

**Town of Auburn
Board of Selectmen
December 18, 2017
Town Hall
7:00 p.m.**

() Call to Order – Pledge of Allegiance

Approval of Payroll for the Week of December 11, 2017 -- \$43,973.68
Approval of Accounts Payable for Week of December 18, 2017
Consent Agenda – as of December 18, 2017

**() Public Hearing -- Acceptance & Expenditure of Unanticipated Funds
(Previously Advertised)**

() Appointments with the Board
Fire Chief Ed Gannon – AFD SOP's / SOG's

() FY 2018 Budget Presentations
Road Reconstruction

() New Business
Eaton Hill Road Extension – Change of One-Way Time Frames
Citizen Petitions – Two Zoning Ordinance Amendments
New Hampshire 10 Miler Road Race – Saturday, August 25, 2018

() Old Business
Potential Sale of Tax Deeded Property
Reconsideration of Warrant Article on Keno 603

() Other Business
Next Meeting – January 8, 2018

() Minutes

- December 4, 2017 Public Meeting

() Adjourn

Note: "Any person with a disability who wishes to attend this public meeting and needs to be provided reasonable accommodations in order to participate, please contact the Board of Selectmen's Secretary at (603) 483-5052 x100, so that arrangements can be made."

PUBLIC NOTICE

Pursuant to RSA 31:95-b and Article 14 of the 2000 Town Meeting, the Auburn Board of Selectmen will hold a public hearing on Monday, December 18, 2017 beginning at 7:00 P.M. at the Auburn Town Hall for the purpose of receiving public comment concerning the acceptance and expenditure of the following unanticipated revenues:

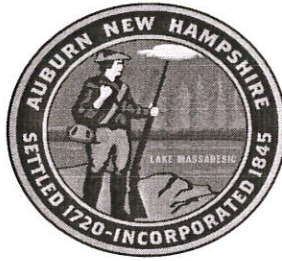
- Receipt of \$3,591.00 in revenues from the following recreation programs held in 2017, and to authorize the expenditure of \$2,835.12 for the following program:
 - Fast Track Running Program - \$2,033.36
 - Lil' Yogis Yoga Program - \$236.76
 - Babysitting and Child Care Safety Course -- \$565.00

At the conclusion of the business above, the Auburn Board of Selectmen will receive public comment concerning the acceptance and expenditure of unanticipated donations totaling \$350 to provide for the establishment of a memorial bench at an Auburn recreation property honoring Helen Hiltz.

Board of Selectmen
Town of Auburn
December 4, 2017

Town of Auburn

Town Hall
47 Chester Road
P.O. Box 309
Auburn, NH 03032



Town Administrator

William G. Herman, CPM
Phone: (603) 483-5052 Ext. 111
Fax: (603) 483-0518
E-Mail:
townadmin@townofauburnnh.com

To: Board of Selectmen
Cc: Edward Gannon, Fire Chief

From: Bill Herman, CPM, Town Administrator
Date: December 14, 2017
Re: Auburn Fire Department Standard Operating Guidelines / Policy

Fire Chief Ed Gannon recently provided the Board with a revised and re-formatted set of Standard Operating Policies (SOPs) / Guidelines (SOGs) for the Auburn Fire Department. These are in place of the initial drafts provided to the Board in October. I want to first suggest the current set of SOPs & SOGs are in a very "user friendly" format and order. And it would appear they are organized in a manner that will be easy to maintain and update as may be necessary moving forward.

For the Board's benefit, from my review and comparison of the file provided in October and the current set, there are three main differences or additions to the SOPs & SOGs. These includes:

- ❖ 009 – Department Promotion
- ❖ 012 – Pay Rates
- ❖ 115 – Formal Complaint Procedure

009 – Department Promotion: This SOP is different from what was initially included as "Promotion to Lieutenant". As written, Department Promotion is now more encompassing and details the standards needed to be met for promotion to all ranks within the Department up through Deputy Chief. It is my opinion this version provides a solid framework and establishes clear milestones individuals need to meet in order to be eligible for consideration for appointment to various positions. One item I would bring to the Board's attention is for promotion to the position of Deputy Chief, as written, it requires the individual be a resident of the Town of Auburn. This is not a requirement for any of the other officer positions or to be a member of the Department. At the present time, approximately half of the department members are not Auburn residents. This is likely not a defensible or fair proposition to eliminate half of the department membership to potential promotion to this position. The second item is the SOP should include information that indicates when a position is vacant, the Fire Chief will recommend individuals for appointment or promotion to the Board of Selectmen who are the appointing authority.

115 – Formal Complaint Procedure: As written, the SOP provides a fairly clear process for members of the Auburn Fire Department to follow for the submission of and handling of complaints. The SOP references the "Auburn Fire Department Complaint Form" as part of this standard. I would recommend a copy of that form be included as part of SOP 115.

From feedback I provided to Chief Gannon in November on the initial SOPs / SOGs submitted, I believe there remain two additional standards that should be included in this package. One would be on "Appointment to Auburn Fire Department" (i.e. – how does an individual go about becoming a member of the department). And the other is the establishment of a grievance procedure, which is different from a complaint process. The establishment of a grievance procedure which should be internal, but end with the Board of Selectmen is part of what Town Counsel advised earlier this year as part of his report on the results of the AFD membership survey.

Thank you for your consideration.

Town of Auburn

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47 Chester Road
P.O. Box 309
Auburn, NH 03032



Town Administrator

William G. Herman, CPM
Phone: (603) 483-5052 Ext. 111
Fax: (603) 483-0518
E-Mail:
townadmin@townofauburnnh.com

To: Edward Gannon, Fire Chief

From: Bill Herman, CPM, Town Administrator

Cc: Board of Selectmen

Date: November 21, 2017

Re: Auburn Fire Department Standard Operating Guidelines / Policy Review

In October, you provided the Board of Selectmen and me with copies of 41 Standard Operating Guidelines / Policies for the Auburn Fire Department. The intention was to seek feedback and, ultimately, to have the Selectmen approve the entire package as the Town's governing body. For my part, I have focused mainly on the Administration portion of the rules and offer observations on two of the policies, as well as list a number of policies that are missing and need to be included.

SOP #003 – Paid Call: The intent of the SOP is to establish a procedure and means of payment to department personnel for responding to incidents and mandatory department trainings. As written, it suggests there is a different rate of pay for eight different ranks or positions. Further, it indicates the rates of pay will be at "the minute rate" and the rates will "be established by the Chief". This SOP should clearly define exactly what the rates of pay are, and they ultimately should not be established by the Chief, but by the Board of Selectmen. It should also indicate at what interval (i.e. – bi-weekly, monthly, quarterly) the pay will be issued to the personnel.

SOP #009 – Promotion to the Rank of Lieutenant: You have indicated on a couple of occasions the overall practice outlined in this policy is being discussed internally at the Department, so I will not offer comment on that. What is missing from this policy is who has the authority to make the promotions. No department head has the authority to hire, promote or dismiss any personnel from service. Only the governing boards for the respective departments have that authority. The final version of this SOP should indicate the Fire Chief will recommend to the Board of Selectmen the individual personnel for promotion under the process outlined in the SOP with the Board of Selectmen having the actual appointing authority.

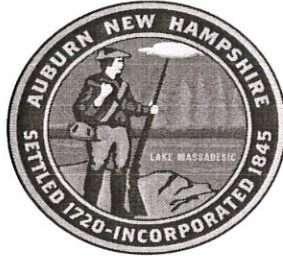
At this point, there should be several SOPs added to the Administration section to ensure we are meeting legal obligations we have and affording personnel all considerations they are due. The SOPs I see as missing, at a minimum, include:

- Appointment to Auburn Fire Department
- Promotion to Firefighter 1 and/or Emergency Medical Responder
- Promotion to Firefighter 1 and/or EMT
- Promotion to Firefighter II and greater and/or Advanced EMT or Paramedic
- Promotion to the Rank of Captain
- Promotion to the Rank of Deputy Chief (all of the appointment and promotion items should indicate the Fire Chief will recommend to the Board of Selectmen the individual personnel for promotion under the process outlined in the SOP with the Board of Selectmen having the actual appointing authority.)
- Grievance Procedure (which provides a clear process and progressive chain within the department for personnel to address issues of concern or actions against them. The grievance procedure should end with the Board of Selectmen as Town Counsel advised earlier this year as part of his report on the results of the membership survey.)

Thank you for your consideration.

Town of Auburn

Town Hall
47 Chester Road
P.O. Box 309
Auburn, NH 03032



Town Administrator

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Fax: (603) 483-0518
E-Mail:
townadmin@townofauburnnh.com

To: Board of Selectmen

From: Bill Herman, CPM, Town Administrator

Date: December 12, 2017

Re: Budget Committee Recommendation – 2018 Road Reconstruction

At their meeting on December 7th, the Budget Committee considered the Board of Selectmen's request for \$800,000 for road reconstruction projects.

Following a lengthy discussion, the Budget Committee unanimously voted to recommend the amount of \$700,000 be budgeted for FY 2018. However, that was contingent on the Board of Selectmen also agreeing to encumber remaining funds from the FY 2017 road reconstruction account for use in 2018. At the time of the Budget Committee meeting, it was estimated that would be something between \$40,000 and \$50,000.

In general terms, the cost estimates provided for the road projects anticipated in 2018 totaled \$450,000 – so even at \$700,000, there was room for unknowns in the anticipated road projects. The members of the Budget Committee also felt it did not make economic sense to allow any remaining funds from the 2017 appropriations lapse to surplus while proposing to raise an additional \$100,000 through property taxes. They felt it made much better economic sense to appropriate \$700,000 and add to it any funds remaining from 2017 instead of taxing to raise additional funds.

Jim Headd and I assured the Budget Committee we would bring their recommendation to the Board's attention at your next meeting on December 18th for your consideration and decision.

The Budget Committee next meets on December 21st and will finalize their budget decisions at that time.

Thank you for your consideration.

Run: 12/12/17
2:04PM

Current Year Expenditures

Page: 1
Bill
ReportSortedActualExp

TOWN OF AUBURN
As Of: December, GL Year 2017
MTD Expended Transaction Detail

Account Number		Budget	MTD Exp	YTD Exp	Balance	%Used
General Fund						
01-4909-9-930-0	Road Reconstruction	800,000.00	0.00	743,363.23	56,636.77	92.920
Totals	General Fund	800,000.00	0.00	743,363.23	56,636.77	92.920
Grand Total		800,000.00	0.00	743,363.23	56,636.77	92.920

RECEIVED

DEC 11 2017

Petition to Rezone

We petition the Town of Auburn to amend the Auburn Zoning Ordinance to re-zone Tax Map #10, Lots #19 and #20 from current Residential Two District (R-2) to Commercial Two District (C-2) to be consistent with other immediate properties on both sides of Hooksett Road adjacent to Exit 2 of NH Route 101

Printed Name	Signature	Printed Name	Signature
✓ Alan Villeneuve		✓ Sandra Leclair	
✓ Kara Villeneuve		✓ DAVID Wescott	
✓ Laura Villeneuve		✓ MB Lufkin	
✓ Paul Gosselin		✓ Zach Eaton	
✓ Joy Jaworski		✓ Curtis Bridges	
✓ John Jaworski		✓ ADAM Bouchard	
✓ DANIEL J. CARPENTER		✓ Joe Martin	
✓ Kathleen Porter		✓ Amy Binda	
✓ Eric Gray Bouchard		✓ Kevin Binda	
✓ Peter Miles		✓ James Tasilto	
✓ MICHAEL DIPIETRO		✓ JOHNNY CARPENTER	
✓ Jennifer Anderson		✓ Justin Carpenter	
✓ Jason Tursli		✓ Barbara Carpenter	
✓ Keith Leclair		✓ David Nye	
✓ Steve Pereira		✓ Susan H. Anderson	
✓ Deanna Pereira		✓ David L. Anderson	
✓ Lucy Bouchard		✓ JANICE BAKER	

12/11/17 Separado Jontino - Supervisor of the Checklist
 Joanne J. Jontweila 12/13/17 - Supervisor of checklist
 Barbara J. Copeland 12/13/17 - Supervisor of the Checklist
 Checklist supervisors certify that the above voters are registered in the town of Auburn.

Recd 12-11-17
KAS

Kenneth and Jennifer Remington
371 Chester Turnpike
Auburn, NH 03032

December 12, 2017

Town of Auburn
Board of Selectmen
47 Chester Road
PO Box 309
Auburn, NH 03032-0309

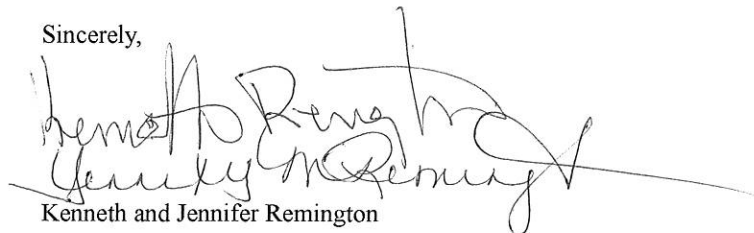
RE: Citizen Petition to Amend Town of Auburn Zoning Ordinance

Dear Selectmen:

Enclosed please find a Citizen Petition to Amend Town of Auburn Zoning Ordinance regarding Accessory Dwelling Units, attached hereto. The Petition includes the requisite number of signatures of registered voters.

The purpose and objective of this proposed amendment is to provide increased flexibility with respect to housing alternatives for families in Auburn while maintaining the health, safety, general welfare, aesthetics and quality of the neighborhoods in the Town of Auburn.

Sincerely,



Kenneth and Jennifer Remington

Enclosures

1 - 11, 1-11)1= 1107863\12961281107863\12961281

Town of Auburn, New Hampshire
Citizen Petition to Amend Town of Auburn Zoning Ordinance
Regarding Accessory Dwelling Units
Submitted: December 12, 2017

To The Board of Selectmen, Municipal Office of the Town of Auburn, NH:

We, the undersigned being registered voters of the Town of Auburn, State of New Hampshire, hereby submit this Citizen Petition to Amend the Town of Auburn Zoning Ordinance as provided below and request that you place the following amendment to the Zoning Ordinance on the ballot before the voters for their consideration. The purpose and objective of this proposed amendment is to provide increased flexibility with respect to housing alternatives for families in Auburn while maintaining the health, safety, general welfare, aesthetics and quality of the neighborhoods in the Town of Auburn.

Are you in favor of the adoption of Amendment No. ____ as submitted by citizen petition for the Town of Auburn Zoning Ordinance as follows:

Amend Article 2.02 (28) **Dwelling Unit, Accessory:**
To amend Article 2.02 (28) to read:

Dwelling Unit, Accessory: Residential living unit that is within, attached to a single family dwelling, *or a detached accessory dwelling unit** and that provides independent living facilities for one or more persons, include provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it occupies.

Accessory Dwelling Units shall be permitted by Special Exception as governed under Article 14.14 of the Auburn Zoning Ordinance in all zoning districts that permit single family detached dwellings.

A Special Exception shall be required for construction and or change of occupancy for creation of an Accessory Dwelling Unit.

The Accessory Dwelling Unit shall meet the following requirements.

- (a). An accessory dwelling unit shall have no more than two bedrooms and shall not exceed seven hundred fifty (750) square feet in living area. ~~*and shall be attached to a single family dwelling. Attached means sharing a common habitable space wall.**~~
- (b). An interior door shall be provided between the principal dwelling and the accessory dwelling unit *if the accessory dwelling is attached to the principal dwelling,** but it shall not be required that it remain unlocked. The accessory dwelling unit shall have a door with direct access to the exterior, or common space to hallway or exterior door.
- (c). The accessory dwelling unit shall have interconnecting smoke/carbon monoxide/heat detectors with the principal dwelling unit *if the accessory dwelling unit is attached to the principal dwelling unit. If the accessory dwelling unit is detached from the principal dwelling unit, it shall have its own smoke/carbon monoxide/heat detectors.**

- (d). There shall be adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accord with NH RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units.
- (e). An accessory dwelling unit shall meet all zoning setbacks and all applicable building codes. There shall be adequate parking to accommodate an accessory dwelling unit.
- (f). The property owner must occupy one of the dwelling units as his/her principal place of residence.
- (g). Only one accessory dwelling unit shall be permitted for any single family dwelling.
- (h). Detached Accessory Dwelling Units are ~~not~~* permitted.

* *proposed amended sections noted above in bold and italics.*

The intent of this proposed amendment to the above ordinance is that the accessory dwelling unit, in either an attached or detached structure, shall match the character of the existing residential structure and shall meet the requirements set forth within the ordinance.

[PETITION SIGNATURES OF REGISTERED VOTERS FOLLOWS ON NEXT PAGE]

1 = 50, 1=20)0= 1107863\12951499

Citizen Petition to Amend Town of Auburn Zoning Ordinance Regarding Accessory Dwelling Units

REQUIRED SIGNATURES OF REGISTERED VOTERS OF THE TOWN OF AUBURN, NH

	<u>Printed Name</u>	<u>Signature</u>	<u>Address</u>	<u>Date</u>
1.	Jennifer M. Remington	<i>[Signature]</i>	371 Chester Tpk, Auburn, NH	12/9
2.	Kenneth Remington	<i>[Signature]</i>	371 Chester Tpk, Auburn, NH	12/9
3.	Russel D. Johnson	<i>[Signature]</i>	361 Chester Tpk, Auburn, NH	12/9
4.	Ronald R. Correia	<i>[Signature]</i>	361 Chester Tpk, Auburn, NH	12/9
5.	Cynthia Correia	<i>[Signature]</i>	361 Chester Tpk, Auburn, NH	12/9
6.	Julie Spencer	<i>[Signature]</i>	361 Chester Tpk, Auburn, NH	12/9
7.	Michael Spencer	<i>[Signature]</i>	361 Chester Tpk, Auburn, NH	12/9
8.	Kimberly Smith	<i>[Signature]</i>	48 Sagharbor Dr, Auburn, NH	12/9
9.	MADI SMITH	<i>[Signature]</i>	48 SAGHARBOR DR, Auburn, NH	12/9
10.	DAVID C SMITH JR	<i>[Signature]</i>	48 SAGHARBOR DR, Auburn, NH	12/9/17
11.	Judy C Stacy	<i>[Signature]</i>	3 Lovers Lane, Auburn, NH	12/9/17

12.	✓ James Stacy	3 Lovers Lane	12/9/17	[Signature]
13.	✓ Jennifer Reardon	31 Sheals Drive	12/9/17	[Signature]
14.	✓ Johnathan Reardon	31 Sheals Drive	12/9/17	[Signature]
15.	✓ Joe & Julie Spuria	391 Chester Trk	12/10/17	[Signature]
16.	✓ Kim & MARYBETH LUFKIN	398 CHESTER TRK	12/10/17	[Signature]
17.	✓ Deborah Richards	375 Chester Trk	12/10/17	[Signature]
18.	✓ Scott Richards	335 Chester Trk	12/10/17	[Signature]
19.	✓ William Coate	378 Chest Tr	12/10/17	[Signature]
20.	✓ Kim Canton	378 Chest Trk	12/10/17	[Signature]
21.	✓ [Signature]	6 Star Cir	12/10/17	Gary Sanchez
22.	✓ Sierra Sanchez	6 Star Circle	12/10/17	[Signature]
23.	✓ Patrick Pansco	325 Rattlesnake Hill Rd.	12/10/17	[Signature]
24.	✓ Tara Sanchez	6 Star Circle	12/11/17	Tara Sanchez
25.	✓ Dan Houlev	160 BOTTENWOOD DR	12/10/17	[Signature]
26.	✓ Karen Morrison	33 Pond View Dr.	12/11/17	[Signature]
27.	✓ Melissa Kamyck	282 Pingree Hill Rd	12/11/17	Melissa Kamyck
28.	✓ Arny Cannamucio	13 Spruce Lane	12/11/17	[Signature]
29.	✓ Kenneth Robinson	231 Bunker Hill Rd	12/11/17	[Signature]
30.	✓ Jennifer Robinson	231 Bunker Hill Rd	12/11/17	[Signature]
31.	✓ Barbara Fowke	117 Buttonwood Dr.	12/11/17	[Signature]
32.	✓ MARK FOWKE	117 Buttonwood Dr	12/11/17	[Signature]
33.				
34.				
35.				
36.				
37.				
38.				
39.				
40.				

We the Checklist Supervisors certify That the above voters are registered in the Town of Auburn.

Susan D. Jenkins

Joanne T. Linnupfle 12/13/17

12/11/17

**Millennium Running**

138 Bedford Center Road
Bedford, NH 03110
www.millenniumrunning.com

December 15, 2017

Mr. William G. Herman, Town Administrator
Town of Auburn
PO Box 309
Auburn, NH 03032
townadmin@townofauburnnh.com

Dear Mr. Herman:

It is that time of year again, we have begun to plan for the annual New Hampshire 10 Miler Road Race. We are looking to once again have approximately 1,200 participants for what has become the premier 10-mile race in New Hampshire. This year's event is scheduled for *Saturday, August 25th, 2018*.

As normal we wanted to touch base as a matter of pre-planning, it is essential that we reach out to all parties that are affected in any way by this event. In this case, the Town of Auburn is critical for the organization and implementation of the race.

Here is a link to a map of the course that has been used for the past 7 years via the Millennium Running website:
http://www.millenniumrunning.com/wp-content/uploads/2014/09/USATF-NH10Miler_AdjustedCourseCertification_2016.pdf

As you can see, there are no course changes proposed from last year. The proposed road closures, delays, and detours that were used to ensure the safety of all participants and spectators was very successful last year. The Police and Fire Departments work hand-in-hand with Millennium Running to ensure the safety of all participants.

Please keep in mind that my hope is to create a very successful event for runners in New Hampshire and benefits some very deserving local charities. There is nothing that exists like this in the area; therefore, this is a premier event that puts a spotlight on the Town of Auburn and Lake Massabesic.

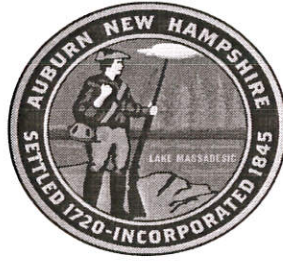
If you have any questions or concerns about this year's event, please reach out and let's discuss the potential problem areas so that once again we can showcase the beauty of the Town of Auburn and Lake Massabesic during the 8th annual New Hampshire 10 Miler.

Respectfully submitted,

Cullen P. Madden
Sr. Event Manager, Millennium Running

Town of Auburn

Town Hall
47 Chester Road
P.O. Box 309
Auburn, NH 03032



Town Administrator

William G. Herman, CPM
Phone: (603) 483-5052 Ext. 111
Fax: (603) 483-0518
E-Mail:
townadmin@townofauburnnh.com

To: Board of Selectmen


From: Bill Herman, CPM, Town Administrator

Date: December 15, 2017

Re: Potential Sale of Tax Deeded Property

Earlier this year, the Board reviewed a number of tax-deeded properties the Town had acquired over the years and, ultimately, offered three for sale by public auction that was held in August.

At that time, the Board had also discussed the potential of offering for sale a 34-acre parcel off Pingree Hill Road (Tax Map #2, Lot #40) through an advertised sealed bid process as allowed under the provisions of RSA 80:80. The Board ultimately did not make a decision on this item at that time.

Although it is a sizeable piece of property, the lot under consideration has no road frontage or point of access. So the Town would have no ability to timber the property. The parcel is surrounded by property with conservation easements on them, which would further make any potential access as near to impossible.

In this condition, the property would really only be of interest or use to an abutting property owner. It is my understanding the abutting property owner is interested in acquiring this parcel to tie all of the property in the immediate area under the same ownership and intent. It is also my understanding that if acquired, this parcel would be put into Current Use status and would not be developed.

Due to the limited pool of potential buyers, an advertised sealed bid process makes more sense for the potential sale of this property than a public auction would.

With this in mind, I would recommend the Board consider offering this parcel for sale. For your benefit, attached is a copy of the tax map which shows the location and isolation of this property.

If you are in agreement with offering this lot for sale, it would be appropriate for the Board to formally record the following votes:

Move for the Town of Auburn to offer for sale by advertised sealed bid tax deeded property identified as Tax Map 2, Lot #40.

Thank you for your consideration.

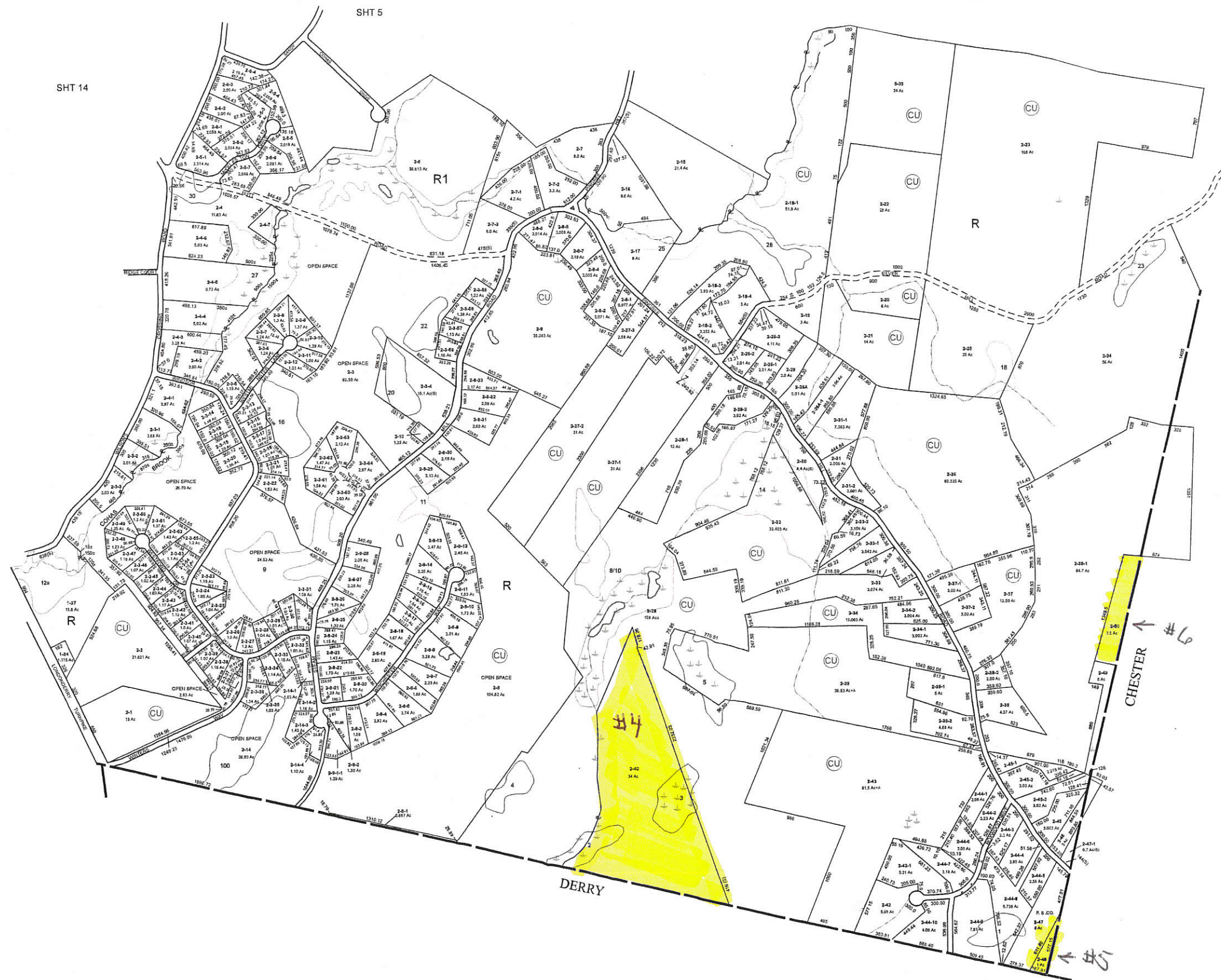
Attachment

SHT 14

SHT 5

SHT 5

SHT 1



THE DATA ON THIS MAP HAS BEEN COMPILED FROM A VARIETY OF SOURCES GRANTED VOLUNTARILY BY PRIVATE OWNERS AND OFFICIAL SOURCES AND IS NOT TO BE CONSIDERED LEGAL LOCATION OF PROPERTY BOUNDARY LINES. THE TOWN OF AUBURN ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF INDIVIDUAL PARCELS. MAPS ORIGINALLY COMPILED BY DOLLARD ASSOCIATES

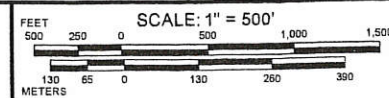
THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE

REVISED & REPRINTED BY
CAI Technologies
Precision Mapping Geospatial Solutions

11 Pleasant Street, Littleton, NH 03561

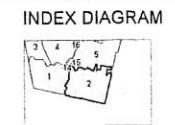
LEGEND

CURRENT USE	CU	CULVERT	→
PROPERTY LINE	—	CATCH BASIN	●
SEALED	(S)	MANHOLE	●
PART OF ORIGINAL LOT	Z		



REVISED TO: APRIL 1, 2016

PROPERTY MAPS
AUBURN
NEW HAMPSHIRE



MAP NO.

2



Nearly \$2 Billion and Counting for our Schools

GOVERNOR Christopher T. Sununu
CHAIRMAN Debra M. Douglas
COMMISSIONER Paul J. Holloway
COMMISSIONER David L. Gelinis
EXECUTIVE DIRECTOR Charles R. McIntyre

December 11, 2017

Kathleen Sylvia
Town Clerk
PO Box 309
Auburn, NH 03032

Dear Ms. Sylvia,

I'd like to take this opportunity to introduce myself. My name is Charlie McIntyre and I am the Executive Director of the New Hampshire Lottery. This past summer, Governor Sununu signed SB 191 into law which establishes KENO as a revenue source to fund full-day kindergarten in New Hampshire. In response, our agency is launching a new lottery game called KENO 603, which will be played exclusively in taverns and restaurants that have an active liquor pouring license.

The law was written to give municipalities the option to allow KENO in their communities by putting it on city election ballots or as a warrant article for consideration by citizens at annual town meetings. With the passage of KENO in six cities last month, there are already establishments that will be offering KENO 603 beginning later this month, with more signing up each week. Our office is receiving calls from businesses in towns like yours, with owners inquiring about the application process so that they may offer the game to their customers.

Understanding that town meeting deadlines are fast approaching, I offer the support of our staff to answer any questions town administrators, voters, or business owners may have about KENO 603. In some cases, a representative from the Lottery can appear before your Board of Selectmen in January to share a short presentation on the game in advance of the warrant deadline of February 6. Enclosed is a brief question and answer overview of KENO 603 for your reference. Please understand we have had numerous requests to meet with town officials and we will do our best to accommodate as many towns as possible. Our staff is limited, so availability will largely be based on a first come first serve basis.

Should the Selectmen decide to place KENO on the town warrant, the suggested language for that warrant article would be: **To see if the town will vote to allow the operation of KENO within the town pursuant to the provisions of NH RSA 284:41 through 51.** (Note that a public hearing on the question must be held fifteen to thirty days prior to town meeting.) Finally, the statute describes the wording to be used for the question on KENO substantially as follows: ***Shall we allow the operation of KENO games within the town?***

In the next two weeks, staff will reach out to you to answer any questions and potentially schedule a time for the KENO 603 presentation in January. Please consider this a request to have the matter of KENO placed on your Town's Legislative agenda at an upcoming meeting. Certainly, please feel free to give us a call Monday through Friday, 8 AM to 4 PM, at 271-3391 if you have questions. Thank you very much for your time.

Sincerely,

Charlie McIntyre
Executive Director



Live Free or Die

New Hampshire Lottery Commission 14 Integra Drive Concord, New Hampshire 03301
TEL 603.271.3391 FAX 603.271.1160 TDD 1.800.735.2964 www.nhlottery.com

Q. How does the new law regarding keno and kindergarten affect municipalities?

A. From a municipal perspective, the new law does two things: (1) It provides funding to school districts for full-day kindergarten, with the intent that the funding will eventually (but not immediately) come from the proceeds from keno operations in the state. (2) It allows each municipality to vote on whether to allow the operation of keno within the municipality.

Q. How does the kindergarten funding work, and what is the connection with keno?

A. Under existing law, state adequate education grants to school districts are based on the "average daily membership in attendance" in each district—essentially, the number of full-time students. The basic grant is \$3,561 per student, subject to certain adjustments. Kindergarten students are counted as "½ day attendance," even if they attend for a full day. In other words, adequate education grants are provided only for half-day kindergarten—a little under \$1,800 per student. Under SB 191, for fiscal year 2019 only, the state will distribute an additional \$1,100 (for a total of about \$2,900) for each student attending a full-day kindergarten program. These distributions do not depend on keno revenue.

For fiscal year 2020 and later years, the state will instead distribute an additional one-half share (approximately \$1,800) so that districts are receiving the full grant of \$3,561 for full-day kindergarten students. **However**, that amount is to be funded by keno proceeds, which will be paid (after certain deductions) into the state's education trust fund. If the amount of revenue raised through keno is less than enough to fund these additional grants, the grants will be reduced proportionally, but not below \$1,100 per student. Thus, districts will receive a minimum of \$1,100 and a maximum of (roughly) \$1,800 per full-time student, depending the amount of keno revenue.

Q. Must a municipality allow keno in order to receive the full-day kindergarten funding?

A. No. There is no connection between a municipality's allowance (or disallowance) of keno and its receipt of kindergarten funding. If the school district provides full-day kindergarten, it will receive the funding, both for fiscal year 2019 and for later years, regardless of whether the municipality allows keno. The only effect of a given municipality's allowance of keno is a cumulative one: if a municipality chooses to allow keno, and one or more establishments in the municipality subsequently obtain keno licenses, there may be an increase in the total statewide keno revenue that is available to fund kindergarten beginning in fiscal year 2020.

Q. Who determines whether a municipality will allow keno?

A. In a town, the question of allowing keno may be placed on the warrant for an annual town meeting, "and shall be voted on by ballot." If a majority of those voting on the question vote in the affirmative, keno games may be operated within the town.

Q. May the question be submitted at a special town meeting?

A. No, the law specifically says "an annual town meeting."

Q. How does it work in a town that doesn't have town meetings?

A. Unfortunately, the legislature appears to have overlooked that question. The legislation provides for placing the question on the warrant for a town meeting. No provision is made for a town that does not have a town meeting. Because those towns are governed much more like cities, it would make sense to put the question on the ballot at a regular town election—but the statute does not say that, and we are not prepared to opine that this would be legal. We urge towns without a town meeting to consult with their legal counsel before taking action. In the meantime, an amendment to clarify the law seems in order.

Q. What is the process for getting the question onto the ballot or warrant? Is it up to the governing body, or can citizens petition to have it included?

A. The short answer is either one. Here is the longer answer:

For towns: The new law says the question "shall be placed on the warrant of an annual town meeting under the procedure set out in RSA 39:3." That is the statute that authorizes citizens to submit a warrant article by petition (signed by at least 25 voters or two percent of the registered voters), so one might conclude that *only* the citizens, not the selectmen, may initiate the warrant article. However, RSA 31:131 states, "Any question which an enabling statute authorizes to be placed in the warrant for a town meeting by petition may also be inserted by the selectmen, even in the absence of any petition." Thus, the selectmen may place the question on the warrant at their own initiative, and they *must* place it on the warrant if a valid petition is received under RSA 39:3.

Q. So the governing body is not required to put the question on the ballot unless it receives a citizen petition?

A. Correct. In the absence of a citizen petition, the governing body *may* place the question on the ballot (or the warrant), in its sole discretion. If a valid citizen petition is received, the governing body *must* submit the question to the voters.

Q. If the question is placed on the warrant for a town meeting, should it go on the official ballot?

A. It depends. Of course, if a town has adopted the official ballot referendum (SB 2) form of town meeting, *all* questions must go on the official ballot.

In a town with a traditional (non-SB 2) town meeting, the question *may* be, but is not *required* to be, placed on the official ballot. This is because the new law specifies the form of the question and says that it will be “voted on a ballot,” but does not use the term “official ballot.” Under RSA 39:3-d, II, any law that prescribes the wording of a question, but does not use the term “official ballot,” is deemed to “authorize, but not require, the use of the official ballot for that question, unless a contrary intent is specified.”

RSA 39:3-d, II, goes on to say that if the question is *not* placed on the official ballot, “the prescribed wording shall be placed in the warrant, and may also be placed upon a preprinted ballot to be acted upon in open meeting in the same manner as a secret ‘yes-no’ ballot.” Although the statute says the question *may* be placed on a preprinted ballot, SB 191 says the question *shall* be voted on by ballot, so there is no discretion. Thus, if the question is not placed on the *official* ballot, it must be voted on by “unofficial” written ballot at the open meeting.

In short, non-SB 2 towns have a choice: put the question on the official ballot, or put it on the warrant and vote on it by written ballot at the open meeting.

Q. What exactly is “the question” that should go on the ballot or warrant?

A. The law states, “The wording of the question shall be substantially as follows: ‘Shall we allow the operation of keno games within the town?’”

Q. Must it be stated exactly in that manner?

A. No, not *exactly*. Note that the law says “substantially.” Further, RSA 31:130 states, “The forms of questions prescribed by municipal enabling statutes shall be deemed advisory only, and municipal legislation shall not be declared invalid for failure to conform to the precise wording of any question prescribed for submission to voters, so long as the action taken is within the scope of, and consistent with the intent of, the enabling statute or statutes.”

Q. In an SB 2 town, the question would be placed on the warrant that goes to the deliberative session. May the deliberative session amend the question?

A. No. RSA 40:13, IV(a) states, “Warrant articles whose wording is prescribed by law shall not be amended” at the deliberative session. If the question is placed on the warrant, voters may discuss and debate it as much as they want at the deliberative session, but they may not amend it. The question must go on the official ballot “substantially” as provided in SB 191.

Q. Can the governing body include an explanation of the issue along with the question on the warrant or ballot?

A. No. This would be a supplement to the language required by the law, and is likely to be deemed inconsistent with the requirement that the question be “substantially” in the form stated in the law. If the question is going to be submitted, it should be as stated above, without anything extra. The time for explaining the issue to voters is at the hearing that is required before the vote. It also can be explained as part of the discussion at the deliberative session (in a SB 2 town) or at the town meeting (in a non-SB 2 town).

Q. When is the hearing required to be held?

A. For either a town, the governing body must hold a hearing “at least 15 days but not more than 30 days before the question is to be voted on.” Notice of the hearing must be “posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.” In a town, the date of the hearing will depend on the session at which the vote will be taken. In an SB 2 town, because the question will be on the official ballot, the hearing must be held 15 to 30 days before the second (voting) session—*not* before the deliberative session. In a town with a traditional town meeting, if the question is going to be on the official ballot, the hearing must be held 15 to 30 days before the voting session. If, instead, it is going to be voted on by written ballot at the open meeting, the hearing must be held 15 to 30 days before the meeting.

Q. Does the governing body need to hold a hearing before voting to put the question on the ballot or warrant?

A. No, unless the municipality has a charter or rules of procedure that require such a hearing.