

BOARD OF SELECTMEN

NOVEMBER 9, 2011

MINUTES

6:30 PM

MEETING: Chairman Philpot called the meeting to order at 6:30 PM. Roll call established that Selectman Sushchuk, Selectman Furmaniuk and Philpot were all present.

Chairman Philpot read the statement declaring the Sterling Lancaster Cable Television as the only official electronic copy of the meeting.

AGENDA: Selectman Furmaniuk made the motion to remove item 4; appointment of the Personnel Board from the agenda as it has not been a full two weeks since the positions have been advertised and others have expressed an interest in the positions.
Chairman Philpot reiterated that the Board voted for two weeks from tonight, two people have applied, 11 people are involved in the voting process and 9 out of the 11 have stated their preference. He continued by saying there was no point in delaying the vote. Selectman Furmaniuk disagreed and stated that he had issues with the process, Selectman Sushchuk agreed with Selectman Furmaniuk and 2nd his motion to remove the appointments. A vote to remove the item from the agenda was taken; Furmaniuk aye, Sushchuk aye and Chairman Philpot nay.

MINUTES: The Board was presented with four sets of Executive Session minutes that need to be approved and released to the public.
Selectman Sushchuk made the motion to release the minutes of February 4, 2009, 2nd by Selectman Furmaniuk, under the rule of necessity. All in favor.
Selectman Sushchuk made the motion to approve and then release the minutes of April 29, 2009 and May 27, 2009, 2nd by Selectman Furmaniuk, under the rule of necessity. All in favor.
Selectman Sushchuk made the motion to release the minutes of December 9, 2009, under the rule of necessity. All in favor.
Chairman Philpot explained to the other Board member why he made changes to the September 13, 2011 minutes. Selectman Furmaniuk made the motion to approve the minutes of September 13, 2011, to include some changes he made as well as Chairman Philpot's. 2nd by Selectman Sushchuk. All in favor.

CODIFICATION: Dawn Michanowicz and Patrick Fox met with the Board of Selectmen to review the work done by Ms. Michanowicz and Mr. Fox, and Ms. Ackerman. Selectman Furmaniuk expressed his appreciation for a job well done and the pains taken to clearly outline step by step what needs to be done to complete the project. Judge Fox reminded everyone that all votes taken by the Board of Selectmen tonight will become recommendations to Annual Town Meeting next May 2012.

Following are the official Votes takes by the Board of Selectmen at their Board meeting of Nov. 9, 2011:

Ch. 6 Agricultural Districts

On Nov 9th BOS voted unanimously to leave as it appears in the *Draft copy of the Town Code.*

Ch. 18 Animals

Judge Fox explained this draft includes all changes through 2010 Annual Town Meeting.

On Nov 9th BOS voted unanimously to leave as it appears in the *Draft copy of the Town Code with the 2011 ATM changes.* [Which keeps the reference to 1999]

Ch. 29 Buildings, Numbering Of

On Nov 9th BOS voted unanimously to rescind the prior version and leave as it appears in the *Draft copy of the Town Code.*

Ch. 51 Contracts and bidding. (Article 1 – Town Contracts)

On Nov 9th BOS voted unanimously to leave as it appears in the *Draft copy of the Town Code with the 2011 ATM changes.*

Ch. 63 Earth Removal

On Nov 9th BOS voted unanimously to rescind the prior version and leave as it appears in the *Draft copy of the Town Code.*

Ch.86 Junk Dealers This has a different fee than the original bylaw and needs a vote to determine the fee:

On Nov 9th BOS voted unanimously to confirm fee is \$10 and leave as it appears in the *Draft copy of the Town Code.*

Ch. 92 Licenses, Denial Of

According to Town Counsel, the words “dog licenses” should have been removed in 1998 and were not, since Ch 40 Sec 57 specifically excludes dog licenses.

On Nov 9th suggest the BOS Voted unanimously to take the recommendation of Town Counsel in keeping the language as currently in the *Draft of the Town Code.* [the words ‘dog licenses’ remain omitted from the text.]

Ch. 101 Motor Boats

On Nov 9th BOS voted unanimously to rescind the prior version and leave as it appears in the *Draft copy of the Town Code.*

Ch. 107 Officers and Employees

Sec.107-12 After consulting with Mark Brodeur, Building Inspector, he confirmed this Gas Regulatory Board existed up to about 1960’s. Their regulatory agency no longer exists. The appointment of the Inspector of Gas Piping and Gas Appliance in buildings replaced the duties of “Gas Regulatory Board. “

On *Nov 9th BOS Voted unanimously to rescind the prior version and leave as it appears in the *Draft copy of the Town Code.*

Ch. 113 Parks (Sholan Park)

On Nov 9th BOS Voted unanimously to add the words “at Sholan Park” in sec. 113-1 A. The General Code Draft eliminated the language regarding “fines”. General Code will reinsert the language “violators are subject to a fine of \$25 (twenty five dollars) for each bylaw offense” in the *Draft copy of the Town Code.*

Ch. 136 Public Works, sec.136-2

On Nov 9th BOS voted unanimously to delete the words “fire station and property” not contained in the original 1997 bylaw. General Code included these words in the *Draft copy of the Town Code* however the final draft will be as Town Meeting voted Aug 4, 1997.

Ch. 145 Right to Farm, sec.145-5

On Nov 9th BOS voted unanimously to change “Select board” to “Board of Selectmen.”

Ch. 164 Storm water Management

On Nov 9th BOS voted unanimously to move the definitions currently printed in the appendix to sec. 164-2.

Ch. 187 Vehicle, Removal Of

On Nov 9th BOS voted unanimously to rescind the 1948 version and leave as it appears in the *Draft copy of the Town Code*.

Ch. 180 Town Meetings, sec. 7 ONLY

On*Nov 9th BOS Voted unanimously to adopt the re-formatting of the language as it appears in the *Draft copy of the Town Code*.

The entire Code Book with these changes would be voted at Town Meeting. The Code Book currently includes 2008, 2009 and 2010 amendments. (The 2011 amendments have been approved by the Attorney General but have not yet been added to the Draft copy of the code book.) Missing from the Code Book is the historical data, referencing the dates of the changes at each Town Meeting and any changes recommended as above. However, once these changes are made, the Code Book would be updated in its' entirety and the new *Draft of the Town Code Book* would be voted at Town Meeting. The AG would review the new Code Book and determine if any further changes would be recommended. The final Code Book would be available electronically by General Code and updated annually as needed.

Judge Fox explained that the last 4 items will require more discussion at a future Board of Selectmen's meeting.

Chairman Philpot stated that he would like to see 1 article for town meeting, to simplify the process and thanked Ms. Michanowicz and Mr. Fox for all their hard work.

APPOINTMENT OF

COLLECTOR/TREASURER: Selectman Sushchuk made the motion to appoint Anne Cervantes for 3 years as the Treasurer/Collector for Sterling to begin November 28, 2011. Chairman Philpot explained that Ms. Cervantes had accepted the position and agreed to the terms of grade 8, step 3. He thanked the Screening Committee for their due diligence and solid input. Selectman Furmaniuk 2nd the motion by Selectman Sushchuk. All in favor.

140 RENDEZVOUS

HEARING:

Chairman Philpot read the legal notice dated October 17, 2011 sent to Mr. Kilcoyne informing him of the scheduled hearing and the alleged charges. Selectman Sushchuk recused himself from the process due to his previous involvement with Mr. Kilcoyne and left the room. Chairman Philpot then explained the process to the audience and explained that he expected to maintain decorum and wanted everyone to address the issue with no personal attacks involved. Selectman Furmaniuk made the motion to delay this hearing, to hold the next hearing scheduled and upon completion return to this hearing. 2nd by Chairman Philpot. All in favor.

STERLING DELI AND
CONVENIENCE/CHANGE

OF LOCATION: Candice Wong, owner and manager of the Sterling Deli, explained that she was applying for a change of location to her full liquor license. She intended to move from unit #6 to unit #2 at the same location on Leominster Road upon approval of the Board and stated this new, larger unit would enable her to keep the hard liquor behind the counter. Chairman Philpot asked if there were any questions from the Board or those in the audience, there were none. Selectman Furmaniuk made the motion to approve the request for a change of location for the Sterling Deli and Convenience liquor license, 2nd by Selectman Sushchyk. All in favor.

RESUMED HEARING

140 RENDEZVOUS: Selectman Sushchyk recused himself again and left the meeting. Chairman Philpot introduced Stanley Weinberg, Sterling's Town Counsel, who would provide guidance for the process. Selectman Furmaniuk made the motion to reconvene the hearing for the 140 Rendezvous, 2nd by Chairman Philpot. Chairman Philpot explained the process once again and turned to Chief Chamberland for an explanation of the violations. Chief Chamberland reported that he issued a complaint of liquor violations on October 11, 2011 due to the disturbances that occurred the weekend of October 8th, 9th and 10th.

1. Disorderly and allowing disturbance
2. Alcohol consumption outside of premises

He reported that there were 20 patrons seen (outside) behind the bar consuming alcohol on October 9, 2011 and that even though the license allows for outside consumption during the summer, this was October. He reported that there was also an assault that required the ambulance service. These two incidents combined with at least 6 previous motorcycle noise complaints facilitated this scheduled hearing. The Chief reported that complaints have been made before and when police officers are assigned to the establishment there are no problems. Attorney Bunnell, representing Stephen Kilcoyne, asked Chief Chamberland multiple questions consisting of the number of complaints, how many individuals and noise regulations in town. Mr. Weinberg asked the Chief if he had spoken directly to the individual that made the complaint and he reported that he had spoken to Mr. and Mrs. Mack; he reported that he had in his possession an affidavit from the individuals as well as a copy of the license and regulations from the Alcohol Beverage Control Commission. Attorney Bunnell objected to the affidavit as the individual was not present for him to cross examine. Attorney Bunnell then asked Mr. Kilcoyne several questions regarding the 140 Rendezvous and his business practices for the last 13 years he has owned the establishment. Mr. Kilcoyne supplied information on the many benefits he has held and the donations made, how the few disturbances that occurred over the last 13 years have been handled and the usage of the designated drinking area outside during good weather. Mr. Kilcoyne stated he opinion that he considered "summer time" to be good weather. There was some discussion on the terminology of summer hours versus good weather. Chairman Philpot informed Mr. Kilcoyne that his experience on the Zoning Board had always been that summer time ran between Memorial Day and Labor Day. He added that he recognizes Mr. Kilcoyne's right to run a business but also recognizes the rights of the neighbors to pursue happiness. Many residents were present for the discussion, some supporting the 140 Rendezvous with statements made that the 140 Rendezvous Club is not responsible for all of the noise, that it is a no nonsense club and the town should go after the bike riders on the club, others informed the Board members that the noise is unbearable and asked the Board to take

action to resolve the situation. There were multiple incidents cited when noise from motorcycles, patrons and music were excessive and disturbing to the neighbors.

Mr. Bunnell, in his closing statement, stated that the Club is very responsible and very well run, the residential neighborhood is very rural and with only 2-3 complaints made, the Club should not be held responsible for the entire road. He continued by objecting to the violation of serving off premises when there is no clear definition of time of year to serve outside and informed the Board that his client, Mr. Kilcoyne is willing to work with the community.

Chief Chamberland closed by stating that his charges should stand, there was definitely a disturbance resulting in injury which started inside and continued outside and the license specifies serving outside in the summer.

Town Counsel, Stan Weinberg, asked that the definition of summer hours as stated in the Almanac, defining the summer as ending September 22, 2011, entered into the record i.e. the solar definition of summer. Philpot commented that neither the solar definition of summer nor the social definition i.e. Memorial Day to Labor Day would include any day in October; Town Counsel and Mr. Furmaniuk agreed.

Chairman Philpot closed the comment session. He then proceeded to outline the options ranging from doing nothing to revoking the licenses. Selectman Furmaniuk stated that Chief Chamberland has provided sufficient evidence backing the violations and the main issue is to define the outside drinking area. Mr. Weinberg agreed and recommended the definition of "summer" be listed on any future licenses. He provided the Board with a list of possible action items; to issue a warning, suspend license for a listed number of days and hold in abeyance for a determined period or to modify the license altogether.

Chairman Philpot expressed his disappointment in Mr. Kilcoyne and his interpretation to only be present during busy hours. He agreed that the club is managed well within the walls of the building but does not expand beyond the building, where the main problem exists. Selectman Furmaniuk agreed. Chairman Philpot entertained a motion to suspend the license, for three consecutive days, at least of which is a weekend day to be held in abeyance as long as there are no violations reported within 1 year, with summer hours defined as being Memorial Day to Labor Day and all charitable events require a one day liquor license. Selectman Furmaniuk 2nd the motion and asked that further training of the staff be included, a police detail be required as well as imposing a 3 day suspension upon another incident report. All in favor.

INDUSTRIAL
DEVELOPMENT
COMMISSION:

Chairman Philpot read the recommendation letter from Walter Sanders, Industrial Development Commission, asking the Selectmen to appoint William Haskell. Selectman Sushchuk made the motion to appoint Mr. Haskell for a 5 year term, 2nd by Selectman Furmaniuk. All in favor.

CULTURAL COUNCIL:

Chairman Philpot read the recommendation letter from Susan Farr, Cultural Council, asking the Selectmen to appoint Lisa Perry and Kerry Bart-Raber. Selectman Sushchuk made the motion to appoint Ms. Perry and Ms. Bart-Raber, (terms to be specified at the next meeting). 2nd by Selectman Furmaniuk. All in favor.

VAULT BUILDING
COMMITTEE:

Selectman Sushchuk suggested appointing 3 people to the Vault Building Committee; Chairman Philpot, Michael Padula and Donlin Murray. Ms. Michanowicz volunteered to be advisory. Mr. Sushchuk and Mr. Furmaniuk both agreed Philpot is a great depth of knowledge in building area and would greatly benefit the process. Chairman Philpot suggested appointing 5 to the

committee and stated that having only 3 members tends to be a problem. Selectman Sushchyk advised trying appointing only three members and if it does not work out the Board can always revisit the appointment.

Selectman Sushchyk made the motion to appoint the following; Chairman Philpot, Michael Padula and Donlin Murray to the Vault Building Committee, 2nd by Selectman Furmaniuk. Chairman Philpot accepted but stated that he would not be the chairman of that committee. Sushchyk & Furmaniuk in favor, Philpot abstained.

ANIMAL CONTROL

ADVISORY BOARD: Selectman Sushchyk made the motion to appoint Kathleen Rensky to the Animal Control Advisory Board, 2nd by Selectman Furmaniuk. All in favor.

INSURANCE ADVISORY COMMITTEE

CORRESPONDENCE: Chairman Philpot read Tom Kokernak's letter regarding the directive issued by the Board of Selectmen to the members of the Insurance Advisory Board to meet on their own time. Chairman Philpot also referred to Mr. Kelley's memo supporting non-working hours to which Mr. Kelly informed the Board that arbitration could cost the town anywhere from \$600 to \$1500 plus attorney costs to argue when those involved for in the meetings would accumulate in salary approximately \$750 for all meetings. He also reported that past practice supported the IAC meeting during working hours. Chairman Philpot questioned the need for the IAC and was informed it was required under 32 B Section 3. Selectman Sushchyk made the motion to retract the previous instruction to the IAC, 2nd by Selectman Furmaniuk. The Board of Selectmen will allow the IAC to meet during working hours. All in favor.

PROCUREMENT/CONTRACT FOR VAULT

ARCHITECT: The Board of Selectmen authorized Terri Ackerman to sign the contract for the Vault Architect.

ADMINISTRATOR'S UPDATE AND ANNOUNCEMENTS:

Ms. Ackerman informed the Board that it was brought to her attention that there have been multiple violations in respect to Policy Memorandum #1 (which states that no one member will use/attempt to use his position as Selectman to exert any purported authority or seek to influence/interfere with the operation of any municipal department). Ms. Ackerman cited three incidents and reminded the Board members that these could be interpreted as a violation to the Policy #1, one member acting on their own.

Chairman Philpot explained that he had a letter sent to him via fax questioning him on the Cease and Desist Order signed by Sterling Building Inspector, Mark Brodeur and then received a phone call from Gary Menin of the Board of Health inquiring to the same. He reported that he then spoke to Mark Brodeur regarding the order simple to understand what happened, to learn by what authority Brodeur could enforce a DEP regulation to issue the Cease and Desist order.

The Board agreed that the discussion should continue at their next meeting on November 22, 2011.

Ms. Ackerman informed the Board of a discussion she had with Bill Tuttle with regards to tree trimming. Mr. Tuttle will be working on a cost estimate and plan for a special article at town meeting to appropriate money to get caught up with the tree trimming.

Mr. Philpot commented on the good work of all departments during the recent snow storm and the Board agreed that the Emergency Team did a great job on the snow storm in October and the Board asked that a letter be sent to all departments expressing their appreciation for a job well done.

NEEDY FAMILY: Selectman Furmaniuk reported on his research of the town's eligible funds to assist those in need. He asked that the Board approve an expenditure of \$1500 to be taken from the Clarissa A. Freeman Fund to assist a family in need. Selectman Sushchuk made the motion to approve the expenditure of \$1500.00 to be taken from the Freeman Fund under the control of Selectman Furmaniuk. 2nd by Chairman Philpot. All in favor.

HARDSCRABBLE ROAD: Ms. Ackerman explained the need for Hardscrabble Road to be declared a unique parcel in order to advertise in the Central Register. After some discussion Selectman Sushchuk made the motion to declare Hardscrabble Road as a unique parcel, 2nd by Selectman Furmaniuk. Roll call; Furmaniuk aye, Sushchuk aye, Philpot nay. Two in favor, one against.

RESERVE FUND FOR PROFESSIONAL SERVICES:

Ms. Ackerman gave notice that there may be a need for a reserve fund transfer for legal services due to the extraordinary large monthly bills. Chairman Philpot asked for copies of the itemized bills for his review.

EARLY RETIREES\ OPTION:

The Board of Selectmen is in receipt of the letter from MIIA requesting instructions for distribution of funds. Tim Bell, Interim Treasurer/Collector, listed options 1-3 for the Selectmen to consider. The options were explained to the Board of Selectmen and after some discussion the Board voted to support option #1 of the Early Retiree Reinsurance Program (\$63,225). 2nd by Selectman Sushchuk. All in favor.

ONE DAY LIQUOR LICENSE:

The Board voted to approve the one day liquor license for the Eight Point Sportsmen's Club for December 10, 2011 from 1:00 to 6:00 PM.

EXECUTIVE SESSION PUBLIC RECORDS

REQUESTS:

Attorney Robert Hennigan, representing Ms. Ackerman, stated, that in his opinion, explained that the alleged charges/violations did not involve character or reputation; therefore there was no cause for an executive session. He continued by stating that the mechanism and jurisdiction of the issue is that of the Secretary of State, not the Board of Selectmen's, so in his opinion it does not qualify as an Executive Session matter.

Michael Rivers explained to the Board that he has made a number of Public Records requests to review information that is required by state law to be accessible to the public. Rivers says that Ackerman rarely replies within the ten day time frame and some requests are met with little or no reply from Ms. Ackerman and when she has supplied the information it is incomplete and late. Rivers says that the state has repeatedly confirmed the importance of transparency, particularly that “there is a compelling public interest in the expenditure of public funds” to make sure our tax dollars are being well spent. Rivers said he hoped that the BOS would work to have the town comply with Public Records Law without citizens having to repeatedly make appeals to the state, which often take months. Rivers cited that in the three citizen appeals he is aware of, in each case Ackerman has been told by the state Public Records Division to comply and provide the requested documents. In response to a question from Sushchuk, Mr. Rivers reported that in his business experience, other towns provide access to similar procurement records with little or no resistance while Ms. Ackerman repeatedly fails to supply him information as required by law. Selectman Sushchuk asked Mr. Rivers what his purpose behind all the requests were; to which Mr. Rivers told him that while it was legally inappropriate for a town official to ask for, or require the reason behind a public records request, Rivers assured that there were valid reasons for any requests he has made. Rivers gave an example of a request by him to review Procurement records related to IT goods and services purchased by the town in recent years. Rivers stated that these procurements total almost a million dollars, and Ackerman won't provide any records related to them. Rivers pointed out that one vendor (Stillwater Computer) has been paid over \$200,000 in the last four years, and Ackerman will not provide copies of any bids, contracts, or other documents related to the purchases. In response, Ackerman stated that the company in question, Stillwater Computer, was hired by the BOS in January 2007 to update the town web site, shortly before she started as Town Administrator and she off that hiring for the last five years. Ackerman stated that there are no bids or contracts for these services over the last five years, but that.

Ms. Ackerman stated that the main IT service is in the process of being bid and the RFP is being generated within the next few weeks.

Ms. Ackerman read a response into the record (see attached) outlining her many responses to Mr. Rivers' public records requests, her hours spent on these requests and the Secretary of State's response letters. Rivers asked for a copy of Ackerman's response, which had not been provided to him. Rivers stated that while he only had a few moments to read it, he had already noted that there were numerous errors and misstatements in her written response.

Attorney Hennigan again informed the Board that the Secretary of State's office is skilled at sorting through the details of the complaints and has not found Ms. Ackerman in violation with most of the complaints. There was one incident where Ms. Ackerman was informed to supply redacted information and she did. She has clearly provided in detail information to the State as well as to Mr. Rivers. Selectman Sushchuk stated that this clearly smacks as a fishing expedition, consuming a lot of Ms. Ackerman's time when she has a town to run. Chairman Philpot reminded Selectman Sushchuk that the requests made by Mr. Rivers are allowed under the law. Rivers replied that if Ackerman, had simply complied with his requests, Ackerman's total time spent should have been no more than a couple of hours over the last year, and that he felt Ackerman wasted far more time trying to avoid complying with the Public Records Law.

Chairman Philpot asked the Board how they wanted to proceed with the complaint. Selectman Sushchuk said that he has listened to Mr. Rivers' complaints, Ms. Ackerman's explanation and

sees little or no reason for further action. Selectman Furmaniuk agreed with Selectman Sushchyk.

11:32 PM
EXECUTIVE
SESSION:

A roll call to enter into Executive Session in accordance with MGL 30A, §21, clause #2 & #3 was taken at 11:32 PM. Sushchyk aye, Furmaniuk aye, Philpot aye. All in favor.
Board will return to public session only to adjourn the meeting.

11:56 PM

ADJOURNMENT: The Board returned to public session to adjourn.

RESPECTFULLY SUBMITTED

RONALD A. FURMANIUK
CLERK

TO: Board of Selectmen

FROM: Terri Ackerman, Town Administrator

RE: Response to Michaels Rivers' allegations

November 8, 2011

This is a response to Michael Rivers' allegations of October 24, 2011. I believe his allegations to be without merit, and I will address each of them in turn.

For approximately the last year, the Town Administrator Terri Ackerman has refused to provide me with, or allow me to look at any document, report, or record without providing a written request, which she then ignores.

1. Regarding the allegation that I have "refused" to provide records without a written request, Mr. Rivers emailed me on January 19, 2011: "I wish for any communication between us to either be in writing such as this, as recorded meeting, or have a third person present as a witness."
2. On August 24, 2011, Mr. Rivers verbally requested information and I immediately retrieved a binder for him. I stated that he could review it and indicate which items he would like copies of. Unfortunately, he refused said binder, since it was an updated version of the original. I explained that this had all the original material plus additional updates, but he still refused to review the binder.
3. Regarding the allegation that I have "ignored" Mr. Rivers' requests, nothing could be further from the truth. Since August 4, when Town Counsel advised me to begin tracking my time on these public records requests, I have spent 27.5 hours on his requests as shown in the attached spreadsheet. I am also attaching a partial file of correspondence between Mr. Rivers and myself, illustrating the long detailed emails that we regularly exchange on these requests.

4. Regarding an August 5, 2011 request for public records, Mr. Rivers picked up the material in question on August 17, 2011. Yet on September 1, 2011, at Mr. Rivers' request, the Secretary of State's office asked me for a status report on when I would comply. I of course replied that he had picked up this material 2 weeks earlier on August 17, 2011.
5. On August 16, 2011, I emailed Mr. Rivers to inform him that a public records request for him was now available for his review in Donna Salluce's office. As of October 17, 2011 he still had not come in to review that material, even though he claimed that we had not provided it.

In the last eleven months, I have filed approximately nine Public Records requests with the Town Administrator's office. To date, she has never lawfully complied with any of them.

1. Simply because Mr. Rivers alleged something, does not make it true. It is up to the Secretary of State's office to determine whether a public records request has been lawfully complied with.
2. Of the 2 appeals filed by Mr. Rivers, the Secretary of State's office has declared both to be answered satisfactorily and considers the matters closed. Please see attached letters of September 26, 2011 and October 6, 2011.
3. Mr. Rivers himself stated recently that he had seen the entire Contract Cleaning file on March 17, 2011 from 4:30 to 5:00 PM and that he previously seen the entire Sterling National Country club file on approximately March 1, 2011.

In each case of request, she has failed to provide lawful response within the state mandated ten calendar day period. A lawful response would be either compliance with the request, and/or receipt of a written explanation of why certain records or parts thereof are exempt.

My most recent request to review a standard procurement file was submitted on the morning of October 13th. I then confirmed my request in person with Ms. Ackerman the following morning. She refused to provide me with an expected date of compliance. The 10 calendar day limit expired 3 days ago, and Ackerman has neither provided access to the records, nor provided a written exemption letter.

This allegation is partially correct. Due to my workload, depending on the length and complexity of the request, it can sometimes take longer than 10 days for me to respond. For several requests, I complied within the 10 day period. On others, I replied within the 10 day period that I was working on it and complied soon thereafter, and on others I replied after the 10 day period. In the case of the October 13, 2011 request, I complied on October 28, 2011.

I have only made appeal to the state Public Records office for two of my unfulfilled requests thus far, but in both cases, the state's attorneys determined that Ms. Ackerman had not complied with the law, and ordered her to do so. After being ordered by the state, Ackerman reluctantly provided more of the requested documents, but has still not fully complied.

Regarding these 2 cases, please see the attached letters of September 26, 2011 and October 6, 2011 which indicate that I have complied and that these matters are now closed. In one case I complied fully and completely. In the other case, I fully complied except for one item (redacted names) for which I cited MGL CH. 4 section 7(26) exemptions c. and h. The Secretary of State's office subsequently ruled that I had to turn over the un-redacted names, which I immediately did.

I have been advised that the continuing and deliberate pattern of egregious non-compliance (in the case of certain person(s) whom Ackerman disagrees with) with Public Records Law presents a strong case for legal enforcement action, and obviously there are clear civil remedies available to me, particularly in conjunction with certain other past and continuing improper actions by Ackerman.

Given the above facts, I strongly disagree with the accusation of "egregious non-compliance" and I take offense to the insinuation that I do not comply if I do not agree with someone.

As you can see, these allegations are completely false. I ask for the Board's assistance is speaking with Mr. Rivers to urge him to cease and desist from spreading falsehoods about me. I thank you in advance for your assistance.