

MEETING MINUTES **FOR DECEMBER 3, 2012**

A Regular Meeting of the Board of Selectmen was held on Monday, December 3, 2012 in the Conway Hearing Room at 7:00 PM. Present were Selectman Andrew Deslaurier, Chairman, Selectman Michael Rosa, Vice Chairman, Selectman David Gagliardi, Secretary, Selectman Robert Correnti, Member, Selectman Robert Accomando, Member, Town Manager John Curran and Assistant Town Manager Cathleen O'Dea.

CALL TO ORDER

OPEN MICROPHONE

The following individuals came to the podium and voiced their opinions and asked questions regarding the Special Town Election on November 19th, Town Government spending and seating positions of the Board in the Conway Room:

Ms. Chris Musker of 12 Fawn Lane
Mr. Rome Capobianco of 29 Andover Road

ANNOUNCEMENTS

CONGRATULATIONS TO SELECTMAN CORRENTI

Secretary David Gagliardi stated I just want to take a minute to congratulate Selectman Correnti on becoming a first-time grandfather. Hudson Wayne Moore was born on Thanksgiving Day weighing in at 7 pounds, 7 ounces and 20 inches long. Mother, baby and Papa are all doing fine.

THANK YOU TO HOLIDAY FESTIVAL COMMITTEE

Secretary David Gagliardi stated I just want to give a big thank you to George Merrill and the Holiday Festival Committee for an outstanding job at the annual Tree Lighting Ceremony on Saturday night. I would also like to thank Dan Venezia and the boys from Local 103 for hanging over three miles of lights on the trees in the Town Common. We would also like to thank Bill Laurendeau and the Emergency Management Team, Chief Dan Rosa and Safety Officer Martin Conway for their work regarding traffic control and pedestrian safety during the event.

BILLERICA MEMORIAL HIGH SCHOOL (BMHS) WINTER CHORALE CONCERT

Secretary David Gagliardi stated the BMHS Winter Chorale Concert is scheduled for December 6th at 7:00 PM and there is no charge.

VACANCIES ON BOARDS AND COMMITTEES

Secretary David Gagliardi stated the Board of Selectmen are accepting applications for the following positions:

POSITION **# MEMBERS**

Selectmen Appointments

Arts Council	3
Cabot Land Reuse Committee	3
Commission on Disability	1
Elderly and Disabled Taxation Fund Committee	1
Financial & Compliance Audit Committee	2
Historic Districts Commission	4 alt.
Open Space & Recreation Committee	2
Scholarship Foundation Committee	1
Substance Abuse Prevention Committee	7
Traffic Management Committee	1 (East)

Town Manager Appointments

Beautification Committee	3
Housing Partnership Committee	2

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Moderator Appointments

Composting Committee	6
Financial & Compliance Audit Committee	3
Personnel Board	4
Town Meeting Warrant Action Committee	1

Please note that the above positions are not paid positions. Applicants should have some knowledge of Municipal Government. Brief job descriptions are available at the Selectmen's Office. Applications must be sent to the Board of Selectmen, Town Hall, 365 Boston Road, Billerica.

COUNCIL ON AGING ACTIVITIES

Secretary David Gagliardi stated the Billerica Senior Center is located at 25 Concord Road and their hours are 8:30 AM until 4:00 PM, Monday thru Friday. They have many activities and programs scheduled and for more information on these activities call 978-671-0916 or go to their website www.billericacoa.org.

MERRIMACK VALLEY LEAD PAINT REMOVAL PROGRAM

Secretary David Gagliardi stated the Merrimack Valley Housing Partnership is sponsoring the Merrimack Valley Lead Paint Removal Program. Funds are available for Lead Paint Removal in Billerica. You can receive financial and technical assistance for removing lead paint. Both owner-occupied and investor properties are eligible. Single family homes may receive up to \$20,000 per unit. Multi-family homes may receive up to \$16,000 per unit. All projects will result in a letter of Full De-leading Compliance. This grant is geared towards low-income families with children under six years of age. You do not need to pay back any grant funds. For more information call Ryan DeMoura at 978-446-7200, extension 1440 or visit www.Lowellma.gov/lead for guidelines.

TOWN OF BILLERICA MERCURY RECOVERY PROGRAM

Secretary David Gagliardi stated residents and contractors can bring mercury thermostats to the Town Hall, Board of Health, Room G03, Monday through Friday, from 9:00 AM until 3:00 PM. This is a program sponsored by Wheelabrator of North Andover.

DPW WATER CONSERVATION REBATE PROGRAM

Secretary David Gagliardi stated the Town of Billerica has a Rebate Program for the replacement of toilets, urinals and clothes washers with water conserving features. The “Water Conservation Fund” was established to mitigate the demands on the Town water supply and allows the DPW to offer these rebates. To qualify for the rebate, Billerica water customers must be in good standing and own the property where the fixtures will be changed out. Tenants may participate with written permission from the property owner. Toilets, urinals and clothes washers must be specific models to qualify for the rebate. Go to www.billericadpw.org or contact the DPW Director’s Office for a list of qualifying models. Qualifying toilet rebates are \$100. Qualifying urinal rebates are \$25. Qualifying clothes washer rebates are \$225. All rebates will be applied as a credit on your water bill. Rebate applications can be picked up at the DPW Director’s Office at Town Hall or at the Water Treatment Facility located at 270 Treble Cove Road. Applications must be submitted to the DPW Office within 90 days of purchase.

SUNSHINE GALS KITCHEN – MEALS PREPARED AND SERVED FOR NEEDY FAMILIES LIVING IN BILLERICA

Secretary David Gagliardi stated the Sunshine Gals Kitchen prepares and serves meals on the fourth Saturday of each month between 12:00 Noon and 1:30 PM for needy families living in Billerica. This luncheon is homemade and prepared and served at the First Parish Church located in Billerica Center. If you have any questions, please call Jo Leary at 978-270-4509 or go to sunshinegals@yahoo.com.

BILLERICA HOLIDAY FESTIVAL

Selectman Robert Correnti stated before I speak about the Public Safety Memorial, I would like to say a few words about the Billerica Holiday Festival. The Holiday displays continue this week in the Library with raffle ticket sales on Tuesday, December 4th, Wednesday, December 5th and Thursday, December 6th from 10 AM to 11 AM; 2 PM to 4 PM and 6 PM to 8 PM. On Friday, December 7th from 10 AM to 11 AM and 2 PM to 4:30 PM, on Saturday December 8th from 10 AM to 4:30 PM and Sunday, December 9th from 1 PM to 4 PM. The Raffle helps raise the funds for the Holiday Tree Lighting. The drawing for the displays will be held on Monday, December 10th. On Saturday, December 8th, from 11 AM to 2:30 PM, Santa will be in the Bennett Cultural Center for free pictures with Santa sponsored by Lynnway Auto Auctions. Billerica Family New Years Eve will be held on December 31st from 4 PM to 8 PM in Billerica Town Hall with face painting, games, hot dogs and lots of free family fun. This year’s theme is “Under the Sea”. Lastly, the annual Holiday Tree Lighting was held this past Saturday in the Town Center with almost 1,000 folks on hand to see the arrival of Santa and Mrs. Claus. Some of Santa’s friends such as Rudolph, Frosty the Snowman, Mickey and Minnie Mouse were on hand too. It was a great family event and we want to thank the countless

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volunteers, sponsors, generous donors, Billerica Police and Emergency Management personnel, Venezia Electric, the Billerica Fire Department and Billerica Elks – all these folks made it possible and brought smiles and joy to many.

PUBLIC SAFETY MEMORIAL

Selectman Robert Correnti stated the Billerica Public Safety Memorial, which will honor Billerica Police, Fire and Paramedics who have died in the line of active duty, will be located in front of Town Hall. It will be built with private funding. The dedication is planned for the Fall of 2013. Help make this memorial possible by making a tax-deductible donation. Donations of \$75.00 or more will be recognized on a plaque in Town Hall. For more information and a copy of the donation form, which is important to insure proper recognition of donors, please go to www.billericapublicsafetymemorial.org. The donation and donation form can be sent to the Billerica Public Safety Memorial Fund, care of the Billerica Board of Selectmen, Billerica Town Hall, 365 Boston Road, Billerica MA 01821.

BILLERICA ADVENTURE SERIES CORP DISBURSEMENT OF FIVE (5) GRANTS TO THE BILLERICA COMMUNITY

Secretary David Gagliardi stated the Billerica Adventure Series Corporation is pleased to announce that the following five (5) \$100 grants have recently been disbursed to our Billerica community for Education Enrichment Projects:

1. Jennifer Stimpson, Vining School, for a document camera.
2. Samidha Sane, Locke Middle School, for technology and engineering classroom studies.
3. Julie Fraser, Parker Elementary, for funds for first graders class field trip to Acton Discovery Museum.
4. Maureen Hughes, Locke Middle School, for funding for Jason Project.
5. Michael Ashe and Leah Gagnon, Marshall Middle School, funding for wireless microphone for Theatre Club.

MERRIMACK VALLEY HOUSING PARTNERSHIP, PROJECT GENESIS, HOME BUYER TRAINING CLASSES 2013 SCHEDULE

Secretary David Gagliardi stated the Merrimack Valley Housing Partnership, Project Genesis, is hosting Home Buyer Training Classes to promote responsible and sustainable home ownership. They will have classes in English, Spanish and Khmer. Classes will be held at Middlesex Community College in downtown Lowell. You can register online at 222.mvhp.org or call 978-459-8490 for more information.

MINUTES

NOVEMBER 1, 2012 (REGULAR SESSION)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the November 1, 2012 Regular Session Meeting Minutes as submitted.

It was voted: 5 – In Favor
 0 – Opposed

NOVEMBER 13, 2012 (REGULAR SESSION)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the November 13, 2012 Regular Session Meeting Minutes as submitted.

It was voted: 5 – In Favor
 0 – Opposed

PRESENTATION

BILLERICA TWINNING GROUP, RE: 15TH ANNIVERSARY CALENDAR

Mrs. Joan Parcewski and Mrs. Doris Pearson from the Billerica Twinning Group came to the podium and gave a 15th Anniversary Calendar Presentation to the Board.

NEW BUSINESS

BILLERICA HEALTH AND WELLNESS COMMITTEE, RE: REQUEST FOR SPONSOR SIGNS ON THE TOWN COMMON

Mrs. Joan Parcewski stated the Billerica Health and Wellness Fair Committee is requesting permission to offer our two top level of sponsors a sign on the Town Common during the week prior to the Health and Wellness Fair, which is scheduled for Saturday, April 13th, 2012. The Premier Sponsor sign, which would be \$1,000 or more, would have their own individual sign. The Gold Sponsor sign, which would be \$500 or more, would have two sponsors per sign. This would be in addition to any other benefits we may offer for these levels.

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Selectman David Gagliardi, seconded by Selectmen Michael Rosa, made a motion to approve the request of the Billerica Health and Wellness Fair Committee to place sponsor signs on the Town Common from Saturday, April 6th thru Saturday, April 13th, 2012.

It was voted: 5 – In Favor
 0 – Opposed

PRESENTATIONS

**MR. MICHAEL MOORE, RE: BILLERICA PARTNERS FOR
EDUCATION 2012 INNOVATIVE CLASSROOM GRANT AWARDS**

Mr. Michael Moore, President of Billerica Partners for Education and Mr. Tony Garas, the Director of the Board for the Billerica Partners for Education and Principal of the Locke Middle School, both came to the podium and gave a presentation regarding the Billerica Partners for Education and their Billerica Partners for Education 2012 Innovative Classroom Grant Awards. A complete listing of all the projects and awards given is on file in the Selectmen's Office.

MIDDLESEX COUNTY HOUSE OF CORRECTION

Town Manager John Curran stated included in your packet was a draft of a letter that I am recommending that the Board submit to various State officials, one being the Governor, another being the Division of Capital Assets and Management, the Sheriff's Office, the Executive Office of Public Safety and both of our Representatives, in the House and in the Senate, should get a copy of this letter. I think the Board should take the opportunity to take a position on what has recently been announced by the Sheriff's Office, which is the construction of a 400 plus facility expansion to the current Middlesex House of Correction in Billerica. That expansion is primarily for jail inmates, and they are primarily violent offenders that have not been found guilty or innocent yet. This would change the dynamic of this facility. The House of Correction in Billerica has been viewed as a facility for small time offenders and now they are looking to introduce a third of that population as violent offenders. This is a major concern for that the Town has regarding that project proposal, as well as the sewer capacity questions that this issue brings up. Four hundred plus inmates will no doubt add a strain to our sewer facility and I think that has not been addressed by any of the State agencies that head up this project. For those of you who don't understand, the building of a State facility is run by the Division of Capital Assets Management (DCAM). The Sheriff's Office does not actually build the facility, DCAM does. As you recall back in November of last year, ironically on November 19th of last year we found out about the expansion through a City Council Meeting in Cambridge where it was announced that they were going to sell that facility in Cambridge and do an expansion in Billerica. At that time the Board instructed my office to meet with DCAM on a regular basis to follow this process and see if the Town's

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concerns could be addressed. For a time we did meet with DCAM, up until March, but since March, even though we have sent repeated inquiries to DCAM, there really has not been any communication with the State on this project until now, and ironically on November 19th, one year later, there was a meeting with the Sheriff's Office with the Editorial Board of the Lowell Sun, to talk about this project being built in December of 2013, which is a very aggressive time schedule. Thus the feeling in my office is that we have really not made any progress in the area of the State addressing concerns or issues that the Town has regarding expansion to that facility. I would like to read this into the record so the Board can then decide whether they want to add to it or adopt it and send it off to these various agencies.

The Board of Selectmen of the Town of Billerica at this time does not support the addition of four hundred plus jail inmates to the Middlesex House of Correction.

The proposed \$37 million project of over 80,000 square feet will have significant impacts to the Town of Billerica. It was conveyed to the Town Manager on a meeting of November 19th that this facility is intended to open in December 2013. The Board has expressed its' concern over these impacts since the proposal was announced at a Cambridge City Council Meeting in November 19, 2011. Further exacerbating these concerns is the manner in which this information was released to the public and particularly the way the Town of Billerica, the host community for this facility this information.

This Board went through great efforts and acted in good faith to ensure that the Town's interests would be heard and or addressed after this initial communication oversight. Unfortunately, this latest announcement in the Lowell Sun by the Sheriff's Office to move ahead with the facility expansion without addressing any of the Towns issues sends the wrong message to our community. The Town Manager's Office has reached out and documented efforts to continue a dialogue with the DCAM with little to no response.

Please consider this letter as notice to DCAM and the Sheriff's Office that the current sewer permit that the Middlesex House of Correction operates under is not adequate to allow for the expansion being proposed. The Town will reserve such rights to issue any permit until and if all concerns can be addressed.

Lengthy discussions ensued regarding the fact that the Board does not want violent offenders coming to the House of Correction, the suggestion that stronger wording be inserted into the last paragraph, the possibility of the Board issuing a directive not to issue permits, water and sewer capacity limitation issues, adding support documentation to this letter from the Boards last meeting of the motions that were made and a copy of the letter that was sent, DCAM's insulting lack of response and lack of courtesy to the

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Town's many concerns, the fact that the Town has been completely disenfranchised at every level of the process and the need to have Senator Donnelly and Representative Lombardo speak at the State House on this issue in the hopes of stopping this expansion.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to send this letter to the Governor, the Director of DCAM and to the Sheriff as amended by Selectman Rosa.

It was voted: 5 – In Favor
 0 – Opposed

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to send this letter to Senator Donnelly and Representative Lombardo asking them to do anything they can on the Towns behalf.

It was voted: 5 – In Favor
 0 – Opposed

PUBLIC HEARINGS

D&P ENTERPRISES INC., D/B/A PIZZA MIA, RE: RESTAURANT ALL ALCOHOLIC LICENSE FOR PREMISES LOCATED AT 758 BOSTON ROAD, BILLERICA, MA (ABUTTERS WERE NOTIFIED BY THE APPLICANT)

Secretary David Gagliardi stated D&P Enterprises Inc., d/b/a Pizza Mia, has applied for a Restaurant All Alcoholic License for premises located at 758 Boston Road in Billerica. Hours of operation will be 11:00 AM until 12:00 Midnight seven days a week.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to open the Public Hearing.

It was voted: 5 – In Favor
 0 - Opposed

Mr. Paul Caetano, Owner and Manager of Pizza Mia and President of D&P Enterprises, and Mr. John Gergos, a partner in the business, both came to the podium. Mr. Caetano stated we are seeking a Restaurant All Alcoholic License for our premises located at 758 Boston Road in Billerica. I have been the owner and operator of Pizza Mia for over eleven years, since August 2001. In June of 2010 I brought on Mr. John Gergos of Lowell as partner in the business. I have recently expanded the operation by leasing out the former Consignment Shop and Canine Training Facility that previously operated

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adjacent to my business. I have gone before the Board of Appeals. The interior of my restaurant will display a bar area connected to a larger seating area composed of thirteen tables and fifty two chairs. The bar area is surrounded by eleven stools in addition to four bar style stand up tables. The five of us have all been TIPS Certified. I have also obtained a Liquor Liability Policy through the Hartford Group. I have read the Boards rules and regulations twice.

Brief discussions ensued regarding the very serious responsibilities of holding a Restaurant All Alcoholic License.

Chairman Andrew Deslaurier stated for the record, the Billerica Police Department has no objections to this Restaurant All Alcoholic License.

Chairman Andrew Deslaurier asked if there was anyone present who wished to speak at this Public Hearing.

Mr. Charles Diperri from 742 Boston Road came to the podium and spoke in favor of this Restaurant All Alcoholic License being granted.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to close the Public Hearing.

It was voted: 5 – In Favor
 0 – Opposed

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion to approve a Restaurant All Alcoholic License for D&P Enterprises Inc., d/b/a Pizza Mia, for premises located at 758 Boston Road in Billerica. Hours of operation will be 11:00 AM until 12:00 Midnight, seven days a week, pursuant to all Zoning Board of Appeals and Board of Health special conditions and also a Floor Plan must be provided.

It was voted: 5 – In Favor
 0 – Opposed

Selectman Robert Correnti, seconded by Selectman Michael Rosa Mr. Paul Caetano, made a motion to approve Mr. Paul Caetano as the Manager of Record.

It was voted: 5 – In Favor
 0 – Opposed

PROPERTY TAX CLASSIFICATION

Selectman David Gagliardi, seconded by Selectmen Michael Rosa, made a motion to open the Public Hearing for Property Tax Classification.

It was voted: 5 – In Favor
 0 – Opposed

Town Manager John Curran gave a brief overview of the budget process and how this tax classification process came about and the fact that the Town is at approximately \$1.8 million dollars in excess capacity, which is the highest excess capacity that the Town has had in twenty years.

Chief Assessor Richard Scanlon stated I am here tonight with Bruce Richardson, Associate Assessor and Kathy Matos, Associate Assessor.

Chief Assessor Richard Scanlon stated the following:

In accordance with Massachusetts General Law Chapter 390 of the Acts of 1982, the Billerica Board of Selectmen is required to hold a Public Hearing for the determination of the following items relating to the Fiscal Year 2013 tax rate:

1. The determination of a Residential Exemption of up to 20%
2. The determination of a discount factor of up to 25% for all land classified as Open Space.
3. The potential adoption of the Small Business Commercial Tax Exemption.
4. The adoption of a Residential Factor for the purpose of determining the percentage tax burden to be borne by each class of property.

Pertaining to item one (1), the Residential Exemption, as stated in M.G.L. Chapter 59, Section 5C, specifically requires that any such granting of the Residential Exemption shall be applied to a “principal residence,” as used by the taxpayer for income tax purposes. This exemption was originally adopted by several Cape Cod communities as a means of forcing summer residents to pay a higher share of the tax levy than would year-round residents. Since most residential property owners in this community consider Billerica to be their principal residence, the adoption of the Residential Exemption would serve only to increase the residential tax rate while providing no actual tax benefit to Billerica property owners. It is the recommendation of the Board of Assessors that no Residential Exemption be adopted.

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As to item two (2), the Board of Assessors has determined that, given the description of Open Space land as described in M.G.L. Chapter 59, Section 2A (b), no land within this community can be properly classified as “Open Space.” Therefore, there is no reason for the Board of Selectmen to apply any discount factor for Open Space.

As to item three (3), as the Board may know, a Small Business Commercial Exemption Committee was formed by the Board of Selectmen in 1995 to explore this issue. To our knowledge, only one meeting was ever held by this committee, and no meeting has been held in the last three years. Briefly, this exemption allows up to a 10% property tax reduction for businesses who have, at least, five full-time employees and a property tax value of under \$1,000,000. Besides the inevitable problems of implementing the exemption, since most small businesses lease, rather than own their work space, the exemption is not a true property tax reduction since it only allows a city or town to shift the tax exemption from the commercial to the industrial property class. To lower commercial taxes will only increase industrial taxes, which already carries a larger tax burden in relation of its overall value. The Board recommends that the Board of Selectmen do not adopt this property tax exemption.

Most importantly and concerning item four (4), the final decision of the Board of Selectmen is to make its annual determination of a Residential Factor/CIP Shift in order to determine the tax burden to be borne by each class of property. A factor of “1.0000” will establish a uniform tax rate for all classes of property. Adoption of any other factor will serve to shift the tax burden from the residential taxpayers onto the commercial/ industrial/personal property (CIP) taxpayers.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board adopt the Residential Exemption of up to 20% as stated in M.G.L. Chapter 59, Section 5C.

It was voted: 0 – In Favor
 5 – Opposed

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board adopt a discount factor of up to 25% for all land classified as Open Space.

It was voted: 0 – In Favor
 5 – Opposed

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board adopt the adoption of the Small Business Commercial Tax Exemption.

It was voted: 0 – In Favor
 5 – Opposed

Chief Assessor Richard J. Scanlon further stated the following:

Based upon careful review after statistical analyses, the Board of Assessors respectfully submits their recommendation on the Board of Selectmen Adoption of the CIP shift for the Fiscal Year 2013 tax rate.

For Fiscal Year 2013, the Board of Assessors recommends that the Board of Selectmen adopt a Residential Factor of 76.1333%, which would result in a CIP shift of 175%. As the enclosed documentation indicates, the ultimate decision for the Board is to decrease the CIP shift or leave it at its current level of 175%. Please note that selection of a Residential Factor and CIP shift percentage and its corresponding tax rates are subject to State Department of Revenue (DOR) approval and final tax rates are subject to change due to number rounding during the approval process.

There are several reasons why we feel that it is best for the Board of Selectmen to adopt the Residential Factor of 76.1333%, which would result in a CIP shift of 175%. First, due to the relative stability in both the residential and business real estate markets in Billerica one year after our Fiscal Year 2012 DOR Certification or Revaluation process, both property sectors are seeing stable and relatively minor tax increases of about 2% residential, under 1% commercial and about 2% industrial. Moving the CIP shift down would change these percentages in favor of one class of property and to the detriment of the other. Second, the change in assessed values, along with the Town increasing its tax levy and budget over the previous year (FY 2012), have had an increasing effect on both the residential and business tax rates. With both property tax rates increasing at a lower amount than anticipated, we do not believe that a reduction in the CIP Shift is warranted. Third and as stated in the past, we simply felt that the assessed valuations should dictate the resulting tax rates. The values will drive where the tax rates are going. The Board of Assessors does not feel that an adjustment to the CIP shift is warranted in light of the increases in both of these tax rates. Both sectors of property are feeling the effects of a sluggish economy that is slowly improving. About 2% on average and business taxes marginally increasing or decreasing for some properties, we feel that the Board of Selectmen should continue its policy of voting a 175% CIP shift. This shift is the highest allowable by law. However, we would like the Board to note that there are some difficult issues that the Town will be dealing with in the future concerning property taxes. First, the business tax rate continues to increase annually and steadily. While it has increased at an

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amount that was less than anticipated, it should be noted for the future that continued historical increases in this tax rate will approach the \$35 range. A business tax rate that approaches the \$35 to \$40 range in the future may reach the point where it may have a detrimental effect on business property valuation due to a high capitalization rate, and we are concerned that a future business tax rate at that level will not help the Town's economic and business development. We recommend that the Board should consider some type of future and gradual reduction to the CIP shift in order to address this issue. We feel that the best time to make a gradual reduction is at a time when business real estate values are appreciating, which is not the case in the current market. However, we are hopeful that this appreciation will occur in the future. Furthermore, the Assessors realize that this action will be a difficult task as the residential tax rate also continues to increase. Lowering the CIP shift will only increase residential property taxes. As the first year long-term bond payment for the new Parker School looms in Fiscal Year 2014, the Town will be adding an additional \$1.6 to \$1.8 million to the tax levy to pay for this project. This increase in property taxes due to debt exclusion will affect both classes of property significantly with the median single-family home annual tax increase possibly doubling to the \$250 to \$300 range. As part of the budgeting process for Fiscal Year 2014, we respectfully request that we take part in discussing these issues and other with the Town Manager, Town Accountant and Board of Selectmen as the Town's financial plan continues to evolve.

Principle Assessor Richard Scanlon proceeded to give a detailed breakdown, page by page, of the Property Tax Classification Hearing Handout submitted by the Board of Assessors dated December 3, 2012. This handout is on file in the Selectmen's Office.

Lengthy discussions ensued regarding all aspects of the tax rate, setting the tax shift, market values, budget issues, maintaining quality services to all residents, prudence in staying with the 175 shift and the fact that the 175 shift is the most the Board of Selectmen can do to help taxpayers, the fact that taxes will be increasing by \$86.88 for the median household, having \$1.8 million dollars in excess capacity, the impact on the debt for the Parker School regarding this \$1.8 million dollar excess capacity, the fact that the Town is not taxing to the maximum limit, possible cuts in local aid, flexibility in financial options, the uptake in commercial/industrial revenue, and the overall agreement that the Town has shown strong fiscal discipline regarding budget and fiscal priorities.

Chairman Andrew Deslaurier asked if there is anyone here who wishes to speak at this Public Hearing. There was no one.

The Board thanked and commended Chief Assessor Richard Scanlon and his staff for all their hard work and extremely thorough presentation.

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to close the Public Hearing.

It was voted: 5 – In Favor
 0 – Opposed

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board adopt a Residential Factor of 76.1333%.

It was voted: 5 – In Favor
 0 – Opposed

Town Manager John Curran stated I would just like to thank Rich, Cathy and Bruce for all the hard work they have done. I cannot tell you how valuable their work is. Rich does a great job, not only as the Chief Assessor, but in the area of Economic Development for the Town. We are so lucky in Billerica to have the level of professionalism that is shown by Rich and our Assessors Office.

OLD BUSINESS

TOWN MANAGER REPORTS

MIDDLESEX 3 LIFE SCIENCES EVENT

Town Manager John Curran stated the Middlesex 3 Life Sciences Event was held at UMass Lowell on November 27th, 2012. An event flyer and agenda were given to you describing the event. This event was very well attended by both private and public representatives of Billerica.

HOUSE BILL NUMBER 4507

Town Manager John Curran stated a bill has been submitted to the House of Representatives by Representative Marc Lombardo as required by Town Meeting's action to eliminate the Police Custodial Position from Civil Service. I attached in your packet a copy of the language in the bill.

VHB CONTRACT

Town Manager John Curran stated a \$60,000 contract has been executed with VHB to start the design work on Phase III of the Middlesex Turnpike Project. This involves updating the plan for today's DEP regulations and the State and Local Wetlands Laws. An article will be proposed in the Spring to do additional design and takings associated with this project. A previous article will be reauthorized and or amended for this purpose. This work must be completed before the funding is available on the FY 2015 TIP.

Selectman Michael Rosa stated this project started way before I was a Selectman. I know that the three communities that it was going through, the Middlesex Turnpike Project, it was my recollection that the planning portion of it was being divided up amongst the communities early on, and I know that Billerica kicked in a significant amount of money for planning and what not, and that was one of our arguments when you kept it on the TIP was that we have already invested money into this project. My only question is should that \$60,000 be completely borne by the Town of Billerica or should those other communities be participating, even though the early planning money was 15 years ago, that is not to say that we are still not spending money on planning just because Billerica is getting done last.

Town Manager John Curran stated I actually attached that to this memo, which you have probably not had a chance to read yet because I gave it to you tonight. Bedford is actually picking up 55% of the costs. The total cost is actually \$135,000. They are picking up 55% and we are picking up 45%.

CAPITAL BUDGET

Town Manager John Curran stated the Capital Plan is being updated in preparation for the upcoming budget process. This will include a sit down with the School Department to incorporate the Facilities Study into the Town's Long Range Capital Plan.

TOWN CENTER VOTE – DISCUSSION

Chairman Andrew Deslaurier stated I put this on the agenda because obviously we had a Special Town Election. The vote from the public was pretty emphatic. I think this an opportunity for this Board to show some leadership. We need to evaluate the feedback and go forward. There are many different points of view within that negative vote and I think we need to parcel out what may have value and what may not. Tonight is a great opportunity to show the public that we are still moving forward in ways to find out what is best for Billerica.

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Selectman Michael Rosa stated obviously the vote of the public was pretty emphatic. There were actually three warrant articles that were passed for this. There was the \$9.8 million dollar bond, which was defeated in the Special Election, and there was a subsequent warrant article to reauthorize an old \$1 million dollar article and then another warrant article that was originally allocated for \$500,000 but had \$138,000 remaining in it, which was reauthorized for the use of the Town Center. Then we had a third warrant article for \$1.2 million dollars in Free Cash, which Town Meeting supported for the Town Center as well. So there is \$2.3 million dollars still available to do work in the Town Center. The sense that I got talking to residents is that they did not support the full reconstruction, but they certainly did support safety improvements. I think it would be prudent to look at crosswalks and crossing lights and whatever we can do to coordinate the lights better for traffic flow and leave the physical layout of the Town Center alone.

Selectman Robert Correnti stated for the record, and out of fairness to all, it should be noted that:

- (1) The 2002 Master Plan notes to improve roadways and sidewalks in Billerica Center.
- (2) In 2005, as a result of the Smart Growth Technical Assistance Program, it was noted to “Tie together both sides of the common in a fashion that supports businesses (traffic and pedestrian improvements)”. Ratings for the intersections and safety/crash history were presented. Pedestrian issues, gaps in the sidewalk network and lack of ADA compliance were all indicated.
- (3) On March 31, 2011, a Visioning Session open to Town Residents, conducted by Northern Middlesex Council of Governments was conducted in Town Hall. A Strengths/ Weaknesses/Opportunities and Threats Analysis of the Town Center was conducted.
- (4) On September 12, 2011, on a motion by Selectman Rosa, seconded by Selectman Accomando, the Board UNANIMOUSLY approved the FY2012 Goals for the Town Manager. Among those Goals was:
 - a. Goal Three, titled “Pro-Active Economic and Community Development” Objective One, of that Goal, stated “Develop a ‘Smart Growth Plan’ for Billerica Center”. *Task One* stated “Continue working with NMCOG on ‘Smart Growth Plan’ for Billerica Center”; *Task Two* stated: Present to Town Meeting a plan to address traffic redesign and Pedestrian Access”; *Task Three* stated “Explore a façade improvement program”.
- (5) On November 10, 2011, the Second Visioning Session was held in Town Hall and the results of the previous Visioning Session were presented noting the prioritization of concerns by the residents in attendance. It was noted (under Strengths) that the Town Center is the “Heart of the Town and brings the community together”. Under Weaknesses, it was noted that the “Roadway design/geometry is very bad and dangerous for pedestrians and large trucks”, the lack of sidewalks, roadways and traffic/safety issues, pedestrian issues were all noted. Under Opportunities, results indicated the need to “Make the Common

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- more friendly, bike and pedestrian friendly”, improve streetscapes with landscaping, linking sidewalks through a continuous sidewalk network, implement outdoor seating at cafes. Results under Threats noted “Don’t make the Center like the Chelmsford Rotary”.
- (6) On September 6, 2012, two conceptual design plans were presented to the Board by an independent traffic engineering consultant. After very lengthy discussions regarding parking, pedestrian and traffic safety, sidewalk issues, abutter/business owner concerns, etc, Selectman Rosa, seconded by Selectman Gagliardi motioned to send Plan Option Two (the more extensive/comprehensive option) to the Traffic Management Committee for that Committee’s review and recommendation. The motion was unanimously approved.
 - (7) In the months that followed, public meetings were conducted by the Traffic Management Committee and Historic Districts Commissions as regards the Town Center. On 3/22/12, a presentation was made at a Billerica Community Alliance Breakfast. Other meetings were held. In addition, the Town Manager invited each elected Town Meeting Representative to his office in connection with the Town Center redesign.
 - (8) At the October 11, 2012 Town Meeting Session, on the Town Center Warrant Article #13, after a lengthy presentation followed by a question and answer period, with approximately 85% of the elected Town Meeting Representatives in attendance, Town Meeting Representatives voted 133 in favor (69% in favor) and 59 voted in opposition.

Selectman Robert Correnti further stated so all members of this Board know the facts. All members know the Town Center history, issues and concerns. Clearly, the Administration was following the unanimous direction of this Board regarding the concerns of the Board relative to the Town Center. This was validated by the data in the Visioning Session. Nothing was jammed down anyone’s throat. This was a clear, open process over a long period. Nonetheless, with the Referendum vote, it is clear voters didn’t want the project. Regarding this large comprehensive project, we need to move on. Certainly other issues, however, need review: such as the obvious disconnect between elected representatives of Town Meeting and residents, and I think that is something that the Town Moderator should review; the lack of participation/attendance at meetings; improving turnout at municipal elections and, perhaps even a closer review of the Town Charter. Hopefully, those discussions will occur in the future by all parties involved. Perhaps the Chair could take a leadership position, on behalf of the Board, regarding these issues. As for myself, I remain concerned with the Town Center Safety Issues. I intend to submit, as one of the goals for the Town Manager, a review of Town Center pedestrian safety issues and signalization. Additionally as another Goal, I will request the Manager meet with the Town Clerk to urge consideration of better ways to inform voters and increase turnout at municipal elections.

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Selectman Robert Accomando stated I think one thing is really clear from whether you were for the Town Center improvements or against, everyone is speaking the same words, pedestrian safety. I think we need to keep moving forward on that. It certainly is not easy to cross over to the Town Common. We need to use some of this money to improve not just the Town Center, but all the roads in Billerica. We need to make them more pedestrian safe. I would like to have the Town Manager look into a way to release some of the traffic by putting a right turn in on Andover Road. This would not be a big fiscal change and I think it is something that we should look at.

Selectman David Gagliardi stated I do agree with Selectman Correnti that we should have the Town Manager take a second look at this. Maybe we should have him look into the possibility of a more scaled-down overall plan and see where we can go from there. It may not be possible, but we won't know until we check. We would need to have qualified engineers look into the matter.

Town Manager John Curran stated there was a question about election signs; the one on the Town Common. I was not aware that sign was taken down during the day on the 19th until the day after the election. I will look into that just for my own knowledge of the sign. I know that sign was scheduled for something else and we bumped them off in order to put the election on. So I am guessing that whatever was scheduled to be there on the 19th was probably put up. If I had known, I would have delayed it another day. I will look into that. Regarding taking down signs on lawns, we have not received any specific complaints from homeowners. I don't know the address of the property that was mentioned earlier. I know that election signs are supposed to come down 6 or 7 days after the election in the local By-Law. Personally I don't think signs should be on somebodies private property in the first place. I will have to investigate this issue as well. There were also comments about the signs in the lobby downstairs in the Town Hall. Those signs were taken down without my knowledge, not by me. I did consult with Town Counsel after those signs were removed and Town Counsel assured me that they were not political, similar to when you go to a State election and there is a description of the ballot question. Someone could read those plans and vote against it or for it. They did not advocate voting one way or the other. One of the things that has come out of this election with the referendum that we just had is that the process is sorely lacking in disseminating information to the public. It is very difficult for the public to go into a voting booth and vote on a topic when there is just one sentence noted without any description of any kind. This makes it very hard to make an educated decision on that question. I think that is something that has been alluded to by some of the representatives here and something that we might want to look at in the future. I don't have the answer to why this issue lost. It could be the money or it could be they just didn't like the project. The question on the ballot was a question of money, thus one would expect that the primary reason was the money. I guess we will not know that answer unless the Board wants to conduct some kind of survey of information from the residents in Billerica. We need to use this experience to educate the Board and the Town as to what

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happened throughout this process. We have to take a step back and look at everything and see what we can do and where we can go and try to learn from the experience.

Chairman Andrew Deslaurier stated I will be happy to work with the Town Manager to help develop some sort of survey and engagement process to understand what needs to be done.

NEW BUSINESS

ANNUAL TOWN ELECTION TO BE SET FOR APRIL 6, 2012 AND SET DATE FOR THE SPRING SESSION OF THE ANNUAL TOWN MEETING TO BE TUESDAY, MAY 7, 2013 AT 7:30 PM

Secretary David Gagliardi stated we have received correspondence from Town Clerk Shirley Schult requesting that the Board of Selectmen vote that the 2013 Annual Town Election be held on April 6th, 2013 per Section 3-1(C), as amended, of the Town Charter and Article 1, Section 3(3.1)(A) of the Billerica General By-Laws.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board set the hours of the Annual Town Election on April 6th, 2013 at 8:00 AM until 8:00 PM.

It was voted: 5 – In Favor
 0 – Opposed

Secretary David Gagliardi stated our Town Clerk Shirley Schult is also requesting that the Board of Selectmen vote the date of time of the Spring Session of our Annual Town Meeting to be Tuesday, May 7th, 2013 at 7:30 PM.

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board verify the date and hour for the Spring Session of the Annual Town Meeting to commence, per Section 2-1(1)(5), as amended, of the Town Charter and Article 1, Section 1(1.1)(A)(C) of the Billerica General By-Laws as Tuesday, May 7th, 2013 at 7:30 PM.

It was voted: 5 – In Favor
 0 – Opposed

**MR. CHARLES LYONS, SHAWSHEEN VALLEY TECHNICAL
HIGH SCHOOL, RE: BUDGET AMENDMENT**

Town Manager John Curran stated we received a memo from Paula McShane Lambert, the Treasurer of the Shawsheen School Committee, who informed us that at their School Committee Meeting held on November 26th, 2012, the Shawsheen Valley Regional Vocational/Technical School District Committee voted to amend the Fiscal Year 2013 Budget by an additional \$1,003,429 to replace the boiler at the Shawsheen Valley Technical High School. Funds for this project will be paid through their Excess & Deficiency Account, offset by anticipated receipt of fifty-two percent reimbursement from a grant from the Massachusetts School Building Authority. Consistent with information shared with Town District Administrators on January 18, 2012, they have sufficient reserves to absorb the cost for this project. As stipulated in State Law, since there is no fiscal impact on assessments paid by their member communities, there is no need to call a Special Town Meeting to ratify the action taken by the Shawsheen Valley Regional Vocational/Technical School District Committee. If we are opposed to this amendment, we may call a Special Town Meeting within 45 days of the Regional School Committee vote to approve or reject the budget amendment. I would recommend that the Board accept this letter and place it on file.

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion that the Board accept this letter and place it on file.

It was voted: 5 – In Favor
 0 – Opposed

**AMENDMENTS TO BOARD OF SELECTMEN POLICIES AND
PROCEDURES**

Chairman Andrew Deslaurier stated we have four separate policies. It is fortuitous that former Selectman Matos is here tonight. I believe it was her and Selectman Rosa that consolidated and updated our Policies and Procedures to make them what they are today. The reason that we have Policies and Procedures is to make sure our meetings are efficient, prosperous and effective. They are not retrospective in meaning. So if possible, we should be looking at the language and format of these policies so they help rather than encumber this Board.

Selectman David Gagliardi stated the first policy is regarding “Conduct of the Members of the Board”. For a very long time now, since I first became involved in Town Government in 1995, it has been a long-standing issue within this community regarding members of the Board at one time or another becoming involved in the day to day administrations of the Town, which is strictly prohibited by the Town Charter. It is something that has always bothered me and I promised myself that if I ever had the

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opportunity to do something about it, that I would. This policy is basically to augment the Billerica Home Rule Charter which prevents the Board from becoming involved in the day to day administration of the Town and I would like to read this policy into the record:

Conduct of Members of the Board

In accordance with Section 3-2 of the Billerica Home Rule Charter, it shall be the policy of the Board that;

- 1) No member shall attempt to persuade or in any way interfere with the authority of any Department Head or subordinate, whether elected or appointed, while they are in the lawful execution of the day to day administration of their duties as described in the charter or by-laws.
- 2) If any Board member is alleged to be in violation of this policy and a majority of the Board, voting in executive session (to the extent permissible by law), finds the allegations to be credible, the Board shall instruct Town Counsel to investigate such allegation and report his findings to the Board for final disposition.
- 3) If the Board, voting in executive session, (to the extent permissible by law), finds by majority vote that sufficient evidence exists to establish that a violation has occurred, the Board shall censure such member(s) at the next scheduled meeting.
- 4) The official censure shall be: That the offending member(s) shall be made to stand and face the Board and a reading of the findings surrounding the violation and an official rebuke of such member(s) shall be imposed.

Selectman David Gagliardi stated I know it sounds kind of harsh, and it is, and it should be. All of us take an oath to uphold the By-Laws and the Town Charter. The way the Town Charter is written right now, it seems to be more of a suggestion than a hard and fast rule. There is really no remedy built into the Town Charter if someone begins to do this. In the past it has happened quite often. We all know this. So if this policy, as harsh as it is, will make someone think twice about violating the Town Charter, I don't think that it is a bad thing.

Chairman Andrew Deslaurier stated I just want to point out that this is just the first reading of these Policies and Procedures. We will not be voting on these tonight.

Selectman Michael Rosa stated the Town Charter does not constitute what day to day administrations are nor does this policy describe the definition of day to day administration. I do not think that anybody up here would intentionally interfere with the day to day administration. Under section 3-2(c) Powers and Duties of the Town Manager, it does not talk about what day to day administration is. He is responsible for it, but it does not say what it is. Under section 7-5 in definitions of the Town Charter, it does not have a definition of what the day to day administration is. This policy would instruct Town Counsel to investigate all allegations. Why would Town Counsel want to

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put himself in a position of going for or against one or more members of the Board of Selectmen when we are the Appointing Authority. Point of fact, when I challenged the decision of the Planning Board, this current Town Counsel sent a letter to this Board and requested that the Town hire Special Counsel to represent the Planning Board because they did not want to be involved with a case that involved an Appointing Authority of their position. Thus I think that Town Counsel would not want to be involved in this at all. Lastly, this policy is more divisive and does nothing more than pit Board member against Board member, which is not good for the Board as a whole, the Town or the residents that we are elected to represent. I do not see a need for this and I ask that this not even be put on the agenda for a second read and I will not support this policy.

Selectman David Gagliardi stated it says right in the Town Charter that no member shall attempt to persuade or in any way interfere with the authority of any Department Head or subordinate, whether they are elected or appointed, while they are in the lawful execution of the day to day administration of their duties as described by the Town Charter and the By-Laws. If you read the Town Manager's job description, if you read the Town Clerks job description, and what their duties and powers are, if you are interfering with those, there is your definition right there. If you are interfering with those, then you are in violation.

Selectman Robert Correnti stated I think when you look at it, on the surface it may seem harsh, but yet if you don't get involved in the day to day administration, it is not going to be an issue. I understand the comment about pitting one Board member against the other, but we have seen that happen publically, where a Selectman lodged an ethics charge against another Selectman. The point here is our Town Charter, which is our constitution, and not violating that Town Charter. I think it is clear to everyone what the day to day administration is. Clearly the Town Charter stated that the Board of Selectmen sets policy and the Town Manager is the CEO or COO of this community. Town employees report to him. Department Heads do not report to us. I believe that most of us understand the line between constituent service and getting involved in the day to day administration. As far as pitting one against the other, I think this policy handles it with due respect. Town Counsel did review these policies and approved the form. This would be dealt with in Executive Session to the extent permissible by law. So if someone is on some wild witch hunt trying to aggravate or harass a Board member, that is not going to take off because first of all you need a majority vote in a roll call by members of the Board in Executive Session and secondly, sometimes Town Counsels opinions are not what we want, but it is his legal opinion. Town Counsel does not seem to pander to the Board. Town Counsel provides a factual response. Town Counsel would have no problem investigating and providing the findings to the Board in Executive Session. If Town Counsel finds grounds, then I think it is a violation. It handles it with respect and does not make public any crazy allegations that turn out to have no merit or substance. If there is merit and substance, then I think it should be dealt with. Our Town Charter is our constitution. I think the residents expect the Board to follow the Town Charter and this

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sends a signal to the residents that this Board takes the Town Charter seriously and we are willing to put our reputations on the line.

Selectman Robert Accomando stated on the face I do not see a problem with it, but I do have a couple of questions. Since this is the first reading, and I did not read Town Counsel's opinion, I would like to do that.

Chairman Andrew Deslaurier stated I would like to make a couple of comments. My greatest issue with this is if we are going to have some sort of corrective action, it should apply to every possible violation of the Town Charter, not just this one. Granted this might be the greatest opportunity for a transgression with the Town Charter. Any transgression with the Town Charter should be reviewed, not just this particular matter. I also question the need for this now versus later.

Selectman David Gagliardi stated the reason I am doing this now is because I am in a position to do something about it now. The Town Charter only comes up for review once every ten years. I believe it is not scheduled for review until 2015. I would certainly be more than willing to go through the Town Charter and look for other spots. I think the residents of this community need to know that we are dealing with them in an above board manner and with one another. We are working in an above board manners and a policy such as this will keep us doing that.

David Gagliardi further stated the second policy is regarding inquiries to Town Counsel, which I will now read into the record:

Inquiries to Town Counsel

It shall be a policy of the Board to use the following procedure when obtaining information from Town Counsel:

- 1) Any member seeking to contact Town Counsel, on matters of law as they pertain to the Charter or By-Laws of the Town or any other Town related legal matter, shall inform the Town Manager prior to contacting Town Counsel.
- 2) If the contact is made by phone, the Town Manager shall be contacted, and acknowledgement received, prior to any calls being placed. The Town Manager shall respond to such requests will all due haste. The Town Manager shall be informed of any information obtained as a result of any inquiries.
- 3) If the contact is to be made by email, all emails shall be sent to the Town Manager for forwarding to Town Counsel. The Town Manager shall act on all such requests will all due haste. The Town Manager shall be copied on all inquiries and responses thereto from Town Counsel.
- 4) In cases where any member may need to contact Town Counsel on a matter relating to the Town Manager, the Chairman of the Board of Selectmen shall be informed in the same manner as provided in sections two and three of the policy.

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Selectman Robert Correnti stated this is not impeding any Board member from speaking with Town Counsel and in fact this would make sure that all Board members would receive accurate information at the same time. I support this policy.

Selectman Michael Rosa stated if Town Counsel gets a phone call from two Board members asking the same question, they can certainly say another Selectman asked that question five minutes ago and I am working on a legal opinion. The Town Manager as well as Town Counsel are appointed by the Board of Selectmen and they serve at the pleasure of the Board of Selectmen and I think we should all have equal opportunity to have access to Town Counsel. I do not think that this Board has abused this access and I don't think we would abuse that access. If this policy goes into place, this Board would actually have less access than some committee chairs that can directly call Town Counsel for an opinion. As far as the Town Manager being cc'd on the legal opinions, that is covered in the Town Charter, Section 7-11, Opinions of Town Counsel, which I will read into the record:

Section 7-11 – Opinions of Town Counsel

Whenever the Town Counsel shall prepare for the information of any Town agency, a written opinion concerning any aspect of the public business he shall file a copy of the said written opinion in the Office of the Town Manager. The Town Manager shall keep the copies of all written opinions filed under this section in a record book maintained for that purpose, to which the public shall have a convenient right of access subject to Public Records Statute, Massachusetts General Laws, Chapter 4, Section 7(26).

Selectman Michael Rosa further stated this is redundant and all it does is make it more difficult for Board members to have access to Town Counsel. I do not support this. It all comes down to personal responsibility.

Selectman Robert Accomando stated I do not know if I see it as impeding us to get to Town Counsel. On a personal level, my question would be, due to my unique circumstances, I have to speak to Town Counsel occasionally about certain issues that I can take part in and which I cannot take part in. As long as it does not interfere with that, I have no issue with this.

Selectman David Gagliardi stated as far as impeding anyone's ability to get to Town Counsel, this is the way that I have been doing it since I was elected as a Selectman. I have always contacted John Curran first and I have always cc'd him on any correspondence with Town Counsel. I have never had any problem getting responses from Town Counsel. As far as other boards and committees, I cannot control them from this seat. I have already spoken to the Town Manager about this and I plan to ask him to set up some sort of a policy through his office to deal with other committees and boards. Take for example the Finance Committee, there are 13 people on that committee, and if

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have of them are calling Town Counsel with similar questions, you are tying up a lot of the man's time and that is not necessary. I think the Town Manager can set up some kind of policy that states it has to be handled through the Chairman and the Chairman in turn can handle it much the way that we are handling it. As far as Selectman Accomando's concern, I can certainly write up an exemption for questions of Conflict of Interest.

Chairman Andrew Deslaurier stated I think this policy is trying to remedy opinion seeking. I wouldn't want to disadvantage any member of this Board to having less access than another member of any committee or board. There has been a long-standing tradition that any member of this Board can contact Town Counsel. I think if the Chairman was cc'd on all legal opinions it would help provide some protection to Town Counsel so that they are not walking into supporting one side of a political question rather than just giving a straight forward legal opinion. I do think some additional clause regarding Conflict of Interest issues is a good idea. I also think the word prior needs to be taken out. I also think that any time it states the Town Manager be notified, I think the Chairman should also be notified.

Selectman Correnti stated I support Selectman Accomando's suggestions and Selectman Gagliardi's comments and I think it is very clear that this does not impede anyone and it is simple to direct your question to Town Counsel and send a copy of that to the Chairman and to the Town Manager. This is just respectful and helpful to other Board members.

Chairman Andrew Deslaurier stated as a caveat to the personal responsibility clause, I don't think it is necessary to copy any other member on that.

Selectman Michael Rosa stated Selectman Correnti stated that when you email Town Counsel, you send a copy to the Town Manager and the Chairman, but that is not what the policy says. It says any member seeking to contact Town Counsel, on matters of law as they pertain to the Charter or By-Laws of the Town or any other Town related legal matter, shall inform the Town Manager prior to contacting Town Counsel. I take that as saying you have to notify the Town Manager and then he would forward your request on to Town Counsel.

Brief discussions ensued and it was suggested that the word "prior" was to be removed.

Town Manager John Curran stated I would like to intervene here and say the written opinions are not such an issue because by law they are required to be disseminated to me, and if they are written, usually people are aware of them. It is the verbal opinions that create the confusion. One or two Selectmen at any given time could be calling Town Counsel looking for an informal verbal opinion, but Town Counsel still has to dedicate time toward that issue, and sometimes it takes him away from other issues that he might be working on. One of the major issues logistically regarding the Town's business is

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informal verbal opinions, and other Board members being aware of them as a whole. A lot of times the same work is being done on the same level and some of these verbal requests do not need to go to Town Counsel; some of them are pretty straight forward. I do not know what the solution is. At least if there was some way that the Town Manager's Office could know that a request is being made so that there is no redundancy going on. The biggest issue for me is the verbal requests.

David Gagliardi further stated the third policy is regarding Dissemination of Information, which I will now read into the record:

Dissemination of Information

It shall be a policy of the Board to control the dissemination of information to Board members in the following manner:

- 1) All information intended for inclusion in discussion on any agenda item shall be provided to the members of the Board in advance of a meeting in what is known as "The Package".
- 2) The inclusion of information for discussion on any agenda item not included in "The Package" shall require a majority vote of the Board prior to the inclusion or discussion of such information occurs.
- 3) Any information intended for inclusion or discussion on any agenda item provided to member(s) by the Administration or by any other means, including agenda addenda and any information contained therein, shall require a majority vote of the Board prior to the inclusion or discussion of such information occurs.

In accordance with Section 3-2 of the Billerica Home Rule Charter, which states in pertinent part, " that no individual member of the Board of Selectmen, nor a majority of them shall at any time, attempt to become involved with the day-to-day administration of the Town.", the following amendment to the Board of Selectman Policies and Procedures is proposed.

Selectman Michael Rosa stated we have had no issues with information coming to the Board. Selectman Correnti is a good example of this. He comes with reams of information from the archives. In all seriousness, we can have a situation come up and he is shuffling through papers over there and he will pull something out that could assist in something that happened in the 1800's. Tonight is a good example. We had at our desks announcements that were not in our package. We had an updated Tax Classification informational packet, an updated letter from the Town Manager regarding the House of Correction and the Town Manager's Report. There were no issues regarding any of that information. To say that because something was not in our Selectmen's package, you cannot bring it forward without a majority vote of the Board, is something that I do not agree with. To be frank, even if you don't want a document to be part of the record, when a member of the Board has the floor, we have the freedom of speech in this

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country, that doesn't prevent you from talking about said document. I do not see the need for this. It is restrictive to Board members.

Selectman Robert Correnti stated I think this is an issue that Selectman Rosa and I have been vocal about a number of times. It is difficult to come here and prepare for a meeting if you don't know what is going to be put forth. I think we have been very lenient with things. I think it puts the Board in a difficult position when we have not been given information ahead of time. It is difficult to not know what someone is going to talk about or throw at us. There is a lot to prepare if you want to make an informed decision. Also, with the new Open Meeting Laws, we need to have things in writing to keep on record in the Selectmen's Office. It puts the burden on those people who are presenting to us to bring this information ahead of time so that we can research it as Board members and if needed, get a legal opinion. This should be unilateral, not only to the Board, but to all people who get on our agenda.

Selectman David Gagliardi stated this is mostly to prevent anyone from sandbagging anyone else with information or something coming out of left field.

Selectman David Gagliardi stated this next policy was one I was asked to write up by the Board. It has been approved by Town Counsel. It is dealing with sign offs for the One Day All Alcohol License. I will read it into the record:

One Day All Alcohol Licenses

It shall be the policy of the Board to issue one day all alcohol licenses as follows:

- 1) First time requests for one day all alcohol licenses shall require all sign-offs as would any regular all alcohol license, as will all subsequent requests by the same individual or group for a period of one year.
- 2) If the Board determines, after expiration of the one year period, that the licensee has conducted itself in accordance with the law and applicable regulations, there have been no material changes in the licensee's entity organization and purpose, no significant incidents have occurred during any licensed activities, and there are no objections from the Boards and Departments that would normally sign-off on such licenses, the Board may, in its discretion as licensing authority, vote to waive the sign-offs for future license requests by said licensee.

Selectman David Gagliardi further stated you will notice in your packet documents labeled 204 C.M.R. 7.00 that were given to me by Town Counsel. He said they don't necessarily have to be in as part of our Policies and Procedures, but I figured that maybe it is something that we should add as an appendix to our Policies and Procedures, so that we have it on hand should we need it.

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Selectman Robert Correnti stated most of the time these One Day Licenses are one shot and you will never see them again. This does put a very cumbersome burden on people to go around and get all these signatures. If it ain't broke, don't fix it, as Mr. Capobianco said. You have to add the Fire and Building Departments because of the State statute. Now you would be forcing people to go to many other offices just because they want to rent a venue that does not have an alcohol license. This puts a big burden on them to get a multiple number of signatures.

Selectman Michael Rosa stated if we look at licensing, why shouldn't, if it is a venue, and they have not paid their real estate taxes, why should we let them continue with their business if they have not paid their taxes. When we renew licenses, if there are taxes owed, we do not renew those licenses unless there is a plan in place that has been approved through the Treasurer/Collectors Office to get those taxes paid. I find no issue with asking the Police Department to sign off because it is after all a Liquor License. Overall I feel that the majority of the sign offs are pertinent. Even with frequent flyers, things can change from year to year. Whichever course we take, it should be consistent throughout and I do not agree with the one year waiver, because things change.

Chairman Andrew Deslaurier stated my only question was regarding the process in which we would clarify that they were all in good standing before we waived anything.

Selectman David Gagliardi stated this whole process is to make everything consistent for everyone.

Selectman Robert Accomando stated I don't have a problem with this. I do suggest to places like Harley Davidson, who might know that they are going to have a large number of dates, that they bring say all of them at one time in and have all of them signed at the same time, so when they come to us, we vote all of them and the issue is done.

Brief discussions ensued and the Board decided to remove item number two. The Board agreed they want all signatures on all requests at all times regarding this policy.

BOARD OF SELECTMEN APPOINTMENTS

MIDDLESEX CANAL COMMISSION (ALTERNATE)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to appoint Debra Fox of 7 Brentham Road as an Alternate Member of the Middlesex Canal Commission.

It was voted: 5 – In Favor
 0 – Opposed

BOARD OF SELECTMEN MEETING MINUTES
DECEMBER 3, 2012

MEETING SCHEDULE

December 4, 2012 (Work Session)
December 17, 2012

Selectman Michael Rosa, seconded by Selectman Robert Correnti, made a motion that the Board adjourn at 10:02 PM.

It was voted: 5 – In Favor
 0 – Opposed

A TRUE COPY ATTEST

Susan Michelini, Recording Secretary