

Minutes of the Board of Civil Authority
Town of Marlboro, Vermont ; 510 South Road
October 8, 2026 4pm Marlboro Town Office

Board members present were: Select Board members Molly Welch; Justices of the Peace T. Hunter Wilson, Marcia Hamilton, David Holzapfel, Mimi Brill, and Andy Reichsman; and Town Clerk Forrest Holzapfel.

Also present were Listers Eric Matt and Evan Wyse (Chair) and as well as appellant **Potash Hill Inc. & Marlboro School of Music, Inc.** as represented by Attorney Conor McKenzie.

BCA members, Listers, and appellants all took the oath and signed their names. No conflict of interest was noted across all parties.

Chairman T. Hunter Wilson reopened the September 8, 2026 meeting on October 8, 2026 at 4:02 pm.

Inspection reports are complete, and a submission on tax exemption from Conor McKenzie was added to the record as PH-2. BCA decisions on the valuation and tax exemption will be made later in deliberative session. Documents are circulated. The BCA took up the supplemental submission first.

Potash Hill, Inc.

The BCA received two items of additional information since the last session: a supplemental submission from the appellant on tax exemption, and the BCA Inspection Committee's report.

The appellant's representative Conor McKenzie summarized a short clarification document submitted after the appellant reviewed the draft minutes of the September 8 meeting. His key points:

- 99-year lease: Although the lease was originally negotiated between Marlboro School of Music and Marlboro College, which no longer exists, it is a recorded lease that runs with the land. Each later owner (Type One Civilization, Democracy Builders Fund, and Potash Hill) acquired the property subject to it. Conor compared it to a recorded easement. About three-quarters or more of the lease term remains.
- Residential use: Housing for festival participants and limited winter workforce housing make up a small share of the campus use (under 5% by the appellant's estimate). Even if the BCA found the residential buildings not exempt, it could still find other buildings, such as the recital hall and library, exempt. The appellant would discontinue workforce rentals if the BCA found them to be a problem.
- Dedication to public use: As a 501(c)(3) charity whose assets must be used for charitable purposes, Potash Hill meets the requirement that the property be dedicated unconditionally to public use. The separate requirement that the primary use directly benefit an indefinite class of the public does not require the property to be open to the public at all times. Examples given were hospital administrative offices and a museum's closed car-storage building.
- Case law: The appellant believes its facts are closest to Sigler v. Town of Norwich, and distinguishable from Vermont Studio Center v. Town of Johnson, where an artist training program without public-facing activities was found not exempt. Both these Supreme Court cases in last 10 years are somewhat conflicting.
- Public programming: Public activities include the summer festival with free open rehearsals and modestly priced public concerts (offered well below cost), artist residency series with open rehearsals, a speaker series, use of facilities by other charitable arts organizations, and general public access to the grounds (including cross-country skiing) when programs are not in session. Marlboro Music and Potash Hill lose about \$1.7 million a year operating the campus, covered by philanthropy.

Andy Reichsman noted that the currently running speaker series requires tickets, which are free with an optional donation. It was also noted by Conor, in his opinion, in response to a question from Town attorney Bob Fisher at the prior meeting, that all festival participants are performing musicians who give public performances, which distinguishes them from the Vermont Studio Center participants.

No further questions about Conor's submission.

Inspection Committee Report

The Inspection Committee consisted of T. Hunter Wilson, Molly Welch, and Marcia Hamilton. Their report dated October 7, 2026, was read into the record and is attached to these minutes.

Key points:

- The inspection was made on September 28, 2026, from 8:00 AM to 3:30 PM. Molly Welch completed her inspection the following day. KP Peterson of Potash Hill accompanied the committee.
- The property is the former Marlboro College campus, with about 40 buildings on roughly 400 mostly wooded acres on both sides of the town road, served by a well system and a large septic system. Building conditions range from virtually derelict (the pottery shed) to excellent (the Reich Building), with most in good, serviceable condition. Many buildings have multiple levels and stairs, and many are not accessible and could not easily be made accessible.
- In the committee's opinion, the highest and best use of the property is as a residential educational institution, especially in the arts and music.
- The Listers relied on a state-provided appraisal by Brian Fogg, LLC, and the appellant on an appraisal by Keller & Associates. The two describe the buildings similarly but are about \$8.3 million apart. The Fogg appraisal relies on the cost and income approaches and treats the lease as not arm's length and therefore irrelevant to value. The Keller appraisal relies only on the sales comparison approach and treats the lease as a condition of any sale.
- The committee believes the lease is a significant factor. In its view, it was an arm's-length agreement when created, and its nature did not change with later ownership. Valuing the property as if the lease did not exist produces a hypothetical value that could not actually be achieved. The committee also felt the Fogg appraisal overstates the likelihood of redevelopment (such as senior or moderate-income housing), given the scattered, largely inaccessible buildings on a sloping site.
- As a possible way forward, the committee noted that the Fogg appraisal does include a sales comparison analysis before dismissing it. Four closed Vermont college campuses (Green Mountain College, Southern Vermont College, College of St. Joseph, and Goddard College) sold for an average of about \$4 million each. Goddard is the most similar to Marlboro. The committee noted that the "distressed sale" argument cuts both ways: Potash Hill's purchase was itself made under pressure to protect the Marlboro School of Music's long-standing program.

Discussion

- BCA member Mimi Brill questioned whether the lease can be considered arm's length now, since Potash Hill was created to support Marlboro School of Music and effectively controls both sides of the lease.

The appellant's representative Conor McKenzie responded that a newly negotiated lease between the two might not be arm's length, but this is an existing recorded lease that any buyer, related or not, would have to honor, and either party would have legal recourse if it were breached. The chair noted that further discussion of this question belongs in deliberative session.

- BCA member Molly Welch asked why about 24 buildings are assessed at under \$50,000. It was explained that this results from the Fogg appraisal's cost-based method.
- The Inspection Committee said its findings did not conflict with the building descriptions in either appraisal, but that it's own descriptions are more detailed. The committee expressed confusion between the two appraisal approaches and the wildly different valuations.
- Lister Eric Matt asked about the lease and whether or not the sale between Potash Hill Inc. & Marlboro School of Music, Inc. was arms-length if the "landlord" is holding the power since the two parties are legally intertwined.
- Mimi Brill stated that the property is owned in a similar way to tenant and landlord being in the same family and controlling both sides of lease. Either party could terminate lease.

The appellant's representative Conor McKenzie stated that they could negotiate a new lease but currently it is attached to the land legally and that a lease could be terminated by one party.

Marlboro School of Music, Inc.

The Inspection Committee report from Andy Reichsman, David Holzapfel, and Kate Kirkwood was read into the record. The inspection was made on September 28, 2026, at 11:00 AM.

The five houses on Musicians Way were all built in 2013, in excellent condition, and well maintained with landscaping. About two-thirds of the parcel's land is forested. The Listers' information was found to be accurate for all five properties. The highest and best use is residential, as currently used.

43 Musicians Way: 4 bedrooms, 3 bathrooms, 2,306 sq. ft. finished. Value under appeal: \$476,700.

82 Musicians Way: 2 bedrooms, 2 bathrooms, 1,453 sq. ft. finished. Value under appeal: \$313,100.

99 Musicians Way: 2 bedrooms, 2 bathrooms, 1,453 sq. ft. finished. Value under appeal: \$313,100.

168 Musicians Way: 3 bedrooms, 2 bathrooms, 1,640 sq. ft. finished. Value under appeal: \$355,600.

187 Musicians Way: Identical to 82 Musicians Way (same layout, square footage, and value).

The committee did not enter 99 Musician's Way because the home is rented, but viewed the interior through the windows. Each house also has a kitchen, living room, half basement, and unfinished attic.

MOTION: To adjourn the hearing on the Potash Hill and Marlboro School of Music appeals until October 15, 2026, at 4:00 PM at which time the BCA will hold a deliberative session on the appeals. The deliberative session is not open to the public (1 V.S.A. § 312(e)). Moved by Forrest Holzapfel and seconded by Andy Reichsman. *Passed.*

Chairman T. Hunter Wilson will file the decision with Town Clerk Forrest Holzapfel, who will mail the decision by Certified Mail to appellant Christopher Serkin and Conor McKenzie by October 23, 2026.

Moved by Andy Reichsman and seconded by Marcia Hamilton to adjourn the hearing 5:04 PM

Respectfully submitted,

Forrest Holzapfel
Town Clerk

Note: These minutes are generated with the assistance of a ZOOM-generated transcript and Claude.ai. Because host-account labeling in the source transcript did not reliably distinguish individual speakers, remarks are summarized by topic and party rather than attributed to specific individuals except where the transcript clearly identified the speaker. Minutes are reviewed for accuracy and completeness prior to adoption.

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