

**BOARD OF
SELECTMEN
MEETING
MINUTES**

June 7, 2023

Chair Maureen Dwinell; Select member Brett Simas; Select member Laura Hebb; Town Manager Joseph Laydon; Executive Assistant Sandra Hakala.

CALL MEETING TO ORDER/ PLEDGE OF ALEGENCE

Chair Dwinell opened the regular meeting at 7:00 PM.

DEPARTMENT/BOARD UPDATES AND REQUESTS

Board of Assessors – Presentation of Changes to Senior Citizen Property Tax Exemption

Program

The town’s home rule petition for the authority to establish a means-tested senior citizen property tax exemption was approved unanimously by the November 2, 2021, Town Meeting and signed into law by former Governor Charlie Baker as Chapter 333 of the Acts of 2022 on December 29, 2022.

Valerie Leonardo, principal assessor, and Board of Assessor member was in attendance to review the new Property Tax Exemption for Seniors.

Starting in fiscal year 2024, qualifying seniors will be eligible to apply for a new property tax exemption. The amount of the exemption will be the amount of the Circuit Breaker Credit for which the applicant qualified in the prior year and is in addition to any other exemption(s) the applicant may be eligible to receive. The exemption will be applied to the property tax payments due February and May 1.

Applications will be accepted by the Board of Assessors from July 1 to November 1. As is the case with all exemption applications, the applications are kept completely confidential.

Applicants must meet the following criteria to qualify for the exemption:

- Age 65 or older on January 1. If joint applicants, the other applicant must be age 60 or older on January 1.
- Owned and occupied property in Upton as the primary residence for at least ten consecutive years.
- Other assets do not exceed the excessive assets threshold set by the Board of Assessors.
- The prior year’s income met the Circuit Breaker Credit income eligibility requirement.

The state regularly updates the criteria for qualifying for the Circuit Breaker Credit. For 2022 the eligibility criteria were:

- Age 65 or older as of January 1, 2022
- Total 2022 Massachusetts income did not exceed:
 - \$64,000 for a single individual who is not head of household
 - \$80,000 for a head of household
 - \$96,000 for married couple filing a joint return

- Property tax payments, together with 50% of water and sewer expenses, made in 2002 exceeded 10% of 2022 Massachusetts income.
- Assessed valuation of personal residence as of January 1, 2022 did not exceed \$912,000 (assessed value and property tax paid must be adjusted if over one acre).
- The maximum amount of the Circuit Breaker Credit was \$1,200.00.

The town’s home rule petition for the authority to establish a means-tested senior citizen property tax exemption was approved unanimously by the November 2, 2021, Town Meeting and signed into law by former Governor Charlie Baker as Chapter 333 of the Acts of 2022 on December 29, 2022.

Circuit Breaker Credit Criteria

- 65 or older by end of tax year
- Income less than:
 - Single - \$64,000
 - Head of household - \$80,000
 - Married filing jointly - \$94,000
- Real estate taxes and 50% of water and sewer expenses paid > 10% of income
- Assessed value as of January 1 < \$912,000 (Adjust value and property tax paid if over one acre)
- Maximum value of credit \$1,200.00

Upton Exemption Criteria

- Prior year income would make applicant eligible for Circuit Breaker Credit
- 65 or older at the close of the previous year (if joint applicants one is 65 or older and the other is 60 or older)
- At least one applicant has lived in and owned a home in Upton for 10 consecutive years before filing for an exemption
- Assessed value of real estate is less than the prior year’s maximum assessed value for qualifying for the circuit breaker credit

Year	Income	10%	RE Tax Paid	Over 10%	CBC	RE Tax Due	Exemptions	RE Tax Paid	CBC	Tax After CBC
2022	64,000	6,400	9,796	3,396	1,200	9,796	-	9,796	1,200	8,596
2023	64,000	6,400	8,588	2,188	1,200	8,588	-	8,588	1,200	7,388
2024	64,000	6,400	7,372	972	972	8,572	1,200	7,372	972	6,400
2025	64,000	6,400	7,856	1,456	1,200	9,056	1,200	7,856	1,200	6,656
2026	64,000	6,400	8,228	1,828	1,200	9,200	972	8,228	1,200	7,028

47

DPW Director – Authorization to Submit Lead Service Line Inventory Grant

Under newly released requirements from DEP, water systems have until October 16, 2024, to develop Lead Service Line (LSL) inventories and replacement plans after which time LSL replacement will be required if water quality sampling results exceed a defined trigger level. The application for the LSL Inventory Grant Program seeks funding to perform this inventory and the development of a LSL Replacement Plan.

54

Laura Hebb **Moved** that the Board vote to authorize the Town Manager to apply for funding under the Lead Service Line Inventory Grant Program.

Second: Member Simas, Unanimous Chair Dwinnell

58

PROPOSED 40B – 45-51 MAIN STREET

At the Board’s May 16, 2023 meeting, the Board discussed its receipt of the letter from

61 Katherine Miller with MassHousing providing notice to the Town of Upton of the submission
62 of a site eligibility application for a 68-unit rental housing project located at 45-51 Main Street.

63
64 The application was submitted by Lobisser Building Corp. Mass Housing held a site visit on
65 May 19th was attended by various Town Staff and Board Members. The Town has an
66 opportunity to provide comments on the application and the deadline for rescript of comments
67 is Thursday, June 8, 2023.

68
69 Michael Antonellis, Director of Land Use, and Inspectional Services is working to prepare a draft
70 letter for the Board's consideration. The Board has also received several comments from
71 residents.

72
73 Concerns and Suggestions

- 74
- 75 • The height of the proposed building is a major concern. The Town's zoning bylaws allow
76 for a maximum 3-story Garden Apartment building by Special permit. The project is
77 currently shown as a 4-story building. With the understanding that the Comprehensive
78 Permit process allows for waivers relative to local zoning requirements, the board still
79 has concerns about the height regarding the location of the proposed building. The site
80 is located on the side of a steep hill and the board is concerned about the context of the
81 proposed structure as potentially being a prominent building with visibility beyond just
82 abutting properties. The proponent should examine reducing the number of units to
83 either eliminate the 4th story and/or reduce the length of the building. Reduction will
84 reduce parking and allow for establishing a no-cut buffer around the perimeter and
85 adjacent to Whitney Lane.
 - 86
87 • An analysis on the potential impact of the development on the nearby National Grid Gas
88 Line should be done, such an analysis should be a condition of the PEL.
 - 89
90 • Upton schools do not send buses into private driveways. The applicant should articulate
91 how a school bus will pick up and drop off students on Main Street (Route 140), a busy
92 state highway currently under review for a TIP project through MassDOT. The applicant
93 should provide a safe and connected network of pedestrian facilities within the site to
94 ensure students and other users have a continuous, safe, and accessible route to Main
95 Street.
 - 96
97 • The only point of access for the project is a driveway that connects to Main Street, a
98 busy state highway (Route 140). The applicant should explain how traffic from the site

99 can safely navigate this access point, given its location along a curve in the road with
100 diminished sightlines.

- 101
- 102 • While the Board recognizes that Route 140 is a busy State Highway, there are concerns
103 relative to existing uses that abut the property. Pickering Funeral Home is an immediate
104 abutter at 45 Main Street. During services there will be cars parked along the north-side
105 of Route 140 in front of the proposed site. This may further complicate sight visibility
106 exiting the site.
 - 107
 - 108 • The applicant should ensure sufficient space for trash storage and show how trash will
109 be moved inside the site and from the site. The town will require that solid waste and
110 recycling be conducted by a private contractor. There is a specific concern regarding
111 local rat infestation. The proponent should take care to identify ways of preventing rats
112 from leaving the site during construction. Additionally, this issue should be taken into
113 consideration when identifying an appropriate dumpster site away from Whitney Lane.
 - 114
 - 115 • Upton will not provide snow and ice control for the proposed development. The
116 applicant should demonstrate dedicated space for snow storage on the site.
117 Additionally, the proposed structure has a flat roof. The proponent should make
118 appropriate accommodations for roof and ice removal and confirm with the Building
119 Department appropriate designs to account for snow- loads.
 - 120
 - 121 • The Fire department will require access along the circumference of the building with
122 aisle widths designed to accommodate the largest fire apparatus.
 - 123
 - 124 • The Board has received several comments relative to stormwater and drainage from the
125 site. There are areas on the site that are known to produce very wet areas that may
126 drain off site, specifically towards the easterly side of Whitney Lane. The proponent
127 should make note of those areas through the comments submitted by residents and
128 make accommodations to not increase any existing issues. This may include establishing
129 a 20-foot no-cut buffer adjacent to 15, 17, and 19 Whitney; retaining existing
130 vegetation, and augmenting with evergreen and deciduous vegetation of various heights
131 to provide low level and upper story screening. Also, examine integrating parking garage
132 near 17 Whitney into the grade to act as a retaining wall to accommodate any no-cut
133 buffer.
 - 134
 - 135 • Examine downstream impacts on capacity of wetland systems to accommodate
136 additional stormwater volumes. Town has experienced flooding of wetland system from
137 Pleasant Street through to Station Street. Similarly, the wetland system near School

138 Street drains through open ditches between residential properties on School Street and
139 then under Main Street to connect to a larger stream and wetland system at Center
140 Brook. Adjacent properties to these areas could be impacted due to close proximity.
141 Identify location of underground springs.
142

- 143 • While there is no noted Priority Habitats shown by the State on the property, given the
144 location of wetlands and size of the property, the proponent should prepare an
145 ecological study of the site to ensure valuable resources of wildlife and plant life are
146 protected.
- 147
- 148 • The proponent should provide a summary of the expected impact on local schools.
149
- 150 • The proponent should be in contact with the DPW to ensure and identify the existing
151 capacity of both Sewer and Water. Such findings should be presented to the Zoning
152 Board at the time of the local Comprehensive Permit filing.
153

154 Several residents echoed the same concerns at the meeting, xxxxx, John Reed, Paul Morganelli,
155 Marcia Kalowski, Sue Perry, Rick McGuire, Arthur xxxxx, Peter Hart, and David Loeper.
156

157 The Board agreed the tone of the letter should reflect their disapproval of the location of the
158 proposed 40 B 4-story structure.
159

160 **TOWN MANAGER REPORT/ UPDATES**

161 The following is the Town Manager’s Report for the June 7, 2023 Board of Selectmen Meeting.
162 Information below was discussed at the June 5th Department Head Meeting.
163

164 **Town Website Redesign** – This Friday, CivicPlus will present the new website to the website
165 working committee. Trainings will occur over the next two weeks. A “go live” date will be
166 scheduled after the training.
167

168 **Upton Community Center Dedication** – The dedication ceremony is scheduled for June 14th at
169 6:30 PM. Final touches are being made to the ceremony. Employees and Board members are
170 being encouraged to park on Grove Street and at Town Hall due to the expected crowd.
171

172 **Human Resources** – Staff were informed that departments should be conducting annual
173 reviews of their staff. HR will be working with the Treasurer Collectors Office to process COLA
174 and Merit Increases. Open Enrollment for employees has closed. The Town signed the contract
175 with GovHR to conduct the Classification and Compensation Study. Kick off meeting will occur
176 in early July.

177 **Planning Department** - The Director of Land Use & Inspectional Services submitted four grant
178 applications last week. The principal grant application was for the MassWorks Program where
179 the Town is seeking \$3.6M for the construction of water and sewer infrastructure on Route
180 140. The Developer will be contributing over \$700K towards the project. Grant applications for
181 pre-permitting work of the Town's gravel lot on Grove Street, site feasibility analysis for Holy
182 Angels, and zoning assistance for inclusionary zoning and MBTA Communities were also
183 submitted.

184
185 **Conservation Department** – Staff is working with the Commission to close out the Knowlton
186 Circle order of conditions and address lack of stormwater facility maintenance within the
187 development.

188
189 **Code Department** – Conducted generator testing at the Community Center. Continuing to
190 examine ADA compliance issues.

191
192 **Assessors** – BoA will be voting on the senior means testing for the senior tax exemption. This
193 comes out of the Town's overlay and is not reimbursable. This will only be applied to the 3rd
194 and 4th quarter tax bills.

195
196 **Town Clerk** – Welcomed 3rd graders to Town Hall and the Upton Community Center on June
197 6th. Coordinating employee and board member conflict of interest form collection. Submitted
198 Annual Town Meeting Certification paperwork to the Attorney General's Office.

199
200 **Housing Production Plan** –. The next meeting is scheduled for May 18th. Discussion of goals
201 and strategies for affordable housing and possible locations is on the agenda.

202
203 **DPW** – Street sweeping, Line painting, and hydrant flushing has been completed. Catch basin
204 cleaning will start soon and will be completed by the end of June. has been completed. DEP
205 came up with new regulations requiring an inventory of lead pipe, including homes. The Dept.
206 will first identify if there are homes that have lead pipes and give resources to allow the
207 homeowner to conduct the inspections.

208
209 **Municipal Fiber Network Project** – Hanging of fiber optic cables has been completed. Work has
210 moved interior to buildings to make necessary network connection.

211
212 **PUBLIC INPUT/BOARD MEMBERS' UPDATES**

213 None

214
215 **BOARD OF SELECTMEN DISCUSSION**

216 **Charlie Giracca, Eagle Scout Project Presentation**

217 The Board considered the proposal presented by Charlie Giracca to construct four (4) ADA
218 compliant picnic tables.

219

220 **Brett Simas MOVED** to approve the project as proposed to build wheelchair accessible picnic
221 tables at Kiwanis Beach, and to expend up to \$550 from the Ella Risteen Beautification Trust.

222 **Second: Member Hebb, Unanimous Chair Dwinell**

223

224 **Grove Street Bridge Design Alternatives Review and Decision**

225 Passed over until the next meeting.

226

227 A workshop will be arranged to converse with engineers and answer the questions on June 13th.

228

229 **Discussion of Projects to be Funded Through ARPA**

230 Staff had previously prepared two memos for the Board's consideration identifying potential
231 projects for funding through ARPA. The Town has received an allocation of \$2,401,177.05 in
232 ARPA Funding. The Board of Selectmen authorized to expenditures for the redesign of the
233 Town's website in the amount of \$25,300 and \$52,200 for engineering design for sewer main
234 replacement at GURR. At the Board's May 2, 2023 meeting, the Board voted to authorize the
235 use of up to \$575,000 to supplement funds authorize by the November 1, 2022 Special
236 Town Meeting for the construction of the Grove Street Bridge project. Remaining available
237 ARPA funds is \$1,748,677.05.

238

239 The following table includes revisions based on feedback from the Board as discussed on April
240 4,2023. The Town has received an allocation of \$2,401,177.05 in ARPA Funding. The Board of
241 Selectmen authorized to expenditures for the redesign of the Town's website in the amount of
242 \$25,300 and \$52,200 for engineering design for sewer main replacement at GURR. At the
243 Board's May 2, 2023 meeting, the Board voted to authorize the use of up to \$575,000 to
244 supplement funds authorize by the November 1, 2022 Special Town Meeting for the
245 construction of the Grove Street Bridge project. The remaining available ARPA funds is
246 \$1,748,677.05. At the Board's May 16th meeting, the Board considered awarding a contract to
247 evaluate the engineering and construction costs for a sidewalk on Maple Ave. Design and
248 Permitting were anticipated to cost \$280K and construction \$1.5M to \$1.8M. The motion failed
249 to be seconded.

250

251 To facilitate the Board's conversation, the following is a list of projects previously discussed to
252 be funded using ARPA funds.

253

Projects	Allocated	COST
Website	Yes	\$25,300
Sewer Main Engineering at GURR	Yes	\$52,200
Grove Street Bridge – Ped Bridge and Lighting	Yes	\$575,000
Maple Ave Sidewalk Design and Permitting		\$280,000
Fiske Ave Water Main / Replacement Construction		\$1,073,898
Fiske Ave Water Main Replacement/Design		\$106,600
Asbestos Cement Water Line Replacement/ Rt 140 Design		\$45,000
Asbestos Cement Water Line Replacement/ Rt 140 Oversight		\$125,000
Acoustic Repairs to Main Hall		\$50,000
Parking Lot Milling and Paving		\$53,116
Parking Lot Milling and Paving		\$124,463
Misc.		\$75,000

254
255 **Brett Simas MOVED** to expend \$280,000 of ARPA funds for the Maple Ave Sidewalk Design and
256 Permitting

257
258 **Laura Hebb MOVED** to table the discussion until the next meeting.

259 **Second: Chair Dwinell, Majority Action**

260
261 **Hiring Process under Town Manager Act**

262 The Town Manager will provide a memo summarizing the appointment process as
263 established in the Upton Town Manager Act prior to the Board’s meeting.

264
265 *“For the Board’s discussion at its June 7th meeting, I wanted to provide some information*
266 *relating to the hiring process as detailed in the Town Manager Act, the Personnel Bylaws and*
267 *Policies, and as past practices by previous managers.*

268
269 *The Town Manager’s Act establishes the responsibilities of the Town Manager and the Board of*
270 *Selectmen. The following are two provisions of the Act that deal with hiring of employees. I have*
271 *underlined applicable provisions pertaining to hiring/appointing employees.*

272
273 *Section 2: The following responsibilities and authority shall devolve from the board to the*
274 *manager:*

275 *(a) hiring, firing and disciplining employees under the jurisdiction of the board, pursuant to*
276 *subsection (a) of section 4;*

277
278 *Section 4(a) be the hiring authority for all employees under the jurisdiction of the board. The*
279 *manager shall act in conformance with the personnel by-laws of the town. The manager shall*

280 *oversee the efficient operation and administration of all officers, divisions and departments*
281 *appointed by him. No appointment, disciplinary action or termination by the manager of a town*
282 *officer or employee shall take effect within 15 days of notice being provided to the board. The*
283 *board may approve or disapprove the manager's proposed appointment within said 15 days or*
284 *the board may waive the 15 day right of refusal by a vote at an open meeting. The board may*
285 *vote, in open session, to disapprove an appointment and shall state the reason or reasons,*
286 *which shall be provided in the meeting minutes. The board shall conduct any meeting to*
287 *consider a proposed disciplinary action or termination of a town officer or employee in*
288 *accordance with applicable law.*

289
290 *Section 4(i) be responsible for the administration of personnel and personnel matters , including*
291 *the personnel by-laws, files, and all personnel policies that the board and the town may adopt.*
292 *Such responsibilities shall include the enforcement of personnel policies, rules and regulations*
293 *and managing personnel costs such as salaries, benefits, overtime and use of town-owned*
294 *vehicles for employees under the jurisdiction of the board.*

295
296 *The Personnel Bylaw and Personnel Policy & Procedures Manual expand upon the*
297 *administration of personnel as authorized by the Town Managers Act.*

298
299 *The Personnel Policy & Procedures Manual details the hiring process of the Town, including but*
300 *not limited to posting of positions, screening committees, selection of employees, and reference*
301 *checks.*

302
303 *Section 4(a) of the Town Manager Act gives the Board the opportunity to deny an appointment*
304 *within 15 days of notice provided the reason(s) for denial are identified in open session at a*
305 *Board Meeting. It should be noted that there are no standards that are identified for denial of*
306 *an appointment. Likewise, there is no standard for what information is included in the Town*
307 *Manager's notice of intent to make an appointment.*

308
309 *Over the years, the appointment of employees has changed. Under Upton's first Town Manager,*
310 *it appears that most appointments occurred at meetings where the Board would approve of*
311 *disapprove new staff appointments. This process evolved under the former Town Manager*
312 *where the Board would receive an email similar to the following asking if the Board plans to*
313 *exercise its right to deny an appointment by the Town Manager.*

314
315 *Good morning,*

316
317 *After a thorough interviewing and vetting process by [REDACTED]*
318 *[REDACTED] and then upon final recommendation by [REDACTED], it is my intention to appoint*

319 [REDACTED] for the position of [REDACTED] effective November 29, 2021.
320 [REDACTED] possesses a bachelor's degree and has over 7 years of experience in the private
321 banking industry holding various positions at [REDACTED]. Additionally, [REDACTED] has prior
322 municipal experience working for the Town [REDACTED]. We are
323 confident that [REDACTED] diverse experience in banking and municipal government will prove
324 extremely useful to the Town.

325
326 *In accordance with Section 4(a) of the Town Manager's Act, the Board of Selectmen have a 15*
327 *day right of refusal of all Town Manager appointments. Please let me know if you plan to*
328 *exercise this right in open session.*

329
330 *Thanks DB*

331
332 *As the Board knows, soon after joining Upton, we experienced a number of vacant positions that*
333 *needed to be filled. I followed the process that the former Town Manager conducted in notifying*
334 *the Board of appointments to positions. In my emails notifying the Board of my intent to appoint*
335 *staff, I did differentiate between Department Heads and support staff. For Department Heads, I*
336 *included redacted resumes for the Board to review. This was done for the following positions:*
337 *Director of Land Use & Inspectional Services, Elder and Social Services Director, Treasurer*
338 *Collector, and Principal Assessor. These positions are direct reports to the Town Manager. For*
339 *the appointment of staff that report to Department Heads, resumes were not submitted to the*
340 *Board though a brief description of their qualifications was included in the email. This was done*
341 *for the appointment of communication officers, police patrolmen, department assistants in the*
342 *Land Use Office, and the ESS Department.*

343
344 *For the appointment of Department Head positions, I propose to continue the process of*
345 *submitting redacted resumes. Due to confidentiality requirements, we cannot submit resumes*
346 *for the pool of candidates that were interviewed for a position. Job application materials are not*
347 *considered public documents.*

348
349 *For part-time and seasonal employees, there has not any consistency over the years on how the*
350 *hiring of staff has occurred. Only seasonal employees are hired for our summer DPW crews.*
351 *Other part-time employees are our COA Van drivers, part-time communication officers, on-call*
352 *fire, and approximately three (3) department clerical positions. I propose that the appointment*
353 *of part-time and seasonal employees do not follow the appointment process as laid out in*
354 *Section 4 (a) of the Town Manager Act.*

355
356 *The last group of employees' report to Town Department Heads and these positions include*
357 *Police Officers, EMT/Fire Fighters and Department Specialists/Coordinators. Past practice has*

358 *been to notify the Board of their appointment and to include a letter from the Department Head*
359 *to the Town Manager supporting their appointment. For these positions, redacted resumes had*
360 *not previously been provided as the Department Head letter should summarize qualifications*
361 *and why the candidate would be a good fit for the department. The question for the Board*
362 *would be what level of information the Board would like to see as part of the Town Manager's*
363 *notice to appoint. For these employees I would propose the following process. For Police and*
364 *EMT/Fire Fighters, I propose that the Police Chief/ Public Safety Director submit a letter/memo*
365 *to the Town Manager summarizing the qualifications of the individual(s) considered for*
366 *appointment, which would be provided to the Board. For Department Specialist/ Coordinator*
367 *Positions, I propose that Department Heads submit a letter/memo to the Town Manager*
368 *summarizing the qualifications of the individual(s) considered for appointment along with a*
369 *redacted resume, which would be provided to the Board.*

370

371 *The process for a Board of Selectmen to approve or deny an appointment is a very common*
372 *practice in Massachusetts municipal government. This allows for a check on the authority of the*
373 *Town Manager as the hiring authority and to make sure that positions are not being created*
374 *that have not gone before the Personnel Board for approval, are not budgeted for, or positions*
375 *being filled due to nepotism. The process is not, however, to review the individual qualifications*
376 *of a candidate or to inquire about other candidates that may not have been offered the position.*
377 *While the Board is given the ability to approve/deny, it is a thumbs up or down with reasons for*
378 *denials being identified."*

379

380 **MINUTES**

381 **Laura Hebb MOVED** to approve the regular session meeting minutes of May 16, 2023.

382 **Second: Member Brett Simas, Unanimous Chair Dwinnell**

383

384 **ADJOURNMENT**

385 **Laura Hebb MOVED** to adjourn the meeting of June 7, 2023, at 9:15PM.

386 **Second: Select Member Simas, Unanimous, Chair Dwinnell.**

387

388 Respectfully submitted,

389 Sandra Hakala, Executive Assistant