

Memorandum

To: Selectmen of Minuteman Voc & Tech Communities

From: Concord Select Board

Re: Boxborough's Proposed Protocol for Adopting Regional Amendment; Bonding, and Withdrawing of October, 2015

Date: November 10, 2015

The Concord Select Board discussed the Protocol proposed by Boxborough at its meeting on November 2, 2015 and this memorandum will summarize the consensus of the Board.

The Concord Select Board is not opposed in principle to the proposal for each District member town to vote in its 2016 annual town meeting on (1) amendment of the Minuteman Regional Agreement, (2) withdrawal of certain towns from the District, and (3) bonding of the new school building project. However, there are several important questions to which the Board would want authoritative and satisfactory answers before it could support the proposed Protocol.

These questions include:

1. On what date would the "Initial Procedure for Withdrawal" expire? How would district towns that wish to withdraw from MMRHS demonstrate their intentions to the other towns in time for the 2016 Annual Town Meeting cycles of the other towns, assuming that intention is codified in a certified copy of its own Town Meeting vote?
2. Could the timing result in District towns with ATMs earlier in the year having to vote on PA16 and debt authorization without knowing how many towns are left in the District and thus what its share of operating costs and debt would be? If so, would this be legally permissible?
3. Has the Commissioner of Education provided written endorsement of the proposal that approval of PA16 would also constitute approval of the withdrawal of Towns declaring their desire to withdraw pursuant to the Initial Procedure for Withdrawal? We understand that 603 CMR 41.03 discusses regional agreement amendments and withdrawals by towns from a district as separate, distinct decisions.
4. If withdrawal of town(s) from the District is not effective until July 1 of the year following approval by the Commissioner of PA16, but the unanimous vote by all District towns (including those withdrawing) approving bonding of the school building project is taken prior to that date, would that create uncertainty in the bond authorization? We understand that once bonding is

- authorized under Mass General Laws Chapter 71 (d) or (n), the debt is then binding for member towns.
5. If there is uncertainty or confusion regarding the bond authorization, would that impact the District's efforts to commence bonding timely to take advantage of historic low interest rates? Is the market likely be concerned about potential uncertainty in the bond authorization and would that increase the cost of borrowing?
 6. Would it be consistent with Chapter 71 (d) or (n) to have a provision in PA16 providing that any town withdrawing from the District pursuant to the Initial Procedure for Withdrawal would not be subject to continuing obligation for debt obligations on which it voted in the affirmative after voting for PA16, but prior to the effective date of its withdrawal?
 7. Would the vote of a town to authorize borrowing made AFTER its vote to withdraw from the District be a vote with legal effect? How would this question impact bond authorization?
 8. If one or more of the towns electing to withdraw from the District pursuant to the Initial Procedure for Withdrawal were to vote at its ATM (1) to approve PA16, (2) to withdraw from the District, and (3) NOT to approve the borrowing to build a new school, how would that impact the vote on the construction project? Could the District have a situation in which it has approved PA16, permitted several towns to withdraw from the District, AND does not have approval of a new building project?

These are the questions identified by the Concord Select Board after a brief review and discussion, and a brief consultation with legal counsel. There may well be more questions identified upon further reflection.

Protocol for Adopting Amended Agreement, Bonding, and Withdrawing

1) Each Town that will have an article in its 2016 ATM Warrant asking if voters wish to withdraw from Minuteman Regional School District (**MM**) shall declare its intention to **MM's** School Committee (**SC**) by (**TBD**) and request that it be named in the **Initial Procedure for Withdrawal** Section of the 2016 Proposed Amended Agreement (**PA16**) as discussed below.

2) By (**TBD**) **SC** shall draft **PA16** and circulate it to each of the member towns for inclusion in the Warrants for their respective ATM's for 2016. **PA16** shall include all provisions of the Proposed Amended Agreement dated March 11, 2014 (**PA14**), plus a new section entitled "**Initial Procedure for Withdrawal**" which shall include the following provisions:

- a) A provision naming each declaring member town ("**Declarant**") that has given notice pursuant to paragraph 1 above;
- b) A provision: (i) setting the date on which the **Initial Procedure for Withdrawal** shall expire and by which the Town Clerk of any **Declarant** may certify to **MM** that, at Town Meeting, the voters of that Town voted by a simple majority to withdraw from **MM**; and (ii) stipulating that any certification received after the **Initial Procedure for Withdrawal** expires shall be treated as a notice of desire to withdraw under the procedure set forth in **PA14**, Section IX;
- c) A provision stipulating that a vote by any member town to adopt **PA16** constitutes approval by that member town of the withdrawal of any **Declarant** that has complied with the provisions of the **Initial Procedure for Withdrawal**;
- d) A provision stipulating that approval of **PA16** by the Commissioner of Education shall constitute approval by the Commissioner, in accordance with 603 CMR 41.03(2), of the withdrawal of any **Declarant** that has complied with the provisions of the **Initial Procedure for Withdrawal**;
- e) A provision stipulating that withdrawal of a **Declarant** shall become effective on July 1 of the year following approval by the Commissioner of **PA16**;
- f) A provision stipulating that a **Declarant** withdrawing pursuant to the provisions of the **Initial Procedure for Withdrawal** shall be subject to the *Continuing Obligations After Withdrawal* set forth in **PA14**, Section IX (B), but only with respect to obligations incurred by the **Declarant** prior to its vote to approve **PA16**.

3) Each member town shall include in its 2016 ATM Warrant an article asking if voters approve:

- a) **PA16**, and
- b) A **Bonding Article** for borrowing to construct a new school building.

4) Each **Declarant** shall include in its 2016 ATM Warrant an article asking if voters approve:

- a) **PA16**,
- b) **Declaring** its desire to withdraw pursuant to the **Initial Procedure for Withdrawal**, and
- c) A **Bonding Article** for borrowing to construct a new school building.