



TOWN OF WINCHESTER BOARD OF SELECTMEN'S MEETING
7:30PM

BOARD OF SELECTMEN MEETING ROOM

- A. OPENING.....7:30PM
- B. EXECUTIVE SESSION (CLOSED TO PUBLIC).....NONE SCHEDULED

C. CHAIRMAN'S COMMENTS

D. TOWN MANAGER REPORT AND COMMENTS

1. Flood Mitigation Projects
2. Parking Structure Engineering Analysis – Town Center
3. Lead Line Replacement Program
4. Complete Streets Program
5. Fish Ladder Project
6. Appointment: Building Department – Part-time Clerk – Athena Byford – S24 Building Dept.
7. Asa Fletcher Fund Working Group

Documents:

[MANAGER.PDF](#)

E. MATTERS FROM THE AUDIENCE

- F. 7:30 P.M. NOTIFICATION OF OTHER MEETINGS AND HEARINGS (OPEN TO PUBLIC).....7:30PM

1. Monday, August 22, 2016 - tentative
2. Monday, August 29, 2016 – Board of Selectmen – Regular Session
3. Monday, September 12, 2016 - Board of Selectmen - Regular Session

G. SELECTMEN'S COMMENTS AND NON-DOCKET BUSINESS

H. COMPTROLLERS REPORT

I. LICENSES

1. 8:00 PM COMMON VICTUALLER - The Fuller Cup, 11 Thompson Street

Documents:

[COMM VIC LIC.PDF](#)

J. HEARINGS

K. BUSINESS

1. MWRA Sewer Bond VOTE

Documents:

[G1.PDF](#)

2. Fish Ladder Viewing Platform - VOTE

Documents:

[G2.PDF](#)

3. Complete Street - VOTE

Documents:

[G3.PDF](#)

4. TriCommunity Bikeway Temporary And Permanent Easement - VOTE

Documents:

[G4.PDF](#)

5. Winning Farm Development Agreement - VOTE

Documents:

[G5.PDF](#)

6. VOTE To Authorize Funding For Eversource Intervening Litigation

Documents:

[G6.PDF](#)

7. Water Bill Adjustment - 40 Wedgemere Avenue

Documents:

[G7.PDF](#)

8. Traffic Working Group

9. Town Counsel Selection

Documents:

[G9.PDF](#)

L. CONSENT AGENDA

One Day Alcoholic Beverage License(s)

1. Gail Freeman for Studio on the Common – August 17, 2016 – Studio on the Common;
2. Gail Freeman for Studio on the Common – August 10, 2016 – Studio on the Common

Other

Approve / Correct Meeting Minutes: Wed., July 27, 2016; Wednesday, July 6, 2016;
Approval for the DPW to hire an attorney to file an appeal with DPS for an elevator
infraction

Documents:

[CONSENT.PDF](#)

M. COMMUNICATIONS AND WORKING GROUP REPORTS

1. EFPBC Meeting Minutes: May 18, 2016; May 4, 2016
2. Tina L. Quick, Forest Street re: NO to Forest Ridge Residences
3. Rachel Roll, Forest Circle – Forest Ridge Residences
4. James O'Neil, Chisholm Road – Forest Ridge Residences
5. Carl Boerner, Highland Avenue – Noise Regulation ByLaw Proposal
6. Town Manager to Kenneth Tarbell, Stoneham – purchase of Wildwood Cemetery plot
7. Paul and Elizabeth Fitzgerald, Forest Street – Forest Ridge Development
8. Candace Van der Kruik, Forest Street – Forest Ridge Development
9. Lisa Ouellette, Churchill Circle – Forest Ridge Development
10. Nassim Fotouhi, Forest Circle – Forest Ridge Development concerns
11. School Committee Agenda for Tuesday, August 9, 2016

Documents:

[CORRESPONDENCE.PDF](#)



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

TOWN MANAGER REPORT AND COMMENTS

Docket Item <u>B-1:</u>	Flood Mitigation Projects
<u>B-2:</u>	Parking Structure Engineering Analysis – Town Center
<u>B-3:</u>	Lead Line Replacement Program
<u>B-4:</u>	Complete Streets Program
<u>B-5:</u>	Fish Ladder Project
<u>B-6:</u>	Appointment: Building Dept. – Athena Byford – S-24 Part-time Clerk
<u>B-7:</u>	Asa Fletcher Fund Working Group

Supporting Documents:

<u>B-1:</u>	
<u>B-2:</u>	
<u>B-3:</u>	
<u>B-4:</u>	
<u>B-5:</u>	
<u>B-6:</u>	Appointment memo from Town Manager
<u>B-7:</u>	

Action Required:

<u>B-6:</u>	VOTE to waive the 15 day appointment effective period.
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Mawn, Patti

From: Howard, Richard
Sent: Friday, July 29, 2016 10:00 AM
To: Mawn, Patti; Twogood, Mark
Subject: FW: DOT Complete St approval letter
Attachments: Complete Street Funding Approval.pdf

Patti – For the next BoS agenda probably with a brief memo from me.

From: Stevens, Lynn
Sent: Friday, July 29, 2016 9:51 AM
To: Rudolph, Beth <brudolph@winchester.us>; Gill, James <jgill@winchester.us>
Cc: Howard, Richard <rhoward@winchester.us>; Twogood, Mark <mtwogood@winchester.us>
Subject: DOT Complete St approval letter

Good Morning All,

Attached is the letter from the DOT approving \$400,000 for FY 17 Complete St Construction Funding.

Lynn Stevens

Town of Winchester
Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890

Ph # 781-721-7133
Fax # 781-756-0505



Charles D. Baker, Governor
 Karyn E. Polito, Lieutenant Governor
 Stephanie Pollack, MassDOT Secretary & CEO

massDOT

Massachusetts Department of Transportation

RECEIVED

2016 JUL 29 AM 9:30

TOWN OF WINCHESTER
 TOWN MANAGER
 BOARD OF SELECTMEN

July 27, 2016

Richard Howard, Town Manager
 Winchester Town Hall
 71 Mt Vernon St.
 2nd Floor
 Winchester, MA 01890

Dear Mr. Howard,

I am pleased to notify you that Winchester's Complete Streets Construction Funding Application submitted on July 8, 2016 has been approved. **The municipal projects listed below are hereby approved for a total of \$400,000 for Fiscal Year 2017.**

The next step, as described on the Complete Streets Funding Portal, is to submit the Tier 3 Construction Funding Agreement, Exhibit A - Scope of Work Narrative, Exhibit B - Preliminary Estimate, and the Environmental Punchlist to the Complete Streets Program Administrator at CompleteStreetsProgram@dot.state.ma.us. Please submit all materials by August 10th. We anticipate issuing the Notice to Proceed in late September.

Thank you for your commitment to providing safe access for all users of the road in your community and thank you for your participation in the Complete Streets Funding Program. MassDOT looks forward to working with you on these important projects.

Rank	Project Name	Project Description	Funding Requested
1	Cross St/Forest St Traffic Calming Improvements	Pedestrian improvements at 4 intersections: ADA sidewalks and ramps, and roadway narrowing	\$260,000
2	Pond Street at Chesterford Road	Install RRFB, and tactical warning pad at existing crosswalk at trail entrance	\$15,100
6	Church Street at Central Street	Pedestrian improvements: Curb extensions, RRFB, ADA ramps	\$67,300
7	Highland Avenue at Stone Avenue	Pedestrian improvements: RRFB installation at crosswalk	\$15,000

8	Amberwood Drive at Johnson Road	School access improvements: RRFB installation at existing crosswalk	\$15,000
9	"Your Speed" signs (1)	Install "Your Speed" signs at four locations	\$27,600
Total			\$400,000

Sincerely,



Stephanie Pollack
Secretary and CEO

Cc: Thomas J. Tinlin, Highway Administrator
Beth Rudolph, Winchester Town Engineer



RECEIVED

2016 JUL 32 AM 10:32

TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

TOWN OF WINCHESTER
71 MT. VERNON STREET, WINCHESTER, MA 01890
DEPARTMENT OF ENGINEERING & PLANNING
ENGINEERING DIVISION

PHONE 781-721-7120 FAX 781-721-7166

MEMORANDUM

TO: Richard C. Howard, Town Manager
FROM: Margaret T. White, Project Engineer
DATE: August 1, 2016

SUBJECT: LEAD NECK REMOVAL PROJECT UPDATE

Over the past couple of months town staff has met to prepare a draft plan for the removal of existing lead necks throughout town. It is estimated that there are approximately 720 remaining lead necks. DPW will work with homeowners to collect water samples from each of the 720 households and the MWRA will perform complimentary testing. This work will occur over the next few months. In the meantime the town will prepare MWRA applications for the Lead Loan Program (LLP) and the Local Water System Assistance Program. (LWSAP)

It is anticipated at this time that we will apply for \$500,000 from the LLP to fund design and construction of lead neck and pipe removal (public infrastructure) and \$100,000 from the LWSAP to fund construction of lead services from the curb stop to the water meter inside the private property. The LWSAP funds will be offered to homeowners participating in the program as a reimbursement for removing the lead pipe on their private property.

Attached is a more detailed outline for your review. We can discuss the proposed program in our Committee meeting on August 2nd. Below is a preliminary outline for the necessary steps to be taken and the schedule we expect to follow.

- Finalize letter to residents – notifying them of the upcoming water testing
- Send letter to 720 residents
- Perform testing (MWRA)
- Contact those residents testing over the allowable lead limit
- Prepare MWRA Applications
- November 2016 – get TM approval of MWRA loan; 0% interest, 10-year term
- Winter 2017 – get W&S under contract for engineering and bid lead necks and lead services
- Spring 2017 remove x number of lead necks and services; concentrate on those residences with lead levels over the allowable limits
- Fall 2017 – repeat the funding process for year two of the program
- Fall 2018 – repeat funding process for year three of the program

Lead Gooseneck/Service Removal Program

Facts and Assumptions

- Estimated 720 properties with lead goosenecks
- It is unknown how many goosenecks have lead service lines (estimate 10% or 72 lead services)
- Estimated \$6,500/property to replace lead gooseneck and lead service from main line to water meter inside the property
- Estimated \$3,500/property to replace lead gooseneck and other piping from main line to curb stop
- Estimated \$3,000/property to replace lead service from curb stop to water meter inside the property
- Water infrastructure from the main to the curb stop is owned by the Town
- Water infrastructure from the curb stop to the water meter is privately owned

Program Components

- Collect water samples at 720 properties
- MWRA to perform complimentary lead testing
- Collect pipe material data at the meter inside each property
 - Sump pump inspection
- Collect pipe material data on public and private infrastructure at recently replaced (this summer) goosenecks
- Prioritize removal work based on sample results and pipe material data
- Prepare MWRA applications for the Lead Loan Program (LLP) and the Local Water System Assistance Program (LWSAP)
 - Request \$500,000 to fund design and construction of lead pipe removal (public infrastructure)
 - Request \$100,000 to fund construction of lead pipe removal (private infrastructure)
 - Loans are 0% interest, 10-year term, first payment is due 1-year from the date of the loan
- Contract documents will be developed for public bidding of lead pipe removal on public and private property. Unit quantities will be created for the full range of items anticipated during construction.
- The 720 property owners will be notified about the contract and the possibility that they may have a line service line that should be removed.
 - MWRA "Is there Lead in your Tap Water" brochure to be distributed to each property
- The Town will prepare a release for work on private property
- During removal of the lead gooseneck it will be determined if each privately owned water service is lead.
 - If the water service is lead the property owner will be notified and will have the opportunity to have the line replaced by the Town's contractor.
 - Publically bid unit prices will be used to determine the cost of the work performed
 - No landscaping will be included.
 - The Town will establish a \$3,000 allowance for removal of lead services on private property. All costs below the allowance will be covered by the Town. Any costs above the allowance will be paid by the property owner.
- The property owner will have the option to select a different contractor to perform the work. Work completed by other contractors will **not** be eligible for the \$3,000 allowance.



Town of Winchester

Richard C. Howard,
Town Manager

Board of Selectmen
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

MEMORANDUM

August 4, 2016

TO: Board of Selectmen

FROM: Richard C. Howard, Town Manager *Richard C. Howard*

SUBJECT: Appointment: Part-Time Senior Clerk –
Building Department

In accordance with Section 4-2b of the **Town Charter**, I have made the following permanent part-time appointment in the Building Department:

Athena Byford, 55 Harold Avenue, Woburn, MA 01801
Senior Clerk – S24 – Step 5

Ms. Byford would be employed on a part-time basis for up to 14 hours per week, effective August 15, 2016. I respectfully request the Board to waive the usual fifteen day appointment effective period.

/pcm

cc: A. Kostos, Human Resources
A. Wile, Building Commissioner
Retirement



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

LICENSES

Docket Item E-1: Common Victualler License: The Fuller Cup
11 Thompson Street (formerly Piantedosi Bread Shoppe)

Supporting Documents:

E - 1: License application

Action Required: VOTE to approve Common Victualler License in
RED BOOK for signatures.

Number: CV11-16A

THE COMMONWEALTH OF MASSACHUSETTS

Fee: Pd.

TOWN OF WINCHESTER



This is to certify that: The Fuller Cup, 11 Thompson Street

IS HEREBY GRANTED A
COMMON VICTUALLER'S LICENSE

in said Town of Winchester and at that place only and expires **December 31, 2016** unless sooner suspended or revoked for violation of the laws of the Commonwealth respecting the licensing of common victuallers. This license is issued in conformity with the authority granted to the licensing authorities by General Laws, Chapter 140, and amendments thereto.

In Testimony Whereof, the undersigned have hereunto affixed their official signatures:

Winchester Board of Selectmen (Licensing Authorities):

Hours:

6:00a.m. to 6:00p.m.

Sunday - Saturday

August 2016

Docket Item:
E-4
August 8, 2016



TOWN OF WINCHESTER
BOARD OF SELECTMEN - GENERAL LICENSE APPLICATION

This is a general application for a license that the Board of Selectmen may grant. All license applications to the Winchester Board of Selectmen must be accompanied by the following information.

Indicate if license is: New Transfer _____ Change of d/b/a _____ Other _____

List type of license(s) applying for:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Common Victualler _____ | <input type="checkbox"/> Food Vendor _____ |
| <input type="checkbox"/> Package Store All Alcohol _____ | <input type="checkbox"/> Package Store Wine & Malt _____ |
| <input type="checkbox"/> Restaurant All Alcohol (100 seats) _____ | <input type="checkbox"/> Restaurant All Alcohol (70 seats) _____ |
| <input type="checkbox"/> Restaurant Wine & Malt _____ | <input type="checkbox"/> Club All Alcohol _____ |
| <input type="checkbox"/> Class I Auto Sales: _____ | <input type="checkbox"/> Class II Auto Sales: _____ |
| <input type="checkbox"/> Vehicle for Hire/Taxi No of Vehicles: _____ | <input type="checkbox"/> Fortune Teller _____ |
| <input type="checkbox"/> Annual Entertainment _____ | <input type="checkbox"/> Automatic Amusement _____ |

Business Name (legal): The Fuller Cup dba: The Fuller Cup
Please attach copy of business certificate if applying as dba or individual. If business is a corporation or LLC, please attach:

1. Certificate of Good Standing from the Secretary of State's Office. ✓
2. Corporate Vote authorizing business at the location. - N/A

Address of licensed premises (include zip code): 11 Thompson St, Winchester MA

Mailing address (if different than above address): 151 Great Plain Ave, Needham MA

Name of individual/applicant authorized to apply for license: Laura A Fuller

Business tel. no. of applicant: 774-276-1053 Business email: thefullercup@gmail.com

F.E.I.N. (F.I.N.) 01-3159353

Please check one of the following: own premises lease premises property under P&S

Name and address of property owner if different from license holder:

Matt Blackman 200 Wheeler Rd, Ste 20 Winchester MA 01890
Name Address

If applicable, please attach copy of lease and/or Purchase and Sales Agreement.

Do you currently hold a similar license? NO What type? N/A

Have you previously applied for a license? (Yes) (No) _____

Have you ever had a license revoked? (Yes) _____ (No) X If yes, please indicate why:

If there is a building or structure associated with the license, please submit the following (preferably on 8 1/2 x 11" paper - no larger than 8 1/2 x 14"):

- 1. Floor plan (include seating area), and
- 2. Site plan indicating parking areas and access to Town ways.

If applying for a Class I or Class II license, please submit a plot plan that shows:

- 1. The number of the vehicles on display
- 2. The exact location of the vehicles
- 3. Customer parking
- 4. Office area

Proposed hours of operation:

Monday ba-bp Tuesday ba-bp Wednesday ba-bp
 Thursday ba-bp Friday ba-bp
 Saturday ba-bp Sunday ba-bp

Has the applicant operated a similar business? (if applicable) N/A

Name of Business: _____

Address: _____

Federal Tax No. (if applicable): _____

I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and paid all state and local taxes required by law.

Date: _____

Signature: [Signature]

I certify that I have read through the conditions included with this license and agree to comply with any further stipulations that the Licensing Authority may from time to time approve. I also hereby authorize the Licensing Authority or their agent to conduct whatever investigation or inquiry is necessary to verify the information contained in this application.

Date: _____

Signature: [Signature]

Please contact the Selectmen's Office at 781-721-7133 if you have any questions regarding this application form.

TOWN OF WINCHESTER, MASSACHUSETTS



COMMON VICTUALLER APPLICATION
RESTAURANT

The undersigned hereby applies to the Board of Selectmen of the Town of Winchester for a Food Vendor License. In support of this application, the following information is provided and will be used by the Board of Selectmen in approving or disapproving a license. The fee is \$100.00.

1. Location: 11 Thompson Street, Winchester
Number Street

2. Name of Applicant: Laura A Fuller
(Including middle initial)

3. Name of Business: The Fuller Cup

If Corporation: Give Name and Address

President: _____

Secretary: _____

Treasurer: _____

4. Description of Applicant:

a. Full Name: Laura A Fuller

b. Present Address: 151 great plain Ave Needham MA 02492

c. Address for Past Ten Years: 96 Neptune Ave New Rochelle NY

d. Citizen of United States? Yes No

e. Place of Birth: Westfield MA

f. Date of Naturalization: _____

g. Date of Birth: 01/16/71

h. Years' Experience in Food Business: 30

i. If married woman, please provide maiden name: N/A

j. Parents' Name: David R Fuller, Carolyn M Fuller
Father Mother

* Attached resume

5. Experience of Applicant:

- a. Present job: EDIBLE ARRANGEMENTS
- b. Location: 256 Washington St, Brookline MA
- c. Description of Duties: Customer service, delivery bouquet wrap, vehicle management, promote positive morale
- d. Dates of Employment: 03/15 - present
- e. Prior Experience: Trader Joe's Management 10/03 - 11/14
Caribon Coffee Co, 7 years

6. Description of Proposed Food Service Business: (Note: Floor Plan must be submitted with application)

- a. Which meals will be served: breakfast, lunch, small-meals
- b. Hours of Operation: 6A-6P
- c. Floor space: 350 sq. ft. (Sales floor ONLY)
- d. Type of food: Baked goods sandwiches, soups, salads, coffee/tea, smoothies, a/t bev
- e. Method of Food Preparation: baked
- f. Cooking facilities: oven
- g. Number of Employees: 6-9
- h. Seating Capacity: 19
- i. Take Out Service: Yes No

7. References

- a. Food Business: Rachel Baxter, Captain @ Trader Joe's in NC
919 285 9979, known her for 10+ years
- b. Character Reference: Karen Roosa, CFO @ W. Miller's Company in DC
202 460 2520, known her for 25 years
- c. Bank Reference: _____

8. Will you Own Rent Location?

a. If Rent, State Owner of Location Matt Blackman

9. List any other information you feel will assist in review of this application see cover letter

10. Have you ever been denied? NO

I hereby agree to conform to the Town of Winchester By-Laws and Regulations and any special conditions governing this Food Vendor/Common Victualler License which the Board of Selectmen may establish. I further understand that the Board is not required to grant a license. No work is to commence at the premises of the proposed location prior to the issuance of a License except at my own risk. Transfer of this license is prohibited. Failure to conform to Town By-Laws and conditions after issuance of the license could result in suspension or revoking of said License by the Board of Selectmen.

Signature [Handwritten Signature]
Applicant

Address _____

Telephone Number 774-276-1053

Date _____

Please submit a check in the amount of \$100 made out to the Town of Winchester.

TRANSFER OF LICENSE: LICENSE WILL BE ISSUED ON SURRENDER OF OLD LICENSE

BEXTER OVEN

BACK SWING DOOR

MERCH DISPLAY SHELVES (+ CABINET)

ESPRESSO Machine

TRASH

WAS WIP

(3) STOOLS

REMOVE BREAD SHELVES → BENCH

TABLE

CHAIR

TABLE

CHAIR

TABLE

CHAIR

OPEN SPACE

FEEDER DISPLAY (REMOVE)

REFIGURATOR (MOVE W/P)

RETAIL BK CASE (REMOVE)

(ENCASED - CMT/REPLACE SIDE)

OPEN SPACE

10'

10'

5'5"

1/5'

FRONT (NOT INCL. NOOKS)

3 X 258

Cafarella, Jennifer

From: Wile, John
Sent: Thursday, July 28, 2016 3:41 PM
To: Cafarella, Jennifer
Subject: RE: New Common Victualler - The Fuller Cup, 11 Thompson Street

I have no issues. Al

-----Original Message-----

From: Cafarella, Jennifer
Sent: Thursday, July 28, 2016 3:01 PM
To: Murphy, Jennifer <jenmurphy@winchester.us>; Wile, John <jwile@winchester.us>;
pmaconnell@winchesterpd.org; Nash, John <jnash@winchester.us>; Tracy, Sheila <stracy@winchester.us>
Cc: Tustin, Rick <rtustin@winchester.us>; Howard, Richard <rhoward@winchester.us>; Twogood, Mark
<mtwogood@winchester.us>
Subject: New Common Victualler - The Fuller Cup, 11 Thompson Street

All,

Attached is a new common victualler application for The Fuller Cup, 11 Thompson Street (Piantedosi's is leaving).

Please send me your comments as soon as possible. We are hoping to put them on the August 8th BOS docket.

Thanks -
Jenn

Cafarella, Jennifer

From: Murphy, Jennifer
Sent: Friday, July 29, 2016 8:46 AM
To: Cafarella, Jennifer
Subject: RE: New Common Victualled - The Fuller Cup, 11 Thompson Street

They are working with me on getting their permit. They should be all set by the time they want to open at the end of Aug.

I don't see any problems.

Thanks.

-----Original Message-----

From: Cafarella, Jennifer
Sent: Thursday, July 28, 2016 3:01 PM
To: Murphy, Jennifer <jenmurphy@winchester.us>; Wile, John <jwile@winchester.us>; pmacdonnell@winchesterpd.org; Nash, John <jnash@winchester.us>; Tracy, Sheila <stracy@winchester.us>
Cc: Tustin, Rick <rtustin@winchester.us>; Howard, Richard <rhoward@winchester.us>; Twogood, Mark <mtwogood@winchester.us>
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Thanks -
Jenn

Cafarella, Jennifer

From: Nash, John
Sent: Friday, July 29, 2016 10:03 AM
To: Cafarella, Jennifer; Murphy, Jennifer; Wile, John; pmacdonnell@winchesterpd.org; Tracy, Sheila
Cc: Tustin, Rick; Howard, Richard; Twogood, Mark
Subject: RE: New Common Victualler - The Fuller Cup, 11 Thompson Street

The Winchester Fire Department has no objection to a new common victualler application for The Fuller Cup, 11 Thompson Street, provided the usual and customary restrictions.

Chief John Nash

Winchester Fire Department

32 Mount Vernon Street Winchester MA 01890
Phone (781) 729-5993 | Fax (781) 721-6722

-----Original Message-----

From: Cafarella, Jennifer
Sent: Thursday, July 28, 2016 3:01 PM
To: Murphy, Jennifer <jenmurphy@winchester.us>; Wile, John <jwile@winchester.us>; pmacdonnell@winchesterpd.org; Nash, John <jnash@winchester.us>; Tracy, Sheila <stracy@winchester.us>
Cc: Tustin, Rick <rtustin@winchester.us>; Howard, Richard <rhoward@winchester.us>; Twogood, Mark <mtwogood@winchester.us>
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Thanks -
Jenn

Cafarella, Jennifer

From: Peter MacDonnell <pmacdonnell@winchesterpd.org>
Sent: Friday, July 29, 2016 8:28 PM
To: Cafarella, Jennifer
Subject: Re: New Common Victualler - The Fuller Cup, 11 Thompson Street

Hi Jen
The Police Dept has no objection

Sent from my iPhone

> On Jul 28, 2016, at 3:00 PM, Cafarella, Jennifer <jcafarella@winchester.us> wrote:
>
> All,
>
> Attached is a new common victualler application for The Fuller Cup, 11 Thompson Street (Piantedosi's is leaving).
>
> Please send me your comments as soon as possible. We are hoping to put them on the August 8th BOS docket.
>
> Thanks -
> Jenn
> <201607281505.pdf>

Cafarella, Jennifer

From: Tracy, Sheila
Sent: Tuesday, August 02, 2016 12:01 PM
To: Cafarella, Jennifer
Subject: RE: New Common Victualler - The Fuller Cup, 11 Thompson Street

Jenn,
It doesn't appear Piantedosi's was ever billed for Personal Property. The last billing for this address was to a Salon in 2004.
Sheila

-----Original Message-----

From: Cafarella, Jennifer
Sent: Thursday, July 28, 2016 3:01 PM
To: Murphy, Jennifer; Wile, John; pmacdonnell@winchesterpd.org; Nash, John; Tracy, Sheila
Cc: Tustin, Rick; Howard, Richard; Twogood, Mark
Subject: New Common Victualler - The Fuller Cup, 11 Thompson Street

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Thanks -
Jenn



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

BUSINESS

Docket Item **G - 1:** MWRA Sewer Bond Vote

Supporting Documents:

G - 1: Copy of vote to be read into the record.

Action Required: VOTE to authorize bonds.

I, the Clerk of the Board of Selectmen of the Town of Winchester, Massachusetts, certify that at a meeting of the board held August 8, 2016, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: that the sale of the \$21,775 Sewer Bond of the Town dated August 22, 2016, to the Massachusetts Water Resources Authority (the "Authority") is hereby approved and the Treasurer or other appropriate Town official is authorized to execute on behalf of the Town a Loan Agreement and a Financial Assistance Agreement with the Authority with respect to the bond. The bond shall be payable without interest on August 15 of the years and in the principal amounts as follows:

<u>Year</u>	<u>Installment</u>	<u>Year</u>	<u>Installment</u>
2017	\$2,177.50	2022	\$2,177.50
2018	2,177.50	2023	2,177.50
2019	2,177.50	2024	2,177.50
2020	2,177.50	2025	2,177.50
2021	2,177.50	2026	2,177.50

Further Voted: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing vote.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the bond were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended.

Dated: August 8, 2016

Clerk of the Board of Selectmen



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

BUSINESS

Docket Item G - 2: Fish Ladder Viewing Platform – VOTE to authorize
Town Manager to sign final agreement

Supporting Documents:

G - 2: Agreement to be signed by Town Manager

Action Required: VOTE to authorize the Town Manager to sign agreement.

**AGREEMENT WITH RESPECT TO THE
CENTER FALLS DAM FISH LADDER**

AGREEMENT made as of this ___ day of _____, 2016 by and between the Town of Winchester having an address of 71 Mt. Vernon Street, Winchester, MA 01890 (the "Town") and Bayer CropScience Inc. (by its Litigation Agent Stauffer Management Company LLC) and Pharmacia LLC [formerly known as Pharmacia Corporation] (by its Attorney-in-Fact Monsanto Company) (together the "Companies"), having an address c/o de maximis, Inc., Attn: Bruce Thompson, 200 Day Hill Road, Suite 200, Windsor, CT 06095.

WHEREAS, the Companies are the Settling Defendants under the terms of the Consent Decree entered in the case titled United States of America v. Bayer Crop Science Inc. and Pharmacia Corporation, Civil Action 1:08-cv-10325 (the "Consent Decree");

WHEREAS, pursuant to the Consent Decree, the Companies are in the process of implementing the Remedial Action for Operable Unit No. 2 (the "OU-2 Remedial Action") at the Industri-plex Superfund Site in Woburn, Massachusetts consistent with the Remedial Design approved by the U.S. Environmental Protection Agency ("EPA");

WHEREAS, as part of the OU-2 Remedial Action, the Companies will be undertaking certain wetlands replication work;

WHEREAS, as part of said wetlands replication work, the Companies are willing, at their expense, to implement the Center Falls Dam Fish Ladder project in accordance with the terms of this Agreement (the "Project"); and

WHEREAS, the Town wishes the Companies to implement the Project, consistent with its obligations to operate the Center Falls Dam.

NOW, THEREFORE, in consideration of the foregoing, of covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Companies agree as follows:

1. The Companies assume responsibility for completing the design of the Project (the "Project Design"), which design once approved in writing by EPA shall be incorporated into and become part of the Remedial Design for the OU-2 Remedial Action. In order to assist the Companies with respect to the Project Design, the Town's consultant, VHB of Watertown, Massachusetts, has provided copies of the design work (including plans, drawings and specifications) generated to date for the Project, including where applicable, copies of electronic CAD files, to de maximis, inc., as the Companies' Project Coordinator for the OU-2 Remedial Action (the "Project Coordinator").

2. No later than such time as the Companies submit the Project Design to EPA for its review and approval, the Companies shall also submit copies of the Project Design to the Town for the Town's review and comment. The Town shall coordinate with the Companies and EPA in the finalization of the Project Design, so that it shall satisfy the reasonable requirements of the Town (including without limitation the control of flood waters the extent necessary to

protect public safety and welfare and the Town's other public duties and operational responsibilities associated with the Dam), as well as those imposed by the Commonwealth of Massachusetts' Division of Marine Fisheries, including without limitation the Operation and Maintenance Plan attached hereto as Exhibit A and made part hereof, as said plan may be amended or modified with the approval of EPA and concurrence of the Town ("O&M Plan"). Such coordination by the Town shall be undertaken in a timely manner, so that the Project Design can be duly approved by EPA and the Project constructed during the calendar year 2016 construction season. The Town will utilize the services of their consultant VHB to review the final design and to assist the Town in overseeing the construction of the Fish Ladder. The Companies shall reimburse the Town for, or pay directly to VHB, the services provided by VHB in accordance with the not-to-exceed budget attached hereto as Exhibit B and made part hereof.

3. Once the Project Design has been approved in writing by EPA, the Companies shall construct the Project in accordance with the approved Project Design, as said design may be amended or modified with the approval of EPA and the concurrence of the Town if necessary to account for conditions identified during such construction ("Project Construction"). Unless delayed due to *force majeure* circumstances, the Companies shall complete the Project Construction by no later than December 31, 2016. The Companies shall, at their sole cost and expense, be responsible for obtaining all necessary federal, state and local permits required for the Project Construction.

4. Following completion of Project Construction and, unless otherwise agreed by the Companies and the Town and approved by EPA, for so long as the Center Falls Dam Fish Ladder (the "Fish Ladder") shall remain in place, the Companies shall cause it to be operated, monitored, inspected, maintained, repaired and replaced ("Project Operation and Maintenance") in accordance with O&M Plan.

5. Notwithstanding any provision of this Agreement or the O&M Plan to the contrary, neither the Companies, their Project Coordinator nor their respective employees, agents, consultants or contractors shall have any right, authority, or responsibility with respect to the operation, monitoring, inspection, maintenance, repair or replacement of the Center Falls Dam ("Dam") or the condition of the Dam, nor shall they have any right, authority, or responsibility to manage or control the flow of water over, through, under or around the Dam. All authority, control and responsibility for the Dam and said flow of water in connection with it shall rest solely and exclusively with the Town, which, to the extent necessary to protect public safety and welfare by controlling flood waters and to the extent consistent with the Town's other public duties and operational responsibilities associated with the Dam, shall direct water flow through the Fish Ladder in a manner that complies with the requirements of the O&M Plan, to the extent feasible.

6. For purposes of implementing this Agreement, the Town hereby grants the Companies, the Project Coordinator and their respective employees, agents, consultants and contractors rights of access with workers, machinery, equipment and materials/supplies on, over, under and across the property, both real and personal, identified on Exhibit C attached hereto and made part hereof that is currently or may hereafter be owned, operated or controlled by the Town (the "Town's Dam Property"). The Project Coordinator shall notify the designated representative of the Town (the "Town's Representative") at least forty-eight (48) hours before

initiating Project Construction or Project Operation and Maintenance work (unless [a] such work is being performed in accordance with a schedule therefor that had previously been provided to the Town, with the first work pursuant to such schedule being performed at least forty-eight (48) hours after the schedule was provided to the Town, or [b] shorter notice is necessitated by emergency or other condition threatening injury or damage to person or property) and shall coordinate with the Town's Representative in an effort to minimize, to the extent feasible, disruption to the Town's Dam Property and the use thereof during the Project Design, Project Construction, and Project Operation and Maintenance. In no event shall the Project Construction damage the structural integrity or operational functions of the Dam. In addition, the Companies shall, upon completion of Project Construction, restore the Town's Dam Property to as near as possible the condition it was in immediately prior to the initiation of such construction, except for the presence of the Project for which an irrevocable license is granted pursuant to Paragraph 7 hereof.

7. The Companies and the Town agree that the Companies or an entity designated by the Companies (subject to the Town's reasonable approval) shall own the Fish Ladder. For this purpose, the Town hereby grants to the Companies and any designee approved by the Town) an irrevocable, non-exclusive license, commencing on the date of this Agreement, to:

- (a) Construct, install and erect the Project and all elements and components thereof and appurtenances thereto on, at, over and under the location as shown on the plan attached hereto as Exhibit C and made part hereof.
- (b) Subject to the limitations set forth in Paragraph 5 hereof, operate, inspect, maintain, repair and replace the Project and all elements and components thereof and appurtenances thereto in accordance with the O&M Plan.

Should the Companies wish to discontinue the Project, upon receipt of written approval from the EPA and the Massachusetts Division of Marine Fisheries ("DFM"), the Companies shall at their sole cost and expense remove the Project and all elements and components thereof and appurtenances thereto and shall promptly restore the Town's Dam Property to as near as possible the condition it was in prior to construction of the Project. This Agreement and the license granted hereunder shall terminate upon completion of any such restoration. The filing by the Companies of a voluntary petition in bankruptcy or the approval by a court of competent jurisdiction of a petition applicable to the Companies in any proceedings instituted under the provisions of the United States Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted shall constitute a default under this Agreement and shall automatically terminate this Agreement, unless the financial assurance provided pursuant to the Consent Decree shall provide sufficient in accordance with the terms of this Agreement. Notwithstanding the termination of this Agreement pursuant to the foregoing provisions of this Paragraph 7, the provisions of Paragraph 9 hereof shall remain in full force and effect as to all acts or omissions of the parties preceding the date of termination and, as such, shall be binding upon and inure to the benefit of the parties and their successors and assigns thereafter.

8. The Companies agree that they shall pay for all costs and expenses associated with Project Design, Project Construction, Project Operation and Maintenance, and Project

removal (if applicable pursuant to Paragraph 7 hereof), and that the Town shall have no liability or responsibility on account thereof.

9. The Companies agree to indemnify, defend and hold harmless the Town and its officers, officials, employees and agents (the "Indemnified Parties") from and against all loss, liability, damage and expense, including, without limitation, reasonable attorneys' fees and court costs, ever suffered or incurred by the Indemnified Parties on account of Project Design, Project Construction or Project Operation and Maintenance; provided, however, that it is expressly understood and agreed that the Companies and the Project Coordinator shall have absolutely no responsibility or liability on account of, and the Town hereby releases the Companies and the Project Coordinator from, any responsibility or liability resulting or arising from:

- (a) The operation, monitoring, inspection, maintenance, repair or replacement of the Dam; the condition of the Dam, except as maybe caused by acts of the Companies or the Project Coordinator; the flow of water over, through, under or around the Dam (other than flows associated with the Fish Ladder); or any conditions of flooding and loss or damage to person or property caused by, associated with or related to said flow of water; and
- (b) Any special, remote or consequential damages, whether in contract or tort.

10. The Companies or the Project Coordinator shall obtain and maintain in force during the duration of the Project commercial liability insurance with respect to their operations and activities associated with the Project in limits of not less than \$2,000,000 per occurrence and \$5,000,000 in the aggregate, which shall include contractual liability coverage and shall name the Town as an additional insured party. Upon the date of this Agreement and within thirty (30) days prior to the termination date of any such policy or policies of insurance, the Companies or the Project Coordinator shall provide to the Town's Representative certificate(s) of insurance which specify that such policy or policies may not be modified or cancelled without at least twenty (20) days advance notice to the Town.

11. Any notice, request, consent or other communication relating to this Agreement or the Project shall be deemed duly given or served if (a) sent by electronic communication such as electronic mail; (b) sent by a recognized overnight courier service; or (c) mailed by registered or certified mail, return receipt requested, in each case with all applicable postage and other charges prepaid, addressed to the recipient party at its following address or to such other address as such party may from time to time notify the other party of in writing.

To the Town:

Town of Winchester
Attn:
71 Mt. Vernon Street
Winchester, MA 01890

To the Companies:

de maximis, inc.
Attn: Bruce Thompson
200 Day Hill Road, Suite 200
Windsor, CT 06095

All notices, requests, consents and other communications hereunder shall be deemed to have been received (i) if made by electronic communication such as electronic mail, at the time that receipt thereof has been acknowledged by electronic confirmation or otherwise; (ii) if sent by overnight courier, on the next business day following the day such notice is delivered to the courier service; or (iii) if sent by certified mail, on the fifth business day following the day such mailing is made.

12. The Companies may at any time and from time to time change their Project Coordinator for purposes of this Agreement by written notice given to the Town. Upon the giving of such notice, the new Project Coordinator named therein shall have all the rights, responsibilities, obligations and protections as set forth in or accorded under this Agreement.

13. Notwithstanding any other provision of this Agreement to the contrary, if, following the second Five Year Review conducted by EPA with respect to OU-2 Remedial Action, the Town wishes to take title to the Project and all elements and components thereof and appurtenances thereto and, as an integral part thereof, assume and duly perform Project Maintenance in accordance with the O&M Plan, then the Town may so notify the Companies in writing and, if approved by EPA and DFM, the following shall occur:

(a) The Town shall assume and duly agree in writing for the benefit of the Companies and EPA to perform all of the Companies' obligations under the terms of the O&M Plan and all other obligations of the Companies under the Consent Decree as they relate solely and exclusively to the Project (and not as to any other matter covered by or regulated under the Consent Decree). Such agreement shall be consented to in writing by EPA, and shall include an acknowledgment and agreement by EPA that it shall look solely to the Town, and not to the Companies, with respect to all such matters that the Town is assuming and agreeing to perform with respect to the Project.

(b) Upon the agreement described in Paragraph 13(a) hereof being executed and delivered by all of the parties that are signatory to it and becoming effective in accordance with its terms, the Companies or their designee that owns the Project shall execute an instrument conveying all of their/its right, title and interest in and to the

Project and all elements and components thereof and appurtenances thereto to the Town without charge or cost to the Town.

(c) Upon the agreement described in Paragraph 13(a) hereof being executed and delivered by all of the parties that are signatory to it and becoming effective in accordance with its terms and the conveyance of title to the Project being effected as provided in Paragraph 13(b) hereof, this Agreement and all rights of access and licenses granted by the Town hereunder shall terminate and be of no further force or effect, except that the provisions of Paragraph 9 hereof shall survive such termination as to all acts or omissions of the parties preceding the date of termination and, as such, shall be binding upon and inure to the benefit of the parties and their successors and assigns thereafter.

14. If any provisions of this Agreement or any application thereof shall be deemed by a court to be invalid or unenforceable under a given set of circumstances, said provision(s) shall be interpreted so as to permit their enforceability to the maximum extent possible, failing which, this Agreement shall be interpreted as if such provision(s) were not a part hereof, and the remainder of this Agreement shall not be affected thereby.

15. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

16. This Agreement and the attachments thereto contain all of the agreements of the parties with respect to the subject matter hereof and supersedes and terminates all prior or contemporaneous oral and written negotiations and dealings between them with respect to such subject matter. The agreement of parties contained in this Agreement shall not be modified or amended unless such modification or amendment is in writing and signed by the parties hereto.

17. This Agreement shall remain in full force and effect and be binding upon and inure to the benefit of all successors and assigns of the parties hereto, unless and until terminated pursuant to the provisions of Paragraph 7 or Paragraph 13(c) hereof, or otherwise terminated by written agreement executed by the Town and the Companies, which agreement shall be approved in writing by EPA.

18. The Companies shall not assign any right or delegate any duty under this Agreement without the prior written consent of the Town. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding upon, the parties' respective successors and assigns.

19. In any action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs.

[Signatures are on Next Page]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as a sealed instrument as of the date first above written by the duly authorized representatives of the Town and the Companies.

TOWN OF WINCHESTER

By: _____
Its _____, Being hereunto duly authorized

BAYER CROPSCIENCE INC. (by its Litigation Agent Stauffer Management Company LLC) and PHARMACIA LLC [formerly known as Pharmacia Corporation] (by its Attorney-in-Fact Monsanto Company)

By: de maximis, inc., their Project Coordinator

By: 
Its DAVID, Being hereunto duly authorized

EXHIBIT A

Operation and Maintenance Plan

The following Project Operation and Maintenance shall be conducted by the Companies or their Project Coordinator with respect to the Center Falls Dam Fish Ladder ("Fish Ladder"):

- Inspect the Fish Ladder at least weekly to remove any accumulated debris during the period from March 1 to October 31.
- Inspect the Fish Ladder monthly to remove accumulated debris during the period from November 1 to February 28 (or February 29, as applicable).
- Inspect the Fish Ladder annually and perform maintenance, if and as required, on the Fish Ladder in order to maintain the fishway in a condition that provides safe and efficient passage for sea-run fish.
- Inspect the channel immediately downstream and upstream of the Fish Ladder annually and remove accumulated debris/plant grown that may obstruct the Fish Ladder.
- Remove the Fish Ladder flash boards at the beginning of each migratory season (March 1) and re-install them at the end (October 31) of each migratory season.
- Document annual maintenance records (including repairs) to the Fish Ladder and major events related to river herring run.
- Modify the Operations and Maintenance Plan, including developing gate operating thresholds that relate to rainfall and streamflow data, three years after installation for review and approval by Town.
- Install staff gauge and monitor and record water levels upstream of the Fish Ladder on a weekly basis.
- Provide copies of reports, records and other documents prepared in connection with operation, maintenance and repair of the Fish Ladder as requested by the Town.

EXHIBIT B

VHB SCOPE OF SERVICES

Task 1 – 100% Remedial Design Drawing Review

On behalf of the City of Winchester, VHB will review the revised 100% Remedial Design Part 2 Drawings associated with installation of the Center Falls Dam Fish Ladder prepared by Haley & Aldrich for completeness based on comments and input from Mass Fisheries. This task assumes four (4) hours.

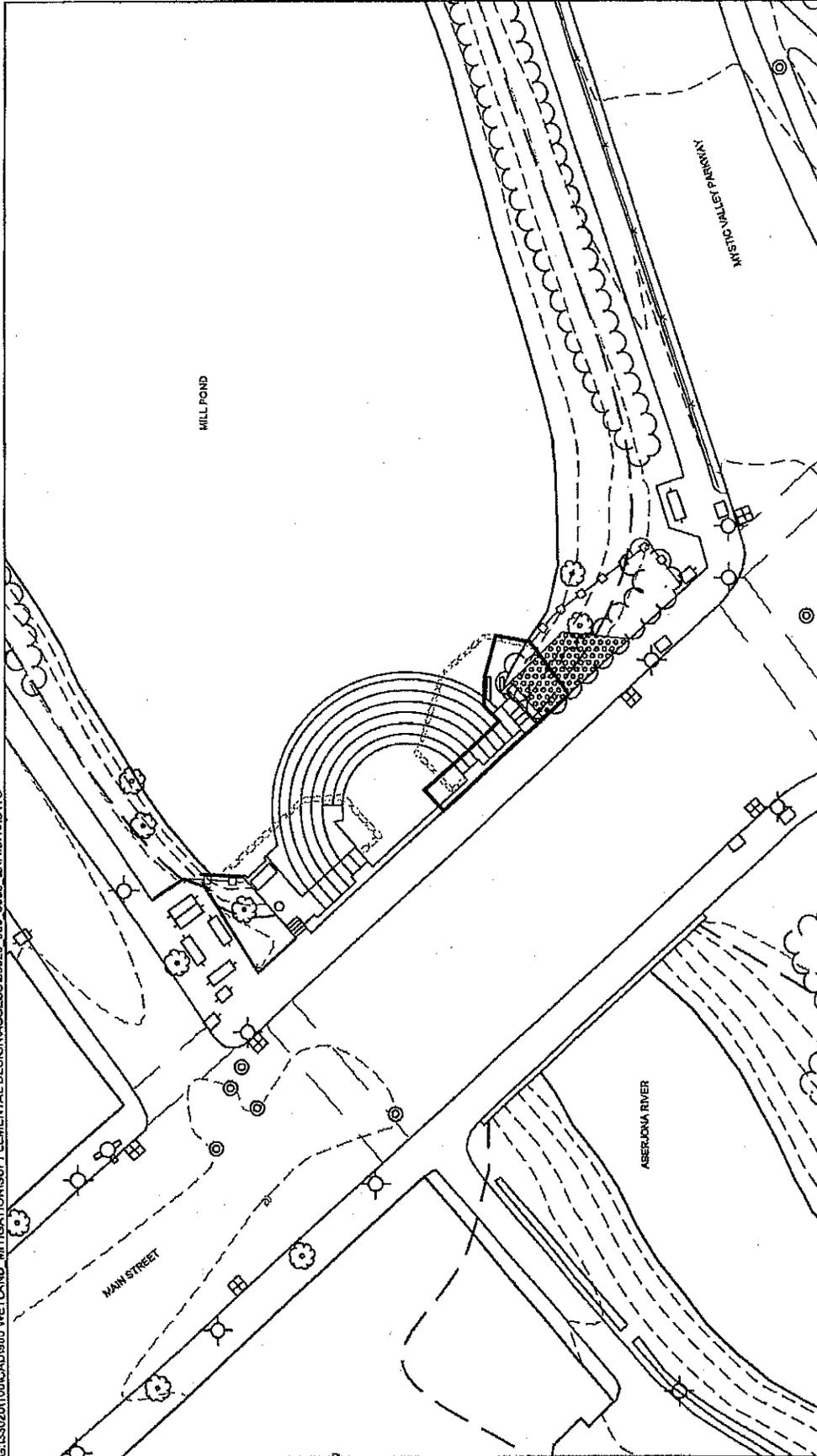
Task 2 – Remedial Action Meetings & Construction Oversight

On behalf of the City of Winchester, VHB will attend weekly Remedial Action meetings during construction activities, which is assumed to be for seven (7) weeks and conduct construction oversight during installation of the fish ladder. This task assumes one (1) visit per week for four (4) hours including travel.

VHB will perform the Scope of Services contained in Task 1-2 on a not-to-exceed basis as summarized below:

Not-To-Exceed Tasks	Fee
Task 1: Design Review	\$860.00
Task 2: Meetings & Construction Oversight	\$6,020.00
Total:	\$6,880.00

GARDNER, ZACHARY Printed: 7/12/2016 9:50 AM Layout: EXHIBIT 3 (04M)
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LEGEND

— LIMIT OF POTENTIAL OM&M WORK



HAILEY ALDRICH

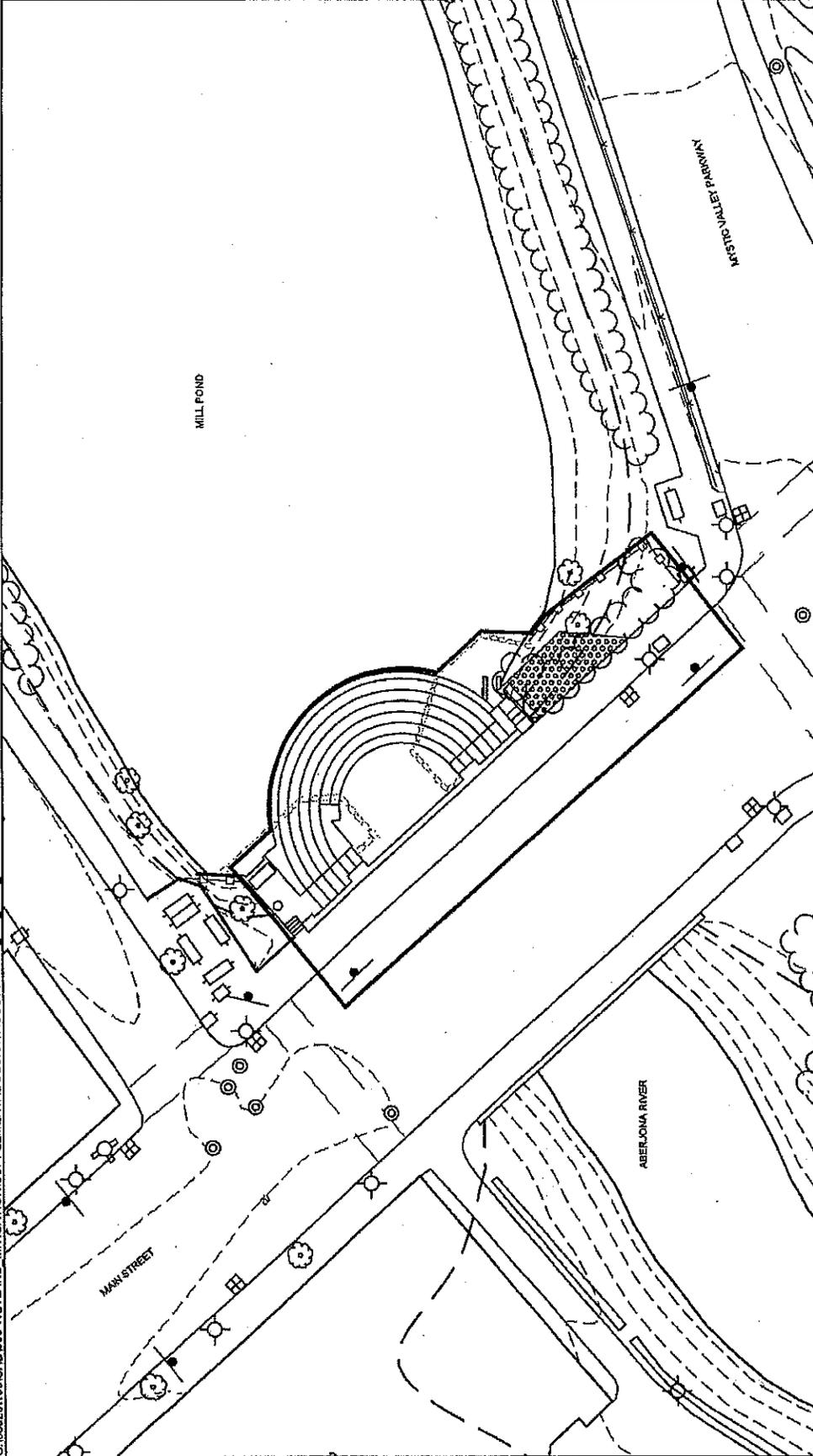
100% REMEDIAL DESIGN
INDUSTRIAL-PLEX OPERABLE UNIT 2 SUPERFUND SITE

RIGHTS OF ACCESS - OM&M PHASE
CENTER FALLS DAM FISH LADDER
WINCHESTER, MASSACHUSETTS

SCALE: AS SHOWN
JULY 2016

EXHIBIT C

GARDNER, ZACHARY Printed: 7/12/2016 9:56 AM Layout: EXHIBIT 3(CONSTRUCTION)
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LEGEND

— LIMIT OF WORK - CONSTRUCTION PHASE

HAILEY ALDRICH

100% REMEDIAL DESIGN
INDUSTRIAL/PLEX OPERABLE UNIT 2 SUPERFUND SITE

RIGHTS OF ACCESS -
CONSTRUCTION PHASE
CENTER FALLS DAM FISH LADDER
WINCHESTER, MASSACHUSETTS

SCALE: AS SHOWN
JULY 2016

EXHIBIT C



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

BUSINESS

Docket Item **G - 3:** Complete Street – VOTE to authorize Funding Agreement

Supporting Documents:

G - 3: Complete Streets Funding Program – Tier 3
Construction Funding Agreement

Action Required: VOTE to authorize the Town Manager to sign agreement.

Complete Streets Funding Program
Tier 3 Construction Funding Agreement

Agreement Number: _____

Date: _____

MUNICIPALITY:

PROJECT: Complete Streets Improvements - FY17

This Agreement made and entered into by and between the MASSACHUSETTS DEPARTMENT OF TRANSPORTATION, hereinafter called "MassDOT", and the City/ TOWN OF _____, (hereinafter called the "MUNICIPALITY"), and

WHEREAS, the MUNICIPALITY proposes to construct Project/(s) from its approved Prioritization Plan:

Rank Projects

WHEREAS, the Scope of Work for each Project/(s) is described in "EXHIBIT A", (hereinafter referred to as the "PROJECT") and shall be in accordance with the Tier 3 project approvals from the Complete Street Program and shall be constructed per the plans, specifications, and estimate (hereinafter referred to as "SPECIFICATIONS") and where only locally funded roads are eligible and MassDOT will not pay for work done on State owned Roadways, and

WHEREAS, said SPECIFICATIONS set forth by the MUNICIPALITY, shall be in conformance with, but not limited to the following current documents as amended; MassDOT's Project Development and Design Guide, MassDOT's Construction and Traffic Standard Details, MassDOT's Highway Design Manual, MassDOT's Bridge Manual, MassDOT's Standard Specifications for Highways and Bridges, MassDOT's Standard Drawings for Traffic Signals and Highway Lighting; the latest edition of American Standard for Nursery Stock; 521 CMR Rules and Regulations of the Architectural Access Board (AAB) and Americans with Disabilities Act (ADA), the Manual on Uniform Traffic Control Devices, any and all state or federal regulations, and/or to the satisfaction of MassDOT - Highway Division, Chief Engineer.

WHEREAS, said the total estimated construction cost is \$ _____, as described within "EXHIBIT B", (the "Preliminary Estimate Form") for each for location, and

WHEREAS, the PROJECT is to be financed by funds provided by the MassDOT's Highway Operating funds in accordance under appropriation 61000050, and WHEREAS MassDOT's State Aid Engineer's and MassDOT's Highway Engineering Division shall review the PROJECT's items of work described within "EXHIBIT "B" to ensure they are commensurate with the PROJECT's Scope of Work, and

WHEREAS, if the funding for this agreement is not spent by June 30, 2017, the remaining funds left shall be forfeited by the MUNICIPALITY,

WHEREAS, the Contractor to be eligible to bid on said projects, shall be approved by MassDOT's prequalification process, in accordance with M.G.L. c 81 subsection 8B, and

WHEREAS, the parties hereto have reached an agreement as to the apportionment of work and expense necessary for the completion of the PROJECT.

NOW THEREFORE, in consideration of the obligations contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, MASSDOT and the MUNICIPALITY hereby agree, each with the other, as follows:

DIVISION OF WORK

The MUNICIPALITY shall provide by its own Contractors and/or Subcontractors all necessary labor materials, equipment and other services to construct said PROJECT pursuant with any and all applicable SPECIFICATIONS, local, state and federal laws or regulations in accordance with the attached Scope of Work ("Exhibit A"), and the Preliminary Estimate Form ("Exhibit B"). The Contractor to be eligible to bid on said projects shall be approved in accordance with to MassDOT's prequalification process, where the application forms are located on MassDOT's Highway Division Web Site, under Construction Prequalification. The MUNICIPALITY shall follow the same guideline as if the said Projects were under the Chapter 90 Program.

In addition, any and all construction activities or related work required for the construction of said PROJECT shall be in conformance with any and all policies and procedures of MASSDOT.

The MUNICIPALITY shall obtain any and all permits and easements required to complete the work for said PROJECT.

DIVISION OF EXPENSE

The MassDOT will reimburse the MUNICIPALITY for the actual costs incurred to complete the PROJECT up to, but not exceeding the amount approved in "EXHIBIT B". Amount for said PROJECT shall not to exceed \$400,000 per fiscal year. All costs incurred shall be approved by MASSDOT prior to reimbursement. Any costs in and above this amount shall be borne by the MUNICIPALITY.

METHOD OF PAYMENT TO THE MUNICIPALITY

Section 1. During the course of the PROJECT, the MUNICIPALITY may present monthly progress bills of the incurred costs for approval and payment by MASSDOT.

Section 2. Upon the completion of the PROJECT to the satisfaction of MASSDOT and the MUNICIPALITY, written notification shall be given to the District Highway Director of MASSDOT by the MUNICIPALITY that said work has been completed and, within 120 days thereof, the MUNICIPALITY will submit to MASSDOT a final detailed bill (in quintuplicate) as required, and final settlement will then be made between the MassDOT and the MUNICIPALITY. The MUNICIPALITY shall follow MassDOT's CHAPTER 90 process under the Tier 3 program to complete any and all forms for reimbursement, and as directed by MassDOT's State Aid Engineers. The said Billing shall be reviewed by the District's State Aid Engineer, and upon approval the billing shall be forwarded to MassDOT - Highway Engineering Division - Project Roadway Development Section for authorization of said payments. This information may be submitted in an electronic format compatible with MASSDOT's needs.

Section 3. All reimbursable charges in connection with this Agreement will be subject to audit by representatives of MASSDOT and the MUNICIPALITY will retain all records and documents pertaining to the Agreement charges until such audit is completed or until written approval to destroy the records is given by MASSDOT.

The Governor or his designee, the Secretary of Administration and Finance, and the State Auditor or his designee shall have the right at reasonable times and upon reasonable notice to examine the books, records and other complications of data of the MUNICIPALITY which pertain to the performance of the provisions and requirements of this Agreement.

FUTURE MAINTENANCE

The MUNICIPALITY shall continue sole responsibility for the maintenance and upkeep of all property associated with the PROJECT and the costs thereof.

MISCELLANEOUS

This agreement shall not be considered fully executed, and work shall not commence until MASSDOT signs this agreement and the MUNICIPALITY has received an official Notice to Proceed from MASSDOT.

EXPIRATION DATE

This agreement is set to expire on June 30, 2017. An extension for this agreement after this date will not be granted and the said agreement shall be terminated. If an extension of time is needed beyond this date, a request is needed in writing with a minimum 60-day advance notice before the expiration date. The request will need to address the current expiration date, the proposed expiration date and any other information deemed necessary. MassDOT, in its absolute discretion, may agree to grant said request for an extension of time if it finds that sufficient justification has been provided by the MUNICIPALITY.

The request will need to address the current expiration date, the proposed expiration date and any other information deemed necessary. An extension for this agreement after this date will not be granted and will be terminated.

Howard, Richard

From: Rudolph, Beth
Sent: Tuesday, August 02, 2016 4:04 PM
To: Howard, Richard; 'Wade Welch'
Cc: White, Margaret; Gill, James
Subject: Complete Streets Funding Agreement
Attachments: CS_Tier 3 Construction Funding Agreement.pdf

Wade and Richard-

As part of MassDOT's Complete Street's program, the Town of Winchester is required to complete the attached Funding Agreement. Can you please review and let me know if you have any comments on the form of this agreement? MassDOT would like the agreement returned by August 10th. It appears to be very similar to the process used for the administration of Chapter 90 funds.

Thank you.
Beth

Beth Rudolph, P.E.
Town Engineer
Engineering Department
71 Mount Vernon Street
Winchester, MA 01890
Tel: 781-721-7120
Fax: 781-721-7166
Email: brudolph@winchester.us



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

BUSINESS

Docket Item G - 4: TriCommunity Bikeway Temporary and Permanent Easement
VOTES

Supporting Documents:

G - 4: DRAFT Easement documents

Town Engineer will bring originals for the Board's signature.

Action Required: VOTE to authorize temporary and Permanent Easements

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF WINCHESTER
BOARD OF SELECTMEN**

**ORDER OF TAKING OF TEMPORARY CONSTRUCTION AND ACCESS
EASEMENTS AND PERMANENT EASEMENTS FOR THE
TRI-COMMUNITY BIKEWAY IN WINCHESTER, MASSACHUSETTS**

The Town of Winchester, a Massachusetts municipal corporation whose mailing address is 71 Mount Vernon Street, Winchester, Massachusetts 01890 (the "Town"), acting by and through its Board of Selectmen, by the authority of Massachusetts General Laws Chapters 40 and 79, as amended, and upon the authority of the vote by the Town of Winchester Spring 2014 Town Meeting on Article 10 (attached hereto as Exhibit A) and by virtue of every other power and authority hereto enabling us, having complied with all of the preliminary requirements prescribed by law, do hereby adopt and decree this Order of Taking and, by the right and power of eminent domain, take from the supposed owners of those properties described below non-exclusive, temporary construction and access easement and permanent easements in connection with the construction, use, and enjoyment of the Tri-Community Bikeway.

The properties to which this Order of Taking applies are located on Irving Street, Tufts Road, Cross Street, and Washington Street in Winchester, Massachusetts, and shown on the following plans, a true copy of which is recorded at the Middlesex South Registry of Deeds ("Registry") herewith. A reduced copy of these plans is attached hereto as Exhibit B.

- Plan entitled "Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Muraco School & Leonard Field – Irving St. to Cross St. – Winchester, Massachusetts", containing four (4) sheets, prepared by Green International Affiliates, Inc., and dated June 10, 2016.
- Plan entitled "Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Davidson Park & Winchester Hospital – Cross St. to Washington St. – Winchester, Massachusetts", containing three (3) sheets, prepared by Green International Affiliates, Inc., and dated June 10, 2016.

- Plan entitled “Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Washington St. – Winchester, Massachusetts”, containing one (1) sheet, prepared by Green International Affiliates, Inc., and dated June 10, 2016.

**SECTION I
PERMANENT EASEMENTS**

The Town and the general public shall hereby acquire the non-exclusive perpetual right to enter upon, travel over, maintain, repair, and use those portions of the property in the permanent easement areas shown on the plans and further described in the table below, hereafter referred to as the “Permanent Easement Areas” for the construction, use, and enjoyment of the Tri-Community Bikeway, a paved recreation path.

Parcel	Assessors ID	Supposed Owner(s)	Address	Area (sf)	Title Reference
X-E-19	Map 12, Lot 167	Winchester Hospital	620 Washington St.	9,771	Book 44580, Page 62
X-E-20	Map 12, Lot 167	Winchester Hospital	620 Washington St.	671	Book 44580, Page 62

Such permanent rights and easements in the Permanent Easement Areas are taken for, by way of illustration and without limitation, the passage of pedestrians, bicyclists, and other non-motorized uses; as well as the permanent construction of pavement, appurtenances, and other improvements associated with the recreational path, including but not limited to grading, landscaping, and compensatory flood storage. The property owner shall not make any improvements to the easement areas materially inconsistent with the allowed purposes described herein.

Any and all soil, earth materials, trees, vegetation, structures, and improvements and/or portions thereof on or within the Permanent Easement Areas are included in this Order of Taking.

**SECTION II
TEMPORARY EASEMENTS**

The Town and the general public shall hereby acquire the non-exclusive temporary right to enter upon, travel over, and use those portions of the property in the temporary easement areas shown on the plans and further described in the table below, hereafter referred to as the “Temporary Easement Areas”, for the purposes of access to and construction of the Tri-Community Bikeway, a paved recreational path.

Parcel	Assessors ID	Supposed Owner(s)	Address	Area (sf)	Title Reference
X-TE-27	Map 11, Lot 168	Jeffrey S. and Susan M. Siegel	63 Irving Street	37	Book 27118, Page 240
X-TE-29	Map 11, Lot 208	Helen Louise and Paul W. Curran	36 Tufts Road	289	Book 26818, Page 58
X-TE-32	Map 11, Lot 209	David M. and Kristin L. Taylor	37 Tufts Road	94	Book 28805, Page 111
X-TE-35	Map 11, Lot 257	Cross Street LLC	50 Cross Street	95	Book 30107, Page 594
X-TE-43	Map 12, Lot 167	Winchester Hospital	620 Washington Street	13,915	Book 44580, Page 62
X-TE-44	Map 12, Lot 168	Catholic Cemetery Association of the Archdiocese of Boston, Inc.	Washington Street	648	Book 1282, Page 148
X-TE-45	Map 12, Lot 169	Mark E. and Lori Stachelski	700 Washington Street	865	Book 53651, Page 518
X-TE-46	Map 12, Lot 186	Benoit and Corinne Denis	704 Washington Street	965	Book 43110, Page 370
X-TE-47	Map 12, Lot 179	James A. and Mizue M. Krygowski	710 Washington Street	662	Book 49623, Page 322
X-TE-48	Map 12, Lot 170	Javier and Victoria Garcia-Albea	720 Washington Street	1,130	Book 62143, Page 187

Such temporary rights and easements in the Temporary Easement Areas are taken for by way of illustration and without limitation, (a) excavating, clearing, filling, grading, re-grading, landscaping, maintaining and restoration of the Temporary Easement Areas, (b) entering upon and travel over the Temporary Easement Areas by foot and by vehicle, including but not limited to placing, moving, and using construction vehicles, equipment and materials, and (c) removing any earth, materials, improvements, trees, vegetation, and any structures, fixtures, obstructions, or other improvements now or hereafter located at, on, or under the Temporary Easement Areas.

The temporary easements acquired pursuant to this Order of Taking shall expire three (3) years from the date that the instrument is recorded at the Middlesex South Registry of Deeds.

The Temporary Easement Areas shall remain the property of their owners and may be used by them and their successors, heirs, and assigns, for any lawful purpose not inconsistent with the use of the Temporary Easement Areas for the purposes set forth in this Order of Taking. Any and all soil, earth materials, trees, vegetation, structures and improvements and/or portions thereof on or within the Temporary Easement Areas are included in this Order of Taking.

The damages sustained by the property owners listed above by reason of the taking are valued and awarded in a resolution of even date adopted by the Winchester Board of Selectmen in accordance with Massachusetts General Law Chapter 79, as amended.

The names of the owners herein given, although supposed to be correct, are such only as matters of opinion and belief.

We hereby direct this Order of Taking to be filed with the Registry within the time required by law and with the Town Clerk, and that notice be given to the affected property owners whose property has been taken on account of this Order of Taking. The property owners shall be notified of the time within which they may petition the Superior Court to determine his or her damages in accordance with the provisions of M.G.L., Chapter 79.

In the event that any provision of this Order of Taking is deemed by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this Order of Taking shall be valid and enforceable to the fullest extent permitted by law.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

EXECUTED as a sealed instrument as of this _____ day of August, 2016.

TOWN OF WINCHESTER,
By its Board of Selectmen:

Lance R. Grenzeback, Chairman

E. James Whitehead, Vice Chairman

Stephen L. Powers

Michael Bettencourt

David Errico

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2016, personally appeared Lance R. Grenzeback, E. James Whitehead, Stephen L. Powers, Michael Bettencourt, and David Errico, known to be members of the Winchester Board of Selectmen and acknowledged the foregoing instrument to be their free act and deed, and the free act and deed of the Board of Selectmen and of the Town of Winchester.

Notary Public
My commission expires:

EXHIBIT A

Town Clerk Certified Copy of the 2014 Spring Town Meeting Vote on Article 10

EXHIBIT B

Reduced Copy of Easement Plans

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF WINCHESTER
BOARD OF SELECTMEN**

**RESOLUTION REGARDING DAMAGE AWARD FOR ORDER OF TAKING OF
TEMPORARY CONSTRUCTION AND ACCESS EASEMENTS AND PERMANENT
EASEMENTS FOR THE TRI-COMMUNITY BIKEWAY IN WINCHESTER,
MASSACHUSETTS**

WHEREAS, the Board of Selectmen of the Town of Winchester has this day determined that pursuant to Massachusetts General Laws Chapter 40 and 79, as amended, and upon the authority of the vote by the Town of Winchester Spring 2014 Town Meeting on Article 10 that the taking by eminent domain of temporary construction and access easements and permanent easements at those parcels of land in Winchester, Massachusetts described in the Order of Taking executed herewith for the purposes of the construction, use, and enjoyment of the Tri-Community Bikeway, a paved recreational path.

WHEREAS, the Board has this day approved such Orders of Taking pursuant to Massachusetts General Law Chapter 40 and Chapter 79, as amended, for the taking of such temporary and permanent easements.

WHEREAS, each of the owners of the parcels have been offered just compensation for the taking of these temporary and permanent easements in accordance with the requirements of Chapter 79 and the Uniform Relocation and Assistance Act of 1970, both as amended.

BE IT NOW THEREFORE RESOLVED, that the sums listed below, if any, are awarded as damages for the taking of the parcels as described in the Order, and paid to or divided among the claimant or claimants producing evidence to the Board's satisfaction of an ownership interest in the parcels, unless otherwise waived by the claimant(s); and

FURTHER RESOLVED, that if any party named herein as an owner of any parcel(s) that is not a true owner of said parcel(s), then the award, if any, is made only to the true owner; and

FURTHER RESOLVED, that the Treasurer of the Town of Winchester is hereby authorized and directed to immediately issue checks to the supposed property owner in the amount(s) authorized below for the Damage Award. The property owners shall be notified of the time within which they may petition the Superior Court to determine his or her damages in accordance with the provisions of M.G.L, Chapter 79; and

FURTHER RESOLVED, that the Town reserves the right to withhold any payment from any claimant(s) who cannot establish ownership of the whole title to any parcel(s) to the Town's satisfaction, or to impose additional conditions prior to a partial payment. Prior to the release of the payment, the claimant(s) must complete and return IRS Form W-9: Request for Taxpayer Identification Number and Certification to the Treasurer of the Town of Winchester.

PERMANENT EASEMENTS

Parcel	Assessors ID	Supposed Owner(s)	Address/ Location	Area (sf)	Title Reference	Damage Award
X-E-19	Map 12, Lot 167	Winchester Hospital	620 Washington St.	9,771	Book 44580, Page 62	\$20,000
X-E-20	Map 12, Lot 167	Winchester Hospital	620 Washington St.	671	Book 44580, Page 62	\$1,500

TEMPORARY EASEMENTS

Parcel	Assessors ID	Supposed Owner(s)	Address	Area (sf)	Title Reference	Damage Award
X-TE-27	Map 11, Lot 168	Jeffrey S. and Susan M. Siegel	63 Irving Street	37	Book 27118, Page 240	\$1,500
X-TE-29	Map 11, Lot 208	Helen Louise and Paul W. Curran	36 Tufts Road	289	Book 26818, Page 58	\$6,100
X-TE-32	Map 11, Lot 209	David M. and Kristin L. Taylor	37 Tufts Road	94	Book 28805, Page 111	\$1,700
X-TE-35	Map 11, Lot 257	Cross Street LLC	50 Cross Street	95	Book 30107, Page 594	\$1,500
X-TE-43	Map 12, Lot 167	Winchester Hospital	620 Washington Street	13,915	Book 44580, Page 62	\$8,000
X-TE-44	Map 12, Lot 168	Catholic Cemetery Association of the Archdiocese of Boston, Inc.	Washington Street	648	Book 1282, Page 148	\$1,500
X-TE-45	Map 12, Lot 169	Mark E. and Lori Stachelski	700 Washington Street	865	Book 53651, Page 518	\$11,600
X-TE-46	Map 12, Lot 186	Benoit and Corinne Denis	704 Washington Street	965	Book 43110, Page 370	\$13,000
X-TE-47	Map 12, Lot 179	James A. and Mizue M. Krygowski	710 Washington Street	662	Book 49623, Page 322	\$12,710
X-TE-48	Map 12, Lot 170	Javier and Victoria Garcia-Albea	720 Washington Street	1,130	Book 62143, Page 187	\$18,000

ADOPTED as a sealed instrument as of this _____ day of August, 2016.

TOWN OF WINCHESTER,
By its Board of Selectmen:

Lance R. Grenzeback, Chairman

E. James Whitehead, Vice Chairman

Stephen L. Powers

Michael Bettencourt

David Errico

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2016, personally appeared Lance R. Grenzeback, E. James Whitehead, Stephen L. Powers, Michael Bettencourt, and David Errico, known to be members of the Winchester Board of Selectmen and acknowledged the foregoing instrument to be their free act and deed, and the free act and deed of the Board of Selectmen and of the Town of Winchester.

Notary Public
My commission expires:

[Original to be filed with minutes of the Town of Winchester Town Clerk]

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF WINCHESTER
BOARD OF SELECTMEN**

**ORDER OF TAKING OF PUBLIC LAND IN WINCHESTER, MASSACHUSETTS FOR
TEMPORARY CONSTRUCTION AND ACCESS EASEMENT AND
PERMANENT EASEMENTS FOR THE TRI-COMMUNITY BIKEWAY**

The Town of Winchester, a Massachusetts municipal corporation whose mailing address is 71 Mount Vernon Street, Winchester, Massachusetts 01890 (the "Town"), as the owner of certain Town property further described below, acting by and through its Board of Selectmen upon the authority of the vote by the Town of Winchester 2014 Spring Town Meeting on Article 10, attached hereto as Exhibit A, and by virtue of every other power and authority hereto enabling us, do hereby adopt and decree this Order of Taking of the town-owned parcels described below for temporary construction purposes and permanent public access in connection with the construction, use, and enjoyment of the Tri-Community Bikeway.

The portions of the Town-owned property to which this Order of Taking applies are shown on the following plans, a true copy of which is recorded at the Middlesex South Registry of Deeds ("Registry") herewith. A reduced copy of the plans is attached hereto as Exhibit B.

- Plan entitled "Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Mystic Valley Parkway at Waterfield Road – Winchester, Massachusetts", containing two (2) sheets, prepared by Green International Affiliates, Inc., and dated June 10, 2016.
- Plan entitled "Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Mount Vernon Street & Skillings Road – Winchester, Massachusetts", containing one (1) sheet, prepared by Green International Affiliates, Inc., and dated June 10, 2016.
- Plan entitled "Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Horn Pond Brook Road at Lake Street – Winchester, Massachusetts", containing three (3) sheets, prepared by Green International Affiliates, Inc., and dated June 10, 2016.

- Plan entitled “Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Muraco School & Leonard Field – Irving St. to Cross St. – Winchester, Massachusetts”, containing four (4) sheets, prepared by Green International Affiliates, Inc., and dated June 10, 2016.
- Plan entitled “Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Davidson Park & Winchester Hospital – Cross St. to Washington St. – Winchester, Massachusetts”, containing three (3) sheets, prepared by Green International Affiliates, Inc., and dated June 10, 2016.
- Plan entitled “Easement Plan of Land – Tri-Community Bikeway – MassDOT Project No. 604652 – Washington St. at Sunset Rd. – Winchester, Massachusetts”, containing one (1) sheet, prepared by Green International Affiliates, Inc., and dated June 10, 2016.

**SECTION I
PERMANENT EASEMENTS**

The Town and the general public shall have the non-exclusive perpetual right to enter upon, travel over, maintain, repair and use those portions of the Town property in the permanent easement areas shown on the plan and further described in the table below, hereafter referred to as the “Permanent Easement Areas” for the construction, use, and enjoyment of the Tri-Community Bikeway, a paved recreation path.

Parcel	Assessors ID	Address/ Location	Area (sf)	Title Reference
X-E-3	Map 9, Lot 289	Corner of Waterfield Road	9,615	N/A
X-E-5	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	2,877	Book 3654, Page 183
X-E-6	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	3,269	Cert. No. 22285
X-E-7	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	4,379	Book 3654, Page 183
X-E-8	Map 9, Lot 89	Corner of Lake Street	2,169	Book 5348, Page 54
X-E-9	Map 9, Lot 88	Corner of Lake Street	7,153	Book 3048, Page 35
X-E-10	Map 15, Lot 54	Between Lake Street and Horn Pond Brook Road	5,848	Cert. No. 44549
X-E-14	Map 11, Lot 254	Between Tufts Road and Cross Street	12,077	Cert. No. 34807

Parcel	Assessors ID	Address/ Location	Area (sf)	Title Reference
X-E-15	Map 11, Lot 270	Between Tufts Road and Cross Street	715	Book 11614, Page 602
X-E-16	Map 11, Lot 254	Between Tufts Road and Cross Street	9,395	Book 5652, Page 523
X-E-17	Map 12, Lot 44	Off of Cross Street (Davidson Park)	22,609	Book 5512, Page 382
X-E-18	Map 12, Lot 44	Off of Washington Street	3,812	Cert. No. 61845
X-E-21	Map 1, Lot 6	Off of Washington Street	18,440	Cert. No. 37362 & 37373

Such permanent rights and easements in the Permanent Easement Areas are taken for, by way of illustration and without limitation, passage of pedestrians, bicyclists, and other non-motorized uses; as well as pavement, appurtenances, and other improvements associated with the recreational path, including but not limited to grading, landscaping, and compensatory flood storage. The Town shall not make any improvements to the easement areas materially inconsistent with the allowed purposes described herein.

The Town, its heirs, successors, and assigns shall use its reasonable efforts not to disturb the Permanent Easement Areas. All of the provisions, agreements, easements, rights, conditions, and covenants contained in this Order of Taking shall be binding upon the Town and their respective heirs, successors, assigns, representatives. The Permanent Easement Areas created by the Order of Taking is appurtenant to the Town-owned property and all of the provisions of this Order shall constitute equitable servitudes and be covenants running with the land pursuant to applicable law.

SECTION II TEMPORARY EASEMENTS

The Town and general public shall have the non-exclusive temporary right to enter upon, travel over, and use those portions of the Town property in the temporary easement areas shown on the plans and further described in the table below, hereafter referred to as the "Temporary Easement Areas", for the purposes of access to and construction of the Tri-Community Bikeway, a paved recreational path.

Parcel	Assessors ID	Address/Location	Area (sf)	Title Reference
X-TE-5	Map 9, Lot 289	Corner of Waterfield Road	13,758	N/A
X-TE-6	Map 9, Lot 289	Corner of Waterfield Road	4,713	N/A

Parcel	Assessors ID	Address/Location	Area (sf)	Title Reference
X-TE-7	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	2,154	Book 3654, Page 183
X-TE-8	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	2,386	Book 3654, Page 183
X-TE-9	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	1,981	Cert. No. 22285
X-TE-10	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	2,245	Cert. No. 22285
X-TE-11	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	2,948	Book 3654, Page 183
X-TE-12	Map 9, Lot 237	Between Mount Vernon Street and Skillings Road	2,473	Book 3654, Page 183
X-TE-15	Map 9, Lot 89	Corner of Lake Street	402	Book 5348, Page 54
X-TE-16	Map 9, Lot 89	Corner of Lake Street	1,003	Book 5348, Page 54
X-TE-17	Map 9, Lot 88	Corner of Lake Street	29	Book 3048, Page 35
X-TE-18	Map 9, Lot 88	Between Lake Street and Horn Pond Brook Road	1,866	Book 3048, Page 35
X-TE-19	Map 9, Lot 88	Between Lake Street and Horn Pond Brook Road	3,130	Book 3048, Page 35
X-TE-20	Map 15, Lot 54	Between Lake Street and Horn Pond Brook Road	2,238	N/A
X-TE-22	Map 15, Lot 54	Between Lake Street and Horn Pond Brook Road	5,947	Cert. No. 44549
X-TE-23	Map 15, Lot 78	Between Lake Street and Horn Pond Brook Road	1,413	N/A
X-TE-33	Map 11, Lot 254	Between Tufts Road and Cross Street	14,412	Cert. No. 34807
X-TE-34	Map 11, Lot 254	Between Tufts Road and Cross Street	30,307	Cert. No. 34807
X-TE-36	Map 11, Lot 270	Between Tufts Road and Cross Street	964	Book 11614, Page 602
X-TE-37	Map 11, Lot 270	Between Tufts Road and Cross Street	218	Book 11614, Page 602

Parcel	Assessors ID	Address/Location	Area (sf)	Title Reference
X-TE-38	Map 11, Lot 254	Between Tufts Road and Cross Street	9,958	Book 5652, Page 523
X-TE-39	Map 11, Lot 254	Between Tufts Road and Cross Street	10,328	Book 5652, Page 523
X-TE-40	Map 12, Lot 44	Off of Cross Street (Davidson Park)	21,693	Book 5512, Page 382
X-TE-41	Map 12, Lot 44	Off of Cross Street (Davidson Park)	21,339	Book 5512, Page 382
X-TE-42	Map 12, Lot 44	Off of Cross Street (Davidson Park)	8,459	Cert. No. 61845
X-TE-67	Map 1, Lot 6	Off of Washington Street	3,690	Cert. No. 37362 & 37373

Such temporary rights and easements in the Temporary Easement Areas are taken for by way of illustration and without limitation, (a) excavating, clearing, filling, grading, re-grading, landscaping, maintaining, and restoration of the Temporary Easement Areas, (b) entering upon and travel over the Temporary Easement Areas by foot and by vehicle, including but not limited to placing, moving, and using construction vehicles, equipment and materials, and (c) removing any earth, materials, improvements, trees, vegetation, and any structures, fixtures, obstructions, or other improvements now or hereafter located at, on, or under the Temporary Easement Areas.

The temporary easements acquired pursuant to this Order of Taking shall expire three (3) years from the date that the instrument is recorded at the Middlesex South Registry of Deeds. The Town shall be responsible for the recording of this instrument at the Registry.

We direct that this instrument be filed with the Registry and the Town Clerk. In the event that any provision of this instrument is deemed by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this instrument shall be valid and enforceable to the fullest extent permitted by the law.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

EXECUTED as a sealed instrument as of this _____ day of August, 2016.

TOWN OF WINCHESTER,
By its Board of Selectmen:

Lance R. Grenzeback, Chairman

E. James Whitehead, Vice Chairman

Stephen L. Powers

Michael Bettencourt

David Errico

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2016, personally appeared Lance R. Grenzeback, E. James Whitehead, Stephen L. Powers, Michael Bettencourt, and David Errico, known to be members of the Winchester Board of Selectmen and acknowledged the foregoing instrument to be their free act and deed, and the free act and deed of the Board of Selectmen and of the Town of Winchester.

Notary Public
My commission expires:

EXHIBIT A

Town Clerk Certified Copy of the 2014 Spring Town Meeting Vote on Article 10

EXHIBIT B

Reduced Copy of Easement Plans



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

BUSINESS

Docket Item G - 5: Winning Farm Development Agreement

Supporting Documents:

G - 5: Copy of Development Agreement

Action Required: VOTE to approve and sign agreement (RED BOOK).

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") dated June ____, 2016, is entered into by and between the Town of Winchester, acting by and through its Board of Selectmen ("Town" or "Winchester"), and BEK Winchester Winning Farm LLC ("Developer"), with a principal place of business located at 82 Meadowbrook Road, Mashpee, Massachusetts 02649.

RECITALS

The Developer has asked the Town to amend the Winchester Zoning Bylaw ("Zoning Bylaw"): to apply the Attached Residential Cluster Development Overlay District ("ARCDOD"), which is Section 8.7 of the Zoning Bylaw, to a parcel of land owned by Winning Farm, LLC consisting of approximately 12.5 +/- acres, more or less, (the "Property") as is more particularly described in **Exhibit A**. The adoption of the Zoning Amendment would enable the Developer to apply to the Winchester Planning Board for Comprehensive Plan Approval (the "Plan Approval") and to the Winchester Zoning Board of Appeals ("SPGA") for a special permit (the "Special Permit") as required under the ARCDOD for development of an Attached Residential Cluster Development on the Property. The Plan Approval and Special Permit, together with all other local, state and federal approvals collectively, are referred to as the "Permits." The structures, infrastructure and other development improvements described in the Permits are sometimes herein referred to collectively as the ("Improvements" or the "Project").

AGREEMENT

Now, therefore, for mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Developer agree that if, and only if, (i) the Zoning Amendment is adopted at the Town Meeting substantially in the form attached hereto as Exhibit B without modifications that materially adversely affect the Developer's rights as set forth herein; and (ii) the Zoning Amendments are subsequently approved by the Commonwealth's Office of the Attorney General; and (iii) the Developer obtains the Permits as set forth in this Agreement and purchases the Property from Winning Farm, LLC, then the Developer shall promptly proceed with the development of the Property pursuant to the Permits and the provisions of this Agreement, and the Town and the Developer shall each perform the actions as set forth herein.

From and after substantial completion of the Improvements, the Developer, for itself and its successors and assigns, covenants, promises and agrees to continuously and without interruption, except in the ordinary course of operation and maintenance thereof, devote the Property exclusively to the combination of uses described herein and as described in the Permits, as they may be amended from time to time or in other applicable zoning in effect from time to time, except as hereinafter provided. Other than the Improvements, no other structures or facilities of any kind shall be constructed on the Property, unless permitted by an amendment to the Permits or to the ARCDOD.

A. MUNICIPAL WATER SUPPLY

1. Required Improvements. The Developer shall construct and / or modify, at its sole expense, the municipal water supply improvements necessary to increase the existing water pipe connection and

to provide adequate fire protection pressure for all phases of the Project. The design and permitting of these improvements shall be in accordance with the Town's "Special Provisions for Construction of Roadways including the Installation of Water, Sewer and Drains in the Town of Winchester" and any other standard engineering practices as may be reasonably required by the Town. The final design and the installation of the required municipal water supply improvements shall be approved by the Winchester Department of Public Works, Engineering Department and Fire Department. Fees associated with the water connection will be assessed to the Developer in accordance with the Town's Sewer Demand Fee and Water Demand Fee as established by the Town of Winchester Sewer and Water Commissioners on January 15, 1998, as revised by the Winchester Board of Selectmen on June 25, 2007.

2. Looped Service. The Developer, at its sole cost and expense, shall provide a water main to service the Project. The design as approved by the Town Engineer, shall be in accordance with the requirements of the Department of Public Works. The connection to the existing water main shall be as per the instructions of the Department of Public Works, Engineering Department and Fire Department.

3. MWRA Permits. The Developer shall obtain, at its sole cost and expense all necessary system permits from the Massachusetts Water Resources Authority ("MWRA") for the water supply improvements.

B. MUNICIPAL SEWER FACILITIES

1. Town Connection. The Developer shall, at its sole cost and expense, prepare all plans and permit applications necessary to apply for and receive permits to create new connections and/or to modify the existing connections to the Town's sewer system in order to provide adequate sewer services for all phases of the Project. The final design and the installation of required municipal sewer improvements shall be approved by the Public Works Department and the Engineering Department. The design, permitting and construction of all sewer facilities shall be in accordance with the Town's "Special Provisions for Construction of Roadways including the Installation of Water, Sewer and Drains in the Town of Winchester" and any other standard engineering practices as may be reasonably required by the Town. Fees associated with the sewer improvements shall be assessed to the Developer in accordance with the Town's Sewer Demand Fee and Water Demand Fee as established by the Town of Winchester Sewer and Water Commissioners on January 15, 1998, as revised by the Winchester Board of Selectmen on June 25, 2007.

2. Infrastructure Improvements

- a.** Prior to the issuance of any certificate of occupancy the Developer shall fund certain pump station improvements at the Thornberry Road pump station and fund certain downstream sewer improvements on Johnson Road and Wildwood Street consistent with the plans and specifications prepared by Weston & Sampson and set forth in Exhibit C.
- b.** At closing, the Developer will provide the Town with a bond or other security acceptable to the Board of Selectmen in the amount of Five-hundred Thousand USD (\$500,000) to secure payment of the infrastructure improvements as defined in a above and as referenced in section G-3.
- c.** The Developer shall be responsible for all water, sewer and drains located on the site

C. TRAFFIC IMPROVEMENTS

1. Roads and Parking Areas. The Developer shall construct the streets and parking areas within the Project. All such streets and parking areas shall remain privately owned and, until completion of the Project, shall be maintained, repaired, replaced and rebuilt by the Developer, its heirs, successors and assigns, at its/their sole cost and expense. The Developer or its successor in interest shall be responsible for maintenance of the roads and parking areas until such time that the Homeowners Association assumes responsibility for same. The Developer shall notify the Board of Selectmen ninety (90) days prior to the assumption of responsibility by the Homeowners Association.

2. Board of Selectmen Approval. Prior to the commencement of any work within the Town's right-of-way to make any local traffic improvements that may be required by the SPGA, the Developer shall obtain approval for the proposed traffic mitigation measures from the Board of Selectmen in their capacity as Traffic Commissioners.

3. Repaving and Repair. After installation of the required water, sewer and drainage improvements, the Developer shall repave/repair the affected streets and sidewalks in accordance with the technical requirements established in Section 2.0 of the "Rules and Regulations Governing Street Opening Permits and Grants of Location in the Town of Winchester, Massachusetts" adopted April 30, 2007, and the "Special Provisions for the Construction of Roadways Including the Installation of Water, Sewer and Drains in the Town of Winchester, Massachusetts," and any other conditions as may be reasonably required by the Engineering Department and the Department of Public Works.

D. PROJECT LIMITS, DESIGN AND SECURITY

1. Aggregate Limits. The Developer's application for a Special Permit pursuant to the ARCDOD shall

a. The Project shall be limited to twenty-nine (29) total dwelling units of which two (2) dwelling units shall be affordable pursuant to the provisions of Paragraph G(1).

b. All of the dwellings shall be located in townhouses or stand-alone units, but in no case shall there be stacked "flat" units (units on top of other units).

2. Age-Restriction. The Project shall be subject to an age-restriction (55 and over) consistent with the Fair Housing Act, 42 USC Section 3607(b), as amended, and the Housing for Older Persons Act (HOPA) and the regulations promulgated thereunder. The Developer's application for a special permit under the ARCDOD shall propose such age-restriction, and the Developer shall not appeal the imposition of such condition in the grant of any special permit.

3. Plan Consistency. The application for Comprehensive Plan Approval under ARCDOD Section 8.7.4 of the Zoning Bylaw shall be limited to no more than twenty-nine (29) total dwelling units of which two (2) dwelling units shall be affordable.

4. Performance Guaranty. To the extent that, for any reason, substantial water, sewer or drainage improvements, or other such substantial improvements are not completed prior to the Developer's

application for the 20th certificate of occupancy for a dwelling unit (provided, however, that no certificate of occupancy shall be issued without a determination from the Building Commissioner, after consultation with the Engineering Department and the DPW, that the dwelling unit is adequately served with utilities in accordance with applicable health and safety standards), the Developer agrees that the SPGA may require, as a condition for the issuance of any such certificate of occupancy, security for such incomplete work in the manner provided for securing construction of ways and the installation of municipal services set forth in G.L. c. 41, §81U, paragraphs (1), (2) and (4) and as determined by the SPGA. The amount of such security shall be determined by the SPGA after consultation with the Developer and the Town Engineer and shall be sufficient to cover the design and construction of any such incomplete work whether required under the Special Permit or by any other municipal permitting entity.

5. Chapter 40B. The Developer hereby agrees and covenants for and on behalf of itself, its successors and assigns that the Property shall not be, now or ever, proposed as the site for dwelling units or developed for dwelling units pursuant to G.L. Chapter 40B, ss. 20-23, the Comprehensive Permit Law. This restriction may be enforced by a restraining order, injunction or any other available remedy.

E. SITE SERVICES AND UTILITIES

1. Private Services. Until completion of the Improvements, the Developer, or its successors or assigns, shall be solely responsible for the maintenance and operation of all Project-related services, including but not limited to refuse and trash removal, snow removal, road and sidewalk maintenance, lighting, landscape maintenance and other similar activities related to the operation of the Project to be built on the Property. The Developer or its successor in interest shall be responsible for maintenance of the water, sewer and drainage lines servicing the development from their connection with the Town-owned mains, until such time that the Homeowners Association assumes responsibility for same. The Developer shall notify the Board of Selectmen ninety (90) days prior to the assumption of responsibility by the Homeowners Association.

2. Board of Health. Solid waste disposal shall be handled in accordance with the rules and regulations of the Board of Health.

3. Underground Utilities. The Developer shall install all utilities serving the Project underground, including, but not limited to, water, sewer, drain lines, gas, electric, telephone/teledata and cable.

F. PUBLIC SAFETY

1. Fire Suppression Plans. The Developer shall prepare and submit detailed fire suppression and detection plans for the approval by the Town's Fire Department.

2. Construction Phase. The Developer shall be responsible for site security during Construction. The Developer shall pay for public safety details during the construction period when the Town determines that deliveries of equipment and material to the Project site may adversely affect the safe movement of vehicles, bicycles and pedestrians on public and private roadways adjacent to the Project.

G. FINANCIAL CONSIDERATION

1. Affordable Housing. Developer agrees that two (2) units of the Project shall be permanently reserved for households meeting the eligibility requirements for affordable housing as set forth in the Local Initiative Program of the Massachusetts Department of Housing and Community Development (DHCD), 760 CMR 45.00. In order to accomplish this, the Developer shall prepare and execute a marketing plan and other documents as required by DHCD. Certificates of occupancy shall be obtained for the affordable units prior to the conveyance of the 20th market-rate unit.

2. Linkage Payment. At the closing on the purchase of the Property, the Developer shall provide the sum of One Million (\$1,000,000) USD (the "Linkage Payment") to the Town.

3. Infrastructure Improvement Payment. The Town will invoice the Developer for the cost of making the required infrastructure improvements. The Developer shall make payment of the invoice within thirty (30) days of receipt thereof. The total of invoices for the required infrastructure improvements shall not exceed Five-hundred Thousand (\$500,000) USD.

H. OPEN SPACE

1. Open Space. Developer shall comply with the Open Space and Preservation Area requirements as set forth in ARCDOD Section 8.7.7 of the Winchester Zoning Bylaw.

2. Public Access to Conservation Area. The Comprehensive Plan approved by the Planning Board, pursuant to ARCDOD Section 8.7.4 of the Winchester Zoning Bylaw shall show trails as may be required in the Conservation Commission Order of Conditions. The Town shall be granted easements through the Project for access to and use of such trails. The Developer shall provide a public parking area onsite or on adjacent Town-owned property as required by the SPGA and Conservation Commission, that provides access to Town-owned land and Project open space.

I. SUBMISSION OF PLANS

The Developer shall comply with ARCDOD Section 8.7 of the Winchester Zoning Bylaw and obtain an Order of Conditions from the Conservation Commission.

J. TIME FOR COMMENCEMENT AND COMPLETION OF CONSTRUCTION

1. Commencement of Construction. The Developer shall begin the construction of the Improvements not later than nine (9) months after the date of the closing between Winning Farm, LLC and the Developer (the "Commencement Date").

2. Completion of Construction. The Developer shall diligently prosecute to completion the construction of the Improvements in phases and shall substantially complete all such construction within three (3) years of the Commencement Date (the "Completion Date"). In the event that the townhouses are not substantially completed by the Completion Date or the remainder of the Improvements have not been substantially completed by the Completion Date, such dates may be extended for an additional two (2) years (the "Extended Completion Period") at the Board's discretion, such extension shall not be unreasonably withheld. In the event that all of the Improvements have not been constructed and certificates of occupancy issued therefore by the

expiration of the Extended Completion Period, the Town may exercise its rights under Paragraph O (2) herein without any further recourse by the Developer, except as provided herein.

3. Report. A quarterly construction report, in a form satisfactory to the Board of Selectmen, shall be provided to the Town by the Developer for each year of construction.

4. Obligations Excused. The obligations of the Developer hereunder to commence, diligently pursue and complete construction of the Improvements shall be excused during the pendency of any appeals of Permits and/or if a court of competent jurisdiction shall prohibit construction of the Improvements but in such case, only with respect to those portions of the Improvements to which such court decision relates.

5. Covenants Running with the Land. It is intended and agreed that the agreements and covenants contained in this Section with respect to the beginning and completion of the Improvements shall be covenants running with the land. This subsection shall not, however, apply against a mortgagee.

K. PROVISIONS RELATING TO DAMAGE

Whenever any of the Improvements or any part thereof shall have been damaged or destroyed, any reconstruction or repair undertaken by the Developer shall in all material respects be in accordance with and conform to the provisions of this Agreement and the Permits.

L. PROVISIONS RELATING TO RIGHTS, REMEDIES AND PROCEDURES IN THE EVENT OF A DEFAULT.

1. Default by the Developer. If the Developer shall default in the performance of any material term, covenant or condition of this Agreement, which default shall continue for more than thirty (30) days after written notice to the Developer specifying the alleged default (the "First Cure Period") or, if such default (other than a payment default) shall be reasonably expected to take more than thirty (30) days to cure, the Town and the Developer shall agree upon a longer period of time within which such cure shall be completed (the "Extended Cure Period"), and such default is continuing at the expiration of such First Cure Period or the Extended Cure Period, as applicable, the Town shall have the right to (i) terminate this Agreement; (ii) withhold any approvals to be issued by any municipal agency or official of the Town; or (iii) exercise any other remedy available at law or in equity, including commencing an action for specific performance. The Town agrees that if, within ten (10) days after the Developer's receipt of a notice of a claim of default, the Developer shall give notice to the Town that the Developer contests the same, then the Town shall not have the right to exercise any of the foregoing rights in respect thereto until a court has issued an enforceable order on such claim. The Developer agrees to diligently prosecute any such contest. If the Developer has not commenced such action within thirty (30) days of such written notice to the Town, the Developer shall be deemed to have abandoned the right to contest such default and the Town may exercise any of its remedies hereinbefore described without any further delay. If such matter is determined adversely to the Developer, the Developer shall have thirty (30) days (or, such longer period of time as agreed to between the Town and the Developer) to effect such cure (the "Second Cure Period"). If, after such adjudication in favor of the Town, the default is not cured within the Second Cure Period, the Town shall have the rights hereinbefore described, but there shall be no further right of appeal by the Developer.

2. Default by the Town. If the Town shall default in the performance of any material term, covenant or condition of this Agreement, which default shall continue for more than thirty (30) days after written notice to the Town specifying the alleged default (or if such default shall be reasonably expected to take more than thirty (30) days to cure, said longer period of time), the Developer shall have the right to (i) terminate this Agreement; or (ii) exercise any other remedy available at law or in equity, including commencing an action for specific performance.

M. NOTICES OF BREACHES TO MORTGAGEES OR TO THE TOWN

If the Town gives written notice to the Developer of a default under this Agreement and the Developer fails to remedy such default as required herein, the Town shall forthwith, after such failure, furnish a copy of the notice of default and a statement that such default has not been cured to each of the mortgagees of record of the Property who have provided construction financing for the Improvements. To facilitate the operation of this Section, the Developer shall at all times keep the Town provided with an up-to-date list of names and addresses of mortgagees from whom the Developer has obtained loans as permitted under this Agreement. Any such mortgagee or holder may notify the Town of its address and request that the provisions of Section T(6) hereof as they relate to notices apply to it. The Town agrees to comply with any such request.

The Developer shall use its best efforts to have the mortgagees provide to the Town a copy of any default notice provided by them to the Developer.

N. MORTGAGEE MAY CURE BREACH OF DEVELOPER

If the Developer has received notice from the Town of a default under this Agreement and such breach is not cured by the Developer before the expiration of the period provided therefor, the holders of record of construction mortgages on the Property may cure any breach upon giving written notice of their intention to do so to the Town within ninety (90) days after such holder receives such notice of breach as set forth in Section M, and shall thereupon proceed with due diligence to cure such breach. In the event any mortgagee elects to complete the Improvements as herein provided, a reasonable extension of time for performance will be granted by the Town to enable the mortgagee to complete construction of the Improvements.

O. REMEDIES FOR OTHER BREACHES

1. It is understood by the parties hereto that in the event any party shall fail to comply with or violate any of the provisions of this Agreement, then the other party hereto may institute such actions and proceedings to compel specific performance and payment of all damages, expenses, and costs. Neither these remedies nor that class of remedies more particularly described in this Agreement shall be exclusive unless specifically so described.

2. If the Developer shall fail or refuse to commence construction as hereinbefore described or, after commencing construction, to construct the Improvements as required hereby or by the Permits, the Town shall in writing notify the Developer of such failure or violation. The Developer shall thereupon have one hundred eighty (180) days from the receipt by it of such written notice to commence to cure such failure or violation, and shall thereafter diligently pursue such cure. The Town may enforce the provisions of this section by an action in a court of appropriate jurisdiction to

exercise fully its rights against the infrastructure bond or security instrument referenced herein unless the Developer can reasonably demonstrate to the Town that such failure or violation is due to the unavailability of financing to complete the Project upon terms and conditions then prevailing in the Greater Boston area or to such other economic circumstances that would make the completion of the Project impracticable or economically infeasible.

P. MODIFICATIONS

In the event that any permit granting authority having jurisdiction over the Project imposes any condition or requirement that is inconsistent with any provision herein, the Town shall grant an amendment hereto, upon the request of the Developer, in form and substance reasonably acceptable to the Town for the purpose of bringing the requirement of this Agreement into conformity with the conditions required by the permit granting authority. Any such amendment by the Town shall be made in an expeditious manner consistent with the amendment provisions of Section T (5).

This agreement shall not be modified without written approval of the Board of Selectmen. If necessary to respond to unanticipated field conditions, or other changed circumstances, the Board of Selectmen may approve modifications of this Agreement as necessary to allow the Project to be completed in a reasonable manner, provided the Board determines that the interests of the Town as set forth in this Agreement are adequately protected.

Q. AMENDMENTS

No amendment hereto shall be effective until recorded in the Middlesex South District Registry of Deeds.

R. ACCESS TO TOWN-OWNED LAND

The Developer shall provide the Town with an easement permitting the Town access to Town-owned land shown as Lot 2 and Lot 3 on Plan Recorded at Middlesex South Registry of Deeds BK 30552 page 601 for the purposes of maintenance and emergency access satisfactory to the Police and Fire Departments, Conservation Commission, the Planning Board and the Zoning Board of Appeal.

S. MARKETING PLAN

The Developer shall adopt a marketing plan, acceptable to the Board of Selectmen (said approval not to be unreasonably withheld or delayed) that gives sales preference to current Winchester Residents, for a minimum of three (3) months prior to commencement of regional marketing, subject to all applicable laws and regulations.

T. MISCELLANEOUS PROVISIONS

1. Invalidity. The Town and the Developer agree that if the Town's adoption of the proposed Zoning Amendment is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction and, as a consequence thereof, the Developer is not able to develop the Property in the

manner contemplated by this Agreement, then the provisions of this Agreement and each of the agreements and documents referenced herein shall be null and void.

2. Transfer. The initial ownership of the Project shall be vested in a single purpose limited liability company (the "LLC"), the managers of which shall be Ronald S. Bonvie, W. Albert Ellis and Eric A. Katz. Management of the Project shall not be leased, alienated or transferred without the express written permission of the Board of Selectmen, such permission not to be unreasonably withheld or delayed.

3. Compliance. During the Comprehensive Plan Approval process, the Developer shall submit all necessary evidence, to the satisfaction of the Planning Board, to show compliance with the terms of this Agreement.

4. Intent to Bind Successors and Assigns. The foregoing obligations shall run with the Property and shall be binding upon and inure to the benefit and burden of the Developer, its successors and assigns, and to the extent legally permissible, the Town. This agreement shall be recorded with the Registry of Deeds together with the deed to the Property upon approval by the Attorney General of the Zoning Amendments.

5. Effect; Amendment. This Agreement shall not take effect until voted and executed by the Board of Selectmen of the Town of Winchester. Upon such vote, this Agreement shall not be amended in any material respect except by a further majority vote of the Board of Selectmen.

6. Required Notice. Unless otherwise specified in this Agreement, any notice to be given under this Agreement shall be in writing and signed by the party (or the party's attorney) and shall be deemed to have been given (a) when delivered, if delivered by hand, or (b) two business days after the date mailed, if mailed by registered or certified mail, all charges prepaid, in either event addressed as follows:

In the case of the **Town** to:

Richard C. Howard, Town Manager
Winchester Town Hall
71 Mount Vernon Street
Winchester, MA 01890

In the case of the **Developer**, to:

BEK Winchester Winning Farm LLC
Ronald S. Bonvie
82 Meadowbrook Road
Mashpee, MA 02649

With a copy to:

Mark Vaughan, Esq.
Riemer & Braunstein LLP
700 District Avenue

11th Floor
Burlington, Massachusetts 01803

By such notice, either party (or such party's attorney) may specify a new address, which thereafter shall be used for subsequent notices.

7. Effective Date of Agreement. This Agreement shall be effective as of the date it shall be executed by both the Developer and the Town.

8. Dispute Resolution. Prior to the initiation of any court proceeding involving the terms of this Agreement or either party's performance thereunder, the Town and the Developer agree that such disputes shall be first subject to nonbinding arbitration or mediation, for a period not longer than ninety (90) days.

9. Applicable Law; Construction.

a. This Agreement has been executed within the Commonwealth of Massachusetts. The rights and obligations of the parties hereto shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Massachusetts.

b. This Agreement is the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions.

Executed under seal as of the date first above written.

TOWN OF WINCHESTER

By: _____
Selectman Lance R. Grenzeback, Chairman

By: _____
Selectman E. James Whitehead, Vice Chairman

By: _____
Selectman Stephen L. Powers

By: _____
Selectman Michael Bettencourt

By: _____
Selectman David P. Errico

BEK WINCHESTER WINNING FARM LLC

By: _____
Its duly authorized _____
Ronald S. Bonvie, Manager

By: _____
Its duly authorized _____
W. Albert Ellis, Manager

By: _____
Its duly authorized _____
Eric A. Katz, Manager

SCHEDULE OF EXHIBITS

Exhibit A: Property Description

Exhibit B: Zoning Amendment Adding the property to the ARCDOD

Exhibit C: Sewer Study/ Other Improvements

2013469.1



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

BUSINESS

Docket Item **G -6:** Funding for Eversource Intervening Litigation – VOTE to authorize funds

Supporting Documents:

G -6: Previous votes authorizing expenditures.

Action Required: VOTE to authorize additional funds

Wednesday, February 10, 2016
Board of Selectmen Meeting
[Rescheduled from Monday, February 8, 2016]

source would be the Winchester Hospital Gift Account. The scope of services would include a review of all sources to minimize the impact of the project and then seek reimbursement of costs from Eversource.



*Motion: That the Board of Selectmen authorized the Town Manager to hire a consultant in an amount not to exceed \$10,000 to assist with a review of the electromagnetic field effects in the two Eversource projects, the 345kV transmission line (Woburn to Wakefield) and the 115kV transmission line (Mystic to Woburn). The funding source for this contract is the Hospital Gift Account which is to be reimbursed by Eversource, if possible.

Johnson - Bettencourt

All in favor.

VOTED.

Discussion: 416 Cambridge Street 40B Development Proposal

Chairman Grenzeback informed the audience that the ZBA chairman has agreed to keep the public comment period open. Town Manager referenced the draft letter contained in the packet for the Board's review and explained that the shaded fields are the attempt to capture the last discussion by the Board. He acknowledged that it is the ZBA's responsibility to obtain the information and verify the financials of the project at the level of density that has been submitted.

Chairman Grenzeback indicated that it is the Board's opinion that the project is sizeable and there are issues related to density, pedestrian amenities and circulation, the bus shelter, municipal sewer capacity, I & I fee, drainage and stormwater controls, the municipal water system, dimensional controls, the Fire Department, neighborhood screening and noise control, environmental impacts, blasting, project design, and local preference. The letter recommends that while the developer cannot be expected to repair existing problems, he should address anything that is exacerbated by this construction, or reduce the number of units.

Selectman Bettencourt pointed out that there are two conflicting reports on sanitary sewer overflows. Town Manager explained that the report filed by the peer firm was repudiated by the Town's consulting engineers, i.e., the calculations could not be substantiated. As a result, the TetraTech report has been withdrawn. Vice Chairman Johnson informed his colleagues that the Ledges has indicated that they are talking with another consulting firm. The Vice Chairman again suggested that once the life estate is fulfilled, the house be demolished and open space be the result. He further suggested that the light stanchions should be in keeping with those used as a part of the MassDOT Cambridge Street intersections project.

Selectman Powers informed his colleagues that counsel for the Ledges is hiring a third expert on stormwater. He also pointed out that the balloons used to show the mass of the project were very inadequate. Selectman Whitehead noted that the balloons were located at the back side of the property and were at 62 feet. Chairman Grenzeback noted that it was difficult to envision the massing and found that the balloons were not helpful. He suggested that the Board not include a number of units because the Board is not negotiating with the developer.

Selectman Powers indicated that by including a number, like seventy units, it would say that number is acceptable. He suggested that by not including an acceptable number, the Board is saying that ninety-five units is not an acceptable number. He noted that the group supporting ninety-five units on the site was the Housing Partnership Board and other housing entities.

Town Manager pointed out that also proposed is a reduction in the building height by at least one story. Chairman Grenzeback noted that while the Town would benefit from additional rental units and an increase in affordable housing, the impact of this number of units is substantial. Joseph O'Connor, 7 Wainwright Road informed the Board that the Ledges has hired another engineer. Referencing the letter being sent to the ZBA, Mr. O'Connor suggested that the HAWK light parts and

Monday, January 25, 2016
Board of Selectmen Meeting

- Tunnel that connects the Aberjona & Waterfield Lots is to be preserved;
- Vehicular tunnel to connect the two lots will be designed but not constructed initially;

15% Design – Northern End

- Platform will extend over the southern half of Quill Rotary;
- Outbound ramps will be at Shore Road side of platform;
- Pedestrian walkway will extend over Quill Rotary;
- Pedestrian protection for the walkway will be required.

Next Steps:

- MBTA will present 15% design at February 22nd Board of Selectmen Meeting;
- Working Group to develop a list of key design-related items that need to be addressed in the 30% design phase; this meeting is scheduled for Friday, February 5th;
- 100% design completed by Fall 2016 (?);
- Construction start Spring / Summer 2017 pending funding allocation.

As far as responsibility for maintenance and snow and ice removal, Town Manager explained that it is yet to be determined however elevator maintenance could be a part of the “T” capital program. Vice Chairman Johnson indicated that he would like to see the Town get away from dealing with the train station because the Town is not well-equipped for this. He suggest that “T” maintenance be a requirement because the Town is giving up parking, etc.

As far as provisions for a tunnel are concerned, Town Engineer explained that it has to be determined where a tunnel could fit within the structural confines. The design will be done around this so as to not preclude the tunnel installation. The “T” would not be constructing the tunnel. Vice Chairman Johnson questioned whether the Town would be in a position to work with the “T” to absorb some of the cost.

Town Manager indicated that as the Board considers the RFP for the Waterfield Lot, this could be required of the developer, or could be a part of the RFP for the lot under MassWorks. The construction of the tunnel could be rolled into the construction of the station and redevelopment of the Waterfield parcel. The Vice Chairman noted that the optimum time to build would be during construction and there would be a cost savings for the “T” as a part of the upgrade.

Town Engineer explained that a consultant was brought in to look at the structural integrity as this is both old and preliminary. Chairman Grenzeback, in his summary, explained that the streetscape and redevelopment of the train station would be considered, along with what improvements should be made and what works for the business community and the commuters. He explained that this would dress-up the street level of the Downtown. Selectman Whitehead pointed out that the program has money for this type of effort. Town Manager indicated that the need for the tunnel has to be determined. The Chairman noted that the “T” is anxious to get the go-ahead for this project.

Suspension of Board of Selectmen Rules of Procedure:

*Motion:  That the Board of Selectmen suspend their Rules and Regulations in order to consider a matter not a part of the agenda, i.e., the Petition of the Town of Winchester for Leave to Intervene Out of Time as a Party in the Eversource transmission line proposals.

Johnson – Whitehead

All in favor.

VOTED.

*Motion: That the Town of Winchester petition the Siting Board to intervene for Winchester and authorize the Town Manager to enter into a consulting



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

BUSINESS

Docket Item G - 7: Water Bill Adjustment – 40 Wedgemere Avenue

Supporting Documents:

G - 7: Memo from Town Manager w/attached letter
from resident.

Action Required: VOTE to adjust water bill.



Town of Winchester

Richard C. Howard,
Town Manager

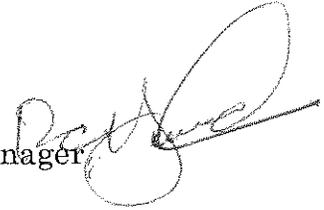
Docket Item:
G-7:
August 8, 2016

Board of Selectmen
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

MEMORANDUM

August 4, 2016

TO: Board of Selectmen

FROM: Richard C. Howard, Town Manager
Mark J. Twogood, Assistant Town Manager 

SUBJECT: Water Bill – Hegarty, 40 Wedgemere Avenue

Please find attached a letter from David and Lynne Hegarty, 40 Wedgemere Avenue regarding two water bills, one for the July 2015 quarter and one for the October 2015 quarter. Mr. and Mrs. Hegarty believe they had a leak in their irrigation system and have requested an adjustment in their bill. We considered the following two options:

Option #1. Adjust third tier units to second tier, lowering the amount of the two bills by \$1458.78 to a balance due of \$3054.78;

Option #2. Adjust each bill for average usage for each of the two periods and bill the balance of the units at the first and second tiers. This would adjust the bill by \$2317.26, leaving a balance due of \$2196.30.

Our recommendation to the Board is for Option #2 and abate \$2317.26.

/pcm

attachments

July 6, 2016

Mr. David Errico - Selectman
Town of Winchester
71 Mt. Vernon St.
Winchester, MA 01890

Re: Appeal for Abatement for Excess Water Charges

Dear Mr Errico:

Last summer and fall, my water bills increased over ten-fold and the issue we believe was a water leak in the sprinkler system. I have attached a schedule of our water bills for the last three and a half years which are billed quarterly.

As you can see, up until the bill for July 27, 2015, our quarterly bills ranged from \$63.08 to \$263.37 per quarter. The bill dated October 27, 2015 jumped to \$2,559.61. Unfortunately, the town's system of billing is about 60 days in arrears so we did not even know we had an issue until it was too late and the next bill came in at \$1,923.95. We questioned the lawn sprinkler company and they pointed at the lawn service as possibly breaking the system and of course the lawn service believes they did nothing wrong.

We contacted the Water Department and were advised that they have no authority to make any adjustments and advised that only the Board of Selectmen can make any adjustments to water bills. My wife and I respectfully ask of the Board to provide some relief to the exorbitant bills we received for these two periods.

We have terminated using the sprinkler company and have hired Grasshopper Irrigation out of Tewksbury. They checked out the system recently and all leaks have been repaired.

Thank you for your consideration.

Sincerely,

David and Lynne Hegarty
40 Wedgemere Avenue
Winchester, MA 01890



Town of Winchester

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townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

BUSINESS

Docket Item G - 9: Town Counsel Selection

Supporting Documents:

G - 9:

- Memo from Town Manager
- March, 2013 Review Documents
 - 1.) Legal Services Comparison Chart
 - 2.) Town Charter – Article 3 Section 3-2 and Article 5 Section 5-6
 - 3.) Town Counsel Powers and Duties / Job Description
- Handbook for Massachusetts Selectmen excerpts

Action Required:



Town of Winchester

Richard C. Howard,
Town Manager

Board of Selectmen
71 Mt. Vernon Street
Winchester, MA 01890
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Fax: 781-756-0505
townmanager@winchester.us

MEMORANDUM

August 4, 2016

TO: Board of Selectmen
FROM: Richard C. Howard, Town Manager
SUBJECT: Town Counsel Selection

Regarding the above, I am circulating some information compiled in past efforts pertaining to hiring of Town Counsel.

Docket information from March 11, 2013 provides an in-depth survey that we had done at the time, together with Town Charter information pertaining to the position, and a job description developed at the time.

I have also enclosed some information from the Selectmen's Handbook pertaining to this process. Finally, I have attached suggested names for consideration on a search or advisory committee should the Board decide to establish such a committee.

RCH:pcm

attachments



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Winchester, MA 01890
Phone: 781-721-7133
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townmanager@winchester.us;

Board of Selectmen's Meeting
Monday, March 11, 2013

BUSINESS

Docket Item G – 1:

Town Counsel Position Review Discussion

Supporting Documents:

- Legal Services Comparison Chart
- **Town Charter** – Article 3 Section 3-2 and Article 5 Section 5-6
- Town Counsel Powers and Duties / Job Description

Legal Services Survey
conducted by the Board of Selectmen

TOWNS	Population	Legal Budget \$ (Municipal)	Does This include all Special Counsel?	Outside / Inside Counsel	If Outside, Name of Firm	Hourly Rate	Does Counsel Report to BOS or ME / Administrator	Other Special Counsel (please list and identify specialty)	Hourly Rate	Legal Budget \$ (School)	What legal areas are included in the School Budget? (e.g., collective bargaining)
Acton	21,650	\$ 720,000	Yes	Outside	Anderson & Kreiger	Varies by Attorney \$150.00- \$275.00	Town Manager			Contact School	
Andover	33,000	\$ 376,500	Yes	Outside	Urbels, Fieldsteel, LLP	\$170.00	Town Manager	Labor Cable/Electrom Environmental	195.00 \$210.00 \$175.00	\$299,000	All, including collective Bargaining
Arlington	42,000	\$ 300,959	No, Additional \$135,002	Inside	N/A		Town Manager	Deutsch Williams & Urbels & Fieldsteel	Prefer not to give out info - both are reasonable	\$370,943	
Belmont	26,000	\$ 235,000	Yes	Outside	Anderson & Kreiger	\$150.00	Town Administrator	Morgan Brown & Joy (Labor Collective Bargaining) Morrissey, Hawkins & Lynch (Litigation)	\$150.00 \$150.00	\$ 115,000	Collective Bargaining
Concord		\$ 225,000	Yes	Outside	Anderson & Kreiger	\$150.00- \$295.00	Town Manager (by Charter)	Mirid O'Connell (Labor Matter) There have been such appointments from time to time - only by Town Manager and only when Town Counsel firm had conflict or did not have a specialty expertise		\$ 50,000	Concord Public (K-8) and Concord-Carlisle (HS) has a Joint Superintendency CDS-CDSO Selects its own counsel
Lexington	32,000	\$ 400,000	Above is for general services only. See Comments	Outside	Anderson & Kreiger	\$275.00- \$295.00	Town Manager but appointed by BOS	Collins, Loughran		\$ 222,360	Collective Bargaining, Special Ed, other Educational Matters
Melrose		\$ 550,780	Yes				Board of Aldermen			Waiting for School's reply	
Needham	28,886	\$ 300,039	No, The Town's legal budget includes all Municipal legal services, except land court actions related to tax title work	See Attached e-Mail	Tobin & Grunbaum (Town)	\$115 to \$220	BOS	Stoneham Chandler & Miller (School SPED) Morgan Brown & Joy (School Labor) There are many different special counsel hired during any year the council is hired for a special expertise needed for a case		\$ 125,321	The School Dept. hires and pays for legal services related to its labor and education services (e.g., SPED). The School Dept. relies on Town Counsel for business related expertise (i.e., contracting)
Reading	24,747	\$ 67,000	All Inclusive		Brackett & Lucas	\$145.00	Appointed by the BOS Town Manager is responsible for managing legal services and acts as "gatekeeper"			\$ 45,250	
Stoneham	21,437	\$ 112,615	No	Both	Feeley & Brown, PC	\$170.00	BOS			\$ 30,000	Personnel Issues, Negotiations, Special Legal Issues
Watertown	33,120	\$ 210,000	Yes	Outside	Kopelman & Pidge	\$175.00	Town Manager	For Schools: Morgan, Brown & Joy Long & DiPietro	\$200.00 \$215.00	\$79,000	Collective Bargaining Personnel, other Items SPED
Wellesley	27,982	\$ 272,360 Includes Schools Legal Budget	Yes	Outside	Grimaldi & Robinson (Town Counsel) Morgan, Brown & Joy (Labor Counsel)	\$145.00 \$135.00	BOS & Executive Director	Anthony Arbibano (Legal Counsel for Assessor) Murphy, Hesse, Rooney & Lehan (SPED)	\$235.00 \$230.00	See Municipal	Collective Bargaining
Winchester	22,629	\$345,000	Yes	Outside	Wade Welch	\$185.00	BOS	Blatman, Bohrowski & Mead Kearney, Donovan & McDev Morgan Brown & Joy Judson Lewis, Murphy Hesse Rooney & Lehan	\$250.00 \$2,000/Mo \$250.00 \$265.00 \$160.00	\$50,000	Collective Bargaining

Lexington: Does Legal Budget include all Special Counsel? Labor Counsel is budgeted at \$110,000. In addition, legal services related to construction contracts and CRA projects are charged directly to the appropriation for the project and varies widely year to year depending on the number of on-going projects.

Needham: The Town has a hybrid approach with legal services. A single individual is appointed as Town Counsel and is paid a salary which is inclusive of basic services (e.g., attend meetings of the Board of Selectmen and Town Meeting, provide general guidance to various boards and town officials on topics such as open meeting law, weekly review of contracts, etc), individual cases and special services are tracked and handled on a billable basis. Any special counsel utilized must be approved by Town Counsel.

Legal Services Survey
conducted by the Board of Selectmen

TOWNS	Other (Benefits e.g. Health Insurance, pension, overhead, etc.)	If Inside Counsel: Please List Positions	Does Budget Include Benefits/Overhead costs	Does your Town have a Personnel Dept.	If not does Town Counsel assist in Personnel Matters	Does your Town have a Purchasing Dept.	If Not, Does Town Counsel assist in Purchasing Matters/Contract Administration	Is Town Counsel Involved with Capital Projects including MSBA School Projects	Contact	Phone Number
Acton			None	Yes, HR		No		Only if a legal issue arises with project	Steve Barrett, CPA	978-929-6524
Andover	N/A	N/A	N/A	Yes	No, Provided	Yes	Yes	Yes	Steven Saurzo, Assistant Town Manager	978-533-8230
Arlington		Employee - Town Counsel, Special Town Counsel for Workers Compensation and Benefits	Yes	Yes	Yes	Yes	Yes	Yes	Juliana Rice, Town Counsel	781-316-3150
Belmont	N/A	N/A	No	Yes		No		No	Kellie Gilbert, Assistant Town Administrator	617-593-2514
Concord	N/A	N/A	N/A	Yes	Separate Labor Counsel also appointed by Town Manager	No - Handled as part of Finance Administration	Yes - Limited	No - Building Committee selected project counsel in each instance	Anthony Luglio, Finance Director	978-318-3090
Lexington	None	N/A	N/A	Yes	N/A	Yes	N/A	Yes	Carl Valente, TM	781-862-0550 x296
Melrose	9,562,413			Yes		No	Auditors Office	Yes	Kelly Cagavin	781-979-4194
Needham	None	Town Counsel (part-time not benefit eligible)	Only benefits which are not included in the legal budget is the Town's share of Medicare and Social Security taxes	Yes		No	No Purchasing Dept, but policies & procedures are overseen by the Finance Dept.	The town's by-laws require Town Council approval of all contracts as to form. Contracts subject to MG1308 require Town Council approval when more than \$25K	David Davison	781-455-7500 x220
Reading	None			Yes	Occasionally	No	Occasionally	Seldom	Peter Heckenheikner, Town Manager	781-946-9044
Stoneham	Health Ins. & Pension for Town Counsel	Town Counsel	No	Yes		No	Yes	No	Elin Sinclair	781-276-2680
Watertown		N/A	N/A	Yes		Yes		Yes	Michael Driscoll	617-972-6455
Wellesley			No	Yes		Yes		Yes	Rachel Lopes	781-431-1019 x2212
Winchester	Town Counsel is in the Town's Group Plan; he pays 100%	N/A	No	No	Yes	No	Yes	Yes	Mark Twingood	781-721-7133

additional powers and duties as may be authorized by the charter, by by-law or by other town meeting vote. The board of selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause a record of all its official acts to be kept. To aid the board in its official duties, the board of selectmen shall appoint a town manager, as provided in article 4.

(c) Appointing Powers - The board of selectmen shall appoint the town manager, town counsel,

town comptroller, registrars of voters (but not the town clerk) and other election officers; and members of all appointed multiple-member bodies for whom no other method of selection is provided by the charter or by by-law, except persons serving under other elected town officers and officials appointed by state officers.

(d) Licensing Authority - The board of selectmen shall be the license board of the town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

Section 3-3 School Committee

(a) Composition; Term of Office - There shall be a school committee consisting of five members elected for three-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year.^{1 2}

(b) Powers and Duties - The school committee shall have all of the powers and duties school committees are given under the constitution and general laws of the Commonwealth and such additional powers and duties as may be authorized by the charter, by by-law or by other town meeting vote. The powers of the school committee shall include but need not be limited to the following:

(1) The school committee shall appoint a superintendent of the schools and all other officers and employees associated with the schools, fix their compensation and define their duties, make rules concerning their tenure of office, and discharge them.

(2) The school committee shall make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town.

Section 3-4 Board of Assessors

(a) Composition; Term of Office - There shall be a board of assessors consisting of three members elected for three-year terms, so arranged that one term shall expire each year.

(b) Powers and Duties - The board of assessors shall annually make a valuation of all property, both real and personal, within the town. It shall have all of the powers and duties given to boards of assessors under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law or by other town meeting vote.

¹ Art 2 1978 Fall Town Meeting changed the number of members from five to six.

² Art 14 1985 Fall Town Meeting changed the number of members from six to five.

- (6) He shall be responsible for a continuous audit of all accounts and records of the town wherever located.
- (c) **Vacancy** - If the comptroller is unable to perform his duties because of disability or absence, or if the office is vacant because of resignation or death, the board of selectmen may appoint a temporary comptroller to hold such office and exercise the powers and perform the duties until the comptroller who was disabled or absent resumes his duties, or until another comptroller is duly appointed. Said temporary appointment shall be in writing, signed by a majority of the board of selectmen and filed in the office of the town clerk.
- (d) **Assistant Comptroller** - The comptroller with the approval of the majority of the board of selectmen may appoint, in writing, an assistant. Unless a temporary comptroller is appointed, the assistant may, in the absence of the comptroller, perform the duties of the comptroller and when performing such duties shall have the same powers and be subject to the same requirements and penalties as the comptroller.

Section 5-6

Town Counsel¹

- (a) **Appointment; Qualifications; Term of Office** - The board of selectmen each year shall appoint a town counsel and fix his compensation within the amount annually appropriated for that purpose. The person appointed and employed by the selectmen as town counsel shall be a member in good standing of the bar of the Supreme Judicial Court of Massachusetts and of all other courts before which he has been admitted to practice. Any special counsel employed by the selectmen shall be a member in good standing of the bar of all courts before which he has been admitted to practice.
- (b) **Powers and Duties** - In addition to those duties which the selectmen may request or authorize the town counsel to perform, he shall have the following powers and duties:
- (1) The town counsel shall examine and report to the town manager upon the title to any land to be acquired by the town or any town agency.
 - (2) The town counsel shall, when requested, counsel with respect to all contracts, bonds, deeds and other legal instruments to which the town is a party or in which any right or interest of the town is involved.
 - (3) The town counsel shall advise all town agencies regarding legal questions relating to their powers and duties.
 - (4) The town counsel, when requested by the board of selectmen, shall appear and conduct, or assist in the conduct of the prosecution, defense or compromise of any claims, actions and proceedings by, on behalf of, or against the town or any town agency.
 - (5) The town counsel, when requested by the board of selectmen, shall assist in the prosecution of any violation of the laws or regulations of the town.¹

* * * *

TOWN COUNSEL POWERS AND DUTIES

3-6-06

AT
TABLE

Winchester's Home Rule Charter defines Town Counsel's duties as those which the Selectmen may request or authorize. Listed below are the duties specified in the Charter, as well as those current regular duties established by the Selectmen. Following the list is a more detailed treatment of several activities, pointing up the risk-management nature of legal services.

Legal responsibilities:

- Examine and report upon the title to any land to be acquired by the Town or any Town agency,
- When requested, advise on all contracts, bonds, deeds, and other legal instruments to which the Town is a party or in which any right of interest of the Town is involved,
- Advise all Town agencies regarding legal questions relating to their powers and duties,
- Appear and conduct or assist in the conduct of the prosecution, defense or compromise of any claims, action and proceedings by, on behalf of, or against the Town or any Town agency,
- On request, assist in the prosecution of any violation of the laws or regulations of the Town,
- Write policies on insurance and indemnity,
- Act as purchasing agent

Legal Settlements: A relatively small component, this involves the settlement of claims against the Town that are of such a nature that on a cost-to-benefit basis, it simply makes more sense to settle these claims than to take them to court.

Insurance and Indemnity: Incidents on Town property (either School or Municipal) may have the potential to become larger issues under state or federal law or may pose a significant threat to public well-being if not handled properly from a legal perspective. In order to control some of these risks, Town Counsel, in conjunction with the Town Manager's office, the Comptroller and the Finance Committee, instituted liability insurance coverage for elected and appointed officials and employees. In addition to working with the Town Manager and the Superintendent of Schools, Town Counsel developed a policy with respect to requiring insurance coverage for vendors and indemnity agreements for volunteers performing services within the Town. To judge from activities in other municipalities, these initiatives have resulted in considerable risk reduction for the Town over the past 10 years. For example, during the period FY2000-FY2004, insurance counsel has resolved six lawsuits in which the Town was named a defendant, at no cost to the Town.

Purchasing Agent: While the Town Manager acts as the Town's chief procurement officer, there are often legal issues around larger acquisitions or property disposition which require legal involvement. Town Counsel reviews bid documents and makes sure they comply with requirements of State law. Counsel also advises on liability and ensures that insurance bonds are proper and appropriate for contract awards. Reviewing contract documents on capital projects prior to their execution can avert future disputes or disadvantages to the Town due to oversights. During the period FY1999 - FY2004, Town Counsel's involvement in the bidding and disposition process relating to the Woburn Loop and the bidding and construction process of the McCall, Lincoln, and Ambrose schools has proved to be cost effective. It is worth noting that since the advent of the Uniform Procurement Act in 1990, no procurement decision by the Town Manager's office has been successfully challenged.

Education Counsel: Unlike 95% of comparable communities, Winchester's Town Counsel provides legal services to the School Department, including contracts, procurement, retirement, health insurance, disciplinary cases, and occasional representation in litigation. Services for

Education over the past five years have accounted for between 10% and 20% of the legal budget annually.

Litigation: As stated above, the Charter requires Town Counsel to be involved in the prosecution by or defense of the Town for any claims, action, or proceedings by or against it. Town Counsel coordinates to ensure that the Town is adequately represented in any litigation in which the Town has an interest or to which the Town is a party. Such litigation has generally resulted in positive results for the Town. Upon occasion, Town officials are called to court as a result of appeals of litigation with respect to action in an official capacity. Such activities are legally indemnified and legal representation is provided either by Town Counsel or other counsel as is deemed appropriate by the Board of Selectmen. During the period July 1, 1999 to June 30, 2004, Town Counsel resolved 50 lawsuits, 8 administrative proceedings, and 73 other claims which had been noticed against the Town. The total amount paid on all claims was \$52,922.

Special Counsel: Special Counsel with specific expertise is often required to achieve the Town's overall objectives. For example, when an issue comes up involving special narrow questions of law (cutting-edge technology for example), it is more cost effective to hire a specialist. It may also be necessary to use special counsel if there are conflicting interests between various boards or commissions acting for the Town. It should be remembered that the Town of Winchester is not a monolithic entity, and the rules of the Massachusetts Supreme Judicial Court recognize the special role of municipal counsel in representing multiple municipal officials and entities due to public policy considerations.

In recent years, the Selectmen have authorized the use of the special counsel listed below. (In the future, other special counsel may be used.)

- Labor counsel. This counsel is used for negotiations or other labor matters.
- Environmental counsel. Environmental counsel is critical to flood mitigation because of the potential hazardous materials present in the banks and sediment. Before the Board of Selectmen or its staff may act, legal authority and legal changes may have to be enacted. A multitude of legal requirements of state, federal, and local laws and regulations regulating drinking water, sanitary sewer systems, clean waterways, wetlands protection, flood control, and prevention of hazardous waste contamination must be met.
- Telecommunications counsel. Telecommunications is an ever-developing and changing area requiring current expertise. Special Counsel Bill August assisted the Board of Selectmen in developing a policy on grant-of-location and assisted the Planning Board in writing a new section for the zoning by-law on telecommunications.
- Counsel to the Zoning Board of Appeals. In cases where there may be conflicting interests between the ZBA and one or more Town agencies such as the Zoning Enforcement Officer, the ZBA may use outside counsel.
- Bond counsel. This counsel reviews proposed Town Meeting bonding and warrant articles and prepares appropriate opinions for the underwriter, customarily a commercial bank.
- Utility counsel. During FY2005, John Shortsleeve of Bay State Consultants has assisted in the preparation of an underground utilities bylaw.

5.20 LEGAL SERVICES

With laws and regulations affecting municipal government in a constant state of flux, towns can't afford to function without the services of a lawyer. The importance of town counsel is more obvious now than ever as the legislature and the courts have cleared the way for lawsuits against municipalities. As a selectman, you need to consider carefully the potential legal consequences for your town before you embark on any course of action.

Massachusetts towns have made various provisions for legal assistance, ranging from creation of full-time legal departments to occasional consultation with a local attorney. In addition, towns are encountering with increasing frequency the need to engage the services of legal "specialists" for particular matters—labor counsel to negotiate collective bargaining agreements, a land use attorney to put together an industrial park, or a lawyer skilled in litigation to defend the town against a personal injury lawsuit.

Although the Massachusetts Supreme Judicial Court does not permit attorneys to hold themselves out as "specialists" in any particular area of law, lawyers, like most professionals, tend to concentrate their expertise in certain subjects. It is important that, at a minimum, your town has the services of a lawyer with a background in municipal law. If and when you need special counsel on a particular matter, and providing that funds have been appropriated, your town counsel should be able to help you find an attorney with the necessary skills.

5.21 ROLE OF THE TOWN COUNSEL

State law identifies certain purposes for which a town is authorized to use the services of counsel, but does not define the position of town counsel or how he or she is appointed. Unless provided otherwise by charter, however, it is usually the board of selectmen that is the appointing authority for the town counsel.

5.21.1 Statutory Duties

The town counsel has some specific responsibilities spelled out by state law, including:

- Representing the board of assessors or the selectmen acting as assessors, before the state Appellate Tax Board (MGL 41:26A);
- Defending the tax collector or treasurer in legal actions for damages (MGL 41:43A);
- Serving as legal adviser to the local retirement board, unless the board opts to retain its own counsel (MGL 32:20(47));
- Defending all civil actions against town employees for injury, loss of property, personal injury, or death caused by their negligence, or wrongful act or omission (MGL 258:6); and
- Issuing opinions on the conflict-of-interest law (MGL 268A:22).

5.21.2 Other Duties

In addition to carrying out statutory duties, the town counsel also serves as adviser to town officials and departments. He or she defends the town in all legal actions and prosecutes civil actions on behalf of the town. (The town counsel has no standing in criminal cases.) Counsel also usually prepares and approves legal documents, renders opinions on legal questions, and represents the town and its officials in court and before state agencies and legislative bodies.

The town counsel may also perform other duties, as provided by town charter, or as directed by the board of selectmen or professional administrator. These may include reviewing contracts; drafting agreements, bylaws, and warrant articles for town meeting; attending town meetings; and attending meetings of the board of selectmen and other town boards.

Ordinarily, the town counsel offers opinions to the town meeting and to the various boards and departments of the town. Town administration tends to run more smoothly if the selectmen regulate access to the town counsel by requiring other town officials and employees to seek prior approval before questions are referred to him or her. Some towns have adopted bylaws that require boards to seek approval from the board of selectmen before retaining separate counsel.

In many towns, the town counsel regularly attends selectmen's meetings and meetings of other boards. It is often helpful to have an attorney present to give at least a preliminary opinion on legal issues that arise during your discussions. Some towns meet without counsel, but make a list of legal questions to present to him or her afterwards or have their counsel "on call" during meetings, available by phone when needed. Advice of town counsel is critical if there is any question about compliance with the Open Meeting Law.

5.22 RELATIONS BETWEEN SELECTMEN AND TOWN COUNSEL

Your board's relationship with your town counsel should be a professional one. A qualified town counsel knows the limits of your authority, understands political realities, and can help you assess the risks of certain actions. In no case, however, does he or she make the final decision. While you need to be able to trust your counsel's judgment, you also must make sure you don't mistake a legal opinion for a policy directive. Recent court rulings have held that town counsels do not even have authority to settle or compromise claims against the town. Your town counsel can and should advise you, but it is up to you and your fellow board members, as elected officials, to decide town policy.

Although the board of selectmen is apt to use the town counsel more than most other boards, he or she is not "your" lawyer. The town counsel's primary function is to interpret the law and defend the interests of the town as a whole. To be effective and credible, town counsel must avoid taking sides both in disputes within the board and, under most circumstances, among town boards and departments.

Occasionally, two town boards, such as the planning board and the board of appeals, take opposing sides on an issue. When such a case results in court action, the town may be required to hire an additional lawyer to represent one of the parties in order to avoid a conflict of interest. In cases of this sort, it should be clear that the town counsel is representing the interest of only one town department.

5.23 OPTIONS FOR LEGAL REPRESENTATION

There are a number of ways in which towns can meet their legal needs. The most common approach is to appoint one person as town counsel and keep him or her on retainer or salary, often providing benefits and covering expenses. A variation is to retain counsel at established hourly rates, to be paid periodically as agreed. Many towns prefer a town counsel who understands the history, problems, peculiarities, and politics of their town.

An alternative to appointing one person as town counsel is to retain a law firm to handle the town's legal business. While sometimes offering a broader range of talents and skills, this approach can cost more and gives the town less control. In-house law departments should be established only after careful evaluation, since this approach frequently requires the town to pay for office space, clerical staff, library facilities, insurance, and supplies, in addition to salaries.

Town counsel usually serves at the pleasure of the selectmen, unless your charter or bylaws provide otherwise. In some towns, town counsel is appointed for limited terms, occasionally by written contract.

5.24 HIRING A TOWN COUNSEL

Before hiring a town counsel, make sure you know what you are seeking. Counsel should have a background in municipal law. How much time do you expect him or her to devote to the job? What types of work can he or she expect to do?

Lists of attorneys who are involved in public sector work are available from the New England Legal Foundation, the Massachusetts Bar Association, and the Massachusetts City Solicitors and Town Counsel Association. Openings may be advertised in the Massachusetts Municipal

Exhibit 5.2

Town Officials Appointed by Selectmen

Listed below are the town officials most commonly appointed by selectmen and the applicable state law. In most cases, the authority to appoint the official is specified in state law. Otherwise, town meeting must vote to authorize the selectmen to appoint these positions. This guideline should aid selectmen in appointing town officials.

Accountant (41:55)
 Airport commission (90:51E)
 Art commission (41:82)
 Assessors (41:21)
 Board of health (41:21)
 Board of registrars of voters (51:15)
 Building commissioner (143:3)
 Cemetery commissioners (41:21)
 Chief of the fire department (41:21)
 Chief of police (41:21)
 Constables (41:91A)
 Development and industrial commission (40:8A)
 Dog officer (140:151)
 Election officials (54:12)
 Executive secretary (41:23A)
 Fence viewers (49:1)
 Fire engineers (48:45)
 Firewards (48:1)
 Harbormaster and assistant harbormasters (102:19)
 Historical commission (40:8D)

Historic district study committee (40C:4)
 Housing authority members (121:26K)
 Insect pest control superintendent (132:13)
 Inspector of animals (129:15)
 Inspector of buildings (143:3)
 Inspector of health (41:102)
 Inspectors of lime (94:262)
 Inspector of wires (166:32)
 Inspectors and collectors of milk (94:33)
 Keeper of lockup (40:35)
 Manager of municipal lighting (164:56)
 Measurers of leather (95:10)
 Measurers of wood and bark (94:296)
 Police officers (41:96)
 Pound keeper and field drivers (49:22)
 Public weigher of fish (41:88)
 Purchasing agent (41:103)
 Recycling commission (40:8H)
 Special constables (90:29)
 Superintendent of shade tree management and pest control (132:9)
 Superintendent of streets (41:21)
 Superintendent of water and sewer department (41:21)
 Town counsel (40:5-15)
 Tree warden (41:106)
 Veteran's agent (115:3)
 Weighers, measurers or surveyors of goods and commodities (41:85)
 Weighers of coal (94:238)
 Weighers of hay (94:236)
 Weighers of vessels (102:6)
 Youth commission (40:8E)

Association's newsletter, *The Beacon*, or in *Massachusetts Lawyers Weekly*, a statewide weekly newspaper for attorneys.

Towns have different policies about requiring town counsel to be a resident. While there are certain advantages to having your town counsel easily accessible, it is also important that he or she keep out of, though be aware of, local politics. If your town is small or if its politics are particularly divisive, it may be helpful to hire an out-of-town lawyer or law firm to handle your legal business.

5.30 PERSONNEL MANAGEMENT

The goal of any personnel management system is to attract and maintain high-quality employees. This requires comprehensive and consistent practices. Your town, no matter how small, should have a written, regularly updated bylaw or set of rules or regulations that spell out the town's personnel policies for all full-time and part-time employees. Job descriptions for each permanent appointed position should also be in writing and there should be a formal salary structure. In towns where some or all of the employees are organized, the terms of labor contracts should be coordinated with personnel policies for non-union employees. (See also Section 5.40 on Labor Relations.)

5.31 WHO'S IN CHARGE

Traditionally, personnel management has been (and still is in many places) entrusted to a municipal personnel board established prior to home rule (MGL 41:108A, 108C). Under certain conditions, the selectmen may act as this board. With the advent of home rule, however, many towns have opted to turn over more of the day-to-day administration of personnel affairs to a professional administrator.

Some home rule charters give full personnel authority to a top administrative position, for example, a town manager or personnel director. In other instances, towns have seen fit to retain the personnel board, but have changed its role to one of hearing appeals and developing policy. Other towns have separate personnel relations review boards to hear grievances by public employees. In general, the trend is toward bringing personnel management more into the overall operations of the town. You should consult your town charter or bylaws to see how responsibility for personnel matters is allocated in your community.

5.32 WHAT IS A PERSONNEL SYSTEM?

Town personnel systems should reflect the civil service or non-civil service status of town employees, and should be consistent with federal and state statutes (including the state's Department of Personnel Administration Rules—PAR), local bylaws and regulations. Special care should be taken to ensure that affirmative action or equal employment opportunity requirements are met. Many of the components noted below are subject to mandatory collective bargaining in towns where public employees are organized. Even so, management should strive to maintain continuity throughout the local personnel system. Basic components of an effective personnel system include the following:

1. *Recruitment and Selection.* Your town should have a system for informing qualified candidates of employment opportunities, including procedures for posting or advertising jobs. Selection must be based on relevant requirements, including affirmative action.
2. *Classification.* Your town should have a classification plan that accurately describes all town jobs and allocates them to proper classification and grade levels. This is usually done by a professional trained in job analysis.
3. *Compensation.* Pay for town employees should be based on an equitable schedule that is consistent with the classification plan and supported by adequate pay data for comparable positions.
4. *Fringe Benefits.* Benefits for employees, such as health and life insurance, holidays and vacation, and sick, military and maternity leaves should be described clearly and based on established procedures.
5. *Working Conditions.* Your town should specify working hours, overtime policy, eligibility for benefits, restrictions on outside employment, and other rules governing behavior, dress, attendance, etc.
6. *Promotions.* Your town should have an open system, based on merit, for advancing employees to higher-level jobs.
7. *Appeals.* The personnel system should include a fair and explicit, multi-level process through which employees can address their grievances to management. The process must be aimed at reaching a satisfactory resolution.
8. *Performance Appraisal.* Your town should have a system for appraising the strengths and weaknesses of all employees. This system can be used to facilitate merit pay increases, merit promotions and employee development.
9. *Employee Development.* Your town should have established procedures for the training and development of its employees. Training should be a routine activity. However, it should emphasize employees who have been found deficient in job skills through performance appraisals.



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, August 8, 2016

CONSENT AGENDA

Docket Item H - 1:

One Day Alcoholic Beverage Licenses:

1. Gail Freeman for Studio on the Common – Aug. 17, 2016
Studio on the Common;
2. Gail Freeman for Studio on the Common – Aug. 10, 2016
Studio on the Common

H - 2:

Approve / Correct Meeting Minutes:
Wednesday, July 27, 2016; Wednesday, July 6, 2016

Approval for the DPW to hire an attorney to file an
appeal with DPS for an elevator infraction

Supporting Documents:

H - 1:

One Day Alcoholic Beverage License applications (2);

H - 2:

Meeting Minutes for 7/27/16 and 7/6/16

Request from DPW to hire an attorney for the filing of appeal

Action Required:

VOTE to approve Consent Agenda



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

In accordance with MGL c.138, s.14, 23; CMR 7.04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses

Name of Applicant/ Organization:

Studio on the Common

Address:

22 Church St.

Telephone Number:

781-721-1023

Permit Applying For:

All Alcohol License (\$75.00)*

Beer and Wine Only License (\$75.00)*

Nature and purpose of the event:

Winter club fundraiser for
Winchester Hospital

Number of persons attending event:

~ 80

Description of premises and location of facility where liquor will be sold and/or distributed:

Studio space at 22 Church

Name(s) of responsible manager(s) who will be in charge of dispersing the liquor, date of birth(s) and Social Security Number(s):

Gail Freeman

Date(s) and times of event and/or specific times when alcoholic beverages will be on the premises:

Aug 17 10th

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Gail M. Freeman

Print Name of Responsible Manager:

Gail M. Freeman

RECEIVED
2016 JUL 31 AM 11:20
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to: Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890.

***A \$75.00 LATE FEE WILL BE CHARGED FOR ANY APPLICATION SUBMITTED LESS THAN TWO WEEKS BEFORE THE EVENT.**



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

In accordance with MGL c.138, s.14, 23; CMR 7.04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses

Name of Applicant/ Organization:

Studio on the Common

Address:

22 Church St.

Telephone Number:

781-721-1023

Permit Applying For:

All Alcohol License (\$75.00)*

Beer and Wine Only License (\$75.00)*

Nature and purpose of the event:

Winter club fundraiser for
Winchester Hospital

Number of persons attending event:

280

Description of premises and location of facility where liquor will be sold and/or distributed:

Studio space at 22 Church

Name(s) of responsible manager(s) who will be in charge of dispersing the liquor, date of birth(s) and Social Security Number(s):

Gail Freeman

Date(s) and times of event and/or specific times when alcoholic beverages will be on the premises:

Aug 10 10:00am

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Gail M. Freeman

Print Name of Responsible Manager:

Gail M. Freeman

RECEIVED
2016 JUL 32 AM 11:20
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

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***A \$75.00 LATE FEE WILL BE CHARGED FOR ANY APPLICATION SUBMITTED LESS THAN TWO WEEKS BEFORE THE EVENT.**

Cafarella, Jennifer

From: Peter MacDonnell <pmacdonnell@winchesterpd.org>
Sent: Monday, August 01, 2016 2:58 PM
To: Cafarella, Jennifer
Cc: Barbara Bosco
Subject: RE: 1 day licenses

Hi Jen,
The police dept has no objections.

Peter MacDonnell
Chief of Police
Winchester Police Department
30 Mount Vernon Street
Winchester, MA 01890
Main: (781)729-1212
Office: (781)729-5429

-----Original Message-----

From: Cafarella, Jennifer [mailto:jcafarella@winchester.us]
Sent: Monday, August 01, 2016 1:47 PM
To: Peter MacDonnell
Cc: Barbara Bosco
Subject: 1 day licenses

Chief,

Can I please have your comments on the attached 1 day liquor licenses?

Studio on the Common
August 10 and 17
6pm to 9pm

Thanks -
Jenn



Town of Winchester

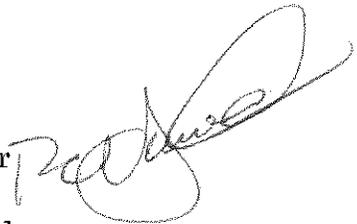
Richard C. Howard,
Town Manager

Board of Selectmen
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

MEMORANDUM

August 4, 2016

TO: Board of Selectmen

FROM: Richard C. Howard, Town Manager 

SUBJECT: Approval to engage Special Counsel

As a part of the Consent Agenda for Monday, August 8th, staff is requesting the Board's approval to engage Attorney Geoffrey P. Curtis of Woburn in the Town's appeal to the Department of Public Safety concerning the certification expiration of the Lincoln Elementary School lift

Attached for your review is Attorney Curtis' scope of services and pro forma invoice.

RCH:pcm

attachments

The Law Office of
JEFFREY P. CURTIS

Three Baldwin Green Common, Suite 206
Woburn, Massachusetts 01801

(781) 933-6797
(781) 756-1411 fax
jeff@jpcurtislaw.com

July 19, 2016

Mr. Peter Lawson
Town of Winchester

RE: The Town of Winchester
Representation Regarding DPS Civil Fine, 344-W-108

Dear Mr. Lawson,

You have asked that The Law Office of Jeffrey P. Curtis, Esq. ("Attorney") perform certain legal services as outlined below with regard to the representation of THE TOWN OF WINCHESTER ("TOWN" and "you"). The purpose of this letter is to confirm the engagement and to describe how we will be handling matters.

SCOPE OF ENGAGEMENT

You have engaged Attorney to represent the TOWN regarding a fine assessed by the Department of Public Safety regarding violations of M.G.L. 143 c.65 in the amount of \$20,000.

CONFLICTS OF INTEREST

Based upon the information provided we are not aware of any conflicts of interest that would prevent Attorney from representing you. No conflicts appear of record. If hereafter we become aware of an actual or potential conflict of interest, we will discuss this with you and will determine whether this will prevent Attorney from continuing the representation of you.

FEES

Before our representation begins, we will require a \$2,500 flat fee for representation to represent you through and up to the completion of a written administrative appeal. Should you want to pursue this matter beyond the first level of a written administrative appeal before DPS, we may enter into a subsequent engagement for legal services on such terms as to be agreed to by the parties to this agreement.

Mr. Peter Lawson
Town of Winchester
July 19, 2016
Page 2 of 2

DISBURSEMENTS

We will bill you for out-of-pocket disbursements for photocopying, travel, long distance telephone calls, messenger fees, computerized legal research, filing fees, court fees, expert fees, and other costs incurred on behalf of you. If we believe these disbursements will be substantial, we may ask you to pay them directly or in advance. These disbursements are billed at our cost; we do not add on any overhead or other charge.

TERMINATION OF ENGAGEMENT

You have the right to terminate our engagement at any time; however, this action will not relieve you of responsibility for the flat legal fee or disbursements which have already accrued. We will have the same right to terminate the engagement and may discontinue providing legal services if you fail to pay bills promptly, if you misrepresent or fail to disclose any material facts in the course of the representation, or if anything else occurs that in our opinion impairs an effective attorney-client relationship.

After you have reviewed this letter, please sign and return via email or mail along with the fee.

We look forward to working with you and know that you will be pleased with our services.

Sincerely,

/s/ Jeffrey P. Curtis

Jeffrey P. Curtis

Accepted:

By:
Printed Name:
Town of Winchester

**TOWN OF WINCHESTER
VENDOR AUTHORIZATION FORM**

SUBMITTED BY: _____
(Name & Department)

DATE: _____

SECTION I

NEW VENDOR REQUEST

Vendor # Assigned _____
(Comptroller's Office Use Only)

Refund/Employee Reimbursement (no W-9 required)

Other - W-9 required & attached

VENDOR INFORMATION:

FID#: None

NAME Jeffrey P. Curtis, Esq.

ADDRESS 3 Baldwin Green Common
Suite 206

CITY Woburn STATE MA ZIP 01401

PHONE 781 933-6797 FAX 781-756-1411

CONTACT NAME Jeffrey P. Curtis

CONTACT TITLE Attorney

CONTACT EMAIL JEH@JPCURTISLAW.COM

REMIT ADDRESS (IF APPLICABLE):

NAME Same as above

ADDRESS _____

CITY _____ STATE _____ ZIP _____

OTHER NOTES &/OR COMMENTS:

SECTION II

EXISTING VENDOR CHANGE

VENDOR # _____

REASON FOR CHANGE:

ADDRESS CHANGE: _____

OTHER (EXPLAIN): _____

Jeffrey P. Curtis, Esq.

The Law Office of Jeffrey P. Curtis
3 Baldwin Green Common, Suite 206
Woburn, Massachusetts 01801

Professional Services

Date	Invoice #
7/19/2016	3175

Client
Mr. Peter Lawson Town of Winchester

Due Date	Client Matter
7/19/2016	DPS Elevator Fine Appeal

Type	Date	Description	Hours/Units	Hourly Rate	Amount
DPS Appeal	7/19/2016	Flat Fee pursuant to engagement letter of 7/19/2016		2,500.00	2,500.00

Total					\$2,500.00
Payments/Credits					\$0.00
Balance Due					\$2,500.00

Phone #	Fax #	E-mail
(781) 933-6797	(781) 756-1411	Jeff@jpcurtislaw.com

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TOWN OF WINCHESTER
BOARD OF SELECTMEN INFORMATIONAL SESSION:
Forest Ridge Residences – 40B Development Proposal
Wednesday, July 27, 2016 – 7:00 PM
Record

At the conclusion of the Forest Ridge Residences – 40B Development Proposal informational session, Chairman Lance R. Grenzeback convened the Board of Selectmen in a brief business session. Present were Vice Chairman E. James Whitehead, Selectman Stephen L. Powers, Selectman Michael Bettencourt and Selectman David P. Errico. Also present were Town Manager Richard C. Howard and Special Land Use Counsel Mark Bobrowski.

OPENING

Notification of Other Meetings and Hearings

- Monday, August 8, 2016 – Board of Selectmen – Regular Session
- Monday, August 29, 2016 – Board of Selectmen – Regular Session
- Monday, September 12, 2016 – Board of Selectmen – Regular Session

BUSINESS

2016 State Primary Election Warrant – VOTE to Approve and Sign

*Motion: That the Board of Selectmen approve and sign the 2016 State Primary Election Warrant.

Whitehead – Bettencourt All in favor. VOTED.

CONSENT AGENDA

Permission to Block Sidewalk – Spruce Street

Consigli Construction

Closure from August 1 to August 19, 2016 – North Side of Spruce Street

Permission to Block Sidewalk – Skillings Road

Consigli Construction

Closure from July 28, 2016 through September 3, 2016

*Motion: That the Board of Selectmen approve Consigli Construction's request to block the sidewalk on the north side of Spruce Street from August 1 to August 19, 2016 with the condition that abutters be notified of the sidewalk closure.

Powers – Whitehead All in favor. VOTED.

Wednesday, July 27, 2016
Forest Ridge Residences 40B Development Proposal
Informational Session

1
2 *Motion: That the Board of Selectmen approve Consigli Construction's
3 request to block the sidewalk on Skillings Road on the
4 Winchester High School side, from July 28 to September 3,
5 2016 with the condition that abutters be notified of the
6 sidewalk closure.

7 Powers – Whitehead All in favor. VOTED.

8
9 Adjournment – 9:20 PM

10
11 *Motion: That the Board of Selectmen adjourn for the evening.

12 Whitehead – Bettencourt

13 By Roll Call: Errico, Bettencourt, Powers, Whitehead, Grenzeback VOTED.

14
15 Respectfully submitted,

16
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20 Richard C. Howard,
21 Town Manager
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23

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TOWN OF WINCHESTER
BOARD OF SELECTMEN INFORMATIONAL SESSION:
Forest Ridge Residences – 40B Development Proposal
Wednesday, July 27, 2016 – 7:00 PM
Notes

Chairman Lance R. Grenzeback convened the informational session on the 40B Development Proposal known as the Forest Ridge Residences. Present were Vice Chairman E. James Whitehead, Selectman Stephen L. Powers, Selectman Michael Bettencourt and Selectman David P. Errico. Also present were Town Manager Richard C. Howard, Special Counsel for Land Use Issues, Attorney Mark Bobrowski, State Senator Jason Lewis and State Representative Michael Day.

OPENING

Chairman Grenzeback explained that this is a public informational session for the Board of Selectmen to listen to concerned citizens; no votes will be taken. He explained the Krebs proposal for the construction of 296 apartment units, seventy-four of which will be affordable units and the remaining 222 market rate units. The primary access to the complex is through Fallon Road, Stoneham, with a secondary, emergency access from Forest Circle, Winchester. The apartment building would be located close to residences in the area. After presenting the frequently asked questions, Chairman Grenzeback explained that whether or not this project goes forward is a State decision. Neither the Winchester Board of Selectmen nor the Stoneham Board of Selectmen have the ability to approve or deny this project.

Speaking to the letter to MassHousing that will be sent by the Town of Winchester, Chairman Grenzeback indicated that letters is due on or about August 22nd.

Attorney Mark Bobrowski gave an overview of Chapter 40B for those in attendance. He pointed out that this law was adopted forty-seven years ago and was known as the *Anti-Snob Law*. He noted that a developer must have a project eligibility letter from MassHousing to go before the Zoning Board of Appeal, the Comprehensive Permit authority. Projects may be denied as a matter of science, i.e., flooding, drainage, etc. The Housing Appeals Court is the body that can overrule the Zoning Board of Appeals decision. Citizens can appeal to Land Court or to Superior Court.

Attorney Bobrowski explained that Chapter 40B is internally driven to provide subsidized housing; 25% of units must be affordable units with the market rate units subsidizing the affordable units; the ballot question in 2010 to repeal Chapter 40B failed 60% to 40%.

Representative Michael Day informed the audience that he and Senator Lewis are present this evening to listen to the community and decide where things can go from here. Currently, attempts are being made to modify Chapter 40B because it needs upgrading. He indicated that there is no argument that an expansion of affordable housing is needed, but Chapter 40B is the "stick" approach. He reported that he and Senator Lewis are working to try to provide incentives for smart growth. They have sent a joint letter to MassHousing about the impropriety of this proposal. The Representative pointed out that this project would have a

Wednesday, July 27, 2016
Forest Ridge 40B Proposal Informational Meeting Notes

1 huge environmental impact on the area. As a result, Representative Day and Senator Lewis
2 are working with the Town of Winchester to address this legitimate concern.

3
4 Senator Lewis noted that this issue is serious to the community; the project is out of scale and
5 dangerous to the area. He recalled that prior proposals did not get approval because of
6 concerns. He reported that he has been working with the Town of Stoneham on the 300 unit
7 proposal for Weiss Farm because that community is being overburdened as well. He informed
8 the audience that a strong letter has been sent to MassHousing and will be made available
9 publicly. He indicated that he and Representative Day will continue to update MassHousing
10 however it is likely that the process will be long.

11
12 Chairman Grenzeback informed the audience that the Board of Selectmen is familiar with this
13 site and its topography, however a solid set of arguments is needed to put before
14 MassHousing. Attorney Bobrowski informed the audience that after this evening, Town staff
15 will be meeting to discuss the impacts and comments made both in writing and verbally. He
16 explained that the Town will be dipping into its coffers to help craft the letter to the State.

17
18 **Michelle McCarthy**, 29 Oxford Street informed the Board that she is against this project,
19 questioning whether the Marino Family owns the land. She recalled that the Town has
20 previously rejected an offer to build homes on this property, questioning whether the Town
21 has offered to work with the Marino Family or whether the Town has considered purchasing
22 this property.

23
24 Chairman Grenzeback explained that there is uncertainty as to whether Krebs owns this
25 property or has an option to purchase it. He recalled that Marino was previously denied
26 because of the site conditions, however the Town has to deal with this development proposal.
27 He noted that at this point, the Town does not have an option to buy the land, which would
28 require a Town Meeting vote to do so.

29
30 **John Natale**, 45 Chester Street commented that it seems the State's HAC [Housing Appeals
31 Committee] is the important committee. He asked whether the appointees to this committee
32 are political appointees, members of the Legislature, etc. Attorney Bobrowski explained that
33 the Housing Appeals Committee is a five member body that adjudicates disputes as they arise
34 under the State's comprehensive permit law, Chapter 40B. Three members are appointed by
35 the Director of the Department of Housing and Community Development, one of whom must
36 be an employee of that agency. Two members are appointed by the Governor, one of whom
37 must be a city councilor and one of whom must be a selectman. Attorney Bobrowski indicated
38 that this group has tight-ties to the development community.

39
40 **Ann Sera**, 5 Andrea Circle informed the Board that she has read this application
41 meticulously. She pointed out that sections 4 and 6 of the application state that the applicant
42 must have control of the property. She indicated that the documents show a P & S that fell-
43 through once and there is nothing that establishes a formal relationship between Marino and
44 Krebs, suggesting to her, a problem with disclosure. She noted the importance of establishing
45 that Krebs has the ability to go forward. Attorney Bobrowski noted that a developer has to
46 have a P & S, ownership or lease of the property, something that has not yet been established.

47
48 Ms. Sera further noted that the application does not indicate that two (2) tax parcels are
49 involved, one in Winchester and one in Stoneham, questioning how this is made clear on the

Wednesday, July 27, 2016
Forest Ridge 40B Proposal Informational Meeting Notes

1 application. Attorney Bobrowski indicated that he is working to address issues with the
2 Stoneham property. He noted that the Stoneham property is zoned for multi-family use but a
3 fifty foot (50 ft.) strip is zoned C-I and no multi-family use is allowed; there are also easement
4 rights that fall into play here. Attorney Bobrowski informed the audience that this
5 information will be prominently referenced in the letter to MassHousing. He explained that
6 Stoneham is working with Winchester on this issue, however Winchester has no power over
7 Stoneham.

8
9 Stoneham resident John Eaton informed the Board that he has read the application as well.
10 He noted that 473 parking places are proposed and the only street access to this development
11 is Fallon Road with the emergency access on Forest Circle, Winchester. He explained the
12 options for exiting from the proposed development site, suggested that residents of Forest
13 Ridge would be using the roads, sidewalks, infrastructure in Stoneham with Winchester being
14 credited for the affordable units but Stoneham having to bear the traffic and infrastructure
15 burden. Mr. Eaton stated that this is not good for Stoneham residents. He pointed out that
16 this development is being constructed next to another complex that is not a 40B complex,
17 adding to the fact that this is all too much for Stoneham to bear.

18
19 **Tracy Olson**, 230 Forest Street indicated agreement with the comments about Stoneham,
20 pointing out that traffic on Forest Street backs up daily for at least three to four hours. Access
21 to this proposed development will be extremely difficult and she questioned whether residents
22 of the development would be allowed to use the Forest Circle emergency egress, something
23 that would make things very difficult for Forest Street residents. Ms. Olson pointed out that
24 this area is also routinely flooded and with the amount of impervious surface associated with
25 the development the flooding will be exacerbated. Ms. Olson also expressed concern about
26 sanitary sewer overflow with 296 units. She noted that wetlands have been identified for
27 preservation so there should be no or low impact in that area.

28
29 **Steve Duran**, 227 Forest Street, recalled that several years ago, the Marino Group was
30 stopped from building homes on this parcel; he asked for the Board's assistance in stopping
31 this project. He noted that he and his family live in the historical Laraway house located at
32 the corner of Forest Street and Forest Circle. He expressed concern about traffic and
33 suggested that residents of this development would use the emergency access road to exit from
34 that property.

35
36 **Ron Vanderkruik**, 193 Forest Street questioned the amount of time that residents would
37 have to submit a letter to the Board for incorporation into comments to MassHousing.
38 Chairman Grenzeback indicated that the letter is due to the State by August 26th, but it would
39 be helpful to have comments as soon as possible.

40
41 Mr. Vanderkruik recalled that twenty-five years ago, there was an issue about dumping debris
42 on this property and the material dumped was considered hazardous. He questioned whether
43 the validity of the application is checked because the recent application suggests that there is
44 nothing hazardous on site. Chairman Grenzeback informed the audience that all of this is
45 being researched by Town staff and records are being pulled up.

46
47 Lastly, Mr. Vanderkruik informed the Board that he is very much against this project.
48

Wednesday, July 27, 2016
Forest Ridge 40B Proposal Informational Meeting Notes

1 **Caroline Colarusso**, Stoneham Board of Selectmen, asked for the Winchester Selectmen to
2 consider the impact this project would have on Stoneham. She pointed out that the State
3 Legislature has to fix this law because they were the ones that made it. She recalled that in
4 2010 there was a ballot question for a full repeal of this law but it failed, so now she is asking
5 for amendments to the law that provide a reasonable voice for communities. She urged the
6 residents not to give up.

7
8 **Jim O'Neil**, 9 Chisholm Road informed the Board that traffic on Forest Street during
9 commuter hours is backed up from Chisholm Road to Park Street in Stoneham, and the area
10 between Forest Street and Highland Avenue is also congested. He is concerned about adding
11 additional traffic to this mix, noting that ambulances use this route to Winchester Hospital
12 multiple times daily. He requested that a detailed traffic study be commissioned by the Town.

13
14 **Cindy Hemenway**, 14 Fells Road, Stoneham expressed concern about the traffic and related
15 back-ups. She indicated that adding 1000 cars to the area is not feasible. She noted that
16 emergency services to this area will be closer from Stoneham than Winchester. Ms.
17 Hemenway expressed concern about the infrastructure impacts on the Town of Stoneham and
18 urged the Legislators to amend Chapter 40B.

19
20 **Paul White**, 10 Forest Circle pointed out that the driveway to the Shannon property is at 11
21 Forest Circle. He recalled that when this area was previously considered for development, no
22 hazardous chemicals were found but hazardous building materials were found on site.
23 Shannon was ordered to clean up the property within five years. He noted that there is no
24 deed restriction, but debris is still on the site. Mr. White informed the Board that blasting will
25 hurt the neighborhood. He requested that the Legislators make the neighborhood optimistic,
26 however questioned whether the neighborhood should hire an attorney to represent them.

27
28 A Sunset Road resident informed the Board that she drives her children to the Muraco
29 Elementary School noting that drivers are angry because of the wait time in traffic. She noted
30 that there are no Stop Signs or crosswalks in the area and children could be hurt walking to
31 school. This resident also pointed out that the Muraco Elementary School is bursting at the
32 seams and she cannot imagine more students placed there.

33
34 The resident from 197 Forest Street suggested that the structure will look like the Great
35 Pyramid at Giza. This resident noted that traffic is impossible now and has been for some
36 time; there are no crosswalks on Forest Street. The major issue is with drainage because
37 when it rains the area is filled. It was suggested that any change to topography could be
38 disastrous. This individual indicated that there has to be a better way to solve the affordable
39 housing issue than through crisis. He questioned whether this project is being constructed by
40 a real estate investment trust, an Air B & B, or as an objective to provide a revenue stream.

41
42 **Roger Wilson**, 81 Irving Street pointed out that the Town of Winchester obtains drinking
43 water from this area which flows into the North Reservoir. He noted that the area wetlands
44 also drain into the North Reservoir.

45
46 **Catherine Wilson**, 178 Park Street, Stoneham recalled that in the late 1980's there was a
47 proposal for a 40B development at the old Spot Pond Motel, an area now built up with single
48 family homes. She suggested that any traffic study that is done, needs to consider Stoneham
49 and the apartment units that will be constructed there. Ms. Wilson noted that a part of Park

Wednesday, July 27, 2016
Forest Ridge 40B Proposal Informational Meeting Notes

1 Street is under the DCR and this may create an avenue for review because trucks are not
2 allowed on DCR roadways.

3
4 **Lisa Semmes**, 49 Sunset Road informed the Board that she is a six month resident of
5 Winchester and chose to live here because of the Blue Ribbon of excellence High School. She
6 indicated that if schools are over-crowded they cannot retain their excellence. She noted that
7 if this development goes forward, there could be 500 additional children in the Winchester
8 Public Schools. She also noted that there would be a problem if the property values decline.
9 Ms. Semmes suggested that the proposed development is out of character with the residences
10 in that immediate area.

11
12 **Neil Anderson, Executive Director, Middlesex Fells Reservation** informed the Board
13 that his office was contacted by residents of the area. He explained that he stands in favor of
14 the opposition to this development and would love to see the land kept as all conservation.
15 Mr. Anderson noted that the Middlesex Fells Reservation is an advocate for the protection of
16 the Fells and the organization is willing to support the Town's efforts. The website address is
17 fells.org.

18
19 **Rob Matule**, 4 Kenwin Road commented that he feels everyone should be terrified of the 40B
20 as it currently exists because it allows rights to be trampled. Mr. Matule noted that traffic is
21 horrendous as early as 5 AM. He suggested that it is unfortunate that people sell to the
22 highest bidder therefore it is incumbent on the Town to take steps against this. He pointed
23 out that it is scary for kids to cross the street. Mr. Matule indicated that Muraco Elementary
24 School is a wonderful school but the facility is in dire straights and new enrollment will push
25 that facility to the breaking point. The impact on the Town's schools is not taken into account
26 by the Housing Appeals Committee.

27
28 Attorney Bobrowski indicated that this is not relative criteria for a local decision, and while it
29 may be a primary concern of the community, it is not a concern for the Housing Appeals
30 Committee.

31
32 A woman who identified herself as a teacher at McCall Middle School informed the Board that
33 she has twenty-six students assigned to her classroom with twenty-five seats. She pointed out
34 that the building is overcrowded and there are not enough classrooms to house all students.
35 She also suggested that there be a review of the traffic related to the school enrollment.
36 She questioned why the area is not zoned for single family only structures.

37
38 Chairman Grenzeback explained that Chapter 40B overrides all local zoning, and originally it
39 was known as Anti-snob Zoning. He informed the audience that this development has
40 attracted the attention of the School Committee.

41
42 **Dorothy Feldman**, 9 Polk Road explained that the proposal is for a five (5) story structure
43 but there are actually six (6) stories above ground. The building would be located on a hillside
44 and would be as tall as a ten (10) story building. Ms. Feldman explained that Polk Road is a
45 cul de sac surrounded by ledge and the land in question is just under nine (9) buildable acres
46 all of which will have to be de-forested and blasted; three hundred (300) families will have
47 access to underground parking in an area that abuts the Middlesex Fells. Blasting will impact
48 wildlife. She noted that the proposed development is too large and too dense and Chapter 40B
49 is a way to skirt the law.

Wednesday, July 27, 2016
Forest Ridge 40B Proposal Informational Meeting Notes

1
2 **Beining Nie**, 11 Forest Circle expressed concern about traffic and the removal of ledge.

3
4 **Christopher Fisher**, 24 Bellevue Avenue informed the Board that he was at home when
5 blasting began on Fallon Road in 2015. His entire house shook and a failing retaining wall
6 was made worse. He noted that he is aware that developers are required to check house
7 foundations in the area to make sure there is no damage caused by their blasting.

8
9 **Peggy Schleicher**, 22 Lochwan Street noted that the project is a negative for the entire
10 Town. She raised questions about where the cars will go, whether State Departments talk to
11 each other or not because there will be major impacts of cars from this project. She noted that
12 Cross Street, Swanton Street, Washington Street and Main Street are all impacted now. Ms.
13 Schleicher suggested that 40B projects are supposed to occur near public transportation,
14 questioning where the public transportation is for this project. Ms. Schleicher informed the
15 Board that she finds it offensive that the State Departments do not talk with each other.

16
17 Attorney Bobrowski explained that there is no technical requirement that a 40B project has to
18 be close to public transportation, 40R makes that requirement. Attorney Bobrowski indicated
19 that the Town's best chance is to write a strong letter to MassHousing.

20
21 **Chris Nixon**, School Committee member informed the Board that the School Committee is
22 aware of this proposal. He noted that the School Committee is working on a new Master Plan
23 and has discussed the impact of this project as a part of that.

24
25 **John Lodato**, 189 Forest Street commented that he chose to live in Winchester for its schools
26 and to raise his children in a better community. He asked if residents will have an
27 opportunity to address the developer directly.

28
29 Chairman Genzeback explained that if MassHousing approves this project, the developer will
30 go before the Zoning Board of Appeals and there will be public hearings where the developer
31 will have to address his design proposal. He indicated that it is unknown if the developer can
32 be forced to make changes to his design. Chairman Grenzeback pointed out that this is only
33 the beginning stage of the process.

34
35 **Steve Parkhurst**, Chairman of the Conservation Commission informed the audience that the
36 ConCom is concerned about this project as well. He pointed out that the Town is making
37 efforts to accommodate affordable housing in the Town Center, so any developer that wants to
38 provide affordable housing has good alternatives. He recalled that the Planning Board had
39 previously denied a residential subdivision of twelve (12) homes at this very same location
40 because of the drainage, ledge, etc. He suggested that if a twelve (12) home subdivision can be
41 denied, the case can be made to deny 300 units.

42
43 Selectman David Errico commented that the Town is under attack and this is an attempt at
44 making a rock into a profit center. He informed the audience that the Board will step up and
45 do what it takes to defend the Town.

46
47 Vice Chairman Whitehead informed the audience that with the consent of the Fire
48 Department, he and Selectman Errico tried to get a ladder truck onto Forest Circle under a

Wednesday, July 27, 2016
Forest Ridge 40B Proposal Informational Meeting Notes

1 few different scenarios. He noted that the project envisions a kiosk on Forest Circle for kids
2 to wait in to be picked up for school and he does not see how this can be done.
3

4 Selectman Bettencourt informed the audience that the Board will leave no stone unturned in
5 exploring the deficiencies of this application. He noted that the Town is being aggressive in
6 retaining consultants to make the letter to MassHousing as strong as possible. Selectman
7 Bettencourt indicated that he is very concerned about the project for several reasons, not the
8 least of which is that a project of this magnitude could force the construction of a new school.
9

10 Selectman Bettencourt informed the audience that every effort will be made to use media to
11 communicate with the public. He noted that the timeline is aggressive, however much has
12 been learned from the 40B Winchester North application for Cambridge Street.
13

14 Selectman Powers indicated that the key here is that the State has over-reached and perhaps
15 will get the message that developers think that Winchester is wide-open. He noted that this
16 project is not good for either Winchester or Stoneham. He suggested that the towns will have
17 to get aggressive with the housing group.
18

19 Chairman Grenzeback in summarizing the comments this evening, informed the audience that
20 MassHousing has not made a decision to allow this project to go forward; he urged people to
21 forward comments for incorporation into the letter to MassHousing.
22

23 At 9:20 PM Chairman Grenzeback concluded the informational session.
24

25 Respectfully submitted,
26
27

28 Richard C. Howard, Town Manager
29

draft notes

Members:

4 Patrick Circle Stoneham Caroline Colarusso (carc

Alice Alford, 223 Forest Street
Allan Rodgers, VC, Housing Partnership

Andreas Koeller, 251 Foest St.
Andrew Kurban, 58 N. Border Rd.
Ann Connelly, 10 Laurel Hill Ln.
Ann Duran, 227 Forest St.
Ann Sera, 5 Andrea Circle
Anthony Conte, Government Regulations

Barbara Bund, 18 Laurel Hill Lane
Beijing Nie, 11 Forest Cir.
Bill & Joanne Kirk, 17 Bellevue Avenue

Brian Rabinovich, 21 Bellevue Ave.
Cameron Rohall, 17 York Rd.
Carmen Kenrich, 397 Highland Ave.
Carol McKinley, 407 Washington St., Melrose

Catherine Wilson, 178 Park St., Stoneham

Chip Bonnett, 15 Chisholm Rd.
Chris Nixon
Christopher Fisher, 24 Bellevue Ave.
Cindy Hemenway, 14 Fells Rd., Stoneham

David Bees, 225 Forest St.
David Shiple, 19 Fairmount St.
Deborah LoGuidice, 30 N. Border Rd.
Eleni & John Lodato, 189 Forest St.
Evangelina Ellis, 48 N. Border Rd.
Felicity tuttle, 5 Oneida Rd.
Frank Cimini, 224 Park St., Stoneham
Gerald Nardone, 384 Main St.
Gina Kurban, 58 N. Border Rd.
Guoling Zhou, 3 Grant Rd.
Heather Eliassen, 22 Grayson Rd.
Hugh Thompson, 7 Grant Rd.
James Dullaghan, 8 Royalston Avenue
James O'Neil, 9 Chisholm Rd.
Janet Lau, 184 Cross St.
Janice DePaulo, 8 Chisholm Rd.
Jeanne Galka, 27 Bellevue Ave.
Jennifer Tong, 67 Sunset Rd.
Jerry Li, 35 Tufts Rd.
Jianning Wang, 11 Forest Cir.
Joe Lindmark, 212 Forest St.
Joe Zampatella, 19 Edgehill Rd.
Joelyn Huebner, 211 Forest St.



Housing and Economic Development

[Home](#) > [Initiatives](#) > [Executive Office of Housing and Economic...](#) > [DHCD](#) > [Program Info](#) > [HAC](#)

Housing Appeals Committee

Program Description

The Housing Appeals Committee is a five-member body that adjudicates disputes as they arise under the state's comprehensive permit law, MGL Chapter 40 B, sections 20-23. Three members are appointed by the Director of the Department of Housing and Community Development, one of whom must be an employee of that agency. Two members are appointed by the governor, one of whom must be a city councilor, and one of whom must be a selectman.

How it works:

To encourage the development of affordable housing, the comprehensive permit law allows a local zoning board of appeals (ZBA) to issue a comprehensive permit overriding town zoning and other local regulations. A developer, nonprofit organization or government agency that proposes to build or substantially rehabilitate subsidized low and/or moderate income housing can appeal to the Housing Appeals Committee if the ZBA either denies the comprehensive permit or grants the permit subject to conditions which make the proposal uneconomic. A decision of the Housing Appeals Committee may be appealed to the Superior Court.

Who is eligible:

Any developer of housing approved under an eligible state or federal housing program who has been denied a comprehensive permit by a Zoning Board of Appeals in a city or town with less than 10% of its housing units affordable to low or moderate income persons.

For more information:

Please call the Housing Appeals Committee at (617) 573-1520

Did you find the information you were looking for on this page? *

- Yes
 No

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**TOWN OF WINCHESTER
BOARD OF SELECTMEN MEETING
Wednesday, July 6, 2016**

Record

Chairman Lance R. Grenzeback called the meeting to order at 6:30 PM in the Board of Selectmen Meeting Room located in Town Hall. Present were Vice Chairman E. James Whitehead, Selectman Stephen L. Powers, Selectman Michael Bettencourt and Selectman David P. Errico. Also present were Town Manager Richard C. Howard and Town Counsel Wade M. Welch.

OPENING

*Motion: That the Board of Selectmen adjourn to Executive Session for the purpose of discussing matters related to Litigation: Eversource Intervener Status – MGL Chapter 30A §21(a)3 because an open meeting discussion may have a detrimental effect on the litigating position of the Board of Selectmen, as declared by the Chairman. (Siting Board Filing Update)

Whitehead – Powers

By Roll Call Vote: Errico, Bettencourt, Powers, Whitehead, Grenzeback VOTED.

*Motion: That the Board of Selectmen adjourn from Executive Session to Public Session, not to return to Executive Session.

Whitehead – Bettencourt

By Roll Call Vote: Errico, Bettencourt, Powers, Whitehead, Grenzeback VOTED.

Notification of Meetings and Hearings

-] Monday, July 25, 2016 – Board of Selectmen – Regular Session
-] Wednesday, July 27, 2016 – Public Informational Session – Forest Ridge Residences 40B Development Proposal – McCall Middle School Auditorium – 7:00 PM
-] Monday, August 8, 2016 – Board of Selectmen – Regular Session
-] Monday, August 29, 2016 – Board of Selectmen – Regular Session
-] Monday, September 12, 2016 – Board of Selectmen – Regular Session

Selectmen's Comments

Selectman Powers inquired whether there is a timeline associated with the installation of the traffic lights on Cambridge Street. Town Manager explained that the State is trying to get as much done as possible during the summer months. He indicated that he would reach out to the Town Engineer about this.

TOWN MANAGER REPORT AND COMMENTS

Appointments

Town Manager announced that in accordance with Section 4-2b of the Town Charter and in accordance with the Rules and Regulations of the Department of Personnel Administration (Civil Service) he has made the following permanent, full-time appointments in the Police Department:

**Frank Spinoso, 11 Hastings Road, Winchester, MA
Full-time Permanent Intermittent Police Officer**

Wednesday, July 6, 2016
Board of Selectmen Meeting

Appointment effective date: July 25, 2016

Shelby Santini, 4 Briarwood Lane, Winchester, MA
Full-time Permanent Intermittent Police Officer
Appointment effective date: July 26, 2016

Town Manager also announced that in accordance with Section 4-2b of the Town Charter and in accordance with the Rules and Regulations of the Department of Personnel Administration (Civil Service) he has made the following permanent, full-time appointment in the Fire Department:

Sean P. Doherty, 20 Seven Spring Lane, Apt. G, Burlington, MA 01803
Temporary Full-Time Appointment – Military Replacement

Mr. Doherty is a certified paramedic and will fill the position of a firefighter who is serving in the US Armed Forces.

Selectman Errico pointed out that the two police appointees are Winchester residents and applauded the hiring of two local individuals who he feels will bring a lot to the community.

Mass. Historical Commission Grant Award

Town Manager informed the Board that this grant does require a \$5,000 match which the Historical Commission included in their FY2017 Budget request.

Green Communities Grant

Town Manager reported that through the efforts of the Town's Energy Coordinator, Susan McPhee, the Town is now in line to receive several hundred thousands of dollars in grant funds. He thanked Ms. McPhee for her efforts in this area. The award is in the amount of \$215,204 and will fund the following projects: Ambrose Elementary School, Lynch Elementary School and McCall Middle School exterior and parking lot lighting switch to LED; Parkhurst School HVAC improvements, steam trap repair and other upgrades, ductless splits / air source heat pumps to replace window unit air conditioners; Mystic School / Recreation Department steam trap repair and replacement; Town Hall W. Chadwick Maurer, Jr. Auditorium damper controls and air sealing in the sheave room; McCall Middle School interior lighting switch to LED and refrigeration controls on kitchen walk-in freezer and refrigerator.

Supplemental Agenda – Town Manager Report and Comments

Authorization for the Town Manager to sign Congresswoman Katherine Clark's Gun Violence Letter to Speaker Paul Ryan

Town Manager explained that he is requesting the Board's authorization to sign the Congresswoman's gun violence letter to Speaker Paul Ryan. He indicated that he would not participate without first bringing this to the Board's attention. Congresswoman Clark's letter urges Speaker Ryan to bring forward legislation that creates universal background checks and prevents terrorists from purchasing weapons.

*Motion: That the Board of Selectmen authorize the Town Manager to sign the letter to House Speaker Ryan as presented at table.

Whitehead – Powers

All in favor.

VOTED.

BUSINESS

**Wednesday, July 6, 2016
Board of Selectmen Meeting**

Noise Bylaw Briefing

Town Manager indicated that the draft bylaw contained in the packet is a product of consultation from last year's Town Meeting. A consultant was brought in to study the noise levels in the Baldwin Street area. The second piece is a proposed draft of a bylaw; from these two pieces is the draft document before the Board this evening. Town Manager recalled that the Board of Health had some concerns about being the lead agency overseeing the noise calculation measurements. The article was pulled back in order to reassess the responsibility for enforcing this bylaw.

Town Manager suggested that if the Board intends to include this on the Fall 2016 Town Meeting Warrant, examples of these types of bylaws can be obtained from other communities. Selectman Bettencourt asked if the only question related to enforcement of the bylaw if approved by Town Meeting and was informed by Town Manager that things have not gone farther with the Board of Health. He suggested that the next step in this process would be for the Board of Selectmen to meet with the Board of Health about additional resources needed for enforcement of this bylaw if approved by Town Meeting. Equipment to actively measure noise levels would need to be purchased as well.

Vice Chairman Whitehead pointed out that it is the Police Department that gets the calls about noise disturbances. Town Manager explained that staff would work with the Police Department and certain officers would be designated to carry this equipment. The Vice Chairman pointed out that there are inconsistencies in the definition of "responsible person" and "investigating agent", so language needs to be cleaned up; the fine structure also seems low. He suggested that the vehicle idling policy be incorporated into this as well. Lastly, Vice Chairman Whitehead suggested a definition of noise sensitive receivers be included. Chairman Grenzeback suggested that hours be incorporated. It was the consensus of the Board to go forward with development of the bylaw, with the Town Manager bringing a revised draft document back to the Board for review.

Solicitation Bylaw Briefing

Town Manager noted that there are examples of solicitation bylaws in effect in neighboring communities included in the packet for the Board's review. Selectman Bettencourt noted that he has advocated for this type of bylaw and having such a mechanism in place makes sense.

Selectman Powers informed his colleagues that he does not see why ninety (90) days are needed, with less being doable. He indicated that he was amazed by Town Meeting's vote to turn this down and noted that he likes Stoneham's enforcement of "no solicitors" at the door being enforced. He suggested that some teeth be included for enforcement purposes.

Chairman Grenzeback recalled that the debate in 2009 centered on two issues; the first was that it would be a good thing but the requirements seemed bureaucratic and would be applicable to Boy Scouts, Girl Scouts, etc.; scofflaws would not comply. He suggested that the North Reading model seems simpler. The Lexington bylaw goes after automobiles that move these solicitors around. He indicated that the Winchester version should be simplified and not sweep in non-profit groups.

Town Manager informed the Board that he feels there should be a registration requirement. Vice Chairman Whitehead indicated that the public would have to be educated that there are regulations in place. Town Manager indicated that a document could be produced by the end of summer for Fall Town Meeting review, with the North Reading bylaw being the template from which to work.

Community Aggregation Plan - Opening of Comment Period

Town Manager noted that the comment period is the next step in the community aggregation process, however he is concerned that the comment period might be too short, suggesting that it be pushed back

**Wednesday, July 6, 2016
Board of Selectmen Meeting**

1 to September 9th comment submission deadline which would allow two full months of advertising. He
2 explained that all of this will be put in place by Good Energy and the Board could adopt the aggregation
3 plan at their September 12th meeting for forwarding to the Department of Public Utilities. Chairman
4 Grenzeback indicated that in the end, the plan is fairly straightforward and staff may be able to
5 condense it for easier understanding by the public.
6

7 Selectman Powers noted that the Board is considering community aggregation because of the savings in
8 residential electrical costs. Vice Chairman Whitehead noted that if a residence signs up for another
9 plan they will be unable to participate in the Good Energy sponsored plan. Chairman Grenzeback
10 pointed out that Eversource is the regulated public utility and residents pay the rates that are set. The
11 Good Energy proposal will still have Eversource supplying the electricity but costs would default to the
12 aggregation plan and lower rates would be paid by the homeowner. He noted that this is a good way to
13 reduce energy costs. Chairman Grenzeback pointed out that the Town bids its municipal electrical costs
14 and has been successful in paying lower rates.
15

16 **Eversource Update**

17
18 Town Manager reported that the neighborhood is being updated on the Town's efforts on their behalf
19 and consultants have been brought in to help build a case to achieve the best outcome. He noted that
20 the Town is currently in the intervening process and staff efforts will continue on the Town's behalf.
21

22 **Town Counsel Selection Committee Discussion**

23
24 Chairman Grenzeback indicated that the question before the Board is whether the Board wants to
25 refine Town Counsel's responsibilities. He suggested that the Board also discuss options for procuring
26 services, i.e., does the Board want to put out an RFP and receive bids for legal services; does the Board
27 want to appoint a "Town Counsel Selection Committee" made up of five to seven residents, with one
28 individual representing the Board of Selectmen's interests; one member from a Town committee that
29 utilizes Town Counsel services; a Town staff person; members at large; residents who are lawyers. The
30 Chairman suggested that Board members think about the type of person that they wish to see on the
31 committee and provide that information to the Town Manager. Advertising would be published in the
32 MMA's BEACON newsletter, on the Town's website, etc.
33

34 In response to the question raised relative to how Winchester compares with surrounding communities
35 with legal expenditures, Town Manager explained that several years ago a survey was done and
36 Winchester falls in the middle. Selectman Errico expressed some concern about the carry-over of cases,
37 questioning whether the new counsel would be available prior to Town Counsel Welch's retirement or
38 would Attorney Welch be available after January 1st.
39

40 Chairman Grenzeback indicated that it is his hope that a selection will be made by Fall Town Meeting.
41 An "of counsel" contract would be written for Attorney Welch so that he would be available for a certain
42 length of time post retirement. The new Town Counsel would have to discuss the transfer of cases with
43 Attorney Welch. He explained that the current thinking is to have Town Counsel Welch on retainer for
44 some period of time. He noted that Attorney Welch is not discontinuing his law practice. Selectman
45 Bettencourt pointed out that Attorney Welch would like to start winding down on some cases, so "of
46 counsel" makes sense. He suggested that the Town's legal needs have changed.
47

48 **SUPPLEMENTAL BUSINESS AGENDA**

49
50 **Staging Permit – 552 Main Street – Better Homes and Garden Real Estate Group – Nan**
51 **Shanahan [sign to be installed by Larson Sign Co., South Berwick, ME]**

52
53 **Permission to Block Two (2) Parking Spaces at 641 Main Street – Dick Yirikian – Main St. Citgo**

Wednesday, July 6, 2016
Board of Selectmen Meeting

1
2 *Motion: That the Board of Selectmen approve a Staging Permit for Better Homes
3 and Garden Real Estate Group at 552 Main Street. Sign to be installed by
4 Larson Sign Co., South Berwick, Me.

5 Whitehead – Powers All in favor. VOTED.
6

7 *Motion: That the Board of Selectmen authorize two parking spaces to be blocked
8 on Main Street at the Main Street Citgo Station, 641 Main Street to
9 allow for the removal of gasoline tanks.

10 Whitehead – Powers All in favor. VOTED.
11

12 CONSENT AGENDA AND SUPPLEMENTAL CONSENT AGENDA
13

14 Acceptance of Donation:

15 Cummings Foundation Grant (\$25,000) to the Board of Health Coalition for
16 a Safer Community

17 One Day Alcoholic Beverage License Requests:

18 Mike Bodal for Griffin Museum – July 14, 2016 – Griffin Museum;
19 Mariah Contreras and Alex Tee – July 16, 2016 – Wright Locke Farm;
20 David Gordon for Fong Tan LLC – August 13, 2016 – Griffin Museum;
21 Laura Lewis for Essex Catering – July 17th and September 16, 2016 –
22 Wright Locke Farm;

23 Archie McIntyre for Wright Locke Farm Conservancy – July 9th, July 14th,
24 July 21st, July 28th, and August 27th, 2016 – 1827 Barn;

25 Other:

26 Granara-Skerry Trust Walk/Run Road Race – Saturday, September 24, 2016;

27 Approve/Correct Meeting Minutes – Wednesday, June 22, 2016

28 One Day Alcoholic Beverage License – Winchester Boat Club

29 Grace Tripp, Operations Manager for the Winchester Boat Club –
30 Thursday, July 21, 2016 – Winchester Boat Club Poolside;

31 Permission to Use Town Common for South Sudanese Dancing:

32 Celebrating the wedding of Nyanthon Awnol and Dan Bul –
33 Saturday, July 9, 2016 from 4 PM to 6 PM
34

35 *Motion: That the Board of Selectmen accept with gratitude the Cummings
36 Foundation Grant in the amount of \$25,000 to be used by the Board
37 of Health Coalition for a Safer Community.

38 Whitehead – Powers All in favor. VOTED.
39

40 *Motion: That the Board of Selectmen approve the Consent Agenda for Monday,
41 July 6, 2016 that includes One Day Alcoholic Beverage Licenses for
42 July 9, 14 (2), 16, 17, 21 (2), 28 August 13, and 27, 2016 at various
43 locations in Winchester.

44 Whitehead – Powers All in favor. VOTED.
45

46 *Motion: That the Board of Selectmen approve the Granara-Skerry Walk/Run
47 Road Race on September 24th, and permission to use the
48 Town Common on Saturday, July 9th for South Sudanese Dancing to
49 celebrate the wedding of Nyanthon Awnol and Dan Bul from 4 PM to 6 PM.

50 Whitehead – Powers All in favor. VOTED.
51

52 *Motion: That the Board of Selectmen approve the Meeting Minutes for Wednesday,
53 June 22, 2016 as written.

**Wednesday, July 6, 2016
Board of Selectmen Meeting**

1 Whitehead – Powers

2 In favor: Errico, Bettencourt, Powers, Grenzeback

3 Abstaining: Whitehead

VOTED.

4
5 **Non-Docket Comments from the Board of Selectmen**

6
7 Selectman Errico referenced the issue about the fence on Nathaniel Road, noting that there seems to be
8 a history of notices here that are being ignored by the property owner. Town Manager indicated that
9 management will follow up on this with staff.

10
11 Selectman Powers questioned the status of the health insurance questionnaire being developed by the
12 Comptroller and insurance consultants. Town Manager recalled that the Comptroller had provided a
13 draft questionnaire for the Board's review which resulted in some questions from the Board that
14 required additional research.

15
16 Selectman Bettencourt requested that staff post something on the Town's website that clarifies the
17 expectations for One Day Alcoholic Beverage Licenses.

18
19 **COMMUNICATIONS AND WORKING GROUP REPORTS**

20
21 The Board acknowledged receipt of the following correspondence:

- 22
23 1. Housing Appeals Committee Decision: Hilltop Preserve Ltd. Partnership v. Walpole Board of
24 Appeals – April 10, 2002
25 2. Eversource – Electricity Savings to Customers in Eastern Massachusetts
26 3. Winchester Housing Authority – Volunteer Vacancy posting
27 4. [Certified Letter] MassHousing re: Forest Ridge, Winchester, MA
28 5. EPA Newsletter re: Industri-plex Superfund Site, Operable Unit 2
29 6. School Committee Agenda for Tuesday, July 12, 2016 – Parkhurst School

30
31 **Adjournment: 8:45 PM**

32
33 *Motion: That the Board of Selectmen adjourn for the evening.

34 Whitehead – Powers

35 By Roll Call Vote: Errico, Bettencourt, Powers, Whitehead, Grenzeback

VOTED.

36
37 Respectfully submitted,

38
39
40
41 Richard C. Howard, Town Manager
42

Educational Facilities Planning and Building Minutes of the Meeting May 4, 2016

Members Present: Bob Deering, Don Cecich, Brendan Driscoll, Charles Tseckares, Geethanjali Mathiyalakam, Judy Evans, Susan Verdiciochio, Jessica Lohnes and Todd Kosterman.

Members Absent: Shelly Walsh and Roger Hain.

Others Present: Jim Dowd, Skanska USA Building; John LaMarre, Consigli Project Manager; Ed Frenette, SVP, SMMA; Meg White, Town Project Manager; Susan McPhee, Energy Committee; Chris Nixon, School Committee member; and Gerald Nardone, Consultant.

Mr. Deering called the meeting to order at 6:30 p.m. in the Waterfield Room, Town Hall.

Copies of Skanska's Meeting Agenda were distributed including copies of an e-mail from Lorraine Finnegan Re: Winchester Predicted Energy Usage at the High School and a Memorandum from Judith Evans to Director of Capital Planning regarding MSBA Project ID Number: 2008034425, High School Project Funding Agreement Budget Revision Request #2 (Attachment #1)

1. **Public Comment:** Mr. Nixon commented that he sent an e-mail dated May 2, 2016 to Bob Deering and Jim Dowd regarding energy usage at Winchester High School asking how the electrical usage was calculated/estimated. Mr. Nixon shared his concerns around the energy overrun and in his opinion stated it should not affect the School Department's budget. Mr. Nixon questioned the significant increase in electrical usage at the high school site and had several overall energy questions. Todd questioned Skanska's calculations for estimated electrical use in the modular classrooms in that they seem high.

Jim Dowd indicated that Skanska calculated the energy and estimated consumption by reviewing last year's bills. In retrospect, Jim stated the approach they took was incorrect. The Committee talked about the increase in square footage of construction space in Phase 2 that contributed to the excessive electric usage. Jim has been meeting with the DPW and the Town Manager to consider alternative ways to fund the higher energy costs anticipated in Phase 3. Jim commented that there will be a \$200,000 savings from the removal of hazardous soil from the field project work because the cost will be absorbed through the culvert project. Jim indicated that they will be exploring the possibility of moving to propane heat, although propane does have fumes and moisture requiring moisture removal in order to properly cure the concrete pours. They have found that using electric heat has been beneficial for drying the slabs. The Committee asked Jim to put together a list of key items that have saved money during the construction vs. the cost of electricity. Jim provided a graph of Usage and Cost Trends for the WHS project (Attachment #2).

Bob indicated the biggest contribution to the high electrical costs was the electricity usage in the portables, a cost not budgeted for. Installing locks on the thermostats in the portables and not using the portables during the summer months are measures that will be taken to lower the electric usage costs. Metering of the modular classrooms was also discussed.

Judy commented on moving forward the Committee needs to communicate to the public the efforts being put forward to prevent the unexpectedly high energy costs from happening again.

EFPBC May 4, 2016 Meeting Minutes

Brendan noted that the town needs to be prepared to maintain the High School with sufficient staffing due to the increase in square footage. He also stressed the importance of having staff trained to maintain and run the new technology systems, such as HVAC. Lighting, building access and alarms in an effective and efficient manner.

2. **MSBA Funding Agreement Budget Revision Request:** Dr. Evans provided a memorandum dated April 28, 2016 requesting a revision to the total project budget, dated May 29, 2015, for the High School project (See Attachment #1). The School District has provided the information to indicate the Total Project Budget categories affected, the amounts needed and the reasons for the proposed revision. Jim Dowd has reviewed the document and indicated that no vote was required from the EFPBC for the proposed revision.

3. **Deliverables:** There were no deliverables for review.

4. **Invoices:** There were no invoices for review.

5. **Change Orders:** There were no change orders for review.

6. **Approval of Minutes:** There were no minutes for review.

With regard to the Vinson-Owen cooling project, Todd spoke about the need to make sure the new fans are commissioned to properly work with existing ventilation CO2 controls at the Vinson-Owen to allow the ventilation system to operate properly.

Mr. Nixon asked if the FM assisted listing devices were in place because it seemed that the current equipment has been operating inconsistently. Judy indicated that this issue was not brought to her attending and stressed the importance of having such information shared with her in order to effectively and efficiently correct issues. Judy indicated that Mr. Danizio tested the equipment and is was reportedly working properly. Judy recently met with Anne Kostos, ADA Coordinator, who informed her that there are funds available for the installation of a partial loop system in the high school auditorium and the Town Manager is willing to work with the Committee to have the partial loop system installed.

9. **Next Meeting Date:** The next EFPBC meeting is scheduled for May 18, 2016 at 6:30 PM in Town Hall.

10. **Adjournment:** The meeting was adjourned at 7:30 PM.

Respectfully Submitted,



Donald E. Cecich
EFPBC Secretary

Educational Facilities Planning and Building Committee

Minutes of the Meeting May 18, 2016

Members Present: Bob Deering, Brendan Driscoll, Charles Tseckares, Geethanjali Mathiyalakam, Shelly Walsh, Susan Verdicchio, and Todd Kosterman

Members Absent: Don Cecich, Judy Evans, Roger Hain and Jessica Lohnes.

Others Present: Jim Dowd, Skanska USA Building; SMMA; John LaMarre, Consigli Project Manager; Dave Fanvele, SMMA; and Chris Nixon, School Committee member.

Mr. Deering called the meeting to order at 6:31 p.m. in the Waterfield Room, Town Hall.

1. **Public Comment:** Mr. Nixon raised a question regarding the quality and effectiveness of the assisted listening system in the High School auditorium. Jim Dowd responded that he met with Consigli and ProAV regarding the assisted listening device and he will be testing them himself to assure the system is working efficiently.

2. **Final Review of Design of Sachem Logo:** Jim Dowd distributed copies of Skanska's meeting Agenda (Attachment #1) Attached in the packet was a scaled down white opaque graphic sample of the Sachem logo as discussed at the last meeting. The scale down sample demonstrates how the logo will fit on the glass on the front of the building. The logo will give an etched glass appearance that will illuminate when the dining commons lights are on in the evening.

Members of the Committee discussed the concerns of various sports organizations in town who have expressed their expectations that the logo will be similar in color to the original logo that was removed from the front of the building. The original Sachem logo will be reinstalled in the High School gymnasium. The Committee felt that the opaque graphic logo was a good compromise. Installation of the new logo will take place over the summer. The cost of the installation is under discussion.

On a Motion by Charles Tseckares, seconded by Brendan Driscoll, it was moved and seconded to accept the image as presents. The Motion was unanimously approved.

3. **Deliverables:** There were no deliverables for review.

4. **Energy Costs:** Bob shared his calculations with the committee regarding the high energy costs of the project. He indicated that the culprit for the high costs was the electricity used during construction. The reason for using electricity was because a gas supply was not available. The Committee discussed installing sub-meters at the multiple modular units to allow for accurate tracking of the energy being used. Mr. Nixon shared his concerns that the high energy costs will impact the FY18 School Department budget and suggested it would be in the best interest to have the information for review and do our due diligence.

5. **Invoices:** Copies of the Memorandum from Town Manager, Richard Howard, to the EFPBC dated May 18, 2016 regarding invoices and spending authorizations was distributed and

EFPBC May 18, 2016 Meeting Minutes

reviewed (Attachment #2). The Town Manager recommended that the Committee take favorable action on the invoices and spending authorizations.

Payment Authorizations: **VO Elementary School Project**

Skanska USA	Invoice #1315839-000-12715-18	\$ 6,570.00
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Payment Authorizations: **Winchester High School Project**

Skanska USA	Invoice 1312805-PDS-12709-45	\$ 101,781.12
SMMA	Invoice 0044766	132,092.16
Consigli Construction	Requisition # 22	2,153,222.80
MBTA	Invoice 031885	250.00
Briggs Engineering	Invoice 82885	722.00
Briggs Engineering	Invoice 82984	600.00
Triumph Modular Inc.	w/o # 33535	1,500.00
Triumph Modular Inc.	Invoice 34758	13,000.00
Triumph Modular Inc.	Invoice 34759	10,000.00
LCN	Invoice 23587	57,742.00
Sam Tell Companies	Invoice 423751	6,763.16
JourneyEd	Invoice 10106686	503.51

Spending Authorizations:

Winchester High School Project

Creative Office	FF&E Quote	\$ 508.00
Creative Office	FF&E Quote	873.12
WB Mason	FF&E Quote	11,244.00
Office Resources	FF&E Quote	1,123.31
Wenger	FF&E Quote	3,921.95
ProAV Systems	Tech FF&E Quote	131,777.00
LCN	Tech FF&E Quote	65,918.61
Apple, Inc.	Tech FF&E Quote	142,633.31
Valley Communications	Tech FF&E Quote	20,354.72

On a Motion by Brendan, seconded by Charles it was moved and seconded to approve the Payment Authorizations and Spending Authorizations as outlined the Town Manager's Memorandum to the EFPBC dated May 18, 2016 (Attachment #2). The Motion was unanimous approved.

6. ***Approval of Minutes:*** There were no meeting minutes reviewed or approved.

EFPBC May 18, 2016 Meeting Minutes

The Committee agreed that it is very importance of having operation staff with the proper technical ability and training to operate of all the new systems at the high school on a day-to-day basis and in the event of failure. The Committee also stressed the importance of having the Board of Selectmen and Town Manager be aware of this need as well. Jim Dowd stated that he has been in contact with Pete Lawson regarding this and Pete reported that a HVAC specialist will be on board.

The Committee discussed the possibility of hiring directly a building operations engineer/manager trained not only in HVAC but all the new technology systems in the building.

7. **Next Meeting Date:** The next EFPBC meeting is scheduled for June 1, 2016 in Town Hall.
8. **Adjournment:** The meeting adjourned at 7:28 PM.

Respectfully Submitted,



Donald E. Cecich
EFPBC Secretary

Attachments:

1. Skanska Meeting Agenda including SMMA's Rendition of White Opaque Graphic on Sachem Decal.
2. Memorandum from Town Manager dated May 18, 2016 regarding Payment and Spending Authorizations.

Mawn, Patti

From: Lance Grenzeback <lgrenzeback@comcast.net>
Sent: Thursday, July 28, 2016 5:44 PM
To: Mawn, Patti
Subject: Fwd: NO to Forest Ridge Residences!

Patti: Please make copies for the Board and the record file. Thanks.

Begin forwarded message:

From: "Tina L Quick" <tinaquick@comcast.net>
Date: July 28, 2016 at 5:18:29 PM EDT
To: <lgrenzeback@comcast.net>, <powers.s@comcast.net>, <mbettencourt@winchester.us>, <jwhitehead@winchester.us>, <d.errico@comcast.net>, <townmanager@winchester.us>, <djerius@gmail.com>, <ecregger1@aol.com>, <meister.maureen@gmail.com>, <tseckares@cbtarchitects.com>, <jwelch27@outlook.com>, <bszekeley@winchester.us>
Subject: NO to Forest Ridge Residences!

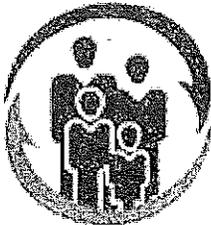
Dear All,

I am writing to you to express my concerns for the proposed 296-unit apartment building on Forest Circle. I believe this project would have significant negative impacts to our neighborhood. Besides several varied safety concerns, I am particularly concerned about the already congested Forest Street traffic I see every day during rush hour.

I live exactly one-half mile from the Park Street traffic light in Stoneham and the traffic is backed up past my house and often beyond the turn off to Highland Ave. beginning around 4:30 every weekday. Depending on the time of day I have to carefully think through how to route my travel as it could take as long as 10 minutes to firstly get out of my drive (a left hand turn) to go to 93 and then to get past the congested intersection just one-half mile away. This has been an ongoing issue and I, in fact, wrote to the Stoneham Town Hall a few years ago asking for solutions to the congestion. I fear the new apartment complex would make this traffic congestion even worse.

I sincerely hope the Winchester Board of Selectmen and the Winchester Planning Board will take my and other Winchester residents' concerns seriously and not burden an already congested area. Please take concerns over safety, blasting, drainage and flooding into consideration when voting on this project.

Respectfully,



Tina L. Quick

International Family Transitions
166 Forest Street
Winchester, MA 01890
+1 781-369-1066
+1 781-439-8490 (cell)

Mawn, Patti

From: Grenzeback, Lance
Sent: Thursday, July 28, 2016 5:37 PM
To: Rachel Roll
Cc: Powers, Steve; Bettencourt, Michael; Whitehead, Jim; Town Manager; d.errico@comcast.net; Mawn, Patti; Mark Bobrowski
Subject: Re: Proposed Forest Ridge Residences

Rachel:

Thanks for your note. We are looking into the ownership and sale arrangements for all the parcels involved and intend to flag any irregularities and outstanding issues in the letter.

Patti: Please make copies for the Board and the record file.

Regards

On Jul 28, 2016, at 1:55 PM, Rachel Roll <rkroll@rkroll.com> wrote:

Dear Chairman Grenzeback and members of the Board of Selectmen,

I have previously sent you a letter outlining the problems I found in the application for the Forest Ridge Residences. I would like to make another point regarding that application, and the fact that the buyers are not listed as applicants. The application asks if the applicant has been a defendant in a lawsuit, with the answer of no. While this may be true for Krebs, it is not true for the buyers. A quick public records search of Mass. Superior Court shows 3 lawsuits brought against the Marinos. Two of these have been from the seller, and one is a construction related lawsuit. We are very concerned about this "concealing" the true buyer/applicant. It would be a nightmare for the town if this project were to be started, and then abandoned. The Krebs organization has no track record to rely on, and the buyers are not being transparent about their involvement in this project.

I feel that this is a very important point to include in your letter to MassHousing.

Sincerely,

Rachel Roll

7 Forest Cir.
Winchester, MA

**PUBLIC INFORMATION SESSION -MCCALL MIDDLE SCHOOL FOREST
RIDGE RESIDENCES
TRAFFIC STUDIES**

- a. CHISHOLM RD /FOREST STREET – During the commute hours there is a daily traffic back up going from Chisholm Road Winchester to Park Street in Stoneham (approximately $\frac{3}{4}$ of a mile from Chisholm Road). The autos and trucks are bumper to bumper. Most of the time the traffic line during these commuter hours extends further down the Hill from Chisholm Road. On some days it is close to Washington Street. Also there is traffic congestion at the Stop Sign intersection of Highland Ave and Washington Street. The traffic on some days extends to the Hospital at the top of the Hill. If there is Winter Storm traffic can be seen for hours beyond the normal commute times.

It is difficult traveling toward Stoneham, but it is also difficult to make a left hand turn to get to Washington Street or Highland Ave. You have to wait for a driver to let you through. You also have difficulty seeing what is coming from the other direction because the oncoming traffic has been blocked by your uphill view which can be blocked by traffic. .

- b. FREQUENT EMERGENCY VEHICLES TRAVELING TO THE HOSPITAL
There are Ambulances traveling to the Hospital on a frequent basis. Traffic congestion will create severe problems for these vehicles. The hospital also has a very active bus system taking people to the Hospital from the parking lots on Washington Street and returning.
- c. THE FOREST RIDGE RESIDENCES- If completed as planned, hundreds of additional vehicles would be thrust onto a massive traffic congested roadway at a critical location at critical times.

James O'Neil
9 Chisholm Road
Winchester, MA 01890

Mawn, Patti

From: Cafarella, Jennifer
Sent: Monday, August 01, 2016 8:33 AM
To: Mawn, Patti
Subject: FW: Winchester Board of Selectmen Meeting July 27, 2016
Attachments: Meeting 07-27-16 FOREST RIDGE RESIDENCES.doc

From: JAMES E O'NEIL [mailto:james.oneil2@verizon.net]
Sent: Friday, July 29, 2016 1:27 PM
To: lgrenzeback@comcast.net; powers.s@comcast.net; Bettencourt, Michael; jwhitehead@wincgester.us; d.errico@comcast.net
Cc: Town Manager
Subject: Winchester Board of Selectmen Meeting July 27, 2016

Winchester Board of Selectmen,

Thank you for listening and considering our public concerns in this matter on July 27, 2016.
Attached is my presentation on traffic.

Thank you for your attention and cooperation this matter.

James E. O'Neil
9 Chisholm Road
Winchester, MA 01890

Docket Item
I - 5:
August 8, 2016

CARL H. BOERNER
419 HIGHLAND AVENUE
WINCHESTER, MASS. 01890

July 27, 2016

RECEIVED
2016 JUL 32 PM 1:14
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

Mr. Lance Grenzeback
Winchester Board of Selectmen Chairman
Winchester Town Hall
71 Mount Vernon Street
Winchester, Mass. 01890

Subject: Potential New Town Bylaw
Noise Regulation

Dear Mr. Grenzeback

In the Thursday July 14, 2016 Winchester Star there was an indication that the Winchester Board of Selectmen would be considering a new Winchester Bylaw to create guidelines, restrictions and limitations on noise levels in Winchester. It is about time for this consideration and a positive determination to go forward with the creation of a new bylaw.

The leaf blower noise level for those of us fortunate enough to be at home during the day as opposed to those double income Winchester residents who are at work during the day has become unacceptable and intolerable. It is imperative that the Winchester Board of Selectmen proceed with the development of a noise level bylaw.

I remember when the "7:30 whistle" was stopped because of the decibel level of its sounding. I still miss the old "7:30 whistle"; in many ways it marked the start of the day. I believe that the leaf blower decibel noise level at the adjacent property lines are well in excess of the decibel level of the "7:30 whistle" when it was shut down for excessive noise albeit for a limited number of residents living adjacent to the "7:30 whistle". Additionally the whistle only lasted a few seconds whereas the leaf blower noise occurs throughout the town and lasts for significantly more than a few seconds and impacts, I believe, a greater number of Winchester residents.

While creating a bylaw for the control of noise level is a good start, the bylaw should also include guidelines, restrictions and limitations on the dust or the number of air suspended particles created by the use of leaf blowers. I believe there is a correlation between the amount of dust created by the leaf blowers and the number of children with asthmatic pulmonary issues. To further my dust point, there are times when the street side visibility is limited by leaf blowing activities and these activities often result in more fine particles curb side that are not collected by the leaf blowing operators. These fine curb side detritus particles result in a greater need for street sweeping and/or a greater amount of solids being introduced into the Winchester storm water drainage system.

While I am at it an additional item that the new bylaw could address is how landscapers park their vehicles and trailers. On narrow streets and some wider streets, read Everett Avenue, the width of the street can be reduced to less than two travel lanes by the way the vehicles and trailers are parked and the quantity of parked vehicles and trailers. Additionally it would also be desirable to investigate the velocity with which the landscapers traverse the Winchester streets, avenues and roads.

Good luck to you, Winchester Selectmen, in addressing some or all of the above. It could turn out to be as contentious as downtown parking.

Very Truly Yours

A handwritten signature in cursive script, appearing to read "Carl H. Boerner".

Carl H. Boerner

File:Selectmans Noise Bylaw Letter 072616



Town of Winchester

Richard C. Howard,
Town Manager

Docket Item:
I - 6:
August 8, 2016

Board of Selectmen
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

August 1, 2016

Mr. Kenneth D. Tarbell
8 Spalding Road
Stoneham, MA 02180

Dear Mr. Tarbell:

The Town Manager / Board of Selectmen Office is in receipt of your request to purchase burial plots in Wildwood Cemetery. The Rules and Regulations for the operation of Wildwood Cemetery allow "former, long-time residents of ten years or more, with proof of that residency, to purchase up to two graves, one double-depth or two-single-depth side-by-side graves) at double the prevailing price". This condition applies to the purchase of Columbarium Wall niches as well.

Enclosed for your review is the current price structure for in-ground graves, Columbarium Wall niches, and in-ground niches. Please contact the Wildwood Cemetery Office if you decide to go forward with this purchase.

Very truly yours,

Richard C. Howard,
Town Manager

RCH:pcm

cc: Board of Selectmen

enclosure

Docket Item:
I - 7:
August 8, 2016

To: Winchester Board of Selectman

- Lance Grenzeback, Chairman: lgrenzeback@comcast.net
- Steve Powers: powers.s@comcast.net
- Michael Bettencourt: mbettencourt@winchester.us
- Jim Whitehead: jwhitehead@winchester.us
- David Errico: derrico@comcast.net

From: Paul Fitzgerald and Elizabeth Gould Fitzgerald, 197 Forest St. Winchester MA.

SUBJECT: Forest Ridge Development

CC: Town Planner, Brain Szekely: bszekeley@winchester.us
Town Manager Richard Howard: townmanager@winchester.us

Winchester Planning Board:

- Dlab Jerius: djerius@gmail.com
- Elizabeth M. Cregger: ecregger1@aol.com
- Maureen I. Meister: meister.maureen@gmail.com
- Charles N. Tseckares: tseckares@cbtarchitects.com
- Jacqueline A. Welch: jwelch27@outlook.com

Michael S. Day: Michael.Day@mahouse.gov

State Senator Jason Lewis: Jason.Lewis@masenate.gov

August 2, 2016

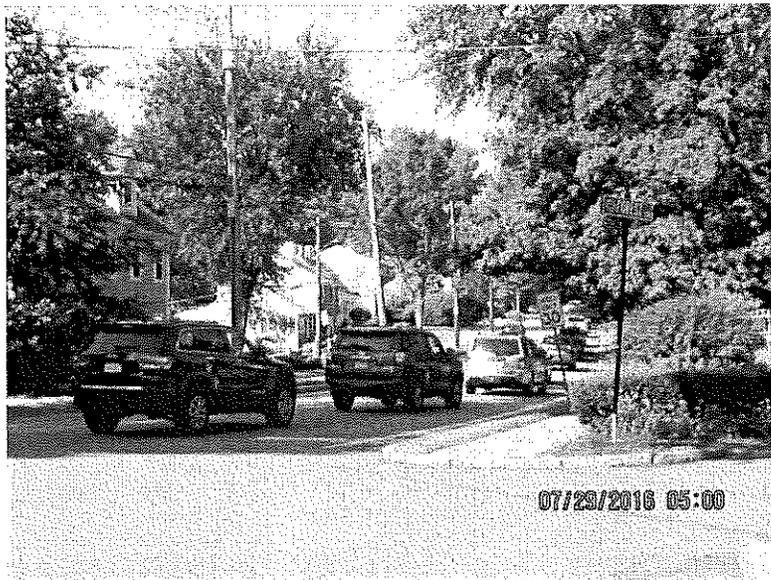
Dear Messrs. Grenzeback, Powers, Bettencourt, Whitehead and Errico

Thank you for the opportunity to present my neighborhood's concern about the proposed Forest Ridge 40B development at the special information session of the Winchester Board of Selectman on July 27.

To summarize my statements to the board:

1. The 13.4 acre site off Forest Circle is not suitable for any development scheme that has been presented to date, let alone a massive development that would degrade the safety and character of the neighborhood and the town. The development proposed by Justin D. Krebs of Steve Belkin's Trans National Properties is environmentally and socially irresponsible. This massive 40B project poses an existential threat to both Winchester and Stoneham. The property is barely accessible from Winchester and must be accessed from Stoneham. Since the residents would live in Winchester, it is unacceptable to expect Stoneham to absorb effectively ALL the traffic this massive Winchester project would generate. It is adjacent to the Middlesex Fells Reservation and a bridge must be built to supply access over wetlands for 296 units of housing and parking for 473 cars in what is now a single family residential neighborhood. The garage alone is enough to traumatize

the neighborhood and create an environmental nightmare. TOGETHER WITH THE ADJOINING 298 APARTMENTS ON 15-16 ACRES IN THE SOON TO BE COMPLETED FAIRFIELD RESIDENTIAL AT 220 FALLON ROAD STONEHAM, the entire complex will represent an unimaginable threat to the fragile Middlesex Fells and surrounding neighborhoods by THIRTY NEW ACRES of blasted ledge, industrial concrete foundations and asphalt pavement. Among a long list of deficiencies the most basic are severe traffic issues on Forest St., the narrow roadway on Forest Circle, the inability of more than one vehicle to pass at a time and severe issues regarding drainage and flooding that are unresolvable. As it is, traffic begins to back up in front of our house at 197 Forest St. at 4 p.m. on a daily basis.



Forest St. at Forest Circle 5 pm

2. The Forest Circle/Forest St. community and adjoining neighborhoods stretching from the Stoneham line to Sunset Rd., Highland Avenue and Washington Street are not served by any existing park or playground. Leonard field on Washington Street is the nearest park and that lies nearly a mile from Forest Circle down numerous heavily trafficked cross streets. When our children were young it was our back yard on Forest Street that served as the soccer and baseball field for the neighborhood. Where would the 150 or so children from this development play? What would the quality of life be in a neighborhood now literally doubled in size with no potential for parks, recreation or public transportation?
3. The corner of Churchill Rd. and Forest St. as well as Forest St. and Laurel Hill Rd. (Opposite Forest Circle) has been the site of numerous accidents, especially in bad weather. One winter night a few years ago my wife was nearly killed by a speeding pickup truck as it spun out coming down Forest St. and around the curve at the entrance to Forest Circle. My sister and brother in law were nearly run down at the same spot attempting to cross last Christmas Eve. In our 29 years at this residence we have had dozens of very close calls from speeding cars and in one instance had a car land on our front lawn after failing to negotiate the curve. There are no crosswalks or blinking warning lights to be found on Forest Street from the Stoneham line to the intersection of Washington St., not even at the busy traffic island at the foot of Highland Avenue leading

to Winchester Hospital. What sidewalks we have are in decrepit condition and are hazardous in good weather from cracks and tree root damage. They are virtually impassable in winter and do not extend to Forest Circle where there are no sidewalks at all.



What lies beneath Polk Road 1956



What lies beneath Polk Road 1956



What lies beneath Polk Road 1956

4. All properties below the Fells elevations suffer from severe water drainage issues. I keep three spare sump pumps on the shelf in my basement in addition to the one active pump and have on more than one occasion over the last 10 years used all four in various locations during heavy rainfalls. On these occasions the back yard is half submerged. As you can see above in the 1950s photos of my next door neighbor's front yard at 5 Polk



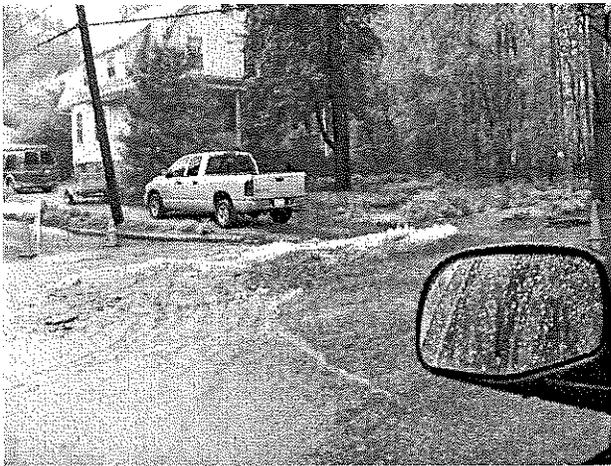
Road, the neighborhood is built on wetlands and periodically returns to them. The entire area sits on ledge over underground springs which can come to life in short order.

Highland at Forest St.



Dana at Forest St.

I have witnessed geysers exploding out of the rock at the intersection of Highland and Forest and overflows at storm drains on the way to the Aberjona at the intersection of Sunset Rd. and



Highland at Forest

Washington Street. Homes on Forest Circle sit atop underground streams that can become rivers in heavy rain. My next door neighbor's basement and sunken driveway at 201 Forest St. have been submerged during similar storms and remained that way for weeks. A recent home renovation on Forest Circle required \$35,000 in water remediation before being brought to market and it didn't stop the flooding from returning. Altering the ledge in any way upstream and certainly by blasting at Forest Ridge will bring further untold hardship and dislocation to this neighborhood.

5. The developer, Krebs Investor Group, a subsidiary of Steve Belkin's Trans National Properties is a private equity company which specializes in real estate investment. Will anyone at Mass Housing investigate - whether a 40B development intended to address the lack of low income housing - will be the vehicle for a "Buy to Let" investment scheme to be marketed on Wall Street or internationally? Will these 296 units ordered under the state 40B mandate be marketed as a private REIT Real Estate Investment Trust with a guaranteed return on investment?

6. Another issue that seems to have escaped scrutiny regarding 40B rental housing is its growing potential use for Airbnb rentals. An issue has recently been raised by Senator Elizabeth Warren whereby the Airbnb rental industry scoops up all available apartment low income rental space and sells it for a premium. 296 apartments abutting the Middlesex Fells reservation at the entrance to route 93 would provide an ideal hotel-like medium for Airbnb short term rentals at the expense of long term residency. Are there any studies regarding Airbnb's negative impact on the effectiveness of mandated 40B housing?

7. Mass Housing is a State entity whose mission is to ensure that towns comply with a state mandated requirement for affordable Housing. Mass Housing's mandate is not to DESTROY the viability of neighborhoods or the safety of neighborhoods or create financial windfalls for private equity companies, but in the case of Forest Ridge Development, Mass Housing is ignoring a wealth of previously documented evidence that this 40B development at this site will result in a catastrophe for the neighborhood and the town. The evidence that Mass Housing is biased in favor of developers at the expense of towns and neighborhoods is evidenced by the fact that Mass Housing allowed a proposal for Forest Ridge to be passed onto the town of Winchester that is incomplete, filled with inaccuracies and in some cases outright misinformation. Mass Housing is therefore in conflict with its own mission. At a time of severe fiscal restraints on towns and cities, expanding school budgets and desperately needed infrastructure improvements in our neighborhood alone, to spend precious dollars on legal fees to fight a spurious project that neither Winchester nor Stoneham can afford is nothing less than criminal. That a proposal, which reveals a callous disregard for the genuine needs of the neighborhood and the town, is being taken seriously for evaluation by a state agency is deeply disturbing. It raises serious questions about the validity, legality and judgement of the State's management of the 40B process and calls for an examination, if not an investigation of Mass Housing's process at the Federal level.

This is the third time in recent memory our neighborhood has faced a developer's challenge at this site. The last effort for a subdivision of 12 luxury homes was rejected by the town "WITH PREJUDICE" because the site failed the town's qualifications for safety, storm water drainage and traffic. That this should happen again is not reasonable or ethical and shouldn't be allowed by the state, let alone sanctioned. This effort by the Krebs Group presents an unexpected and existential threat to our town and our community. Every effort must be made to stop it and keep it stopped.

Sincerely,

Paul and Elizabeth Fitzgerald, 197 Forest St. Winchester Ma.

Stevens, Lynn

From: Candace VanderKruik <candace.vdk@gmail.com>
Sent: Wednesday, August 03, 2016 8:58 AM
To: Town Manager
Cc: lgrenzeback@comcast.net; powers.s@comcast.net; Bettencourt, Michael; Whitehead, Jim; d.errico@comcast.net; ecregger1@aol.com; meister.maureen@gmail.com; tseckares@cbtarchitects.com; jweich27@outlook.com; bszekeley@winchester.us
Subject: Forest Ridge Development Proposal
Attachments: Deforest Ridge.docx

Dear Mr. Howard,

Attached is our letter in opposition to the proposed Forest Ridge Development.

With deep concern,
Candace Van der Kruik

To: Richard Howard, Winchester Town Manager

Date: 3 August 2016

Subject: Forest Ridge Development Proposal

The proposal for the Forest Ridge Development is not just "inappropriate"; it is a hideous proposal for such an overwhelmingly large multi-unit dwelling for that particular area. The mere size and the location of it present all kinds of negative and potentially harmful impacts on the environment, the immediate neighborhood, and the towns of Winchester and Stoneham. To call this development Forest Ridge is a mockery. Instead, it should be named DEFOREST RIDGE for all the hundreds of trees that will be removed in order to begin the construction of this monstrosity. That is where I will begin the long list of harmful and negative impacts:

Negative impact on the wetlands and drainage

With the removal of hundreds of trees, there will no longer be that huge network of roots to absorb water. Where will all that water from heavy rains and melting snow go in an area where drainage and flooding is already a big problem? Ledge does not absorb water. It will end up in basements of homes at the base of this development.

Negative impact from blasting near wetlands

Since this is an area which includes wetlands, blasting of large amounts of ledge known to be in that area is bound to affect drainage from the wetlands. In addition to blasting, the proposed construction of a bridge over the wetlands seems a feeble attempt to protect those wetlands, and may actually add to the disruption of that terrain and the water drainage.

Negative impact of water drainage through contaminated land

There has been no evidence that hazardous waste material dumped on this site years ago has been removed. Consequently, this material has been able to disintegrate somewhat. Blasting of ledge around this material could disrupt and disperse this material thereby exacerbating the risk of becoming part of the drainage and run off. Furthermore, it has been stated that the wetlands of this area ultimately feed into the North Reservoir. If so, truth of the existence of hazardous waste material must not be ignored. There appears to be DECEIPT on the application since it answers "No" to questions regarding hazardous waste or material on the site, but there is documentation from Town and State officials regarding dumping of such materials at this site 20 to 25 years ago.

Negative impact on traffic

The main access for Forest Ridge will be Fallon Road in Stoneham. When fully occupied, there will be a large number of occupants of Forest Ridge with a 450 plus capacity parking lot for cars. This will be in addition to a large apartment building presently under construction in Stoneham also using Fallon Road as their main access to Rte. 93 and other main roads, including Forest St., already heavily trafficked. The traffic stresses on Fallon Road, Park St, Forest St. and North Border Road will be very significant. Such traffic stresses are a prescription for accidents.

Negative impact on emergency safety

The proposed Emergency Access Road from Forest Ridge to Forest Circle would be laughable if not for the fact that it is preposterous. To begin, Forest Circle is an extremely narrow "country" kind of road literally allowing only one car to pass at a time. From that very narrow road would be the Emergency Access Road, which presently is no wider than a cow path. Add to that the steep incline in terrain that the access road would need to make in order to reach the development. For fire trucks to navigate this route would be next to impossible.

Negative impact on pedestrian safety

There is no public transportation for this isolated Forest Ridge development on a hilltop in the far northeast corner of Winchester. Pedestrians will need to either walk Fallon Road or the Emergency Access Road in order to reach any main streets, and still no immediate public transportation. The Emergency Access Road will not only become a pedestrian thoroughfare but also an alternate route for frustrated drivers trying to avoid the bottleneck of traffic on, and around, Fallon Road. It would be naïve to think otherwise. Imagine this situation in poor weather conditions. Bear in mind that many of these pedestrians could be children.

Negative impact on sewerage removal, utilities, and service needs

Considering such a huge multi-unit dwelling with a high density of people, there will be undue stress on the needs for utilities and services provided by the town of Winchester. Just sewerage disposal alone is a serious issue. All these needs are provided by the Town of Winchester, the police, the fire department and the school system, not to mention the need to bus students to their respective schools. The buses will need to cross into Stoneham, use their roads including Fallon, and be dependent upon Stoneham for the maintenance of those roads. Certainly I can foresee the development of hard feelings between adjacent towns and those feelings are very reasonable but also counterproductive.

Negative impact on homes adjacent to Forest Ridge development and surrounding neighborhood

Let's begin with blasting of huge amounts of ledge. That blasting could compromise the integrity of the homes closely adjacent to this site, threatening cracks in their walls and foundations. Many of these homes are new and in the process of construction. Good Luck to those home owners for any compensation or even addressing the possible ill effects.

Though this is hardly the concern of the seller of this land or the developer, those home owners in close range of this proposal bought their homes with the hope and dream of owning a private home in a quiet and private and intimate neighborhood adjacent to conservation land, wetlands, and nature. Imagine the difference with a five story, 296 unit development on 13 acres of land, with an additional population of up to 1000 humans, looming over them within spitting distance of their back yards.

If I was a contractor, I would stop any further construction of private homes in this area and abort what I had considered for the future. If I was a home owner, I would want to sell and get out of that area. If I was a perspective buyer in Winchester, I would never consider this area. All because of this development....too huge, too inappropriate, too out of character, too encroaching, and too harmful in this confined area. All to say, the effect on property values in this neighborhood would drop considerably and many people would suffer by it.

So, who does this development really serve? The seller of this land? The developer of this land? Certainly not the people there now, nor even the town of Winchester. For this Forest Ridge development proposal to have even been considered, it had to have included the 40 B accommodation. Otherwise, this proposal would have never seen the light of day. It is an obscene abuse of the 40 B bylaw intent to be used by the developer as a means by which that developer, in collusion with the seller, can build a totally inappropriate and harmful structure with far reaching negative impacts. The only people served by this construction are the seller of this land and the developer who will line their pockets at the expense of so many who will suffer. It is understood that affordable housing is needed. But, in truth, this proposal's purpose is not about that. It is all about greed and finding good "loop holes" to expedite that greed.

Thank you all for the consideration of this letter, with hopes shared by many neighbors, that this Forest Ridge Development proposal will be denied.

Candace & Ron Van der Kruik

193 Forest St. Winchester

cc:

Winchester Board of Selectmen

Winchester Planning Board

Winchester Town Planner

Katharine Lacy, Monitoring and Permitting Specialist, MassHousing

Mawn, Patti

From: Grenzeback, Lance
Sent: Wednesday, August 03, 2016 9:51 AM
To: Mawn, Patti
Subject: Fwd: My thoughts on Forest Ridge Development.

Patti: Please make copies for the Board and record file. Thanks.

Begin forwarded message:

From: Lisa Ouellette <lisa.marie.ouellette@gmail.com>
Date: August 3, 2016 at 8:35:59 AM EDT
To: <lgrenzeback@winchester.us>
Subject: My thoughts on Forest Ridge Development.

Hi there,

I was unable to attend the meeting last week so I wanted to share my thoughts on email.

I live at 4 Churchill Circle, with my husband and 3 young daughters. We bought our house in 2014 but the transaction almost didn't happen because of drainage concerns. We have conservation planned drainage on our property. We have a storm drain at the top of our driveway that pulls all the run off from our cul de sac and funnels it down or side yard via a clay pipe then out to a retention basin on our far back yard. There is a spill over channel that moves additional run off to the neighbors retention pond. Any storm water beyond our two ponds would then flow down to a small Brook and beyond that the homes in the cul-de-sac on Sunset Road.

It was almost impossible to fully understand how much water pools up until you see a large storm. Thankfully it drains quickly but it doesn't drain in an instant. A child can drown in an instant. Every time it rains I've created a massive swimming pool in my unfenced backyard. Our neighborhood is full of children – curious children who would be fascinated if left unattended on their own property to all the sudden see a giant pond form where they previously was none. I pray every time the pond forms that nothing tragic happens but it is a great concern to me. If this development is approved it will push even more water into my pond I will pressure the town to do two things.

1) accept Churchill Road as a public road in Winchester and claim ownership of this pipe. If this development pushes more water into our cul-de-sac and my pipe gets more use I suspect that will limit the lifetime of what I have buried under my private property. Currently as I understand it this pipe is my responsibility. The pipe was put in when the cul-de-sac was created in 1999 and it had a very specific job to do. That function will change if we have additional run off from above. We are almost exactly opposite the access road proposed.

2) remove the pipe entirely and re route the drainage down Churchill Road. Recently our neighbor on Churchill Road was also asked to put in a pipe – he did so at the request of the conservation committee when connecting his house to his garage however his pipe now drains into my pond. Many people are suggesting that the water from the 40 B would just drain straight down ChurchHill Road – some of this could be caught up in this other new pipe that feeds into

mine. I not responsible for triaging the entire drainage of Winchester Highlands.

I think this is a very valid concern – it's something that I want to follow closely – I would love to take pictures for you but as you know we are in a drought. Happy to take pictures of the pipe and how everything flows together or welcome anyone to come out to my property and have a look especially if it helps the cause.

Thank you and I hope we can all be successful in fighting this development!

Lisa Ouellette
617-817-1045

Sent from my iPhone

From : Nassim Fotouhi

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Forest Circle

Winchester, MA 01890

Dear Winchester Board of Selectmen

Lance Grenzeback, Chairman, Steve Powers, Michael Bettencourt, Jim Whitehead, David Errico,

Dear Winchester Planning Board

Diab Jerius, Elizabeth M. Cregger, Maureen I. Meister, Charles N. Tseckares, Jacqueline A. Welch

And Town Manager: Richard Howard and Town Planner: Brain Szekely

I am writing to you to voice my deepest concerns about this project. This location is absolutely NOT the location for such a project.

Not good for low income folks:

1. No public transportation : When my parents visit and stay with me for a couple of months, they are trapped in the house, since they don't have a car. There is no public transportation nearby, so they usually have to walk an hour to down town Winchester to get the train to be able to go anywhere.
2. No shopping center : There is no close by option for food and grocery shopping, and so my parents would have to wait for me to get home to drive them to a grocery store, since there is nothing nearby for them to pick up something quick.

So this location will not be a fair and desired location for low income people who do not have means for transportation.

Not good for Winchester residents:

1. Traffic :
Currently traffic backs up from around 4pm till close to 8pm on Forest Street. So this addition will make that problem unbearable. Also two cars cannot pass side by side on Forest Circle. Usually one will have to wait and pull over to the side for the other to pass. So it will be impossible to make this work, if any more cars get added to this situation.
2. Impact to the environment :
When my house and my neighbor's house were built, since we are on top of the hill, the issue of flooding and drainage became a big problem for our neighbors across the street. Every time it rains, our driveways become rivers and water floods down to their basements and yards. Before our houses, the land was able to absorb the rain water. So if this Forest Residents

project goes forward, it will make this problem tenfold, since they will be replacing wet lands with asphalt and concrete and thus creating a nightmare for the Forest Circle residents across the street from them.

3. Safety and emergency vehicles :

In July 2005, we had a fire at our house. The fire engines had a hard time getting and fitting in Forest Circle and worst of all, they could not get up my driveway and this was in ***July*!!!** Imagine if the fire had happened in December or January or February. There would be no way for the fire trucks to be able to come up the drive. Now the plan is to make Forest Circle the entry place for emergency vehicles? This would be impossible. The angle of the road and the slope of the street will not allow any large vehicle to be able to navigate up to get to the complex.

Not good for Stoneham residents:

1. Traffic :

Not only traffic will be unbearable for Winchester, it will also be unbearable for Stoneham. Stoneham will need to get the brunt of the traffic, because the road to Fallon is going to be the ***primary*** road. So that means all of these Winchester residents will have to go thru Stoneham to get anywhere. That is not fair to Stoneham residents.

2. Safety and emergency vehicles :

Again since Stoneham is the closet town to this complex, it will mean that it really is going to be Stoneham that will be answering the call to all emergency situation. From fire to ambulance to anything else, the town of Stoneham is the closet town to this complex and so the burden will fall on them to respond to emergency situations. Again not a fair situation.

3. Impact to the environment :

Just like Winchester that will have to give up some of wetlands, Stoneham will have to give up a huge portion of their wetlands to allow for this complex. I am hoping that the forest and land conservancy will have a say on the impact of this to our environment.

Thank you for listening and forwarding this letter to Mass Housing for consideration.

Nassim Fotouhi
nassim@progress.com
Senior Engineering Manager
QPE, Build and Release Team

 **Progress**

14 Oak Park
Bedford, MA 01730
781-280-4902

**Winchester Public Schools
Winchester, Massachusetts**

School Committee

August 9, 2016

Tour of Winchester High School 4:00 p.m.

**Regular Meeting 6:00 p.m.
Parkhurst School**

- I. Call to Order
- II. Public Comment
- III. Reports and Discussion Items
 - A. Discussion of Charter School Ballot Question
 - B. Policy Subcommittee: Review of Draft Field Study Policy
 - C. Final Review: Subcommittee and Liaison Assignments
- IV. Chair Report
- V. Superintendent Report
- VI. Action Items:
 - A. Vote to Approve: Superintendent's Goals
 - B. Vote to Approve: En Ka Society Grant to McCall
 - C. Vote to Approve: School Committee Minutes
- VII. Future Agenda Items
 - A. Athletic Fees/Transportation
 - B. District Goals 2016-2017
 - C. Three-Year Master ADA Plan
 - D. Master Plan Discussion
 - E. Approval of Italy Field Trip
- VIII. Next Meeting Dates
 - A. August 24, 2016 (workshop)
 - B. September 13 and 27, 2016
- IX. Adjournment