



Town of Wenham
BOARD OF SELECTMEN
AMENDED AGENDA

Tuesday January 16th

6:00 PM

Wenham Town Hall – 138 Main Street

Notice of public meeting as required by M.G.L. Chpt.30 §18-28

All audience members wishing to address the Board of Selectmen must go to the podium microphone and give their name & address.

6:00 P.M.

WELCOME: Call to order

Executive Session #3 under M.G.L. Ch. 30A, § 21-To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.

- Hamilton Wenham Regional Education Association; AFSCME State Council 93, Local 2905; Hamilton-Wenham Regional School District Office Personnel Association

6:30 P.M.

PUBLIC INPUT: ITEMS NOT ON THE AGENDA

ANNOUNCEMENTS

1. Wenham Annual Town Elections – Open Offices JW
2. Affordable Housing Trust Community Forum & Free Pancake Breakfast – Saturday, January 20th at 9:30AM CH
3. COA Age Friendly Initiative Listening Session – Wednesday, January 24th, 10:00 –11:30AM JC
4. Request to Residents for Wenham Photos CH

6:45 P.M.

REPORTS

TOWN ADMINISTRATOR – Update
CHAIRMAN
SELECTMEN

6:55 P.M.

NEW BUSINESS

- A. Presentation and Discussion on Potential Marijuana Zoning Bylaws – Lauren Goldberg, KP Law JW
- B. Review Status of FY19 Administration Budget and Determine Policy Direction on Operating Override JW
- C. Discussion on Proposed School Athletic Field Debt Exclusion JW
- D. Preliminary Review of Potential April 2018 Town Meeting Warrant Articles CH
- E. Acceptance of Pingree Park Playground Donations JC
- F. Melody Miles Road Race, Saturday, May 26th - Hamilton-Wenham Friends of the Arts JC
- G. Other matters, as may not have been reasonably anticipated by the Chair (Discussion Only) JW

8:45 P.M.

EXECUTIVE SESSION

Executive Session #2 under M.G.L. Ch. 30A, § 21 – To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.

- Town Administrator

9:00 P.M.

ANTICIPATED ADJOURNMENT

BOARD OF SELECTMEN MEETING

January 16, 2018

ANNOUNCEMENTS

1. Wenham Annual Town Elections - Open Offices JW
2. Affordable Housing Trust Community Forum & Free Pancake Breakfast
Saturday, January 20th at 9:30AM CH
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10:00 –11:30AM JC
4. Request for Wenham Photos CH

Annual Town Election 2018 Preparations as of Wednesday January 10, 2018

Nomination papers for the following seats are available from the Town Clerk's office as of **Friday January 12, 2018** and require 20 signatures of registered voters from Wenham

- 1- 3 year term on the Board of Assessors
- 1 – 3 year term on the Board of Health
- 1 – 3 year term on the Board of Selectmen
- 2 – 3 year term on the Hamilton Wenham Library Board of Trustees At Large
- 2 – 3 year term on the Hamilton Wenham Regional School Committee
- 1 – 1 year term as the Moderator
- 1 – 5 year term on the Planning Board
- 1 - 3 year term on the Planning Board
- 1 – 3 year term on the Water Commission
- 1 – 5 year term on the Housing Authority

Last day to submit papers back to the Clerk is **Thursday February 22, 2018.**

Nomination papers for the following Regional School Committee Seats are available from the School District office as of **Friday January 12, 2018** and require 40 signatures from registered voters from Hamilton and/or Wenham

- 2 – 1 year term
- 2 – 3 year term

Last day to submit papers back to the School Office is **Monday February 26, 2018.**

THE CLERK WILL COMPLETE THE CERTIFICATION OF ALL NOMINEES ON THURSDAY MARCH 8 AND THE LAST DAY TO WITHDRAW ONE'S NAME IS MONDAY MARCH 12TH.

Annual Town Meeting is Saturday April 7, 2018
Annual Town Election is Thursday April 12, 2018

The Wenham Affordable Housing Trust
invites YOU to JOIN THE CONVERSATION.

Wenham Community Workshop & Free Pancake Breakfast

Saturday, January 20, 2018
9:30 AM

First Church in Wenham
1 Arbor Street

RSVP: Pre-register by January 18, 2018
www.wenhamma.gov/affordablehousing

Childcare provided. This is an open public meeting for Wenham residents and registration is not required to attend; however, your RSVP will help us provide adequate food, workshop materials and childcare coverage.



*Preserve & Create
Affordable Housing
in Wenham*

Please share your voice on the future of Affordable Housing in Wenham, as we develop our Action Plan.

Community Workshop Strategies:

- Future priorities for use of the Trust funds
- Trust accomplishments to date and local housing needs
- Determine priority initiatives for the coming years

Questions: Contact Nicci Roebuck at Wenham Town Hall, 978-468-5520 x2, nroebuck@wenhamma.gov
Jennifer Goldson, Planning Consultant 617-872-0958, jennifer@jmgoldson.com



wenham connects

building a vibrant
sense of community
for older adults

***Would you like to be part of making Wenham
a more livable community for older adults?***

Wenham Connects is an exciting new initiative of the town of Wenham. We are building a vibrant age friendly community, and we are eager to hear the voices and ideas of older adults living in the town.

Join our Listening Session

We hope you will attend and share in the conversation!

DATE: Wednesday, January 24, 2018

PLACE: Wenham Town Hall, 138 Main Street

TIME: 10:00am– 11:30am

Snow Date: Friday, January 26, 2018

NEED A RIDE?

Call the Wenham Council on Aging at 978-468-5534



TOWN OF WENHAM PHOTO REQUEST & RELEASE

The Board of Selectmen is requesting photos of Town buildings, open spaces, recreational areas and any scenic Wenham views, past and present, to be included in various Town publications and on the Town website.

Photos should be submitted in **.jpg or .png format at a minimum of 1920px by 1080px** along with the completed release form below including the photographer's contact information, location of photo, approximate date and signature of release to the Town of Wenham c/o Nicci Roebuck, nroebuck@wenhamma.gov by **Wednesday, February 1, 2018**. All published submissions will be credited to the photographer.

Name of Photographer	
Address	
Phone	
Email	
Location of Photo(s)	
Date of Photo(s)	

I understand that by submitting my photo(s), I relinquish all claims to any and all copyrights, royalties and other benefits derived from the sale or reproduction of this work, in any Town publications, materials, or websites.

Signature of Photographer	
If under 18, signature of a parent or guardian is required	
Date	

Office of the Board of Selectmen & Town Administrator
978-468-5520 x.2



BOARD OF SELECTMEN MEETING

January 16, 2018

REPORTS

- TOWN ADMINISTRATOR – Update
- CHAIRMAN
- SELECTMEN

BOARD OF SELECTMEN MEETING

January 16, 2018

NEW BUSINESS

- A. Presentation and Discussion on Potential Marijuana Zoning Bylaws –
Lauren Goldberg, KP Law JW
- B. Review Status of FY19 Administration Budget and Determine Policy
Direction on Operating Override JW
- C. Discussion on Proposed School Athletic Field Debt Exclusion JW
- D. Preliminary Review of Potential April 2018 Town Meeting Warrant
Articles CH
- E. Acceptance of Pingree Park Playground Donations JC
- F. Melody Miles Road Race, Saturday, May 26th - Hamilton-Wenham
Friends of the Arts JC
- G. Other matters, as may not have been reasonably anticipated by
the Chair (Discussion Only) JW

BOARD OF SELECTMEN MEETING

January 16, 2018

NEW BUSINESS

A.

Presentation and Discussion on Potential Marijuana Zoning Bylaws –

Lauren F. Goldberg, Esq., KP Law

- Memo regarding Discussion on Potential Marijuana Bylaws from Peter Lombardi, Town Administrator, January 12, 2018
- Email regarding Marijuana Articles/Ballot Questions from Lauren Goldberg, January 13, 2018
- Zoning Map of Wenham
- An Act to Ensure Safe Access to Marijuana Power Point, Lauren Goldberg, Esq., KP Law
- An Act to Ensure Safe Access to Marijuana; A Guide To The Revised Law Legalizing Recreational Use of Marijuana, KP Law, August 2017
- Model Moratorium Warrant Article, KP Law
- Model Recreational Marijuana Establishment Ban Warrant Articles for Municipalities Requiring a Ballot Vote, KP Law
- Model Recreational Marijuana Establishment Ban Warrant Articles for Municipalities Not Requiring a Ballot Vote, KP Law
- Guidance for Municipalities Regarding Marijuana for Adult Use, Cannabis Control Commission, January 2018

JW



Town of Wenham

Town Hall
138 Main Street
Wenham, MA 01984

Selectmen / Town Administrator
TEL 978-468-5520 FAX 978-468-8014

MEMORANDUM

TO: Board of Selectmen
CC: Planning Board; Board of Health
FROM: Town Administrator, Peter Lombardi
RE: Discussion on Potential Marijuana Bylaws
DATE: January 12, 2018

Town counsel's attached guidance provides comprehensive information about our ability to regulate recreational marijuana facilities at the local level. To summarize, we have a number of different ways to address this issue and several policy decisions to make in doing so.

The Town could issue a moratorium in order to better understand our options now that the ballot initiative has been further refined by the legislature (in July 2017) and the Cannabis Control Commission has issued their draft regulations (last month). However, town counsel does not suggest a moratorium that extends into 2019, so we would presumably need to hold a Special Town Meeting next fall if we were to follow that path.

Alternatively, we can choose to either craft bylaws that would allow limited recreational marijuana establishments in line with local licensing procedures or institute a full ban on such facilities. As a reminder, Wenham residents voted 53% against this measure (1303 to 1139) which means that a ban would only need Town Meeting approval and would not need to go to the ballot. Whatever direction the Town takes, the Planning Board will have to go through the standard public hearing process for all proposed zoning bylaws being presented to Town Meeting. This is the case even if we opt for a ban since town counsel recommends both a general and zoning bylaw if a ban were to be enacted.

If the Town were to permit any recreational marijuana facilities, we would be eligible to recoup 3% of their revenues in local taxes by adopting MGL Ch. 64N Sec. 3 at Town Meeting. In addition, the owners of those facilities would be required to negotiate terms of a Host Community Agreement with the Board.

Importantly, cultivation of marijuana does not qualify for the agricultural exemption under MGL Ch. 40A. However, municipalities have the ability to establish zoning bylaws that would allow for commercial marijuana growing on farmland if they are so inclined.

It is also important to note that the Town currently has no zoning regulations in place relative to medical marijuana either. It may make sense to address both issues at the same time.

Peter Lombardi

From: Lauren F. Goldberg <LGoldberg@k-plaw.com>
Sent: Saturday, January 13, 2018 9:44 PM
To: Peter Lombardi
Cc: Mark R. Reich
Subject: RE: Marijuana articles/ballot questions

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Peter,

While we don't have any kind of official list, it is our general understanding that nearly 90 municipalities have adopted moratoria of the use of land or structures for recreational marijuana establishments, and approximately 35-40 municipalities have enacted general or zoning bylaws/ordinances to ban one or more types of recreational marijuana establishments (some of which must still be presented to the voters at an election). The zoning varies – with much of focus on prohibiting retail uses, or allowing it only in industrial districts.

Hope this helps.

Lauren

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From: Peter Lombardi [mailto:PLombardi@wenhamma.gov]
Sent: Thursday, January 11, 2018 7:01 PM
To: Lauren F. Goldberg <LGoldberg@k-plaw.com>
Cc: Mark R. Reich <MReich@k-plaw.com>
Subject: RE: Marijuana articles/ballot questions

Do you have an aggregation of what all of your clients have done on this so far (% moratorium, ban, etc)? How many haven't yet taken any action?

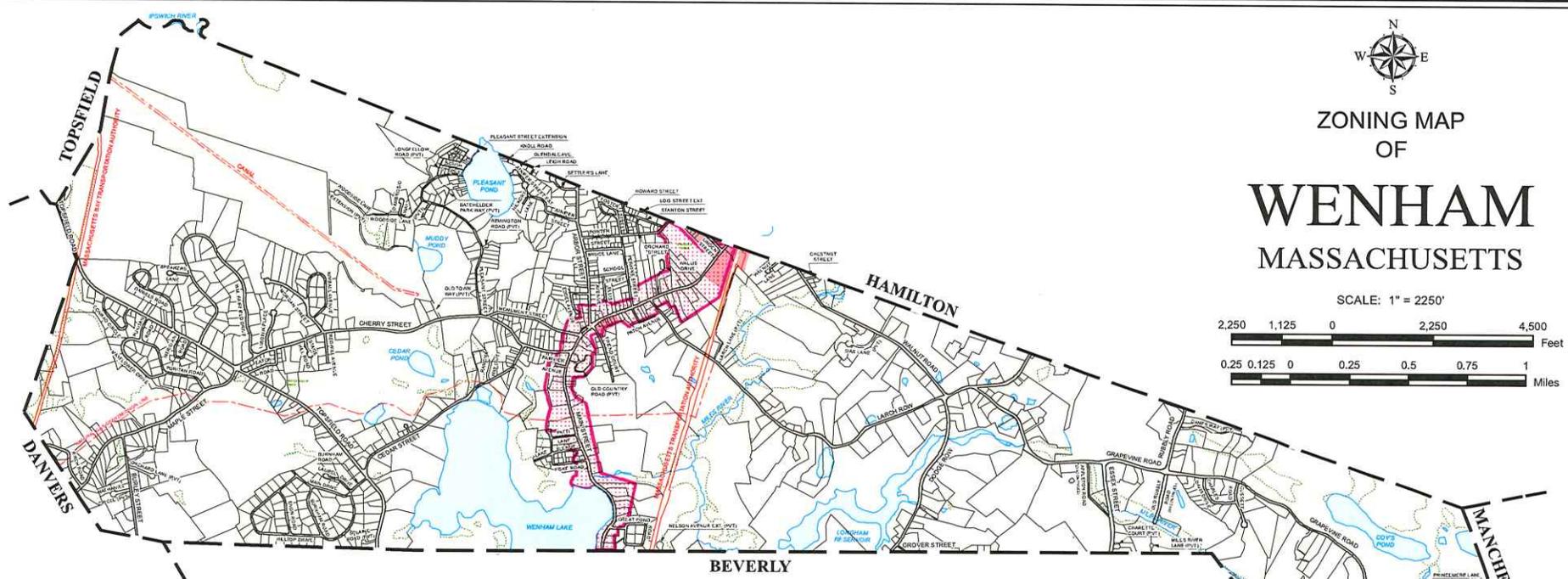
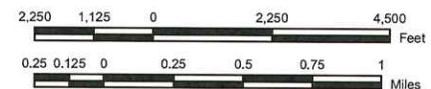
Peter Lombardi
Town Administrator



ZONING MAP OF

WENHAM MASSACHUSETTS

SCALE: 1" = 2250'



HISTORIC DISTRICT DETAIL



LEGEND

- HISTORIC DISTRICT
- BUSINESS ZONING DISTRICTS
- RESIDENTIAL ZONING DISTRICTS
- PROPERTY LINE
- WATER
- WETLAND
- ROAD
- PRIVATE ROAD
- RAILROAD
- UTILITY EASEMENT

PRODUCED BY



11 PLEASANT STREET, LITTLETON, NH 03561
800.322.4540 • WWW.CAI-TECH.COM

NOTES

THIS MAP IS BASED ON THE TOWN OF WENHAM MASSACHUSETTS PROPERTY MAPS UPDATED IN 2013 BY CAI TECHNOLOGIES, INC. IT IS INTENDED FOR REFERENCE AND PLANNING PURPOSES ONLY.

PROPERTY LINES CURRENT TO JANUARY 1, 2015

ZONING, HISTORIC DISTRICTS AND AQUIFER PROTECTION DISTRICT LAYERS OBTAINED FROM WESTON & SAMPSON.

AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA

Lauren Goldberg, Esq.
January 16, 2018

KP | LAW



THE LEADER IN PUBLIC SECTOR LAW
ATTORNEYS AT LAW

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AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA

- On November 8, 2016, Massachusetts voters approved (53% in favor) Question 4 legalizing the adult use of marijuana and marijuana establishments (Chapter 334 of the Acts of 2016). Wenham residents voted 53% against Question 4.
- On July 28, 2017, Governor Baker signed the General Court's revised law on the subject, "An Act to Ensure Safe Access to Marijuana" (the "Act"), adopted as Chapter 55 of the Acts of 2017.
- The Act also makes changes to the Medical Use of Marijuana Program, which was established by Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana" following the passage of Ballot Question 3 in the 2012 general election.



PERSONAL USE OF NON-MEDICAL MARIJUANA

Personal use
of marijuana
not subject to
municipal
regulation:

- **Public possession of 1 ounce or less of marijuana**
 - 21 years or older
- **Home growth**
 - Up to 10 ounces of marijuana for personal use
 - Any marijuana produced on premises by not more than 6 marijuana plants
 - Up to 12 plants if multiple growers on the premises
- **Give away/Transfer to other consumers up to 1 ounce**
 - No remuneration
 - Not advertised to public
 - 21 or older
- **Possession and manufacturing of marijuana accessories**
 - Persons 21 years of age or older may also possess or manufacture marijuana accessories or sell such accessories to a person 21 years of age or older.

PERSONAL USE OF NON-MEDICAL MARIJUANA

Limitations on personal use of marijuana:



- **Visibility**
 - Cultivation and processing marijuana plants may not be visible from a public place.
- **Security**
 - Marijuana or marijuana products exceeding 1 ounce within the person's place of residence must be secured by a lock.
- **Public Consumption**
 - No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited.
 - The term "public place" is not defined in the Act; may include areas both privately and publicly owned to which the public have rights of access by invitation, either express or implied.
- **Open Container**
 - Open containers of marijuana or marijuana products are prohibited in the passenger area of any motor vehicle.

TYPES OF LICENSED ADULT USE MARIJUANA

Types of Adult-Use Marijuana Establishments as defined in
G.L. c.94G, s.1

- "Marijuana cultivator"
- "Marijuana retailer"
- "Marijuana product manufacturer"
- "Independent testing laboratory"
- Any other type of licensed marijuana-related business



TYPES OF LICENSED ADULT USE MARIJUANA

**Additional types of
Licensed
Marijuana
Establishments
(Draft CCC Regs
935 CMR 500.005)**

- Craft Marijuana Cultivator Cooperative
- Microbusiness
- Retail (brick and mortar)
- Retail (delivery only)
- Third party transporter
- Existing Licensee Transporter
- Social Consumption – Primary Use
- Social Consumption – Mixed Use



TYPES OF LICENSED MEDICAL USE MARIJUANA

Medical Use Marijuana licensed by the Department of Public Health (105 CMR 725.00)

- Medical Marijuana Treatment Center (or RMD)
 - Each RMD is licensed (registered) to cultivate, process and retail its own marijuana under a single license
 - DPH will continue to regulate medical-use marijuana in the short-term under its existing regulatory scheme, 105 CMR 725
 - Transfer of oversight and regulation of medical-use marijuana to the Cannabis Control Commission will occur on or before December 31, 2018.



THE CANNABIS CONTROL COMMISSION

- Five member Cannabis Control Commission (“CCC”) has been given comprehensive oversight for all adult use and medical use marijuana
- CCC is charged with implementing and enforcing statewide regulations addressing the following:
 - public health issues, including product labeling, advertising and potency
 - Industry issues, including cultivation, distribution, transportation and seed-to-sale tracking
 - Market participation for communities, including women, minorities, veterans and growing cooperatives
 - Licensing
 - Inspections
 - Enforcement



CURRENT TIMELINE

-
- | | |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| March 15, 2018 – CCC Adoption of Regulations | <ul style="list-style-type: none">• Adoption of regulations, guidelines and protocols by the CCC for the issuance of licenses for recreational marijuana establishments.• <i>Draft regulations were approved on December 21, 2017</i> |
| April 1, 2018 – Acceptance of License Applications Begins | <ul style="list-style-type: none">• Acceptance of applications by the CCC for recreational marijuana licenses not later than April 1. |
| June 1, 2018 – License Issuance | <ul style="list-style-type: none">• The CCC may begin issuing licenses, prioritizing applications under statutory criteria. The CCC must approve or deny applications within 90 days. |

ZONING MORATORIA

Zoning Moratoria

- A zoning moratorium, imposing a temporary limit on the ability of applicants to locate marijuana establishments within a municipality, may be a powerful tool available to municipalities to allow additional time to plan for regulation of marijuana uses.
- The Attorney General has approved moratoria in many municipalities through December 31, 2018.
- Approximately one-third of the municipalities in the Commonwealth have imposed a moratorium or some form of prohibition to date.

LIMITATION OR PROHIBITION

Pursuant to G.L. c.94G, §3, a municipality may prohibit or limit recreational marijuana establishments by bylaw or ordinance with respect to the following:

prohibit the operation of **one or more types** of marijuana establishments

limit the number of marijuana retailers **to fewer than 20 percent** of the number of retail off-premises alcoholic beverage licenses issued under G.L. c.138 by the municipality

limit the number of any type of marijuana establishment to **fewer than the number of medical marijuana treatment centers** registered to engage in the same type of activity in the municipality.

LIMITATION OR PROHIBITION - PROCESS

If a municipality voted against Question 4, a prohibition or limitation may be adopted simply by bylaw/ordinance through vote of the local legislative body

- This special provision will expire on December 31, 2019, after which the two-step process requiring both a ballot question and legislative approval of a bylaw will apply to all municipalities.

FORM OF BYLAW TO LIMIT OR PROHIBIT

Zoning v. General Legislation



- The language in the Act is ambiguous with respect to whether a bylaw or ordinance implementing a prohibition or limitation must be zoning or general in nature.
- The Attorney General has approved both general and zoning bylaws prohibiting adult use marijuana establishments, but has advised that a zoning bylaw should be adopted.
- Given the lack of clarity on this issue, municipalities may wish to consider adopting both a general and a zoning bylaw imposing a prohibition/limitation

MUNICIPAL ROLE IN LICENSING BY THE CANNABIS CONTROL COMMISSION

As part of CCC license application, applicants will be required to:

Conduct a “Community Outreach Hearing”

Enter into Host Community Agreement

Certify compliance with local zoning, including buffer zone requirements

COMMUNITY IMPACT MEETING

Applicant must hold a Community Outreach Meeting within six (6) months prior to submission of license application to CCC

Hearing must be advertised at least seven (7) calendar days prior to date of hearing

Notice

Copy of hearing notice filed with town or city clerk, planning board, contracting authority for the municipality, local licensing authority for adult use marijuana (if applicable)

Copy of hearing notice must be sent to abutters

Content of Hearing

Discussions of type(s) of Marijuana Establishment to be located at proposed address

Security information

Steps taken by Applicant to prevent diversion to minors

Plan for positive community impact

Information to demonstrate location will not be a nuisance

Requirement for Q&A from community members to representatives of Marijuana Establishment

HOST COMMUNITY AGREEMENTS

Host Community Agreements

The Act requires that both recreational marijuana establishments and medical marijuana treatment centers enter into a HCA with host communities and allows for a “community impact fee.”

- The community impact fee must be “reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment or medical marijuana treatment
- The community impact fee shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or medical marijuana treatment center or be effective for longer than 5 years.”
- The Act does not expressly preclude renegotiation of a HCA at the end of the initial five year term.
- The municipality is required to document its costs.
- Applicant must certify to the CCC that it has entered into a HCA as part of application to CCC.

LOCAL TAX OPTION



- The Act created a new Chapter 64N of the General Laws setting tax rates for the sale of recreational marijuana products.
- Section 3 allows cities and towns to impose a local sales tax on the “sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town” up to 3% of the total sales price, an increase from the previous 2%.
- If a municipality has already accepted §3, a new vote of the legislative body will be required in order to increase a sales tax rate up to 3%.

ZONING BYLAW/ORDINANCE COMPLIANCE

Applicants must submit to the CCC documentation that a proposed site is compliant with the bylaws/ordinances *in effect* at the time of the application, including compliance with buffer zone requirements



Once application filed with CCC is deemed complete, the CCC will notify the municipality



The municipality has 60 days from date of correspondence from CCC requesting municipal input to notify the CCC that the applicant is not in compliance with local ordinance/bylaw



If no communication is sent from the municipality, the Applicant will be deemed in compliance

ZONING BYLAWS/ORDINANCES

Municipalities may regulate the “time, place and manner” of marijuana establishment operations and impose reasonable safeguards

Ordinances and bylaws may not be “unreasonably impracticable.”

- *“the measures necessary to comply” may not subject licensees to “unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.” (G.L. c.94G, s.1)*

Municipalities may determine that a proposed marijuana-related use falls under an existing use authorized by its bylaws or ordinances

- *Municipalities may not interpret prohibitory bylaws/ordinances as excluding marijuana establishments*

A municipality may implement its own licensing process provided it does not conflict with state law.

ZONING BYLAWS/ORDINANCES

Ordinances and bylaws may also:

- restrict licensed cultivation, processing and manufacturing of marijuana that is a “public nuisance,”
- establish restrictions on public signs related to marijuana establishments, provided the standard is not more restrictive than those applied to retail establishments selling alcoholic beverages within a municipality
- establish a civil penalty for violation of an ordinance or bylaw.
- Establish a buffer zone

Bylaws/Ordinances may not bar the transportation of marijuana or marijuana products

Standard practices for adoption of zoning ordinances or bylaws will apply (G.L. c.40A, sec.5)

ZONING BYLAWS/ORDINANCES

Buffer Zone Requirements

Under the Act, a Marijuana Establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.

Municipalities may adopt an ordinance or bylaw that reduces that distance requirement

NOTE: This buffer is less restrictive than the default buffer zone imposed by DPH on medical marijuana treatment centers:

“Absent local siting requirements, MMTCs shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate.”

105 CMR 725.110(A)(14)

ON-SITE SOCIAL CONSUMPTION

Petition for Question on State Ballot to Social Consumption

Requirements:

Petition of not fewer than 10 percent of the number of the voters of the city or town voting at the state election preceding the filing of the petition (G.L. c.94G, s.3(b))

- The ballot question must be presented to the voters of the city or town at the next biennial state election to allow the consumption of marijuana and marijuana products on the premises where they are sold.
- Petition must conform to provisions of General Laws relating to initiative petitions at the municipal level
- Likely requirement will be for petition to be filed with the Secretary of the Commonwealth no later than the first Wednesday in August.

ON-SITE SOCIAL CONSUMPTION



Under draft CCC regulations, on-site social consumption establishments will be licensed as a sub-category of retail use.



Two categories of social consumption licenses

- Primary use – more than 50% of proceeds from sale of marijuana
- Mixed use – less than 50% of proceeds from sale of marijuana

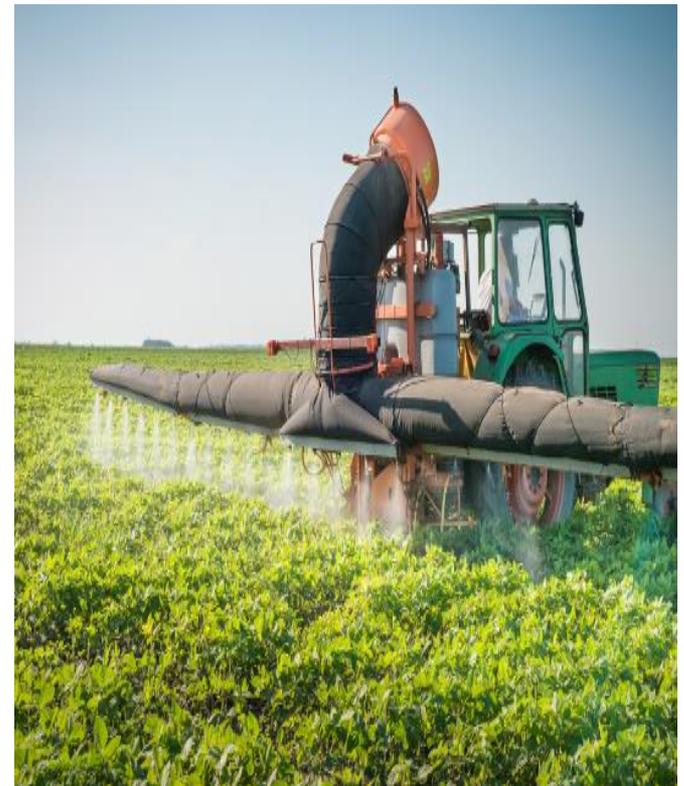


Municipalities that allow for retail sales but do not intend to allow for on-site social consumption (absent a citizen petitioned ballot vote) may need to be pro-active in prohibiting social consumption establishments as a separate use.

AGRICULTURAL USE EXEMPTION

Marijuana Related Uses Not “Agriculture”

- Chapter 351 of the Acts of 2016 included an amendment to the Zoning Act, G.L. c.40A, §3 which states that the “growing, cultivation, distribution or dispensation of marijuana” does not qualify for the agricultural exemption under the Zoning Act.
- The Act now expressly adds that municipalities are not precluded “from establishing zoning bylaws or ordinances which allow commercial marijuana growing and cultivation on land used for commercial agriculture, aquaculture, floriculture, or horticulture.”



FEDERAL LAW

2009	<u>The Ogden Memorandum</u> : DOJ guidance that federal resources should not be used to prosecute operations which are in compliance with state law.
2011	<u>The Cole Memorandum</u> : federal resources should not be used for enforcement against individuals with serious illnesses (or their caregivers) who use marijuana as part of a recommended treatment regimen consistent with state law.
2018	<u>Sessions Memorandum</u> : Rescinds previous DOJ policy guidance; directs all U.S. Attorneys to “use previously established prosecutorial principles that provide them all the necessary tools to disrupt criminal organizations, tackle the growing drug crisis, and thwart violent crime across our country.”
	<u>U.S. Attorney for Massachusetts (Andrew E. Lelling)</u> : responded to the Sessions Memorandum stating that his office will “aggressively investigate and prosecute bulk cultivation and trafficking cases, as well as individuals who use the federal banking system illegally” and that his office “cannot ... provide assurances that certain categories of participants in the state-level marijuana trade will be immune from federal prosecution.”

QUESTIONS?





The Leader in Public Sector Law

AN ACT TO ENSURE SAFE ACCESS TO MARIJUANA

A GUIDE TO THE REVISED LAW LEGALIZING RECREATIONAL USE OF MARIJUANA

AUGUST 2017

On the November 2016 state election ballot, Massachusetts voters approved Question 4 to allow the non-medical (hereinafter “recreational”) use of marijuana by adults in the Commonwealth (Chapter 334 of the Acts of 2016, entitled, “The Regulation and Taxation of Marijuana Act”). We issued a guide to the new law in January, 2017. On July 28, 2017, Governor Baker signed the General Court’s revised law on the subject, “An Act to Ensure Safe Access to Marijuana” (the “Act”), adopted as Chapter 55 of the Acts of 2017.

The Act makes numerous changes to the laws that were approved by the voters. The most significant changes from the municipal perspective involve the licensing process, the optional local tax surcharge, and amendments to the optional local restrictions or prohibitions that may be considered. Additionally, the Act will soon repeal Chapter 369 of the Acts of 2012, entitled “An Act for the Humanitarian Medical Use of Marijuana,” and move the statutory requirements for the limited cultivation, distribution, possession and use of marijuana for medical purposes into a new G.L. c.94I. This guide will summarize the key points.

CURRENT TIMELINE

<p>AUGUST 1, 2017</p> <p>Cannabis Advisory Board</p>	<p>Appointment of a 25-member Cannabis Advisory Board, with members appointed by a variety of officials and organizations, charged with making recommendations on guidelines, rules, and regulations for the recreational use of marijuana.</p> <p>The President (or a designee) of the Massachusetts Municipal Association shall hold one seat.</p>
<p>SEPTEMBER 1, 2017</p> <p>Cannabis Control Commission</p>	<p>Appointment of a five-member Cannabis Control Commission (“CCC”), by the Governor, Attorney General and Treasurer.</p> <p>The CCC will have authority to adopt regulations and issue licenses for commercial production and sale of marijuana, much like the Alcoholic Beverages Control Commission for alcohol.</p> <p>The CCC shall also assume authority over the licensing of medical marijuana treatment centers, which will be transferred from the Department of Public Health before December 31, 2018.</p>
<p>MARCH 15, 2018</p> <p>CCC Adoption of Regulations</p>	<p>Adoption of regulations, guidelines and protocols by the CCC for the issuance of licenses for recreational marijuana establishments.</p> <p>The CCC must additionally make necessary accommodations and promulgate special regulations for the counties of Dukes and Nantucket by May 1, 2018.</p>

<p>April 1, 2018</p> <p>License Applications Begin</p>	<p>Acceptance of applications by the CCC for recreational marijuana licenses pursuant to G.L. c.94G will begin not later than April 1.</p> <p>IMPORTANT: The CCC will be governed by the zoning bylaws or ordinances in effect at the time of application. Municipalities must inform the CCC of any bylaw or ordinance that would make the applicant noncompliant if the license is issued.</p>
<p>June 1, 2018</p> <p>License Issuance</p>	<p>The CCC may begin issuing licenses, prioritizing applications under statutory criteria. The CCC must approve or deny applications within 90 days.</p>

ZONING MORATORIA

The emerging area of marijuana regulation presents many policy and planning issues for municipalities. A zoning moratorium, which would impose a temporary limit on the ability of applicants to locate marijuana establishments within a municipality, is a powerful tool available to municipalities to provide additional time to consider how a community will regulate marijuana uses.

Many municipalities have already adopted a zoning moratorium on locating a recreational marijuana facility. In light of the revisions to Chapter 94G, it appears that the Attorney General will continue to approve such moratoria for towns. We recommend that municipalities not seek to impose a moratorium beyond December 31, 2018. A moratorium may be important if a municipality is considering seeking a prohibition or other limitation but may not be able to have the bylaw or ordinance in place before April 1, 2018. A sample zoning moratorium is attached.

LOCAL REGULATION UNDER G.L. c.94G, §3

Municipalities may regulate the time, place and manner of marijuana establishment operations and may adopt ordinances and bylaws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not “unreasonably impracticable.” Ordinances and bylaws may also restrict licensed cultivation, processing and manufacturing of marijuana that is a “public nuisance,” establish restrictions on public signs related to marijuana establishments and establish a civil penalty for violation of an ordinance or bylaw.

Municipalities seeking to prohibit or otherwise limit the number or types of marijuana establishments within a community must follow the method revised by the General Court to impose such limitations.

Prohibitions or Limitations Permitted by Bylaws or Ordinances

Pursuant to G.L. c.94G, §3, a municipality may prohibit or limit recreational marijuana establishments by bylaw or ordinance with respect to the following:

- prohibit the operation of one or more types of marijuana establishments;

- limit the number of marijuana retailers to fewer than 20 per cent of the number of retail off-premises alcoholic beverage licenses issued under G.L. c.138 by the municipality; or
- limit the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the municipality.

The procedure for adopting a bylaw or ordinance to prohibit or limit the number of recreational marijuana establishments has significantly changed.

- If a municipality voted in *favor* of Question 4 on November 8, 2016 [i.e., a majority of voters casting ballots voted “yes” on the question], then two votes must be taken before an ordinance or bylaw can be effective – (1) it must be approved by the voters by ballot at an annual or special election, and (2) the ordinance or bylaw must be approved by the local legislative body.
- If a municipality voted *against* Question 4, a ballot question is not required and the ordinance or bylaw may be adopted by the local legislative body. This special provision will expire on December 31, 2019, after which the two-step process requiring a ballot question and legislative approval will apply to all municipalities.

Chapter 94G, §3 now provides the general form for a ballot question. The question must include the entire proposed bylaw or ordinance and also directs that the City Solicitor/Town Counsel prepare a brief summary that makes clear the number and types of marijuana establishments that will be permitted to operate. As with all ballot questions, pursuant to G.L. c.54, §42C, a City or Town Clerk must receive notice of the ballot question, with the full legislation text and counsel summary, no less than 35 days prior to the date of the election. Sample ballot questions are attached.

Additional Issues to Consider When Imposing Prohibitions or Limitations

The Act is silent on several issues concerning the adoption of local legislation. These issues include:

Zoning v. General Legislation: The language in the Act is ambiguous with respect to whether a bylaw or ordinance implementing a prohibition or limitation must be zoning or general in nature. We recommend that a municipality consider adopting both a general and a zoning bylaw or ordinance to prohibit or limit recreational marijuana establishments. A general bylaw or ordinance may serve to protect the Town from zoning issues such as zoning freezes and “grandfathering” of existing uses. A lower quantum of vote is also required to pass a general bylaw. The Attorney General has already approved zoning bylaws imposing prohibitions and limitations on recreational marijuana establishments. The Attorney General has also approved a similar general bylaw, but recommended that the town adopt a zoning bylaw as well. This is an evolving issue that will also involve different policy considerations. Samples of bylaw/ordinance language are attached.

Agreement of Bylaw or Ordinance Language with Ballot Question: For municipalities subject to the two-step approval process for implementing a prohibition or limitation, it is important that the bylaw or ordinance approved by ballot be the same or substantially similar as that approved by the local legislative body in order to avoid any challenge to its validity.

Conversion of Existing Marijuana Treatment Centers

The prior law required a city or town to allow a recreational marijuana establishment to be located in “any area in which a medical marijuana treatment center is registered to engage in the same type of activity.” The new Act rescinded that requirement, but added a new requirement prohibiting a zoning bylaw or ordinance from preventing a medical marijuana establishment, licensed by the Commonwealth on or before July 1, 2017, from converting to a recreational marijuana establishment “engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment engaged in the same type of activity.” It is important to note, however, that such a conversion may be prohibited if the municipality has adopted a total prohibition of all recreational marijuana establishments by ordinance or bylaw.

Petition for Ballot Question to Permit Marijuana “Cafés”

The procedure for allowing consumption on the premises where marijuana is sold remains unchanged from the previous legislation. A petition, which must be signed by at least 10% of the registered voters, is the only mechanism to put this question on a ballot, and it can only appear on a ballot for the biennial state election, the next of which will be held in November 2018.

Marijuana Growing and Cultivation

As our previous memorandum indicated, Chapter 351 of the Acts of 2016 amended the Zoning Act, G.L. c.40A, §3, to provide that the “growing, cultivation, distribution or dispensation of marijuana” does not qualify for the agricultural exemption under the Zoning Act. The new Act expressly adds, however, that municipalities are not precluded “from establishing zoning bylaws or ordinances which allow commercial marijuana growing and cultivation on land used for commercial agriculture, aquaculture, floriculture, or horticulture.”

HOST COMMUNITY AGREEMENTS

The Host Community Agreement (HCA) provision in G.L. c.94G, §3 was substantially revised to cover both recreational and medical marijuana establishments. The Act now requires that recreational marijuana establishments and medical marijuana treatment centers enter into such agreements with host communities. The Act authorizes a “reasonable” community impact fee but caps it at no more than 3% of the establishment’s gross sales and limits the terms of the agreement to no more than five years. The Act does not preclude renegotiation of a HCA at the end of the initial five-year term. The Act continues to require that a host community agreement only include community impact fees that are “reasonably related” to the costs imposed upon the municipality by the operation of the marijuana establishment. The municipality is required to document its costs.

TAXATION ON SALE OF RECREATIONAL MARIJUANA

The Act increases the amount of local tax that municipalities may impose on the “sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town” to 3% of the total sales price, an increase from 2%.

- If a municipality wishes to adopt the local sales tax, it must accept G.L. c.64N, §3 by a vote of its Town Meeting, Town Council, or the approval of a City Council and Mayor. If a municipality has already accepted §3, a new vote of the legislative body will be required in order to increase a sales tax rate between 2% – 3%.
- This local tax does not apply to sales of marijuana or marijuana product between marijuana establishments.

The Act, at G.L. c.64N, §2, increased the amount of state tax on sales of recreational marijuana from the original 3.75% up to 10.75%.

CHANGES TO MEDICAL MARIJUANA LAWS

The Act makes a number of significant changes to the regulation of medical-use marijuana including the following:

- The eventual repeal of chapter 369 of the Acts of 2012, “An Act for the Humanitarian Medical Use of Marijuana.”
- The adoption of a new Chapter 94I – “Medical Use of Marijuana.”
- The transfer of the oversight and regulation of medical-use marijuana to the Cannabis Control Commission.
- The continuation of the Department of Public Health regulating medical-use marijuana in the short-term under its existing regulatory scheme, 105 CMR 725, until the transfer of oversight and regulation is complete. This transfer must occur on or before December 31, 2018.

We will address these changes in more depth in a separate update.

PERSONAL USE OF RECREATIONAL MARIJUANA

The following personal use of recreational marijuana is permitted under the Act:

- Persons 21 years of age or older may possess two ounces or less of marijuana. G.L. c.94C, §32L.
- Within a person’s “primary residence,” a person may possess up to 10 ounces of marijuana and any marijuana produced on the premises for personal use by not more than six marijuana plants. If there is more than one grower at the residence, there may be up to 12 plants cultivated on the premises.
- A person may give away or transfer without “remuneration” to a person age 21 years or older up to one ounce of marijuana, of which no more than five grams may be in the form of marijuana concentrate, provided that such transfer is not advertised or promoted to the “public.”
- A person 21 years of age or older may also possess or manufacture marijuana accessories or sell such accessories to a person 21 years of age or older.



The following are significant limitations imposed on personal use of recreational marijuana under the Act:

- Cultivation and processing marijuana plants may not be visible from a public place.
- Marijuana or marijuana products exceeding 1 ounce within the person's place of residence must be secured by a lock.
- No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited. The term "public place" is not defined in the Act but is generally understood to include areas both privately and publicly owned to which the public have rights of access by invitation, either express or implied.
- Open containers of marijuana or marijuana products are prohibited in the passenger area of any motor vehicle.

FURTHER DEVELOPMENTS

We shall continue to monitor developments in this changing area of the law, particularly as the proposed regulations of the CCC are made public.

In the meantime, if you have any questions concerning regulation or recreational marijuana, please contact Attorneys Joel Bard (jbard@k-plaw.com), Katherine Laughman (klaughman@k-plaw.com), or Brian Riley (briley@k-plaw.com) at 617.556.0007. Members of our Labor and Employment Practice Group are also available to assist with employment-related questions.



The Leader in Public Sector Law

MODEL MORATORIUM WARRANT ARTICLE

To see if the Town will vote to amend the Town’s Zoning Bylaw by adding a new Section _____, **TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS**, that would provide as follows, and further to amend the Table of Contents to add Section ___, “Temporary Moratorium on Recreational Marijuana Establishments:”

Section _____ Purpose

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (new G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed). The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016 by Chapter 351 of the Acts of 2016 and thereafter, on July 28, 2017 by Chapter 55 of the Acts of 2017) requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018. Currently under the Zoning Bylaw, a non-medical Marijuana Establishment (hereinafter, a “Recreational Marijuana Establishment”), as defined in G.L. c. 94G, §1, is not specifically addressed in the Zoning Bylaw. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

Section _____ Definition

“Recreational Marijuana Establishment” shall mean a “marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.”

Section _____ Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues.

Or take any action relative thereto.



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**MODEL RECREATIONAL MARIJUANA ESTABLISHMENT BAN
WARRANT ARTICLES FOR MUNICIPALITIES REQUIRING A BALLOT
VOTE**

ZONING BYLAW ARTICLE:

To see if the Town will vote to amend the Town’s Zoning Bylaw by adding a new Section [INSERT BYLAW SECTION REFERENCE HERE], **MARIJUANA ESTABLISHMENTS**, that would provide as follows, and further to amend the Table of Contents to add Section [INSERT BYLAW SECTION REFERENCE HERE], “Marijuana Establishments”:

Section [INSERT BYLAW SECTION REFERENCE HERE]

Consistent with G.L. c.94G, § 3(a)(2), all types of non-medical “marijuana establishments” as defined in G.L. c.94G, §1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of _____.

This Section shall be effective upon passage by the voters at a Town Election.

Or take any action relative thereto.

GENERAL BYLAW ARTICLE:

To see if the Town will vote to amend the Town’s General Bylaw by adding a new Section [INSERT BYLAW SECTION REFERENCE HERE], **MARIJUANA ESTABLISHMENTS**, that would provide as follows, and further to amend the Table of Contents to add Section [INSERT BYLAW SECTION REFERENCE HERE], “Marijuana Establishments”:

Section [INSERT BYLAW SECTION REFERENCE HERE]

Consistent with G.L. c.94G, § 3(a)(2), all types of non-medical “marijuana establishments” as defined in G.L. c.94G, §1, including marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of _____.

This Section shall be effective upon passage by the voters at a Town Election.

Or take any action relative thereto.



The Leader in Public Sector Law

**MODEL RECREATIONAL MARIJUANA ESTABLISHMENT BAN
WARRANT ARTICLES FOR MUNICIPALITIES NOT REQUIRING A
BALLOT VOTE**

ZONING BYLAW ARTICLE:

To see if the Town will vote to amend the Town’s Zoning Bylaw by adding a new Section [INSERT BYLAW SECTION REFERENCE HERE], **MARIJUANA ESTABLISHMENTS**, that would provide as follows, and further to amend the Table of Contents to add Section [INSERT BYLAW SECTION REFERENCE HERE], “Marijuana Establishments”:

Section [INSERT BYLAW SECTION REFERENCE HERE]

Consistent with G.L. c.94G, § 3(a)(2), all types of non-medical “marijuana establishments” as defined in G.L. c.94G, §1, including marijuana cultivators, independent testing laboratory, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of _____.

Or take any action relative thereto.

GENERAL BYLAW ARTICLE:

To see if the Town will vote to amend the Town’s General Bylaw by adding a new Section [INSERT BYLAW SECTION REFERENCE HERE], **MARIJUANA ESTABLISHMENTS**, that would provide as follows, and further to amend the Table of Contents to add Section [INSERT BYLAW SECTION REFERENCE HERE], “Marijuana Establishments”:

Section [INSERT BYLAW SECTION REFERENCE HERE]

Consistent with G.L. c.94G, § 3(a)(2), all types of non-medical “marijuana establishments” as defined in G.L. c.94G, §1, including marijuana cultivators, independent testing laboratory, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of _____.

Or take any action relative thereto.



The Leader in Public Sector Law

**MODEL RECREATIONAL MARIJUANA ESTABLISHMENT
BALLOT QUESTION FOR IMPOSING LIMITATION OR PROHIBITION**

Shall this [City or Town] adopt the following [bylaw or ordinance]?

[Insert solicitor/counsel summary]

[Insert full text of bylaw or ordinance]

Guidance for Municipalities Regarding Marijuana for Adult Use
January 2018

The following information is provided to assist municipalities by addressing questions related to the regulation of marijuana establishments. Additional information is available on the Cannabis Control Commission website at <https://www.mass.gov/orgs/cannabis-control-commission>. Please note that this Guidance document only pertains to marijuana for adult use and does not provide guidance on the hemp program to be regulated by the Massachusetts Department of Agricultural Resources.

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Timeline for Implementation of Marijuana for Adult Use

August 1, 2017	Appointment of Cannabis Advisory Board
September 1, 2017	Appointment of Cannabis Control Commission
December 22, 2017	Announcement of Draft Regulations
February 15, 2018	End of Public Comment Period
February 5-15, 2018	Public Hearings
March 15, 2018	Deadline for Promulgation of Final Regulations
April 1, 2018	Applications for Certain Marijuana Establishments Accepted
June 1, 2018	First Provisional Licenses May Be Issued

The information presented in this Guidance is based on Chapter 334 of the Acts of 2016 and Chapter 55 of the Acts of 2017 (the "Marijuana Acts"), as well as the draft regulations published in December, 2017. After the final regulations are promulgated in March, 2018, this Guidance will be promptly updated.

Background on 2016 and 2017 Laws on Marijuana for Adult Use in Massachusetts

On November 8, 2016, Massachusetts voters voted 53% in favor of a ballot initiative known as “Question 4” authorizing the limited adult use of marijuana and the licensing of marijuana establishments, amongst other things. The ballot initiative became Chapter 334 of the Acts of 2016 (<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter334>) and created the “Regulation and Taxation of Marijuana Act, G.L. c.94G (“2016 Marijuana Act”).

In December 2016, the Massachusetts Legislature passed Chapter 351 of the Acts of 2016 (<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter351>). Chapter 351 accomplished a number of things. First, it exempted the cultivation of marijuana from the agricultural exemption in the Zoning Act, G.L. c.40A §3, therefore retaining local control over the placement of marijuana establishments. It also delayed the deadlines set in Chapter 334 for six months to allow the Legislature time to amend Chapter 334 (the timeline above reflects the delayed dates). It also required the Department of Public Health to enter into an agreement with a research entity to conduct a comprehensive baseline study of marijuana use in the commonwealth, including a survey of: (i) patterns of use, methods of consumption and general perceptions of marijuana; (ii) incidents of impaired driving and hospitalization related to marijuana use; and (iii) economic and fiscal impacts for state and local governments, which shall include the impact of legalization on the production and distribution of marijuana in the illicit market as well as costs and benefits to state and local revenue. DPH is required to submit a report of its findings to the Chairs of the Senate and House Committees on Ways and Means and the Senate and House Chairs of the Joint Committee on Public Health not later than July 1, 2018.

On July 19, 2017, the Massachusetts Legislature passed a bill (H.3818) to amend Chapter 334 and the law it created, G.L. c.94G, as well as create additional laws relating to adult and medical use of marijuana. The bill became Chapter 55 of the Acts of 2017 (<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter55>) (“2017 Marijuana Act”). The 2017 Act built upon the foundation of the 2016 Act, creating a five-person Cannabis Control Commission, a twenty-five person Cannabis Advisory Board, as well as a hemp program to be run by the Department of Agricultural Resources. It also placed limits and restrictions on municipal control over the siting of marijuana establishments that will be discussed in this Guidance. The deadlines created by the Legislature in December 2016 remained unchanged. On December 21, 2017, the newly-formed Cannabis Control Commission approved draft regulations (<https://www.mass.gov/files/documents/2017/12/22/DraftRegulations122117.pdf>). The information presented in this Guidance is based on the 2016 and 2017 Acts (collectively referred to in this document as the “Marijuana Acts”), as well as the draft regulations. After the final regulations are promulgated in March, 2018, this Guidance will be promptly updated.

Types of Marijuana Establishments

The Marijuana Acts and the draft regulations create different kinds of marijuana establishments. Unlike a medical marijuana treatment center, which is required to cultivate, process and retail its own marijuana and marijuana products, an adult use marijuana establishment may opt only to participate in a particular part of the industry, such as cultivation. All marijuana establishments are subject to strict, comprehensive state regulations and inspections by Commission agents. All marijuana establishments are required to enter into host community agreements with the municipality in which they are located (there is more detail on host community agreements below). Only marijuana retailers are subject to the local marijuana tax created under the 2017 Act. One business may hold three licenses in each category, with certain exceptions:

Marijuana Cultivator: A marijuana cultivator may cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

- Tier 1: up to 1,000 square feet of canopy;
- Tier 2: 1,001 to 5,000 square feet of canopy;
- Tier 3: 5,001 to 10,000 square feet of canopy;
- Tier 4: 10,001 and over square feet of canopy.

Craft Marijuana Cultivator Cooperative: a craft marijuana cultivator cooperative must consist of Massachusetts residents who have formed a limited liability company, limited liability partnership, or another business structure approved by the Commission to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments, but not to consumers. A business may only have one craft marijuana cultivator cooperative license.

Marijuana Product Manufacturer: an entity authorized to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Marijuana Retailer: an entity authorized to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Storefront Retailer: A marijuana retailer that provides a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program, if the retail store is co-located with a medical marijuana treatment center.

Delivery-Only Retailer: A marijuana retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator

facility, Craft Marijuana Cultivator Cooperative facility, marijuana product manufacturer facility, or micro-business.

Marijuana Social Consumption Establishment: A marijuana social consumption establishment may purchase marijuana from licensed marijuana establishments and sell single servings of marijuana to consumers for consumption on the premises.

Primary Use: A primary use marijuana social consumption license shall be required for any commercial enterprise for which 51% or more of average monthly revenue is derived from the sale of marijuana products to be consumed on the premises (e.g. cannabis café).

Mixed Use: A mixed use marijuana social consumption license shall be required for any commercial enterprise for which the consumption of marijuana is a secondary or shared purpose to a non-cannabis business purpose. (e.g. massage studio that uses cannabis-infused lotion).

Marijuana Research Facility: an academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts. A marijuana research facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products. Any research involving humans must be authorized by an Institutional Review Board. A marijuana research facility may not sell marijuana cultivated under its research license, but may also hold a marijuana retailer license.

Independent Testing Laboratory: an entity that does not hold any other type of marijuana establishment license and is properly accredited to perform tests in compliance with the stringent requirements of the Department of Public Health protocols for testing marijuana and marijuana products.

Standards Testing Laboratory: an entity that would otherwise qualify to be an independent testing laboratory but instead performs blind tests to verify the results of an independent testing laboratory at the request of the Commission.

Marijuana Transporter: An entity may only transport marijuana or marijuana products when such transportation is not already authorized under a marijuana establishment license if it is licensed as a Marijuana Transporter:

Third Party Transporter: An entity registered to do business in Massachusetts that does not hold another marijuana establishment license pursuant to 935 CMR 500.050 and is not registered as a registered marijuana dispensary pursuant to 105 CMR 725.000.

Existing Licensee Transporter: A Marijuana Establishment that wishes to contract with other marijuana establishments to transport their marijuana and marijuana products to other marijuana establishments.

Marijuana Micro-Business: A microbusiness is a co-located Tier 1 or Tier 2 marijuana cultivator, marijuana product manufacturer, and marijuana delivery service. A microbusiness licensee shall not have an ownership stake in any other marijuana establishment and a majority of its executives or members must have been residents of Massachusetts for no less than 12 months prior to application is eligible to apply for a micro-business license. Application fees and license fees for marijuana micro-businesses shall be set at 50% of the combined sum of the application fees and license fees for each of the following activities in which the licensee engages: cultivation, manufacturing, delivery.

Role of the Cannabis Control Commission

The Commission is required to promulgate statewide regulations addressing: public health issues such as products, labeling, advertising and potency; industry issues such as cultivation, distribution, transportation and seed-to-sale tracking; and market participation for communities including women, minority, and veteran-owned businesses, as well as growing cooperatives. The Commission will also review applications from candidates for licenses, determine which applicants may be awarded licenses, deny an application or limit, condition, restrict, revoke or suspend a license, establish a registration process, based on finding of suitability or approval of licensure, check the backgrounds of individuals associated with applicants or licensees. The Commission may inspect marijuana establishments, seize and remove from the premises of a marijuana establishment and impound any marijuana, equipment, supplies, documents and records obtained or possessed in violation of the law for the purpose of examination and inspection, inspect all papers, books and records of close associates of a licensee whom the Commission suspects is involved in the financing, operation or management of the licensee, impose fees and fines, and conduct adjudicatory proceedings. The Commission may also refer cases for criminal prosecution to the appropriate federal, state or local authorities, monitor any federal activity regarding marijuana, adopt, amend or repeal regulations for the implementation, administration and enforcement of the law, and may prepare, publish and distribute studies, reports, bulletins and other materials.

Municipal Role in Commission Licensing Process

The Commission is required by law to engage in a licensing process for marijuana establishments. During the application process, applicants will be required to demonstrate that they have held a community outreach meeting within the past six months, that they have executed a Host Community Agreement with the municipality and that their proposed location is compliant with zoning bylaws or ordinances at the time of the application.

- *Community Outreach Meeting:* the applicant will need to submit documentation of the hearing, including:

The information presented in this Guidance is based on Chapter 334 of the Acts of 2016 and Chapter 55 of the Acts of 2017 (the "Marijuana Acts"), as well as the draft regulations published in December, 2017. After the final regulations are promulgated in March, 2018, this Guidance will be promptly updated.

- *Notice*: the hearing must be advertised at least seven calendar days prior to the hearing, a copy of the hearing notice must be filed with the town or city clerk, the planning board, the contracting authority for the municipality, and local licensing authority for adult use of marijuana (if applicable); and a copy of the hearing mailed to abutters;
- *Information Discussed*: information presented at the community outreach hearing, which must include the type(s) of Marijuana Establishment to be located at the proposed address; information adequate to demonstrate that the location will be maintained securely; steps to be taken by the Marijuana Establishment to prevent diversion to minors; a plan by the Marijuana Establishment to positively impact the community; information adequate to demonstrate that the location will not constitute a nuisance to the community by noise, odor, dust, glare, fumes, vibration, heat, glare, or other conditions likely to cause nuisance;
- *Q & A*: community members must be permitted to ask questions and receive answers from representatives of the Marijuana Establishment.
- *Host Community Agreement*: Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and the applicant evidencing that the applicant for licensure and host municipality have executed a host community agreement;
- *Zoning Bylaw/Ordinance Compliance*: Documentation that the proposed site is compliant with bylaws/ordinances in effect at the time of the application, including a certification from the municipality that it is in compliance, including with the buffer zone requirement (see more information on the buffer zone below).

Once the Commission determines an application is complete, it is required to notify a municipality that it has received a completed application for a marijuana establishment in the municipality. The municipality has sixty (60) days from receipt of the application to notify the Commission that the applicant is not in compliance with local ordinances or by-laws. If no communication is received, the applicant will be deemed to be compliant with all applicable local ordinances and by-laws. Similar to the process with registered marijuana dispensaries, when it completes the application process, an applicant will receive a provisional license, followed by a final license once it has passed all the necessary inspections to receive a final license.

A municipality may also implement its own licensing process, as long as it does not conflict with the state laws and regulations governing marijuana establishments.

Role of Municipalities

The Marijuana Acts both authorize and limit the way in which municipalities can control marijuana establishments in their communities. It also protects any restrictions or limitations a municipality may have imposed as of July 1, 2017 on the operation of medical marijuana treatment centers, marijuana establishments or both, pursuant to the 2012 law authorizing medical use of marijuana (Chapter 369 of the Acts of 2012) or the 2016 Act.

Below is a brief overview of provisions relating to municipal control. Any decision to implement local controls on marijuana should be made in consultation with a municipality's attorney.

Bylaws & Ordinances

The law allows, but does not require, municipalities to pass bylaws and ordinances governing the "time, place, and manner" of marijuana establishments (cultivators, retailers, manufacturers, testing labs, and any other licensed marijuana-related businesses) as well as businesses dealing with marijuana accessories. Such bylaws and ordinances may not be "unreasonably impracticable." Under the definition in the law, this means that the local laws cannot be so difficult to comply with that they would subject licensees to unreasonable risk, or require such a high investment of risk, money, time or any other resource or asset, that a reasonably prudent businessperson would not operate a marijuana establishment. Alternatively, a municipality may determine a proposed marijuana-related use falls under an existing use authorized by its bylaws or ordinances.

- *Cannot Prohibit Conversion from Medical to Adult:* Zoning bylaws or ordinances are not permitted to operate to prevent the conversion of a medical marijuana treatment center (also known as a registered marijuana dispensary or RMD) licensed or registered not later than July 1, 2017 that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment for adult use engaged in the same type of activity. Zoning bylaws or ordinances are also not allowed to limit the number of marijuana establishments below certain limits unless specific procedures are followed (see below).
- *Number of Marijuana Establishments in a Municipality:* A municipality may restrict the number of marijuana establishments in its community, but it must follow certain procedures to do so. A municipality may pass a bylaw or ordinance limiting the number of marijuana retailers to 20% or more of the number of liquor licenses issued pursuant to G.L. c.138 §15 (commonly known as "package stores") in that municipality. For example, if a municipality has 100 such liquor licenses, that municipality may set a maximum limit for 20 marijuana retailers. If the governing body of a municipality seeks to ban marijuana retailers from operating in the municipality, or limit the number of them to fewer than 20% of the number of liquor licenses, there are two different procedures for proceeding, which depend on how the municipality voted on the ballot initiative to legalize marijuana in 2016. A list of each municipality voted can be reviewed [here](#).

- If a municipality voted no on the initiative, then the governing body may limit or ban the number of marijuana establishment through by passing a bylaw or ordinance prior to December 31, 2019.
- If a municipality voted yes on the initiative, then the question must be posed to the people of the municipality at a regular or special election following a specific process and wording.
- *Buffer Zone:* Under state law, a marijuana establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Municipalities may adopt an ordinance or bylaw to reduce that distance requirement.
- *Signage:* A municipality may regulate, by bylaw or ordinance, signage regarding marijuana-related uses, but the ordinance or bylaw may not impose a standard more restrictive than those applied to retail establishments selling alcoholic beverages within the municipality.
- *Transportation:* Municipalities are prohibited from barring the transportation of marijuana or marijuana products or adopting an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable.

Local Tax

A municipality that accepts the local sales tax option may collect a 3% tax on sales of marijuana by a marijuana retailer to a consumer. The tax will be collected with other sales tax and distributed to municipalities at least four times per year.

Host Community Agreements

Under state law, marijuana establishments and medical marijuana treatment centers are required to execute “host community agreements” with the municipalities in which they operate. The agreement must stipulate the responsibilities of the community and the marijuana establishment or medical marijuana treatment centers. The agreement may include a community impact fee of up to 3% of gross sales to be paid to the host community, as long as the fee is reasonably related to real costs imposed on the municipality due to the establishment or medical marijuana treatment center operating there. The agreement may not be effective for longer than five years. Please note that any cost to a city or town imposed by *the operation of a marijuana establishment or medical marijuana treatment center* must be documented and considered a public record under Massachusetts public records laws, G.L. c.4 §7 cl. 26 and G.L. c.66 §10.

Questions

If you have additional questions regarding local control over marijuana establishments or other questions regarding the Marijuana Acts, contact the Cannabis Control Commission at CannabisCommission@State.MA.US or 617-701-8400.

BOARD OF SELECTMEN MEETING

January 16, 2018

NEW BUSINESS

B.

Review Status of FY19 Administration Budget and Determine Policy Direction on Operating Override

- Memo regarding Follow-Up on Status of FY19 Administration Budget from Peter Lombardi, Town Administrator, January 12, 2018
- Memo regarding Status of FY19 Administration Budget from Peter Lombardi, Town Administrator, December 1, 2017
- Hamilton-Wenham Regional School District, FY19 Superintendent's Budget Recommendation Excerpts, School Committee Presentation, January 3, 2018
- Email regarding Regional School District Budget Issues from Peter Lombardi, Town Administrator, December 1, 2017
- Letter to Oakham Board of Selectmen and Finance Committee from Maureen M. Marshall, Superintendent of Schools, Quabbin Regional School District, September 14, 2011
- Letter to Raymond Riddick, Chairman, Nashoba Valley Technical School District from Jeff Wulfson, Associate Commissioner, Massachusetts Department of Elementary and Secondary Education, June 15, 2009
- Letter regarding School Budget Presentation to the Town Meeting to Dr. Marguerite C. Rizzi, Superintendent of Public Schools from Stephen J. Finnegan, Esq., Massachusetts Association of School Committees, January 11, 2011
- Email regarding Regional School District Budget Issues from Lauren Goldberg, Esq., KP Law, December 19, 2017



Town of Wenham

Town Hall
138 Main Street
Wenham, MA 01984

Selectmen / Town Administrator
TEL 978-468-5520 FAX 978-468-8014

MEMORANDUM

TO: Board of Selectmen
CC: Finance and Advisory Committee
FROM: Town Administrator, Peter Lombardi & Finance Director, Leslie Davidson
RE: Follow-up on Status of FY19 Administration Budget
DATE: January 12, 2018

As you are aware, the Superintendent released the Administration's FY19 Preliminary HWRSD Budget on January 3, 2018. The budget that was tentatively adopted by the School Committee that night included an additional \$400k in critical priorities. As presented, their FY19 level services budget is set to increase by 3.56%. By including the critical priorities, it will increase by 4.83%.

Based on our current budget status, just HWRSD's projected level service budget for FY19 will leave us \$95k over our levy limit. The budget as initially adopted, which includes funding for those critical priorities, would put us \$235k over our levy limit. Both of those calculations assume that we are pulling \$216k in FY19 capital needs out of the operating budget and funding those via \$232k in available Free Cash as we did for FY18.

As the Finance and Advisory Committee begins their budget review process with Department Heads next week, we need some policy direction from the Board regarding whether we should try to come in under the levy limit based on the preliminary HWRSD level services budget – this would mean making up that \$95k difference through a combination of cutting Town expenses and revisiting (and possibly recalibrating) local receipts.

At this point, we do still have \$40k for OPEB in our operating budget. This year, we funded our \$30k OPEB contribution with Free Cash. While we would not have enough Free Cash to do the same in FY19 (only \$16k remains after accounting for \$750k to build the operating budget, \$216k for capital needs, and leaving a minimum \$250k balance), we do expect to have an additional \$85k in overlay surplus released by the Board of Assessors in the next few weeks that could be used for such purposes. Of course, while using those one-time funds for such purposes is an option, it would leave us with very limited reserves going in to next fiscal year.

As a reminder, Town expenses are currently set to increase by only 1.2% (about \$100k) based on the work we have done so far in building the FY19 budget. Accordingly, recognizing that we have made significant efforts to limit our increases, we could also continue to go through our standard budget process and then check back with the Finance Committee once they have completed their review to see what changes, if any, have been made to the Town's budget and assess where we stand relative to the levy limit.

At the very least, I think that it is important for the School Committee to know the impact that the HWRSD budget they tentatively approved last week has in terms of Wenham's FY19 operating budget, so that they keep in mind the fact that, as currently constituted, there is no ability for us to avoid an operating override as they go through their own budget review process. As outlined in town counsel's attached opinion, if the HWRSD budget does not change much, the Town has a number of different options in terms of how it is presented and voted on at Town Meeting. As noted, there is significant precedent in other MA communities to separate the school's recommended budget into multiple warrant articles, if the Board is so inclined.



Town of Wenham

Town Hall
138 Main Street
Wenham, MA 01984

Selectmen / Town Administrator
TEL 978-468-5520 FAX 978-468-8014

MEMORANDUM

TO: Board of Selectmen
CC: Finance Director, Leslie Davidson
FROM: Town Administrator, Peter Lombardi
RE: Status of FY19 Administration Budget
DATE: December 1, 2017

Following up on our last formal discussion on the FY19 budget at the joint meeting with the Finance Committee on October 10, a number of key elements have changed. They are as follows:

- HWRSD enrollment: While Wenham's enrollment is up 23 students to 633, NESDEC had predicted we would have 634. However, Hamilton's actuals (1122) came in much higher than what was projected by NESDEC last year (1065). This 57 student increase in Hamilton's enrollment from projected to actual equates to a \$110k savings for us for FY19 (from \$314k in enrollment shift costs to "only" \$204k).
- HWRSD Excess & Deficiency: FY17 Surplus E&D is expected to be certified at approximately \$345k – which translates to \$115k in anticipated Wenham subsidy for next year, thereby decreasing our projected assessment by that amount.
- FY17 New Growth: Certified by DOR at \$208,167, almost \$110k higher than estimated for FY17, provides an additional \$108k in FY19 levy capacity.
- FY17 Free Cash: Certified by DOR at \$1,232,635, \$232k higher than initially projected, provides a viable alternative funding source for capital needs.
- Overlay Surplus: \$85k in prior year overlay surplus is available, pending release of those funds being formally approved by the Board of Assessors. Those could be applied to OPEB and/or capital needs.
- GIC Opt Out: we have formally approved withdrawing from the state's Group Insurance Commission effective FY19, which is projected to save the Town approximately \$100k in employee health insurance premium costs.

Based on all of these factors, we are now within \$208k of delivering a balanced budget under the levy limit that continues to provide level services. This figure still assumes a 3% increase to the HWRSD operating budget, independent of the enrollment shift and available E&D. We will have much greater certainty regarding their projected increase when Superintendent Harvey releases his preliminary FY19 budget on December 20.

As noted above, we do have \$232k in Free Cash and the potential for an additional \$85k in overlay surplus available to fund our capital needs, similar to how we structured payment for our FY18 CIP. If we did apply those funds for that purpose, thereby removing new capital needs from the operating budget, we would be able to come in under our levy limit and would not need to consider an operating override for FY19. Doing so would result in leaving a balance of less than \$300k in Free Cash, still slightly above the \$250k minimum laid out in our Financial Policies.

It is important to note that while most these capital purchases are one-time in nature, two of them involve multi-year lease-to-own arrangements that the Town will be obligated to uphold in the years ahead. Specifically, as currently structured, the new Police Department administrative vehicle will be a 3 year agreement, with \$14k in annual payments. The larger purchase is the DPW Front Loader, which will cost \$40k a year for the next 5 years. Free Cash can be used to pay the FY19 lease payments for these two vehicles but we will have to account for similar payments in future years when building those budgets if we decide to take them out of the operating budget next year.



HAMILTON-WENHAM
REGIONAL SCHOOL DISTRICT

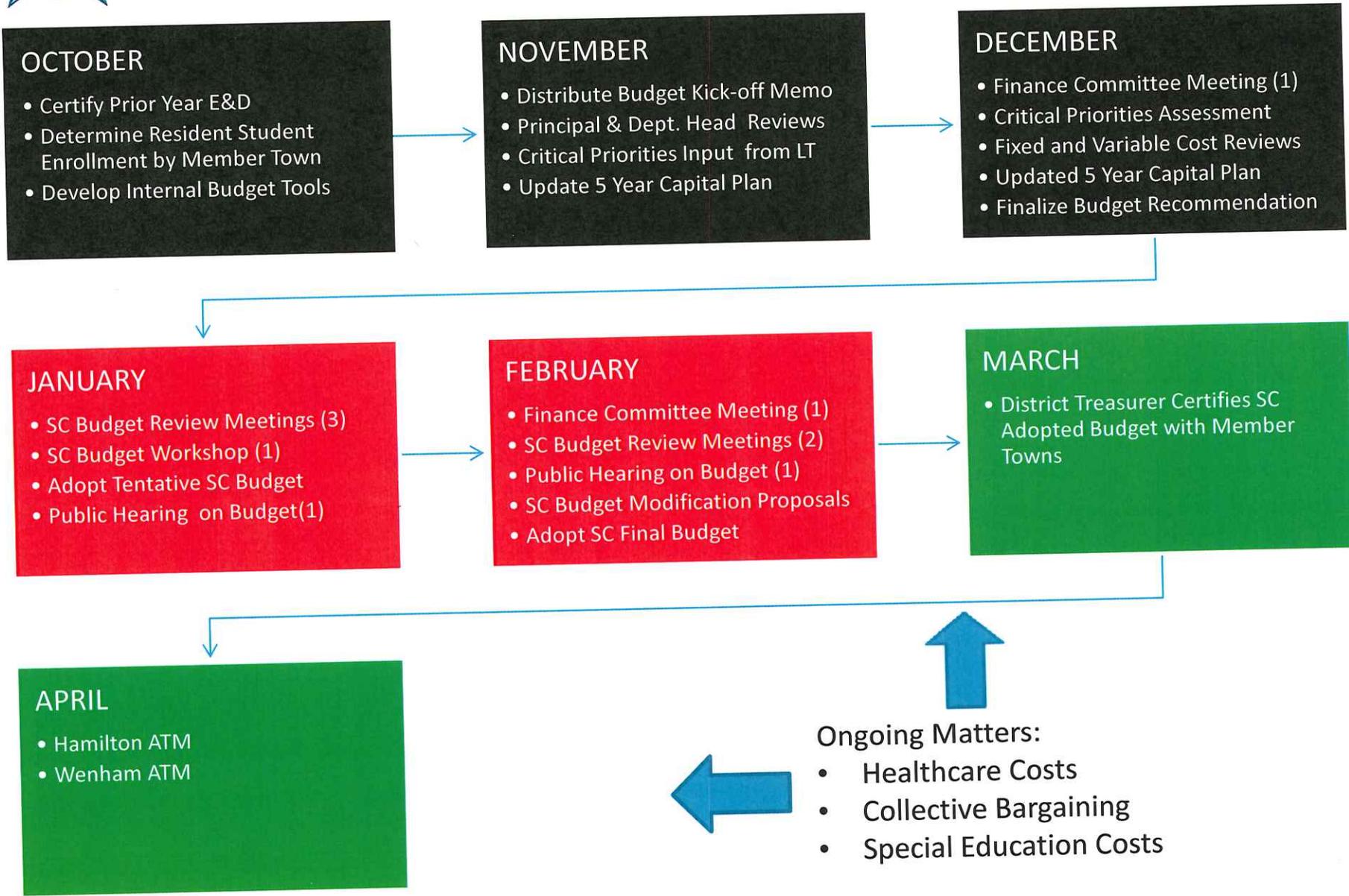
FY19 Superintendent's Budget Recommendation
School Committee Presentation
January 3, 2018

Prepared by:

Dr. Michael Harvey, Superintendent of Schools
Jeffrey D. Sands, Assistant Superintendent for Finance & Administration
Vincent Leone, Director of Accounting & Payroll



HWRSD Budget Process Overview





FY19 Budget

Superintendent's Recommendation

Level Service PLUS an Investment in Critical Priorities

What Does “Level Service” Mean?

Level Service is a continuation of the current programs, services and staffing of the District.

For FY19, Level Service translates into a spending increase in our Gross Operating Expenses of \$1,117,099 or 3.56% versus the FY18 Budget.



FY19 Budget: Level Service

Key Assumptions

- **Salary Costs**

- Incorporates a conservative COLA increase for all personnel.
- Incorporates all other contractual salary obligations (e.g. STEPs and Degree Changes).
- Increases our Grade 1 Teacher Headcount by 1.0 FTE (see larger KDG class in FY18).
- Incorporates Retirement and Other Staff Replacement salary savings of \$144K.
- Level funds all Grants as compared to FY18.

The Level Service Net Result has Salary Costs increasing by \$760K or 3.8%.

- **Operating Costs**

- No new Services or Programs.
- Capital Costs reducing to \$129K versus \$210K in FY18 and \$312K in FY17.
- Level funds the majority of operating account categories.
- Exceptions to level funding include, most notably:
 - Healthcare Costs increasing by 5.9% or \$143K
 - Out-of-District Tuition Costs increasing by 6.1% or \$168K
 - Special Ed Transportation Costs increasing by 26.5% or \$129K
 - The Essex Retirement Pension Fund increasing by 3.3% or \$29K
 - District Insurances increasing by 21.1% or \$36K
 - School Choice OUT Tuition Costs increasing by 109.0% or \$47K



FY19 Budget – Primary Drivers

Level Service Gross Operating Expense Budget

<u>Driver</u>	FY19 v FY18
	\$ CHG
All Staff COLAs and STEPS	\$ 791,000
Teacher Degree Changes	\$ 60,000
Additional Grade 1 Teacher	\$ 53,000
Essex Retirement Pension Fund Appropriation	\$ 29,000
Out-of- District Tuitions	\$ 168,000
Special Education Transportation	\$ 129,000
In District Transportation	\$ 27,000
Insurance Premiums	\$ 36,000
Healthcare Costs	\$ 143,000
Net All Other Operating Expenses	\$ (93,900)
Subtotal:	\$ 1,342,100
Capital Projects	\$ (81,000)
Anticipated Staff Retirement Replacement Savings	\$ (79,000)
Anticipated Staff Replacement Savings	\$ (65,000)
Subtotal:	\$ (225,000)
TOTALS:	\$ 1,117,100



FY19 Budget – Expense Category Analysis

Level Service Gross Operating Expense Budget

Expense Category	FY19 Gross Expenses		Compared to FY18		
	Tot \$	% of Tot	PY Bud \$	Chg \$	Chg %
Salaries	\$ 20,600,046	63.3%	\$ 19,839,627	\$ 760,419	3.8%
Out-of-District Tuition	\$ 2,935,240	9.0%	\$ 2,767,155	\$ 168,085	6.1%
Healthcare	\$ 2,573,760	7.9%	\$ 2,430,625	\$ 143,136	5.9%
In-District Transportation	\$ 765,820	2.4%	\$ 738,700	\$ 27,120	3.7%
Essex Retirement	\$ 908,291	2.8%	\$ 879,643	\$ 28,648	3.3%
Utilities	\$ 587,160	1.8%	\$ 597,530	\$ (10,371)	-1.7%
Facilities, Maintenance & Custodial (non-salary)	\$ 576,025	1.8%	\$ 631,475	\$ (55,450)	-8.8%
Technology (non-salary)	\$ 614,437	1.9%	\$ 611,182	\$ 3,255	0.5%
Special Education Transportation	\$ 614,696	1.9%	\$ 486,000	\$ 128,696	26.5%
Other Fringe (Medicare, Unemployment, 403B)	\$ 416,352	1.3%	\$ 433,965	\$ (17,613)	-4.1%
Substitute Teachers	\$ 221,750	0.7%	\$ 229,625	\$ (7,875)	-3.4%
School Materials, Supplies & Textbooks	\$ 305,904	0.9%	\$ 303,904	\$ 2,000	0.7%
Athletics (non-salary)	\$ 237,935	0.7%	\$ 224,706	\$ 13,229	5.9%
District Insurance (Property, Liability & WC)	\$ 209,464	0.6%	\$ 173,031	\$ 36,434	21.1%
OPEB Trust Fund	\$ -	0.0%	\$ 40,000	\$ (40,000)	-100.0%
All Other	\$ 953,844	2.9%	\$ 1,016,457	\$ (62,614)	-6.2%
Totals:	\$ 32,520,723	100.0%	\$ 31,403,624	\$ 1,117,099	3.6%

Increases in these 4 categories represent a total of \$1.2M or 107% of our Total Level Service Budget increase for FY19.



FY19 Budget

Superintendent's Recommendation

Level Service PLUS an investment in Critical Priorities

What Does investing in “Critical Priorities” Mean?

Provide the targeted funding necessary to better position the District to achieve its goals & objectives as provided for in the “Strategic Blueprint”, including directed investments in people, programs, & technology.

For FY19, the Superintendent and Leadership Team is recommending that an investment be made to fund several Critical Priorities. This investment comes at an additional cost of \$399,379 above what is needed to maintain Level Services for the 2018 – 2019 School Year.



FY19 Budget

What has been included in the Recommended Budget for Critical Priorities?

In addition to the funding needed to maintain Level Services, we are recommending that an additional \$399,379 be provided to fund the following items earmarked as Critical Priorities for FY19:

- K-5 Math Resources (\$100,000)
- 6 – 8 Math Resources (\$40,000)
- Fountas and Pinnell 3 Upgrade (\$17,500)
- RTI Screeners and Interventions (\$15,000)
- 1.0 FTE Special Education Team Chairperson for OOD (\$71,600)
- (2) 1.0 FTE HS Special Education Program Based Teachers (\$60,350)
- 0.5 FTE MS Special Education Reading Teacher (\$29,270)
- Healthcare and Benefits Costs for new staff (\$43,659)
- Compliance with AED Law effective July 1, 2018 (\$22,000)



FY19 Budget – Primary Drivers

Level Service PLUS Critical Priorities Gross Operating Expense Budget

<u>Driver</u>	FY19 v FY18
	\$ CHG
All Staff COLAs and STEPs - Level Service	\$ 791,000
Teacher Degree Changes	\$ 60,000
Additional Grade 1 Teacher	\$ 53,000
Critical Priorities	\$ 399,400
Essex Retirement Pension Fund Appropriation	\$ 29,000
Out-of- District Tuitions	\$ 168,000
Special Education Transportation	\$ 129,000
In District Transportation	\$ 27,000
Insurance Premiums	\$ 36,000
Healthcare Costs	\$ 143,000
Net All Other Operating Expenses	\$ (93,900)
Subtotal:	\$ 1,741,500
Capital Projects	\$ (81,000)
Anticipated Staff Retirement Replacement Savings	\$ (79,000)
Anticipated Staff Replacement Savings	\$ (65,000)
Subtotal:	\$ (225,000)
TOTALS:	\$ 1,516,500



FY19 Budget – Expense Category Analysis

Level Service PLUS Critical Priorities Gross Operating Expense Budget

Expense Category	FY19 Gross Expenses		Compared to FY18		
	Tot \$	% of Tot	PY Bud \$	Chg \$	Chg %
Salaries	\$ 20,817,994	63.2%	\$ 19,839,627	\$ 978,367	4.9%
Out-of-District Tuition	\$ 2,878,510	8.7%	\$ 2,767,155	\$ 111,355	4.0%
Healthcare	\$ 2,613,760	7.9%	\$ 2,430,625	\$ 183,136	7.5%
In-District Transportation	\$ 765,820	2.3%	\$ 738,700	\$ 27,120	3.7%
Essex Retirement	\$ 908,291	2.8%	\$ 879,643	\$ 28,648	3.3%
Utilities	\$ 587,160	1.8%	\$ 597,530	\$ (10,371)	-1.7%
Facilities, Maintenance & Custodial (non-salary)	\$ 576,025	1.7%	\$ 631,475	\$ (55,450)	-8.8%
Technology (non-salary)	\$ 614,437	1.9%	\$ 611,182	\$ 3,255	0.5%
Special Education Transportation	\$ 614,696	1.9%	\$ 486,000	\$ 128,696	26.5%
Other Fringe (Medicare, Unemployment, 403B)	\$ 419,512	1.3%	\$ 433,965	\$ (14,453)	-3.3%
Substitute Teachers	\$ 221,750	0.7%	\$ 229,625	\$ (7,875)	-3.4%
School Materials, Supplies & Textbooks	\$ 445,904	1.4%	\$ 303,904	\$ 142,000	46.7%
Athletics (non-salary)	\$ 237,935	0.7%	\$ 224,706	\$ 13,229	5.9%
District Insurance (Property, Liability & WC)	\$ 209,464	0.6%	\$ 173,031	\$ 36,434	21.1%
OPEB Trust Fund	\$ -	0.0%	\$ 40,000	\$ (40,000)	-100.0%
All Other	\$ 1,008,844	3.1%	\$ 1,016,457	\$ (7,614)	-0.7%
Totals:	\$ 32,920,102	100.0%	\$ 31,403,624	\$ 1,516,478	4.8%

Increases in these 5 categories represent a total of \$1.5M or 101% of our Total Recommended increase for FY19.



FY19 Budget – District Totals

Level Service PLUS Critical Priorities Net Operating Expense Budget

General Fund Operating Expenses					
	FY17 BUD	FY18 BUD	FY19 BUD	Difference	
Operating Expense - Gross, before offests & Overlays	\$ 30,166,532	\$ 31,403,624	\$ 32,920,102	\$ 1,516,478	4.83%
Expense Offsets					
	FY17 BUD	FY18 BUD	FY19 BUD	Difference	
<i>Recurring Offsets</i>					
School Choice	\$ 375,000	\$ 265,000	\$ 265,000	\$ -	0.0%
Preschool Tuition	\$ 37,500	\$ 72,648	\$ 72,648	\$ -	0.0%
Special Needs Tuition	\$ 35,000	\$ -	\$ -	\$ -	#DIV/0!
Facilities Rental	\$ 2,000	\$ 2,000	\$ 2,000	\$ -	0.0%
Circuit Breaker Offset	\$ 567,000	\$ 864,160	\$ 864,160	\$ -	0.0%
	\$ 1,016,500	\$ 1,203,808	\$ 1,203,808	\$ -	0.0%
<i>One-Time Offsets</i>					
Other Revolving Accounts	\$ -	\$ -	\$ -	\$ -	#DIV/0!
Total Offsets	\$ 1,016,500	\$ 1,203,808	\$ 1,203,808	\$ -	0.0%
NET OPERATING BUDGET	\$ 29,150,032	\$ 30,199,816	\$ 31,716,294	\$ 1,516,478	5.02%



FY19 Budget – District Totals

Level Service PLUS Critical Priorities Net Assessment Budget

Total Expenses					
	FY17 BUD	FY18 BUD	FY19 BUD	Difference	
General Operating Expense (Before Offsets)	\$ 30,166,532	\$ 31,403,624	\$ 32,920,102	\$ 1,516,478	4.83%
Expense Offsets	\$ 1,016,500	\$ 1,203,808	\$ 1,203,808	\$ -	0.00%
General Operating Expenses (After Offsets)	\$ 29,150,032	\$ 30,199,816	\$ 31,716,294	\$ 1,516,478	5.02%
Debt Service Expense	\$ 2,129,250	\$ 2,092,860	\$ 2,115,275	\$ 22,415	1.07%
TOTAL EXPENDITURES	\$ 31,279,282	\$ 32,292,676	\$ 33,831,569	\$ 1,538,893	4.77%

Total Funding Sources					
	FY17 BUD	FY18 BUD	FY19 BUD	Difference	
<i>Revenues</i>					
Chapter 70-Base Aid	\$ 3,457,966	\$ 3,554,656	\$ 3,606,706	\$ 52,050	1.5%
MSBA Debt Service Reimbursement	\$ 1,132,065	\$ 1,132,065	\$ 1,132,065	\$ -	0.0%
State Transportation Reimbursement	\$ 331,304	\$ 340,686	\$ 330,837	\$ (9,849)	-2.9%
Medicaid Reimbursement	\$ 85,000	\$ 85,000	\$ 150,000	\$ 65,000	76.5%
Interest Income	\$ 4,000	\$ 4,000	\$ 4,000	\$ -	0.0%
Prior Year Unexpended Encumbrances	\$ -	\$ -	\$ -	\$ -	#DIV/0!
Other Non-recurring Income (Including Transp)	\$ -	\$ -	\$ -	\$ -	#DIV/0!
Total Revenues	\$ 5,010,335	\$ 5,116,407	\$ 5,223,608	\$ 107,201	2.1%
<i>Transfers In From Other Funds</i>					
Excess and Deficiency	\$ 555	\$ 568,821	\$ 347,218	\$ (221,603)	-39.0%
Total Transfers	\$ 555	\$ 568,821	\$ 347,218	\$ (221,603)	-39.0%
Total Funding Sources	\$ 5,010,890	\$ 5,685,228	\$ 5,570,826	\$ (114,402)	-2.0%
Total Expenditures	\$ 31,279,282	\$ 32,292,676	\$ 33,831,569	\$ 1,538,893	4.8%
Less Total Funding Sources	\$ 5,010,890	\$ 5,685,228	\$ 5,570,826	\$ (114,402)	-2.0%
NET ASSESSMENT including Debt Service	\$ 26,268,391	\$ 26,607,448	\$ 28,260,743	\$ 1,653,295	6.2%

Total Town Assessments					
	FY17 BUD	FY18 BUD	FY19 BUD	Difference	
Hamilton	\$ 17,494,749	\$ 17,401,271	\$ 18,270,570	\$ 869,299	5.0%
Wenham	\$ 8,773,643	\$ 9,206,177	\$ 9,990,173	\$ 783,996	8.5%
NET ASSESSMENT including Debt Service	\$ 26,268,391	\$ 26,607,448	\$ 28,260,743	\$ 1,653,295	6.2%



Capital Projects

Projects to be included in the FY19 Operating Budget

Capital Projects currently being recommended for funding as part of the Operating Budget:

Department	Project	Location	FY19
Fac & Grds	Waste Water Treatment Plant	District	20,000
Tech	iPads for Students on Scholarship and F&RL	District	17,500
Tech	Classroom Hardware Refresh 4 year cycle (iPads)	District	21,000
Tech	Classroom Hardware Refresh 7 year cycle (Laptops & Labs)	District	33,480
Tech	Replace Classroom SMARTBoards, Projectors, etc	District	37,216
Total Recommended:			129,196

In FY18, the District's Operating Budget included \$210,696 in funding for Capital Projects. This represents a decrease of \$81,500 or 38.7%.

A copy of the full detailed 5 Year Capital Plan has been provided as a separate handout.



FY19 Budget

Motion for School Committee Tentative Budget Vote

“Section X: Budget” of the Regional Agreement reads....

“Not less than thirty days prior to the date on which the Committee adopts its final budget for the ensuing fiscal year, the Committee shall annually prepare a tentative operating and maintenance budget including therein provision for any installment of principal or interest to become due in such year on any bonds, notes or other evidence of indebtedness of the District. “

Motion for Tentative FY19 Operating Budget Vote:

Motion: The Hamilton-Wenham Regional School Committee approves a Tentative FY19 Total General Fund Expenditures Budget of \$33,831,569. This amount includes General Fund Operating Expenses (after Offsets) in the amount of \$31,716,294 and General Fund Debt Service Expenses in the amount of \$2,115,275.



Budget Topics for Next SC Meeting

on January 17, 2018

- Critical Priorities
 - K-5 Math
 - 6 – 8 Math
 - F&P 3 Upgrade
 - RTI Screeners & Interventions
 - SPED Team Chairperson
 - SPED Program Teachers
- Master Plan Update – School Libraries
 - Presentation by Kent Kovacs, AIA, LEED AP : VP at Flansburgh Architects



FY19 Budget: Calendar

SEPTEMBER 18, 2017	DISTRICT SUBMITS FY17 E&D TO MA DOR FOR CERTIFICATION
OCTOBER 26, 2017	DISTRIBUTION OF OCTOBER 2017 RESIDENT ENROLLMENT DATA TO TOWNS
NOVEMBER 6, 2017	DISTRIBUTION OF FY19 BUDGET KICK-OFF MEMO TO HWRSD BUDGET HOLDERS
NOVEMBER 6, 2017	DISTRIBUTION OF FY19 BUDGET CALENDAR
DECEMBER 7, 2017	FY19 BUDGET PLANNING MEETING #1 WITH TOWN FINANCE COMMITTEES
JANUARY 3, 2018	FY19 BUDGET RECOMMENDATION PRESENTED TO SCHOOL COMMITTEE
JANUARY 3, 2018	SCHOOL COMMITTEE REVIEWS FY19 BUDGET RECOMMENDATION
JANUARY 3, 2018	SCHOOL COMMITTEE ADOPTS TENTATIVE FY19 BUDGET
JANUARY 10, 2018	DISTRICT ADMINISTRATION ADVERTISES FY19 BUDGET PUBLIC HEARING #1
JANUARY 17, 2018	SCHOOL COMMITTEE HOLDS FY19 BUDGET PUBLIC HEARING #1
JANUARY 17, 2018	SCHOOL COMMITTEE REVIEWS FY19 BUDGET RECOMMENDATION
JANUARY 24, 2018	SCHOOL COMMITTEE CONDUCTS FY19 BUDGET BUDGET WORKSHOP
JANUARY 30, 2018	DISTRICT ADMINISTRATION MAILS ADOPTED TENTATIVE FY19 BUDGET TO TOWNS
JANUARY 31, 2018	SCHOOL COMMITTEE REVIEWS FY19 BUDGET RECOMMENDATION
FEBRUARY 7, 2018	DISTRICT ADMINISTRATION ADVERTISES FY19 BUDGET PUBLIC HEARING #2
FEBRUARY 7, 2018	FY19 BUDGET PLANNING MEETING #2 WITH TOWN FINANCE COMMITTEES
FEBRUARY 14, 2018	SCHOOL COMMITTEE REVIEWS FY19 BUDGET RECOMMENDATION
FEBRUARY 14, 2018	SCHOOL COMMITTEE HOLDS FY19 BUDGET PUBLIC HEARING #2
FEBRUARY 14, 2018	SCHOOL COMMITTEE ADOPTS FY19 BUDGET
MARCH 16, 2018	DISTRICT TREASURER CERTIFIES FY19 APPORTIONED AMOUNTS WITH TOWNS
APRIL 7, 2018	ANNUAL TOWN MEETINGS

Peter Lombardi

From: Peter Lombardi
Sent: Friday, December 01, 2017 11:46 AM
To: Jack Wilhelm; Catherine Harrison; John Clemenzi
Cc: Nicole Roebuck; 'ultrafinepapers@yahoo.com'
Subject: FW: Regional School District Budget Issues
Attachments: Regional School District Budget letters.pdf

All,

Below are relevant excerpts from town counsel's opinion first provided last November and further clarified last month regarding the manner in which the Town is obligated to present the School Committee's Budget. The referenced attachments are included as well. One of the goals for next Tuesday night's BOS meeting under agenda item G: FY19 Budget Discussion is to answer any remaining questions that you may have prior to circulating this information to both Hamilton and HWRSD for their own review so that we can understand, and hopefully, resolve any outstanding concerns or differences of opinion as we all engage in our respective, but related, budget building processes. While we may not necessarily have to address the need for a potential operating override for FY19, I believe it is important to have a clear understanding from all parties when or if that does occur.

Peter

Peter Lombardi
Town Administrator

138 Main Street
Wenham, MA 01984
978-468-5520 x.2
<http://wenhamma.gov>

From: Lauren F. Goldberg [mailto:LGoldberg@k-plaw.com]
Sent: Thursday, November 02, 2017 2:34 PM
To: Peter Lombardi
Cc: Mark R. Reich
Subject: RE: Regional School District Budget Issues

Peter, the short answer is that as long as the fact of the school committee's budget request is presented, in our opinion, the manner in which this is presented (whether one or two articles, the Town's number versus the school number, etc.) is a policy decision.

The crux of the argument that the Town must present the budget prepared by the regional school district is found in G.L. c.71, §34. That section, as previously discussed, provides that the Town can only vote on the bottom line budget, cannot make allocations amongst lines, but may make "recommendations". It also contains a single sentence that provides, "The superintendent of schools in any city or town may address the local appropriating authority prior to any action on the school budget as recommended by the school committee notwithstanding his place of residence." [emphasis added]. It is our opinion that this language is intended to ensure that the School Superintendent is allowed to speak before action on the budget, regardless of whether the superintendent is a resident of the Town, and does not impose a requirement that the school's requested budget amount be acted upon by Town Meeting. There is nothing in G.L. c.71, §34 that specifically references G.L. c.39, §10 or otherwise specifically limits the Board's authority with respect to the warrant or the motions, or the Finance Committee's recommendations thereon. Moreover, the provision in G.L. c.71, §34 that required a municipality to appropriate the amount requested for schools was deleted from that section. For all these reasons, in our opinion, there is nothing that would require the Regional School District's budget request to be included "as is" on the warrant, or that the main motion for school-related budgeting include that amount.

Similarly, the process set forth in G.L. c.71, §16B as to approval of regional school district budgets also suggests that it is not a foregone conclusion that a town must appropriate the amount certified to it by the regional school district. In a two-member district, if one town appropriates less than the amount apportioned to it, that is considered a "rejection" of the budget. The school district committee must then recertify a budget and apportion it accordingly, which budget can be exactly the same as the previous budget, or, as one would typically expect, a lower amount. If, again, the budget request is "rejected" by appropriation of a lower amount, the law provides for a "district-wide" meeting. The relevant portions of G.L. c.71, §16B provide as follows:

In the event that the regional school district budget in a regional school district is not approved by at least two-thirds of the member municipalities as required by this section, the regional school district committee shall have thirty days to reconsider, amend and resubmit a budget on the basis of the issues raised. The amounts required to be raised on account of the regional school district budget shall be reapportioned between or among the member municipalities by the regional school district committee and a copy of the amended budget shall be provided, not later than seven days from the date the amended regional school district budget was adopted by the regional school district committee, to the chairmen of the boards of selectmen, chairmen of the finance committees...and treasurers of the member municipalities. With the approval of the commissioner of education, a regional school district committee may have an additional fifteen days within which to reconsider, amend and reapportion said budget. The respective amounts reapportioned between or among the member municipalities by the regional school district committee shall be recertified by the district treasurer to the treasurers of the member municipalities not later than seven days from the date the amended regional school district budget was adopted by the regional school district committee. Prior to the expiration of forty-five days from the date on which such budget was adopted by the regional school district committee, each member municipality shall hold a meeting of the local appropriating authority to act upon the appropriation of the budget so reapportioned and recertified to it. If the appropriating authorities of at least two-thirds of the member municipalities vote to appropriate the amounts so reapportioned and recertified to them, such budget shall be considered approved and shall be apportioned between or among the member municipalities and paid by them in accordance with the terms of the regional school district agreement...

In the case of a two-member regional school district, if the appropriating authority of either member municipality votes not to appropriate the amount so reapportioned and recertified to it, the provisions of the following paragraph shall apply.

The regional school district committee shall convene a special district-wide meeting open to all registered voters in both municipalities at which the amended regional school district budget, proposed by the regional school district committee, shall be considered. Such meeting shall be called pursuant to a warrant, under the hands of at least a majority of the regional school district committee, notice of which shall be given at least fourteen days prior to the date of such meeting. The warrant shall state the time, place and purpose of the meeting and shall be directed to the district secretary, who shall give notice by posting a copy in the city or town clerk's office and at least two other public places in each member municipality and who shall further provide notice by publishing a copy of said warrant in at least one newspaper in general circulation within the member municipalities. The boards of selectmen of the member municipalities in a joint meeting shall, by a majority vote of those present, appoint a town moderator or any other person acceptable to the boards of selectmen to act as moderator and the district secretary shall keep the record of such meeting. Approval of the regional school district budget shall require the affirmative vote of at least a majority of those present and voting thereon, by a counted vote. The regional school district budget so approved shall be apportioned between the member municipalities and paid by them in accordance with the terms of the regional school district agreement. If, after submission of the budget, no agreement is reached as to a budget for the regional school district, the district shall notify the Department of Education of a lack of a budget and the commissioner, or his designee, shall certify an amount sufficient for the operation of the district and order the appropriation thereof in an amount not less than 1/12 of the total budget approved by the region in the most recent fiscal year. Similar sums shall be certified and appropriated for each successive month to insure the continued provision of services by the district until such time as a budget is adopted and approved by the regional committee and member towns in the manner otherwise provided herein. In the event a budget is not adopted by December first in any year, the department shall assume operation of the district and funds for same shall be deducted from local aid distributed to member towns.

Thus, if the Town's allocated regional school district budget contribution is not appropriated by the Town at the Annual Town Meeting, then the regional school district will have to re-vote the proposed budget. If the Town does appropriate a "supplemental amount" contingent on an override, and the override fails, then, in my opinion, the budget has been disapproved and the recertification process will be "triggered". The timeline for all that is set forth in the statute, above. At that point, if the Town Meeting again appropriates a "supplemental" amount contingent on the override and the override fails, the regional school district committee would, consistent with law, have authority to call a district-wide meeting to vote on the budget. This outcome is not desirable, of course, particularly based upon the size of each community.

Bottom line - legally, in my opinion, the Board retains authority to decide what to put on the warrant and how it should be written, unless an article is petitioned. However, what the Board has authority to do, and what it chooses to do are potentially two separate things, likely influenced by factors such as what can the Town afford, what could the Town afford if it did an override, what will the voters at Town Meeting expect from the Board, and the relationship of the towns and the district. The manner in which these questions are answered will likely influence the manner in which the Board wishes to proceed.

Options include:

- One article – School Committee’s specific request – with difference between what fits in the levy and what does not subject to an override.
- One article – School Committee’s specific request – no mention of an override, but the main motion makes the amount that doesn’t fit in the levy subject to an override.
- One article – Town’s specific proposed amount for regional school district – limits the total amount able to be appropriated thereunder (over the amount included in the warrant) to an amount allowed by the Moderator.
- One article – No particular amount specified in article – main motion makes the amount that doesn’t fit in the levy subject to an override (this option leaves the Town and the School District the greatest amount of time to negotiate the issues).
- Two articles – First article Town’s proposed amount for regional school district; Second article specific “supplemental amount” for the regional school district, subject to an override
- Two articles – First article, no particular amount for regional school district specified in article; Second article, “supplemental amount” for regional school district, no particular amount specified in article

Happy to discuss further at your convenience.

Very truly yours,

Lauren

Lauren F. Goldberg, Esq.

KP | LAW

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From: Peter Lombardi
Sent: Wednesday, November 16, 2016 10:56 AM
To: John Clemenzi; Jack Wilhelm; Catherine Harrison; M Lucy
Cc: Nicole Roebuck
Subject: FW: Regional School District Budget Issues

All,

Please see town counsel's legal opinion regarding the school budget (and relevant correspondence attached). In short, the Board of Selectmen is not required to include the school budget recommended by the School Committee in the operating budget warrant article, nor is Town Meeting required to appropriate the assessment voted by the School Committee. The FinCom is required to provide that information in their report in the warrant book and the Town must allow the Superintendent the opportunity to present the School Committee's budget. As a practical matter, we could list the School Committee budget as "requested" and the BOS/FinCom budget as "recommended" if there is a difference between those amounts after we complete our respective budget processes. If we are facing an override, we could have a separate warrant article which would include the balance between the recommended and requested school budget plus any additional balance needed for Town expenses. As I believe you already know, if Hamilton were to approve the requested school budget and Wenham does not, the School Committee must recertify the budget (making changes or not) and resubmit it for approval of both towns. If either community does not approve that requested budget a second time then a special two-town meeting is called as set out below. Given all of this, I think that it will be very important for us to plan to meet again with the School Committee in late January once we have both nearly finalized our budgets so that we can understand how close we are to staying within our levy limit. Please let me know if you have any further questions for Lauren about this.

Thanks,
Peter

Peter Lombardi
Town Administrator

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From: Lauren F. Goldberg [<mailto:LGoldberg@k-plaw.com>]
Sent: Wednesday, November 16, 2016 7:34 AM
To: Peter Lombardi
Subject: Regional Shool District Budget Issues

Peter,

You have requested an opinion regarding whether state law requires the Town to include a local or regional school district's ("District") requested budget figure in the warrant itself or to use the requested budget figure in the main motion under an article proposing an appropriation for the regional school district assessment. A similar issue was raised in the attached letter from the Quabbin Regional School District in connection with a different town, where it was suggested that the Town must include in the warrant and/or act on the assessment as proposed by the regional school district.

In my opinion, there is nothing in state law that requires the Regional School District budget or the Town's assessed portion thereof to appear on the warrant for Town Meeting or to be included in the main motion on the budget. Note, however, that the Department of Elementary and Secondary Education regulations require that the District's request be "placed before each local appropriating body for its consideration" and further that state law guarantees the Superintendent the opportunity to speak to Town Meeting prior to a vote on a local or regional school district school budget.

Authority over Town Meeting Warrant, Motions, and Formulation of Town Budget

Pursuant to the provisions of G.L. c.39, §10 the Board of Selectmen, as the Town's chief executive officer, is specifically authorized to issue warrants for annual and special town

meetings. The Board of Selectmen's unilateral control over the warrant is subject only to the right of ten registered voters at an annual town meeting and 100 registered voters at a special town meeting to petition for inclusion of an article. The Town does not have a charter securing access to Town Meeting warrants for articles proposed by any other officer, department, or committee of the Town. Further, there is no provision in state law that explicitly indicates that a local or regional school district school committee has the right to include an article, or a budget request, on the warrant. Thus, pursuant to state law, the Board of Selectmen has sole jurisdiction over the warrant, subject only to the explicit statutory limitations on the Board's authority discussed above.

Similarly, there is no provision of state law that provides that the budget recommended to Town Meeting by the Finance Committee in accordance with G.L. c.39, §16 (or the Board of Selectmen or Town Administrator under any local bylaw, special act or charter) must include the budget requested by a local school committee or the assessment or regional school district school committee. In fact, it is frequently the case that the warrant itself includes NO information about the budget but is instead general in nature, i.e., To see if the Town will determine what sum of money may be necessary to defray the towns expenses of the twelve month period (Fiscal Year 2017) beginning July 1, 2016 and ending June 30, 2017 and to make appropriations for the same and to determine the source thereof. Or take any other action relative thereto.

Case law supports these conclusions. In Superintendent of Schools v. Mayor of Leominster, 386 Mass. 114 (1982), the court concluded that the Mayor was not a "mere conduit for conveying the demands of the school committee to the city council". The court concluded further that instead, the Mayor had responsibility for recommending a total municipal budget, including the budget for the schools, and that there was nothing in the law that supports the contention that the schools are entitled to a different budgetary procedure than other departments. This decision was issued even though the City Council had no ability to increase the amount proposed by the Mayor.

Further, be aware that when Proposition 2 ½ was adopted, it deleted a provision of G.L. c.71, §34 that provided that 10 taxpayers could sue to compel an appropriation in the amount requested by the school committee and inserted the language now found in the statute provide, ""no city or town shall be required to provide more money for the support of the public schools than is appropriated by vote of the legislative body of the city or town." Thus, it is no longer the case that the school committee can dictate the school budget over the will of the legislative body. However, in the case of a regional school district, a town can be bound to appropriate the amount allocated to it under the terms of G.L. c.71, §16B and its regional school district if that budget is approved in the manner set forth in G.L. c.71, §16B. See North Shore vocational Regional School Distr. v. Salem, 393 Mass. 354 (1984).

The same analysis is applicable in towns, and in this case. The Board of Selectmen, Town Administrator and Finance Committee have responsibility for preparing and recommending a single, proposed budget for the entire Town, including amounts for the Regional School District. As you are aware, a significant portion of the budgets of most cities and towns is comprised of annual operating costs for the schools. Certain spending levels for educational purposes are required by G.L. c.70. The Town must provide for debt service and other legally owing obligations. It has additional obligations under collective bargaining agreements, employment contracts and contracts for supplies and services. The Town has capital needs, obligations to maintain roads, and provide other services to residents. Thus, when the budget is being prepared, all of the operating costs of the Town, including those to operate the schools, must be balanced to propose a budget within the levy for the entire Town. The proposed school budget is therefore only one of many expenses that must be accommodated, and, for such purpose, the local or regional school district budget is akin to that of any other department of the Town.

Regional School District Budget Certification and Allocation

The process for calculating the budget for a regional school district and for determining the amount to be assessed to each member thereof is somewhat more complicated, and

is outlined in detail in G.L. c.71, §16B and applicable regional school district agreements. In summary, however, the regional school district must provide a budget that includes the required "net school spending" minimum amounts for each member municipality, debt service, as well as any additional amounts it deems appropriate. The manner in which such total amount is allocated depends on the regional school district agreement, as well as on the "local option" choice set forth in G.L. c.71, §16B. In any event, however, the amount certified to each municipality is delivered to the boards of selectmen in each municipality in the district.

Pursuant to Department of Elementary and Secondary Education regulations, if a member municipality appropriates the assessed amount, such appropriation also constitutes approval of the district budget. However, if Town Meeting approves a Regional School District budget that is lower than the regional school district's requested budget, it will constitute a "rejection" of the regional school district budget for purposes of G.L. c.71, §16B. See 650 CMR 41.05(2)(b), which provides, "(b)If a local appropriating authority votes to appropriate a lower amount than the assessment as certified by the treasurer of the regional school district, such vote shall not constitute approval of the budget as submitted by the regional school committee. The regional school committee may consider such votes when it reconsiders the budget pursuant to 603 CMR 41.05(3)." The process for "reconsidering" the budget depends on the number of member municipalities. Note, however, as indicated above, that if the budget is approved for purposes of G.L. c.71, §16B, a town must appropriate its allocable share of the budget.

Note, however, that The Department of Elementary and Secondary Education regulations, 650 CMR 41.05(2)(a) provides:

The budget as adopted by the regional school committee and the member's assessment as certified by the treasurer of the regional school district, shall be placed before each local appropriating authority for its consideration

The Department of Revenue, when considering a similar question, indicated that the budget requested by the School Committee must be included in the report of the finance committee. See January 11, 2011 DOR Letter to Superintendent of Stoughton Public Schools, attached. I have also seen this addressed by a "requested" and a "recommended" column in the backup for Town Meeting, a letter from the Regional School District included in the back up, and/or having the issues discussed at open meetings and hearings. As noted above, the Superintendent has the right to speak to Town Meeting prior to a vote on the school budget. In a June 15, 2009 letter to the Nashoba Valley Technical School District, the Massachusetts Department of Elementary and Secondary Education concluded that there is no requirement that Town Meeting appropriate the assessment voted by the regional school district committee.

Local or Regional School District School Committee Authority over Amounts Appropriated for School Purposes

The schools, whether local or regional, has significant, unique authority over its budget, however. Pursuant to G.L. c.44, §31, "No department financed by municipal revenue, or in whole or in part by taxation, of any city or town, except Boston, shall incur a liability in excess of the appropriation made for the use of such department, each item recommended by the mayor and voted by the council in cities, and each item voted by the town meeting in towns, being considered as a separate appropriation" Thus, the general rule is that no municipal entity may expend funds for a different purpose or in excess of what has been appropriated. However, G.L. c.71, §34 establishes a special rule for educational costs which rule prohibits Town Meeting from dictating the manner in which a local or regional school district expends funds for the operating budget of the local or regional school district for each fiscal year. Thus, Town Meeting votes a single appropriation for educational costs, and the manner in which such funds are expended is left to the sole discretion of the school department or regional school district. This appropriation is commonly referred to as a "bottom-line" budget.

The full text of G.L. c.71, §34 provides:

Every city and town shall annually provide an amount of money sufficient for the support of the public schools as required by this chapter, provided however, that no city or town shall be required to provide more money for the support of the public schools than is appropriated by vote of the legislative body of the city or town. In acting on appropriations for educational costs, the city or town appropriating body shall vote on the total amount of the appropriations requested and shall not allocate appropriations among accounts or place any restriction on such appropriations. The superintendent of schools in any city or town may address the local appropriating authority prior to any action on the school budget as recommended by the school committee notwithstanding his place of residence. The city or town appropriating body may make nonbinding monetary recommendations to increase or decrease certain items allocating such appropriations.

The vote of the legislative body of a city or town shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school committee to determine expenditures within the total appropriation. [emphasis added].

Thus, the Town cannot limit the expenditure of funds appropriated for education purposes, although it can make recommendations with respect thereto.

The referenced letters from the Department of Revenue, Massachusetts Association of School Committees, and the Quabbin Regional School District are attached for your information and convenience.

In summary, in my opinion, the Town retains discretion to include in the warrant or move as part of the main motion at Town Meeting the dollar amount for the regional school district budget that it believes, based upon its financial planning, is feasible for the Town. In my further opinion, however, if the regional school district budget is "approved" for purposes of G.L. c.71, §16B, the Town will be required to appropriate the amounts assessed to it by the district.

Please let me know if there are further questions on this matter.

Very truly yours,

Lauren

Kopelman and Paige is now KP | LAW

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QUABBIN REGIONAL SCHOOL DISTRICT

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FAX: 978-355-6756
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September 14, 2011

Oakham Board of Selectmen and Finance Committee
Town of Oakham
2 Coldbrook Road, Unit 1
Oakham, MA 01068

Dear Select Board & Finance Committee Members:

As I believe you are aware, the Quabbin Regional School Committee on September 8, 2011 voted to resubmit to the Towns of Oakham and New Braintree the same FY'12 budget that was submitted to each of the member towns of the District in June, 2011. The official recertification of each town's assessment under this budget is being communicated by the District Treasurer to the Treasurers of each member town via a separate letter.

I am writing at this time to convey to you the position of the Regional School Committee in regard to the actions taken by the Town of Oakham and New Braintree this past August in regard to the Quabbin Regional School District budget. It is the position of the School Committee that each town had at that time, and still has, an obligation under state statutes and regulations to submit for a vote at its Town Meeting the budget and the assessment that has been submitted to the Town by the Regional School Committee, and it is the position of the School Committee that such did not happen in August in either Oakham or New Braintree.

G.L. chapter 71, section 16B contains the following language:

Prior to the expiration of forty-five days from the date on which such budget was adopted by the regional school district committee, each member municipality shall hold a meeting of the local appropriating authority to act upon the appropriation of the budget so reapportioned and recertified to it.

Additionally, G.L. chapter 71, section 34, a statute which makes no distinction between the annual budget requests of regional school committees or "local" school committees, in its second sentence states as follows: "In acting on appropriations for educational costs, the city or town appropriating body shall vote on the total amount of appropriations requested . . ." The fact that the school committee's submittal must be voted on is reinforced by the third sentence of section 34 which states that the superintendent may address the appropriating authority ". . . prior to any action on the school budget as recommended by the school committee."

In addition, the Department of Elementary and Secondary Education has promulgated very specific regulations regarding actions that must be taken regarding Regional School District budgets. 603 CMR 41.05(2)(a), for example, reads as follows:

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(a) The budget as adopted by the regional school committee and the member's assessment as certified by the treasurer of the regional school district, shall be placed before each local appropriating body for its consideration.

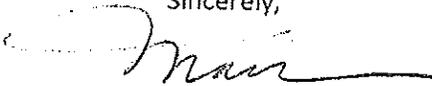
Additionally, 603 CMR 41.05(3)(d) states as follows:

If a local appropriating authority does not vote on the revised budget within the 45-day period, that member shall be deemed to have approved the revised budget.

In short, it is the request and expectation of the Regional School Committee that its revised budget and the assessment being made to your town as part of that budget be submitted unchanged to your Town Meeting for an approval vote within the statutory 45-day period.

Thank you for your consideration.

Sincerely,



Maureen M. Marshall
Superintendent of Schools

nl
cc: QRSD School Committee
C. Duval
File



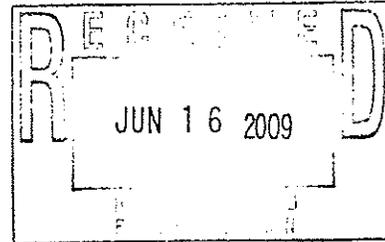
Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000
TTY: N.E.T. Relay 1-800-439-2370

Mitchell D. Chester, Ed.D.
Commissioner

June 15, 2009



Raymond Riddick, Chairman
Nashoba Valley Technical School District
100 Littleton Road
Westford, MA 01886

Dear Mr. Riddick:

Commissioner Chester has asked me to respond to your letter of June 1, 2009, regarding the actions taken by Chelmsford's 2009 annual town meeting on the proposed FY2010 budget for the Nashoba Valley Technical School District. In particular, you have asked two questions:

- 1) Is it lawful for the town to include the proposed Nashoba Valley budget as part of the warrant article dealing with the town's operating budget, or does that assessment need to be considered as a separate warrant article?
- 2) Is it lawful for town meeting to appropriate a lesser amount for its assessment than has been voted by the regional school committee?

The approval of budgets for regional school districts is governed by G.L. c.71, s.16B, and by regulations issued by the Board of Elementary and Secondary Education (603 CMR 41.05). The approval of a regional school district budget by a member town actually comprises two separate actions. One is the granting of approval for the district's complete budget, which includes all general fund spending. The second is the appropriation of town funds to pay for its assessment, the amount of which is calculated by the district treasurer in accordance with state law and the regional agreement.

If the town were to take an explicit vote on the first matter, the approval of the regional budget, that would clearly require a separate warrant article and motion at town meeting. But both the statute and the regulations allow a town to vote only on its assessment, and if the town appropriates the amount as certified by the district treasurer, that is deemed to be approval of the full budget.

Raymond Riddick

June 15, 2009

Page 2

Neither the statute nor the regulations require a separate warrant article for the appropriation of the town's assessment, although towns can choose to do so if they wish. The assessment can be appropriated as part of a larger warrant article dealing with the entire town budget, as long as the regional district assessment is clearly identified as a separate line item, so that town meeting members are fully aware of the amount being appropriated and are able to discuss it. The assessment may not be combined within a larger line item (such as the appropriation to the school department). Chelmsford's warrant article fully complied with this requirement, as the regional district assessment was a separate line item, and town meeting could (and in fact did) debate and consider this individual line item. If town meeting had ultimately voted the assessment amount as requested by the regional school committee, it would have been a valid town appropriation and would have also constituted approval of the regional budget.

Your second question concerns town meeting's action in amending the assessment appropriation to an amount lower than that requested by the regional school committee. You suggest that this particular appropriation is not subject to amendment. The statute is silent on this issue, but it is clearly addressed in the regulations:

If a local appropriating authority votes to appropriate a lower amount than the assessment as certified by the treasurer of the regional school district, such vote shall not constitute approval of the budget as submitted by the regional school committee. [603 CMR 41.05(2)(b)]

Towns are permitted to appropriate a lower amount for two reasons. First, it provides non-binding guidance to the regional school committee in the event that the committee has to reconsider and recertify a new budget. Second, if the committee chooses to recertify a new budget with lower assessments, and if the new proposed assessment for the town is equal to or less than the amount already appropriated, it eliminates the need for another town meeting.

Based on this regulation, the vote by the Chelmsford town meeting to reduce the assessment amount constituted a rejection of the regional district budget. I reviewed the videotape of the debate that you sent me, and I noted that the town manager clearly and accurately explained this to the town meeting members. He also reminded the members that even if they disapproved the regional district budget, the town would still be obligated to pay the full assessment if the budget was approved by a sufficient number of the other towns (as was ultimately the case).

Raymond Riddick

June 15, 2009

Page 3

It is my conclusion that the town of Chelmsford's consideration of the proposed Nashoba Valley budget fully complied with the statutes and regulations governing regional school district budgets.

If we can be of any additional assistance to you in this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Jeff Wulfson".

Jeff Wulfson
Associate Commissioner

cc: Hon. Martha Coakley, Attorney General
Kathleen Colleary, Division of Local Services
Gregory Sullivan, Inspector General
Judith Klimkiewicz, Superintendent, Nashoba Valley Technical School District
Chelmsford Board of Selectmen
Glenn Koocher, MASC
Stephen Hemman, MARS



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Stephen J. Finnegan, Legislative Counsel

VIA REGULAR MAIL AND FACSIMILE

Dr. Marguerite C. Rizzi
Superintendent of Stoughton Public Schools
232 Pearl Street
Stoughton, MA 02072

January 11, 2011

RE: SCHOOL BUDGET PRESENTATION TO THE TOWN MEETING

Dear Dr. Rizzi:

I am in receipt of your request, on behalf of the Stoughton School Committee, for an opinion regarding whether the budget as voted by the School Committee must be presented to the Stoughton Town meeting. It is my opinion, for the reasons below stated, that the school budget as voted by the School Committee must be presented to the Town Meeting.

Section 7 of c. 580 of the Acts of 1980 (Proposition 2½) amended G.L.c. 71, §34, the statute which historically granted fiscal authority to school committees, by limiting the amount of money required to be appropriated for public schools to the amount voted upon by the local appropriating authority, the town meeting in Stoughton. *Massachusetts Teachers Association v. Secretary of the Commonwealth (1981)*, 424 N.E. 2nd 469, 384 Mass.209. However, the school committee budget has a status different from that of any town department. The legislature has vested in the school committee the power to "review and approve budgets for public education," pursuant to G.L.c. 71, §37. This legislative grant of budgetary authority to the school committee is further underscored by the provision of Section 34 which states, in part, as follows: "[i]n acting on appropriations for educational costs, the city or town appropriating body shall vote on the total amount of the appropriations requested and shall not allocate appropriations among accounts or place any restriction on said appropriations." Section 34 grants to school committees the sole authority to determine the manner in which the appropriation voted by town meeting is expended. *School Committee of Wilmington v. Town Accountant of*

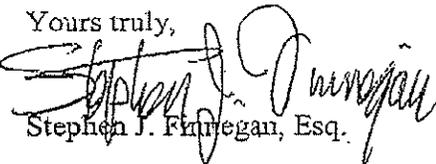
Wilmington (1985) 473 N.E. 2nd 1146, 19 Mass.App.Ct. 964. Indeed, the immediately above referenced statute states clearly that "[t]he vote of the legislative body of the city or town shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school committee to determine expenditures within the total appropriation." Also, it is my opinion that when the town meeting acts on the school budget it must have the budget requested by the school committee acting under Section 37 included in the report of the finance committee.

The Department of Revenue (DOR) was asked in 1989 whether it is appropriate to exclude the budget of the school department from the town warrant. DOR noted that as a general rule it is the finance committee which is obliged to submit the municipal budget to town meeting, which is normally carried out by means of a finance committee report (G.L.c. 41, §60). Therefore, the school committee's requested budget to be presented to the town meeting would be through its inclusion in the finance committee report. The DOR opinion No. 89-187 after it clarified the technical issue above referenced states, in relevant part, as follows: "The question then arises whether the school committee's requested budget must be included in that report. It is our view that it must."

Based upon the plain meaning of G.L.c. 71, §34 & §37, it is my opinion that the budget requested by the school committee must be included in the budget submission to the Stoughton Town Meeting, that statutorily may also include a recommendation concerning the school budget.

If you have any further questions please do not hesitate to contact me.

Yours truly,


Stephen J. Finnegan, Esq.

Cc: Glenn Koocher

Peter Lombardi

From: Lauren F. Goldberg <LGoldberg@k-plaw.com>
Sent: Tuesday, December 19, 2017 10:08 AM
To: Peter Lombardi
Cc: Mark R. Reich
Subject: RE: Regional School District Budget Issues

Follow Up Flag: Follow up
Flag Status: Flagged

Peter – Below please find a list of towns which have dealt with local and regional school budgets either by drafting a single article to include a “base” budget appropriation that is not contingent, and a supplemental amount to fully fund the budget request subject to an override or using two separate articles to present in one article the budget that can be accommodated within the levy and in the other levy the override amount needed to fully fund the budget request.

Oakham
Southampton
Sunderland
Winchendon
Westminster
Hubbardston
Upton
Topsfield
Manchester-by-the-Sea
Ashby
Harwich
Boxford
Northbridge
Westport
Dennis
North Brookfield
Georgetown
Blackstone
Sutton
Groveland
Uxbridge

Many other towns have used the single article approach, with an override budget included as a separate column in the budget, but not specifically limited to school issues, so it did not show up as easily in my search. If you would like additional information on that issue, let me know and I will look into it further.

In the meantime, please let me know if there are further questions on this.

Very truly yours,

Lauren

Lauren F. Goldberg, Esq.
KP | LAW
101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 556 0007
F: (617) 654 1735
C: (617) 548 7622

BOARD OF SELECTMEN MEETING

January 16, 2018

NEW BUSINESS

C.

Discussion on Proposed School Athletic Field Debt Exclusion

- Hamilton-Wenham Regional School District, FY19 Superintendent's Budget Recommendation, Capital Improvement Plan, School Committee Presentation, January 3, 2018
- Hamilton-Wenham Regional School District 5 Year Capital Improvement Program Summary as of January 3, 2018
- Email regarding HWRHS Athletic Field Project Background Docs from Peter Lombardi, Town Administrator, December 11, 2017
- Project Phasing Plan, Phase 1 Rendering, Gale Associates, Inc.
- Hamilton-Wenham Regional High School, Conceptual Design, Gale Associates, Inc.
- Hamilton-Wenham Regional High School, Schematic Design, Gale Associates, Inc.
- Hamilton-Wenham Regional High School, Schematic Design – Phase 2, Gale Associates, Inc.
- Letter to Town of Hamilton Planning Board regarding Request for Amendment to the Existing Site Plan, Athletic Campus Improvements from Kathleen D. Hervol, Project Manager, Gale Associates, Inc., August 15, 2017
- HWRHS Field Use and Lighting / Public Address System Schedule
- Hamilton-Wenham Regional High School Athletic Campus Improvement Project Update Presentation, Sean Boyd, P.E., Gale Associates, Inc., January 17, 2017
- Town-Wide Demand Summary Upon Implementation of Master Plan and Program Scheduling Revisions
- Email regarding Regional School District Budget Issues from Lauren F. Goldberg, Esq., KP Law, December 19, 2017



HAMILTON-WENHAM
REGIONAL SCHOOL DISTRICT

FY19 Superintendent's Budget Recommendation
School Committee Presentation
January 3, 2018

Prepared by:

Dr. Michael Harvey, Superintendent of Schools
Jeffrey D. Sands, Assistant Superintendent for Finance & Administration
Vincent Leone, Director of Accounting & Payroll



Capital Improvement Plan Administration's Recommendation

- **Background:**
 - The HS/MS Project Bond will be paid-off in May 2019 (FY19) resulting in a decrease in our annual Debt Expense of ~\$711,000 per year.
- **Assumption:**
 - Develop a recommendation that minimizes any incremental increase to the District's Annual Budget request while simultaneously addressing the longer term Capital needs of the District.
- **Scope:**
 - Projects to be funded by the FY19 Operating Budget (\$129K)
 - Winthrop Sprinkler Project (\$1.0M)
 - Athletic Field Complex (\$3.6M)
 - Capital Plan Approach agreed on 9/7/17 by School Committee (~\$2.6M)
 - Includes Safety, Accessibility, and Critical Infrastructure Projects
 - Remaining Projects to be funded by the FY20 – 23 Operating Budgets (~\$350K/Year)
- **Future Debt Expense Point of Reference:**
 - A \$8.5M Bond with a 20 Year Term at an Interest Rate of 4% carries an Annual Cost of ~\$702,000.



Capital Improvement Plan Administration's Recommendation

- 1) Fund \$129K in Projects in the FY19 Operating Budget
 - 2) Propose a \$ 1.0M Winthrop Sprinkler Project Debt Exclusion at April 2018 ATM
 - 3) Propose a \$3.6M Turf Field Complex Project Debt Exclusion at April 2018 ATM
 - 4) Propose a \$2.6M Debt Exclusion for Safety, Accessibility, & Critical Infrastructure Projects as outlined on 5 Year Plan at April 2019 ATM
 - 5) Provide funding for any remaining/new Projects on 5 Year Plan through the Operating Budgets in FY20 – FY23 at ~\$350K per Year
- Debt Exclusion Totals from the above mentioned Projects total \$7.2M.
 - A \$7.2M Bond with a 20 Year Term at an Interest Rate of 4% carries an Annual Cost of \$595,000.
 - A \$595,000 Annual Debt Expense would leave ~\$115,000 per year available that could either reduce Net Assessment amounts or be earmarked to fund the OPEB Trust Fund in future years.
 - Although the Sprinkler and Turf Field Projects would potentially be funded before the HS/MS Project was paid off in May 2019, only minimal costs (e.g., BAN expenses) would be incurred prior to FY20 when the HS/MS Project will have rolled off our books entirely.

Hamilton Wenham Regional School District
5 Year Capital* Improvement Program Summary as of January 3, 2018

Department	Project	Location	Total Est Cost	FY19	FY20	FY21	FY22	FY23
Fac & Grds	New Roof	HS	3,000,000	-	-	-	3,000,000	-
Fac & Grds	Building Energy Management Systems	Elem Schools	210,000	-	210,000	-	-	-
Fac & Grds	Replace Recalled Sprinkler Heads	HS / MS	37,500	-	37,500	-	-	-
Fac & Grds	Replace Classroom Sinks, Countertops & Water bubblers	Elem Schools	61,000	-	61,000	-	-	-
Fac & Grds	Waste Water Treatment Plant	District	100,000	20,000	20,000	20,000	20,000	20,000
Fac & Grds	Repair, refinish & reline Gymnasium Floors	District	60,000	-	-	-	60,000	-
Fac & Grds	Install Keyless Entryway Swipecard Systems	District	35,000	-	35,000	-	-	-
Fac & Grds	Install Exterior Surveillance Cameras	District	30,000	-	30,000	-	-	-
Fac & Grds	Install Main Entry & Main Office Interior Surveillance Cameras	District	25,000	-	25,000	-	-	-
Fac & Grds	Interior Classroom & Hallway Painting	Cut	30,000	-	-	-	30,000	-
Fac & Grds	Replace Classroom Carpets with Tile (2)	Cut	10,000	-	10,000	-	-	-
Fac & Grds	Classroom Shades	Cut, Buk, HS & MS	135,000	-	135,000	-	-	-
Fac & Grds	Emergency Generator	Buk & Admin Bldg	40,000	-	40,000	-	-	-
Fac & Grds	Autoscrubbers (4)	District	60,000	-	15,000	15,000	15,000	15,000
Fac & Grds	Replace flooring in HS Fitness Center	HS	15,000	-	-	15,000	-	-
Fac & Grds	Equipment for HS Fitness Center	HS	20,000	-	-	20,000	-	-
Fac & Grds	Install ADA Accessible Handicap Lifts/Ramps for school stages	Win & Buk	30,000	-	30,000	-	-	-
Fac & Grds	Project Adventure Course Upgrades	HS / MS	15,000	-	15,000	-	-	-
Fac & Grds	Replace front sidewalks at Middle School	MRMS	60,000	-	60,000	-	-	-
Fac & Grds	Replace Ceiling Tiles in Primary Wing Classrooms & Hallway	Winthrop	10,000	-	-	-	10,000	-
Fac & Grds	Repair sidewalks and curbing at Admin Bldg	Admin	15,000	-	15,000	-	-	-
Fac & Grds	Upgrade, repair and install Intercom systems	Various	24,000	-	24,000	-	-	-
Fac & Grds	Replace Sound System in gymnasium	HS / MS	20,000	-	20,000	-	-	-
Fac & Grds	40' - 50' Scissor Lift w/ Trailer	District	25,000	-	25,000	-	-	-
Fac & Grds	Buker Drainage	Buker	20,000	-	20,000	-	-	-
Fac & Grds	Buker Side Entryway and Handicap Ramp (Replace)	Buker	80,000	-	80,000	-	-	-
Tech	iPads for Students on Scholarship and F&RL	District	87,500	17,500	17,500	17,500	17,500	17,500
Tech	Classroom Hardware Refresh 4 year cycle (iPads)	District	280,000	21,000	42,000	84,000	70,000	63,000
Tech	Classroom Hardware Refresh 7 year cycle (Laptops & Labs)	District	262,305	33,480	47,470	34,970	92,430	53,955
Tech	Classroom Chromebooks 4 year cycle	District	135,000	-	18,000	18,000	18,000	81,000
Tech	Upgrade Wireless Access Points including wiring	District	49,920	-	49,920	-	-	-
Tech	Replace Phone System with new VoIP System	HS / MS	47,000	-	47,000	-	-	-
Tech	Replace Backup Server / Services	District	52,000	-	52,000	-	-	-
Tech	Replace VMWare Server and Licenses	District	113,000	-	113,000	-	-	-
Tech	Replace Network Area Storage Arrays	District	207,000	-	207,000	-	-	-
Tech	Replace Network IDF	District	72,000	-	72,000	-	-	-
Tech	Replace Classroom SMARTBoards, Projectors, etc	District	232,600	37,216	65,128	65,128	65,128	-
Tech	Upgrade Auditorium Theatrical Electrical Systems	HS	75,000	-	75,000	-	-	-
Tech	Replace Auditorium Lighting Control Console	HS	17,000	-	17,000	-	-	-
Tech	Auditorium HD Projector, Projection Screen & Monitors	HS	50,000	-	-	50,000	-	-

Hamilton Wenham Regional School District
5 Year Capital* Improvement Program Summary as of January 3, 2018

Department	Project	Location	Total Est Cost	FY19	FY20	FY21	FY22	FY23
Tech	Install redundant line for Internet Connectivity	District	32,000	-	32,000	-	-	-
Food Svc	Kitchen Equipment	District	373,575	-	373,575	-	-	-
Subtotal Operating:			6,253,400	129,196	2,136,093	339,598	3,398,058	250,455
Fac & Grds	Building Fire Suppression System	Win	1,000,000	1,000,000	-	-	-	-
Subtotal Sprinklers:			1,000,000	1,000,000	-	-	-	-
Master Plan	Classroom Furniture (Master Plan)	District	800,000	-	800,000	-	-	-
Master Plan	HS/MS Library Media Center Renovation (Master Plan)	HS / MS	2,460,000	-	-	-	2,460,000	-
Master Plan	Elementary Library Media Center Renovations (Master Plan)	Elem Schools	2,841,825	-	-	-	2,841,825	-
Subtotal Master Plan:			6,101,825	-	800,000	-	5,301,825	-
Athletics	Turf Fields: Track & Field	District	3,671,863	3,671,863	-	-	-	-
Athletics	Turf Fields: Combination Baseball Field	District	3,051,365	-	-	-	-	3,051,365
Athletics	Turf Fields: Entrance Improvements & Amenities	District	2,024,928	-	-	-	-	2,024,928
Subtotal Athletics:			8,748,156	3,671,863	-	-	-	5,076,293
Totals:			\$ 22,103,381	\$ 4,801,059	\$ 2,936,093	\$ 339,598	\$ 8,699,883	\$ 5,326,748

- A "green" shaded entry in FY19 denotes the expense has been incorporated into the FY19 Operating Budget Recommendation.

- An "orange" shaded entry in FY19 denotes the expense will be presented at April 2018 Town Meeting for funding.

* - Tangible assets or projects that cost at least \$10,000 and have a useful life of at least 5 years.

Note - The final principal and interest payment for the HS/MS Project is due in May 2019. Net annual Debt Service Expense Costs associated with that Project are ~\$711,000 .

Peter Lombardi

From: Peter Lombardi
Sent: Monday, December 11, 2017 11:26 AM
To: Jack Wilhelm; Catherine Harrison; John Clemenzi; A Begin; Mike Therrien; Carrie Jelsma; David Molitano; James Purdy
Cc: Leslie Davidson; 'Sean Timmons'; Nicole Roebuck; 'ultrafinepapers@yahoo.com'
Subject: HWRHS Athletic Field Project Background Docs
Attachments: Rec Field Assessment Report - Gale Assoc 05.12.pdf; Rec Master Plan - Gale Assoc 09.12.pdf; Rec Master Plan PP 09.12.pdf; Rec Master Plan Survey Report 05.12.pdf; HWRHS Master Plan 01.15.pdf; HWRHS Master Plan Enclosures 01.15.pdf; Gale Assoc PP to BOS & SC re. Athletic Fields project 11.15.pdf; HWRHS Athletic Campus Improvements Project 2015 1218 Revised 2016 0314 REV 2016 0325 REV 2016 0525.pdf; HWRHS Presentation 01.17.pdf; Gale Project Update 05.23.17.pdf; Request Amendment Letter re. proposed field use and lighting schedule 08.17.pdf; HWRHS Comprehensive Cost Estimate 11.17.pdf; School Athletic Fields Rendering (as approved) Fall 2017.pdf

All,

Following up on our discussion on this at last Thursday night's joint meeting, attached are a number of relevant documents:

1. Recreation Field Needs Assessment - Spring 2012
2. Original Recreation Master Plan (& related presentation and survey results) – Fall 2012
3. High School Fields Master Plan (& related enclosures) – Winter 2015
4. Presentation to Schools & Towns re. need for proposed High School Field Upgrades – Fall 2015
5. Gale Associates Contract – Summer 2016
6. Presentation to Schools & Town re. proposed scope of work for High School Field Upgrades – Winter 2017
7. Project update to School Committee – Spring 2017
8. Gale Associates Letter to Hamilton Planning Board re. lighting and schedule – Summer 2017
9. Updated cost estimate for each phase (note that the correct projected Phase 1 estimate is on page 5 of the attachment) – Fall 2017
10. Aerial rendering of scope of work as approved by Hamilton Planning Board & Conservation Commission (Phase 1 & 2) – Fall 2017
11. Joint Rec Board letter to School Committee re. next steps – Fall 2017

Some brief commentary to connect the dots from 2012 to present:

- The major findings coming out of the field needs assessment and Recreation Master Plan in 2012 was that there was a lack of adequate field space to meet the demands of recreation and school sports. The high school campus promised the greatest potential to increase capacity.
- A follow-up report focusing on the high school fields complex was commissioned and preliminary proposed plans were drawn up in 2015.
- \$67k in CPA funds from Hamilton and Wenham was approved by Spring 2016 Town Meeting to take the project through the initial design and local permitting stage.
- Gale Associates worked with the Schools and Towns to develop a maximum potential footprint for the project in order to apply for site plan review (to ascertain what would the project look like at its highest allowable use).
- Project was approved by the Hamilton Planning Board and Conservation Commission in early Fall 2017 – importantly, lighting was included in this approval.
- As discussed, earlier this fall, the School Committee voted to move forward with bringing a proposal to Spring 2018 Town Meetings to full fund Phase 1 (\$3.6M projected costs) – which would install a new turf field and new track. The Joint Rec Board believes we should conduct private fundraising before taking this to Town Meeting -

<http://hamilton.wickedlocal.com/news/20171208/fundraising-for-h-w-regional-turf-fields-to-begin-in-2018>. At this time, there are no plans to apply for CPA funds for this project for this coming year. Hamilton has approx. \$500k from the sale of the Patton Homestead which has been set aside in a reserve account and could be used to cover some of their contribution for this project. As I mentioned, the last payment (\$700+k in annual excluded debt) for the Middle School will take place in 2019, creating significant funding capacity (within the existing tax levy) starting in FY20. However, as Jeff Sands mentioned, limited project costs will be incurred in FY19 even if funding is approved next spring.

Please let me know if you have any questions.

Peter

Peter Lombardi
Town Administrator

138 Main Street
Wenham, MA 01984
978-468-5520 x.2

<http://wenhamma.gov>



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 Boston Baltimore Orlando Connecticut

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PROJECT
ATHLETIC CAMPUS IMPROVEMENTS
HAMILTON-WENHAM REGIONAL HIGH SCHOOL
 775 BAY ROAD
 SOUTH HAMILTON, MA 01982

DISTRICT
 HAMILTON-WENHAM REGIONAL SCHOOL DISTRICT
 5 SCHOOL STREET
 WENHAM, MA 01984

REVISIONS	
NO.	DATE DESCRIPTION

CADD FILE	1718291.dwg
DESIGNED BY	Resendiz, (Drs)
DRAWN BY	
CHECKED BY	STB
DATE	AUG 26, 2016
DRAWING SCALE	1"=40'-0"

GRAPHIC SCALE

SHEET TITLE

PROJECT PHASING PLAN

DRAWING NO.	
PROJECT NO. FIRST	



- PHASE 1 (INCLUDES):**
- MULTI-PURPOSE SYNTHETIC TURF FIELDS AND TRACK
 - ADA ACCESS
 - ATHLETIC LIGHTING
 - FENCING

NOTE: FUTURE PHASING WILL BE DEPENDENT UPON FUNDING.



HAMILTON-WENHAM REGIONAL HIGH SCHOOL

CONCEPTUAL DESIGN

GALE JN: 716571

Item	Description	Unit	Quantity	Unit Cost	Cost	Total Cost
TRACK & FIELD						
1	GENERAL CONDITIONS					\$ 595,466.30
2	EROSION CONTROL / SITE PREPARATION / DEMOLITION					\$ 169,420.67
3	SYNTHETIC TURF CONSTRUCTION					\$ 795,693.33
4	TRACK CONSTRUCTION					\$ 518,860.30
5	DRAINAGE					\$ 65,024.00
6	CONCRETE CURBING					\$ 152,446.00
7	FENCING / SAFETY NETTING					\$ 120,055.00
8	TRACK EQUIPMENT (FIXED)					\$ 100,200.00
9	TRACK EQUIPMENT (NON-FIXED)					\$ 77,500.00
10	ATHLETIC EQUIPMENT					\$ 40,000.00
11	SPECTATOR SEATING "VISITOR" SIDE					\$ 100,000.00
12	ATHLETIC LIGHTING/SITE ELECTRICAL					\$ 206,364.00
13	WALKWAYS					\$ 106,915.25
14	SITE AMENITIES					\$ 56,500.00
15	RETAINING WALLS					\$ 88,480.00
TOTAL						
					SUBTOTAL:	\$ 3,192,924.85
					SOFT COSTS (5%):	\$ 223,504.74
					CONTINGENCY (10 %):	\$ 319,292.48
					TOTAL:	\$ 3,735,722.07
COMBINATION BASEBALL FIELD						
1	GENERAL CONDITIONS					\$ 501,823.01
2	EROSION CONTROL / SITE PREPARATION / DEMOLITION					\$ 158,526.53
3	SYNTHETIC TURF CONSTRUCTION					\$ 1,039,582.22
4	DRAINAGE					\$ 63,400.00
5	CONCRETE CURBING					\$ 68,480.00
6	FENCING / SAFETY NETTING					\$ 225,775.00
7	ATHLETIC EQUIPMENT					\$ 46,000.00
8	DUGOUTS					\$ 70,000.00
9	COMBINATION BATTING TUNNEL / BULLPEN					\$ 25,000.00
10	BLEACHER SYSTEM					\$ 25,000.00
11	ATHLETIC LIGHTING					\$ 348,637.00
12	WALKWAYS					\$ 30,137.40
13	RETAINING WALL					\$ 51,000.00
TOTAL						
					SUBTOTAL:	\$ 2,653,361.16
					SOFT COSTS (5%):	\$ 132,668.06
					CONTINGENCY (10 %):	\$ 265,336.12
					TOTAL:	\$ 3,051,365.33



HAMILTON-WENHAM REGIONAL HIGH SCHOOL

CONCEPTUAL DESIGN

GALE JN: 716571

Item	Description	Unit	Quantity	Unit Cost	Cost	Total Cost
ENTRANCE IMPROVEMENTS AND AMENITIES						
1	GENERAL CONDITIONS					\$ 311,440.00
2	EROSION CONTROL / SITE PREPARATION / DEMOLITION / UTILITIES					\$ 125,000.00
3	ENTRANCE IMPROVEMENTS, AMENITIES, AND GRANDSTANDS					\$ 1,251,000.00
	NEW BUILDINGS					
	CUSTOM BUILT STORAGE STRUCTURES					
	PRESS BOX & LIFT					
	"HOME" BLEACHER SYSTEM					
	PAVILION STRUCTURE					
	LANDSCAPING (ALLOWANCE)					
TOTAL						
					SUBTOTAL:	\$ 1,687,440.00
					SOFT COSTS (10%):	\$ 168,744.00
					CONTINGENCY (10 %):	\$ 168,744.00
					TOTAL:	\$ 2,024,928.00



HAMILTON-WENHAM REGIONAL HIGH SCHOOL

SCHEMATIC DESIGN

GALE JN: 716571

Item	Description	Unit	Quantity	Unit Cost	Cost	Total Cost
TRACK & FIELD						
1	GENERAL CONDITIONS					\$ 595,466.30
a	Bonds and Insurance (2%)	LS	1	\$ 51,949.17	\$ 51,949.17	
b	General Conditions (4%)	LS	1	\$ 103,898.34	\$ 103,898.34	
c	Contractor Overhead + Profit (15%)	LS	1	\$ 389,618.78	\$ 389,618.78	
d	Mobilization / Demobilization	LS	1	\$ 50,000.00	\$ 50,000.00	
2	EROSION CONTROL / SITE PREPARATION / DEMOLITION					\$ 169,420.67
a	Silt Sock	LF	1872	\$ 4.50	\$ 8,424.00	
b	Temporary Construction Entrance	SY	105	\$ 13.70	\$ 1,441.54	
c	Temporary Construction Fencing	LS	1	\$ 3,000.00	\$ 3,000.00	
d	Strip and Haul Topsoil	CY	3516	\$ 16.00	\$ 56,257.78	
e	Rough Grading of Site Subgrade	SY	16833	\$ 3.50	\$ 58,917.06	
f	Pulverize Pavement	CY	1048	\$ 8.00	\$ 8,380.30	
g	Remove and Dispose of Existing Visitor Bleachers	LS	1	\$ 15,000.00	\$ 15,000.00	
h	Remove and Dispose of Existing Fence	LS	1	\$ 8,000.00	\$ 8,000.00	
i	Misc. Demolition (goal post, field events, etc.)	LS	1	\$ 10,000.00	\$ 10,000.00	
3	SYNTHETIC TURF CONSTRUCTION					\$ 795,693.33
a	Prepare sub-base, shape and compact	SY	9759	\$ 2.25	\$ 21,957.00	
b	Geotextile Separation Layer	SY	9759	\$ 2.00	\$ 19,517.33	
c	Crushed Stone Base under Field	TN	4066	\$ 36.00	\$ 146,380.00	
d	Infilled Synthetic Turf (EPDM)	SF	87828	\$ 5.75	\$ 505,011.00	
e	Shock Pad	SF	87828	\$ 1.00	\$ 87,828.00	
f	Turf Logo at Mid-Field	LS	1	\$ 15,000.00	\$ 15,000.00	
4	TRACK CONSTRUCTION					\$ 518,860.30
a	Prepare sub-base, shape and compact (Track and D-Areas)	SY	6,039	\$ 2.25	\$ 13,588.00	
b	Aggregate Base Course For Track and D-Areas (8")	TN	2,013	\$ 32.00	\$ 64,417.19	
c	Pavement (1.5" Binder Course, 1.5" Wearing Course)	SY	6,039	\$ 28.00	\$ 169,095.11	
d	Track Surfacing / Striping (RED BSS-100 Urethane)	SY	6,039	\$ 45.00	\$ 271,760.00	
5	DRAINAGE					\$ 65,024.00
a	10" Perf. HDPE	LF	912	\$ 30.00	\$ 27,360.00	
b	Flat Panel Drains	LF	2906	\$ 4.00	\$ 11,624.00	
c	Solid Drain Pipes	LF	352	\$ 20.00	\$ 7,040.00	
d	Cleanouts (Nyloplast CB's)	EA	8	\$ 2,000.00	\$ 16,000.00	
e	Area Drains	EA	2	\$ 1,500.00	\$ 3,000.00	
6	CONCRETE CURBING					\$ 152,446.00
a	Cast-In-Place Concrete	LF	408	\$ 32.00	\$ 13,056.00	
b	Cast-In-Place Concrete w/ ACO 2000 Slot Drains	LF	709	\$ 70.00	\$ 49,630.00	
c	Cast-In-Place Concrete w/ ACO 4000 Trench Drains	LF	590	\$ 80.00	\$ 47,200.00	
d	ACO 4000 Trench Drain Along Walkway	LF	532	\$ 80.00	\$ 42,560.00	



HAMILTON-WENHAM REGIONAL HIGH SCHOOL

SCHEMATIC DESIGN

GALE JN: 716571

Item	Description	Unit	Quantity	Unit Cost	Cost	Total Cost
7	FENCING / SAFETY NETTING					\$ 120,055.00
a	Specatator Chain Link Fencing (4' w/ gates)	LF	1879	\$ 45.00	\$ 84,555.00	
b	12' Swing Gate	EA	3	\$ 2,500.00	\$ 7,500.00	
c	16' Ball Safety Netting	LF	280	\$ 100.00	\$ 28,000.00	
8	TRACK EQUIPMENT (FIXED)					\$ 100,200.00
a	Sand Pit Forms, Catchers w/ Covers	EA	2	\$ 25,000.00	\$ 50,000.00	
b	Pole Vault Box	EA	1	\$ 2,000.00	\$ 2,000.00	
c	Discus / Shot Put Pads (Concrete)	LS	1	\$ 2,000.00	\$ 2,000.00	
d	Discus / Shot Put Pads (Aggregate Base)	LS	1	\$ 500.00	\$ 500.00	
e	Discus Cage (plus anchor installation)	EA	1	\$ 30,000.00	\$ 30,000.00	
f	Discus / Shot Put Rings	EA	1	\$ 800.00	\$ 800.00	
g	Shot Put Stone Dust	LS	1	\$ 8,500.00	\$ 8,500.00	
h	Concrete Curbing (Shot Put)	LF	200	\$ 32.00	\$ 6,400.00	
9	TRACK EQUIPMENT (NON-FIXED)					\$ 77,500.00
a	Hurdles	EA	80	\$ 300.00	\$ 24,000.00	
b	Hurdle Carts	EA	10	\$ 500.00	\$ 5,000.00	
c	High Jump Pad w/ Cover	EA	1	\$ 15,000.00	\$ 15,000.00	
d	Pole Vault Pad w/cover	PR	1	\$ 25,000.00	\$ 25,000.00	
e	Soccer Goals	PR	1	\$ 4,500.00	\$ 4,500.00	
f	Aluminum Player Benches	PR	2	\$ 2,000.00	\$ 4,000.00	
10	ATHLETIC EQUIPMENT					\$ 40,000.00
a	Football Goals	PR	1	\$ 24,000.00	\$ 24,000.00	
b	Player Benches (15' Each)	PR	8	\$ 2,000.00	\$ 16,000.00	
11	SPECTATOR SEATING "VISITOR" SIDE					\$ 100,000.00
a	Portable Bleachers w/ Concrete Pad	LS	1	\$ 100,000.00	\$ 100,000.00	
12	ATHLETIC LIGHTING / SITE ELECTRICAL					\$ 206,364.00
a	Site Electrical (Hookup)	LS	1	\$ 50,000.00	\$ 50,000.00	
b	MUSCO Athletic Field Lighting System	POLE	4	\$ 39,091.00	\$ 156,364.00	
13	WALKWAYS					\$ 106,915.25
a	Prepare sub-base, shape and compact	SY	2,613	\$ 2.25	\$ 5,879.25	
b	Gravel Base	TN	871	\$ 32.00	\$ 27,872.00	
c	Pavement (1.5" Binder Course, 1.5" Wearing Course)	SY	2,613	\$ 28.00	\$ 73,164.00	
14	SITE AMENITIES					\$ 56,500.00
a	30' Flag Poles	EA	1	\$ 6,500.00	\$ 6,500.00	
b	Landscaping (Allowance)	LS	1	\$ 50,000.00	\$ 50,000.00	
15	RETAINING WALLS					\$ 88,480.00
a	Retaining Wall (at emergency access)	SF	1,637	\$ 40.00	\$ 65,480.00	
b	Retaining Wall (in between track and baseball)	SF	511	\$ 40.00	\$ 20,440.00	



HAMILTON-WENHAM REGIONAL HIGH SCHOOL

SCHEMATIC DESIGN - Phase 2

GALE JN: 716571

Item	Description	Unit	Quantity	Unit Cost	Cost	Total Cost
COMBINATION BASEBALL FIELD						
1	GENERAL CONDITIONS					\$ 501,823.01
a	Bonds and Insurance (2%)	LS	1	\$ 43,030.76	\$ 43,030.76	
b	General Conditions (4%)	LS	1	\$ 86,061.53	\$ 86,061.53	
c	Contractor Overhead + Profit (15%)	LS	1	\$ 322,730.72	\$ 322,730.72	
d	Mobilization / Demobilization	LS	1	\$ 50,000.00	\$ 50,000.00	
2	EROSION CONTROL / SITE PREPARATION / DEMOLITION					\$ 158,526.53
a	Silt Sock	LF	1553	\$ 4.50	\$ 6,988.50	
b	Temporary Construction Entrance	SY	105	\$ 13.70	\$ 1,441.54	
c	Temporary Construction Fencing	LS	1	\$ 2,000.00	\$ 2,000.00	
d	Strip and Haul Topsoil	CY	4947	\$ 16.00	\$ 79,152.59	
e	Rough Grading of Site Subgrade	SY	14841	\$ 3.50	\$ 51,943.89	
f	Remove and Dispose of Existing Fence	LS	1	\$ 12,000.00	\$ 12,000.00	
g	Misc. Demolition	LS	1	\$ 5,000.00	\$ 5,000.00	
3	SYNTHETIC TURF CONSTRUCTION					\$ 1,039,582.22
a	Prepare sub-base, shape and compact	SY	12995	\$ 2.25	\$ 29,238.25	
b	Geotextile Separation Layer	SY	12995	\$ 2.00	\$ 25,989.56	
c	Crushed Stone Base under Field	TN	5414	\$ 36.00	\$ 194,921.67	
d	Infilled Synthetic Turf (EPDM)	SF	116953	\$ 5.75	\$ 672,479.75	
e	Shock Pad	SF	116953	\$ 1.00	\$ 116,953.00	
f	Turf Logo at Mid-Field	LS	0	\$ 15,000.00	\$ -	
4	DRAINAGE					\$ 63,400.00
a	10" Perf. HDPE	LF	1102	\$ 30.00	\$ 33,060.00	
b	Flat Panel Drains	LF	4085	\$ 4.00	\$ 16,340.00	
c	Cleanouts (Nyloplast CB's)	EA	7	\$ 2,000.00	\$ 14,000.00	
5	CONCRETE CURBING					\$ 68,480.00
a	Cast-In-Place Concrete	LF	1315	\$ 32.00	\$ 42,080.00	
b	Cast-In-Place Concrete w/ ACO 4000 Trench Drains	LF	330	\$ 80.00	\$ 26,400.00	
6	FENCING / SAFETY NETTING					\$ 225,775.00
a	Black Vinyl Chain Link Fencing (8' w/ gates)	LF	1319	\$ 85.00	\$ 112,115.00	
b	12' Swing Gate	EA	3	\$ 2,500.00	\$ 7,500.00	
c	16' Safety Netting	LF	280	\$ 150.00	\$ 42,000.00	
d	45' Tension Safety Netting	LF	162	\$ 180.00	\$ 29,160.00	
e	Baseball Backstop	LS	1	\$ 35,000.00	\$ 35,000.00	
7	ATHLETIC EQUIPMENT					\$ 46,000.00
a	Player Benches (15' Each)	PR	8	\$ 2,000.00	\$ 16,000.00	
b	Scoreboard (Product and Installation)	EA	1	\$ 30,000.00	\$ 30,000.00	
8	DUGOUTS					\$ 70,000.00



HAMILTON-WENHAM REGIONAL HIGH SCHOOL

SCHEMATIC DESIGN - Phase 2

GALE JN: 716571

Item	Description	Unit	Quantity	Unit Cost	Cost	Total Cost
a	Concrete Pad	EA	2	\$ 10,000.00	\$ 20,000.00	
b	Gameshade Enclosed Dugout	EA	2	\$ 25,000.00	\$ 50,000.00	
9	COMBINATION BATTING TUNNEL / BULLPEN					\$ 25,000.00
a	Double Pitching Tunnel / Bullpen	LS	1	\$ 25,000.00	\$ 25,000.00	
10	BLEACHER SYSTEM					\$ 25,000.00
a	Portable Bleachers w/ Concrete Pad	LS	1	\$ 25,000.00	\$ 25,000.00	
11	ATHLETIC LIGHTING					\$ 348,637.00
a	Site Electrical (Hookup)	LS	1	\$ 75,000.00	\$ 75,000.00	
b	MUSCO Athletic Field Lighting System	POLE	7	\$ 39,091.00	\$ 273,637.00	
12	WALKWAYS					\$ 30,137.40
a	Prepare sub-base, shape and compact	SY	737	\$ 2.25	\$ 1,657.25	
b	Gravel Base	TN	246	\$ 32.00	\$ 7,856.59	
c	Pavement (1.5" Binder Course, 1.5" Wearing Course)	SY	737	\$ 28.00	\$ 20,623.56	
13	RETAINING WALL					\$ 51,000.00
a	Retaining Wall	SF	1,275	\$ 40.00	\$ 51,000.00	
TOTAL						
					SUBTOTAL:	\$ 2,653,361.16
					SOFT COSTS (5%):	\$ 132,668.06
					DESIGN CONTINGENCY (10 %):	\$ 265,336.12
					TOTAL:	\$ 3,051,365.33



HAMILTON-WENHAM REGIONAL HIGH SCHOOL

SCHEMATIC DESIGN

GALE JN: 716571

Item	Description	Unit	Quantity	Unit Cost	Cost	Total Cost
ENTRANCE IMPROVEMENTS AND AMENITIES						
1	GENERAL CONDITIONS					\$ 311,440.00
a	Bonds and Insurance (2%)	LS	1	\$ 27,520.00	\$ 27,520.00	
b	General Conditions (4%)	LS	1	\$ 55,040.00	\$ 55,040.00	
c	Contractor Overhead + Profit (15%)	LS	1	\$ 206,400.00	\$ 206,400.00	
d	Mobilization / Demobilization	LS	1	\$ 50,000.00	\$ 50,000.00	
2	EROSION CONTROL / SITE PREPARATION / DEMOLITION / UTILITIES					\$ 125,000.00
a	Silt Sock	LF	200	\$ 4.50	\$ 900.00	
b	Temporary Construction Entrance	SY	56	\$ 13.70	\$ 761.11	
c	Temporary Construction Fencing	LS	1	\$ 1,500.00	\$ 1,500.00	
d	Strip and Haul Topsoil	CY	275	\$ 16.00	\$ 4,405.33	
e	Rough Grading of Site Subgrade	SY	826	\$ 3.50	\$ 2,891.00	
f	Utilities					
i	Misc. Demolition (goal post, field events, etc.)	LS	1	\$ 1,000.00	\$ 1,000.00	
3	ENTRANCE IMPROVEMENTS, AMENITIES, AND GRANDSTANDS					\$ 1,251,000.00
a	NEW BUILDINGS	SF	1450	\$ 400.00	\$ 580,000.00	
b	CUSTOM BUILT STORAGE STRUCTURES	SF	600	\$ 160.00	\$ 96,000.00	
c	PRESS BOX & LIFT	LS	1	\$ 185,000.00	\$ 185,000.00	
d	"HOME" BLEACHER SYSTEM	SEAT	600	\$ 350.00	\$ 210,000.00	
e	PAVILION STRUCTURE	LS	1	\$ 80,000.00	\$ 80,000.00	
f	LANDSCAPING (ALLOWANCE)	LS	1	\$ 100,000.00	\$ 100,000.00	
TOTAL						
					SUBTOTAL:	\$ 1,687,440.00
					SOFT COSTS (10%):	\$ 168,744.00
					DESIGN CONTINGENCY (10 %):	\$ 168,744.00
					TOTAL:	\$ 2,024,928.00



Gale Associates, Inc.

163 Libbey Parkway | P.O. Box 890189 | Weymouth, MA 02189-0004
P 781.335.6465 F 781.335.6467
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August 15, 2017

Town of Hamilton Planning Board
577 Bay Road
Hamilton, MA 01936

Re: Request for Amendment to the Existing Site Plan
Athletic Campus Improvements
Hamilton-Wenham Regional High School
Hamilton, MA
Gale JN 716571

Dear Mr. Reffett and Members of the Board:

We are writing in response to the information requested at the August 1, 2017 Planning Board hearing on the above referenced project. The Hamilton-Wenham Regional School District (HWRSD) was requested to provide a schedule of the athletic events/uses that will be utilizing the proposed fields at Hamilton-Wenham Regional High School (HWRHS), as well as the anticipated times at which the athletic lights and public address system will be used. Therefore, on behalf of the HWRSD, we have attached the "HWRHS Lighting and Public Address System (PAS) Schedule" for your review. A summary of the proposed lighting and PAS use is as follows:

LIGHTS

- Fall Season (August through mid-November) and Spring Season (mid-March through early June): HWRSD is proposing the lights be used Monday through Friday until 9:00 P.M. HWRSD is not planning to use the lights on Saturdays or Sundays, nor during the winter and summer months. The Parks and Recreation Department is requesting the use of the lights on Saturdays, until 9:00 P.M., based on approval from the HWRSD. Note that all games will be over at 8:30 P.M.

Proposed Schedule:

<u>Sunday</u>	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>
No light use.	Fields dark: 9:00 P.M.					

PUBLIC ADDRESS SYSTEM (PAS)

- Fall and Spring Season: HWRSD is proposing to use the PAS Monday through Thursday until 6:30 P.M., until 8:30 P.M. on Fridays, and until 2:00 P.M. on Saturdays and Sundays. Note that all games will be over by 8:30 P.M.

CELEBRATING 50 YEARS



Proposed Schedule:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
PAS used up to 2:00 P.M.	PAS used up to 6:30 P.M.	PAS used up to 6:30 P.M.	PAS used up to 6:30 P.M..	PAS used up to 6:30 P.M.	PAS used up to 8:30 P.M.	PAS used up to 2:00 P.M.

HWRSD will post a schedule of all planned events in August for the fall season, and in March for the spring season.

Based on the information provided, HWRSD is proposing the following "Draft" Conditions be considered by the Board for the Approval of the Requested Amendment to the Existing Site Plan:

1. *The use of the athletic lights will be limited to the fall and spring season games involving HWRHS teams, Monday through Friday, no later than 9:00 P.M.*, and Saturdays until 9:00 P.M. for the HW Youth Sports through the Parks and Recreation Department, based upon HWRSD approval. All games will be over at 8:30 P.M. Fields will not be lighted on Sundays, nor for the winter or summer seasons.*
 2. *The public address system will be used appropriately during all athletic games and MIAA tournaments. The volume will be maintained at a reasonable level. Except as required for emergency or urgent announcements (e.g., parking, emergency, etc.), the public address system will not be used after 6:30 P.M. Monday through Thursday, after 8:30 P.M. on Fridays (all games over at 8:30 P.M.), and not after 2:00 P.M. on Saturdays and Sundays*. When it is necessary to use the public address system after the specified time, the public address system usage will stop within fifteen (15) minutes of the game's ending time.*
 3. *HWRSD will post a schedule of all planned events each August for the fall playing season, and each March for the spring playing season.*
- * *Under rare situations, two to four (2-4) times in the fall and two to four (2-4) times in the spring, the lights and public address system may be needed to accommodate MIAA State Tournament games, SAT Days and Emergency Situation Responses.*

We appreciate your consideration in this matter. Please do not hesitate to contact the undersigned (kdh@gainc.com), or Sean Timmons of the Parks and Recreation Department (stimmons@hamiltonma.gov), should you have any comments or questions.

Town of Hamilton Planning Board
Re: Hamilton-Wenham Regional High School
August 15, 2017
Page 3



Best regards,

GALE ASSOCIATES, INC.

A handwritten signature in blue ink that reads "Kathleen D. Hervol". The signature is written in a cursive, flowing style.

Kathleen D. Hervol
Project Manager

KDH/cmh

Enclosure:

- HWRHS Lighting and Public Address System Schedule

CC:

- Sean Timmons Hamilton-Wenham Recreation Department

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HWRHS Field Use and Lighting / Public Address System Schedule

Lighting:

1. FALL SEASON: Late August through Mid-November

A. Monday – Friday

School Day: Phys Ed Classes
3:00pm – 5:00pm: High School Practices and JV Games
5:00pm – 9:00pm: Varsity Games (Includes warm-up and departure of fans)- Lights Used
(All games over by 8:30 pm)

B. Saturdays*

8:00am – 2:00pm: Varsity, JV Games & Practices
2:00pm – 9:00pm: Hamilton Wenham Youth Sport Uses - Lights used at dusk
(All games over by 8:30 pm)

C. Sundays*

8:00am – Dusk: No Light Uses

2. WINTER SEASON

No Light Usage

3. SPRING SEASON: Mid- March – Early June

D. Monday – Friday

School Day: Phys Ed Classes
3:00pm – 5:00pm: High School Practices and JV Games
5:00pm – 9:00pm: Varsity Games (Includes warm-up and departure of fans)- Lights Used
(All games over by 8:30 pm)

E. Saturdays*

8:00am – 2:00pm: Varsity, JV Games & Practices
2:00pm – 9:00pm: Hamilton Wenham Youth Sport Uses- Lights used at dusk
(All games over by 8:30 pm)

F. Sundays*

8:00am – Dusk: No light Usage

4. SUMMER SEASON:

As scheduled: 8am – Dusk (No Light Usage)

* On a handful of rare occasions (SAT Days, State Tournament Games), HWRHS would need Turf fields and potentially Lights after 2:00 PM on Saturdays and possible Sundays.

Public Address System (PAS):

1. FALL SEASON: Late August through Mid-November

A. Monday – Thursday

School Day: Phys Ed Classes
3:00pm – 5:00pm: High School Practices and JV Games
5:00pm – 6:30 pm: Varsity Games (Includes warm-up and departure of fans)

B. Friday

School Day: Phys Ed Classes
3:00pm – 5:00pm: High School Practices and JV Games
5:00pm – 9:00 pm: Varsity Games (Includes warm-up and departure of fans)
(All games over by 8:30 pm)

C. Saturdays/ Sundays*

11:00am – 2:00pm: Varsity, JV Games & Practices
2:00pm – 9:00pm: Hamilton Wenham Youth Sport Uses

2. WINTER SEASON: No PAS Use

3. SPRING SEASON: Mid- March – Early June

A. Monday – Thursday

School Day: Phys Ed Classes
3:00pm – 5:00pm: High School Practices and JV Games
5:00pm – 6:30 pm: Varsity Games (Includes warm-up and departure of fans)

B. Friday

School Day: Phys Ed Classes
3:00pm – 5:00pm: High School Practices and JV Games
5:00pm – 9:00 pm: Varsity Games (Includes warm-up and departure of fans)
(All games over by 8:30 pm)

C. Saturdays/ Sundays*

11:00am – 2:00pm: Varsity, JV Games & Practices
2:00pm – 9:00pm: Hamilton Wenham Youth Sport Uses

4. SUMMER SEASON: As Scheduled-No PAS Use

* On a handful of rare occasions (SAT Days, State Tournament Games), HWRHS would need Turf fields and potentially PAS after 2:00 PM on Saturdays and possible Sundays.

CELEBRATING 50 YEARS



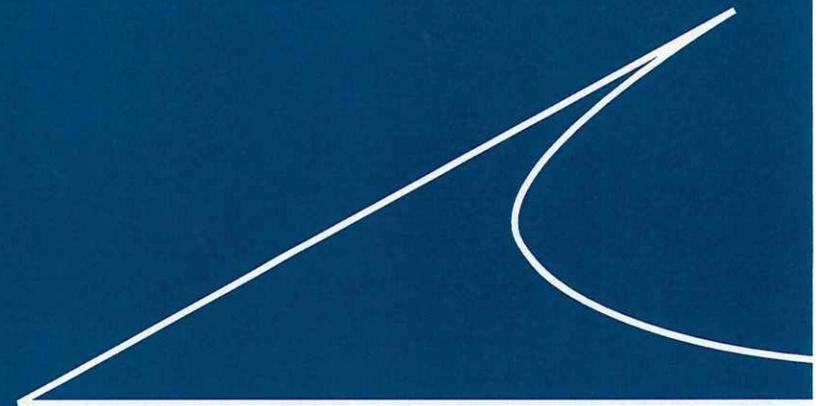
Hamilton Wenham Regional High School Athletic Campus Improvements Project Update

Hamilton, MA

Sean Boyd, P.E. - Gale Associates Inc.

January 17, 2017

G:717170\01 Evaluation\presentation\Hopkinton (2017-01-10)

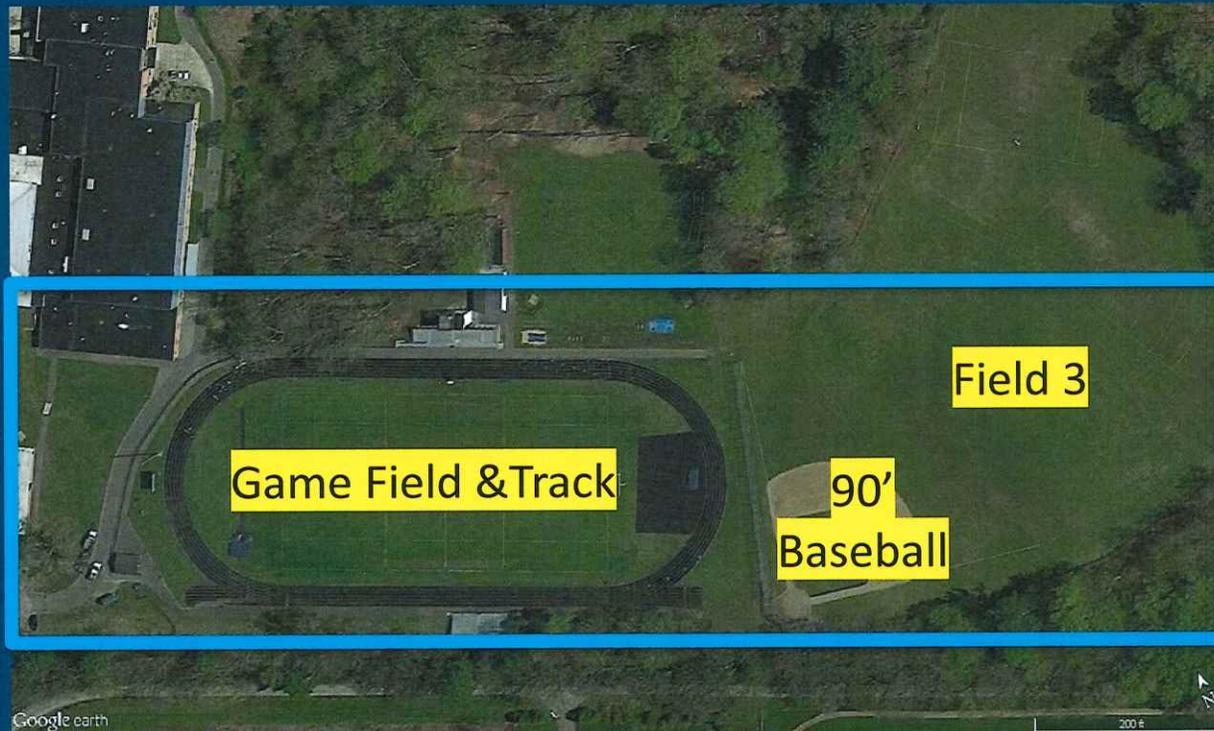


Agenda

- Current Project Scope
- Project History
- Master Plan Summary
- HS Existing Conditions
- Current Design
- Master Plan Impact
- Next Steps
- Questions



Current Project Scope



- Site Investigation
- Schematic Design
- Design Development
- Permitting

Project History



Recreation Master Plan Report Towns of Hamilton and Wenham, MA

August 8, 2012

table of contents

Section 1.0	Introduction, Background, and Purpose
Section 2.0	Synopsis of Recreation Facility Evaluations and Demand Conclusions
Section 3.0	Synopsis of Needs Survey
Section 4.0	Athletic Field Planning Program Requirements
Section 5.0	Proposed Athletic Facilities Improvements
Section 6.0	Athletic Field Demand and Rest Following Master Plan Implementation
Section 7.0	Athletic Field Enhancements Phasing
Section 8.0	Patton Park Pool Facility
Section 9.0	Passive Recreation Trails
Section 10.0	Recreation Department Programming
Section 11.0	Facilities Management and Maintenance
Section 12.0	Non-Traditional Funding Sources
Section 13.0	Overall Conclusions



Recreation Master Plan Report Hamilton-Wenham Regional High School

JANUARY 23, 2015

table of contents

Section 1.0	Introduction, Background, and Purpose
Section 2.0	Synopsis of Recreation Facility Evaluations and Demand Conclusions
Section 3.0	Needs Assessment
Section 4.0	Athletic Field Planning Program Requirements
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Section 6.0	Athletic Field Demand and Rest Following Master Plan Implementation
Section 7.0	Athletic Field Enhancements Phasing
Section 8.0	Overall Conclusions

enclosures

Enclosure 1	Athletic Campus Base Plans
Enclosure 2	Athletic Field Evaluation Forms
Enclosure 3	Soil Test Results
Enclosure 4	Scheduled Field Uses (Demand)
Enclosure 5	Summary of Scheduled Demand
Enclosure 6	Equivalent Demand Matrix
Enclosure 7	Master Plan Redevelopment Schematic Layout
Enclosure 8	Schematic Cost Estimates
Enclosure 9	Proposed Redistribution of Demand
Enclosure 10	Phasing Plan

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2012 – Town Wide Master Plan

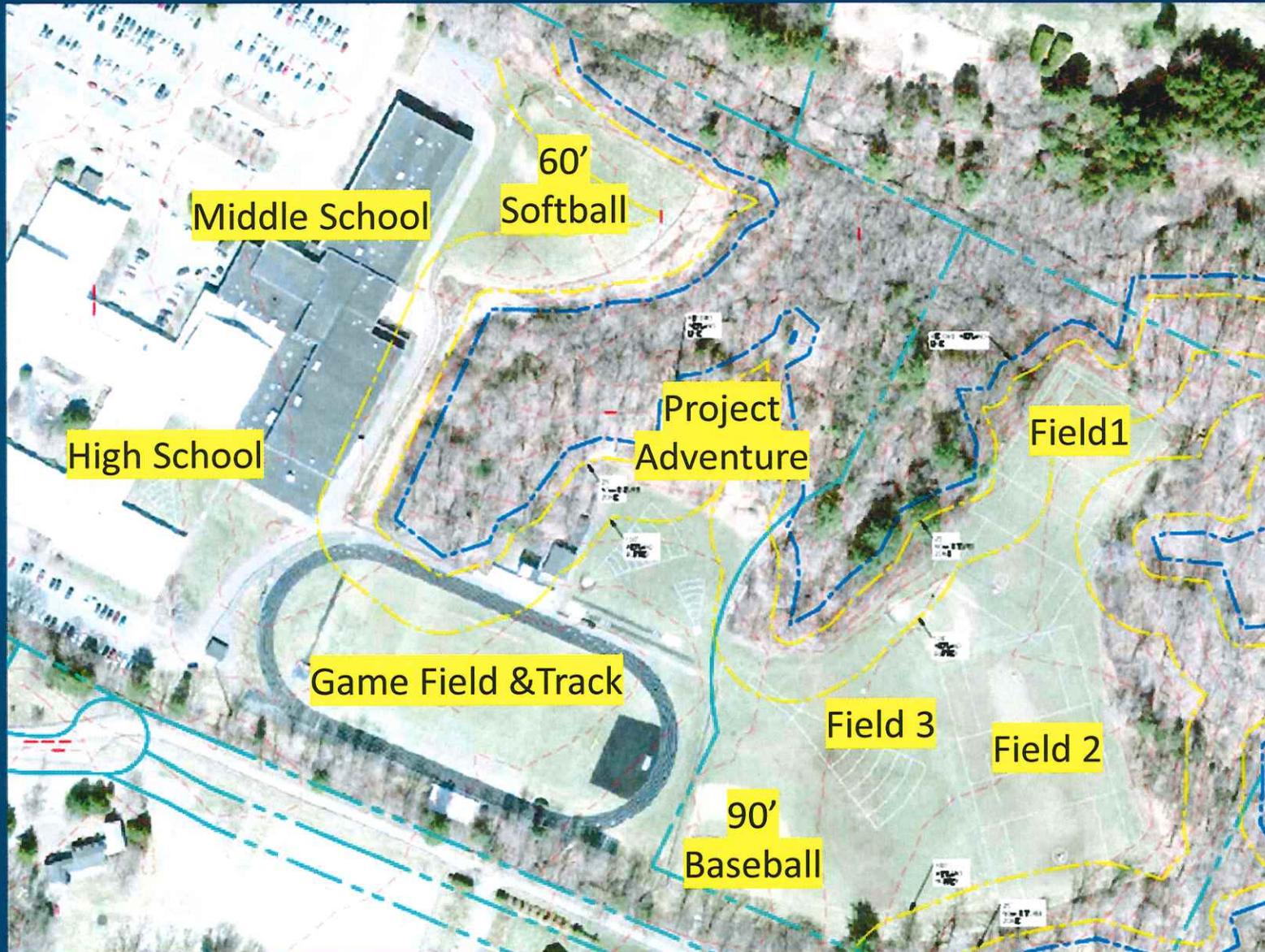
2015 – High School Master Plan

Town Wide Master Plan

FIELD USE ANNUAL SUMMARY - ACTUAL TEAM USES			
Field Location	Field	Field Type	Total Annual Uses
Patton Park	60' Diamond & MPR	60' B / MPR	510
	90' Diamond	90' B	144
Pingree Park	Cheeseman	60' B	228
	Wildes	90' B & MPR	233
	Black	60' B	208
Donovan Field	Field 1	60' B	152
	Field 2	MPR	267
Fairhaven Field	Fairhaven Field	MPR	358
DPW Field	DPW Field	MPR	130
Iron Rail Fields	Field 7	MPR	275
	Field 8	MPR	287
	Field 9	MPR	287
West Wenham Park	Field 1	MPR	10
H-W Regional High School	Game Field	MPR	104
	Field 1	MPR	80
	Field 2	MPR	419
	Field 3 & 90' Diamond	MPR/90'B	150
Middle School	Field 1	60' B	296
Winthrop School	Field 1	60' B	276
Cutler School	Field 1	60' B	318
Buker Elementary	Field 1	60' B	388
	Field 2	60' B	166
	22	Total:	5286

- Deficit of 4-6 Fields
- 11 of 22 fields overused

2015 – HS Master Plan



2015 – HS Master Plan Conclusions

Demand Analysis & Conclusion

Field	Annual Uses
Game Field (MPR)	106
Field 1	277
Field 2	324
Field 3	205
Project Adventure	65
90' Baseball	124
60' Softball	356
Total	1,481

- Deficit of 2 MPR Fields
- 3 of 6 fields overused
- Game field uses constrained
- No onsite tennis courts

2015 – HS Master Plan Conclusions

Needs Assessment Conclusions

- Keep athletics on campus
- Improve drainage conditions
- Increase storage
- Renovate track
- Improve field dimensions
- Improve spectator seating and press box
- Improve site fencing and security
- Synthetic turf and lights

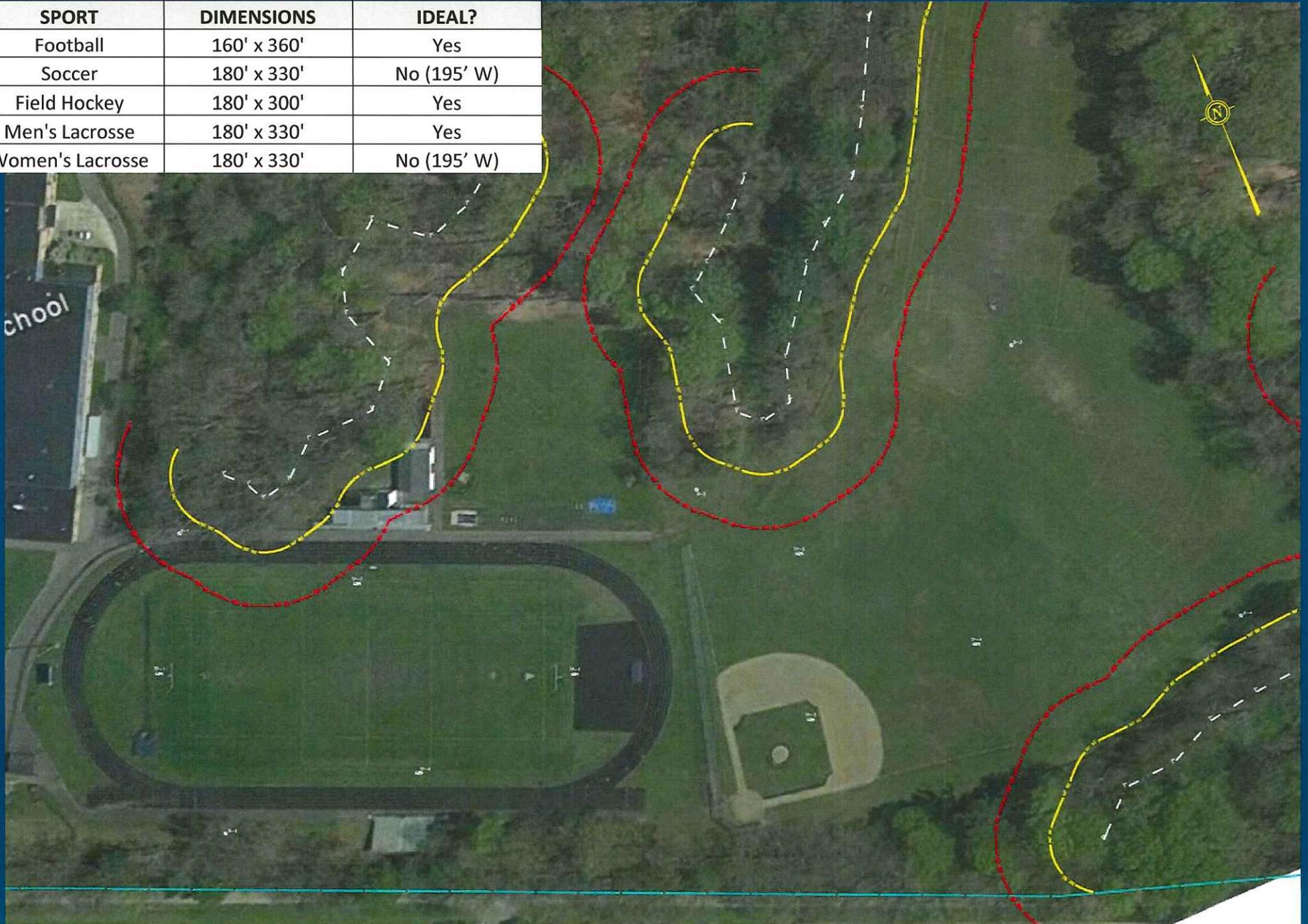
2015 – HS Master Plan Conclusions

Planning Program

1. New 400 meter track and synthetic turf field
2. Combination baseball/MPR synthetic turf field
3. Six (6) tennis courts and storage building
4. Field 2 expansion
5. Reconstruct softball and carpet replacement

Existing Conditions – Constraints

SPORT	DIMENSIONS	IDEAL?
Football	160' x 360'	Yes
Soccer	180' x 330'	No (195' W)
Field Hockey	180' x 300'	Yes
Men's Lacrosse	180' x 330'	Yes
Women's Lacrosse	180' x 330'	No (195' W)



Overall Conceptual Design



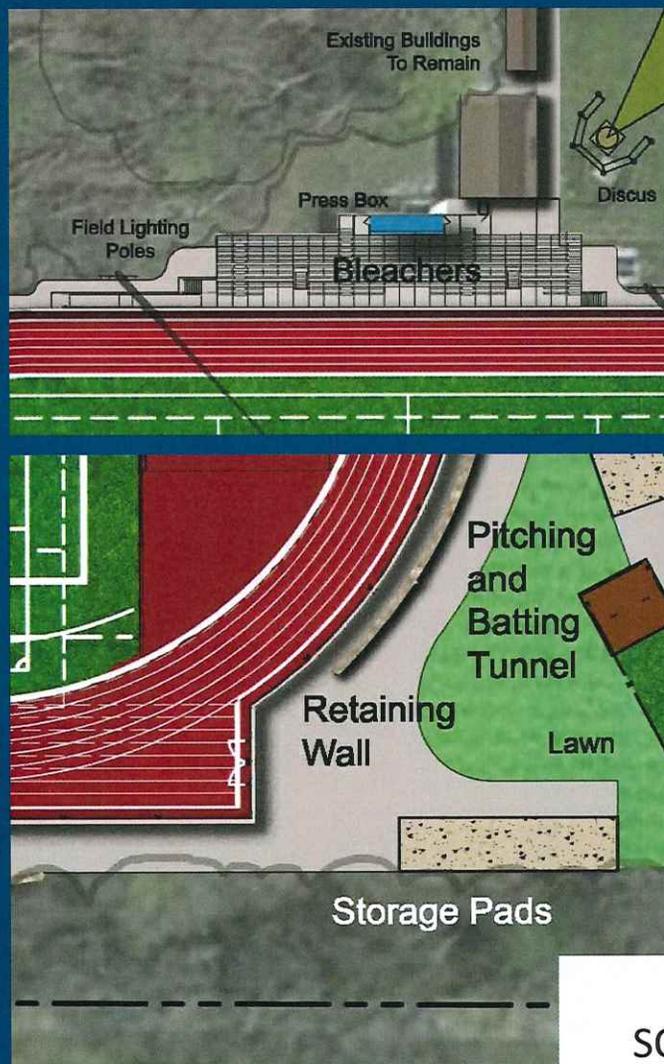
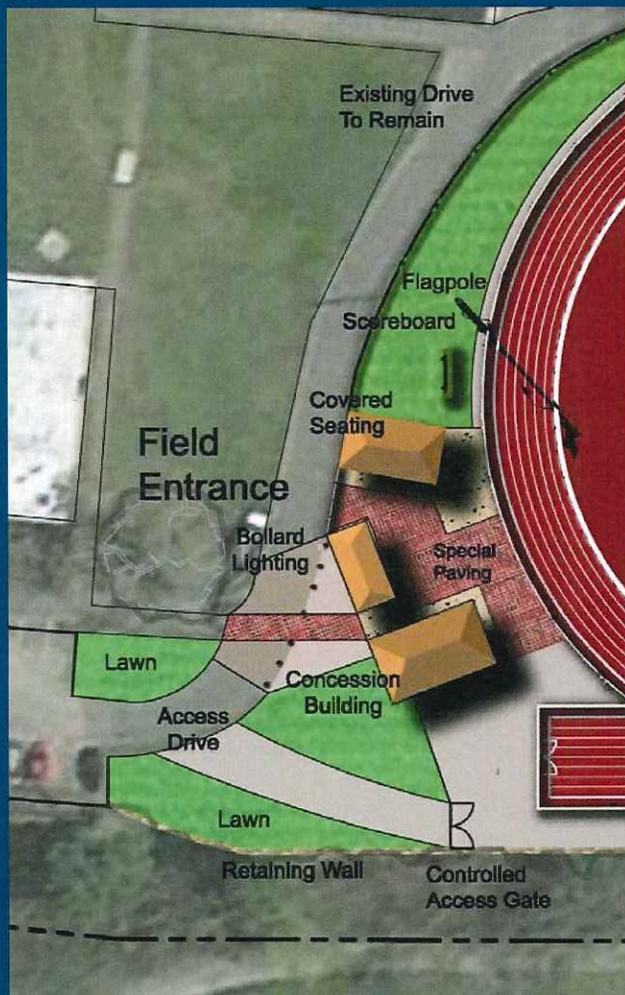
Track and Field



- MPR synthetic turf field
- 400 meter track and events
- Improved drainage system
- Improved site access
- ADA access
- Athletic light
- Visitors bleachers
- Site fencing

SUBTOTAL:	\$	3,366,724.41
SOFT COSTS (5%):	\$	235,670.71
CONTINGENCY (10 %):	\$	<u>336,672.44</u>
TOTAL:	\$	3,939,067.56

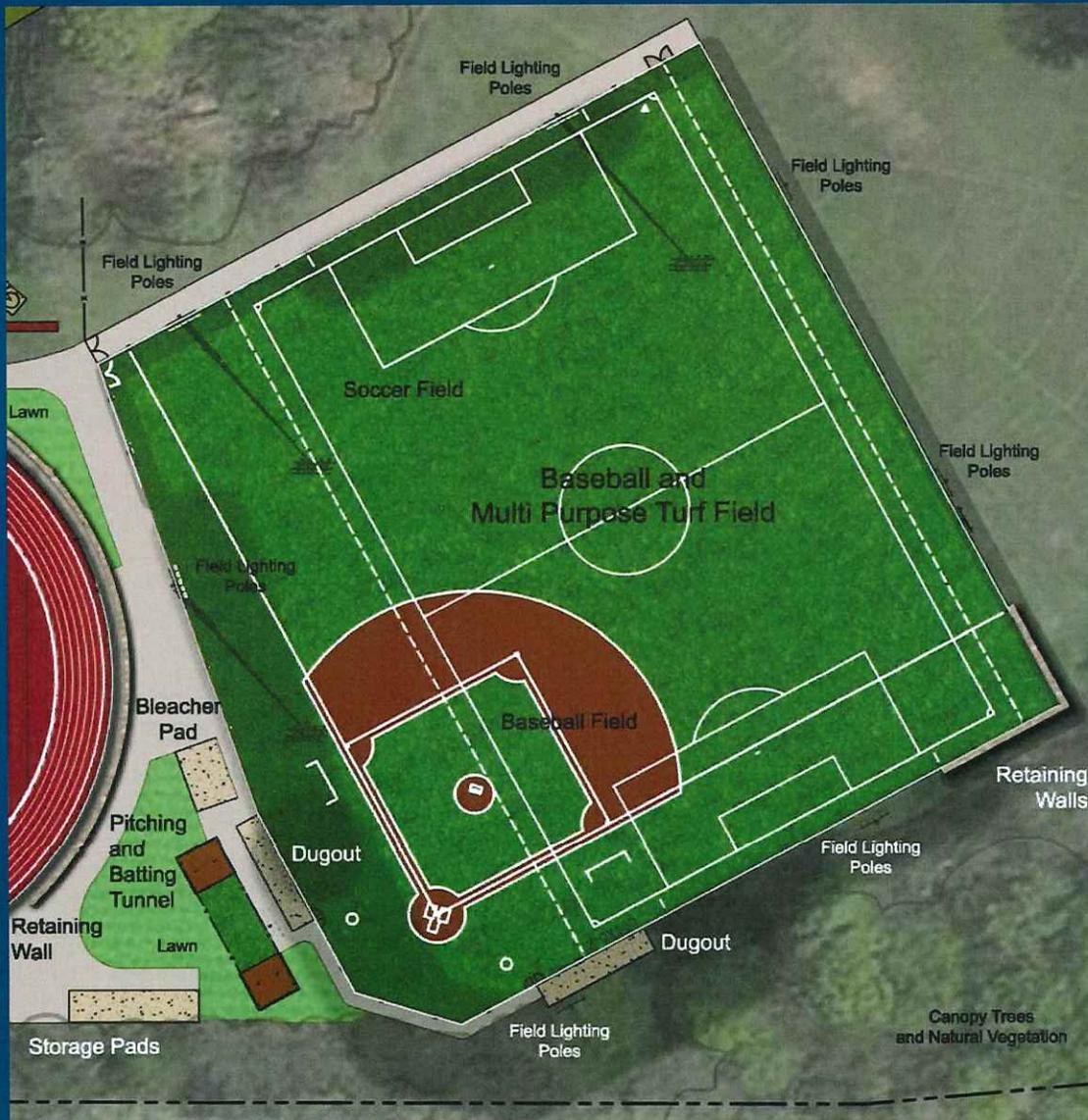
Buildings, Bleachers and Site Improvements



- Entranceway statement
- Amenities building
- Home bleachers
- Press box
- Storage building
- Pavilion

SUBTOTAL:	\$	1,687,440.00
SOFT COSTS (10%):	\$	168,744.00
CONTINGENCY (10 %):	\$	<u>168,744.00</u>
TOTAL:	\$	2,024,928.00

Combination Baseball/MPR



- Combination synthetic turf field
- Improved drainage system
- ADA access
- Athletic light
- Portable bleachers
- Baseball dugouts
- Pitching and batting tunnel
- Site fencing

SUBTOTAL:	\$	3,048,260.39
SOFT COSTS (5%):	\$	152,413.02
CONTINGENCY (10 %):	\$	<u>304,826.04</u>
TOTAL:	\$	3,505,499.45

Master Plan Impact

Field	Annual Uses	Proposed Uses
Game Field (MPR)	106	425
Field 1	277	162
Field 2	324	150
Field 3	205	**
Project Adventure	65	65
90' Baseball	124	479**
60' Softball	356	200
Total	1,481	1,481

- Lighted synthetic turf can accommodate 650-700 uses
- Creates available capacity for Town use
- Improve natural grass fields
- Current project does not include:
 - Tennis
 - Reconstructed softball

Completed Work

- **Site Investigation**
 - Survey
 - Test Pits/Borings
 - Wetlands Delineation
- **Schematic Design**
- **Design Development**

Next Steps

- **Permitting**
 - Planning Board
 - Conservation
- **Anticipated Timeline**
 - March – June

Findings and Conclusions Related to Demand

FIELD USE ANNUAL SUMMARY - ACTUAL TEAM USES								
Field Location	Field	Field Type	Field Rested (Y/N)	Spring Uses	Summer Uses	Fall Uses	Winter Uses	Total Annual Uses
Patton Park	60' Diamond & MPR	60' B / MPR	N	280	170	60	0	510
	90' Diamond	90' B	N	55	10	79	0	144
Pingree Park	Cheeseman	60' B	Y	168	60	0	0	228
	Wildes	90' B & MPR	Y	0	0	233	0	233
	Black	60' B	Y	168	40	0	0	208
Donovan Field	Field 1	60' B	Y	112	40	0	0	152
	Field 2	MPR	N	165	0	102	0	267
Fairhaven Field	Fairhaven Field	MPR	N	198	55	105	0	358
DPW Field	DPW Field	MPR	N	70	0	60	0	130
Iron Rail Fields	Field 7	MPR	N	143	0	132	0	275
	Field 8	MPR	N	143	0	144	0	287
	Field 9	MPR	N	143	0	144	0	287
West Wenham Park	Field 1	MPR	Y	0	10	0	0	10
H-W Regional High School	Game Field	MPR	N	40	0	64	0	104
	Field 1	MPR	Y	0	0	80	0	80
	Field 2	MPR	N	65	0	354	0	419
	Field 3 & 90' Diamond	MPR/90'B	N	90	0	60	0	150
Middle School	Field 1	60' B	N	116	90	90	0	296
Winthrop School	Field 1	60' B	N	116	100	60	0	276
Cutler School	Field 1	60' B	N	158	100	60	0	318
Buker Elementary	Field 1	60' B	N	228	100	60	0	388
	Field 2	60' B	N	126	0	40	0	166



0-150



150-225



> 225

TOTAL = 5,286

Figure 8 – Town-Wide Demand Summary Upon Implementation of Master Plan and Program Scheduling Revisions

FIELD USE ANNUAL SUMMARY - CURRENT AND PROPOSED TEAM USES				
Field Location	Field	Field Type	Total Annual Uses	Total Annual Uses
Patton Park	60' Diamond & MPR	60' B / MPR	510	455
	90' Diamond	90' B	144	144
Pingree Park	Cheeseman	60' B	228	228
	Wildes	90' B & MPR	233	153
	Black	60' B	208	208
Donovan Field	Field 1	60' B	152	152
	Field 2	MPR	267	175
Fairhaven Field	Fairhaven Field	MPR	358	216
DPW Field	DPW Field	MPR	130	130
Iron Rail Fields	Field 7	MPR	275	275
	Field 8	MPR	287	287
	Field 9	MPR	287	287
West Wenham Park	Field 1	MPR	10	10
H-W Regional High School	Turf Game Field	MPR	425	659
	Combo Turf Field	90'B/MPR	479	614
	Field 1	MPR	162	162
	Field 2	MPR	150	150
	Proj Adventure	MP	65	65
Middle School	Field 1	60' B	200	200
Winthrop School	Field 1	60' B	276	276
Cutler School	Field 1	60' B	318	318
Buker Elementary	Field 1	60' B	388	388
	Field 2	60' B	166	166
			Total	5718

Peter Lombardi

From: Lauren F. Goldberg <LGoldberg@k-plaw.com>
Sent: Tuesday, December 19, 2017 10:41 AM
To: Peter Lombardi
Cc: Mark R. Reich
Subject: RE: Regional School District Budget Issues

Follow Up Flag: Follow up
Flag Status: Flagged

Peter, only the Board of Selectmen has authority to place a debt exclusion on the ballot, and there is no authority required from any other entity. While the Regional School District Agreement appears to create an obligation on the part of the Board of Selectmen to include articles on the warrant in the event of a requested withdrawal or proposed amendment, there is no such mechanism to allow the District access to the warrant for budget or capital matters. Of course, any 10 registered voters may petition an article for an annual town meeting, any 100 for a special town meeting, and any 200 can force a special town meeting. However, note that in the case of a borrowing authorized by the Regional School District Committee, the Board's decision not to take action would have the significant implication of constituting approval of the borrowing authorized by the Regional School District Committee, as discussed in further detail, below.

Typically, funds can be borrowed by the District in accordance with the provisions of G.L. c.71, §16(d). That section provides, in relevant part, that a regional school district has authority:

To incur debt for the purpose of acquiring land and constructing, reconstructing, adding to and equipping a school building or for the purpose of remodeling and making extraordinary repairs to a school building and for the construction of sewerage systems and sewerage treatment and disposal facilities, or for the purchase or use of such systems with municipalities, and for the purpose of purchasing department equipment; or for the purpose of constructing, reconstructing or making improvements to outdoor playground, athletic or recreational facilities; or for the purpose of constructing, reconstructing or resurfacing roadways and parking lots; or for the purpose of any other public work or improvement of a permanent nature required by the district; or for the purpose of any planning, architectural or engineering costs relating to any of the above purposes; provided, however, that written notice of the amount of the debt and of the general purposes for which it was authorized shall be given to the board of selectmen in each of the towns comprising the district not later than 7 days after the date on which the debt was authorized by the district committee; provided further, that no debt may be incurred until the expiration of 60 days after the date on which the debt was authorized; and provided further, that before the expiration of this period any member town of the regional school district may hold a town meeting for the purpose of expressing disapproval of the amount of debt authorized by the district committee, and if at that meeting a majority of the voters present and voting express disapproval of the amount authorized by the district committee, the debt shall not be incurred and the district school committee shall prepare another proposal which may be the same as any prior proposal and an authorization to incur debt therefor. Debt incurred under this section shall be payable within 30 years, but no such debt shall be issued for a period longer than the maximum useful life of the project being financed as determined in accordance with guidelines established by the director of accounts pursuant to section 38 of chapter 44. [emphasis added].

Therefore, if the Regional School District Committee were to approve, by a 2/3 vote, the incurrence of debt, the Town, upon receipt of notice thereof, has 60 days to schedule a Town Meeting to "disapprove" the debt. If the Board is comfortable with that, and believes the Town can afford the expense within the levy, the Board is not required to take any action. In other words, if the Board does not call for a special town meeting, such inaction will be deemed an approval of the borrowing. In practical terms, many boards choose to bring the matter to Town Meeting, regardless of their impression as to the appropriateness of the proposed borrowing. In some cases, a board of selectmen will propose approval of the debt, contingent upon approval of a question allowing the Town to raise the money needed to repay its share of the debt outside of the provisions of Proposition 2 ½. Pursuant to G.L. c.59, §21C, the Board has sole authority as to whether to place that question on the ballot, however.

If the Board is not supportive of the proposal, it could include the following article on the warrant for a special town meeting to be held within 60 days of the Regional School District Committee vote:

To see if the Town will vote in accordance with G.L. c.71, §16(d) to disapprove the borrowing authorized by the the Hamilton-Wenham Regional School District for the purpose of _____, or take any other action relative thereto.

If the Board is supportive of the concept, but not of trying to raise the money within the levy limit, it could call a special town meeting within the specified time frame, and include the following article on the warrant:

To see if the Town will vote in accordance with G.L. c.71, §16(d) to express its approval of the borrowing authorized by the Hamilton-Wenham Regional School District for the purpose of _____, including all incidental and related expenses; provided, however, that the vote taken hereunder shall be expressly contingent upon approval by the voters at an election of a Proposition 2 ½ debt exclusion allowing the Town to raise the money needed to repay its share of the borrowing outside the limits established by Proposition 2 ½, G.L. c.59, §21C, or take any other action relative thereto.

If the Board wants to acknowledge all of the options in the article, it could take a form similar to the following:

To see if the Town will vote in accordance with G.L. c.71, §16(d) to express its approval or disapproval of the borrowing authorized by the Hamilton-Wenham Regional School District for the purpose of _____, including all incidental and related expenses; provided, further, however, that if Town Meeting votes to express its approval of such borrowing, that the vote taken hereunder shall be expressly contingent upon approval by the voters at an election of a Proposition 2 ½ debt exclusion allowing the Town to raise the money needed to repay its share of the borrowing outside the limits established by Proposition 2 ½, G.L. c.59, §21C, or take any other action relative thereto.

The ballot question would take the following form:

Shall the Town of Wenham be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay the Town's allocable share of the bond issued by the Hamilton-Wenham Regional School District for the purpose of paying costs of [insert project description identical to the description in the Regional School District Committee vote], including the payment of all costs incidental or related thereto?

Please let me know if there are further questions on this issue.

Very truly yours,

Lauren

Lauren F. Goldberg, Esq.
KP | LAW
101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 556 0007
F: (617) 654 1735
C: (617) 548 7622
lgoldberg@k-plaw.com
www.k-plaw.com

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From: Peter Lombardi [mailto:PLombardi@wenhamma.gov]
Sent: Tuesday, December 05, 2017 11:23 AM
To: Lauren F. Goldberg <LGoldberg@k-plaw.com>

BOARD OF SELECTMEN MEETING

January 16, 2018

NEW BUSINESS

D.

**Preliminary Review of Potential April 2018
Town Meeting Warrant Articles**

- Potential April 2018 Town Meeting Warrant Articles, January 12, 2018

CH

Potential 2018 Warrant Articles

January 16, 2018

* Important to note that this is a preliminary draft

Art 1: FY19 Budget Appropriation

Art 2: Use of Free Cash to Balance Budget

Art 3: Potential (School) Operating Override

Art 4: Acceptance of Cemetery & Other Trust Funds

Art 5: Cemetery Maintenance Fund Transfer

Art 6: Use of Free Cash to Fund CIP

Art 7: Approval of 5-Year Lease to Own Agreement for DPW Front End Loader

Art 8: Water Dept Pick-up Truck Purchase

Art 9: Potential Use of Free Cash & Overlay Reserves to Fund OPEB Trust Fund

Art 10: Ch 90 Road Work Funding

Art 11: HW Grounds Maintenance Revolving Fund

Art 12: Creation of Water Mitigation Fund and Transfer of Current Fund Balance from Water Reserves

Art 13: Iron Rail Building Rental Revolving Fund FY19 Appropriation

Art 14: Approval for 10-Year Debt Issuance for Iron Rail Capital Needs (need to check with town counsel)

Art 15: CPA Appropriations (4 pending applications, plus standard annual minimum transfers)

Art 16: ATM and STM quorum requirement changes from 5% and 2% to 100 residents

Art 17: STM requirement change from 2% to 5%

Art 18: Marijuana Bylaw(s)

Art 19: Short-term Rental Bylaw

Art 20: Longfellow Road and South Street Home Rule Petition

Art 21: Exemption to water ban for Fire Dept trainings

Art 22: Acceptance of MGL Ch 60 Sec 3F to establish a municipal veterans assistance fund with proceeds from donations on tax bills

Art 23: Acceptance of MGL Ch 40U to increase Town's ability to recoup fines for certain bylaw violations

Art 24: Acceptance of MGL Ch 41C½ to give the Town greater flexibility to customize senior circuit breaker program and provide enhanced property tax benefits to those in need

Art 25: Creation of 1 Associate Planning Board position

Art 26: Minimum attendance requirements for all Town boards (similar to FinCom)

Art 27: Change of Moderator Term from 1 Year to 3

Art 28: Elections

BOARD OF SELECTMEN MEETING

January 16, 2018

NEW BUSINESS

E.

Acceptance of Pingree Park Playground Donations

- Letter regarding donation from Lisa Fall, President, Friends of Pingree Park Playground
- Gift and Donation Acceptance Form for \$27,200
- Draft Motion



Town Administrator
Town Hall
138 Main St.
Wenham, MA 01984

Dear Town Administrator,

Please accept a gift in the amount of \$27,200.00 from the Friends of Pingree Park Playground Inc. The money should be used to pay the invoice for the playground equipment that was delivered in late November 2017. Please feel free to contact me at 603-557-3928 or lisajfall@gmail.com if you have any questions.

Sincerely,

Lisa Fall
President
Friends of Pingree Park Playground



TOWN OF WENHAM
GIFT/DONATION ACCEPTANCE FORM

TO: Town Administrator

CC: Town Accountant

FROM: Lisa Fall, Pingree Park Playground Committee
Name of Officer, Department, Board or Committee

The above officer, department, board or committee has requested acceptance of the following gift pursuant to Massachusetts General Laws, Chapter 44, Section 53A and further requests that the Board of Selectmen authorize the expenditure of funds for the stated purpose.

Friends of Pingree Park Playground \$ 27,200.00
Name of Party Offering Gift Amount of the Gift

To pay for playground equipment and surface materials at Pingree Park.
Purpose for which Gift has been Offered

To pay invoice for playground
Purpose for which Gift will be Expended

Letter Accompanying Gift Attached

APPROVAL OF RECEIPT AND EXPENDITURE OF GIFT BY THE BOARD OF SELECTMEN

At a meeting of the Board of Selectmen on _____, the Board of Selectmen voted to authorize the acceptance and any future expenditure of these gift/donation funds for the purpose described above.

BOARD OF SELECTMEN MEETING

January 16, 2018

DRAFT MOTION

Donation of Pingree Park Playground Funds

- Vote: I move the Board of Selectmen accept the donation of \$27,200 from the Friends of Pingree Park Playground for playground equipment and surface materials at Pingree Park Playground.

Seconded / Discussion/ Vote

BOARD OF SELECTMEN MEETING

January 16, 2018

NEW BUSINESS

F.

Melody Miles Road Race Hamilton-Wenham Friends of the Arts Saturday, May 26, 2018

- Letter regarding Request for Use of Wenham Streets for 23rd Annual Melody Miles Road Race, Saturday, May 26, 2018 from Cheryl Glovsky, Melody Miles Race Director, Hamilton-Wenham Friends of the Arts, January 7, 2018
- Safety Plan for Melody Miles
- Certificate of Insurance for General and Excess Liability Coverage for the Hamilton-Wenham Friends of the Arts' Melody Miles Road Race
- Email regarding Melody Miles Road Race Request for Use recommendation from Tom Perkins, Chief, WPD, January 8, 2018
- Email regarding Melody Miles Road Race Request for Use recommendation from Steve Kavanagh, Acting Chief, WFD, January 9, 2018
- Draft Motion

Hamilton-Wenham Friends of the Arts
P.O. Box 198
Hamilton, MA 01936

January 7, 2018

Wenham Board of Selectmen
Wenham Town Hall
138 Main Street
Wenham, MA 01984

Dear Honorable Board of Selectmen:

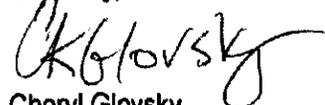
We are writing to request permission to conduct the 23rd annual Melody Miles road race on Saturday, May 26th, 2018. The race will begin and end at the Winthrop School in Hamilton. Hamilton-Wenham Friends of the Arts sponsors this race, the proceeds of which benefit the arts throughout the Hamilton-Wenham school district. We will run two simultaneous races: a 5-mile run and a 5-kilometer run or walk. The races will begin at 10:00 a.m. in front of the Winthrop Elementary School and end at 11:15 a.m. at the school.

The 5-mile race will commence down Bay Road and turn left onto Walnut Street, left onto Larch Row, continuing to Woodbury Street, left onto Bridge Street and finally left on Bay Road leading the runners back to the Winthrop School. The 5-kilometer race will begin going north on Bay Road, right onto Bridge Street continuing up Miles River Road, and then coming back the same route to Winthrop School. Our organization has many volunteers to help with this race. We plan to have two volunteers in distinctive shirts at each turn on the race route. We will provide water stops that will be cleaned up after the race.

The student musicians, who play their instruments or sing in small groups along the course, will be placed carefully along the race route to ensure their safety. Parents will assist groups of younger musicians.

Please inform us of any guidelines you wish to follow in regard to this race. We are pleased to continue our long tradition of running the most harmonious race on the North Shore!

Sincerely,



Cheryl Glovsky

Melody Miles Race Director

Cc: Russell Stevens, Chief, Hamilton Police
Thomas Perkins, Chief, Wenham Police

Safety Plan for Melody Miles Road Race

The 23rd Annual Melody Miles Road Race begins promptly at 10:00 a.m. on May 26, 2018.

The course is two-fold, the 5-mile runners head southbound on Route 1A, while the 5-kilometer runners head northbound for their out and back course. Road cones are set up marking the course, as well as mile markers.

Route 1A traffic is stopped for the start of the race, allowing runners to head in both directions without safety concerns. The police continue to monitor the race at the two busy intersections until the runners have passed.

The start and end of the race is Winthrop School in Hamilton, located next door to the Hamilton Police and Fire Building. Both Hamilton and Wenham safety personnel are on alert for this annual race.

Volunteers are stationed all along both race routes with cell phones to monitor needs of the runners and musicians. Many of our volunteers are CPR trained.

Water stations are located in two various spots along the race route.

Each year we review the race details with the Police and Fire officials to confirm their participation and that the safety procedures are in place.

Nicole Roebuck

From: Tom Perkins
Sent: Monday, January 08, 2018 10:07 AM
To: Nicole Roebuck
Subject: FW: Melody Miles Road Race
Attachments: Certificate_20171127571549.pdf

Hi Nicci,

I have review all attached info and find no issues with this race. It has been well organized in the past and appears so this time as well. I will respond to the Race Director and advise that short of hiring a police detail officer, which they have not in the past, we can not guarantee an officer be stationed at the Four Corners for the duration of the race. We will however be there if available. Thanks, Tom

Thomas C. Perkins, Chief of Police
Wenham Police Department
1 Friend Court, P.O. Box 536
Wenham, MA 01984

978-468-5500 Extension 220

CONFIDENTIALITY:

The information contained files in this electronic mail message and any electronic files attached to it may be confidential information and may also be subject of legal professional privilege and or public interest immunity. If you are not the intended recipient you are required to delete it. Any use, disclosure or copying of this message and any attachments is unauthorized. If you have received this electronic message in error, please inform the sender. This footnote also confirms that this email message has been checked for the presence of computer viruses.

From: Cheryl Glovsky <cheryl.glovsky@gmail.com>
Sent: Sunday, January 7, 2018 11:19 AM
To: Peter Lombardi; Anabela Batista; selectmen@hamiltonma.gov; Tom Perkins; pstevens@hamiltonma.gov
Cc: Nichole Roebuck
Subject: Re: Melody Miles Road Race

Dear all,

Please find the certificate of insurance attached.

Best,
Cheryl Glovsky

On Sun, Jan 7, 2018 at 11:08 AM, Cheryl Glovsky <cheryl.glovsky@gmail.com> wrote:
Dear Hamilton BOS, Wenham BOS, Chief Stevens and Chief Perkins,

Please find attached letters outlining our 23rd Annual Melody Miles Road Race-scheduled for Saturday, May 26, 2018. I have also included our safety plan, as requested for our insurance rider. We are hoping for BOS approval following their next meetings in January or February. Thank you for your time.

Please let me know if you have any questions or need further information.

Sincerely,

Cheryl Glovsky
Melody Miles Race Director

Nicole Roebuck

From: Stephen B. Kavanagh
Sent: Tuesday, January 09, 2018 10:31 AM
To: Nicole Roebuck
Subject: RE: Melody Miles Road Race - May 26, 2018

Hi Nicci, as long as the runners stay on the same side of the road and the musicians are set back from the roadway, I see no problem with it.

From: Nicole Roebuck
Sent: Tuesday, January 09, 2018 10:20 AM
To: Stephen B. Kavanagh
Subject: Melody Miles Road Race - May 26, 2018

Hi Steve,

Attached is a letter of request, safety plan and certificate of insurance from the Hamilton-Wenham Friends of the Arts requesting use of a portion of Wenham streets for their annual Melody Miles Road Race on Saturday, May 26, 2018.

We've already received feedback from Chief Perkins but would appreciate any concerns or comments you may have regarding this request to be presented at the Board of Selectmen meeting on Tuesday, January 16th.

Thank you,
Nicci

Nicci Roebuck
Executive Assistant
Town Administrator's Office

Town of Wenham
138 Main Street, Wenham, MA 01984
978-468-5520 x2

BOARD OF SELECTMEN MEETING

January 16, 2018

DRAFT MOTION

Melody Miles Road Race

Saturday, May 26, 2018

- Vote: I move the Board of Selectmen authorize the Hamilton-Wenham Friends of the Arts to use the specified sections of Walnut Street and Larch Row for their annual Melody Miles Road Race on Saturday, May 26, 2018.

Seconded / Discussion/ Vote

BOARD OF SELECTMEN MEETING

January 16, 2018

NEW BUSINESS

G.

**Other matters, as may not have been
reasonably anticipated by the Chair**

(Discussion Only)

JW