <input type="checkbox"/> Distinctive pungent aroma       |

### BEHAVIORAL INDICATORS

- |   |   |
|---|---|
| <input type="checkbox"/> Stumbling, unsteady gait         | <input type="checkbox"/> Poor coordination                        |
| <input type="checkbox"/> Hyperactivity, fidgety, agitated | <input type="checkbox"/> Depressed, withdrawn                     |
| <input type="checkbox"/> Nervous, disorderly              | <input type="checkbox"/> Extreme fatigue or sleeping on the job   |
| <input type="checkbox"/> Irritable, moody, belligerent    | <input type="checkbox"/> Breathing irregularly or with difficulty |
| <input type="checkbox"/> Shaking, tremors, twitches       | <input type="checkbox"/> Nausea or vomiting                       |
| <input type="checkbox"/> Dizziness or fainting            | <input type="checkbox"/> Significant increase in errors           |

Other observations not noted above: \_\_\_\_\_

Supervisor/Company Official Signature: \_\_\_\_\_

The supervisor, or other company official, making the reasonable suspicion determination must be authorized to do so by the employer and must have received at least 60 minutes of training on indicators of probable drug use and 60 minutes of training on indicators of probable alcohol misuse. (49 CFR Part 655.14(b)(2)) (See Page 2)

Instructions to Supervisor/Company Official:

Conduct the employee interview in a private setting; mindful of the dignity and confidentiality rights of the employee.

Give the employee an opportunity to explain the reason(s) for the indicators you have observed from his or her perspective. Expect denial. Note explanation given by the employee (if any) in the space below.

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Once a reasonable suspicion testing determination has been made, immediately remove the employee from performing any safety-sensitive functions. Notify the employee that he or she will remain out of service until the test results are known.

Arrange to have the employee accompanied to the collection site for testing without delay.

FTA regulation requires that reasonable suspicion testing for alcohol be administered within two (2) hours following the determination to refer the employee for testing. If alcohol testing is not conducted within two hours, document the reason for the delay. If the test is not administered within eight (8) hours, cease all attempts to test and document the reason for the inability to test. Please use the space below to document any delays or inability to test.

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Complete and sign this document and send the original to the MART Consortium Coordinator.

**IMPORTANT: DO NOT TRY TO DIAGNOSE ABUSE OR ADDICTION OR IDENTIFY THE SPECIFIC DRUG ASSOCIATED WITH THE EMPLOYEE'S BEHAVIOR OR APPEARANCE.**

## ATTACHMENT D

### POST-ACCIDENT DRUG AND ALCOHOL TESTING DECISION MAKER FORM

The Federal Transit Administration (FTA) drug and alcohol testing regulation (49 CFR Parts 655) requires that safety-sensitive employees involved in a vehicle accident (as defined below) submit to tests for alcohol misuse and prohibited drug use as soon as possible following an accident that meets the thresholds described therein. 49 CFR Part 655 also requires the testing of any other safety-sensitive employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

#### Accident Information:

Date of Accident \_\_\_\_\_ Time of Accident: \_\_\_\_\_ AM/PM

Employee Name: \_\_\_\_\_ Employee ID #: \_\_\_\_\_

#### Decision Questions:

Was it an FTA-defined accident (49 CFR Part 655.4)?

Was there a human fatality? Yes \_\_\_\_ No \_\_\_\_ (If Yes, a DOT Post-Accident test is required)

If there was **no** fatality, ask the following questions:

- 1) Has any individual suffered a bodily injury and immediately received medical treatment away from the scene of the accident? Yes \_\_\_\_ No \_\_\_\_
- 2) Was there a disabling damage to the company vehicle (if bus, electric bus, van, or automobile) or any other vehicle as a result of the occurrence and the vehicle was transported away from the scene by a tow truck or other vehicle? Yes \_\_\_\_ No \_\_\_\_
- 3) Was the vehicle removed from operation? Yes \_\_\_\_ No \_\_\_\_

If you answer YES to any of the above three questions, a DOT Post-Accident test is required unless you also answer YES to the following question

Can you determine, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident?  
Yes \_\_\_\_ No \_\_\_\_

(Any reason for NOT conducting a Post-Accident test after you've answered YES to questions 1, 2 or 3 MUST be documented.)

(See Page 2)

POST-ACCIDENT DRUG AND ALCOHOL TESTING DECISION MAKER FORM  
(Page 2)

Transport/Collection Site Information:

Collection site location: \_\_\_\_\_

Transported by: \_\_\_\_\_ Time transported: \_\_\_\_\_ AM/PM

On scene supervisor: \_\_\_\_\_

If a DOT Post-Accident test is required, answer the following:

1. Time Alcohol test performed: \_\_\_\_\_ AM/PM

a. Was this time within two hours after the accident? Yes \_\_\_\_\_ No \_\_\_\_\_

If no, please explain why not:

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

b. Was the test administered within 8 hours? Yes \_\_\_\_\_ No \_\_\_\_\_

2. Time of urine collection for drug testing: \_\_\_\_\_ AM/PM

a. Was this time within thirty-two hours after the accident? Yes \_\_\_\_\_ No \_\_\_\_\_

If no, please explain why not:

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

## ATTACHMENT E

### "Release of Information Form -- 49CFR Part 40 Drug and Alcohol Testing"

**Section I.** To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

Employee (printed or typed) Name: \_\_\_\_\_

Employee SS or ID Number: \_\_\_\_\_

I hereby authorize the release of information for my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in *Section I-B*, to the employer listed in *Section I-A*. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that the information to be released in *Section II-A* by my previous employer is limited to the following DOT regulated testing items:

- Alcohol tests with a result of 0.04 or higher;
- Verified positive drug tests;
- Refusals to be tested;
- Other violations of DOT agency drug and alcohol testing regulations;
- Information obtained from previous employers of a drug and alcohol rule violation;
- Documentation, if any, of completion of the return-to-duty process following a rule violation.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**I-A:**

New Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Designated Employer Representative: \_\_\_\_\_

**I-B:**

Previous Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Designated Employer Representative (if known): \_\_\_\_\_

**Section II.** To be completed by the previous employer and transmitted by mail or fax to the new employer:

**II-A:** In the two years prior to the date of the employee's signature (*in Section I*), for DOT-regulated testing:

1. Did the employee have alcohol tests with a result of 0.04 or higher? YES \_\_\_\_ NO \_\_\_\_
2. Did the employee have verified positive drug tests? YES \_\_\_\_ NO \_\_\_\_
3. Did the employee refuse to be tested? YES \_\_\_\_ NO \_\_\_\_
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? YES \_\_\_\_ NO \_\_\_\_
5. Did a previous employer report a drug and alcohol rule violation to you? YES \_\_\_\_ NO \_\_\_\_
6. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process? N/A \_\_\_\_ YES \_\_\_\_ NO \_\_\_\_

NOTE: If you answered "yes" to item 5, you must provide the previous employer's report. If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

**II-B:**

Name of person providing information in *Section II-A*: \_\_\_\_\_

Title: \_\_\_\_\_

Phone #: \_\_\_\_\_

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

## ATTACHMENT F

### MART CONSORTIUM MEMBERS

#### **Operators:**

Management of Transportation Services, Inc  
Management of Transportation Services - Gardner  
Dial-A-Mart Services, Inc.  
City Cab of Leominster  
Community Transit Services  
Ashburnham Council-On-Aging (COA)  
Ayer COA  
Bolton COA  
Boxborough COA  
Gardner COA  
Harvard COA  
Hardwick COA  
Hubbardston COA  
Lancaster COA  
Littleton COA  
Lunenburg COA  
Shirley COA  
Sterling COA  
Templeton COA  
Westminster COA  
Winchendon COA

#### **Service Agents**

##### **Consortium/Third Party Administrator (C/TPA):**

Health Alliance - Take Charge

##### **Collection Sites:**

Health Alliance Hospital  
Athol Memorial Hospital  
Secon of New England

##### **DHHS Certified Lab:**

Quest Diagnostics

##### **Medical Review Officer:**

Dr. Murphy

##### **Substance Abuse Professional:**

Robert Lenhardt

## ATTACHMENT G

### Collection Site Visit Form

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

MART Representative: \_\_\_\_\_ (performing the inspection)

Name of Collection Site: \_\_\_\_\_

Name(s) of Collection Site Personnel interviewed/monitored: \_\_\_\_\_

Was a DOT drug test performed and monitored during this visit? Yes \_\_\_\_\_ No \_\_\_\_\_

Was the test conducted in a manner that resulted in an uneventful collection? Yes \_\_\_\_\_ No \_\_\_\_\_

Has the "Uneventful Urine Collection" form been filled out and attached? Yes \_\_\_\_\_ No \_\_\_\_\_

Was a DOT alcohol test performed and monitored during this visit? Yes \_\_\_\_\_ No \_\_\_\_\_

Was the proper Alcohol Testing Form (ATF) used? Yes \_\_\_\_\_ No \_\_\_\_\_

Is the technician who administered the test on MART's current list of certified techs? Yes \_\_\_\_\_ No \_\_\_\_\_  
(if NO then have technician produce a copy of his/her current certification and attach for file)

Did the collection site pass inspection? Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered NO, were specific instructions given to help the site come into compliance?  
Yes \_\_\_\_\_ No \_\_\_\_\_

*Please have the Collection Site Supervisor (must have knowledge of the inspection performed) sign below acknowledging the inspection completion and the receipt of any instructions/information given by the MART Representative.*

\_\_\_\_\_  
Collection Site Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
MART Representative Signature

\_\_\_\_\_  
Date

## Federal Transit Administration Drug and Alcohol Program

### UNEVENTFUL URINE COLLECTION – Did the collector ...

- Require employee to provide positive identification (Part 40.81(c)).
- Explain basic collection procedure, show employee instructions on back of CCF (Part 40.81(e)).
- Direct the employee to remove outer clothing (jacket, hat) and to leave these garments and other personal items (briefcase, purse, etc.) in a mutually agreeable location (Part 40.81(f)).
  - o Advises employee that failure to comply constitutes a refusal to test.
  - o Allows employee to keep wallet (40.81(f)(2)).
- Direct employee to empty pockets and display items in them (Part 40.81(f)(4)).
  - o If no potential adulterants are found, allow employee to return items to pockets.
- Use the Federal Drug Testing Custody and Control Form (OMB No. 0930-0158) (40.45(a)).
- Complete Step 1 of CCF (Part 40.63(a)).
  - o Ensure that the name and address of the HHS-certified lab or HHS-certified IITF are on the top of the CCF.
  - o Ensures that the Specimen ID at the top of the CCF matches the Specimen ID on labels/seals.
  - o Checks the Specify Testing Authority (DOT) and the Specify DOT Agency checkboxes.
  - o Checks the Reason for Test box (Pre-Employment, Random, Post-Accident, etc.).
  - o Checks the Drug Tests to Be Performed box (THC, CQC, PCP, OPI, AMP for DOT).
- Instruct employee to wash/dry hands and not to wash hands again until delivering specimen to collector (Part 40.63(b)).
- Ensure collection container is selected and unwrapped in presence of employee (Part 40.63(c)).
- Secure urination facility before the collection (if single-toilet room with a full-length privacy door) (Parts 40.41 & 43).
  - o Secures any water sources or make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets).
  - o Ensures that the water in the toilet tank contains bluing agent.
  - o Ensures that soap, disinfectants, cleaning agents, or other possible adulterants are not present.
  - o Inspects the site to ensure that no foreign or unauthorized substances are present.
  - o Tapes or otherwise securely shuts any movable toilet tank or puts bluing agent in the tank.
  - o Ensures that undetected access (e.g., through a door not in your view) is not possible.
  - o Secures areas and items (e.g., ledges, trash receptacles, paper-towel holders, under-sink areas, drop-down ceiling panels) that appear suitable for concealing contaminants.
- Direct employee to go into room used for urination and instruct employee to:
  - o Provide at least 45 ml of urine.
  - o Not flush the toilet.
  - o Return specimen to the collector as soon as the void is complete.
  - o Allow only the employee into the room used for urination (40.41(d)(1)).
- Check that the specimen:
  - o Contains at least 45 ml of urine. If not, follow shy bladder procedure (Part 40.65(a)).
  - o Reads temperature strip within 4 minutes (Part 40.65(b)).
- Mark appropriate box in Step 2 of CCF (Yes = between 90 and 100 degrees).
- Check specimen for signs of tampering (Part 40.65).
- Check specimen for unusual color, foreign objects/material, or other signs of tampering (odor).
- Mark box in Step 2 of the CCF indicating a split specimen collection (Part 40.71(b)(1)).
- Pour at least 30 ml of urine into the primary specimen bottle (Part 40.71(b)(2)).
- Pour at least 15 ml of urine into the secondary specimen bottle (Part 40.71(b)(3)).
- Secure the lids or caps on the specimen bottles (Part 40.71(b)(4)).
- Place the tamper-evident seals on the specimen bottles (Part 40.71(b)(5)).
  - o Dates the specimen bottle seals, after affixed to the bottle (Part 40.71(b)(5)).
  - o Ensures that the employee initials specimen bottle seals (Part 40.71(b)(7)).
- Direct employee to read and sign certification statement on Copy (MRO) 2, Step 5 of CCF and to provide date of birth, printed name, day and evening contact telephone numbers (Part 40.71(a)(1)).
- Print collector name in Copy 1, Step 4 of CCF; record the date and time of collection; sign statement; enter actual name of delivery service transferring the specimen to laboratory (Part 40.73(a)(2)).
- Ensure that all copies of the CCF are legible and complete (Part 40.73(a)(3)).
- Remove Copy 5 of the CCF and give it to the employee (Part 40.73(a)(4)).
- Place specimen bottles and Copy 1 of CCF in plastic bag and secure both pouches of plastic bag (Part 40.73(a)(5)-(a)(6)).
- Advise employee that he/she may leave the site (Part 40.73(a)(7)).
- Place plastic bag in shipping container and seal container as appropriate (Part 40.73(a)(8)(i)-(ii)).
- Recheck the urination facility, performing all steps as was done prior to the collection to ensure the site's continued integrity.
- Conduct the collection for only one employee at a time (40.43(d)(1)).

For additional information, go to [www.fta.dot.gov](http://www.fta.dot.gov) (Click on SAFETY & SECURITY)

## Index

9  
90 consecutive calendar days, 3

### A

Alcohol  
    Consumption Parameters, 3  
    Prohibited, 2  
    Testing, 3, 6  
Amphetamines, 2

### B

BAC levels, 7

### C

C/TPA, 7, 18  
Cocaine, 2  
Collection sites, 18  
Consequences, 7  
Consortium members, 18  
Contact person, 1  
Covered employees, 2  
Covered positions by job title, 11

### D

DHHS Certified Lab, 18  
Dilute specimen, 7  
Disabling damage, 4, 14  
Drug Testing, 1, 3-5

### F

Fatal accidents, 4  
Fatality, 14  
Follow-up Testing, 5, 6, 16-17

### I

Inspections, 9  
    Site Inspection Form, 19

### M

Marijuana, 2  
MRO, 6-8, 18

### N

Non-fatal accidents, 4

### O

On-call employees, 2  
Operators, 1, 5, 9, 18  
Opiates, 2  
Oversight, 9

### P

Phencyclidine, 2  
Post-accident testing, 3-6, 8  
    testing form, 14-15  
Pre-employment testing, 3, 6  
Prescription drug use, 8  
Previous employer record check, 9  
    release form, 16-17  
Prohibited conduct, 2-3  
Prohibited substances, 2

### R

Random testing, 5  
Reasonable suspicion testing, 3  
    testing form, 12-13  
Receipt of policy, 1, 10  
Records  
    access to, 8, 9  
    MIS data, 9  
    retention, 8  
Return to duty testing, 5, 7-8

### S

SAP, 5, 7-8, 18  
Split sample, 7

### T

Test refusal, 6-7  
Testing procedures, 6  
Testing rates, 6  
Training, 8  
Treatment, 3, 7-8

### U

Urine  
    Collection checklist, 20  
    Insufficient amount, 6

### V

Voluntary rehabilitation and counseling, 8



**Internal Communications and Outgoing Communications**  
**October 15, 2012**

1. Copy of letter from Mary Brolin, dated September 21, 2012, to Town Clerk Markiewicz, confirming that she had tendered her resignation from the Local Boxborough School Committee seat at the September 20, 2012 - Joint Meeting of the Selectmen and School Committee.\*
2. Administrative Memorandum from TA Shaw, October 3, 2012, regarding Special Town Meeting – January 7, 2013. #
3. Communications regarding Boxborough Town Center, LLC, (BTC) member, James Fenton’s public records request:
  - a. Letter from BTC member James Fenton, dated October 2, 2012, to TA Shaw [with TA Shaw’s note regarding action taken]\*
  - b. Email communication from TA Shaw, dated October 3, 2012, to Authentic Homes, Inc.’s “Donna” sent in response to Mr. Fenton’s request and advising her of actions that will taken in response to same.\*
4. Letter from Comcast’s Senior Manager of Government & Community Relations, Timothy Kelly, dated October 9, 2012, to the Board of Selectmen regarding Grandfathered Cable Packages.
5. Copy of letter from Interim Insp.of Bldgs/Code Admin.Officer, Craig Martin, dated October 9, 2012, to President of the Applewood Community Corporation regarding the repairs of the decks at 60 & 66 MacIntosh Lane – required permits.

# Indicates that the item had been previously distributed.

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



8a(1)

\*

September 21, 2012

Ms. Elizabeth Markiewicz  
Town Clerk  
Town of Boxborough  
29 Middle Road  
Boxborough MA, 01719

Received  
9-24-2012

Dear Ms. Markiewicz:

I am writing this letter to notify you that I tendered my resignation from the local Boxborough School Committee seat last night at approximately 9:15 pm at a joint meeting of the Boxborough School Committee and the Boxborough Board of Selectmen, effective immediately.

If you have any questions about this matter you can contact me by phone at 978-828-2387 or by e-mail at [mary@brolinfamily.com](mailto:mary@brolinfamily.com).

Sincerely,



Mary F. Brolin

Cc: Maria Neyland  
Les Fox ✓  
Selina Shaw  
Cheryl Mahoney



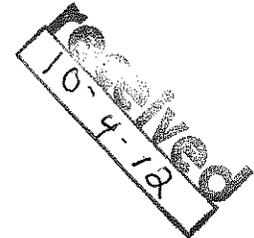
80 (3a)

\*

*Boxborough Town Center, LLC*  
*PO Box 985, W. Acton, MA 01720*  
*978-266-9751 Fax 978-635-0988 [authhomes@msn.com](mailto:authhomes@msn.com)*

By Certified Mail Article Number 7011 2000 0001 7235 3019

and U.S. Mail



October 2, 2012

Selina Shaw  
Town Administrator  
Town of Boxborough  
29 Middle Road  
Boxborough, MA 01719

Re: Massachusetts Public Records Request

This is a request under the Massachusetts Public Records Law (M. G. L. Chapter 66, Section 10).

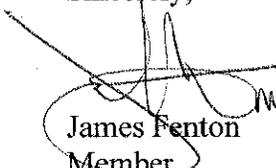
I am requesting that I be provided copies of the following records:

All Orders of Conditions and Certificates of Compliance issued, completed, and signed by the Boxborough Conservation Commission for the period January, 2002, to present.

I recognize that you may charge reasonable costs for copies in order to comply with this request. If you expect costs to exceed \$10.00, please provide a detailed fee estimate.

As you may be aware, the Public Records Law requires you to provide me with a written response within 10 calendar days. If you cannot comply with my request, you are statutorily required to provide an explanation in writing.

Sincerely,

  
James Fenton  
Member

Mary N. will provide estimate to compile + copy docs w/in stat by time frame. J. Fenton then determine whether or not he wishes to proceed... and must submit payment in advance...



**Selina S. Shaw**

---

**From:** Selina S. Shaw [selina.shaw@town.boxborough.ma.us]  
**Sent:** Wednesday, October 03, 2012 2:43 PM  
**To:** 'Authentic Homes Inc'  
**Cc:** 'Mary Nadwairski (mary.nadwairski@town.boxborough.ma.us)'  
**Subject:** Massachusetts Public Records Request  
**Importance:** High

Good afternoon, Donna.

We are in receipt of the public records request submitted by Boxborough Town Center, LLC. I have forwarded it on to Mary Nadwairski, who provides administrative support to the Conservation Commission. She will timely prepare and send to James Fenton, Member, an estimate of the costs to comply with the request. At that time, he can decide if he would like us to proceed with the compilation and copying of those records. Payment must be received before we begin the process of compiling and copying the records.

Please don't hesitate to contact me if you need further assistance. Please note that I will be out of the office for the period October 5 – 14.

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

*When writing or responding, please be aware that the Secretary of State has determined that most email is a public record and, therefore, may not be kept confidential.*





**Minutes, Notices and Updates  
October 15, 2012**

**Minutes**

1. Conservation Commission minutes of the meetings held August 1, 2012; August 15, 2012; and September 19, 2012.
2. Personnel Board minutes of the meeting held August 30, 2012.
3. Finance Committee minutes of the meeting held September 10, 2012.

**Notices**

1. Notice of a Stow Road Concept Development Committee held September 26, 2012.
2. Notices of Boxborough School Committee meetings:
  - a. Negotiation Subcommittee meeting held October 2, 2012.
  - b. Regular Session held October 11, 2012.
  - c. Negotiation Subcommittee meeting held October 16, 2012
3. Notices of Personnel Board meetings:
  - a. Held October 9, 2012.
  - b. To be held October 22, 2012.
4. Notice of a Boxborough Emergency Reserve Corps meeting held October 9, 2012.
5. Notice of a Housing Board meeting to held October 10, 2012.
6. Notice of a Council on Aging meeting held October 11, 2012.
7. Notice of a Steele Farm Advisory Committee meeting held October 11, 2012.
8. Notice of a Boxborough Information Technology Committee meeting held October 11, 2012.
9. Notice of a Boxborough Finance Committee meeting to be held October 15, 2012.
10. Notice of a Library Board of Trustees' meeting to be held October 16, 2012.
11. Notice of a Public Celebrations & Ceremonies Committee meeting to be held October 18, 2012.
12. Notice of a Board of Selectmen meeting to be held October 15, 2012.

13. Notice of a Historical Commission meeting to be held October 17, 2012.
14. Legal notice of Public Hearing of the Conservation Commission to be held on October 22, 2012, to consider a Notice of Intent filed by Martinage Engineering Assoc. on behalf Harvard Ridge Condominium Trust to install 2 new 8,000 gallon septic tanks within the buffer zone of the vegetated wetland at the property located at 182 Swanson Road.
15. Legal notice of Public Hearing of the Conservation Commission to be held on October 22, 2012, to consider a Notice of Intent filed by Civil Solutions, Inc. on behalf Hugh Fortmiller & Francie Nolde, for the construction of a replacement subsurface sewage disposal system at the property located at 459 Sargent Road.



**General Communications**  
**October 15, 2012**

1. Fall 2012 Baystate Roads Program's Newsletter, *Mass Interchange*:

