

IN BOARD OF SUDBURY SELECTMEN  
MONDAY, NOVEMBER 29, 2010

Present: Chairman John C. Drobinski, Vice-Chairman Lawrence W. O'Brien, Selectman Robert C. Haarde and Town Manager Maureen G. Valente

The statutory requirements as to notice having been complied with, the meeting was convened at 7:30 p.m. in the Lower Town Hall, 322 Concord Road.

**Opening Remarks**

At 7:30 p.m., Chairman Drobinski opened the meeting.

**Public Hearing: Tax Classification**

Present: Maureen Hafner, Director of Assessing, Cynthia Gerry, Assistant Director of Assessing, Joshua Fox Chairman of the Board of Assessors, Trevor Haydon and Liam Vesely, members of the Board of Assessors and Senior Tax Advisor David Levington

At 7:31p.m., Chairman Drobinski opened the Public Hearing to determine what percentage of the local tax levy will be borne by each class of real and personal property relative to setting the FY 2011 tax rate which was continued from November 22, 2010.

Chairman of the Board of Assessors Joshua Fox explained that the Board would need to decide its position on whether or not to allow a residential property exemption, a small commercial exemption, or an open space exemption. In addition, the Board would need to select a minimum residential factor for what percentage of the local tax levy would be borne by each class of real and personal property relative to setting the FY 2011 tax rate.

Chairman Drobinski suggested that the dialogue begin with a discussion regarding the residential exemption. Mr. Fox stated that the Board was previously in receipt of copies of a letter from Town Director of Assessing Maureen Hafner dated November 8, 2010 and accompanying Residential Exemption Report, which utilized data from the FY2010 assessment and tax files and a Fiscal 2011 Classification Hearing Informational Booklet dated November 29, 2010. He noted that, in the past, the Board has voted against a residential exemption for Sudbury. However, Mr. Fox further noted that the Board requested last year that a report be generated for its review. Additionally, Ms. Hafner discussed the residential exemption option with the Board at its November 16, 2010 meeting.

Director of Assessing Maureen Hafner summarized the residential exemption as a reduction in assessed value determined by dividing the total of all residential assessments by the number of properties in that tax class of real estate to determine an average assessment. The exemption allows for a deduction from the assessed value for qualifying properties of anywhere from 5-20% of the average assessment as voted by the Board. Ms. Hafner explained that the adoption of the Exemption at the maximum exemption allowance of 20% of the average residential property assessment in Sudbury would translate to a flat amount of \$117,691 being deducted from qualifying property tax assessments. She further explained that to recoup the lost tax revenue from the exemptions, the residential tax rate would be increased. As an example, Ms. Hafner stated that using last year's tax factors would result in an increase of the residential tax rate from \$17.10 to \$20.44 per thousand.

Chairman Drobinski opined that in general, properties with lower assessments would realize a tax decrease and properties with higher assessments would realize an increase in their property tax bills. Mr. Fox noted that only owner-occupied properties would qualify for an exemption.

Vice-Chairman O'Brien asked if any of the 14 towns which have adopted the exemption in the State have done so to establish a more progressive tax system. Ms. Hafner stated she is not certain, but believes it has been implemented in those communities as a way to shift the tax burden from primary residents to non-primary residents.

Chairman Drobinski commended Ms. Hafner, her staff and the Assessor's on the information provided in advance to the Board for deliberation tonight. He noted concern for senior citizens who now benefit from the State's Circuit Breaker tax credit. Chairman Drobinski questioned whether support of a residential exemption would be a "wash" for those residents who would no longer qualify for the Circuit Breaker tax credit. Ms. Hafner stated it is possible one benefit would negate the other. In addition, Ms. Hafner highlighted that, if the Board votes tonight to implement a residential exemption, Town staff would need time to determine qualifying properties before implementation.

Town Manager Valente stated that Finance Director Andrea Terkelsen has expressed concern that implementation of this exemption not interfere with the timely dissemination of property tax bills, since it is her responsibility to ensure the Town gets the tax bills sent out on a timely basis. Town Manager Valente reviewed the options available to the Town if it is unable to mail its tax bills with a postmark no later than December 31, 2010, noting that none of them are ideal and could result in additional costs to the Town. She stated that, from the Town's financial perspective, it is best to have property taxes distributed to the community on time.

Chairman Drobinski noted that the Residential Exemption only considers an assessed value of the property perspective and does not consider income. Board of Assessors member Liam Vesely confirmed there is no means testing as part of the qualifying process.

Vice-Chairman O'Brien stated that he believes implementation of the Exemption would be a near "wash" for senior citizens who now benefit, but would no longer benefit from, the Circuit Breaker direct tax credit. He also believes the State should implement some form of means testing for the Circuit Breaker program. The consensus of the Assessors was that, in this economy, one cannot assume that someone living in a higher assessed home is not also having a difficult time financially.

Vice-Chairman O'Brien made a motion to not adopt a residential shift exemption based on the concerns expressed this evening.

Chairman Drobinski noted that the Board could again consider the Exemption next year if it were to vote against it this evening. Mr. Vesely and Ms. Hafner concurred, noting that the basic information provided this year for review would be the same and that only the base numbers for this year would vary.

Selectman Haarde stated that the benefit of a Residential Exemption is difficult to understand for a town like Sudbury which is primarily owner-occupied. He further stated that it is difficult to articulate who would benefit from the Exemption, and implementation does not seem as if it could be accomplished equitably. In addition, Selectman Haarde stated he believes this Exemption would offset the existing Circuit Breaker tax credit for senior citizens. Thus, he stated he does not see a clear benefit to support a Residential Exemption. Chairman Drobinski concurred.

Senior Tax Advisor David Levington stated that he was instrumental in requesting the information be generated and reviewed. However, Mr. Levington further stated he does not believe the Board has adequately addressed his initial concerns with the information provided. He believes far more senior citizens who currently use the Circuit Breaker tax credit, approximately 1500, would also benefit from the Exemption

and that it would conflict with only a small group of approximately 60 citizens. He referenced a report he previously provided to the Board, stating that a Residential Exemption would help make home ownership in Sudbury more available to a wider spectrum of people of average means; and it would help to encourage developers to build more modest homes. Mr. Levington stated he is disappointed that the Board has not addressed the political questions inherent to the deliberation. He believes it would be irresponsible for the Board to adopt the Exemption today, but also believes it would be irresponsible of the Board, as the Town's elected appointees, to not discuss this option more widely with the public and the Finance Committee.

Mr. Levington noted that a financial summit was listed on the Board's goals this year, and he asked if there has been progress gathering participants. Chairman Drobinski summarized the interest expressed to date regarding financial discussions between all cost centers.

Mr. Levington stated the material and Report provided by the Assessor's Office is useful and thorough and that it is the responsibility of the Selectmen and not Town staff to communicate the issues for consideration to the community.

It was on motion unanimously

**VOTED: To not grant a residential exemption for FY11.**

Mr. Fox next summarized the small commercial exemption option to grant up to 10% of the property valuation to commercial (not industrial) property which qualify as having no more than ten employees during the previous calendar year and be housed in a building with a valuation of less than \$1,000,000. Mr. Fox further described that only a small group of office/commercial condominium businesses might qualify.

Chairman Drobinski noted that, in the past, the Board has historically not adopted this option.

Vice-Chairman O'Brien asked if the business is defined for this exemption by the nature of the business or by its zoning. Ms. Hafner stated it is defined by the business use. Based on data available, Mr. Fox estimated that a very small group of commercial condominiums or stand-alone businesses, approximately 18, would qualify.

Chairman Drobinski highlighted that only nine communities in the State have adopted this exemption.

Ms. Hafner emphasized that the Board could grant an allowance up to 10% of the property valuation to commercial (not industrial) properties, noting how this reduction would translate differently to property tax bills than the Residential Exemption.

Selectman Haarde questioned where the offset of the tax revenue lost from the exemptions would be recouped. Mr. Fox stated all other commercial and industrial properties would share the extra costs, including small businesses housed in large buildings which are ineligible for the exemption benefit.

It was on motion unanimously

**VOTED: To not grant a small commercial exemption in FY11.**

Mr. Fox next briefly described the Open Space exemption option, noting that only one community in the State, Bedford, has adopted it. He stated that a maximum exemption of 25% may be adopted for all property that is classified as Open Space as determined by the Board of Assessors according to the law.

Chairman Drobinski noted that, if this exemption were implemented, it might hinder the Town's ability to acquire some parcels of land by exercising its Right of First Refusal.

Mr. Fox stated that adoption of this exemption could be difficult to administer because the legal definition of Open Space is vague and open to discretionary interpretation.

Vice-Chairman O'Brien stated that the vast majority of open space in Sudbury is owned, used or put into a Chapter 61B program.

It was on motion unanimously

**VOTED: To not grant an open space tax exemption in FY11.**

At 8:07 p.m., a discussion ensued regarding aspects of setting the residential factor for the residential class, including discussion of the amount to be shifted this year to the Commercial, Industrial and Personal Property (CIP) classes. Chairman Drobinski stated that, in the past, the Board has tried to maintain a shift as close to a CIP shift factor of 1 as possible to help residential taxpayers in Sudbury, and have attempted to increase tax rates as fairly as possible for the residential and CIP groups. Ms. Hafner directed the Board's attention to handouts entitled "FY2011 RES Tax Rate Options" and "FY 2011 CIP Tax Rate Options," which reflect various rate scenarios.

Selectman Haarde stated that the Town currently uses a factor of 1.23 and he asked Ms. Hafner if the recommendation tonight is to increase that to a 1.28 factor. Ms. Hafner stated examples of tax rate scenarios have been provided to the Board to vote on rather than recommendations. Chairman Drobinski stated that a 1.28 CIP shift factor would translate to a residential factor of 97.8631.

Selectman Haarde stated there are many more households that pay residential property taxes over which to spread the tax burden than there are businesses. He also referenced a handout entitled "Sudbury's Prior Years' Tax Shift History," and he questioned the percent shift of a 1.55 factor in 1994 and 2006. Ms. Hafner explained that Chapter 200 of State law allows a community to exceed the 1.50 limit under specific conditions. Selectman Haarde summarized that a shift factor of 1.50 means that for every \$1.00 of residential taxes billed, commercial taxpayers pay \$1.50. He reviewed the Town's tax shift history from 2004 to 2010. Selectman Haarde stated that the closer the shift rate is set to a factor of 1, the more pro-business the climate of the community is which helps the Town to attract more commercial tax revenue. He believes these are tough decisions for the Town to make.

Selectman Haarde stated that Sudbury has a structural deficit of taxpayers who do not use Town services, including the schools. Thus, he believes it will take making some tough short-term decisions to solve a long-term problem of the increasing number of the Town's taxpayers who do not use its services.

Chairman Drobinski made a motion to maintain the pattern of tax equity by initiating a CIP tax shift of 1.28 with a residential factor of 97.8631. The motion was seconded.

Vice-Chairman O'Brien stated that the 1.28 CIP shift would translate to approximately a \$240 average residential property tax increase a year and an average \$554 increase a year for commercial businesses. He also stated that the Board has tried in the past to balance its decision with the assessment increase or decrease trends for properties. Vice-Chairman O'Brien opined that he believes the shift should be in the 1.28 to 1.30 range.

Selectman Haarde stated that it has taken tough work by the Town to reduce the CIP tax shift to its current 1.23 factor, but that it has been good work. He advocates maintaining the 1.23 shift factor and encourages the Town to work towards establishing a flat rate and a pro-business perspective as has been done in Wellesley and Lexington. Selectman Haarde stated that some towns are able to implement a split tax rate successfully. He asked Ms. Hafner whether CIP property values have gone down and why. Ms. Hafner stated that property values for CIP were reduced by 7%, and residential property values went down on the average by 3.5%. It was noted that some valuations for commercial condominium properties increased. Ms. Hafner further stated that there is not a large CIP base from which to draw data, and she explained the type of factors analyzed when determining market values. She opined that due to the economy, commercial properties have remained vacant for longer periods of time.

Selectman Haarde asked when property tax bills are triggered for new home construction. Ms. Hafner explained that all assessments reflect the real estate market as of January 1, 2010. In addition, she explained that her office assesses the completion status of new developments and construction when it is apprised of all permits issued by the Building Department and by the Planning Office regarding new developments, resulting in tax bills being generated accordingly.

It was on motion

VOTED: In accordance with General Laws Ch. 40, sec.56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2011 tax rate and set the Residential Factor at 97.8631 with a CIP shift of 1.28, pending certification by the State Department of Revenue.

Selectman Haarde opposed the vote.

Chairman Drobinski requested a report on the Residential Exemption be provided to the Board next year.

Ms. Hafner noted that she would need to come before the Board at a future meeting to report the excess levy capacity once the information is available from the State and to ratify the residential factor voted this evening at the December 7, 2010 meeting.

At 8:33p.m., the Board closed the Public Hearing and thanked the Board of Assessors, Ms. Hafner and her staff for the information provided.

### **Reports from the Board of Selectmen**

Chairman Drobinski encouraged the community to attend the Hosmer House Open Houses scheduled this weekend and the following weekend. He also announced that Lincoln-Sudbury High School will play Gloucester tomorrow for a place in the Super Bowl. Chairman Drobinski congratulated the team on this achievement which it has not accomplished in several years. Selectman Haarde advised residents to check for the time of the game because it could be scheduled earlier in the day than anticipated.

Selectman Haarde attended a Minuteman Regional Vocational High School meeting with Town Manager Valente and Finance Committee member Bill Kneeland regarding the proposed amendments to the regional agreement to be voted at the 2011 Town Meetings of each member town. He supports Town Manager Valente's recommendation to schedule a meeting with appropriate parties regarding a proposal on how member towns would apportion the capital costs for the new school. The Board concurred that such a meeting should be scheduled as soon as possible. Town Manager Valente also suggested that members of the Minuteman Regional Agreement Task Force be invited to the discussion to explain the recommendations.

She also suggested, and the Board concurred, that this topic be discussed at the Joint Meeting with the Wayland Board of Selectmen and Town Administrator on December 2, 2010. Chairman Drobinski announced that the Joint Meeting would be held at the Sudbury Grange at 7:30 p.m. and is open to the public.

Vice-Chairman O'Brien asked if a future Board agenda could include a discussion of whether the Selectman would want to sponsor a Warrant article for the 2011 Town Meeting regarding expanding the cell tower overlay district if the Planning Board chooses not to do so. Town Manager Valente has asked Director of Planning and Community Development Jody Kablack to draft an informational memorandum regarding this issue. Selectman Haarde stated that if the discussion is generically related to the overlay district he may be able to participate, but, depending on matters broached, he may need to recuse himself.

At 8:46 p.m., Chairman Drobinski announced the close of the regular meeting.

There being no further business, the meeting adjourned at 8:46 p.m.

Attest: \_\_\_\_\_  
Maureen G. Valente  
Town Manager-Clerk