

MEETING MINUTES **FOR SEPTEMBER 10, 2012**

A Regular Meeting of the Board of Selectmen was held on Monday, September 10, 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

MOMENT OF SILENCE

A Moment of Silence was given for Ralph T. McDonald, a member of the Planning Board from 1975 until 1979 and 1986 until 1987, a member of the Cemetery Commission from 1988 until 2005, an Associate Assessor from 1989 until 2002 and a Town Meeting Member from 1970 until 2003.

A Moment of Silence was given for James F. McNulty, who was a Billerica Firefighter from June 19, 1955 until June 18, 1983.

A Moment of Silence was given in remembrance of September 11th.

OPEN MICROPHONE

Mr. Shashidhar Bogelli, Manager of the Subway located at 480 Boston Road, came to the podium and introduced himself.

Ms. Caroline Catlender, Executive Director of the Billerica Community Alliance, came to the podium and gave a quick update regarding the Billerica Community Alliance. Anyone with any questions can go to their website at Billerica-alliance.org.

ANNOUNCEMENTS

VACANCIES ON BOARDS AND COMMITTEES

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

<u>POSITION</u>	<u># MEMBERS</u>
<u>Selectmen Appointments</u>	
Arts Council	3
Cabot Land Reuse Committee	3
Commission on Disability	2
Elderly and Disabled Taxation Fund Committee	1
Financial & Compliance Audit Committee	2
Historic Districts Commission	5 alt.
Open Space & Recreation Committee	2
Scholarship Foundation Committee	1
Substance Abuse Prevention Committee	8
Traffic Management Committee	1 (East)
<u>Town Manager Appointments</u>	
Beautification Committee	3
Housing Partnership Committee	2
<u>Moderator Appointments</u>	
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.

STAGE II MANDATORY WATER CONSERVATION RESTRICTION

Secretary David Gagliardi stated a Stage II Mandatory Water Conservation Restriction is in effect now through October 1st, 2012. Odd numbered addresses may water on odd numbered calendar days and even numbered addresses may water on even numbered calendar days. Residents and businesses are encouraged to support this water conservation effort. If you have any questions, please call 978-671-0957.

**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.

FALL 2012 TOWN MEETING BEGINS OCTOBER 2, 2012

Secretary David Gagliardi stated Fall 2012 Town Meeting begins Tuesday, October 2nd, 2012 at 7:30 PM in the Town Hall Auditorium.

YANKEE DOODLE HOMECOMING WEEKEND

Secretary David Gagliardi stated the Yankee Doodle Homecoming Weekend is this coming weekend, September 14th thru the 16th. Please come and enjoy a great weekend. For a listing of events, please go to www.yankeedoodlehomecoming.org. The Annual Parade will begin at 10:00 AM at the Billerica Mall and end up at the Marshall Middle School.

TOUR OF NEW PARKER SCHOOL

Secretary David Gagliardi stated this Saturday, September 15th, the School Department will be giving tours of the New Parker School from Noon until 2:00 PM. Everyone is welcome.

MINUTES

AUGUST 21, 2012 (REGULAR SESSION)

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion to accept the August 21, 2012 Regular Session Meeting Minutes as submitted.

It was voted: 5 – In Favor
 0 – Opposed

OLD BUSINESS

TOWN MANAGER REPORTS

DPW PROJECTS

Town Manager John Curran stated there is a Paving Project underway in the River Pines area and the Water Project is on-going on Letchworth Avenue. The Engineering Department is advertising for bids for the 34B Sewer Contract. The Cemetery Department received their new truck that was purchased through the Capital Plan. A new roof costing \$16,000 is being installed on the Cemetery garage. This is also listed on the Capital Plan and it was funded through the Cemetery Perpetual Care Fund. The Flushing Program for the hydrants begins on September 23rd and will continue for three weeks.

MOSQUITO SPRAYING

Town Manager John Curran stated I also want you to know that mosquito spraying of all School fields and all Town fields will take place on Thursday. I know there is a Friday night football game here in Billerica, thus this will be done before that.

PROFESSIONAL RECOGNITION

John Curran stated I would also like to mention that an Advisory Grant was awarded to the Library for \$7,500. Sandra Woodbury is the employee who was responsible for this. She was assisted by Sharon Kelleher. She worked on the budget aspects of this grant. This is to provide reading programs in the town and it is funded through the Massachusetts Board of Library Commissioners. This is both a professional and fiscal efficiency. I would like to recognize both of these employees and put this in their personnel files.

Selectman Robert Correnti asked the Town Manager to look into possibly having the Senior River Street Housing also mosquito sprayed.

Town Manager John Curran stated to date, the mosquitos that have showed up with West Nile have been in the North Billerica area, so that is where the concentration has been. I will confer with the Board of Health and see if that is possible to do that area.

Selectman Michael Rosa stated in the Town Manager's Report he mentioned the Town Center Project and the fact that the Town has submitted a MassWorks Grant application for the Town Center Project requesting \$2,000,000. I want to ask relative to the Warrant Articles for the Town Center, Article 14, which is to reauthorize some unexpended

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previous funds from the 2000 Fall Town Meeting, Article 12, for \$136,730 and from 2001 Article 6 for \$1 million. What I want to ask is that both of them are Free Cash articles. The appropriation of an article expires in three years. So if that happened, where is this money currently?

Town Manager John Curran stated it is still in the article because the article was never closed out. If you read the language in the Town Charter, it specifically states that articles do sunset, but it does not say that the money reverts back into the General Fund. The articles are still required to be closed out. That has not taken place. I did speak with Town Counsel regarding this because this issue was brought up by the Town Moderator as well. The form of the article is appropriate in that it is asking for a reauthorization which needs to be approved by Town Meeting, which is the intent of the Town Charter, to make sure that all funds that are spent, if there is no activity on an article for three years, then you need to seek reauthorization. That is what this article does. It seeks reauthorization for those two old articles because there has not been activity in them in a period greater than three years. The other option would be that Town Meeting could choose to abandon the articles and send the money back to Free Cash or put it in Stabilization or do something else with it. In terms of the form of the article, the form is okay. It is just really a question of whether Town Meeting chooses to authorize it or not.

Selectman Michael Rosa stated I was not questioning the form. So what you are telling me is that back in 2001 we had a \$1 million authorization from Free Cash, which is actual cash, surplus revenue. Then in Article 12 of 2000, that Warrant Article was originally for \$500,000. Some of that money was expended for the Town Common plans that were going on at that point in time, also from Free Cash. So the Town has been sitting on over \$1,100,000 of Free Cash revenue in these Warrant Articles that has not been brought back as Free Cash or reauthorized in twelve years. I understand that you have not been here for twelve years, but that is essentially what has happened.

Town Manager John Curran stated no, that is not entirely true. One of the reasons that it has never been addressed is that there has always been activity over the past ten years. There has been money that has actually been spent out of those accounts. I believe money was spent on traffic lights. The original appropriation of both articles was \$1,500,000. What we have left is \$1,100,000. I know there has been activity since the time that I have been here; it has been going on since I started. Prior to that there has been activity. If you talk to the Town Accountant that is one of the reasons that this was never closed out. There was always some sort of activity around the project, but there was never any spending that was associated with it.

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Selectman Michael Rosa stated you are right in that there was some activity in Article 12 because it was originally \$500,000. Article 6 has been untouched at \$1 million of Free Cash. The reason that was never touched and the reason that the spending stopped on Article 12 is Mr. Montuori stopped the Town Common projects when money got tight. He did not think it was a priority at the time, so he stopped it. So my question is has that money been sitting, \$1,100,000, for twelve years?

Town Manager John Curran stated in terms of the impact of that money sitting there, it is not reverting back to any other account. It is virtually the same as money sitting in the Stabilization Fund. The important thing is the money was not spent without authorization. We are going back to Town Meeting to authorize it. If Town Meeting says no, that they do not want to do that, then I imagine we would come back and try to appropriate it for some other purpose at our next Town Meeting. I cannot speak for the whole twelve years of what has happened here, but this is not uncommon for an article to have funds remaining in it that either have to be closed out or reauthorized for another purpose. In fact we did it at Town Meeting within the last year for School articles.

Selectman Michael Rosa stated I would like to ask that we get a list of how many Warrant Articles that have had financial appropriations that have exceeded the three years and review those to see if we want to have that money remain there for some unknown period of time. We can evaluate each one on its own merits and see whether it needs to be transferred or closed out. I was shocked to find out that \$1,100,000 has been sitting there for twelve years.

Selectman Robert Correnti stated I believe that there is a Town Meeting Warrant Action Committee that reports at Town Meeting periodically with a status of Warrant Articles. They report on the status of what has and has not been expended. I believe that is provided at Town Meeting. The Moderator keeps track of that. In any event, the money would be sitting in that account for the reasons voted by Town Meeting and could not be expended for anything other than the reasons voted by Town Meeting.

Selectman David Gagliardi stated I just want to echo what Selectman Correnti said. Because I was on the Finance Committee, I knew that money was there. It can be reauthorized for whatever purpose Town Meeting says it can be, but it was never reauthorized for this. But I did know it was there.

Town Manager John Curran stated I will be happy to provide that list. This money has been no secret. I have mentioned this several times to this Board that this money was available.

ADDENDUM

BANNERS AT TECHNOLOGY PARK

Town Manager John Curran stated the Gutierrez Company is seeking to upgrade all of the site signage in Technology Park. Part of this sign package includes the installation of four banners on existing light poles located along the entrance drive to Technology Park. These banners are temporary banners regarding the Middlesex 3 Kick Off Event. The Billerica Zoning Ordinance regulates and prohibits banners (section 9.E.7). However, these banners can be allowed if the Board of Selectmen finds that the installation of said banners provides a public service. Our Building Department has no objection to the installation of said banners. I have provided you with copies of Zoning Ordinance Section 9.E.7, details of the proposed banners and a site plan indicating the proposed locations.

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion that the Board approve the installation of these banners for sixty days.

It was voted: 5 – In Favor
 0 – Opposed

OLD BUSINESS

ARTHUR DOYLE/LRTA

Selectman Robert Correnti stated there has been a lot said on this issue. But I want to take a moment to talk about what was not said – a thank you to Mr. Doyle from this Board for his years of service. We have many challenges before us. Let's do what is right and let's move on. In this regard, I have two motions. I would like to read a letter and then I will make a motion requesting this Board approve and sign the letter. I am requesting all members of this Board sign the letter. The second motion deals with our Policies and Procedures.

Dear Arthur:

At its meeting of September 10, 2012, the Billerica Board of Selectmen voted unanimously to publicly recognize and extend its sincerest appreciation to you for your eighteen years of dedicated service on the Lowell Regional Transit Authority Advisory Board.

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Your commitment to Billerica has been clearly evident. The North Billerica Train Station stands as a testament to your perseverance. Through the years, with your advocacy, the LRTA has increased its service to Billerica residents. Your leadership was recognized by your fellow LRTA Board Members by their election of you as Chairman for the past six years.

On behalf of all Billerica residents, we extend our sincere gratitude and appreciation for your spirit of volunteerism, dedication and service. We wish you all the best in the years to come.

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion that the Board approve this letter as read.

It was voted: 5 – In Favor
 0 – Opposed

Selectman Robert Correnti further stated the second motion deals with our Policies and Procedures. As Board members know, the actions and discussions regarding this appointment were based upon Policy 11.0 of the Boards Policies and Procedures. A policy reviewed by two different Town Counsels and a policy in effect for a number of years. Current Town Counsel provided me with a verbal opinion and the Chairman with a written opinion this past June. These opinions supported the actions taken consistent with our current policy. Subsequently, it became known that this policy was in contradiction to Mass General Law. As a matter of fact, one of our agenda items tonight is the first reading correcting Policy 11.0. In addition to the correction of Policy 11.0, I believe it would be timely to have all our Policies and Procedures submitted to Town Counsel for Counsel's review and written approval. Who knows if there are any other issues?

Selectman Robert Correnti, seconded by Selectman David Gagliardi, made a motion that the Chairman submit all the Board's Policies and Procedures (including the appendices) to Town Counsel for Town Counsel's review and written approval.

It was voted: 5 – In Favor
 0 – Opposed

NEW BUSINESS

**APPROVAL FOR INTERIM LOAN FROM THE MASSACHUSETTS
WATER POLLUTION ABATEMENT TRUST**

Town Manager John Curran stated this is in regards to the Massachusetts Water Pollution Abatement Trust Loan Number CW-10-24. This is to fund sewer pump station upgrades for our sewer system and it was one of the two articles that was voted for that purpose. The State needs us to approve both the short-term borrowing and the long-term borrowing. I am requesting that this Board vote to approve the details of notes and bonds to be issued through the Trust and sign all related note closing documents for the following Municipal purposes:

	<u>Authorized/ Article</u>	<u>Interim Loan & Subsequent Bond Amount</u>
Fund Phase I Pump Station Upgrade Plan	10/5/2010 Article 22	\$3,700,000

Brief discussions ensued regarding the Consent Order ordered by the Department of Environmental Protection.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the details of Notes and Bonds to be issued through the Massachusetts Water Pollution Abatement Trust as Loan Number CW-10-24 in the amount of \$3,700,000 to fund the Phase I Pump Station Upgrade Plan.

It was voted: 5 – In Favor
 0 – Opposed

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made the following motion:

I, the Clerk of the Board of Selectmen of the Town of Billerica, Massachusetts, certify that at a meeting of the board held September 10, 2012, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was passed, all of which appears upon the official record of the board in my custody:

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- (1) That the Town shall issue a bond or bonds in an aggregate principal amount not to exceed \$3,700,000 (the “Bonds”) pursuant to Chapters 29C and 44 of the General Laws and a vote of the Town passed October 5, 2010 (Article 22), which authorized a total borrowing of \$3,700,000, for construction of sewers and other water pollution control facilities (the “Project”);

It was voted: 5 – In Favor
 0 – Opposed

**BILLERICA ENTERPRISE SERVICES, INC., D/B/A SUBWAY, RE:
COMMON VICTUALLER LICENSE AT 480 BOSTON ROAD, UNIT
#110 (BILLERICA MALL)**

Secretary David Gagliardi stated Billerica Enterprise Services, Inc., d/b/a Subway, located at 480 Boston Road, Unit 110, is seeking a Common Victualler License. Hours of operation will be Weekdays, 7:00 AM until 10:00 PM, Saturday, 8:00 AM until 9:00 PM and Sunday, 9:00 AM until 8:00 PM.

Mr. Shashidhar Bogelli, Manager of the Subway located at 480 Boston Road, came to the podium and introduced himself. He stated we are planning to open a Subway at the Billerica Mall. I am here for the Common Victualler License.

Brief discussions ensued about the opening date being either September 26th or the first week of October and the lack of a Zoning Board of Appeals Hearing.

The Board recommended to Mr. Bogelli that he apply to the Zoning Board of Appeals first for a variance; after which the Board of Selectmen would take up this issue.

The Board of Selectmen decided to table this issue until after Mr. Bogelli meets with the Zoning Board of Appeals.

CYSTIC FIBROSIS FOUNDATION, RE: ANNUAL GREAT STRIDES: A WALK TO CURE CYSTIC FIBROSIS ON SUNDAY, MAY 19, 2013

Secretary David Gagliardi stated the Cystic Fibrosis Foundation is seeking permission to hold their annual Great Strides Walk to Cure Cystic Fibrosis on Sunday, May 19, 2013. The walk will begin at the Boys and Girls Club in Billerica and go past the Irish American Club on Middlesex Turnpike and return to the Boys and Girls Club. Registration will begin at 9:00 AM and the walk will begin at 10:00 AM and should be finished at approximately 2:00 PM.

Brief discussions ensued regarding the fact that they are in the process of obtaining approval for the route from Traffic Safety Officer Martin Conway.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request from the Cystic Fibrosis Foundation to hold their annual Great Strides Walk to Cure Cystic Fibrosis on Sunday, May 19, 2013 from 10:00 AM until 2:00 PM, beginning and ending at the Boys and Girls Club. This is contingent upon approval from Traffic Safety Officer Martin Conway.

It was voted: 5 – In Favor
 0 – Opposed

BILLERICA ROD AND GUN CLUB, RE: ONE DAY ALL ALCOHOLIC LICENSE FOR SEPTEMBER 15, 2012

Secretary David Gagliardi stated the Billerica Rod and Gun Club is seeking a One Day All Alcoholic License for September 15, 2012 from 12:00 Noon until 12:00 Midnight. Their insurance is on file.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve a One Day All Alcoholic License for the Billerica Rod and Gun Club located at 216 Pond Street for Saturday, September 15, 2012 from 12:00 Noon until 12:00 Midnight.

It was voted: 5 – In Favor
 0 – Opposed

OLD BUSINESS

BOARD OF SELECTMEN – POLICIES AND PROCEDURES – 11.0 OTHER APPOINTMENTS

Secretary David Gagliardi stated this is the first reading of the proposed changes to the Board's Policies and Procedures.

11.0 Other Appointments

- 11.1 The Chairman of the Board shall annually appoint no more than two (2) Board members to each of the following Standing Committees of the Board: Bike Path, Cable Advisory, Kent Fund Scholarship, Northern Middlesex Council of Government, Open Space and Recreation, Senior Citizen' Advisory, Town/School Fiscal Subcommittee, Traffic Management Committee and the Water Conservation Oversight Committee. Selectmen appointed to these committees shall keep the entire Board apprised of important committee developments.
- 11.2 The Board shall vote annually to appoint no more than two (2) Board members to each of the following committees created by Town Meeting. The Billerica Housing Partnership Committee, Cabot Land Reuse Committee, Long Range Master Plan Committee and the Street Acceptance and Discontinuance Committee. The Selectmen appointed to these committees shall keep the entire Board apprised of developments.
- 11.3 The Chairman of the Board shall serve or annually appoint either the Town Manager or a designee to the Lowell Regional Transit Authority. Appointee shall apprise the Board of developments.
- 11.4 All five (5) members of the Board shall be appointed to the Billerica Community Alliance and Community Funds (broken into subcommittees) and the Board shall appoint one (1) member to serve on Community Teamwork, Inc.
- 11.5 Pursuant to Chapter 357 of the Acts of 1972, the Town Manager may annually appoint an alternate member to the Northern Middlesex Council of Government. Such appointee shall keep the entire Board apprised of developments.

Brief discussions ensued.

NEW BUSINESS

COMMUNITY FUNDS 2012

Secretary David Gagliardi stated the following:

COMMUNITY FUNDS Criteria for 2012

The Town of Billerica has entered into agreements with certain local companies to provide economic development incentives in exchange for substantial community investment. Under the terms of the agreements, these companies became Certified Projects, each ratified by Town Meeting. The companies are contributing to a Community Fund, and as mutually agreed to, will be used for worthwhile community projects which will enhance the quality of life in the Town.

The Fund will be administered as a grant, with project applications reviewed by a subcommittee of the Board of Selectmen and a representative of each company. The full Board of Selectmen will then vote the awards. Failure to provide and/or meet **all** the criteria information requested will result in the rejection of the application from consideration.

CRITERIA

1. A completed Community Fund Grant Application Form must be filed with each Community Fund Grant request. The Community Fund Grant Application Form includes:
 - a. A brief project description, legal name and address of the organization, the amount requested, and the name/address of the contact person;
 - b. One page executive summary of the project;
 - c. A brief description of the organization applying, including its mission, history, programs and/or achievements, or other information which would indicate capacity to implement the project. Also, include names/addresses of the officers or directors of the organization are provided;
 - d. An explanation of the community need and resulting benefit of the project indicating how it will enhance the quality of life in Billerica;

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- e. A description of how the project would be sustained after the grant period;
 - f. The organization's fiscal year budget as well as the project budget with narrative justification, including other funding sources and in-kind contributions;
 - g. Ten (10) sets of the application, non-returnable, submitted to the Board of Selectmen by 4:00 p.m. on Friday, November 2, 2012;
2. Grant applications will only be accepted from non-profit entities or groups serving the Town of Billerica.
3. Applicants may be required to give a presentation to a subcommittee, or to the full Board of Selectmen, as needed.
4. The awards may be made in such a way as to allow more than one company to support a project.
5. Projects may receive funds from more than one company, though only one application is required.
6. Recipients shall recognize the contributions(s) of the company (ies) in a suitable way, both at the time the grant is announced and also on an ongoing or long-term basis.
7. The Board of Selectmen reserves the right to withhold any or all of the Community Funds in the event there are no projects meeting the criteria this year.
8. As a condition of any award(s), all recipients agree to provide, within twelve (12) months of receiving any Community Fund Grant(s), written certification of the completion of the project to the Board of Selectmen. Such certification shall provide written details of all fund(s) expenditures in accordance with the grant award(s). Any funds not expended at the conclusion of this twelve (12) month period shall be forfeited and promptly returned to the Board of Selectmen. Until such written certification is provided to the Board of Selectmen, the Recipients(s) shall not apply and shall not be eligible for any additional Community Fund Grants.
9. Should the applicant need additional time to complete the awarded project they can request an extension in writing to the Board of Selectmen and have the request voted on at a public meeting of the Board of Selectmen.

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The Community Funds are reflective of the partnerships entered into by the Town of Billerica and the companies that became Certified Projects, and will result in meaningful community benefit. Grant application forms are available in the Office of the Board of Selectmen. Questions regarding the Community Funds should be directed to the Office of the Board of Selectmen, Town Hall, 365 Boston Road, Billerica, MA 01821 or 978-671-0939. Applications for the Community Funds will be accepted until 4:00 PM on Friday, November 2, 2012 in the Office of the Board of Selectmen. The Board expects to announce the awards at its meeting of Monday, December 7, 2012. Awards will be presented at the meeting of December 17, 2012.

BOARD OF SELECTMEN APPOINTMENTS

**HISTORIC DISTRICTS COMMISSION – INTERVIEWS FOR ONE (1)
REGULAR MEMBER**

Selectman Michael Rosa stated I just want to raise a question relative to the last appointment to this committee. This Board voted to waive the expiration or deadline when all the applications had to be in. That deadline was created by the Charter, Section 7-13. The Board of Selectmen cannot supercede the Town Charter. The motion was made to waive the deadline for the applications that were in outside of the deadline. That is in conflict with the procedures laid out in Section 7-13 of the Town Charter. We cannot supercede the Town Charter. I spoke to Town Counsel and he agreed with that verbally. That being the case, when we did do that we had equal amounts of people for the positions that were available at the time. So if we followed the Town Charter and we didn't move the date, Mr. Young would have been the third appointee at that point in time. Instead the Board moved the date and another applicant submitted an application outside of the deadline and was appointed. I will first say that I don't believe that appointment is valid because the application came in outside of the deadline that we had no right to waive. In that case, Mr. Young should probably be in that position. If the Board agrees with this, then we would not have to interview Mr. Young tonight for the position that is available here.

Chairman Andrew Deslaurier stated we waived that deadline for two positions, and me being one of the positions, for the Electronic Voting Committee. So are you saying both of these fall under this?

Selectman Michael Rosa stated this Board does not have the authority to supercede the Town Charter, so I would say that both of those appointments are not valid appointments. In this particular case, Mr. Young did have his application in on a timely fashion and he would of fallen into a regular position. We would have had enough people for the positions available if we stuck with the timeline. So my position is Mr. Young should have been put in that position at that time. So if we agree on that, then we do not have to interview him tonight.

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Chairman Andrew Deslaurier stated admittedly this sort of smacks to the last similar situation where after the fact we had guidance from Town Counsel that disagreed with the way that this Board made an appointment regarding the LRTA. So you are saying that Town Counsel does not agree with the way we made this appointment. However, we do not have that documentation from Town Counsel.

Selectman Michael Rosa stated the LRTA situation was different because it involved Mass General Law that the Board tried to supercede. I think we can all agree that the Board of Selectmen does not have the authority to supercede anything in the Town Charter. If you agree with that, then you cannot waive the deadline that is spelled out in the Town Charter to be open for ten days after the legal posting of that position. At the conclusion of the ten days, the Board of Selectmen will make their appointments. Thus, the appointment of Ms. McBride, I don't believe to be a valid appointment because her application came in after that time period.

Chairman Andrew Deslaurier stated my feeling is it would be nice to have that written opinion from Town Counsel. In that way we could have a paper trail. If we have to revisit something, I feel we need a written legal opinion.

Selectman David Gagliardi stated there were other appointees, although they were not contested appointments, that did file late. That is why I made that motion, because there were a number of them. If we go this route, that means that those appointments too are invalid. If you are going to go that route, then I think we need to re-advertise.

Selectman Michael Rosa stated anyone who was outside the deadline and was appointed, if Town Counsel, I will follow up with him to get it in writing, says that they were not valid appointments, then they weren't valid appointments. In cases where there are still openings, then yes we would have to re-advertise. In that particular situation, we had the right amount of people for the right amount of slots that had put their application in a timely fashion. In that situation, Mr. Young should have had the slot.

Selectman David Gagliardi stated it does not necessarily mean that he would of gotten the slot. He still would of needed to get three votes. Even if we decided to change our minds tonight and take Ms. McBride off of that committee, Mr. Young would still need to be voted on tonight.

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Selectman Robert Correnti stated I think this is a case of be careful of what you wish for. Certainly if we go down that road, first of all I would ask that Town Counsel be here because we have seen that with the LRTA, getting verbal and written legal opinions and then they are different. Number two, I agree with my colleagues that you need to research all the appointments that were late and were made and number three, any votes that were made by those people who were late and appointed may deem actions taken by those Boards and Committees to be null and void. This thing could have a rambling effect. Beyond all that, I have never seen such lobbying as I have for this. There has been phone calls made on his behalf by a member of the Board. I think the bottom line is that it would still need a vote by this Board. Just because we appointed one person that doesn't mean that it took away any divine right that any individual had to a slot. They still needed three votes. If you are choosing to proceed with this, I think a lot of research needs to be done as to all those appointments that were made, who they were, what Committees or Boards, what actions were taken with those people who voted, because those actions could be null and void. I am sure that none of us want to do anything that is in contradiction to the Town Charter. If we proceed with this, what happens to all those other votes is a problem. I know this would have a substantial impact on some Warrant Articles already, because the Town Manager proceeded based upon some actions receiving a 25% approval. There are some consequences, but I would be willing to listen to Town Counsel and a report naming all those people who were appointed and should not have been appointed, what actions were taken by those Boards and Committees and what effect those actions have in nullifying any votes that those people participated in. I don't see why we just don't proceed with the interviews and vote tonight. There is an opening and Mr. Young is one of the individuals being interviewed.

Selectman Michael Rosa stated I brought this up tonight because this issue has come up again. On my 15 years on the Board we have never done this before. I do not ever remember us waiving a deadline to fill positions. That being said, I will follow up with Town Counsel and if he says that the appointments are null and void, you know the ramifications of after the fact, yes there will be some, but that cannot be the deciding factor if something was done improperly here.

Town Manager John Curran stated in all due respect, I think this discussion is out of order. This issue was already decided on and discussed and Town Counsel was involved in it. Not the issue of the appointments before us tonight, but the issues of before. They have already been acted on by the Board. Whichever side you are on, the decision has already been made. Essentially it is double jeopardy here. You are trying to try the same case over again. It has already been acted on and decided upon. Just as a point of information for the Board, I guess in self-interest from my perspective, this sounds like a lot of administrative work that will need

HISTORIC DISTRICTS COMMISSION (ALTERNATE) (1)

Selectman Michael Rosa, seconded by Selectman Robert Correnti, made a motion that the Board put the names of Joanne Gagliardi of 2 Whiting Street and Robert West of 3 Marshbrook Road in nomination as Alternate Members of the Historic Districts Commission.

It was voted: 4 – In Favor
 0 – Opposed
 1 – Abstained (Selectman Gagliardi)

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion that the Board appoint Joanne Gagliardi of 2 Whiting Street as an Alternate Members of the Historic Districts Commission.

It was voted: 4 – In Favor
 0 – Opposed
 1 – Abstained (Selectman Gagliardi)

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion that the Board appoint Robert West of 3 Marshbrook Road as an Alternate Members of the Historic Districts Commission.

It was voted: 5 – In Favor
 0 – Opposed

COMMISSION ON DISABILITY (1)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board appoint Arthur Torrey of 10 Kohlrausch Avenue as a Regular Member of the Commission on Disability.

It was voted: 5 – In Favor
 0 – Opposed

ELDERLY AND DISABLED TAXATION FUND COMMITTEE (1)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board appoint Bruce Richardson of 501 Boston Road as a Regular Member of the Elderly and Disabled Taxation Fund Committee.

It was voted: 5 – In Favor
 0 – Opposed

BOARD OF SELECTMEN MEETING MINUTES
SEPTEMBER 10, 2012

MEETING SCHEDULE

September 24, 2012
October 15 and 29, 2012

October 2, 4, 9, 11, 16, 18, 23 and 26 at 6:00 PM prior to Town Meeting, if necessary.

Selectman Michael Rosa, seconded by Selectman Robert Correnti, made a motion that the Board adjourn at 8:22 PM.

It was voted: 5 – In Favor
 0 – Opposed

A TRUE COPY ATTEST

Susan Michelini, Recording Secretary