

**Town of Auburn
Board of Selectmen
June 20, 2016
Town Hall
7:00 p.m.**

() Call to Order – Pledge of Allegiance

() Public Hearing (continued from June 6, 2016)

Approval of Payroll for Week of June 13th, 2016
Approval of Accounts Payable for Week of June 20th, 2016
Consent Agenda – as of June 20th, 2016

() Appointments with the Board

() New Business

Griffin Library Roof Proposals
ZBA Resignation and Appointment
Potential Pearl Manor Fund Grant

() Old Business

Update of Bike Path Project
E-Permits and Tax Maps Online
Return of LGC Surplus
Status of Fairpoint Assessing Suit

() Other Business

Next Meeting – July 11th

() Minutes

- May 2nd, 2016 Non-Public Meeting (x2)
- May 16th, 2016 Non-Public Meeting
- June 6th, 2016 Public Meeting
- June 6th, 2016 Non-Public Meeting
- June 13th, 2016 Non-Public Meeting
- June 13th, 2016 Public Meeting

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."

TOWN OF AUBURN

PROHIBITION AND REGULATION OF FIREWORKS ORDINANCE

Section 1: **PURPOSE**

In accordance with the provisions of NH RSA 160-C:6, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the Town of Auburn, except as specifically provided for in this ordinance.

Section 2: **AUTHORITY**

The authority for the Auburn Board of Selectmen to regulate the sale, purchasing, handling or exploding of fireworks is contained in RSA 160-C: 6.

Section 3: **DEFINITIONS**

In This Ordinance:

1. "Display" means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
2. "Display Fireworks" formally known as Class A or B Fireworks are not considered permissible fireworks under NH RSA 160-C:1.
3. "Permissible Fireworks", formally known as Class C Fireworks, means those consumer firework devices defined as "permissible fireworks" in NH RSA 160-C:1, as the same currently exists or as, from time to time, hereinafter amended.
4. "Fire Chief" means the Fire Chief of the Town of Auburn or his/her designee.
5. "Police Chief" means the Police Chief of the Town of Auburn or his/her designee.

Section 4: **PERMISSIBLE FIREWORKS**

Subject to, and in accordance with the provisions of RSA 160-C, it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:

1. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, subject to the provisions of this ordinance and NH RSA 160-C, and any other applicable ordinance or statute.
2. No display of permissible fireworks shall be allowed within the Town of Auburn except between the hours of 12 PM and 11PM on Fridays and Saturdays in the months of June

TOWN OF AUBURN
PROHIBITION AND REGULATION OF FIREWORKS ORDINANCE

~~and July~~ and between the hours of **12 PM and 10 PM** on **Sunday through Thursday**.
~~between the months of August through May.~~

3. Permissible fireworks shall be permitted on the following holidays; Labor Day, the Fourth of July (including the evening of July 3rd, beginning at 12 PM until 11PM), and New Year's Eve beginning at 12 PM until 1AM on January 1st.
4. The display of permissible fireworks shall be of such a character, and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of NH RSA 160-C, no permissible fireworks shall be permitted on public property and must be 50 feet from nearby buildings and structures, nearby trees, electrical and telephone lines or other overhead obstructions, and any location of any nearby storage of flammable or combustible liquids or gases.
5. No permissible fireworks may be used, discharged, exploded, or displayed during periods of high or extreme fire danger as determined by the Fire Chief or the New Hampshire Division of Forests and Lands.
6. Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any and all discharge debris shall remain within the property lines of the lot on which the display originates.
7. Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property and any private property within twenty-four hours of discharge. Anyone failing to remove such debris shall be financially responsible for its cleanup.
8. If a fire is caused from the discharge of any fireworks display, the responsible party/parties involved may be subject to reimbursing the Town of Auburn for all suppression costs.

Section 5: **PERMIT REQUIRED**

1. No permit is required for the display of permissible / consumer fireworks.
2. Any person, group or organization wishing to display, discharge, explode any fireworks other than "Consumer Fireworks", shall be required to apply for a permit to display fireworks and shall include a copy of a certificate of competency as provide in **NH RSA 158:9-f**. Any person wishing to display fireworks other than "Consumer Fireworks" shall

TOWN OF AUBURN

PROHIBITION AND REGULATION OF FIREWORKS ORDINANCE

meet the provisions of **NH RSA 160-B:7** and by the provisions of **NH Code of Administrative Rules, saf-C2600**.

3. Permits will be issued by the Fire Chief and or his/her designee after an inspection has been conducted and the application has been approved. **NH RSA 160-B:7**.

Section 7: **ENFORCEMENT**

- A. The Fire Chief or the Police Chief may suspend the use of the permissible fireworks for any of the following reasons:

1. Unfavorable weather conditions, including but limited to, lightning storms or high wind conditions.
2. If any person under the age of 21 possesses, uses, discharges or explodes, used, discharged or exploded any permissible firework device and is a chargeable offense in accordance with **NH RSA 160-C:11**.
3. If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs.
4. If in the opinion of the Fire Chief or Police Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.

- B. The Fire Chief and/or Police Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance.

Section 8: **PENALTIES**

Any organization, office or individual(s) who willfully violates this Ordinance shall be guilty of a violation, punishable by a fine not exceeding Five Hundred (\$500.00) dollars per day for the first offense; Seven Hundred and Fifty (\$750.00) dollars per day for the second offense, and One Thousand (\$1,000.00) dollars per day for the third or greater offense. Violators may be assessed additional fines for each day the violation continues.

Section 9: **NON-COMPETE OR RELIQUISHMENT OF OTHER REQUIREMENTS**

Nothing in the Town of Auburn Prohibition and Regulation of Fireworks Ordinance shall be interpreted so as to conflict with the provisions of Chapters 160-B and 160-C of the New

TOWN OF AUBURN
PROHIBITION AND REGULATION OF FIREWORKS ORDINANCE

Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended.

Section 10: **SEVERABILITY**

If any provision of this Ordinance is declared invalid or unconstitutional, it shall not be held to invalidate, or impair the validity, force or effect of any other provision of this Ordinance, and all provisions not declared invalid or unconstitutional will continue in effect.

Section 11: **SUPERCESSION**

Upon the vote of the Board of Selectmen, this Ordinance shall take effect thirty (30) days after passage which is _____, 2016, and shall supersede all previous rules, regulations, customs and/or past practices that may have been in use on the effective date.

Section 12: **AMENDMENT PROCEDURE**

This Ordinance may be amended and changed from time to time as conditions require and as deemed appropriate by the Board of Selectmen.

Any proposed amendments shall be presented to the Board of Selectmen for action. However, any amendment(s) must be the subject of at least one public meeting of the Board of Selectmen that shall be noticed at least fourteen (14) days prior to the public meeting.

Adopted on the _____ day of _____, 2016

Edward G. Gannon
Chief, Auburn Fire Department

James F. Headd

Richard W. Eaton

Dale W. Phillips
AUBURN BOARD OF SELECTMEN

Received and recorded this _____ day of _____, 2016

Kathleen A. Sylvia, Town Clerk

[illegible]



ESTIMATE



3 SANBORN RD, SUITE #3
LONDONDERRY, NH 03053
www.ScoreConstructionCompany.com
Office: (603) 260-5494
Direct: (603) 440-3967
Email: nazar.scoreconstruction@gmail.com

TO:
William Hurman
Selectmen Office
Town of Auburn
47 Chester Road
Auburn, NH 03032
Phone: 603. 483. 5052

JOB DESCRIPTION	Use: Code: 36
Location: 22 Hooksett Road - Library	10/2/2016

	AMOUNT
Roofing: Per Specifications for Library Roof publicly available	\$13,900.00
Note: COI and company qualifications are Attached	
Start of Project: with-in 14 days of written and executed agreement and/or notice to proceed	
Duration: Project to be Completed within 10 days. Weather permitting	
Mobilization:	\$110.00
Disposal Fee: Remove and dispose of all debris	\$370.00
Additional Payment Options: Credit Card and Score In-house 0 % Interest Financing Program	

TOTAL ESTIMATED JOB COST \$14,400.00

All work and material is guaranteed to be as specified. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate.

Nazar Vincent

PREPARED BY

6-7-16
DATE

ESTIMATE / CONTRACT

S & W Roofing, LLC

P.O. Box 2645 • Concord, New Hampshire 03302-2645
603/225-7506 • 603/225-8816 • Fax 603/225-8912

Email: swroofing@comcast.net

CUSTOMER'S NAME: Town of Auburn / Public Library
RESIDENCE: 22 Hooksett Rd. Auburn, NH
HOME PHONE: _____ BUSINESS PHONE: _____
JOB SITE: Library Roof
JOB DESCRIPTION: _____

Main Bldg per specs	\$11,900
Rear shed	\$900
Small shed	\$800

References

City of Concord Jeff Bordwell	852-4134
Andy Anderson Contractor	930-7320
Sol Alper Property Owner	496-2923
largest real Estate parer City of Concord	

ESTIMATE TOTAL (labor & materials) \$ _____
DOWN PAYMENT: (before commencing) \$ _____
BALANCE: (upon completion) \$ _____



NON-PAYMENT (AND/OR LATE PAYMENTS) — Failure on the Owner's part to make all payments on time as described to be due within this contract shall result in a finance charge of 2% per month/24% per annum, on any unpaid balances or any late payments. The Owner shall be liable for all attorney fees and legal fees necessary to collect any unpaid balances or late payments.

Estimated By: Walter Jensen Title: Owner Date: 5-31-16
Owner's Signature: _____ Date: _____

ROOFING: Shingles - Metal - Tile - Rubber • CARPENTRY • SIDING • REPLACEMENT WINDOWS

Adam Vaillancourt

Roofing & Construction LLC

Roof Replacement of

Griffin Free Public Library

Roofing portion Scope:

Complete Tear Off & Removal Of Existing Asphalt Roofing, Underlayment Inspection & Refastening As Required, Installation Of:

- 6' Owens Corning Ice & Water Shield To All Eaves & Valleys
- 8" (.019 Gauge) Aluminum Drip Edge (Color TBD)
- Owens Corning Starter Edge Shingle To All Eaves
- 15 lbs felt Paper to Remainder of Roof
- Owens Corning Duration Architectural Shingle (Color TBD)
- 12" Shingle Vent II Filtered Ridge Vent
- Owens Corning Pro-Edge Ridge Cap
- Include Up To 3 Sheets Of Half Inch Plywood
- Install 25' Gutter To The South West Side Closest To Road

\$16,325 (Sixteen Thousand Three hundred Twenty Five Dollars)

\$75.00/Sheet For ½" Plywood Sheathing If Required

\$85.00/Sheet For ¾" Plywood Sheathing If Required

\$70.00/Man Hour For Additional/Unforseen Work

Optional Material Pricing:

Although not specified in your scope of work, we highly recommend the use of high temp ice & water shield. The use of this product will help protect you from ice dam leaks and will last longer than the cheaper option. We also recommend using synthetic underlayment instead of the felt paper.

Owens Corning Flex Ice Shield: Add \$400

Owens Corning Pro Amor Synthetic Underlayment: Add \$300

Owens Corning "Platinum" Extended Warranty

- Lifetime Workmanship Warranty
- 30 Year NON PRORATED Replacement Warranty (Includes labor, material, and dump fees) Proper ventilation required for this option.
- **Add \$390**

LICENSED

LICENSE #128714

**INSURED**

G. Rudy - D. Rudy

1-617-923-1959**1-603-479-8862****24 Hour Emergency Service**

PROPOSAL SUBMITTED TO <i>Griffin Public Library</i>		PHONE <i>276 7188</i>	DATE <i>10/9/16</i>
STREET <i>22 Hooksett Rd</i>		JOB NAME <i>Jean</i>	
CITY, STATE & ZIP CODE <i>Auburn NH</i>		JOB LOCATION	
ARCHITECT	DATE OF PLANS	JOB PHONE	

We hereby submit specifications and estimate for:

- ☒ RIP DOWN TO ROOF BOARDS REPLACE UP TO 100(sf) OF BOARDS OR PLYWOOD.
- ☒ INSTALL ICE & WATER SHIELD 3 OR 6 FEET UP ON EAVES, VALLEYS, WALLS & AROUND ANY ROOF PENETRATIONS.
- ☒ INSTALL 30 lb. ROOFING FELT PAPER ON REMAINING ROOF AREAS. *Synthetic paper*
- ☒ INSTALL 8" DRIP EDGE ON OUTSIDE PERIMETER OF ROOFS. *white*
- ☒ INSTALL NEW BOOTS ON SANITARY PIPES.
- ☒ INSTALL FLASHING ON CHIMNEYS & WALLS AS NEEDED.
- ☒ INSTALL LIFETIME ARC SHINGLES - COLOR OF CHOICE.
- ☒ INSTALL COBRA RIDGE VENT ON ROOF CAP SO ROOF CAN BREATHE PROPERLY.
- ☒ CLEAN & CLEAR ALL DEBRIS FROM ROOF.
- ☒ 5 YEAR WORKMANSHIP WARRANTY.

Includes Every Roof on main Building

NOTICE OF CANCELLATION

You may cancel this transaction, without any penalty or obligation, within three (3) business days from the above date. If you cancel, any payments made by you under the agreement, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

Signature _____

We Propose hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:

350 on signing Bal upon comp Dollars (\$ *14,585.00*)
500 copon

Payment to be made as follows:

14,085

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. all agreements contingent upon strikes, accidents or delays beyond our control. owner to carry fire, tornado and any other necessary insurance. We are NOT responsible for any issues related to ice damming

Authorized Signature: *Rudy Rudy*

Note: This proposal may be withdrawn by us if not accepted within *25* Days.

Acceptance of Proposal The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: _____

Signature _____

Signature _____



TOWN OF AUBURN

PUBLIC NOTICE REQUEST FOR PROPOSALS

The Town of Auburn is soliciting proposals for the re-roofing of the Griffin Free Public Library located at 22 Hooksett Road.

Due to the Library being a customer service facility, access to the building has to be maintained throughout the project.

Sealed bids marked "LIBRARY ROOF" will be accepted at the Selectmen's Office until 2:00 PM on Friday, June 10, 2016. All proposals will be provided to the Trustees of the Library and the Board of Selectmen for consideration at the next meeting of the Board of Selectmen, which would likely be held on Monday, June 20, 2016.

Specifications for the project are available at the Town Hall or online at the Town of Auburn web site (www.auburnnh.us) under "Requests for Proposals".

The Board of Selectmen reserves the right to accept or reject any or all proposals in the best interest of the Town of Auburn.

**TOWN OF AUBURN
BOARD OF SELECTMEN**

May 9, 2016

TOWN OF AUBURN

SPECIFICATIONS FOR LIBRARY ROOF

The Town of Auburn is soliciting bids for the re-roofing of the Griffin Free Public Library, 22 Hooksett Road, Auburn, New Hampshire. The project also includes the installation of a gutter and drainage pipe on the southern side of the west wing of the building.

SCOPE OF WORK

Work that is anticipated to be done as part of this project includes:

- ✓ Strip down the existing shingles to roof boards and replace up to 100 (sf) of boards or plywood.
- ✓ Install an ice and water shield six-feet (6-feet) up on eaves, valleys, walls and around any roof penetrations.
- ✓ Install 30 lb. roofing felt paper on remaining roof areas.
- ✓ Install eight-inch (8") drip edge on outside perimeter of roofs.
- ✓ Install new boots on sanitary pipes.
- ✓ Install flashing on chimneys & walls as needed.
- ✓ Install lifetime ARC shingles (color to be determined).
- ✓ Install Cobra ridge vent on roof cap so roof can breathe properly.
- ✓ Install one section (approx. 25') of seamless aluminum gutter along the southern side of the west wing, closest to the road. The gutter downspout must be located on the southwestern most corner. The downspout shall include an adaptor to allow connection to a vertical 6" SDR-35 underground drain pipe.
- ✓ Clean & clear all debris from roof.
- ✓ Provide five (5) year workmanship warranty.
- ✓ As a separate item for consideration and possible additional cost item – the Library Trustees have historically had to have heat cables installed on the

front areas of the rood to prevent icing on the front steps. The Trustees are seeking guidance from the chosen vendor on solutions to their historic issue and, if heating cables are the answer, whether they should be installed as part of this project or handled separately after the project is completed.

The Town is looking for this work to commence no earlier than August 8, 2016 and to be completed by September 30, 2016.

Due to this facility being a customer service orientated facility, access to the building will need to be maintained during the roofing project. For planning purposes, the hours of operation for the Griffin Free Public Library are as follows:

Monday: Closed
Tuesday: 10:00 am to 6:00 pm
Wednesday: 1:00 pm to 8:00 pm
Thursday: 10:00 am to 6:00 pm
Friday 10:00 am to 5:00 pm
Saturday: 10:00 am to 2:00 pm
Sunday: Closed

The Library is hosting a special outdoor program on Saturday, August 13th, which would have to be a date work on the roof could not take place.

The successful contractor shall clean-up all materials on a daily basis, and will be allowed to maintain a disposal container on site for this purpose.

As part of the proposal, contractors are encouraged to estimate the total time frame that is anticipated to be need for the completion of the project.

Interested contractors wishing to view the job site shall contact the Griffin Free Public Library during business hours, or shall advice Library personnel of their presence on site before commencing their inspection and estimating activity.

If subcontractors or contracted services are anticipated to be used by a contractor for this project, if at all possible, utilization of local Auburn vendors, services or contractors is urged.

PAYMENT

Payment will be made with-in two weeks once all work is satisfactory completed and all surrounding grounds are clear of all debris. There will be no advancement of any funds. Final payment terms will be worked out between the chosen contractor and the Town.

PROFESSIONAL AND GENERAL LIABILITY INSURANCE

Contractor shall file with the Town of Auburn evidence of professional liability and general liability insurance certifying coverage contained therein or, in the alternative, provide documentation of a self-insured program. Such insurance

shall provide protection against professional and personal injury liability. The Certificate of Insurance shall identify the insurer and the Contractor, the type and amount of insurance, the location and operations to which the insurance applies, and the effective and expiration dates of the policies of insurance. Further, the contractor shall advise the Town of Auburn of any changes of insurance company, coverage, limits of liability and notices of cancellation of insurance. Limits of liability shall be not less than: General Liability \$500,000 combined single limit and Worker's Compensation \$100,000 Statutory insurance. Such insurance shall be maintained throughout the term of this contract and may not be canceled without providing at least thirty (30) days advance notice of such cancellation to the Town of Auburn.

INDEMNIFICATION

The Contractor agrees to hold harmless and indemnify the Town of Auburn against any and all claims, suits, damages, costs, or legal expense as a result of bodily injury or property damage resulting from the negligence of the Contractor.

PRE-AWARD CONSIDERATIONS

The Town of Auburn shall consider the capabilities and resources of the potential vendor, and will review references of clients having similar requirements as set forth in this specification. Reference checks shall be an integral part of the final analysis of an award of contract. NOTE: Negative reference feedback may cause the bidder to be judged non-responsible and may result in rejection of the apparent low bid.

AWARD

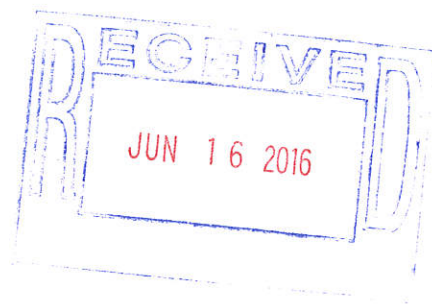
The Town of Auburn reserves the right to award this contract in the best interests of the Town of Auburn. Proposals will be received by the Selectmen's Office until 2:00 P.M. on June 10, 2016.

Proposals will initially be shared with both the Board of Selectmen and the Trustees of the Library. They will be including on the agenda of the Board of Selectmen meeting at their next regularly scheduled meeting, which is anticipated to be on Monday, June 20, 2016. The awarding of the project contract shall follow a decision by the Board of Selectmen.

Questions may be directed to William G. Herman, Town Administrator, Town of Auburn, P.O. Box 309, Auburn, NH 03032, telephone (603) 483-5052 between the hours of 8:00 A.M. and 4:30 P.M.

The Town reserves the right to reject any or all proposals, or any part thereof; to waive any information in the bidding and to accept the proposal; considered to be in the best interest of the Town.

June 13, 2016



Mr. Mark Wright, Chairman
Zoning Board of Adjustment
Town of Auburn
PO Box 309
Auburn, NH 03032

Re: Zoning Board Membership

Dear Mark,

It is with deep regret that I tender my resignation from the Auburn Zoning Board of Adjustment. I have been struggling to balance full time work, family needs, and a small business start-up. My business is beginning to grow faster than I had anticipated and I find that I can no longer fulfil my volunteer duties in the evening hours.

I have truly enjoyed working with the Zoning Board these past fifteen years in the capacity of Secretary and more recently, as a Member. The Town of Auburn derives a tremendous benefit from the years of quality service from its members. I have found that Auburn's ZBA takes pride in making sure the whole of the town is considered in its decisions, while following the statutory requirements.

I have enjoyed volunteering with you and all the other members. It is my hope that as the business stabilizes and the children fly the coop, I might be able to offer service again in this capacity. I would like to extend a personal thank you to you, Jim, the Board, and especially Carrie for mentoring me in the art of zoning. Your example and teachings have allowed me to thrive in my "day" job. I am truly very thankful. Best wishes to you and all of the Board members in your future endeavors.

Sincerely,

Handwritten signature of Elizabeth Robidoux in cursive script.

Elizabeth Robidoux

Cc: Auburn Board of Selectmen

APPOINTMENT OATH OF OFFICE

To Kevin Stuart of Auburn in the County of Rockingham

WHEREAS, there is a vacancy on the Zoning Board of Adjustment in said town and whereas we, the subscribers, have confidence in your ability and integrity to perform the duties of said office, we do hereby appoint you the said, **Kevin Stuart a member of the Zoning Board of Adjustment** of the Town of Auburn and upon your taking the oath of office, and having this appointment and the certificate of said oath of office recorded by the Town Clerk, you shall have the powers, perform the duties, and be subject to the liabilities of such office. Term to expire March 2017, or upon the selection of your successor.

Given under our hands this 20th day of June 2016

Selectmen of the Town of Auburn

"I, Kevin Stuart, do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent on me as a member of the Zoning Board of Adjustment for the Town of Auburn to the best of my abilities, agreeably to the rules and regulations of the Constitution and Laws of the State of New Hampshire; So help me God."

Signature

Address

Phone

E-Mail

Personally appeared the above named Kevin Stuart took and subscribed the foregoing oath.

State of New Hampshire, Rockingham County

On the ____ day of _____ of 2016

.....

Selectman, Moderator,
Town Clerk or Deputy Town Clerk

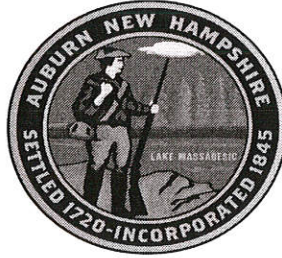
Received and Recorded

.....

Kathleen A. Sylvia, Town Clerk

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: June 15, 2016

Re: Grant Potential / Pilot Program for Senior Citizen Services

In recent months we have had several meetings involving the Health Officer, Police Department, Fire Department, Parks & Recreation, the Visiting Angels and myself focused on Senior care programs and services available to Auburn residents and families. The meetings were the result of an initial inquiry by Debra Derosiers of Visiting Angels on this subject.

Initial outcomes as a result has been the development of a page on the Town of Auburn web site called "Senior Services", which details programs and services currently available through various social service agencies and Town departments, inclusive of contact information and links to most of those entities. This is a link to that web page: <http://www.auburnnh.us/home/pages/senior-services>

Also, Visiting Angels is going to provide in-service training to both Fire Department and Police Department personnel on how best to deal with and communicate with individuals with various conditions including Alzheimer's, dementia, autism, etc., they may come in contact with.

We recently received information on the 2016 Pearl Manor Fund grant program that is specifically focused on working to improve the lives of the elderly population throughout the Manchester region. Grant amounts are normally in the \$10,000 to \$25,000 range.

An idea that came from the conversations we've had is to look at establishing a program to provide transportation to senior residents for medical appointments, adult day care and potentially other offerings. The basic concept is to transform one of the police cruisers to be taken out of service into a vehicle used for this purpose. Individuals would need to call in advance (perhaps to either the Police Department business line or to Town Hall) to schedule a ride. And we would maintain a floating group of volunteers (possible from the volunteer members of the Fire Department) to serve as the drivers for this effort. A very similar program has successfully been in place in the Town of Atkinson for nearly 10 years. The most recent data I have indicates that they provided 2,000 rides and delivered 200 medical devices to Atkinson seniors in 2014.

The general thought is that grant funds could be used to cover the costs of vehicle maintenance and fuel, and to provide some sort of pay for the individuals who serve as drivers.

At this point, this is all conceptual. Before potentially proceeding any further, we are seeking guidance from the Board of Selectmen to determine if they would generally agree with this type of activity, and if they would support the development & submission of a grant application to potentially fund a pilot program along these lines.

Thank you for your consideration.

Attachment



May, 2016

Mr. William Herman
Town Administrator
Town of Auburn
47 Chester Road, P.O. Box 309
Auburn, NH 03032

Dear William,

We want to share this 2016 Pearl Manor Fund grant application announcement with our colleagues and local contacts who are working to improve the lives of the elderly population throughout the Manchester region. The annual grant application process is now open, and a packet of information, including the application form, is enclosed. If not applying, please share this information with anyone in your organization, or in the community, who might be interested in the grant opportunity. **The deadline for applications is September 1, 2016.**

Grants are available to support new programs and projects providing assistance, comfort, care and treatment to the elder population including medical care, safe housing, nutrition, independent living and transportation assistance. Most grant awards are in the \$10,000-\$25,000 range but may also reach \$50,000 for highly collaborative projects. The committee gives preference to those programs and projects showing collaboration between provider organizations, but this is not a requirement.

New programs, ideas and projects must benefit the elder residents of the Greater Manchester area. The specific area served includes the towns of Allentown, Auburn, Bedford, Candia, Deerfield, Dunbarton, Goffstown, Hooksett, Manchester and New Boston.

The information and application form are also available online at:
www.elliethospital.org/pearlmanorfund and questions may be directed to us at:
foundation@elliethospital.org.

Thanks so much for spreading the word and/or considering an application this year.

Sincerely,

Nicholas S. Zaharias
VP, Development

Meghan Durkee
Development Specialist

Enclosure



Pearl Manor Fund

Application Guidelines

Grant assistance for new projects, programs and/or services that promote care, support and treatment for the elder residents of Allentown, Auburn, Bedford, Candia, Deerfield, Dunbarton, Goffstown, Hooksett, Manchester and New Boston.

Mary & John Elliot Charitable Foundation
4 Elliot Way, Suite 301, Manchester, NH 03103
www.elliothospital.org/pearlmanorfund
foundation@elliothospital.org

FIELD OF INTEREST

The Pearl Manor Fund is distributed through grants for the specific purpose of providing assistance, comfort, care and treatment for the elder population to include, but not limited to, the needs surrounding medical care, safe housing, nutrition, independent living and transportation assistance.

AREA SERVED

The Pearl Manor Fund supports the efforts that benefit the elder residents of the Greater Manchester area. The area includes the towns of Allenstown, Auburn, Bedford, Candia, Deerfield, Dunbarton, Goffstown, Hooksett, Manchester and New Boston.

GRANT PROGRAM

Grants are awarded on an annual basis (when funds are available) to support **new** projects/programs that implement solutions and address the critical and unmet needs of the elder community. Grants are typically made in the \$10,000-\$25,000 range, although highly collaborative requests up to \$50,000 will be considered.

PROGRAM PRIORITIES

When considering proposals, priority is given to funding activities that serve the Fund's interests. The Pearl Manor Fund seeks to support programs which:

- Meet the needs of the elder population regarding affordable transportation, home maintenance, socialization and/or nutrition;
- Promote independent living, self-care and healthy life-style choices;
- Strengthen family support services through education and support to the caregiver;
- Provide realistic and measurable outcomes that address the identified need;
- Provide an evaluation plan that identifies data collection methods;
- Detail the applicant's capacity to implement the project;

PROGRAM PRIORITIES (continued)

- Identify other programs that address the needs for the funds requested;
- Involve collaboration with other agencies, when possible;
- Utilize other funders.

ELIGIBILITY

Non-profit 501(c)(3) organizations with public charity status serving the Greater Manchester area are eligible to apply. Grants are not made to individuals or to qualifying organizations to support the costs of services to particular individuals. The Pearl Manor Fund generally **will not** fund:

- Capital campaigns
- Expenses already incurred
- Fundraising events
- On-going operating expenses
- Out of state projects
- Replacement of public or government funding
- Sectarian or religious groups
- Support of political activities

CRITERIA

Proposals to the Pearl Manor Fund are reviewed for their relationship with the Fund's priorities, as well as the degree to which an application reflects the following:

- Details collaboration with other service agencies in order to avoid duplication of resources;
- Demonstrate the understanding of the demographics, health characteristics, risk factors, need, and services available to the elder population as it relates to the applicant organization's mission;
- Exhibits the ability of the applicant to set goals, measure and evaluate results in utilizing grant funds to achieve projected outcomes;
- Provides a plan for how the project will continue after the funding has been utilized;
- Provides information regarding the capacity of the organization to carry out and complete the project plan;
- Includes a plan to inform the public regarding the services to be provided, as well as the grant award.

WHEN TO APPLY

Applications must be postmarked by September 1, 2016. All applications must be received at the correct address and emailed no later than 4:00 p.m. on the day of the deadline. If the deadline falls on a federal holiday or on a weekend, applications must be received in advance of the deadline. Incomplete or late applications (including late attachments) will not be considered.

Please mail or deliver one hard copy, and email one PDF copy of the application and attachments to foundation@elliiothospital.org. Send or deliver hard copy to address on front of application.

HOW TO APPLY

Please present information regarding your project in the format outlined below. Use this outline as a checklist in preparing your proposal and number your responses to correspond to the listing of information requirements. Incomplete applications will not be considered. As a rule, applications should be no more than 7 pages in length (excluding attachments). The entire packet should be stapled (not bound) with pages numbered.

- (1) Briefly describe your organization, its current programs and services, particularly as they apply to the greater Manchester area. Include meaningful service statistics.
- (2) Document the need for what you are proposing. What other agencies address these needs, and how your proposal will supplement or expand upon services already available to the community. Are you collaborating with other community partners? If so, how? Please include up to three letter(s) of support.
- (3) Describe the project you propose. Include goals and number of elders that will be served through your program.
- (4) How does your proposal relate to the Fund's program priorities as stated in the guidelines?

HOW TO APPLY (continued)

- (5) How will your organization evaluate the success of the proposed project? What specific, measurable outcomes, and what quality indicators will you use to evaluate and report on the program in 12 months? How will your staff use this data? What impact will your project have on the community?
- (6) How will you inform the public about the service you propose to offer? How will you work with other agencies to coordinate this project and avoid duplication of services?
- (7) For projects intended to be ongoing, what sources of support will be developed to ensure continuation beyond the period of Pearl Manor Funding? Does your project have a vision of where it will be in three years? Please describe.
- (8) Describe how you will inform your constituencies, and or the general public, about the Pearl Manor Fund grant if awarded.

ATTACHMENTS

With all proposals, please include:

- Application cover sheet
- Current operating budget for the organization
- 501(c)(3) status letter
- List of board of directors, with affiliations, address and telephone numbers
- Up to three letters of support
- Financial executive summary
- Project budget with notes
- Profit & loss statement
- Balance sheet



Pearl Manor Fund

c/o Mary & John Elliot Charitable Foundation
4 Elliot Way, Suite 301
Manchester, NH 03103
603.663.8934
foundation@elliothospital.org

Application Cover Sheet

Please type your response or duplicate this form on your computer.

This form is available online at www.elliothospital.org/pearlmanorfund

Name of Applicant Organization: _____ Date: _____

Telephone #: _____ Email Address: _____

Address: _____

CEO/Executive Director: _____

Contact for Proposal (if different): _____ Telephone #: _____

Contact Address (if different from above): _____ Email address: _____

Fiscal Agent (if applicant is not a 501(c)(3) Organization): _____

Application Request (Please specify \$ amount requested): _____

Total Project Costs: \$ _____

Total Operating Budget Revenue: \$ _____

Total Operating Budget Expenses: \$ _____

Please respond in the space provided. A more detailed description should be included in your full proposal.

BRIEF DESCRIPTION OF PROPOSED PROJECT: _____

PLEASE SUMMARIZE PROJECT/PROGRAM OBJECTIVES (What will be accomplished with the funding requested and how will impact be measured?):

BRIEFLY EXPLAIN WHAT KIND OF IMPACT, IF ANY, RECENT FEDERAL & STATE BUDGET CUTS HAVE AFFECTED YOUR ORGANIZATION:



Pearl Manor Fund

c/o Mary & John Elliot Charitable Foundation
4 Elliot Way, Suite 301
Manchester, NH 03103
603.663.8934
foundation@elliothospital.org

Profile of Application Organization

Describe current services provided by the applicant organization: _____

Geographical area served: _____

Year founded: _____ Number of paid staff (specify full and part-time): _____

Number of members: _____ Number of volunteers: _____ Tax ID #: _____

Financial Summary

Provide information from most recent audit or annual financial statement:

Last Fiscal Year - Sources of Support	Amount	%
Government grants & contracts	\$	
Program fees/sales third party payments	\$	
Endowment/interest income	\$	
Other earned income	\$	
Benefits	\$	
Membership	\$	
United Way Support	\$	
Contributions		
•Business	\$	
•Individuals	\$	
•Foundation, others	\$	
TOTAL SUPPORT	\$	

Have you remembered to include?

- | | |
|--|---|
| <input type="checkbox"/> Application cover sheet & full proposal | <input type="checkbox"/> Profit and loss statements |
| <input type="checkbox"/> Current year budget | <input type="checkbox"/> Current board list with affiliations |
| <input type="checkbox"/> Financial executive summary | <input type="checkbox"/> 501(c) (3) letter (unless already submitted) |
| <input type="checkbox"/> Project budget with notes | <input type="checkbox"/> Letters of support (no more than three) |
| | <input type="checkbox"/> Balance sheets |



Pearl Manor Fund

c/o Mary & John Elliot Charitable Foundation
 4 Elliot Way, Suite 301
 Manchester, NH 03103
 603.663.8934
foundation@elliethospital.org

*Please include a budget narrative on a separate sheet, clarifying line items.
 This budget should cover full program/project costs, not just amount requested from Pearl Manor Fund.*

Project/Program Budget

Income

	Pearl Manor Fund	Other Foundations ^②	Public Sources	Fundraising	In-kind & Volunteer Contributions	Your Agency Contribution	Other Income	Total Income
Income ^①								

①NOTE: Please indicate which funds are committed or pending. ②Please list totals here, but provide details in narrative.

Expenses

	Pearl Manor Fund	Other Foundations	Public Sources	Fundraising	In-kind & Volunteer Contributions	Your Agency Contribution	Other Expenses	Total Expenses
Personnel: i.e. Project Coordinator								
Other Staff (please list if necessary)								
Program Materials & Supplies								
Outreach & Marketing								
Postage								
Phone/Fax								
Office Supplies								
Equipment								
Overhead								
Other Expenses (please list if necessary)								



TOWN OF AUBURN

June 17, 2016

Thomas Jameson, TAP Program Manager
NH Department of Transportation
Bureau of Planning and Community Assistance
P.O. Box 483
Concord, NH 03302-0483

Dear Mr. Jameson:

On behalf of the Town of Auburn, I am pleased to write and express our interest in applying for Transportation Alternatives Program (TAP) funds in the recently announced application cycle.

The Town has an interest in building a designated, paved bicycle path on the west side of Hooksett Road and Chester Road (NH Route 121) between Eaton Hill Road and Shore Drive. The proposed bicycle path will allow young and older bicycle enthusiasts to safely travel from the center area of our community inclusive of the elementary school, recreational facilities, library and post office and be able to connect with an existing trail system that reaches through a significant portion of our municipality. The proposed project is approximately 5,200-feet in length and would be developed to appropriate safety standards. It is intended to be within the state's right-of-way on Route 121, but the Town has also entered into a formal agreement with the Manchester Water Works (MWW), who owns or controls the majority of the property abutting NH Route 121 in this area. MWW will assist in facilitating this project should additional space be needed to bring this project to fruition. See attached project map for general details.

Through the TAP funds, the Town is looking to design, permit and construct the proposed project. The estimated cost for this project from planning through construction is estimated to be \$529,030. The Town will be requesting 80% federal TAP Funds in the amount of \$423,224, with the Town providing the remaining 20% match of \$105,806.

The project meets TAP eligible activity: Construction, planning and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults and individuals with disabilities to access daily needs, while it will also connect to off-road trail facilities for pedestrians, bicyclists and other users of non-motorized forms.

The contact person for this application process will be:

William G. Herman, CPM, Town Administrator
P.O. Box 309
Auburn, NH 03032
Telephone: 483-5052, Ext. 111
E-Mail: townadmin@townofauburnnh.com

Thank you for your consideration.

Sincerely,
TOWN OF AUBURN

William G. Herman, CPM
Town Administrator

Enclosures

Cc: Board of Selectmen

Alan Villeneuve, School Board Chair

PO Box 309 • Auburn, NH 03032-0309

SELECTMEN: (603) 483-5052 • TOWN CLERK/TAX COLLECTOR: (603) 483-2281

BUILDING/ZONING: (603) 483-0516 • PLANNING: (603) 483-0799 • FAX: (603) 483-0518



Stantec Consulting Services Inc.
5 Dartmouth Drive, Suite 101
Auburn NH 03032 U.S.A.

Tel. 603.669.8672
Fax. 603.669.7636
www.stantec.com



Client/Project
TOWN OF AUBURN

Figure No.
1.0
Title

RTE. 121 MULTI-USE PERMIT

ENGINEERS OPINION OF PROBABLE CONSTRUCTION COST

		STANTEC PROJECT # 19510946
		SHEET #
		MADE BY: RL
		CHKD BY: SP
		REV BY:
		CHKD BY:
PROJECT:	Auburn Route 121 Pedestrian/Bikeway - Eaton Hill to Shore Rd.	
SUBJECT:	Conceptual Level Opinion of Cost - UPDATED 6-10-16	

ITEM NUMBER	ITEM DESCRIPTION	UNIT	TOTAL QUANTITY	UNIT PRICE	TOTAL
201.1	CLEARING AND GRUBBING	A	1.20	12,500.00	15,000.00
201.11	REMOVING SMALL TREES	EA	20.00	860.00	17,200.00
201.22	REMOVING LARGE TREES	EA	16.00	1,230.00	19,680.00
201.321	TREE PRUNING AND TRIMMING	LS	1.00	2,500.00	2,500.00
201.4	STUMP REMOVAL	EA	36.00	100.00	3,600.00
203.10	COMMON EXCAVATION	CY	2,250.00	12.00	27,000.00
203.2	ROCK EXCAVATION	CY	15.00	100.00	1,500.00
203.6	EMBANKMENT-IN-PLACE	CY	220.00	10.00	2,200.00
206.1	COMMON STRUCTURE EXCAVATION	CY	50.00	28.00	1,400.00
209.1	GRANULAR BACKFILL	CY	50.00	25.00	1,250.00
214.	FINE GRADING	SY	5,000.00	1.50	7,500.00
304.3	CRUSHED GRAVEL	CY	1,775.00	27.50	48,812.50
403.11	HOT BITUMINOUS PAVEMENT, MACHINE METHOD	TON	925.00	85.00	78,625.00
403.12	HOT BITUMINOUS PAVEMENT, HAND METHOD	TON	10.00	110.00	1,100.00
585.3	STONE FILL CLASS C	CY	14.00	49.00	686.00
585.4	STONE FILL CLASS D (STONE CHECK DAMS)	CY	14.00	35.00	490.00
603.00215	15" R.C. PIPE, 2000D, INCL. SPECIFIED EXCAV.	LF	16.00	60.00	960.00
603.00218	18" R.C. PIPE, 2000D, INCL. SPECIFIED EXCAV.	LF	16.00	75.00	1,200.00
604.12	CATCH BASINS TYPE B	U	3.00	2,700.00	8,100.00
604.45	ADJUSTING CATCH BASIN DROP INLET GRATE AND FRAMES	EA	3.00	400.00	1,200.00
608.24	4" CONCRETE SIDEWALK	SY	40	75.00	3,000.00
609.1	6" GRANITE CURB	LF	24.00	1,000.00	24,000.00
615.004	RELOCATING TRAFFIC SIGN	U	1.00	2,500.00	2,500.00
615.02	TRAFFIC SIGN TYPE B	SF	200.00	75.00	15,000.00
618.6	UNIFORMED OFFICERS	\$	1.00	15,000.00	15,000.00
618.7	FLAGGERS	HR	40.00	30.00	1,200.00
619.1	MAINTENANCE OF TRAFFIC INCLUDING DUST LAYING	U	1.00	10,000.00	10,000.00
622.5	REMOVE AND RESET MONUMENTS	EA	250.00	6.00	1,500.00
628.2	SAWED BITUMINOUS PAVEMENT	LF	100.00	3.00	300.00
632.3106	RETROREFLECT. PAVE. MARKING, 6" LINE	LF	1,000.00	0.75	750.00
632.3112	RETROREFLECT. THERMOPLAS. PAVE. MARKING, 12" LINE	LF	120.00	40.00	4,800.00
632.32	RETROREFLECT. THERMOPLAS. PAVEMENT MARKING, SYMBOL OR WORD	LF	25.00	40.00	1,000.00
632.9112	OBLITERATE 12-INCH LINE	LF	180.00	1.00	180.00
632.92	OBLITERATE SYMBOL OR WORD	EA	10.00	25.00	250.00
645.2	MATTING FOR EROSION CONTROL	SY	300.00	5.00	1,500.00
645.512	TURF ESTABLISHMENT WITH MULCH	SY	3,500.00	5.25	18,375.00
645.531	SILT FENCE	LF	4,000.00	4.00	16,000.00
646.1	TURF ESTABLISHMENT WITH MULCH	A	2.50	2,000.00	5,000.00
692.	MOBILIZATION	U	1.00	20,000.00	20,000.00
700	PRE-ENGINEERED BRIDGE - 16' SPAN w/ ABUTMENTS	U	30,000.00	1.00	30,000.00
901.0	PRECAST CONCRETE HEADWALS	EA	2.00	1,500.00	3,000.00
902.0	TRUNCATED DOMES FOR HC RAMP	SF	50.00	50.00	2,500.00
SUB-TOTAL					\$ 415,859
20% Design and Construction Engineering					\$ 83,172
Environmental Permitting					\$ 30,000
TOTAL					\$ 529,030

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: June 15, 2016

Re: Update on Return of Surplus Funds by LGC/HealthTrust

On April 29, 2016, we advised the Board that a settlement had been reached between a coalition of 14 communities and the Health Trust for a return of accumulated surplus funds by the Local Government Center / Health Trust based on legal action brought by the Coalition in late 2013.

The settlement for the Town of Auburn determined the full potential amount of return was \$8,753.89 and the case would be settled for half of that amount, which would be \$4,376.95. Following legal fees, Auburn's net return would have been \$2,932.56.

On June 8, 2016, we received correspondence from the attorneys handling the matter that based on the Coalitions' successful legal process resulting in a NH Supreme Court decision that State Regulators had erred in not including the Coalition communities in the original return of surplus distribution by the former Local Government Center – State Regulators have now scheduled hearings to determine all of the towns and other political subdivisions that had been in the same position as the Coalition towns, but had not taken legal action.

As a result, our settlement is suspended and hearings will be held by the State Regulator to determine who beyond the coalition of 14 communities is due a refund. As part of this process, the Coalition's attorneys will be arguing that State Regulators should spread the cost of the legal action borne by the Coalition communities, which proved the regulators had made an error, by the totality of communities who will now be benefiting.

Although the settlement resolution in the matter is now up in the air due to the regulators actions, the end result for the Town of Auburn should be that we will receive more of our maximum return of \$8,753.89 than the settlement would have yielded, particularly if legal costs are shared by a greater number of communities.

Attached is the correspondence from legal counsel representing the Coalition communities, in addition to the most recent order issued on June 3rd by State regulators in this matter.

Thank you for your consideration.

DL&G DOUGLAS, LEONARD & GARVEY, P.C.

A T T O R N E Y S

Charles G. Douglas, III*
C. Kevin Leonard
Carolyn S. Garvey
Benjamin T. King**
Richard J. Lehmann
Jason R. L. Major
Theresa M. Spearing*
Sean R. List

14 SOUTH STREET, SUITE 5
CONCORD, NEW HAMPSHIRE 03301

Telephone: 603-224-1988
Facsimile: 603-229-1988
Email: mail@nhlawoffice.com
www.nhlawoffice.com

* also admitted in MA

** also admitted in ME

June 6, 2016

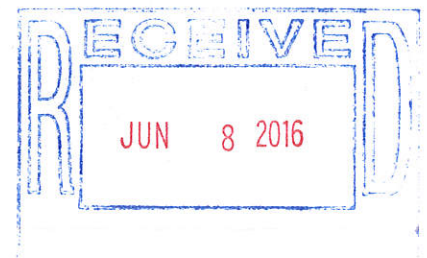
William G. Herman, Town Administrator
P.O. Box 309
Auburn, NH 03032

Re: Town of Salem, et.al v. LGC, et.al

Dear Administrator Herman:

This letter is to update you on the status of your case. As you know, we have spent the last year trying to reach an agreement to refund money you paid to HealthTrust while you were members. We won in New Hampshire Supreme Court and then reached a settlement for a refund with HealthTrust. However, after reaching this settlement the New Hampshire Bureau of Securities Regulation stepped in and indicated that it would attempt to obtain a refund on behalf of all of the towns and other political subdivision that were in the same position as your town. They decided to do this only after you and seven others had intervened in the case and only after we took your case to the New Hampshire Supreme Court, and won. A copy of the hearings examiner's most recent decision is enclosed.

As a result, the current status of the case is now up in the air. We filed a motion indicating that if the hearing examiner is going to award money to towns that did not intervene the way you did, that it would only be fair for those towns to should the burden of your legal fees. On Friday, the hearings examiner notified us that there would be a meeting on June 13 to schedule further hearings and to discuss issues related to the case.



June 6, 2016

Page 2

I will continue to try to get you more money and keep you posted of the progress.

Very truly yours,

A handwritten signature in black ink, appearing to be 'RJL', with a long, sweeping horizontal line extending to the right.

Richard J. Lehmann

RJL:dae

Encl.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF STATE

IN THE MATTER OF:

Local Government Center, Inc. et al

RESPONDENTS

)
)
)
)
)
)
)

Case No.: C-2011000036

INTERIM ORDER FOLLOWING REMAND

This administrative proceeding returns to the presiding officer to address the mandate on remand ordered by the New Hampshire Supreme Court. *See Appeal of Town of Salem*, __ N.H. __, 133 A.3d 595, 602 (2016). In that decision, the Court determined “to the extent the presiding officer concluded that he lacked authority to penalize a violation of RSA 5-B:5, I(c) by ordering payment to former members of a pooled risk management program as either restitution or disgorgement, he committed an error of law. Accordingly, we vacate the presiding officer’s decision and remand for further proceedings.” *Id.* The parties to this matter contend different points of view as to the scope of the Court’s mandate on remand.

Because the parties are well familiar with the factual and procedural history of this matter and because the history has been recounted many times, those facts do not bear repeating here. By way of brief summary, litigation in this matter began on September 2, 2011 with a staff petition submitted by the Bureau of Securities Regulation (“BSR”), to the Secretary of State, to initiate an enforcement action against the Local Government Center, Inc. (“LGC”) and certain related entities. To date the numerous novel and complex issues of fact and law have required tens of hearings, numerous administrative orders, substantial structural reorganization of respondent entities, the affirmed disgorgement and redistribution of funds held as illegally retained surplus, and two appeals to the New Hampshire Supreme Court. At this stage in this protracted and highly contested matter, the remaining parties actively participating are: the BSR, as the agency charged with enforcement of RSA chapter 5-B, the governing statute of the state’s pooled risk management programs; HealthTrust, Inc. (“HT”), a

successor in interest to the former LGC; and, a group of eight municipalities¹ with intervenor status.

As a continuation of this administrative proceeding, the BSR presents at this time a Motion to Establish Standing and Define Issues on Remand, dated May 16, 2016. The BSR seeks to present evidence regarding what current and former members may be entitled to restitution or disgorgement and the appropriate amount of relief, if any, to be awarded. It is the BSR's position that the remand is not confined to the above-mentioned eight municipalities who were denied a potential distributive share of the \$17.1 million surplus funds. HT filed its Objection, dated May 25, 2016, contending BSR's Motion is moot because the presiding officer did not commit an error of law. Alternatively, HT contends the BSR's Motion should be denied because the BSR had a full and fair opportunity to litigate the issue of the universe of potential recipients of the \$17.1 million surplus funds, the BSR's Motion exceeds the scope of the Court's mandate on remand, and, for reasons of unfairness, HT may be required to make distributions in excess of the \$17.1 million surplus funds. The BSR then filed a Reply, dated May 27, 2016. Additional pleadings included a Reply filed by the Intervenors', requesting attorneys' fees if the BSR's Motion is granted. Finally, Property Liability Trust, Inc. ("PLT") has moved for dismissal as a participating party in this remanded administrative proceeding.

I. PRESIDING OFFICER'S ERROR OF LAW

The threshold consideration on remand is whether the presiding officer "concluded that he lacked authority to penalize a violation of RSA 5-B:5, I(c) by ordering payment to former members of a pooled risk management program as either restitution or disgorgement." The Court returned this question to the presiding officer. If he based his conclusion on a lack of authority, the Court concluded that he committed an error of law, and therefore, the remand would require further proceedings. **The presiding officer finds he committed an error of law when he wrongfully concluded that the statute restricted distribution of the \$17.1 million surplus funds to a universe comprised only of presently participating pooled risk members.**

The presiding officer denied the Intervenors' request for a proportionate share of the \$17.1 million surplus funds based on his conclusion RSA chapter 5-B "does not make provision for any past or former member of a pooled risk management program." The presiding officer interpreted the word "participating" to exclude any past or former member which was not a "currently participating member." This, as the Court points out, is the "error in the presiding officer's reasoning." Until the Intervenors were joined, the presiding officer had not defined the universe of potential recipients. It was after the

¹ Town of Salem, Town of Bennington, Town of Meredith, Town of Northfield, Town of Peterborough, Town of Plainfield, Town of Temple, and Town of Auburn.

BSR's Motion for Default and the Intervenor's Motion to Intervene that the presiding officer had to look to RSA chapter 5-B for what, if any, authority he had to order payment to former members. His interpretation of the statute led him to conclude that he lacked authority to order restitution or disgorgement to former members. This reasoning led to the denial of the Intervenor's Motion which proposed a distribution, because they were former members, not "currently participating members." The presiding officer erred when he circumscribed the remedy by improperly defining the universe of potential recipients of the \$17.1 million in surplus funds.

II. SCOPE OF REMAND

The scope of the remand is set by the Court's determination that the presiding officer erred regarding his interpretation of the statute's intent as to the universe of potential recipients. The presiding officer finds sufficient guidance under New Hampshire case law to determine the scope of the remand. In *Scarborough v. R.T.P. Enterprises*, the Court concluded "[a]lthough perfection of an appeal may divest the agency of jurisdiction with respect to issues on appeal, when a case is remanded by this court it means that the case is returned to the administrative agency to take further action in accordance with the opinion of the court." *Scarborough v. R.T.P. Enterprises*, 120 N.H. 707, 709 (1980) (citation omitted) (stating the Court's mandate was limited to the basis of a damage award and not the amount of damages). In a subsequent case, the Court concluded "[t]he scope of the remand is limited by the nature of the error or issue identified." *Kalil v. Town of Dummer Zoning Bd. of Adjustment*, 155 N.H. 307, 312 (2007). Although *Kalil* was addressing a remand to the Zoning Board of Adjustment, the principle applies with equal force. Both cases can easily be read together to provide a working framework for a remand. That is, the tribunal, in this case the presiding officer, can take further action to address the limited nature of the error or issue identified by the Court. The scope of the remand must accommodate the presentation of additional evidence to allow proper determination of which former members may qualify for a proportionate disbursement.

With that framework in mind, the Court "vacate[d] the presiding officer's decision and remand[ed] for further proceedings." The Court "note[d] that [their] decision merely clarifie[d] the scope of the secretary's authority under RSA 5-B:4-a; [they] express[ed] no opinion as to what penalty should be ordered in this case." The presiding officer acknowledges the impact of his error, as having an effect on not only the Intervenor's but also other potentially eligible former members. Because the Court vacated the part of the presiding officer's decision that related to former members, and because of the error committed by the presiding officer, the universe of potential recipients, who may share in the distribution of the \$17.1 million surplus funds, may change. This determination necessitates further limited proceedings in accordance with Court's order on remand, as the presiding officer did not make the basic findings of fact

to define the universe of potential recipients and their proportionate share of the \$17.1 million surplus funds. *See Kalil*, 155 N.H. at 312; *Scarborough*, 120 N.H. at 709.

The presiding officer agrees with the BSR; during this remanded administrative proceeding, he must determine whether former HT members are entitled to restitution or disgorgement—the universe of potential recipients—and, if so, the appropriate amount of such remedy—the proportionality of the \$17.1 million surplus funds. HT's arguments against a scope of remand that includes former members other than the Intervenor does not persuade the presiding officer. The presiding officer finds HT confuses issues preserved for appeal with the Court's mandate to address an issue in this matter that has been vacated in part and currently remains undeveloped. On the other hand, the BSR's position is consistent with its enabling statutes which grant it regulatory authority over pooled risk management programs and complies with the Court's mandate on remand.

III. MERITS OF PRECLUSION

It is well established that the policies behind collateral estoppel, *res judicata*, and other doctrines with preclusive effect “include[] considerations of judicial economy and finality in our legal system to avoid repetitive litigation.” *Tyler v. Hannaford Bros.*, 161 N.H. 242, 246 (2010) (quotation omitted). Finality underscores judicial economy. The Court vacated and remanded the presiding officer's decision for further proceedings. In doing so, it did not place finality on the issue of the universe of potential recipients who may receive a proportionate share of the \$17.1 million surplus funds. For the reasons previously discussed, the issue awaits finality. HT's arguments in favor of preclusion cloud this rationale.

HT's position hinges on certain arguments by the parties that were made, or not, in earlier points during this administrative proceeding. It includes references to the BSR's Amended Petition, statements made in a Termination Notice—which was terminating the “so-called secret” agreement—and hearings and pleadings leading up to the presiding officer's denial of former members from receiving a proportionate share of the \$17.1 million surplus funds. This action taken by the presiding officer improperly circumscribed the remedy under RSA chapter 5-B, as concluded by the Court. To resolve this issue, the Court clarified the scope of the secretary's authority. Whether, or not, the presiding officer committed an error of law, the Court's opinion states the law; former members are considered among the universe of potential recipients under RSA chapter 5-B. Because the presiding officer did commit an error of law, it is now necessary to identify the members who compose the universe of potential recipients and their proportionate share of the \$17.1 million surplus funds. The Court's mandate on remand is not a call to re-litigate issues which, through a full and fair opportunity to respond, have reached finality. Instead of affirming the presiding officer's decision or declining to entertain the Intervenor's assertion on appeal, the Court vacated and

remanded. It did so because, after having clarified the law, the Court does not find facts. A conclusion to the contrary would prevent a tribunal from complying with the reviewing Court's mandate on remand.

Equally unpersuasive as to preclusion of a remand in accordance with the Court's order is HT's argument of unfairness that, when all is said and done, it may distribute an amount greater than the \$17.1 million surplus funds it was found to have wrongfully retained. This is the theme HT attempts to carry throughout its Objection. However trying the circumstances HT must now confront, it made distributions with knowledge of the Intervenor's appeal to the Court for review of the presiding officer's interpretation that he lacked authority to order payment to former members as either restitution or disgorgement. HT distributed shares of the \$17.1 million surplus funds to certain members when it was fully aware there was a disputed claim as to the appropriate universe of potential recipients. Further, it made distributions knowing that it may suffer liability if, as here, before a final decision by the Court that did anything other than affirm the presiding officer's Order completely. Here, proportionate shares of the \$17.1 million surplus funds may not have reached the appropriate universe of recipients. HT could have submitted the funds to the forum, Secretary of State, in an interpleader-like action or could have held the funds in escrow. This it did not do. The universe of potential recipients should not be penalized for the choices HT made when it was determined that HT violated RSA chapter 5-B and knew the issue of the universe of potential recipients was not final. Otherwise, in this case, a violator of RSA chapter 5-B would be granted partial immunity from liability.

IV. CONCLUSION

The New Hampshire Supreme Court specifically found the presiding officer had committed an error of law when he determined that he did not have authority to include former members in the distribution of the \$17.1 million surplus funds. Therefore, the Court "vacate[d] the presiding officer's decision and remand[ed] for further proceedings," *Appeal of Town of Salem*, __ N.H. at __, 133 A.3d at 602, to resolve the issue of who should receive what portion of the \$17.1 million surplus funds. The determination of who should receive what amount cannot be resolved through a settlement agreement that, beyond HT and the BSR, reaches only to eight former members, as they do not constitute the entire universe of potential recipients who may be due a proportionate share.

For the foregoing reasons, the BSR's Motion is granted. Any arguments raised by the parties that were not specifically addressed are properly disposed of by this Order, as the presiding officer finds sufficient basis to allow the presentation of evidence to satisfy the purpose of the remand.

Therefore, the presiding officer orders as follows:

ORDER

On June 13, 2016, a final scheduling hearing will be conducted beginning at 2 p.m. at a specific location in Concord to be later determined.

For planning purposes counsel should be advised that it is the presiding officer's intent to conduct the evidentiary hearing granted by this Order as soon as practicable.

In further order, the presiding officer acknowledges that no party has disputed or contested that PLT has repaid the \$17.1 million as required. PLT has expressed its intent to move for dismissal from these proceedings. The presiding officer hereby releases PLT from attendance from these instant proceedings, pending its submission of a formal motion for dismissal.

So ordered this 3rd day of June, 2016.



Donald E. Mitchell, Esq. NH Bar#1773
Presiding Officer

SERVICE LIST

cc: Barry Glennon, Esq.
Adrian S. LaRochelle, Esq.
Michael D. Ramsdell, Esq.
David I. Frydman, Esq.
Andru H. Volinsky, Esq.
Roy W. Tilsley, Esq.
Bruce Felmly, Esq.
Patrick Closson, Esq.
Richard J. Lehmann, Esq.
Charles G. Douglas, III, Esq.

Bill Herman

From: Jae Whitelaw <jae@mitchellmunigroup.com>
Sent: Wednesday, June 15, 2016 11:11 AM
To: assessor.clerk@brookfieldnh.org; Assist.; 'Barbara A. Lucas'; Bill Herman; Bob Belmore; Carina Parks; 'Cathy Graham'; 'Charleen Little'; contact@albanynh.org; 'Dave Jodoin'; deb.tibbetts@epsomnh.org; 'Dina Cuttin'; 'Donna Clark'; Eaton Town Hall; Ellen White; Eric Madbury Fiegenbaum; 'Jae Whitelaw'; 'Janice VandeBogart'; 'Jeanne Beaudin'; 'Jim Rice'; Jo Shelburne Carpenter; 'John Lachapelle'; 'John Scruton'; Judith Tautenhan; 'Judy Welch'; 'Julia Griffin'; 'Karen Clement'; Karen Corliss; Karen Litchfield White; 'Kathy Landry'; 'Keith Trefethen'; 'Line Comeau'; Marj Roy; selectmen@townofcarroll.org; Mike Ryan; 'Naomi Bolton'; Paul Branscombe; Richard Zacher; Rita Stewartstown Hibbard; Russ Dean; 'Sally Small'; 'Scott Myers'; Sue Nottingham Serino; 'Sue Smith'; Sue Stark Croteau; Sullivan Town; 'Tammie Beaulieu'; 'Terry Murphy'; 'Todd Selig'; Town of Groton; 'Walter Mitchell'; Brian Mycko ; paulbuss1@earthlink.net; scalley100@gmail.com
Subject: Fairpoint v. Municipalities

Good Morning - Again!

This is the last email of today (we all hope). I just wanted to let you know that a status conference has been scheduled for June 28, 2016 at 11:00. Clients do not need to attend. Hopefully we will have received the superior court's decision as to whether to send the appeals to the supreme court. If so, the court will probably address the motions to stay which I sent you earlier today, and any other issues the parties bring up as to what next steps, if any should be taken pending the appeal.

I will report in after the status conference. Please don't hesitate to contact me with any questions in the meantime. Thanks.

Jae

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**Town of Auburn
Board of Selectmen
June 13, 2016**

Selectmen Present: James Headd, Richard Eaton & Dale Phillips

Also Present: Parks & Recreation Commissioners David Nye, Alex Eisman and Margie McEvoy; Armand Miclette, Mike Dobmeier, Finance Director Adele Frisella and Town Administrator William Herman

Mr. Headd called the meeting to order at 1:03 PM.

Non-Public Session:

Mrs. Phillips moved to enter into Non-Public Session at 1:03 PM pursuant to the provisions of RSA 91-A: 3, II (a) and (c) compensation of public employees and reputation of someone other than a member of the Board. Second by Mr. Eaton. A roll call vote was taken: Mr. Headd – yes; Mr. Eaton – yes; Mrs. Phillips – yes. The motion passed.

Meeting in Non-Public Session with the Selectmen were Parks & Recreation Commissioners David Nye, Alex Eisman and Margie McEvoy; Armand Miclette, Mike Dobmeier, Finance Director Adele Frisella and Town Administrator William Herman.

Mrs. Phillips moved to come out of Non-Public Session at 1:54 PM. Second by Mr. Eaton. A roll call vote was taken: Mr. Headd – yes; Mr. Eaton – yes; Mrs. Phillips – yes. The motion passed.

Mrs. Phillips moved to seal the minutes of the Non-Public Session. Second by Mr. Eaton. A vote was taken, all were in favor, the motion carried unanimously.

The consensus of the Board of Selectmen was there was funding in the current budget between Recreation Secretary, Recreation Maintenance and Town Hall janitor to cover three part-time positions for 10 – 11 hours per position per week. Parks & Recreation Commission Chair Nye will be responsible for scheduling work assignments a week ahead for all three positions.

Other Business:

Mr. Herman provided the Board with information on repairs required to the two boilers at the Safety Complex that were cited during the annual Department of Labor inspection. The parts for the repairs were \$775.28. As the work and expense had not been anticipated, he had been asked to see if the Board would consider covering the

expense from the Town's Building Renovation Fund. After reviewing the invoice and reports from the DOL inspection, the Board felt this was a maintenance item and should be shared between the Fire Department's and Police Department's building maintenance budget accounts.

Adjourn:

Mr. Eaton moved to adjourn; Mrs. Phillips seconded the motion. All were in favor, the meeting was adjourned at 1:59 PM.