

9/9 (12)  
110

**BOARD OF SELECTMEN MOTION**  
**September 9, 2013**

Move that the Board of Selectmen accept the report of the Planning Director dated 8/30, 2013, concerning the release of Community Preservation Act (CPA) funds to Exchange Hall, LLC for the restoration of historic elements of the building known as Exchange Hall, 2 School Street, Acton; acknowledge that the conditions for the release of the CPA funds set forth in the Agreement dated December 17, 2012 between the Town and Exchange Hall, LLC have been met; and authorize the Town Manager to release CPA funds in the amount of \$231,948.00 to Exchange Hall in accordance therewith.

## Christine Joyce

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**From:** David Wiener [wiener@andersonkreiger.com]  
**Sent:** Wednesday, September 04, 2013 2:07 PM  
**To:** Steve Ledoux; Roland Bartl; Christine Joyce  
**Cc:** Stephen Anderson  
**Subject:** Exchange Hall  
**Attachments:** Selectmen's Motion - Exchange Hall - Release of CPA Funds (A0209786-2).doc

All,

Please see the attached motion for the September 9 meeting of the Board of Selectmen relative to the release of CPA funds to Exchange Hall, LLC to be placed on the consent calendar. Please contact Steve or me with any questions.

Thanks.

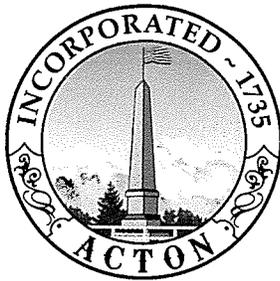
David

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**Planning Department**

**TOWN OF ACTON**  
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planning@acton-ma.gov

**MEMORANDUM**

**To:** Board of Selectmen **Date:** August 30, 2013  
**From:** Roland Bartl, AICP, Planning Director  
**Subject:** **Exchange Hall – Release of CPA Funds**

This memorandum intends to notify the Board of Selectmen that Exchange Hall, LLC has met all conditions for the release of CPA funds per the "AGREEMENT RELATIVE TO THE RELEASE OF COMMUNITY PRESERVATION ACT (CPA) FUNDS" between the Board of Selectmen and Exchange Hall, LLC, dated December 17, 2012. The Agreement's eight conditions for fund release have been met as follows:

- a) A majority of the Board of Selectmen approved and signed the PRA on July 22, 2013.
- b) The executed PRA is recorded in the MSDRD, Bk 62497 Pg 124 ff.
- c) The HDC in a letter dated May 29, 2013 has certified completion of work by the terms of the HDC's Certificate of Appropriateness and in compliance with the Secretary of Interior Standards for the Treatment of Historic Properties, 36 C.F.R. Part 68.
- d) Evidence of National Park Service Parts II and III certifications has been provided. The National Park Service does not require, nor provide for Part I Certification for properties like Exchange Hall that are listed on the National Register of Historic Places.
- e) Acceptable mortgagee's consent and subordination agreement to the PRA are recorded with the PRA at the registry.
- f) The 2008 Town Meeting Vote requirement for limited public use of Exchange Hall was restated in the CPC's award letter, which the Exchange Hall owner countersigned thereby accepting the conditions of the grant award. This signature is on file in here.
- g) The Acton Building Department certified on August 23, 2013 that Exchange Hall meets AAB requirements.
- h) At last check, there were no liens or encumbrances except for those permitted and listed as Exhibit I in the recorded PRA.

Documents referenced above are at <http://doc.acton-ma.gov/dsweb/View/Collection-5637> and/or in the Selectmen 9/9/13 meeting package.

Cc: David Wiener, Steven Graham, Planning Dept.

## Christine Joyce

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**From:** Roland Bartl  
**Sent:** Friday, August 30, 2013 2:28 PM  
**To:** Manager Department  
**Cc:** 'dwiener@andersonkreiger.com'; 'Steven Graham'  
**Subject:** fund release recommendation.docx  
**Attachments:** fund release recommendation\_.docx

The attaches is for the 9/9/13 Selectmen's meeting. Back-up information is located at <http://doc.acton-ma.gov/dsweb/View/Collection-5637>.

Roland Bartl, AICP  
Planning Director  
Town of Acton  
472 Main Street  
Acton, MA 01720  
978-929-6631

Location: Home » Public Meetings » Planning Department » Community Preservation Committee » Exchange Hall Listing

# Exchange Hall

Properties

Refresh

Type	Title	Owner	Edited	Size	Actions
	32E.Berger - Exchange Hall accessibility confirmation supplement.pdf	planning	08/23/13	218 KB	
	32E.Berger - Exchange Hall accessibility confirmation.pdf	planning	08/23/13	19 KB	
	32E.Berger - Exchange Hall HDC final project sign-off.pdf	planning	08/23/13	775 KB	
	32E.Berger - Exchange Hall NPS Part 3 final approval.pdf	planning	08/23/13	980 KB	
	32E.Berger - Exchange Hall PRA recorded.pdf	planning	08/23/13	6 MB	
	32E.Berger - Exchange Hall.CPA Fund Release Agrmt.PDF	planning	08/23/13	135 KB	
	RE_Exchange Hall-historic certification requirements.pdf	planning	08/23/13	40 KB	

## Christine Joyce

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**From:** Roland Bartl  
**Sent:** Friday, August 23, 2013 4:19 PM  
**To:** Manager Department  
**Cc:** Kristen Domurad-Guichard  
**Subject:** Exchange Hall - CPA Fund Release

Hi, Christine:

Could you please put this item on the 9/9 Board of Selectmen meeting agenda.  
All relevant information is at <http://doc.acton-ma.gov/dsweb/View/Collection-5637>

Thanks -

Roland Bartl, AICP  
Planning Director  
Town of Acton  
472 Main Street  
Acton, MA 01720  
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**From:** Janet K. Adachi [mailto:[jkajeg@msn.com](mailto:jkajeg@msn.com)]  
**Sent:** Friday, August 23, 2013 4:08 PM  
**To:** Roland Bartl  
**Cc:** Steve Ledoux; David Wiener; Kristen Domurad-Guichard  
**Subject:** Re: Exchange Hall, LLC/Corporate

Roland,

With the additional information re Part 1, sounds as if we're all set for 9/9. Thanks. Janet

Janet K. Adachi  
[jkajeg@msn.com](mailto:jkajeg@msn.com)

On Aug 23, 2013, at 3:58 PM, Roland Bartl wrote:

Janet:

Okay, I will let Steve Graham know: Not before the 9/9 BoS meeting.

As for the missing Part 1 NPS certification I was able to find the relevant e-mail exchange between the lawyers reviewing the matter.

Kristen:

Could you please add the attachment into the Exchange Hall docushare folder that you had created earlier?

Thank You

Roland Bartl, AICP

Planning Director  
Town of Acton  
472 Main Street  
Acton, MA 01720  
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**From:** Janet K. Adachi [<mailto:jkajeg@msn.com>]  
**Sent:** Friday, August 23, 2013 2:49 PM  
**To:** Roland Bartl  
**Cc:** Steve Ledoux; David Wiener  
**Subject:** Re: Exchange Hall, LLC/Corporate

Roland,

Given that the project has been a "lightning rod," as Steve L put it, I think that the 9/9 meeting would be better for the sign-off, or whatever the BOS is supposed to do. Next Tuesday's meeting was specially scheduled just for the purpose of doing the bond refinancing paperwork, and is supposed to be quick because some members have to commute to work. The Board also will be signing the Town Manager's updated contract, but that won't involve discussion. We need to allow time for the Selectmen to discuss the disposition of the Exchange Hall project, if they are so inclined, and that won't be possible next Tuesday.

Another thing: If the lack of a part 1 certification really isn't an issue, it would be good to a somewhat more substantial supporting statement than the following:

*We have convinced ourselves that the NPS does no issue part I certification for situations like Exchange Hall. However, the intent of this section is met.*

Thanks. Janet

Janet K. Adachi  
[jkajeg@msn.com](mailto:jkajeg@msn.com)

On Aug 23, 2013, at 2:18 PM, Roland Bartl wrote:

Okay, the last bit of documentation/verification just came in from the Building Inspector (attached). We will post the back-up info in docushare and provide you and Janet the link.

Is this something that can be added as 'administrative' next Tuesday or wait until the first meeting in September – would that be 9/9?

Just need to know how to answer to Steve Graham's inquiry as to when his client will get the funds.

Roland Bartl, AICP  
Planning Director  
Town of Acton  
472 Main Street  
Acton, MA 01720  
978-929-6631

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**From:** Steve Ledoux  
**Sent:** Friday, August 23, 2013 1:34 PM  
**To:** Roland Bartl  
**Cc:** David Wiener; Janet Adachi  
**Subject:** Re: Exchange Hall, LLC/Corporate

We should probably advise the BoS since it has been a political lightning rod

Sent from my iPad, please excuse any brevity or typos

On Aug 23, 2013, at 1:22 PM, "Roland Bartl" <[rbartl@acton-ma.gov](mailto:rbartl@acton-ma.gov)> wrote:

Hi, Steve:

Once Mark Barbadoro has provided a supplemental letter confirming accessibility of the 3<sup>rd</sup> floor (ball room), all conditions for release of the funds (attached agreement) have been fulfilled. The single exception being that we only have NPS certifications or Parts II and III (1.d) in the fund release agreement). We have convinced ourselves that the NPS does not issue part I certification for situations like Exchange Hall. However, the intent of this section is met.

I suppose, I can do the fund release from here. But, since the matter has a political dimension, please advise how you would like to handle it.

Roland Bartl, AICP  
Planning Director  
Town of Acton  
472 Main Street  
Acton, MA 01720  
978-929-6631

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**From:** Roland Bartl  
**Sent:** Friday, August 23, 2013 11:49 AM  
**To:** 'Steven Graham'; [dwiener@andersonkreiger.com](mailto:dwiener@andersonkreiger.com)  
**Subject:** RE: Exchange Hall, LLC/Corporate

Hi, Steve:

We are almost there, I think. The recording of the PRA was one thing, now done.

The other is that the building inspector's letter fails to confirm the accessibility of the 3<sup>rd</sup> floor (ballroom). I have spoken with Mark and he will write a supplemental letter confirming just that. Once in receipt of it, I will arrange for the release of the funds.

Roland Bartl, AICP  
Planning Director  
Town of Acton  
472 Main Street  
Acton, MA 01720  
978-929-6631

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**From:** Steven Graham [<mailto:sgraham@graham-grahamlaw.com>]  
**Sent:** Friday, August 23, 2013 11:20 AM  
**To:** [dwienner@andersonkreiger.com](mailto:dwienner@andersonkreiger.com); Roland Bartl  
**Subject:** Exchange Hall, LLC/Corporate

Hi David and Roland,

Attached is a copy of the PRA recorded on Wednesday. The Enterprise Consent and Subordination is attached at the end of the PRA as requested by MHC.

When can my client expect to get his funds?

Steve

Steven R. Graham, Esq.  
Graham & Graham, P.C.  
6 School Street  
Acton, MA 01720

Phone: 978-264-0695  
Facsimile: 978-264-0517  
E-mail: [SGraham@graham-grahamlaw.com](mailto:SGraham@graham-grahamlaw.com)

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<32E.Berger - Exchange Hall.CPA Fund RElease Agrmt.PDF>

<32E.Berger - Exchange Hall accessibility confirmation supplement.pdf>

**From:** David Wiener <[wiener@andersonkreiger.com](mailto:wiener@andersonkreiger.com)>  
**Subject:** RE: Exchange Hall-historic certification requirements  
**Date:** May 10, 2013 10:07:00 AM EDT  
**To:** 'Steven Graham' <[sgraham@graham-grahamlaw.com](mailto:sgraham@graham-grahamlaw.com)>  
**Cc:** Roland Bartl <[rbartl@acton-ma.gov](mailto:rbartl@acton-ma.gov)>

Steve,

I have reviewed the regulations. Thanks for sending them. I agree that because the property was on the National Register prior to the application, a Part 1 certification is not required.

David

**From:** Steven Graham [<mailto:sgraham@graham-grahamlaw.com>]  
**Sent:** Thursday, May 09, 2013 9:15 AM  
**To:** David Wiener  
**Cc:** Roland Bartl ([rbartl@acton-ma.gov](mailto:rbartl@acton-ma.gov))  
**Subject:** FW: Exchange Hall-historic certification requirements

Hi David,

Please see the email chain below and the attached which addresses the question of Part 1 of the NPS. I trust this satisfactorily addresses the question.

Steve

Steven R. Graham, Esq.  
Graham & Graham, P.C.  
6 School Street  
Acton, MA 01720

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**From:** [actonwoodworks@gmail.com](mailto:actonwoodworks@gmail.com) [<mailto:actonwoodworks@gmail.com>] **On Behalf Of** Glenn Berger  
**Sent:** Thursday, May 09, 2013 9:01 AM  
**To:** Steven Graham  
**Subject:** Exchange Hall-historic certification requirements

Hi Steve,

I spoke with Jo Ellen Hensley from the NPS who confirmed that the Part 1 application for rehabilitation was not needed in the case of our Exchange Hall project. She referred me to the Program Regulations, listed below, in her email. The regs are attached with some text I highlighted. It states that properties already on the National Register before a rehabilitation project is applied for do not need to file Part 1. The reg is

**PART 67—HISTORIC PRESERVATION  
CERTIFICATIONS PURSUANT TO  
SEC. 48(g) AND SEC. 170(h) OF  
THE INTERNAL REVENUE CODE OF  
1986**

Thank you  
Glenn

Mr. Berger:

Use the following link to go to our website under Program Regulations and search the document for "individually listed." The first citation is on page 346 under 67.2 Definitions. Then continue to search through the document. This should provide the information you need. Call me if you have any questions.

<http://www.nps.gov/tps/tax-incentives/before-you-apply.htm>

Jo Ellen Hensley, LEED Green Associate  
National Park Service  
Technical Preservation Services

(202) 354-2026 phone

(202) 371-1616 fax

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Glenn Berger  
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<image001.jpg>