



Town of West Newbury, Massachusetts

Fall Town Meeting

October 22, 2018, 7:00 p.m.

Town Annex, 379 Main Street



October 22, 2018

Dear Fellow Residents of West Newbury:

We have prepared this booklet to assist you in making informed decisions on this meeting's Warrant articles. The Finance Committee has reviewed each proposed article and herein reports to you on our recommendations to approve or disapprove each article.

The Selectmen and Finance Committee continue to approach the Fall Special Town Meeting's agenda with the intent to use this time for articles of a more urgent nature. These article include issues of safety, clerical and budgetary adjustments, and bylaw amendments that are presented to address current Town situations. The Committee's preference is to retain the Annual Town Meeting (ATM), held in the spring, as the forum to bring forward articles that surface through normal Town operations.

Participation at the Special Town Meeting (STM) is always important. It is within this STM where voters will have the opportunity to decide on such items as appropriating Community Preservation Committee funds to study expanding our recreation space to the Dunn municipal-owned land and funding an architectural/engineering review of our Town Annex to address interest in creating a multigenerational community space. Voters will also choose to approve or disapprove funding additional costs for the Town's curbside recycling, installation of additional testing and monitoring equipment at the Steele landfill, and the transfer of Free Cash to reduce the residential tax rate. Finally, voters will decide whether or not to accept proposed changes to West Newbury's Zoning Bylaws, presented by the Planning Board, and whether or not to accept certain provisions of Massachusetts General Law in regard to the disposition of abandoned funds and the establishment of payment agreements for properties in tax title.

This is a time for voters to address issues that arose after the Annual Town Meeting. It is also a time to address issues in which it would not be prudent, or even possible, to address until next spring.

We encourage all West Newbury residents to get involved and participate on Town committees. The Finance Committee meets Monday evenings at 7:00 p.m. at the 1910 Building, or as posted on the Finance Committee web page: www.wnewbury.org/finance-committee. We welcome your participation. We encourage you to review our website which includes various documents, such as FinCom Town Meeting booklets and meeting minutes, as well as email link to communicate with the Committee.

"You cannot escape the responsibility of tomorrow by evading it today."
Abraham Lincoln

Gary Roberts Jr., Chairman

The West Newbury Finance Committee

Gary L. Roberts, Jr., chair
Forbes C. Durey, vice chair
Brad Beaudoin, secretary

Nathan Kelly
Jessica Knezek
Angus Jennings, ex officio

Reading votes for town meeting warrant articles.

Votes for town meeting warrant articles follow the format of **(Yay:Nay:Abstention)** for the given article. For example:

Selectmen Recommendation: **Approve: 2:1:0**

This would read that two selectmen approved the article, one disapproved, no abstentions.

FinCom Recommendation: **Disapprove: 2:3:1**

This would read that two FinCom members approved the article, three disapproved, one abstention.

**TOWN OF WEST NEWBURY
COMMONWEALTH OF MASSACHUSETTS
WARRANT - SPECIAL TOWN MEETING – MONDAY, October 22, 2018 @ 7p.m.**

Essex, ss.

To any of the Constables of the Town of West Newbury:

In the name of the Commonwealth, you are hereby required to notify and warn all the inhabitants of the Town of West Newbury, who are qualified to vote in the elections and Town affairs, to meet at the Town Annex, 379 Main Street, at 7:00 p.m. on Monday, October 22, 2018 to act upon or take any other action relative to all of the following Articles.

GENERAL GOVERNMENT MATTERS

ARTICLE 1. To hear and act upon the reports of Town officers and committees.

APPROPRIATIONS

ARTICLE 2. To see if the town will vote to raise and appropriate and/or transfer from available funds the sum of \$30,000 to fund the installation of additional monitoring devices and additional frequency of testing for the post-closure of the Steele Landfill. *By request of the Board of Health*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 5-0-0

Rationale: *If approved by voters, the Article provides for a transfer of \$30,000 from Free Cash to the Board of Health to develop and implement a post-closure landfill-monitoring program for the Steele Landfill, as stipulated by the MA Department of Environmental Protection (DEP). The Finance Committee unanimously approves of this transfer as DEP's order for further testing was an unanticipated expense for the Board of Health and is required to address DEP's February 21, 2018 Order of Noncompliance.*

Funding Source: *Free Cash.*

Sunset Date: *End of FY 2019*

ARTICLE 3. To see if the town will vote to raise and appropriate and/or transfer from available funds the sum of \$50,000 to fund additional costs for disposal of recycled materials. *By request of the Board of Health*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 4-0-1

Rationale: *If approved by voters, The Board of Health would use \$50,000 in funds, transferred from Free Cash, to offset an unforeseen increase in recycling costs. A dramatic spike in recycling costs has reshaped the market for recycling in most municipalities across the United States. West Newbury's recycling costs rose from \$8 per ton in 2017 to \$94.47 per ton as of June 2018 – a 1075 percent increase. To date the Town's hauler, G. Mello Disposal, has absorbed this increase but informed the Board of Health it cannot continue to do so. The Finance Committee approves this Article as it views this funding as a stopgap measure to ensure uninterrupted curbside recycling service to West Newbury residents while the Board of Health explores additional options to reduce costs for FY2020 and beyond.*

Funding Source: *Free Cash.*

Sunset Date: *End of FY 2019*

ARTICLE 4. To see if the town will vote to raise and appropriate and/or transfer from available funds the sum of \$4,000 to fund architectural and/or engineering services to review proposed or potential Annex designs, offer recommendations regarding feasibility and cost, and/or prepare visual representations. *By request of the Community Center Committee*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 3-2-0

Rationale: *Approval of this article extends additional funding to the Committee to continue their purpose. The Committee's research and consultations thus far have determined that repurposing the Annex would be the best initial option for an Intergenerational Community Center. Based on this information, this disbursement would fund architect/engineer services to prepare a plan for potential future improvements. The Finance Committee approves this article in a split vote.*

Funding Source: *Free Cash.*

Sunset Date: *End of FY 2019*

ARTICLE 5. To see if the town will vote to transfer from the Community Preservation Act Funds, Open Space and Recreation Reserve, the sum of \$51,500 for Engineering Services and related expenses to prepare a conceptual study for Pipestave Hill Active Recreational Area Expansion to include the Dunn Municipal Owned Land. *By request of the Parks and Recreation Commission*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 5-0-0

Rationale: *The Finance Committee was unanimous in its support of this article. Outdoor recreation is one of the approved criteria for which funds from this account may be allocated. The committee believes that this study will provide the community with the information that it needs to make an informed decision about the proposed development of the Dunn Municipal Owned Land.*

Funding Source: *Community Preservation Committee,
Open Space and Recreation Reserve.*

Sunset Date: *End of FY 2020*

ARTICLE 6. To see if the town will vote to raise and appropriate and/or transfer from available funds the sum of \$2,500 to fund temporary office support in the Town Manager/Selectmen Office. *By request of the Board of Selectmen*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 5-0-0

Rationale: Approval of this article by residents would enable the Board of Selectmen's Office to finish their file updating and organization project, which so far has been very helpful with the transition to a new Town Manager. Further, the funding would be put toward part-time staff to provide coverage when regular staff is unavailable. The Finance Committee unanimously approves this Article.

Funding Source: Free Cash.

Sunset Date: End of FY 2019

ARTICLE 7. To see if the town will vote to raise and appropriate and/or transfer from available funds the sum of \$220,000 to reduce the current year tax rate. *By request of the Board of Selectmen*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 5-0-0

Rationale: The Finance Committee supports this article because it will allow the town to support the FY2019 budget while lowering the projected tax rate. Without this article, the tax rate would have to increase and/or the FY2019 budget would need to be cut.

Funding Source: Free Cash.

Sunset Date: End of FY 2019

BY-LAWS - OTHERS

ARTICLE 8. To see if the Town will vote to amend Section 5.G. Large-Scale Ground-Mounted Solar Photovoltaic Overlay District of the West Newbury Zoning Bylaw as follows:

1. By establishing parameters for the size and scale of Large-Scale Ground-Mounted Solar Photovoltaic Installations (LGSPI) utilizing minimum and maximum surface area requirements;
2. By distinguishing commercial LGSPI from Municipal LGSPI;
3. By requiring a special permit for LGSPI projects within an established LGSPI Overlay District where the underlying Zoning District is Residence-A, -B, or -C, or Business;
4. By adding new submission requirements for Site Plan Review Applications regarding utility company notification, operation & maintenance, landscaping plan and visualizations;
5. By increasing setbacks, as measured from the LGSPI to the Overlay District Boundary, from 50 feet to 150-feet for Photovoltaic (PV) Arrays and from 40 feet to 150 feet for appurtenant structures;
6. By reducing the maximum height of Appurtenant Structures from 35-feet to 15-feet.
7. By adding new Design Standards for LGSPI including siting criteria and landscaping & screening;
8. By allowing that the Planning Board hire consultants to assist in project review at the expense of Applicants;
9. By establishing new provisions for abandonment and decommissioning;
10. By establishing new requirements for Applicants to provide financial surety. ¹

By request of the Planning Board

Selectmen Recommendation:

Approve: 0-3-0

FinCom Recommendation:

Approve: 4-0-0

¹ Please see Appendix A to this booklet for the revised Solar Overlay Zoning Bylaw.

Rationale: *The Finance Committee unanimously supports proposed changes to this bylaw because the changes provide increased protections to residential abutters of Large-Scale Ground-Mounted Solar Photovoltaic Overlay Districts.*

ARTICLE 9. To see if the Town will vote to amend Section 6.B.8 Open Space Preservation Development (OSPD) of the West Newbury Zoning Bylaw as follows:

To amend the OSPD Bylaw for the purpose of clarifying the following provisions:

1. Basic Maximum Number (S. 6.B.8.iii)
2. Modification of Dimensional Requirements (S.6.B.9)
3. Contiguity of Open Space (S.6.B.10.a.ii)
4. Buffer Areas (S.6.B.11.b.iii.)
5. Density bonuses and Affordable Housing Units (S.6.B.13.d) ²

To amend Section S.6.B.11.b.iv of the Open Space Preservation Development Bylaw to increase the distance between residential buildings in a development by adding the following provision:

1. Minimum distance between residential buildings of 20-feet (S.6.B.11.b.iv.)

By request of the Planning Board

Selectmen Recommendation:

Approve: 0-2-1

FinCom Recommendation:

Approve: 4-0-0

Rationale: *The Finance Committee unanimously supports proposed changes to this bylaw because the changes will help to preserve the rural esthetic of the town by further restricting the allowable density of residences in Open Space Preservation Developments.*

ARTICLE 10. To see if the Town will vote to accept **and authorize the Town officers to utilize** the provisions of Massachusetts General Law Ch. 203C, the Massachusetts Prudent Investment Act, to make available the options required to meet the investment goals of the Other Post-Employment Benefits trust. ³ *By request of the Board of Selectmen*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 5-0-0

Rationale: *In an ongoing effort to strengthen the Town's finances, the Selectmen have consulted with the Mass Department of Revenue, Division of Local Services (DLS) to review the Town's financial policies. After a thorough review, DLS has recommended certain best financial polices and best practices be adopted by the Town. The Finance Committee unanimously supports this article because it establishes investment standards for trustees of the Town's OPEB fund.*

² Please see Appendix B to this booklet for the revised Open Space Preservation Development Bylaw.

³ Please see Appendix C to this booklet for Mass General Law Ch. 203C.

ARTICLE 11. To see if the Town will vote to accept the provisions of Massachusetts General Law Ch. 200A, §9A to establish procedures for the disposition of abandoned funds. ⁴ *By request of the Board of Selectmen*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 5-0-0

Rationale: *The Finance Committee unanimously supports this article as another best practice recommendation from DLS, formalizing the process whereby the Town may manage un-cashed checks. The Article provides the Town Accountant with guidance to keep more accurate accounting records and creates a process for removing unclaimed monies from the Town's books.*

ARTICLE 12. To see if the Town will vote to accept the provisions of Massachusetts General Law Ch. 60, §62A to authorize the establishment of payment agreements for properties in tax title. ⁵ *By request of the Board of Selectmen*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 5-0-0

Rationale: *The Finance Committee unanimously supports this Article as another recommended best practice from DLS with regard to tax title enforcement policy. The law establishes a mechanism for the Town to handle payment agreements between those entitled to redeem ownership of parcels taken by the Town for nonpayment of real estate taxes.*

ARTICLE 13. To see if the Town will vote to authorize the Board of Selectmen to accept by gift, donation or otherwise an easement for access and parking purposes and for the installation of utilities to be appurtenant to the land commonly referred to as "The Carr Post" as described in deed recorded with the Essex South District Registry of Deed in Book 35514 Page 162 from Cottage Advisors MA, LLC and to take any other action in furtherance thereof. *By request of the Board of Selectmen*

Selectmen Recommendation:

Approve: 3-0-0

FinCom Recommendation:

Approve: 5-0-0

Rationale: *The Finance Committee supports this article because it will provide an easement for a parking area, curb cut relocation for the Carr Post building, and future septic access to a neighboring property. This Article supports a proposed agreement between the Drakes Landing Developer and the Town Counsel.*

⁴ Please see Appendix D to this booklet for Mass General Law Ch. 200A, §9A.

⁵ Please see Appendix E to this booklet for Mass General Law Ch. 60, §62A

APPENDIX A:

Proposed Amendments to the Zoning Bylaw

Proposed deletions are ~~Strikethrough~~

Proposed Additions are Underlined

Section 5.G. LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS
OVERLAY DISTRICT

[Section 5.G. adopted by Amendment effective May 3, 2012 by vote of Annual Town Meeting, Article 18, and approved by the Attorney General on August 30, 2012, and posted according to law on September 7, 2012]

5.G.1. Purpose

The purpose of this Bylaw is to regulate Large-Scale Ground-Mounted Solar Photovoltaic Installations (LGSPI) in an established district(s) where they are allowed. The Bylaw provides standards for the placement, design, ~~and construction,~~ and eventual decommissioning and removal of such installations. The standards aim to address public safety, and ~~-minimize impacts on scenic, natural, and historic resources~~ and residential property and neighborhoods.

5.G.2. Definitions

Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI): A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and ~~has nameplate capacity of 250 kW DC. occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250 kW DC) but not more than 160,000 square feet of surface area (equivalent to a rated nameplate capacity of about 1 MW DC).~~

Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI) Overlay District: The location[s] designated by a Town Meeting vote in accordance with Massachusetts General Laws Chapter 40A, §5., where LGSPI are a permitted use ~~- or a use permitted by Special Permit.~~ Any designated location[s] [is/are] shown on the Town of West Newbury Zoning Map pursuant to Massachusetts General Laws Chapter 40A §4. A plan of an approved Overlay District delineated by metes and bounds shall be recorded at the Southern Essex Registry of Deeds. These plans shall also be filed in the Office of the Town Clerk.

Municipal Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI): A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250 kW DC) but not more than 160,000 square feet of surface area (equivalent to a rated nameplate capacity of about 1 MW DC), which is owned and operated by the Town of West Newbury or an agent of the Town, the electricity of which is generated for use by the Town or the general public.

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

Rated Nameplate Capacity: The nominal rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels.

5.G.3. Applicability

This Section applies to LGSPI proposed to be constructed after the effective date of this Section. This Section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. The provisions set forth in this Section shall apply to the construction, operation, and/or repair ~~LGSPI~~of an LGSPI. All LGSPI are subject to the following use regulations:

- a. The construction and use of an LGSPI within the Residence A, Residence B, Residence C and Business Districts shall be subject to a Special Permit and Site Plan Review by the Planning Board.
- b. The construction and use of an LGSPI within the Industrial District, and Municipal LGSPI shall be subject to Site Plan Review by the Planning Board.

This Bylaw is not intended to regulate systems that are consumptive power systems where all power that is generated is utilized on site.

5.G.4. General Requirements for all Large Scale Ground-Mounted Solar Photovoltaic Installations

The following requirements are common to all LGSPI to be sited in designated locations:.

- a. Compliance with Laws, Ordinances and Regulations. The construction and operation of all LGSPI shall be consistent with all applicable local, state and federal requirements, including all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
- b. Building Permit and Building Inspection. A Building Permit is required for construction, installation, or modification of LGSPI as provided in this Section. An Application for a Building Permit for LGSPI must be submitted with all documents required by the Building Inspector's Office and the requirements of ~~the Site Plan Review Decision~~, Zoning Bylaw Section 8.B. and Special Permit, Zoning Bylaw Section 8.A.2., where applicable.
- c. Site Plan Review. LGSPI are subject to Site Plan Review, Zoning Bylaw Section 8.B., by the Planning Board prior to construction, installation or modification as provided in this Section. In addition to the requirements of Section 8.B., Site Plan Review, and Planning Board Regulations, the Applicant shall submit the following:
 - i. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property Owners, if any
 - ii. The name, address, contact information and signature of any agents representing the project proponent, and

- iii. Documentation of actual or prospective access and control of the project site. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation
- iv. Documentation that the utility company operating the electrical grid where the LGSPI is to be located has been informed of the Owner or Operator's intent to install an interconnected LGSPI.
- v. An Operation and Maintenance Plan, which includes measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.
- ~~iv~~.vi. The Zoning district designation for the parcel(s) of land comprising the project site, Street Address, Assessors' Map and Lot Number, North Arrow, and Locus Map
- ~~v~~.vii. An aerial photograph showing the existing property and structures, abutting properties, structures and streets. The proposed LGSPI, appurtenant structures, driveways and other proposed improvements shall be superimposed upon the aerial photograph.
- ~~vi~~.viii. Blueprints or drawings of the solar photovoltaic installation signed by a Registered Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.
- ix. A description of the type of mounting system.
- x. Landscaping plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing, planting, screening vegetation, and/or fences/walls, and lighting.
- xi. Visualizations. The Planning Board may select up to six sight lines, including from the nearest building with a view of the LGSPI for pre- and post-construction view representations. Sight lines for the view representations shall be selected from populated areas proximate to the proposed LGSPI. View representations shall be in color and shall include actual pre-construction photographs and accurate post construction simulations of the height and breadth of the Solar Energy Facility (e.g. superimpositions of the Solar Energy Facility onto photographs of existing views). Sight line view representations shall include all buildings and tree coverage that will remain or are proposed.

Waiver Authority. The Planning Board may waive documentary requirements of Site Plan Review as it deems appropriate.

5.G.5. Special Permit Requirements for Large Scale Ground-Mounted Solar Photovoltaic Installations

LGSPI requiring a Special Permit pursuant to Section 5.G.3.a. are subject to the requirements and findings of Planning Board Acting as Special Permit Granting Authority, Section 8.A.2. prior to construction, installation or modification as provided in this Section.

5.G.6. Dimensional Requirements.

- a. All LGSPI and Appurtenant Structures shall conform with the Table of Dimensional Control below.

Table of Dimensional Control for Large- Scale Ground-Mounted Solar Photovoltaic Installations Overlay District

Structures	Minimum Lot Area In feet	Lot Frontage In feet	Percent of Required Lot area as Contiguous and Buildable (6.A.2)	Distance from Overlay District Boundary In feet	Maximum Lot Coverage %	Maximum Building Coverage %	Maximum Height in feet (6.A.3.)
PV Array	n/a	n/a	n/a	50 150	n/a	n/a	15
Appurtenant Structures	n/a	n/a	n/a	40 150	n/a	n/a	35 15

b. Appurtenant Structures. All appurtenant structures, including equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or fencing, and/or joined or clustered to avoid adverse visual impacts.

5.G.67. Design Standards

a. Siting Criteria. LGSPI shall be located with consideration for:

- i. Visual/aesthetic: LGSPI shall, where possible, be sited off ridgelines to locations where their visual impact is least detrimental to valuable historic and scenic and established residential areas;
- ii. General health, safety, and welfare of residents;
- iii. Natural habitats, forests and wetlands;
- iv. Lands with prime agricultural soils;
- v. Glare from the solar panels onto any abutting or nearby properties;
- vi. Potential vehicular traffic conflicts.

b. Landscaping and Screening. LGSPI shall be screened from view by staggered and grouped plantings of shrubs and small trees. Such plantings shall use native plants and a mix of deciduous and evergreen species and may be located within the setback area. The species mix and depth of screening shall be determined by the Planning Board during Site Plan Review based on site specific conditions with existing natural vegetation being used to the greatest extent possible.

a.c. Lighting. Lighting of ~~solar photovoltaic installations~~the LGSPI shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the ~~solar photovoltaic installation~~LGSPI shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

b.d. Signs on LGSPI shall comply with Section 7.C of the Zoning Bylaw. A sign consistent with the Zoning Bylaw shall be required to identify the Owner and provide a 24-hour emergency contact phone

number. Reasonable identification of the manufacturer or Operator of the ~~solar photovoltaic installation~~ LGSPI may be provided. LGSPI shall not be used for displaying and advertising.

~~Solar photovoltaic installations shall not be used for displaying and advertising.~~

~~e.~~

e Utility Connections. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the ~~solar photovoltaic installation~~ LGSPI underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

~~d.f~~ Safety and Security. Appropriate measures shall be proposed to secure the facility from unauthorized entry.

5.G.~~78~~. Environmental Standards

a. Wetlands. ~~LSGPI~~ LGSPI shall comply with the requirements of M.G.L. Chapter 130, as amended.

b. Stormwater Management. Stormwater Management shall comply with Department of Environmental Protection Stormwater Management Policy, as amended.

c. Noise. ~~LSGPI~~ LGSPI and equipment shall comply with Section 7.A.4. of the Zoning Bylaw, and the provisions of the Department of Environmental Protection's Division of Air Quality Noise Regulations, (310 CMR 7.10., as amended).

d. Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the facility or otherwise prescribed by applicable laws, regulations, and bylaws.

5.G.~~89~~. Technical Review. ~~Monitoring and Maintenance.~~

The Planning Board may require a Technical Review Fee pursuant to M.G.L. Chapter 44, s. 53G to hire a consultant to assist in the review of the proposed development.

~~5.G.10~~ Large Scale Ground Mounted Solar Photovoltaic Installation

The LGSPI Owner or Operator shall maintain the facility in good condition. ~~pursuant to the Operation and Maintenance Plan, Section 5.G.4.c.v.~~ Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.

5.G.~~91~~1. Modifications

The Building Inspector shall determine if a proposed Modification to an LGSPI made after issuance of the required Building Permit shall require the filing and approval of a new Site Plan and /or Special Permit Application with the Planning Board .

5.G.12. Abandonment and Decommissioning.

a. Removal requirements. Any LGSPI which has reached the end of its useful life or has been abandoned shall be removed. When the LGSPI is scheduled to be decommissioned, the Owner or Operator shall notify the Town by certified mail of the proposed date of discontinued operations and plans for removal. The Owner or Operator shall physically remove the LGSPI no more than 150 days after the date of discontinued operations. At the time of removal, the LGSPI site shall be restored in accordance with the decommissioning requirements specified below.

- i. Physical removal of all LGSPI, including structures, equipment, security barriers and transmission lines from the site;
- ii. Any utility connections shall be disconnected to the satisfaction of the Fire Department and Building Inspector.
- iii. Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations and standards; and
- iv. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the Owner or Operator to leave landscaping or any designated below-grade foundations in order to minimize erosion and disruption to vegetation.

b. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a LGSPI shall be considered abandoned when it ceases to operate for more than twelve (12) months, without written consent of the Building Inspector. “Cease to operate” is defined as not performing the normal functions associated with the LGSPI and its equipment on a continuous and ongoing basis. The Building Inspector shall provide written notification of abandonment to the Owner and Operator.

If the Owner or Operator fails to remove the LGSPI in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town shall have the authority to enter the property, to the extent it is duly authorized by law, and physically remove the LGSPI pursuant to the decommissioning requirements, Section 5.G.12.a.

5.G.13. Financial Surety. The Applicant shall provide a form of surety to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount not to exceed 150% of the current estimated cost.

The applicant may choose to provide the surety in the form of a bond or escrow account. Such surety is not required for Municipal LGSPI. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The surety shall include a mechanism for calculating increased removal costs due to inflation.

Nothing herein shall diminish the Town’s rights to recover costs associated with Section 5.G.12 Abandonment and Decommissioning, which is above and beyond the posted surety.

APPENDIX B :

Proposed Amendments to the Zoning Bylaw

Proposed deletions are ~~Strikethrough~~

Proposed Additions are Underlined

SECTION 6.B. OPEN SPACE PRESERVATION DEVELOPMENT BYLAW

[As amended under Article 16 of the April 28, 2008 Special Town Meeting, effective April 28, 2008, approved by the Attorney General on May 29, 2008 and posted according to law on June 17, 2008.]

6.B.I Purpose and Intent.

The primary purposes for Open Space Preservation Development (OSPD) are the following:

- a. To allow for greater flexibility and creativity in the design of residential developments.
- b. To encourage the permanent preservation of open space agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies, wetlands, scenic vistas, slopes and hillsides, and historical and archeological resources in a manner that is consistent with the West Newbury Comprehensive and Open Space Plans.
- c. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision.
- d. To provide density bonus incentives to encourage modestly sized housing units and affordable housing in order to further the goals and policies of the Town's Affordable Housing Plan.
- e. To minimize the total amount of disturbance on the site.
- f. To further the goals and policies of the West Newbury Comprehensive Plan and the West Newbury Open Space Plan.
- g. To facilitate the construction and maintenance of housing, streets, utilities and public service in a more economical and efficient manner.

6.B.2. The Secondary Purposes for the OSPD are the following:

- a. To preserve and enhance the community character.
- b. To preserve and protect agriculturally significant land.
- c. To protect the value of real property,
- d. To protect community and regional water supplies.
- e. To provide for a diversified housing stock

- f. To provide affordable housing to persons of low and moderate income.

6.B.3. Applicability

- a. There is no minimum tract size for an OSPD. The OSPD -Special Permit is an option for any proposed residential development.

[Subsection Heading amended and Subsection b. deleted under Article 19. of the April 29, 2013 Annual Town Meeting, effective April 29, 2013, approved by the Attorney General on June 14, 2013 and posted according to law on June 26, 2013.]

- b. Zoning Classification. Only those tracts located in Residential Districts A,B, or C shall be eligible for consideration as an OSPD.
- c. Contiguous Parcels. To be eligible for consideration as an OSPD, the tract shall consist of a parcel or set of contiguous parcels held under common ownership or site control.
- d. Land Division. To be eligible for consideration as an OSPD, the tract may be a subdivision or a division of land pursuant to G.L. c.41,s.81 P, provided, however, that OSPD may also be permitted where intended as a condominium on land not so divided or subdivided.

6.B.4. Special Permit Required.

The Planning Board may authorize an OSPD pursuant to the grant of a Special Permit. No additional special permit approvals are required for all uses permitted under the OSPD special permit. Such special permits shall be acted upon in accordance with the requirements listed in Section 8.A. of the Zoning Bylaw and the following provisions.

6.B.5. Pre-Application Conference.

- a. Conference. The applicant is very strongly encouraged to request a pre-application conference at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Open Space Committee, Inspector of Buildings and Water Department. The purpose of a pre-application conference is to minimize the applicant's cost of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage of development. At the pre-application conference, the applicant may outline the proposed conceptual Sketch Plan and Yield Plan (as outlined in subsection 6.B.7.a.i) and 6.B.8), seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. At the request of the applicant, and at the expense of the applicant, the Planning Board may engage technical experts to review the conceptual plans in order to facilitate submittal of a formal application for an OSPD Special Permit.
- b. The plan submitted shall be consistent with the rules and regulations listed in Section 6.B.7 relative to the size, form, number and contents of the plans to be submitted for a pre-application conference.

6.B.6. Design Process.

In conformance with Section 6.B.7.a), applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a registered Landscape Architect and considered in determining the layout of proposed streets, house lots and open space. The Design Process shall be reflected on the Sketch Plan in accordance with Section 6.B.7 i).

- a. Step One: Identifying the Conservation Areas. The conservation areas shall be identified by two steps. First, “*Primary Conservation Areas*” (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and “*Secondary Conservation Areas*” (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites as well as scenic views and stone walls) shall be identified and delineated on the Sketch Plan. Second, the “*Potentially Developable Area(s)*” will be identified and delineated on the Sketch Plan. To the maximum extent feasible, the Potentially Developable Area(s) shall consist of land outside identified Primary and Secondary Conservation Areas.
- b. Step Two: Locating the House Sites. Locate the approximate sites of individual residential structures within the Potentially Developable Area(s) and include the delineation of private yards and shared amenities, so as to reflect an integrated community with emphasis on consistency with West Newbury's historical character and development patterns. The number of residential structures enjoying the amenities of the development should be maximized.
- c. Step Three: Aligning the Streets and Trails. Align streets in order to access the residential structures. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks and trails.
- d. Step Four: Lot Lines. Draw in the lot lines.

6.B.7. Procedures.

[Amended by vote of the Annual Town Meeting, second session, on May 6, 2009, approved by the Attorney General on August 11, 2009 and posted according to law on August 20, 2009]

- a. Application. An application for an OSPD - Special Permit (OSPD-SP) shall include a “*Sketch Plan*” and a “*Yield Plan*” (see the Yield Plan requirements listed in Section 6.B.8). The Planning Board shall adopt rules and regulations relative to the size, form, number and contents of the sketch plan and yield plan.
 - i) Sketch Plan. The Sketch Plan shall be prepared by a registered Landscape Architect, or by a multi-disciplinary team of which one member must be a registered Landscape Architect, and shall address the general features of the land, give approximate configurations of the lots, open space and roadways, and include the information listed in Planning Board Rules and Regulations. When determining a proposed design for the development, the Sketch Plan shall incorporate and show the Four-Step Design Process listed in Section 6.B.6. and the Design Standards according to Section 6.B.11.
- b) Relationship to a Definitive Subdivision Plan. The issuance of an OSPD–SP allows the applicant to also submit an OSPD–SP /Definitive Subdivision Plan, where required, to the Planning Board. Any OSPD–SP issued by the Planning Board shall specifically state the OSPD–SP/Definitive Subdivision Plan shall substantially comply with the OSPD–SP.

- i) An OSPD–SP/Definitive Subdivision Plan will be considered not to substantially comply with the OSPD–SP if the Planning Board determines that any of the following conditions exist:
 - a) an increase in the number of building lots;
 - b) a significant decrease in open space acreage;
 - c) a significant change in the lot layout;
 - d) a significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
 - e) significant changes to the stormwater management facilities; and/or
 - f) significant changes in the wastewater management systems.
 - ii) If the Planning Board determines that the OSPD–SP/Definitive Subdivision Plan does not substantially comply with the OSPD–SP, the Board may disapprove the definitive subdivision plan for failure to comply with the condition of the Special Permit requiring that the OSPD–SP/Definitive Plan substantially comply with the OSPD–SP.
 - iii) The Planning Board may conditionally approve an OSPD–SP/Definitive Subdivision Plan that does not substantially comply with the OSPD–SP. However, such conditional approval must identify where the plan does not substantially comply with the OSPD–SP and shall require that the OSPD–SP be amended to be in compliance with the significant changes identified by the Planning Board. The Planning Board shall also require that the applicant file an application to amend the OSPD–SP within a specified time period.
 - iv) The public hearing on the application to amend the OSPD–SP shall be limited to the significant changes identified by the Planning Board in their conditional approval of the OSPD–SP/Definitive Subdivision Plan. These are the only considerations that the Planning Board may take into account in deciding whether to amend the OSPD–SP.
- c. General Procedures. Whenever an application for a OSPD–SP is filed with the Planning Board, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation to the Board of Health, Conservation Commission, Inspector of Buildings, Water Department, Police Chief, Fire Chief and Superintendent of Roads for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty (30) days of receipt of the reviewing parties of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty (30) day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty (30) day period. The Decision of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.
- d. Site Visit. Whether or not conducted during the pre-application stage, the Planning Board may conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.
- e. Design and Construction Standards. In addition to the development and performance standards listed under Section 8.B. Site Plan Review, the design and construction standards listed in Sections 4-6 of the *Rules and Regulations Governing the Subdivision of Land, West Newbury, MA* shall be applied in the review and approval of an OSPD–SP.

- f. Other Information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a special permit for an OSPD with the public hearing required for approval of a Definitive Subdivision Plan or Site Plan Review.

6.B.8. Basic Maximum Number and Yield Plan

[Subsection 6.B.8. amended October 26, 2015 by vote of Annual Town Meeting, Article 9, approved by the Attorney General on February 8, 2016 and posted according to law on March 21, 2016]

- i) The Yield Plan shall show the maximum number of single family dwelling units that would be deemed buildable upon the site under a conventional development plan process according to a reasonable application of the Rules and Regulations Governing the Subdivision of Land in the Town of West Newbury and all other applicable state and local land use regulations. At a minimum, the Yield Plan shall show the proposed land use, lot configuration, street layout, building envelopes, setbacks, conceptual grading, wetland resource areas and the general location of all drainage and utility systems.
- ii) The applicant shall provide information related to the proposed yield, including but not limited to, an approved wetland resource area delineation or soil testing reports and one (1) deep observation hole or one (1) percolation test report per single family dwelling unit in accordance with Title 5 requirements. The Board may also request review of the Yield Plan from the Board of Health and/or Conservation Commission prior to determining the maximum number of lots or dwelling units that could be placed upon the site.
- iii) The Planning Board will determine the Basic Maximum Number ~~from the Yield Plan as specified herein.~~

~~6.B.9. Reduction of 6.B.9. Dimensional Requirements. The Planning Board encourages applicants to modify lot Lot size, shape, and other dimensional requirements for lots within an OSPD may be modified from the requirements of Section 6.A,~~ subject to the following limitations:

- a. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSPD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this Bylaw.
- b. At least fifty percent (50%) of the required setbacks for the district shall be maintained ~~in on~~ lots within the OSPD unless a reduction is otherwise authorized by the Planning Board, except that no building may be built within ten (10) feet of the front lot line.

6.B. 10. Open Space Requirements.

- a. Protected Open Space. A minimum of sixty percent (60%) of the tract shown on the development plan shall be designated protected open space. Any proposed protected open space, unless conveyed to the Town or its Conservation Commission for conservation purposes, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for

the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

- i) The percentage of the protected open space that is wetlands shall not exceed the percentage of the tract which is wetlands at the time of application; provided, however, that the Board may allow a greater percentage of wetlands in the protected open space upon a demonstration that such inclusion promotes the purposes of this Bylaw.
 - ii) The protected open space shall be contiguous and ~~shall be greater than 5,000 SF in area. Contiguous shall be defined as being connected. If greater than 5,000 SF in area, protected open space will still~~ may be considered ~~connected~~ contiguous if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this Bylaw and/or protect identified primary and secondary conservation areas.
 - iii) The protected open space may only be used for one or more of the following uses: wildlife habitat and conservation; historic preservation; education; outdoor education; recreation; park purposes; agriculture' horticulture' forestry' or a combination of these uses and shall be served by suitable access for such purposes. The Planning Board may permit a small portion of the protected open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths).
 - iv) Except for agricultural or recreational uses, all protected open space areas that restrict use or access from all members of the homeowners association or the general public shall not be included in the calculation of protected open space under this Section. All outdoor restricted use areas for individual dwelling units shall be shown on the OSPD-SP Plan.
 - v) Wastewater and stormwater management systems serving the OSPD may be located within the protected open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required. Wastewater and stormwater management systems serving the OSPD that offer a natural and aesthetic appearance and are constructed to be a natural feature such as a wetland or pond with ecological qualities and/or assets may qualify towards the minimum protected open space area.
- b. Ownership of the Protected Open Space. The protected open space shall, at the Planning Board's election, be conveyed in fee or easement to the following:
- i) the Town or its Conservation Commission;
 - ii) a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
 - iii) a corporation or trust owned jointly or in common by the owners of lots within the OSPD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant

the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

6.B.11. Design Standards. The following Generic and Site Specific Design Standards shall apply to all OSPDs and shall govern the development and design process.

a. Generic Design Standards.

- i) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing the removal of healthy tree, shrub and other natural vegetation. Removal of soils should also be minimized. The grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, healthy tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
- ii) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks and trees in order to minimize cuts and fills and to preserve and enhance views and vistas on or off the subject property.
- iii) The density and design of the development shall be related harmoniously to the terrain on the property as well as the, use(s), scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings.
- iv) All open space (landscape and useable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- v) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or any adjacent properties.

b. Site Specific Design Standards.

- i) Mix of Housing Types. The OSPD may consist of any combination of single family, two-family, or multi-family residential structures. Except for congregate care or age-restricted developments (restricted to occupants over the age of fifty-five (55) years), a multifamily structure shall contain not more than four dwelling units. In congregate care or age-restricted buildings, the Planning Board may permit more units per structure where it is determined that allowing a larger structure will promote the goals of this Bylaw and/or protect the identified primary and secondary conservation areas. To the maximum extent feasible, all residential structures shall be oriented toward the street serving the premises and not the required parking area.

- ii) Parking. Unless waived by the Planning Board due to a reduced parking demand as demonstrated through a detailed traffic impact study, each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in the computation. All parking areas with greater than four (4) spaces shall be screened from view.
- iii) Buffer Areas. Vegetation in the buffer areas described below shall not be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The buffer area may be included in the calculation of protected open space. Except for access, utilities and drainage systems, ~~a~~ buffer area of twenty (20) feet shall be provided ~~at the following locations~~ as follows:
- a) The perimeter of the property where it abuts residentially zoned and occupied properties:
- | <u>Zoning District</u> | <u>Minimum Buffer</u> |
|------------------------|-----------------------|
| <u>Residence A</u> | <u>100 feet</u> |
| <u>Residence B</u> | <u>75 feet</u> |
| <u>Residence C</u> | <u>50 feet</u> |
- b) ~~Along certain~~ Certain resource areas on or adjacent to the tract like ponds, wetlands, streams and riverfront areas, rock outcrops, ledge, agricultural or recreational fields, and land held for conservation purposes- shall have a minimum buffer area of twenty (20) feet. All driveways necessary for access and egress to and from the tract may cross such buffer areas. ~~No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project.~~

The Planning Board may waive the buffer requirement in these locations when it determines that a smaller buffer (or no buffer) will suffice to accomplish the objective set forth herein.

~~iv)~~ Distance between residential buildings shall be no less than 20 feet.

~~v)~~ Drainage. The Planning Board shall encourage the use of "soft" (non structural) stormwater management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate.

~~vi)~~ Common/Shared Driveway. A common or shared driveway may serve a maximum of three dwelling units.

~~vii)~~ Screening and Landscaping. All areas within the site that are designated on the plan for screening or landscaping shall be accompanied by a stamped landscape plan prepared by a Registered Landscape Architect.

~~viii)~~ On-site Pedestrian and Bicycle Circulation. Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate.

6.B.12. Decision of the Planning Board. The Planning Board may grant a special permit for an OSPD if it determines that the proposed OSPD has less detrimental impact on the tract than a conventional development proposed for the tract, after considering the following factors:

- a. Whether the OSPD achieves greater flexibility and creativity in the design of residential developments than a conventional development plan;
 - b. Whether the OSPD promotes permanent preservation of open space, agricultural land forestry land, other natural resources including waterbodies and wetlands, and historical and archeological resources;
 - c. Whether the OSPD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional development plan;
 - d. Whether the OSPD reduces the total amount of disturbance on the site compared to a conventional development plan;
 - e. Whether the OSPD furthers the goals and policies of the Open Space Plan and/or the Comprehensive Plan;
 - f. Whether the OSPD facilitates the construction and maintenance of streets, utilities and public service in a more economical and efficient manner;
- eg. Whether the OSPD Plan and its supporting narrative documentation complies with all sections of this Zoning Bylaw.

6.B. 13. Increases in Permissible Density. After reviewing the design standards listed in subsection 6.B.11 and the factors listed in subsection 6.B.12, the Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. Any density bonus units approved under this section shall also comply with the Town's Inclusionary Zoning Bylaw.

The density bonus for the OSPD shall not, in the aggregate, exceed fifty percent (50%) of the Basic Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded by the Planning Board in each of the following circumstances:

- a. Protected Open Space: For each additional five percent (5%) of the site (over and above the required sixty percent (60%) set aside as open space, a bonus of one (1) lot or unit may be awarded; provided, however, that this density bonus shall not exceed twenty percent (20%) of the Basic Maximum Number.
- b. Detached Single Family Cottage Units: For every detached single family dwelling unit that has less than 1,500 SF in finished gross floor area with up to three-bedrooms, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed twenty percent (20%) of the Basic Maximum Number.
- c. Accessory Dwelling Units: For every one (1) accessory dwelling units that has no more than 1,000 SF in finished gross floor area with up to two bedrooms, two (2) dwelling units may be added as a density bonus; provided, however, that this density bonus shall not exceed twenty percent (20%) of the Basic Maximum Number. Accessory dwelling units may be permitted within accessory structures such as upper floors of garages, carriage houses or barns as well as within a two-family or multi-family structures.
- d. Affordable Housing Units: ~~Excluding all units required under the Inclusionary Zoning Bylaw,~~

- i. ~~for~~For every one (1) dwelling unit restricted to occupancy for a period of not less than thirty (30) years by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development (DHCD), and that shall be eligible for inclusion in and count toward the Town's "Subsidized Housing Inventory," as maintained by DHCD or any successor agency, the Planning Board may award a density bonus of three (3) similarly designed dwelling units; provided, however, that this density bonus shall not exceed fifty percent (50%) of the Basic Maximum Number.

- ii. Relationship to Section 5.F. Inclusionary Housing Requirements. New housing units described under Section 5.F.4., shall be the Basic Maximum Number determined by the Planning Board under 6.B.8. Affordable Housing Units provided pursuant to Section 6.B.13.d. shall be in addition to those required pursuant to Section 5.F.4.

<u>Example: Total new housing units (aka Basic Maximum Number)</u>	<u>=</u>	<u>30 units</u>
<u>Affordable Housing Units Required pursuant to Section 5.F.</u>	<u>=</u>	<u>3 units</u>
<u>Affordable Housing Units Provided pursuant to Section 6.B.13.d.</u>	<u>=</u>	<u>1 unit</u>
<u>Density Bonus Units Afforded pursuant to Section 6.B.13.d.</u>	<u>=</u>	<u>3 units</u>
<u>Total Number of Housing Units = 37 units</u>		
<u>(33 Market Rate Units + 4 Affordable Units)</u>		

- e. Historic Preservation: For any historically significant building or structure that records a permanent preservation restriction under GL 184, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed ten percent (10%) of the Basic Maximum Number. The Planning Board shall determine whether such building or structure is historically significant. To be deemed historically significant such building or structure shall meet at least one of the following:
- (a) any principle building or structure within the Town which is in whole or in part seventy-five (75) or more years old;
 - (b) any accessory structure one-hundred (100) or more years old; or
 - (c) any building or structure which is listed on the National Register of Historic Places.

APPENDIX C - STM Article 10
Massachusetts Prudent Investment Act

Chapter 203C PRUDENT INVESTMENT

Section 1. This chapter shall be known as and may be cited as the Massachusetts Prudent Investor Act.

Section 2. (a) Except as provided in subsection (b), a trustee who invests and manages trust assets shall owe a duty to the beneficiaries of a trust to comply with the prudent investor rule set forth in this chapter.

(b) The prudent investor rule may be expanded, restricted, eliminated or otherwise altered by the provisions of a trust. A trustee shall not be liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

Section 3. (a) A trustee shall invest and manage trust assets as a prudent investor would, considering the purposes, terms, and other circumstances of the trust, including those set forth in subsection (c). In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets shall be considered in the context of the trust portfolio as a part of an overall investment strategy reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) general economic conditions;
- (2) the possible effect of inflation or deflation;
- (3) the expected tax consequences of investment decisions or strategies;
- (4) the role that each investment or course of action plays within the overall trust portfolio;
- (5) the expected total return from income and the appreciation of capital;
- (6) other resources of the beneficiaries;
- (7) needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (8) an asset's special relationship or special value, if any, to the purposes of the trust or to one of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

(f) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has such special skills or expertise, shall have a duty to use such special skills or expertise

Section 4. A trustee shall reasonably diversify the investments of the trust unless, under the circumstances, it is prudent not to do so.

Section 5. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, and the other circumstances of the trust, and with the requirements of this chapter.

APPENDIX C - STM Article 10
Massachusetts Prudent Investment Act

Section 6. A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

Section 7. If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

Section 8. In investing and managing trust assets, a trustee shall incur only costs that are appropriate and reasonable in relation to the assets, the purpose of the trust, and the skills of the trustee.

Section 9. Compliance with the prudent investor rule shall be determined in light of the facts and circumstances existing at the time of a trustee's decision or action.

Section 10. (a) A trustee may delegate investment and management functions if it is prudent to do so.

A trustee shall exercise reasonable care, skill and caution in:

- (1) selecting an agent;
- (2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent shall owe a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of subsection (a) shall not be liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of trust functions from the trustee of a trust that is subject to the laws of the commonwealth, an agent submits to the jurisdiction of the courts of the commonwealth.

Section 11. The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize any investment or strategy permitted under this chapter and shall not be interpreted to be a restriction, elimination, or other alteration of the prudent investor rule for purposes of subsection (b) of section 2: "investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule", and "prudent investor rule".

APPENDIX D - STM Article 11
Mass Law: Disposition of Unclaimed Property

Chapter 200A DISPOSITION OF UNCLAIMED PROPERTY

Section 9A. (a) In any city, town or district that accepts this section in the manner provided in section 4 of chapter 4, there shall be an alternative procedure for disposing of abandoned funds held in the custody of the city, town or district as provided in this section.

(b) Any funds held in the custody of a city, town or district may be presumed by the city, town or district treasurer to be abandoned unless claimed by the corporation, organization, beneficiary or person entitled thereto within 1 year after the date prescribed for payment or delivery; provided, however, that the last instrument intended as payment shall bear upon its face the statement "void if not cashed within 1 year from date of issue". After the expiration of 1 year after the date of issue, the treasurer of a city, town or district may cause the financial institution upon which the instrument was drawn to stop payment on the instrument or otherwise cause the financial institution to decline payment on the instrument and any claims made beyond that date shall only be paid by the city, town or district through the issuance of a new instrument. The city, town or district and the financial institution shall not be liable for damages, consequential or otherwise, resulting from a refusal to honor an instrument of a city, town or district submitted for payment more than a year after its issuance.

(c) The treasurer of a city, town or district holding funds owed to a corporation, organization, beneficiary or person entitled thereto that are presumed to be abandoned under this section shall post a notice entitled "Notice of names of persons appearing to be owners of funds held by (insert city, town or district name), and deemed abandoned". The notice shall specify the names of those persons who appear from available information to be entitled to such funds, shall provide a description of the appropriate method for claiming the funds and shall state a deadline for those funds to be claimed; provided, however, that the deadline shall not be less than 60 days after the date the notice was either postmarked or first posted on a website as provided in this section. The treasurer of the city, town or district may post such notice using either of the following methods: (1) by mailing the notice by first class mail, postage prepaid, to the last known address of the beneficiary or person entitled thereto; or (2) if the city, town or district maintains an official website, by posting the notice conspicuously on the website for not less than 60 days. If the apparent owner fails to respond within 60 days after the mailing or posting of the notice, the treasurer shall cause a notice of the check to be published in a newspaper of general circulation, printed in English, in the county in which the city or town is located.

(d) In the event that funds appearing to be owed to a corporation, organization, beneficiary or person is \$100 or more and the deadline as provided in the notice has passed and no claim for the funds has been made, the treasurer shall cause an additional notice, in substantially the same form as the aforementioned notice, to be published in a newspaper of general circulation in the county in which the city, town or district is located; provided, however, that the notice shall provide an extended deadline beyond which funds shall not be claimed and such deadline shall be at least 1 year from the date of publication of the notice.

APPENDIX D - STM Article 11

Mass Law: Disposition of Unclaimed Property

(e) Once the final deadline has passed under subsection (d), the funds owed to the corporation, organization, beneficiary or person entitled thereto shall escheat to the city, town or district and the treasurer thereof shall record the funds as revenue in the General Fund of the city, town or district and the city, town or district shall not be liable to the corporation, organization, beneficiary or person for payment of those funds or for the underlying liability for which the funds were originally intended. Upon escheat, the funds shall be available to the city, town or district's appropriating authority for appropriation for any other public purpose. In addition to the notices required in this section, the treasurer of the city, town or district may initiate any other notices or communications that are directed in good faith toward making final disbursement of the funds to the corporation, organization, beneficiary or person entitled thereto.

Prior to escheat of the funds, the treasurer of the city, town or district shall hear all claims on funds that may arise and if it is clear, based on a preponderance of the evidence available to the treasurer at the time the claim is made, that the claimant is entitled to disbursement of the funds, the treasurer shall disburse funds to the claimant upon receipt by the treasurer of a written indemnification agreement from the claimant wherein the claimant agrees to hold the city, town or district and the treasurer of the city, town or district harmless in the event it is later determined that the claimant was not entitled to receipt of the funds. If it is not clear, based on a preponderance of the evidence before the treasurer at the time of the claim that the claimant is entitled to disbursement of the funds, the treasurer shall segregate the funds into a separate, interest-bearing account and shall notify the claimant of such action within 10 days. A claimant affected by this action may appeal within 20 days after receiving notice thereof to the district, municipal or superior court in the county in which the city, town or district is located. The claimant shall have a trial de novo. A party adversely affected by a decree or order of the district, municipal or superior court may appeal to the appeals court or the supreme judicial court within 20 days from the date of the decree.

If the validity of the claim shall be determined in favor of the claimant or another party, the treasurer shall disburse funds in accordance with the order of the court, including interest accrued. If the validity of the claim is determined to be not in favor of the claimant or another party or if the treasurer does not receive notice that an appeal has been filed within 1 year from the date the claimant was notified that funds were being withheld, then the funds, plus accrued interest, shall escheat to the city, town or district in the manner provided in this section.

If the claimant is domiciled in another state or country and the city, town or district determines that there is no reasonable assurance that the claimant will actually receive the payment provided for in this section in substantially full value, the superior court, in its discretion or upon a petition by the city, town or district, may order that the city, town or district retain the funds.

APPENDIX E - STM Article 12
Mass Law: Collection of Taxes

Chapter 60 COLLECTION OF LOCAL TAXES

Section 62A. Municipalities may by bylaw or ordinance authorize payment agreements between the treasurer and persons entitled to redeem parcels in tax title. Such agreements shall be for a maximum term of no more than 5 years or such lesser period as the ordinance or bylaw may specify and may waive not more than 50 per cent of the interest that has accrued on the amount of the tax title account, subject to such lower limit as the ordinance or bylaw may specify. An ordinance or bylaw under this section shall provide for such agreements and waivers uniformly for classes of tax titles defined in the ordinance or bylaw.

Any such agreement must require a minimum payment at the inception of the agreement of 25 per cent of the amount needed to redeem the parcel. During the term of the agreement the treasurer may not bring an action to foreclose the tax title unless payments are not made in accordance with the schedule set out in the agreement or timely payments are not made on other amounts due to the municipality that are a lien on the same parcel

Role of the Finance Committee: The Finance Committee is an appointed, standing committee consisting of six qualified voters. The Finance Committee is specifically chartered with the following responsibilities:

- Prepare recommendations regarding all Articles in the warrant, especially those involving the appropriation of money.
- Consider all municipal questions affecting the revenue, indebtedness or expenditures of the funds of the Town, and for this purpose the committee shall have access to all books and records of the Town.
- Present the Annual Budget to the Town.
- Confer with and advise the Board of Selectmen whenever so requested.
- One member of the Finance Committee shall be a member of the advisory Capital Improvements Committee.
- Authorize transfers from the Reserve Fund.
- Authorize year-end budget line item transfers.
- Declare a Snow Emergency to allow deficit spending of the Snow Removal budget.

In addition to these statutory responsibilities, the Finance Committee serves as your investigative agent to make sure that all proposed expenditures are thoroughly vetted before they come before the Town.

GLOSSARY

1. **Article:** The topic to be considered and voted at Town Meeting.
2. **Assessment:** The Board of Assessors judgment of the value of a property.
3. **Bond:** A means to raise money through the issuance of debt. The Town (borrower) promises in writing to repay a specified sum of money, alternately referred to as face value, par value or bond principal, to the buyer of the bond on a specified future date (maturity date), together with periodic interest at a specified rate. The term of a bond is always greater than one year.
4. **Capital Expenditure:** An expense for a tangible asset or project that costs at least \$10,000 and has a useful life of at least 5 years.
5. **Chapter 70:** The Chapter of Massachusetts law that governs the funding of the schools. The formula is designed to distribute state aid to help establish educational equity among municipal and regional school districts. It is also the name for the largest part of state funding to schools.
6. **Chapter 90:** The Chapter of Massachusetts law that governs the funding of roads and highway improvements. It is also the common name for the largest part of state funding to highways.
7. **Cherry Sheet:** State aid to the Town, so called as they used to be printed on red paper.
8. **Credit Rating:** The evaluation given by lenders indicating the Town's ability to repay a Loan or Bond. A good credit rating allows the Town to borrow at a lower interest rate.
9. **Free Cash:** Funds remaining from the operations of a previous fiscal year (June 30) which may be appropriated after they have been certified by the Massachusetts Department of Revenue. These include unspent appropriations and revenue collected in excess of estimates.

10. **Levy:** The revenue the Town can raise through real and personal property tax and motor vehicle excise taxes.
11. **Levy Limit:** The maximum tax amount the Town can levy in a given year. The limit can grow 2 ½% of the prior year's levy limit plus new growth and any overrides.
12. **New growth:** The taxing capacity and thereby revenue added by new construction and other increases in the property tax base.
13. **Operating Expenses:** The budget for routine, recurring expenses during the fiscal year starting on July 1 through June 30. It includes all labor and expenses. Typical examples are Police and Fire Department salaries, the Town's assessment from the Pentucket Regional School District, road repairs, snow removal and the solid waste pickup (trash) contract.
14. **Override:** Proposition 2 ½ allows a Town to increase the Town's taxes greater than 2 ½% by one of 3 methods, if approved by the voters:
 - a. Capital Outlay Expenditure Override– allows override of Prop 2 ½, only for a one-time purchase.
 - b. Debt Exclusion Override–allows over-ride of Prop 2 ½ only for the term of the debt repayment schedule.
 - c. General Override–increases the total tax beyond 2 ½% permanently.
15. **Pension Obligations:** Contributions to the Essex Regional Retirement Board and to the Other Post-Employment Benefits (OPEB) for eligible Town employees to pay for negotiated benefits.
16. **Pentucket Regional School District (PRSD) Assessment:** What the Town must pay to the PRSD each year for the schools. It includes:
 - a. Minimum contribution established by the Massachusetts Department of Education based on Town demographics, real estate values, and income.
 - b. Other Assessment. Remainder of operating budget of the PRSD, which is calculated based on the number of West Newbury pupils in the district.
 - c. Capital assessment is the district wide debt service on borrowing also apportioned based on the number of West Newbury pupils in the district and some Green Repair town specific debt and reimbursements.
17. **Proposition 2 ½:** The state law that limits the amount of increase in total real estate taxes, which the Town may assess, to a maximum of 2 ½% per year on existing properties. It does not include taxes that may be levied on new construction or additions (so called new growth).
18. **Raise and Appropriate:** Town Meeting authorization to expend a certain amount of money for a specific purpose by raising that amount of taxes to pay for that expenditure.
19. **Sources of Revenue:** Local receipts collected by the Town such as boat and auto excise tax taxes, fines and interest, real estate property taxes, state aid and grants.
20. **Stabilization Account:** A general or special purpose savings account deposited into or withdrawn from at Town Meetings with a 2/3 vote. The town uses the account to save for capital expenditures.
21. **Sunset Provision/Clause:** A clause attached to a town appropriation that is part of the motion to provide a specific expiration date for allocated funds, unless additional legislative action is taken. After the specified date, funds not used for the established purpose of the article are returned to the town's general operating fund.

SPECIAL TOWN MEETING IMPACTS ON TOWN ACCOUNTS

		Estimated				Estimated						
Balances Report		Town Stabilization	Pension Stabilization	School Stabilization	Town Free Cash	Water Stabilization	Water Free Cash	CPC Comm Housing	CPC Historical	CPC Open Space	CPC Undesig	CPC Reserve
7/1/18		1,401,461	149,777	1,250,268	1,783,912	8,072	389,648	239,813	382,222	382,142	1,247,645	259,987
10/2018 STM	Art #											
BoH landfill monitoring	2				-30,000							
BoH recycling costs	3				-50,000							
CCC architectural svcs	4				-4,000							
CPC Pipestave-Dunn	5									-51,500		
Selectmen temp pay	6				-2,500							
Reduce Tax Rate	7				-220,000							
Balances after STM		1,401,461	149,777	1,250,268	1,477,412	8,072	389,648	239,813	382,222	330,642	1,247,645	259,987

Note: Estimated balances reflect fund transfers authorized prior to July 1, 2018 but not yet made.

Source: Angus Jennings, Town Manager, 10/4/18