

IN BOARD OF SUDBURY SELECTMEN
SPECIAL MEETING
Thursday, March 29, 2012

Present: Chairman Lawrence W. O'Brien, Vice-Chair Robert C. Haarde, Selectman John C. Drobinski, Town Manager Maureen Valente, Assistant Town Manager Maryanne Bilodeau, Finance Director Andrea Terkelsen, Director of Assessing Maureen Hafner, Assistant Assessor Cynthia Gerry, Budget Analyst Peter Anderson, Special Act co-author Ralph Tyler and H.3435 Committee member Jack Ryan.

The statutory requirements as to notice having been complied with, the meeting was convened at 9:05 in the Flynn Building 2nd Floor Silva Conference Room, 278 Old Sudbury Rd.

Agenda Item: H.3435

Chairman O'Brien addressed the audience by explaining that today's meeting is in response to the Board of Selectmen's request that Town Manager Maureen Valente and Finance Director Andrea Terkelsen provide an analysis illustrating the differences between the current version of Sudbury's Special Act for Senior Tax Relief (H.3435) and the original version which voters overwhelmingly supported at a Special Town Meeting on January 19, 2011. Chairman O'Brien briefly prefaced the events which led to the Board's request.

Until quite recently, H.3435 was presumed to be at a standstill at the legislature. At a Senior Tax Relief Community Meeting held on March 12, 2012, State Representative Tom Conroy and House Chairman of the Joint Committee on Revenue Jay Kaufman, addressed questions about the current status of the Sudbury bill, and its likelihood of advancement. Representative Kaufman alluded to the possibility of introducing a version of the Sudbury bill as a pilot program which may potentially act as a model for the Commonwealth.

Within two days of the March 12th meeting, a version of the original Sudbury petition moved out of Committee and on to the House Means and Ways Committee for further consideration. Today's discussion by the Board of Selectmen and Finance staff has been requested to:

Identify differences between what the Town voted, and what has subsequently developed as H. 3435.

Determine if implementation concerns previously expressed by the Finance Department have been sufficiently addressed in the current version of the bill.

Chairman O'Brien received information from Representative Conroy's office that the Town will need to act very quickly, if it intends to petition for changes to the current bill prior to any further advancement. The Town has 30 days within which to submit suggested changes and feedback. Chairman O'Brien emphasized that whatever is presented to Representative Conroy must be in concordance between the article drafters and the Town. Whatever is presented must be in a unified format. Chairman O'Brien referred to a handout prepared by the Finance Department staff illustrating in a side-by-side format the differences in the two versions. He further stated the Section 3 text was subject to several revisions by the Revenue committee. The original text refers to the exemption as "a shifting in the tax burden among residential properties much like the residential exemption provided for in the general laws". The current text reads "as an additional tax levy on all other residential tax payers not eligible for this exemption". The language in the current version is open to interpretation, and as a result has altered the basis of the program

funding. In addition the current version has eradicated Section 9. Section 9 allowed for the selectmen and /or board of assessors to make procedural or technical changes without further approval of the legislature.

In addition to other changes, the Board of Selectmen will require that the following two conditions be included in their communication to Representative Conroy:

The Department of Revenue (DOR) needs to be involved in assisting with the program implementation, in particular with the Town's tax rate setting obligations.

A stop-gap prevention measure should be in place. In case we reach a certain point and find ourselves unable to set a tax rate, we need to be able to walk away from the plan without repercussions or ramifications.

Town Manager Valente went on record stating that there are still many concerns about the tax rate-setting process. Changes in the original act have not alleviated those concerns. She went on to state if the governor signs the bill we are committed to making it work.

Finance Director Terkelsen noted that changes to the latest version of the bill have only added to questions. The language is ambiguous, and seems to have gotten us further from our goal.

Selectman Drobinski suggested pushing forward with caution. Selectman Haarde also mentioned his concern about the ambiguity in the current draft. He too suggests moving ahead with caution. Chairman O'Brien reminded that "we are operating on a higher plane now". We have pushed Chairman Kaufman to move forward with this bill, which he did. The value of a (pilot) program will be measured as something that will not only work in Sudbury, but may be implemented State wide. Selectman Haarde noted that in the current draft local authority has been removed from the language, and there is now a provision that the program must remain in place until 2016. We must know what we are getting into.

Co-drafter of the original petition, Ralph Tyler, is also concerned with the ambiguous language of the current draft of the bill. He is particularly concerned that the bill may be interpreted in such a way that it would be treated as an abatement or a surcharge on residential tax bills, which is not what Town Meeting proposed, nor is it what residents voted. According to Mr. Tyler, that needs to be made clear. He then distributed handouts of his suggested changes to the current draft bill to members of the audience and the Selectmen. There are areas from Section 3 he wants stricken and sections he wants added. Mr. Tyler is concerned that including a stop-gap measure will give the DOR "an easy out". Chairman O'Brien explained the Board's position as a: "what will happen if we have approved legislation, but are unable to set a tax rate scenario"? Selectman Drobinski suggested having legal counsel and the Council on Aging (COA) take a look at Mr. Tyler's suggestions. Selectman Haarde concurred that he wants a legal look at them. Chairman O'Brien suggested a minimalist approach is best in terms of what is ultimately submitted to Representative Conroy. It is important that whatever is presented is a cohesive, concurrent effort. Representative Conroy's office has offered to look at the language and form of any amendment or request prior to submission. Chairman O'Brien is looking to put a small committee together including a representative from Sudbury's COA, an assessing wizard along with a legal expert to work on the integrated submission. The small group or committee will look the drafts over and settle on language (noting that all involved are looking at this as a burden shift). According to Mr. O'Brien, "we have one shot to put the bullet through the hole".

Chairman O'Brien asked if anyone in the audience had questions. Julia Euling, 55 Lincoln Road, asked "what would happen if Sudbury did what Wayland does: matching the Circuit Breaker as an exemption program"? Mr. O'Brien responded that an abatement account funds that program. Director of Assessing asked if she might respond to the question, as there seems to be a lot of discussion about burden shifting, abatements and exemptions. Ms. Hafner provided a description as to the differences. Ms. Euling thanked her for the explanation, and stated she knew there must be more to it than simply matching an abatement to the State program.

Finance Director Terkelsen addressed the technical concerns and also addressed the differences between the Hamilton bill and the Sudbury pilot. A burden shift program is quite complex and has a significant impact on the tax rate-setting process.

Town Manager Valente spoke of the Wayland program question and pointed out an unintended circumstance, wherein if an applicant is deferring their taxes not only will they not qualify for the Circuit Breaker, they also will not qualify for the local exemption. Generally those deferring taxes have a financial need.

Ms. Hafner noted that Sudbury has historically championed tax relief, and has adopted progressive local options available for current statutory exemption and deferral programs.

Elizabeth David, 70 Thunder Road, thanked the Town representatives for putting the time and thoughtful effort into this program.

Daniel DePompei, 35 Haynes Road, commented that he has experience trying to get Federal legislation enacted, and that it is a difficult and lengthy process. A Sudbury program should be simplified as much as possible.

Chairman O'Brien commented that Sudbury conducted a study on a program like the Wayland program a few years ago, and it was determined that the Town would be better off looking to expand on its Senior Tax Deferral Program, which happened, and has resulted in a very successful program.

Budget Analyst Peter Anderson remarked that the omission of Section 9 in the current draft which removed the Town's ability to make changes to the program once implemented is concerning.

Town Manager Valente stressed the importance of the Town to have the ability to make changes if warranted. Selectman Haarde wants the act to be checked out by a legal expert.

The Selectmen have an agenda item scheduled for April 3rd to discuss H.3435. Representative Conroy and Senator Eldridge plan to be in attendance that evening. The Selectmen expect to vote the committee at Tuesday night's Selectmen Meeting.

There being no further business, the meeting was adjourned at 10:00 a.m.

ATTEST: _____
Maureen G. Valente
Town Manager – Clerk