Town of Rowe – FY2010
Board of Selectmen
Minutes – Wednesday, February 3, 2010 – 4:00pm

Call to order: The meeting was called to order at 5:00pm by Chair Bill Loomis.

Present: Selectmen Bill Loomis and Paul McLatchy III; Town Coordinator Ellen Miller

Absent: None

Also Present: Anne Besgen and David Dvore, FinCom

Town Counsel Correspondence: The following items were received from Kopelman and Paige:

1. **Open Meeting Law** (Jan 20, 2010): Correspondence was received from Kopelman and Paige outlining extensive changes to the Open Meeting Laws that take effect July 1, 2010. Ms. Miller will disseminate copies to all town officials/boards/committees.
2. **Update on Green Communities Programs** (Jan 22, 2010) – see attached
3. **Regionalization of Municipal Services** (Jan 22, 2010) – see attached

Police Dept:

- Officer Salls: Ms. Miller reported that new officer Melissa Salls has not yet met with the Town Clerk to get sworn. She was appointed December 23rd.
- IT/MIRCS: Ms. Miller reported that Chief Dandeneau has not contacted Horace Moody yet concerning the quote from Dell for $1,066 for a new work station and $130 for a new camera for the Police Department. This equipment was specified by our IT consultant, and will meet the requirements for the state's MIRCS (MA Instant Record Check System). Chief Dandeneau stated that he would contact Horace Moody directly concerning the purchase.

MIIA Loss Control Report: Fire Chief May has inspected all of the fire extinguishers in all town buildings. This was the main item in the loss control report.

Bear Swamp E-Plan: Ms. Miller reported that Blackboard Connect will allow the addition of Bear Swamp as a user under the town's account since it was such a small calling group (4 households). Bear Swamp will only have access to these four households in the system. Ms. Miller is working with Bear Swamp on the final details.

Vacation Policy: No decision was made on updating the town policy. The Selectboard will discuss it with DPW Supt. Jim Taylor at their next meeting. A list of town policies (school non-teaching staff, school principal and town employees) was prepared for discussion. Chair Loomis will discuss the school policies with the School Committee to see how they came up with their policies.

Winter Roads: Supt. Taylor gave an update of this account. Total budget $67,514; spent YTD $23,800. He hopes it will be enough for this year, but it is still early.

Wage Increase Request: Supt. Taylor requested at 4.0% wage increase for FY2011. He acknowledged that there have been COLA increases for many years, but no performance increases.

FY2011 Budget: A draft list of possible departmental cuts was prepared. Ms. Miller will incorporate these items into individual draft memos for committees/departments for the Selectboard's review. The next budget meeting will be held next Wed, Feb 10th at 4pm. Ms. Miller will prepare budget details for medical/dental/life insurance costs for FY2011. Correspondence was received from FRRS (Franklin Regional Retirement System) that they are holding a special meeting on Feb 23rd to vote on granting a 3.0% cost of living allowance to retirees.

Bylaw Updates: Ms. Miller will get copies of the proposed zoning bylaws and the last version of the Bylaw Review Committee draft bylaws for the Selectboard and Finance Committee members.

Financial Audit/Management Letter: The recent audit will be reviewed at the next meeting.

Energy Committee: The Selectboard voted unanimously to appoint Paul McLatchy III to the Energy Committee.

Selectmen's Rules & Regulations: Ms. Miller presented a draft of recommended changes to the Selectmen's rules and regulations. The Selectboard voted unanimously to adopt the recommended changes.

Gift to Gracy House: The Selectboard voted unanimously to accept a gift of a nearly-new kitchen range from Ed & Sandy Daviau of Potter Road for the Gracy House. The range is valued at $400.00. The range was actually donated in calendar year 2009.

MGL c.39, Sec.23D: The Selectboard agreed to ask the town to adopt this MGL at the Annual Town Meeting. This will allow that a member of a board holding an adjudicatory hearing will not be disqualified from voting if they miss one hearing, provided that the member certifies in writing that they have examined all evidence received at the missed session.

Minutes: The minutes of the January 6, 2010 meeting were unanimously approved as submitted.

Warrants: Treasury Warrant #17 and Payroll Warrant #17 were approved for payment.

Police Monthly Report: Report for Dec 8-29, 2009 reviewed.

Police Time/Citation Log: None submitted.

Building Inspection Report: Report for month of January 2010 was reviewed.

Next Meeting: The next regular meeting will be Wednesday, February 17 at 5:00pm. The next budget meeting will be Wednesday, February 10 at 4:00pm.

FY2011 Budget Worksheet: Ms. Miller will have the budget worksheet ready for the next budget meeting on Jan 27th.

Adjournment: The Selectboard voted unanimously to adjourn the meeting at 7:10pm.

Respectfully submitted,
Ellen B. Miller, Town Coordinator

Approved:

William A. Loomis, Chair

Paul McLatchy III

[Vacant]

Mar 3, 2010
Date Approved

Documents:

- Agenda
- K&P - *Open Meeting Law* - Jan 20, 2010
- K&P - Update on Green Communities Programs - Jan 22, 2010
- K&P - Regionalization of Municipal Services - Jan 22, 2010
- MIIA Loss Control Report – Dec 16, 2009
- Vacation Policies (school and town)
- FRRS letter re FY2011 Retiree COLA – Jan 21, 2010
- Selectmen's Rules & Regulations – draft changes
- Acceptance of gift for Gracy House
- MGL c.39, Sec. 23D
- Police Report Dec 8-29, 2009
- Building Inspector's Report – Jan 2010

Town of Rowe – FY2010
Board of Selectmen
Meeting Agenda – Wednesday, February 3, 2010 – 5:00pm

1. Call to Order

2. Audience of Citizens

3. FY2011 Budget

4. 5pm - Ed MacDonald – running to fill seat in Western MA

5. Old Business
   a. Gracy House – TO DO LIST: pave parking area next spring
   b. Town Counsel Communications, etc.
   c. Verizon Petition – ongoing (DTC handling investigation) – meet with attorney for IBEW Local 2324?
   d. Police Matters: new officers; MIRCS access; IT quote $1,025 for workstation; camera approx $200
   e. Ambulance Meeting – information from joint meeting Jan 26th at Charlemont TH?
   f. MIIA Loss Control Report dated 11-3-09
   g. Bear Swamp - East Dike E-Plan – Tom Mapletoft Thomas.mapletoft@brookfieldpower.com 603-479-3566
   h. Vacation Policy
   i. Audit Report/Management Letter

6. Energy
   a. Requisition #5 for payment - $129,230.90 – Under review by Energy Comm
   b. Awaiting response from Roland Butzke on following:
      - ESCO contract – Exh B Article 2: Perf. Assurance Technical Support Program $4K (no FY2010 appropriation)
      - ESCO contract – Exh B, Article 3: Maint Tech Support Program $12,500 (no FY2010 appropriation)
   c. Heat in Treasurer's office

7. New Business
   a. Update Board of Selectmen Rules & Regulations
   b. Accept donation of kitchen range for Gracy House
   c. FCSWMD – appoint Rowe rep to the Board of Representatives
   d. Open Meeting Law – July 1, 2010 extensive changes – disseminate to all boards/committees/depts.
   e. Adopt M.G.L. Chapter 39, section 23D – attendance at hearings

8. Routine Business
   a. Minutes: January 6, 2010 meeting
   b. Treasury Warrant #W17; Payroll Warrant #P17
   c. Police Report: Dec 8-29, 2009
   d. Police Monthly Log (Time Log & Warnings/Citations): None
   e. Building Inspector's Monthly Report: January 2010
   f. Correspondence

9. Next Town Meeting
   a. Elevator Upgrade $1295 (infrared door protection system)
   b. Police Dept Prior Year Bill $135.00
   c. Right-to-Farm Bylaw - new
   d. Finance Comm Bylaw – amend Art III, Sec. 11
   e. FCSWMD – Leyden request to join district
   f. Street Lights – sense of meeting (follow up to Paul Adams' request)
   g. Sense of meeting – change some elected offices to appointed
   h. Transfer *Fire Pond Maint* acct to *Fire Pond Upgrade Project*

10. Next Regular Meeting: Wed, Feb 17, 2010
    Upcoming Meetings/Events: Green Communities Public Mtg – dated undecided
    Broadband Meeting – Monday, Feb 8 – 7pm (town hall)

11. Adjourn Meeting

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Bc
PM III

January 20, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

To: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: Open Meeting Law

On July 1, 2010, extensive changes to the Massachusetts Open Meeting Law will take effect. We have enclosed three Memoranda to Municipal Clients regarding these changes, contrasting the current provisions of the Law and the new procedures that must be followed under the revised Law. In addition to an overview, the enclosed Memoranda examine the requirements for keeping minutes and meeting records and the enforcement authority of the Attorney General. The Law applies to virtually every multiple member board in a city or town. We urge you, therefore, to circulate copies of these Memoranda to board members and their recording clerks in advance of these important statutory changes. We will also keep you informed of any regulations and advisories issued by the Attorney General regarding the implementation of the new Law. We plan to issue a new Open Meeting card in June, but for now the one you have is correct through June 30th.

For those attending the MMA Meeting in Boston, I hope you will join us on Saturday, January 23rd, at the Member Associations Breakfast we are sponsoring, held in the Hynes Ballroom B, 3rd Floor, from 7:30am-8:45am.

Very truly yours,

Leonard Kopelman

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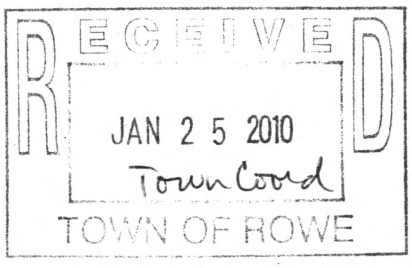

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January 20, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: The New Open Meeting Law – An Overview

On July 1, 2009, Governor Patrick signed into law Chapter 28 of the Acts of 2009, entitled "An Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying." The Act made extensive changes to the lobbying laws and Chapter 268A, the Conflict of Interest Law (we issued Memoranda on the Chapter 268A changes dated September 3 and November 6, 2009), as well as an overhaul of the Open Meeting Law. However, the portions of the Act relative to the Open Meeting Law ("the Law") were expressly designated to go into effect on July 1, 2010. Prior to that date, it is anticipated that the Office of the Attorney General will issue detailed educational materials, regulations, and guidance regarding the manner in which the law will be implemented. Given the importance of the Law to all municipal boards, however, board members and other municipal officials should begin familiarizing themselves with these important changes.

As of July 1, 2010, the current Open Meeting Law provisions, G.L. c.39, §§23A-23C will be repealed. The revised Open Meeting Law will be found at G.L. c.30A, §§18-25. Some of the important differences are highlighted below. We will provide separate memoranda, however, regarding new requirements for taking and maintaining minutes and the transition of enforcement authority from the District Attorneys to the Attorney General.

1. Definitions

The revised Law contains some significant changes to defined terms, highlighted below:

- "Deliberation" is communication between or among a quorum of a public body.
  - Explicitly includes communications by e-mail and other written medium;
  - The following are specifically excluded from the definition, provided no opinions of members are expressed:
    - distribution of a meeting agenda;
    - scheduling information; or
    - distribution of other procedural meeting materials, or reports or documents that may be discussed at the meeting.

It is significant that the Law specifically refers to "email" as constituting deliberation. Be advised, however, that similar types of electronic communication, such as blogging,

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electronic chatrooms, and social networking sites will also likely fall within the scope of the new definition if a quorum of the public body is involved.

- "Meeting" is a deliberation by a public body.
  - specifically excludes:
    - on-site inspections, provided there is no deliberation;
    - attendance by a quorum of a public body at a conference of training program, or a media, social or other event, provided that the members do not deliberate;
    - attendance by a quorum, without posted notice, at a meeting of another governmental body that has complied with the notice requirements of the Open Meeting Law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body, and do not deliberate;
    - a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision in an adjudicatory proceeding brought before it.

The latter exception represents a significant change from the current Open Meeting Law. A "quasi-judicial" body is one that holds a public hearing to make a determination affecting an individual's rights or privileges – for example, hearings on applications for licenses or permits. Under the current Law, there has been no ability of such a board to meet in executive session to make a decision following the public hearing on a licensing or permitting matter. Under the new statute, however, such a convening of the board does not even fall within the definition of a "meeting" for purposes of posting notice, taking minutes, etc. It remains to be seen how the Attorney General will interpret this exception, and a permit applicant (for example) might be expected to complain about a "private" gathering of board members to make and prepare a decision. Boards may prefer to continue to make such decisions in an open meeting, or delegate the drafting of a decision to an individual, while the new language is interpreted by the Attorney General. You should be aware of this significant change in the definition of "meeting," however, as well as the potential issues that may arise if a public body chooses to utilize this exception for quasi-judicial matters.

- Governmental Body
  - now known as a "public body";
  - includes any multiple-member body "within" any town (as compared to a governmental body "of" any town). It appears that this change was specifically designed to eliminate a judicially created exception that a committee appointed by a single official [Mayor, Town Manager, Superintendent of Schools] to be advisory to that official was not a governmental body subject to the Open Meeting Law. With the new Law, virtually any board, committee, subcommittee or other multiple-member body within a municipality will be subject to the Open Meeting Law.

2. Notice

Certain notice requirements have been revised and are summarized below:

- Any public meeting (except for emergencies) must still be posted at least 48 hours in advance of the meeting. It should be noted, however, that in addition to Sundays and holidays not being counted, *Saturdays* cannot be counted for this purpose under the new Law. This means, for example, that for any meeting scheduled for a Monday evening at 7:00 p.m., notice must be posted not later than 7:00 p.m. on the preceding Thursday.

- Notice of any open meeting shall include "a listing of topics that the chair reasonably anticipates will be discussed at the meeting." Many boards already have a practice of posting an agenda as part of the notice, although agendas were not required under G.L. c.39, §23B. Under the new Law, a list of anticipated topics must be included. Boards will still be able to accommodate last-minute and/or unforeseen matters (i.e., not anticipated), as the Law does not prohibit a board's consideration of such matters. Boards may wish to include in their posted agendas entries for "New Business" and "Old Business" to provide notice to the public that matters not specifically named on the agenda may be handled.

- Notice must be posted in a manner "conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located." (emphasis added). While the new Law expressly recognizes electronic posting (i.e., on a city or town website), it also requires posting in a form visible at all hours to passers-by at City or Town Hall. For those buildings that do not already post written notices in a glass case or on the front door, some visible posting location must be devised to comply with this new requirement.

3. Remote Participation

Most District Attorneys have interpreted the current Open Meeting Law as prohibiting participation by a board member by electronic means, such as speaker phone, teleconferencing or videoconferencing. The new Law provides that the Attorney General may permit such remote participation, but only by issuing a regulation or a "letter ruling" setting forth the permitted procedure. It is likely that the Attorney General will allow some form of remote participation, but the Law provides that all members and the public must be able to hear each other and that there must be a quorum of the body physically present in the room. The Law also prohibits the chair from participating remotely. In our opinion, this means that if the chair is not present, the vice-chair or another member designated as temporary chair should run the meeting from the meeting room. Remote participation should not be used until authorized by the Attorney General.

4. Public Recording

Just as the current Open Meeting Law allows members of the public to make audio or video recordings of open meetings (provided such recording does not interfere with the meeting), the new Law also permits this practice. The new Law requires that the person desiring to record a meeting notify the chair, however, and that the chair inform everyone in the room of the recording. This provision addresses the conflict between the current Open Meeting Law that permits recording and the so-called "Anti-Wire Tap" law [G.L. c.272, §99], which prohibits the recording of an individual without his or her knowledge.

5. Executive Sessions

In general, the new Open Meeting Law does not make significant changes in the circumstances that authorize the holding of an executive session. Exemptions (1) and (2) [concerning the discussion of individuals] will be combined into one exemption, while exemption (3) [concerning the discussion of litigation or collective bargaining strategy] will be divided into two exemptions. One notable new provision, however, concerns the form of a motion to go into executive session for certain purposes. Under the current Law, many boards have voted to enter executive session by referring only to the number of the exception in G.L. c.39, §23B (for example," meet in executive session for Purpose 3") or quoting the purpose from the statute ("to discuss litigation strategy"). Under the new Law, if the board intends to discuss strategy concerning collective bargaining or litigation, the acquisition, lease or value of real property, or to consider or interview applicants for employment, the chair must not only state this purpose but must also expressly state that conducting the business in open session will have a detrimental effect on the public body's strategic or negotiating position. A failure to do so could lead to the Attorney General finding that the session was improper and trigger the enforcement process.

The changes to the Open Meeting Law summarized above were adopted by the General Court as part of a sweeping effort to promote ethics and transparency in all levels of government. Municipal boards are used to dealing with the restrictions and procedures of the existing Open Meeting Law and most of these will continue as is after July 1st. Instead of the District Attorneys, however, the Attorney General will now be enforcing all provisions, and all municipal officials need to become acquainted with the differences over the next few months and be prepared to comply with them beginning in July 2010.

Very truly yours,

Brian W. Riley

Lauren F. Goldberg

Lauren F. Goldberg

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January 20, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: The New Open Meeting Law – Taking and Maintaining Minutes

The revised Open Meeting Law [G.L. c.30A, §§18-25], which takes effect on July 1, 2010, will continue to require that multi-member bodies subject to the law take minutes of all meetings, including executive sessions. There are new requirements, however, that municipal boards and their recording clerks must be prepared to follow to comply with the Law. This memorandum will address the responsibility for keeping minutes generally and highlight the major new provisions that will become law in July.

The Open Meeting Law and the Public Records Law require public bodies to prepare accurate meeting minutes to serve as a permanent record of the meeting, but do not require that a transcript, written or otherwise, be prepared. The current Open Meeting Law, G.L. c.39, §§23A-23C, applies to all "governmental bodies," which are statutorily defined to include every multiple member municipal board, commission, committee or subcommittee, whether elected, appointed or otherwise constituted, but excludes Town Meetings. The new Law, while changing the name to "public bodies," covers the same entities (and in fact broadens the scope of covered bodies, as discussed in our "Overview" memorandum). The current law provides that, at a minimum, minutes must set forth the date, time and place of the meeting, the identity of the members present or absent and all action taken. *In addition* to these requirements, the new Law calls for the following information to be included:

- a summary of the discussions on each subject;
- a list of documents and other exhibits used at the meeting;
- the decisions made and the actions taken at each meeting, including the record of all votes.

The minutes still need not be a verbatim transcription of everything that was said at the meeting. Rather, the minutes must reflect a summary of each discussion. When votes are taken at a meeting, however, the Public Records Law, G.L. c.66, §5A, requires that the minutes record exactly each vote taken.

The new Law also requires that "documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session." While many boards maintain copies of large plans and maps, for example, as part of a particular project file,

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these documents may at some point be disposed of pursuant to the Public Records Law. Minutes, however, are permanent records that municipalities must maintain forever. If all documents used during a particular meeting or hearing must be maintained as part of the minutes, this could clearly pose a significantly greater storage problem than city and town boards already face. In addition, this potentially includes records brought and referred to by members of the public at an open meeting, presenting challenges for access to and replication of such documents. We have raised these issues with the Office of Attorney General and are hopeful that they will be addressed by regulation.

While meeting minutes in general are public records, the new Open Meeting Law adds express limitations as to the portions of minutes that are exempt from disclosure, and also adds obligations to boards to make executive session minutes available to the public as soon as practicable. The new Law provides:

- That minutes of open meetings shall not be able to be withheld under any of the exemptions to the Public Records Law, except:
    - the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

- That executive session minutes shall be disclosed in their entirety when the purpose of the exemption has been met, provided, however, that the minutes or portion thereof may be withheld if protected by the attorney-client privilege or subject to one of the exemptions to the Public Records Law.

- That the chair of the governmental body must periodically review executive session minutes for the purpose of evaluating whether they should be released, that the chair shall make a statement concerning the same at an open meeting, and that the statement be included in the minutes of that meeting;

- That minutes from an executive session, the purpose of which has been completed, be provided in response to a request for them within 10 days unless the "review" discussed above has not been undertaken, in which case, the governmental body must undertake the same and provide the minutes if required not later than the board's next meeting or 30 days, whichever occurs first.

This latter provision will require a regular and systematic review of outstanding executive session matters. For example, it appears that a board could be required, within 10 days of a request for executive session minutes, to turn over a copy of the minutes even if the board has not yet determined that the purpose of the executive session is completed. In addition, the previous requirement seems to give the chair of the body authority to make that determination individually, which is a broad departure from the current practice of evaluating executive session minutes *within* an executive session. Minutes from executive sessions that have not been completed will still be exempt from disclosure. The new Law is clearly aimed, however, to address concerns about boards not going back and completing the process of wrapping up executive session matters and releasing such minutes to the public in a timely manner.

As with certain other aspects of the new Open Meeting Law, we anticipate that the Attorney General will issue regulations or advisories as to how the amended minutes requirements should be implemented. All multi-member boards and their recording clerks should begin to familiarize themselves with these requirements now, however, to prepare for their implementation on July 1, 2010.

Very truly yours,

Brian W. Riley

Lauren F. Goldberg

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January 20, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: The New Open Meeting Law – Role of the Attorney General

One of the most compelling changes included in the new Open Meeting Law [G.L. c.30A, §§18-25, effective July 1, 2010; hereafter "the Law"] is the removal of District Attorneys as the interpreters and enforcers of the Law and the centralization of this authority in the Office of the Attorney General. We do not anticipate that the Attorney General will adopt significantly different readings of the provisions of the Law that carry over from the current version. Based on the many new provisions and some new and far-reaching enforcement authority, however, municipal boards and officials should be aware of the Attorney General's role under the new Law. We expect that the Attorney General will issue regulations and advisories regarding the new Law. This memorandum will address the principal changes in the enforcement of the Open Meeting Law taking effect in July.

Under the new Law, all enforcement authority will be under the Attorney General. A Division of Open Government will be created within the Office of the Attorney General, led by a Director of Open Government, which will handle all of the responsibilities created under the new Law. An "Open Meeting Law Advisory Commission" will also be created, consisting of representatives of state government, the Massachusetts Municipal Association, the Massachusetts Newspaper Publishers Association and the Attorney General. The Commission will analyze the new Law and make recommendations to the Attorney General for regulations and for training initiatives for state and local bodies subject to the Law.

Under the current Law, an individual that believes a public body has violated the Law may submit a written complaint to the local District Attorney. The District Attorney investigates the complaint, assesses whether there has been a violation, and issues a determination to the body as to any actions necessary to remedy the violation. While rarely used, the District Attorney could also enforce violations through civil or criminal actions. Under the new Law, however, the complainant must first file a written complaint with the *public body itself*. The public body shall, within 14 days of receipt, forward a copy of the complaint to the Attorney General and inform the Attorney General of any remedial action taken. The Attorney General may authorize an extension of the time to respond for "good cause."

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Not less than 30 days after the date the complaint is filed with the public body, the complainant may file a complaint with the Attorney General if he or she believes the public body has not sufficiently addressed the alleged violation. The Attorney General must then determine whether there has been a violation and, before imposing a civil penalty, shall hold an administrative hearing on the complaint. Following a determination that a violation has occurred, the Attorney General shall determine whether the public body, or one or more of the members, or both, are responsible and whether the violation was intentional or unintentional.

Upon the finding of a violation, the Attorney General may issue an order to:

1. compel immediate and future compliance with the open meeting law;
2. compel attendance at a training session authorized by the Attorney General (i.e., conducted by the Division of Open Government or other authorized source);
3. nullify in whole or in part any action taken at the meeting;
4. impose a civil penalty upon the public body of not more than $1,000 for each intentional violation;
5. reinstate an employee without loss of compensation, seniority, tenure or other benefits;
6. compel that minutes, records or other materials be made public; or
7. prescribe other appropriate action.

Remedy 5 in particular is a significant departure from the current Law. While a District Attorney could, in theory, request that a court reinstate a terminated employee for Open Meeting Law violations in the termination process, the new Law authorizes the Attorney General to make such an order directly to the public body. This remedy could obviously have substantial consequences if a terminated employee is suddenly entitled to reinstatement, based only upon what is determined to be an improper open meeting or executive session. While it is, of course, important that *every* meeting be conducted in accordance with the Law, public bodies should take particular care to insure that any meeting that may lead to a suspension, termination or other disciplinary measure comply with all notice and posting requirements and that all executive session procedures are followed and documented.

A public body or any member of a body aggrieved by any order issued by the Attorney General may obtain judicial review of the order through an action in Superior Court. Any such action, however, must be commenced in Superior Court within 21 days of receipt of the order. Any order issued by the Attorney General that is appealed will be stayed pending judicial review. In addition, however, if the order nullifies an action taken by the public body, the body also cannot implement such action pending judicial review.

If any public body or member fails to comply with the requirements set forth in any order issued by the Attorney General, or fails to pay any civil penalty imposed within 21 days of the date of issuance of such order (or within 30 days following the decision of the Superior Court upholding the Attorney General's order), the Attorney General may file an action in Superior Court to compel compliance. It should be noted that if the public body does not appeal the Attorney General's order and also fails to comply with such order and the Attorney General brings litigation to compel compliance, the body is prohibited from contesting the merits of the order in court. The Court may also impose any of the remedies given to the Attorney General listed above.

In the alternative, the Attorney General or three or more registered voters of the municipality may initiate a civil action in Superior Court to enforce the Open Meeting Law. In any court hearing, the burden will be on the public body to show, by a "preponderance of the evidence," that the action complained of in such complaint was in accordance with and authorized by the Law. It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel. The courts will have an expedited hearing process on such actions, requiring an answer to be filed within 10 days and setting a hearing date to provide "the speediest possible determination of the cause consistent with the rights of the parties."

Finally, the Attorney General has authority to initiate an independent investigation of an alleged Open Meeting Law violation and to conduct an administrative hearing and penalty procedure, at which it may compel testimony and the production of documents.

As with many other aspects of the new Open Meeting Law, the Attorney General will likely be issuing regulations and advisories as to how the enforcement process will be implemented. By becoming familiar with the Law's provisions and following them, however, public bodies will be better able to avoid actual or apparent violations and responding to complaints will be made easier as well.

Very truly yours,

Brian W. Riley

Lauren F. Goldberg

Lauren F. Goldberg

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January 22, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

To: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: Update on Green Communities Programs

This Memorandum will highlight and provide an update on two programs that have been established by the Massachusetts Department of Energy Resources' Green Communities Division (the "Division"). Established in July of 2008, the Division is now fully staffed to support city and town efforts to maximize energy savings in municipal buildings; to generate some of their energy needs from wind, solar, and forest trimmings; and to make other decisions that reduce their environmental impact and carbon footprint. The Division's mission is to serve as the hub for all Massachusetts cities and towns on all matters related to energy.

The Division is currently providing technical assistance to 112 communities through an energy audit program. It has established outreach coordinators in each of the Department of Environmental Protection's Regional Offices and is coordinating the award of energy related grants made available through federal stimulus funding to communities with populations of less than 35,000. In addition to these ongoing programs, the Green Communities Grant Program and Energy Management Service Contracting, both currently provide opportunities for municipalities to take advantage of the funding and expertise available through the Division.

Green Communities Grant Program

In July of 2009, the Division issued final criteria for a city or town to be designated as a "Green Community." Those towns that meet the criteria will be eligible to receive a share of the up to $10 million annually available through the Division. The final criteria are posted on the Division's website.

The Department anticipates that by the winter of 2010, the grant program will be fully launched and grant funds will be available to those communities that have achieved the Green Community designation. Although at present no communities have yet demonstrated the ability to meet all five of the prescribed criteria, the Division is making technical consultants available to assist communities in their efforts to meet the criteria. The Division is also committed to making information available through its website, including model by-laws, model vehicle policies, webinars and other information on topics such as the optional "Stretch Code" appendix to the Massachusetts State Building Code.

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Municipalities may apply for the Green Communities designation either individually or as a regional Green Community. When grant awards are made to those communities that have qualified as Green Communities, special consideration will be given to regional applications. A summary of the five criteria to qualify as a Green Community is as follows:

1. Provide in the municipality's Zoning Bylaw or Ordinance for the as-of-right siting for one of the following in a designated location: renewable or alternative energy generating facilities, renewable or alternative energy research and development ("R&D") facilities, or renewable or alternative energy manufacturing facilities. As-of-right siting requires that the allowed use not be unreasonably regulated, or require a special permit. However, the siting can still allow for reasonable environmental and public health and safety standards, and provide for non-discretionary site plan review.

2. Adopt an expedited application and permitting process for facilities subject to as-of-right siting that cannot exceed one year from the date of initial application to the date of final approval.

3. Establish an energy use baseline inventory for municipal buildings, vehicles, street and traffic lighting, and put in place a comprehensive program designed to reduce this baseline by 20 percent within five years of initial participation in the program.

4. Provide a plan to gradually replace non-exempt non-fuel efficient vehicles through the purchase of only fuel efficient vehicles for municipal use whenever such vehicles are commercially available and practicable. Heavy duty vehicles (e.g., fire trucks, ambulances, public works vehicles) and police cruisers are currently exempt from this requirement. Specific miles per gallon requirements are provided in the Division's Final Criteria.

5. Require all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction to minimize, to the extent feasible, the life-cycle cost of the facility by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies. This requirement can be met through the adoption of the Board of Building Regulations and Standards ("BBRS") Stretch Code, the new appendix to the Massachusetts State Building Code.

Technical Assistance for Energy Management Services Contracting

Energy Management Services ("EMS") contracting is a form of energy savings performance contracting that can be used to implement substantial projects that save energy and water without an upfront capital investment by the municipality. In an EMS contract, the capital improvements are paid for by borrowing against future energy bill savings. EMS contracting also allows for a design-build process that provides continuity in conceptualization, engineering, design, construction and monitoring. Once an EMS contract is awarded, a project can proceed from design to closeout without any further public bidding.

EMS contracts are governed by G.L. c. 25A §11C and §11I, and 225 CMR 10.00. Typically, in an EMS contract, a municipality will enter into a contract with a private Energy Service Company ("ESCO"). The ESCO will perform an audit to identify and evaluate energy and water saving opportunities and recommend and install a package of improvements that pay for themselves through years of savings. The ESCO will guarantee that savings meet or exceed annual payments to cover all project costs over a term of years. If the savings do not materialize, the ESCO is obligated to pay the difference.

EMS contracts may be beneficial if you have more than 40,000 square feet of floor area, spend more than $40,000 annually on energy costs, have aging buildings or equipment, or high maintenance costs. EMS contracts can be especially useful for municipalities with scarce budget resources and no energy management expertise. Pursuant to the statute, the Division has oversight authority for city and town EMS contracts, and can assist communities in all aspects concerning the use of this contracting mechanism.

We encourage our clients to contact the Division to learn more about available programs and opportunities. Becoming a "Green Community" or engaging in energy management services contracting can provide both economic and environmental benefits. With grant funds and guaranteed savings contracts, many projects can be undertaken with little or no upfront costs. Finally, participation in Green Communities programs provides an opportunity to establish your community as a leader in tackling energy and climate change challenges.

Very truly yours,

Anne-Marie M. Hyland

KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
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www.k-plaw.com

Bill L
Paul M TT

January 22, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: Regionalization of Municipal Services

As fiscal constraints on municipalities continue to tighten, there are significant incentives for cities and towns to explore ways in which municipal services can be shared or consolidated. The purpose of this memorandum is to examine various options available to municipalities to regionalize services under existing statutes, special acts, and through regional cooperation efforts especially in the area of joint purchasing.

Intermunicipal Agreements

Intermunicipal agreements have long been a valuable tool in providing for shared facilities and services among cities and towns. While most intermunicipal agreements have involved joint use of wastewater treatment and water system facilities, there has been increasing interest in using such agreements as an effective tool in sharing municipal services including personnel. Intermunicipal agreements are generally governed by G.L. c. 40, §4A. A significant advantage of intermunicipal agreements is that the services or supplies procured are exempt from public bidding pursuant to G.L. c. 30B, §1(b)(3). The essential elements of an intermunicipal agreement are as follows:

1. An intermunicipal agreement may be entered into by two or more "Governmental Units" which are defined as a city, town, a regional school district, a water or sewer district or other similar district, a regional planning commission, a regional transit authority, a water and sewer commission established under G.L. c. 40N or by special law, a county, or a state agency.

2. An intermunicipal agreement can cover a wide range of services, including any services, activities or undertakings to be performed jointly or on behalf of another Governmental Unit as long as the contracting unit is authorized by law to perform the service, activity, or undertaking.

3. An intermunicipal agreement can be for a term of up to twenty-five years, and, due to a recent amendment to G.L. c. 4, §4A, only requires the approval of the Board of Selectmen in a town. In cities and towns that have a council form of government, the intermunicipal agreement must be approved by the city or town council.

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4. A city or town may raise funds, by any lawful means, including incurring debt, to meet its obligations under an intermunicipal agreement. This is an important provision especially in the circumstance where a city or town is required to make a significant initial capital contribution to pay for the infrastructure improvements required of the host community.

5. An intermunicipal agreement must include the maximum financial liability, if any, that is established in the authorizing vote, and it must provide for certain financial safeguards such as record keeping, financial reporting, and audits.

6. Unlike typical contracts for goods and services, an intermunicipal agreement may provide that a municipality's financial obligation is not subject to annual appropriation. This is an important provision since it provides reassurance to the host community that may be required to make a significant capital contribution for new infrastructure that a guaranteed revenue stream from the other participating municipalities will be available in order to meet debt service obligations.

While intermunicipal agreements have historically been employed to share public works infrastructure assets such as water and wastewater services, they are becoming increasingly popular as a means of sharing the services of town officials, such as dog officers, veterans' agents, and solid waste and recycling coordinators. Intermunicipal agreements have also been successfully employed to share dispatching and other public health and safety responsibilities. If an intermunicipal agreement provides, for example, that an employee of one town is to provide similar services to another town, the individual continues to be an employee of the town providing the service and not an employee of the town receiving the benefit of those services.

Regional Districts Under the General Laws and by Special Act

There are a number of statutory schemes in the General Laws that permit two or more municipalities to create regional districts that provide for particular municipal services. Examples of such districts are regional school districts under G.L. c. 71, §§14 through 20A, regional refuse disposal districts under G.L. 40, §§44A through 44K, and regional water and wastewater districts under G.L. c. 40N, §25. The process for creating such regional districts, as well as the powers and duties of regional districts are similar in nature. They generally entail a series of town meeting or city council votes, and, in some instances, a ballot vote. While the statutory schemes differ somewhat in the autonomy of districts, in most instances the regional agreement that is negotiated can provide for a level of financial oversight and control by the member municipalities.

Often, however, the statutory forms for regional districts may not be suitable in a particular circumstance. In these instances, one or more municipalities can seek special

legislation to create unique forms for regional districts including for the provision of joint services that may not be covered by one of the statutory forms for regional districts. A good example of a special act district is the Dedham-Westwood Water District created in 1886 by a special act of the legislature. The obvious benefit of such special act districts is the ability of the incorporating municipalities to write into the special act particular provisions that are suitable for their specific needs.

Joint Purchasing and Procurements

With the advent of the Uniform Procurement Act (G.L. c. 30B), the procurement of supplies and services by municipalities has become complex and time consuming. Moreover, it often may be the case that the market share of a single municipality is not large enough to generate significant competition among vendors in a particular field. In order to increase competition and obtain more competitive bids, municipalities have been turning to joint purchasing schemes to effectuate better pricing for municipal services while at the same time reducing the commitment of staff resources to purchasing efforts. There are several mechanisms in the General Laws that permit joint purchasing. They include, for example, G.L. c. 7, §22A, which allows municipalities to purchase supplies and services through the state purchasing agent (state bid list), and G.L. c. 7, §22B, which permits joint purchasing efforts by two or more municipalities. In both instances, such procurements are exempt from public bidding under the Uniform Procurement Act as long as the vendor in the case of section 22A has a contract with the Commonwealth, and, in the case of section 22B, the lead municipality undertaking the procurement on behalf of the other municipalities complies with the public bidding requirements of G.L. c. 30B.

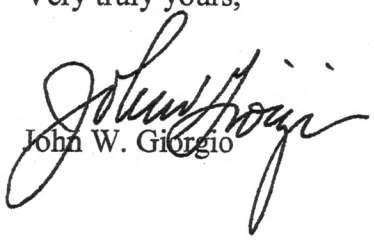
There have been several recent examples of cities and towns utilizing their joint purchasing authority to procure solid waste curbside collection and disposal contracts. Even though such contracts are technically exempt from public bidding under c. 30B, the experience among these municipalities has been increased competitive pricing by vendors, especially where the joint purchasing captures a large population among the participating cities and towns.

It is important to note, however, that while a joint purchasing effort may conserve municipal resources and result in better pricing, each municipality is responsible for making payment to the vendor for its share of the supplies or services purchased pursuant to the joint procurement under G.L. c. 7, §22B. Due to concerns with contract compliance issues, it is highly recommended that any joint effort be restricted to the procurement process with each municipality retaining its own contracting authority.

Conclusion

While the Commonwealth, its agencies, and municipalities continue to explore ways in which municipalities can jointly share responsibility for regional services, at the present time, the general mechanisms described in this memorandum are the recommended options to pursue at this time.

Very truly yours,



John W. Giorgio

391453

MIIA MASSACHUSETTS BASED MEMBER DRIVEN

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Facsimile 617-426-9546 • www.emiia.org

BL
GB
PM

December 16, 2009

Ellen Babcock
Town Coordinator
Town of Rowe
321 Zoar Road
Rowe, MA 01367

Dear Ellen

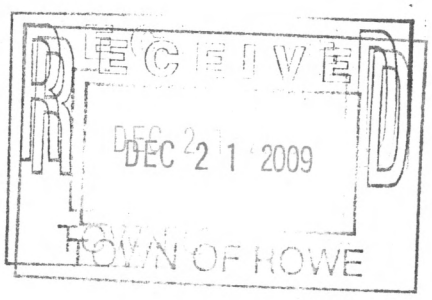
On November 3, 2009, Eric Schlueter, a representative from MIIA's Loss Control Department visited your town. The attached recommendations were developed as a result of this inspection.

I would appreciate your reply using the column headed "Date Completed," indicating when each item was done or your intended action for completion of the attached recommendations within the next 30 days.

If you have any questions or problems regarding the recommendations, or you need assistance with your loss control activities, please call.

Very Truly Yours,

Jeffrey J. Siena
Loss Control Manager
cc:
Tricia Coughlin, MIIA Member Services

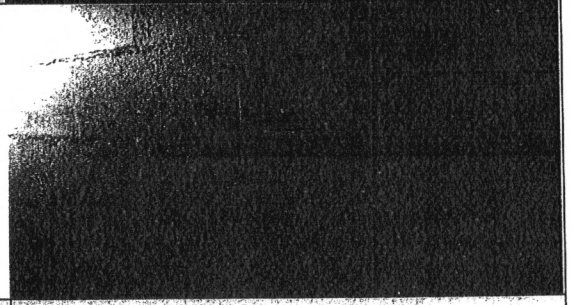


Massachusetts MIIA Interlocal Insurance Association

MIIA - Loss Control Recommendations

Member Name	Town of Rowe	Date of Inspection	11/3/2009
Address	321 Zoar Rd.	MIIA Contact	Mr. Jeff Siena
Phone	413-339-5520	Title	Loss Control Manager
Member Contact	Ms. Ellen L. Babcock	Phone	800-374-4405
Title	Town Coordinator	Email	jsiena@mma.org
Inspector	Eric Schlueter Phone # 617-980-1124		

The following recommendations are submitted to improve your Loss Control Program. Recommendation numbers with the prefix "CR" should be given the highest priority for completion, as they have critical importance in relation to the health and safety of employees. Please respond within 30 days regarding your compliance with all recommendations.

Recommendation Number	Location	Recommendation	Date Completed or Reason Not Completed	Photo Documentation
09-11-01	Elementary School	Fire extinguishers throughout the elementary school should be inspected annually by a qualified contractor and tagged. (Expired: 10/2008)		
09-11-02	Elementary School	Boiler emergency shutoff should be better labeled in the school boiler room.		

All MIIA, Inc. inspections and recommendations are purely advisory and intended to assist our clients in loss control and safety procedures. The implementation of recommendations made by MIIA, Inc is the sole responsibility of the client. Observations and recommendations of MIIA, Inc are based on practices and conditions observed and information made available to us at the time of our visit and do not imply or guarantee full compliance with local, state, or federal regulations which may be applicable to such practices and conditions. These inspections, reports, and recommendations do not signify or imply that hazards do not exist. MIIA, Inc did not conduct a structural inspection.

Massachusetts MIIA Interlocal Insurance Association

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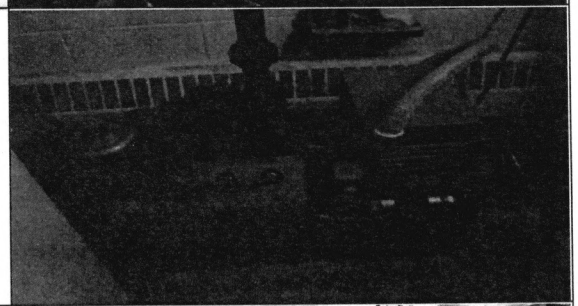
Recommendation Number	Location	Recommendation	Date Completed or Reason Not Completed	Photo Documentation
09-11-03	Fire Station	Fire extinguishers throughout the fire station should be inspected annually by a qualified contractor and tagged. (Expired: 10/2008)		
09-11-04	Fire Station	To more effectively operate the fire station during an emergency, consideration should be given to increasing emergency power capabilities at the station.		
09-11-05	Fire Station	Housekeeping should be improved in the fire station apparatus bays.		

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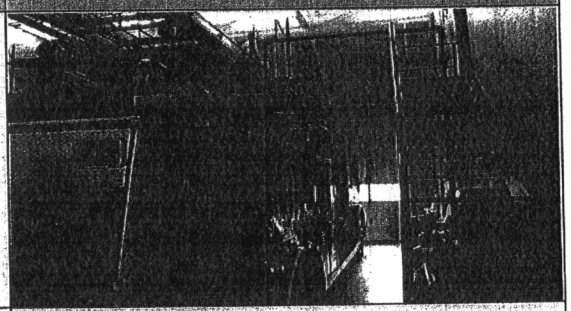
Recommendation Number	Location	Recommendation	Date Completed or Reason Not Completed	Photo Documentation
09-11-06	Fire Station	To improve working conditions for fire department staff, a dust and exhaust fume extraction system should be added to the fire station apparatus bay,		

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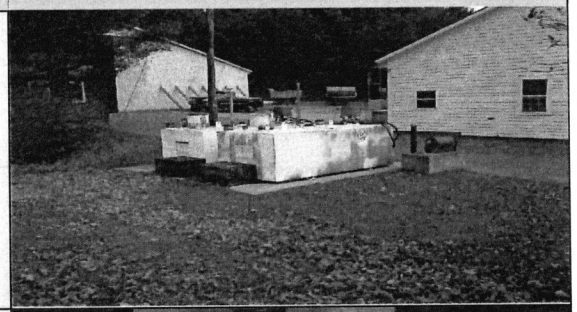
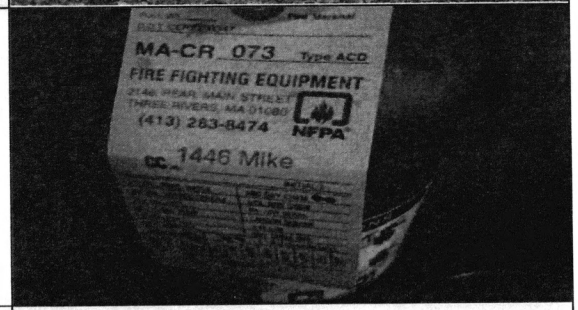
Recommendation Number	Location	Recommendation	Date Completed or Reason Not Completed	Photo Documentation
09-11-07	Highway Garage	Rusted exterior above ground diesel tank should be repainted.		
09-11-08	Highway Garage	Fire extinguishers throughout the highway garage should be inspected annually by a qualified contractor and tagged. (Expired: 09/2008)		

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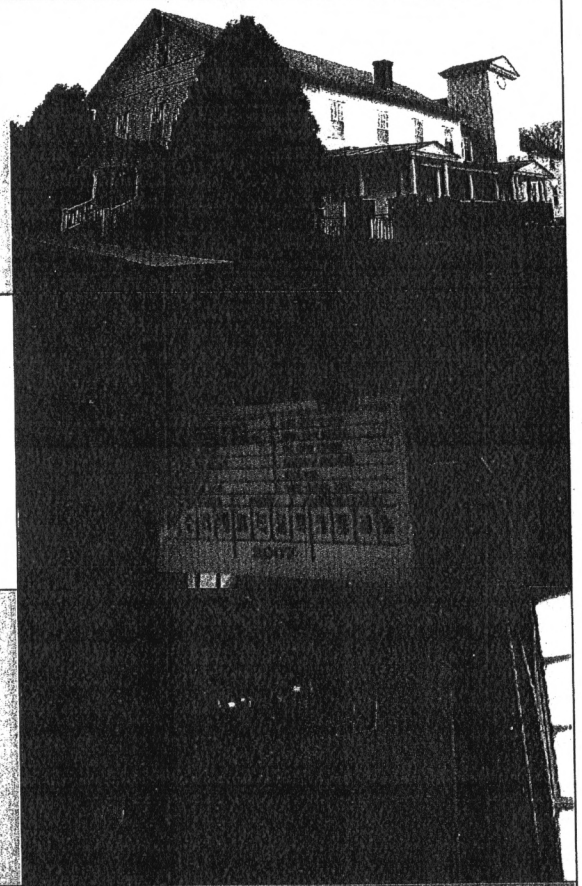
Recommendation Number	Location	Recommendation	Date Completed or Reason Not Completed	Photo Documentation
09-11-09	Town Hall	Consideration should be given to updating the town internet/phone use and the town vehicle use policies.		
09-11-10	Town Hall	Fire extinguishers throughout the town office building should be inspected annually by a qualified contractor and tagged. (Expired: 09/2008)		
09-11-11	Town Hall	Emergency lighting in the second floor fitness room should be repaired as it did not illuminate during testing.		

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TOWN OF ROWE
VACATION POLICY COMPARISONS

Rowe School - Non-Teaching Staff

Full time employees only (this only applies to the Custodian)

1 week for 1st year after 6 months
2 weeks for 2nd through 4th year
3 weeks for 5th through 9th year
4 weeks for 9th year on

Vacation time renews on July 1st
Vacation must be used within one year

Rowe School – Principal (this only applies to Principal)

Vacation and Holidays: Vacations shall be taken during the summer recess period unless the Superintendent approves other times. The District will provide twenty-five (25) days [5 weeks] of paid vacation each fiscal year during the term of this Contract and for legal holidays in Massachusetts. Unused vacation days may accumulate up to fifty (50) days [10 weeks] (i.e., up to twenty-five (25) vacation days may be rolled over into the next fiscal year). Any additional unused vacation days will be forfeited. It is the expectation that the principal will attempt to use the twenty-five (25) days of vacation during each year of this contract. Both parties recognize that from time to time this is not possible. The principal will request approval of vacation time in writing from the superintendent prior to taking any vacation time.

Rowe Town Employees (seven employees)

- All new permanent employees with six (6) months of service are entitled to 1 week (40 hours) of vacation.
- All permanent employees with a minimum of one (1) year of service are entitled to two (2) weeks or eighty (80) hours of paid vacation through the fourth (4th) year of service.
- Three (3) weeks or one hundred-twenty (120) hours of hours paid vacation during the fifth (5th) through the ninth (9th) year of service
- Four (4) weeks or one hundred-sixty (160) hours of paid vacation during the tenth (10th) through the fourteenth (14th) year of service.
- One (1) additional vacation day will be added each year for the fifteenth (15th) thru nineteenth (19th) years of service for a maximum of five (5) weeks (200 hours) vacation.

Each fiscal year, vacation must be taken before the first of the next fiscal year (July 1), or the time will be lost. *At the end of the fiscal year, unused vacation time, (not to exceed five (5) days or forty (40) hours), may be compensated for at the regular rate of pay, at the discretion of, and with the prior approval of the Selectmen.* Vacation time cannot be accumulated from year to year. Vacation time will be taken in units of not less than one (1) hour. The timing of all regular vacation is subject to the approval of the Department Head.

PERSONAL TIME

Each employee is allowed three (3), or twenty-four (24) hours per year, which may be taken in units of not less than one (1) hour. Requires prior approval of the Department Head. Any unused personal hours will convert to sick time at each year end. [Current policy is two days (16 hours) ~~and use it or lose it.~~]

2/3/2010

Proposed Policy:

VACATION

- All new permanent employees with six (6) months of service will accrue ½ vacation day for each full month of service.
- All permanent employees with a minimum of one (1) year of service are entitled to two (2) weeks or eighty (80) hours of paid vacation through the fourth (4^{th}) year of service.
- Three (3) weeks or one hundred-twenty (120) hours of hours paid vacation during the fifth (5^{th}) through the ninth (9^{th}) year of service
- Four (4) weeks or one hundred-sixty (160) hours of paid vacation during the tenth (10^{th}) through the fifteenth (15^{th}) year of service.
- One (1) additional vacation day will be added each year after twenty (20) years of service until twenty-five (25) years of service or a maximum of five (5) weeks vacation with pay.

Each fiscal year, vacation must be taken before the first of the next fiscal year (July 1), or the time will be lost. *At the end of the fiscal year, unused vacation time, (not to exceed five (5) days or forty (40) hours), may be compensated for at the regular rate of pay, at the discretion of, and with the prior approval of the Selectmen.* Vacation time cannot be accumulated from year to year. Vacation time will be taken in units of not less than one (1) hour. The timing of all regular vacation is subject to the approval of the Department Head.

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Each employee is allowed three (3), or twenty-four (24) hours per year, which may be taken in units of not less than one (1) hour. Requires prior approval of the Department Head. Any unused personal hours will convert to sick time at each year end.

Current Policy:

VACATION

- All permanent employees with a minimum of one (1) year of service are entitled to two (2) weeks or eighty (80) hours of paid vacation
- three (3) weeks or one hundred-twenty (120) hours of hours paid vacation after five $(5)^3$ years of service
- four (4) weeks or one hundred-sixty (160) hours of paid vacation after fifteen (15) years of service.
- One (1) additional vacation day will be added each year after twenty (20) years of service until twenty-five (25) years of service or a maximum of five (5) weeks vacation with pay.

Each fiscal year, vacation must be taken before the first of the next fiscal year (July 1), or the time will be lost. *At the end of the fiscal year, unused vacation time, (not to exceed five (5) days or forty (40) hours), may be compensated for at the regular rate of pay, at the discretion of, and with the prior approval of the Selectmen.* Vacation time cannot be accumulated from year to year. Vacation time will be taken in units of not less than one (1) hour. The timing of all regular vacation is subject to the approval of the Department Head.

PERSONAL TIME

Each employee is allowed two (2) days, or sixteen (16) hours per year, which may be taken in units of not less than one (1) hour. Requires prior approval of the Department Head. Any unused personal hours will convert to sick time at each year end.

Sandra Hanks
Board Chair

Herbert Sanderson
Board Vice Chairman

[illegible]ul Mokrzecki
[illegible]pointed Board
Member

FRANKLIN REGIONAL RETIREMENT SYSTEM

278 MAIN STREET, SUITE 311
GREENFIELD, MASSACHUSETTS 01301-3230

David Gendron
Elected Board Member

Patricia Auchard
Elected Board Member

Dale Kowacki
Executive Director

BL
PM III
cc FinCom
Treas

January 21, 2010

Selectboard
Town of Rowe
321 Zoar Road
P.O. Box 462
Rowe, MA 01367

Re: Fiscal Year 2011 Retiree C.O.L.A.

Dear Selectboard:

As required by MGL 32 §103(i), please be informed that the retirement board will hold a special meeting on Tuesday, February 23, 2010 at 8:30 am in the meeting room in Suite 311 at 278 Main Street, Greenfield for the express purpose of voting on granting a 3% cost of living allowance to eligible retirees of this system.

In the past, the board has voted the 3% on the first $12,000 of each retiree's pension (maximum of $360), but in the past, the board has not been limited in voting the 3%. This year, because of the limits set by law, the board can still vote the 3%, but must do so at a public meeting called specifically for this purpose, and must notify the towns 30 days in advance of the meeting.

> *MGL 32 §103 (i) "Notwithstanding the provisions of paragraph (c) to the contrary, the board of any system may, by accepting the provisions of this as hereinafter provided, elect annually to pay a cost-of-living increase greater than the percentage increase, as recommended in the report prepared in accordance with paragraph (f) of subdivision (3) of section 21 for that year, but not greater than 3 per cent. The board shall conduct such election in a public meeting, properly posted, called specifically for such election. The board shall also notify each legislative body at least 30 days before such election."*

The report referred to in the above comes to us in the form of a memo from PERAC (copy attached hereto), and this year the report states the COLA percentage to be 0.0%. Using current information, the 3% COLA would increase the monthly cost to the system approximately $8,400. The annual cost would be approximately $100,800. (Annual retiree payroll is approximately $5.5 million.)

As I said above, the board has supported the 3% COLA in the past. This special meeting is simply a requirement when the announced COLA is less than 3%.

Sincerely,
Dale Kowacki
Executive Director

RECEIVED
JAN 25 2010
TOWN OF ROWE

Telephone: 413-774-4837 FAX: 413-774-5677 e-mail: FCRS@crocker.com

PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*
MARY ANN BRADLEY | PAUL V. DOANE | JAMES M. MACHADO | DONALD R. MARQUIS | ROBERT B. McCARTHY
JOSEPH E. CONNARTON, *Executive Director*

MEMORANDUM

RECEIVED
JAN 08 2010
FCRS

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: COLA Notice

DATE: January 7, 2010

The Public Employee Retirement Administration Commission (PERAC) is providing this notice regarding the COLA Report required by Chapter 17, Section 8(c) of the Acts of 1997.

Under the statute, PERAC reports to the General Court the computation of the increase in the United States Consumer Price Index in the previous year by the Commissioner of Social Security. Any such increase is based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). This index is used annually to adjust benefits paid to Social Security retirees and beneficiaries.

The Social Security Administration has announced that the latest Cost of Living Adjustment (COLA) is 0.0% (no increase).

The COLA which any such system may grant, pursuant to Chapter 32, Section 103(c) and effective July 1, 2010 will thus be 0.0%. Pursuant to Section 103(i), a Retirement Board, with proper notice to the legislative body, may elect to increase this percentage up to 3.0%, at a duly called meeting.

Each Retirement Board making a decision whether or not to grant a COLA must notify the Commission of that decision within 30 days.

p:\actuaria\cola\u2010cola.doc

FIVE MIDDLESEX AVENUE, SUITE 304 | SOMERVILLE, MA 02145
PH 617 666 4446 | FAX 617 628 4002 | TTY 617 591 8917 | WWW.MASS.GOV/PERAC

DRAFT

Ok per BOS 2-3-10

CADASTRAL MAPS *[Jan 12, 1988]*

Any individual asking to use the cadastral maps must register with the clerk. Foresters and/or Loggers using the maps are to be informed that they **MAY NOT TRESPASS** upon any land without first receiving permission from the landowner.

DELIVERY/PICK-UP of MAIL AT POST OFFICE *[Feb 13, 1990]*

1. No vehicle may drive or park on the grass or paved sidewalk at any time.

2. Transportation of mail inside the building must be done in a gurney or by hand; no dragging of mail.

DRIVEWAYS AND CULVERTS

The construction of driveways and the installation of culverts must be approved by the Highway Superintendent and be constructed at the owner's expense.

POLITICAL SIGNS ON TOWN PROPERTY *[May 4, 2006]*

Political signs are not allowed on any town property.

TOWN TENTS AND TOWN PROPERTY

Residents may borrow town tents, and some folding chairs and tables. Items shall be reserved through the Town Coordinator, and appropriate paperwork filled out. Town functions will preempt use for private functions. Townspersons are responsible for putting up and taking down tent(s). Tent(s) must be dry when taken down. Although there is no fee to borrow items, donations to a fund to purchase new tents are graciously accepted. A completed *Agreement for Borrowing/UsingTown Property* form shall be submitted to the Town Coordinator for approval.

USE OF TOWN FACILITIES *[Oct 23, 1990]*

The Board of Selectmen will permit use of the Town Hall and Gracy House facilities for meetings and other gatherings of non-profit organizations providing a member of the organization who is also a town resident will assume responsibility for said use. The Board of Selectmen may, at their discretion, permit use of the Town Hall and Gracy House facilities by a "for profit" organization, association or club, but reserves the right to charge a fee and/or require a deposit. The buildings in general and any rooms used ~~specifically~~ must be left as found, heat turned down to 64 60 degrees, all doors and windows closed and locked and lights turned off. In the event of a conflict in scheduling, meetings of town committees, boards, commissions, and other governmental bodies will take precedence. NO SMOKING is permitted at any time in the buildings. No dogs are permitted in the buildings.

Scheduling for both facilities will be done through the Town Coordinator.

~~The Board of Selectmen may, at their discretion, permit use of the Town Hall and Gracy House facilities by a "for profit" organization, association or club, but reserves the right to charge a fee and/or require a deposit. The building in general and any rooms used specifically must be left as found, heat turned down to 64 60 degrees, all doors and windows closed and locked and lights turned off. In the event of a conflict in scheduling, meetings of town committees, boards, commissions, and other governmental bodies will take precedence. NO SMOKING is permitted at any time in the building. No dogs are permitted in the building.~~

USE OF TOWN GREEN and/or GAZEBO *[April 17, 1990]*

All persons requesting use of the Town Green and/or Gazebo shall submit a completed *Agreement for Borrowing/Using Town Property* form to the Town Coordinator for approval. A deposit of $25.00 will be required for the use of the Town Green (involving a need for policing the area) by non-residents. Deposit is to be paid to the Treasurer and is refundable after the area has been satisfactorily restored to order.

February 3, 2010

TO: Board of Selectmen
From: Ed & Sandy Daviau

Please accept a donation of (1) electric stove for the Gracy House to be used by all residents of Rowe. The stove is valued at approximately $400.00 and was donated in 2009. Please sign below if you approve.

Thank you,
Sandy Daviau
Sandy Daviau

Rowe Board of Selectmen 2/3/10 Date

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE VII. CITIES, TOWNS AND DISTRICTS

CHAPTER 39. MUNICIPAL GOVERNMENT

TOWN MEETINGS

Chapter 39: Section 23D. Adjudicatory hearings; attendance by municipal board, committee and commission members; voting disqualification

Section 23D. (a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.

BL
PM III

POLICE REPORT

December

8	1300	Patrol
	1900	Office hours
9	0950	Patrol. Community visit.
12	0700	Patrol
14	0900	Patrol Checked vacation homes. Community visit.
	0945	Request for a pistol permit appointment.
15	1900	Office hours. Issued pistol permits.
	2000	Met with the chairman of the selectman.
	2110	Received a call from Kevin Sprague of Ford Hill Road complaining that Jack William's cows are frequently out and his bull harasses Kevins cows.
18	0930	Patrol. House checks. Community visit.
19	1000	Patrol
22	1050	Patrol. Cruiser maintenance.
	1500	Responded to 14 Tunnel Road for a reported fire on the railroad tracks.
	1530	Requested train traffic be stopped until the tracks are reported clear.
	1900	Office hours
23	1300	Received the report of a missing dog. Black Lab belonging to Houghtaling's. 662-2377
26	1139	Call from Mike Bradley with a complaint of a 4 wheeler using their trails without permission. 339-0107
28	1900	Patrol. House checks
29	0830	Patrol. House checks. Received vacation information from Boumiers. Community visit. Spoke with Ron Attwood about the ATV complaint. He claims he was on Stew Garrad's land.
	1900	Office hours.

RECEIVED
JAN 27 2010
TOWN OF ROWE

Town of Rowe

Monthly Report of Building Construction

Month of January, 2010

Permit Number	Date	Property Owner's Name and Map & Lot #	Type of Permit	Est. Cost Dwellings	Est. Cost Structures	Est. Cost Misc. Repairs	Est. Cost Demolition	Square Feet
56	1/7	Thomas Chiofalo	stove installion			$0		
			TOTALS					

Total number of Dwelling units: _____ Estimated Cost: _____

Total number of Commercial units: _____ Estimated Cost: _____

Total number of Misc & Repairs: 1 Estimated Cost: $0

Total number of Other Structures: _____ Estimated Cost: _____

Total number of Demolitions: _____ Estimated Cost: _____

Total number of Permits Issued: 1 Estimated Cost: _____

Total estimated Construction costs for the month of: Jan. Fees Collected: _____

William Foster
Signature of Building Official

February
Date

RECEIVED
FEB 2 2010
TOWN OF ROWE

Town of Rowe – Building Inspection Program

Application for Plan Examination and Building Permit

Rec'd Jan 3/10

IMPORTANT: Applicant must complete items in all sections and submit in triplicate (3 copies) to the Rowe Inspector of Buildings for approval and permit issuance prior to starting any work. Requirements are based on MA State Building Code. Map and Lot numbers must be on permit application.

Name of Owner: THOMAS CHIOFALO Map # 410 Lot # 030

Address: for 68 ZOAR Rd.

A. Type of Improvement

___New Building
___Addition
___Alteration
___Repair/Replace
___Move/Demolish
___Foundation Only
___New Chimney
___New Deck
X wood stove

B. Cost of Improvement

$ No cost (omit cents)

Calculate building values. If improvements are not related to square footage, give sound cost estimate.

C. Type of Septic System

_____

D. Type of water supply (well, spring, etc.)

_____

E. Proposed use: (For demolition, show most recent use.)

Residential
__ Dwelling
__ Garage
__ Shed
__ Barn
__ Other

Non-Residential
Describe in detail proposed use of building. If use of existing building is to be changed, show the proposed Change of Use.

_____

_____

Type of Construction:

_____

Use Group Class:

_____

F. _____ # of stories

_____ total sq. ft. of stories

G. # of parking spaces

_____ enclosed
_____ outdoors

H. Residential Category: No. of Bedrooms _____ No. of Baths _____ Total No. of Rooms _____

	NAME	MAILING ADDRESS	TELEPHONE #
Owner or Lessee			
Contractor	owner		
Architect			
Engineer			
HIC License#			

Contractor/Supervisor License # _____

Briefly describe work to be done: New tenant wants to use existing but perhaps uninspected wood stove

I hereby certify that I have read and examined this application and know the information contained herein to be true and correct. All provisions of applicable state laws and town by-laws and ordinances governing this type of work will be complied with.

Thomas Chiofalo — Signature of Owner/Authorized Agent

87 Potter Rd — Address

12/17/09 — Application Date

MATERIAL SPECIFICATIONS

(If project is a simple renovation or shed, show plan on back of this page.)

Footings_____x_____ Cellar floor_____ inches thick.

Foundation_____inches thick by_____inches high

Floor joists_____x_____span_____o/c_____

Carrying beam_____x_____span from column to column Note: Columns *may not* be adjustable type.

Studding (bearing walls)_____x_____o/c_____

Studding (non-bearing walls_____x_____o/c_____

Ceiling joists_____x_____span_____o/c_____

Roof rafters_____x_____span_____o/c_____

Exterior sheathing_____x_____x_____plys_____grade_____

Roof sheathing_____x_____x_____plys_____grade_____

Roofing material - Type_____, _____lbs. per sq. foot

Under layment _____x_____x_____ Subfloor _____x_____x_____

Finish floor - Kitchen_____Bath_____Living/Dining_____Bedroom_____

Interior wall finish_____inch sheetrock. Other_____

Exterior siding_____

Insulation - Walls_____Ceiling_____Cellar_____

Roof Pitch_____Chimney - Flue size(s)1._____ 2._____

Fireplace - Hearth_____x_____Firebox - _____wide_____deep

Foundation Waterproofing Material_____

Automatic Fire Alarm - Must be UL 217 Approved_____

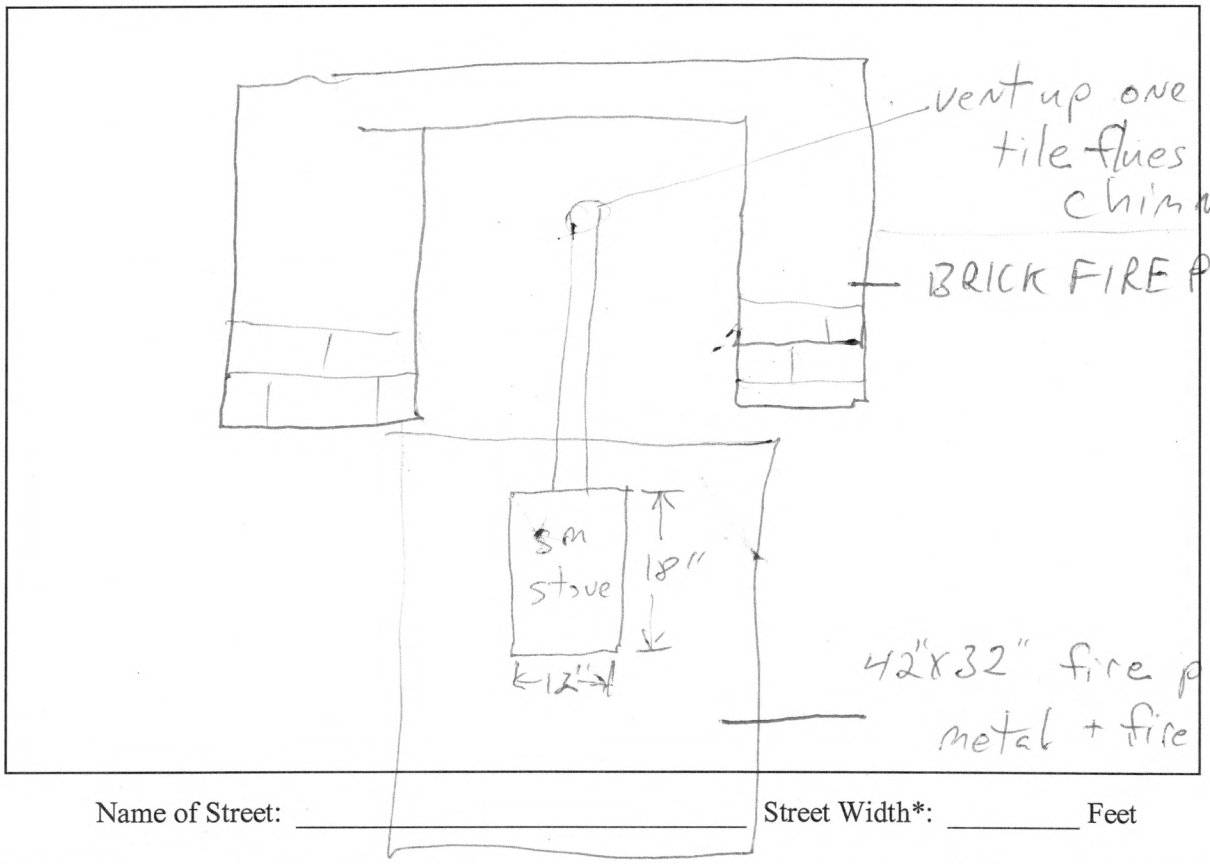
Type heating equipment_____

Other_____

_____

Draw sketch of proposed building activity in box below. Indicate location of, and distances from, septic system, well(s), wetlands, streams and river. [Use separate sheet of paper if necessary.] Indicate names of abutters* in spaces provided. Show distances of proposed structure from property lines.

Rear Abutter Name _____



Right Abutter Name

Left Abutter Name

Name of Street: _____ Street Width*: _____ Feet

Building distance _____ feet from **street** line* Building distance _____ feet from **rear** property line

Building distance _____ feet from **right** property line Building distance _____ feet from **left** property line

**Contact the Town Hall at 413-339-5520 to determine abutters and legal width of street*

LOCAL COMPLIANCE

1. Smoke Detection System Approval _____ *Fire Chief* Date _____
2. Perc Test/Title 5 Approval _____ *Board of Health* Date _____
3. Driveway/Curb Cut Approval _____ *DPW Supt.* Date _____
4. Compliance with local zoning by-laws _____ *Zoning Officer* Date _____
5. Wetland Compliance _____ *Conservation Comm* Date _____

APPROVAL: William Foster

WILLIAM G. FOSTER, INSPECTOR OF BUILDINGS

PERMIT NUMBER: 56 DATE OF ISSUE: Jan. 7. 2010