



Merrimac Select Board

Select Board Meeting

08/05/24

I. IN THE EVENT THAT THE BOARD CANNOT MEET IN PERSON, THEY WILL MEET REMOTELY, PURSUANT TO AN ACT EXTENDING CERTAIN COVID-19 MEASURES ADOPTED DURING THE STATE OF EMERGENCY INCLUDING AN EXTENSION, UNTIL MARCH 21, 2025, OF THE REMOTE MEETING PROVISIONS OF HIS MARCH 12, 2020, EXECUTIVE ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW.

II. CALL TO ORDER

PRESENT: Gustison, Manni, Gorzynski, Bruno, Adams

ABSENT:

III. APPROVE AGENDA

janet wayn

1. Motion to approve

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

IV. MINUTES APPROVAL

1. Merrimac Select Board - Select Board Meeting - Jul 22, 2024 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Janet Bruno, Board Member
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

V. APPROVAL OF PAYROLL AND VENDOR WARRANT OF JULY 22, 2024

1. Motion to approve

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Wayne Adams
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

VI. APPOINTMENT

1. 7:00 PM Open Space Article 97 Conservation Protection for Town Forest

Sandy Venner, Lucy Abisalih; memo of July 29, 2023 still applies. Open Space is asking to take the steps that are necessary to be able to invoke Art 97-of state constitution for conservation protection for town forest type properties. All parcels but one were under the select board. Transferring from one dept to another is what can

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities requiring assistance. If you need a reasonable accommodation, please contact the Town of Merrimac's ADA Coordinator, Robert Sinibaldi, at least two business days in advance of the meeting: commissioner@townofmerrimac.com or 978-346-0525.

invoke Article 97. Requesting that there be an article on fall town meeting to make the transfer; Venner says the old landfill needs to be separated off first. Bruno asks if the land can be taken out-yes with 2/3 vote of town and 2/3 vote of the legislature. Conservation protection is not permanent. Venner says it wasn't done sooner, they were waiting for the decision from the SJC. Bruno is concerned about creating a conflict by transferring the parcels to the Conservation Committee. Adams asks Bruno about conflict-Bruno mentions someone wanting to build an extension center for example; Venner says it's not buildable land. Gorzynski is in support. Manni says the OSC has done a great job. Manni supports going to town meeting with it. McLeod would recommend Open Space meet with legal to draft the language. Venner is in agreement.
Motion to allow OSC to use legal fees to work on the article for town meeting

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

VII. CORRESPONDENCE

1. H.4800 Tax Title Changes
2. SOLAR FARM. Amesbury City Council Meeting to Discuss Solar Farm Proposal
3. Carol McLeod MCPPO
4. Inquiry Regarding Parks Garage on Locust St.
5. Response from AHB T Regarding CHAPA Letter
6. Bear Hill Road Power Outages
7. Motion to file

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janet Bruno, Board Member
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

VIII. OLD BUSINESS

None

IX. AGENDA ITEMS

1. Town Administrator's Report

Hope to have recommendation for Assistant Assessor next meeting. Will finalize budget. Ambulance revenue is down \$40,000; auditors are here this week. If anything major comes up Manni asks her to let them know. Governor's budget included the tax title change-which hurts the town. Special articles due Sept 5. Legal office hour was today.

Gustison proposes they reach out to the Governor about transportation cuts. Manni says they have a working relationship with other towns. Motion for the chair to correspond with other 2 select boards

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rob Gustison
SECONDER:	Chris Manni, Chairman
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

5. Motion to approve time off

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

2. Performance Evaluation

Sinibaldi says Chris Perkins has earned his high praise. Manni mentions Perkins did a good job when Sen. Moulton visited the plant, and it's important to show up well. Motion to accept the performance evaluation for Chris Perkins and give the 1%

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

3. Letter of Interest in Light Commissioner Vacancy

Ed Davis has submitted his letter of interest. He feels he can bring something to the table. The appointment will be until the next election. Manni spoke with the light dept. manager
Motion to appoint Ed Davis to the light commissioner opening

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

4. 8790 : Letter of Interest in Historical Commission-Andrew Connor

Motion to appoint

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rob Gustison
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

5. 8789 : Letter of Interest in Conservation Commission Alternate Member Vacancy-Marc Leger

Motion to appoint him as alternate on the Conservation Commission

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janet Bruno, Board Member
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

6. Full-Time Police Officer Appointment Amend Effective Date

Motion to amend the appointment date for officer Paul DeCoste from Thursday August 8, 2024 to Monday August 5, 2024

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

7. \$1,000.00 Donation from Mobility & More LLC

Motion to accept

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janet Bruno, Board Member
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

8. Sign Appointment Slip for Jessica Finocchiario, Asst. Accountant

Motion to sign

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Irina Gorzynski, Member
SECONDER:	Janet Bruno, Board Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

9. Kearney Estimate for Town Hall AC Repair

Motion to use the town buildings maintenance account for the HVAC repair at town hall in the amount of \$4880

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rob Gustison
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

10. Early Voting Schedule 9/3/2024 Election

Gwen Lay Sabbagh provides dates for early voting; 8/24 last day register to vote and first day of early voting. Can register and vote on the same day. Manni thanks Lay Sabbagh. Motion to accept the schedule as presented for early voting

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janet Bruno, Board Member
SECONDER:	Wayne Adams
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

11. 9/3/2024 Election Warrant

Motion for the select board to sign the warrant

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

12. Chapter 90 Reimbursements

Gorzynski says Town Forest Rd look great. Motion for the board to sign Ch. 90

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

13. Performance Evaluation - Sergeant Ringuette

Overall performance exceeds standards. He recommends the 1% increase retro to 7/1/24. Motion to accept performance evaluation for Sergeant Ringuette and 1% retro to 7/1/24

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

X. EXECUTIVE SESSION

1. Executive Session (M.G.L. C.30A, Sec. 21(A) 3. to Discuss Strategy with Respect to Collective Bargaining or Litigation If an Open Meeting May Have a Detrimental Effect on the Bargaining or Litigating Position of the Public Body and the Chair So Declares.

Motion to go into executive session at 7:42 pm Roll call vote: Gustison yes; Gorzynski yes; Manni yes; Bruno yes; Adams yes; motion passes

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Rob Gustison
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

XI. ADJOURN

1. Motion to adjourn at 8:32pm

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Chris Manni, Chairman
SECONDER:	Irina Gorzynski, Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

**Merrimac Select Board****Select Board Meeting****07/22/24**

I. IN THE EVENT THAT THE BOARD CANNOT MEET IN PERSON, THEY WILL MEET REMOTELY, PURSUANT TO AN ACT EXTENDING CERTAIN COVID-19 MEASURES ADOPTED DURING THE STATE OF EMERGENCY INCLUDING AN EXTENSION, UNTIL MARCH 21, 2025, OF THE REMOTE MEETING PROVISIONS OF HIS MARCH 12, 2020, EXECUTIVE ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW.

II. CALL TO ORDER

PRESENT: Gustison, Manni, Gorzynski, Bruno, Adams

ABSENT:

III. APPROVE AGENDA

1. Motion to approve

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janet Bruno, Board Member
SECONDER:	Wayne Adams, Board Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

IV. MINUTES APPROVAL

1. Merrimac Select Board - Select Board Meeting - Jul 8, 2024 7:00 PM

Gustison asks for an amendment to vacancies to include ZBA. Passieri had responded to Penney in regard to vacancies of which he said there were none. Gwen Lay Sabbagh says it's not an option to change the board to seven members; Gustison says it seems muddy with some members not showing up and some only sitting for the 40B hearings; Manni mentions there is an alternate; Manni will reach out to Matt Passieri; no change to minutes

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Janet Bruno, Board Member
SECONDER:	Wayne Adams, Board Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

V. APPROVAL OF PAYROLL AND VENDOR WARRANT OF JULY 8, 2024

1. Motion to approve

Manni mentions documentation received today about Ch 70 but will be on a future meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rob Gustison, Board Member
SECONDER:	Janet Bruno, Board Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

VI. CORRESPONDENCE

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07 22, 24

1. Grant Approval - Cyber Security - Water Department
2. Police FY25 Appointment Change - Stephen M, Ringuette
3. Nicole Sevigny- Resignation 7.10.24
4. Light Commissioner- Resignation
5. Library HVAC Update from Library Director
6. Federal Funding Opportunities_ Senator Markey

Gustison asks if we look at those grants. McLeod says we do. Bruno says they are applying for what they can. Manni says the dept heads do the work to apply.

7. Complaint Concerning July Electric Billing Misprint
8. Comcast Increase in Subscriptions
9. PY2024 NSHC HOME Distribution of Funds
10. Whittier Tech Final 2024-2025 Adopted Budget
11. Property Use Permit Request-Lake Attitash Well Head

Sinibaldi respectfully declined permit. It's against DEP rules and regs to have anyone at that access point. Our consultant reviewed the request. They can count the weeds anywhere except for Indian Head.

12. Assistance to Firefighters Grant

Gustison congratulates the fire dept. on the grant

13. Inquiry from Caleb Martineau About Sidewalk on Highland Rd

Manni addresses Martineau's email and encourages him to submit ideas to the select board.

14. Motion to file correspondence

RESULT:	APPROVED [UNANIMOUS]
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

VII. OLD BUSINESS

VIII. AGENDA ITEMS

1. Town Administrator's Report

Town counsel reviewing cannabis host agreement and Greenbelt; that has been communicated to Greenbelt. Asst. Assessor position has received 40 applications. Interviews are under way. Special articles McLeod recommends due Sept 5th.

McLeod would like to have town counsel come in for dept head meetings again; Manni agrees.

2. MIMAP Contract FY2025

motion for the chair to sign the mimap contract

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janet Bruno, Board Member
SECONDER:	Rob Gustison, Board Member
AYES:	Gustison, Manni, Gorzynski, Bruno, Adams

3. Performance Review Kendra Blitz

Blitz has been asst. town clerk for 4 years. Important part of the clerk's office. She recommends the 1%.

RESULT: **APPOINTED**

4. Motion to accept the review and offer the 1%

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Chris Manni, Chairman
SECONDER: Irina Gorzynski, Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

5. Performance Review David Armstrong

Armstrong takes great care of the cemetery. He goes above and beyond. Sinibaldi agrees he is a huge asset.

6. Motion to accept review and offer the 1%

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Chris Manni, Chairman
SECONDER: Irina Gorzynski, Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

7. Resignation of Bridget Batcheller, COA Outreach Coordinator

Brienne Walsh speaks to Bridget Batcheller's resignation. Walsh says she went to the finance committee with her needs. She is not surprised with full time case management on part time hours. Batcheller will be with us until the end of August, and Walsh will pick up the work herself. Walsh says it's not an easy position to fill. Gorzynski asks if it can be a combined position; It cannot. The position will be posted tomorrow. Manni says it was plainly stated that it was not taken lightly finance committee. They wish Batcheller the best. They are sad to see her go. Motion to accept the resignation of Bridget Batcheller

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Chris Manni, Chairman
SECONDER: Janet Bruno, Board Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

8. Performance Review Officer Adam White

A letter of commendation of Officer White and Officer Remon was received. The board thanks both for their great service;

Motion to approve 1% performance increase for Adam White

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Irina Gorzynski, Member
SECONDER: Rob Gustison, Board Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

9. INVOICE MERRIMAC TOWN HALL PANS 6-3-24-Request Town Buildings Maintenance

Motion to approve

Minutes Acceptance: Minutes of Jul 22, 2024 7:00 PM (Minutes Approval)

RESULT: APPROVED [UNANIMOUS]
MOVER: Janet Bruno, Board Member
SECONDER: Irina Gorzynski, Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

10. CHAPA Town Notice_2 Nancy Anne Lane Affordable Property

Sinibaldi asks if it is an affordable unit in perpetuity; Manni suggests they could send a note to the Affordable Housing board. Find out if it is in perpetuity. Sinibaldi is asking whether it was deeded. Send to AHB to see if they want it

11. Municipal Local Cybersecurity Grant Program

\$24933.00 award to strengthen cyber security; Manni thanks everyone involved. Motion for chair to sign

RESULT: APPROVED [UNANIMOUS]
MOVER: Chris Manni, Chairman
SECONDER: Rob Gustison, Board Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

12. Election Printer

Voted at town meeting; sign agreement to have it for the November election. Motion to approve

RESULT: APPROVED [UNANIMOUS]
MOVER: Rob Gustison, Board Member
SECONDER: Janet Bruno, Board Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

13. Conditional Offer Letter Sal Guarino

Laborer in highway dept. Highway dept will be fully staffed for the first time in 3 years. Motion to approve

RESULT: APPROVED [UNANIMOUS]
MOVER: Irina Gorzynski, Member
SECONDER: Rob Gustison, Board Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

14. Merrimac Nomination of Inspector of Animals

Motion for chair to sign

RESULT: APPROVED [UNANIMOUS]
MOVER: Janet Bruno, Board Member
SECONDER: Rob Gustison, Board Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

15. Full-Time Police Officer Appointment

Gustison is happy with experience. Motion to appoint effective August 8th

Minutes Acceptance: Minutes of Jul 22, 2024 7:00 PM (Minutes Approval)

RESULT: APPROVED [UNANIMOUS]
MOVER: Irina Gorzynski, Member
SECONDER: Rob Gustison, Board Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

16. Conditional Offer for Conservation Agent

Jerome Mathieu, chair of Conservation Commission is present; conservation agent is a 15 hour position; they interviewed 2 candidates; Jay Smith was the best of the 2; recommends his appointment. Motion to appoint

RESULT: APPROVED [UNANIMOUS]
MOVER: Rob Gustison, Board Member
SECONDER: Chris Manni, Chairman
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

17. Bear Hill Road Power Outages

Sinibaldi says the light dept has an issue and should address it; He says the highway dept. can't go within 10 feet of utility pole/power. Gorzynski says they should contact light dept. Forward the matter to the light dept

18. HVAC at Library

Adams says the library has changed hours because of the weather due to the hvac issue. Sinibaldi says they have someone looking at it. They are waiting for some additional paperwork before the proceed. Hopefully there will be a resolution to it. The article was approved at town meeting. Sinibaldi says he would be happy to have a conversation with Adams.

19. Motion for the chair to sign proposal when received

When broken sprinkler pipe was repaired they had approval to fix the ladder. Proposal is \$3700;

RESULT: APPROVED [UNANIMOUS]
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

IX. EXECUTIVE SESSION MGL C30A, SEC 21(A)

1. #6. to Consider the Purchase, Exchange, Lease or Value of Real Estate, If the Chair Declares that an Open Meeting May Have a Detrimental Effect on the Negotiating Position of the Public Body.

at 7:42 pm Roll call vote Gustison yes; Gorzynski yes; Manni yes; Bruno yes; Adams yes; motion passes
 We will not be returning to open meeting except to adjourn.

RESULT: APPROVED [UNANIMOUS]
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

X. ADJOURN

1. Motion to come out of executive session at 8:04pm and motion to adjourn

Roll call vote Gustison yes; Gorzynski yes; Manni yes; Bruno yes; Adams yes; motion passes

RESULT: APPROVED [UNANIMOUS]
MOVER: Chris Manni, Chairman
SECONDER: Irina Gorzynski, Member
AYES: Gustison, Manni, Gorzynski, Bruno, Adams

Minutes Acceptance: Minutes of Jul 22, 2024 7:00 PM (Minutes Approval)



Agenda Item
Merrimac Select Board
08/05/24

7:00 PM Open Space Article 97 Conservation Protection for Town Forest

Subject:

Attachments:

Article 97 Conservation Protection for Town Forest

MerrimacForest_Memo 12 8 22 DRAFT

MerrimacForest_Clarifications MTC 2-24-23

TF Article 97 memo

25547 landfill perimeter plan 12-30-21 Final

From: [Sandy and Bob](#)
To: [Jennifer Penney - Select Board \(X3080\)](#); [selectmen2@townofmerrimac.com](#)
Cc: [Open Space Committee](#); [Lucy Abisalih](#); [Mary Glennon](#); [Dawn Ackerman](#); [Martin Hanlon](#); [Sean Wright](#)
Subject: FW: Article 97 Conservation Protection for Town Forest
Date: Wednesday, July 24, 2024 10:43:38 AM
Attachments:

Hello Select Board,

The email below along with the attached memo and documents were sent to the Select Board a year ago requesting an opportunity for representatives from the Open Space Committee to meet with the Board to discuss this action to acquire conservation protection for the Town Forest through three articles at the Fall Town Meeting. At that time the Board decided not to invite the Open Space Committee to appear before it nor take any action, but rather to wait for the Master Plan process to take its course. This process has transpired and the draft of the full Master Plan is now available to the board with the Implementation Plan recommending this Action be taken (see NHR4). Therefore the Open Space Committee is again asking to appear at an August meeting of the Select Board to explain and discuss this request in a timely matter before the articles are due for the Fall Town Meeting.

Thank you for your consideration,
 Sandy Venner on behalf of the OSC

Sent from [Mail](#) for Windows

From: Sandy and Bob <bobandven@msn.com>
Sent: Saturday, July 29, 2023 11:10:29 AM
To: Jennifer Penney - BOS <selectmen@townofmerrimac.com>
Cc: Lucy Abisalih <LConriver@gmail.com>; Samantha Holt - Conservation <sholt@townofmerrimac.com>; Jon Pearson (jon.pearson@aecom.com) <Jon.Pearson@aecom.com>; Carol McLeod - Finance <cmcleod@townofmerrimac.com>; Robert Sinibaldi - DPW <dpwdir@townofmerrimac.com>
Subject: Article 97 Conservation Protection for Town Forest

Hello Select Board,

The attached Word document is a memo to the Select Board written on behalf of the Open Space Committee to request your support to ask Town Meeting to create Article 97 conservation protection status for the Town Forest. The accompanying background PDF documents are communications from Town Counsel with me providing guidance on how to proceed in order to invoke this status and the property map for the landfill. The Open Space Committee would welcome the opportunity to meet with you and discuss placing the necessary articles on the warrant for Fall Town Meeting.

Thank you for your consideration,
 Sandy Venner

Sent from [Mail](#) for Windows



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950

Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

TO: SANDY VENNER, MERRIMAC OPEN SPACE COMMITTEE
FROM: LISA MEAD, TOWN COUNSEL
CC: CAROL MCLEOD, TOWN ADMINISTRATOR
RE: TOWN FOREST PROTECTIONS
DATE: DECEMBER 8, 2022

I. Introduction

Reference is made to the above captioned matter. In that connection, you questioned how the Town of Merrimac's ("the Town") may protect the Town Forest ("the Forest") under Article 97. The short answer is that the Town can protect the Forest under Article 97 in several ways. First, Article 97's protects land or easements originally "taken or acquired" for conservation for conservation purposes. Second, later imposing a conservation restriction on land or changing the purpose or care custody and control of the land can invoke Article 97 protection. Third, towns may designate land to invoke Article 97 protection under *Smith v. Westfield's* new interpretation of the law. Any single or combination of the foregoing methods will achieve Article 97 protection for the land.

II. Background

As we describe below, it appears as though the Town established the Forest on March 3, 1924, with an initial 102.8 acres.¹ The first reference to Town Forest appears in the Town Report for 1924, but only under its requisite financial column in the Selectman's Report.² The Report does not have the warrant for any town meeting that year nor any further description of town meetings.³

Likewise, the first reference to the Town Forest Committee ("the Committee") appears in the Town Report for 1927, listing members and when their terms expire.⁴ The 1927 Report also includes an extensive report on the Town Forest. According to that report, the Town established the Forest by special town meeting vote on December 11, 1923, confirmed at the March 3,

¹ Despite a diligent search, the town meeting warrant which should have included the vote could not be located.

² MERRIMAC, MASS., *Selectmen's Report*, in 1924 ANNUAL REPORT 11, 28 (1924) <https://archive.org/details/annualreportofto1924merr/page/28/mode/2up>.

³ See *supra* note 1.

⁴ MERRIMAC, MASS., *Town Officers*, in 1927 ANNUAL REPORT 2, 4 (1927) <https://archive.org/details/annualreportofto1927merr/page/4/mode/2up>.

1924, town meeting by a vote to purchase the initial properties.⁵ The Selectmen then appointed the first Forest Committee members pursuant to state law on July 1, 1927.⁶ The Town has since added acquired and used properties for the Forest as outlined below, but whether those properties enjoy protection by a constitutional guarantee for conservation requires further analysis.

III. Article 97 and Invoking its Protection

Article 97 of the Massachusetts Constitution declares “the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources” to be a public purpose.⁷ Lands or easements taken or acquired for this purpose, conservation, cannot be used for another purpose except upon a two thirds vote of the state legislature.⁸ Article 97 therefore provides a strong protection for land to be and to stay protected. Three main methods for protecting land under Article 97 are available to towns.

A. Original Acquisition

First, Article 97’s protects land or easements “taken or acquired” for conservation – where public bodies originally acquire the land to conserve it.⁹ This protection extends retroactively to land acquired for the same purposes prior to Article 97’s effective date in 1972.¹⁰ Such taking must be specifically and exclusively for Article 97 purposes, such as conservation.¹¹

A designation that is sufficiently clear and unequivocal to invoke Article 97 protection excludes any use other than a public purpose listed in Article 97 (i.e. conservation) but the designation cannot merely, incidentally promote conservation.¹² For example, conditioning federal funds on never changing the public use from a public park, absent any other designated use, is a sufficient Article 97 designation.¹³ In contrast, a parcel with only one conservation purpose among other purposes that conflict with conservation was insufficient to invoke Article 97.¹⁴ Outside of originally taking or acquiring land for Article 97 purposes, designating a subsequent taking or acquisition for conservation can invoke Article 97 protection, such as through a conservation restriction.¹⁵

⁵ *Id.*, *Report on the Merrimac Town Forest*, at 63.

⁶ *Id.* at 64; G.L. c. 45 § 21.

⁷ MASS. CONST. amend. XCVII.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Op. Justices*, 424 N.E.2d 1092, 1107 (Mass. 1981) (“We believe that lands and easements taken or acquired for purposes described in art. 97 includes property acquired prior to the effective date of the 1972 amendment.”).

¹¹ *Mahajan v Dep’t Env’tl. Prot.*, 984 N.E.2d 821, 829 (Mass. 2013).

¹² *Smith v. Westfield*, 82 N.E.3d 390, 397, 402 (Mass. 2017) (citing *Mahajan*, 984 N.E.2d at 828-32).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Mahajan*, 984 N.E.2d at 829.

B. Conservation Restriction by Transferring Care, Custody, and Control

Second, a conservation restriction can invoke Article 97 protection. A conservation restriction is a condition restricting activity on land to promote natural, scenic, or open conditions.¹⁶ A conservation restriction is therefore an interest in land, designated exclusively for the purposes of Article 97; its acquisition thus invokes Article 97 protection.¹⁷

Interestingly, the SJC interprets transferring land to another department's care, custody, and control for conservation purposes or changing the purpose of the land as a conservation restriction as well.¹⁸ The precise method of transferring care, custody and control depends on whether the Town currently holds the land for a general or specific purpose.

General Law Chapter 40, Section 15A ("Section 15A") provides that land held "for a specific purpose" may be transferred to a different board's care, custody, management, and control by deed and "for another specific purpose" upon approval by two thirds vote at a regular or special town meeting. Where a deed or authorizing vote to purchase the property does not state a purpose or limitation on its use, the Board of Selectmen ("the Board") holds that property for a general municipal purpose.¹⁹ For property held for general municipal purposes, absent any specific purposes, General Law Chapter 40, Section 3 ("Section 3") is sufficient to transfer the care, custody, and control of the property to another department without complying with Section 15A.²⁰ Under Section 3, towns "may hold real estate . . . and may convey the same by a deed of its selectmen thereto duly authorized." Courts interpret "duly authorized" to mean majority vote by the town unless another statute provides otherwise.²¹

C. Designation

Third, towns may designate land to invoke Article 97 protection under *Smith v. Westfield*'s new interpretation of the law. Sufficiently designating land for an Article 97 purpose in order to invoke Article 97 protection is possible through two common law doctrines: dedication of land for public use and prior public use. For the first doctrine, a town that owns land in its proprietary capacity and uses the land for an Article 97 purpose may further dedicate the land to the use of the public. The requirements and effect of a dedication is as follows: "A municipality may dedicate land owned by it to a particular public purpose provided there is

¹⁶ G.L. c. 184, § 31; *Hanson v. Lindsay*, 829 N.E.2d 1105, 1109-10 (Mass. 2005).

¹⁷ MASS. CONST. amend. XCVII; see *Smith*, 82 N.E.3d at 402.

¹⁸ G.L. c. 40, § 3; ("All real estate or personal property of the town, not by law or by vote of the town placed in the charge of any particular board, officer or department, shall be under the control of the selectmen,"); *Muir v.*

Leominster, 317 N.E.2d 212, 215 (Mass. App. Ct. 1974) (classifying land acquired with no *limitation on use* in the authorizing vote or deed as part of the city's general corporate property); see also *Lindsay*, 829 N.E.2d at 1107-08.

¹⁹ G.L. c. 40, § 3; ("All real estate or personal property of the town, not by law or by vote of the town placed in the charge of any particular board, officer or department, shall be under the control of the selectmen,"); *Muir v.*

Leominster, 317 N.E.2d 212, 215 (Mass. App. Ct. 1974) (classifying land acquired with no *limitation on use* in the authorizing vote or deed as part of the city's general corporate property); see also *Lindsay*, 829 N.E.2d at 1107-08.

²⁰ *LeClair v. Norwell*, 719 N.E.2d 464, 472 n. 13 (Mass. 1999) (permitting a town to transfer a property acquired "for any municipal purposes or other purposes the town sees fit" per town vote without complying with Section 15A).

²¹ *Public Service Co. of New Hampshire v. West Newbury*, 835 F.2d 380 (1st Cir. 1987) (citing *Oliver v. Mattapoisett*, 457 N.E.2d 679, 681 (Mass. App. Ct. 1983)); *Harris v. Wayland*, 466 N.E.2d 822, 827 (Mass. 1984).

Deleted: ¶

nothing in the terms and conditions by which it was acquired or the purposes for which it is held preventing it from doing so, . . . and upon completion of the dedication it becomes irrevocable.”²² The general public then gains an interest in the land equal to an easement.²³

Land dedicated under the first doctrine invokes the second, the prior public use doctrine. After a public purpose dedication extends an interest in the land to the general public, ultimate authority over that land rests with the Legislature, not with the municipality: “The rights of the public in such an easement are subject to the paramount authority of the General Court which may limit, suspend or terminate the easement.”²⁴ This prior public use doctrine is not limited to parkland, but applies strictly in park, open space, and conservation contexts.²⁵ The SJC in *Smith v. Westfield* then combined the two doctrines, along with the stricter contexts for parkland and conservation, to decide that land protected by Article 97 includes land dedicated by towns to a public purpose under Article 97 that, under the prior public use doctrine, cannot be sold or devoted to another public use without plain and explicit legislative authority.²⁶

IV. Town Forest Parcels’ History and Status

Here, each Forest parcel is held for a general municipal purpose and so would require a simple majority town vote to gain Article 97 protection, either by transferring or dedicating the parcels. To start, several smaller parcels likely appear to be part of the large, 280-acre parcel indicated as “1” on the Plan attached as Appendix A and shown as Lot 5, Block 1 on Assessors’ Plan 70, yet none currently protected under Article 97. The following paragraphs work through each smaller parcel in turn.

On December 12, 1933, the Town purchased approximately 192 acres from the Currier estate, on the side of Long Hill to the top of Red Oak Hill.²⁷ The deeds do not state any purpose or limitations in the purchase. The Forest Committee’s annual report described the purchase process as follows in its entirety:

A meeting was called which included the selectmen, Forest Committee, Water and Electric Board and Finance Committee. It was decided to purchase a tract of land from the John Currier estate and option was obtained. At a special town meeting on December 12th it was voted to purchase 191¾ acres of this estate for \$767. A bill of \$192.18 for survey of this purchase made by the selectmen made the total price \$959.18. This new

²² *Smith*, 82 N.E.3d at 399 (quoting *Lowell v. Boston*, 79 N.E.2d 713, 725 (Mass 1948)).

²³ *Id.*

²⁴ *Id.* at 399-400 (quoting *Lowell*, 79 N.E.2d at 725); see also *Higginson v. Slattery*, 99 N.E. 523, 527-28 (Mass. 1912) (“Land appropriated to one public use cannot be diverted to another inconsistent public use without plain and explicit legislation to that end”).

²⁵ *Id.* at 400; *Mahajan*, 984 N.E.2d at 830; *Robbins v. DPW*, 244 N.E.2d 577, 580 (Mass. 1969) (“We think it is essential to the expression of plain and explicit authority to divert parklands, Great Ponds reservations and kindred areas to a new and inconsistent public use that the Legislature identify the land and that there appear in the legislation not only a statement of the new use but a statement or recital showing in some way legislative awareness of the existing public use. In short, the legislation should express not merely the public will for the new use but its willingness to surrender or forgo the existing use.”); *Gould v. Greylock Reservation Comm’n*, 205 N.E.2d 114, 121-22 (Mass. 1966).

²⁶ *Id.* at 401.

²⁷ S. ESSEX DIST. REG. DEEDS, Book 2981, Pages 432, 435.

purchase immediately came in charge of the Town Forest Committee and increased our Town Forest to 291¾ acres.²⁸

Although the record indicates that the Committee currently possesses or at least controls the parcel, the actual vote authorizing that sale was not available to confirm the Commission's control despite a diligent search. Even if a vote would confirm the Commission's control, the record does not indicate that either the Town or the Committee purchased or designated the parcel *exclusively* for a forest, open space, or conservation purpose, and therefore lacks the exclusive language that may invoke Article 97 under *Smith v. Westfield*.

Next, the parcels acquired in 1937 and 1938 are not currently protected by Article 97 either. On March 19, 1937, the Town purchased 4.5 acres on Huse Road from the Currier family.²⁹ The deed does not state any purpose or limitations in the purchase. The town meeting warrant authorizing described the purchase process as follows in its entirety:

On petition of the Town Forest Committee, to see if the Town will vote to purchase a tract of land, being a portion of the John E. Currier estate, containing twelve acres more or less, bounded west by land of Battis, north by Old County Road, east by land of Battis, south by Town Forest, and to raise and appropriate the sum of two hundred dollars (\$200.00) to purchase the same.³⁰

On April 6, 1938, the Town purchased 9 acres from the Battis family.³¹ The deed does not state any purpose or limitations in the purchase. The town meeting warrant authorizing described the purchase process as follows in its entirety:

On petition of the Town Forest Committee to see if the Town will vote to purchase a tract of land, ten acres more or less, of Elmer E. Battis; said tract being bounded easterly by land of Crosby and on the other three sides by the Town Forest, and to raise and appropriate the sum of one hundred and fifty dollars (\$150.00) to purchase the same.³²

These votes do not explicitly designate the parcel for a Forest, open space, or conservation purpose. The phrase "On petition of the Town Forest Committee" suggests that the Town intended to purchase the parcel for Forest and conservation purposes but lacks the exclusive language that may invoke Article 97 under *Smith v. Westfield*. Absent an exclusive purpose or subsequent transfer, the Board likely still holds this parcel for general municipal purposes.

The Forest parcel acquired in 1980 and indicated as "5" on the Plan is not currently protected under Article 97. On December 23, 1973, the Town took a parcel on Huse Road,

²⁸ MERRIMAC, MASS., *Report of the Merrimac Town Forest Committee*, in 1933 ANNUAL REPORT 28, 28 (1934) <https://archive.org/details/annualreportofto1933merr/page/28/mode/2up>.

²⁹ S. ESSEX DIST. REG. DEEDS, Book 3129, Page 510.

³⁰ MERRIMAC, MASS., *Warrant for Annual Town Meeting*, in 1936 ANNUAL REPORT 103, 108 (1937) <https://archive.org/details/annualreportofto1936merr/page/108/mode/2up>.

³¹ S. ESSEX DIST. REG. DEEDS, Book 3143, Page 459.

³² MERRIMAC, MASS., *Warrant for Annual Town Meeting*, in 1937 ANNUAL REPORT 108, 110 (1938) <https://archive.org/details/annualreportofto1937merr/page/110/mode/2up>.

shown as Lot 5, Block 1 on Assessors' Plan 70 to satisfy a tax lien debt.³³ The Land Court certified the taking on May 7, 1980.³⁴ Under G.L. c. 60, § 77, towns hold and dispose of tax lien foreclosure land "like any land belonging to it and held for municipal purposes." The "municipal purpose" for which towns hold tax lien foreclosure land is not a specific purpose, rather towns hold the land as "general corporate property."³⁵ The Board may therefore transfer this parcel under Section 3 to gain Article 97 protection.³⁶

The Forest parcel acquired in 1977, indicated as "2" on the Plan and shown as Lot 3, Block 1 on Assessors' Plan 70, is not currently protected under Article 97. On March 17, 1977, the Town purchased 8 acres on Red Oak Hill Road from the Merrimac Rod and Gun Club.³⁷ The deed does state that the Commission will manage and control the parcel but does not specify any purpose.³⁸ No authorizing vote, however, was found in town meeting warrants for the corresponding period. The deed's language that the Commission will manage and control the parcel likely does not indicate the clear and unequivocal intent to use the parcel for any purpose under Article 97 necessary to invoke its protection – the Commission may see fit to lease the parcel to business or a potentially incongruous purpose.³⁹ Absent language, use, or any other condition barring the Commission from using the parcel for any purpose but conservation or another one listed, Article 97 does not currently protect this parcel.

Finally, three parcels' Article 97 statuses remain unclear. On March 24, 1924, the Town purchased 71.8 acres along Highland Road, which is now likely part of the parcel indicated as "1" on the Plan.⁴⁰ No purpose or limitations are stated in the deed, and despite our diligent search no warrants or votes for that period could be found. On July 10, 2001, the Town purchased 12 acres, indicated as "4" on the Plan, without a purpose or limitation stated in the deed either,⁴¹ and no authorizing vote was found in town meeting warrants for the corresponding period. The last property is entirely vague: the Town supposedly purchased 7 acres along Red Oak Hill Road, indicated as "3" on the plan and show as Lot 7, Block 1 on Assessors' Plan 70, on December 28, 1993.⁴² The location listed for the transaction's deed, however, contains a deed for an entirely unrelated private transaction.⁴³ No authorizing vote nor any relevant information was found in town meeting warrants for the corresponding period either. Pending further proof of authorized purchase, these parcels do not have Article 97 status.

Please note, that it is our understanding that these parcels each may currently be in use or recently been in use for something other than the "Town Forest" for example, as a land fill. As a

³³ S. ESSEX DIST. REG. DEEDS, Book 6311, Page 75.

³⁴ S. ESSEX DIST. REG. DEEDS, Book 6703, Page 37.

³⁵ See *Hanson v. Lindsay*, 829 N.E.2d 1105, 1107 (Mass. 2005).

³⁶ *Id.*; see G.L. c. 60 § 77B (governing the sale of land taken pursuant to tax liens but not "prevent[ing] a city or town from disposing of such property under [Section 3], or in any other manner authorized by law").

³⁷ S. ESSEX DIST. REG. DEEDS, Book 6334, Page 556.

³⁸ *Id.*

³⁹ *Eg. Cranberry Growers Service, Inc. v. Duxbury*, 613 N.E.2d 105, 106 (Mass. 1993) (evaluating a Conservation Commission's lease of land to a cranberry farm); see *Smith*, 82 N.E.3d at 397.

⁴⁰ S. ESSEX DIST. REG. DEEDS, Book 2794, Page 503.

⁴¹ S. ESSEX DIST. REG. DEEDS, Book 17402, Page 396.

⁴² MERRIMAC VALLEY PLANNING COMMISSION, *Merrimac MIMAP*, <https://mimap.mvpc.org/map/index.html?viewer=merrimac> (last accessed December 7, 2022).

⁴³ *Id.*; S. ESSEX DIST. REG. DEEDS, Book 12343, Page 113.

result, should the town want to convert these uses to conservation or Town Forest officially, a discussion should also occur about any ongoing maintenance or liability related to the immediate prior use.

V. Conclusion

In sum, each of the parcels comprising the Town Forest are not yet protected by Article 97. While it is true the Town has been using them for Town Forest purposes, under the *Smith v. Westfield* case, an outright dedication must occur. Again, each Forest parcel is held for a general municipal purpose and so only requires a simple majority town meeting vote to gain Article 97 protection, by changing the purpose. In the event the Town wanted to change the care, custody and control, that would require a two thirds town meeting vote. Two parcels are already in the control of the Committee and the Commission. The Committee should meet with the Selectmen to discuss what entity should have formal control over the Forest.

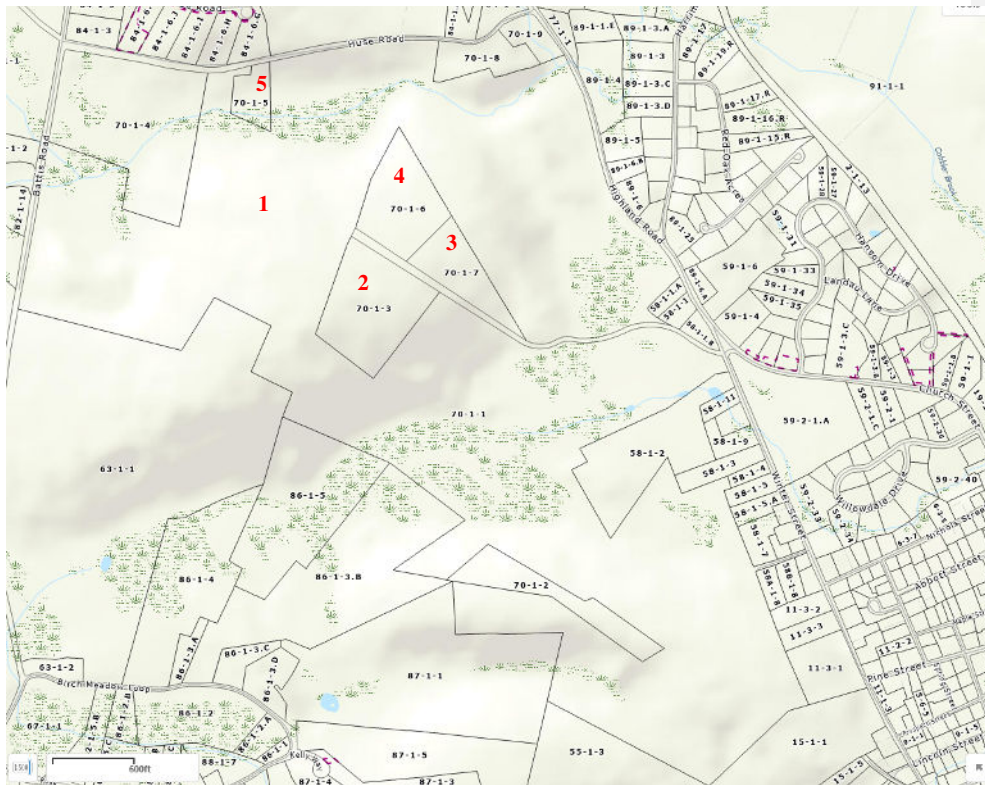
Once the department is chosen, the Town may transfer the parcels not already under that department's control under Section 3 along with an exclusive purpose of forest conservation, and dedicate the parcels already under that department's control for the same purpose. The Town Meeting votes would be as follows, first for transferring the care, custody, and control and second for a dedication:

To see if the Town will vote to transfer the care, custody, and control of the land located at [0 Red Oak Hill Road], Merrimac, Massachusetts and as shown on the Town of Merrimac Assessor's Map 70, Block 1, Lot [1], including [72] acres, more or less, for the purpose of conservation as the Town Forest and to be under the care, custody and control of the [department], , or pass any vote or take any action relative thereto.

Prior to taking final action, more research must be conducted on the parcels for which the underlying vote was not readily available. I hope that the foregoing is helpful to you and please do not hesitate to contact me with further questions on this matter.

Appendix A

Plan of Merrimac Town Forest⁴⁴



Key

- | | | | |
|----|------------|---------------------------|--|
| #1 | 281 acres | Property ID - 70-1-1 | Location ID M_239063_954766 |
| | 71.8 acres | Book 2794, Page 503 | |
| | 192 acres | Book 2981, Pages 432, 435 | |
| | 4.5 acres | Book 3129, Page 510 | |
| | 9 acres | Book 3143, Page 459 | |
| #2 | 8 acres | Book 6334, Page 556 | Property ID – 70-1-3 Location ID M_238872_954880 |
| #3 | 7 acres | Book 12343, Page 113 | Property ID – 70-1-7 Location ID M_239077_954968 |
| #4 | 11.8 acres | Book 17402, Page 396 | Property ID 70-1-6 Location ID M_238939_955125 |
| #5 | 2.8 acres | Book 6703, Page 373 | Property ID 70-1-5 Location ID M_238599_955367 |

⁴⁴ MERRIMAC VALLEY PLANNING COMMISSION, *Merrimac MIMAP*, <https://mimap.mvpc.org/map/index.html?viewer=merrimac> (last accessed December 7, 2022).



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Newburyport, MA 01950

Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

TO: SANDY VENNER, MERRIMAC OPEN SPACE COMMITTEE
FROM: LISA MEAD, TOWN COUNSEL
CC: CAROL MCLEOD, TOWN ADMINISTRATOR
RE: RESPONSE TO QUESTIONS ON TOWN FOREST PROTECTIONS
DATE: FEBRUARY 24, 2023

Reference is made to the above captioned matter. In that connection, you had further questions on how the Town of Merrimac's ("the Town") may protect the Town Forest ("the Forest") under Article 97. We reference the draft memo on the subject, including the Plan attached as Appendix A, and clarify as follows.

You first asked about how the draft memo used the word "Commission," and in combination, "Committee and Commission." An earlier version of the draft identified the Conservation Commission as "the Commission," but was revised out – apologies for the confusion. The Conclusion referenced both departments because the Commission currently manages the land indicated as "2" on the Plan and shown as Lot 3, Block 1 on Assessors' Plan 70.¹ Skipping ahead to your fourth question, yes, the care, custody, and control of the other parcels can absolutely be transferred to the Conservation Commission. The Town, however, will ultimately decide which department in which to centralize the Forest's care, custody, and control.

You next asked about whether we received clarification from the Attorney General's office. We did, but that point is now moot for the following reason. Skipping to your sixth question, yes, the Town should **NOT** designate the former landfill and trigger Article 97 protection if it has any plans for that land other than open space conservation. A solar panel field is likely incongruous with Article 97's purposes and would therefore require a lengthy and uncertain process to remove if protected. Avoiding that situation altogether is preferable and can be achieved as follows.

The landfill appears to be part of Property ID 70-1-1, the land indicated as "1" on the Plan, based on the note about accessing the landfill from Battis Road.² As noted in that Plan, many smaller conveyances comprise 70-1-1 yet none immediately identify themselves as the former landfill. We therefore recommend that the Town commission a survey to describe the

¹ S. ESSEX DIST. REG. DEEDS, Book 6334, Page 556.

² Merrimac Town Forest Map, Merrimac Open Space Committee (2008), <http://www.merrimac01860.info/DocumentCenter/View/214/Town-Forest-Trail-Map-PDF>.

Millis Office
730 Main Street, Suite 1F
Millis, MA 02054
Phone/Fax 508.376.8400

New Bedford Office
227 Union Street, Suite 606
New Bedford, MA 02740

bounds of the former landfill within 70-1-1. We would record that survey with 70-1-1 and any future vote dedicating Town Forest land for Article 97 purposes would explicitly exclude the landfill bounds as the survey describes. Article 97 would then not protect the former landfill and the Town would be free to use it for non-conservation purposes, such as a solar field.

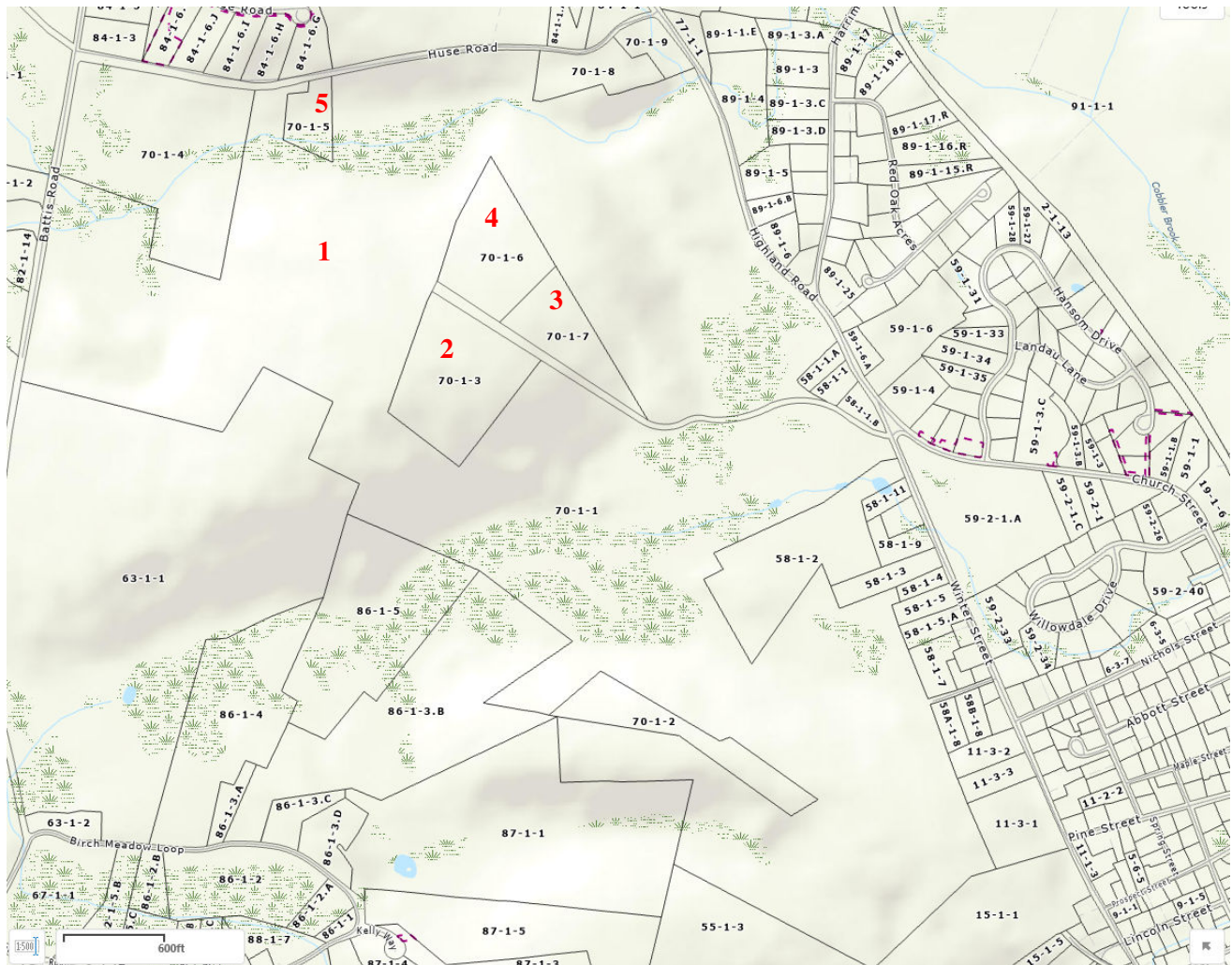
You next asked about which avenue we recommended in the Conclusion. The specific avenue varies by parcel, depending on which Town department holds or manages the parcel and which department the Town wishes to transfer the parcel to. For example, should the Town decide to house the care, custody, and control in the Board of Selectmen but the Commission holds the parcel, the parcel's vote should transfer the care, custody, and control to the Board. If the Board already manages the Parcel, the vote should dedicate the land to conservation purposes. These decisions thus would be impacted by the Town Forest Committee not existing, as the Town should not transfer the care, custody, and control to a nonexistent department.

Finally, you asked about whether a vote can include all the parcels regardless of complete documentation of their designation at the time the Town acquired possession. The short answer is no, to properly dedicate a parcel we must know how the parcel was held back then in order to know how the parcel is currently held. The Town may transfer the parcels from one department to another's control along with an exclusive purpose of forest conservation, and dedicate the parcels already under the destination department's control for the same purpose. The Town cannot transfer care, custody, and control of a parcel to the department that already manages that parcel, nor dedicate a parcel held under a department if the department does not yet hold it. Since those votes would be invalid, so too would the Article 97 protections for those parcels. The proper method to invoke Article 97 depends on the specific designation of each parcel, which in this case depends on each parcel's designation at the time the Town acquired them.

I hope the foregoing answers your questions. Please feel free to request further or additional clarification.

Appendix A

Plan of Merrimac Town Forest³



Key

#1	281 acres	Property ID - 70-1-1	Location ID M_239063_954766
	71.8 acres	Book 2794, Page 503	
	192 acres	Book 2981, Pages 432, 435	
	4.5 acres	Book 3129, Page 510	
	9 acres	Book 3143, Page 459	
#2	8 acres	Book 6334, Page 556	Property ID – 70-1-3 Location ID M_238872_954880
#3	7 acres	Book 12343, Page 113	Property ID – 70-1-7 Location ID M_239077_954968
#4	11.8 acres	Book 17402, Page 396	Property ID 70-1-6 Location ID M_238939_955125
#5	2.8 acres	Book 6703, Page 373	Property ID 70-1-5 Location ID M_238599_955367

³ MERRIMAC VALLEY PLANNING COMMISSION, *Merrimac MIMAP*, <https://mimap.mvpc.org/map/index.html?viewer=merrimac> (last accessed December 7, 2022).

Town of Merrimac
OPEN SPACE COMMITTEE

Memo To: Merrimac Select Board

From: Sandra Venner
Merrimac Open Space Committee

Date: July 29, 2023

Re: Article 97 Conservation Protection for Town Forest Request

The Open Space Committee asked that the Select Board support warrant articles for the following matters for the Fall Town Meeting. The Committee asks that the necessary steps be taken to place the land that comprises the Town Forest under Article 97 of the state constitution. Article 97 provides conservation protection to public land held for that purpose. This protection can only be removed by a two-thirds vote of Town Meeting and a two-thirds vote of the state legislature.

With the support of the Select Board, the Open Space Committee has consulted with Town Counsel to determine what steps are necessary to have Article 97 status apply to the Town Forest. The Town Forest is composed of several parcels that the Town acquired over time. For none of these parcels was it explicitly stated that the purpose was for conservation so therefore the Town has to take further action for Article 97 to apply. The SJC has determined that transferring land from one Town department to another for care, custody and control for conservation purposes can qualify it for Article 97 conservation restriction status.

The Town acquired the major parcels that make up the Town Forest between 1924 and 1938. At the time, the land was to be managed by the Town Forest Committee that was appointed by the Board of Selectmen. As no purpose was specified, it is assumed it was for “general municipal purposes”. Smaller infill parcels were acquired by the Town between 1977 and 2001. One parcel was placed under the authority of the Conservation Commission and the rest named the Board of Selectmen or did not specify, making it the BOS by default. As no one for decades has been appointed to the Town Forest Committee, the Select Board currently holds responsibility for those original parcels according to Town Counsel.

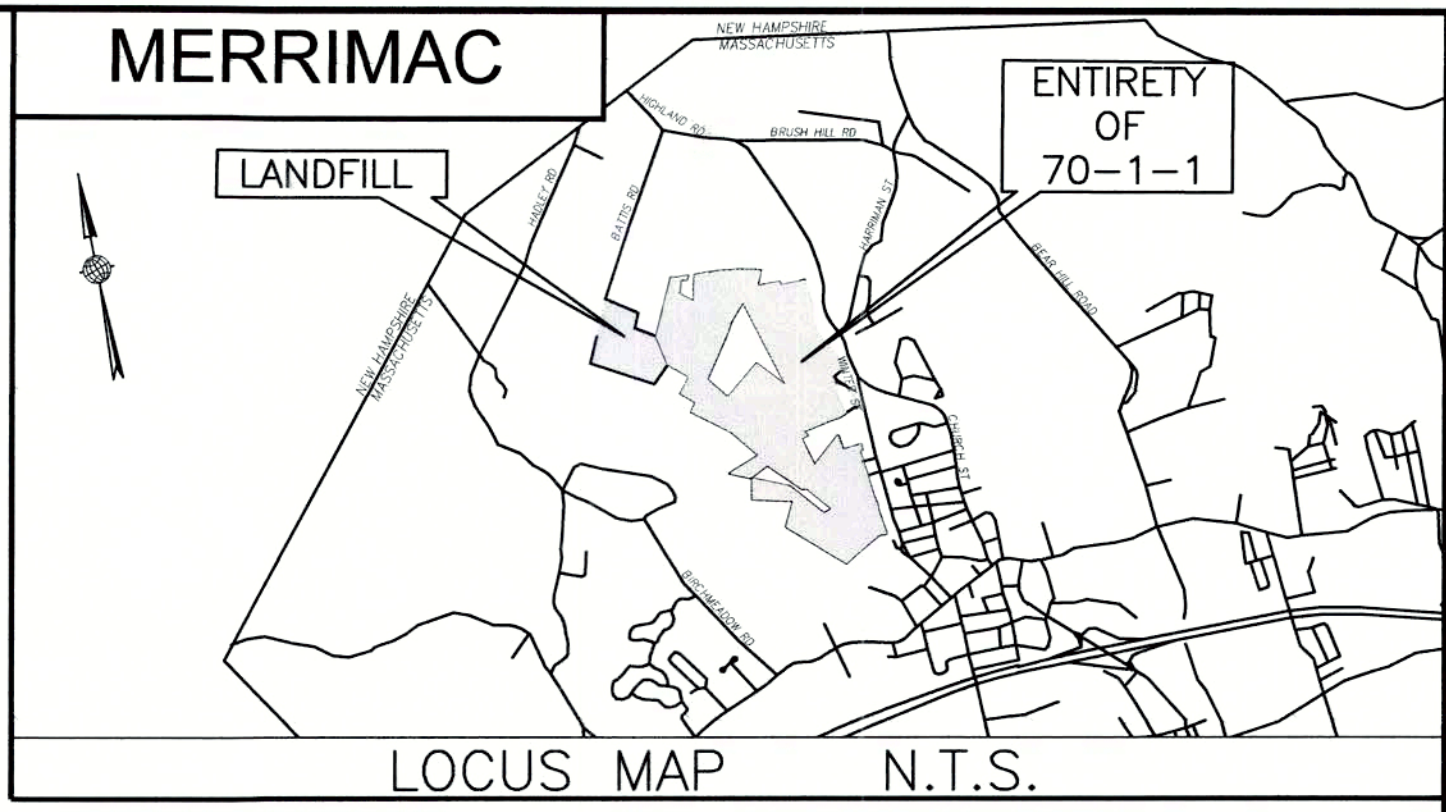
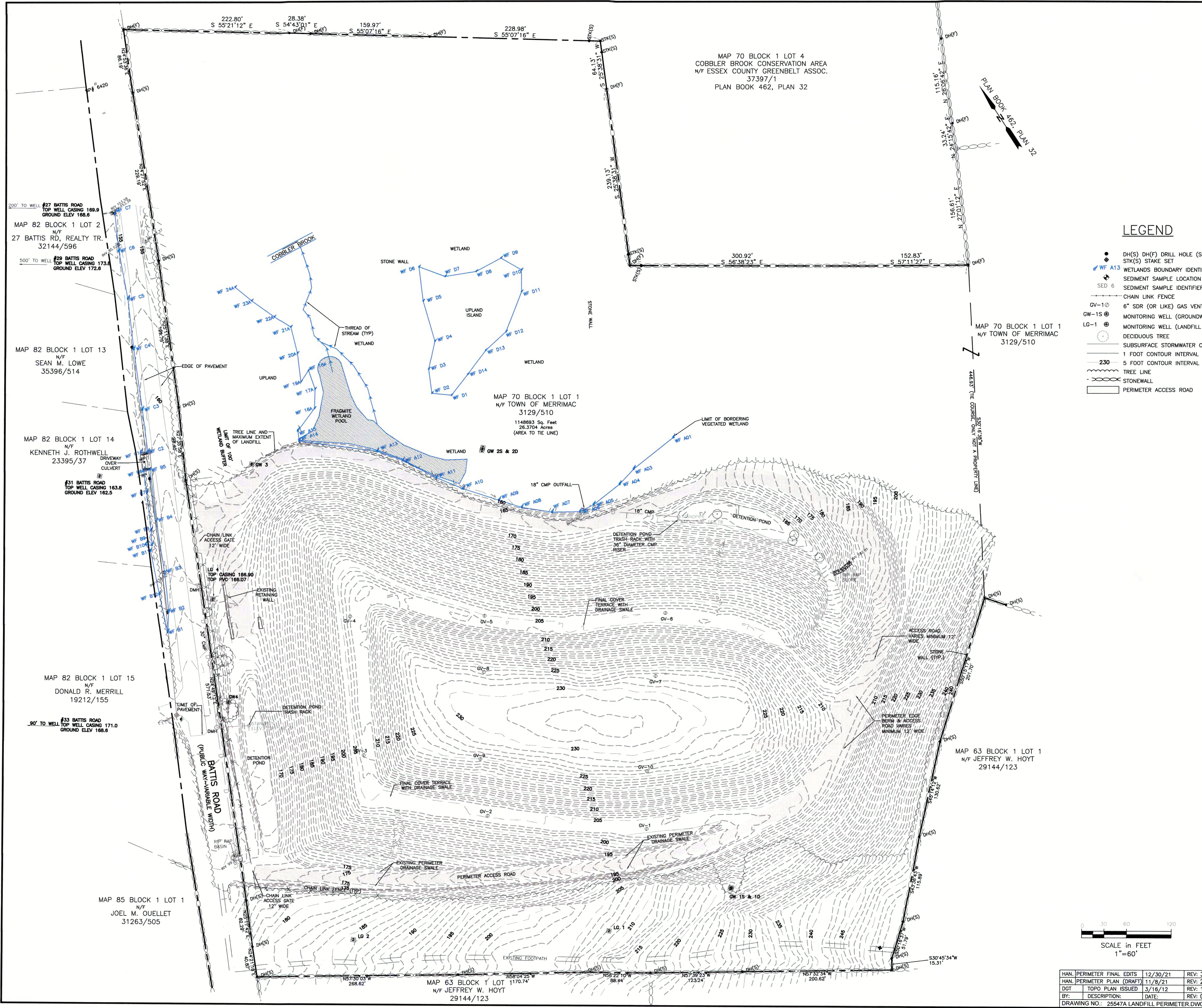
If the Select Board is in agreement, the Conservation Commission would accept designation as the responsible department for all the parcels that comprise the Town Forest. A transfer of “care, custody and control for the purpose of a conservation restriction” from the Select Board to the Conservation Commission would require a two-thirds vote at Town Meeting. For the one parcel already held by the Conservation Commission, a majority vote of Town meeting could dedicate the land to conservation purposes. There is another Town Meeting vote that would need to precede these steps. Part of the original lands held for the Town Forest have been utilized for the Town landfill and this is not considered to be a conservation purpose, nor would future uses such as a solar field. Therefore, this parcel needs to be excluded from the action to place the Town Forest land under Article 97. This can be done by stating

Attachment: TF Article 97 memo (7:00 PM Open Space Article 97 Conservation Protection for Town Forest)

that the land plotted in the Battis Landfill Perimeter Plan, dated August 13, 2018, is created as a separate lot from Parcel 1 of the Merrimac Town Forest Plan, Property ID 70-1-1. The other existing, authorized uses on the rest of designated Town Forest land, including the playing fields at the end of Town Forest Road, can continue.

Members of the Open Space Committee look forward to meeting with the Select Board to answer any questions you may have.

pc Samantha Holt, Conservation Agent
Jon Pearson, Chair, Conservation Commission



LEGEND

- DH(S) DH(F) DRILL HOLE (SET)(FOUND)
- ◆ STK(S) STAKE SET
- ◆ WF A13 WETLANDS BOUNDARY IDENTIFIER
- ◆ SED 6 SEDIMENT SAMPLE LOCATION
- ◆ SED 6 SEDIMENT SAMPLE IDENTIFIER
- CHAIN LINK FENCE
- 6" SDR (OR LIKE) GAS VENT
- GW-1S 6" MONITORING WELL (GROUNDWATER)
- LG-1 6" MONITORING WELL (LANDFILL GAS)
- DECIDUOUS TREE
- SUBSURFACE STORMWATER CONVEYANCE PIPE
- 1 FOOT CONTOUR INTERVAL
- 230 5 FOOT CONTOUR INTERVAL
- TREE LINE
- STONEWALL
- PERIMETER ACCESS ROAD

OWNER/APPLICANT:

TOWN OF MERRIMAC
BATTIS ROAD LANDFILL
PORTION OF ASSESSOR'S MAP 70, BLOCK 1 LOT 1
DEED BOOK 3129 PAGE 510

REFERENCES:

1. ESSEX COUNTY REGISTRY OF DEEDS
PLAN BOOK 462 PLAN 32

NOTES:

1. FIELD SURVEY PERFORMED: 10/21/21 & 11/2/21 (THIS FIRM) AND 9/14/11-9/21/11, 10/31/11 & 3/14/12 (DGTNS).
2. VERTICAL DATUM AS DEPICTED HEREON IS NAVD88 BY MEANS OF GPS OBSERVATIONS
3. THE PURPOSE OF THIS PLAN IS TO DEPICT THE APPROX. PERIMETER OF THE BATTIS ROAD LANDFILL FROM A LIMITED BOUNDARY SURVEY AROUND THE LANDFILL AREA FOR USE IN A CLOSURE APPLICATION WITH THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION. THE LANDFILL AREA IS COMPRISED OF A 23.37± ACRE PORTION OF THE 289± ACRE TOWN OF MERRIMAC LOT 1 OF MAP 70. THIS PLAN IS NOT A SUBDIVISION OF THE PARENT PARCEL.
4. THE TOPOGRAPHY AND GROUND FEATURES DEPICTED HEREON ARE FROM A SURVEY FROM 9/14/2011 TO 3/14/2012 BY DGTNS AND ARE FOR GRAPHICAL PURPOSES ONLY TO ILLUSTRATE THE PHYSICAL LIMITS OF THE ACTUAL LANDFILL. THE CONTOURS AND ELEVATIONS AS SUCH MAY DIFFER FROM ACTUAL CURRENT ELEVATIONS DUE TO EROSION, SETTLEMENT AND OTHER FACTORS THAT HAVE OCCURRED SINCE THE ORIGINAL SURVEY AND SHOULD NOT BE RELIED ON FOR USES OTHER THAN THE INTENDED PURPOSE OF THIS DRAWING.

I HEREBY CERTIFY THAT:

THIS PLAN IS BASED ON AN ON-THE-GROUND SURVEY AND PRESENTS THE FACTS AS FOUND AT THE TIME OF THE SURVEY.
I FURTHER CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIP AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR THE NEW WAYS ARE SHOWN AND IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN.

Edward Dixon
EDWARD DIXON
No. 34304
REGISTERED PROFESSIONAL LAND SURVEYOR
12-30-21
DATE

**BATTIS LANDFILL
PERIMETER PLAN**
IN
MERRIMAC, MASSACHUSETTS
ESSEX COUNTY

PREPARED FOR:
SEVEE & MAHER ENGINEERS, LLC

PREPARED BY:
**HANCOCK
ASSOCIATES**
Civil Engineers
Land Surveyors
Wetland Scientists
ONE HARRIS STREET
SUITE 3
NEWBURYPORT, MA 01950
TEL: 978-465-9992
www.hancockassociates.com

RESEARCH:
CHA

FIELD:
CHA/JBJ

CALCULATION:
AAM

DRAFTING:
AAM

CHECK:
EDX

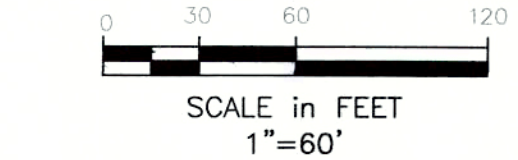
PROJ. MANAGER:
EDX

DATE:
AUG. 13, 2018

JOB NO.
22117A

CRD FILE
22117.CRD

SHEET NO.
1 OF 2



HAN. PERIMETER FINAL EDITS	12/30/21	REV: 3
HAN. PERIMETER PLAN (DRAFT)	11/8/21	REV: 2
DOT. TOPO PLAN ISSUED	3/18/12	REV: 1
BY: DESCRIPTION:	DATE:	REV: 0
DRAWING NO.: 25547A LANDFILL PERIMETER DWG		



Merrimac Select Board

2 School Street

Merrimac, MA 01860

SCHEDULED

Meeting: 08/05/24 07:00 PM

Department: Merrimac Select Board

Category: Information

Prepared By: Jennifer Penney

Initiator: Jennifer Penney

Sponsors:

~~CORRESPONDENCE (ID # 8781)~~

~~DOC ID: 8781~~

H.4800 Tax Title Changes

From: [Carol McLeod - Finance \(X3040\)](#)
To: constituent.services@state.ma.us
Cc: [Jennifer Penney - Select Board \(X3080\)](#)
Subject: H.4800 Tax Title Changes
Date: Sunday, July 21, 2024 8:26:08 AM

Good Morning Governor Healy and Lt. Governor Driscoll,

In the Budget, the Legislature addressed the Home Equity Theft legislation both branches have been working on.

The negotiated, end-result, is bad for cities and towns. The budgetary language includes the following:

1. It **reduces the interest rate** in tax title from 16% to 8%. The MMA, has explained to the Legislature how that is nonsensical because the municipalities are already receiving 14% before the property is placed into tax title. What would the incentive be to put a property into tax title at all?
2. It **delays the time that a municipality can file** a foreclosure complaint from 6 months after a taking, to 12 months.
3. It requires the municipality to **post the publication notice on all residential properties** prior to the taking.
-
4. It expands the *Tyler* decision and requires that any **surpluses be made available not just to the former owner** but to any heirs of the former owner, *and to any lienholders, and those lienholders' heirs or successors*. If the ownership interests are split between heirs, the burden is placed on the municipality to proportionally disburse any surplus. Think of substantial due diligence cases with 50, 60, 80+ parties involved, which we have seen more often than not.
-
5. It creates a right of action for lienholders (including banks) **to sue cities/towns to recover any surpluses over the past 3 years**.
-
6. It eliminates the transparent and open public auction process and **requires a broker sale instead**.
-

The changes in this legislation severely impacts our ability to collect back taxes. This legislation rewards delinquent tax payers and will hurt the municipalities.

I urge you to review this legislation and ask that you Veto this section and allow the Treasurers and Collectors to use the tools we currently have to collect delinquent taxes.

Carol A. McLeod, CMMT, MCPPO

Town Administrator, Finance Director, Treasurer

Town of Merrimac
4 School St.
Merrimac, MA 01860
(978) 346-0524

Office Hours:

Monday 8 AM – 7 PM
Tuesday – Thursday 8 AM – 4 PM

**Merrimac Select Board**

2 School Street

Merrimac, MA 01860

Meeting: 08/05/24 07:00 PM

Department: Merrimac Select Board

Category: Information

Prepared By: Jennifer Penney

Initiator: Jennifer Penney

Sponsors:

SCHEDULED~~CORRESPONDENCE (ID # 8780)~~~~DOC ID: 8780~~

SOLAR FARM. Amesbury City Council Meeting to Discuss Solar Farm Proposal

From: [Veronica](#)
To: [Chris Manni - Chairman](#); [Jennifer Penney - Select Board \(X3080\)](#)
Subject: Fwd: SOLAR FARM. Amesbury City Council Meeting to Discuss Solar Farm Proposal
Date: Saturday, July 20, 2024 4:08:47 PM

Dear Selectmen

Please read the message below from Amesbury City Councilor Jessica Redfern.

You are probably aware of the proposed solar farm on your border.

The Lake Attitash Association is working to ensure adequate stormwater management as they would be clearing forested land that is on a hill. We want ongoing monitoring of phosphorus levels in the water and accountability for addressing any increase for the duration of the project and after it is decommissioned.

Just an FYI

Veronica Wolfe

Lake Attitash Association

Sent from iPhone -Veronica Wolfe

Begin forwarded message:

From: Lake Attitash Association <info@lakeattitash.org>
Date: July 20, 2024 at 3:26:20 PM EDT
To: lakewolfe@verizon.net
Subject: **SOLAR FARM. Amesbury City Council Meeting to Discuss Solar Farm Proposal**
Reply-To: Lake Attitash Association <info@lakeattitash.org>



IMPORTANT INFORMATION ABOUT PROPOSED SOLAR FARM ON JULY 23rd AMESBURY CITY COUNCIL MEETING AGENDA

Please read the important message from Amesbury Jessica Redfern about the upcoming meetings about the Solar Farm this Tuesday, July 23rd at 7:00 PM. It is important for as many people attend as possible attend and let the decision makers know of your concerns.

The Lake Association has many question about how and if any proposal can adequately protect the quality of our lake water.

Message from Jessica Redfern.

I wanted to let you know that the Mayor filed the request for the zoning change that would allow the development of the solar farm. You can find the bill (2024-096) here: https://www.amesburyma.gov/DocumentCenter/View/4800/2024-096-An-Ordinance-to-amend-the-Amesbury-Zoning-Ordinance-expanding-the-Renewable-Energy-Development-Overlay-District-REDD_pdf

City council will have a first reading for the bill this Tuesday, July 23rd At our meeting, we will refer the bill to the Planning Board and these City Council committees: Planing and Development + Ordinance and Administration. I think it will be critically important to organize the community to share their views at the Planning Board meeting and at our city council meeting when we have the second reading. I am not sure whether our second reading will be a public hearing, although there is always an opportunity to provide public comments. I'm also not sure when the second reading will occur. A target date will be given at our meeting on Tuesday - I will keep you posted. The public can also give input at our meeting this Tuesday and at the City Council Committee meetings.

Please let me know, if there is anything that I can do to help. I would appreciate attending any meetings you have on this topic. I want to make sure that my vote on this issue represents my District 5 constituents.

Regards,

Jessica

Notice: Please be aware the Massachusetts Secretary of State has determined that most emails to and from the City of Amesbury are public records and therefore cannot be kept confidential.
MGL: Chpt.66, Sec.10 Public Records Law.

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You are receiving this message because you opted onto the email list for news and notices from the Lake Attitash Association.

Our mailing address is:

Lake Attitash Association
PO Box 503
Amesbury, Ma 01913

[Add us to your address book](#)

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#).



**Merrimac Select Board**

2 School Street

Merrimac, MA 01860

Meeting: 08/05/24 07:00 PM

Department: Merrimac Select Board

Category: Information

Prepared By: Jennifer Penney

Initiator: Jennifer Penney

Sponsors:

SCHEDULED~~CORRESPONDENCE (ID # 8778)~~~~DOC ID: 8778~~**Carol McLeod MCPPO**

The Commonwealth of Massachusetts

Office of the Inspector General



Hereby designates

Carol McLeod

as an

**Massachusetts Certified Public Purchasing Official
(MCPPO)**

July 17, 2024

Jeffrey S. Shapiro

Inspector General

Attachment: carol mcLeod mcppo (Temp) (Converted) (Carol McLeod MCPPO)



Merrimac Select Board

2 School Street
Merrimac, MA 01860

SCHEDULED

Meeting: 08/05/24 07:00 PM

Department: Merrimac Select Board

Category: Inquiry

Prepared By: Jennifer Penney

Initiator: Jennifer Penney

Sponsors:

~~CORRESPONDENCE (ID # 8784)~~

~~DOC ID: 8784~~

Inquiry Regarding Parks Garage on Locust St.

Forwarded to Bob Sinibaldi

From: [rick pinciaro](#)
To: [Jennifer Penney - Select Board \(X3080\)](#)
Subject: Fwd: Park and rec
Date: Tuesday, July 23, 2024 4:14:37 PM

----- Forwarded message -----

From: rick pinciaro <rickpinciaro@gmail.com>
Date: Tue, Jul 23, 2024, 4:12 PM
Subject: Park and rec
To: selectman@townofmerrimac.com <selectman@townofmerrimac.com>

I would like to know when the park and rec garage on Locust Street will be repaired. It is an eye sore and disgrace that it remains in this decapitated condition.

Thank you

Rick Pinciaro
3 Union Street

Attachment: Park and Rec Inquiry (Inquiry Regarding Parks Garage on Locust St.)



Merrimac Select Board

2 School Street
Merrimac, MA 01860

SCHEDULED

Meeting: 08/05/24 07:00 PM

Department: Merrimac Select Board

Category: Information

Prepared By: Jennifer Penney

Initiator: Jennifer Penney

Sponsors:

~~CORRESPONDENCE (ID # 8785)~~

~~DOC ID: 8785~~

Response from AHBT Regarding CHAPA Letter

From: [Sandy Venner - Affordable Housing](#)
To: [Jennifer Penney - Select Board \(X3080\)](#)
Cc: [Carol McLeod - Finance \(X3040\)](#); [Chris Manni - Chairman](#); [172 OSC-VENNER, Sandy](#); [Irina Gorzynski - Select Board Member](#)
Subject: Re: CHAPA
Date: Wednesday, July 24, 2024 9:38:22 AM

Jennifer,

Thank you for forwarding the letter from CHAPA about the marketing of the home at 2 Nancy Lane St. Being aware of the fact the house was turning over, I was waiting for this notice from CHAPA seeking a qualified buyer. CHAPA provides this service for 40B affordable housing units listed on the Subsidized Housing Inventory. CHAPA is in the best position to find a qualified buyer and ensure this unit remains on the SHI. If the Select Board would like further information about this process, I would be happy to explain.

Sandy

From: Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com>
Sent: Tuesday, July 23, 2024 11:05 AM
To: Sandy Venner - Affordable Housing <affordablehousing@townofmerrimac.com>
Subject: CHAPA

Sandy,

The Select Board asked that AHBT review the attached to see if it is something they have interest in. Thank you.

Best,

Jennifer Penney

Executive Assistant
 Notary Public
 Office of the Select Board
 Town of Merrimac
 4 School St.
 Merrimac, MA 01860
 P: 978-346-8862
 Hours: Monday 8am-7pm; Tuesday-Thursday 8am-4pm

Meeting Agenda Deadline-Tuesday(prior to the meeting) by 12PM

<https://townofmerrimac.com/select-board/>

Notice:

This email is subject to [MGL: Chpt.66, Sec.10 Public Records Law](#).

Attachment: Response from AHBT Regarding CHAPA Letter (Response from AHBT Regarding CHAPA Letter)



Merrimac Select Board

2 School Street

Merrimac, MA 01860

SCHEDULED

Meeting: 08/05/24 07:00 PM

Department: Merrimac Select Board

Category: Discussion

Prepared By: Jennifer Penney

Initiator: Jennifer Penney

Sponsors:

~~OLD BUSINESS (ID # 8783)~~

~~DOC ID: 8783~~

Bear Hill Road Power Outages

From: [Mary Usovicz](#)
To: [Jennifer Penney - Select Board \(X3080\)](#)
Subject: RE: Bear Hill Road Power Outages
Date: Tuesday, July 23, 2024 12:54:40 PM

Dear Jennifer:

I be able to attend their next meeting which is August 5th if that would be beneficial. I go over how we do storm restoration and vegetation management program we have in place.

Mary

From: Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com>
Sent: Tuesday, July 23, 2024 12:46 PM
To: Mary Usovicz <musovicz@merrimaclight.com>
Subject: RE: Bear Hill Road Power Outages

Mary,
 They meet every other Monday. Please share the information with the Light Commissioners. Thank you.

Best,

Jennifer Penney

Executive Assistant
 Notary Public
 Office of the Select Board
 Town of Merrimac
 4 School St.
 Merrimac, MA 01860
 P: 978-346-8862
 Hours: Monday 8am-7pm; Tuesday-Thursday 8am-4pm

Meeting Agenda Deadline-Tuesday(prior to the meeting) by 12PM

<https://townofmerrimac.com/select-board/>

Notice:

This email is subject to [MGL: Chpt.66, Sec.10 Public Records Law.](#)

From: Mary Usovicz <musovicz@merrimaclight.com>
Sent: Tuesday, July 23, 2024 12:42 PM
To: Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com>

Attachment: Bear Hill Road Power Outages (Bear Hill Road Power Outages)

Subject: RE: Bear Hill Road Power Outages

Dear Jennifer:

I was under the impression that meeting was tonight. I apologize I did not realize that the board meetings are on Monday night. I was prepared to present and recommend that the issue be sent to the Commissioners.

Mary

From: Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com>

Sent: Tuesday, July 23, 2024 12:36 PM

To: Mary Usovicz <musovicz@merrimaclight.com>

Subject: RE: Bear Hill Road Power Outages

Hi Mary,

Circling back on this. The select board discussed the matter at their meeting last night and asked that it be forwarded to light dept. for consideration. Thank you.

Best,

Jennifer Penney

Executive Assistant

Notary Public

Office of the Select Board

Town of Merrimac

4 School St.

Merrimac, MA 01860

P: 978-346-8862

Hours: Monday 8am-7pm; Tuesday-Thursday 8am-4pm

Meeting Agenda Deadline-Tuesday(prior to the meeting) by 12PM

<https://townofmerrimac.com/select-board/>

Notice:

This email is subject to [MGL: Chpt.66, Sec.10 Public Records Law](#).

From: Jennifer Penney - Select Board (X3080)

Sent: Wednesday, July 17, 2024 2:34 PM

To: Mary Usovicz (musovicz@merrimaclight.com) <musovicz@merrimaclight.com>

Subject: FW: Bear Hill Road Power Outages

Hi Mary,

Attachment: Bear Hill Road Power Outages (Bear Hill Road Power Outages)

Just an FYI.

Best,

Jennifer Penney

Executive Assistant
Notary Public
Office of the Select Board
Town of Merrimac
4 School St.
Merrimac, MA 01860
P: 978-346-8862
Hours: Monday 8-7; Tue.-Thur. 8-4

<https://townofmerrimac.com/select-board/>

Notice:

This email is subject to [MGL: Chpt.66, Sec.10 Public Records Law](#).

From: Christopher Manni <cpmanni@yahoo.com>
Sent: Wednesday, July 17, 2024 1:54 PM
To: Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com>
Subject: Re: Bear Hill Road Power Outages

Thanks Jen, can you add to Monday's agenda?

On Wednesday, July 17, 2024 at 12:22:07 PM EDT, Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com> wrote:

Best,

Jennifer Penney

Executive Assistant
Notary Public

Attachment: Bear Hill Road Power Outages (Bear Hill Road Power Outages)

Office of the Select Board

Town of Merrimac

4 School St.

Merrimac, MA 01860

P: 978-346-8862

Hours: Monday 8-7; Tue.-Thur. 8-4

<https://townofmerrimac.com/select-board/>

Notice:

This email is subject to [MGL: Chpt.66, Sec.10 Public Records Law](#).

From: Janet Bruno - Select Board Member <jbruno@townofmerrimac.com>

Sent: Wednesday, July 17, 2024 12:17 PM

To: Anthony Castiglione <sharktc2@hotmail.com>

Cc: Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com>

Subject: Re: Bear Hill Road Power Outages

Good morning, Tony...

Thank you for sharing your concerns. I have forwarded the note to our Select Board admin. Asst. for discussion at our meeting so everyone is involved. We will get back to you.

Again, thank you for voicing your concerns.

Janet Bruno

Sent from my iPad

On Jul 17, 2024, at 12:09 PM, Janet Bruno - Select Board Member
<jbruno@townofmerrimac.com> wrote:

Sent from my iPad

On Jul 16, 2024, at 11:05 PM, Anthony Castiglione <sharktc2@hotmail.com>

Attachment: Bear Hill Road Power Outages (Bear Hill Road Power Outages)

wrote:

Myself and my neighbors in the West Shore Area are completely frustrated with power outages we experience due to down trees on Bear Hill Rd. Earlier this year, we saw a tree service conduct a half-hearted effort to take tree limbs down over power lines to prevent these occurrences. What should have transpired is an Arborist survey that identified trees on that road that presented risk and those then removed. Hopefully, the Board can work with Light Department to have that occur. I ask that the Board review this situation and recommend appropriate action to improve our chances of not dealing with these situations as often as we do. Thank you for your consideration.

Tony Castiglione

30 West Shore Rd

Get [Outlook for Android](#)



Agenda Item
Finance
08/05/24

Town Administrator's Report

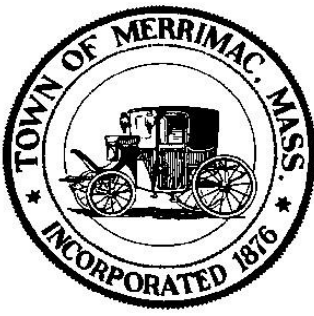
Subject:

Attachments:

Town Administrator's Report 7-30-2024

FY2025 Budget Snapshot 7-30-2024

MMA Memo on Tax Title - 7.23.24



MEMO

DATE: 7/30/2024

TO: Select Board
FROM: Carol McLeod
RE: Bi-Weekly Update

1. **Assistant Assessor Position** – Heather and I will have interviewed 5 candidates, we may interview a few more, but plan to have a recommendation for the Board on August 19th.
2. **Year End Update** – I have reconciled thru June, so I have all the revenue for FY2024 entered into the budget module. See attached balance to date – I will finalize the numbers over the next month – we will need to reduce the OPEB contribution for FY2025 to balance the budget somewhere around \$20K. I have adjusted the insurance based upon actuals and leaving funds for the Assessor, as we do not know what insurance they will take, if any. The big change in revenue was negative for the ambulance revenue, it was down \$40K from projections, most other receipts came in as expected. I am still awaiting the final new growth, it looks to be around \$180K-\$200K, but won't be known for at least another month. The auditors will begin preliminary work Aug 5th – Aug 8th.
3. **Governor's Budget** – The Governor signed the budget which included the changes to Tax Title, effective November 1, 2024. The MMA and our tax title attorneys are advocating for amendments to be put in place by November 1st. We are hopeful these will come thru. Attached is the letter recently sent to the Governor.
4. **Special Articles for Special Town Meeting October 21st** – Articles are due by September 5th.
5. **Legal Office Hours** – Office hours have been set for August 5th 10 – 11:30, September 3rd 10 – 11:30, October 7th 10 – 11:30 and November 4th 10 – 11:30.
6. **Annual School** – Michelle Barry and I will be attending the MCTA Annual School at U MASS on August 13th – 14th. This is a requirement to maintain our certification.
7. **Time Off Request** – Please see attached request.

TOWN OF MERRIMAC BUDGET SUMMARY

REVENUE ESTIMATES

	Adopted	Departmental Requested Budget	Requested ATM Budget	Requested FTM Budget
	FY2024	FY2025	FY2025	FY2025
PROPERTY TAXES				
Tax Base	\$ 14,950,957	\$ 16,340,808	\$ 16,340,808	\$ 16,340,808
2 1/2 % Increase	\$ 373,774	\$ 408,520	\$ 408,520	\$ 408,520
Est New Growth	\$ 156,077	\$ 125,000	\$ 150,000	\$ 180,000
General Override	\$ 860,000	\$ -	\$ -	\$ -
Unused Levy Capacity	\$ (265,335)	\$ -	\$ -	\$ -
PROPERTY TAXES	\$ 16,075,473	\$ 16,874,329	\$ 16,899,329	\$ 16,929,329
STATE PROVIDED FUNDS				
Cherry Sheet/State Aid	\$ 1,164,467	\$ 1,195,873	\$ 1,195,873	\$ 1,196,624
MSBA	\$ -	\$ -	\$ -	\$ -
SUBTOTAL: STATE FUNDS	\$ 1,164,467	\$ 1,195,873	\$ 1,195,873	\$ 1,196,624
DEBT EXCLUSIONS				
New Library Construction	\$ 106,575	\$ -	\$ -	\$ -
Police Station	\$ 361,028	\$ 357,153	\$ 357,153	\$ 357,153
PRSD Middle/High School	\$ 1,576,867	\$ 1,582,734	\$ 1,582,734	\$ 1,582,734
SUBTOTAL	\$ 2,044,470	\$ 1,939,887	\$ 1,939,887	\$ 1,939,887

PROJECTED LOCAL RECEIPTS

Motor Vehicle Excise	\$ 1,066,000	\$ 1,066,000	\$ 1,100,000	\$ 1,100,000
Penalties & Interest	\$ 44,700	\$ 44,700	\$ 32,000	\$ 30,000
Other Excise (Marijuana)	\$ -	\$ -	\$ 32,000	\$ 40,000
In Lieu of Tax	\$ 1,289	\$ 1,289	\$ 1,289	\$ 1,289
Trash	\$ 143,000	\$ 143,000	\$ 150,000	\$ 160,000
Ambulance	\$ 464,000	\$ 464,000	\$ 435,000	\$ 420,000
Fees	\$ 46,000	\$ 46,000	\$ 47,000	\$ 50,000
Rentals	\$ 145,500	\$ 145,500	\$ 140,000	\$ 130,000
Cemetery	\$ 16,000	\$ 16,000	\$ 20,000	\$ 15,000
Licenses & Permits	\$ 67,800	\$ 67,800	\$ 80,000	\$ 80,000
Fines & Forfeitures	\$ 25,700	\$ 25,700	\$ 25,700	\$ 25,700
Investment Income	\$ 164,800	\$ 164,800	\$ 200,000	\$ 225,000
Misc Non Recurring	\$ 48,000	\$ 48,000	\$ 48,000	\$ 60,000
Misc Recurring	\$ 41,300	\$ 41,300	\$ 60,000	\$ 100,000
SUBTOTAL	\$ 2,274,089	\$ 2,274,089	\$ 2,370,989	\$ 2,436,989

OTHER REVENUE

Free Cash Approp	\$ 848,750	\$ 630,442	\$ 630,442	\$ 630,442
Water Retained Earnings	\$ 150,000	\$ 92,000	\$ 92,000	\$ 92,000
Other Revenue	\$ 185,098	\$ 177,110	\$ 177,110	\$ 177,110
Wastewater Retained Earnings	\$ 85,000	\$ 317,000	\$ 317,000	\$ 317,000
Wastewater I & I	\$ 55,000	\$ 125,000	\$ 125,000	\$ 125,000
Bonded Capital	\$ -	\$ -	\$ -	\$ -
Water Enterprise	\$ 1,280,869	\$ 1,240,670	\$ 1,240,670	\$ 1,240,670
Wastewater Enterprise	\$ 1,397,989	\$ 1,317,023	\$ 1,317,023	\$ 1,317,023
Revenue to Reduce Tax Rate	\$ 38,000	\$ 38,000	\$ 38,000	\$ 38,000
SUBTOTAL	\$ 4,040,706	\$ 3,937,245	\$ 3,937,245	\$ 3,937,245

TOTAL REVENUE	\$ 25,599,205	\$ 26,221,422	\$ 26,343,322	\$ 26,440,073
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EXPENDITURE ESTIMATES

	Adopted	Departmental Requested Budget	Requested ATM Budget	Requested FTM Budget		
	FY2024	FY2025	FY2025	FY2025	% Change	% of Budget
ARTICLE 1 OMNIBUS						
General Government	\$ 1,322,545	\$ 1,539,508	\$ 1,519,575	\$ 1,519,575	14.90%	6.91%
Public Safety	\$ 2,721,650	\$ 3,076,014	\$ 2,869,810	\$ 2,869,810	5.44%	13.05%
Education	\$ 11,988,839	\$ 13,297,142	\$ 13,297,142	\$ 13,297,142	10.91%	60.47%
Highway	\$ 677,512	\$ 689,777	\$ 689,777	\$ 689,777	1.81%	3.14%
Cemetery	\$ 70,207	\$ 76,513	\$ 72,513	\$ 72,513	3.28%	0.33%
Health & Sanitation	\$ 146,292	\$ 150,862	\$ 149,862	\$ 149,862	2.44%	0.68%
Public Assistance	\$ 429,183	\$ 454,491	\$ 430,139	\$ 430,139	0.22%	1.96%
Library	\$ 354,691	\$ 370,147	\$ 370,147	\$ 370,147	4.36%	1.68%
Parks & Rec	\$ 11,520	\$ 11,520	\$ 11,520	\$ 11,520	0.00%	0.05%
Town Gardens	\$ 600	\$ 600	\$ 600	\$ 600	0.00%	0.00%
Long Term Principal	\$ 609,802	\$ 492,899	\$ 492,899	\$ 492,899	-19.17%	2.24%
Long Term Interest	\$ 313,319	\$ 296,919	\$ 296,919	\$ 296,919	-5.23%	1.35%
Gen Govt Unclassified	\$ 1,558,060	\$ 1,763,485	\$ 1,782,485	\$ 1,787,485	14.73%	8.13%
SUBTOTAL	\$ 20,204,220	\$ 22,219,877	\$ 21,983,388	\$ 21,988,388	8.83%	100%

CHARGES/ABATEMENTS/OTHER AMOUNTS TO BE RAISED

State & County	\$ 117,469	\$ 120,022	\$ 120,022	\$ 120,014
Tax Abatements	\$ 70,979	\$ 87,500	\$ 87,500	\$ 87,500
Library Offset	\$ 16,529	\$ 16,649	\$ 16,649	\$ 18,973
Overlay Deficit	\$ -	\$ -	\$ -	\$ -
Snow & Ice Deficit	\$ -	\$ -	\$ -	\$ -
Other Deficits	\$ -	\$ -	\$ -	\$ -
SUBTOTAL	\$ 204,977	\$ 224,171	\$ 224,171	\$ 226,487

CURRENT YEAR SPECIAL ARTICLES

Special Articles	\$ 5,180,008	\$ 4,245,335	\$ 4,245,335	\$ 4,245,335
Transfer Articles	\$ 10,000	\$ -	\$ -	\$ -
SUBTOTAL	\$ 5,190,008	\$ 4,245,335	\$ 4,245,335	\$ 4,245,335

BONDED ARTICLES

Prior Year Bond Issues				\$ -
Bond Authorization				
SUBTOTAL	\$ -	\$ -	\$ -	\$ -

TOTAL EXPENSE	\$ 25,599,205	\$ 26,689,383	\$ 26,452,894	\$ 26,460,210
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SURPLUS/(DEFICIT)	\$ 0	\$ (467,961)	\$ (109,572)	\$ (20,137)
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MEMORANDUM

July 23, 2024

TO: **Office of Governor Maura Healey & Lt. Governor Kim Driscoll**

FROM: **Massachusetts Municipal Association**

RE: Tax Title Foreclosure Changes (**H. 4800 Sections 80-99, 211-213, 250**)

On behalf of the Massachusetts Municipal Association (MMA), we provide this memo to identify our primary concerns with provisions included as part of the FY2025 Conference Committee Budget pertaining to the tax title foreclosure process (H. 4800 Sections 80-99, 211-213, 250). We greatly appreciate the attention of the Governor's team to consider action on this issue, as it is critical to get this policy right, especially due to the U.S. Supreme Court's *Tyler* decision in May of 2023.

Tremendous thought and effort has gone into crafting legislation this session that seeks to bring Massachusetts law into compliance with the U.S. Supreme Court ruling in the *Tyler v. Hennepin County* (2023) tax foreclosure decision. We would strongly support an amendment to these provisions that make necessary changes to the law, support a fair process for property owners, and provide important protections to municipalities across the Commonwealth.

As you know, cities and towns critically depend on property taxes in order to provide essential local services such as high-quality schools, public safety, public works, and more. Further, local officials are committed to working with residents to provide needed flexibility in the collection of these property taxes when residents face difficult times. Since the May 2023 U.S. Supreme Court decision of *Tyler v. Hennepin County*, we have been committed to working toward finding a legislative solution that adjusts practices under state law and aligns with last year's SCOTUS decision.

As the Governor considers action, we offer the following priorities and attached redline document to elevate key issues for municipal government:

Retroactive To SCOTUS Tyler Decision of May 2023

In Section 212, we urge you to adopt a May 25, 2023 retroactive date, or “lookback.” Municipalities were following the longstanding law of the Commonwealth until the ambiguity created as part of the *Tyler* decision on May 25, 2023. Most communities since that time have been cautious to not retain proceeds but have instead set them aside in escrow. Municipalities should not be penalized for actions taken prior to that date, having no prior notice that the law might require the return of excess equity. Municipalities do not have reserves for potentially endless claims, and any prior date could cause fiscal hardship of varying degrees. We respectfully request that the Governor amends this section to use May 25, 2023 as the retroactive “look back” date.

Allow Interest Rate Consideration to be Further Reviewed by Special Commission

We suggest the striking of Section 88 in its entirety, dealing with the lowering of the interest rate under Chapter 60 (reducing from 16% to 8%). Other, related sections of the law have different interest rates, and they should be considered together for modification. It is important to determine a balance between a fair interest rate that incentivizes the homeowner to pay the tax, with one that is not so close to commercial rates as to turn the municipality into a finance agency. We respectfully request that the Governor strikes this section, which would be studied by the newly-created special commission to study and make recommendations in the near future.

Excess Equity Eligibility and Process

We suggest changes in Section 92, 93, and 212 to create clarity and finite parameters around the timeline and who can claim excess equity, to align with the SCOTUS decision. Specifically, we suggest striking language that would expand *Tyler* by allowing heirs, successors, successors in interest, and assignees to also be eligible. This would force municipalities to operate as a de facto probate court, which is very concerning.

Further, the underlying language in Section 92 and 93 would disburse excess equity through the State’s Unclaimed Property Division after 19 months via Chapter 200A. We have strong concerns with disbursing under Chapter 200A, and we urge the Governor to make it clear that municipalities are allowed to keep equity if there has not been a valid claimant after 19 months from the date of notice/sale. We respectfully request the Governor make these clarifying changes around the retention of subsequent excess equity by a municipality if not claimed.

Allowing for Auction-only Property Sales

We have strong concerns about the practical application of such a process prioritizing real estate brokers in Section 93. Municipalities simply do not have the staff capacity to liaise with realtors and brokers, which is why many cities and towns in the past chose to sell the liens to a third-party. It is our suggestion that an auction would be the most appropriate way to sell a property, and a municipality should be allowed to sell to the

highest bidder in the initial sale. We respectfully request the Governor to amend Section 93 to specifically allow municipalities to use an auction process in the initial sale and to remove references to marketing the property, as this is outside of the scope of municipal officials' typical duties.

Clarifying Proportional Shares for Claimants

In Section 93, we suggest clarity to the process and disbursement of excess equity. This includes changes to ensure that a claimant is only entitled to a proportional share related to the ownership interest and not the entirety of the excess equity. Further, we suggest striking language that could be interpreted as requiring municipalities to include a check for excess equity with the notice. We respectfully suggest these changes to clarify this process as well as alleviate this avoidable burden on cities and towns and their employees.

Posting Requirements

Section 85 pertains to the notice that will be required on the physical property, which raises public safety concerns. This would create the need for constables or sheriffs, and require significantly more logistics for municipal government. We suggest allowing the other proposed and existing posting requirements to suffice to avoid unnecessary financial and logistical costs, all while protecting the safety of municipal employees. Further, we suggest changes to ensure a homeowner can not purposely avoid receiving notice in order to prevent the action from moving forward. We suggest that the Governor make amendments to this language to streamline this process at the local level.

Effective Date

Municipalities will need time to set up the important changes in the process set forth in the bill. We are requesting a reasonable period for municipalities to understand and implement these significant changes. We respectfully ask the Governor to amend Section 250 to change the effective date of November 1, 2024 to January 1, 2025.

We greatly appreciate your attention to these important priorities and concerns of municipal government. Thank you for your consideration and your support of the cities and towns of the Commonwealth.



Agenda Item
Public Works
08/05/24

Performance Evaluation

Subject:



Agenda Item
Merrimac Select Board
08/05/24

Letter of Interest in Light Commissioner Vacancy

Subject:

Attachments:

Ed Davis Interest in Light Commissioner Vacancy

JUL 23 2024

7/23/24

9.3.a

TOWN OF MERRIMAC

Select Board
2 School St.
Merrimac MA 01860

Dear Board members

I understand that Light Board Commissioner,
Larry Fisher has resigned his position due
to his work load as Fire department chief..

I am interested in filling this position until
the position is placed on the ballot next
spring of 2025.

Having work for National Guard for 31 years
I believe I can bring some insight to the
commission.

Please consider me for this opening.

Thank you

Ed Davis

55 Highland Street



Agenda Item
Merrimac Select Board
08/05/24

Letter of Interest in Historical Commission

Subject:

Attachments:

Andrew Connor Letter of Interest in Historical Commission

July 29, 2024

Honorable Board of Selectmen

I am writing to request an appointment to the Merrimac Historical Commission, a role for which I am well-qualified. My name is Andrew Connor, and I have been a resident of Merrimac for 13 years. I have a wealth of experience, having served on the finance committee, Board of Selectmen, and other committees that required my services as Selectmen.

I am two terms away from graduating from Southern New Hampshire University with a bachelor's degree in Anthropology with a minor in History. I am currently a member of the Massachusetts Archaeological Society, The New Hampshire Archaeological Society, and The American Anthropological Association.

Upon completing my degree, I plan to focus on historical Anthropology. This field, for those unfamiliar, examines societies and cultures over time, delving into economic, political, religious, and social changes. I intend to apply this knowledge to the rich history of Merrimac.

It would be my honor to serve Merrimac's citizens as a member of the Historical Commission.

Kindest Regards,

Andrew Connor

Attachment: Andrew Connor Letter of Interest in Historical Commission (Letter of Interest in Historical Commission)



Agenda Item
Merrimac Select Board
08/05/24

Letter of Interest in Conservation Commission Alternate Member Vacancy

Subject:

Attachments:

Marc Leger Letter of Interest in Conservation Commission Alternate Member Vacancy_Redacted

Re_ Letter of Interest in Conservation Commission Alternate Member Vacancy_Redacted

July 25, 2024

Mark Leger,
3 Alnette Rd.
Merrimac, MA 01860

To: Merrimac Select board

Re: Conservation commission vacant alternate member

I would be honored to become the 1st alternate member of the Conservation Commission. I am an active member of the Lake Attitash Association, and co-chair of the watershed committee. I work with UNH Durham on Phosphorus testing, and have access to EPA assets for questions and guidance on the specific issues of Lake Attitash. I have some knowledge of the con com process, presenting in-front of the commission for a renewal of the associations NOI, and for our own home, when it was constructed.

I appreciate your consideration.

Best Regards,



Mark J. Leger

From: [Jerome Mathieu](#)
To: [Jennifer Penney - Select Board \(X3080\)](#)
Cc: [Greg Hochmuth](#)
Subject: Re: Letter of Interest in Conservation Commission Alternate Member Vacancy_Redacted.pdf
Date: Saturday, August 3, 2024 11:22:07 AM

Thank you Jennifer,
I would like to request the select board appoint Mr. Leger as first alternate to the
Consevation Commission. I can plan on attending the meeting on August 19th to present.
Regards,
Jerome Mathieu

On Tue, Jul 30, 2024 at 1:44 PM Jennifer Penney - Select Board (X3080)
<selectmen@townofmerrimac.com> wrote:

| FYI



Agenda Item
Merrimac Select Board
08/05/24

Full-Time Police Officer Appointment Amend Effective Date

Subject:

Attachments:

Full-time Police Officer Appointment Amend Effective Date

From: [Eric M. Shears](#)
To: [Jennifer Penney - Select Board \(X3080\)](#)
Subject: RE: Full-time Police Officer Appointment
Date: Tuesday, July 30, 2024 11:40:59 AM
Attachments: [image005.png](#)
[image002.png](#)

Good morning,

I am requesting the Select Board amend Officer Paul DeCoste's appointment date to **Monday, August 5, 2024**. This appointment was made at the July 22, 2024 meeting.

I made a mistake in the last email to the Board as **my intention was to make the appointment effective August 5, 2024** – not August 8, 2024 as stated in my last email to the Board.

Thank you for your consideration of my request and I apologize for the mistake.

Respectfully submitted,

Eric M. Shears
 Chief of Police
 Merrimac Police Department
 2 Jana Way
 Merrimac, MA 01860
 (978) 346-8321 – P
 (978) 346-0592 – F
eshears@merrimacpolice.org

“Be Nice, Stay Positive, Work as a Team, & Do your Job!”



From: Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com>
Sent: Tuesday, July 23, 2024 12:32 PM
To: Eric M. Shears <eshears@merrimacpolice.org>
Subject: RE: Full-time Police Officer Appointment

Good afternoon,

At their meeting on 7/22/24 the select board appointed Paul DeCoste to full time police officer effective August 8, 2024.

Best,

Jennifer Penney

Executive Assistant
Notary Public
Office of the Select Board
Town of Merrimac
4 School St.
Merrimac, MA 01860
P: 978-346-8862
Hours: Monday 8am-7pm; Tuesday-Thursday 8am-4pm

Meeting Agenda Deadline-Tuesday(prior to the meeting) by 12PM

<https://townofmerrimac.com/select-board/>

Notice:

This email is subject to [MGL: Chpt.66, Sec.10 Public Records Law](#).

From: Eric M. Shears <eshears@merrimacpolice.org>
Sent: Friday, July 19, 2024 1:39 PM
To: Jennifer Penney - Select Board (X3080) <selectmen@townofmerrimac.com>
Cc: Chris Manni - Chairman <selectman2@townofmerrimac.com>
Subject: RE: Full-time Police Officer Appointment

Good afternoon,

All conditions have been met at this point. Mr. DeCoste is ready to be appointed as a full-time police officer at the July 22, 2024 meeting. The **appointment to be effective August 8, 2024**.

1. Background Invest **Completed 07/19/2024**
2. Medical Exam / Drug Screen – **Completed 07/18/2024**. No issues to be concerned with.

Thank you for your consideration of my request.

Respectfully submitted,

E

Eric M. Shears
Chief of Police
Merrimac Police Department
2 Jana Way
Merrimac, MA 01860

Attachment: Full-time Police Officer Appointment Amend Effective Date (Full-Time Police Officer Appointment Amend Effective Date)

(978) 346-8321 – P
 (978) 346-0592 – F
eshears@merrimacpolice.org

“Be Nice, Stay Positive, Work as a Team, & Do your Job!”



From: Eric M. Shears
Sent: Wednesday, July 17, 2024 10:56 AM
To: (02) BOS-PENNEY, Jen <selectmen@townofmerrimac.com>
Cc: Chris Manni - Select Board <selectman2@townofmerrimac.com>
Subject: Full-time Police Officer Appointment

Good morning,

As you are aware, the town approved a new full-time police position at the last Town Meeting. I posted this position online and received (7) applicants in the first two weeks. I reviewed these applications based upon an evaluation of their education, training and experience. I opted to interview (5) candidates for this position. Oral Board Interviews were conducted on June 12, 2024. The Board included Sgt. Holcroft, Sgt. Ringuette, Detective Beaulieu and I.

In the end, Mr. Paul DeCoste was ranked the highest by the Board. I have included a copy of his cover letter and resume for your review.

I met with Mr. DeCoste on July 1, 2024 to discuss the position further and make sure he was all in as he would be leaving his current department to come work for our department. After that meeting, I was even more impressed with this candidate.

I made a Conditional Offer to Mr. DeCoste on July 8, 2024 and advised the Board of my decision at that evenings' Select Board Meeting. A copy of that offer is attached. Mr. DeCoste signed the offer and has accepted the position.

The Conditional Offer had the following conditions:

1. Satisfactory Background Investigation – *In progress – There are no flags – Expect completion on or before 07/19/24.*
2. Medical Exam / Drug Screen – *In progress – Scheduled for 07/18/24; I expect the results on or before 07/19/2024.*
3. Psychological Exam – Satisfactorily **Completed** 07/10/2024.

4. Completion of MPTC Recruit Academy – **Completed** – NECC Academy 2020.
5. POST-C Certified – **Completed**.

I expect all of these conditions to be met **on or before 07/19/2024**; I will send an updated as they are met.

Once the above listed conditions are met, **I am requesting the Select Board appoint Mr. Paul DeCoste as a full-time police officer at the 07/22/24 meeting. Further, I am asking that the appointment be dated August 5, 2024** to allow Mr. DeCoste to give notice to his current employer.

Unfortunately I will be unable to attend the meeting in person. However, I will be available phone if needed.

Respectfully submitted,

Eric M. Shears
Chief of Police
Merrimac Police Department
2 Jana Way
Merrimac, MA 01860
(978) 346-8321 – P
(978) 346-0592 – F
eshears@merrimacpolice.org

“Be Nice, Stay Positive, Work as a Team, & Do your Job!”





Agenda Item
Merrimac Select Board
08/05/24

\$1,000.00 Donation from Mobility & More LLC

Subject:

Attachments:

\$1,000.00 donation from Mobility & More LLC

From: [Chris Gaudet - Commission on Disability](#)
To: [Jennifer Penney - Select Board \(X3080\)](#)
Cc: [Anne Jim - Accounting \(X3005\)](#)
Subject: \$1,000.00 donation from Mobility & More LLC
Date: Friday, July 26, 2024 11:50:40 AM

Hi Jen

The Commission on Disabilities is asking the Select Board to accept the donation from Mobility & More LLC located in Newburyport for \$1,000.00 to the Commission on Disabilities.

Thank you

Chris Gaudet
Commission on Disabilities Chairman
Town of Merrimac
4 School Street
Merrimac, MA 01860

Attachment: \$1,000.00 donation from Mobility & More LLC (\$1,000.00 Donation from Mobility & More LLC)



Agenda Item
Merrimac Select Board
08/05/24

Sign Appointment Slip for Jessica Finocchiaro, Asst. Accountant

Subject:

Appointment slip was not issued when Jessica was appointed on 4/24/23. The town accountant has asked that one is issued.

Attachments:

The Commonwealth of Massachusetts Asst. Acct. 042423

The Commonwealth of Massachusetts
Town of Merrimac

To Jessica Finocchiaro

We, the Select Board of Merrimac, Massachusetts, by virtue of the authority in us vested by the laws
Of the Commonwealth, do hereby appoint you effective April 24, 2023 to
Assistant Accountant

Given at Merrimac

This 5th day of August, 2024

----- Select Board

----- of

----- Merrimac

Recorded _____ A.D. _____

Attest _____ Town Clerk



Agenda Item
Merrimac Select Board
08/05/24

Kearney Estimate for Town Hall AC Repair

Subject:

Request to pay out of town buildings line.

Attachments:

Kearney Estimate 073124



You have a new estimate from Kearney HVAC Inc

 **Prepared for:** Merrimac Town Hall Merrimac Town Hall

 **Address:** 2 School St., Merrimac, MA 01846

 **Expires on:** Fri Aug 23, 2024

Option #1

\$4,880.00

APPROVE

DECLINE

Estimate Details

Service	Unit Price	Qty	Total
Lineset Replacement	\$4,880.00	1	\$4,880.00
Recover refrigerant Remvove and dispose of deteriorated lineset Install new lineset with UV coating Connect to systems Pressure test			
SHOW MORE			
Service subtotal			\$4,880.00
Subtotal			\$4,880.00

Attachment: Kearney Estimate 073124 (Kearney Estimate for Town Hall AC Repair)

Total**\$4,880.00****See your financing options**

Prequalify to find out how much you can borrow within minutes and pay as low as \$222.72/mo*. Your credit score will not be affected.

PREQUALIFY

Estimate date: Jul 23, 2024

Contact us

Kearney HVAC Inc

 (978) 388-0845 manager@kearneyhvac.comSee our [Terms & Conditions](#)

*All financing is subject to credit approval. Terms may vary. Payment options through Wisetack are provided by our lending partners. For example, a \$1,000 purchase could cost \$45.18 a month for 24 months, based on a 7.9% APR, or \$333.33 a month for 3 months, based on a 0% APR. See additional terms at <https://www.wisetack.com/faqs>.

Communication preferences

These are your current preferences



Opt-in to email marketing messages

Attachment: Kearney Estimate 073124 (Kearney Estimate for Town Hall AC Repair)



Agenda Item
Town Clerk
08/05/24

Early Voting Schedule 9/3/2024 Election

Subject:

Discussion re: Early Voting Hours for the 9/3/2024 Election



Agenda Item
Town Clerk
08/05/24

9/3/2024 Election Warrant

Subject:

Election Warrant to be signed the by Select Board.



Agenda Item
Merrimac Select Board
08/05/24

Chapter 90 Reimbursements

Subject:

Attachments:

Ch 90 Reimbursement Battis Rd.

Ch 90 Reimbursement Town Forest

State Aid Reimbursable Programs Reimbursement Request

City/Town: Merrimac Project Name: Battis Road

Contract # 0050883

Program Type: Chapter 90 ☒ Complete Streets ☐ Shared Streets ☐ Small Bridge ☐ Other ☐

Project request was approved on 05/30/2024 For \$ 87,957.97

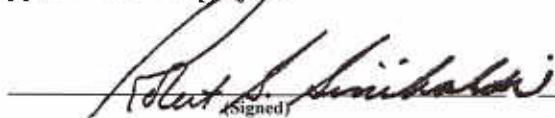
at 100% Reimbursement Rate = \$ 87,957.97

- 1) Attached are forms which document payment of approved expenditures totaling \$ 87,957.97 for which we are requesting \$ 87,957.97 at the approved reimbursement rate of 100%.
- 2) The amount expended to date on this project is \$ 87,957.97 Including this payment.
- 3) Is this request for a FINAL payment on this project? ☒ Yes ☐ No
If yes: Include a "Final Report"
- 4) Remarks:

100% of work completed as of today

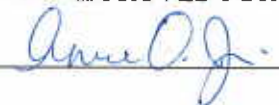
CERTIFICATION

- A. I hereby certify under penalties of perjury that the charges for labor, materials, equipment, and services itemized and summarized on the attached forms are true and correct, and were incurred on this project in conformance with the MassDOT Highway Division Policies and established Municipal Standards that were approved for this project.

 DPW Director 08/05/24
(Municipal Highway Official Title) (Date)

- B. I/we certify under penalties of perjury that the items as listed or summarized on the attached forms were examined; that they are in conformity with our existing wage schedule, equipment rates, and all applicable statutes and regulations; that they are properly chargeable to the appropriation(s) designated for this work; and that Executive Order No. 195, dated April 27, 1981 and Chapter 11, Section 12 is acknowledged as applicable.

REVIEWED AND APPROVED FOR TRANSMITTAL

by  Signed: _____

TOWN ACCOUNTANT
(Accounting Officer's Title)

DATE 08/05/2024

(Duly Authorized)

Submit this form to the District State Aid Engineer and Highway Director.

FINAL REPORT STATE AID REIMBURSABLE PROGRAMS

FUNDING PROGRAM: Chapter 90 ☒ Municipal Small Bridge ☐ Complete Streets ☐ Other ☐

Contract #: 0050883

City/Town: Merrimac Project Name: Battis Road

Location(s): Battis Road

Length: 2300 Feet Width: 24 Feet

Work was Started: 07 / 01 / 24 and Completed: 07 / 11 / 24

Work was Suspended: / / and Resumed: / /

Done by: Force Account ☐ Advertised Contract ☒ Other ☐

City/Town submitted Contractor Evaluation to MassDOT Prequalification Unit, if applicable (Chapter 90 only): Yes ☒ No ☐

* REMARKS:

100 % work complete.

EXPENDITURES:	State Funds @ 100%	\$87,957.97
	Municipal Funds	\$
	Other Funds- APPA	\$
	TOTAL PROJECT EXPENDITURES	\$87,957.97

SCOPE OF WORK:

1.5 " wear surface, cold in place existing asphalt

CERTIFICATION

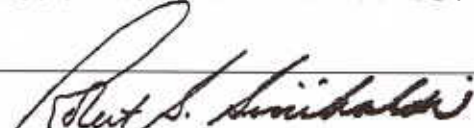
The undersigned hereby certify under penalties of perjury that documentation to substantiate the above expenditures is available for examination in accordance with Executive Order No. 195 (April 27, 1981) and Chapter 11, Section 12.

We further certify that all equipment rental costs are within the approved limits established by the MassDOT Highway Division, that the Municipality has complied with all applicable statutes and regulations, that the requests for reimbursements for allowable project expenses actually incurred are in conformance with the "Chapter 90" Project Request, and that the Municipality will be responsible for the future maintenance of this project including the cost thereof.

Copies of the notification published in the Central Register and notice in a newspaper of local circulation required by Chapter 149, Section 44J, and the prevailing wages as determined by the Department of Labor and Industries obtained in compliance with Chapter 149, Section 27F, of the General Laws, as applicable, must be attached.

PREPARED & REVIEWED BY:

SIGNED:

	
DPW Director	08/05/24
Highway Officer's Title	Date
	
Accounting Officer's Title	08/05/2024
	Date

Duly Authorized Municipal Officials	Date

- Include additional contract numbers if other Chapter 90 Funds were also used. List street names, total amounts charged to each location, extra work orders, etc. Use back if necessary, or attach supporting papers.
- If project uses multiple funding sources, please submit for individual project reimbursements.
- List sources, names, amounts and date contract expires.

Submit this Form to District Highway Director



STATE AID REIMBURSABLE PROGRAMS - MATERIALS - HED 454 FORM

Updated 12/2017

City/Town of: Merrimac

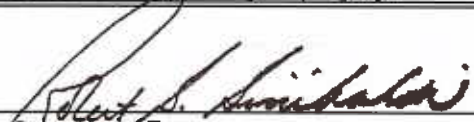
PROJECT NAME: Battis Road

PROGRAM TYPE: Chapter 90 ☒ Muni Bridge ☐ Complete Streets ☐ Other

MATERIALS for period beginning 7/1/2024 and ending 7/11/2024
both inclusive, on account of Contract 50883 with MassDOT Highway Division,

VENDOR NAME	ITEM #	QTY.	UNIT	UNIT PRICE	AMOUNTS	CHECK #	REMARKS
				\$	\$		
EJ Paving	Binder	548.11	ton	\$ 81.4000	\$ 44,616.15	104609	
EJ Paving	Tack	396	gal	\$ 8.0000	\$ 3,168.00	104609	
EJ Paving	Top	320	ton	\$ 81.4000	\$ 26,048.00	104609	
All States Construction	Rec	4094.44	sy	\$ 3.4500	\$ 14,125.82	104567	
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
TOTAL					\$ 87,957.97		

"To the best of my knowledge the purchases of materials or services appearing on this sheet are not in conflict with Chapter 779 of the Acts of 1962.
Signed under the penalty of perjury."


Supervisor / Foreman

08/05/24
Date


Town Accounting Approval

08/05/2024
Date

State Aid Reimbursable Programs Reimbursement Request

City/Town: Merrimac Project Name: Battis Road

Contract # 0050883

Program Type: Chapter 90 ☒ Complete Streets ☐ Shared Streets ☐ Small Bridge ☐ Other ☐

Project request was approved on 05/30/2024 For \$ 21,678.63

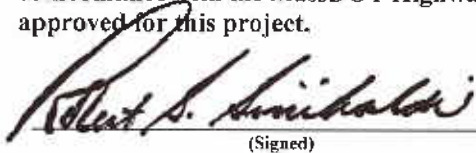
at 100% Reimbursement Rate = \$ 21,678.63

- 1) Attached are forms which document payment of approved expenditures totaling \$ 21,678.63 for which we are requesting \$ 21,678.63 at the approved reimbursement rate of 100%.
- 2) The amount expended to date on this project is \$ 21,678.63 Including this payment.
- 3) Is this request for a FINAL payment on this project? ☒ Yes ☐ No
If yes: Include a "Final Report"
- 4) Remarks:

100% of work completed as of today

CERTIFICATION

- A. I hereby certify under penalties of perjury that the charges for labor, materials, equipment, and services itemized and summarized on the attached forms are true and correct, and were incurred on this project in conformance with the MassDOT Highway Division Policies and established Municipal Standards that were approved for this project.


(Signed)

DPW Director
(Municipal Highway Official Title)

8/5/24
(Date)

- B. I/we certify under penalties of perjury that the items as listed or summarized on the attached forms were examined; that they are in conformity with our existing wage schedule, equipment rates, and all applicable statutes and regulations; that they are properly chargeable to the appropriation(s) designated for this work; and that Executive Order No. 195, dated April 27, 1981 and Chapter 11, Section 12 is acknowledged as applicable.

REVIEWED AND APPROVED FOR TRANSMITTAL

by  Signed: _____

TOWN ACCOUNTANT
(Accounting Officer's Title)

DATE _____

(Duly Authorized)

Submit this form to the District State Aid Engineer and Highway Director.

FINAL REPORT STATE AID REIMBURSABLE PROGRAMS

FUNDING PROGRAM: Chapter 90 ☒ Municipal Small Bridge ☐ Complete Streets ☐ Other ☐

Contract #: 0050883

City/Town: Merrimac Project Name: Town Forest Road

Location(s): Town Forest Road

Length: 740 Feet Width: 24 Feet

Work was Started: 07 / 01 / 24 and Completed: 07 / 11 / 24

Work was Suspended: / / and Resumed: / /

Done by: Force Account ☐ Advertised Contract ☒ Other ☐

City/Town submitted Contractor Evaluation to MassDOT Prequalification Unit, if applicable (Chapter 90 only): Yes ☒ No ☐

*** REMARKS:**

100 % work complete.

EXPENDITURES:	State Funds @ 100%	\$21,678.63
	Municipal Funds	\$
	Other Funds- APPA	\$
	TOTAL PROJECT EXPENDITURES	\$21,678.63

SCOPE OF WORK:

1.5 " wear surface, cold in place existing asphalt

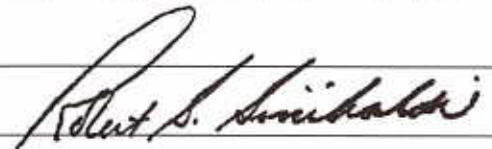
CERTIFICATION

The undersigned hereby certify under penalties of perjury that documentation to substantiate the above expenditures is available for examination in accordance with Executive Order No. 195 (April 27, 1981) and Chapter 11, Section 12.

We further certify that all equipment rental costs are within the approved limits established by the MassDOT Highway Division, that the Municipality has complied with all applicable statutes and regulations, that the requests for reimbursements for allowable project expenses actually incurred are in conformance with the "Chapter 90" Project Request, and that the Municipality will be responsible for the future maintenance of this project including the cost thereof.

Copies of the notification published in the Central Register and notice in a newspaper of local circulation required by Chapter 149, Section 44J, and the prevailing wages as determined by the Department of Labor and Industries obtained in compliance with Chapter 149, Section 27F, of the General Laws, as applicable, must be attached.

PREPARED & REVIEWED BY:

	
DPW Director	8/05/24
Highway Officer's Title	Date
	
Accounting Officer's Title	08/05/2024
	Date

SIGNED:

Duly Authorized Municipal Officials	Date

- Include additional contract numbers if other Chapter 90 Funds were also used. List street names, total amounts charged to each location, extra work orders, etc. Use back if necessary, or attach supporting papers.
- If project uses multiple funding sources, please submit for individual project reimbursements.
- List sources, names, amounts and date contract expires.

Submit this Form to District Highway Director



STATE AID REIMBURSABLE PROGRAMS - MATERIALS - HED 454 FORM

Updated 12/2017

City/Town of: Merrimac

PROJECT NAME: Town Forest Road

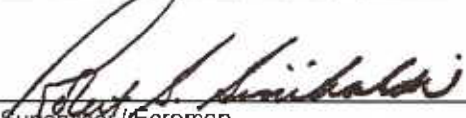
PROGRAM TYPE: Chapter 90 ☒ Muni Bridge ☐ Complete Streets ☐ Other

MATERIALS for period beginning 7/1/2024 and ending 7/11/2024
both inclusive, on account of Contract 50883 with MassDOT Highway Division,

VENDOR NAME	ITEM #	QTY.	UNIT	UNIT PRICE	AMOUNTS	CHECK #	REMARKS
				\$	\$		
EJ Paving	Binder	125	ton	\$ 81.4000	\$ 10,175.00	104609	
EJ Paving	Tack	45	gal	\$ 8.0000	\$ 360.00	104609	
EJ Paving	Top	87.38	ton	\$ 81.4000	\$ 7,112.73	104609	
All States Construction	Rec	922	sy	\$ 3.4500	\$ 3,180.90	104567	
All States Construction	Drop Plate	1	ea	\$ 850.0000	\$ 850.00	104567	
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
					\$ -		
TOTAL					\$ 21,678.63		

"To the best of my knowledge the purchases of materials or services appearing on this sheet are not in conflict with Chapter 779 of the Acts of 1962.

Signed under the penalty of perjury."

 08/05/24
Supervisor/Foreman Date

 08/05/2024
Town Accounting Approval Date



Agenda Item
Merrimac Select Board
08/05/24

Performance Evaluation - Sergeant Ringuette

Subject:

Attachments:

Performance Evaluation - Sergeant Ringuette

From: [Eric M. Shears](#)
To: [Jennifer Penney - Select Board \(X3080\)](#)
Cc: [Chris Manni - Chairman](#)
Subject: Sergeant Ringuette Performance Evaluation
Date: Friday, August 2, 2024 11:03:31 AM
Attachments: [Ringuette - Employee Evaluation - 08.08.2024.pdf](#)

Good afternoon,

I have attached (1) Performance Evaluation to this email for Sergeant S.A. Ringuette. Our Evaluation Form differs from the Town's Form in both content and rating. Can you please add this review to the Select Board Agenda for August 5, 2024.

1. **Sergeant Ringuette** was evaluated by me on 08/2/2024. We also met and discussed the review on that date. The employees overall rated performance of Sergeant Ringuette is listed as Exceeds Standards (Performance is consistently above adequate skills levels. Achieves performance goals and objectives often beyond expectations). There are several Exceptional ratings and a few Needs Improvement.

Therefore, I would recommend to the Select Board that the employee receives a performance salary increase, up to 1% of employee's pay to be added to employee's hourly rate.

Sergeant Ringuette's full-time anniversary date is 7-1-2011. His performance increase should be effective as of July 1, 2024, once it is approved by the Select Board.

Respectfully submitted,

E

Eric M. Shears
 Chief of Police
 Merrimac Police Department
 2 Jana Way
 Merrimac, MA 01860
 (978) 346-8321 – P
 (978) 346-0592 – F
eshears@merrimacpolice.org

“Be Nice, Stay Positive, Work as a Team, & Do your Job!”





Agenda Item
Merrimac Select Board
08/05/24

Executive Session (M.G.L. C.30A, Sec. 21(A) 3. to Discuss Strategy with Respect to Collective Bargaining or Litigation If an Open Meeting May Have a Detrimental Effect on the Bargaining or Litigating Position of the Public Body and the Chair So Declares.

Subject: