

**MINUTES OF THE SELECTMEN'S MEETING
JANUARY 30, 2017**

PRESENT: Lewis W. Stone (Chairman), Willard J. Boulter, Jr. (Vice-Chairman), Arthur P. Boyle, Jr. (Clerk), Daniel Trabucco (Selectman), Matthew J. Furlong (Selectman), Edwin J. Thorne (Town Administrator), Charles Mathewson (WATD), Sabrina Chilcott (Executive Assistant), and others.

At 6:30 pm, Mr. Stone opened the meeting and advised that this meeting is being made available to the public through a live video and audio broadcast on Comcast Government Access Channel 15 and is also being recorded for airing on the channel at future dates. Comments made in open session will be recorded.

VOTE TO REDUCE MEMBERSHIP OF THE TOWN GOVERNMENT STUDY COMMITTEE

Mr. Trabucco stated that the seven member committee has three vacancies; they frequently have three members at a meeting and cannot achieve quorum. The TGSC has requested that the Board vote to reduce the membership to five members. Mr. Trabucco moved that the Board of Selectmen reduce the number of members on the Town Government Study Committee to five; Mr. Boyle seconded the motion. The vote was unanimously in favor.

REQUEST FROM CURRICULUM COORDINATOR FOR WORLD LANGUAGES, PHS: VOTE TO ESTABLISH SISTER CITY/SISTER SCHOOL BETWEEN PEMBROKE AND ALARCON, SPAIN

Pembroke High School Curriculum Coordinator for World Languages, Christine Noguer, is taking a group of students in February on their annual trip to Alarcon, Spain, where the Mayor of the city will be hosting a reception for the group to celebrate the link that they have forged between the two cities/schools. Annually, students from Alarcon come to Pembroke in September as well. Discussion ensued on the activities shared that bolster the programs of both PHS and IES Galileo Galilei. Mr. Boulter moved to declare Alarcon, Spain a sister city to Pembroke; Mr. Boyle seconded the motion. The vote was unanimously in favor.

CONSIDER REQUEST FOR THE USE OF THE TOWN'S ROADS: CAMP PEMBROKE ALUMNI ROAD RACE IN CENTER ON MAY 21, 2017

Ms. Felcher of Camp Pembroke has submitted a request for the use of the Town Green, Center Street, High Street, and Mountain Avenue for a Camp Pembroke 5K Alumni Road Race on Sunday, May 21st at 8:00 am. She has preliminary approval from the Police Chief with the understanding that Camp Pembroke will retain a police detail at their own expense. Mr. Boulter moved to grant the use of the town's roads for the Camp Pembroke 5K Alumni Road Race on May 21, 2017 at 8:00 am pending the approval of the Police Chief; Mr. Boyle seconded the motion. The vote was unanimously in favor.

TOWN ADMINISTRATOR'S REPORT

Mr. Thorne has spoken with the Town Manager in Duxbury regarding a truck exclusion for Valley and Birch Streets; Chairman Stone has drafted and sent a letter to Duxbury requesting an agenda appointment with them to discuss as soon as possible. Mr. Thorne stated that the Planning Board's two public hearings on February 6th regarding two separate proposed Zoning By-Law amendments for the ATM warrant that pertain to the Center Protection District have had to be postponed as there was an issue with the legal notice. Last week the Board voted to send out a notification to the affected residents as an additional courtesy as the district is primarily residential, and the required legal notice placed in the newspaper may be overlooked by some. Mr. Thorne stated that his office will send out an amended notification this week. Finally, Mr. Thorne stated that he is holding a Department Head meeting on Friday to preliminarily review the FY18 budget and he will present an update to the Board at the next meeting.

Mr. Stone read the upcoming issues from the agenda. At 6:40 pm, Mr. Boyle moved to recess the Selectmen's meeting to 7:00 pm; Mr. Trabucco seconded the motion. The vote was unanimously in favor.

At 7:00 pm, Mr. Stone declared the Selectmen's meeting in session.

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7:00 PUBLIC HEARING: APPLICATION FOR SITE ELIGIBILITY MGL C.40B BRIAN MURPHY, RIVER MARSH LLC, 274 WATER STREET (E15-17-A, E15-17)

Mr. Stone announced that this public hearing is regarding River Marsh, LLC's application for Project Eligibility/Site Approval to MassHousing under the state's comprehensive permit statute (MGL c.40B, Sections 20-23 enacted as Chapter 774 of the Acts of 1969) known as "Chapter 40B". Brian Murphy, River Marsh, LLC, has submitted a proposal to build a development consisting of 14 buildings containing 68 townhouse condominiums located on a 49.94 acre parcel of land located at 274 Water Street. A copy of the petition and plan have been available in the Selectmen's office and are here this evening. As the Town has thirty days to respond, Department Heads have been notified and their input has been requested immediately. A site walk for them was performed on Wednesday, January 25, 2017. The letter from MassHousing was received on January 12, 2017, their file "MH#916". Pursuant to the new MGL c.40B regulations (760 CMR 56.00), the town may comment within thirty days regarding municipal actions previously taken to meet affordable housing needs such as inclusionary zoning, multifamily districts adopted under GL c.40A and overlay districts adopted under GL c.40R to be considered as part of MassHousing's review. MassHousing is soliciting comments from Pembroke's local community, issues or concerns raised by other town boards, officials or other interested parties which will be compiled into a report and be submitted on February 9, 2017 to be reviewed by them as they consider public comment, perform an evaluation of the site, design concept, financial feasibility of the proposal and the appropriateness of the proposal in relation to local housing needs and strategies. At 7:03 pm, Mr. Stone declared the public hearing to be open; the format will include a presentation by the developer, questions and comment from the Board of Selectmen, and then public comment which will be accepted at the lectern if preceded by the residents name and address. Mr. Brian Murphy was present before the Board on his application to MassHousing for Site Eligibility at 274 Water Street with Warren Baker acting as consultant and attorney. Mr. Murphy explained that he has submitted the application to the state and comments from the town and residents will be submitted to the state by the town and the state will issue the or deny the Site Eligibility request. Mr. Murphy stated that the parcel is located at 274 Water Street and referred to Map #1 which displays existing conditions. He stated that the house at #274 was purchased by the applicant and, combined with the existing easement, will provide two access points. Mr. Murphy stated that the wetlands flagging was performed ten years ago, and it is the upland area that will be developed. Should the site eligibility be approved, a wetland scientist will go in and re-flag the wetland areas, at which point the town comes out and the two parties come to an agreement on the wetlands line. Mr. Murphy stated that, traditionally, the lines do not move much over time. Mr. Murphy has filed an application to build 68 townhouse condominium units of which 25% will be affordable homes. Mr. Murphy stated that the units he built in Norwell are slightly larger but they average \$180,000. Mr. Murphy referred to Map #2 access points and wastewater treatment plant, which would be licensed by the state and monitored by a contractor daily. Mr. Murphy stated that the proposal includes a walking trail to upland area with a boardwalk, and a retaining area for stormwater runoff which is very preliminarily identified at this early stage. Additionally, there is a crossing area that will undergo permitting from the Conservation Commission and MassDEP.

At 7:10 pm, Mr. Murphy invited questions from the Board. Mr. Trabucco asked Mr. Murphy's why he felt that this 40B project density was a fit in this location; Mr. Murphy stated that the project is not dense by state average. The parcels identified are close to 50 acres of area using only a fraction of the land, leaving a lot of open space. Mr. Murphy further stated that 40B projects, once complete, are a benefit to the town and the area is fitting for the project. Mr. Trabucco explained that 40B projects may be brought forth when a town is beneath the 10% affordable housing stock value versus total housing value, and Pembroke is currently at

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9.65%. Mr. Thorne stated that the last assessment is from November of 2016 was 9.65%; if the 9 new affordable Copperwood units under construction are included, the town is at 9.79% and if this River Marsh project with its 17 affordable units is approved, the town would be 3 units over 10%. Mr. Thorne further stated that the Pembroke Woods project was completed prior to the 2010 census numbers were calculated, but all of those units were counted toward the affordable stock as they are rental properties. Mr. Trabucco asked if there was an additional formula that the state would consider constituting a land mass rule. Chief Assessor Cathy Salmon addressed the Board to explain that there are two different measures by which a town can meet the 40B affordable housing requirements; either by having a 10% designation of affordable housing stock or by proving that 1.5% of the town's land area is covered with affordable housing units. Ms. Salmon cautioned that there are many exceptions to the eligible land areas allowable under this calculation. Ms. Salmon stated that the town is required to submit to the applicant and to the state a comprehensive report of land area within 15 days of the applicant filing for their first comprehensive permit through the Zoning Board of Appeals. The state then makes the final determination after a thorough review. Mr. Boyle asked if the land mass includes water and conservation land. Ms. Salmon stated that the calculations are complex, but essentially the formula begins with the total number of acres in town; then areas are removed that contain bodies of water, or land with conservation restrictions, or land that is owned by local or federal governments or owned by other towns as allowable deductions. A reduced value is then calculated. On that reduced value, 1.5% of that is calculated in acres. The affordable housing stock as provided by the DHCD is then compared to determine if it covers this 1.5% reduced value of total land area. Ms. Salmon stated the town has a reasonable claim and it is in the town's best interest to submit it to the state. Without meeting one of the two thresholds, the town is limited in its ability to choose 40B projects. Mr. Boulter stated that there is a North River Protection Order in place, and this proposed project passes into the protected space on lots 3, 4 8 and 9 as well as the roadways and turnabout. Mr. Boulter asked what steps Mr. Murphy has taken with the North River Commission. Mr. Murphy stated that he will be going before the NRC and has read the rules and regulations but will need to determine whether he can get a permit in that zone. Mr. Murphy confirmed that there are 7 units and sections of roadway that would be affected but the project is in a very preliminary state and some of these factors will be determined as the project progresses. Mr. Boulter asked for more specific information regarding the wastewater treatment plant; Mr. Murphy stated that it is outside of the NRC protection zone and referred to Map #2, explaining that the town will hire an engineer to check River Marsh's engineer to determine retention/detention areas for stormwater runoff. Mr. Boulter inquired about traffic congestion in the area; route 139 is adjacent to this small street and there is a history of motor vehicle accidents in this area prior to the projects addition. Mr. Murphy stated that he will hire a traffic engineer as part of the process and leave it to them to produce data and develop required mitigation plans, if necessary. Mr. Murphy stated that if the improvements are determined by the traffic engineers to be a direct result of the project, it could be work done by the developer to mitigate. Mr. Boyle stated that this is an incredibly environmentally sensitive area in terms of the river and the wetlands; there's a habitat for wildlife and plant life and the sensitivity of the groundwater and the character and history of the neighborhood. Mr. Boyle stated that if this project is granted, it is a change forever; Pembroke has been good stewards of the Affordable Housing Law and so has stood behind MassHousing in many instances, but he feels this is the wrong project in the wrong place. Mr. Boyle stated that he will be introducing a motion at the end of this hearing that the Board institutes a moratorium on multi-unit buildings to give the town a chance to do an environmental study in the area. Mr. Trabucco wanted to remind the public that the purpose of this meeting is to ask questions of the applicant and hear questions and comments from the residents. The information will be compiled into the town's response to MassHousing as allowed under the statute. Mr. Stone stated that the Selectmen were represented at the site walk attended by the Police Chief, Fire Chief, Conservation Agent, Health Agent and many other department heads and will be submitting their comments for the town's response.

At 7:27 pm, Mr. Stone opened the hearing for public comment and reminded residents that they must approach the lectern and provide their name and address for the record. Mr. James McCollum of High Street stated that he was on the site walk and he didn't get to go all the way down through the property. Mr. Boulter stated that the department heads were able to see the parcel from the adjacent property all the way down to the river. Samantha Woods, Executive Director of the North South River Watershed Association, was present to advise that the NSRWA will be providing their own comments on this application. She stated that the

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town must fully review the Mass Geographic Information Systems for different resources on the property, one of which is the priority habitats for rare and endangered species which is a state program, a law that protects endangered species. The applicant will have to go through this process with the state, as this parcel has endangered species on the property. MassHousing would not automatically know this, so the town's staff should go through these resources to determine what the species and resources are and identify them to the state. The state will take these factors into consideration and it could make a difference in approving the project. Ms. Judy Parks was present as a former ZBA member from 1997-2007 and stated that she was present when the majority of the current affordable housing units were permitted. She stated that the ZBA walked this property back when a subdivision was proposed at the location and asked Mr. Murphy what is the upland acreage. Mr. Murphy stated that 18 acres are upland. Ms. Parks stated that the ZBA was very sensitive to various species and resources and has tried to keep development away from wetlands areas. Ms. Parks summarized by stating that her heart is in affordable housing but she cannot support this project. Mr. Scott Chapman of 226 Water Street stated that his property has a vernal pool that would be impacted by this development and takes issue with Mr. Murphy's characterization of "not very dense". Mr. Chapman stated that this pool is a habitat for waterfowl, amphibians, predatory birds such as red-tailed hawk, owls and coyotes and small prey mammals in abundance. Mr. Chapman asked for specifics about the location of the wastewater treatment plant. Mr. Murphy referred to Map #2 and stated that the project is in its early stages so detail is low; all of the wastewater generated by all of the units would travel to the building that houses the chemicals and the different tanks that actually treat the water until it is released into the leaching field. In his past projects, the building is approximately 20'x20' and the rest is underground. Mr. Chapman asked Mr. Murphy to explain his statement that this project would be a benefit to the area. Mr. Murphy stated that his experience has shown that these condos at 1600 sf to 2100 sf want to stay in town; many are young families, empty nesters and others that spend their tax elsewhere if there are no suitable homes for them. Mr. Murphy stated that all of the roads are private roads, private plowing, and private trash collection and this can translate into \$100,000 in net revenue to the town. Mr. Marty Cournan of 260 Water Street stated that these plans place this development 100 feet from his deck, 50 feet from his pool and 50 feet from his fire pit. He stated that he will be surrounded by two roadways and 60+ condos. The project will encroach and be dense. When he bought his home in 1997, at which time his once acre was assessed at \$62,000 and the 49 acre parcel was assessed at \$117,000; he was assured that these wetlands were undevelopable. Mr. Cournan questioned his assessment versus this parcel; today, his acre is assessed at \$200,000 and the 29 acre parcel is assessed at \$260,000 and questioned the low assessment is due to the fact that the owner established that the parcel is wetlands. Mr. Cournan voiced his concern with public safety issues that will result from two new access points feet away from the Water Street, Route 139 tight turn creating new hairpin turns, and he stated that the Cross Street intersection is in equal need of engineering improvements now as a result of the assisted living facility that is coming on line in the fall. Mr. Cournan stated that the risk of a traffic accident in these two locations is high now, let alone after adding this massive congestion. Mr. Cournan stated that the width of Water Street is 19 feet, not 50 feet and it is dangerous today and will be made more so if this project is approved. Mr. Walter Costello of 30 Old Landing Road stated that he has had extensive experience working with the North River Commission and they are tough. Mr. Costello stated that the current composition of Water Street, Cross Street, Old Landing Road and Packet Landing is 62 homes; this proposed project is 68 units which will increase the population and traffic by 110%. Mr. Costello stated that this project would double the traffic on these small side roads and asked Mr. Murphy if widening Water and Cross Streets is part of the project. Mr. Costello asked Mr. Murphy if the project will use the existing infrastructure for utilities such as water, gas and electricity, and asked what the effects to the current residents would be should the demand double. Mr. Murphy stated that widening the roads is not anticipated to be part of the project, but engineers will study the traffic and resources such as the incoming utility lines and determine whether the project can be supported on the current infrastructure. Mr. Costello stated the application contains a chart showing sales of condominiums since 2013 over \$300,000 and only 8 3 bedroom units were sold; Mr. Costello stated that it would take more than five years to sell these units and questioned the length of the project. Mr. Murphy stated that projections are based on a five year buildout, and the project is anticipated to take 3 to 5 years to complete. Mr. Costello stated that MassHousing strongly recommends that an applicant meet with the Board of Selectmen and other Boards prior to filing an application, and asked Mr. Murphy why he chose not to do so; Mr. Murphy stated it is fairly normal to file the application first and then meet

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with the town's Boards. Mr. Murphy cautioned that just because the application was submitted with the configurations displayed on the map and in the application specifications doesn't mean that there won't be changes to the project. Mr. Murphy stated that the ZBA permit process may alter the project's scope and it may look a bit different. Mr. Murphy stated that he cares about the resident's feedback and this proposal is a starting point. Chairman Stone advised the public that when an application is filed with MassHousing, it triggers these types of hearings where concerns are documented and forwarded to MassHousing; further, the application and vision of the project may change. Mr. Cournan stated that the school bus will not go down Cross Street at this time due to construction on the roadway, and the bus stop is now at the intersection of Water and Cross Streets. Ms. Jane Cournan of 260 Water Street stated that she is personally acquainted with the former owner of 274 Water Street, and was told that the original buyer of the property was an individual; at the closing, the seller claims that the buyer was revealed to be an LLC. Ms. Cournan stated that she feels that this was disingenuous on the new owner's part. Ms. Sharon Spadorcia of 268 Water Street stated that she bought her house in January of 2015 after a long search; her rural property will become a corner lot adjacent to Road A, and she would not have purchased her home had this been the case. Ms. Spadorcia stated that there could be 120 cars travelling on this new roadway in any given day at different times each day. Ms. Spadorcia echoed the sentiments previously stated of a doubling of the area population, the resulting traffic concerns that generates, and the harm to the environmental landscape. Ms. Christine Perkins Kan stated that the maps presented in the application are outdated as they reflect owners from 12 years ago; additionally, the angle of the Route 139 and Water Street intersection is inaccurately depicted. Ms. Kan stated that the road is presented at 45 feet wide when it is 20 feet wide. Ms. Kan stated that this project will destroy the character of the neighborhood and it is not possible to put a 50 foot roadway between the two houses. Ms. Kan submitted to the Selectmen the fact that her son is hearing impaired; her home across the street from proposed Road A will no longer be safe for his activities as there will be increased risk from the traffic density. Ms. Kan pointed out that the memory care facility on Cross Street has yet to come online so the traffic impact from that development is not yet known. Ms. Kan drew the Board's attention to the historic nature of the neighborhood; the house across the street from this proposed project was built in 1666, and the home adjacent to the project was built in 1702; she feels that this project will destroy the character of the neighborhood. A representative from the Packet Landing Trustees, identified as Kathy, stated that a vernal pool is contained within the project area and has been mapped and identified in MassGIS; she feels this information should be contained in the town's response. Kathy feels that the town should partner with surrounding groups as the wildlife and waterway is shared by all up and downstream of the river and will be affected by this project. Kathy inquired as to what other projects Mr. Murphy has constructed. Mr. Murphy cited projects currently under construction, and his completed "Washington Woods" project in Norwell that contains 40 units that are slightly larger than the proposed units here. Mr. Michael McCormack of 310 Water Street stated that he opposes this project as it is irresponsible; environmentally and at increased risk to public safety. Mr. McCormack further stated that he would like the land protected forever and that no future projects be built in this location. Mr. Christopher Graham of 271 Water Street stated that he bought his home in October and echoed that traffic concerns are significant and Water Street would need reconstructed. Ms. Carolyn Crossley of 286 Water Street was present and stated that she is a direct abutter; over the years she has witnessed fill being moved around and the elevation of the land is now 18-24 inches higher than her property; should water be retained in the project, it will flood her property and will adversely affect groundwater. Mr. Paul Kernan of 25 Old Landing Road asked how this project can be properly permitted when building requirements for residents would not allow for this project; Chairman Stone explained that the 40B statute allows for different permitting standards than are allowed to residential/commercial builders. Mr. Thorne advised that, should MassHousing approve the project, Mr. Murphy will apply for the required permitting through the ZBA. Mr. Dan Mahoney of Packet Landing stated that he has built two homes in Pembroke and one required variance and the other one did not; he was required to prove notification to abutters and he asked if the Conservation Agent was present this evening. Mr. George Howe of 285 Water Street stated that he is a 9 ½ year resident, having purchased his home in 2007 as a quiet, charming and rustic setting. Mr. Howe stated that the town lost an iconic horse farm to the memory care facility that could generate 140 cars from the 60 homes beginning in the fall of 2017. Mr. Howe stated that entering Water Street or Cross Street from the west or from the east is a hazard at best; the roads are narrow, have potholes and no streetlights. He feels this project will put forth further public safety issues. Mr. Howe respectfully

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requested that the Board of Selectmen deny a building permit. Mr. James Stallings rose to voice objection to the project. Mr. Charles McCarthy of Center Street asked where the water will go, once treated by the water treatment plant. Mr. Murphy explained that this is a soil absorption system that is similar to a septic system whereby the filtered material goes into the ground. Ms. Carol DeFrance Chapman of 226 Water Street was present to voice the concern that any impact on the wetlands in the project area will affect her property down land. Mr. Michael Wagner of 13 Old Landing Road rose to voice objection to the project. Mr. Cournan asked the Selectmen for further clarification of his earlier point regarding the assessment of the applicant's parcel and asked if it is assessed as buildable. Ms. Salmon stated that the proposed project lot is not assessed as buildable; it is assessed as unbuildable and wetland. Ms. Salmon stated that the Assessors do not determine whether a lot is buildable or not; the MassDEP wetland maps define wetland areas. Ms. Salmon stated that the lot in question has 40 feet of frontage; under the current by-laws, one would need 150 feet for a buildable lot. Ms. Salmon confirmed that all property owners have the right to appeal a valuation or assessment and then provide documentation for consideration that supports their request for a different determination. Mr. Cournan asked if the owner of the proposed project lot has submitted any documentation to the Assessors over the last 35 years declaring the lot unbuildable. Mr. Trabucco stated that the project plans show that in 2002 the current owner was attempting to build a subdivision on this lot; the town cannot assess properties based on the possibility of 40B project eligibility. A resident from the audience called out a request that the town's response to MassHousing be posted to the town website. Cara Littlefield of 300 Water Street stated that she spoke with the Police Department and asked for the crash reports for the intersections of Water and Rt. 139 and Cross and Rt. 139; she stated that there have been 43 accidents in the past three years in these two intersections. Ms. Littlefield stated that doubling the traffic will double the accidents. Ms. Littlefield re-stated that the bus stop at the corner of Cross Street and Water Street where the middle and high school students stand at 6:40 am in the dark is dangerous now. Mr. Larry Jenkins of 3 Cross Street asked Ms. Salmon when the state considers the town's proof that will be submitted stating that 1.5% of the town's land area is covered with affordable housing units and that Pembroke has met one of the state's c.40B affordable housing requirement thresholds, when would the town be notified. Ms. Salmon stated that the date is unknowable at this time; the state requires that the Assessors response with the detailed calculations be submitted to the applicant and the state within 15 days of the applicant's hearing for a comprehensive permit through the ZBA, and that timeline is not able to be anticipated. Mr. Stone asked if there were any more comments from the audience. There were none.

At 8:50 pm, Mr. Murphy thanked the Board of Selectmen and the residents. Mr. Murphy re-iterated the process whereby the state, MassHousing, decides if the application for Site Eligibility is granted. If the site is approved, then a application for a comprehensive permit is submitted to the Pembroke ZBA. Mr. Stone thanked Mr. Murphy and all in attendance.

At 8:53 pm, Mr. Arthur Boyle moved that the Board of Selectmen issue a letter of non-support for the proposed River Marsh Village and further support a moratorium on multi-unit buildings in the town for a period of one year from today. Mr. Willard J. Boulter, Jr. seconded the motion. The vote was unanimously in favor.

At 8:55 pm, Mr. Trabucco moved to close the public hearing; Mr. Boulter seconded the motion. The vote was unanimously in favor. At 8:55 pm, Mr. Boulter moved to adjourn. Mr. Trabucco seconded the motion. The vote was unanimously in favor.

MATERIALS & EXHIBITS

Email, D. Trabucco for S. Wilson: TGSC membership (BOS/TA Office)

Email, C. Noguier PHS Language Dept Request for Sister City Declaration (BOS/TA Office)

Email, E. Feltcher/Camp Pembroke 5K Alumni Road Race App for Use of Town's Roads (BOS/TA Office)

Letter, BOS to DUX re: Request for Agenda Appointment on HCVE Valley/Birch Streets (BOS/TA Office)

40B Application Excerpts: TA memorandum to Town Depts Regarding 40B Receipts (BOS/TA Off/website)

Letter of Receipt from MassHousing (BOS/TA Off/website)

Cover Letter to MassHousing from River Marsh LLC (BOS/TA Off/website)

Three Area Maps (BOS/TA Off/website)

Application Section 1.0 through 1.3 (BOS/TA Office)

Town's Response to MassHousing RE: Copperwood (BOS/TA Office)