

**Sudbury Finance Committee
Virtual Meeting Minutes**

**October 16, 2023
7:00PM**

ATTENDANCE

Members of the Finance Committee present were: Co-Chair Eric Poch, Co-Chair Michael Joachim, Colin Wang, Susan Berry, Ryan Lynch, Andrew Bettinelli, Henry Sorett, Michael Ferrari and Maura Carty.

ABSENT

None.

ALSO ATTENDING THE MEETING

Finance Director Dennis Keohane and Town Manager Andy Sheehan

Open the Meeting

ITEM 1: Welcome and Member Roll Call

Co-Chair Joachim called the meeting to order at approximately 7:00PM, declared a quorum present and roll-called members present. He stated that the meeting is being broadcast live and recorded for viewing by the public. He read the Municipal Remote Meeting Disclaimer.

- **Opening Remarks by Co-Chairs**

- Co-Chair Joachim reported that the Committee will discuss warrant articles.

ITEM 2: Public Comment

There was no public comment.

ITEM 3: Fall Town Meeting – Deliberate on Warrant Articles

Town Manager Sheehan presented Articles 1-4 for discussion including the following highlights:

In consultation with General Code Corp. on the changes to the general bylaws and zoning bylaws, Articles 1 and 3 seek approval of the renumbered changes to the general bylaws and Articles 2 and 4 seek approval of the specific changes to codification of the general bylaws and zoning bylaws, including changes that reassigned the adjustment of fees to the Select Board, Town administrators, or other boards instead of Town Meeting. There were no changes to the charter.

Discussion ensued. In response to Co-Chair Joachim's question on the benefits of these changes, Mr. Sheehan stated that the changes ensured not only the internal consistency of the bylaws but also the external consistency with statute and references to state departmental agencies.

Co-Chair Joachim noted that one of the substantive changes the FinCom wished to address was the change to the bylaws that grants authority to Town Meeting to set and adopt fees, granting that authority instead to the Select Board, other boards, or Town administrator. Mr. Sheehan stated that Clerk Beth Kline had reached out to departments for feedback on specific items to be addressed, and the response was the setting and adoption of fees. He said that in the seven communities where he has worked, it was unusual for Town Meeting to set and adopt fees. Having the Select Board set fees actually streamlines operations and eliminates inefficiencies.

Mr. Sorett disagreed with calling the four articles housekeeping articles since they involved substantial changes. Specifically, the Planning Board and Conservation Commission increase their ability to set substantial fees and impose fines. Mr. Sheehan stated that it was not common practice for permit fees to be built into municipal bylaws, but more common for Select Boards to have the power to set fees.

Mr. Sorett asked further questions: a) how many fees were created after the enactment of Proposition 2 ½; b) how much money was collected in fines for the last year before Prop 2 ½; c) how much money was collected for last fiscal year by category; and d) how much additional revenue is expected in fees and fines. Additionally he proposed a friendly amendment to the article that fees and fines would not increase over 2 ½%. Mr. Sheehan stated that he was not the sponsor of the article, but thought it would be short-sighted to impose a limit on fees.

Mr. Sorett also addressed the authority of the Conservation Commission with respect to compliance costs burdensome to residents. Mr. Sheehan responded that setting fees reflective of market compensation does in fact impose *less* of a tax burden to residents, as low fees that do not cover services result in having to raise money every year with the consequence that residents are actually subsidizing private development. Mr. Sorett cited settled law that stated not setting proportional costs of a government entity constituted an unlawful tax.

Ms. Carty noted that she understood the need to exclude monetary amounts of fees from the bylaws. In response to her question on collaboration on regional projects by the CPC, Mr. Sheehan stated that the statute allows municipalities to collaborate on regional projects, especially in the area of housing. She asked for more information on how that would work financially between the municipalities. Also, in response to her question on why each department would not be responsible for its own buildings in the case of prosecuting defacement of buildings or under the purview of the police department, Mr. Sheehan stated that the Select Board, as the chief executive officer of the Town, is in a better position to function as a voting majority instead of relying on the discretion of individuals to address the transgression.

Also discussed was the setting of fees for portable signs and installation of artificial turf. Mr. Sheehan noted that the latter was flagged by the General Code Corp. as a change due to statute. The Department of Revenue stated that replacing a grass field with artificial turf is not an allowable use for CPA funds. However, the change was not in connection with present health and safety concerns with regard to its use.

Co-Chair Joachim reiterated Mr. Sorett's concerns with regard to the controls that would be put in place as a mechanism to prevent a board's setting of excessive fees. Mr. Sheehan stated that review of fees should take place every few years to ensure that the cost of the service is being recouped. The review would cover the reason for the increase, the amount commensurate with the service, community comparisons, etc. The review would be held preferably for all like fees, at once. As an example neighboring communities charge anywhere between \$12-15 per thousand of cost for building permits, and costs are expected to continue to increase.

Mr. Sheehan acknowledged Mr. Sorett's concern that it is possible for a board to "run amuck" in its authority to set fees. He stated that the Town's track record proves that it does not use fees as illegal tax or to circumvent the law, citing that liquor license fees have not been changed in twenty years.

Town Meeting does still have the ability as an internal check to challenge the fee structure. A citizens petition would be filed to take back the authority.

Mr. Bettinelli stated that he was in favor of the imposition of “fair” fees to recoup costs. Mr. Sorett stated that the article “went in the wrong direction” and he was in favor of doing a comprehensive study to curtail fees and eliminate burdens to the resident.

In summary, Chair Joachim stated that the Committee had heard that the Town’s position is that many of the current fees are too low and need to be increased, and that there were sufficient controls in terms of charging excessive fees.

ARTICLE 5: ESTABLISH OPIOID STABILIZATION FUND

Town Manager Sheehan reported that, as a result of a number of settlements between the Attorney General’s Office and the manufacturers and distributors of opioid medications, funds have been and will be received from various settlements . These funds must be used for specific purposes and cannot be used as general municipal revenue. At present \$86K has been received, and the Article proposes to establish a stabilization fund to allow the automatic transfer of opioid revenue. A two-thirds vote would be required of Town Meeting to establish the stabilization fund and another two-thirds vote for appropriate spending thereof in the future. The Town is acting in accordance with the DLS advisory one year ago to create this stabilization fund to track over \$410K to be disbursed in settlement funds expected through 2038.

ARTICLE 8: FUND COLLECTIVE BARGAINING AGREEMENT - FIREFIGHTERS

Town Manager Sheehan stated that agreement has been reached with the firefighters’ union for the contract from FY22 through FY24, the end of the current year. This Article seeks to fund the retroactive amount of \$475K to forty-five firefighters for FY22 and FY23 from certified free cash. The remaining amount for the current FY24 will be funded through the general operating budget.

Discussion ensued. In response to Ms. Berry’s question on the amount of money to be covered in the present fiscal year, Mr. Sheehan stated that while there is enough money in the present budget to fund FY24 salaries, the retro payment needed to be funded outside of the current budget for prior fiscal years. There is one other contract to be settled and there are no reopener clauses contained in this contract or any other contracts. Ms. Berry noted that having contracts unsettled until the end of the contract period makes it difficult to plan financially.

In response to Ms. Carty’s question on special financial details, Mr. Sheehan stated that the information can be broken down by year. Finance Director Keohane may provide more information on past years of retroactive contracts. In response to Ms. Carty’s question on the use of a third party in the negotiations, Mr. Sheehan gave a summary of the arbitration process.

In response to Co-Chair Poch’s question on the result of the increased monetary value on the budget effect on the 2 ½% limit, Mr. Sheehan stated that there is no impact to the FY24 base, and he will provide information at the next meeting on the impact to the FY25 budget.

Mr. Sheehan addressed Mr. Ferrari’s questions on the impact to free cash. He noted the unusual circumstances of this year, with the firefighters’ contract being only one of them, along with the impact of moving along the Fairbanks project 90% completed, the pool and the Nixon roof. The present free cash account of \$4.3 million contains the \$86K in opioid funds, resulting in a total free cash expenditure of approximately \$1.7 million.

ARTICLE 9: REPURPOSE MELONE STABILIZATION FUND and ARTICLE 10: ROUTE 117/MOSSMAN/POWDERMILL ROADS INTERSECTON IMPROVEMENTS

Town Manger Sheehan stated that the Malone stabilization fund was set up in 2015 to plan for the stabilization and preparation of the Malone sandpit for either future Town use or for sale to a third party. The Malone property became the Cold Brook Crossing as part of the exchange of land with the Sudbury Station project. The Division of Local Services determined two years ago that there was no need for the

original stabilization fund and that the \$1.1 million be transferred to the capital stabilization fund. Article 10 seeks to appropriate \$800K of these funds to add a traffic signal to the Route 117, Mossman Road and Powder Mill Road Intersection.

Finance Director Keohane stated that there is currently \$1.25M in the capital stabilization fund. The funds from Malone would add \$1.M for a total of \$2.35M.

Co-Chair Joachim asked the Town Manager about the rationale for making decisions on the use of free cash for projects on the Warrant for the Special Town Meeting. Mr. Sheehan stated that there would be ramifications if the projects were not addressed now.

In answer to Co-Chair Joachim's questions about the priority of the traffic project in relations to other capital projects, Mr. Sheehan stated that this project was originally part of the Dakin, Pantry Rd. and Route 117 project and was bid as an add-on to that project but did not fit into the budget available. As originally intended to be part of the Melone property deal, it was deemed appropriate to go forward once the Melone stabilization money was moved to the Capital Stabilization Fund.

Mr. Sorett stated that he would not vote to recommend the Nixon roof project unless it was bonded to solar as a thirty-year asset. Mr. Sheehan stated that he has been assured that the roof will not outlast the viability of the school, and that the solar option is worth exploring.

Mr. Wang left the meeting.

Following is the result of the FinCom's vote on various articles.

ARTICLE 1: CODIFICATION OF GENERAL BYLAWS; RENUMBERING AND NON-MINISTERIAL REVISIONS

Co-Chair Poch made a motion to recommend approval of Article 1.

Upon motion duly made by Co-Chair Poch and seconded by Mr. Bettinelli, it was voted to recommend approval of Article 1. Roll call vote: Co-Chair Poch-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Sorett-N, Mr. Lynch-Y, Ms. Carty-Y and Co-Chair Joachim-Y. Motion passed 7-1.

ARTICLE 2: CODIFICATION OF GENERAL BYLAWS; ADDITIONAL SPECIFIC CHANGES

Upon motion duly made by Co-Chair Poch and seconded by Mr. Lynch, it was voted to recommend approval of Article 2. Roll call vote: Co-Chair Poch-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Sorett-N, Mr. Lynch-Y, Ms. Carty-Y and Co-Chair Joachim-Y. Motion passed 7-1.

ARTICLE 3: CODIFICATION OF ZONING BYLAWS; RENUMBERING

Upon motion duly made by Co-Chair Poch and seconded by Mr. Bettinelli, it was voted to recommend approval of Article 3. Roll call vote: Co-Chair Poch-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Sorett-N, Mr. Lynch-Y, Ms. Carty-Y and Co-Chair Joachim-Y. Motion passed 7-1.

ARTICLE 4: CODIFICATION OF ZONING BYLAWS; ADDITIONAL CHANGES

Upon motion duly made by Co-Chair Poch and seconded by Mr. Ferrari, it was voted to recommend approval of Article 4. Roll call vote: Co-Chair Poch-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Sorett-N, Mr. Lynch-Y, Ms. Carty-Y and Co-Chair Joachim-Y. Motion passed 7-1.

ARTICLE 5: ESTABLISH OPIOIDS STABILIZATION FUND

Following discussion of this article as a "financial housekeeping tool" and upon motion duly made by Co-Chair Poch and seconded by Ms. Berry, it was voted to recommend approval of Article 5. Roll call vote: Co-Chair Poch-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Sorett-Y, Mr. Lynch-Y, Ms. Carty-Y and Co-Chair Joachim-Y. Motion passed 8-0.

Mr. Wang rejoined the meeting and stated that, although not present for the above votes, he was in support of the above articles.

ARTICLE 6: ATKINSON POOL FUNDS

Upon motion duly made by Co-Chair Poch and seconded by Ms. Lynch, it was voted to recommend approval of Article 6. Roll call vote: Co-Chair Poch-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Sorett-Y, Mr. Lynch-Y, Mr. Wang-Y, Ms. Carty-Y and Co-Chair Joachim-Y. Motion passed 9-0.

Co-Chair Joachim announced that FinCom would take a five-minute break.

ARTICLE 7: FAIRBANK COMMUNITY CENTER SUPPLEMENTAL FUNDS

Upon motion duly made by Mr. Sorett and seconded by Ms. Berry, it was voted to recommend approval of Article 7. Roll call vote: Co-Chair Poch-N, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Sorett-Y, Mr. Lynch-N, Mr. Wang-N, Ms. Carty-N and Co-Chair Joachim-Y. Motion passed 5-4.

ARTICLE 9: REPURPOSE MELONE STABILIZATION FUND

Upon motion duly made by Ms. Berry and seconded by Mr. Bettinelli, it was voted to recommend approval of Article 9. Roll call vote: Co-Chair Poch-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Sorett-Y, Mr. Lynch-Y, Mr. Wang-Y, Ms. Carty-Y and Co-Chair Joachim-Y. Motion passed 9-0.

ARTICLE 10: ROUTE 127/MOSSMAN/POWDER MILL ROADS INTERSECTION IMPROVEMENTS

Upon motion duly made by Co-Chair Poch and seconded by Ms. Berry, it was voted not to recommend approval of Article 10. Roll call vote: Co-Chair Poch-N, Ms. Berry-N, Mr. Bettinelli-N, Mr. Ferrari-N, Mr. Sorett-N, Mr. Lynch-N, Ms. Carty-N and Co-Chair Joachim-N. Motion failed 0-9.

Mr. Wang left the meeting.

ARTICLES 11, 12 and 13 will be discussed at the next meeting.

ITEM 5: General Business

- **Transfers and other business**

There were none.

- **Liaison reports**

Mr. Ferrari stated that LS is willing to meet on December 18th.

Ms. Berry stated that SPS is willing to meet on December 5th.

- **Calendar**

Next regular meetings:

October 19 at 7:30PM

October 23 at 6:00PM pre town meeting

Co-Chair Joachim assigned members to write the summary of deliberations and rationale for votes on various articles.

- **Approval of Meeting Minutes of March 21, 2023**

Upon motion duly made by Ms. Berry and seconded by Ms. Carty, it was unanimously voted to approve the meeting minutes of March 21, 2023 as amended. Roll call vote:

Co-Chair Poch-Y, Co-Chair Joachim-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Lynch-Y, Ms. Carty-Y and Mr. Sorett-Y. Motion carried 8-0, unanimous.

ITEM 6: Public comment

There was none.

ITEM 7: Adjournment

Upon motion duly made by Ms. Carty and seconded by Mr. Lynch, it was unanimously voted to adjourn. Roll call vote: Co-Chair Poch-Y, Co-Chair Joachim-Y, Ms. Berry-Y, Mr. Bettinelli-Y, Mr. Ferrari-Y, Mr. Lynch-Y, Ms. Carty-Y and Mr. Sorett-Y. Motion carried 8-0, unanimous.

The meeting was adjourned at 10:40PM.

Respectfully submitted,

Christine Martin Barraford
Recording Secretary