



SELECT BOARD MEETING

Meeting Minutes
September 11, 2023
7:00 P.M.

APPROVED: September 26, 2023

PRESENT: Kristin Hilberg, Chair; Wesley Fowlks, Member; Priya Sundaram, Clerk; David McKiernan, Member

ALSO PRESENT: Town Administrator Mike Johns; Rajon Hudson, Assistant Town Administrator; Kelley Price, Administrative Assistant; Alec Wade, Town Planner; and Kirby Dolak, BXBTV

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.

Call the Meeting to Order & Roll Call

At 7:00 PM, Chair Hilberg called Select Board meeting to order, via an in-person meeting pursuant to the procedures noted.

SEPTEMBER 11TH MOMENT OF SILENCE

The Board held a moment of silence in remembrance of September 11th.

ANNOUNCEMENTS

Chair Hilberg read the announcements.

BOARD & ADMINISTRATOR COMMENTS AND REPORTS

Assistant Town Administrator Hudson explained that Citizens Academy begins on Wednesday at 6pm.

Town Administrator Johns read a letter from the Kulanu Project.

PUBLIC INPUT

Mark Barbadoro stated that recently there was an incident in the southwestern part of Town when someone was running through the woods with a knife. He was told that people were told to shelter in place while there was a search for the individual. He stated that his neighbors had concerns that there was not information given as to when the shelter in place was over. He asked that the Board investigate a reverse 911 system for the Town. Town Administrator Johns explained that the Boxborough Police Department did not give a Town-wide shelter in place for the event in question. The Town does have a reserve 911 system, but the decision was made not to use it, as there was not a threat to the overall community at that time.

APPROVAL OF MINUTES

- Regular Session minutes – 8/28/2023

Chair Hilberg moved to approve the regular session minutes of August 28, 2023, as presented. Seconded by Member Fowlks.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

NEW BUSINESS

- a. Action: Appointments for Consideration
 - Boxborough Cultural Council
 - Hongbing Tang

Chair Hilberg moved to appoint Hongbing Tang to the Boxborough Cultural Council for a term ending June 30, 2026. Seconded by Member Fowlks.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

- Boxborough Building Committee

- Kristan Hilberg, Priya Sundaram, Than Stuntz, Hugh Fortmiller, Bill Litant, Al Murphy, Owen Neville, & Larry Grossman

Member Fowlks moved to appoint Bryan Lynch, Priya Sundaram, and Kristin Hilberg to the Boxborough Building Committee for a term ending June 30, 2026. Seconded by Member McKiernan.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

Member Fowlks moved to appoint Larry Grossman, Owen Neville, and Bill Litant to the Boxborough Building Committee for a term ending June 30, 2025. Seconded by Member McKiernan.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

Member Fowlks moved to appoint Than Stuntz, Hugh Fortmiller, and Al Murphy to the Boxborough Building Committee for a term ending June 30, 2024. Seconded by Member McKiernan.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

b. Action: Open Meeting Law (OML) Complaint Response (8.28.23)

Mark Barbadoro explained that, at the last Board meeting, there was a discussion regarding the EDC. He had input on the subject which was cut off by the Board. He did not understand why he was muted at that point and for the rest of the discussion. Later in that meeting, he asked why this occurred and was told he was going off topic. He felt there may have been a different motivation, including that he was offending the Chair. He asked if he could speak regarding a topic later on this agenda and was told that all calm, polite, respectful, discourse will be allowed as long as the topic at hand can be kept to. He noted that there is case law from the Supreme Court that there cannot be content-based communication. Correspondence, such as his letter to the EDC and his resume, for a meeting should be included in the meeting packet materials, or with the later posted draft minutes.

Chair Hilberg explained that she does believe that people should have the right to speak during meetings, and she partially went back on this belief during the event in question. She stated that she will be apologizing to Mark Barbadoro later in the meeting. She explained that she has signed up for some MMA classes at the end of this month and has completed her own research on this issue. The public can say anything it wants during the times public comment period of each meeting. Chair Hilberg apologized to Mark Barbadoro.

Chair Hilberg moved to authorize the Town Administrator to respond to the Office of the Attorney General Office and the complainant on the Board’s behalf. Seconded by Member Fowlks.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

c. Action: Naming of Field - Erikson Landry Field (144 Summer Road)

Megan Connor, Chair of the Recreation Commission, explained that the Town was gifted a piece of property from Ruth Landry with an earmark for softball or cricket fields. The proposed dedication name for the field is the Erikson Landry Field.

Cindy Markowitz asked about parking and permits required for this project. Ms. Connor noted that this project is in the early stages and these items are still to be determined.

Chair Hilberg moved to approve the field name of 144 Summer Road, Boxborough, the Erikson Landry Field. Seconded by Member McKiernan.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

d. Action: Authorization of Director of Land Use & Permitting to Mass Energy Insight (MEI)

Alec Wade, Town Planner, explained that the Town voted to participate in a contribution to a State-funded program at Town Meeting. The Town is now eligible to become a Green Community. There is some planning work that will need to be completed for this designation. A local representative needs to be designated, and he would typically be that person. There is no cost for this participation, but there is collection and aggregation of data leading to the necessary designation.

Chair Hilberg moved to authorize Mr. Wade to access Boxborough’s data and features in the Massachusetts Department of Energy Resources Mass Energy Insight (MEI) energy reporting system. Seconded by Member Fowlks.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

e. Action: Regional Dispatch Presentation & Discussion

Town Administrator Johns explained that staffing for Dispatch Emergency Services is very difficult and highly competitive. Currently, Boxborough has been accepted as a provisional member of Nashoba Valley Regional District. This is not a binding commitment, but the Town could seek full membership starting as early as January 1, 2024. The Town is considering outside support for a potential sustainable solution.

There were issues with power outages at this time of the Board meeting.

Ann Camaro, Director of the Nashoba Valley Regional Dispatch Service Center, explained that the center is located in Devens in a standalone facility with six workstations. Three workstations are staffed during the day, four during the evenings, and two for the midnight shift. There is an opportunity to expand this facility, or move it to other locations, if needed. There is a backup center for 911 calls in Rutland. If Rutland was unable to assist, the calls would go to the State center. The center is staffed by professional service providers. The existing towns in the regional dispatch are Berlin, Bolton, Devens, Harvard, Lancaster, and Lunenburg. The center could take on 3-4 additional towns without expanding. Nashoba has been taking Boxborough's 911 calls but is not able to dispatch for it at this time. Every year, each town puts \$5,000 into the Center's capital stabilization account, but all improvements to date have been covered by State 911. This stabilization account has not yet been touched.

Town Administrator Johns explained that the full year cost for the Town to join the Regional Dispatch is \$204,000/year. The current Town budget for the Department is \$473,000 in salary and expenses, with an additional \$100,000-\$125,000 in benefits. Within five years, there will be a 66% reduction in cost from the current expenditures.

Maria Neyland stated that she is concerned with the Town having an all-dark station on evenings and nights. Town Administrator Johns explained that this is part of what staff needs to hear from the community on. The Station would still be managed by a civilian population for non-emergency items.

Diana Lipari stated that the Regional Dispatch option seems to make financial sense at this time. The Board should not defer this responsibility to Town Meeting because it is not currently ready to make this decision. This is the Board's job and authority. The Town needs to realize it is in the 21st century and move forward with this item. Chair Hilberg stated that the Town's culture currently allows Town Meeting to decide these items, and this is respectful.

Cheryl Mahoney stated that she sees a difficulty with the political pushback that has been placed on the Board in stating that it has not been transparent in its decision-making process. This accusation has been made time and time again. The Board's constituents have been demanding this in the past and have put pressure on the Board. The Board has managerial authority to make this decision, however people in attendance have made it clear that this Board has lacked transparency in its decision-making processes. There does not seem to be an option other than presenting this to the Town.

Mark White stated that this Town still has a Town Meeting form of government. It may well be a good decision to join the Regional Dispatch Center, though he is not in favor of a dark Police Station, but this is worthy of a discussion at Town Meeting.

Member McKiernan stated that he believes there is value in bringing this before Town Meeting.

There was discussion regarding if the Board can choose to move in a different direction than what may be decided at Town Meeting.

Chair Hilberg moved to defer the vote of the Select Board for the Town of Boxborough to enter into an inter-municipal agreement (IMA) with Nashoba Valley Regional Dispatch District (NVRDD) for Regional Dispatch Services to Fall Town Meeting. Seconded by Member Sundaram.

Approved: 3-1-0 by Roll Call: Fowlks "nay," Sundaram "aye," McKiernan "aye," Hilberg, "aye."

The Board took a brief recess.

OLD BUSINESS

- a. Action: Economic Development Committee (EDC) Charter Amendments – *The Board took up this meeting at this time.*

Rich Guzzardi stated that, based on feedback from this Board and the community, the draft charter has been amended. The amendments include that there will be 5-7 voting members, one of which will be a member of the Planning Board, with a liaison from the Select Board and FinCom.

There was discussion regarding resident versus non-resident members of the public being voting EDC members.

Cindy Markowitz asked about the quorum for a 5–7-member Committee. Mr. Guzzardi explained that, per the current charge with 7-9 members, a quorum would be four members. A 5–7-member Committee would allow for a quorum of three on a five-person Board. A six-member Committee would lead to a quorum of four. Ideally, there will be seven members, for a quorum of five.

Member McKiernan moved to approve the Economic Development Committee charter revisions with the amendment of there being 5-9 voting members. Seconded by Member Fowlks.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

- b. Action: EDC Appointments for Consideration
 - Mark Barbadoro, Abby Reip, & Dawn Willis

Chair Hilberg moved to appoint Dawn Willis to the Economic Development Committee for a term ending June 30, 2025. Seconded by Member Sundaram.

Approved: 4-0-0 by Roll Call: Fowlks “aye,” Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

Chair Hilberg moved to appoint Mark Barbadoro to the Economic Development Committee for a term ending June 30, 2024. Seconded by Member Fowlks.

Discussion:

Chair Hilberg stated that there is some concern that Mr. Barbadoro would like to join the EDC for reasons other than the charter. She explained that she believes Mr. Barbadoro could be great on the EDC but is being told by others that she is being manipulated by him. Mr. Barbadoro stated that he has a great track record on boards/committees and was previously voted as Chair of the Planning Board.

Member Fowlks noted that he cannot deny Mr. Barbadoro this position simply based on the assertion that he has been mean to people in the past.

Diana Lipari stated that the Board should not consider denying a person from sitting on a Committee simply based on personality. Mr. Barbadoro is qualified to be on this Committee, and she was dismayed not to see his resume in the agenda packet. It was noted that additional information submitted by Mr. Barbadoro would be attached to the meeting minutes.

Cindy Markowitz noted that wealth of experience that Mr. Barbadoro would bring to this Committee. She asked that the Board not make this decision based on personal politics.

Failed: 2-2-0 by Roll Call: Fowlks “aye,” Sundaram “nay,” McKiernan “nay,” Hilberg, “aye.”

It was noted that Member Fowlks exited the meeting.

Chair Hilberg moved to appoint Abby Reip to the Economic Development Committee for a term ending June 30, 2026. Seconded by Member McKiernan.

Approved: 3-0-0 by Roll Call: Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

Chair Hilberg noted that she will be stepping off the EDC as soon as the grant is voted on.

NEW BUSINESS

- a. Action: Draft Fall Town Meeting (FTM) Warrant – Vote & Select Board’s Recommendations

Maria Neyland stated that the Finance Committee did not take a position on any of the proposed warrant articles, except for the definition around transfer stations/dumps, which it unanimously supported. Until there is an accounting of Free Cash or year-end closing positions, the Finance Committee will not vote on any articles which deal with Free Cash items.

There was discussion regarding the potential Assistant Town Accountant warrant article.

Chief Szewczyk explained that there is a potential warrant article for a K-9 unit. This would be a community service dog with a tracking function. This would mostly be funded via grants and fundraising.

ADJOURN

Chair Hilberg moved to adjourn at 12:02am. Seconded by Member Sundaram.

Approved: 3-0-0 by Roll Call: Sundaram “aye,” McKiernan “aye,” Hilberg, “aye.”

Item#

Exhibits

Agenda September 11, 2023

September 11th Remembrance

Draft Meeting Minutes 8/28/23

Open Meeting Law Complaint Form

Naming of Public Facilities Policy, and emails regarding Erikson Landry Field

Email from Select Board to Green Communities Division, re: User Authorization -

MassEnergyInsight (MEI), September 11, 2023

Regional Dispatch materials

Draft proposed Warrant Articles

Draft Economic Development Committee Charge

Interest forms M. Barbadoro, A. Reip, and D. Willis

11/6/2019

Dear EDC,

Thank you for recommending the UMass study. It's useful for the residents to have an opportunity to examine the pros and cons of expanding commercial uses.

I work for the city of Fitchburg. Every year Harvard University graduate planning students work with the city to create new redevelopment strategies. Every summer my department is given an intern. There are no charges for this service. When the city wants to pay for a study it hires from the private sector. I am curious if we could get similar services for free? If we are hiring would we be better served by hiring a professional firm to create a study? Seasoned planners, lawyers and engineers have learned from their success' and failures. We can benefit from their experiences.

If the town agrees to fund a second round of the study I would be interested in further information on the subjects outlined as follows.

agritourism: How could we make Ecotourism less restrictive without incurring adverse side effects? Also isn't there a significant tax relief for farms? Does Nashoba Winery pay the same taxes as a regular retail property?

The questionnaire revealed an interest in farm stands. The UMass team recommended exploring Ecotourism and cited Nashoba Winery as an example. They also proposed a zoning change to make ecotourism easier.

Ecotourism zoning is a relatively new concept. I suspect most of the long standing farm businesses like Nashoba Winery were and still are allowed By Right and free of unreasonable regulation due to M.G.L. c. 40A s.3. This law allows farms with farm stands on as little as 2 acres of land. The law also allows retail sales and has been interpreted to allow for on premises consumption of the product (e.g. ice cream or restaurant). The eco business can sell up to 75% of goods not produced on the farm.

It's hard to imagine both a vineyard / orchard / farm, and restaurant and parking on less than 2 acres of land. We need data on how many existing/working farms there actually are in town.

Special permits for restaurants: the presenter called the use of special permits for restaurants particularly restrictive but the slide showed that a plurality of towns surveyed use special permits for restaurants in Office Park / Industrial areas. Acton also requires a Special Permit in the West Acton Village District. This did not stop restaurants from moving in. Perhaps special permits for restaurants are not as much of an impediment as they seem? And it allows the Special Permit

MARK A. BARBADORO

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PROFESSIONAL EXPERIENCE

Building Official Accreditation

ICC Certified Building Official & MA Certified Building Inspector / Commissioner License

City of Fitchburg (MA): Building Commissioner / Zoning Enforcement Officer

6/2017 to Present

- Manages a building zoning department of 7 full time employees and 1 part time employee, including three building officials, a principle clerk, the zoning clerk, one plumbing/gas inspector, one full, and one part time wiring inspectors
- Responsible for creating and maintaining department \$750,000 budget and annual report
- Oversees all plan review and site inspections, residential and commercial development, including regional hospital and schools, high rise and low rise construction
- Responsible for zoning enforcement and interpretation
- Enforcement of existing, and sponsoring of new zoning bylaws
- Support of Zoning Board of Appeals by writing decisions and interpreting existing rules
- Updating and streamlining of Building Department webpage to improve customer service
- Overseeing initiative to implement electronic records and permit software to increase productivity and streamline the permitting process

Town of Oak Bluffs (MA): Building Commissioner / Zoning Enforcement Officer

10/2014 to 5/2017

- Overseeing all day-to-day operations of the Town of Oak Bluffs Building Department, including supervision of Electrical and Plumbing inspectors, Local Inspector, Department Secretary, and Planning Board Secretary
- Responsible for creating and maintaining department budget and annual report
- All plan review and site inspections, residential and commercial, including regional hospital and schools
- Responsible for zoning enforcement and interpretation
- Enforcement of existing, and sponsoring new zoning bylaws
- Facilitation and enforcement of Regional Planning Board decisions (Martha's Vineyard Commission)
- Support of Zoning Board of Appeals by writing decisions and interpretation of existing rules
- ADA Coordinator
- Updating and streamlining of Building Department webpage to improve customer service
- Overseeing initiative to implement electronic records and permit software to increase productivity and streamline the permitting process

Town of Aquinnah (MA): Building Commissioner / Zoning Enforcement Officer (p/t)

11/2015 to 5/2017

- All plan review and site inspections, residential and commercial
- Responsible for zoning enforcement and interpretation