



Select Board

21 State Line Road, West Stockbridge, Mass. 01266

Tel. (413) 232-0300 x319

Fax. (413) 232-7195

E-mail: admin@weststockbridge-ma.gov

Select Board Meeting

Tuesday, September 27, 2022
21 State Line Road, West Stockbridge
At 6:00 PM

Open Meeting

1. Approve Minutes from August 29, 2022 and September 13, 2022
2. Citizen Speak Time
3. Discussion/Business/Action items:
 - Introduction of the new EMTs – Fire Chief Steve Traver
 - Turn Park One Day liquor License for October 8, 2022 – Jared Gelomino
 - Agreement with Richmond for MVP Grant – Discussion/Vote – Marie
 - Senior Work-off Program Discussion– Andy Potter/Assessor Mary Stodden
 - Master Plan Committee Update – Dana Bixby
4. Select Board Speak
5. Adjourn

Zoom Link also available:

You are invited to a Zoom webinar.

When: Sep 27, 2022 06:00 PM Eastern Time (US and Canada)

Topic: SB Mtg

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/82982439130?pwd=RVlHb3lVYzVHa1cvR3l5eTMycytXZz09>

Passcode: 590851 Webinar ID: 829 8243 9130

Telephone: +1 301 715



Select Board

21 State Line Road, West Stockbridge, Mass. 01266-0525

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E-mail: admin@weststockbridge-ma.gov

Select Board Meeting Minutes August 29, 2022

Quorum present: Select Board Members Kathleen Keresey, Chair, Andrew Potter and Andrew Krouss and Town Administrator Marie Ryan

Also Present: Curt Wilton, Director of Public Works and Marc Portieri, Police Chief

Kathleen called the meeting to order at 6:00 PM and listed Select Board members present.

Approval of Minutes:

Andy Potter made a motion, seconded by Andy Krouss, to approve the Select Board minutes of July 18, executive session, July 18 regular meeting, August 1 and August 16, 2022.

Roll Call Vote:

Andy Krouss Yes

Andy Potter Yes

Kathleen Yes

Minutes approved.

Citizen Speak:

There was a suggestion about the possibility of holding hybrid meetings in the future.

Special Town Meeting:

Kathleen explained that Marie and Roger Kavanagh have worked on the Police Union Contract requiring an increase in the Police FY23 budget. Police Chief Marc Portieri reviewed the changes in the updated FY23 budget which will need to be approved in a Special Town Meeting to be held on October 6, 2022.

Marie informed the Board that there are 5 articles, which include an online off-site backup for the Town computers, the Police FY23 Budget increase, and some general and zoning bylaw

changes which should be included in the Special Town Meeting.

Andy Potter made a motion, seconded by Andy Krouss, to approve the articles, send the zoning articles to the Planning Board for review and hold the special Town Meeting.

Roll Call Vote:

Andy Krouss Yes

Andy Potter Yes

Kathleen Yes

Motion approved.

Appointment of David Evans as Conservation Commission Alternate Member:

John Masiero, Conservation Commission Chair, has requested that the Board appoint David Evans as the Conservation Commission Alternate Member.

Kathleen made a motion, seconded by Andy Krouss, to appoint David Evans as the Conservation Commission Alternate Member.

Roll Call Vote:

Andy Krouss Yes

Andy Potter Yes

Kathleen Yes

Motion approved.

Department of Public Works Update: Curt Wilton, Director of Public Works

Curt presented the Select Board with the following update:

DIRECTOR'S REPORT

8/29/2022

HIGHWAY

Great Barrington Road Traffic Study

On July 21, 2022 BSC Group had completed the study on the existing condition of Great Barrington Road (A.K.A. rt.41). The existing conditions were performed during a couple different time periods. In a 48-hour span starting on Wednesday, June 29 and Thursday, June 30, 2022 Precision Data Industries installed instrumentation to record traffic counts and their speeds. On Wednesday, July 6, 2022 between the hours of 10:00am-2:00pm BSC Group visited the area and did a visual observation of the roadway by driving and parking along the corridor to experience first-hand what type of traffic patterns and motor vehicle violations were being committed. Detailed findings with recommendations have been forwarded to the Select Board and have been posted on the Town's Web-Site. It is my recommendation to have a joint round table discussion with myself, Select Board, Town Administrator and Chief of Police to review and better understand the findings. I believe this will answer many questions and we will all have a better understanding of the document. After we all feel comfortable and satisfied we can then schedule an open meeting to invite all the Public for their input.

SMITH/WOODRUFF and MAPLE VIEW ROAD PROJECTS

All 3 of these streets have been leveled and prepped with fresh asphalt and are awaiting their final wearing course of the Chip-Seal application. To date we have spent \$103,179.27 on asphalt and \$50,883.00 to lay it down. The remaining oil and stone wearing surface is estimated to be +/- \$75,000.

The monies earmarked for these expenses will come from a combination of State-Aid Chapter 90 Funds, State Aid W.R.A.P (winter road assistance program) and Town Borrowing. These entire projects should be completed by October 1. It is also our plan to Pave and Resurface Wilson Road this season but due to lack of qualified Contractors with scheduling conflicts this project may not happen until next spring 2023.

SHARED PARKING LOT #5 ALBANY ROAD

March 29, 2022 the Town signed and entered into a shared parking lot agreement between 2 other parties at #5 Albany Road. The DPW followed a pre-existing improvement Plan and performed all the necessary construction tasks to improve the area. Total cost \$8,296. (breakdown, Survey \$2,541.00 and remaining materials labor and equipment rentals \$5,755.00). This Lot is now for Public Parking and will benefit the Down Town area with over +/- 50 parking spaces. The Town assumes the responsibility to maintain said Lot.

TOWN BUILDINGS:

We are still receiving complaints about our exterior LED light fixtures from the neighboring abutters who live around the Town Hall. Although an energy savings attempt, these Light Emitting Diode fixtures are a very intense lighting source and if you look at them you can experience spots in your eyes similar to looking into the sun. A job

I inherited, I have been in contact with all who were involved and who actually installed these fixtures to help rectify this situation. I hope to have more information on this issue soon.

CEMETERY:

The Cemetery Commissioners have been very active and have been meeting regularly on the first Friday of each month. We have had only 1 Social Media complaint of the way the grass mowing was done at the Village Cemetery back on August 24th. This back and forth bantering has been displayed from individuals whom had not witnessed this so called "unsatisfactory weekly grass mowing" with their own eyes but just love to jump on the band wagon and add their 2-cents. I mention this to make the Board aware of any negativity that gets thrown out there and would like to make you all aware that if I deemed this work unsatisfactory I will take full responsibility and see that this type of workmanship will not be tolerated. These complaints have not been brought forth to the Commissioners for discussion. It is that time of the year when we begin the process of scheduling our fall tree removals. Numerous selected large Pine trees have been selected for removal this fall. These trees are over 80-years old and have out lived their life cycle. Years-ago we have developed a plan to remove these large over grown hazards due to the costly repairs to the monuments and grounds when they come crashing down.

PARKS/RECREATION:

Kudos to the Parks & Recreation Committee Members (Cait, Joe, JP, Helen and Ashley). A split rail fence was installed early summer to help detour the geese from swimming up onto the grass where they would make a mess on the sunbathing area. We have found this fence to be a benefit in more ways than one as it also keeps small children from wandering down the shore line and possibly falling into the water. For the first time in several years the Parks was able to secure a Life Guard (Max Linder) down at the beach during the busy times this summer. Lastly, the Town's Tennis Court has received a new face lift. A special Thanks to Piretti Tennis Inc. for a professional job and fast turn over. The total cost for this improvement was \$9,850.00 (there have been numerous donations to this cause so the actual cost will be even less once these donations are totaled.

SOLID WASTE TRANSFER STATION:

Work is being done down at the Compactor in preparation for a completely new asphalt overlay of the entire roadway and loop. The metal/scrap container has had a temporary new location as the old spot is experiencing wall deterioration. I am waiting on figures to pour a new wall in place to better suit our needs. I am working with Wayne on developing new signage that will help the residents in the proper

disposal of many items.

This concludes the DPW report.

Policy for Public Hearings – Time of Day:

Andy Potter made a motion, seconded by Andy Krouss, to create a policy for all public hearings to be held in the evening.

Roll Call Vote:

Andy Krouss Abstain

Andy Potter Yes

Kathleen Nay

Motion does not pass.

Senior Work-off Program:

Andy Potter stated that he would like to gather information about a Senior Work-Off program for the Town that was introduced by the Vision Committee. Andy Krouss and Kathleen both agreed this would be a good program for the Seniors in Town. Andy Potter will continue to the next steps of speaking with the Assessor.

In-person Hybrid Select Board Meetings:

Kathleen agreed to in-person hybrid meetings as long as the option remains for the Board to reconsider if circumstances change with COVID. Andy Krouss suggested that there be precautions in place such as masking and social distancing.

The Board agreed to hold the next meeting in-person and hybrid with required masking.

Select Board Speak:

Andy Krouss mentioned there are signs around Town that the people posting them have not gotten permission to be placed on Town Property. Marie said that people can contact her and she can have the Police collect the signs and keep them at the Police Station.

Town Administrator Update:

Marie requested that the Board change their September 26th meeting to another date since the 26th is Rosh Hashanah. The Board agreed and will let Marie know what date works best for them.

A representative from the Elizabeth Freeman Center was unable to attend this meeting but had intended to ask permission to post some signs for their fundraising walk for the month of September. The signs would be posted at the Library, Farmer's Market, Rte. 102 and Rte. 41 and Swamp Road.

The Board agreed to give permission to post their signs.

Kathleen made a motion to adjourn, seconded by Andy Krouss.

Roll Call Vote:

Andy Krouss Yes

Andy Potter Yes

Kathleen Yes

Meeting adjourned at 7:33 PM.

Respectfully submitted,

Marie y. Ryan

Marie Y. Ryan
Town Administrator



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Select Board Meeting Minutes September 13, 2022

Quorum present: Select Board Members Kathleen Keresey, Chair, Andrew Potter and Andrew Krouss and Town Administrator, Marie Ryan

Also Present: Curt Wilton, Director of Public Works, Marc Portieri, Police Chief and Steve Traver, Fire Chief

Kathleen called the meeting to order at 6:00 PM and listed Select Board members present.

Approval of Minutes:

Kathleen asked to move the approval of the August 29, 2022 minutes to the next meeting.

Citizen Speak:

Town Historian Bob Salerno noted that the Town will be 250 years old in 2024. He suggested that the Boards and Committees start work on organizing a celebration well in advance.

Host Community Agreement with Wiseacre Farm:

Kathleen reported that she, Marie and Town Counsel have been working with Counsel for Jon Piasecki's Wiseacre Farm to create a Host Community Agreement (HCA) which has just been completed.

Kathleen made a motion, seconded by Andy Potter, to approve and accept the Host Community Agreement between the Town and Wiseacre Farm as written on September 13, 2022.

All Select Board members voted to approve.

Public Hearings – Time and Day of meetings:

Finance Committee Chair Bob Salerno stated that the Finance Committee at times held their FY23 budget meetings on weekday mornings because that is when most department heads

were available to attend. There was discussion about holding any committee or board hearings after 5 PM on a weekday or on Saturday if possible.

Kathleen made a motion, seconded by Andy Potter, that the Town requests that all public hearings by any Board or Committee are to be held after 5 PM on any weekday or on a Saturday morning as appropriate.

All Select Board members voted to approve.

8 Town Regional School District Planning Board Request for money:

The 8 Town Regional School District Planning Board has requested an additional \$15,000 from each Town to assist with their costs. Town Account Elaine Markham suggested that, if the Board votes to pay this, it would be to take the money out of the Stabilization Fund. This would require a 2/3rds majority vote at a Special Town Meeting. Finance Committee Chair Bob Salerno agreed.

Kathleen made a motion, seconded by Andy Krouss, to add an article to the warrant for the October 6, 2022 Special Town Meeting to request taking \$15,000 out of the Stabilization Fund to be given to the 8 Town Regional School District Planning Board.

All Select Board members voted to approve.

Fire Department Update: Fire Chief Steve Traver

Fire Chief Steve Traver informed the Board that the Fire trucks will be serviced next week. There has been an issue due to the recent drought with the fire hydrants. However, he said that there is plenty of water available using the tanker trucks.

Richmond has hired two EMTs, whose services will be shared by the two Towns. Steve had hoped to introduce them to the Board, but they were not available.

Set date and time for Trick or Treat:

Marie requested that the Board vote to set the date and time of Trick or Treat as October 31st from 4 PM – 6 PM.

Andy Potter made a motion, seconded by Kathleen, to set the date for Trick or Treat as October 31st from 4 PM until 6 PM.

All Select Board members voted to approve.

Posting Agenda Packet on the Website:

Andy Potter suggested that the agenda packets be posted on the website prior to Select Board meetings for attendees to be able to review what the Select Board will be discussing in advance.

The Board agreed and Marie will begin doing this for each Select Board meeting.

Traffic Study on Great Barrington Road – Update by Curt Wilton, Director of Public Works

Curt explained that the Town hired a firm to complete a Traffic Study on Great Barrington Road due to complaints of speeding and increased truck traffic on this road. The study was done on Wednesday, June 29th and Thursday, June 30th.

The study results showed that there are approximately 1450 vehicles per day using this road. Between the hours of 12 AM and 12 PM the truck traffic averaged approximately 5% of the total, and between 12 PM and 12 AM approximately 1.5%.

Curt reported that approximately 67% of all drivers exceeded the speed limit during the 48-hour time period studied.

Kathleen asked Chief Portieri how the traffic calming efforts were evolving, and Marc reported that the cruisers were – as much as possible – following the busses to and from the schools.

The Board asked Chief Portieri to continue to step up efforts to stop and warn, cite, or ticket drivers speeding in Town and on all roads within the Town limits.

Speeding and traffic control continue to be the main complaint received by the Select Board.

Select Board Speak:

Andy Potter would like the Assessor's Clerk to attend a Select Board meeting for a discussion about the Senior Tax Abatement Program. Marie will set that up in the near future.

Andy Potter would also like to meet with the tenants of the Trail Park to discuss possible new ownership and overall concerns of residents of the Park.

Town Administrator Update:

There will be a COVID vaccine and Flu shot clinic at the Town Hall on Tuesday, October 4th from 9 AM – 12PM. There is a flyer posted on the Town website with a link to sign up for an appointment.

Kathleen made a motion to adjourn, seconded by Andy Potter.

All were in favor.

Meeting adjourned at 7:50 PM.

Respectfully submitted,

Marie Y. Ryan

Marie Y. Ryan
Town Administrator



Town of West Stockbridge One Day Liquor License Application

(\$25.00 applicable fee)

Name of Responsible Party: Jared Gelormine

Address: 2 Moscow Rd

Contact Number: 727 520 3580

Organization holding event: Turnpark

Location of Event: 2 Moscow Rd.

Date and Time of Event: 4-10 pm

Type of Event: craft fair

Non-Profit Organization
ALL ALCOHOL
Circle One (above)

Other than Non-profit
BEER & WINE ONLY

Has permission been received from property owner to hold this event? ✓

Have servers had training in Alcohol service? yes

Do you have a Liquor Liability Insurance Policy? yes

I, the undersigned, understand and agree to the restriction and responsibilities of holding a One Day Alcohol License and certify that I am not prohibited from holding such license. I agree that the Town of West Stockbridge is in no way responsible for the actions of the applicant.

[Signature]
Applicants Signature & Date

9/10/22

Local Licensing Authority Signature & Date

MEMORANDUM OF AGREEMENT
by and between
the TOWN OF RICHMOND
and the TOWN OF WEST STOCKBRIDGE
for MVP Resilient Stormwater Action and Implementation Plan Grant

The purpose of this Agreement is to provide an understanding of billing and reimbursement of the above referenced grant received by both Towns.

WHEREAS the Towns of Richmond and West Stockbridge, neighboring towns in Berkshire County, received funding from the Municipal Vulnerability Preparedness (MVP) Program at the Massachusetts Executive Office of Energy and Environmental Affairs for a regional project to address inland flooding and become more climate ready and resilient.

WHEREAS the Town of Richmond, Massachusetts, acting herein by and through its Town Administrator, has entered into contract with WESTON & SAMPSON ENGINEERS, INC., with offices at 55 Walkers Brook Drive, Suite 100, Reading, Massachusetts 01867 for the work to be performed for both towns under said grant.

WHEREAS the Town of Richmond is the lead Town and is receiving all grant funds and will oversee administration of the funding.

WITNESSETH, for the consideration hereinafter set forth, the parties hereto agree as follows:

Section 1. Term: This agreement is for length of the MVP grant contract which ends June 30, 2023.

Section 2. Cost Reimbursement: Towns agree to the following reimbursements and payments

Richmond is the lead administration of all grant funds and is responsible for payments directly to the engineer, Weston & Sampson, for the Term of the contract.

Richmond will bill West Stockbridge monthly for its portion of the required 20% cash match to be paid to the Town of Richmond as reimbursement.

West Stockbridge will keep track of their 5% in-kind match for their personnel for reporting purposes.

Section 3. Amendments: This Agreement may be amended from time to time, but only by mutual written agreement of all the participating municipalities.

Section 4. Severability: If any of the provisions of this Agreement are found to be in violation of any law, rule or regulation, all other provisions of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the participating municipalities have caused this Agreement to be signed by their representatives, whose signatures are hereto affixed.

Town of Richmond: Town Administrator

Date: _____

Title: _____

Town of West Stockbridge: Town Administrator

Date: _____

Title: _____



DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Geoffrey E. Snyder
Commissioner of Revenue

Sean R. Cronin
Senior Deputy Commissioner

Informational Guideline Release

Bureau of Municipal Finance Law
Informational Guideline Release (IGR) No. 21-20
July 2021

Supersedes IGR 02-210 and Inconsistent Prior Written Statements

SENIOR CITIZEN AND VETERAN PROPERTY TAX WORK-OFF ABATEMENT PROGRAMS

(G.L. c. 59, § 5K and G.L. c. 59, § 5N)

This Informational Guideline Release (IGR) informs local officials about an increase in the maximum abatement that may be earned by seniors and veterans under the local acceptance property tax work-off program. It also explains the standards and procedures that apply to those local acceptance property tax work-off abatement programs.

Topical Index Key:

Abatements and Appeals
Tax Bills

Distribution:

Assessors
Collectors
Treasurers
Accountants and Auditors
Selectmen/Mayors
City/Town Managers/Exec. Secys.
Finance Directors
City/Town Councils
City Solicitors/Town Counsels

Bureau of Municipal Finance Law
Informational Guideline Release (IGR) No. 21-20
July 2021

Supersedes IGR 02-210 and Inconsistent Prior Written Statements

**SENIOR CITIZEN AND VETERAN
PROPERTY TAX WORK-OFF ABATEMENT PROGRAMS**

(G.L. c. 59, § 5K and G.L. c. 59, § 5N)

SUMMARY:

This Informational Guideline Release (IGR) informs local officials about two local acceptance statutes that allow cities and towns to establish property tax work-off programs for senior citizens and veterans.

The board of selectmen, town council or mayor with the approval of the city council in a community that has accepted G.L. c. 59, § 5K or G.L. c. 59, § 5N may establish a property tax work-off program for taxpayers who are over 60 years old or veterans. The statutes for the senior and veteran work-off abatement must be separately accepted by the municipality's legislative body. Under those programs, the senior or veteran "volunteers" his or her services to a city or town and earns a reduction in his or her property tax bill.

These guidelines supersede prior guidelines on the property tax work-off abatement program and any inconsistent prior written statements or documents. The guidelines also update the features and operation of the local option G.L. c. 59, § 5N for veterans and address the features and operation of both programs generally.

GUIDELINES:

I. LOCAL ACCEPTANCE

A. Acceptance

Acceptance of G.L. c. 59, § 5K (seniors) or G.L. c. 59, § 5N (veterans) is by vote of the municipality's legislative body, subject to charter. G.L. c. 4, § 4.

A municipality may accept either, both or neither of the two statutes.

B. Effective Date

The acceptance vote should explicitly state the fiscal year in which the program under the particular statute will first be available.

BUREAU OF MUNICIPAL FINANCE LAW

KENNETH WOODLAND, CHIEF

C. Revocation

Acceptance may be revoked, but the city or town must wait until at least three years after acceptance. Revocation is also by vote of the legislative body, subject to charter. G.L. c. 4, § 4B.

D. Notice of Acceptance or Revocation

The city or town clerk should notify the Municipal Databank if G.L. c. 59, § 5K (seniors) or G.L. c. 59, § 5N (veterans) is accepted or revoked. The notification should be made as soon as possible after the vote.

II. SCOPE OF ABATEMENT

A. Seniors

An individual must be over 60 years of age to earn a property tax abatement under a program for seniors established under G.L. c. 59, § 5K.

B. Veterans

An individual must be a “veteran” as defined in G.L. c. 4, § 7, Clause 43 to earn a property tax abatement under a program for veterans established under G.L. c. 59, § 5N. If the veteran has a service-connected disability or is deceased, the veteran’s spouse or surviving spouse may earn the abatement instead.

C. Ownership

Volunteers must be the assessed owner of the property on which the tax to be abated is assessed or have acquired ownership before the work is performed and the abatement applied. If the property is subject to a trust, the volunteer must have legal title, i.e., be one of the trustees, on the applicable January 1 assessment date, or at the time the work is performed.

More than one qualifying owner of the parcel may earn an abatement, unless local program rules limit multiple abatements on a parcel.

If both spouses own the property and each would qualify separately for a work-off abatement program, then either one could work the entire number of hours or each could work half or some other part of the time to make the total number of hours. In addition, under that program the number of volunteer hours do not necessarily have to be worked in full, and the taxpayer may be entitled to a partial abatement based on the reduced hours worked up to the cut-off date to apply the abatement to the tax bill.

D. Domicile

The volunteer does not have to be domiciled on their property to qualify for either volunteer work-off abatement program unless the municipality adopts a local rule requiring domicile.

E. Maximum Abatement and Hourly Rate

The maximum abatement volunteers may earn for a fiscal year is \$1,500 for seniors and \$1,500 for veterans.

Volunteers cannot receive credit for their services at an hourly rate higher than the state's minimum wage.

Cities and towns should also set the hourly rate no lower than the federal minimum wage unless advised by the Wages and Hours Division of the United States Department of Labor that the federal fair labor standards act does not apply to the program.

F. Personal Exemptions and Deferrals

Volunteers may earn abatements under the work-off program in addition to any property tax exemptions they may be eligible for under other statutes, such as personal exemptions under G.L. c. 59, § 5 or residential exemptions under G.L. c. 59, § 5C. They may also defer the balance of their taxes under G.L. c. 59, § 5, Clause 41A if they are eligible to do so.

The senior exemptions and deferral contained in G.L. c. 59, § 5, Clauses 41, 41A, 41B, 41C and 41C ½ require the applicant to be an owner of the property on July 1. That is a different standard from the requirement to have a legal obligation to pay the tax in G.L. c. 59, § 5K and G.L. c. 59, § 5N.

G. Multiple Employers

There is an opinion issued by the State Ethics Commission (EC-COI-04-4) that indicates that municipal employees may participate in a property tax work-off abatement program under certain circumstances. The opinion can be accessed at: <https://www.mass.gov/files/documents/2016/08/sd/rulings-04.pdf>.

Municipal employees seeking to participate in the program are advised to check with municipal counsel or the State Ethics Commission.

H. Proxies

The person performing the work must have a legal obligation to pay the tax. However, a city or town, by vote of its legislative body, subject to its charter, may vote to allow an approved representative to perform the services for an eligible taxpayer physically unable to provide services to the city or town.

Treasurers in a community that adopts this option should consult with the United States Internal Revenue Service (IRS) regarding the proper reporting procedure when the earnings result from work performed by a proxy.

I. Trusts

Being a trustee of the property on which the tax to be abated is assessed is sufficient for the senior or veteran to participate in property tax work-off programs under G.L. c. 59, § 5K or G.L. c. 59, § 5N because the trustee is under a legal obligation to pay the tax on the property.

J. Volunteer Employment Limitations

Eligible taxpayers must provide services to the city or town to which they owe taxes in order to earn a property tax credit under either program. Eligible taxpayers may not provide services to a regional school district since they do not owe tax to the district which will employ them or to a non-profit organization.

III. ADOPTION OF LOCAL PROGRAM RULES

After acceptance of the statute, the selectmen, town council or mayor with approval of the city council may establish a senior or veteran work-off program consistent with any local rules and procedures the municipality may adopt by by-law or ordinance. Those officials should coordinate the assignment of program participants to the various municipal departments where they will perform their volunteer services.

All program expenses are budgeted in the overlay rather than through appropriations. Therefore, the amounts needed to operate the programs should be considered when the municipal budget is developed. The assessors should factor in the amounts needed to fund the programs when determining overlay needs each year.

A municipality should adopt rules to determine:

- The hourly rate at which the tax reduction is to be computed;
- Any eligibility date;
- Any income asset limitations on eligibility;
- Any limitation of eligibility to a tax reduction on a volunteer's domicile;
- Any limitations on the number of volunteers or the types of work they may do;
- The use, if allowed, of approved representatives to perform the services for volunteers physically unable to perform the work themselves;
- Any other restrictions or regulations consistent with the intent of the law it elects to implement.

IV. CERTIFICATION OF SERVICE

The board, officer or department supervising the taxpayer's volunteer services must certify to the assessors the hours of services performed by the taxpayer **before** the actual tax for the fiscal year is committed. The certification must state the amount actually earned as of that time. Services performed after that date are credited toward the next

fiscal year's actual tax bill to the extent consistent with the program rules established by the municipality.

A copy of the certification must also be given to the taxpayer before the actual tax bill is issued. (See attached model that may be adapted to suit local needs).

V. TREATMENT OF "EARNED" AMOUNT

A. Treatment for State Tax Purposes

The amount of the property tax reduction earned by the taxpayer under this program is not considered income or wages for purposes of **state** income tax withholding or workmen's compensation. Zeroes may be inserted into the state wages box on the Forms W-2 for seniors and veterans who have participated in the property tax work-off programs under G.L. c. 59, § 5K and G.L. c. 59, § 5N. The state wages box on the Form W-2 is for reporting the total amount of taxable wages earned in the state. G.L. c. 59, § 5K and G.L. c. 59, § 5N both provide that the income "earned" under the programs is not subject to state income tax.

B. Treatment by Federal Government

The IRS, however, has ruled that under current federal law the abatement amount is included in the taxpayer's gross income for both federal income tax and Federal Insurance Contribution Act (FICA) tax purposes. In addition, if the community pays the taxpayer's share of FICA taxes, that amount is also income subject to federal income tax. Treasurers should verify with the IRS that their procedures comply with all applicable federal laws regarding income, Social Security and Medicare tax withholding on abatements earned under these programs, including issuance of a W-2.

Here, the "earnings" will have to be run through the payroll system in order to generate proper withholdings and reports to the IRS. Manual adjustments and reversing entries will then have to be made in order to have accurate state tax reports and have the earned amounts charged to the overlay account for abatements rather than salary appropriations.

VI. ACCOUNTING FOR ABATEMENTS

A. Credit Applied to Actual Tax Bill

Earned reductions must be applied to the actual tax bills for the fiscal year. The assessors must commit the full tax for the year and process the gross amount earned as certified by the board, officer or department supervising the taxpayer's volunteer services as an abatement to be charged against the overlay account. The taxpayer's actual tax bill, however, should only show a credit for the amount earned net of any federal withholdings. The municipal share of federal Social Security and Medicare taxes may also be charged to the overlay unless the community has otherwise provided.

B. Example:

Abatement Earned:	\$750.00
Less: Social Security	\$46.50
Less: Medicare at 1.45%	\$10.88
Credit to tax bill:	\$692.62

Since the amounts earned under G.L. c. 59, § 5K or G.L. c. 59, § 5N must be applied to the actual tax bills for the fiscal year as abatements, no checks should be issued to volunteers for return or deposit. Even if a municipality's computer system must generate a check for W-2 purposes, no checks should be issued to the volunteers.

C. Municipal Accounting for Credits

The gross amount earned should be paid out of the overlay. An actual abatement, however, should be processed only for the net amount. The difference attributable to federal tax withholdings should be transferred by the accountant to the agency account for the taxes. The treatment is analogous to employee salaries: the gross amount is charged to the salary budget, but the employee is paid the net amount, with withholdings held in an agency account until paid over to the taxing authority. The employer's FICA share should ordinarily be paid out of the regular appropriation that the municipality has for that purpose. However, if the community did not budget the FICA expense for the Senior or Veteran Work Program, that amount may be charged to the overlay account.

D. Community Preservation Surcharge Reduction

The community preservation surcharge should be reduced to reflect a work-off abatement. The abatement should be treated the same as other property tax abatements or exemptions for purposes of calculating the surcharge.

E. Banking of Credits Not Permitted

Earned reductions must be applied to the actual tax bills for the fiscal year in which they are earned. Services performed in the current fiscal year after the actual tax bills are issued must be credited toward the next fiscal year's bills. Excess reductions earned in the current fiscal year before the actual tax bills are issued may not be "banked" and applied to actual tax bills of future years.

F. Late Notice of Work Performed

In the event that a municipal department inadvertently fails to report the hours worked by a volunteer to the assessors before the actual tax commitment, the assessors may administratively abate an amount equivalent to the hours worked.

G. Sale of Property

Persons who participate in the program should be advised that all earnings are "paid" exclusively in the form of an abatement. Therefore, if a volunteer sells the property on which the tax is to be abated due to the performance of work-off services, it is up to the seller to ensure the reduction is taken into account at the time of closing in order for the

benefit to be credited to the seller in the same manner as exemptions they are eligible for in that fiscal year.

VII. STATUS OF VOLUNTEERS

Volunteers performing services in return for property tax reductions are employees for purposes of municipal tort liability. Therefore, municipalities are liable for damages for injuries to third parties and for indemnification of the volunteers to the same extent as in the case of injuries caused by regular municipal employees.

(MODEL)

(Copy must be given to the taxpayer before the actual tax bill is mailed)

City/Town of _____
Certificate of Completion of Volunteer Services

(G.L. Ch.59 §5K)

To: Board of Assessors

_____ the owner of a parcel at _____ has completed
(Taxpayer's name) (Property address)
_____ hours of volunteer work to be credited toward the fiscal year _____ tax
assessed on the parcel at the address listed above at the rate of \$ _____ per hour.

(Signature of Person Certifying Work)

(Board or Department)

(Date)

Program Name	Work-off Abatement Requires <u>Separate Local Acceptance</u> G.L. c. 59, § 5K (seniors) or G.L. c. 59, § 5N (veterans)	Municipal Employment
Assistance Type	<p>Reduces by means of an abatement the local property tax liability of senior/veteran volunteer in exchange for volunteer service to municipality</p> <p>Abatement of actual tax is <u>exclusive</u> means of providing assistance and head of department where senior/veteran volunteer worked <u>must</u> certify having worked and <u>wage rate to assessors before actual tax is paid</u></p>	<p>Provides supplemental income to help taxpayer pay local property taxes (or water, sewer or other local charges)</p> <p>Tax (or other bill) paid in part from earnings</p>
Statutory Eligibility	<p>Senior under G.L. c. 59, § 5K – Must be over the age of 60</p> <p>Veteran under G.L. c. 59, § 5N – Must meet definition of veteran in G.L. c. 4, § 7(43)</p> <p>Spouse of veteran with a service connected disability or surviving spouse of veteran also eligible</p>	<p>Determined locally</p>
Other Eligibility (seniors/veterans who qualify for other tax reductions or own with others participating in program; income or assets tests, etc.)	<p>Determined locally</p>	<p>Determined locally</p>
Application Procedure	<p>Determined locally</p>	<p>Determined locally</p>
Assistance Amount	<p>\$1,500 maximum for seniors and \$1,500 maximum abatement for veterans (or abatement attributable to 125 hours)</p> <p>Maximum hourly rate for service - state minimum wage—G.L. c. 151, § 1</p>	<p>Determined locally</p>
Income Tax Treatment	<p><u>Federal</u> – Abatement earned considered compensation subject to federal income and FICA taxes and must be reported to IRS (Treasurer should verify proper reporting procedure with IRS)</p> <p><u>State</u> – Abatement earned <u>not</u> income for state income tax (or workmen's compensation purposes) and need not be reported to DOR</p>	<p>Wages income for federal and state purposes and subject to all applicable federal and state withholding and reporting requirements</p>
Accounting	<p>Gross earnings charged to overlay</p> <ul style="list-style-type: none"> Assessors process abatement for earnings net of federal withholdings (as determined by treasurer) after actual tax committed and before actual bills issued Assessors notify accounting officer of gross amount to charge overlay and notify collector and accounting officer of abatement amount Collector shows abatement as credit against actual tax and calculates installment payments based on tax, as abated Accounting officer transfers federal withholdings amount to agency account for payment to United States (Municipal share of FICA taxes are charged to FICA appropriation, but may be charged to overlay if that appropriation not sufficient) 	<p>Gross earnings charged to appropriation</p> <p>Municipal share of FICA taxes charged to FICA appropriation</p>