

MEETING MINUTES

MAY 9, 2016

LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN, NH

Board of Selectmen Present: O.J. Robinson, Jayne Ludwig and Tamra Ham.

Staff Present: Town Manager Burbank, Finance Manager Helen Jones, Town Clerk/Tax Collector Johnna Hart, Chief Ted Smith, Chief Ron Beard, and Recording Secretary Wendy Tanner.

Public Present: Tammy Gionet Dutilly, Jim Welsh, Debbie Celino, Moe Lafreniere, Alex Ray, Lori Hogan, Patricia McTeague and Cindy Rineer.

I. CALL TO ORDER at approximately 5:30

Chairman Robinson called the meeting to order at 5:35 PM.

II. REVIEW AND APPROVAL- MINUTES OF THE PREVIOUS MEETING

- May 2, 2016

Review of the minutes was postponed to later in the meeting.

III. TOWN LAND/COMMON MAN SALE – PUBLIC HEARING

Chairman Robinson gave an overview of the shape of the lot which has been leased to the Common Man for over 17 years. Common Man owner, Alex Ray, would like to purchase this lot from the town. Letters from Paul Beaudin and Attorney Peter Malia regarding the sale of the lot were read into the minutes (see attached). In his letter, Paul Beaudin stated that this piece of property was also mentioned in the 2014 Town Meeting. Tamra Ham wanted to make it clear that the actual corner of this lot questioned at the 2014 Town Meeting was not the portion being rented to the Common Man, but a different portion located further down Forest Ridge Road.

The first public hearing was held two weeks ago on April 25, 2016. Public opinion at that meeting was one objection in writing and two approvals from members of the audience.

Chairman Robinson explained that when it was officially submitted to the Planning Board, there were no objections or concerns brought up at that time.

Jim Welsh expressed that the plot of land was not fit for children to play on because of the proximity of three roads and a parking lot and felt that the land should be sold. Patricia McTeague did not remember any serious opposition from past meetings on the property. Pat Romprey did not believe there would be any issues with the sale of the lot.

The Common Man has been located on the adjacent lot since 1985.

This topic was brought up again in the public session. See page 6, section “Kanc Rec Area Land”.

MOTION to bring an application to the Planning Board to do an official lot line adjustment and then proceed with the sale of the land as proposed.

Motion: OJ Robinson

Second: Tamra Ham

All in favor.

Motion passes.

TAX DEEDED PROPERTIES

Town Manager Burbank explained that there is a quarter share condominium located at the Mountain Club that is currently in probate after the owner passed away. The property has been for sale, but has no takers because of the \$1,360.92 tax lien, as well as condominium maintenance fees that are past due and legal fees. There is a minor child who is never going to take ownership of the property.

Lori Hogan explained that there are also fees owed to the Mountain Club and that the attorney fees to resolve this issue are already over \$7000. They are trying to sell it internally to another owner but need to obtain clear title to the property.

Town Manager Burbank recommended that if the town were to abate the outstanding taxes, Lori Hogan can then proceed to sell the property to an internal owner. Without abatement from the Town of Lincoln, Lori Hogan cannot obtain clear title for the property, and none of the prospective buyers were interested unless clear title could be obtained. The property has been in tax lien for three years and will be going to tax deed if it is not sold. The value of the property is between \$12,000 and \$18,000 depending upon the physical condition.

•The town's position is not to become condominium owners and would prefer that the property were sold. There was a brief discussion about the lien and tax deed process and timeline. Lori Hogan said that she has a person interested in the property that is currently out of the country.

MOTION to accept abatement for \$1,360.92 contingent upon the sale of the property.

Motion: Jayne Ludwig

Second: Tamra Ham

All in favor.

Motion passes.

POST-ISSUANCE TAX COMPLIANCE POLICIES

There was a brief discussion about the fees associated with the post-issuance tax compliance policies.

MOTION that the post-issuance tax compliance policies and procedures attached hereto as exhibit A the Board hereby approves, and that the board hereby names the Finance Officer as the "coordinator" under the post issuance tax compliance policies and procedures and that the Finance Officer has accepted such nomination and that this resolution shall take effect from and after its adoption.

Motion: OJ Robinson

Second: Tamra Ham

All in favor.

Motion passes.

Finance Officer Helen Jones accepted the position.

BONDS

The bonds that were approved on May 2, 2016 were presented to the Board of Selectmen for review and signing.

After the bonds were signed, Helen Jones left the meeting.

IV. TOWN OF LINCOLN TREASURER *Discussion*

There have been two interested parties that will be interviewed on May 16, 2016 in non-public session.

V. OLD BUSINESS

☐ Town Managers Report

Loon Pond Dam

DES (Department of Environmental Services) asked for additional engineering clarification which is already in the works and should not hold up the project.

Town Ordinances

Town Manager Burbank researched ordinances for the town and found very few signed copies. Police Chief Smith, Fire Chief Beard and Administrator Jane Leslie will be reviewing all the town ordinances and updating as needed.

Police Chief Smith submitted an updated Public Drinking Ordinance for review by the Board. Chief Smith explained to the Select Board that the police cannot enforce the open container laws without having a signed copy of the ordinance. The Public Drinking Ordinance was adopted by the town in 1992.

There was a long dialogue about the wording of the ordinance. Drinking in the lobby of an apartment building was discussed.

MOTION to accept the Public Drinking Ordinance as written.

Motion: Jayne Ludwig Second: OJ Robinson 2 for, 1 against.

Motion passes.

Beechwood Roads

The bid opening is May 12, 2016 on Beechwood roads.

Pollard Road Sidewalk

Conceptual plans should be received within a week or two and then the neighborhood meetings will begin to discuss options.

Consumer Confidence Report on Water

The report will be mailed out to all residents with the tax bills at the end of this month. There was a brief discussion asking if anything was found that would trigger extra testing in the town. Town Manager Burbank mentioned that there was a slightly elevated lead count in one test site but this has happened at this site before and that would not be cause for extra testing.

Solid Waste Facility and River Front Park

The building at the Solid Waste Facility has floor drains. The report done by Calex Environmental Consulting listed that it is unknown where the floor drains discharge. The tests will be done to determine the location of discharge and building plans will be researched.

A discussion ensued about doing further assessment of the land for use as a park. Placement on the land for a fishing dock, covered picnic pavilion, skate park and restroom facilities are some of the things that the Park Committee discussed. The best use of the land and locations of various items on the lot were the concerns of the Park Committee.

At some point in the planning stages of the park, there must be a definitive line drawn on the lot between the Solid Waste Facility and the actual park. Further discussion ensued about locations of specific projects on the lot and if further testing would be required. More testing on the site would not be done unless there was a need to know in specific areas.

AHEAD (Affordable Housing, Education and Development)

The Board read a letter from the AHEAD organization. (Copy attached) AHEAD is located in Littleton and Conway, New Hampshire and is interested in town owned land to build affordable housing in Lincoln.

Affordable housing is income based and would not be used for second homeowners. Monthly income and the use of town land were discussed. The consensus was that town land should not be used for housing projects. Chairman Robinson and Tamra Ham would encourage the town to change the density requirements to make it feasible to put in workforce housing on private land rather than build on town land.

The Select Board would suggest that private property is used for this purpose and not town land.

Grants for the Police Department

Chief Smith explained that he applied for a grant for vests which will cover 50% of the cost. Two other grants for highway safety were also submitted, a grant for distracted drivers which allows for extra patrols and a grant for equipment.

There was a brief discussion about automated external defibrillators (AED) and the current systems owned by the town. One was used recently and worked very well. Purchasing more of the units was expressed and the Board discussed critical areas where AED's should be located.

911 Numbering

The police department has started checking houses in town to see that all homes are properly numbered with 911 addresses. A letter was drafted, for homeowners that do not have proper numbering on their homes, to explain the importance of the 911 system.

There are residents in town that will not properly number their homes even after speaking to the police department. There was a discussion about adopting an ordinance to ensure people would put the proper 911 numbering on their houses.

New Officers

Police Chief Smith talked about the new officers and the training required for New Hampshire officers. In July the Police Department is expected to be back at full staff.

Draft Minutes

The Board discussed the draft minutes being posted on line. The selectmen did not agree that the draft minutes should be available online. The law reads that the non-public minutes must be available within 72 hours (unless the body has voted to seal the minutes), and the public minutes available in 5 days. The selectmen agreed that only the approved minutes should be posted to the web site.

If the public requests the minutes before they are approved and posted to the web site, they will need to come to the town hall and submit a request.

Paul Bartlett

Mr. Bartlett is going to install cameras behind shopping center. Some of the employees working at the Movie Theater were afraid to go near the dumpster and were seen throwing the bags toward the dumpster. This could be the cause of the trash being blown into the woods.

The Select Board is still demanding that the woods behind the dumpsters, which is town land, also be cleaned up by the shopping center owner or tenants. The camp sites are being cleaned up by the Public Works employees.

Mr. Bartlett is aware that it is his responsibility as owner of the shopping center to ensure the dumpsters are secure. A formal cease and desist will be issued if noncompliance to the town ordinance continues.

Junk Yard

Mr. Chenard has been contacted by Town Manager Burbank twice and still has not come in to talk to the town about the trash. According to Town Manager Burbank recently Mr. Chenard has been acquiring washers and dryers that have started to appear in his yard.

☐ **Public Participation**

Tammy Gionet Dutilly

Route 3 North Trash

While driving north toward the Franconia Notch on Route 3 Tammy Gionet Dutilly noticed garbage bags on the other side of the river near the Franconia Notch Motel. Also on Pollard Road between the condominiums and the Penguin Ski Club there is trash on the ground. Fire Chief Beard said that the dumpster behind the ski club is already being dealt with by his department and that the dumpster itself needs to be locked. The bags of trash on the river off of Route 3 will be researched.

Record Meetings

Tammy Gionet Dutilly asked if it would be alright if the public were to record or video tape meetings. Town Manager Burbank explained that there is no law against it and that it was legal in a public meeting for the public to tape the meeting without notice.

The answer was that it was ok for members of the public to tape public meetings, but that it would be preferable to announce that the meeting was being taped.

Solid Waste Facility

When construction companies dump their debris into the construction bins, nails tend to drop on the ground in front of the bin. Tammy Gionet Dutilly said that it should be the responsibility of the person dumping the construction debris to ensure that the ground is clean before they leave. Town Manager Burbank will look into possible ways to ensure the ground is clean after each contractor.

Fire Department Training

The Fire Department did a 10 hour practical training exercise using vehicles that were rolled over. Training was done to remove people from these vehicles. Tamra Ham expressed her thanks for that type of training and felt safer knowing that emergency training measures were taken to rescue people from difficult situations.

Route 3 Southbound

Near the Flume there is a speed limit sign that reads "speed limit 30, slow down". Tamra Ham believed that the speed limit is 45MPH not 30MPH in that area and thought that the sign should be changed. The sign will be checked and if wrong, the speed limit will be corrected.

Street Lights

On the corner of Main Street and Dodge Place there is a street light that has been out for a long time and that corner is very dark. There is another street light on Pleasant Street that never goes off. The numbers on the pole are bent and broken and not legible. Town Manager Burbank will get the correct pole numbers to report these lights.

Town Property

Tammy Gionet Dutilly asked if some town property could be kept nice and not have buildings built on all the town land.

Kanc Rec Area Land

There is a small piece of land that is part of the Kanc Rec Area land which has been rented to the Common Man for parking for many years. Another email from Paul Beaudin was read into the minutes (see attached). There was a brief discussion about these emails and the town reports that were mentioned in the emails.

7:38

Approval of the Minutes of May 2, 2016

MOTION to approve the minutes of May 2, 2016 as amended.

Motion: Tamra Ham Second: Jayne Ludwig 2 in favor.
Motion passes.

Chairman Robinson abstained.

VI. NON PUBLIC SESSION Pursuant to RSA 91-A: 3II (a,c,e,d)

MOTION to enter non-public session at 7:42 P.M.

Motion: Tamra Ham

Second: Jayne Ludwig

All in Favor.

Motion passes.

MOTION to enter non-public session at 8:15 P.M.

Motion: Tamra Ham

Second: Jayne Ludwig

All in Favor.

Motion passes.

VII. ADJOURNMENT

After reviewing the weekly accounts payable and with no further business to attend to, the Board made the following motion.

MOTION: "To adjourn."

Motion: O.J. Robinson

Second: Tamra Ham

All in favor.

Motion passes.

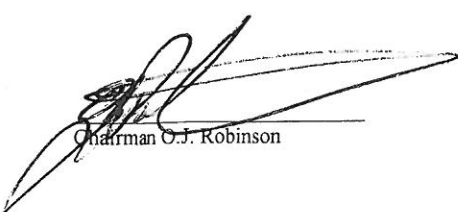
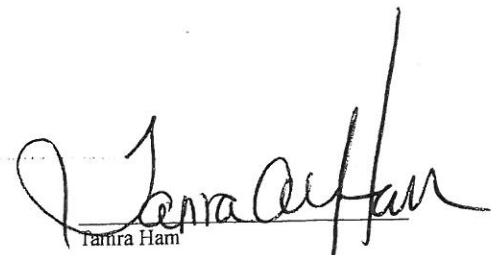
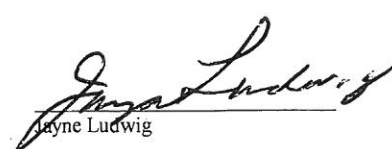
The meeting adjourned at 8:25 PM.

Respectfully Submitted,



Wendy Tanner

Approval Date 05/16/2016


Chairman O.J. Robinson
Tamra Ham
Jayne Ludwig

townmanager

From: Paul Beaudin <pj_b@roadrunner.com>
Sent: Monday, May 09, 2016 6:27 PM
To: Peter Malia; townmanager
Cc: 'OJ Robinson'; Jayne Ludwig; akham@myfairpoint.net
Subject: Re: 2nd public hearing on Comman Man sale of Town Property
Attachments: Town Reports Land 2.pdf

Peter – attached are the excerpts from the Lincoln Town Reports for 1971 and 1974 which I have previously noted to the Town; the 1971 report clearly uses the language “use for children”. While the deed may not have referenced community purposes, it would appear to me that you are splitting hairs, the Town clearly discussed the property at two town meetings relative to its perspective use for community purposes. I only ask that the Selectmen meet the intent of the law and bring the question to the voters at the 2017 Annual Town Meeting and let it be a town-wide vote to dispose of the property as justice may allow.

Thank you for your time.

Paul

From: Peter Malia
Sent: Monday, May 09, 2016 12:05 PM
To: townmanager ; Paul Beaudin
Cc: 'OJ Robinson' ; Jayne Ludwig ; akham@myfairpoint.net
Subject: RE: 2nd public hearing on Comman Man sale of Town Property

Paul:

Butch forwarded your e-mail below to me. It is the Town's intention to do this right, and follow NH law, so I have a question for you. You have the phrase for “use for the children” in quotation marks. Where does that quote come from?

Thus far, the position that I have taken is that RSA 41:14-a, II (c) requires town meeting approval prior to the sale of land acquired by gift to the town, if the gift was for “charitable or community purposes.” However, the statute does not stand for the proposition that every gift of land to the town requires town meeting approval before said land can be sold to a third party – only gifts made specifically for charitable or community purposes. I don't see anything in the 1973 deed which would indicate that the land was given to the town for charitable or community purposes, nor do I see anything in article 22 from the 1973 town report which would support such an argument.

Peter

HASTINGSMALIA PA.

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From: Paul Beaudin [mailto:pj_b@roadrunner.com]
Sent: Sunday, May 08, 2016 9:15 PM
To: OJ <oj@cpointadvisors.com>
Cc: townmanager <townmanager@lincolnnh.org>
Subject: 2nd public hearing on Common Man sale of Town Property

I would like this read into the May 9, 2016 2nd public hearing on the disposition of the Town property to the Common Man.

Dear Lincoln Board of Selectman:

I am writing as a taxpayer to express my disapproval of the method that you are using to sell the Town of Lincoln's property to the Common Man. While I realize that you have been given permission by the voters to sell and convey land. This land according to RSA 41:14-a does not allow you to sell this land, as it was gifted to the Town's people for "use for the children". This land was gifted to the Town's people of Lincoln by Mr. Marcalus in 1973 and although you as a Board may be the stewards of this property you do not have the right to sell or convey this to another person without being voted on by the taxpayers of this town at the next Town Meeting. This same piece of property has been the subject of a previous Town meeting in 2014 and the taxpayers at that time expressed their intent to not sell or convey a portion of this Town of Lincoln property. I would also like for the record to know why the current Board of Selectman believe that they have the right to convey a piece of property that has been given to the taxpayers of Lincoln for recreational use for our children.

Respectfully submitted : Paul Beaudin II
Lincoln Taxpayer

townmanager

From: Olivia Bealeu <olivia@homesahead.org>
Sent: Thursday, May 05, 2016 1:48 PM
To: townmanager
Subject: Lincoln Land for Affordable Housing

Hi Butch,

Thank you for taking the time to talk with me. If you have any thoughts on land available for development, please do not hesitate to share these. We would be game to look into identifying funding options for the environmental issues and would not rule out including a park amenity as part of the housing. We may have to draw the line on what type of park if there is a liability our Board is not anxious to take on, but our housing does try to go beyond the typical set up. We look forward to hearing from you and your Board.

Thank you,
Olivia

Olivia C. Bealeu, Director of Development | AHEAD Inc. | 161 Main St. | Littleton, NH 03561 | 603.444.1377 x 1019

EXHIBIT A

POST-ISSUANCE TAX COMPLIANCE POLICIES AND PROCEDURES

TOWN OF LINCOLN, NEW HAMPSHIRE

POST-ISSUANCE TAX COMPLIANCE POLICY AND PROCEDURES FOR TAX-EXEMPT OBLIGATIONS

The purpose of this Post-Issuance Tax Compliance Policy and Procedures is to establish policies and procedures in connection with tax-exempt bonds and notes (the "Bond" or "Bonds") issued by the Town of Lincoln, New Hampshire (the "Issuer") so as to maximize the likelihood that all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Bonds are met.

1. Compliance Coordinator:

- a) The Finance Officer ("Coordinator") shall be responsible for monitoring post-issuance compliance.
- b) The Coordinator will maintain a copy of the transcript of proceedings in connection with the issuance of any tax-exempt obligations. The Coordinator will obtain such records as are necessary to meet the requirements of this policy.
- c) The Coordinator shall consult with bond counsel, a rebate consultant, financial advisor, Internal Revenue Service ("IRS") publications and such other resources as are necessary to understand and meet the requirements of this policy.
- d) Training and education of the Coordinator and his/her staff will be sought and implemented upon the occurrence of new developments and upon the hiring of new personnel to implement this policy.

2. Record-Keeping.

a) Financing Transcripts. The Coordinator shall confirm the proper filing with the IRS of an 8038 Series return, and maintain a transcript of proceedings for all tax-exempt obligations issued by the Issuer, including but not limited to all tax-exempt bonds, notes and lease-purchase contracts. Each transcript shall be maintained for as long as the Bonds are outstanding, plus three (3) years after the final redemption date of the Bonds. Said transcript may be maintained in electronic format and shall include, at a minimum:

- 1) Form 8038s;
- 2) minutes, resolutions, and certificates;
- 3) certifications of issue price from the underwriter, if applicable;
- 4) formal elections required by the IRS;

- 5) trustee statements, if applicable;
- 6) records of refunded bonds, if applicable;
- 7) correspondence relating to bond financings;
- 8) reports of any IRS examinations for bond financings;
- 9) documents related to governmental grants associated with construction, renovation or purchase of bond financed facilities, if applicable; and
- 10) publications, brochures, and newspaper articles, where applicable.

b) Modification to Financing Documents. The Coordinator shall determine if there is any "significant modification" to bond documents resulting in reissuance under Treasury Regulations §1.1001-3, in consultation with bond counsel and any other legal counsel and financial advisor. The Coordinator shall retain proof of filing new Form 8038 and relevant documentation plus final rebate calculation on pre-modification bonds.

3. Proper Use of Proceeds. The Coordinator shall review the resolution authorizing issuance for each tax-exempt obligation issued by the Issuer and shall:

- a) obtain a computation of the yield on such issue from the Issuer's financial advisor;
- b) create a separate Project Fund (with as many sub-funds as shall be necessary to allocate proceeds among the projects being funded by the issue) and a separate Cost of Issuance Fund as necessary to allocate proceeds to Bond issuance costs into which the proceeds of the issue shall be deposited, as applicable;
- c) review all requisitions, draw schedules, draw requests, invoices and bills requesting payment from the Project Fund;
- d) determine whether payment from the Project Fund is appropriate, and if so, make payment from the Project Fund (and appropriate sub-fund if applicable);
- e) maintain records of the payment requests and corresponding records showing payment;
- f) maintain records showing the earnings on, and investment of, the Project Fund;
- g) ensure that all investments acquired with proceeds are purchased at fair market value;
- h) identify bond proceeds or applicable debt service allocations that must be invested with a yield-restriction and monitor the investments of any yield-

restricted funds to ensure that the yield on such investments does not exceed the yield to which such investments are restricted;

- i) maintain records related to any investment contracts, credit enhancement transactions, and the bidding of financial products related to the proceeds; and
- j) monitor and maintain records of the reimbursement of costs previously expended by the Issuer to ensure that such reimbursement occurs not more than 18 months after the later of (i) the dates of the expenditures or (ii) the date the project/asset was placed in service (but not more than 3 years after the original expenditures were paid) except with respect to those expenditures for which the Issuer obtained a certificate of licensed engineer/architect to the effect that (I) at least five (5) years was necessary to complete the construction of the part of the project for which such expenditures were required; and (II) such expenditures shall be reimbursed not more than five (5) years after the date that the original expenditures were paid.

4. Arbitrage/Rebate Compliance and Timely Expenditure of Proceeds. The Coordinator shall review the No Arbitrage and Tax Certificate (or equivalent) (the "Certificate") for each tax-exempt obligation issued by the Issuer and the expenditure records provided in Section 2 of this policy, above, and shall ensure that the Issuer takes the following actions:

- a) monitor and ensure that proceeds of each such issue are spent within the temporary period set forth in the Certificate;
- b) if at the time of issuance, it appears that that the Bonds will qualify for the small issuer exception to the rebate requirement, the Coordinator will monitor the amount of subsequent tax-exempt obligations issued or proposed to be issued in the calendar year in which the Bonds closed to ensure that the Issuer does not exceed the \$5 million or \$15 million threshold, as applicable, in such calendar year;
- c) if at the time of issuance, based on reasonable expectations set forth in the Certificate, it appears likely that the issue will qualify for an exemption from the rebate requirement, the Issuer may defer taking any of the actions set forth in subsection (d) below. Not later than the time of completion of construction or acquisition of the project, and depletion of all funds from the Project Fund, the Issuer shall make a determination if the expenditure of the Bond proceeds qualified for an exemption from the rebate requirements based on spending within a 6 month, 18 month or 2 year period after issuance. If a rebate exemption is determined to be applicable, the Issuer shall prepare and keep in the permanent records of the issue a memorandum evidencing this conclusion together with records of expenditure to support such conclusion. If the transaction does not qualify

for rebate exemption, the Issuer shall initiate the steps set forth in (d) below;

- d) if at the time of issuance it appears likely that arbitrage rebate calculations will be required, or upon determination that calculations are required pursuant to (c) above, the Issuer shall:
- i. engage the services of expert advisors (each a "Rebate Service Provider") to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds, or else shall ensure that it has adequate financial, accounting and legal resources of its own to make such calculations, and, prior to each rebate calculation date, cause the trustee or other financial institution investing bond proceeds to deliver periodic statements concerning the investment of Bond proceeds to the Rebate Service Provider;
 - ii. provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
 - iii. monitor efforts of the Rebate Service Provider;
 - iv. assure payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed;
 - v. during the construction period of each capital project financed in whole or in part by Bonds, monitor the investment and expenditure of Bond proceeds and consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 2 years, as applicable, following the issue date of the Bonds;
 - vi. retain copies of all arbitrage reports, trustee statements and other documents as required herein; and
 - vii. in lieu of engaging an outside Rebate Service Provider, the Issuer may make a determination that it has sufficient capabilities using its own personnel, supported by its regular accounting and legal advisers, to be able to make the required rebate calculations. Such determination shall be evidenced in writing with specific reference to the personnel and advisers to carry out the calculations, and such written determination shall be maintained in the records of the bond transaction.

5. Proper Use of Bond Financed Assets.

- a) The Coordinator shall maintain appropriate records and a list of all bond financed assets. Such records shall include the actual amount of proceeds (including investment earnings) spent on each of the bond financed assets.
- b) With respect to each bond financed asset, the Coordinator will monitor and confer with bond counsel with respect to all proposed:
 - i. management contracts,
 - ii. service agreements,
 - iii. research contracts,
 - iv. naming rights contracts,
 - v. leases or sub-leases,
 - vi. joint venture, limited liability or partnership arrangements,
 - vii. sale of property, or
 - viii. any other change in use of such asset.
- c) Section 141 of the Code sets forth private activity tests for the purpose of limiting the volume of tax-exempt bonds that finance activities of persons other than state and local governmental entities. These tests serve to identify arrangements that actually or reasonably expect to transfer the benefits of tax-exempt financing to non-governmental persons, including the federal government. The Coordinator shall provide to the users of any bond financed property a copy of this Compliance Policy and other appropriate written guidance advising that:
 - i. "Private business use" means use by any person other than the Issuer, including business corporations, partnerships, limited liability companies, associations, non-profit corporations, natural persons engaged in trade or business activity, and the United States of America and any federal agency, as a result of ownership of the property or use of the property under a lease, management or service contract (except for certain "qualified" management or service contracts), "naming rights" contract, "public-private partnership" arrangement, or any similar use arrangement that provides special legal entitlements for the use of the bond financed property;
 - ii. No more than 10% of the proceeds of any tax-exempt bond issue (including the property financed with the Bonds) may be used for private business use, of which no more than 5% of the proceeds of the tax-exempt bond issue (including the property financed with the bonds) may be used for any "unrelated" private business use – that is, generally, a private business use that is not functionally related to the government's purposes of the Bonds; and no more than the lesser of \$5,000,000 or 5% of the proceeds of a tax-exempt bond issue may be used to make or finance a loan to any person

other than a state or local government unit;

- iii. Before entering into any special use arrangement with a non-governmental person that involves the use of bond financed property, the Coordinator will consult with bond counsel, provide bond counsel with a description of the proposed non-governmental use arrangement, and determine whether that use arrangement, if put into effect, will be consistent with the restrictions on private business use of the bond financed property; and
- iv. In connection with the evaluation of any proposed non-governmental use arrangement, the Issuer will consult with bond counsel to obtain federal tax advice in whether that use arrangement, if put into effect, will be consistent with the restrictions on private business use of the bond financed property, and, if not, whether any "remedial action" permitted under §141 of the Code may be taken as means of enabling that use arrangement to be put into effect without adversely affecting the tax-exempt status of the Bonds.
- d) The Coordinator shall maintain a copy of any such proposed agreement, contract, lease or arrangement, together with the response by bond counsel with respect to said proposal for at least three (3) years after retirement of all tax-exempt obligations issued to fund all or any portion of bond financed assets;
- e) The Coordinator shall consult with bond counsel and other legal counsel and advisers in the review of any change in use of bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Certificate;
- f) The Coordinator shall confer at least annually with other personnel responsible for bond-financed or refinanced assets to identify and discuss any existing or planned use of bond-financed or refinanced assets, to ensure that those uses are consistent with all covenants and restrictions set forth in the Certificate; and
- g) To the extent that the Coordinator discovers that any applicable tax restrictions regarding use of bond proceeds and bond-financed or refinanced assets will or may be violated, the Coordinator shall consult promptly with bond counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified bonds, if such counsel advises that a remedial action is necessary.

6. Bank Qualification. If the Bonds are issued in a par amount of \$10 million or less and designated by the Issuer as "bank qualified" under Section 265(b)(3) of the Code, the Coordinator will monitor the amount of subsequent tax-exempt

obligations issued or proposed to be issued in the calendar year in which the Bonds closed to ensure that the Issuer does not exceed the \$10 million threshold in such calendar year.

7. General Project Records. For each project financed with tax-exempt obligations, the Coordinator shall maintain a copy of all material documents relating to capital expenditures financed or re-financed by tax-exempt proceeds, until three (3) years after retirement of the tax-exempt obligations or obligations issued to refund those obligations including (without limitation), the following:

- a) appraisals, demand surveys or feasibility studies,
- b) applications, approvals and other documentation of grants,
- c) depreciation schedules,
- d) contracts respecting the project, including construction contracts,
- e) purchase orders,
- f) invoices,
- g) trustee requisitions and payment records,
- h) documents relating to costs reimbursed with Bond proceeds, and
- i) records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds, including a final allocation of proceeds.

8. Advance Refundings. The Coordinator, shall be responsible for the following current, post issuance and record retention procedures with respect to advance refunding bonds:

- a) Identify and select bonds to be advance refunded with advice from internal financial personnel, and a financial advisor;
- b) The Coordinator shall identify, with advice from the financial advisor and bond counsel, any possible federal tax compliance issues prior to structuring any advance refunding;
- c) The Coordinator shall review the structure with the input of the financial advisor and bond counsel, of advance refunding issues prior to the issuance to ensure (i) that the proposed refunding is permitted pursuant to applicable federal tax requirements if there has been a prior refunding of the original bond issue; (ii) that the proposed issuance complies with federal income tax requirements which might impose restrictions on the redemption date of the refunded bonds; (iii) that the proposed issuance complies with federal income tax requirements which allow for the proceeds and replacement proceeds of an issue to be invested temporarily in higher yielding investments without causing the advance refunding bonds to become "arbitrage bonds"; (iv) that the proposed issuance will not result in the issuer's exploitation of the difference between tax exempt and taxable interest rates to obtain a financial advantage nor overburden the tax exempt market in a way that might be considered an abusive

transaction for federal tax purposes; and (v) that the proposed refunding complies with applicable State law.

- d) The Coordinator shall collect and review data related to arbitrage yield restriction and rebate requirements for advance refunding bonds. To ensure such compliance, the Coordinator shall engage a rebate consultant to prepare a verification report in connection with the advance refunding issuance. Said report shall ensure said requirements are satisfied.
- e) The Coordinator shall, whenever possible, purchase SLGS to size each advance refunding escrow. The financial advisor and/or bond counsel shall be included in the process of subscribing SLGS. To the extent SLGS are not available for purchase, the Coordinator shall, in consultation with bond counsel and the financial advisor, comply with IRS regulations.
- f) To the extent the Issuer elects to purchase a guaranteed investment contract, the Coordinator shall ensure, after input from bond counsel, compliance with any bidding requirements set forth by the IRS regulations.
- g) In determining the issue price for any advance refunding issuance, the Coordinator shall obtain and retain issue price certification by the purchasing underwriter at closing.
- h) After the issuance of an advance refunding issue, the Coordinator shall ensure timely identification of violations of any federal tax requirements and engage bond counsel in attempt to remediate same in accordance with IRS regulations.

9. Continuing Disclosure. The Coordinator shall assure compliance with each continuing disclosure certificate and annually, per continuing disclosure agreements, file audited annual financial statements and other information required by each continuing disclosure agreement. The Coordinator will monitor material events as described in each continuing disclosure agreement and assure compliance with material event disclosure. Events to be reported shall be reported promptly, but in no event not later than ten (10) Business Days after the day of the occurrence of the event. Currently, such notice shall be given in the event of:

- a) Principal and interest payment delinquencies;
- b) Non-payment related defaults, if material;
- c) Unscheduled draws on debt service reserves reflecting financial difficulties;

- d) Unscheduled draws on credit enhancements relating to the bonds reflecting financial difficulties;
- e) Substitution of credit or liquidity providers, or their failure to perform;
- f) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the bonds, or material events affecting the tax-exempt status of the bonds;
- g) Modifications to rights of Holders of the Bonds, if material;
- h) Bond calls (excluding sinking fund mandatory redemptions), if material, and tender offers;
- i) Defeasances of the bonds;
- j) Release, substitution, or sale of property securing repayment of the bonds, if material;
- k) Rating changes on the bonds;
- l) Bankruptcy, insolvency, receivership or similar event of the Issuer;
- m) The consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- n) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

10. Compliance with Continuing Disclosure Filings Under S.E.C. Rule 15c2-12. Under S.E.C. Rule 15c2-12, the Issuer may be required to periodically provide financial documentation, reports, notice and updates of documents to EMMA, the Electronic Municipal Market Access website managed by the Municipal Securities Rulemaking Board. Compliance is required in accordance with the Issuer's Material Events Disclosure Certificate and/or Continuing Disclosure Certificate executed in connection with a bond or note issue.

11. Due Diligence and Remedial Actions. In all activities related to the Issuer's Bonds, the Coordinator and his/her staff will exercise due diligence to comply with the Code provisions governing tax-exempt obligations. The Issuer is aware of (a) the

Voluntary Closing Agreement Program (known as "VCAP") operated by the IRS which allows issuers to voluntarily enter into a closing agreement in the event of certain non-compliance with Federal tax requirements and (b) the remedial actions available under Section 1.141-12 of the Income Tax Regulations for private use of bond financed property which was not expected at the time the Bonds were issued.

12. Periodic Review. The Issuer will monitor compliance with the guidelines contained in this policy as well as any other covenants not specifically included herein and will review and update these guidelines at least annually and whenever necessary due to change in law or circumstances.

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