



# TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, including back up information, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

## MEETING INFORMATION

Date Submitted: April 11, 2018  
Submitted by: Town Manager Eileen Cabanel  
Department:  
Speakers:

Date of Meeting: April 26, 2018  
Time Required: 20 minutes  
Background Info. Supplied: Yes:  No:

## CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
<b>Public Hearing:</b>	<input type="checkbox"/>	Old Business:	<input checked="" type="checkbox"/>
New Business:	<input type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

## TITLE OF ITEM

O'Gara Drive Recreation Area Update

## DESCRIPTION OF ITEM

The Town Council to receive an update on the work associated with the O'Gara Drive recreation area.

## REFERENCE (IF KNOWN)

• RSA:	Warrant Article:	_____
Charter Article:	Town Meeting:	_____
Other:	N/A	

## EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

## CONTACT INFORMATION

Name:	<u>Eileen Cabanel</u>	Address:	<u>6 Baboosic Lake Road</u>
Phone Number:	<u>424-2331</u>	Email Address:	<u>ecabanel@merrimacknh.gov</u>

## APPROVAL

Town Manager: Yes  No:  Chair/Vice Chair: Yes  No:

Hold for Meeting Date: \_\_\_\_\_

**Approved: November 16, 2017**

**Posted: November 17, 2017**

Town Manager Cabanel stated one of the things the Town will be facing is that the Assessor has increased the value of the mall by \$75 million. In the past, the income method had to be used when valuing the mall as it is impossible to find comparable sales. It is currently valued at approx. \$90 million. In investigating this further, they learned the entity had gone out for financing and valued the property at over \$200 million while at the same time telling the Town that their tenants were paying nothing for expenses, that they were paying everything, so the Town was not even getting the net number. Once you take the net number and subtract that from revenues you end up with \$165 million worth of value.

Chairman Harrington commented some have expressed to her concern about stores closing at the mall. Apparently, that is a non-issue in terms of valuation and assessment. Town Manager Cabanel commented it is just the nature of the mall that people move in and out, e.g., some want a seasonal presence. Percentagewise they are still very full.

#### **5. Review of 2018/2019 Budget Schedule**

*Submitted by Town Manager Eileen Cabanel and Finance Director Paul T. Micali*

The Town Council to review the 2018/19 budget schedule.

Assistant Town Manager/Finance Director Micali went over the details of the schedule provided with the agenda.

Chairman Harrington questioned the last date that would allow for something to be placed on the ballot, and was informed it is dependent upon what the matter is. Chairman Harrington used the example of the veterans' tax credit, which is a topic that was discussed at the Retreat. There was discussion of reviewing what surrounding communities have done, and perhaps putting the matter on the ballot for the Townspeople to determine. She was informed if it were brought forward as a citizen initiative, they have until the 2<sup>nd</sup> Tuesday in February to do so. If a matter were brought forward by the Council, it could be discussed at a January meeting and moved as a Warrant Article.

**Appointments** - None

**Legislative Updates from State Representatives** - None

**Town Manager's Report** - None

#### **Old Business**

##### **1. O'Gara Drive Recreation Area Discussion**

*Submitted by Town Manager Eileen Cabanel*

Town Council to discuss the plan and next steps for the O'Gara Drive recreation area.

This is a piece of property the Town has leased from the School District for some time, and is where many recreational elements exist. Grant monies had been accepted to improve the area, which had "in perpetuity" language. The Town tried to find a way to get away from that requirement. Matt Casparius, Director, Parks and Recreation Department, has been working with a representative of the State who has been in contact with the Department of Interior, which represents the agency that initiated the grant process.

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To get out from under “in perpetuity” clauses and the entirety of the grant requirements, you cannot sign another lease agreement with the School District in any way. That is the easiest way to get out from under that. Were the Town to sign any agreements with the School District on any of the recreational elements, the “in perpetuity” then applies to every recreational component even though the grant did not help fund them all.

Town Manager Cabanel commented one of the big items that brought this to the Council’s attention was the condition of the tennis courts. The School Board was questioned as to what they would like to see happen with those courts noting they would not be replaced in another location. The response was the desire for the land to be brought back to its original condition (dirt). Cost for removal of the tennis courts and the basketball court is estimated at \$20,000. When asked, Town Manager Cabanel stated the work would be done by in-house personnel as well as outside contractors. The Town does not own an excavator or an operator for an excavator. Councilor Albert commented he was surprised with all the skills within the Public Works Department (PWD) that the Town does not have an operator or the equipment.

Kyle Fox, Director, PWD, stated the department has operators capable of operating excavators. During his early tenure with the Town the excavator the department had was 20+ years old. They looked at whether to purchase another, and came to the decision to purchase an additional backhoe as most of the work is maintenance work, and it did not make fiscal sense to own an excavator because of the cost.

Moving the ice skating rink to Watson Park would be a simple transition given the moveable equipment. The issue relates to the lights. It may be that this coming season people can skate only until dusk. The lights where the rink was on O’Gara Drive she believes came from the area of the tennis courts. Chairman Harrington questioned other options for temporary lighting, e.g., utilize the gazebo as a platform to put floodlights on. There was concern stated regarding the amount of power to the area, etc.

Three different options for location of the ice skating rink within Watson Park were discussed. Option 1, falls almost entirely within the 50-year flood plain. Option 3 is slightly within it, but not much of a concern. Option 2 is free of that concern. Option 1 is the most picturesque and is close to the Pavilion for seating. It is within the 50-year flood plain, would require fill to level out the site, and there are potential limits on usage of the park for other activities.

Option 2 is not within the flood plain, area is already flat, close to Pavilion, does not impact anything else that the Pavilion or park may be used for. It is mostly hidden from the street view, and is a very tight fit in the space.

Option 3 would provide the most amount of space around the site to move, adjust or expand, is the closest option to the electrical panel, ground is flat, and would not impact anything else the Town may want to use the bandstand or park for. It is partially hidden from the street, is the furthest site from the Pavilion and would require the clearing of some small trees and brush.

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Councilor Dwyer stated his belief, Option 3 would not be partially hidden when the leaves are down and there are lights. Councilor Boyd stated concern with the impact on the condominium complex that abuts that property. There should be discussion with those residents.

Councilor Flood stated her belief Option 3 has many things in its favor. It is a somewhat unusable space (alcove) in the park, and an area where this activity would fit nicely. The fact that it is not within the flood zone is particularly favorable given the other consideration for the area, and its inability to withstand a flood. She stated concern with how the Pavilion would fare if subjected to skates.

Town Manager Cabanel spoke of Director Casparius' recommendation to put 3 sand volleyball courts in the same location as the ice skating rink. Official sand volleyball courts are 60' x 30'. Ice skating rink is 70' x 120'. Three courts would fit entirely within the boundaries of the rink. Combining the volleyball courts with the ice skating rink would result in a year-round amenity. Options 1 and 2 could result in volleyballs going over the embankment and down to the river, and the proximity to the Pavilion could interfere with activities planned there. The estimated is \$2,500 - \$5,000.

Chairman Harrington allowed for additional public comment.

Tim Tenhave, D.W. Highway

Stated the proximity of the options all come close to Baboosic Brook in one area and the Souhegan River in another. They are both protected water bodies, and care should be taken about what can be done within so many feet of those waterbodies including the cutting of trees. Given the heritage of that property, there is the need to be careful about how deep poles would be buried.

When asked if he sees any issues concerning the flood plain with the options presented, Director Fox stated given the recreational nature of the use he does not believe there would be a problem. The trees that would need to be removed for Option 3 is a cluster of scrubby trees (not high-quality value). The proposed activity would be more than 50' from the river and the brook. If digging is done more than 2', there is the need for a soil management plan through NHDES approved.

Councilor Boyd commented the poles would have to come out in the winter for the ice skating rink to be put down. Director Fox stated there would likely be a system where there is are pipes in the ground that is flush, and the volleyball pipes would slide in.

Councilor Koenig questioned if there is concern with filling the flood plain area that is on the corner of Option 3. Director Fox stated that would have to be discussed with NHDES. It is very minor, so he does not believe there to be an issue. Councilor Flood stated her recollection there is a restriction in the park where you cannot fill more than 1'. Vice Chairman Rothhaus stated his support for Option 3. He stated the desire to allow the team to work towards providing a proposal.

Chairman Harrington questioned the will of the Council. Councilor Boyd stated support for Options 1 and 2. **The remainder of the Council stated support for Option 3.** Councilor Boyd stated his concern to be encroachment on the neighbors. He stated appreciation for the concept of piggybacking the volleyball courts, but would rather see the ice skating rink on Option 1, which goes towards the desire to have it visible coming in and out of D.W. Highway. Option 2 is a viable location for the volleyball

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court as it will be away from the recreational area where people can picnic, will be tucked in, will not impact the neighbors, and allows people to congregate under the gazebo and watch people play.

Councilor Albert remarked if utilizing Options 1 and 2, a large portion of the park is taken up whereas Option 3 provides for a multi-use area that takes up less space.

Chairman Harrington suggested early engagement with the neighborhood.

Town Manager Cabanel spoke of the options for the basketball court. The existing court is 74' x 42'. There have been numerous requests for full-sized court (96' x 60' with an estimated cost of \$45,000) for high school and adult aged participants. Locations being vetted. The existing court will be demolished in conjunction with the removal of the tennis courts. Estimated timeline for removal is following Thanksgiving 2017. It was noted there is the potential for funding from the MYA. Discussions were had around the possibility of locating the court in the MYA parking lot. The concern there is with the Route 3/Baboosic Bridge/Wire Road project, which will require the entrance and exit to that facility to be moved.

Councilor Albert commented he heard the discussion during the Parks and Recreation Committee meeting, and has spoken with members of the MYA Board. He is of the belief the court could be fit in at the MYA location, and that it is an important fit. The two hoops they currently have are heavily used. He spoke of having seen plans where the existing parking lot would be the basketball court and possibly parking and a new exit out towards the Wire Road intersection. He believes that would work, and would like to see that route followed.

Councilor Flood stated agreement with the scenic value of the location of the ice skating rink. She questioned how wedded anyone is to the idea of both amenities being together. Chairman Harrington commented the only disadvantage would be in the preparing of two surfaces. Councilor Dwyer commented the skating rink will scar the grass underneath it. Vice Chairman Rothhaus noted that depends on the amount of time the rink is left down. Councilor Albert remarked the other advantage to keeping them both in a single location is lighting.

Councilor Koenig noted the only thing the Town is required to do this year is remove the tennis courts. Town Manager Cabanel stated the initial request of the School District was for the removal of the tennis courts. A subsequent request was for the removal of everything. Councilor Koenig stated the tennis courts need to be removed first. The lease goes through next year. There is no requirement to take out the ice skating rink this year.

Regarding the skateboard park, Town Manager Cabanel stated it to be a question for the School Board. She believes it to be an amenity for those students who have this as their passion. The alternative is to tear it down. Consideration of constructing another skateboard park elsewhere would include a minimum \$150,000 cost (would require Warrant Article). Vice Chairman Rothhaus questioned if the School Board might be willing to take over the park until they wish to utilize the property for another purpose. Chairman Harrington suggested the discussions take place at the joint meeting. Councilor Boyd requested the Town Manager and her team look at the 4 acres of Town owned land by the Post Office as a potential location. Chairman Harrington remarked she believes a site could be identified, but would lead to discussions of whether its proximity is accessible to the students, the cost of constructing a new park, etc.

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Councilor Boyd remarked at the end of the day the question will be who will maintain liability insurance, etc. Town Manager Cabanel stated if the facility remains it would fall upon the School District. The Town cannot have any affiliations with the property if wishing to break away from the “in perpetuity” clause. Were the Town to have such an affiliation, according to the State, the Town would be responsible for every element on that property to be replaced in perpetuity. Councilor Boyd suggested that should not exclude the Town from doing a lease arrangement exclusively on the skateboard park. Town Manager Cabanel explained further it does. As soon as the Town enters into any kind of a lease agreement on that property, it then invokes the “in perpetuity” clause for every element of that property. The skate park was not included in the grant, but it is included as it relates to “in perpetuity”.

Councilor Koenig stated his understanding the Town could not get into any kind of an agreement before the lease ran out. Presumably the Town could let the lease run out, and two days later create a new one on that property. Director Casparius stated his interpretation to be the requirement to allow the current lease to expire. At the same time, the Town is responsible for returning that to its natural state by the time it expires. The other option is for the School District to take it over. Councilor Koenig suggested they could take it over for a day. He stated it to have been made very clear the Town has to allow the lease to expire. It was not as clear regarding what must happen with the state of the land except for what the School Board requested. Town Manager Cabanel remarked in conversations between the State and Director Casparius, the State has been much more specific, and indicated that the Town really needs to walk away.

Councilor Albert requested the [presentation](#) be placed on the Town’s website, and that Director Casparius email a copy to the membership of the Parks and Recreation Committee.

***Town Manager Cabanel left the meeting at 9:20 p.m.***

***The Council took up Item #2 under New Business***

## **2. Merrimack Conservation Commission Signage Discussion**

*Submitted by MCC Member Michael Boisvert*

Town Council to consider the MCC’s request to post signage on Town parcel 4D1-10 (Merrimack river access under railroad parcel), and talk about enforcement.

Michael Boisvert, Merrimack Conservation Commission (MCC), spoke of the Sklar parcel recently obtained, which is adjacent to a Town parcel. For the MCC to improve the site and abide by Deed restrictions, there is the need to post signage to stop ATV and 4x4 use of the parcel. Posting would be on the north boundary of the Town parcel so that the signage can be viewed by those driving south between the two parcels.

Councilor Albert stated agreement with the need for good signage in that area. He questioned if anything had to be added to the Town Code relative to prohibiting these activities.

Gage Perry, Chairman, MCC, stated, per NH RSAs, if you do not grant permission explicitly for use of ATVs, it is an activity that is not permitted. Posting it is doing nothing more than explaining to people there are RSAs that tell them they are not supposed to be there. Councilor Flood spoke of the amount



# Plan for removal of elements at O'Gara Drive Recreation Area



# O'Gara Drive Recreation Area





# Removal of Tennis Courts



- Timeline - after Thanksgiving (weather dependent)
- Cost for Removal - \$20,000
- Town doesn't own necessary equipment but will be involved in removing the materials out.

# Ice Skating Rink Move to Watson Park



## Challenges to moving rink for this year

With the following restrictions; rink can be operational this winter:

- DPW will need to bring in water weekly in a tank when ice needs to be groomed.

- Existing lights are not worth saving. No economical solutions for temporary lighting, which means no lights for this winter.

- Water Line & permanent lights for Fall 2018.

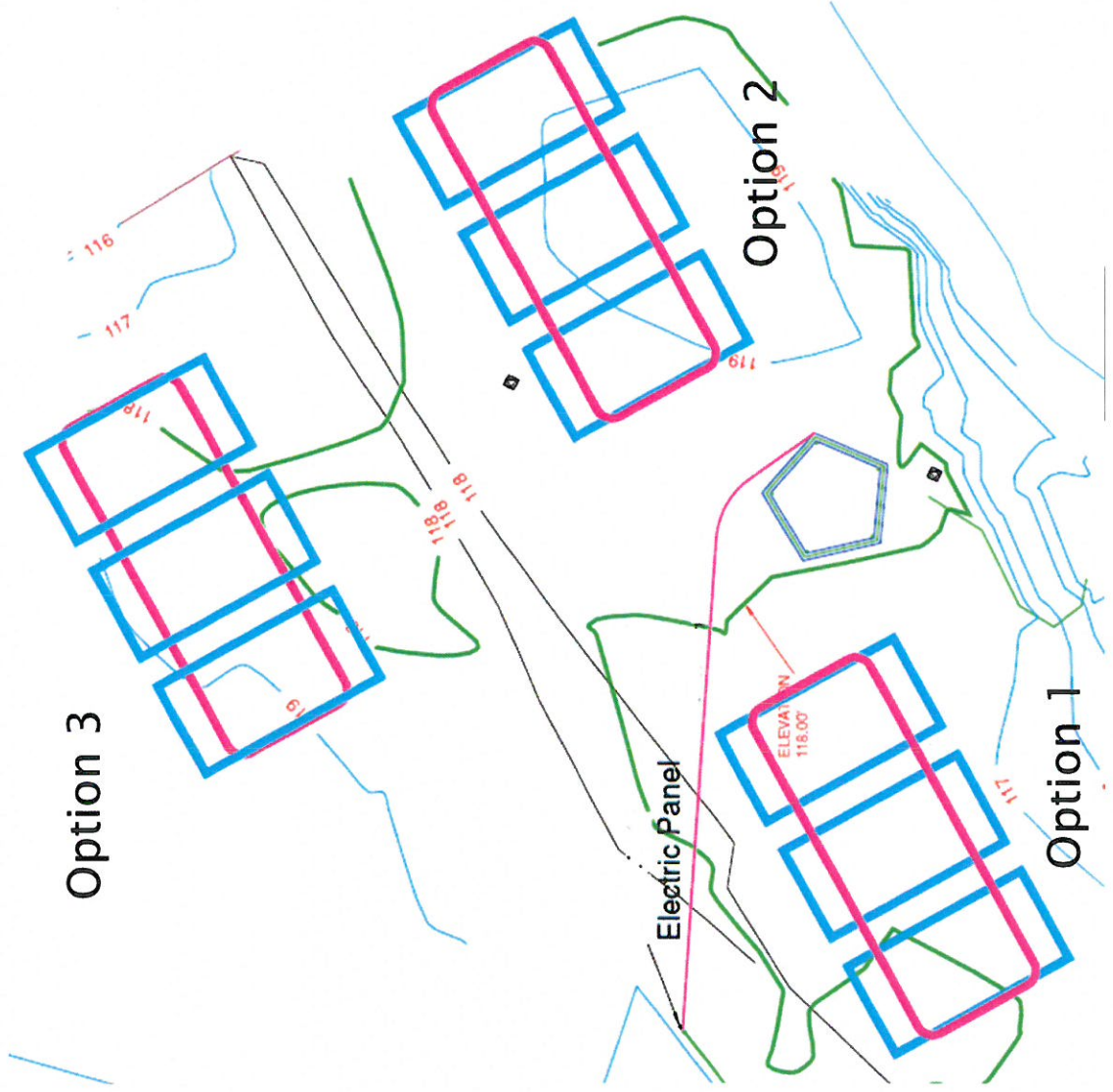
Rink is 120 feet x 70 feet

## Costs

- New water line – \$3,000

- New Lights – \$8,000

# Watson Park Ice Skating Rink - 3 Options

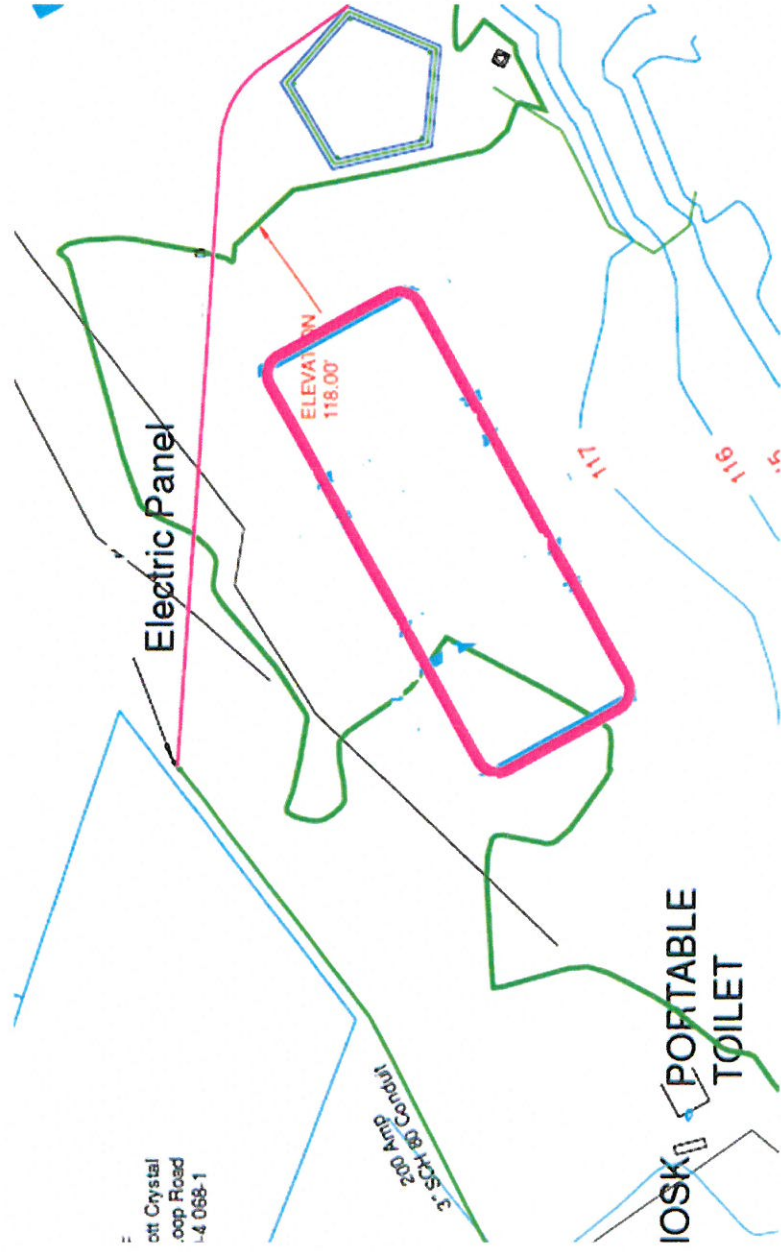


## Map Key

- Purple lines represent the 3 possible locations for Ice Skating Rink.
- Green Line represents 50 year flood plain.
- Blue boxes represent idea to put in sand volleyball courts in the same location. Courts would fit entirely within boundaries of ice skating rink.
- Park already has electrical service with 200 amp service.
- Nearest fire hydrant is at the street near the Park sign.

# Watson Park

## Ice Skating Rink - Option 1



### Pro's:

- Most picturesque of the 3 options with great visibility from the street
- Close to Pavilion for seating.

### Con's:

- Falls almost entirely within the 50 year flood plain.
- Will need fill added in some areas to level out site or move right up against the park road.
- Potential limits on usage of park for other activities.

Ice Skating Rink is 120 feet x 70 feet

# Ice Skating Rink - Option 1 Front View



# Ice Skating Rink - Option 1 Front View



# Ice Skating Rink - Option 1 Rear View



# Watson Park

## Ice Skating Rink - Option 2



Ice Skating Rink is 120 feet x 70 feet

### Pro's:

- Not in the flood plain
- Ground is flat already
- Close to pavilion for seating.
- Doesn't impact anything else we might want to use the Pavilion or Park for.

### Con's:

- Mostly hidden from street view by the pavilion.
- Very tight fit in the space (more so than drawing shows).



# Ice Skating Rink- Option 2 Front View



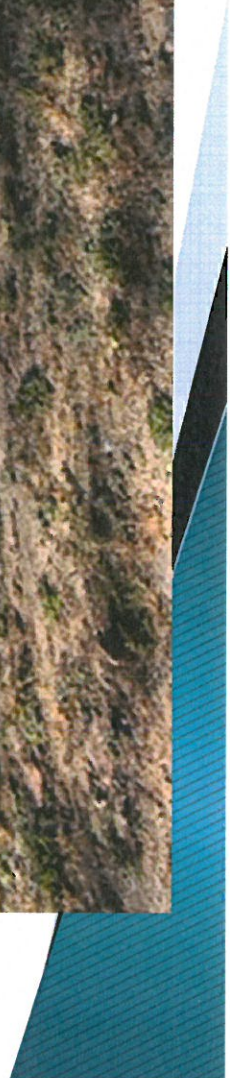
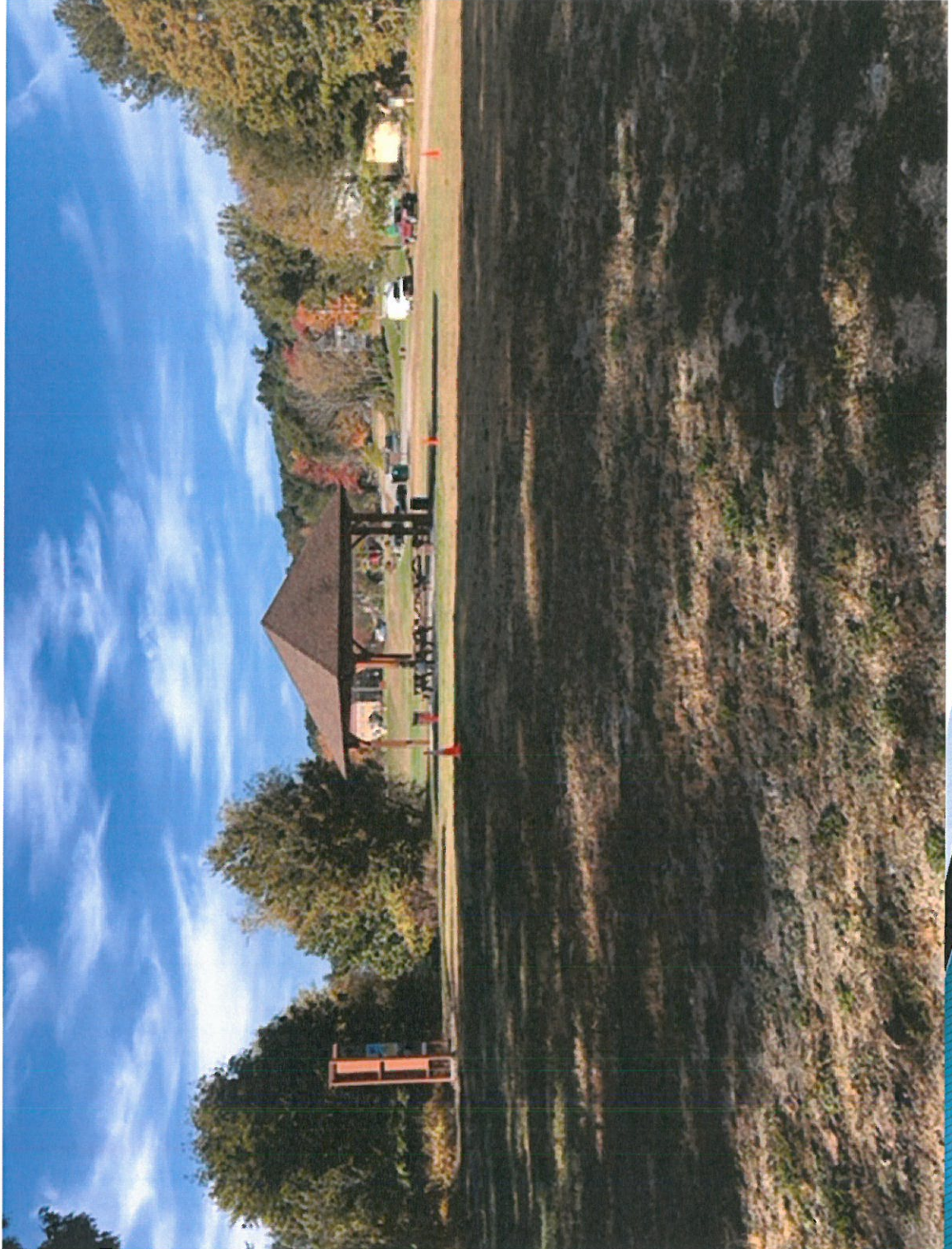
# Ice Skating Rink- Option 2 Side View



# Ice Skating Rink- Option 2 Side View



# Ice Skating Rink- Option 2 Rear View



# Watson Park

## Ice Skating Rink - Option 3



### Pro's:

- Most amount of space around the site to move, adjust or expand
- Closest option to electrical panel.
- Ground is flat already
- Doesn't impact anything else we might want to use the bandstand or Park for.

### Con's:

- Partially hidden from street view by trees.
- Furthest site from pavilion for seating.
- Will need to clear some small trees & brush.

Ice Skating Rink is 120 feet x 70 feet

# Ice Skating Rink- Option 3 Front View



# Ice Skating Rink- Option 3 Front View



# Ice Skating Rink- Option 3 Rear View





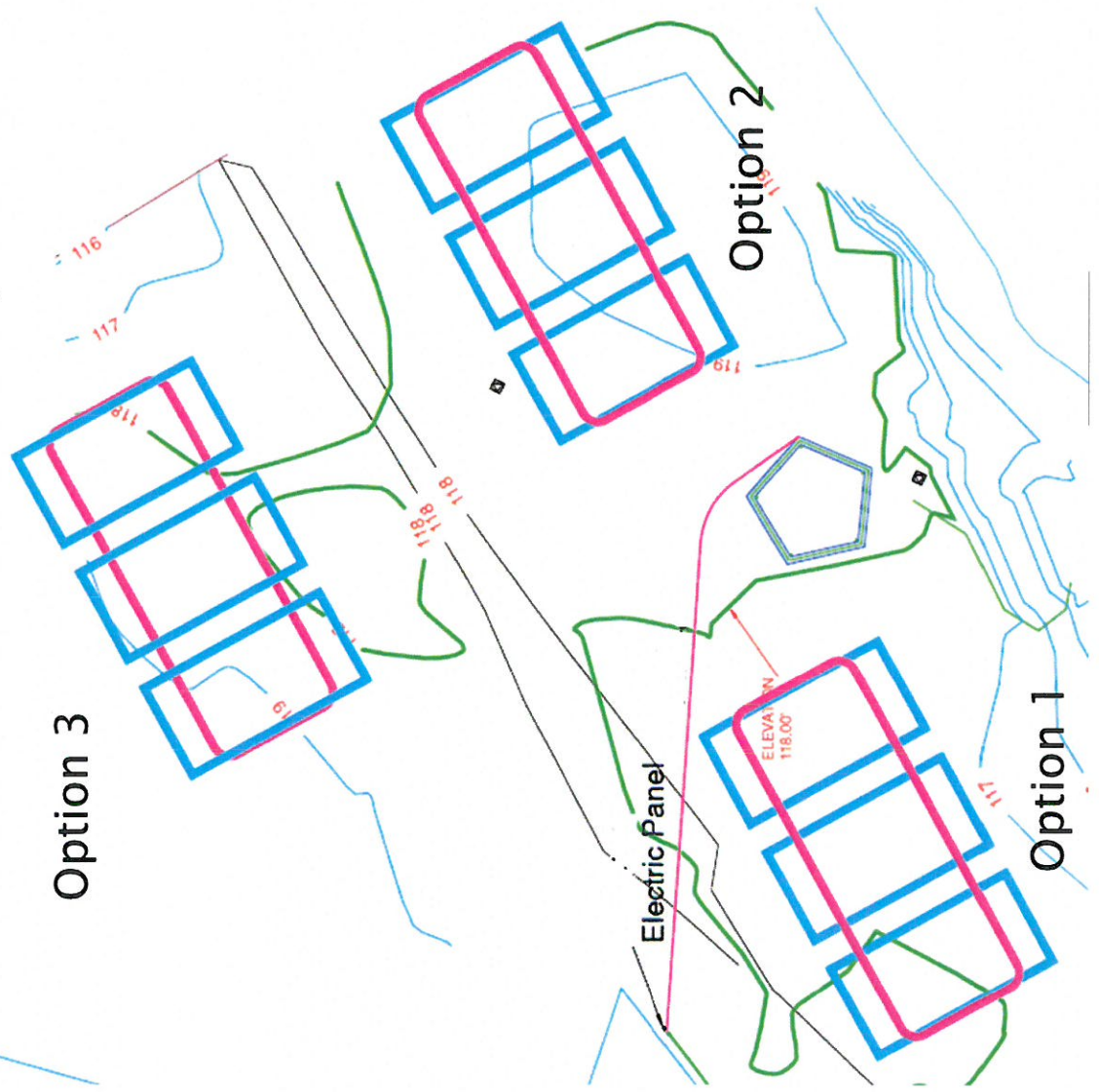
# Ice Skating Rink- Option 3 Side View



# Ice Skating Rink- Option 3 Side View

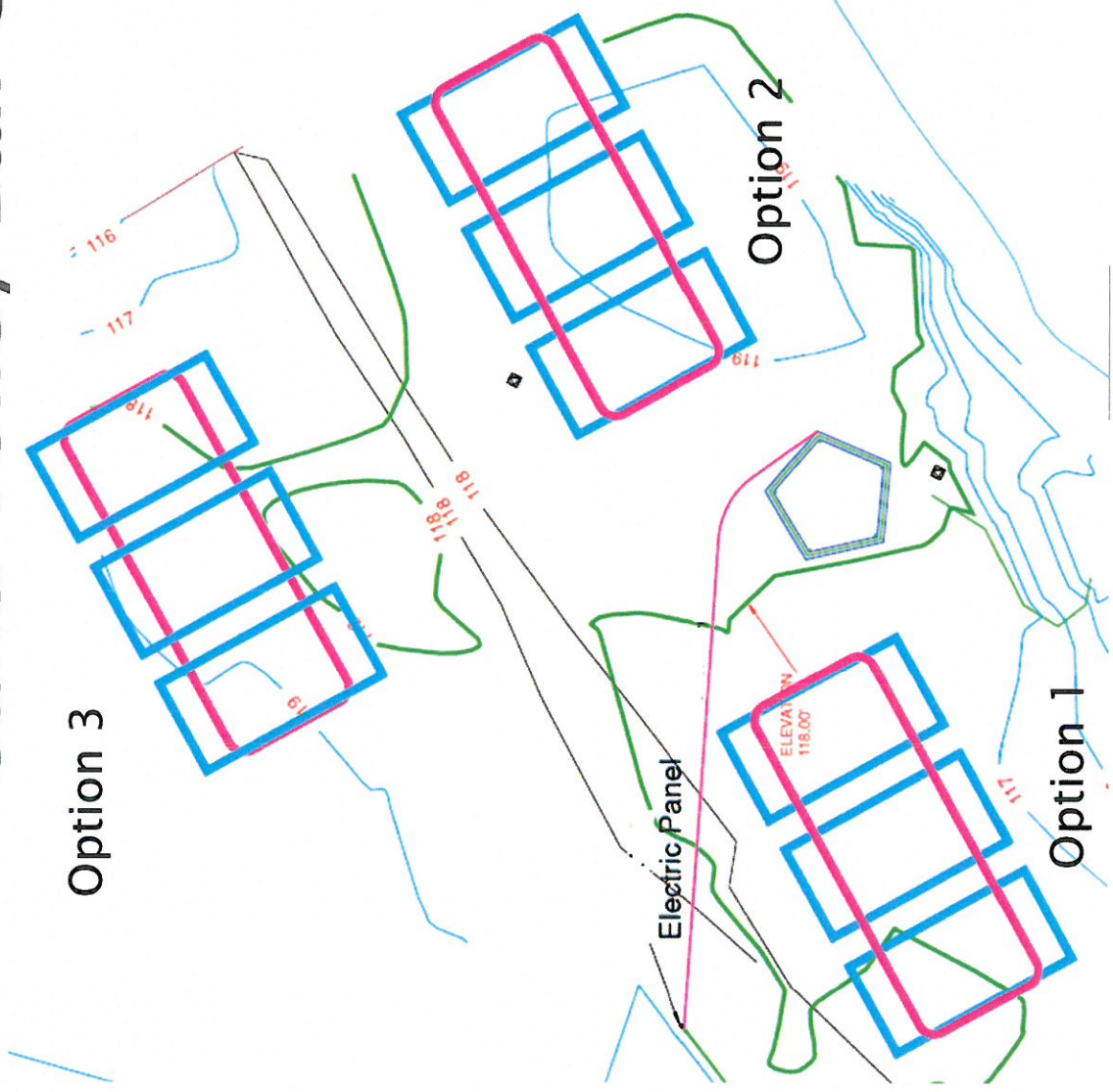


# Watson Park Sand Volley Ball Court idea



- Blue boxes illustrate idea to put in 3 sand volleyball courts in the same location as the Ice Skating Rink.
- Official sand volleyball courts are 60 feet x 30 feet. Ice skating rink is 70 feet x 120 feet.
- Map shows 3 courts overlapping Ice Skating Rink. 3 courts would fit entirely within boundaries of ice skating rink.

# Watson Park Sand Volley Ball Court idea



## Pro's:

- Combined with ice skating rink, creates a new year round amenity at Watson Park for additional park usage.

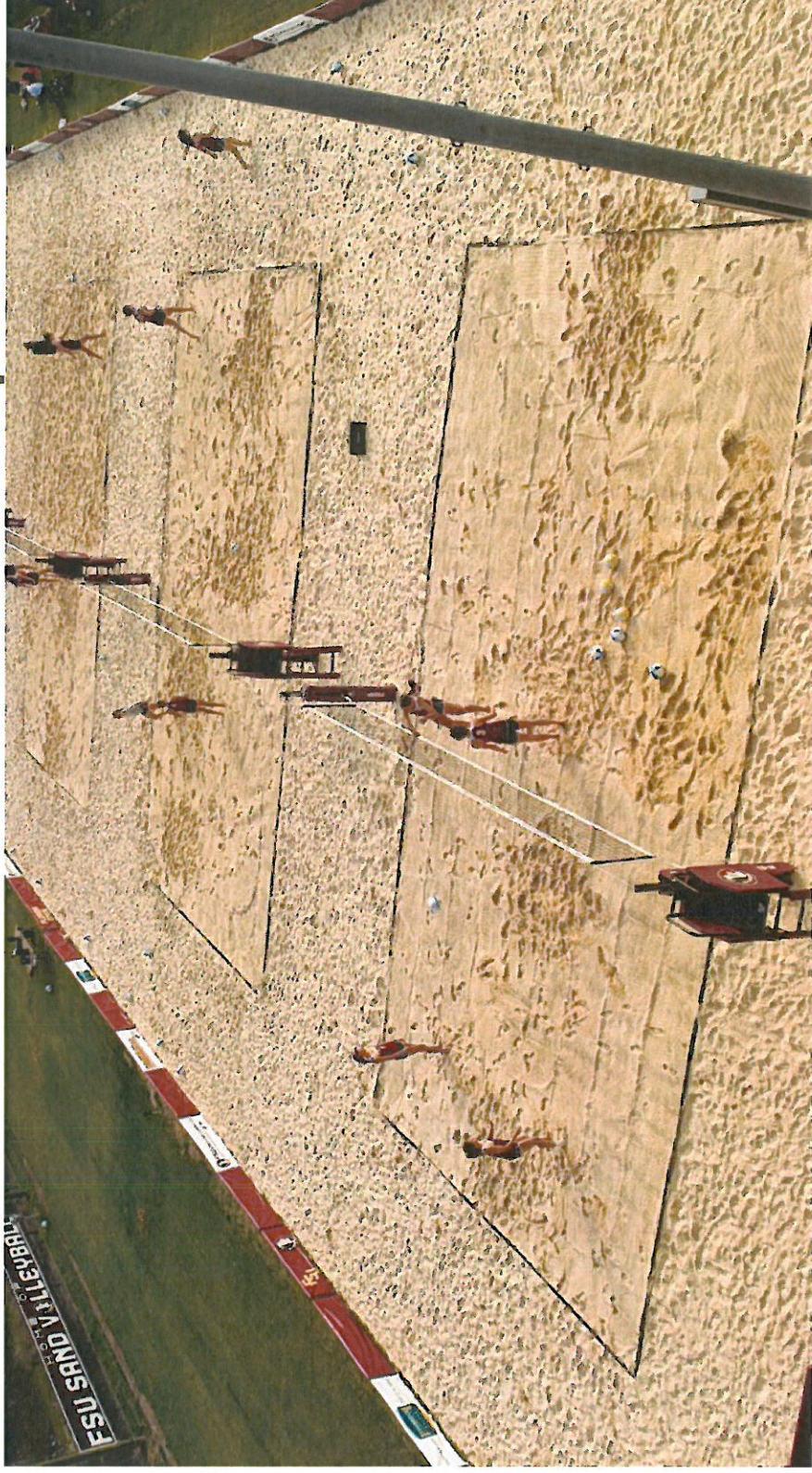
## Con's for Site Options 1 & 2 only:

- Risk of volleyball going over the embankment and down to the river.
- Proximity to pavilion could interfere with activities occurring at the pavilion.

## Estimated Costs:

- Depending on quality of system purchased between \$2500 – \$5000.

# Watson Park Sand Volleyball Court General Concept



# Basketball Courts Options



- Existing Court is 74 feet x 42 feet.
- Numerous requests for full sized court for High School and Adult aged participants.
- Full size court is 96 feet x 60 feet.
- Currently vetting several locations.

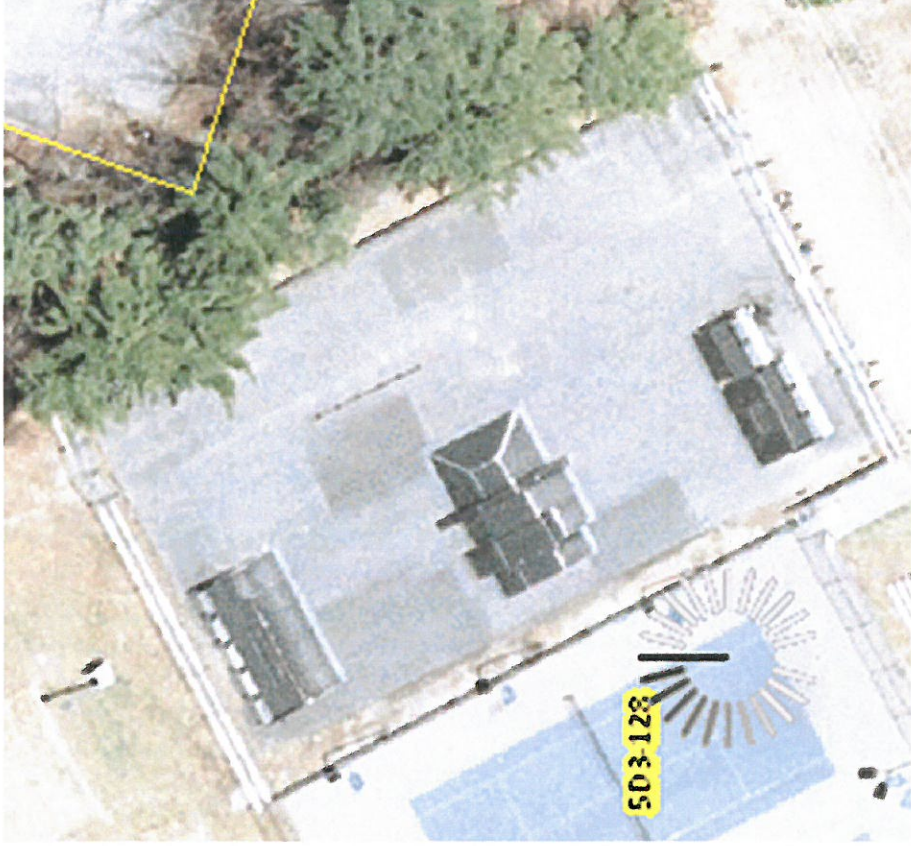
## Demolition of existing court:

- Done in conjunction with removal of tennis courts. Estimated timeline for removal is after Thanksgiving 2017.

## Estimated costs for new Full Sized Court:

- \$45,000
- Potential Funding from the MYA

# Skateboard Park



JOINT MEETING WITH  
TOWN COUNCIL &  
SCHOOL BOARD

TUESDAY, NOVEMBER 14<sup>TH</sup>  
7:00 PM

