

**Selectboard Executive Session**

**Town Hall, Upstairs Meeting Room, 1 Avenue A, Turners Falls, MA 01376**

**July 8, 2019**

**8:07 PM**

**RE: Executive Session under G.L. c.30A, §21(a)(3) to discuss potential litigation concerning FirstLight, votes may be taken**

**PRESENT:** Selectpersons Chris Boutwell, Michael Nelson, and Rich Kuklewicz, Town Administrator Steven Ellis, and Executive Assistant Wendy Bogusz

**Documents and Exhibits:**

- First Light Settlement Outline for Selectboard Executive Session, July 8, 2019
- Summary of expected First Light Tax Valuation Settlement

Ellis presents and goes over the First Light Settlement Outline:

- There are three components to this deal:
  - 1) FY14 through FY16, when our valuation of these parcels and personal property was around \$114,000,000
  - 2) FY17 through FY19, when the value was around \$135,000,000
  - 3) FY20 through FY21, the value of the property of which we do not know. Any agreement relative to a task agreement for '20 and '21 will need to go to Town Meeting.
- There were a few different things that define the parameters of any deal:
  - 1) It needed to make sense economically; it could not undercut our present and ongoing budgets
  - 2) We want to maximize the value of any remaining overlay
  - 3) It had to make some reasonable sense from an assessing standpoint

According to Ellis:

- They are going to walk away from FY14 - FY16.
- There is still a case pending, despite the fact that Gill is not part of our settlement agreement. So there is some additional language to make sure that there is no continuing liability associated with that case.
- At the first meeting:
  - No counter-offer was made.
  - They had offered \$117,000,000 and we offered \$130,000,000.
  - They had previously indicated that they wanted the value not to hold for '20 and '21, but to decrease to \$110,000,000, which we did not agree to.
- We have been contributing approximately \$325,000 a year to overlay to offset a loss.
- Our year-to-year cash flow relative to this one account remains positive.
- The value of our overlay presently is in the range of \$2.2 million. The Assessors will keep \$125,000 to \$200,000. We might expect as much as \$1.2 million to be available to come back to the General Fund.

Discussion:

- Nelson asks if we would need to share the money with the schools. Kuklewicz suggests we would not.
- Kuklewicz feels that we should use the money for capital expenditures that would benefit the town for a multiple number of years.
- Ellis feels that we should not use the money to build a larger operational budget, nor offset an operational budget and lower taxes for only one year.
- We assume this will get through the lawyers over the course of the next few weeks.
- Ellis reports that the Assessors looked at this as a very positive development. It is the Assessors' authority to enter into an agreement and the Board should support them.
- Details cannot be released until the deal is finalized.

*Boutwell makes the motion to come out of Executive Session at 8:33 PM. Seconded by Nelson, unanimously approved. Boutwell - Aye, Nelson - Aye, Kuklewicz - Aye*

*Nelson makes the motion to adjourn the regular meeting at 8:33 PM. Seconded by Boutwell, unanimously approved. Nelson - Aye, Boutwell - Aye, Kuklewicz - Aye*

Approved:

☒ Boutwell      ☒ Kuklewicz      ☒ Nelson

Release to the Public:

☒ Yes      ☐ Not Yet      8/23/21 Date

Date Released to the Public: 9/15/21

## CONFIDENTIAL - Summary of expected FirstLight tax valuation settlement

July 3, 2019

Prepared by Steve Ellis

The basics of the deal include...

### **Economic Agreements**

1. FL will withdraw its contest of the Town's FY14-16 valuations for the three disputed parcels, accepting our assessment of \$114M. No abatements are required for those three years.
2. FL and the Town agree to reduce the Town's FY17-19 valuations from approx. \$135M to \$125M. Abatements will be required, but no interest will be paid on those abatements. Karen will be working to confirm all actual numbers, Total abatements will be in the vicinity of \$840,000. Our overlay account balance is about \$2.2M, leaving a substantial balance to the Town.
3. FL and the TOWN agree to hold our FY20 and 21 valuations at \$125M, which will require we receive approval to enter into a tax agreement through STM. From a forward looking budget perspective, the amount we've been adding to overlay each year to offset FL abatement risk (\$325,000), exceeds the estimated annual reduction in taxes (\$280,000), meaning we are not losing more value than we are saving. On an annual basis, the net impact should be modestly positive (\$45,000).

### **Other Agreements**

1. The Town and FL agreed to a more transparent and engaged process for the FY22 appraisal, discussing and negotiating assumptions and exchanging appraisals, to allow compromise to be considered without the legal process.
2. The Town and FL agreed that discussion of bridges would be set to the side, but that we would look to future opportunities to discuss solutions that might be mutually beneficial. Many things could happen here, over time, if we work together.

## First Light Settlement Outline for Selectboard Executive Session

July 8, 2019

1. FirstLight agrees to withdrawal the pending appeals for fiscal years 2014, 2015, and 2016. Should First Light continue with appeal of 2014 decision currently pending in the Appeals Court (can't be withdrawn because Gill has a stake in it—unless they settle) and should the Appeals Court find in favor of First Light, there will be no abatement of any monies in 2014, and should the case be remanded back to the ATB, First Light agrees that because of the withdrawal of the case against Montague, First Light will not pursue remand against Montague.
2. FirstLight agrees to withdrawal in exchange for abatements, the pending appeals for 2017, 2018, and 2019. The abatement amounts will be based on the agreed upon value of \$125,000,000 for the two disputed parcels as well as personal property. The abatement calculations will include both the Montague Millage Rate as well as the Fire District Rate.
3. FirstLight and Montague agree to hold the assessed value for the two disputed parcels as well as personal property at \$125,000,000 for fiscal years 2020 and 2021 by entering into an appropriate Tax Agreement. The parties recognize that there are numerous other small parcels of real estate owned by First Light and located in Montague. The Assessors agree that the values for 2020 and 2021 for those small other parcels shall only be adjusted should the Assessors adjust all industrial land in town pursuant to an "interim adjustment" as required by law. Moreover, the parties agree that should the town of Montague reject the Tax Agreement for 2020 and 2021, First Light will timely file an abatement application on said referenced "2 disputed parcels and personal property" and the Assessors will abate the same such that the taxable assessment of the same equals \$125,000,000. The Assessors will not pay interest on said abatements.
4. FirstLight and Montague agree to meet for an initial meeting before March 15, 2021, to initiate a cooperative revaluation process with the goal of establishing a five year PILOT agreement for fiscal years 2022 through 2027. It is the intent that this cooperative process includes a sharing of respective appraisals early in the process.

**Impact:** Expected future overlay appropriations (\$325,000) exceed expected single-year abatement values for FY20 or FY21.

Period	Abatement	Overlay
FY14-16	None	
FY17	\$256,889.44	
FY18	\$265,387.57	
FY19	\$268,152.02	
Total Abatement	<b>\$790,429.03</b>	
Current Overlay		\$2,259,993
Remaining Overlay		<b>\$1,469,564</b>