

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, NOVEMBER 27, 2018

Present: Chairman Robert C. Haarde, Vice-Chairman Daniel E. Carty, Selectman Leonard A. Simon, Selectman Patricia A. Brown, Selectman Janie Dretler, Town Counsel Jonathan Silverstein, and Town Manager Melissa Rodrigues.

The statutory requirements as to notice having been complied with, the meeting was convened at 6:00 p.m. in Conference Room "A" at Lincoln-Sudbury Regional High School.

Chairman Haarde called the meeting to order at 6:00 p.m.

Opening Remarks by Chairman

Chairman Haarde announced that there will be a Town Christmas Tree and Menorah lighting ceremony at Sudbury Center in front of Town Hall on December 1st at 4:30 p.m. He stated that the Hosmer House will be holding its holiday open house on December 1 from 11 a.m. to 6 p.m. to accommodate the tree and menorah lighting ceremony. Chairman Haarde said that The Hosmer House will also be open on December 2nd from 11:00 a.m. to 4:00 p.m., as well as the following weekend, December 8th and 9th from 11:00 a.m. to 4:00 p.m.

Chairman Haarde mentioned that Special Town Meeting will take place December 11 at the LSRHS auditorium starting at 7:30 p.m. He said that CPC is holding public hearings for FY20 public funding projects.

Chairman Haarde stated that the Commission on Disabilities has six open seats, and further information can be found on the Town website.

Reports from Town Manager and Selectmen

None

Citizen's comments on items not on agenda

None

Common Victualler License for Max and Leos Artisan Pizza, 470 North Road

Selectman Simon stated that more victualler licenses in Town are encouraged, and the North Road location for Max and Leos Artisan Pizza would be an asset to the area. He did not see a proposed date for the opening of the restaurant, but the action today involved approval of the victuallar license, which was in order including approvals from the Police, Fire, Health and Building departments.

Chairman Haarde stated that this license would be pending the final occupancy permit, and final inspection from the Fire Department.

Selectman Dretler questioned if the parking lot at Max and Leos had any prior issues. Town Manager Rodrigues affirmed that there were no prior/outstanding issues associated with the parking lot.

It was on motion unanimously

VOTED: To approve a new Common Victualler License for Max and Leos Artisan Pizza, 470 North Road, as requested in an application dated October 30, 2018, subject to conditions put forth by the Fire Department and Building Department.

MOU for Non-Emergency Law Enforcement Response between the Town of Sudbury Police Department and the United States Department of the Interior, U.S. Fish and Wildlife Service, National Wildlife Refuge System

It was on motion unanimously

VOTED: To execute the Memorandum of Understanding for Non-Emergency Law Enforcement Response between the Town of Sudbury, Massachusetts Police Department and the United States Department of the Interior, U.S. Fish and Wildlife Service, National Wildlife Refuge System.

Approve the regular session minutes of 10/9/18

Selectman Brown was not present at the 10/9/18 meeting, so she recused herself from voting.

It was on motion; one recuse, and four in favor.

VOTED: To approve the regular session minutes of 10/9/18.

Donation to support the Park and Recreation Fall Festival/5K

It was on motion unanimously

VOTED: To accept a \$50 donation to support the Park and Recreation Fall Festival/5K, which will be deposited in the Program Contributions and Donations Account (191448/483100), as requested by Kayla Wright, Director of Parks, Recreation & Aquatics, in a memo dated November 9, 2018.

Approve award of contract by the Town Manager for rubbish and recyclables removal and disposal services

It was on motion unanimously

VOTED: To approve award of contract by the Town Manager for rubbish and recyclables removal and disposal services to the lowest eligible and responsible bidder as determined by Town Counsel for the period January 1, 2019 – June 30, 2020, and any successive periods at the option of the Town Manager.

Discuss upcoming agenda items

Due to recent problems at the Fairbank Center, Selectman Simon stated that a Fairbank Center discussion will be on the agenda for the December 4th meeting. He added that the Park and Recreation Commission will also be putting the Fairbank Center topic on their next meeting agenda. He stressed that the Fairbank status has been an ongoing concern for approximately five years with multiple building failures and closings due to its safety, and added that it was time to do something about the building. The Fairbank Center should be a high priority consideration.

Town Manager Rodrigues stated that the vote on finalization of Selectmen's goals and Selectmen's positions on Articles should also be included on December 4th agenda. She also mentioned that the ratification of the tax classification exception vote and related voting will be included on the December 4th meeting.

Selectman Carty suggested that the continued transit discussion regarding the Transloc proposal could be included on the December 18th meeting.

Selectman Brown mentioned that the Finance Committee needed to make their presentation to the Board of Selectmen at one of the meetings before March 31st.

Selectman Simon recommended that for the policy meeting agenda item, the committee consider the Open Meeting Laws at that December 18th meeting.

Tax Classification Hearing - In accordance with General Laws Ch. 40, sec. 56, as amended, to determine the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2019 tax rate

Present: Trevor A. Haydon, Chairman, Sudbury Board of Assessors; Joshua M. Fox, Esq, Board of Assessors; Liam J. Vesely, Board of Assessors; Cynthia Gerry, Director of Assessing; Harald M. Scheid, Consulting Assessor; Nate Cramer, Appraiser; and Charles Dunn, Vice-President of the Sudbury Chamber of Commerce and Branch Manager of the Northern Bank and Trust, Sudbury, MA.

Mr. Trevor opened the discussion by saying that the purpose of this meeting was to discuss the Town's property tax levy, which is done on an annual basis.

Mr. Vesely stated that the Board will be considering the three categories of tax exemption: residential, small commercial property, and open space. He added that the Board did not have to vote on the open space exemption, but did have to vote on the residential exemption, and the small commercial property exemption for FY2019. He explained that 83% of Sudbury's residential property owners would meet the statutory requirements; and all the residential taxpayers would bear the shifting of that exemption, if granted. Mr. Vesely explained that everyone's tax rate would increase, in order to provide for the statutory exemption for the small percentage of residents in the Town, who would benefit by it. Mr. Vesely explained that the property owners whose property values were above the breakeven assessment, would bear the cost of that residential exemption; as well as other parcels that would not qualify, such as residential vacant land, and non-owner-occupied residential properties. He stated that in the past, the Board has not chosen to vote on the residential exemption; and with respect to the small commercial exemption; a detailed report was submitted to the Board a couple of years ago. The majority of small commercial businesses would not benefit from a small commercial exemption. He cited the example of Mill Village with 30+ small businesses all of which would be subject to the increase, and would not benefit from the small business exemption because they do not qualify.

Tax Classification Hearing

Chairman Haarde made the motion, and it was on motion unanimously

VOTED: To open the Tax Classification Hearing in accordance with General Laws Ch. 40, sec. 56, as amended, to determine the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2019 tax rate.

Selectman Simon asked if there were any reasons for the Board to change their prior position regarding not adopting residential exceptions. Mr. Vesely explained that there were no changes or cause for the Board to want to change their position adding that Sudbury did not fit the model of a Town that would adopt the residential exemption. Selectman Simon asked the question because Meadow Walk came online this year, and said that he was fine with maintaining the same position.

Selectman Simon asked if the Board should want to change its position in the future, would that option still be possible. Mr. Vesely responded in the affirmative, and added that aspect would also apply to the small commercial property exemption.

Vice-Chairman Carty asked for clarification regarding the small commercial condominiums. Ms. Gerry responded that the classification applied to Mill Village, and the commercial condos on 327, 325, and 321 Boston Post Road, which are maintained as office suites. Ms. Gerry stated that the Town is awaiting final certification of values, and that FY2019 completes the final three-year certification period. The final values would be certified tomorrow

morning so that any vote the Selectmen took at this meeting would need to be ratified at a future meeting. Selectman Simon recommended that the ratification be put on the December 4th agenda.

Selectman Simon made the motion, and it was on motion unanimously

VOTED: Not to adopt a Residential Exemption for Fiscal Year 2019.

Selectman Simon also made the motion, and it was on motion unanimously

VOTED: Not to adopt the Small Commercial Exemption for Fiscal Year 2019.

Town Manager Rodrigues questioned if there was an additional explanation on the related value aspect. Mr. Scheid introduced his colleague Nate Cramer, appraiser and former Massachusetts Department of Revenue employee, who had worked with various communities including Sudbury. Mr. Scheid detailed that the certified values were not quite completed, and the last approval would have taken place today, but the authorizing administrator had to leave early, so the Board had to vote on a commercial and residential shift factor at this time. Mr. Scheid reviewed the estimated FY2019 levy, tax rate options, and shift factor calculations.

Selectman Brown asked if that tax increase reflected the three-year valuation, or a single year increase. Mr. Scheid responded that it reflected a single year increase, which demonstrated a six-year trend of improved property values.

Chairman Haarde asked for Mr. Cramer's recommendation. Mr. Cramer recommended retaining the 33% shift factor to keep tax increases approximately equal across Residential and CIP (Commercial, Industrial, and Personal) property classes. Selectmen Simon suggested that keeping the same shift value was appropriate. Vice-Chairman Carty queried about how that shift rate compared to other towns. Mr. Scheid stated that the City of Marlborough had a split rate, as well as the town of Lincoln which has no commercial properties. Attorney Fox added that Sudbury's split rate was somewhat higher than towns with similar demographics based on a study done four or five years ago. A group discussion took place.

Mr. Charles Dunn, branch manager of Northern Bank at 430 Boston Post Road and Vice-President of the Sudbury Chamber of Commerce, stated that he was representing the small businesses in town which are striving to have the same rate for commercial and residential taxation. He added that there was a considerable difference between the two rates.

Selectman Simon asked if Mr. Dunn had received complaints from commercial owners in town regarding excessive tax rates. Mr. Dunn affirmed there are such complaints adding that larger chain businesses located in commercial strip malls are not as affected, as they can split the taxes among the leases. He detailed that vacancies are reflective of this increase in small business tax rate. Selectman Simon did not see any reason for change or raising the residential tax rate which is significant.

Chairman Haarde mentioned the merit of a 1.3 shift in order to help decrease both residential and commercial rates. He also mentioned reduction in the shift and lessening the tax rate this year.

Selectman Dretler stated that she appreciated being able to review the assessments of properties for next year. Some residents may be surprised about the increase in the values of their properties due to the revaluation and related tax increases for this year. She added that she would also like to explore the commercial aspect/issues and asked for further input from Mr. Dunn at a future meeting.

Chairman Haarde mentioned that having a single tax rate did make it more appealing for commercial businesses, and there are few years, such as this one, where the shift is reduced as well as a reduction for both tax classes.

Chairman Haarde thanked Mr. Dunn for participating in today's discussion. Mr. Dunn stated that every dollar matters for the small business enterprises in town. Selectman Brown thanked Mr. Dunn for coming to the meeting

and representing small business in Sudbury as in past there has been not been much representation from the business community.

Selectman Dretler made the motion, and it was on motion unanimously

VOTED: In accordance with M.G.L. Ch. 40 Sec. 56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2019 tax rates to set the residential factor at 0.9751 with a corresponding CIP shift of 1.33, pending final certification of the Town's Annual Tax Recap by the Massachusetts Department of Revenue.

Increase the annual senior property tax work off amount from \$1100 to \$1200 per year

Attorney Fox stated that this was the Town's sixth anniversary of the senior work-off tax exemption program, with 116 applications submitted this year consistent with 115 applications last year. He affirmed that 112 of the applications were granted. Attorney Fox mentioned three general means-based restrictions: income (based on circuit breaker), household value limitation, aggregate net worth, and long-time residency in Sudbury. He added that the Board of Assessors could grant exemptions up to one half of one percent of the residential levy limit based on the recently voted shift percentage of 1.33.

Attorney Fox explained that the Board could vote to cover the \$30,000 gap in funding, and could increase the one half of one percent to .54%.

Selectman Brown asked to clarify the effect on the average household of the senior tax exemption. Attorney Fox stated it would increase the tax rate about nine cents and increase the average tax bill about \$67 annually. Selectman Brown then asked how this would compare to the effect on the average household of reducing the CIP shift factor from 1.33 to 1.30. Ms. Gerry said this would add another four cents to the tax rate, or roughly half the tax impact to the average household of the senior tax exemption.

Selectman Simon mentioned that when examining the related funding numbers, the senior tax exemption creates a net positive benefit for the Town in terms of income and expenditures. He had not heard any complaints from residents in regard to the senior tax exception program. Attorney Fox acknowledged that was the selling point for the legislators.

It was on motion unanimously

VOTED: To approve an increase in the annual senior property tax work off amount from \$1100 to \$1200 per year, as requested by Debra Galloway, COA Director.

Selectman Simon moved and it was on motion unanimously

VOTED: To approve in accordance with Chapter 169 of the Acts of 2012, the total FY19 cap on the exemptions granted by the Means Tested Senior Tax Exemption shall be .54% of the residential property tax levy.

Chairman Haarde moved to close the public hearing and it was on motion unanimously

VOTED: To close the public hearing.

Term sheet of the Quarry North Development Agreement

Town Manager Rodrigues stated that the term sheet was a contract between the Town and Quarry North LLC, and more detail will be added to the Development Agreement later. This document memorialized all the agreements/negotiations. Town Manager Rodrigues detailed items included in the term sheet:

- Contract between Town of Sudbury and Quarry North Road LLC

- Development of Melone Property
 - *101 units under Mass. Gen. Law Ch. 40R or friendly 40B
 - *26 affordable with local preference
 - *All count toward SHI pending state approval
 - *All rental

 - *173 units to be developed under the North Road Residential Overlay District
 - *80 of these units to be age restricted
 - *All for sale

 - *No more than 6 single family homes within the Concord portion of the property, pending Concord approvals
 - *Commercial space not to exceed 2,500 square feet

- Buyer's project mitigation
 - *\$50,000 for studies
 - Traffic
 - Public school capacity
 - Peer review
 - Planning consultants
 - *Cost to call and hold Town Meeting
 - *Attorney's fees, expert witness fees and other costs related to HAC case from September 11, 2018 until final adjudication not to exceed \$100,000
 - *A minimum 100-foot setback from Route 117 including maintenance of the existing raised vegetated buffer (berm) along the Melone Property border to minimize the visual impact of the project from Route 117
 - *Compliance with performance recommendations by Planning Board and/or ZBA
 - *Transportation management plan with specific details to be approved by Planning Board
 - Must include shuttle service to transit and transportation to local businesses
 - Car sharing services
 - Bike sharing services
 - * Payment of \$1,000,000 for development mitigation
 - *Town use of meeting space free of charge (Board meetings, Council on Aging activities, etc.)
 - *Per capita mitigation payment
 - IF in year 5-10 the project population exceeds 550 AND the cost of the development exceeds the revenues for two consecutive years,
 - THEN, the developer must make an annual payment to the Town of the number of residents over 550 multiplied by the per capita cost per resident, up to a total amount of \$500,000.

- Dismissal of all legal proceeding pending Town Meeting approval and necessary permits

Vice Chairman Carty confirmed that the Town would have access to the Town Center property via Peter's Way. Town Manager Rodrigues affirmed that.

Selectman Simon asked if there were any aspects of this agreement that the Board had not discussed before. Town Manager Rodrigues stated there were no major changes, just some adjustments. Town Manager Rodrigues thanked Counsel for putting the agreement together.

Selectman Simon moved and it was on motion unanimously

VOTED: To approve and sign the Term Sheet with the exchange of real property in the Town of Sudbury with Quarry North, LLC dated November 27, 2018.

Town Manager Rodrigues affirmed that the Term Sheet will be posted on the Sudbury website.

At 7:06 p.m., Chairman Haarde motioned to relocate the Board meeting to the auditorium, where the Town Forum will take place.

It was on motion unanimously

VOTED: To relocate the Board meeting to the LSRHS auditorium.