

IN BOARD OF SUDBURY SELECTMEN  
WEDNESDAY, MAY 2, 2012  
SPECIAL MEETING

Present: Chairman: Lawrence W. O'Brien, Vice-Chairman Robert C. Haarde, Selectman John C. Drobinski; Town Manager Maureen G. Valente, Finance Director Andrea Terkelsen, Director of Assessing Maureen Hafner, Assistant Assessor Cynthia Gerry, Budget Analyst Peter Anderson; H.3435 Review Committee Co-chairs Susan Iuliano and John Ryan and Special Act co-author David Levington

Absent: Joseph Nugent

The statutory requirements as to notice having been complied with, the meeting was convened at 10:00 a.m. in the Flynn Building Silva Conference Room, 278 Old Sudbury Rd.

**H.3435 Review Committee Final Report Presentation**

At 10:00 a.m., Chairman O'Brien thanked the Committee for emailing a copy of the report to Board members in advance of today's meeting. It provided an opportunity for each to review the contents and formulate questions in advance of today's meeting. Chairman O'Brien then called upon the Committee to proceed with the presentation.

John Ryan, co-chair of the H.3435 Review Committee, credited the Committee's success in achieving its intended goal in large part due to the assistance of Town staff and the original Special Act authors. He also recognized fellow committeeman Joseph Nugent who was unable to be in attendance this morning.

Mr. Ryan announced that today's presentation will be in two parts. The first topic contained in the presentation will address the procedural properties of the Special Act and the second topic will address the statutory language modifications and definitions.

Mr. Ryan's subject matter commenced with a discussion of the tax rate setting process: "now and when". His visual presentation consisted of an image depicting the current process (now) versus the senior residential exemption process (when). He continued by providing an articulate, thorough run-through of the process, focusing on a discussion of how the burden shift within the residential class will function as part of the senior exemption. The Commercial/Industrial and Personal Property Class (CIP) will not be impacted in any way by the exemption. The burden shift will remain solely within the Residential Class. The development of the Sudbury Senior Exemption Program is likely to serve as a pilot program for the Commonwealth. The document "Procedure for Implementing H.3435" was developed as a comprehensive guide intending to provide deadlines/timeframes/and implementation guidance which may be used for the program.

The H.3435 Committee met with State Representative Thomas Conroy, who was extremely supportive and helpful to the Committee. He offered to initiate dialogue with the Department of Revenue (DOR), in an effort to introduce Sudbury's hybrid program.

The Committee unanimously opined it would be impossible to implement the bill for FY 2013. The earliest possibility would be FY 2014.

The Committee feels strongly that the process of educating the public about the bill should begin as soon as practicable.

Mr. Ryan asked if the Selectmen had questions or comments at this time.

Q: Selectman Drobinski inquired about the possibility of having the Council on Aging (COA) involved in the screening and application review process.

A: Mr. David Levington (Special Act co-author and member of the COA) responded that the information submitted on the application is highly confidential, and therefore needs to be managed by the Board of Assessors.

Q: Chairman O'Brien inquired about the applicant screening process in subsequent years, once the initial residency requirement, and ownership criteria have been satisfied. Will the review process ease up?

A: Mr. Levington responded that each application year is separate and distinct, and with this program type there are no guarantees of eligibility from one year to the next.

Comment: Chairman O'Brien suggested that within the "Procedure for Implementing H.3435" document item 5 may need to be refined. He suggested the number of days within which the Assessors have to precisely calculate the tax rate increase needed to fund the exemption may need to be looked at.

Response: Finance Director Andrea Terkelsen responded that the guidelines at this time are truly working guidelines, and will be subject to further refinement following final acceptance/approval of the Act. At this time it should be viewed as more of an internal than an absolute guide. Director of Assessing Hafner and Finance Director Terkelsen concurred that further refinement will be necessary once we have a program in place.

Q: Selectman Haarde inquired: Will the Sudbury applications mimic the Circuit Breaker application?

A: The Sudbury application once developed will be far more comprehensive than the State Circuit Breaker schedule CB.

Q: Chairman O'Brien asked: Will Representative Conroy reach out to House Means and Ways Committee Chairman. Representative Jay Kaufman to inform him of Sudbury's revisions to the Special Act as reported out of the Joint Committee on Revenue?

A: Committee Co-chair John Ryan responded that Representative Conroy is in full support of the recommended changes up to this point, and the Committee fully expects there to be on going communication between Representative Conroy and Representative Kaufman.

Q: Selectmen Haarde inquired: Is it possible to not qualify for the State Circuit Breaker Income tax Credit program, yet qualify for the Sudbury Senior Residential Exemption?

A: Ms. Hafner and Mr. Levington each answered the question affirmatively. Mr. Levington provided the example of a senior deferring their property taxes.

Mr. Ryan turned the presentation over to Co-Chair Susan Iuliano who described the Committee's proposed language modifications to H.3435 (Sudbury's Special Act Senior Residential Exemption).

#### H.3435: Section 1.

##### Income:

The Committee believes the income required for this bill should be consistent with the income as defined by the State Circuit Breaker. They believe the Town Meeting discussion and vote actually made certain

assumptions as to the definition of income. By inserting the term “qualifying” income in place of “household” income the implementation of the exemption will be more straightforward and will not be in conflict with the intent of that which was passed at January 2011 Special Town Meeting. This also will be useful for other communities being mindful of the fact that Sudbury is developing the pilot model. Mr. Levington supported the definition of income language change.

#### H.3435: Section 2 (b)

##### Spouses:

The Committee recommends changing the language from spouse(s) to person(s). Again this is consistent with the qualification of the Circuit Breaker.

#### H.3435 Section 3:

Section 3 as written does not clearly communicate how the exemption is intended to operate. The current language lends itself to varying interpretations and applications. In as much, the management of the exemption could be construed in a manner inconsistent with the 2011 Special Town Meeting Article 2 vote, as well as the intent of the Special Act’s original authors. The Committee recommends eliminating the following phrase “as an additional tax levy” and replacing it with the following: “within the tax levy on all residential tax payers”.

#### H.3435 Section 8:

The original Special Act submitted in 2011 included language allowing significant flexibility for the Town to make revisions within the act. That language was stricken from the version which passed through the Joint Committee on Revenue. The H.3435 Review Committee felt it important to include language which will give the Town an opt out provision if it seems that the DOR is unable to certify the tax rates, or for any other reason which will cause a delay in issuing timely tax bills. Representative Conroy advised that the Legislature would not likely approve such language. He offered to confer with the DOR and fellow legislators to develop language within this pilot program which will make clear that the Act cannot move forward without DOR cooperation. Based on discussion with Representative Conroy the Committee at this time recommends including the statement. “no exemption shall be granted under this act until the DOR certifies a residential tax rate.....” In addition the term “burden shift within the tax levy” has been incorporated in Section 8.

#### H.3435 Section 9:

Section 9 includes a sunset provision. The Committee recommends removing the date certain language of December 31, 2016 and replacing it with the following terminology: “after three years of implementation of the exemption”.

Co-Chairs Iuliano and Ryan commented the report has received broad support. The original authors, town staff, and the local legislators are in support of H.3435 Review Committee’s recommendations. Senator Eldridge is aware and on board with the pilot recommendations.

The general consensus from the Committee and staff is that we need to move ahead very quickly with this issue.

Following the Committee’s presentation, and discussion of the next steps in the process:

It was on motion by Selectman Drobinski unanimously:

VOTED: First, to accept the Final Report of The H.3435 Review Committee; secondly, to accept the proposed revisions to H.3435 as recommended by the H.3435 Review Committee; and thirdly to send a letter of endorsement to State Representative Thomas Conroy on behalf of the Board of Selectmen, Town Staff and

Special Act authors indicating consensus among all of the proposed revisions to Sudbury's Special Act H.3435.

Town Manager Maureen Valente plans to have the report posted to the Town Website immediately. In addition the proposed revisions to H.3435, letter of endorsement, and the Committee's report will be submitted to Representative Conroy this week.

The Selectmen commended the Committee for the remarkable job they did in successfully fulfilling the mission in such a short period of time. This portion of the meeting closed at 11:12 a.m.

At this point in the meeting, the H.3435 Review Committee Co-chairs and the Special Act co-author left the meeting.

### **Discussion regarding Lincoln-Sudbury Budget.**

Town Manager Valente updated the Board on the Lincoln-Sudbury Regional High School (L-S) FY12 and FY13 budgets. She noted that with the receipt of the State funding for the Special Education costs, L-S will be able to balance the FY12 budget. She noted that due to the recent SJC decision confirming that regional school districts should be assessing their annual budget in a manner that requires each town to pay a state-determined, minimum-required contribution, Lincoln needs to increase their contribution to the L-S budget by approximately \$165,000; and Sudbury will be seeing a reduction in the assessment.

L-S will still get the same budget total, however. She noted that with the additional State Aid, and this shift of costs to Lincoln for FY13, L-S will be able to achieve a "level staff" budget and will not be required to lay off any staff. Selectmen discussed whether there will be any retroactivity to this minimum required contribution issue, and it was felt best that a legal opinion on this issue be obtained.

### **Minutes of discussion on Town Meeting Articles 17, 18 and 19**

Board of Selectmen took up agenda items 2 and 3 together, meeting with Jim Kelly, Sudbury Building Inspector and Mike Melnick, Chairman of the Permanent Building Committee, on the issue of three articles for roof repairs and determining the Board's position on them. Article 17 is for work on the Nixon school roof. Mr. Melnick reported that Sudbury was not included on the April agenda for the MSBA grant program, so although we still are eligible to be invited into a grant opportunity, we will not know that in time for the May 7 Annual Town Meeting. Therefore article 17 should be indefinitely postponed and Mike will make that motion. Mr. Melnick noted that if Sudbury is later asked to participate in the MSBA grant program, we would be obligated to have a special town meeting and special town election to accept the grant and request the balance of the funding for the project from voters.

Article 18 requests funds for replacement of the HVAC equipment and roof section of the Natatorium, which is the building housing the Atkinson Pool. Mr. Kelly noted the Town has applied for a grant as one of the Green Communities who are can apply for funding from the \$2 million grant program, but 22 communities in total applying for grants from this program and we will not know if we are selected for a grant until June. Ms. Valente noted that she has developed a proposed financing plan for this project, as the Town can vote to use FY12 savings from the Reserve Fund and Health Insurance Premium Rate Holiday to pay for the \$300,000 needed for this article.

Article 19 requests funds for repairing roofs or portions of roofs at several town and school buildings. Discussion ensued regarding timing for these other roof projects. Selectman Haarde said we should look at expanding the Fairbank Community Center to accommodate other uses before requesting funding to repair the roof.

Chairman O'Brien opined that the Board should support moving forward with article 18 at this time, but support indefinitely postponing articles 17 and 19, as well as article 14, Town Center Improvements, until the proposed Investment Priorities Task Force has met and developed a broad picture of best financing options for capital and other major projects.

Mr. Kelly opined that the Natatorium project should be addressed now due to its condition. The Board voted to support this article with the financing plan developed by the Town Manager.

There being no further business, the meeting was adjourned at 12:20 p. m.

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