

SUDBURY BOARD OF SELECTMEN
AGENDA
TUESDAY, MARCH 11, 2014
7:30 PM, Lower Town Hall, 322 Concord Road

1. 7:00 **Executive Session:** Open meeting in Flynn Building, Silva Room, and immediately vote to go into Executive Session to discuss strategy with respect to land negotiations if an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares. *If necessary, the Executive Session will be suspended at 7:25 p.m. and resumed at the end of the Regular Session.*
2. 7:30 Opening remarks by Chairman
3. 7:35 Reports from Town Manager
4. 7:40 Reports from Selectmen
5. 7:45 Meet with State Senators Michael Barrett and Jamie Eldridge
6. 8:15 Citizen's comments on items not on the agenda
7. 8:20 **Vote** Vote to receive the report and recommendations of the Town Counsel Search Committee and respond to the Search Committee Recommendations.
8. 8:40 Meet with Police Station Project team and Permanent Building Committee for latest update on project
9. 9:00 **Vote** Receive and consider new information regarding the Town Center design, provide feedback and questions to the Town Center Committee, and potentially vote to approve new design.

Miscellaneous:

10. **Vote/Sign** Vote to sign the 2014 Annual Town Election warrant which must be posted and in the hands of residents no later than Monday, March 24th.
11. **Vote** Discuss Annual Town Meeting Articles – take positions on articles, assign speakers
12. **Vote** Amend the minutes of January 28, 2014 to append the report of Chairman Drobinski on the composite evaluation of the Town Manager
13. **Vote** Discussion on Intention of the Board of Selectmen to re-appoint Town Manager and renew the Employment Agreement with the Town Manager

These agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Consent Calendar:

14. **Vote** Vote to approve the February 11 and February 25, 2014 regular session meeting minutes, and January 23 Town Forum minutes.
15. **Vote** Vote to accept the resignation of Nancy Hershfield, 88 Butler Road, from the Sudbury Celebrates 375/Sudbury Day Committee effective March 3, 2014 as noted in an email of same date, and to send a letter of appreciation for her service to the Town.
16. **Vote** Vote to accept the resignation of Ellen Gitelman, 19 Raynor Road, from the Sudbury Celebrates 375/Sudbury Day Committee effective March 4, 2014, as noted in an email of same date, and to send a letter of appreciation for her service to the Town.
17. **Vote** Vote to approve FY15 Transfer Station Sticker rates as requested by Bill Place, DPW Director.
18. **Vote/Sign** Vote to authorize the Chairman of the Board of Selectmen on behalf of the Town to sign the “Regulatory Agreement and Declaration of Restrictive Covenants for Rental Project, Local Action Units” between DHCD, the Sudbury Housing Authority and the Town of Sudbury for 16 Willis Lake Drive.
19. **Vote** Vote to accept, on behalf of the Town, a grant in the amount of \$5,000 from The Sudbury Foundation to help fund Sudbury Celebrates 375th’s Field Day, the final event in a year-long celebration of the Town’s 375th anniversary, said funds to be expended under the direction of the Town Manager.

AGENDA REQUEST- ITEM #5

BOARD OF SELECTMEN

Requestor's Section:

Date of request: *Annual Event - January 2014*

Requestor: *Town Manager*

Action requested (Who, what, when, where and why):

Update meeting with State Senators Jamie Eldridge and Michael Barrett

Financial impact expected: *N/A*

Background information: (if applicable, please attach if necessary): *None*

Recommendations/Suggested Motion/Vote: *Not applicable*

Person(s) expected to represent Requestor at Selectmen's Meeting: *N/A*

Selectmen's Office Section:

Date of Selectmen's Meeting: *March 11, 2014*

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed? Yes () No (X)

AGENDA REQUEST – Item #7
BOARD OF SELECTMEN

Requestor's Section

Item Name: *Report from the Town Counsel Search Committee*

Date of request: *3.5.14*

Requestor: *Town Manager Valente*

Action requested (Who, what, when, where and why):

Meet with and hear report of the Town Counsel Search Committee

Financial impact expected: *Depends on outcome of votes*

Background information (if applicable, please attach if necessary):

Please see the report/final recommendations from the Search Committee, dated February 3, 2014 and provided to Board members the week of February 11, 2014.

Recommendations/Suggested Motion/Vote:

Vote to receive the report and recommendations of the Town Counsel Search Committee and respond to the Search Committee Recommendations.

Other Potential votes

- 1. Relative to recommendation 1 from the Search Committee, vote to enter into negotiations to extend the contract for Mr. Paul Kenny, current Town Counsel and designate a subcommittee of Board members to begin negotiations; or*
- 2. Relative to recommendation 2, if the Board chooses to interview other applicants, direct the Town Manager to set up interviews with the two firms recommended by the Search Committee.*

Person(s) expected to represent Requestor at Selectmen's Meeting:

Selectmen's Office Section

Date of Selectmen's Meeting: **3/11/14**

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes (X)

No ()

7

Date: February 3, 2014
To: Board of Selectmen
From: Town Counsel Search Committee
RE: Search Committee's Final Recommendations for Town Counsel

The Town Counsel Search Committee (further noted as Search Committee) has completed its mission as voted on September 3, 2013 by the Board of Selectmen, and at this time would like to give our final report and recommendations.

The Search Committee met over a series of seven meetings. The Search Committee elected Myron Fox as Chairman; Len Simon as Vice-Chairman; and Jody Kablack as Clerk. A Request for Proposal (further noted as RFP and attached) was prepared by the Search Committee. The RFP for Town Counsel Services was posted on the Town's Web-site on October 25, 2013. It was also advertised in the following: Massachusetts Lawyers Weekly, the Massachusetts Municipal Association (MMA) website, Mass Municipal Lawyers Association (MMLA). All RFP's were due by 5:00 p.m. Monday, December 2, 2013. The Timeline of the Search Committee is attached.

The Search Committee received nine responses to the RFP. We evaluated and discussed in detail all nine responses and narrowed the field to the top four responses. The firms interviewed were: Miyares and Harrington, Kopelman and Paige, and Petrini & Associates. The Search Committee was also interested in scheduling an additional interview in connection with an RFP received from Mr. Paul Kenny who currently serves as Sudbury's Town Counsel. However, based on advice from Labor Counsel we did not interview Mr. Kenny because he is currently an employee and his proposal is to remain as an employee of the Town. Employment interviews are considered personnel matters and are not within the purview of the Search Committee.

The Search Committee pondered the following questions: What are the advantages to Sudbury to change Town Counsel? What legal services are available compared to Sudbury's existing legal services? Did we see something beneficial which would warrant our recommending a change? Our ultimate questions, after considering all proposals, are: Do we want to recommend to the Board of Selectmen to keep the existing model and Counsel or change them? If the Search Committee decided to recommend a change in Counsel, which applicant(s) would the Search Committee recommend?

The Search Committee weighed the RFP responses and interviewed three firms, and our recommendation to the Board is detailed below. Additionally, we felt it appropriate to rank the three candidates and lay out the pros and cons of each. The Search Committee's recommendations are as follows: (1) Paul Kenny; (2) Petrini & Associates; and (3) Kopelman and Paige (in that order).

Search Committee Recommendations:

1. We recommend Paul Kenny for the following reasons:
 - a. The members of the Search Committee already have in-depth knowledge and familiarity with Mr. Kenny's legal experience and skills from working with him over the course of years.
 - b. Mr. Kenny has 37 years of successful service to the Town.
 - c. Based on our knowledge of this candidate and after due consideration of the application materials and interviews of the others, we are convinced that our current Town Counsel structure provides the most advantageous level of legal services for the Town at this time and at a reasonable cost.
 - d. Mr. Kenny provides significantly more onsite legal access to Town staff, Boards and Committees than proposed by any of the other applicants.

- e. The Search Committee received eight reference letters (attached) for Mr. Kenny from residents, attorneys and town employees, all supporting his work over the years as Sudbury Town Counsel.

Therefore the committee recommends that the Board of Selectmen favorably consider Mr. Kenny's candidacy to continue as the Sudbury Town Counsel. It is the Search Committee's recommendation that the BOS vote to enter into negotiations to extend Mr. Kenny's contract.

2. If the Board prefers to interview other candidates, the Search Committee recommends the following two firms ranked in this order:
 - a. Petrini & Associates
 - b. Kopelman and Paige

Both of these firms were creative with their proposals and will offer on-site Town Counsel Services and general retainers for a set price.


We found Petrini & Associates to be the more responsive of the firms interviewed. They clearly did research and were familiar with Sudbury's legal needs. Barbara Saint Andre who would be our Town Counsel came across to the Search Committee as approachable and sincere, confident, honest in her assessment of her legal skills and ability, and very knowledgeable in a broad variety of municipal law matters. The fixed fee retainer for basic services they proposed was \$60,000 for years 1 and 2; and \$65,000 in the third year. This includes office hours at the Flynn Building each week. Ms. Saint Andre's hourly rate would be \$190.00 for litigation and services not included in the fixed fee retainer. They have five attorneys in their firm. The Search Committee was concerned that their fixed fee retainer seemed low and would not cover all of Sudbury's legal needs. Christopher J. Petrini, the senior partner at the firm, was designated back-up Town Counsel. There is a detailed description of their fees and expenses starting on page 13 of their proposal.

Kopelman and Paige also did considerable research on Sudbury's legal needs. If we went with this firm, Sudbury would have a legal team, rather than a single Town Counsel relationship. Jonathan Silverstein would be our Primary Town Counsel and Brian Riley the back-up Town Counsel. They proposed a \$5,000 per month (\$60,000 annually) for a retainer, which would include office hours at the Flynn Building two days a week for 3 hours each. For legal services outside of the matters included in the retainer we would be billed \$185 per hour (in years 1 and 2) and \$190 per hour in year 3 up to an annual cap of \$110,000 in years 1 and 2; and \$115,000 in years 3 and 4. There are some exclusions from this cap which are further described in their proposal (Tab B, page 3). They also had some alternative Fee Proposals. The proposed fees and expenses are shown in Tab B of their proposal. Again, the Search Committee has concerns with their fee proposal.

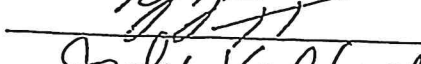
The three proposals that we have recommended are attached to this memo, as well as the six proposals that we have not recommended.

Sincerely,

Town Counsel Search Committee:

 , Maryanne Bilodeau, Asst. Town Manager/HR Director


 , John Drobinski, Board of Selectmen, Chairman


 , Myron Fox, Town Moderator


 , Jody Kablack, Planning and Community Development Director

 , James Kelly, Combined Facilities Director

 , Scott Nix, Police Chief

 , Len Simon, Board of Selectmen

 , Andrea Terkelsen, Finance Director

 , Liam Vesely, Board of Assessors, Chairman

2013 Town Counsel Search Timeline 10-17-13

- √ Develop "draft" Timeline - MB
- √ Decide Who should serve on Town Counsel Search Committee - BOS
 - What departments/committees should be represented? How many members?
 - Are these people interested and available? (See time constraints in Timeline.)
- √ 9/19/13 Committee meets organizes itself (eg. Chair, Vice-Chair, Secretary)
Discuss "Draft" Timeline and "Draft" Desired Expertise/Experience for BOS
- √10/1/13 BOS Meeting
 - Officially appoint Committee members
 - Review/comment/vote on "Draft" Broad Timeline:
 - 1/31/14: Names of Finalists to Selectmen's Office
 - 3/17/14: Projected Start Date for Town Counsel
 - Give committee direction for Open Meeting Law, etc.
- √10/2/13 Committee develops Advertisement/RFP and finalizes Timeline
- 10/16/13 Committee begins developing Rating Grid for RFP's and Interview Questions
(Thompson Room)
- 10/22/13 BOS reviews/comments/votes on finalized Timeline and RFP
- 10/28/13 Review comments from BOS on final Timeline and RFP
(Silva Room) Vote to accept edited documents and advertise
Finalize Rating Grid, Interview Questions, discuss Interview process
- 11/04/13 Advertise with due date of 12/02/13 by 3 p.m.
- 12/16/13 Committee reviews Proposals/Applications and chooses which firms/attorneys to interview
(Thompson Room)
- 1/06/14 Committee interviews Applicants
(Silva Room)
- 1/13/14 Committee interviews Applicants
(Silva Room)
- 2/03/14 Committee reviews all references/recommendations; Committee votes for finalists
Snowdate 2/05/14 (Silva Room)
- 2/07/14 List of finalists and Proposals to Selectmen's Office

H. Rebecca Cutting
381 Maynard Rd.
Sudbury, MA 01776
978-443-3612 (h)
617-556-1002 (w)

November 29, 2013

Town of Sudbury
Board of Selectmen
Town Manager
Asst. Town Manager
278 Old Sudbury Road
Sudbury, MA 01776

Re: Letter of Reference for Paul L. Kenny, Esq.
to provide Town Counsel Services to the Town of Sudbury

To: The Sudbury Board of Selectmen, Sudbury Town Manager and Sudbury Asst. Town Manager

I write this letter of reference in order to offer you my reasons for recommending that Attorney Paul L. Kenny be reappointed to the position of Town Counsel for the Town of Sudbury. I am a life-long resident of Sudbury and first became involved in town government in the 1970's on environmental issues concerning water supply, wetlands and planning. My first contact with Attorney Kenny was at the Annual Town Meeting where I presented an article to preserve the Barton Farm through the Town's first use of Massachusetts' Agricultural Preservation Restriction Program and partial development in partnership with the Trustees of Reservations. As a lay person I found him very helpful, a quality well-suited to Sudbury's collaborative governance.

Since that time I have become an attorney practicing in the environmental field for the Massachusetts Department of Environmental Protection since 1988 where I have occasion to observe other municipal counsel. I find that independent municipal counsel with the years of experience that Attorney Kenny has had both in the practice of municipal law in diverse communities (Medford & Danvers for example) are best suited to handle the range of matters that daily face town counsel.

In my experience these seasoned independent counsel know the local dynamics and are thus best positioned to provide practical and successful legal counsel. Since the position of Town Counsel is one that requires a breadth of knowledge in topics ranging from employment to land use, the decades of experience that an attorney like Attorney Kenny has, serve not only to provide a depth of advice but an ability to tailor that advice to best suit the community he knows so well. Firms specializing in municipal law are not numerous and those that do enter the field of municipal law often have lower pay scales leading to less experienced counsel serving municipal clients. Attorney Kenny's years of service to the Town of Sudbury provide the town with a pool of knowledge that cannot be matched by such firms.

I have been witness to Attorney Kenny's application of this knowledge in town affairs over the years and, most recently, with the negotiations for the purchase of development rights on the Nobscot Boy Scout Reservation. At the time of these negotiations, I was on the Knox Trail Council's Board of

Directors. As you are likely aware, there were times when those negotiations were on the brink of failure after a painfully long history of such failures. Both sides were working very hard to avoid a repeat of the past. Attorney Kenny was a zealous advocate for the town's interests and although, being on the other side of the negotiating table I might have wished for less advocacy, I believe he served the town's goals very well in a difficult setting where other counsel with less experience might not have preserved the negotiations.

He is able to use not only his experience and knowledge of local dynamics and a sense of humor when tensions mount but, perhaps most importantly, he applies a depth of knowledge of the law that can only be acquired after years of experience. The municipal bar is not a large group nor one where counsel expect to make a lot of money, it is instead a field of practice only taken on independently by those who believe in local governance; a proud New England tradition and one that has special meaning in this community due to our lengthy and remarkable history of town government.

For these reasons, based upon my years of familiarity with Attorney Kenny's practice in the town and my observation of other municipal counsel, I recommend him to you as Town Counsel for the Town of Sudbury. I would be most happy to answer any questions that you might have. I can be contacted during normal business hours at 617-556-1002. Thank you for considering my comments.

Sincerely,



H. Rebecca Cutting, Esq.

**BRIAN T. CALLAHAN
6 LONGWOOD DRIVE
ANDOVER, MA 01810
1-978-475-7878 TEL. AND FAX**

November 29, 2013

**Myron Fox, Esq.
Chairman,
Town Counsel Search Committee
Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776**

Dear Chairman Fox:

I write this letter of recommendation on behalf of your outstanding current town counsel, Paul L. Kenny, Esq. of Andover, Massachusetts. I am a former professor of law and lawyer practicing principally in the field of public sector managerial labor negotiation.

I need not discuss the outstanding character, integrity, professional demeanor and extensive experience of Paul in light of his service to your community, a community for which he has great affection. I recall the Sunday Paul drove me out to your beautiful community and showed me specific historic sites, beautiful properties and your town hall. His affection for your community and his co-workers is real.

Paul was a law student of mine whose analytic talents provided him with outstanding grades and achievements. He taught in the evening division at the law school during his early career. I represented the City of Medford and the Town of Danvers as their professional public sector labor negotiator. Paul later worked with me in these fields and became the principal negotiator. The Town of Sudbury was his first priority and we were all aware of that position.

During this period Paul contacted me and asked if I would review his legal position involving a significant legal case he was handling on behalf of Sudbury. The Land Court had concluded that his legal position was not valid. Paul believed strongly that his legal position was the correct one and that the town intended to appeal the land court decision. Paul later met with me.

The "statutory language" involved in Paul's case had been the topic of earlier interpretation in published writing(s), written by expert lawyer(s), whose interpretations were purportedly inconsistent with Paul's interpretation of the statute. Paul was aware of this potential problem of interpretation but he believed that his interpretation was correct and their interpretation was incorrect.

Paul and I reviewed his interpretation of the statute. Paul demonstrated to me that the language of his two distinct segments of the statute when analyzed, demonstrated that the latter referenced written and published article(s) were erroneous. No one to my knowledge had ever contested the written article(s) conclusion. Paul convinced me that his argument was clearly viable and appropriate. Paul's analytical inherent talent is extraordinary. We had no doubt that Paul's interpretation was correct. We recognized that the other interpretation, earlier espoused by the author(s) and published, may be potentially a reasonable concept, but we believed that Paul's interpretation of the statute clearly should have rational priority. The brief was drafted and filed with the Court as was the counter brief by the other party who had prevailed in the Land Court.

At the hearing before the Supreme Judicial Court, the Chief Justice questioned seriously and fully Paul's legal position. Paul responded with professional demeanor and clearly presented his case fully and cohesively. Paul knew it was a difficult case but strongly believed in the merit of his position. Paul's oral argument was strong and his brief countered the substance of the adversary's legal position.¹

I was present at the hearing before the Supreme Judicial Court, sat beside Paul but had the role of an associated person without the right to speak. This is common practice. Paul was outstanding that day. The Supreme Judicial Court seeks to avoid minority opinions. The decision was a close one, the beautiful town that Paul loves won with a four to three decision. Such is extraordinary. I point this out because not only is Paul L. Kenny an outstanding lawyer but he prevailed against prior lawyer authored and published written articles which had interpreted the statute incorrectly. Such is another example of an outstanding lawyer and Town Counsel of outstanding merit. I truly believe that Paul L. Kenny is the finest Town Counsel in the Commonwealth of Massachusetts, always ready to defend the rights of his client and protect its citizen/business interests with his outstanding ability, qualifications and experience.

Sincerely,


Brian T. Callahan, Esq.

Suffolk University School of Law
Retired, Professor Emeritus

BTC:lc

¹ The adversary's brief recognized that Paul's position might be correct. He argued his position on this issue three distinct times in his brief. Paul's brief pointed out the three arguments and his brief contained an equal three arguments against his adversary's legal position.

December 2, 2013

Myron Fox, Chairman

Town Counsel Search Committee

Re: Paul Kenny, Town Counsel

Dear Attorney Fox:

Please accept this letter of support and reference for Paul Kenny. As the Sudbury Health Director I have depended on Paul Kenny for legal advice concerning local Board of Health Regulations, Town By-laws, State Sanitary Code and Environmental Regulations for more than 25 years. His knowledge, understanding and interpretation of the regulations and codes has been invaluable to the Board of Health.

Mr. Kenny has always provided response to questions and review of documents in a timely, helpful and professional manner. His years of experience and knowledge of the Town of Sudbury has been an important asset for support of our work.

Sincerely,

A handwritten signature in cursive script that reads "Robert C. Leupold".

Robert C. Leupold, R.S.

Health Director

November 27, 2013

Town Counsel Search Committee

Sudbury Ma. 01776

Dear Mr. Myron Fox,

I am writing to recommend continuing the services of Paul Kenny as Town Counsel. I have had the pleasure of working directly with Paul for the past year and a half in regards to zoning and building related issues. During this time I have become impressed at Paul's knowledge and capabilities in dealing with the passionate issues from both sides of the table.

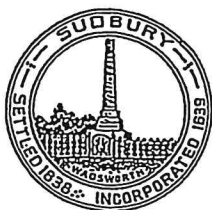
Since the first time I met Paul he has always made me feel welcome and comfortable. He has gone out of his way to make himself available to help me. He gives me direct answers and experienced advice to use in my duties as Inspector of Buildings.

I hope Mr. Paul Kenny's services are considered a valuable asset. I would look forward to working with Paul in the future.

Sincerely

Mark Herweck

Inspector of Buildings



Town of Sudbury

Dept. of Public Works

275 Old Lancaster Road
Sudbury, MA 01776
(978) 440-5421; (978) 440-5451 fax
I. William Place, DPW Director/Town Engineer

ENGINEERING • HIGHWAY • PARKS & GROUNDS • TRANSFER STATION • TREES & CEMETERY

October 18, 2013

Myron Fox, Chairman
Town Counsel Selection Committee
278 Old Lancaster Road
Sudbury, MA 01776

Dear Mr. Fox:

I would like to go on record in support of Paul Kenny as Sudbury's Town Counsel. I have known Paul for almost forty years. There isn't a time when you could refer a legal issue to him and get a response immediately or the next day.

I have personally been involved in litigation with Mr. Kenny when he had to defend the Town on various cases. Each time, the Town prevailed in the cases I was privy to.

Paul is well respected in the legal community. I personally witnessed after a trial had ended Judge Cauchon of Land Court called Mr. Kenny to the bench and outlined a case unrelated to the one just heard and asked him for his opinion.

Paul has a long legal history with the Town that would take time and money to duplicate with another counsel.

If there are any questions, please advise.

Sincerely,

I. William Place, P.E.
DPW Director/Town Engineer

IWP/gs

December 2, 2010

Town of Sudbury Board of Selectmen
278 Old Sudbury Road
Sudbury, MA 01776

RE: Paul L. Kenny
Position of Town Counsel

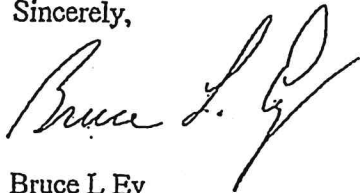
Dear Members of the Board:

This letter is a reference in support of continuing services with Mr. Kenny as Town Counsel. I have known Mr. Kenny for over 35 years. In that time I have had the opportunity to work with Mr. Kenny as a private consultant representing local developers as well as relying on Paul's legal advice as a member and for many years chairperson of the Permanent Building Committee during the school building program.

Because of problems with one of our general contractors, the PBC had no choice but to withhold payment on a portion of the Haynes School project. As a result, we were sued by the general contractor with a jury trial scheduled in Fall River District Court. I felt very fortunate to have Mr. Kenny by my side in front of the Judge. Paul negotiated a rapid settlement that saved the Town in the six figures.

The Town of Sudbury has been very fortunate to have had Mr. Kenny's legal guidance over the years. I hope you consider this in your review of applicants.

Sincerely,

A handwritten signature in cursive script that reads "Bruce L. Ey". The signature is written in dark ink and is positioned above the printed name.

Bruce L. Ey

Ninety-seven Lincoln Road
Sudbury, Massachusetts 01776
978-443-5450

Michael E. Melnick, PE

December 2, 2013

Mrs. Maryanne Bilodeau
Asst. Town Manager/HR Director
278 Old Sudbury Road
Sudbury, Massachusetts 01776

ATTN: Myron Fox, Chairman, Town Counsel Selection Committee

Dear Attorney Fox:

As a long time member of the Permanent Building Committee, I highly recommend Attorney Paul Kenny be re-appointed as Sudbury Town Counsel.

In my tenure on the Permanent Building Committee, nearly \$90 million of school and municipal projects have been renovated and/or constructed. During this period, Paul Kenny has always been very responsive in providing timely legal opinions regarding construction contract matters.

With his experience and legal expertise in the construction process, he has always put the Town in a favorable situation and avoided disputes and litigation with contractors.

Thank you for your favorable consideration of Attorney Paul Kenny to continue as the Sudbury Town Counsel.

Sincerely,



Michael E. Melnick, PE,

Co Chair

Permanent Building Committee

November 27, 2013

Town Counsel Search Committee

Dear Chairman Fox and Committee Members,

I have known Paul Kenny for well over twenty years. Please consider this a note of my support for Mr. Kenny's re-appointment as Sudbury's Town Counsel.

In his capacity as Town Counsel, I've had numerous occasions to solicit Mr. Kenny's legal expertise on a host of issues regarding assessment law questions. Paul has consistently been available, approachable and knowledgeable. Paul is known for his forthright, plainspoken manner. He has represented the Town well at the Appellate Tax Board. Mr. Kenny is extremely well versed in municipal law practice, and it has been my experience that Mr. Kenny has served this Town and its citizens well. I urge your support of Mr. Kenny's reappointment.


Cynthia Gerry

Director of Assessing

Town of Sudbury

AGENDA REQUEST – Item #8
BOARD OF SELECTMEN

Requestor's Section

Item Name: *Report from the Police Station Project Team/Permanent Building Committee*

Date of request: *3.5.14*

Requestor: *Town Manager Valente*

Action requested (Who, what, when, where and why):

Meet with and hear an update on project costs and other information on Project

Financial impact expected:

Background information (if applicable, please attach if necessary):

Recommendations/Suggested Motion/Vote:

Board will vote the final amount to be included in the Ballot summary for the Town Election warrant

Person(s) expected to represent Requestor at Selectmen's Meeting:

PBC Chair Mike Melnick, Chief Nix, Facilities Director Jim Kelly

Selectmen's Office Section

Date of Selectmen's Meeting: **3/11/14**

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes (X)

No ()

AGENDA REQUEST – Item #9
BOARD OF SELECTMEN

Requestor's Section

Item Name: *Update on Town Centre Project*

Date of request: *3.5.14*

Requestor: *Town Manager Maureen Valente*

Action requested (Who, what, when, where and why):

Receive and consider new information regarding the Town Center design.

Financial impact expected: *None more than is already appropriated*

Background information (if applicable, please attach if necessary):

Please see the attached background information

Recommendations/Suggested Motion/Vote:

The Sudbury Center Improvement Advisory Committee suggests that the Board consider several changes to the approved plans, and vote to support the final design at their meeting on March 11, 2014.

If the Board requires further information, the vote can be postponed until March 25, 2014.

Person(s) expected to represent Requestor at Selectmen's Meeting:

Selectmen's Office Section

Date of Selectmen's Meeting: **3/11/14**

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

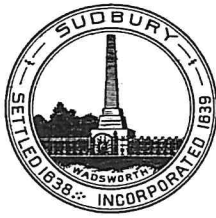
Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes (X)

No ()



Town of Sudbury

Planning and Community Development Department

Jody A. Kablack, Director

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776
978-639-3387
Fax: 978-443-0756

<http://www.sudbury.ma.us/services/planning>

kablackj@sudbury.ma.us

TO: Board of Selectmen
FROM: *jak* Jody Kablack, Director of Planning and Community development
RE: Sudbury Center Intersection Project
DATE: March 6, 2014

I wanted to give the Board an update on the activities of the Sudbury Center Improvement Advisory Committee (SCIAC) and the design plans for the intersection. To recap, funds for construction of the intersection were approved in 2013 and final engineering drawings are underway. There have been a few minor changes to the plan which are refinements of the design originally approved by the committee and presented to Town Meeting. These deal predominantly with the redesign of the "No Name Road" as discussed at Town Meeting, location of crosswalks, location of the master control box for the intersection, small adjustments to stone walls and things of that nature. Additionally, we are working with NStar to relocate the transformers in front of First Parish, as burying them is not feasible. However one item has been changed which we think should be discussed and agreed to by the Selectmen before proceeding any further.

As the consulting engineer refined the plans, the intersection grew wider by about 8' feet due to engineering and safety requirements. We asked them to look at alternatives to the wider intersection, and they came back with a design which utilizes 1 signal mast arm, to be located at the southeast corner of the First Parish property, as a replacement for 4 signal posts in the intersection. Eliminating these 4 signal posts removes the raised traffic islands in Hudson Road, Old Sudbury Road and Concord Road (north). The only need for these islands was to hold the signal posts. There was no other safety or engineering need for them.

At a meeting on March 6, 2014, the SCIAC voted to recommend this design utilizing 1 signal mast arm. It is the committee's feeling that the reduction in width of the intersection benefits the historical atmosphere of the Town Center, with no decrease in safety. This is the only major change to the plans that were discussed at Town Meeting last year.

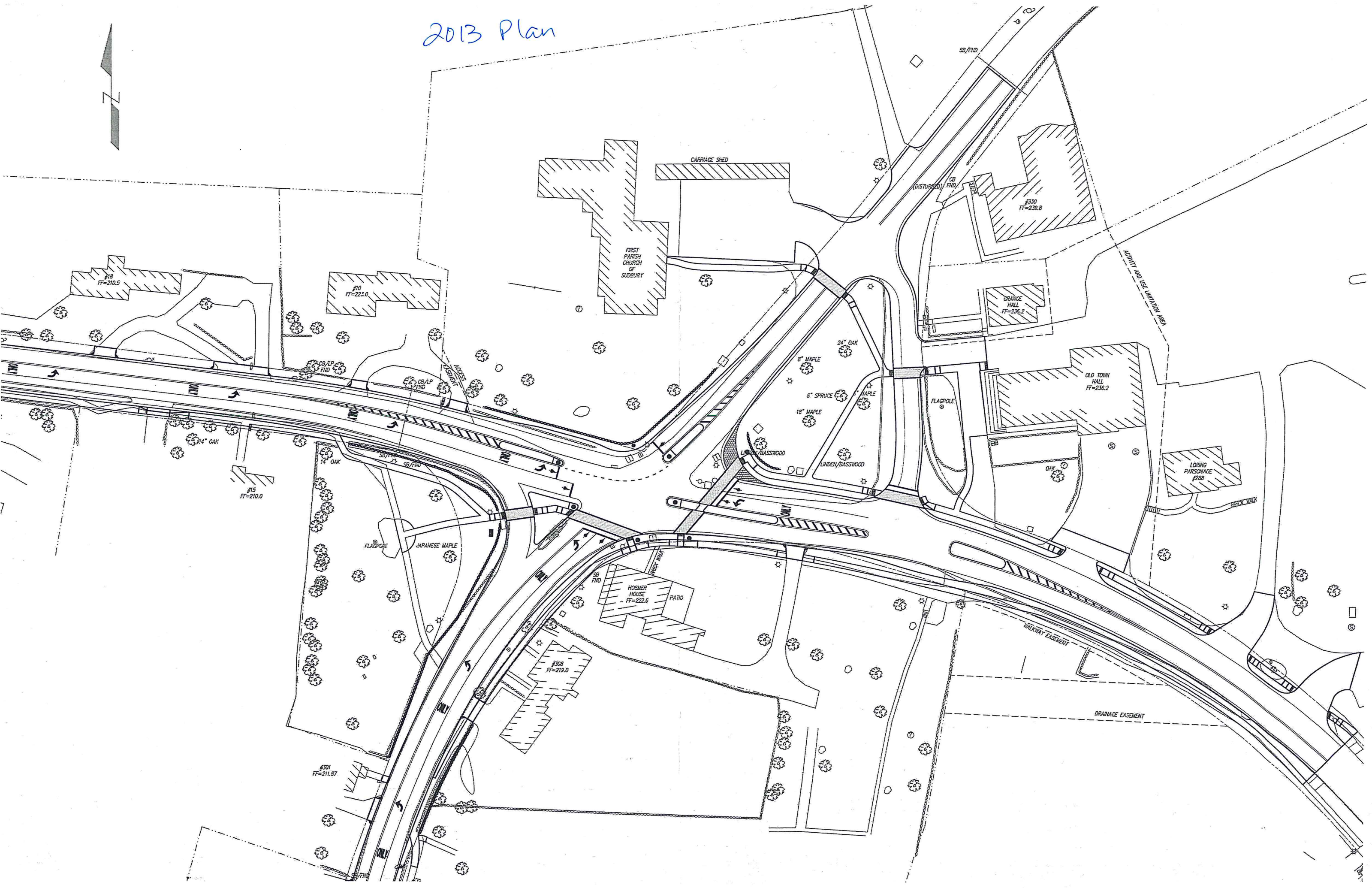
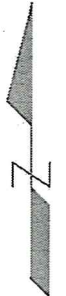
The mast arm would be 20-25 feet in length across the intersection, approximately 20 feet tall, and will contain 4 signal heads. As a comparison, the mast arm at the intersection of Rt. 20/27 and 126 in Wayland is 35-40 feet in length. I will provide a Photoshop image of the mast arm proposed for your next meeting.

Representatives of First Parish, the Sudbury Historical Commission and several neighbors have all indicated that this is a logical solution to reduce the width of the intersection.

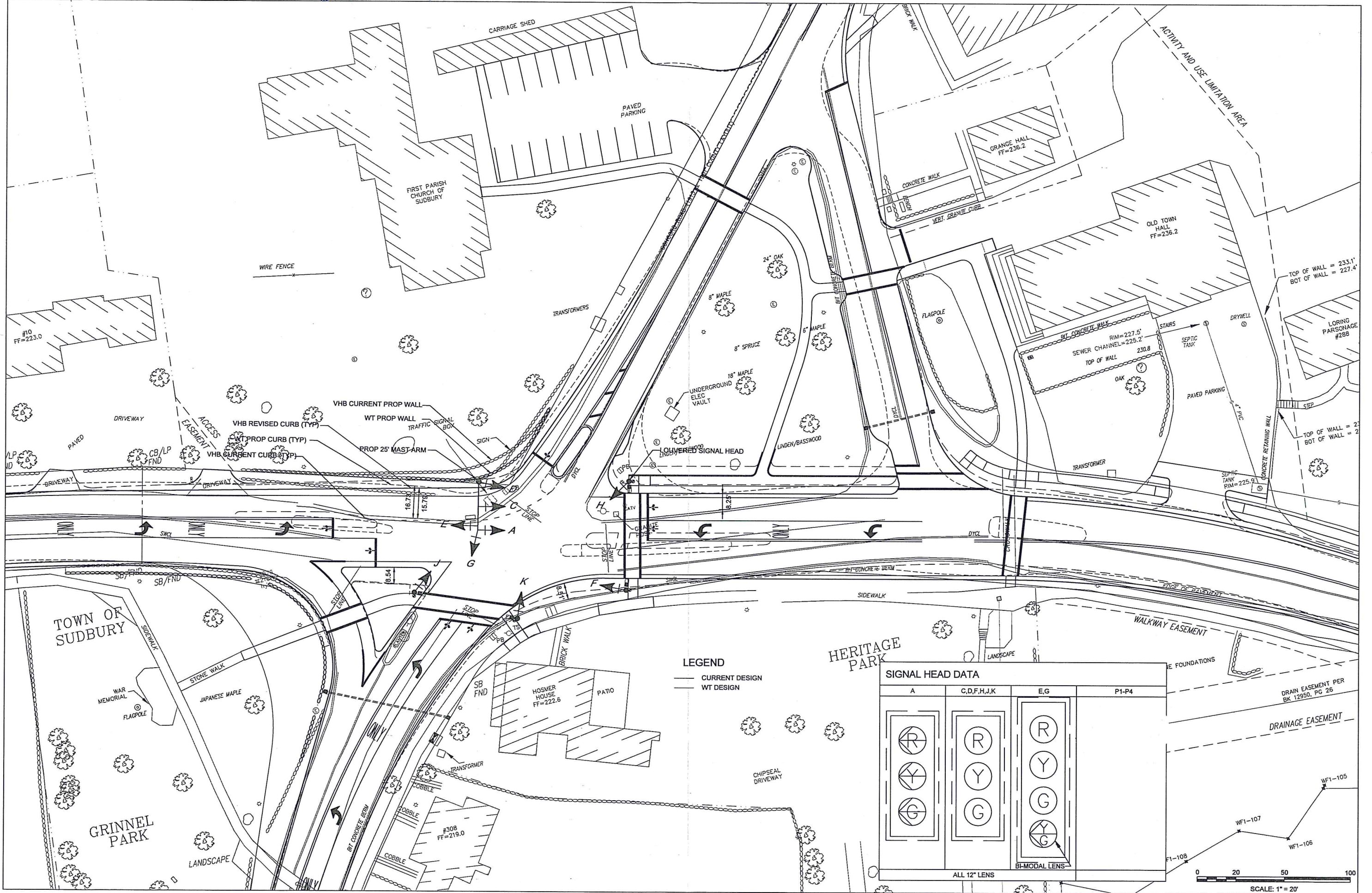
The SCIAC hopes to receive a vote of the Selectmen to proceed in this manner and authorize the consultants to finalize the design plans. The next steps in the project are to obtain permits from various Town boards – Planning Board Scenic Road permit, Historic Districts Commission approval, and Conservation Commission approval for stormwater and wetland permitting. The plans will be sent to bid immediately after receiving all approvals. The SCIAC will continue working on the final details for the signal hardware, crosswalks materials, and the landscape plan so that all elements will be ready for construction to commence in 2014.

Please let me know if you have any questions.

2013 Plan



Mast Arm Plan

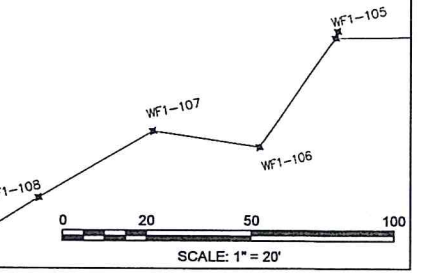


LEGEND
 — CURRENT DESIGN
 - - - WT DESIGN

SIGNAL HEAD DATA

A	C,D,F,H,J,K	E,G	P1-P4
(R)	(R)	(R)	
(Y)	(Y)	(Y)	
(G)	(G)	(G)	
		(Y)	
		(G)	
		(Y)	
		(G)	

ALL 12" LENS BI-MODAL LENS

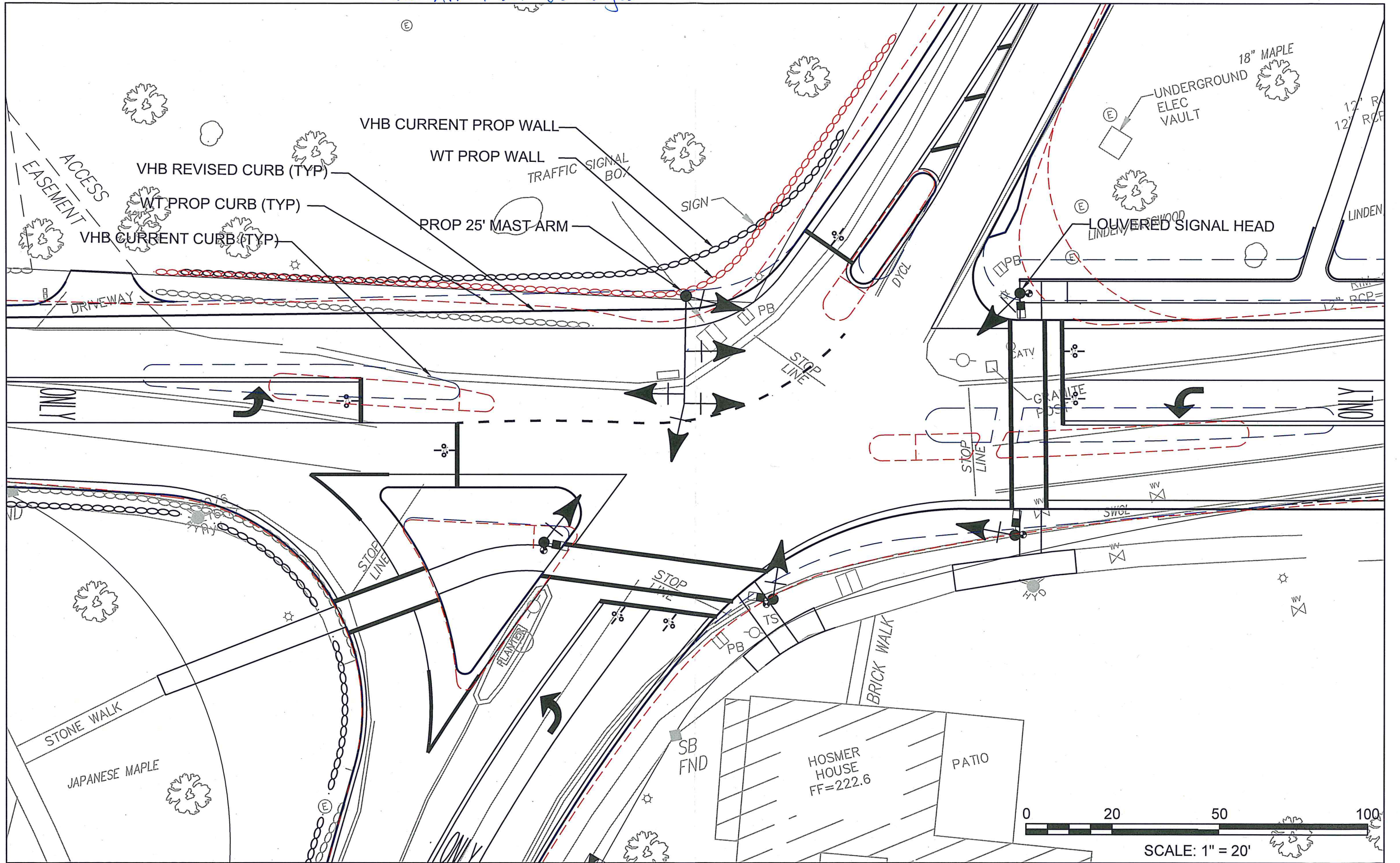


TOWN OF SUDBURY

HERITAGE PARK

GRINNEL PARK

Mast Arm Plan (enlarged)



AGENDA REQUEST – Item #10

BOARD OF SELECTMEN

Requestor's Section:

Date of request: February 28, 2014

Requestor: Patty Golden, Selectmen's office

Action requested (Who, what, when, where and why):

CONSENT CALENDAR (see attached)

Review and sign the Annual Town Election Warrant for March 31, 2014

Financial impact expected: N/A

Background information (if applicable, please attach if necessary):

Vote to sign the 2014 Annual Town Election warrant.

Recommendations/Suggested Motion/Vote: Vote to sign the 2014 Annual Town Election warrant which must be posted and in the hands of residents no later than Monday, March 24, 2014.

Person(s) expected to represent Requestor at Selectmen's Meeting: None

Selectmen's Office Section:

Date of Selectmen's Meeting: March 11, 2014

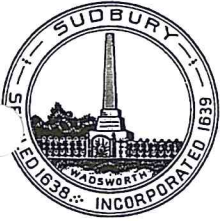
Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Town Counsel approval needed?

Yes ()

No (X)



TOWN OF SUDBURY
Office of the Town Counsel

April 28, 2011

TO: Board of Selectmen
FROM: Town Counsel
RE: Ballot Question Format

Local communities are prohibited under Campaign Finance and Election laws from publication or providing voter information material at public expense, including any explanatory information on the ballot such as a summary of the impact of a yes or no vote. Exceptions are those communities specifically authorized by statute to prepare and distribute such information in the warrant only. Sudbury, through its initiatives at the Annual Town Meetings of 1993 and 1996, was exempted under Special Act, Chapter 180 of the Acts of 1996 and is one of only eight (2008 data) communities in the Commonwealth so excepted.

Chapter 180 of the Acts of 1996, attached, defines both the process and sets forth the limitations.

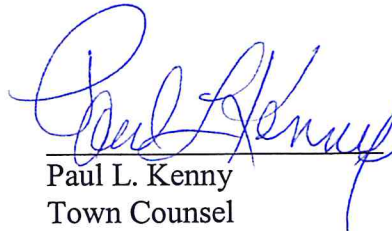
Further, the requirements of the Massachusetts Department of Revenue pertaining to Proposition 2/ ½ Ballot Questions provide:

Override and capital expenditure exclusion questions must also include the total amount of taxing authority being requested and the fiscal year in which it will be use. This information is not included in debt exclusion questions.

More specifically, the language of the debt exclusion ballot question is dictated by M.G.L.c.59 §21C which does not set forth a dollar amount.

In short, the wording allowable in the Warrant only is a full text of the ballot question; a fair and concise summary of the question, which includes a one sentence statement describing the effect of a "yes" or "no" vote, prepared by Town Counsel; and arguments for and against, each not to exceed 250 words. Only the question itself can be printed on the ballot.

If I can provide any further information, please do not hesitate to advise.


Paul L. Kenny
Town Counsel

~~T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S~~

In the Year One Thousand Nine Hundred and Ninety-six

AN ACT AUTHORIZING THE TOWN OF SUDBURY TO SEND CERTAIN INFORMATION TO REGISTERED VOTERS IN THE TOWN OF SUDBURY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. (a) Notwithstanding the provisions of section twenty-two A of chapter fifty-five of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Sudbury shall, at least seven days before any election at which a question, other than a question on the ballot pursuant to section eighteen A of chapter fifty-three of the General Laws, shall be submitted solely to the voters of said town, cause to be printed and sent to each residence of one or more voters whose name appears on the latest voting list for said town and make available at each polling place (1) the full text of such question, (2) a fair and concise summary of such question, including a one sentence statement describing the effect of a yes or no vote, prepared by the town counsel of said town, and (3) arguments for and against such question] as provided in subsections (b) and (c).

(b) No argument shall contain more than two hundred and fifty words. Said board of selectmen or, at its request, said town counsel shall seek such written arguments from the principal proponents and opponents of each such question. Said board of selectmen shall designate a date by which written arguments must be received, in a written notice to the principal proponents and opponents. Said notice must be issued at least fourteen days before the date by which the written arguments must be received.

(c) For the purposes of this act, the principal proponents and opponents of any such question shall be those persons determined by said board of selectmen to be best able to present the arguments for and against such question. The principal proponents or opponents of such a question may include a town or district officer or committee, and the principal proponents may include the first ten signers or a majority of the first ten signers of any petition initiating the placement of such question on the ballot. In determin-

ing the principal proponents and opponents of such a question, said board of selectmen shall contact each ballot question committee, if any, as defined in section one of chapter fifty-five of the General Laws, organized specifically to influence the outcome of the vote on such question. If no argument is received by said board of selectmen within the time allowed by this act, said town counsel shall prepare such argument.

(d) All arguments filed with said board of selectmen pursuant to this act, and the summary prepared pursuant to subsection (a), shall be open to public inspection at the office of the town clerk of said town, and if the vote affects a district, the arguments and summary shall be open to public inspection at the office of the clerk of each city or town within the jurisdiction of the district.

SECTION 2. This act shall apply where the question presented involves the regional district of which the town of Sudbury is a member or involves a joint undertaking by said town of Sudbury and any one or more cities or towns.

SECTION 3. This act shall take effect upon its passage.

House of Representatives, July 10, 1996.

Passed to be enacted, *[Signature]*, Speaker.

In Senate, July 15, 1996.

Passed to be enacted, *[Signature]*, President.

24 July, 1996

Approved,

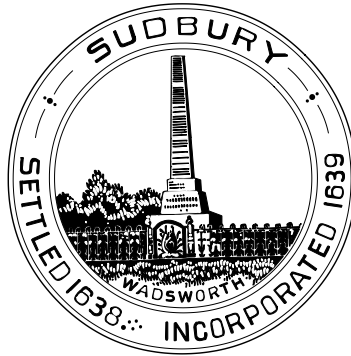
at eleven o'clock and 15 minutes, A . M.

W. W. F. Weld

Governor.

Aug 2 12 26 PM '96
RECEIVED
BOARD OF SELECTMEN
SUDBURY, MA

Town of Sudbury Massachusetts



2014 OFFICIAL WARRANT ANNUAL TOWN ELECTION

Including Regional District School Committee

March 31, 2014

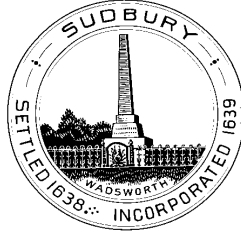
Polls Open 7:00 A.M. to 8:00 P.M.

Precincts 1, 1A, 2 & 5 - Fairbank Community Center, Fairbank Road

Precincts 3 & 4 - Sudbury Town Hall, Concord Road

The Warrant for the 2014 Annual Town Meeting, to be held Monday, May 5, 2014, will be issued and mailed separately.

**TOWN OF SUDBURY
ANNUAL TOWN ELECTION
WARRANT**



Commonwealth of Massachusetts
Middlesex, ss.

To the Constable of the Town of Sudbury:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Sudbury, qualified to vote in Town Elections, that voters residing in Precincts 1, 1A, 2 and 5 should meet at the Fairbank Community Center and voters residing in Precincts 3 and 4 should meet at the Town Hall in said Town on Monday, March 31, 2014, at seven o'clock in the forenoon; then and there to choose by official ballot in accordance with law, one Goodnow Library Trustee for one year; and one member of the Board of Assessors, two Goodnow Library Trustees, one member of the Board of Health, one member of the Board of Selectmen, two members of the Sudbury School Committee, one member of the Park and Recreation Commission, one member of the Planning Board, all for three years; and one member of the Sudbury Housing Authority for five years; Included as part of the Annual Town Election will be an election of two members for three years each to the Lincoln-Sudbury Regional District School Committee. In addition, voters will be requested to vote on the following ballot question:

BALLOT QUESTION NO. 1

Shall the Town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds issued in order to construct a new Police Department Headquarters and appurtenant structures on Town-owned land adjacent to the existing Fire Headquarters, for site development, purchasing additional equipment, technology, furniture, landscaping, and all expenses connected therewith, including professional, engineering, and architectural services and preparation of plans, specifications and bidding documents, supervision of work, relocation, and borrowing costs and expenses?

YES _____

NO _____

SUMMARY: The 2014 Annual Town Meeting will include an article for the expenditure of funds to construct a new Police Department Headquarters on Town-owned land adjacent to the Fire Headquarters on Hudson Road. This "construction phase" will utilize the design and construction documents for which funding was approved by the 2013 Annual Town Meeting under Article 16 and the debt exclusion approved in the June 2013 Special Election.

This ballot question seeks to exclude from the Proposition 2 ½ levy limit the principal and interest to pay for this construction phase of the project. If this debt exclusion receives approval via this ballot and Town Meeting subsequently approves the appropriation, permanent bonding will be obtained at the conclusion of the project based on actual expenditures.

At the time of warrant signing, the total project cost has not been finalized; however, predicated upon an estimated total project cost of \$7.8M, including \$627,000 funded under Article 16, the estimated impact on the tax rate of this component (\$7,173,000) is: \$0.13 per \$1,000 assessed value at the highest point of the bonding period (based upon a 20-year bond at 2.5%). For example, the tax impact on the 2014 average home value of \$640,270 is estimated at \$85 in the first year of debt service, and would decline approximately \$2/year during the bonding period.

A “yes” vote on this question will authorize the Town to exclude from the levy limit the debt required to fund construction of a new Police Headquarters facility, with all associated work connected thereto, subject to appropriation by Town Meeting; and a “no” vote will mean the project cannot go forward without the approval of funding by Town Meeting and approval of a debt exemption at a future Special Election.

ARGUMENT FOR PASSAGE: Replacement of the 1960 Police Station, expanded in 1980, is the Town’s highest major capital priority. Deficiencies of the existing station have been well documented and confirmed by the Blue Ribbon Committee appointed by the Board of Selectmen in 2008: lack of adequate space for its present-day function; failure to meet current requirements for handicapped access, size/ location of cells, evidence processing/storage, interrogation facilities, community interface, separation of police and public traffic, safe handling of detainees, technology and work flow. In addition, major infrastructure systems are at the end of their useful life and are now failing. Its 0.6 acre site does not allow for expansion.

The Blue Ribbon Committee reviewed multiple options, and recommended that a new facility of about 14,500 sq. ft. be built adjacent to the present Fire Headquarters on Hudson Road. This will establish an efficient and attractive public safety complex at the Town’s geographic center.

The 2013 Annual Town Meeting (ATM) approved funding for design and engineering work leading to bid documents for a new facility based on this concept, meeting current codes and standards and comparable to stations in similar communities. The design work and permitting is almost complete and the resulting construction, if approved, will result in an energy efficient, low maintenance public safety building meeting present and future needs. Because of debt retirement in FY15, the projected debt service expense, including borrowing required for the Police Headquarters, will remain well below the FY 14 level.

ARGUMENT IN OPPOSITION: If the design is implemented resulting in construction of a new Police Headquarters, Sudbury will have a new police station that is too large for the police function required for a Town of our size. The number of employees staffing the building at any one time is small and data shows the occupancy of the cells is minimal. Sudbury’s population has not grown in recent years so the current size should be sufficient. This plan calls for the new police station to be located adjacent to the Fire Headquarters when it should remain on Route 20 where it is close to the business community. Funds should be expended to upgrade and renovate the current station instead. Construction of a new Police Headquarters will increase the Town’s long-term debt service above what is projected beyond FY15 for existing debt. With no construction, the entire amount of the projected reduction in taxes could be passed on to the taxpayers instead. If construction of a new Police Headquarters is approved, there is the question of future use of the building/land owned by the Town on Route 20. No further action should occur until ideas for disposition of the current police station have been further explored.

Polls will open at seven o'clock in the forenoon and will be closed at eight o'clock in the evening.

And you are required to serve this Warrant by posting an attested copy thereof at the Town Hall at least seven days before the time appointed for such election.

Hereof fail not and make due return of the Warrant by your doing thereon to the Town Clerk, at or before the time of election aforesaid.

Given under our hands this 11th day of March, 2014.

SELECTMEN OF SUDBURY:

John C. Drobinski

Charles C. Woodard

Lawrence W. O'Brien

Robert C. Haarde

Leonard A. Simon

AGENDA REQUEST – Item #11
BOARD OF SELECTMEN

Requestor's Section

Item Name: *Continued Discussion of Town Meeting articles*

Date of request: *3.5.14*

Requestor: *Town Manager Valente*

Action requested (Who, what, when, where and why):

In order to get the Board of Selectmen position in the warrant, the Board needs to vote their positions by March 25, 2014.

Financial impact expected:

Background information (if applicable, please attach if necessary):

See attached list of articles

Recommendations/Suggested Motion/Vote:

Any position of the board.

Person(s) expected to represent Requestor at Selectmen's Meeting:

Not applicable

Selectmen's Office Section

Date of Selectmen's Meeting: *3/11/14*

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes (X)

No ()

Article #	Official Title	POSITION	SPEAKER
Finance/Budget			
1	Hear Reports		
2	FY14 Budget Adjustments		
3	Stabilization Fund		
4	FY15 Operating Budget		
5	FY15 Transfer Station Enterprise Budget		
6	FY15 Pool Enterprise Budget		
7	FY15 Recreation Field Maintenance Enterprise Budget		
8	Unpaid Bills		
9	Chapter 90 Highway Funding		
10	Real Estate Exemption		
11	Town/School Revolving Funds		
12	Rescind/Amend Borrowings		
Capital			
13	FY15 Capital Budget		
14	Construct Police Headquarters		
15	Purchase of Fire Department Ambulance and Fire Engine - FY15 Capital Exclusion		
16	DPW Rolling Stock Replacement		
17	Technology Infrastructure Improvement - Lincoln-Sudbury Regional High School		
18	Israel Loring Elementary School - Purchase of New Phone System		
19	School Driveways, Parking Lot, and Sidewalks Improvement		
20	Ephraim Curtis Middle School - Purchase of Technology Devices		
21	Fairbank Community Center Roof Project		
22	Energy Services Company Energy Improvement Program		
23	Nixon School - Partial Roof, Window and Door Replacements		
24	DPW Rolling Stock Stabilization Fund		
25	Energy Saving Programs Stabilization Fund		
Other			
26	Conduct Feasibility Study for Wastewater Disposal Options for Rte 20 Business District		
27	Amendments to the District Agreement of the Minuteman Regional Vocational School District		
28	Chapter 110, Section 110 of the Acts of 1993, Disabled Veteran's Exemption Residency Requirements		
Community Preservation			
29	Town-wide Walkways		
30	Sudbury Housing Trust 10% Allocation		
31	Historical Commission Projects		
32	Bruce Freeman Rail Trail Design		
33	Melone Property Engineering		
34	SHA Bathroom Project		
35	Community Preservation Fund - Amend Art. 43/2006 ATM SHA Unit Buy-Down		
36	CPC - Reversion of Funds		
37	CPC General Budget and Appropriations		
Zoning			
38	Amend Zoning Bylaw, Medical Marijuana Treatment Centers		
39	Amend Zoning Bylaw Accessory Structures		
40	Amend Zoning Bylaw, Sect 4100 Flood Plain Overlay District		
41	Amend Zoning Bylaw: (Wastewater facilities delete sec. 4500)		
Petition			
42	Petition-Lafayette Drive Land		
43	Petition-Sale of Land under C61A		
44	Petition-Divestment of PRIT funds		
45	Petition-Utilize Portion of CPA Funds to Fund Conservation Fund		
46	Petition-Amend Wetlands Administration Bylaw: Projects funded with CPC funds		
47	Petition-Amend Bylaw Art. IV Finance Committee		

AGENDA REQUEST – Item #12
BOARD OF SELECTMEN

Requestor's Section

Item Name: *Amending minutes of 1.28.14*

Date of request: *3.5.14*

Requestor: *Town Manager Valente*

Action requested (Who, what, when, where and why):

Amend the minutes of January 28 to append the report from Chairman Drobinski on the composite evaluation of the Town Manager

Financial impact expected: *none*

Background information (if applicable, please attach if necessary):

Recommendations/Suggested Motion/Vote:

To amend the minutes of January 28, 2014 to append the report of Chairman Drobinski on the composite evaluation of the Town Manager

Person(s) expected to represent Requestor at Selectmen's Meeting:

Town Manager Valente

Selectmen's Office Section

Date of Selectmen's Meeting: **3/11/14**

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes (X)

No ()

Selectman Haarde asked for confirmation that the level staff budget proposal is \$250,000 more than the no-override budget, which Ms. Valente provided. He asked when the final health care rates will be available. Ms. Valente stated this information should be available in March 2014.

Selectman O'Brien stated the information provides a good start for this year's budget discussions. He thanked Town Manager Valente for her thoughtful proposals.

Town Manager Valente stated she has heard that Sudbury Public Schools and Lincoln-Sudbury Regional High School's budgets are within the 2.5% suggested growth guidelines. Thus, no operating budget override requests are anticipated. However, Vice-Chairman Woodard stated there would likely be annual requests for capital and debt exclusions.

Melone Property – Discuss Fund, Consultant's Report and Possible Restoration

At 9:59 p.m., Vice-Chairman Woodard stated the intent initially was to pursue the use of the DPW Mining Fund to be used for purposes related to the Melone property, which could also eliminate the need for Community Preservation Act funding this year when the Community Preservation Committee is deliberating tight budget recommendations.

Town Manager Valente stated this is controlled at the State level, and it will not be possible to use this fund. She explained the revolving fund would have to be considered closed and returned to Free Cash to later be used to request at a Town Meeting to restore the funds to be used for reclamation work on this property.

Vice-Chairman Woodard stated no action regarding the Mining Fund is possible at this time.

Town Manager – Composite Evaluation Report

At 10:04 p.m., Chairman Drobinski distributed copies to the Board of matrices he developed regarding the Board responses received for the performance Evaluation of the Town Manager and his letter to the Board dated January 28, 2014, which he read aloud. He explained the evaluation process scored the Town Manager's Performance in the following five areas: vision and community leadership, relationship with the Board of Selectmen, personnel management, financial management and personal qualities and characteristics. Chairman Drobinski stated he has shared the Board's feedback and rankings with the Town Manager. He reported a super majority of the Board ranked the Town Manager's performance at 96% out of 100%. Chairman Drobinski also reported one Board member was dissatisfied with the Town manager's performance in all areas evaluated and would like more transparency. He stated when this input was incorporated into the matrix, the Town Manager's performance was rated at 82% out of 100%. Chairman Drobinski stated the overall Town Manger performance evaluation rating is high and in conformance with prior evaluations. He urged Board members to reach out to the Town Manager to continue the dialogue shared through the evaluation process. * Note: see attached report

There being no further business, the meeting adjourned at 10:08 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk



TOWN OF SUDBURY

Office of Selectmen

www.sudbury.ma.us

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776-1843
978-639-3381
Fax: 978-443-0756

Email: selectmen@sudbury.ma.us

January 28, 2014

Members of the Board of Selectmen,

I have completed the Town Manager evaluation process in accordance with the procedure outlined by Town Counsel Paul Kenny in his memo dated November 12, 2013.

Thank you all for your participation in this important process.

Also as part of the evaluation, we all received a report from the Town Manager dated November 15, 2013, discussing areas upon which we evaluated the Town Manager. The evaluation process examined and scored (from a ranking of 1-4) the Town Manager's Performance in five areas:

- Vision and Community Leadership;
- Relationship with Board of Selectmen;
- Personnel Management;
- Financial Management; and
- Personal Qualities and Characteristics.

I have communicated with the Town Manager and shared with her all of your comments and rankings.

I have not repeated them here as we had detailed discussions on all your evaluations but there have been many major accomplishments in the last few years (Advanced Life Saving, Health Care Reform, Pantry Brook Farm, Senior Tax Relief and the start of major infrastructure projects among others).

In summary, a super majority of the Board ranked the Town Manager's performance at 96% out of 100%.

One member of the Board was dissatisfied with the Town Manager's performance in all five areas evaluated and would like more transparency among other things.

When that Board member's evaluation is incorporated into the ranking matrix the Town Manager's performance has a rating of 82% out of 100%.

For completeness, I have included both of these matrices as part of the Town Manager evaluation.

The Town Manager has always scored well for the past thirteen years in all of the five evaluation areas since she has been the Town Manager.

In addition, the Board recognizes that the expectations, responsibility and accomplishments of the Town Manager are many times beyond the goals and objectives of the Board. As Town Manager she has consistently demonstrated flexibility to deal with issues, situations and opportunities of the moment without losing focus on the bigger, longer term and sometime multi-year objectives.

The Town Manager has made the transition from three to five selectmen with great skill and the transition has been virtually seamless. The two new board members give the Town Manager high marks for integrating them into the selectmen role.

The Town Manager is extremely knowledgeable of municipal finance and integrates seemingly disparate topics into a realistic assessment of the state of the town. In addition, she has the vision and the drive to work with all the board members as Sudbury sets forth on major infrastructure upgrades.

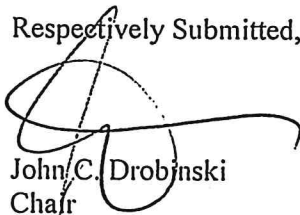
The Town manager and the financial team is the major reason that the Town maintains the AAA bond rating.

Upcoming challenges for the Town Manager include contract negotiations, budget issues, and the appropriate sequencing of the upcoming infrastructure projects.

In conclusion, the overall Town Manager rating is high and in conformance with her prior evaluations.

I would recommend each board member reach out to the Town Manager in order to maintain this dialog.

Respectively Submitted,



John C. Drobinski
Chair

Performance Evaluation for Maureen G. Valente January 2014

JCD	LOB	LAS	CCW	Sum	Average
3.90	3.70	3.65	4.00	15.25	3.81
3.90	3.75	3.60	3.80	15.05	3.76
3.90	3.60	3.40	4.00	14.90	3.73
4.00	4.00	3.70	4.00	15.70	3.93
3.90	4.00	3.70	4.00	15.60	3.90
19.60	19.05	18.05	19.80	76.50	3.83
3.92	3.81	3.61	3.96	15.30	96%

JCD	LOB	LAS	CCW	RCH	Sum	Average
3.90	3.70	3.65	4.00	1.00	16.25	3.25
3.90	3.75	3.60	3.80	1.00	16.05	3.21
3.90	3.60	3.40	4.00	1.00	15.90	3.18
4.00	4.00	3.70	4.00	1.00	16.70	3.34
3.90	4.00	3.70	4.00	1.00	16.60	3.32
19.60	19.05	18.05	19.80	5.00	81.50	3.26
3.92	3.81	3.61	3.96	1.00	16.30	82%

AGENDA REQUEST – Item #13
BOARD OF SELECTMEN

Requestor's Section

Item Name: *Intention of the Board of Selectmen to Re-appoint Town Manager and renew the Employment Agreement with the Town Manager*

Date of request: *3.5.14*

Requestor: *Chairman John Drobinski*

Action requested (Who, what, when, where and why):

Discuss and vote on intention to make reappointment and renewal of employment agreement

Financial impact expected: *Depends on outcome of votes*

Background information (if applicable, please attach if necessary):

Please see the attached memorandum

Recommendations/Suggested Motion/Vote:

Vote to provide the Town Manager with written notice of the Board's intention to renew the employment agreement and appointment as Town Manager beyond March 16, 2015, subject to successful negotiations on successor employment agreement.

Person(s) expected to represent Requestor at Selectmen's Meeting:

Selectmen's Office Section

Date of Selectmen's Meeting: **3/11/14**

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes (X)

No ()

March 6, 2014

To: Sudbury Board of Selectmen
From: John Drobinski, Chairman
Subject: Renewal of Employment Agreement with the Town Manager

The employment agreement with the Town Manager provides the following in Section VI: Non-Renewal: *If the Board decides not to renew this agreement at its termination, the board shall give the Town Manager written notice at least one year in advance of its intent not to renew this Agreement. If the Board fails to give such written notice, this Agreement shall be extended for an additional one year period.*

Section II: Term of Agreement states: *The Town Manager and the Board of Selectmen agree that the term of this employment Agreement shall begin on March 16, 2010 and shall continue until March 16, 2015.*

Therefore, I suggest that the Board consider and make the decision on this renewal question at our meeting on March 11, 2014 in order to make an affirmative decision on this matter and avoid the question of the extension being made by default.

If the Board members agree to make this vote on March 11, I remind Board members that there are actually two votes needed for the position of Town Manager: 1) to appoint to the position for a term of office ending on a specific date and 2) to negotiate an employment agreement to end on a specific date, typically the same length of time as the term of office. Any votes should be made subject to successful negotiations between the parties.

AGENDA REQUEST - Item #14

BOARD OF SELECTMEN

Requestor's Section

Date of request: *March 7, 2014*

Requestor: *Patty Golden*

Action requested: *Vote to approve the February 11 and February 25, 2014 regular session meeting minutes, and January 23 Town Forum minutes.*

Financial impact expected: *None*

Background information (if applicable, please attach if necessary):

CONSENT CALENDAR

Recommendations/Suggested Motion/Vote:

Vote to approve the February 11 and February 25, 2014 regular session meeting minutes, and January 23 Town Forum minutes.

Person(s) expected to represent Requestor at Selectmen's Meeting:

Selectmen's Office Section

Date of Selectmen's Meeting: *March 11, 2014*

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed? Yes () No (X)

IN BOARD OF SUDBURY SELECTMEN
TOWN FORUM
THURSDAY, JANUARY 23, 2014

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

The Board of Selectmen met to host a Town Forum, pursuant to Article III of the Town Bylaws. Chairman Drobinski opened the meeting at 7:00 p.m. in Lower Town Hall, 322 Concord Road. The topic of the Forum was a review of the FY14 Goals set by the Board of Selectmen. The public was invited to attend the Forum as well as view it on the public access television channels, and to ask questions they might have on the Board's goals for FY14.

The Board members took turns presenting one of the Board's 16 goals, explaining the goal, the background related to the goal, and the Board's plans for moving forward on achieving the goal. After the brief explanation, the Board took questions from members of the audience as well as ones sent in via email during the meeting. For the most part, the Board members used PowerPoint slide presentations to sum up the information on each goal, and those presentations can be found on the Selectmen's home page of the Town's website.

Many members of the Town's boards and committees were in attendance, prepared to add information as needed when a goal overlapped with their areas of responsibilities. Also present were a number of Town, SPS and L-S staff and administrators.

The Goals covered included the following.

- Goal 1: Conduct an RFP process for Town Counsel Services: John Drobinski
- Goal 2: Plan and host first State of the Town Forum: Not covered, already implemented
- Goal 3: Prepare article for funding Police Station Construction: Larry O'Brien
- Goal 4: Develop a capital financing funding program: Chuck Woodard
- Goal 5a and b: Develop a long term plan for dealing with OPEB (health insurance benefits for retirees) and closing out the Town's Health Claims Trust Fund: Larry O'Brien
- Goal 6: Question of pursuing ownership of CSX owned rail line: Len Simon
- Goal 7: Update Selectmen's alcohol rules and regulations: Not covered, already implemented
- Goal 8: Submit a CPC funded article to Town Meeting for design and engineering services for the Bruce Freeman Rail Trail: Len Simon
- Goal 9: Protect Sudbury's Interests in Minuteman Regional High School project: Len Simon
- Goal 10: Work to establish an Intermunicipal Agreement (IMA) with Marlborough to use the Easterly Treatment plant: Bob Haarde
- Goal 11: Address question of replacing roof on the Fairbank Community Center: Bob Haarde

- Goal 12: Increase recreational opportunities at Davis Field: Bob Haarde
- Goal 13: Develop expanded IMA with Lincoln-Sudbury Reg. H.S: Chuck Woodard
- Goal 14: Prepare sewer related articles for engineering for Town Meeting: Bob Haarde
- Goal 15: Submit a CPC funded article to Town Meeting to look at development of rental housing on the Melone property: Chuck Woodard
- Goal 16: Investigate possibility of a “phased” approach to development of the Mass Central Rail line where phase one could be a Greenway Trail: Bob Haarde

After coverage of all goals and addressing questions from audience and via email, the forum concluded and the meeting adjourned at 10:30 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, FEBRUARY 11, 2014

Present: Chairman John C. Drobinski (arrived at 8:50 p.m.), Vice-Chairman Charles C. Woodard, Selectman Robert C. Haarde, Selectman Leonard A. Simon and Town Manager Maureen G. Valente

Absent: Selectman Lawrence W. O'Brien

The statutory requirements as to notice having been complied with, the meeting was convened at 7:33 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

At 7:33 p.m., Vice-Chairman Woodard opened the meeting. He announced Chairman Drobinski would arrive late and the Public hearing regarding the Police Station would be delayed until he arrives. Vice-Chairman Woodard also announced the Conservation Commission will continue its Stormwater Management Permit Public Hearing regarding the Police Station on February 13, 2014 at 3:15 p.m. at the Department of Public Works (DPW) Building. He also announced that he and Selectman O'Brien will conduct Board Office Hours on February 13, 2014 at 10:00 a.m. at the Senior Center. Vice-Chairman Woodard reminded residents to complete and return their Town Census forms and to license their dogs prior to March 31, 2014.

Reports from the Town Manager

Town Manager Valente stated she attended several recent Finance Committee hearings. She presented the Town budget and an overview of capital articles submitted for Town Meeting to the Committee. She stated Lincoln-Sudbury Regional High School (L-SRHS) presented its budget to the Committee last night. Ms. Valente also attended a Capital Improvement Advisory Committee (CIAC) Meeting on January 29, 2014, when the Committee voted projects it would support for FY15. She also attended a Strategic Financial Committee Meeting.

Town Manager Valente noted a Site Plan is available to be signed and endorsed for agenda item #10 tonight. She also stated a note to the Town of Natick has been prepared for the Board's signature to express Sudbury's sympathy regarding the recent tragic loss of a Natick DPW worker.

Reports from the Board of Selectmen

Selectman Simon stated he also attended a few of the Finance Committee hearings where the Police Station and the ESCO projects were presented and the L-SRHS budget. He encouraged residents to attend the Finance Committee Meeting on February 13, 2014 if they are interested in hearing the Committee's deliberations.

Vice-Chairman Woodard also attended two Finance Committee Hearings and the CIAC meeting. He also has chaired the Strategic Financial Planning Capital Funding Committee, and he will present revisions to its recommendations later tonight.

Citizen's Comments

At 7:40 p.m., Vice-Chairman Woodard recognized Sudbury citizen Rick Johnson, 38 Bent Road.

Mr. Johnson referenced the Russo-Barr Roof report which stated the Nixon School Roof was in good condition. However, he noted the Statement of Interest presented for agenda item 5 tonight states the roof is in poor condition and at the end of its life. Mr. Johnson asked if a warranty is in effect for the current roof and what the actual current condition is of the roof.

Vice-Chairman Woodard suggested Mr. Johnson poses these questions again when agenda item #5 is discussed.

Massachusetts School Building Authority – Sudbury Public Schools Statement of Intent – Nixon Elementary School Roof Replacement and Repair

Present: Combined Facilities Director Jim Kelly

At 8:12 p.m. Vice-Chairman Woodard welcomed Combined Facilities Director Jim Kelly to the Meeting. The Board was previously in receipt of copies of a Statement of Interest FY14 (For FY15 Budget) prepared by Mr. Kelly for the recommended roof replacement and repairs for the Nixon Elementary School.

Mr. Kelly summarized the Sudbury Public School's request to be invited by the Massachusetts School Building Authority (MSBA) to participate in its assistance program for repairs needed for the Nixon School. He described the scope of work proposed, including replacing windows from the 1960s and a roof section and caulking dating back to 1991. Mr. Kelly believes it is beneficial to pursue this grant money. Mr. Kelly stated the MSBA assisted with repairs last year to the 1990 wing of the School. He noted the MSBA program is a lengthy and competitive process, and the Town should know in either March or June whether it has been invited to participate. Mr. Kelly stated construction would be proposed for the summer of 2015, and the project cost is estimated at approximately \$600,000. He believes it is in the Town's best interests to preserve its buildings. Mr. Kelly stated the Board is being asked tonight to vote to support a letter being sent to the MSBA by the Sudbury Public School Superintendent.

In response to a question from Vice-Chairman Woodard, Mr. Kelly stated there is a 25-year warranty on the current relevant roof, but he has been unable to contact the original supplier. He stated if contact were possible, there would likely only be very limited reimbursement for only failed materials (shingles). Mr. Kelly stated he believes pursuing the MSBA funding program now for work to be done in 2015 is wise.

Selectman Simon asked how much of the project cost will be the Town's responsibility. Mr. Kelly stated the Town received 36% of project costs in reimbursements from MSBA last year.

Vice-Chairman Woodard stated the decision to do this project is not being made now, and this request is only to begin the process of pursuing funding assistance.

Selectman Simon asked if there are other funding sources known for the project. Mr. Kelly stated there are none at this time. Selectman Simon also asked if there are any negative reasons why the SOI should not be pursued. Mr. Kelly stated there are no known reasons to not pursue this opportunity, noting it does not commit the Town to anything at this time. Selectman Simon stated he supports pursuing the MSBA program, since there appears to be no down-side to doing so.

Selectman Haarde asked if the project could be spread over two years, asking for the work on the windows this year, and the roof replacement possibly next year. Mr. Kelly stated he believes there is a benefit to submitting the projects together.

Sudbury resident Rick Johnson, 38 Bent Road, stated the Russo Barr roof report stated the roof was in good condition and it recommended replacement in 2017, but now it is in poor condition. Mr. Johnson believes the Town does not do a good job maintaining its roofs and assets, and waits until full replacements are needed and then expects the taxpayers to fund large projects. He stated there is a warranty in effect until 2016, and he believes the warranty should be forced to cover the needed work.

Mr. Kelly stated by pursuing the MSBA program, the Town is not doing what Mr. Johnson suggests, by waiting until the roof fails completely before doing anything. He stated inspections are being conducted on building roofs, and the deterioration warning signs are being identified. Mr. Kelly believes the Town is taking all the proper preventative measures to stay ahead of more costly problems. He believes that if the deterioration signs are ignored and not brought to the public's attention than he and the Town are failing at their jobs.

Vice-Chairman Woodard asked what the Town might get if the manufacturer honored its warranty. Mr. Kelly stated, perhaps a prorated reimbursement for shingle replacement.

Mr. Johnson believes the Town should go back to the manufacturer and make them honor the warranty before asking taxpayers for more money. He reiterated the Town needs to do a better job of overseeing the maintenance of its assets.

Permanent Building Committee member Mike Melnick stated it is likely only 1/25 of the cost at the time the failed material (shingle) was originally purchased would be honored by the warranty. Mr. Melnick stated it is possible the cracks now observed on the relevant roof may not have been present when the Russo-Barr report was commissioned. He also stated the MSBA will perform its own independent inspection and will only grant funding if it believes the project is warranted.

It was on motion unanimously

VOTED: To authorize the Superintendent of the Sudbury Public Schools to submit to the Massachusetts School Building Authority the Statement of Interest, dated February 5, 2014, for the General John Nixon Elementary School, located at 472 Concord Road, Sudbury, MA, which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future; the SOI priority 5 was selected which is the replacement, renovation or modernization of school facility systems, such as roofs, windows, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility; specifically the SOI is requesting roof, window and door replacements and building envelope caulking for the General John Nixon Elementary School; and hereby further specifically acknowledges that by submitting this Statement of Interest, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Sudbury Public School District to filing an application for funding with the Massachusetts School Building Authority.

It was also on motion unanimously

VOTED: To authorize the Chairman to execute any certifications related thereto.

Public Hearing: Construct Police Headquarters – 77 Hudson Road - Site Plan Application

Present: Permanent Building Committee Co-Chair Mike Melnick and member Bill Braun, Combined Facilities Director Jim Kelly, Police Chief Scott Nix, and Architect Greg Carell

At 9:33 p.m., Chairman Drobinski opened the Public Hearing regarding the application of the Town of Sudbury, applicant and owner, for Site Plan approval to construct an approximately 14,500 square-foot building and associated improvements for a new Police Headquarters on an approximately 13.5 acre parcel of land located at 77 Hudson Road, zoned A-Residential and within the Town Center Historic District and Water Resource Protection District Zone III, Town Assessor's Map G08-0008, which was continued from January 28, 2014. The Board was previously in receipt of copies of a draft "Site Plan Decision Sudbury

Board of Selectmen Sudbury Police Headquarters 77 Hudson Road,” dated February 11, 2014, a list of materials received to the file as of January 24, 2014 and a memorandum from Project Manager William Murray dated February 4, 2014. In addition, copies of a revised draft “Site Plan Decision Sudbury Board of Selectmen Sudbury Police Headquarters 77 Hudson Road,” dated February 11, 2014, were distributed tonight. Town Manager Valente read aloud the materials received to the file to date.

Permanent Building Committee Co-Chair Mike Melnick stated a meeting was held with the Sudbury Historic Districts Commission regarding the building façade and windows. Mr. Melnick also noted there is a Stormwater Management Permit Public Hearing with the Conservation Commission on February 13, 2014. He stated the draft Decision has been reviewed, and he asked earlier today if it includes the right to build accessory structures on the site. Mr. Melnick stated he was informed it includes this option.

Police Chief Nix provided feedback to Selectman Haarde regarding a previous question related to security and the exterior façade.

Selectman Simon asked if a cost estimate for the maintenance which would be required for a cement-board type façade versus a brick façade has been completed.

Architect Greg Carell stated it is recommended that the cement-board products are painted every 15 years for aesthetic purposes, but it is not needed to prevent rot, since this type of material does not rot.

Mr. Melnick stated the difference between the two façade materials is approximately \$200,000 which could cover several paintings. Police Chief Nix stated the final decision will be made to find the proper balance of minimizing future maintenance needs with minimizing costs.

It was on motion unanimously

VOTED: To approve the revised Site Plan Decision Sudbury Board of Selectmen Sudbury Police Headquarters 77 Hudson Road dated February 11, 2014, as reviewed tonight.

Energy and Sustainability Committee – Discussion of Town Meeting Articles and a Stabilization Fund
Present: Combined Facilities Director Jim Kelly, Energy and Sustainability Committee Chair Bill Braun and member Ed Lewis and Owner’s (Sudbury’s) Agent Steven Weisman, Peregrine Energy Group, Inc.

At 8:50 p.m., Chairman Drobinski arrived and he opened a discussion regarding Town Meeting articles submitted by the Energy and Sustainability Committee. The Board was previously in receipt of copies of the slides from tonight’s PowerPoint presentation regarding a “Proposed Energy Services Agreement,” and copies of a revised set of slides were distributed tonight.

Energy and Sustainability Committee Chair Bill Braun stated a related article to this year’s ESCO project was submitted at last year’s Town Meeting. Mr. Braun stated the project has been developed over a few years, and information was compiled from the Investment Grade Audit. He explained the State allows for municipalities to bundle projects that are energy-related so the savings earned can be used to help pay for the services. With the use of grant funds, Mr. Braun stated the Committee hired Peregrine Energy Group, Inc. as the Owner’s (Sudbury’s) Agent, and he introduced Steve Weisman.

Mr. Weisman described the ESCO project with the use of a PowerPoint presentation, noting Peregrine has a track record of working with towns engaged in performance contracts. He described the proposed project estimated at \$1,120,551, subject to final sub-contractor bidding. Mr. Weisman said the project is required by State law to be self-funding over the financing term and annual energy savings from efficiency upgrades pay

for project costs. In addition, unit savings must be guaranteed by the contractor. He emphasized there would be no tax rate increase necessary for this project.

Mr. Weisman stated performance contracting is used to complete many projects quickly, avoiding multi-year capital budget requests and approvals, the Capital Improvement and Planning budgets can be streamlined, tax increases can be avoided, resources can be secured to take on multiple improvements at the same time, and towns can obtain performance protection for new equipment and for promised savings. He reviewed the infrastructure and efficiency upgrades for School Department improvements, including integrated and new energy management systems for the Haynes, Loring, Nixon and Noyes Schools, direct digitally controlled unit ventilators for Nixon, lighting system upgrades for Curtis, Haynes, Loring and Nixon, adding demand control ventilation for Curtis and Haynes, infiltration reductions for Haynes, and installing energy efficient transformers at Curtis and Loring. Mr. Weisman also reviewed the infrastructure and efficiency upgrades for Town assets, including lighting system upgrades at the DPW, Fairbank, Fire Department Headquarters, Flynn and Library, variable frequency drives at the Library, pipe insulation and infiltration reductions at the Fire Department Headquarters and the North and South Stations and automated temperature controllers at DPW.

Mr. Weisman presented the project financials regarding costs and savings from utility rebates and the anticipated annual escalating savings of approximately \$82,371. This number could be higher or lower if energy prices are higher or lower than projected. In response to a question from Selectman Simon, it was noted most of the savings would be reaped by the Schools. Mr. Braun noted the Fairbank and Town Hall buildings were not included for Town upgrades, since other projects are pending for these buildings. Mr. Weisman also mentioned some additional infrastructure needs which did not fit the 15-year self-financed package. Vice-Chairman Woodard noted some projects would need more than 15 years to reap enough of a payback from the systems/upgrades.

Mr. Weisman stated the project would be executed by Ameresco, Inc., which was selected through a Request for Quotations process in 2011, and the Town contracted with the company in 2012 for an Investment Grade Audit to identify needs and opportunities. The project proposal has been critiqued and refined by the Energy Committee, and Peregrine Energy Group, Inc. was hired in 2013 as the Owner's Agent for the Town. Ameresco will be responsible for design, construction and performance, and will be supervised by a Town-led Project Management Team. Mr. Weisman emphasized the performance protections for the Town, which are part of the Agreements. He also reviewed the proposed project cash flows. In response to a question from Vice-Chairman Woodard, Mr. Weisman provided an example of how lighting would be analyzed and reimbursed with credits. He stated heating examples are more complicated due to weather-related variances from year-to-year.

Vice-Chairman Woodard asked who calculates the proposed savings. Mr. Weisman stated this would be done by Ameresco, which submits its information to the Town, the State and the Owner's Agent.

Sudbury resident Tammie Dufault, 84 Silver Hill Road, referred to Mr. Weisman's "Pay for Financing from Utility Budget" slide. Ms. Dufault asked if it is possible for the Town to achieve the same project results using its own savings to complete the projects. She questions whether it would be better to invest an estimated \$400,000 in today's dollars to reap considerable savings over the next 15 years.

Mr. Braun acknowledged there are several options for achieving the same results. However, he believes the projects would be completed in a more piece-meal fashion if done by the Town with its own energy savings, and there would not be the built in guarantees being offered by Ameresco. The Committee believes the proposal is the best way for the Town to get several projects done at once without raising the tax levy.

Vice-Chairman Woodard stated Ms. Dufault's suggestion focuses on a financial budget savings perspective in the short-term, and the Committee's suggestion focuses on savings from a long-term usage perspective. He also stated the Committee's proposal does not increase the tax levy.

In response to a comment from the Board, Mr. Weisman stated it is possible to feel comfortable about the usage parameters set today and the guarantees established for the next 15 years if usage is similar in the future to current trends. He stated savings would be reaped as long as the systems are operated in a similar fashion with the new equipment.

Selectman Simon stated that, although it is possible for the Town to do this on its own, it might cost more without the guarantees being offered. He likes that the proposal functions similarly to a preventative capital maintenance program with aspects of an insurance policy to it.

Mr. Weisman shared information from a chart entitled, "Effects of Energy Price Change." Mr. Braun stated he believes the project provides a low-risk way of getting projects completed.

Sudbury resident Pat Brown, 34 Whispering Pine Road, stated the system upgrades will still require maintenance, and she asked if this would be covered in the capital plan and budget.

Chairman Drobinski and Vice-Chairman Woodard thanked the Committee for its work to bring this project forward, and at 9:33 p.m., the discussion was concluded.

At 9:59 p.m., the discussion resumed. Mr. Braun explained the rationale for recommending a special Stabilization Fund be established to capture savings to be used for future energy-related projects.

Combined Facilities Director Jim Kelly stated the Committee would like to take advantage of the savings being earned from the solar-array installation.

Vice-Chairman Woodard stated he is open to the idea of a Fund which could capture the measured savings for the benefit of the taxpayers. Chairman Drobinski concurred, stating the Fund could provide citizens with transparency regarding how the savings grow.

Town Manager Valente stated there would be a bit of a learning curve to determine the best way to true-up savings which could have a multi-year aspect to them.

Selectman Haarde stated the Fund sounds good, but he asked where the money would come from and how much it would be. Mr. Kelly stated there should be savings this year from the solar array installation performance.

In response to a question from Selectman Simon, Town Manager Valente stated a vote would be required at a Town Meeting every time money was proposed to be put in or taken out of the Fund.

Selectman Simon noted article T37 has been submitted as a placeholder for this recommendation.

Minutes

In response to a previous question from Vice-Chairman Woodard, Town Manager Valente suggested that, in the future, Board members should provide Patty Golden with any requests for the Word version of minutes if Board members want to suggest extensive edits.

It was on motion unanimously

VOTED: To approve the regular session meeting minutes of January 28, 2014.

Zoning Board of Appeals - Resignation

It was on motion unanimously

VOTED: To accept the resignation of Elizabeth Quirk, 20 Scotts Wood Drive, from the Zoning Board of Appeals, effective immediately, as noted in a letter dated January 27, 2014, and to send a letter of thanks for her service to the Town.

Macot Realty Trust/Methods Machines Site Plan Endorsement

It was on motion unanimously

VOTED: To set the performance bond at \$19,154.00 for completion of conditions related to the Macot Realty Trust/Methods Machines Site Plan approval of the Board of Selectmen dated February 12, 2013; and to accept the performance bond in said amount; and to endorse the final site plans for Methods Machines at 65 and 71 Union Avenue, as recommended by the Director of Planning and Community Development.

Board of Selectmen/Town Manager 2013 Annual Report

The Board was previously in receipt of a draft copy of the Board of Selectmen and Town Manager Joint 2013 Annual Town Report for review.

Selectman Simon stated the Report reflects many significant accomplishments from 2013, of which the Town can be proud. He thanked the current and former Board members and Town staff who have worked diligently to attain these achievements.

Vice-Chairman Woodard stated he thought the report was excellent.

Town Manager Valente stated Selectman O'Brien provided one revision to her and stated he supported the Report.

It was on motion unanimously

VOTED: To approve the Board of Selectmen/Town Manager Joint 2013 Annual Report.

Annual Town Election – Submission of Ballot Question

At 9:42 p.m., Chairman Drobinski opened the discussion regarding placing a ballot question on the Annual 2014 Town Election on March 31, 2014. The Board was previously in receipt of a draft Ballot Question for the Annual 2014 Town Election on March 31, 2014, and accompanying memorandum from Town Manager Valente dated February 7, 2014.

Police Chief Nix would prefer the question be posed to the voters in March, since many public discussions have recently been held regarding the project.

In response to a question from Selectman Haarde, Vice-Chairman Woodard stated it is possible a Special June Election would need to be called for several capital exclusions proposed for the 2014 Town Meeting. Selectman Simon stated it might be easier for voters to put this question on the March election. Chairman Drobinski stated it makes sense to put this debt exclusion on the ballot in March and to handle the capital exclusions in June.

It was on motion unanimously

VOTED: To approve the placement of the following Ballot Question on the Warrant for the Annual Town Election of March 31, 2014: "Shall the Town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bonds issued in order to construct a new Police Department Headquarters and appurtenant structures on Town-owned land adjacent to the existing Fire headquarters, for site development, purchasing additional equipment, technology, furniture, landscaping, and all expenses connected therewith, including professional, engineering, and architectural services and preparation of plans, specifications and bidding documents, supervision of work, relocation, and borrowing costs and expenses?"

Annual Town Meeting Actions

The Board was previously in receipt of copies of a draft list and articles submitted for the 2104 Annual Town Meeting Warrant, and an accompanying memorandum from Patty Golden dated February 7, 2014.

Town Manager Valente stated these were the articles received by the January 31, 2014 deadline for the Warrant. She noted Town Counsel will need to conduct a legal review of all the articles. Town Manager Valente stated the Board is being asked for a pro-forma vote tonight to accept the articles submitted. She also stated the Board is required to refer any zoning-related articles to the Planning Board. Ms. Valente reviewed the upcoming timeline for the articles referenced in Ms. Golden's memorandum. She asked the Board to inform Ms. Golden if there are articles for which they would like to be assigned as speaker.

Selectman Haarde asked if Article T33 is requesting to replace the roof for the Fairbank Building.

Combined Facilities Director Jim Kelly stated similar article language to last year's was submitted. Mr. Kelly stated the intent is to have an article which is open to several options, including repairs. He stated much more will be known before Town Meeting.

Selectman Haarde stated money was approved last year for repairs, and he asked if that money has been spent. Mr. Kelly stated it has not all been spent. He also stated more information will be known following a meeting on February 13, 2014 with the designer.

Selectman Haarde asked when the public would know what options are being recommended and how much they will cost. Mr. Kelly anticipates this information to be known a month from now.

Selectman Haarde stated the Town has up to \$50,000 from last year to fix repairs. He believes this should be done on an ongoing basis as leaks become known because they just get more costly if ignored. Selectman Haarde stated he questions the process of being asked to accept the articles without the Board having an opportunity to discuss them and ask questions.

Selectman Simon stated there will be future opportunities for the Board to discuss the articles, but tonight's vote is only to accept them as having met the criteria for submission to the Warrant.

Selectman Haarde reiterated he questioned this process last year and he still finds it problematic. He asked if the list represents all articles submitted and whether there were any not approved by Town Counsel. Town Manager Valente stated she believes all articles submitted by the deadline are on the list and were approved by Town Counsel for submission.

It was on motion unanimously

VOTED: To refer zoning-related Articles #T22, #T23 #T24, and T51 as noted on the listing below, to the Planning Board for Public Hearings.

It was also on motion unanimously

VOTED: To accept the articles submitted by January 31, 2014 for the Annual 2014 Town Meeting Warrant, received as of January 31, 2014, as noted on the listing below:

- #T01 - Hear Reports
- #T02 - FY14 Budget Adjustments
- #T03 - Stabilization Fund
- #T04 - FY15 Operating Budget
- #T05 - FY15 Transfer Station Enterprise Fund Budget
- #T06 - FY15 Pool Enterprise Fund Budget
- #T07 - FY15 Recreation Field Maintenance Enterprise Fund Budget
- #T08 - Unpaid Bills
- #T09 - Chapter 90 Highway Funding
- #T10 - Removed
- #T11 - Town/School Revolving Funds
- #T12 - FY15 Capital Budget
- #T13 - Construct Police Headquarters
- #T14 - Community Preservation Fund – Town-Wide Walkways
- #T15 - Removed
- #T16 - Community Preservation Fund - Sudbury Housing Trust 10% Allocation
- #T17 - Community Preservation Fund – Historic Projects
- #T18 – Combined with T17
- #T19 - Community Preservation Fund – Bruce Freeman Rail Trail Design
- #T20 - Community Preservation Fund – Melone Property Engineering
- #T21 - Community Preservation Fund - Sudbury Housing Authority Bathroom Project
- #T22 - Amend Zoning Bylaw - Medical Marijuana Treatment Centers - **Refer to Planning Board**
- #T23 - Amend Zoning Bylaw - Accessory Structures - **Refer to Planning Board**
- #T24 – Amend Zoning Bylaw, Art. IX – sec. 4100 – Flood Plain Overlay District - **Refer to Planning Board**
- #T25 – Town of Sudbury Bylaws- Art. V.3. Regulation of Dogs
- #T26 – Purchase of Fire Department Ambulance and Fire Engine – FY15 Capital Exclusion
- #T27 – Energy Services Company Energy Improvement Program – ESCO
- #T28 – DPW Rolling Stock Replacement
- #T29 – Technology Infrastructure Improvement – Lincoln-Sudbury Regional High School
- #T30 - Israel Loring Elementary School – Purchase of New Phone System
- #T31 – School Driveways, Parking Lot and Sidewalks Improvement
- #T32 –Ephraim Curtis Middle School – Purchase of Technology Devices
- #T33 - Fairbank Community Center Roof Project
- #T34 – Nixon School – Partial Roof, Window and Door Replacements

- #T35 – Conduct Feasibility Study for Wastewater Disposal Options for Route 20 Business District
- #T36 – DPW Rolling Stock Stabilization Fund
- #T37- Energy Saving Programs Stabilization Fund
- #T38 – Police Station Debt Stabilization Fund
- #T39 - Rescind/Amend Borrowings
- #T40 – Amendments to the District Agreement of the Minuteman Regional Vocational School District
- #T41 – Chapter 110, Section, 110 of the Acts of 1993, Disabled Veteran’s Exemption Residency Requirements
- #T42 – Petition – Lafayette Drive Land
- #T43 – Petition – Sale of Land under C61A
- #T44 – Petition – Divestment of PRIT funds
- #T45 – Petition – Utilize a Portion of CPA Funds to Fund Conservation Fund
- #T46 – Petition – Amend Wetlands Administration Bylaw: Projects Funded with CPC funds
- #T47 – Petition – Amend Bylaw Art. IV Finance Committee
- #T48 - Community Preservation Fund – Amend Art. 43 of the 2006 ATM – Sudbury Housing Authority Unit Buy-Down
- #T49 - Community Preservation Fund – Reversion of Funds
- #T50 - Community Preservation Fund - General Budget and Appropriations
- #T51 - Amend Zoning Bylaw Art. IX – Section 4500 – Wastewater Facilities Bylaw – Deletion - **Refer to Planning Board**

Policy Statement of the Strategic Financial Planning Committee for Capital – Report

At 9:48 p.m., Chairman Drobinski opened a discussion regarding the draft Capital Funding Policy Recommendations dated February 10, 2014 of the Strategic Financial Planning Committee. The Board was previously in receipt of copies of the Strategic Financial Planning Committee’s Capital Funding Policy Recommendations dated February 10, 2014.

Vice-Chairman Woodard reviewed revisions made to the recommendations as noted in a “red-line” version of the Policy. He stated the draft was shared with the Finance Committee and he received positive feedback. Vice-Chairman Woodard asked the Board to endorse the document.

It was on motion unanimously

VOTED: To endorse the Capital Funding Policy Recommendations dated February 10, 2014 of the Strategic Financial Planning Committee as reviewed tonight.

Potential Transportation Projects – Legislative Response

The Board was previously in receipt of copies of an email from Senator Jamie Eldridge’s office dated February 4, 2014 regarding any specific local transportation projects which could benefit from State funding, a draft of House Bill No. 3860 and the Boston Region Metropolitan Planning Organization Project Funding Application Forms for the Bruce Freeman Rail Trail Phase 2D and 2E, the Route 20/Horsepond Road intersection, the Route 20/Wayside Inn Road intersection, and the Route 20/Landham Road intersection.

At 9:52 p.m., a brief discussion ensued regarding which projects should be submitted. Vice-Chairman Woodard asked if the Sherman Bridge project is eligible, and Town Manager Valente responded affirmatively.

It was on motion unanimously

VOTED: To send a response to the offices of Senator Eldridge and Senator Barrett regarding the following specific local transportation projects which could benefit from State funding: 1.) Sherman's Bridge, 2.) the purchase of the CSX right-of way, 3.) the Bruce Freeman Rail Trail Phase 2D, and 4.) the Bruce Freeman Rail Trail Phase 2E.

There being no further business, the meeting adjourned at 10:15 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk

IN BOARD OF SUDBURY SELECTMEN
WEDNESDAY, FEBRUARY 25, 2014

Present: Vice-Chairman Charles C. Woodard, Selectman Lawrence W. O'Brien, Selectman Robert C. Haarde, Selectman Leonard A. Simon and Town Manager Maureen G. Valente

Absent: Chairman John C. Drobinski

The statutory requirements as to notice having been complied with, the meeting was convened at 7:31 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

At 7:31 p.m., Vice-Chairman Woodard opened the meeting. He reminded citizens of the Town Election on March 31, 2014, noting the League of Women Voters will sponsor a debate on March 4, 2014 at 7:00 p.m. at the Goodnow Library for candidates running for elected positions. The deadline to register to vote in the Town Election is March 11, 2014. Vice-Chairman Woodard also announced the Sudbury Housing Trust is accepting applications through April 30, 2014 for its Small Grant Program. The Fairbank Building Task Force will hold a Public Forum on February 27, 2014 at 7:30 p.m. at the Senior Center, regarding future planning for the building.

Reports from the Town Manager

Town Manager Valente reported she and Town staff are busy at this time of year with many evening Town affairs and budget-related meetings and work to prepare for publication of the Town Warrant. She mentioned recent investigative work done by the Police Department, noting more details would be provided to the Board at a later date. Ms. Valente announced Leila Frank welcomed a new son to her family this week, and while she is out on maternity leave, Patty Golden will handle office responsibilities during this busy season with the assistance of some part-time help.

Reports from the Board of Selectmen

Selectman Haarde encouraged the community to attend the Fairbank Building Committee Task Force meeting on February 27, 2014, noting the Committee is interested in hearing public input and feedback.

Selectman O'Brien stated he and Vice-Chairman Woodard conducted Board Office hours recently on a stormy day, but had no participation from the public. Their time was spent with Senior Center Director Deb Galloway touring the Fairbank Building and learning more about the Center's initiatives.

Selectman Simon stated he plans to attend the Fairbank Building Committee's meeting on Thursday. He attended last night's Conservation Commission meeting and a portion of last night's Finance Committee meeting. Selectman Simon mentioned he received a letter from Senator Eldridge's Office regarding his support for legislation related to a transportation bond bill, which he will circulate to the Board.

Citizen's Comments

There were no citizen's comments requested tonight.

Energy and Sustainability Committee – Appointment

At 7:51 p.m., Vice-Chairman Woodard welcomed Sudbury resident Jim Cummings to the meeting to discuss his interest in serving on the Energy and Sustainability Committee, and he highlighted how many volunteers give their time and expertise to benefit the Town. The Board was previously in receipt of copies

of the Application for Appointment and an email from Energy and Sustainability Committee Chairman Bill Braun dated February 19, 2014, stating the Committee recommends this appointment.

Mr. Cummings stated he has lived in Sudbury 21 years, is a mechanical engineer, and has participated on other Town committees and boards. He knows present members of the Energy and Sustainability Committee, and he is interested in helping the Committee fulfill its mission.

Selectman Simon asked if Mr. Cummings has a particular area of expertise. Mr. Cummings stated he has had prior experience working to modify existing buildings with newer technologies. Selectman Simon asked if some of those buildings were historic structures, and Mr. Cummings responded affirmatively. Selectman Simon stated this expertise could be very useful on a volunteer-basis for the Committee and Town regarding pending and future projects.

Selectman O'Brien stated Mr. Cummings' background and skill sets are well suited for the Committee.

Selectman Haarde stated Mr. Cummings seems like a great fit for the Committee, and he noted the Committee will be a great forum for learning about current "green trends."

The Board thanked Mr. Cummings for volunteering to be on the Committee.

It was on motion unanimously

VOTED: To approve the appointment of Jim Cummings, 145 Lincoln Road, to the Energy and Sustainability Committee, for a term to expire May 31, 2016, as requested in a memo dated February 19, 2014 from Bill Braun, Committee Chairman.

Joint Meeting with the Sudbury Finance Committee – Budget Discussion

Present: Finance Committee Chairman Doug Kohen and Finance Committee members Bob Stein, Susan Berry, Mark Minassian, Andrew Sullivan, Tammie Dufault, Bob Jacobson, Bill Kneeland, Joan Carlton

At 7:58 p.m., Vice-Chairman Woodard welcomed the Finance Committee to this joint meeting with the Board of Selectmen. He stated topics for discussion include: the status of the FY15 budget deliberations, including an overview of the 2014 budget process, the Sudbury Public Schools (SPS) enrollment trends, Minuteman Regional Vocational High School's proposed change to the Regional Agreement, capital articles and plans to use Free Cash, preview of the FY16 budget and contract negotiations, and Other Post-Employment Benefits (OPEB).

Finance Committee Chairman Doug Kohen stated the Committee last met with the Board in October, and he had earlier discussions with Vice-Chairman Woodard regarding tonight's agenda. He stated the Finance Committee is in the midst of its budget deliberations and will likely vote its positions in March. Mr. Kohen summarized the budget process, noting the cost centers were given guidance regarding a proposed 2.5% budget increase. He stated each cost center has presented compliant no-override budgets. Mr. Kohen noted local receipts had been under-budgeted in recent years, but this has been modified for the FY15 budget. Vice-Chairman Woodard stated this cautious approach was taken so as to avoid the situation experienced in 2009, when actual receipts were lower than what had been budgeted, which resulted in budget cuts having to be made in the middle of that fiscal year.

Mr. Kohen stated the Sudbury Public School (SPS) engaged a consultant two years ago to study enrollment trends, and the study was reviewed this past summer. He displayed a chart tracking pre-kindergarten through eighth grade enrollment from FY94 to FY17. Mr. Kohen noted there has been a steady

decline in students of approximately 1.5% per year from FY06 through FY17. He stated the SPS FY15 budget reflects an increase from last year even though enrollment is expected to decrease, which increases the education costs per student. Mr. Kohen stated the Committee has tried to evaluate this issue, noting the Town has a challenging time of realizing economy of scale, given that there are four elementary schools. Options have been discussed, including closing a school and possible re-districting. Mr. Kohen stated the Committee has concluded that closing an elementary school at this time is not feasible. However, he emphasized this is an issue the Committee is cognizant of, and one the Town may need to address in the future.

Vice-Chairman Woodard stated questions are understandable when there is a 6% decrease in students, but a 2% increase in staff. Mr. Kohen explained how teacher staffing is based on certain ratio guidelines, and that some positions added may be for coaches and/or specialized part-time personnel. Vice-Chairman Woodard clarified he does not question that additional staff positions do not serve an intended purpose, but one would think that if the number of students decreases then the number of staff should also decrease. Mr. Kohen stated this is a complex issue to interpret, noting Lincoln-Sudbury Regional High School (L-SRHS) will begin to also experience a decline in student population in four years. Given the enrollment trends, Vice-Chairman Woodard questioned whether the SPS budget should possibly grow at a lesser rate than the other two cost centers. Mr. Kohen noted there are challenging structural issues to address in the coming years with four elementary schools and new contract negotiations, while maintaining Sudbury's high educational status.

Selectman Haarde agreed that forecasts beyond three years are difficult to predict, and he noted the issues relate to the middle school as well as the elementary schools. In response to a question from Mr. Kohen, Selectman Haarde stated the budget perspective depends on many factors on a year-by-year basis.

Selectman O'Brien thanked the Committee for its work. He encouraged the Committee to also work with the Planning Office as it continues its evaluation of these issues. Selectman O'Brien stated he appreciates the consideration of different options. He suggested consideration be given to whether space at one elementary school could be used for SPS administrative staff as enrollments decline. Selectman O'Brien stated this might alleviate other Town-wide space needs. He also stated it is important to maintain the high level of performance of the Town's school systems.

Selectman Simon thanked the Committee for its diligent work. He noted there are other costs related to maintaining buildings and providing programs and technology upgrades which do not necessarily correlate to the number of students at a school or in the system. Selectman Simon stated it is better to err on the side of providing more services than less of what is needed. He noted it is a complex issue to simultaneously balance being cost and education conscious.

Mr. Kohen next discussed Minuteman Regional Vocational High School noting that, although it is a small portion of the Town's educational budget, it is one of its most challenging topics. He summarized the inherent problems with the current member versus non-member town framework within the Regional Agreement. Mr. Kohen highlighted that a member town such as Sudbury (which currently sends approximately 24 students to the school) subsidizes students who attend the School from non-member towns. He stated Minuteman's administrative costs have increased 18% from FY12 to FY15, and there are plans to build a new school. Mr. Kohen stated non-member towns do not contribute to capital costs and they pay less for tuition than member towns. He stated it is not in Sudbury's best interest to agree to the proposed changes to the Regional Agreement or to support a larger Minuteman School be built.

Vice-Chairman Woodard stated the proposal is to build a school to accommodate 800 students when only approximately 400 students from member towns now attend the School. He does not believe the proposed amendment to the Regional Agreement should be approved.

Finance Committee member Bob Jacobson stated the changes to the Regional Agreement also proposes to change the current one vote per member town to a weighted system which would not benefit Sudbury. Mr. Jacobson asked who is prioritizing the perspective of member towns with State legislators and the Department of Education (DOE).

Vice-Chairman Woodard stated he is not pleased with several aspects of the Minuteman Regional Agreement, and he has concerns regarding the financial oversight of the School which allowed the current inequities to be created.

Mr. Kohen stated Minuteman is challenging because Sudbury has no involvement in the oversight of its budget.

Selectman O'Brien noted L-SRHS needs an outlet for those who do not want to attend L-S. He asked what would happen if Sudbury wanted to withdraw from Minuteman's Agreement. Vice-Chairman Woodard and several others stated it is not possible for one member Town to withdraw without the unanimous approval of all member towns.

Mr. Jacobson stated there is no incentive within Minuteman's Regional Agreement for a non-member town to become a member town. He suggested the DOE has to present Minuteman with a revision, such as a limit to the number of non-member town students who can attend, or nothing will change for the better.

Vice-Chairman Woodard stated it is unlikely the DOE will mandate eliminating students from non-member towns in the future, and he believes the DOE is aware of the inequitable tuition situation. He believes the proposed amendment will fail. Vice-Chairman Woodard reiterated there needs to be a discussion regarding the financial oversight of Minuteman which allowed this situation to exist. He further noted the tuitions charged are set by the State.

Selectman Haarde stated the problem is complicated by Minuteman recruiting non-member town students, which accommodates a larger school with more programming. He believes Sudbury should draft a letter to go "on record" with State legislators and the DOE requesting changes be made to the inequitable situation which exists for member towns. Selectman Haarde suggested revisions could include that member towns and non-member towns pay the same amount for student tuitions and capital costs, but non-member towns have no vote. If a non-member town wants to have a "seat at the table" then they would need to become a member town.

Town Manager Valente announced State legislators are scheduled to meet with the Board on March 11, 2014.

Sudbury School Committee member Kevin Matthews, 137 Haynes Road, stated the Agreement is the cause of most of the problems. He questioned whether it is legal for an Agreement to require a unanimous vote from all members for any one member to alter its situation.

Selectman Simon stated the circumstance is that Sudbury signed on to the terms of the Regional Agreement approximately 30 years ago. He believes nothing will change with the Agreement until legislators require revisions to be made. He suggested Sudbury and similar member towns might be more effective requesting change if they speak as "one voice."

Vice-Chairman Woodard suggested the proposed Minuteman changes be an agenda item at the Board's next meeting with the State legislators, and that the Board's liaisons (Selectmen Haarde and Simon) draft a letter, on behalf of the Board, prior to the next meeting, to be discussed and given to the legislators on March 11, 2014.

Selectman Simon stated there is a Minuteman breakfast meeting scheduled on March 7, 2014, which he, Town Manager Valente, Selectman Haarde and Finance Committee member Bill Kneeland plan to attend.

Mr. Kohen summarized some of the long-term planning issues being considered by the Finance Committee, including capital planning, the use of Free Cash, OPEB, preparing for FY16 regarding enrollment changes and contract negotiations.

Vice-Chairman Woodard summarized the Capital Funding Policy recently endorsed by the Board. He stated the objective of the policy is to fund capital needs by judiciously using debt, wisely using Free Cash and spreading spending out over time in order to have a moderate impact on taxpayers. Vice-Chairman Woodard believes these principles allow the Town to maintain its critically important AAA bond rating and its financial flexibility.

Mr. Kohen stated the Committee has had spirited discussions regarding the use of Free Cash. He reiterated the Town has been cautious about using these funds in the recent past, and thus amassed large balances. However, Mr. Kohen stated he believes the FY15 budget process has "right-sized" revenues.

Vice-Chairman Woodard presented his perspective regarding one time sources of cash, and that non-recurring cash should be used for non-recurring expenses and not for recurring expenses. He believes that when a Town has too much Free Cash the excess should be returned to taxpayers rather than asking taxpayers for additional taxes that year. Since Free Cash is a non-recurring source of revenue, it should be used for a non-recurring expense such as the purchase of a capital item.

In response to a question from Selectman O'Brien, Mr. Kohen stated the Finance Committee reached no conclusion yet regarding the use of Free Cash, and it tabled its discussion.

Mr. Kohen highlighted that the FY15 budget was fairly straightforward because the cost centers are in the third year of a three-year contract. However, he emphasized FY16 will be a negotiation year, and some have taken a point of view that it will be important to establish parameters for the budget process in advance.

Vice-Chairman Woodard stated 75% to 80% of the Town budget is labor-related. He suggested it might be beneficial to "telegraph" what will be financially workable and acceptable. Vice-Chairman Woodard opined it might be beneficial to have a Budget Working Group in place before next fall to begin to identify issues and options.

Selectman Haarde stated he believes the Town needs to be careful in not setting too many financial parameters which "telegraph" too much information. He believes it might be more beneficial to just have the negotiations play out.

Vice-Chairman Woodard noted a subgroup will begin to further study the OPEB situation later this spring. He concluded the discussion at 9:02 p.m.

Town Meeting Articles Tracking Database – Presentation

Present: Sudbury Technology Administrator Mark Thompson

At 9:20 p.m., Vice-Chairman Woodard welcomed Sudbury Technology Administrator Mark Thompson to the meeting.

Mr. Thompson demonstrated for the Board how the new tracking database for Town Meeting Articles can be accessed on the Town website. He noted audio files are available for some Town Meeting and Special Town Meeting topics. Town Meeting and Special Town Meeting proceedings have been downloaded into the database for transcripts dating back to 1959. Town Warrant information has been loaded into the database for consistent information dating back to 1997, and a few earlier documents have also been downloaded. Mr. Thompson displayed how Town Meeting articles have been organized by specific meeting dates, which have been organized by six major categories. Consent Calendar items and Article Amendments will also be designated following a Town Meeting.

In response to a question from Vice-Chairman Woodard, Mr. Thompson stated he has had committed staff working to download this information over a long period of time. He hopes the database will provide a useful interface for Town staff and Sudbury residents.

Town Manager Valente stated prior to this database there has never been a central location for storing all of this related information. She also stated the information will go “live” on the town website tomorrow.

Selectman Simon stated the information looks very useful and the database appears to be user-friendly.

Selectman O’Brien stated the creation of the database is impressive. He suggested also tracking when zoning articles have been submitted to the State for approval. Selectman O’Brien also suggested preparing a press release and that the project be highlighted by the Board at its next meeting.

At 9:42 p.m., the Board thanked Mr. Thompson and everyone who has contributed to this project.

Means-Tested Senior Exemption Program – Progress Report

Present: Senior Tax Advisor David Levington

At 9:04, Vice-Chairman Woodard welcomed Senior Tax Advisor David Levington to the meeting. The Board was previously in receipt of copies of a memorandum from Mr. Levington and Sudbury resident Ralph Tyler dated February 12, 2014. In addition, copies of the slides for tonight’s PowerPoint presentation and a handout entitled, “Implementation of Chapter 169 of the Acts of 2012 Sudbury Means tested Senior Citizen Property Tax Exemption: SMTE Program FY4 July 1, 2013-June 30, 2014” were distributed tonight.

Mr. Levington presented a progress report on Sudbury’s Means Tested Senior Tax Exemption. He provided a brief history regarding the current program adopted by Sudbury to reduce the tax burden for a targeted group of senior citizens to 10% of their income, after qualifying for the State’s Circuit Breaker credit. Mr. Levington stated the current program was approved because it addressed known costs and the estimated number of recipients. He noted the average Sudbury property tax bill is \$11,000 and the \$1,000 Circuit-Breaker Credit limit was not enough for some senior citizens. Mr. Levington explained the program proposed to raise taxpayer’s property taxes by an amount not to exceed ½% in the first year of the pilot program, and no more than 1% in subsequent years. It was proposed to help a targeted group estimated between 200-300 overburdened senior citizens. He explained the application process and requirements. Mr. Levington praised Town staff for the seamless implementation of the program.

Mr. Levington reported 240 Sudbury senior citizens qualified for the Circuit-Breaker, of which 124 applied for the Senior Tax Exemption. He stated 118 applicants were approved. It is expected participation will increase in the coming years as more people become aware of the program. The actual cost (rate shift) for the first year for taxpayers was .4%, which totaled \$289,200, resulting in 7 cents being added to the residential tax rate. For the average homeowner based on an assessed value of \$632,187, the increase was approximately \$45.

Mr. Levington stated the applications are confidential, but valuable information was compiled about the recipients by the Assessor's Office. He stated 118 senior citizens received property tax reductions ranging from under \$1,000 to over \$5,000, with the median reduction of about \$2,500. The median age of recipients was over 80, and the median time they have lived in Sudbury is over 30 years. The median qualifying income was \$37,200, and the median assessed home value was \$417,300.

Mr. Levington stated the program appears to have met its objectives. He reiterated Town staff did a great job implementing the program. Town Manager Valente referenced the new handout provided tonight from Sudbury's Director of Assessing Cynthia Gerry which summarizes the work and time devoted by so many to implement the program. Mr. Levington stated the Town can be proud of its work on this program

Vice-Chairman Woodard stated this is a great example of the excellent results which can be achieved from citizen involvement. He noted the program which helps senior citizens stay in Sudbury complements the Town's long-term goals to balance the constitution of the Town's population.

Selectman Haarde asked why six applicants were rejected from the program and how the asset test was defined. Mr. Levington stated he does not know the reasons for rejection, since applications are confidential. Town Manger Valente suggested they likely did not meet the established criteria for the program. Mr. Levington also stated the Assessors established the asset test.

Selectman O'Brien congratulated Mr. Levington on the report and the program results. He suggested Sudbury's success be shared at a State level. Mr. Levington stated he is scheduled to present the report to appropriate parties at the State House next week. Selectman O'Brien offered to accompany Mr. Levington, if needed.

Selectman Simon commended the work done by all involved in the pilot program, noting it is a trailblazing effort in the Commonwealth.

Town Manager Valente stated she maintained a list of several towns who were interested in the results of the program, and a package of information will be compiled and sent to them. Ms. Valente read aloud a letter from an undisclosed Sudbury senior citizen, which thanked the Town for implementing this program which helps her to remain in her home and the Town she loves.

At 9:20 p.m., the Board thanked Mr. Levington for their report, and the discussion was concluded.

Minutes

Town Manager Valente distributed copies of two Town Meeting Warrant articles numbered as T41 tonight. She explained the Board of Assessors submitted two articles and the two were erroneously viewed as one combined article, leading to a conclusion that one had been withdrawn, which was not correct. Thus, the February 11, 2014 minutes agenda item was postponed until the March 11, 2014 meeting to be revised and voted, since there is not a quorum available tonight of attendees from the February 11, 2014 meeting.

2014 Annual Town Election – Sign Warrant

It was on motion unanimously

VOTED: To defer this agenda item to the March 11, 2014 meeting.

EPA Phase 2 MS\$ Permit – Award Engineering Services Contract

It was on motion unanimously

VOTED: To approve a \$25,000 contract with Woodard & Curran for engineering services related to compliance with the EPA Phase 2 MS4 permit and other stormwater-related tasks, as requested by Maureen Valente, Town Manager.

Sudbury Celebrates 375/Sudbury Day Celebration - Gift

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a gift of \$100 from the Villagers for use by the Town of Sudbury for the purpose of the Sudbury Celebrates 375/Sudbury Day celebration, and may be used for another similar purpose as authorized by the Board of Selectmen in the event that all funds are not expended at the conclusion of the aforementioned celebration.

Knights of Columbus – One-Day Wine & Malt License

It was on motion unanimously

VOTED: To grant a one-day Wine & Malt license to William Kneeland, to accommodate a Knights of Columbus fundraiser on Saturday, March 15, 2014 from 6:00 p.m. to 11:00 p.m. at Our Lady of Fatima Parish Hall, 160 Concord Road, subject to the use of a TIPS-trained bartender and a receipt of a Certificate of Liability.

Relay for Life – Special Permit

It was on motion unanimously

VOTED: To approve a Special Permit for the 9th annual Relay for Life, for May 17 and 18, 2014, as requested by Marisa Lutz, Relay for Life Volunteer in an email dated December 11, 2013, subject to compliance with conditions outlined by the Peter Noyes School, the Police and Fire Departments, Building Department, Park and Recreation and the Presbyterian Church, and subject to a receipt of a Certificate of Liability.

Boston Brain Tumor Bike Ride – Special Permit

It was on motion unanimously

VOTED: To approve a Special Permit for a Boston Brain Tumor Bike Ride, May 18, 2014, as requested by Jaimee Goodman, Event Operations Manager, National Brain Tumor Society, in a letter dated February 7, 2014, subject to compliance with conditions outlined by the Police and Fire Departments, Building Department, and Park and Recreation, subject to a receipt of a Certificate of Liability.

Annual Town Meeting Actions

The Board was previously in receipt of copies of a draft list and articles submitted for the 2104 Annual Town Meeting Warrant, and an accompanying memorandum from Town Manager Valente dated February 21, 2014.

Town Manager Valente distributed copies of two articles numbered as T41 tonight. She explained the Board of Assessors submitted two articles and the two were erroneously viewed as one combined article, leading to a conclusion that one had been withdrawn, which was not correct. Thus, the February 11, 2014 minutes were postponed until the March 11, 2014 meeting to be revised and voted, since there is not a quorum available tonight of attendees from the February 11, 2014 meeting.

The list was reviewed to designate articles for the Consent Calendar.

It was on motion unanimously

VOTED: To designate Articles # T09, #T10, #T11 and #T39 (later renumbered as #9, #10, #11 and #12) for the Consent Calendar.

A brief discussion ensued regarding whether to remove Article #T38 from the list. Vice-Chairman Woodard shared his apprehension that introducing too many new funds which capture money which could be returned to taxpayers in other forms might backfire. He recommended removing the article from the list.

It was further on motion unanimously

VOTED: To remove Articles # T25 and #T38 from the list.

Selectman O'Brien suggested the petitioners be invited to a future Board meeting. Town Manager Valente reviewed the available meeting times leading up to Town Meeting, and she stated she would discuss future reviews of articles with the Board with Chairman Drobinski.

It was also on motion unanimously

VOTED: To approve the numbering of articles as noted on the listing below:

- #01 - Hear Reports
- #02 - FY14 Budget Adjustments
- #03 - Stabilization Fund
- #04 - FY15 Operating Budget
- #05 - FY15 Transfer Station Enterprise Fund Budget
- #06 - FY15 Pool Enterprise Fund Budget
- #07 - FY15 Recreation Field Maintenance Enterprise Fund Budget
- #08 - Unpaid Bills
- #09 - Chapter 90 Highway Funding – **Consent Calendar**
- #10 – Real Estate Exemption – **Consent Calendar**
- #11 - Town/School Revolving Funds – **Consent Calendar**
- #12 - Rescind/Amend Borrowings – **Consent Calendar**
- #13 - FY15 Capital Budget
- #14 - Construct Police Headquarters

- #15 – Purchase of Fire Department Ambulance and Fire Engine – FY15 Capital Exclusion
- #16 - DPW Rolling Stock Replacement
- #17 – Technology Infrastructure Improvement – Lincoln-Sudbury Regional High School
- #18 - Israel Loring Elementary School – Purchase of New Phone System
- #19 – School Driveways, Parking Lot and Sidewalks Improvement
- #20 – Ephraim Curtis Middle School – Purchase of Technology Devices
- #21 - Fairbank Community Center Roof Project
- #22 - Energy Services Company Energy Improvement Program – ESCO
- #23 – Nixon School – Partial Roof, Window and Door Replacements
- #24 – DPW Rolling Stock Stabilization Fund
- #25- Energy Saving Programs Stabilization Fund
- #26 – Conduct Feasibility Study for Wastewater Disposal Options for Route 20 Business District
- #27 – Amendments to the District Agreement of the Minuteman Regional Vocational School District
- #28 – Chapter 110, Section, 110 of the Acts of 1993, Disabled Veteran’s Exemption Residency Requirements
- #29 - Community Preservation Fund – Town-Wide Walkways
- #30 - Community Preservation Fund - Sudbury Housing Trust 10% Allocation
- #31 - Community Preservation Fund – Historic Projects
- #32 - Community Preservation Fund – Bruce Freeman Rail Trail Design
- #33 - Community Preservation Fund – Melone Property Engineering
- #34 - Community Preservation Fund - Sudbury Housing Authority Bathroom Project
- #35 - Community Preservation Fund – Amend Art. 43 of the 2006 ATM – Sudbury Housing Authority Unit Buy-Down
- #36 - Community Preservation Fund – Reversion of Funds
- #37 - Community Preservation Fund - General Budget and Appropriations
- #38 - Amend Zoning Bylaw - Medical Marijuana Treatment Centers - **Refer to Planning Board**
- #39 - Amend Zoning Bylaw - Accessory Structures - **Refer to Planning Board**
- #40 – Amend Zoning Bylaw, Art. IX – sec. 4100 – Flood Plain Overlay District - **Refer to Planning Board**
- #41 - Amend Zoning Bylaw Art. IX – Section 4500 – Wastewater Facilities Bylaw – Deletion - **Refer to Planning Board**
- #42 – Petition – Lafayette Drive Land
- #43 – Petition – Sale of Land under C61A
- #44 – Petition – Divestment of PRIT funds
- #45 – Petition – Utilize a Portion of CPA Funds to Fund Conservation Fund
- #46 – Petition – Amend Wetlands Administration Bylaw: Projects Funded with CPC funds
- #47 – Petition – Amend Bylaw Art. IV Finance Committee

Selectman O’Brien requested receiving updates to articles as they are received. Town Manager Valente stated she might develop a matrix of information to assist the Board’s review.

Keno License Application – Lavender Asian Cuisine – 519a Boston Post Road

At 9:43 p.m., Vice-Chairman Woodard opened a discussion regarding the copies of the letter from the Massachusetts State Lottery Commission dated February 6, 2014 the Board previously received regarding the Keno license application submitted by Lavender Asian Cuisine, 519a Boston Post Road. An email from Police Chief Nix dated February 21, 2014 was also previously received, stating no objections to the application.

A few Board members stated they had little experience with KENO and how the game is played.

Selectman O'Brien noted the Board is not responsible for issuing the license.

Selectman Simon stated he believes the Board is being asked by the State for a notification in writing only if the Town objects to the license being issued. He further stated he sees no reason upon which to object.

Selectman Haarde stated he does see a reason to object because he believes negative social issues may be created by combining gambling and alcohol in this manner. He stated gambling is addictive, and he does not believe this should be endorsed in Sudbury. Selectman Haarde views KENO as a "trashy" option, which he would prefer is not made available in an environment which also sells alcohol.

Selectman Simon stated the State would be the entity issuing a license, and the Town does not have much say in the matter.

Selectman Haarde stated he believes the Town can have a say as to whether it supports this activity or not.

Vice-Chairman Woodard asked Board members if they had a reason to object to the application request.

Selectman O'Brien noted other locations in Town offer KENO games, and it is the right of the establishment to apply for this option.

Selectman Haarde stated that, just because something is legal, does not mean it has to be pursued. He believes it is up to the Board to state what it believes is proper for Sudbury.

Selectman Simon stated the Board does not want to encourage gambling, but the license is sponsored by the State. He does not believe approval of this license by the State will result in a significant opportunity for abuse by the applicant, nor does he believe that it will threaten the moral fabric and quality of life in Sudbury. He also assumes that, similar to the State Lottery, some proceeds may come back to communities. Selectman Simon asked how often the license would be renewed if it is approved.

Town Manager Valente stated she does not believe the Board has ever been apprised of a renewal process.

Selectman Haarde stated he views KENO as very different from the State Lottery program. He does not believe the precedent should be set to support this type of gambling activity in an environment which sells alcohol.

Selectman Simon stated that, if there is evidence of abuse of the license, it could likely be revoked at a later time.

Selectman Haarde stated we just learned of this request last Friday and the Board is now being asked to make a decision without having had adequate time to research the matter.

Vice-Chairman Woodard stated that, given the timing of the receipt of the letter and the timeframe given to respond, this was the only Board meeting at which the topic could be discussed.

Selectman O'Brien and Vice-Chairman Woodard stated that, even if the Board did object, there is no guarantee the State would not issue the license.

Selectman Haarde made a motion to send a response letter of objection to the State regarding the Keno license application submitted by Lavender Asian Cuisine. The motion was not seconded.

Town Manager Valente stated a Board member could send their own letter to the State, individually, if they wished to do so.

Addressing Selectman Simon, Selectman Haarde stated he does not like gambling in Sudbury. Vice-Chairman Woodard stated he did not appreciate Selectman Haarde's tone, and that Selectman Haarde has made his objection known. At approximately 10:01 p.m., the discussion was concluded.

At 10:02 p.m., Vice-Chairman Woodard announced Selectman Haarde had exited the meeting.

Public Hearing: Common Victualer License, CJ's Pizzeria, 29 Hudson Road

Present: Owner Christos Vozikis

At 7:42 p.m., Vice-Chairman Woodard Chairman Drobinski welcomed Owner Christos Vozikis to the meeting regarding his application request for CJ's Pizzeria, 29 Hudson Road, for a Common Victualer License. The Board was previously in receipt of copies of the application and accompanying materials, an email from Assistant Fire Chief John Whalen dated February 3, 2014, an email from Board of Health Director Bob Leupold dated February 10, 2014, an email from the Building Inspector Mark Herweck dated February 12, 2014 and a copy of the lease between 29 Hudson Road LLC and CJ's Pizza.

Town Manager Valente stated the file is complete and all required materials have been received.

Mr. Vozikis stated he has been in business for 22 years, currently owns a pizza store in Hudson, and he is looking to expand. He further stated he is excited about opening a new location in Sudbury.

Selectman Simon welcomed Mr. Vozikis to Town, and he asked when the business would open. Mr. Vozikis stated in approximately two weeks.

Selectman O'Brien referenced some recommendations made by Town staff. Mr. Vozikis stated he is aware of the comments, and he recently met with his contractor and Sudbury's Building Inspector to discuss the suggestions.

Board members all thanked Mr. Vozikis for choosing Sudbury for his new location, and wished him well with this new endeavor.

It was on motion unanimously

VOTED: As the Licensing Authority for the Town of Sudbury, in accordance with M.G.L. c.138, s.12, to approve a new Common Victualer License for CJ's Pizzeria, 29 Hudson Road, Suite 100, as requested in an application dated July 18, 2013, subject to conditions put forth by the Fire Department and Building Department.

Town Manager Valente mentioned she will need to schedule an Executive Session with the Board to discuss a land acquisition matter.

There being no further business, the meeting adjourned at 10:43 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk

AGENDA REQUEST – ITEM #15

BOARD OF SELECTMEN

Requestor's Section:

Date of request: *March 4, 2014*

Requestor: *Nancy Hershfield*

Action requested: CONSENT CALENDAR

Accept the resignation of Nancy Hershfield from the Sudbury Celebrates 375/Sudbury Day Committee

Financial impact expected: *None*

Background information: *N/A*

Recommendations/Suggested Motion/Vote: *Vote to accept the resignation of Nancy Hershfield, 88 Butler Road, from the Sudbury Celebrates 375/Sudbury Day Committee, effective March 3, 2014, and to send a letter of thanks for her service to the Town.*

Person(s) expected to represent Requestor at Selectmen's Meeting: *None*

Selectmen's Office Section:

Date of Selectmen's Meeting: *March 11, 2014*

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes ()

No (X)

Golden, Patricia

From: Nancy Hershfield <nancy@outboxinc.com>
Sent: Monday, March 03, 2014 10:25 AM
To: Golden, Patricia
Cc: Cutler, Harold
Subject: Nancy Hershfield Resignation from Sudbury Celebrates 375 Committee

Hello,

Please accept this email as notice of my resignation, as of March 3, 2014, from my position as a member of the Sudbury Celebrates 375 Committee.

I enjoyed working on the committee and look forward to the exciting celebrations planned for the 375th.

Thank you,
Nancy

Nancy Hershfield
nancy@outboxinc.com
978-579-9960
978-501-6171 (cell)

AGENDA REQUEST – ITEM #16

BOARD OF SELECTMEN

Requestor's Section:

Date of request: *March 4, 2014*

Requestor: *Ellen Gitelman*

Action requested: CONSENT CALENDAR

Accept the resignation of Ellen Gitelman from the Sudbury Celebrates 375/Sudbury Day Committee

Financial impact expected: *None*

Background information: *N/A*

Recommendations/Suggested Motion/Vote: *Vote to accept the resignation of Ellen Gitelman, 19 Raynor Road, from the Sudbury Celebrates 375/Sudbury Day Committee, effective March 4, 2014, and to send a letter of thanks for her service to the Town.*

Person(s) expected to represent Requestor at Selectmen's Meeting: *None*

Selectmen's Office Section:

Date of Selectmen's Meeting: *March 11, 2014*

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes ()

No (X)

Golden, Patricia

From: Ellen Gitelman <ellen.gitelman@gmail.com> on behalf of Ellen Gitelman <elleng@americangraphiti.com>
Sent: Tuesday, March 04, 2014 7:17 PM
To: Golden, Patricia
Subject: Letter of resignation

Hi Patty,

This email serves to let you know that I have resigned from the Sudbury Celebrates 375 Committee.

Thank you.

Ellen Gitelman

AGENDA REQUEST – Item #17

BOARD OF SELECTMEN

Requestor's Section

Date of request: *March 4, 2014*

Requestor: *Bill Place, DPW Director*

Action requested: *Vote to approve FY14 rates for Transfer Station stickers*

Financial impact expected: *TBD*

Background information (if applicable, please attach if necessary):

CONSENT CALENDAR - see attached

Recommendations/Suggested Motion/Vote: *Vote to approve the FY14 rates for transfer station stickers as recommended by DPW Director Bill Place, who is advising leaving them at the FY14 amounts.*

Person(s) expected to represent Requestor at Selectmen's Meeting: *N/A*

Selectmen's Office Section

Date of Selectmen's Meeting: *March 11, 2014*

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

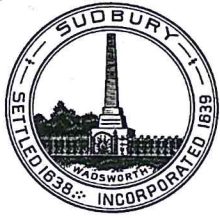
Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed?

Yes ()

No (X)



17

Town of Sudbury

Dept. of Public Works

275 Old Lancaster Road
Sudbury, MA 01776
(978) 443-2209; (978) 443-6128 fax
I. William Place, DPW Director/Town Engineer

March 4, 2014

Ms. Maureen Valente
Town Manager
Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776

Subject: Sticker Price – Transfer Station

We have reviewed the revenues and expenditures for the Transfer Station Enterprise Fund. Revenue from bulky waste permits, stickers, bags and recycling have remained fairly constant this year. We have experienced a slight decrease in the tonnages of trash and bulky waste. This in turn reduces our expenses in the Hauling Line and may reflect a small cut in the amount of revenue for bulky waste permits. This should not adversely affect the Revenue vs. Expense outcome for the Transfer Station, as it will end up being a wash with less revenue from bulky waste permits against less expense for reduced tonnages.

Costs for solid waste disposal are currently \$70.00 per ton with a small \$2.00 per ton increase due to begin in July 2014.

Therefore, I would recommend no increase in the price per Transfer Station sticker for FY14.

Respectfully,

I. William Place, P.E.
DPW Director/Town Engineer

IWP/nea

AGENDA REQUEST - Item #18

BOARD OF SELECTMEN

Requestor's Section:

Date of request: March 6, 2014

Requestor: Jody Kablack, Planning and Community Development Director

Action requested (Who, what, when, where and why):

Chairman of the BOS to sign Regulatory Agreement submitted by the Sudbury Housing Authority for 16 Willis Lake Drive.

Financial impact expected: None

Background information (if applicable, please attach if necessary): Memo attached from Planning and Community Development Director dated 3/6/14

Recommendations/Suggested Motion/Vote: Vote to authorize the Chairman of the Board of Selectmen on behalf of the Town to sign the "Regulatory Agreement and Declaration of Restrictive Covenants for Rental Project, Local Action Units" between DHCD, the Sudbury Housing Authority and the Town of Sudbury for 16 Willis Lake Drive.

Person(s) expected to represent Requestor at Selectmen's Meeting: none

Selectmen's Office Section:

Date of Selectmen's Meeting: 3/11/14

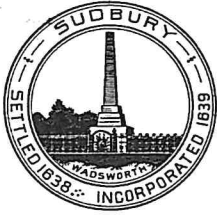
Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed? Yes (X) No ()



Town of Sudbury

Planning and Community Development Department

Jody A. Kablack, Director

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776
978-639-3387
Fax: 978-443-0756

<http://www.sudbury.ma.us/services/planning>
kablackj@sudbury.ma.us

TO: Board of Selectmen
FROM: *jak* Jody Kablack, Director of Planning and Community Development
RE: Sudbury Housing Authority Regulatory Agreement, 16 Willis Lake Drive
DATE: March 6, 2014

This memo serves to summarize the information on the request by the Sudbury Housing Authority to obtain the Chief Executive Officer's signature on the Regulatory Agreement for the property at 16 Willis Lake Drive. As background, this home was purchased by the SHA with the intent to rent the property to eligible Low and Moderate Income households. A portion of the funds used for the purchase were appropriated by Town Meeting in 2006, and there will likely be 1 additional home purchased for this same purpose from the original appropriation. The property will be deed restricted in perpetuity, and income certification will be done on an annual basis.

This is Sudbury's first rental Local Action Unit (LAU) under the Local Initiative Program administered by DHCD, so we are all feeling our way around the regulations. Each program has slightly different requirements which involve both the Town and the SHA. The SHA has, under separate memos, described the challenge it faces with this program regarding certification of tenants whose income increases during their tenancy, and has resolved its previous concerns with a non-renewal provision in the lease for the unit. This department is comfortable with that solution, as it will preserve the unit for qualifying households. The Town's responsibility under the Regulatory Agreement is to annually certify to DHCD that the unit qualifies as a Low and Moderate Income unit.

I wanted to make you aware of this provision so that next year when asked to certify the unit you will not be caught unaware. Rest assured that the monitoring of this unit will be conducted by the Regional Housing Services Office, and a memo will be presented to the BOS for certification each year.

The Board of Selectmen has previously indicated its support for this project, with the signing of the LIP application and submittal of a support letter to DHCD in December, 2013. Signing the Regulatory Agreement is the last step in getting this unit added to Sudbury's Subsidized Housing Inventory. I look forward to assisting the SHA in expending the remaining CPC funds with the purchase of a second unit sometime this year, and will be back for the requisite approvals for that unit at the appropriate time.

I have enclosed the Regulatory Agreement, LIP application and support letter, and SHA memos relevant to this issue. Please let me know if you have any questions.

Enclosures

cc: Sheila Cusolito, Sudbury Housing Authority Executive Director

SUDBURY HOUSING AUTHORITY

55 HUDSON ROAD
SUDBURY, MASSACHUSETTS 01776
sudburyhousing@verizon.net

SHEILA M. CUSOLITO
Executive Director

PHONE: (978) 443-5112
FAX: (978) 443-5113

March 3, 2014

To: Board of Selectmen
Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776

Community Preservation Committee
Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776

Re: 16 Willis Lake Drive

Dear Members:

The Sudbury Housing Authority recently purchased a single-family home at 16 Willis Lake Drive. We applied to the Department of Housing and Community Development to qualify this unit as a Local Action Unit in order to have it included on Sudbury's Subsidized Housing Inventory, the SHI. In my letter dated January 22, 2014, I outlined the proposed treatment of tenants whose income exceeds the maximum allowable limit after their initial occupancy. At that time, the SHA and the DHCD were negotiating the language of the Regulatory Agreement for this property, after having conferred with the Town.

As previously described, the SHA elected to set the rent for this unit at 30% of 80% of the AMI for a family of four, less a utility allowance. The DHCD and the SHA were in agreement over the treatment of tenants whose income exceeds 80% of the AMI, up to 140% of the AMI: the unit will continue to be rent-restricted and the tenancy maintained. The difference between what the SHA proposed and what the DHCD agreed to concerns the treatment of those tenants whose income exceeds 140% of the maximum permitted. The DHCD agreed to allow the SHA a non-renewal clause in its Lease when the income of the tenant exceeds 140% of the maximum permitted. The significant point is that non-renewal of the Lease is not described in the Regulatory Agreement, but only at the local program level.

All in all, the SHA considers this an appropriate balance between the requirements of the DHCD Local Initiative Program, the mission of the Housing Authority, acceptable use of CPA funds, and the interest in qualifying the unit for the SHI. Again, should removal from the SHI occur as a result of income limits being exceeded, be assured that the SHA is committed to taking the steps necessary to re-qualify the unit. Please feel free to contact me, should you have any questions.

Sincerely,

Sheila M. Cusolito
Executive Director

SUDBURY HOUSING AUTHORITY

55 HUDSON ROAD
SUDBURY, MASSACHUSETTS 01776
sudburyhousing@verizon.net

SHEILA M. CUSOLITO
Executive Director

PHONE: (978) 443-5112
FAX: (978) 443-5113

January 22, 2014

To: Board of Selectmen
Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776

Community Preservation Committee
Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776

Dear Members:

As you are aware, the SHA is in the process of purchasing 16 Willis Lake Drive to utilize as an affordable rental. Community Preservation Act funds approved at Annual Town Meeting 2006 (and as amended at ATM 2009 and 2012) are being utilized for the down payment. The SHA has applied to the Department of Housing and Community Development to qualify this unit as a Local Action Unit, LAU, which will allow for its inclusion on Sudbury's Subsidized Housing Inventory, SHI. We are in the process of finalizing the language of the Regulatory Agreement for this property and want to make you aware of the steps the SHA proposes to take, should the income of a tenant exceed that permitted for the unit to remain on the SHI or exceed that which is intended for the use of CPA funds.

Note that the Community Preservation Act allows for funds to be utilized for affordable housing activities serving those with incomes at or below 100% of the Area Median; whereas, to qualify for the SHI, the unit must serve a household with income at or below 80% of the Area Median. In any case where the income of the tenant exceeds that required to remain on the SHI, the DHCD allows for communities to re-certify the unit when it again houses an income-eligible tenant.

The SHA has elected to set the rent for this unit at 30% of 80% of the AMI for a family of four, less a utility allowance. If, after initial occupancy, the income of a tenant increases to the extent that it exceeds the 80% AMI income limit, the unit will continue to be rent-restricted and the tenancy maintained. This will apply to tenants whose income increases up to 140% of the maximum permitted.

If at any time after initial occupancy the tenant's income exceeds 140% of the maximum income permitted, at the end of the lease term, the lease may be voided by the SHA. In such instances, the SHA may provide an exemption for up to six (6) months if the tenant can establish hardship that prevents a more timely relocation. During this period, rent restrictions will no longer apply and a full fair-market rent may be charged. In this situation, the unit is no longer eligible for inclusion on the SHI, but can be returned to the Inventory when it again houses an income-eligible tenant.

The intent is to balance the desire to house income-eligible families while recognizing the possibility that income will increase. Continuing to house those with incomes up to 140% of the maximum permitted is in keeping with CPA fund uses. Voiding the lease of an over-income tenant is an allowable measure for state-subsidized housing, although the need to do so is rare. Should removal from the SHI occur, be assured that the SHA is committed to taking the steps necessary to re-qualify the unit. Please feel free to contact me, should you have any questions.

Sincerely,



Sheila M. Cusolito
Executive Director

LOCAL INITIATIVE PROGRAM

REGULATORY AGREEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR
RENTAL PROJECT
Local Action Units

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this _____ day of _____, 2014 by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development ("DHCD") pursuant to G.L. c.23B §1 as amended by Chapter 19 of the Acts of 2007, the City/Town of _____ Sudbury _____ ("the Municipality"), and Sudbury Housing Authority, a Massachusetts public body corporate and politic organized and operated under the provisions of M.G.L. c. 121B, as amended, having an address at 55 Hudson Road, Sudbury, MA 01776, and its successors and assigns ("Developer").

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the "Regulations") which establish the Local Initiative Program ("LIP") and *Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory* have been issued thereunder (the "Guidelines");

WHEREAS, the Developer intends to purchase a rental housing unit known as 16 Willis Lake Drive at a 0.2 acre site on Willis Lake Drive in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

WHEREAS, such Project is to consist of a total of one rental dwelling (the "Unit"), which will be rented at a rent specified in this Agreement to Eligible Tenants as specified in paragraph two of this Agreement (the "Low and Moderate Income Unit");

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Developer have made application to DHCD to certify that the Unit is a Local Action Unit (as that term is defined in the Guidelines) within the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, DHCD, the Municipality, and the Developer hereby agree and covenant as follows:

1. The Developer agrees to provide complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup.

The Low and Moderate Income Unit has the following living space square footage: 968. The Low and Moderate Income Unit has three bedrooms and one full bath.

During the term of this Agreement, the Developer covenants, agrees, and warrants that the Low and Moderate Income Unit will remain suitable for occupancy and in compliance with all federal, state, and local health, safety, building, sanitary, environmental, and other laws, codes, rules, and regulations, including without limitation laws relating to the operation of adaptable and accessible housing for the handicapped. The Project must comply with all similar local codes, ordinances, and by-laws.

2. Affordability. (a) Throughout the term of this Agreement, the Low and Moderate Income Unit will be rented for no more than the rental rate set forth herein to an Eligible Tenant. An Eligible Tenant is a Family whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). A "Family" shall mean two or more persons who will live regularly in the Low and Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship. The "Area" is defined as the Boston, MA MSA.

(b) The monthly rent charged to tenants of the Low and Moderate Income Unit shall not exceed an amount equal to thirty percent (30%) of the monthly adjusted income of a family of four whose gross income equals eighty percent (80%) of the median income for the Area, as provided by HUD. In determining the maximum monthly rent that may be charged for the Low and Moderate Income Unit under this clause, the Developer shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. Annual income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation) using assumptions provided by HUD. The initial maximum monthly rent and utility allowance for the Low and Moderate Income Unit is set forth in Exhibit B attached hereto.

Annually as part of the annual report required under Subsection 2 (e) below, the Developer shall submit to the Municipality and DHCD a proposed schedule of monthly rent

56.03 (2).

(b) The Unit will continue to be included in the Subsidized Housing Inventory in accordance with 760 CMR 56.03 (2) for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Developer are in default hereunder; (2) the Project and the Low and Moderate Income Unit continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) the Low and Moderate Income Unit remains a Low and Moderate Income Unit as provided in section 2 (c), above.

4. Marketing. Prior to marketing or otherwise making the Unit available for rental, the Developer must obtain DHCD's approval of a marketing plan (the "Marketing Plan") for the Low and Moderate Income Unit. Such Marketing Plan must describe the tenant selection process for the Low and Moderate Income Unit and must set forth a plan for affirmative fair marketing of the Low and Moderate Income Unit to protected groups underrepresented in the Municipality, including provisions for a lottery, as more particularly described in the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low and Moderate Income Units, subject to all provisions of the Regulations and Guidelines. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the tenant selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of NAACP, Boston Chapter v. Kemp. **If the Project is located in the Boston-Cambridge-Quincy MA-NH Metropolitan Statistical Area, the Developer must list all Low and Moderate Income Units with the City of Boston's MetroList (Metropolitan Housing Opportunity Clearing Center), at Boston City Hall, Fair Housing Commission, Suite 966, One City Hall Plaza, Boston, MA 02201 (671-635-3321).** All costs of carrying out the Marketing Plan shall be paid by the Developer. A failure to comply with the Marketing Plan by the Developer or by the Municipality shall be deemed to be a default of this Agreement. The Developer agrees to maintain for five years following the initial rental of the Low and Moderate Income Unit and for five years following all future rentals, a record of all newspaper advertisements, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD.


and utility allowance for the Low and Moderate Income Unit. Such schedule shall be subject to the approval of the Municipality and DHCD for compliance with the requirements of this Section. Rent for the Low and Moderate Income Unit shall not be increased without the Municipality's and DHCD's prior approval of either (i) a specific request by Developer for a rent increase or (ii) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of the outstanding Lease and shall not be implemented without at least 30 days' prior written notice by Developer to all affected tenants.

(c) If, after initial occupancy, the income of a tenant of the Low and Moderate Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the Unit will be deemed a Low and Moderate Income Unit so long as the Unit continues to be rent-restricted and the tenant's income does not exceed 140% of the maximum income permitted. If the tenant's income exceeds 140% of the maximum income permitted at the time of annual income determination, the Unit will be deemed a Low and Moderate Income Unit until the tenant's one-year lease term expires, when rent restrictions shall no longer apply to such tenant. When the over-income tenant voluntarily vacates the Unit and when the Unit is again rented to an Eligible Tenant, the Unit will be deemed a Low and Moderate Income Unit and included in the Subsidized Housing Inventory upon the Municipality's application to DHCD.

(d) If, after initial occupancy, the income of a tenant in the Low and Moderate Income Unit increases, and as a result of such increase, exceeds one hundred forty percent (140%) of the maximum income permitted hereunder for such a tenant, at the expiration of the applicable lease term, the rent restrictions shall no longer apply to such tenant.

(e) Throughout the term of this Agreement, the Developer shall annually determine whether the tenant of the Low and Moderate Income Unit remains an Eligible Tenant. This determination shall be reviewed by the Municipality and certified to DHCD as provided in section 2 (g), below.

(f) The Developer shall enter into a written Lease with each tenant of the Low and Moderate Income Unit which shall be for a minimum period of one year and which provides that the tenant shall not be evicted for any reason other than a substantial breach of a material provision of such Lease.

 (g) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to DHCD that the Low and Moderate Income Unit continues to be a Low and Moderate Income Unit as provided in sections 2 (a) and (c), above; and that the Project and the Low and Moderate Income Unit have been maintained in a manner consistent with the Regulations and Guidelines and this Agreement.

3. Subsidized Housing Inventory. (a) The Project will be included in the Subsidized Housing Inventory upon the occurrence of one of the events described in 760 CMR

All Marketing Documentation must be approved by DHCD prior to its use by the Developer or the Municipality. The Developer and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Unit, DHCD determines that the Developer, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Developer or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

5. Non-discrimination. Neither the Developer nor the Municipality shall discriminate on the basis of race, creed, color, sex, age, handicap, marital status, national origin, sexual orientation, familial status, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of tenants; and the Developer shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

6. Inspection. The Developer agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. DHCD and the Chief Executive Officer of the Municipality shall have access during normal business hours to all books and records of the Developer and the Project in order to monitor the Developer's compliance with the terms of this Agreement.

7. Recording. Upon execution, the Developer shall immediately cause this Agreement and any amendments hereto to be recorded with the Registry of Deeds for the County where the Project is located or, and the Developer shall pay all fees and charges incurred in connection therewith. Upon recording, the Developer shall immediately transmit to DHCD and the Municipality evidence of such recording including the date and instrument, book and page or registration number of the Agreement.

8. Representations. The Developer hereby represents, covenants, and warrants as follows:

- (a) The Developer (i) is a Massachusetts public body corporate and politic duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.
- (b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not

result in the creation or imposition of any prohibited encumbrance of any nature.

- (c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by DHCD, or other permitted encumbrances, including mortgages referred to in paragraph 17, below).
- (d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Developer, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

9. Transfer Restrictions.

(a) The Developer shall provide DHCD and the Municipality with thirty (30) days' prior written notice of the following:

(i) any change, substitution or withdrawal of any general partner, manager, or agent of Developer; or

(ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in Developer (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any limited partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

(b) Prior to any transfer of ownership of the Project or any portion thereof or interest therein, the Developer agrees to secure from the transferee a written agreement stating that transferee will assume in full the Developer's obligations and duties under this Agreement.

10. Casualty; Demolition; Change of Use.

(a) The Developer represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Developer (subject to the approval of the lender(s) which has provided financing) will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with this Agreement.

(b) The Developer shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project or permit the use of the residential rental Unit for any purpose other than rental housing during the term of the Agreement unless required by law.

11. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

DHCD: Department of Housing and Community Development
Attention: Local Initiative Program Director
100 Cambridge Street, 3rd Floor
Boston, MA 02114

Municipality: Town of Sudbury
Attention: Chairman, Board of Selectmen
278 Old Sudbury Road
Sudbury, MA 01776

Developer: Sudbury Housing Authority
Attention: Executive Director
55 Hudson Road
Sudbury, MA 01776

13. Term. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement is made for the benefit of DHCD, and DHCD shall be deemed to be the holder of the affordable housing restriction created by this Agreement. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement, the rental restrictions, and other requirements provided herein shall be perpetual.

(b) The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns and enure to the benefit of DHCD and the Municipality and their successors and assigns for the term of the Agreement. Developer hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

14. Senior Lender Foreclosure. (a) Notwithstanding anything herein to the contrary, but subject to the provisions of this Section, if the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional or governmental lender shall acquire the Project by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the Project in lieu of foreclosure, and provided that the holder of such mortgage has given the Municipality and DHCD not less than sixty (60) days' prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Project in lieu of foreclosure to attempt to structure a workout or other arrangement to avoid such foreclosure, conveyance in lieu of foreclosure, or similar remedial action and the Municipality or DHCD has failed within such sixty (60) days to locate a purchaser for the Project who is capable of operating the Project for the uses permitted under this Agreement and who is reasonably acceptable to such mortgage holder, then except as provided below, the rights and restrictions herein contained shall not apply to such mortgage holder upon such acquisition of the Project or to any purchaser of the Project from such mortgage holder, and the Project shall, subject to Paragraph (b) below, thereafter be free from all such rights and restrictions. Notwithstanding the foregoing, the rights and restrictions contained herein shall terminate only to the extent it is financially infeasible to maintain the level of affordability required by this Agreement or some lesser level of affordability (i.e., fewer Local Action Units or Local Action Units affordable to persons or families with higher annual incomes than those required by this

Agreement.) "Financially infeasible" shall mean (i) with respect to the operation of the Project, that the rent and other income from the Project is, or is reasonably projected to be, less than the reasonable expenses required (or reasonably projected to be required) to maintain and operate the Project and (ii) with respect to a sale of the Project, that the restrictions would prevent (or be reasonably projected to prevent) the senior mortgage holder from recovering all amounts due and owing with respect to its financing of the Project, including without limitation, principal, interest, charges, costs, expenses, late fees and prepayment premiums. Financial infeasibility shall be determined by the senior mortgage holder in its reasonable discretion after consultation with the Municipality and DHCD. The senior mortgage holder shall notify the Municipality and DHCD of the extent to which the rights and restrictions contained herein shall be terminated and the Developer agrees to execute any documents required to modify this Agreement to conform to the senior mortgage holder's determination. The Developer hereby irrevocably appoints any senior mortgage holder and each of the Municipality and DHCD, its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any such documents on behalf of the Developer should the Developer fail or refuse to do so.

(b) The rights and restrictions contained herein shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure by (i) Developer, (ii) any person with a direct or indirect financial interest in Developer, (iii) any person related to a person described in clause (ii) by blood, adoption or marriage, (iv) any person who is or at any time was a business associate of a person described in clause (ii), and (v) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if the Project is subsequently acquired by a Related Party during the period in which this Agreement would have remained in effect but for the provisions of this Section, this Agreement shall be revived and shall apply to the Project as though it had never lapsed.

(c) In the event such holder conducts a foreclosure or other proceeding enforcing its rights under such mortgage and the Project is sold for a price in excess of the sum of the outstanding principal balances of all notes secured by mortgages of the Project plus all future advances, accrued interest and all reasonable costs and expenses which the holders thereof are entitled to recover pursuant to the terms of such mortgages, such excess shall be paid to the Municipality in consideration of the loss of the value and benefit of the rights and restrictions herein contained and released by the Municipality pursuant to this Section in connection with such proceeding (provided, that in the event that such excess shall be so paid to the Municipality by such holder, the Municipality shall thereafter indemnify such holder against loss or damage to such holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such holder to the Municipality in accordance herewith, provided that such holder shall give the Municipality prompt notice of any such claim and shall not object to intervention by the Municipality in any proceeding relating thereto). To the extent the Developer possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the full extent permissible by law, the Developer hereby assigns its interest in such amount to said holder for payment to the Municipality.

15. Further Assurances. The Developer and the Municipality each agree to submit any information, documents, or certifications requested by DHCD which DHCD shall deem

necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

16. Default. (a) The Developer and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Developer or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD becomes aware of a default, violation, or breach of obligations of the Developer or the Municipality hereunder without receiving a Default Notice from Developer or the Municipality, DHCD shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "DHCD Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of DHCD within thirty (30) days after the giving of the Default notice by the Developer or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the DHCD Default Notice, then at DHCD's option, and without further notice, DHCD may either terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this section 16, then the Low and Moderate Income Unit which has been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed low and moderate income housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided herein is to create and maintain long-term affordable rental housing, and by reason thereof the Developer agrees that DHCD or the Municipality or any prospective, present, or former tenant shall be entitled for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce the specific performance by the Developer of its obligations under this Agreement in a state court of competent jurisdiction. The Developer further specifically acknowledges that the beneficiaries of its obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Agreement, the Developer shall reimburse DHCD for all costs and attorney's fees associated with such breach.

17. Mortgagee Consents. The Developer represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent to Regulatory Agreement attached hereto and made a part hereof.

Executed as a sealed instrument as of the date first above written.

Developer
Sudbury Housing Authority

By: _____
its Chairperson, Board of Commissioners

Department of Housing and
Community Development

By: _____
its Associate Director

Municipality

By: _____
its Chief Executive Officer

Attachments: Exhibit A - Legal Property Description
Exhibit B - Rent for the Low and Moderate Income Unit

LSlip\1-ra-r.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ of the _____, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK, ss. _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the Commonwealth of Massachusetts acting by and through the Department of Housing and Community Development, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary public
Print Name:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX, ss. _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the City/Town of _____, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

Consent to Regulatory Agreement

The Undersigned being the holder of a mortgage on the above described Project recorded with the Registry of Deeds in Book ____, Page ____, hereby consents to the execution and recording of this Agreement and to the terms and conditions hereof.

Marlborough Savings Bank
(name of lender)

By:

_____ its

(If the Project has more than one mortgagee, add additional consent forms. Execution of the consent form by a mortgagee is only necessary if the mortgage has been recorded prior to the Regulatory Agreement.)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ of _____ Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

EXHIBIT A

Re: 16 Willis Lake Drive
(Project name)
Sudbury, MA -1776
(City/Town)
Sudbury Housing Authority
(Developer)

Property Description

The land on Willis Lake Drive shown as Lots 9, 10, 11 and 12 in Block A on a plan entitled "Plan of Pine Lakes, Sudbury, Mass." Dated April 1927, Robert B. Bellamy, Surveyor, recorded with Middlesex South District Registry of Deeds in Plan Book 394, Plan 37B, bounded and described as follows:

NORTHWESTERLY Willis Lake Drive, one hundred (100) feet;

NORTHEASTERLY by Lot 13 as shown on said plan, Ninety-one and 91/100 (91.91) feet;

SOUTHEASTERLY by land of owners unknown, one hundred (100) feet; and

SOUTHWESTERLY by Lot 8 as shown on said plan, eighty-three and 91/100 (83.91) feet.

Containing 8,790 square feet of land, according to said plan. Being the same premises conveyed to Grantor by deed dated October 27, 1997 and recorded in Book 27807, Page 217 at the Middlesex South District Registry of Deeds.

16 Willis Lake Drive, Sudbury, MA 01776

EXHIBIT B

Re: 16 Willis Lake Drive
(Project name)
Sudbury, MA 01776
(City/Town)
Sudbury Housing Authority
(Developer)

Initial Maximum Rent and Utility Allowance for Low and Moderate Income Unit

	<u>Rent</u>	<u>Utility Allowances</u>
Three-bedroom unit	\$ 1,694	\$ 175

Community Support Narrative, Project Description, and Documentation

Please provide a description of the project, including a summary of the project's history and the ways in which the community fulfilled the local action requirement.

Background

The Sudbury Housing Authority recently published, in accordance with the applicable subsections of MGL c 30B § 16, a Request For Proposals to purchase a single-family home to add to its portfolio of affordable rentals. At Annual Town Meeting 2006, the SHA was awarded \$360,000 in Community Preservation Act funds specified for unit buy-down. In 2009, the term of the award was extended to the end of FY14 and in 2012, the per-unit buy-down limit was increased from \$90,000 to \$180,000. The SHA intends to proceed with the purchase of an existing single-family home that was identified via the RFP. The balance of the \$365,000 purchase price will be mortgaged through Marlborough Savings Bank.

Dwelling

The property is a three-bedroom, 1 bathroom home with a partial, unfinished basement, built in 1950. Depending upon the configuration of the family, the bedroom sizes allow for up to five people. The building is 968 SF; the lot is 8,750 SF on a residential street in a neighborhood with similar homes, some of which are owned by the SHA in its state-aided c. 705 portfolio. It is owned by an individual who purchased it to renovate and sell. The owner is very interested in working with the SHA.

The building is undergoing a complete renovation by the seller. Its plumbing and electrical systems have been updated and have passed inspection. The heating system was recently converted from oil to gas and the oil tank removed. The system installation has also passed inspection. The Title V is current as it was inspected/passed earlier in 2013. Lead certification is clear. Termite treatment is complete.

The SHA engaged the services of a licensed home inspector who performed a preliminary inspection on November 6, 2013. Conditions of concern were itemized in the Purchase and Sale Agreement, signed December 2, 2013. The home will undergo a second home inspection closer to the closing, originally slated for January 7, 2014. Unforeseen circumstances have delayed the closing, which is now expected to occur by the end of January 2014.

Financing (Purchase)

The SHA is working with a local bank, Marlborough Savings, that is very receptive to working with us, as well as in keeping the mortgage within its portfolio. The purchase price of the home is \$365,000. The \$180,000 in CPA funds will be utilized for the down payment. The SHA will establish a reserve account for this property utilizing non-state funds. A loan commitment for an amount not to exceed \$190,000 has been obtained, with the expressed commitment of the lender to extend the date to match the amended closing date. The loan term is 30 years at a fixed rate of 4.875%.

Financing (Expenses and Revenues)

The attached pro forma outlines the expenses and projected revenues marketing to a household with income at or below 80% of AMI, currently \$67,350 for a family of four. The rent, after a utility allowance of \$175/month, is \$1,509. This allows the SHA to cover its expenses, including water, taxes, insurance, and a service contract on the furnace, and build a modest reserve annually. The SHA does not anticipate significant maintenance expenses within the first five years because of the significant renovation that the current owner is executing.

Marketing and Tenant Selection

The SHA is exploring two options: (1) hiring a consultant with significant experience in developing marketing plans that meet the affordable fair housing marketing regulations; and (2) utilizing the Metrowest Collaborative Development Regional Ready Renter Program, whose marketing is already

DHCD-approved, with comprehensive service to include marketing, lottery, and eligibility. The SHA will perform CORI and credit checks and be responsible for final tenant selection.

Signatures of Support for the Local Action Units Application

Chief Executive Officer:

defined as the mayor in a city and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter

Signature: 

Print Name: John C. Drobinski

Date: 12-18-13

Chair, Local Housing Partnership:
(as applicable)

Signature 

Print Name: Michael D. Buoniconti

Date: 12/13/13

Municipal Contact Information

Chief Executive Officer:	Name	<u>John C. Drobinski</u>
	Address	<u>278 Old Sudbury Road</u> <u>Sudbury, MA 01776</u>
Phone	<u>978-639-3381</u>	Email <u>selectmen@sudbury.ma.us</u>
Town Administrator/Manager:	Name	<u>Maureen G. Valente</u>
	Address	<u>278 Old Sudbury Road</u> <u>Sudbury, MA 01776</u>
Phone	<u>978-639-3385</u>	Email <u>townmanager@sudbury.ma.us</u>
City/Town Planner:	Name:	<u>Jody A. Kablack</u>
	Address	<u>278 Old Sudbury Road</u> <u>Sudbury, MA 01776</u>
Phone	<u>978-639-3387</u>	Email <u>KablackJ@sudbury.ma.us</u>
Town Counsel:	Name	<u>Paul L. Kenny</u>
	Address	<u>278 Old Sudbury Road</u> <u>Sudbury, MA 01776</u>
Phone	<u>978-639-3384</u>	Email <u>law@sudbury.ma.us</u>
Chair, Local Housing Partnership (if any):	Name	<u>Michael D. Buoniconti</u>
	Address	<u>278 Old Sudbury Road</u> <u>Sudbury, MA 01776</u>
Phone	<u>978-639-3387</u>	Email <u>housingtrust@sudbury.ma.us</u>
Community Contact Person:	Name	<u>Judith Deutsch</u>
	Address	<u>55 Hudson Road</u> <u>Sudbury, MA 01776</u>
Phone	<u>978-443-8609</u>	Email <u>revid@aol.com</u>

The Project

Developer: Sudbury Housing Authority

Telephone: 978-443-5112

Email: sudburyhousing@verizon.net

Project Site: 16 Willis Lake Drive

Address: 55 Hudson Rd, Sudbury, MA 01776

Is your municipality utilizing any HOME or CDBG funding for this project? Yes No

Local tax rate per thousand \$ 18.03 for Fiscal Year 2014 property will fall under PILOT (\$327/yr)

Site Characteristics: proposed or existing buildings by design, ownership type, and size.

<u>Project Style</u>	<u>Total Number of Units</u>	<u>Number of Units Proposed for Local Action Units Certification</u>
Detached Single-family house	<u>one</u>	<u>one</u>
Rowhouse/townhouse	<u>n/a</u>	_____
Duplex	<u>n/a</u>	_____
Multifamily house (3+ family)	<u>n/a</u>	_____
Multifamily rental building	<u>n/a</u>	_____
Other (specify)	<u>n/a</u>	_____

Unit Composition

Type of Unit:	# of Units	# of BRs	# of Baths	Gross Square Feet	Livable Square Feet	Proposed Sale Prices/ Rent	Proposed Condo Fee
Condo Ownership Fee Simple Ownership Rental						x	
Affordable:	one rental	3	1	approx 1,900	968	approx \$1,500/mo	n/a
	as identified						
Market:							



TOWN OF SUDBURY

Office of Selectmen
www.sudbury.ma.us

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776-1843
978-639-3381
Fax: 978-443-0756

Email: selectmen@sudbury.ma.us

December 17, 2013

Janice Lesniak, LIP Program Coordinator
Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114

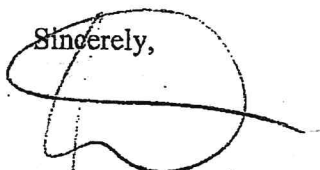
Dear Ms. Lesniak:

On behalf of the Town of Sudbury, I am writing in support of the Sudbury Housing Authority's Local Initiative Program (LIP) application for their prospective purchase of an existing single-family home to be utilized as an affordable rental. The SHA was awarded Community Preservation Act funds at Annual Town Meeting 2006 for the purpose of affordable unit buy-down. A total of \$360,000 was awarded at that time. A 2009 amendment extended the time for use of the funds to the end of FY14. A 2012 amendment increased the buy-down limit to not more than \$180,000 per unit. In addition to unfavorable economic conditions, the initially proposed and pursued c. 40B condominium purchases proved untenable, most particularly because the language of the documentation regarding leases was not consistent with State regulations that protect SHA tenants. Increasing the per-unit buy-down was proposed as a mechanism to afford more flexibility in the types of units the SHA could consider for purchase.

It has taken considerable time and effort for the SHA to realize a home purchase that is not only financially feasible, but that will offer an attractive, affordable rental option. The Town of Sudbury applauds the efforts of the SHA to offer housing that is in keeping with the Town's affordable housing needs and goals. Moreover, the Town appreciates the commitment of the SHA to qualify the property for inclusion on the Subsidized Housing Inventory, which is critical to the Town's efforts to reach the state-mandated '10%'. The Town supports the use of the DHCD-approved Metro West Collaborative Development marketing and tenant selection procedures for this unit and furthermore commits to undertake any municipal responsibilities as may be outlined therein.

I look forward to the anticipated success of both the unit acquisition and the LIP application.

Sincerely,



John C. Drobinski
Chairman, Board of Selectmen
CEO, Town of Sudbury

AGENDA REQUEST - Item #19

BOARD OF SELECTMEN

Requestor's Section:

Date of request: *March 4, 2014*

Requestor: *Maureen Valente*

Action requested (Who, what, when, where and why): *Accept a \$5,000 grant from The Sudbury Foundation help fund Sudbury Celebrates 375th's Field Day*

Financial impact expected: *None*

CONSENT CALENDAR

Background information (if applicable, please attach if necessary): *See attached*

Recommendations/Suggested Motion/Vote:

Vote to accept, on behalf of the Town, a grant in the amount of \$5,000 from The Sudbury Foundation to help fund Sudbury Celebrates 375th's Field Day, the final event in a year-long celebration of the Town's 375th anniversary, said funds to be expended under the direction of the Town Manager.

Person(s) expected to represent Requestor at Selectmen's Meeting: *N/A*

Selectmen's Office Section:

Date of Selectmen's Meeting: *March 11, 2014*

Board's action taken:

Follow-up actions required by the Board of Selectmen or Requestor:

Future Agenda date (if applicable):

Distribution:

Town Counsel approval needed? Yes () No (X)

3/11
Agenda



**THE SUDBURY
FOUNDATION**

March 4, 2014

Trustees

Miner A. Crary
Richard H. Davison
Susan Iuliano
Jill M. Stansky
Bank of America

Maureen Valente
Town Manager
Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776

Staff

Marilyn Martino
Executive Director
Tricia Brunner
Grants Administrator

Dear Maureen:

On behalf of the Sudbury Foundation, I am delighted to enclose a grant check for \$5,000 to help fund Sudbury Celebrates 375th's Field Day, the final event in a year-long celebration of the town's 375th anniversary

Also enclosed is an acknowledgment form describing the conditions of a Sudbury Foundation grant. These include submission of financial and programmatic reports upon completion of the project or within a year of the grant award, whichever comes first. A sample grant report outline is also enclosed. Please sign and return one copy of the Acknowledgement Form at your convenience.

Maureen, the Trustees join me in wishing you all the best with this community-building project that highlights Sudbury's long and prestigious history.

Warm regards,

Marilyn Martino
Executive Director

enclosure

cc: Lisa Vitale

2014 MAR -6 P 2:27
RECEIVED
BOARD OF SELECTMEN
SUDBURY, MA



**THE SUDBURY
FOUNDATION**

Grant Acknowledgment

Organization: Town of Sudbury

Grant Amount: \$5,000

Date: March 4, 2014

Purpose: To help fund Sudbury Celebrates 375th Field Day, the final event in a yearlong celebration of the town's 375th anniversary.

We hereby acknowledge receipt from the Sudbury Foundation of the grant described above.

As a condition of the grant award, the Trustees request a financial statement and programmatic report describing the way in which the funds were spent and giving an appraisal of the results achieved. Applicants receiving support for a special or one-year project should submit their reports to the Foundation upon completion of the project or within one year of receiving the grant award, whichever comes first. In some cases, the Foundation may request a Year Two report as well. Recipients of multi-year grants are required to submit annual reports.

The Foundation should be notified immediately of significant changes in the management of the organization, the project manager or the project itself.

It is understood that any portion of this grant not needed for the designated purpose will be repaid to the Foundation unless permission to do otherwise is expressly given by the Trustees.

In all public statements, the Trustees request that you acknowledge this grant as a gift from the Sudbury Foundation.

The Sudbury Foundation was established in 1952 by Sudbury residents Herbert and Esther Atkinson. The Foundation is guided by the Atkinsons' generosity and commitment to the people and places that brought meaning to their lives. The Foundation operates a local scholarship program and three geographically-focused nonprofit grantmaking programs.

Please sign and return one copy of this acknowledgment form to 326 Concord Road, Sudbury, MA 01776. A second copy has been provided for your records.

Signature: _____

Title: _____

Date: _____