



**Town of West Newbury
Select Board
Monday, March 14, 2022 @ 5:30pm**

381 Main Street, Town Office Building

www.wnewbury.org

AGENDA

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2022 MAR 10 PM 5:12

Executive Session: 5:30pm in 1910 Building, 381 Main Street: Select Board office

- ❖ MGL Ch. 30A §21(a) 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares (*DPW Union contract*);
- ❖ MGL Ch. 30A §21(a) 2: To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel (*Police Chief contract; Fire Dept. staffing; Council on Aging staffing; Parks/Rec staffing; Finance/Admin staffing; Water staffing; FY23 wage budgeting*);
- ❖ MGL Ch. 30A §21(a) 7: To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements (*advice from Town Counsel; update on year-to-date legal fees and FY23 budgeting*).

The Board may take a brief recess between the Executive Session and the Open Session beginning at 7 PM.

Open Session: 7:00pm by in-person attendance or remote participation (instructions below)

Announcements:

- This meeting is being broadcast on local cable TV and recorded for rebroadcast on the local cable channels and on the internet. Meeting also accessible by remote participation; instructions below.
- Council on Aging meals, events and activities – see Town website for details.
- Call for other volunteers: current opportunities at <https://www.wnewbury.org/volunteer>
- Reminder to subscribe for emailed Town news/announcements at <https://www.wnewbury.org/subscribe>

Regular Business

- A. Request for appointment of Susan Dougherty to Tree Committee
- B. Special Event Permit Request – Newburyport Half Marathon, April 24, 2022
- C. Request for fee waiver/reduction for rental of Town Hall for youth theatre rehearsals – *Port Players*
- D. Discussion of MBTA Communities legislation; potential One Stop grant funding to support evaluation; review of draft comment letter to State for submittal within public comment period (due by late March) – *Leah Zambernardi, AICP, Town Planner; and Planning Board representative(s)*
- E. Presentation of proposed Wetlands Bylaw – *Conservation Commission representative(s)*
- F. Presentation of updates to FY23 operating budget, including any changes (if any) resulting from Pentucket School Committee meeting on March 10th – *Angus Jennings, Town Manager*
- G. Referral of proposed ballot question re Agricultural Equipment Excise Tax to annual election ballot
- H. Review of proposed warrant articles for spring Annual and Special Town Meetings scheduled for Saturday, May 14, 2022 at 9am
- I. Review and discussion of proposed Affordable Housing Trust Bylaw
- J. Vote intention to lay out Sullivan's Court Extension as a public way, and to referral to Planning Board for review
- K. Discussion/review of Town of West Newbury COVID-19 Exposure Protocol
- L. Cont'd discussion re Middle Street Bridge; recent change order due to MassDEP Ch. 91 permitting
- M. Potential referral of proposed amendments to the Personnel Policy for future public hearing
- N. Meeting minutes: October 4, 2021

Town Manager Updates

- O. Updates regarding stormwater working group / MS4 permit compliance
- P. Updates re Summer Rec Program and buildout of new platform for online registration and payment
- Q. FY23 Chapter 90 funds allocation
- R. Follow up meeting assignment; placing items for future agendas

Addendum to Meeting Notice regarding Remote Participation

Public participation in this meeting of the West Newbury Select Board will be available via remote participation. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner:

Zoom Meeting

Phone: (646) 558 8656

Meeting ID: 869 4177 8822

Passcode: 874248

Join at: <https://us06web.zoom.us/j/86941778822?pwd=LzZON0w5MG5IZ3hjRWxhcHAxMjZXdz09>

Every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the West Newbury website an audio or video recording of proceedings as soon as practicable after the meeting.



Town of West Newbury Finance Committee FY23 Budget Meeting Schedule 3/11/22

*All meetings will be in the 1910 Building
381 Main Street, West Newbury, MA
Hearing Room 1*

<u>Date/Time</u>	<u>Departments/Topics To Be Reviewed</u>	
Tuesday, March 1 st 6pm	Assessing Department Board of Health Inspectional Services Board of Appeals Veterans' Services Harbormaster Moderator	Health Insurance Essex County Retirement Insurance and Bonds Unemployment Compensation OPEB Debt Service
Tuesday, March 15 th 6pm	Town Clerk Board of Registrars/Elections Fire Department Emergency Management Agency	Police Department Dispatch Animal Control Officer DPW
Tuesday, March 22 nd 6pm	Education Library Planning Board Conservation Commission Recreation Commission	Mill Pond Committee Open Space Committee Historical Commission Cultural Council
Tuesday, March 29 th 6pm	Water Community Preservation Comm Council on Aging Select Board Special Counsel Town Manager	Finance Department Finance Committee Transfers to Stabilization Medicare (FICA) Revenue Projections COLA

Please note: *The order that topics are listed are not necessarily the order they will be reviewed. The Finance Committee Chairman reserves the right to take up items out of order. The Committee will consider proposed Town Meeting warrant articles at the time that the article sponsor(s) appear before the Committee for review of proposed operating budgets.*

Town Manager

From: Town Clerk
Sent: Tuesday, March 8, 2022 3:18 PM
To: [REDACTED]
Cc: Town Manager
Subject: Your application for the Tree Committee

Dear Susan,

Thank you for your interest in serving on the Tree Committee.

The Select Board will consider your application at its meeting on Monday, March 14, 2022. The meeting begins at 7:00 pm, and this item is likely to come up shortly after 7:00 pm. The Board invites applicants for new appointments to attend. The Select Board meetings are hybrid – in-person in the First Floor Hearing Room of Town Offices and Zoom (link will be included on the agenda).

Please let me know if you are available to attend. Thank you and have a nice day.

Best regards,

James RW Blatchford

Town Clerk
Town of West Newbury
Phone 978-363-1100 X 110
Mobile 978-891-0039
www.WNewbury.org





Town of West Newbury Application for Appointment

For additional information please call 978-363-1100, ext. 115.

The Town appreciates your interest in serving. Please complete this form and return it to : Board of Selectmen, 381 Main Street, West Newbury, MA 01985 or email to: selectboard@wnewbury.org

Name: Susan Dougherty

Address: 9 River Rd

e-mail: [REDACTED]

Mobile phone: [REDACTED] Home phone: 0

Board(s) or committee(s) you are interested in volunteering on:

Tree Committee

Current or past committees served on: Cultural Council, Garden Club, Library

Relevant skills, expertise and education: Retired Art Teacher, Artist, Realtor

Tree Passion

All board or committee vacancies will be filled by citizens deemed most qualified to serve in a particular capacity. I also understand that in the event that I am appointed to a position, my activities will be governed by the Massachusetts Conflict of Interest Law, Open Meeting Law, Public Records Law, the Bylaws of The Town of West Newbury and all other applicable federal, state and local laws or regulations.

Signature: *Susan M. Dougherty* Date: 3/4/2022

Board/Committee _____

Appointing Authority _____

Date of Appointment _____ Sworn in _____



B

Special Event Application

Organization or Group Newburyport Spring Half Marathon

Person Making Reservation Christopher Bernier & Ed O'Connor

Mailing Address [REDACTED]

Phone [REDACTED] e-mail [REDACTED]

Event Date: April 24, 2022 Start Time 9am End noon

Time _____

Reason for Event Fund raiser/ celebration of health

Number of attendees 900

Check Appropriate Block:

Resident Non-resident

Fund Raising Group Non-Profit Commercial Other

Submit your application (with all maps, diagrams and attachments as required).

Provide a Schedule of Events along with a Sketch Plan which addresses:

1. The location of the event on the property _____

2. For road or walk race, a detailed map of the route _____

Middle Rd to Garden Rd to Poores Lane to Windy Ledge

to Garden, then across to Turkey Hill. We know that some of these roads are private and will have permission.

3. Features and attractions _____

4. Participant circulation _____

5. Proposed parking including how you will handle overflow parking _____

6. Any proposed road closures _____

No complete closures. The runners at the most, will require a 1/2 lane

7. Location of trash receptacles and dumpsters _____
We will place a few small trash cans along the route. There will be an aid station on the route. The crew will make sure all trash is picked up from those.

8. Location of temporary toilet facilities _____
We will place a portto at Brown's Lane

9. Accessible routes for the disabled or mobility impaired _____
This event is wheelchair friendly. If we have any wheelchair (push rim) athletes, we will make PD aware for safety purposes.

10. Locations, size and number of any tents, trailers or temporary structures _____

11. Location, size, and description of any signage or banners _____
We will have small arrows that are on wooden stakes and mile markers on A frames that are @ 3 ft high

12. If food will be served or sold at the event, you must contact the West Newbury Board of Health to discuss Food and Beverage regulations before you submit your application. If required, your food permit must be submitted before final approval of the Special Event.

13. If Police Details and/or Firefighters/EMTs will be required, contact the West Newbury Police Department and West Newbury Fire Department to secure services. Only Police Officers may direct traffic on town streets. Evidence that Police and/or Fire Personnel have been secured must be presented before the approval of the final Special Event Permit.

14. Provide a Certificate of Insurance to the Town Manager's Office no later than ten (10) business days before the event. Final Special Event Permits will not be issued without submission of a Certificate of Insurance _____

Name: Christopher Bernier & Ed O'Connor Event: Newburyport Spring Half Marathon

I/we agree and hold harmless and/or indemnify the said Town of West Newbury against any and all claims or liabilities for personal injury or property damage arising out of use of said property. If the application is submitted less than 60 days before the event, the applicant must pay a \$100 administrative fee or has the option of changing the date. The administrative fee applies to all for profit and nonprofit persons or organizations.



Individual/Authorized Signature for Group Date 2.20.22

Chief of Police's Signature: Chief Durand Date: 3-7-22
Requests and comments:

**Two Police Officers
needed**

Fire Chief's Signature: Chief Dwyer via email Date: 2-24-22

Requests and comments:

Approval granted if signed here by **Select Board** Date: _____

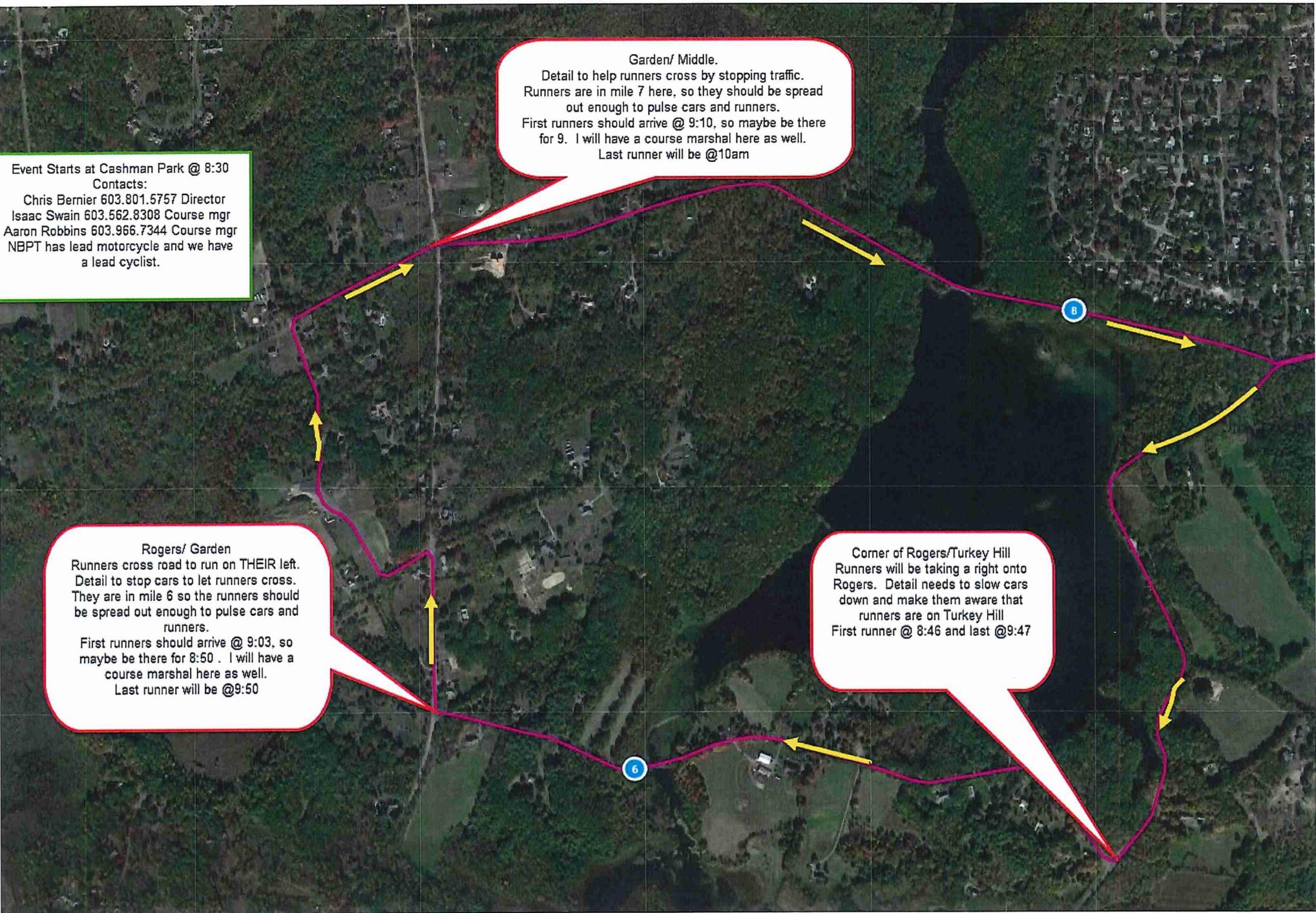
Requests and comments:

Event Starts at Cashman Park @ 8:30
Contacts:
Chris Bernier 603.801.5757 Director
Isaac Swain 603.562.8308 Course mgr
Aaron Robbins 603.966.7344 Course mgr
NBPT has lead motorcycle and we have
a lead cyclist.

Garden/ Middle.
Detail to help runners cross by stopping traffic.
Runners are in mile 7 here, so they should be spread
out enough to pulse cars and runners.
First runners should arrive @ 9:10, so maybe be there
for 9. I will have a course marshal here as well.
Last runner will be @10am

Rogers/ Garden
Runners cross road to run on THEIR left.
Detail to stop cars to let runners cross.
They are in mile 6 so the runners should
be spread out enough to pulse cars and
runners.
First runners should arrive @ 9:03, so
maybe be there for 8:50 . I will have a
course marshal here as well.
Last runner will be @9:50

Corner of Rogers/Turkey Hill
Runners will be taking a right onto
Rogers. Detail needs to slow cars
down and make them aware that
runners are on Turkey Hill
First runner @ 8:46 and last @9:47





Middle

Windy Ledge
(private way. We got permission last year and will have it again this year)

Rogers

Withers Parcel

Upper Artichoke Reservoir

8

6

1 Crest Horse Farm

Garden St

Garden St

Garden St

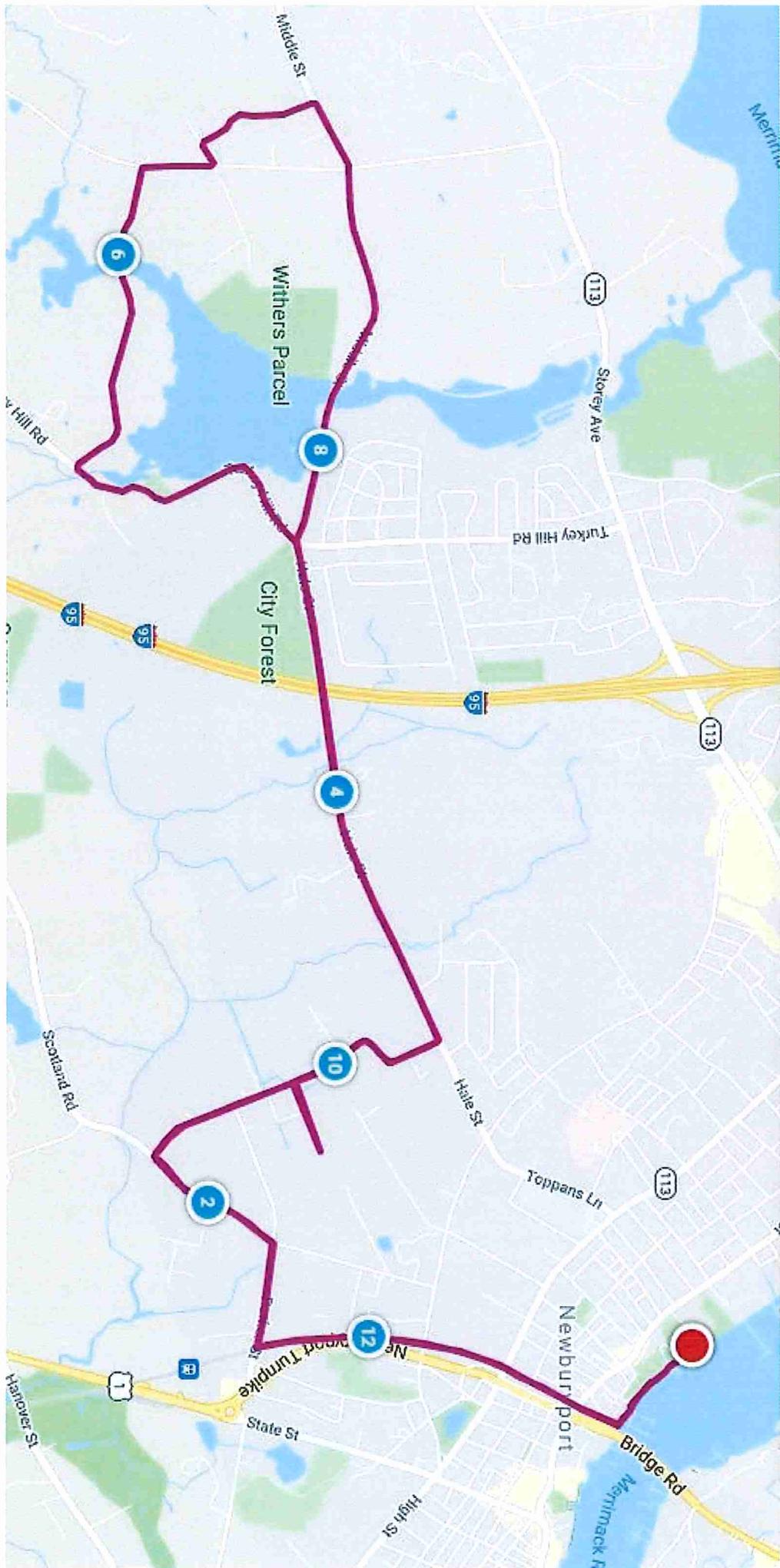
Middle St

Middle St

Browns Ln

Leblanc Ln

Browns Ln



Town Manager

From: Elizabeth Armano [REDACTED]
Sent: Tuesday, March 1, 2022 9:23 AM
To: Town Manager
Subject: Port Players Rental

Good Morning Mr Jennings,

This is Liz Armano from Port Players. We were on the agenda last night for a fee reduction for renting out the old town hall space for my youth theatre company.

I didn't realize I needed to be in attendance last night due to a miss communication with Annie. I was under the impression it was optional. [REDACTED].

In any case, the reason for my email is that I'm trying to get my youth show going and I wanted to begin the week of March 20th. Annie mentioned that the board had questions and I wouldn't be back on the agenda for another two weeks. I need this time to advertise audition and I need to confirm the space in order for me to start the process.

Is there any way I can answer questions and see if they can push this through before the meeting in two weeks? This will set me back and if it's not going to happen, I need to go back to the drawing board.

In case you were unaware, we have been previously rehearsing at the Newburyport Youth Services building on Brown St in Newburyport. This building has now been condemned and we are searching for a rehearsal space for rehearsals 2xs a week. We serve several children from the surrounding areas, including West Newbury and we were hoping to match the rate NYS gave us which was 25.00 a night (two hours). If you have any questions, please don't hesitate to ask. I look forward to hearing from you.

Thanks,
Liz Armano
Director
Port Players

Sent from my iPhone

Sent from my iPhone

Sent from my iPhone

Town Manager

From: Elizabeth Armano [REDACTED] >
Sent: Tuesday, March 1, 2022 11:50 AM
To: Residents Admin
Cc: Town Manager
Subject: Re: Application - Annex - 2 dates
Attachments: Rental Policy - new version.pdf

Hi Annie,

I was able to chat with Angus this morning regarding the rental. He suggested we hold the first two weeks in order for me to get the ball rolling with auditions and copyrights etc. This also gives us time for the board to review. I am currently trying to book rehearsal space at the Elks in Newburyport as a supplemental space and I may only need the Annex as an occasional option when they are booked. I'm hoping between the two locations, our needs will be met. I'll be in touch with you when I have the dates that I will be requesting after I hear back from the Elks. I appreciate all your help.

Liz

Sent from my iPhone

On Mar 1, 2022, at 10:27 AM, Residents Admin <residents.admin@wnewbury.org> wrote:

Hi Liz~

I have attached the facility use application for the Annex rental.
~Annie

Annie Stirling
Residents Services Administrator
Town of West Newbury
381 Main Street
West Newbury, MA 01985
978-363-1100 ext 113
residents.admin@wnewbury.org



Town of West Newbury
Policy on Rental of Town Facilities

Policy Statement

Subject to availability, consistent with the needs of the Town and request of the public, and at the discretion of the Town Manager, the following facilities are available for use/rental to non-profit and commercial groups or individuals for meetings or programs of an educational, informational or cultural nature, or other events as approved by the Town Manager.

- 1910 Building Second Floor Hearing Room
- 1910 Building Second Floor Small Meeting Room
- Annex
- Town Hall (across from the library)
- Bandstand
- Mill Pond Recreation Building – with approval from the Mill Pond Committee
- Pipestave Equestrian Area – with approval from Mill Pond Committee
- Pipestave Athletic Playing Fields – with approval from Parks and Rec Commissioners

Policy Description

I. Reservations

Reservations may be made in person or by mail/email. Please contact the Residents Administrator at 978-363-1100 x113 to determine availability of the facility. An authorized representative of the group or organization must complete a request for use of facility form outlining all event details. The fee schedule and forms are available in the Town Manager’s Office or online at www.wnewbury.org/town-manager. The individual signing the form will be responsible for the conduct of the group and the protection of the town property.

The use of any of the above-mentioned facilities for municipal purposes will take precedence over all other reservations. If the Town cancels a reservation, every effort will be made to provide as much advance notice as possible. A refund will be issued if a fee has been paid in advance.

II. Insurance

The organization’s representative or the individual requesting the space will be required to sign an indemnification agreement with the Town of West Newbury for a scheduled event. A general liability policy (\$1,000,000 per occurrence/\$2,000,000 aggregate) is required as part of the rental agreement, and a certificate of insurance naming the Town as an additional insured must be provided as proof of said policy. (For town resident or staff events, at the discretion of the Town Manager, insurance requirement may be waived upon advance approval by the Board of Selectmen.)

If alcohol is being served, subject to a separate approval by the Board of Selectmen of a one-day liquor license, a Liquor Liability Policy must be provided (\$1,000,000) in addition to the general liability policy.

TERMS AND CONDITIONS OF USE:

1. Must leave the facility as you found it, place tables and chairs in the storage area and remove all trash and recycling. The town does not have a custodian on staff and other events may be scheduled to use the facility after you. Please contact Dispatch at 978-363-1213, if the town offices are closed, with any problems.
2. No open flames, i.e. candles, torches, etc. (Chafing trays with sternos are allowed.)
3. Exits and entrances must be kept clear. Tables must be a minimum of 6' from exits and entrances.
4. All decorations must be fire resistant.
5. No live trees or shrubs allowed, including Christmas trees.
6. No smoking inside buildings; smokers must be outside of the building, 20' from all entrances and exits.
7. If deemed necessary to maintain the safety of the public, a Fire Watch (Fire Dept. representative.) may be required at the then-current hourly fee.
8. No fog machines or fake smoke machines allowed.
9. No helium balloons allowed in the Annex.
10. Permits are required for temporary signs. No signs are allowed on public property without prior approval by the Board of Selectmen.

The Town is not responsible for the loss or damage to any person or the property of any user, or of any individual attending the event.

PLEASE NOTE: IF YOU ARE APPLYING TO OFFER *ANY KIND OF CAMP FOR CHILDREN*, YOU MUST GET PRIOR APPROVAL FROM THE BOARD OF HEALTH 978-363-1100, x. 118.

III. Fees

The Board of Selectmen shall establish a schedule of rental fees for town facilities. All fees are payable in advance. The Board of Selectmen may waive any rental fee at their discretion.

Private, Commercial, Town Staff and Political Groups:

Non-Resident Rental Fee

Non-Profit Charitable Groups:

No Rental Fee for use of a facility up to six (6) times per calendar year. Non-profit organizations or groups that request to use a town facility more than six (6) times per year and requesting to waive the fee, must receive approval from the Board of Selectmen at a scheduled meeting.

SCHEDULE OF RENTAL FEES

1910 Building Second Floor Hearing Room – Resident	\$10.00/half day \$20.00/full day
Non-Resident	\$20.00/half day \$40.00/full day
1910 Building Second Floor Small Meeting Room – Resident	\$10.00/half day \$20.00/full day
Annex – Resident	\$120.00
Non-Resident	\$180.00
Town Hall – Resident	\$120.00
Non-Resident	\$180.00
Athletic Playing Fields (per season/sport as determined by the Parks and Recreation Commissioners)	
Bandstand – Resident and Non-Resident	\$ 25.00
Mill Pond Building – Resident or Non-Profit	\$ 75.00
Non-Resident or Business	\$150.00
Pipestave Riding Rings – Resident	<i>(To be determined)</i>

REQUEST FOR USE OF FACILITIES

Organization or Group PORT PLAYERS

Person Making Reservation LIZ ARMANDO

Mailing Address _____

Phone _____ e-mail _____

Event Date: see -> Start Time 5:30 End Time 7:30

Summary of Event YOUTH THEATER COMPANY REHEARSALS

Number of Attendees APPROX 25

Event Details: *Please be specific* i.e. alcohol*, music, food – _____

If alcohol is being served, a Liquor Liability Policy must be provided (\$1,000,000), see page 2.

Check Appropriate Block:

Fund Raising Group Commercial In-Town Resident Town Staff
 Non-Profit/Public Agency Commercial Out-of-Town Other

Facility Requested:

1910 Bldg Hearing Room (1) Pipestave Equest. Area** Other
 1910 Bldg Meeting Room (2) Athletic Playing Fields*
 Town Hall- (across from Library) Mill Pond Rec Bldg**
 Annex Bandstand

Fee Paid by Check/Cash _____ Fee Waived

TERMS AND CONDITIONS OF USE:

1. Must leave the facility as you found it, place tables and chairs in the storage area and remove all trash and recycling. The town does not have a custodian on staff and other events may be scheduled to use the facility after you. Please contact Dispatch at 978-363-1213, if the town offices are closed, with any problems.
2. No open flames, i.e. candles, torches, etc. (Chafing trays with sternos **are** allowed.)
3. Exits and entrances must be kept clear. Tables must be a minimum of 6' from exits and entrances.
4. All decorations must be fire resistant.
5. No live trees or shrubs allowed, including Christmas trees.
6. No smoking inside buildings; smokers must be outside of the building, 20' from all entrances and exits.
7. If deemed necessary to maintain the safety of the public, a Fire Watch (Fire Dept. representative.) may be required, at the then-current hourly fee.
8. No fog machines or fake smoke machines allowed. No helium balloons allowed in the Annex.
10. Permits are required for temporary signs. No signs are allowed on public property without prior approval by the Board of Selectmen

PLEASE NOTE: IF YOU ARE APPLYING TO OFFER ANY KIND OF CAMP FOR CHILDREN, YOU MUST GET PRIOR APPROVAL FROM THE BOARD OF HEALTH.

978-363-1100, x. 118

~ Continued on other side ~

Name: PORT PLAYERS

Event: REHEARSALS

Insurance: The organization's representative or the individual requesting the space will be required to sign an indemnification agreement (below) with the Town of West Newbury for a scheduled event. A general liability policy (\$1,000,000 per occurrence/\$2,000,000 aggregate) is required as part of the rental agreement, and a certificate of insurance naming the Town as an additional insured must be provided before the date of the event as proof of said policy. If alcohol is being served, a Liquor Liability Policy must be provided (\$1,000,000) in addition to the general liability coverage.

* **ATHLETIC PLAYING FIELDS RENTAL:** Must have prior approval by the Parks and Rec Commissioners. Payment by check (to: Town of West Newbury) or cash must be received in the Town Manager's Office, and a Certificate of Insurance must be received prior to the date requested to use the fields. (See above for details.)

****MILL POND RECREATION BUILDING AND PIPESTAVE EQUESTRIAN AREA:** Must have prior approval by the Mill Pond Committee.

Indemnification Agreement: I/We, PORT PLAYERS (group), agree to pay for any damage to the facility incurred during the term of rental by our organization. I/We understand that I/we must leave the area in the same condition that it was found. Furthermore, I/we hereby agree to save and hold harmless and/or indemnify the said Town of West Newbury against any and all claims or liabilities for personal injury or property damage arising out of use of said property.

Elizabeth Armano
Individually/Authorized Signature for Group

3/9/22
Date

Parks & Rec Committee or Mill Pond Committee
Signature (if applicable): _____

Date: _____

Requests and comments:

Chief of Police
Signature: _____

Date: _____

Requests and comments:

Fire Chief
Signature: _____

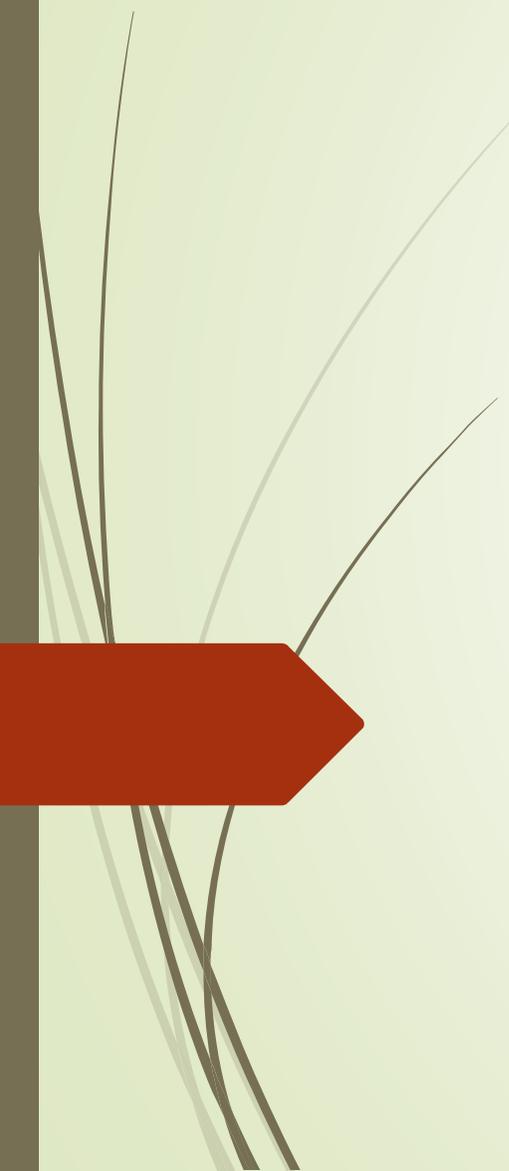
Date: _____

Requests and comments:

Approval granted if signed here by Town Manager:

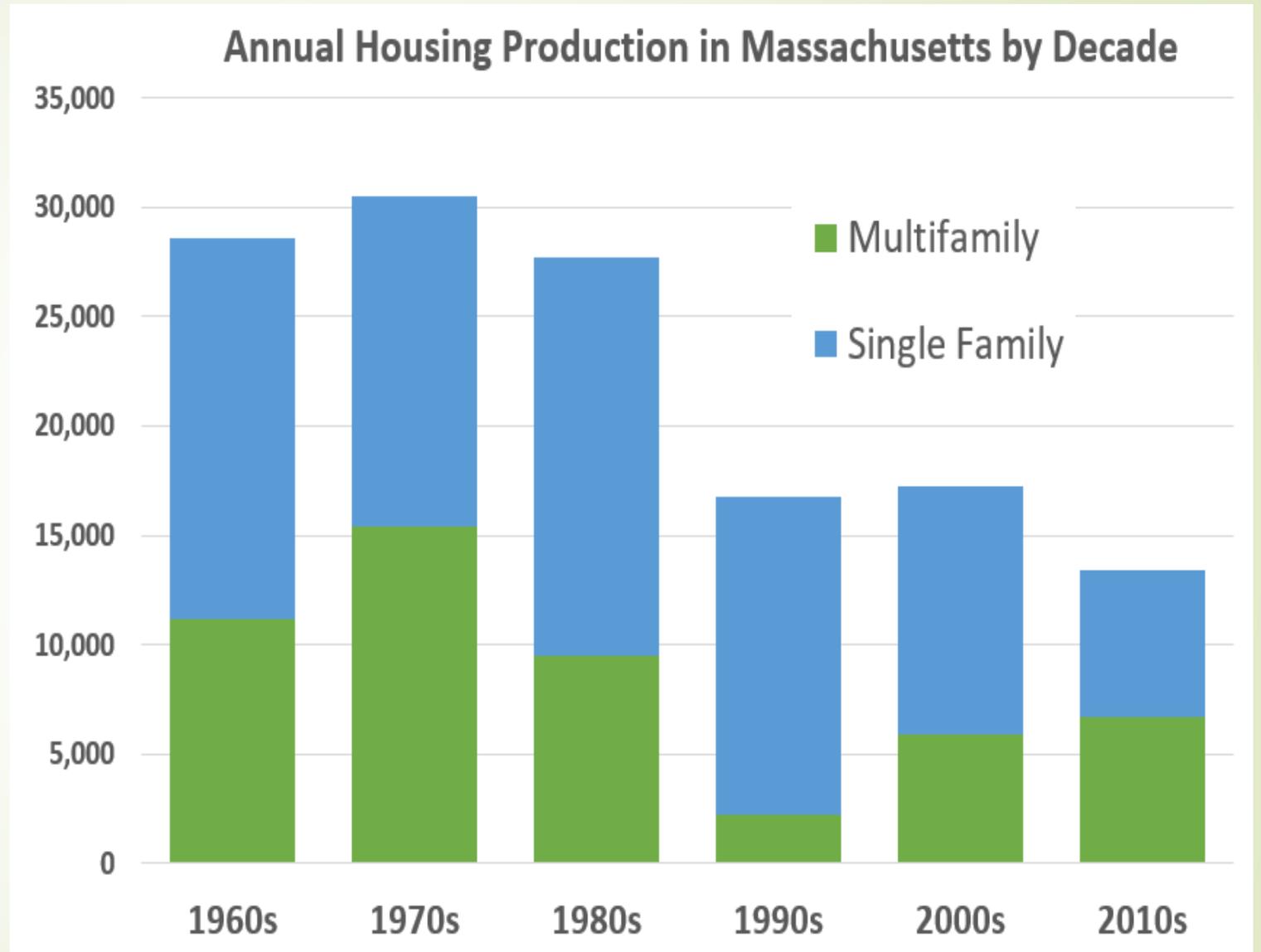
Date: _____

Requests and comments:



40A Section 3A Multi-Family districts for MBTA communities

- ▶ Condensed by decade you can see the drastic decrease in home production
- ▶ There is an estimated shortage of 200,000 housing units in the state



The Housing Crisis

- Massachusetts has among the highest, and fastest growing, home prices and rents of any state in the nation.
- Rising costs have dramatically increased financial pressures on low- and middle-income families, forcing them to sacrifice other priorities in order to pay housing costs. High housing costs are a primary driver of homelessness.
- The lack of housing production is an impediment to economic community development.

Legislation Summary

The Acts of 2020, Chapter 358, Section 18 **were adopted** into law on 1/14/2021 (“Multi-Family Districts under Section 3A of the Zoning Act”).

- ▶ The law requires a zoning bylaw that:
 - * Has at least 1 district of **reasonable size**, multi-family housing is permitted as of right with no age restrictions. and must be suitable for families with children).
 - * District of **reasonable size**:
 - (i) minimum gross density of 15 units per acre,
 - (ii) located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.
- ▶ The law requires that DHCD promulgate guidelines to determine if an MBTA Community is in compliance with the law.
- ▶ ***This is a Zoning Mandate, NOT a Housing Production Mandate.***

Draft Guidelines

- DHCD released Draft Guidelines for Public Comment on December 15, 2021. The Public Comment Period Closes on March 31, 2022.
- Requirements of Draft Guidelines (not all-inclusive):
 - * The Guidelines categorize West Newbury as an “Adjacent Community”, which is an MBTA Community with no transit station within its border or within 0.5 mile of its border.
 - * Create a multi-family “as of right” zone or overlay of “reasonable size” with a minimum gross density of 15 units per acre
 - * District must be a minimum of 50 acres
 - * Minimum number of multi-family units. The greater of:
 - 10% of existing housing stock for Adjacent Communities (West Newbury=1,740 units)
 - or**
 - 750 units (50 acres x 15 units per acre = 750 units gross)
 - * No restrictions on age, unit size, number of bedrooms, size of bedrooms or number of occupants

What does this look like in each community?

Community	MBTA Community Type	2020 Housing Units	Min. # Of Units in District	Community	MBTA Community Type	2020 Housing Units	Min. # Of Units in District
Amesbury	Adjacent	7889	789	Merrimack	Adjacent	2,761	750
Andover	Commuter rail	13,541	2,031	Newbury	Commuter rail	3,072	750
Boxford	Adjacent	2,818	750	Newburyport	Commuter rail	8,165	1,292
Georgetown	Adjacent	3,159	750	N. Andover	Commuter rail	11,914	1,787
Groveland	Adjacent	2,596	750	Rowley	Commuter rail	2,405	750
Haverhill	Commuter rail	27,927	4,189	Salisbury	Adjacent	5,305	750
Lawrence	Commuter rail	30,008	4,501	W. Newbury	Adjacent	1,740	750
Methuen	Adjacent	20,194	2,019	TOTAL	-	143,494	22,608

Why Do We Need to Comply?

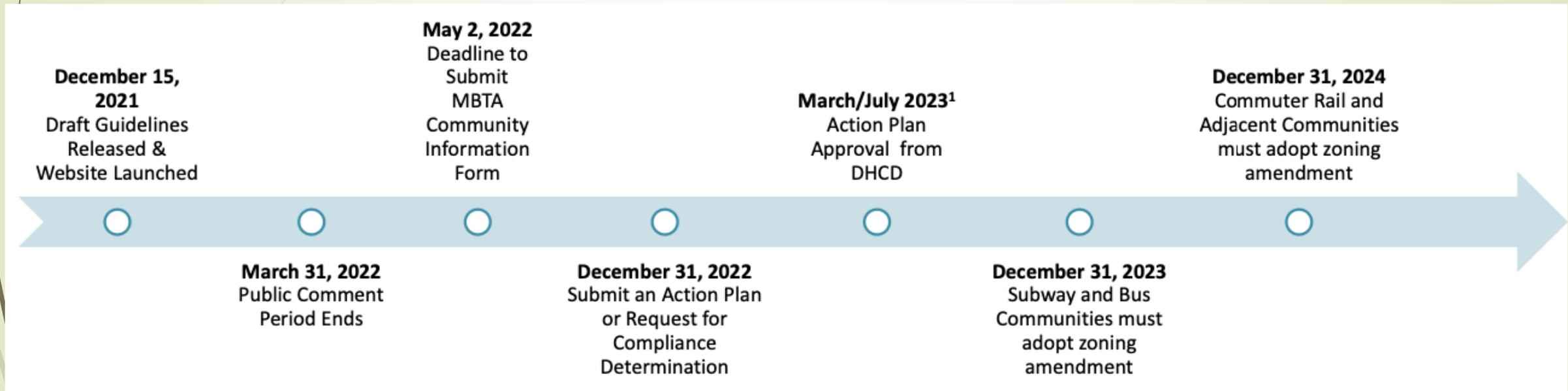
Communities that do not comply with the legislation will be ineligible for the following state grant programs:

- ▶ Housing Choice Community Grants
- ▶ MassWorks
- ▶ Local Capital Projects Funds

Within the Past few years, West Newbury has received the following funds.

Housing Choice	\$0
MassWorks	\$1 Million - Plummer Spring Road Bridge over the Artichoke Reservoir
Local Capital Projects Funds	\$0

Timeline for Implementation



To View the Draft Guidelines, visit: <https://www.mass.gov/info-details/draft-compliance-guidelines-for-multi-family-districts-under-section-3a-of-the-zoning-act>

To make public comments to DHCD by the March 31st deadline, visit: <https://www.mass.gov/forms/submit-public-written-comment-on-draft-guidelines-for-multi-family-zoning-requirement-for-mbta-communities>

Town Manager

From: Leah Zambarnardi
Sent: Wednesday, February 9, 2022 5:01 PM
To: Town Manager
Subject: FW: Information on MBTA Communities
Attachments: West Newbury Analysis (002).docx; LZ 1-12-22MBTACommunitiesQuestions.docx

Hi Angus,

FYI on some materials I put together for the Planning Board's use on their website.

See <https://www.wnewbury.org/planning-board/pages/mbta-communities-information>

Thought I'd share in case you'd like to use it elsewhere on the Town website. It essentially provides links to DHCD's and MVPC's online resources. I did not include the attachments on the website.

Leah J. Zambarnardi, AICP
Town Planner
Town of West Newbury Planning Office
381 Main Street
West Newbury, MA 01985
1-978-363-1100 ext. 125

Planning Office Hours: Monday, Tuesday and Thursday from 9:30 a.m. to 2:30 p.m.

It has been determined by the Commonwealth of Massachusetts Office of the Secretary of State that emails are a public record. Please keep this in mind when writing or responding to this email.

From: Leah Zambarnardi
Sent: Wednesday, February 9, 2022 4:56 PM
To: [REDACTED]
Subject: Information on MBTA Communities

Hi all,

I put some information together on the Planning Board's website under "Current Documents" for your use while preparing to discuss comments at the 2/15 Planning Board Meeting.

See <https://www.wnewbury.org/planning-board/pages/mbta-communities-information>

Also, I've attached the analysis I put together when the guidelines first came out as well as comments I submitted to DHCD on 1/12/22.

Leah J. Zambarnardi, AICP
Town Planner
Town of West Newbury Planning Office
381 Main Street
West Newbury, MA 01985
1-978-363-1100 ext. 125

Planning Office Hours: Monday, Tuesday and Thursday from 9:30 a.m. to 2:30 p.m.

Town Manager

From: Leah Zambarnardi
Sent: Wednesday, January 12, 2022 3:54 PM
To: Town Manager; tc8981@verizon.net; Tim Cronin
Subject: FY 23 Rural & Small Town Development Grant Fund Details
Attachments: RST FY23 Summary.docx

I've attached a summary. This is a link to the program website: <https://www.mass.gov/service-details/rural-and-small-town-grants>

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Rural and Small Town Development Fund Grant Program FY 2023

Details

- Application Close - Expected early June 2022
- Awards made in fall of 2022
- Grants must be completed by June 30, 2024.
- Planning and Zoning projects are capped at \$75,000 - may exceed amount only if there is proof of need.
- Enter into a contract with DHCD within 30 days after receiving contract documents. Grant projects will begin upon the execution of the contract.
- Granted funds will be disbursed on a reimbursement basis.

Eligibility : Massachusetts' municipalities with a population of 7,000 or less as of the 2020 US Census or towns with less than 500 persons per square mile, and related service districts or redevelopment authorities.

Use of Funds Under "Planning and Zoning" Category: Activities related to land use, such as the development of a Master Plan, Housing Production Plan, Zoning revisions including for MBTA Communities seeking to comply with "draft guidelines" for M.G.L. Chapter 40A, Section 3A, Urban Renewal Plan, Land Use Plan, Downtown Plan, Parking Management Plan, District Improvement Financing (DIF) Plan, Municipal Surplus Property Disposition Plan, or Other Strategic Plan.

Specific project examples:

- Create a housing production plan to better understand housing needs of the community and identify strategies to reduce gaps in existing housing relative to identified needs.
- Create a multi-family zoning district near a transit station to comply with M.G.L. Chapter 40A, Section 3A "draft guidelines".
- Review zoning ordinances and create a plan to update zoning rules to unlock potential housing production and economic development growth.

Webinars: The webinars posted on the website (below) are from 2021. I need to follow up on this.

- Virtual Session 1: One Stop Overview Webinar, Thursday, January 28, 2021, 12PM
- Virtual Session 2: One Stop Application Guidance Webinar, Tuesday, February 2, 2021, 12PM
- Virtual Session 3: Technology Webinar, Thursday, February 4, 2021, 12PM

Key Dates:

- Expressions of Interest Open December 15, 2021 - Expression of Interest may be submitted any time through March 18, 2022

- Full Application Open - Expected late January 2022
- Full Application Close - Expected early June 2022
- Review & Evaluation - June-September, 2022
- Notification of Award - October/November 2022
- Anticipated Contracting - November/December 2022

Questions:

- Confirm that WN should select Rural and Small Town Development Grant rather than Community Planning Grant in the “One Stop” application.
- Contact FY22 Grant Recipients for Master Plan Projects (North Andover, Methuen). How are they managing the project with a 1-year project timeline?

Zoning for Multi-Family Housing, MBTA Comm	Make comments on draft guidelines,	Planning, SB SB Pres.: Planner? BI? TM?	12/15/21	Draft Guidelines Released to Public
	Submit MBTA Community Information Form, Notify DHCD that there is no existing/compliant zoning district, submit Adjacent Community Action Plan, Adopt Multifamily Zoning District		12/15/21 - 3/31/21	Comment Period, PB coordinate its comments w/ Select Board? PB discussing at 2/15 meeting.
			3/31/2021	Deadline to Submit Comments - Conduct Required Presentation to Select Board prior to comment deadline?
			Feb/Mar/April	Timeframe to present draft guidelines to Select Board - Tentatively scheduled for 3-14-22. Do this before the comment deadline on 3/31/22?
			05/02/22	To Remain in Compliance for 2022 - Required Steps: • Present Draft Guidelines to Select Board Prior to 5/2 (tentatively scheduled for 3-14-22) • Submit MBTA Community Information Form - see https://www.mass.gov/forms/mbta-community-information-form • Submit updated parcel maps for MassGIS (DHCD to notify us if needed)
				Notify DHCD that there is no existing/compliant multifamily zoning district
Apply for FY23 RST Grant (see timeline in 'Community One Stop' below.	12/31/22	Adjacent Community Action Plan Approval Deadline (17 months) - Part of RST FY23 Grant?		
Benefits of Compliance vs Cost of Non-Compliance Discussion/Analysis	07/01/23	Multifamily Zoning District Adoption Deadline		
		12/31/24		
FY23 Community One Stop Grant Rural & Small Town Development	Up to \$75K available - Or More if DHCD sees fit - Multi-Family Zoning - MBTA Communities - Assistance with Action Plan? - Comprehensive Plan - Housing Production Plan (MVPC) - Phase I of Comp Plan (Drinking Water Capacity Analysis) Cost for Consultant Help? (Zoning for Multi-Family & HPP) Near Term Deadlines for both	Planning/TBD	12/15/2021 1/21/2022 2/1, 2/3 & 2/8 3/18/2022 5/2/2022 6/3/2022 June - Sept 2022 Oct/Nov 2022 Nov/Dec 2022 6/30/2024	Expression of Interest Open Full Application Open (not yet open for submission) Webinars Deadline for Expression of Interest Full Application Submission Open Full Application Close Review & Evaluation Notification of Award Anticipated Contracting Completion Deadline

FY22 Funding Examples			
Project Description	Program & WN Eligibility (Y/N)	Amount	Town/ Additional Info
Housing Production Plans (4 Projects Funded)	Housing Choice	\$25,000	Middleboro
	N (WN is considered a Rural/Small Town, Not Housing Choice)	\$27,500	Holliston
	Rural & Small Town	\$24,000	Orange
	Y (MA Multipalities Under 7,000 population, etc.)	\$30,000	Whatley
Zoning Projects (6 Projects Funded)	Housing Choice	\$75,000	N. Andover DT Zoning
	N	\$75,000	Multi-Family As of Right MBTA Communities and Community One Stop Grant
		\$22,500	Merrimac Bylaw Review/Update
	Community Planning	\$75,000	Lowell TOD
	Y - All MA Municipalities are eligible	\$75,000	Fairhaven 40R
Master Plans/ Comprehensive Plans (19 Projects Funded)	\$25K to \$75K awards	\$47,000	Pepperell M.U.OverlayDistrict
	Community Planning	\$50,000	Wrentham Phase III
	Y	\$32,000	Windsor
		\$59,000	Watertown Update
		\$39,000	Leverett
		\$75,000	Northampton
	Housing Choice	\$250,000	Lowell Update
	N	\$75,000	Salisbury
		\$75,000	Truro Update
		\$60,000	Andover
	Rural & Small Town Y	\$30,000	Edgartown
	Urban Agenda	\$50,000	Wakefield
	Possibly - All MA Municipalities are eligible.	\$75,000	Wenham
Priority given to urban communities that have a median household income less than 90% of state's average income - However affluent communities such as Wenham & Topsfield received funding in FY22	\$100,000	Topsfield	
Eligible Activities - Community defined economic oppurtunities (9 Master Plan Projects funded last year)	\$75,000	Swansea	
Up to 100K awards	\$50,000	Pricenton Phase I	
	\$75,000	Pembroke	
	\$30,000	Ashfield	
	\$75,000	Groveland	
	\$75,000	New Bedford	

Comments Regarding the Draft Guidelines for
Multi-Family Zoning Requirement for MBTA Communities
Section 3A, MGL c. 40A
West Newbury Planning Board

1 March 2022

1. MBTA Adjacent Community: West Newbury is identified as an MBTA Adjacent Community despite having no direct MBTA or other public transit services and despite having the nearest MBTA facility more than eight miles from the Town Center.
2. Limited Ability to Comply: West Newbury is a rural community that has the following limitations:
 - No existing sewer infrastructure.
 - Severely limited capacity for additional septic systems due to predominance of poorly-drained soils, high water table, wetlands, hardpan, and bedrock problems.
 - Limited existing public water supply service currently supporting 64% of Town residences (Source: West Newbury Water Department Water Quality Report, 2020).
 - The existing public water supply is inadequate for its current service. The Town regularly has to purchase water from the City of Newburyport when it is impossible to keep up with demand or if there are low water levels in the Town's well.
 - The existing public water system is at capacity. Current water supply infrastructure is challenged to supply adequate fire flows for the existing areas of Town serviced.
3. The Town values the large remaining tracts of land devoted to agriculture and open space, wetlands, woodlands and other areas supporting wildlife habitat. The draft Guidelines do not acknowledge the need to protect any of these resources, or how that protection may be afforded in light of the requirement for a set-aside of large land areas for future residential development.
4. The draft Guidelines present no realistic means for a rural community without extensive public service infrastructure to achieve the mandated development potential:
 - Minimum 50-acre area: The Guidelines require a minimum 50-acre area with a Minimum Gross Density of 15 units per acre. The land area must consist of at least 25 contiguous acres and no other portion can be less than 5 contiguous acres. No support is provided indicating how this minimum area was determined and it is illogical that the area be the same for all municipalities regardless of their current states of development, available suitable land, and existing infrastructure.
 - 750 residential units: the requirement of a minimum of 50 acres at 15 units per acre represents a requirement of 750 residential units regardless of a municipality's current size. For West Newbury, 750 units represents an increase of approximately 43% of West Newbury's current number of residential units—a disproportionate burden. Development requirements should be proportional to current populations, existing housing stock, and available suitable land area and supporting infrastructure. Small and rural towns with populations under 5,000 residents should have a modified set of standards, similar to those afforded through the Rural and Small Town communities programs offered by the Massachusetts Housing and Community Development (DHCD) program.

5. There is a conflict between the proposed “50-Acre Minimum Area” and the “Minimum Multi-Family Units as a Percentage of Total Housing Stock” of 10% for Adjacent Communities. The 50-Acre Minimum Area results in a minimum requirement of 750 residential units, whereas the Adjacent Community Minimum Multi-Family Unit Capacity (at the 10% rate) would impose a minimum requirement of 174 multi-family units for West Newbury. There is no explanation of how either of these requirements were determined. A land area proportionate to the 10% requirement at 15 units per acre equates to district size of 11.6 acres. However, the 750-unit mandate in the Draft Guidelines would require the creation of a district with a minimum land area 4.3 times that required to meet the 10% requirement. This inconsistency represents a disproportionate burden on West Newbury and similar rural communities. It is the determination of the West Newbury Planning Board that there is no rational or realistic way forward to achieve a 750 unit minimum district.

6. Inability to Comply and Sanctions on the Town - MBTA communities which cannot achieve compliance will not be eligible for funds from the following grant programs: (i) the Housing Choice Initiative, (ii) the Local Capital Projects Fund, (iii) the MassWorks infrastructure program, and (iv) “other discretionary grant awards” at the discretion of the DHCD. Given that it is unlikely West Newbury will be able to comply with these Guidelines, withdrawing these grants will exacerbate the housing problem in Massachusetts by severely restricting the Town’s ability to support DHCD goals, regardless of actions taken by the Town to further affordable, available, and equitable housing.

ARTICLE REQUEST FORM

ARTICLE: Whether the Town should enact a Wetlands Protection Bylaw

AMOUNT REQUESTED: \$0.00

CONTACT PERSON: Michelle Greene, Conservation Agent

PHONE NUMBER: (978) 363-1100 x126

Why should the Town make this purchase or adopt this article? What needs will be met? Who will benefit?

Wetlands and their bordering lands (buffer zones) are valuable community resources providing essential functions, including protection of public and private water supplies, storm damage prevention and flood control, and wildlife habitat and fisheries protection. The state Wetlands Protection Act (M.G.L. Ch. 131 sec. 40) (“the Act”) was enacted in 1972, and regulations under the Act (310 CMR 10.00) were enacted in 1974. The Act and associated regulations recognize and protect eight important public functions and values provided by wetlands and their buffer zones. Conservation Commissions are responsible for wetlands protection at a municipal level by implementing the Act and the regulations in their city or Town. Unfortunately, despite these efforts, over 28% of wetlands in Massachusetts have been lost to commercial, agricultural, and residential development between the 1780s and the 1980s. An additional 1,250 acres have been lost between 1991 and 2005.

Adopting a Wetlands Protection Bylaw under the Home Rule authority of the Town of West Newbury that is more protective than the Act will increase community control over activities in or near wetlands and their buffer zones, limit community costs of the degradation of wetlands, and allow for better protection of the functions and values of our community’s wetlands and buffer zones by:

- recognizing additional functions and values of wetlands and their buffer zones deemed important by the community beyond those identified in the Act, including recreation values, agriculture, rare species habitat, and aquaculture;
- imposing additional standards and procedures in local regulations and permits for activities deemed by the Conservation Commission to be likely to have a significant or cumulative adverse effect on wetland and buffer zone functions and values;
- authorizing the Conservation Commission to require a performance bond to ensure the costs of completing a project in compliance with conditions imposed by the Conservation Commission do not fall on the Town or homeowner’s association if a developer walks away from a project.

What factors affect the timing of this purchase or this request?

Wetlands and buffer zones continue to be lost and degraded through development and disturbance. Over 210 of the state’s 351 cities and towns have voted to adopt a local wetland protection bylaw or ordinance to combat this, including the neighboring towns of Newburyport, Merrimac, Georgetown, Boxford, and North Andover. When considering the impacts of a changing climate, increasing development pressures on land in the Northeast, and the research done since the passing of the Act in 1972 that continues to show the importance of wetlands and buffer zones, by adopting a Wetlands Protection Bylaw, the Town of West Newbury is taking an important step to ensure that current and future inhabitants of the Town enjoy the benefits and protections that wetlands and their buffer zones provide.

What ancillary costs do you anticipate? (Maintenance, Insurance, Training, etc.)

While there will be no immediate costs to the Town if a Wetlands Protection Bylaw is enacted, there could be an increased workload to the Conservation Agent. The increased workload could include temporary and ongoing workload increases.

Potential temporary workload increases may include participation in: education and outreach about the Bylaw; creating new permits and instructions to implement the Bylaw; creating new systems and databases to track and manage fines issued and performance bonds collected under the Bylaw; and revising existing documents and instructions to reflect the Bylaw.

Potential permanent workload increases may include an increase in consultations and site visits with residents, developers, and consultants to determine the permitting requirements of their proposed project under the Bylaw; an increase in the number of site visits and time spent at site visits to ensure compliance with both the Act and the Bylaw; an increase in time spent permitting projects under the Bylaw that were previously exempt from permitting under the Act; an increase in time spent reviewing permit applications to ensure completeness under both the Act and the Bylaw; an increase in time to manage systems and databases for issuing and tracking fines and performance bonds; an increase in time spent to issue fines and attempt to collect fines under the Bylaw; and additional time spent at Conservation Commission meetings due to an increase in activities that will be required to be permitted at a meeting.

The Town should review the increased workload at a later date to determine the scope of any increased workload and whether any increase requires hiring additional support staff or adjusting the Conservation Agent position from part-time to full-time.

Please attach any supporting materials.

Please see attached:

- Draft Wetlands Protection Bylaw
- E.P.A. Wetlands Functions and Values document
- Mass Audubon The Value of Wetlands document

DRAFT

Town of West Newbury Conservation Commission

WETLANDS PROTECTION BYLAW

I. Purpose

The purpose of this bylaw is to protect the wetlands, water resources, flood-prone areas, and adjoining upland areas in the Town of West Newbury by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, prevention and control of pollution, fisheries, shellfisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by this bylaw").

This bylaw is intended to utilize the Home Rule authority of West Newbury to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; the Act) to a greater degree, to protect additional resource areas recognized by the Town as significant, to protect all resource areas for their additional values beyond those identified in the Act, and to impose, in local regulations and permits, additional standards and procedures in addition to those of the Act and regulations thereunder (310CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of West Newbury.

II. Jurisdiction

Except as permitted by the Conservation Commission no person shall remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater or coastal wetlands, isolated wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, dunes, estuaries, and lands under water bodies; lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone; rivers, streams, brooks and creeks whether perennial or intermittent; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area, with the exception of intermittent streams running alongside roadways where the jurisdictional land adjoining those streams shall extend out to a distance of 100 feet; lands subject to flooding or inundation by groundwater or surface water; and lands subject to tidal action, coastal storm flowage, or flooding (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04.

III. Exemptions and Exceptions

The applications and permits required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04.

The applications and permits required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the

service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice is provided to the Conservation Commission before the commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this bylaw shall not be required for work in a buffer zone per 310 CMR 10.02(2)(b)(2)(g) –(p) provided that written notice is provided to the Conservation Commission before the commencement of work and provided that the work also conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission before the commencement of work or within 24 hours after the commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this bylaw.

The Commission may waive provisions of this bylaw provided the applicant demonstrates that the proposed project will not adversely impact any of the interests protected by this bylaw.

IV. Applications and Fees

A written application shall be filed with the Conservation Commission to perform activities that may impact resource areas protected by this bylaw. The permit application shall include such information and plans deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) where they are sufficient to meet the requirements of the bylaw and any regulations promulgated thereto, but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may request, in writing, a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans deemed necessary by the Commission.

At the time of an application, the applicant shall pay a filing fee specified in the regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and regulations. The Commission may waive fees required by West Newbury regulations for applications filed by a government agency, including a municipal department, board, and/or committee, a not-for-profit organization, or for projects the Commission finds have a net benefit to wetland resources and a primary purpose of restoring wetland ecological functions.

According to G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants to secure outside consultants including engineers, wetlands scientists, wildlife biologists, or other experts to aid in the review of proposed projects presenting technical issues requiring additional expertise to assist in protecting resource areas. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than initially calculated or new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by the Commission and report exclusively to the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the payment request shall cause the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the Select Board, who may disqualify the consultant only because the consultant has a conflict of interest or is not adequately qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. The applicant shall make such an appeal in writing and it must be received within ten (10) business days of the date that the Commission requested consultant fees. Such appeal shall extend the applicable time limits for action upon the application.

V. Notice and Hearings

Any person filing a permit or other application or Notice of Intent (NOI) or ANRAD or other request with the Conservation Commission shall give written notice thereof, at the same time, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. Any person filing an RDA shall give written notice thereof, at the same time, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. In addition, the notice shall provide a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting any determination is someone other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner and the person making the request.

The Commission shall conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the applicant's expense, at least five business days before the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt

of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §VI.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with a hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and regulations (310 CMR 10.00).

VI. Coordination with Other Boards

Any person filing a permit application, NOI, RDA, or ANRAD with the Conservation Commission shall provide written notification to the planning board, board of health, and building inspector at the time abutter notification is provided. An affidavit of the person providing notice, with a copy of the notice provided, shall be filed with the Commission. The Commission shall not take final action until the above boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations and respond to them at a hearing of the Commission before final action.

VII. Burden of Proof

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have significant or cumulative adverse effects on the interests protected by this bylaw. Failure to provide the Commission with adequate evidence supporting a determination that the proposed work will not have such adverse impacts on the interests protected by this bylaw shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or, at the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence upon such terms and conditions the Commission deems reasonable.

VIII. Permits and Conditions

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 calendar days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.

If it issues a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect said resource area values. All activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or

alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise. No permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the significant likelihood of failure of replication.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of "vernal pools" under §X of this bylaw, including the area surrounding vernal pools not to be disturbed, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence, which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations.

A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD) shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once

for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §V and §VI, and after a public hearing. Good cause is established where the permit, DOA, ORAD, or any other order, determination, or other decision issued under this bylaw has been improperly granted, or the holder has failed to comply with its terms and conditions.

Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

In an appropriate case, the Commission may combine the decision issued under this bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.

No work proposed in any application shall be undertaken until the permit or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded.

IX. Regulations

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum, these regulations shall reiterate the terms defined in this bylaw, define additional terms and requirements not inconsistent with the bylaw, provide for undisturbed vegetative buffers extending from the edge of resource areas, and impose filing and consultant fees.

X. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

The term "agriculture" shall refer to the definition provided by G.L. Ch. 128 §1A.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within, or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion, or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including but not limited to cutting or trimming of trees, shrubs, and other vegetation
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters

- J. Any activities, changes, or work that may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term "bank" shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term "cumulative adverse effects" shall include the adverse effects of activities regulated under this bylaw which may be individually insignificant to the interests and values under this bylaw, but when considered in relation to other past or present activities in a given area may be significant to said interests and values in the aggregate.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term "pond" shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term "spring" shall include a water resource formed when the side of a hill, valley bottom, or other excavation intersects a flowing body of groundwater at or below the local water table, below which the subsurface material is saturated with water,

The term "rare species" shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

The term "vernal pool" shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species which have been found in the basin/depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the area surrounding vernal pools not to be disturbed shall be 100 feet outward from the mean annual high-water line defining the depression.

Except as otherwise provided in this bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

XI. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

- A. By a proper bond, a deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.
- B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of West Newbury whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XII. Enforcement

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land to perform their duties under this bylaw. They may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Select Board and town counsel may take legal action for enforcement under civil law. Upon request of the Commission, the chief of police may take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine set by the Commission of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations with specific penalties pursuant to the non-criminal disposition procedure set forth in G.L. Ch. 40 §21D, which West Newbury has adopted in §XXVIII of the bylaws of the Town of West Newbury.

XIII. Appeals

A decision of the Conservation Commission shall be reviewable in the superior court in accordance with G.L. Ch. 249 §4.

XIV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations,

specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

XV. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

TO: CONSERVATION COMMISSION, TOWN OF WEST NEWBURY, MA
RE: COMMENTS REGARDIING DRAFT PROPOSED WETLANDS PROTECTION BYLAW
FROM: DAVID ARCHIBALD, SELECT BOARD MEMBER
DATE: 1/22/2022

RECEIVED
FEB 17 2022
TOWN MANAGER
TOWN OF WEST NEWBURY
RECEIVED
~~FEB 27 2022~~
TOWN MANAGER
TOWN OF WEST NEWBURY

Theses comments are the personal thoughts of the sender and in no way reflect the opinions of the Town of West Newbury select board as a whole. The comments are arranged in Roman numerical sequence as the draft document is presented so it is easier to follow them. However, the order does not reflect the relative importance of one comment vs. another.

- I. **Purpose** – This section does not actually describe the reason for the proposed bylaw. It is intended to “protect areas for their additional values beyond those recognized by the Act”. Is West Newbury experiencing or demonstrating problems that need to be addressed to supersede regulations and standards of the Commonwealth? A purpose implies that there is a reason for a particular action. None has been delineated.
- II. **Jurisdiction** – “intermittent streams running alongside roadways where jurisdictional land adjoining those streams shall extend out to a distance of 100 feet” This section has created a huge new area of conservation commission jurisdiction by changing the characterization of drainage ditches or swales into “intermittent streams”. This change turns vast areas of roadside municipal right of way and private property owners’ frontage into areas overseen by the proposed bylaw. In a random survey of only 6 Town roads a few weeks ago, I noted 51 properties that would be affected. In a typical Form A 2-acre lot with 200 feet of frontage that had a drainage ditch on the roadside, 20,000 square feet of the lot would be placed under the proposed bylaw with a 100-foot extension from the ditch. This would be 25% of the total area of the lot. Homeowners would have to file a permit, NOI or ANRAD for something as trivial as “destruction of plant life including but not limited to cutting or trimming a tree, shrub or other vegetation.” (section X. H.) or repairing their house (section X.F.) Drainage ditches are not naturally occurring flowing bodies of water. They are the result of road construction. Several roads in West Newbury are built up significantly higher than the surrounding landscape. I have photos of areas where the road is higher in elevation than the top of the stone walls delineating property boundaries. This high impervious barrier (the road bed) blocks normal water runoff which is now focused in the ditches. These are not streams. It is interesting to note that in a recent Municipal Vulnerability Program Action Grant letter of intent sent by the Town, road side areas were referred to as roadside ditches not streams. The designation of these as intermittent streams will adversely affect municipal services especially the DPW and a significant percentage of Town property owners.
- III. **Exemptions and Exceptions** – Emergency work done by the Commonwealth or Town in the protected zones requires notice to the conservation commission within 24 hours. This seems excessively restrictive in an emergency situation.
- IV. **Application and Fees** – “the Commission may impose reasonable fees”. There does not seem to be any appeal or recourse as to what reasonable is. Expenditures from the fee

account may be made at the "sole discretion of the Commission" and any consultant "shall be selected by, and report exclusively to, the Commission". This seems highly proscriptive and a massive overreach of authority from an appointed board. There should be additional oversight with the use of public funds. The "applicant may appeal the selection of an outside consultant to the select board, who (should be which) may disqualify the consultant only the grounds that the consultant has a conflict of interest or is not properly qualified". This again seems proscriptive.

VIII. Permits and Conditions – "The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate....." This gives sole authority to the commission without any appeal. The commission could literally ask for a wildlife study when a homeowner wants to remove some poison ivy near their mail box.

IX. Regulations - "define additional terms and requirements" gives the commission power to create more restrictive conditions, requirements and fees as long as the commission feels they are not inconsistent with the proposed bylaw.

X. Definitions – Several of the problems associated with the term "alter" have been noted above, see Sections F and H. Section K states "alter" includes "Incremental activities which have or may have a cumulative adverse impact on the resource areas protected by this bylaw". These incremental activities are not defined, could be someone's opinion and are not based on established science (note the word may). This essentially gives the commission free reign decide anything done in a restricted zone can be prohibited.

XII. Enforcement - "upon request of the commission, the board of selectmen (select board) and town counsel shall take legal action.....". This is again a massive overreach authority by an appointed board and as per Mr. McCarron's memo of March 26, 2021 an unconstitutional interference with the Town Manager Act.

In summary this proposed bylaw would vastly expand the scope of duties of the conservation commission. The commission would have to hire more full-time agents to handle all the required applications. West Newbury is a town with multiple roadside ditches. It has a lot of small ponds and potential vernal pools. Changing and expanding the definitions and set backs of these areas would place huge burdens on homeowners, municipal departments and the commission itself. It is a solution in search of a problem.

ADY

Jan 18, 2021

Dear Conservation Commission Members,

Thank you for the opportunity to provide public comments on the draft Wetlands Bylaw. I am providing these comments with the perspective of someone who has worked for 24 years protecting wildlife and wetland resources, including as a regulator. In my professional capacity, I have applied for numerous Request for Determination of Applicability, Notice of Intent, and Notice of Intent for Ecological Restoration for habitat restoration projects in 8 Towns in the North Shore (Amesbury, Salisbury, Newburyport, Newbury, Rowley, Ipswich, Essex, and Gloucester), and MA DEP. As a new owner of a larger parcel in West Newbury, I have been in communications with Conservation Commission members and agents to understand WPA regulations as it related to invasive plant removal, native plant restoration, and residential construction. I have also been involved in recent community efforts to protect native plant biodiversity, which typically starts with the removal of invasive plants.

I applaud the Conservation Commission for its initiative to pass a Wetlands Bylaw for West Newbury. The State Wetland Protection Act Regulations (310 CMR 10.0) is 245 pages long, and difficult to digest. A Town-specific by-law provides the opportunity to highlight the conditions where residents should consult with the Conservation Commission on the most pertinent regulations to ensure compliance with wetland resource protection. It also allows the Town to add regulations that will encourage compliance with existing regulations.

In reviewing the Bylaw, I noted a few instances where the Bylaw deviates from the State regulations. These include:

1. Change in notification to abutters, from 100 to 300 feet for NOI and from no notification to 100 feet for RDAs.
2. Increasing buffer zone for intermittent streams from 100 feet to 200 feet, except for road-side ditches, which will be at 100 feet.
3. Revised definition of "vernal pools" that would assume presence of obligate and facilitative amphibian species unless proven otherwise*.
4. Removing the minimum size of 10,000 square feet for ponds (and its 100 feet buffer) that require wetland permitting.

While there may be good reasons for each Town to adopt more strict regulations, it is important for the Commission to explain why the State regulations are not sufficient to protect wetland resources in West Newbury, in recognition of the increased financial and land use impacts to landowners these changes may have. The last three changes may significantly increase areas that are under the purview of the Conservation Commission, increasing workload as well as increased costs and time delays for landowners. Based on our discussion on January 3, I understand the Committee will review the language regarding vernal pools, and bring the bylaw text closer to how vernal pools are defined by the Natural Heritage Program.

West Newbury has significant open spaces and intact wetland resources; however, invasive plants are beginning to invade our wetlands, and without strategic, coordinated control, will significantly degrade wetlands. Control of invasive plants was identified as a top priority in the Town's vulnerability planning and West Newbury Wild and Native (WN2) formed to encourage landowners to remove invasive plants and plant natives to improve wetland and wildlife

resources in Town. This Bylaw is an opportunity to facilitate projects whose sole purpose is to restore native plant communities. As some of the highest priority areas to treat invasive plants are in or near wetlands, the cost of permitting on top of project costs can be an obstacle for landowners that want to improve habitat. With legal ads, abutters notification, wetland delineation, the permitting costs alone can be \$300-1000. Such costs are a tough lift for a volunteer group like WN2 and is likely to discourage landowners from taking on these optional projects that benefit wetlands. Some ways the Bylaw may be able facilitate and encourage this important work include:

- Under **IV. Applications and Fees. 4th paragraph.** Adding “projects that has net benefit to wetland resources and main purpose is to restore wetland ecological function.” to entities eligible for fee exemption. Under current bylaw, application fee can only be waived for government, Town committees and non-profit organizations, and WN2 and private landowners would not be able to have fees waived.
- Provide a process for a determination of negligible impact (see Boxford bylaw as an example), which can be approved without formal permitting, for minor invasive plant removal projects that have net benefit to wetlands.
- Consider negative Request for Determinations (RDAs) for invasive plant removal projects where the short-term impact is more significant. Seven neighboring Conservation Commissions have issued recurring negative RDA determinations for town-wide invasive control projects that use herbicides.
- Waive wetland delineation for projects whose sole purpose is to benefit wetlands. Since these projects would not require mitigation as they result in net benefit to wetland, costly delineations to determine exact amount of wetland impacted is not necessary. No other towns has required wetland delineation for the wetland improvement projects I have been involved with in the last 18 years.

I have these additional general comments on the Bylaw:

- The bylaw language on security and enforcement is important to ensure compliance with the Wetland Protection Act. This language will allow Commission to have recourse should applicants not adhere to Order of Conditions, or for illegal conversions.
- This bylaw allows the Commission to hire 3rd party consultants (engineers, wetland scientist, wildlife biologist, and other experts) to assist the Commission in the review of proposed projects, at the expense of the applicant. This is an important tool to have for complex projects. It further stipules that Select Board “may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified”. This Commission is very well versed in wetland regulations and principals of conservation, and may not consult with experts very often. However I believe it may be prudent to give the Select Board broader review of this authority to prevent over-reliance of this use by future Committee members.
- Under **VIII. Permits and Conditions**, paragraph 9, states “For good cause the Commission may revoke any permit...”. The bylaw does not define what constitutes good cause. Searching the state regulations, the State may revoke permits for “failure for compliance of conditions or if a permit improperly granted”. Similar language should be included in this Bylaw to clarify when permits may be revoked.
- The summary mentioned the 25 and 50 feet buffer zones, but I did not see reference to these buffer in the Bylaw itself. It would be helpful for the Bylaw to clarify what type of activities is allowed in the smaller buffer zones, and when activities within these buffer zones or resource areas would trigger consultation with the Conservation Commission.

West Newbury is unique in having large undeveloped land and intact wetland system that can be largely attributed to good planning and smart regulations to date. In the adoption of this Bylaw, the Commission should continue to be protective of wetland resources. However, for those instances where the bylaw proposes deviations from State regulations, the Commission should seek sufficient public input and discussion to ensure residents understand why these changes are needed. These efforts will increase affirmative votes to ensure the Bylaw's passage at the Spring Town meeting. I also hope that the Commission has some flexibility in regulations to facilitate and encourage native plant restoration in wetland for the future integrity of our wetlands.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy Pau', with a long horizontal flourish extending to the right.

Nancy Pau
86 Middle Street

cc: Select Board members

Town Manager

From: Town Manager
Sent: Friday, March 11, 2022 7:08 PM
To: [REDACTED]
Cc: Conservation; Town Clerk
Subject: RE: DRAFT WETLANDS BYLAW

Mr. McNamara,

Following on Michelle's correspondence, this is to provide the info you'd requested re how to "zoom in" to the March 14 Select Board mtg. The zoom login info (incl. a direct hyperlink) are included on the posted agenda, online [here](#). (The link is "clickable" if you scroll over it with your cursor.

It is always difficult to estimate timing, but I'd be surprised if Monday's discussion of the proposed Wetlands Bylaw began before 7:45pm, and it could be later, depending on how long the earlier topics last.

Hope this helps, and thanks for reaching out,
Angus

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: Conservation <conservation@wnewbury.org>
Sent: Friday, March 11, 2022 12:00 PM
To: [REDACTED]
Subject: RE: DRAFT WETLANDS BYLAW

Hi John,

My name is Michelle and I am the town's conservation agent. I've provided a copy of the current draft bylaw and answers to your questions below. If it's easier to chat on the phone, please give me a call on the mobile number in my signature line.

ALSO, IF THERE HAS BEEN ANY COMMUNICATION/CORRESPONDENCE REGARDING TO IMPACT THE PROPOSAL WOULD HAVE ON WORK ON AGRICULTURAL/FOREST PROPERTIES ON OR AROUND POTENTIAL WETLANDS, CURRENTLY ALLOWED BY COMMONWEALTH LEGISLATION...I WOULD APPRECIATE RECEIVING COPIES OF SAME.

- The draft bylaw does not propose any changes to the agricultural exemptions that the MA DEP Wetlands Protection Act (WPA) and regulations thereunder currently provide. While the intent of the bylaw is to be stricter in wetlands protection than the state, Section I. Purpose specifically exempts agriculture and reverts to the benefits provided by the state and West Newbury Bylaws:
 - "This bylaw is intended to utilize the Home Rule authority of West Newbury to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; the Act) to a greater degree, to protect additional resource areas recognized by the Town as significant, to protect all

resource areas for their additional values beyond those identified in the Act, and to impose, in local regulations and permits, additional standards and procedures in addition to those of the Act and regulations thereunder (310CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of West Newbury.”

- The bylaw also proposes adding agriculture as an additional public interest that wetlands protect. Currently the WPA recognizes 8 public interests that wetlands protect and agriculture is not one of them.
- Finally, the draft bylaw proposes no changes to the definition of agriculture and refers to the state’s definition of agriculture in Section X. Definitions “The term "agriculture" shall refer to the definition provided by G.L. Ch. 128 §1A.”

A FURTHER QUESTION.... HAS THE PROPOSED BYLAW BEEN SENT TO THE "MASSACHUSETTS FARM BUREAU FEDERATION " FOR REVIEW AND COMMENT ? DITTO.... TO THE "MASSACHUSETTS DEPARTMENT OF AGRICULTURE RESOURCES " ? IF THERE ARE CONFLICTS, WHICH LEGISLATION HAS PRIORITY ????

- The bylaw has not been sent to any other MA agencies for review. It is currently in it’s draft stage and is being reviewed by Town Counsel, KP Law. Part of their review will be determining conflicts with other state laws.
- If the bylaw is enacted at town meeting, it would be subject to review by the state’s Attorney General. During this review any conflicts with other agencies laws would be brought to the town’s attention.
- Where there are no proposed changes to the definition of agriculture, no proposed changes to reduce the exemptions / benefits agricultural activities and structures currently receive in the WPA and regulations, and the bylaw proposes to add agriculture as a public interest that wetlands protect, there should be no conflict with any other state agency that oversees agriculture.

Michelle Greene
Conservation Agent
Town of West Newbury
381 Main Street
West Newbury, MA 01985
Office: (978) 363-1100 x126
Mobile: (978) 891-0238
conservation@wnewbury.org

From: Town Clerk <townclerk@wnewbury.org>
Sent: Friday, March 11, 2022 11:30 AM
To: Conservation <conservation@wnewbury.org>
Subject: FW: DRAFT WETLANDS BYLAW

Hi Michelle,

Just wondering if you could answer this gentleman’s questions.

Thanks,

James RW Blatchford
Town Clerk
Town of West Newbury
Phone 978-363-1100 X 110

Mobile 978-891-0039

www.WNewbury.org



From: John M McNamara [REDACTED]
Sent: Thursday, March 10, 2022 7:15 PM
To: Town Clerk <townclerk@wnewbury.org>
Subject: DRAFT WETLANDS BYLAW

DEAR SIR

CAN YOU PLEASE EMAIL ME A COPY OF THE PROPOSED "WETLANDS BYLAW" WHICH WILL BE DISCUSSED AT MONDAY'S SELECTMEN'S MEETING...

ALSO, IF THERE HAS BEEN ANY COMMUNICATION/CORRESPONDENCE REGARDING TO IMPACT THE PROPOSAL WOULD HAVE ON WORK ON AGRICULTURAL/FOREST PROPERTIES ON OR AROUND POTENTIAL WETLANDS, CURRENTLY ALLOWED BY COMMONWEALTH LEGISLATION...I WOULD APPRECIATE RECEIVING COPIES OF SAME.

A FURTHER QUESTION.... HAS THE PROPOSED BYLAW BEEN SENT TO THE "MASSACHUSETTS FARM BUREAU FEDERATION " FOR REVIEW AND COMMENT ? DITTO.... TO THE "MASSACHUSETTS DEPARTMENT OF AGRICULTURE RESOURCES " ? IF THERE ARE CONFLICTS, WHICH LEGISLATION HAS PRIORITY ????

PLEASE SEND BY THIS FRIDAY SO THAT I CAN PROPERLY REVIEW BEFORE THE MEETING, AND INCLUDE INSTRUCTIONS AS TO "ZOOMING" IN.

THANK YOU

JOHN M Mc NAMARA
[REDACTED]



Town of West Newbury

381 Main Street

West Newbury, Massachusetts 01985

Angus Jennings, Town Manager

978-363-1100, Ext. 111 Fax 978-363-1826

townmanager@wnewbury.org

TO: Finance Committee
FROM: Angus Jennings, Town Manager
DATE: March 11, 2022
RE: Update re overall proposed FY23 budget

As you may have heard, the Pentucket School Committee met twice earlier this week and, on the evening of March 11, voted an updated FY23 budget.

Although we have not yet received our formal assessment letters, we have been provided updated budget numbers for FY23. These revised numbers have been built into my office's overall FY23 budget workbook, which is enclosed.

The attached document is intended to **replace and update** the earlier draft budgets circulated to each of you via email leading up to the prior FinCom meeting on March 1st. These numbers, approved by the School Committee, have the effect of reducing West Newbury's FY23 appropriation by about \$200,000. (The initial proposed amounts are shown in the "DH/BCC" column; the updated numbers are in the "TM proposed/SB referred" column).

This updated budget will also be shared with the Select Board, with an update provided at their upcoming meeting on March 14th.

Although the proposed education budget (incl. Pentucket) is not scheduled for FinCom review until the March 22nd meeting, I wanted to provide this update since it affects the overall FY23 budget bottom line.



TOWN OF WEST NEWBURY
PROPOSED FY23 OPERATING BUDGET
TOWN MANAGER-PROPOSED
REFERRED BY SELECT BOARD: FEB 28, 2022
UPDATED FOR PENTUCKET VOTE: MARCH 11, 2022

Name	FY19 Actual	FY20 Actual	FY21 Actual	FY22 Budget	FY23 Dept /	FY23 Proposed		
				Amended	Board / Comm	TM/SB	\$	%
General Government								
MODERATOR	200	255	260	260	260	260	0	0.0%
SELECT BOARD	13,059	13,989	49,860	58,162	58,845	54,116	(4,046)	-7.0%
TOWN MANAGER	329,213	266,767	310,057	314,487	323,209	325,707	11,220	3.6%
FINANCE DEPARTMENT	202,844	253,538	290,289	304,773	339,129	337,604	32,831	10.8%
FINANCE COMMITTEE	10,835	1,067	56,685	78,000	62,000	62,000	(16,000)	-20.5%
BOARD OF ASSESSORS	163,005	169,271	185,964	184,393	183,780	183,780	(613)	-0.3%
TOWN COUNSEL	0	13,770	22,500	58,000	72,014	65,124	7,124	12.3%
TOWN CLERK	119,350	121,730	134,578	149,443	150,831	149,014	(429)	-0.3%
BOARD OF REGISTRARS/ELECTIONS	12,110	10,472	16,077	12,550	18,100	18,100	5,550	44.2%
CONSERVATION COMMISSION	31,243	27,326	33,891	45,174	70,966	66,632	21,458	47.5%
PLANNING BOARD	51,452	59,576	64,546	65,707	87,424	70,850	5,143	7.8%
BOARD OF APPEALS	1,000	1,398	700	700	700	700	0	0.0%
OPEN SPACE COMMITTEE	278	0	750	750	1,500	750	0	0.0%
Public Safety								
POLICE DEPARTMENT	1,044,459	1,074,659	1,196,167	1,227,246	1,234,090	1,234,090	6,844	0.6%
FIRE DEPARTMENT	280,516	249,108	308,542	309,928	313,382	313,382	3,454	1.1%
PUBLIC SAFETY DISPATCH	260,080	263,061	325,515	331,482	338,389	338,389	6,907	2.1%
INSPECTION DEPARTMENT	130,668	136,003	144,426	141,272	145,800	144,842	3,570	2.5%
EMERGENCY MANAGEMENT	8,548	9,796	11,783	11,959	12,227	12,138	179	1.5%
ANIMAL CONTROL OFFICER	22,865	24,050	25,073	25,898	26,858	26,858	960	3.7%
HARBORMASTER	226	2,000	2,000	3,500	4,000	4,000	500	14.3%
Education								
EDUCATION	8,054,847	8,245,811	8,496,185	8,757,006	10,000,552	9,799,177	1,042,172	11.9%
Department of Public Works								
DPW	1,087,210	1,122,286	1,258,043	1,273,171	1,383,986	1,374,192	101,021	7.9%
Human Services								
BOARD OF HEALTH	503,374	503,706	627,817	626,589	610,335	610,335	(16,254)	-2.6%
COUNCIL ON AGING	79,069	86,296	99,674	101,182	119,140	119,808	18,626	18.4%
VETERANS	29,631	31,499	48,362	33,435	32,836	31,288	(2,147)	-6.4%
LIBRARY	353,413	356,385	364,641	373,492	414,543	385,286	11,794	3.2%
RECREATION	18,911	10,163	35,620	29,545	35,820	32,885	3,340	11.3%
HISTORICAL COMMISSION	340	175	600	600	600	600	0	0.0%
CULTURAL COUNCIL	82	0	100	100	100	100	0	0.0%
Debt Service								
DEBT SERVICE	371,900	371,439	356,000	313,950	300,900	300,900	(13,050)	-4.2%
Benefits								
ESSEX COUNTY RETIREMENT FUND	641,424	660,171	687,493	731,433	805,420	805,420	73,987	10.1%
UNEMPLOYMENT COMPENSATION	0	10,301	7,501	1,500	1,500	1,500	0	0.0%
EMPLOYEES' HEALTH INSURANCE	413,400	373,473	416,745	408,755	476,670	481,857	73,102	17.9%
MEDICARE INSURANCE (FICA)	45,176	47,512	49,486	50,476	51,990	51,485	1,010	2.0%
OPEB	0	0	1	1	0	0	(1)	-100.0%
INSURANCE AND BONDS	161,801	150,797	189,990	185,081	199,205	199,865	14,784	8.0%
NET TRANSFERS - STABILIZATION	300,000	500,000	500,000	500,000	500,000	500,000	0	0.0%
EXPENSE BUDGET TOTAL	14,742,532	15,167,848	16,317,921	16,710,000	18,377,101	18,103,035	1,393,035	8.3%

Summary								
	FY19 Actual	FY20 Actual	FY21 Actual	FY22 Budget	DH/BCC	FY23 Proposed		
				Amended		TM/SB	Change \$	Change %
Proposed FY23 Operating Budget:	14,742,532	15,167,848	16,317,921	16,710,000	18,377,101	18,103,035	\$ 1,393,035	8.3%
FY23 non-Education budget:	6,687,685	6,922,037	7,821,736	7,952,995	8,376,549	8,303,858	\$ 350,863	4.4%

FY23 Town Assessments

Pentucket Regional School District Operating and Capital Assessment Worksheet for FY23

General Fund Budget		\$	49,190,346
Operating		\$	43,528,026
District Wide Capital		\$	4,660,321
Town Specific Capital		\$	1,001,999

Town Assessment Calculations	Two Step Methodology
-------------------------------------	-----------------------------

Operating Budget		\$	43,528,026
Revenue In		\$	15,414,939
Amount Assessed to Towns		\$	28,113,087

Minimum Contributions- DOE

Groveland		7,341,071
Merrimac		6,568,248
West Newbury		5,426,548
Total		19,335,867

Amount Above Minimum

Total Assessment To Towns		\$	28,113,087
Total Minimum Contributions		\$	19,335,867
Difference (Assessment- Total Minimum)		\$	8,777,220

Per Pupil Assessment	Actual ratio
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	Difference	Enrollment	2 Town %	3 Town %	Total Above Minimum	
Groveland	\$ 8,777,220	X	0.52317	0.38366	=	\$ 3,367,468
Merrimac	\$ 8,777,220	X	0.47683	0.34967	=	\$ 3,069,131
West Newbury	\$ 8,777,220	X		0.26667	=	\$ 2,340,621
Total			1.000000	1.000000		\$ 8,777,220

Minimum + Percentage Above Minimum = Local Assessment
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Groveland	\$ 7,341,071	+	\$ 3,367,468	\$ 10,708,539
Merrimac	\$ 6,568,248	+	\$ 3,069,131	\$ 9,637,379
West Newbury	\$ 5,426,548	+	\$ 2,340,621	\$ 7,767,169
Total	\$ 19,335,867		\$ 8,777,220	\$ 28,113,087

District Wide Capital Assessment

Three Town Debt Service	\$ 4,623,071
Two Town Debt Service	\$ 37,250
State Construction Aid	\$ -
Amount Assessed to Towns	\$ 4,660,321

	FY 22 Total Capital Assessment	FY 23 Three Town Capital Assessment	FY 23 Two Town Capital Assessment	FY 23 Total Capital Assessment
Groveland	\$ 1,804,814	\$ 1,773,670	\$ 19,488	\$ 1,793,158
Merrimac	\$ 1,654,755	\$ 1,616,579	\$ 17,762	\$ 1,634,341
West Newbury	\$ 1,196,556	\$ 1,232,822		\$ 1,232,822
Total	\$ 4,656,125	\$ 4,623,071	\$ 37,250	\$ 4,660,321

Town Specific Capital Assessment

	FY23 QECCB Debt Service	FY23 QECCB Subsidy	FY23 G.O. Debt Service	FY23 Total Town Specific Capital Assessment
Groveland	\$ 95,295	\$ (15,924)	\$ 326,382	\$ 405,753
Merrimac	\$ 113,744	\$ (18,436)	\$ 15,700	\$ 111,008
West Newbury	\$ 135,088	\$ (22,535)	\$ 372,685	\$ 485,238
Total	\$ 344,127	\$ (56,895)	\$ 714,767	\$ 1,001,999

FY 23 Total Town Assessment

	FY 23 Operating Assessment	FY 23 DW Capital Assessment	FY 23 Town Specific Capital Assessment	FY 23 Total Assessment
Groveland	\$ 10,708,539	\$ 1,793,158	\$ 405,753	\$ 12,907,450
Merrimac	\$ 9,637,379	\$ 1,634,341	\$ 111,008	\$ 11,382,728
West Newbury	\$ 7,767,169	\$ 1,232,822	\$ 485,238	\$ 9,485,229
Total	\$ 28,113,087	\$ 4,660,321	\$ 1,001,999	\$ 33,775,407



Town of West Newbury
381 Main Street
West Newbury, Massachusetts 01985

James RW Blatchford,
Town Clerk

TO: Town Counsel

FROM: Town Clerk, Chief Assessor

DATE: March 2, 2022

RE: Ballot question for 2022 Local election

Below is the language for the ballot question proposed by the Board of Assessors. The Select Board is in favor of putting the question on the ballot but I wanted to run the language through counsel first before getting final Board approval. The question is as follows:

Shall this town accept the provisions of section 8A of chapter 59 of the General Laws, a fair and concise summary of which appears below?

“Town of West Newbury chooses not to impose an excise tax on any entity, not including corporations, engaged principally in an agriculture business of their machinery, equipment, and livestock”

- Yes
- No

Part I ADMINISTRATION OF THE GOVERNMENT**Title IX** TAXATION**Chapter 59** ASSESSMENT OF LOCAL TAXES**Section 8A** EXCISE TAX ON FARM MACHINERY AND EQUIPMENT AND FARM ANIMALS; ABATEMENT; COLLECTION; VOTER APPROVAL TO NOT IMPOSE EXCISE

Section 8A. Any person, not including a corporation, engaged principally in agriculture, who owns farm machinery and equipment, other than motor vehicles and trailers which are exempt under clause Thirty-fifth of section five, or mules, horses, neat cattle, swine, sheep, goats, domestic fowl or mink, which are not exempt under clause Twenty-first of section five, and any individual under eighteen years of age who owns and raises any such animals or fowl in connection with an agricultural youth program, including but not limited to the 4H Clubs and Future Farmers of America, which are not exempt under said clause Twenty-first of section five, shall annually, on or before March first, make a return on oath to the assessors of the town where such machinery and equipment or such animals and fowl are located, setting forth the make, age, model, if any, and purchase price of such machinery and equipment and the number and kind of each class of such animals and fowl owned by him on the next preceding January first. For the purposes of this section the term "equipment" shall include plastic covered greenhouses used for

agricultural, horticultural or floricultural purposes, which are not constructed upon a concrete foundation. If the assessors are satisfied of the truth of the return they shall assess such machinery and equipment and such animals and fowl at the rate of five dollars per one thousand dollars of valuation, as determined by the commissioner of revenue, of such machinery and equipment and of each class and kind of such animals and fowl, and such persons shall be otherwise exempt from taxation on these classes of property under this chapter.

If an owner, as described in the first paragraph, fails to make a return within the time provided therein, the assessors may abate a tax otherwise imposed by this chapter if he provides the assessors with a reasonable excuse for failure to file such return as aforesaid, and if a return is filed on or before October thirty-first of the year to which the tax relates; but no abatement hereunder shall reduce the tax otherwise imposed to an amount less than the sum of the excise imposed by this chapter plus fifty per cent thereof. No tax shall be due if the actual tax due is less than ten dollars.

The excise imposed hereunder shall be committed by the board of assessors to the collector of taxes together with their warrant for the collection thereof in the same manner as real and personal property taxes assessed under this chapter. The collector shall notify the person assessed of the amount of the excise in the manner provided in section three of chapter sixty. For the collection of the excise assessed under this section the collector shall have all the remedies provided by chapter sixty. The excise assessed shall be due and payable on October first of the year assessed, and if not paid on or before November first of the year of

assessment, or within thirty days after notification of said excise if said notice is given after October first, shall bear interest as provided in section fifty-seven of chapter fifty-nine.

The local appropriating authority, as defined in section 21C, may, by a two-thirds vote, seek voter approval to not impose the excise established by this section.

Town Manager

From: Timothy D. Zessin [REDACTED]
Sent: Friday, March 11, 2022 4:48 PM
To: Town Clerk
Cc: Christian Kuhn; Devan C. Braun; Town Manager
Subject: RE: Ballot question needs counsel input
Attachments: KP-#803993-v1-WNEWB_-_ballot_question_re__farm_excise_tax.DOCX

Jim:

Attached is a revised version of the ballot question that seeks voter approval to not impose the excise tax on farm equipment in accordance with G.L. c. 59, s. 8A. As you can see, we've re-worked it a bit to reflect the fact that Section 8A is not a local option statute. We've also included a few comments/questions in the margin. If you have any questions, please feel free to contact me or my colleague Devan Braun, who I've copied on this email.

Regards,
Tim

Timothy D. Zessin, Esq.

KP | LAW

101 Arch Street

12th Floor

Boston, MA 02110

Phone: [REDACTED]

Fax: [REDACTED]

E-mail: [REDACTED]

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and its attachments, if any, and destroy any hard copies you may have created and notify me immediately.

From: Town Clerk <townclerk@wnewbury.org>
Sent: Wednesday, March 2, 2022 2:53 PM
To: Timothy D. Zessin [REDACTED]
Cc: Town Manager <townmanager@wnewbury.org>; Christian Kuhn <chief.assessor@wnewbury.org>
Subject: Ballot question needs counsel input

Hi Tim,

The attached memo is regarding a question we are trying to put on the ballot for the local election on May 2, 2022. The question would be accepting MGL Chapter 59 section 8A the language for the question is included in the memo. <https://malegislature.gov/laws/generallaws/parti/titleix/chapter59/section8a>

Please let me know if you have any question,

BALLOT QUESTION:

Shall this town vote, pursuant to the provisions of section 8A of chapter 59 of the general laws, not to impose the excise tax set forth in said statute, a fair and concise summary of which appears below?

Yes ____ No ____

SUMMARY:

General Laws c. 59, § 8A authorizes the Town, by and through its Board of Assessors, to assess an excise tax on any non-exempt farm machinery, farm equipment, farm animals, and fowl, after the owner certifies the value of the owner’s farm machinery, equipment, animals, and fowl, and thereafter, for the board of assessors to commit said excise to the collector of taxes, with interest to accrue if the excise is not paid.

The statute, however, also allows the Town’s Select Board, as the local appropriating authority, to seek voter approval to not impose this excise. On March 14, 2022, the Select Board voted, by the requisite two-thirds quantum, to seek voter approval not to impose this excise on farm machinery, farm equipment, farm animals and fowl, as set forth in G.L. c. 59, § 8A. The question is now put to the voters in accordance with G.L. c. 59, § 8A.

WHAT YOUR VOTE WILL DO:

A YES vote would authorize the Town not to impose the excise tax established by section 8A of chapter 59 of the general laws.

A NO vote would authorize the Town’s continued imposition of the excise tax established by section 8A of chapter 59 of the general laws.

Commented [DCB1]: Please confirm.

Commented [DCB2]: Please ensure at least two-thirds vote of the Select Board to place the question on the ballot.

Commented [DCB3]: In my opinion, despite the two-thirds approval needed by the Select Board, the ballot question need only pass by a simple majority vote on election day.



H

Town of West Newbury
381 Main Street
West Newbury, Massachusetts 01985

James RW Blatchford,
Town Clerk

TO: Select Board

FROM: James Blatchford, Town Clerk; with Angus Jennings, Town Manager

DATE: March 11, 2022

RE: Proposed Articles for Annual Town Meeting, with supporting documents

Notice was provided that proposed Town Meeting articles were to be submitted on or before February 11, 2022, and the Select Board voted on February 14, 2022 to close the Town Meeting warrants. The following article requests for the Annual or Special Town Meeting were timely received in the Town Manager's and Select Board's office (*NOTE: Some listed below will be ATM articles and some will be STM articles. All article ordering and numbering shown below is preliminary and **subject to change***):

GENERAL GOVERNMENT MATTERS

01: To hear and act upon the reports of Town officers and committees, or take any other action relative thereto. *By request of the Select Board.*

02: To see if the Town will vote to transfer the sum of \$397,325 from the School Stabilization Fund to pay a portion of the Town share of debt services associated with the building of the new Middle/High School, or take any other action relative thereto. *By request of the Select Board.*

03: To determine what sums of money the Town will raise and appropriate for defraying the expenses of the Town for ensuing fiscal year and for the payment of Town debt, or take any other action relative thereto. *By request of the Select Board.*

WATER ENTERPRISE FUND

04: In accordance with the provisions of Chapter 38 of the Acts of 1936, to see what instructions, rules, and regulations the Town may wish to impose on the Board of Water Commissioners, or take any other action relative thereto. *By request of the Board of Water Commissioners.*

05: To see if the Town will vote to appropriate, in anticipation of Water Department revenues, the sum of \$_____ of which \$_____ for salaries and wages which include \$_____ for Water Commissioners' Stipends; \$_____ for insurances; \$_____ for expenses; \$_____ for debt services; \$_____ for extraordinary and unforeseen expenses; and \$_____ for indirect cost, or take any other action relative thereto. *By request of the Board of Water Commissioners.*

06: To see if the Town will vote to transfer the sum of \$7,500 from the Water Enterprise Fund Free Cash Account to the Water Enterprise Stabilization Fund, or take any other action relative thereto. *By request of the Board of Water Commissioners.*

07: To see if the Town will vote to transfer the sum of \$27,000 from Water Enterprise Fund Account for Engineering services to update the Water Departments existing hydraulic model and water distribution system study originally completed in 2003. The capital improvement plan associated with the distribution system study was updated in 2008, or take any other action relative thereto. *By request of the Board of Water Commissioners. (Recommended for SPECIAL TOWN MEETING).*

[NOTE: Amount subject to change. Discussions among Board of Water Commissioners and the Select Board regarding the recommended scope of work for such study, and associated budget number, now underway.]

APPROPRIATIONS

08: To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$80,542 for the Pension Liability Stabilization Fund, or take any other action related thereto. *By request of the Select Board.*

09: To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$15,000 for the Other Post-Employment Benefits (OPEB) Stabilization Fund, or take any other action related thereto. *By request of the Select Board.*

10: To see if the Town will vote to limit the total amount that may be expended from each revolving fund established pursuant to Section XL of the Bylaws of the Town of West Newbury, to wit:

- Section 5.1 Summer Recreation Revolving Fund \$ 44,350
- Section 5.2 GAR Library Fines and Penalties Revolving Fund \$ 10,000
- Section 5.3 Police Vehicle Revolving Fund \$ 20,000
- Section 5.4 Pipestave/Mill Pond Care and Maintenance Revolving Fund \$ 5,000

- Section 5.5 Electric Vehicle Charging Stations Revolving Fund \$ 10,000
- Section 5.6 Curbside Collection of Trash, Recycling and Food Waste Revolving Fund \$150,000

By request of the Select Board.

11: To see if the Town will vote to transfer the sum of \$10,364.00 from the Septic Loan Revolving Account for the repayment of debt service, or take any other action related thereto. *By request of the Board of Health.*

12: To see if the Town will vote to allocate and/or reserve from the Community Preservation Fund annual revenues, the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in Fiscal Year 2023, with each item to be considered a separate appropriation,

- Appropriate \$35,765 from FY 2023 estimated revenues for Committee Administrative Expenses.
- Reserve \$71,530 from FY 2023 estimated revenues for Community Housing Reserve.
- Reserve \$71,530 from FY 2023 estimated revenues for Historic Resources Reserve.
- Reserve \$71,530 from FY 2023 estimated revenues for Open Space & Recreation Reserve.
- Reserve \$464,942 from FY 2023 estimated revenues for Budgeted Reserve.

or take any other action related thereto.

By request of the Community Preservation Committee.

13: To see if the Town will vote to rescind a \$1,250,000 portion of the \$1,500,000 appropriation and the related borrowing authority voted by the Town under Article 10 of the November 4, 2019 Town Meeting for repairs to the Soldiers and Sailors Memorial Building; or take any action relative thereto. *By request of the Select Board. (Recommended for SPECIAL TOWN MEETING).*

14: To see if the Town will vote to authorize the disposition, by sale or lease, of the Soldiers and Sailors Memorial Building, subject to procurement requirements, and subject to a Historic Preservation Restriction, and to transfer from available funds the sum of \$_____ to fund costs associated with the preparation of such Historic Preservation Restriction and costs associated with disposition, or take any other action related thereto. *By request of the Select Board. (Recommended for SPECIAL TOWN MEETING).*

[NOTE: Amount subject to ongoing review.]

15: To see if the Town will vote to transfer from available funds the sum of \$_____ to fund the removal of the Soldiers and Sailors Memorial Building, site stabilization, and the preparation of a design plan by a

landscape architect to establish a veterans' memorial park on the site, or take any other action related thereto. *By request of the Select Board. (Recommended for SPECIAL TOWN MEETING).*

[NOTE: Amount subject to ongoing review.]

16: To see if the Town will vote to transfer from available funds the sum of \$_____ to fund unbudgeted personnel costs, or take any other action related thereto. *By request of the Select Board.*

[NOTE: Amount pending; comprehensive Personnel Wage/Classification Study, funded in part by a Mass. Dept. of Revenue Municipal Best Practices grant awarded to the Town in late 2021, said study now underway.]

17: To see if the Town will vote to transfer from available funds the sum of \$48,000 to fund the study and design for improved parking and circulation within Pipestave and the adjacent Dunn property (so-called), or take any other action related thereto. *By request of the Select Board.*

[NOTE: Amount subject to change based on ongoing review.]

18: To see if the Town will vote to transfer from available funds the sum of \$9,900 to fund vegetation management at Pipestave and the adjacent Dunn property (so-called), or take any other action related thereto. *By request of the Parks & Recreation Commission.*

19: To see if the Town will vote to transfer from Community Preservation Act funds, Open Space and Recreation Reserve, the sum of \$45,000 for costs and expenses pertaining to a site assessment and master plan for the Cammett Park land on Bachelor Street, or take any other action related thereto. *By request of the Community Preservation Committee and the Parks & Recreation Commission.*

(Note: Currently pending review by the Community Preservation Committee; would only remain on Warrant with CPC approval. The CPC is scheduled to meet again on Thursday, March 24th at 6:30pm).

20: To see if the Town will vote to transfer from available funds the sum of \$15,000 to fund a study for the potential to generate solar electricity at several town-owned parcels, or take any other action related thereto. *By request of the Energy and Sustainability Committee.*

21: To see if the Town will vote to transfer from available funds the sum of \$2,500 to provide matching funds for the next phase of a Historic Property Survey/Inventory, or take any other action related thereto. *By request of the Historical Commission.*

22: To see if the Town will vote to transfer from available funds the sum of \$_____ to fund the fiscal year 2022 snow and ice deficit, or take any other action related thereto. *By request of the DPW Director.*

(SPECIAL TOWN MEETING)

[NOTE: Amount subject to change based on eligible costs incurred. As of March 11, based on invoices paid year-to-date, the FY22 Snow & Ice deficit is approximately \$3,905.]

23: To see if the Town will vote to transfer from available funds the sum of \$118,645 to fund several facility improvements throughout the town, including ADA accessibility improvements, roof replacement at the former highway garage, DPW work station relocation, annex repairs, A/V improvements and furniture renovations for both hearing rooms in the 1910 Building, establishment of a new reception desk in the 1910 Building, or take any other action related thereto. *By request of the DPW Director.*

(Recommended for SPECIAL TOWN MEETING).

[NOTE: Amount and scope subject to change based on ongoing review.]

24: To see if the Town will vote to transfer from available funds the sum of \$25,000 to fund an evaluation/audit of the Page School brick exterior/lintels, or take any other action related thereto. *By request of the DPW Director.*

(NOTE: Currently pending review by the Capital Improvements Committee; would only remain on Warrant with CIC approval. The CIC is scheduled to meet again on Thursday, March 24th at 7:30pm).

25: To see if the Town will vote to transfer from available funds the sum of \$85,000 to fund a Structural Safety and Component Assessment Study for Page School, or take any other action related thereto. *By request of the DPW Director.*

(NOTE: Currently pending review by the Capital Improvements Committee; would only remain on Warrant with CIC approval. The CIC is scheduled to meet again on Thursday, March 24th at 7:30pm).

26: To see if the Town will vote to transfer from available funds the sum of \$65,000 to fund the replacement of Town Offices phone system, or take any other action related thereto. *By request of the DPW Director.*

(NOTE: Currently pending review by the Capital Improvements Committee; would only remain on Warrant with CIC approval. The CIC is scheduled to meet again on Thursday, March 24th at 7:30pm).

27: To see if the Town will vote to transfer from available funds the sum of \$56,000 to fund the replacement of a pickup truck for the Facilities Division of DPW, or take any other action related thereto. *By request of the DPW Director.*

(NOTE: Currently pending review by the Capital Improvements Committee; would only remain on Warrant with CIC approval. The CIC is scheduled to meet again on Thursday, March 24th at 7:30pm).

28: To see if the Town will vote to transfer from available funds the sum of \$80,000 to fund the replacement of a F-350 Dump Truck with new F-550 Dump Truck for Highway Division of DPW, or take any other action related thereto. *By request of the DPW Director.*

(NOTE: Currently pending review by the Capital Improvements Committee; would only remain on Warrant with CIC approval. The CIC is scheduled to meet again on Thursday, March 24th at 7:30pm).

29: To see if the Town will vote to transfer from available funds the sum of \$39,000 to fund the purchase of new Public Safety Emergency Communication equipment and removal of outdated equipment, or take any other action related thereto. *By request of the Board of Fire Engineers.*

(NOTE: Currently pending review by the Capital Improvements Committee; would only remain on Warrant with CIC approval. The CIC is scheduled to meet again on Thursday, March 24th at 7:30pm).

30: To see if the Town will vote to transfer from available funds the sum of \$34,000 to fund a town-wide audit of the effects of the Emerald Ash Borer on all our public right-of-way Ash trees, or take any other action related thereto. *By request of the DPW Director. (Recommended for SPECIAL TOWN MEETING).*

31: To see if the Town will vote to transfer from available funds the sum of \$15,000 to fund the purchase of 6 new automated external defibrillators (AED) for public safety responders and town-wide facilities, or take any other action related thereto. *By request of the Board of Fire Engineers.*

32: To see if the Town will vote to transfer from available funds the sum of \$10,000 to fund the replacement/purchase of a new rescue air bag system, or take any other action related thereto. *By request of the Board of Fire Engineers.*

33: To see if the Town will vote to transfer from available funds the sum of \$14,500 to fund the replacement/purchase of 2 new saws and power tools, or take any other action related thereto. *By request of the Board of Fire Engineers.*

34: To see if the Town will vote to transfer from available funds the sum of \$342 to reimburse prior fiscal year expenses incurred by Town Committee members, or take any other action related thereto. *By request of the Town Manager.*

BYLAWS – OTHERS

35: To see if the Town will vote to accept as a public way the layout of Sullivans Court Extension, as heretofore laid out by the Select Board and shown more particularly on a plan entitled “Sullivans Court Extension’ Street Acceptance Plan,” dated March 9, 2022, prepared by The Morin-Cameron Group, Inc., a copy of which is on file with the Town Clerk’s Office, and to authorize the Select Board to acquire, by purchase, gift, and/or eminent domain, the fee simple title to or a permanent easement in said roadway for all purposes for which public ways are used in the Town of West Newbury, including utility purposes, and any drainage, access, utility and other easements related thereto. *By request of the Select Board.*

36 Planning Board (pending public hearing) – To see if the Town will vote to amend the West Newbury Zoning Bylaw to amend Section 5.F, to update the local preference section of the Inclusionary Housing Requirements Bylaw, or take any other action related thereto.

37: To see if the Town will vote to amend the West Newbury Town Bylaws to adopt a new Section ___, Municipal Affordable Housing Trust Fund Bylaw, or take any other action related thereto. *By request of the Select Board.*

38: To see if the Town will vote to amend the West Newbury Town Bylaws to adopt a new Section ___, Building Numbering/Street Naming, to regulate the numbering of buildings, or take any other action related thereto. *By request of the Building Inspector.*

39: To see if the Town will vote to amend the West Newbury Town Bylaws to adopt a new Section ___, Wetlands Protection Bylaw, or take any other action related thereto. *By request of the Conservation Commission.*

40: To see if the Town will amend Article XXXVI of the Town Bylaws, the Community Preservation Committee Bylaw, to designate that a permanent member of the Community Preservation Committee be a member of the West Newbury Open Space Committee, or take any other action related thereto. *By request of the Open Space Committee.*

41: To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 140, Section 139, to authorize the waiving of fees for dog licenses for residents over the age of 70, or take any other action related thereto. *By request of the Town Clerk.*



MEMORANDUM

TO: Select Board

FROM: Affordable Housing Trust Bylaw Committee

DATE: March 2, 2022

SUBJECT: Draft Affordable Housing Trust Bylaw

As outlined in the Select Board's Committee Charge, the Affordable Housing Trust Bylaw Committee (Committee) has examined the establishment and implementation of affordable housing trusts by other municipalities in Massachusetts. In order to gauge the concerns and priorities of West Newbury residents, the Committee held a Public Listening Session (Session) on January 26, 2022. An invitation to the Session was sent to all Board, Commission and Committee members, town employees and other interested parties. Notice for the Session was also made on the town website and through the email notification system. There were 17 residents in attendance at the Session in addition to Committee members and another 25 viewed the recording of the Session made available on the Committee's webpage. Attachment 1 to this memo summarizes responses to a series of questions discussed at the end of the session.

Using input from the Session and the town's affordable housing consultant, the Committee drafted a bylaw for the establishment and operation of the Affordable Housing Trust. A Frequently Asked Questions document was also prepared by the Committee. Both documents were distributed to the list of Board, Commission and Committee members, town employees and other interested parties with a request for input. The final draft of the Affordable Housing Trust Bylaw is included as Attachment 2 to this memo. The Committee requests your input on this draft, as well as direction on any support that we may provide to facilitate approval of the Bylaw at Town Meeting.

Town of West Newbury Summary of Public Listening Session

Summary of Discussion and Responses to Committee Questions from attendees of Affordable Housing Trust Bylaw Listening Session Held January 26, 2022

1. More than 113 units of housing, meeting the guidelines for listing in the State's Subsidized Housing Inventory, would need to be built in West Newbury in order for the Town to meet the 10% threshold that would enable the Town to reject a so-called "hostile 40B" project. Should building enough units to achieve the 10% benchmark, keeping in mind the number of minimum units will increase every time another house is built in Town, be the only or primary goal of the Affordable Housing Trust?

The comments generally were that achieving 10% of units meeting guidelines of SHI should not be the only goal of the AHT but that all efforts in that direction would be worthwhile. Several questions focused on whether there were penalties for not meeting the 10%. There are other practical reasons to create an AHT in order to help make housing affordable for retirees, Town employees and first time buyers that would not necessarily add to the Town's number of SHI units. Such assistance might include help with closing costs, rental assistance, other housing assistance programs in addition to encouraging, creating or preserving housing that is affordable but not within the meaning of SHI. Some commented that it was unlikely that the 10% goal could be achieved. However, a rental project consisting of at least 25% affordable units would contribute 100% of all units in the project to the Town's SHI.

2. What would 113 units look like?

Discussion of whether adding so many new units is consistent with the "rural character" of the Town which has been identified as important to many residents. Is West Newbury really rural or is it already suburban? Would the lack of public transportation make affordable units unattractive to buyers or renters and should it be assumed that residents of affordable housing would use public transportation even if it were available? If there were more affordable units in Town perhaps public transportation would become available. Discussion of changes to zoning that might facilitate the creation of more affordable units without large projects. Such changes might allow more than two multifamily units per lot or might encourage homeowners to add rental units that are affordable. Detached dwellings might be allowed on one lot. Are there other incentives that can be offered to developers and homeowners to create affordable housing including by adding rental units to existing homes? Discussion did not specify whether "affordable" units would qualify for SHI or not.

3. Where it can, should the Trust give local preference for available affordable housing?

The Trust can decide whether to make this a policy without including it in the bylaw.

4. Will municipal staff or other professional assistance be needed to support the Trust?

Town of West Newbury Summary of Public Listening Session

Professional help to review applications for housing and resale of restricted units will be required. Funds from the account created by the Inclusionary Bylaw have already been used to manage sale and rental of existing affordable housing. Trust funds can be used for professional services. Other towns have used consultants to advise their trusts. The Bylaw Committee has retained a consultant to assist in crafting the West Newbury bylaw. Ways of mitigating the administrative burden and costs of managing affordable units and activities of the Trust should be investigated. Could there be regional cooperation?

5. The Trust has the many powers under the enabling legislation including the powers to buy, sell and rent property, to accept donations, borrow money and mortgage property. What level of autonomy should the Town allow the Trust?

General discussion focused on possible limits on Trust powers. For instance, could the amount of funding spent by the Trust be capped, should purchase of land require Selectboard and/or Town Meeting approval, should the price paid for land be limited to a percentage of assessed value? Real estate purchases, particularly those involving a property coming out of Ch. 61, require fast action requiring Town Meeting vote would tend to hamper the agility of the Trust if the Trust had the funding to pursue the purchase. Concern was raised that the Trust would have the unilateral ability to put the finances of the Town at risk by entering into contracts or borrowing money and subsequently defaulting. What actions of the Trust should require Selectboard approval?

6. An AHT can actively seek to create affordable housing and to provide assistance to low and moderate income earners, act only as a funding source for affordable housing assistance or, it can pursue both models. Which operational model is most appropriate for the West Newbury AHT?

Comments included the following: The Trust should actively seek to keep smaller housing stock affordable by buying renovating and restricting properties, investigate grant opportunities for eco-villages and green communities, seek out opportunities to partner with other public entities, private entities and organizations that might act as middlemen to create affordable housing projects, pursue new zoning that will enable new and more affordable rental units than currently allowed under zoning while preserving the general look of the Town. Team up with the Open Space Committee and conservation organizations to pool resources and preserve some open space while creating new affordable housing as parcels come on the market that have conservation values and would otherwise be developed only for market rate housing.

Town of West Newbury Summary of Public Listening Session

7. Other comments submitted during and after the listening session and discussion include:

The new MBTA Community multi-family legislation requires West Newbury to designate at least 50 acres for multifamily housing, at a density of 15 units per acre, as of right. This legislation does not require, but does not rule out, having the units be designated as affordable. Failure to comply will render the Town ineligible for certain State grants.

Discussion about what constitutes “affordability” for rental and housing. Generally not more than 30% of area mean income as defined by HUD (AMI). The AMI differs depending on the size of the family.

What should be the requirements for appointment to serve as a trustee of the Trust? Discussion included whether non-citizens with relevant expertise should be allowed, whether members of certain other boards should have a seat, occupants of existing affordable units, professionals with relevant experience such as finance, real estate, marketing, law, community justice issues, local builders. Also raised was the advisability of making membership requirements nonspecific to encourage more volunteer participation.

With respect to funding sources, a possible conflict was identified between the needs of the Housing Authority and the AHT if 10% of CPA funds were to be allocated annually to the AHT. Such allocation would require Town Meeting vote. Funds collected due to the Inclusionary Bylaw would be automatically deposited to the AHT because of the terms of the Inclusionary Bylaw. A suggestion was made that roll back taxes collected when Ch. 61 lands were sold might be allocated to the AHT as a reliable source of funding.

Town of West Newbury Draft Affordable Housing Trust Bylaw

ARTICLE XX - To see if the Town will establish a new bylaw for the administration of a Municipal Affordable Housing Trust Fund to support the development of affordable housing in West Newbury; or take any action related thereto.

Section 1. Authority and Name of Trust

Pursuant to the vote on Article XX of the October 2021 Special Town Meeting, the Town of West Newbury (the “Town”) voted to accept the provisions of Massachusetts General Laws c. 44, §55C and authorized the creation of a Municipal Affordable Housing Trust Fund to be known as the “West Newbury Affordable Housing Trust” (the “Trust”).

Section 2. Purpose

The purpose of the Trust shall be to provide for the preservation, creation and support of affordable housing in the Town of West Newbury for the benefit of low- and moderate-income households, and for the funding of community housing as defined by Massachusetts General Laws c. 44B (the “Community Preservation Act”).

Section 3. Board of Trustees

A. Composition.

There shall be a Board of Trustees (Trustees) of the West Newbury Affordable Housing Trust composed of one ex officio non-voting member and seven voting members. The Town Manager or the Town Manager’s designee shall serve as the ex officio member. The voting members shall include: a member of the Select Board (designated by the Select Board) and six members appointed by a majority vote of the Select Board. The voting members shall have relevant experience in the fields of affordable housing, zoning, real estate, banking, finance, law, architecture, social services, or other areas of expertise applicable to advancing the purpose and goals of the Trust.

Trustees shall be residents of West Newbury. Any Trustee whose resident status changes shall promptly notify the Trust and Town Clerk in writing and resign from the Trust. The Town Manager or designee need not be a resident of West Newbury.

Town of West Newbury
Draft Affordable Housing Trust Bylaw

B. Appointment of Trustees.

Trustees shall serve for a term of two years, except that three of the initial Trustee appointments shall be for a term of one year. Select Board appointments will be made on the same schedule as other Town Boards and Committees for the coming fiscal year.

C. Meetings.

Meetings of the Trustees shall be held on a regular basis. Special meetings may be called by the Chairperson. The Trust is a governmental body for purposes of M.G.L. c. 30A, §§18-25, the Open Meeting Law; notice of any meeting of the Trust shall be filed with the Town Clerk and posted in accordance with the Open Meeting Law.

The Trustees shall regularly elect a Chairperson, a Vice Chairperson, a Treasurer and a Clerk. The Chairperson may establish sub-committees and/or ad hoc task related committees to carry out the purposes of the Trust. Chairpersons of the subcommittees may be selected by the members of the sub-committees.

A majority of the number of authorized Trustees shall constitute a quorum.

D. Removal.

A Trustee may be removed by the Select Board for cause following a hearing. Absence from five consecutive, regularly scheduled meetings of the Trust will be considered grounds for removal. Any vacancy on the Trust shall be filled by the Select Board for the remainder of the unexpired term.

E. Declaration of Trust.

The Trustees are authorized to execute a Declaration of Trust and Certificate of Trust for the West Newbury Affordable Housing Trust Fund, to be recorded with the Essex County Registry of Deeds and filed with the Essex County District of the Land Court, following approval by the Select Board. The Declaration of Trust may be amended from time to time, except as to the powers of the Trustees and those other provisions specifically required under M.G.L. c. 44, §55C, in writing signed by the Town Manager and by seven of the Trustees and approved at a meeting called for that purpose, provided that in each case, a certificate of amendment has been recorded with the Registry of Deeds and filed with the Land Registration Office.

Town of West Newbury
Draft Affordable Housing Trust Bylaw

F. Authority and Responsibilities.

- 1) The powers of the Trustees shall be carried out in furtherance of the purposes set forth in M.G.L. c.44, §55C, and inclusive of any future amendments, and pursuant to the provisions of a Declaration of Trust to be approved by the Select Board shall include the following:
 - a) To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the West Newbury Community Preservation Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;
 - b) With Select Board approval, to purchase and retain real, personal or intangible property, including without restriction investments that yield a high rate of income or no income;
 - c) With Select Board approval, to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Trustees deem advisable notwithstanding the length of any such lease or contract;
 - d) To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements to and from the Trust, make gifts or loans and execute other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engage for the accomplishment of the purposes of the Trust;
 - e) To employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;

Town of West Newbury
Draft Affordable Housing Trust Bylaw

- f) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
- g) To apportion receipts and charges between incomes and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- h) To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- i) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Trustees may deem necessary and appropriate;
- j) To carry property for accounting purposes other than acquisition date values;
- k) With Select Board and Town Meeting approval, to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, to mortgage and pledge Trust assets as collateral;
- l) To make distributions or divisions of principal in kind;
- m) To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Trustees may deem appropriate;
- n) To manage or improve real property and to abandon any property which the Trustees determine not to be worth retaining;
- o) To hold all or part of the Trust property not invested for such purposes and for such time as the Trustees may deem appropriate; and
- p) To extend the time for payment of any obligation to the Trust.

Town of West Newbury
Draft Affordable Housing Trust Bylaw

- 2) The powers and duties enumerated above are intended to encompass all powers and duties of the Trustees. Any action, power or duty not enumerated above shall require prior approval of the Select Board.
- 3) The powers of the Trustees may only be amended by a vote of West Newbury Town Meeting.
- 4) The Trustees shall prepare an annual report describing the activities of the Trust for each fiscal year. The annual report shall be submitted to the Select Board in accordance with the schedule set by the Town Clerk for inclusion in the Town's Annual Report. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets of the Trust, list an inventory of all affordable housing units created, sold, and/or managed by the Trust, and any other pertinent information related to the business of the Trust.

Section 4. Acts of Trustees

- A. A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees, with the exception that any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by at least two thirds of the appointed Trustees.
- B. No Trustee shall be required to post bond.
- C. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

Section 5. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all monies paid to the Trust in accordance with any zoning bylaw, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All monies remaining in the Trust at the end of any fiscal year, whether or not expended by the Trustees

Town of West Newbury Draft Affordable Housing Trust Bylaw

within one year of the date they were appropriated into the Trust, remain Trust property set forth in M.G.L. c.44, §55C.

Section 6. Custodian of Funds

The West Newbury Treasurer/Collector shall be the custodian of Trust's funds and shall maintain separate accounts and records for such funds. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust Fund. In accordance with M.G.L. c. 44, § 55C, the books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices or take any other action relative thereto. Upon receipt of the audit by the Trustees, a copy shall be provided forthwith to the Select Board. The Trustee designated as treasurer shall also liaise with the custodian of the funds on a monthly basis.

Section 7. Legal Status

- A. The Trust is a public employer and the Trustees are public employees for the purposes of M.G.L. c. 258.
- B. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of M.G.L. c. 268A.
- C. The Trust is exempt from M.G.L. c. 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.
- D. The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of M.G.L. c. 39.
- E. The Trust is a board of the Town for purposes of M.G.L. c. 30B and M.G.L. c. 40 § 15A but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

Section 8. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Select Board, sell all or any portion of the

Town of West Newbury
Draft Affordable Housing Trust Bylaw

Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind.
The powers of the Trustees shall continue until the affairs of the Trust are concluded.



J

Town of West Newbury Select Board

381 Main Street, West Newbury, MA 01985 | 978-363-1100, Ext. 115
selectboard@wnewbury.org

TO: Planning Board
FROM: Select Board
DATE: March 14, 2022

Subject: Layout of Sullivans Court Extension as a Town Way

At a duly noticed meeting of the Select Board held on March 14, 2022, the Select Board voted its intention to lay out Sullivans Court Extension as a town way, as shown on a plan entitled “Sullivans Court Extension’ Street Acceptance Plan,” dated March 9, 2022, prepared by The Morin-Cameron Group, Inc., and on file with the Town Clerk. The Select Board hereby submits the plan to the Planning Board for its comments and recommendations pursuant to G.L. c. 41, §§81G and 81I.

Please review the enclosed plan and provide, in writing, your comments and/or recommendation relative to the layout of Sullivans Court Extension as a public way.

Following the required notifications, the Select Board will place the layout of Sullivans Court Extension on the Select Board’s meeting agenda for April 11, 2022. Provided that the Planning Board has submitted its recommendation by that date, the Select Board will vote on whether to lay out Sullivans Court Extension as a town way and to place an article on the warrant for the next scheduled Town Meeting for acceptance of the foregoing.

Thank you for your cooperation.

Richard Parker
Select Board Chair

Town Manager

From: Town Manager
Sent: Wednesday, February 16, 2022 8:34 PM
Subject: COVID-19 updates: DPH updated face covering advisory; and updated COVID protocols for 1910 Building
Attachments: COVID19 Protocol REVISED 2-16-22.pdf; COVID19 Protocol REVISED 2-16-22.docx; mask-advisory-updated-2.2022-final_0.pdf

Hi all,

You may have heard about updated guidance, issued yesterday by the Dept of Public Health, regarding guidelines for wearing masks indoors. A copy is attached, along with (forwarded below) the DPH announcement received yesterday.

This is to affirm that there is a continued requirement that everyone entering Town buildings continues to be required to wear face masks in all public areas; maintain physical distance of 6 feet; and sanitize hands before and after touching services used by others.

In response to changes to CDC guidelines in January, revisions were made to the Employee COVID-19 Exposure Protocol. Among other changes, this updated version incorporates the CDC Quarantine and Isolation Guidelines as of January 20, 2022. The revised version of the protocol, which was prepared in collaboration with the Health Agent, is posted to the Town website [here](#), and is attached in Word format to illustrate which changes were approved.

As has been the case throughout the pandemic, the Town will make accommodations for employees who need or wish to work remotely. If you or any of your employees would like to know more about this, please contact me or Stephanie.

Thanks,
 Angus

Angus Jennings, Town Manager
 Town of West Newbury
 Town Office Building
 381 Main Street
 West Newbury, MA 01985
 (978) 363-1100 x111
townmanager@wnewbury.org

From: McCarthy-Licorish, Lisa N (DPH) [REDACTED]
Sent: Tuesday, February 15, 2022 11:08 AM
To: McCarthy-Licorish, Lisa N (DPH) [REDACTED]
Subject: DPH updated face covering advisory

Good morning, everyone –

Today, the Department of Public Health (DPH) is releasing updated guidance regarding the use of face coverings and masks by individuals who are fully vaccinated against COVID-19.

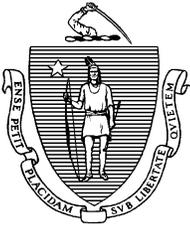
Recognizing that Massachusetts is a national leader in vaccine acceptance, and in light of recent improvements in COVID-19 indicators, the DPH now advises that a fully vaccinated person should wear a mask or face covering when indoors (and not in your own home) if you have a weakened immune system, or if you are at increased risk for severe disease because of your age or an underlying medical condition, or if someone in your household has a weakened immune system, is at increased risk for severe disease or is unvaccinated.

Individuals who are not fully vaccinated should continue to wear a face covering or mask when indoors with others to help prevent spreading COVID-19 to other people.

Individuals who have tested positive or are a close contact of someone with COVID-19 must follow the [isolation and quarantine guidance](#) which includes wearing a mask in public for 5 more days after leaving isolation or quarantine on day 5, regardless of vaccination status.

All people in Massachusetts (regardless of vaccination status) are required to continue wearing face coverings in certain settings, including on public transportation and in health care facilities. Please see www.mass.gov/maskrules for a complete list of venues where face coverings have remained mandatory since May 29, 2021.

Jana Ferguson
Assistant Commissioner
MA Department of Public Health
[REDACTED]



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MARGRET R. COOKE
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

ADVISORY REGARDING FACE COVERINGS
This Advisory has been updated as of February 15, 2022

The Department of Public Health urges all eligible residents to get vaccinated and stay up to date on COVID vaccinations, including when eligible for booster doses. Vaccination remains the most effective protection against serious illness, hospitalization, and death.

Recognizing that Massachusetts is a national leader in vaccine acceptance, and in light of recent positive progress on COVID-19 indicators, the Department of Public Health now advises that a fully vaccinated person should wear a mask or face covering when indoors (and not in your own home) if you have a weakened immune system, or if you are at increased risk for severe disease because of your age or an underlying medical condition, or if someone in your household has a weakened immune system, is at increased risk for severe disease or is unvaccinated.

As a reminder, there are multiple conditions that may put someone at higher risk for severe disease; information on those conditions can be found on the [Centers for Disease Control and Preventions website](#). Your primary care physician can advise you whether you are at increased risk.

For individuals who are not fully vaccinated, it is important that you continue to wear a face covering or mask to help prevent you from spreading COVID-19 to other people.

Individuals who are considered close contacts or who have tested positive must follow the [isolation and quarantine guidance](#) which includes wearing a mask in public for 5 more days after they leave isolation or quarantine on day 5, regardless of vaccination status.

All people in Massachusetts (regardless of vaccination status) are **required to continue wearing face coverings in certain settings**, including transportation and health care facilities. Please see www.mass.gov/maskrules for a complete list of venues where face coverings have remained mandatory since May 29, 2021.

When you wear a face covering or cloth mask, it should:

- Be the highest quality mask that is comfortable and that you will wear consistently,
- Fit snugly but comfortably against the side of the face,
- Be secured with ties or ear loops,

- Include multiple layers of fabric,
- Allow for breathing without restriction, and
- Be able to be laundered and machine dried without damage or change to shape.

For more information, please refer to the CDC at: [Your Guide to Masks](#). This advisory may change based on public health data and further guidance from the CDC.



Town of West Newbury
Employee COVID19 Exposure Protocol
Updated February 16, 2022

This protocol reflects current OSHA, CDC and Massachusetts state guidance on protecting employees from exposure to COVID19 in the workplace. It is meant to be updated as new scientific information becomes available or regulatory requirements change.

Applicability

This protocol applies to employees with work spaces in the Town Offices (1910 Building), and those employees and contractors whose responsibilities include regular work in the Town Offices (i.e. Buildings & Grounds, IT vendor, Boards/Committees/Commissions, etc.).

Precautions

In order to minimize COVID19 exposure, everyone entering Town buildings is required to:

- Wear face masks in all public areas
- Maintain physical distance of 6 feet
- Sanitize hands before and after touching surfaces used by others

Vaccination

All employees are strongly encouraged to be vaccinated against COVID19 infection and if necessary, may obtain vaccinations during normal working hours.

COVID19 Symptoms

Any employee who experiences symptoms such as fever, fatigue, difficulty breathing, loss of taste or smell, cough, headache or nausea must notify their supervisor, and receive a COVID19 test (Antigen or PCR). The employee may not return to work until they are no longer symptomatic and a negative test result is received.

Isolation and Quarantine Guidelines

An employee who tests positive for COVID19 must notify their supervisor and the Town Manager or Town Accountant/Business Manager (or their supervisor may notify the Town Manager or Town Accountant/Business Manager on their behalf). Approval to return to work must be given by the Town Manager or the Town Accountant/Business Manager. Proof of a negative test result may be required, and if required would be treated as confidential and placed on file in the employee's personnel file.

The latest Quarantine and Isolation Guidelines issued by the Centers for Disease Control & Prevention (CDC) are appended to this Protocol, and are incorporated by reference.

Compensation During Time Off

Any employee who is required to isolate or quarantine in order to prevent exposing other employees or visitors to the Town Office Building to COVID19 will be paid for their normal work schedule, and the time taken will not draw from the employee's accrued sick time. They will be expected to fulfill position requirements remotely to

the maximum extent practicable while out of work, and may be asked to complete unrelated work assignments by their supervisor.

Non-Workplace Exposure

Town employees should be mindful of potential COVID19 exposure outside the workplace and follow recommended or required CDC, state and local protocols for travel, recreation and social events.

Sunset Date

This protocol, as may be amended by the Town Manager, shall be in effect through June 30, 2022, unless it is rescinded prior to that date, or unless the effective date is extended past that date by vote of the Select Board. If the protocol is amended by the Town Manager, prompt notice of any such amendments shall be provided to the Select Board and to personnel subject to the protocol.

Date of adoption: November 15, 2021

Amended: December 20, 2021

Amended: February 16, 2022

CDC Quarantine and Isolation Guidelines. *As of Jan. 20, 2022*

Calculating Quarantine

The date of your exposure is considered day 0. **Day 1 is the first full day after your last contact with a person who has had COVID-19.** Stay home and away from other people for at least 5 days. [Learn why CDC updated guidance for the general public.](#)

IF YOU
Were exposed to COVID-19 and are **NOT** [up-to-date](#) on COVID-19 vaccinations

Quarantine for at least 5 days

Stay home
Stay home and [quarantine](#) for at least 5 full days.

Wear a well-fitted mask if you must be around others in your home.

Get tested
Even if you don't develop symptoms, get tested at least 5 days after you last had close contact with someone with COVID-19.

After quarantine

Watch for symptoms
Watch for symptoms until 10 days after you last had close contact with someone with COVID-19.

If you develop symptoms
[Isolate](#) immediately and get tested. Continue to stay home until you know the results. Wear a well-fitted mask around others.

Take precautions until day 10

Wear a mask
Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.

Avoid travel

Avoid being around people who are at high risk

IF YOU
Were exposed to COVID-19 and are [up-to-date](#) on COVID-19 vaccinations

No quarantine
You do not need to stay home **unless** you develop symptoms.

Get tested
Even if you don't develop symptoms, get tested at least 5 days after you last had close contact with someone with COVID-19.

Watch for symptoms
Watch for symptoms until 10 days after you last had close contact with someone with COVID-19.

If you develop symptoms
[Isolate](#) immediately and get tested. Continue to stay home until you know the results. Wear a well-fitted mask around others.

Take precautions until day 10

Wear a mask
Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.

Avoid travel

Avoid being around people who are at high risk

IF YOU were exposed to COVID-19 and had confirmed COVID-19 within the past 90 days (you tested positive using a viral test)

No quarantine
You do not need to stay home **unless** you develop symptoms.

Watch for symptoms
Watch for symptoms until 10 days after you last had close contact with someone with COVID-19.

If you develop symptoms
[Isolate](#) immediately and get tested. Continue to stay home until you know the results. Wear a well-fitted mask around others.

Take precautions until day 10

Wear a mask
Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.

Avoid travel

Avoid being around people who are at high risk

Calculating Isolation

Day 0 is your first day of symptoms or a positive viral test. **Day 1 is the first full day after your symptoms developed or your test specimen was collected.** If you have COVID-19 or have symptoms, isolate for at least 5 days.

IF YOU Tested positive for COVID-19 or have symptoms, regardless of vaccination status

Stay home for at least 5 days
Stay home for 5 days and [isolate](#) from others in your home.

Wear a well-fitted mask if you must be around others in your home.

Ending isolation if you had symptoms
[End isolation after 5 full days](#) if you are fever-free for 24 hours (without the use of fever-reducing medication) and your symptoms are improving.

Ending isolation if you did NOT have symptoms
End isolation after at least 5 full days after your positive test.

If you were severely ill with COVID-19
You should isolate for at least 10 days. [Consult your doctor before ending isolation.](#)

Take precautions until day 10

Wear a mask
Wear a well-fitted mask for 10 full days any time you are around others inside your home or in public. Do not go to places where you are unable to wear a mask.

Avoid travel

Avoid being around people who are at high risk

DEFINITIONS

Exposure

Contact with someone infected with SARS-CoV-2, the virus that causes COVID-19, in a way that increases the likelihood of getting infected with the virus.

Close Contact

Close contacts are someone who was less than 6 feet away from an infected person (laboratory-confirmed or a clinical diagnosis) for a cumulative total of 15 minutes or more over a 24-hour period. For example, three individual 5-minute exposures for a total of 15 minutes.

Town Manager

From: Town Manager
Sent: Tuesday, March 1, 2022 10:54 AM
Subject: FW: Updated Advisory Regarding Face Coverings
Attachments: mask-advisory-updated-March 1 22 for posting.doc

Please see below/attached from DPH.

At last night's Select Board meeting, one of the members asked that a discussion of the current Town Offices COVID protocols (which I emailed around on Feb 16, and which are posted [here](#)) be included on the Board's next agenda (March 14th).

If you have questions/comments/suggestions re the updated (Feb 16) COVID-19 protocols, today's DPH guidance, and whether you would like to see the Town protocols change or not, please send them to me or Stephanie. All input received on or before Friday, March 11th will be summarized for inclusion in the Select Board's meeting packet.

While the protocols provide for the Town Manager's office to oversee these protocols, and any amendments to same, we will continue to proceed based on advice received from our Health Dept, DPH, the Select Board and all staff.

Thanks,
Angus

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: McCarthy-Licorish, Lisa N (DPH) [REDACTED]
Sent: Tuesday, March 1, 2022 10:01 AM
To: McCarthy-Licorish, Lisa N (DPH) [REDACTED]
Subject: Updated Advisory Regarding Face Coverings

Dear Local Public Health Colleagues,

Today, the Department of Public Health (DPH) released updated guidance regarding the use of face coverings.

Please see the attachment or click on the following link: <https://www.mass.gov/info-details/covid-19-mask-requirements>

Thank you.
Lisa

--

Lisa McCarthy-Licorish, MPH
Senior Coordinator, Local Health Communications and Resources

Town Manager

From: [REDACTED]
Sent: Tuesday, March 1, 2022 11:31 AM
To: Town Accountant; Town Manager
Subject: FW: Updated Advisory Regarding Face Coverings
Attachments: mask-advisory-updated-March 1 22 for posting.doc

Hi Angus and Stephanie,
Thanks for sending this along. I am fine with the current protocol. I am also not opposed if the Town decides not to take a mask optional approach.

From: Town Manager <townmanager@wnewbury.org>
Sent: Tuesday, March 1, 2022 10:54 AM
Subject: FW: Updated Advisory Regarding Face Coverings

Please see below/attached from DPH.

At last night's Select Board meeting, one of the members asked that a discussion of the current Town Offices COVID protocols (which I emailed around on Feb 16, and which are posted [here](#)) be included on the Board's next agenda (March 14th).

If you have questions/comments/suggestions re the updated (Feb 16) COVID-19 protocols, today's DPH guidance, and whether you would like to see the Town protocols change or not, please send them to me or Stephanie. All input received on or before Friday, March 11th will be summarized for inclusion in the Select Board's meeting packet.

While the protocols provide for the Town Manager's office to oversee these protocols, and any amendments to same, we will continue to proceed based on advice received from our Health Dept, DPH, the Select Board and all staff.

Thanks,
Angus

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985

Town Manager

From: [REDACTED]
Sent: Tuesday, March 1, 2022 11:12 AM
To: Town Manager
Subject: RE: Updated Advisory Regarding Face Coverings

Good morning,

I would be in favor of the current protocols which are posted/in-effect at Town Hall to stay until the date posted of June 30th.

Thank you,
[REDACTED]

From: Town Manager <townmanager@wnewbury.org>
Sent: Tuesday, March 01, 2022 10:54 AM
Subject: FW: Updated Advisory Regarding Face Coverings

Please see below/attached from DPH.

At last night's Select Board meeting, one of the members asked that a discussion of the current Town Offices COVID protocols (which I emailed around on Feb 16, and which are posted [here](#)) be included on the Board's next agenda (March 14th).

If you have questions/comments/suggestions re the updated (Feb 16) COVID-19 protocols, today's DPH guidance, and whether you would like to see the Town protocols change or not, please send them to me or Stephanie. All input received on or before Friday, March 11th will be summarized for inclusion in the Select Board's meeting packet.

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Thanks,
Angus

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: McCarthy-Licorish, Lisa N (DPH) [REDACTED]
Sent: Tuesday, March 1, 2022 10:01 AM
To: McCarthy-Licorish, Lisa N (DPH) [REDACTED]
Subject: Updated Advisory Regarding Face Coverings

Dear Local Public Health Colleagues,

JANUARY 21, 2022

Angus Jennings, Town Manager
381 Main Street
West Newbury, MA 01985

cc: Jon-Eric White, City Engineer
16C Perry Way
Newburyport, MA 01950

RE: Middle Street/Plummer Spring Road over the Upper Artichoke Reservoir -Bridge Replacement Project
Chapter 91 License Permitting
Change Order – to West Newbury Contract Agreement 2020-DPW-007 (signed 9/4/2020)
West Newbury /Newburyport, Massachusetts
BSC Group Project Number 28436.00

Dear Mr. Jennings,

BSC Group, Inc. (BSC) is pleased to submit this change order, for environmental and related engineering services for the Town of West Newbury and City of Newburyport Bridge Replacement Project. Our fall 2021 hearing and certification, with the Executive Office of Energy and Environmental Affairs (EOEEA) MEPA unit, identified that coordination with the Massachusetts Department of Environmental Protection (MassDEP), and possibly licensure of the proposed new bridge, under the Chapter 91 Waterways Program, would be required to proceed with the proposed project. Despite presenting clear evidence that public access to the Reservoir is restricted, and would therefore, not be a navigable waterway, MassDEP determined that the Chapter 91 program still applies to the project. This proposal continues the phased approach of the project and includes the proposed permitting strategy.

BSC has prepared this proposal based upon the following understanding of your needs and circumstances that have affected the scope of services:

Minor Modification Authorization:

- BSC will pursue the option of a minor modification 310 CMR 9.22(3) to an existing, non-licensed public service project 310 CMR 9.05 (3)(c) and demonstrate there is no change to the clearance on the proposed crossing. This would be a much more time-and cost-effective option, if approved by MassDEP.
- BSC has informed the Client, that the performance of the proposed services does not guarantee favorable decisions by the regulatory authorities, because of the discretionary aspects of their roles.

Should the MassDEP deny the Minor Modification permitting pathway, BSC is prepared to complete a full *Chapter 91 License application*. Due to time constraints associated with the Municipal Grants, BSC is proposing to begin working on the Chapter 91 License application concurrently with the Minor Modification Authorization request:

- BSC will complete all permitting documentation required to file with the DEP for a Chapter 91 license. Per comments provided during the MEPA process, to this effect, BSC notes that MassDEP has already made a determination that the project is water-dependent (Memorandum dated August 12, 2021). This will be reiterated and included with documentation to the MassDEP.

BSC, *the Company*, proposes to provide to the Town of West Newbury, *the Client*, the following specific services in accordance with our existing agreement with the Town for the project dated September 4, 2020.

Scope Of Services

The following services will be performed as part of this Agreement:

- Coordination with MassDEP related to the request for authorization under *Minor Modification Authorization* and related correspondence. This is typically a letter request that describes the project and is accompanied by the current plan set.
- In order to expedite filing should MassDEP not authorize the *Minor Modification Authorization*, BSC will concurrently prepare a Chapter 91 License application for improvement dredging and bridge replacement for filing.
- BSC assumes we will attend one pre-application meeting with MassDEP which will also coincide with the *Minor Modification Authorization* discussion.
- BSC will prepare and submit plans to reflect the format required for Chapter 91 submission.
- BSC will forward the public notices to various agency and abutting stakeholders, as required in 310 CMR 9.13. The Clients will be responsible for mailing and public notice fees.
- BSC Group's Overall Project Manager and Ecological Project Manager will coordinate, attend, and lead one public hearing for MassDEP if requested in the Chapter 91 review process. It is assumed this meeting will be virtual.¹
- BSC assumes two rounds of comments to the application and plans from MassDEP. We are assuming up to 14-hours of effort to address comments, per round.
- BSC has included up to 24 hours of time for project management, conference calls, administration, and meetings, to include working with the Client to review plan changes and provide updates.

Assumptions

The following services are not included as a part of this Agreement. These services may become necessary based upon the conclusions derived from the performance of the proposed scope above. If required, these services will be performed for an additional fee to be paid on an hourly basis in accordance with the attached BSC Fee Schedule:

- Attend meetings in addition to those specified in the "Scope of Services" with Client, contractors, local, state, or federal agencies beyond what is described above.
- BSC assumes meetings will be conducted using a virtual platform (e.g., Zoom, Microsoft Teams, etc.). In-person meetings will require a larger time commitment and the meeting budget will require adjustments upon Client approval.
- Additional rounds of comments (beyond the two included in the "Scope of Services") from MassDEP.

¹ Per 310 CMR 9.13, a DEP or municipal official may request an additional public hearing on the application

- This proposal does not include construction bid documents.
- The Clients will be responsible for filing fees mailing and advertising fees. It's assumed that the municipality is exempt from filing fees.
- Performing any other services not specifically identified in the "Scope of Services."

Schedule For Services

BSC proposes to begin the services identified in "Scope of Services" of this Agreement upon receipt of written authorization to proceed. Proposed services will begin within thirty (30) calendar days from receipt of written Notice to Proceed.

This offer to perform services is valid for a period of thirty (30) days from the date of this proposal.

Fee For Services

BSC has estimated a budget of **Thirty-Five Thousand Eight Hundred Dollars (\$35,800)** exclusive of any and all direct reimbursable expenses (i.e. mailings or public notice fees) for the services described in "Scope of Services" of this Agreement. BSC proposes to provide these services on an hourly basis in accordance with the attached BSC Fee Schedule. The Company suggests that the Client budget:

- Approximately **Three Hundred Dollars (\$300)** for reimbursable expenses related to a public notice,
- **One Hundred Dollars (\$100)** for required certified mailings.

BSC's estimated budget for proposed services shall not be construed to be a not-to-exceed amount by line item or in the aggregate. The Company shall inform the Client as soon as practical if it becomes necessary to exceed the budget in order to perform all proposed and additional services required. The estimated budget by task is provided in the table below.

TASK	BUDGET
Chapter 91 Coordination & Minor Mod. filing	\$5,400
Chapter 91 Application	\$20,200
Chapter 91 Public Hearing (<i>assumed virtual</i>) and coordination	\$3,000
Chapter 91 Response (2) to DEP Comments	\$4,000
Project Management	\$3,200
TOTAL	\$35,800

The Client shall provide BSC with any specific billing format required for prompt payment of invoices. The mailing address for all payments is:

BSC Group, Inc. / 803 Summer Street / Boston, MA 02127

General Considerations

- BSC will perform all services in a timely manner, but it is agreed between the parties that BSC cannot be responsible for delays occasioned by factors or parties beyond its control, nor by factors which could not reasonably have been foreseen at the time this Agreement was prepared and executed. Delays of this nature shall extend the completion date.

BSC Group, Inc. / 803 Summer Street / Boston, MA 02127

- BSC's submittal will depend on the timely receipt of any required information from other project team members and/or the Client.
- During the performance of the services described within this Agreement, the Scope of Services, and compensation, therefore may be adjusted by mutually agreed upon Amendments to this Agreement.
- This proposal is valid for a period of thirty (30) days.
- Client understands that BSC's services are labor intensive. BSC typically bills clients monthly. Unless otherwise agreed in writing, payment of each BSC invoice is due on receipt and interest will accrue after 30 days. Client understands that BSC's services may be put on hold or terminated if invoices are not paid per this Agreement. It is the Client's responsibility to review invoices upon receipt. If there are any items which the Client wishes to discuss with BSC, it is the Client's responsibility to contact BSC to request any needed clarification. In the absence of any such request from the Client within 30 days from the date when rendered, it is agreed that the amount invoiced is correct and shall be paid in full to BSC.

Please execute this Agreement and return one (1) copy with an original signature for our records. BSC welcomes the opportunity to provide professional services for this project.

Sincerely,

BSC Group, Inc.



Micah Morrison, PE, SE
Client Manager/Senior Associate

AGREED AND ACCEPTED BY:

APPROVED BY:

Angus Jennings
Town Manager
Town of West Newbury



Samuel Offei-Addo, P.E., PTOE
Director of Transportation

Date

1/20/2022

Date

CC: Jon-Eric White, City of Newburyport

Town Manager

From: Jon-Eric White <JEWhite@CityofNewburyport.com>
Sent: Wednesday, March 9, 2022 9:06 AM
To: Town Manager
Cc: DPW Director
Subject: RE: Ch 91 regulatory pathway for West Newbury / Newburyport - EEA Number 16412

Hi Angus,
I've been in and out of the office, sorry for late reply.

Funding the Ch 91 add'l engineering fees using MassWorks grant money seems like a good solution. Like you say, getting shovel ready is key and then we'll see what monies come our way from the Feds.

I really don't think this needs to be vetted by anyone else. This is a project management issue and because you have a solution that doesn't require us to transfer any money and it's from a grant that is for these types of purposes, as the PM, I approve. I'll update those on this end as appropriate.

Jon-Eric



Town of West Newbury Select Board

381 Main Street, West Newbury, MA 01985 | 978-363-1100, Ext. 115
selectboard@wnewbury.org

Public Hearing Notice - DRAFT **Amendment to the Personnel Policy** **Monday, March 28, 2022 @ 7pm**

On March 14, 2022, the Select Board proposed amendments to the Personnel Policy. Under the Personnel Bylaw, any proposed new, amended or revised policies shall be posted for a period of at least ten days after being proposed by the Select Board, during which time comments, information and questions regarding any proposed policy may be provided to the Select Board. A public hearing shall be held following the ten-day posting period.

A public hearing will be held by the Select Board on the following proposed revisions to the Personnel Policy (proposed deletions in ~~strike through~~ and proposed additions in double underlined):

The Board proposes to amend, within Section 2.0 Recruitment and Hiring, sub-section 2.2.1. Internal Hiring Policy, as follows:

2.2.1 Internal Hiring Policy.

Current Town employees are encouraged to apply for open positions and will be given ~~prior~~ notice ~~before recruiting externally~~ when jobs are posted. This will be accomplished by posting the notice internally concurrent with ~~for five days prior to~~ advertising or posting externally. Internal notice shall be accomplished by posting the job ad in hard copy in employee break rooms in the 1910 Building, G.A.R. Library, DPW building, and Public Safety Complex. Any interested employee ~~should~~ may notify either the department manager and/or the Town Manager of their interest, or may choose to submit a cover letter and resume within the standard application process. If an employee has the stated minimum qualifications ~~or~~ and ability to be trained on any recommended qualifications not held at the time of application ~~to~~ perform the duties without negatively affect the operations of ~~unduly burdening~~ the department, they will be formally interviewed and given full consideration.

Comments, information and questions from all interested parties may be sent to the Board in advance (selectboard@wnewbury.org), or may be provided at the hearing. All interested parties are encouraged to attend.

Question from Town Manager: In the Board's initial adoption of this policy in October, 2021, was its intent that this apply across the board to all job postings (incl., for instance, for hiring of reserve Police officers, part-time dispatchers, seasonal laborers, etc.?), or only for certain job postings; and if the latter, which ones?

Regardless of whether this can be clarified in short time, I recommend to proceed with referring the changes recommended above to hearing, following the Board's discussion/direction at its meeting on February 28th, to limit the present negative operational effects of the current policy.



Town of West Newbury Select Board

381 Main Street, West Newbury, MA 01985 | 978-363-1100, Ext. 115
selectboard@wnewbury.org

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A public hearing will be held by the Select Board on the following proposed revision to Sec. 5.6 of the Personnel Policy, the Maternity Leave Policy (proposed deletions in ~~striketrough~~ and proposed additions in double underlined):

Current:

5.6 Maternity leave

A female employee, not eligible for leave under the provisions of the Family and Medical Leave Act of 1993, but who has been employed by the Town for at least ninety (90) days as a full-time employee, shall be entitled to leave for a period not exceeding eight weeks for the purpose of giving birth or for adopting a child under the age of 18, or under 23 if the child is mentally or physically handicapped. In order to be eligible for leave under this section, the employee is required to give two weeks' notice in advance of the anticipated date of departure, stating her intention to return and anticipated date of return. Upon her return to work, the employee is entitled to be restored to her previous position, or to a similar position which has the same status and pay as her previous position, and to the length of service credit and seniority as of the date of her leave. Qualified part-time employees are also eligible for leave under this section. Leave under this section shall be unpaid, unless the employee is eligible to apply other leave, such as sick leave or vacation to which she is entitled.

Suggested:

5.6 Maternity Parental leave

An ~~female~~ employee, not eligible for leave under the provisions of the Family and Medical Leave Act of 1993, but who has been employed by the Town for at least ninety (90) days as a full-time employee, shall be entitled to leave for a period not exceeding eight weeks for the purpose of having giving birth or for adopting a child under the age of 18, or under 23 if the child is mentally or physically handicapped. In order to be eligible for leave under this section, the employee is required to give two weeks' notice in advance of the anticipated date of departure, stating their ~~her~~ intention to return and anticipated date of return. Upon their ~~her~~ return to work, the employee is entitled to be restored to their ~~her~~ previous position, or to a similar position which has the same status and pay as their ~~her~~ previous position, and to the length of service credit and seniority as of the date of their ~~her~~ leave. Qualified part-time employees are also eligible for leave under this section. Leave under this section shall be unpaid, unless the employee is eligible to apply other leave, such as sick leave or vacation to which they ~~she~~ are is entitled.

Comments, information and questions from all interested parties may be sent to the Board in advance (selectboard@wnewbury.org), or may be provided at the hearing. All interested parties are encouraged to attend.



**Town of West Newbury
Board of Selectmen
Monday, October 4, 2021**
381 Main Street, Town Office Building
www.wnewbury.org

Minutes of Meeting-DRAFT

Open Session: 7:17 p.m. by in-person attendance or remote participation (see below)

Addendum to Meeting Notice regarding Remote Participation

Public participation in this meeting of the West Newbury Select Board will be available via remote participation. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner:

GoToMeeting

Phone: (646) 558-8656

Access Code: 851 4501 4183

Passcode: 101489

Or from computer, tablet, or smartphone:

<https://us06web.zoom.us/j/85145014183?pwd=cWU3YTMySWpRM0h5a2pCenJnZHFudz09>

Every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town of West Newbury website an audio or video recording of proceedings as soon as practicable after the meeting.

The meeting was called to order at 7:17 p.m. by Select Board Chair, Richard Parker.

Participation at the Meeting:

- Select Board Members: Richard Parker, David Archibald, and Wendy Reed
- Town Manager Angus Jennings
- Jim Blatchford, Town Clerk
- Stephanie Frontiera
- Fred Chanania, Tree Committee Chair
- Wayne Amaral, DPW Director
- Molly Hawkins
- Albert Jing
- Vanessa Johnson-Hall, Greenbelt
- Jennifer Hughes, MVPC
- KC Swallow

Announcements:

- This meeting is being broadcast on local cable TV and recorded for rebroadcast on the local cable channels and on the internet. Meeting also accessible by remote participation instructions below.
- Trick or Treating: Sunday, October 31st from 5:30-7:30 (See pages 2 through 6 for information)
- Public Meeting regarding Soldiers & Sailors Building, Monday, October 25th at 7:00 p.m.
- Call for volunteers: Current Opportunities at <https://www.wnewbury.org/volunteer> (See pages 7 through 8 for information)
- Reminder to subscribe, e-mailed Town news/announcements <https://www.wnewbury.org/subscribe>

REGULAR AGENDA

A. Tree Committee Report on Results of Community Survey (Fred Chanania, Tree Committee Chair):

Fred Chanania updated on this topic. (See Exhibit A, pages 12 through 26 for information) He stated that there were 151 responses to the survey, and he provided a breakdown of answers, a word-for-word narrative of responses, key findings, and stated that in doing this project he found that people really value trees. He further stated that with regard to what to prioritize, the list would include wildlife habitat, enhance natural beauty, and mitigating climate change. He also stated that threats to trees would include insects.

Chanania stated that the list of priorities would include advising the Planning Board in order to protect trees during construction, and to facilitate tree planting along roads. He stated that people value the semi-rural character of the Town, but the question comes when there are threats, how to go about implementing that priority of invasive species and stating that the Spotted Lantern Fly is not here yet.

Select Board Chair Parker inquired as to whether the Tree Committee will put together a recommended list of trees that reflect climate change and trees that will track well with climate change, and Chanania stated that's been on the website for months on the climate change tab and could be promoted again.

Select Board Member Archibald inquired as to the tree canopy along Route 113, any trees that would be more desirable where we don't want a lot of height, with Chanania responding that the nature of trees and where they're planted is critical, that trees are sensitive, especially for the first three years and need a lot of individual care. He also stated that salt creates a lot of stress on trees.

Select Board Member Reed inquired regarding the Emerald Ash Borer, whether we should line up a firm to do an independent study so that it will be on the record as having investigated the problem. Chanania stated that he did talk with a state entomologist, and she referred him

to the Tree Warden's Association, and that one thing we would not be able to do is go down streets and count trees since a survey to capture the number of trees is quite difficult. Chanania also stated that he inquired as to what the treatment options would be on a community scale for the Spotted Lantern Fly.

With regards to the tree inventory, DPW Director Amaral stated that these are great points. He stated that the only problem with doing an inventory is that street rows vary a great deal in depth. He stated that an audit was talked about a few years ago, that the EAB was here already, and that a majority of the trees are unhealthy. Chanania stated that 90% of the ash trees would be lost if there was an infiltration and that a roadside survey wouldn't accomplish anything.

B. Continued Discussion of Parking Options for Coffin Street Property, Including Potential Parking On/Off of Cortland Lane (Essex County Greenbelt):

Select Board Chair Parker updated on this topic. (See Exhibit B, pages 27 through 38 for information) Town Manager Jennings displayed a plot plan of the area in question. Parker explained that what has been discussed is putting in two parking spaces on the L-shaped town owned right-of-way at Cortland Drive. He stated that a site walk was completed last week of the 20 by 20 area, and the plan is to put in a gravel surface with split rail fences. He stated that the abutter to the north is not happy with that idea and an alternative has been proposed is marked parking spaces on the pavement, but that off-street parking has more advantages since there always needs to be spaces available. Discussion ensued on how this would work.

Albert Jing stated that the only way to do forestry management is to access through there, that there are things that need to be done every 5-10 years, and that a forestry plan requires selective cutting every 10 years. Discussion ensued as to different options that could be looked into. Vanessa Johnson-Hall stated that there's a way that they could either not fence the back or have some kind of a gate that could be opened. Archibald stated that a split rail fence can be removed easily, especially if it's only every 5-10 years.

Town Manager Jennings stated that he had spoken with Town Counsel and on the issue of fence, to have an impediment to existing access, because she confirmed that any landowner with property abutting that right-of-way has access rights and said she had some caution about something that blocks access such as a fence or a gate, but also since it's not clear what the access is, that there's probably a design solution, but also feels that there has to be some more shared understanding among the various property owners as to what's being proposed. He also discussed on-street parking as it might impact emergency apparatus and explained that he had spoken to Chief Dwyer who is happy to bring vehicles for testing in the area if the Board requests and it would be helpful.

Select Board Member Reed commented that there would be a different feel to on or off-street parking. Parker stated that it may be in the Town's interest to financially participate in the survey, with Reed inquiring as to whether the Town should hire a surveyor, with discussion regarding working with the abutters on a joint survey. Johnson-Hall explained what land they plan to develop and how they plan to do so with the parking area and creating a trail and stated that parking on Coffin Street is not ideal, but if there is a need to exercise that right, need to start drafting documents to close on time.

Motion made by Select Board Chair Parker to agree to use one of the two options discussed on the cul-de-sac and not use what is shown as Parking Option B on Coffin Street. Seconded by Select Board Member Archibald.

Yes 3, No 0

Town Manager Jennings will speak with Chief Dwyer regarding going forward with testing the turning radius in the area. Johnson-Hall will provide suggestions for surveyors.

PUBLIC HEARINGS:

C. Public Hearing Re: Changes to Personnel Policy: Qualified Part-Time Holiday Pay; Internal Hiring Policy:

Select Board Chair Parker updated on this topic. (See Exhibit C, pages 39 through 46 for information) He explained that these were both introduced in working groups recently and were posted for ten days. This public hearing will be opened to consider a change in the personnel policy for qualified part-time holiday pay.

Motion made by Select Board Chair Parker to open the public hearing.

Town Manager Jennings provided a background stating that the intent at the time the policy was adopted in 2014 was to be fair to part-time employees defined as working 20 or more hours a week for 52 weeks a year would be compensated for every one of the recognized town holidays, but proportionally to their percentage of full-time and that employee would be compensated whether they were scheduled to work that day for now. In practice, it's played out that employees that feel that on the day that they were normally scheduled to work a number of hours and only paid 2/3 of that time, has generated discontent when there is a holiday and complaints are made. Select Board Member Archibald stated that the idea was that somebody that worked on a Monday got several more holidays than someone that worked on a Thursday, which wasn't fair. Further discussion ensued regarding how this has been working as opposed to what was originally envisioned.

Select Board Chair Parker invited public comments, none ensued.

Motion by Select Board Member Reed to accept changes in the Minutes of the Personnel Policy dated 10/4/21. Seconded by Select Board Member Archibald.

Yes 3, No 0

Motion by Select Board Chair Parker to close the public hearing. Seconded by Select Board Member Reed.

Yes 3, No 0

Motion made by Select Board Chair Parker to open the public hearing to discuss a change in personnel policy regarding the internal hiring policy.

Motion made by Select Board Member Archibald to approve the new Subsection on Recruitment and Hiring 2.2.1.

Town Manager Jennings read the new subsection as it would read if approved, and also explained that the proposal would further amend Section 4.3, "Employee Development and Training" by adding a sentence and read that new section into the record. He also stated that the proposal would also amend Appendix A, Affirmative Action Plan subsection, "Responsibilities for Affirmative Action, also reading into the record the proposed changes.

Select Board Chair Parker invited public comments, none ensued.

Town Manager Jennings initiated a discussion regarding portions of the new subsection, stating that parts of it are confusing regarding the order in which posting and hiring is done and whether the language in this portion should be clarified further. Discussion ensued on what the proposed language could be.

Motion made by Select Board Member Archibald to approve the new Subsection on Recruitment and Hiring 2.2.1, with changes made to the first sentence. Seconded by Select Board Member Reed.

Yes 3, No 0

Town Manager Jennings inquired of the Select Board as to what would be the best way of notice that the policy is updated and at what point should it be recirculated and have each employee acknowledge receipt of the changes. Discussion ensued that perhaps the best thing would be to recirculate it once important revisions have been made, with Select Board Member Reed suggesting it could be circulated and signed on an annual basis.

Motion by Select Board Chair Parker to close the public hearing. Seconded by Select Board Member Reed.

Yes 3, No 0

D. Discussion of Draft Stormwater Bylaw and Regulations (Jennifer Hughes, MVPC):

Town Manager Jennings updated on this topic. (See Exhibit D, pages 47 through 87 for information) Stated that Jennifer Hughes is available to answer questions on this topic. He further stated that there have been a couple of changes that are redlined in the packet, which are a combination resulting from the KP Law review and the other people involved in the review. Town Manager Jennings went over what those changes are to update the Select Board.

Questions ensued by Select Board Member Archibald regarding the changes to the bylaw and regulations, with Jennifer Hughes and Town Manager Jennings providing explanation and answers to the proposed changes, including questions regarding the special surety pursuant to G.L. c. 44, Section 53G1/2 and forestry management plans. Town Manager Jennings also stated that with the bylaw in its current form is proposed as a Town bylaw and not a zoning bylaw, so unlike the floodplain amendments which are sponsored by the Planning Board, this is listed with the Select Board as the sponsor, so this is probably the last chance before Town Meeting to have a direct line with the primary consultant and questioned whether the Select

Board is comfortable with the bylaw as written and if there's any questions, they should be shared now. Select Board members stated that they are fine with the bylaw.

E. Review of Determination/Consent for Joint Legal Representation by KP Law to Prepare Intermunicipal Agreement (IMA) Re: Regional Vaccination Clinics; Update on Costs Incurred and Status of Reimbursements:

Select Board Chair Parker updated on this topic. (See Exhibit E, pages 88 through 94 for information) Stated that there is a proposed agreement provided by KP Law and that the Board would have to agree that we don't believe there is a conflict in representing both towns. Town Manager Jennings stated that once they're giving license to start working on the agreement, it would then be drawn up and brought back to the Board for review and approval. He stated that he has been in contact with the Chief of Staff of Amesbury and was advised that the Mayor of Amesbury is intending to sign the consent to joint representation and along with the Board's approval, that would give KP Law the green light to draw up a simple agreement.

Motion made by Select Board Chair Parker that the Board make a determination pursuant to Rule 1.7 of the Massachusetts Rules of Professional Conduct that the Select Board of the Town of West Newbury consents that KP Law, P.C. representing the City of Amesbury with regard to the municipal agreement for COVID-19 Vaccination Clinics, as disclosed in the letter to the Select Board dated September 24, 2021, notwithstanding that KP Law, P.C. also serves as City Solicitor for the Town of Amesbury. Seconded by Select Board Member Reed.

Yes 3, No 0

F. Updates on Finance Committee and Capital Improvements Committee Recommendations Re: Special Town Meeting (STM) Warrant Articles:

Town Manager Jennings updated on this topic. (See Exhibit F, page 95 for information) Stated that there is a summary memo on page 95 and inquired as to whether there are any questions. Also wanted to draw everyone's attention to the fact that the Farm Excise Tax has been proposed for deletion but will get into that with the warrant.

KC Swallow was available to answer questions regarding the upcoming Special Town Meeting and with regards to the pros and cons regarding a morning meeting versus an afternoon meeting and an outdoor meeting as opposed to indoor. She stated that she would prefer to hold the meeting outdoors rather than indoors due to COVID concerns, but that competing with the soccer games that are going on could be a concern, as well as not obtaining a quorum of 90 residents.

DPW Director Amaral provided information on different locations that could be possibilities for an option to hold an outdoor venue, including the Page School or indoors at Pentucket in the auditorium or cafeteria, but also stated that this needs to be decided pretty quickly so that the booklet could be printed, as well as the logistics of getting things up for an outdoor venue, including port-a-potties and other things that need to be set up.

Discussion ensued as to whether there could be a mask mandate for an indoor meeting and whether that could be legally required, with Town Clerk Blatchford stated that there has been significant discussion on the Town's webpage, with one suggestion that because it's school property you have to follow school rules, but then there's a question regarding a vote, and another suggestion would be having a non-masked area to keep them separate, in the same way that you would have a smoking versus non-smoking areas. There was also discussion regarding what should be provided if there is another room and how the residents in that room would be able to be heard if they had questions or comments, and if there should be video simulcast. KC Swallow stated that if it's held inside, she would be happy to help regarding details to use the school cafeteria or auditorium.

Motion made by Select Board Member Parker to hold an outdoor Special Town Meeting in the Bandstand parking lot on 10/23/21 at 2:00 p.m. Seconded by Select Board Member Reed.

Yes 3, No 0

G. Review of Whether/What Amount to Propose at STM for Free Cash Transfer to Reduce FY22 Tax Rate:

Town Manager Jennings updated on this topic. (See Exhibit G, pages 96 through 106 for information) He provided information stating that significant increase in assessed values would be an 11% increase in values, which leads to a significant reduction of the tax rate from the current \$14.88 to an estimate \$13.36, which would translate to about \$105/year increase, or 1.29% for the median value single-family home, but with a free cash transfer, that could reduce that down to a 0% or even a tax reduction, which is up to what the Board wants to sponsor and what Town Meeting wants to approve.

Discussion ensued on this topic with Select Board Member Archibald providing information as to funds that were available this year as opposed to last year, stating that there is more money available, that in a sense, this is over taxation, which is all the more reason to give money back to the taxpayers.

Motion made by Select Board Chair Parker to propose the transfer of \$200,000 from free cash to reduce the FY22 tax rate. Seconded by Select Board Member Archibald.

Yes 2, No 1 (Select Board Member Reed opposed)

H. Approve and Sign Special Town Meeting Warrant:

Town Manager Jennings updated on this topic. (See Exhibit H, pages 107 through 113 for information) He discussed the removal of the farm warrant and his reasons for doing so. He also stated that anything that is redlined is not very substantive but preserves flexibility. Further discussion ensued on redline changes to the Warrant.

Motion made by Select Board Chair Parker to approve the Warrant for Special Town Meeting as presented. Seconded by Select Board Member Archibald.

KC Swallow questioned why Town Counsel added language to all of the Articles, "or take any other action relative thereto," and further discussion ensued on this topic. Town Manager Jennings stated that he feels that perhaps it should be in some of the Articles and not others and went through those that he thought should contain the language with Select Board Chair Parker stating that he would like to stay with what Town Counsel recommended.

Yes 3, No 0

KC Swallow questioned the wording in Article 1 as to why there would need to be a vote to hear and act upon town reports. Discussion ensued on this topic.

Motion made by Select Board Chair Parker, in regard to Article 1 on the working draft of 10/1/21 for the Special Town Meeting Warrant, to remove the words "will vote to hear and act upon the reports." Seconded by Select Board Member Reed.

Yes 3, No 0

I. Discussion of Process for Response to Proposed/Potential Warrant Articles:

Town Manager Jennings updated on this topic. (See Exhibit I, pages 114 through 117 for information) He stated that he was asked to bring it to the Board to make them aware. Discussion ensued on this topic as to how the process works in this regard. There was also discussion regarding proposed Articles that weren't included in the Warrant, such as the Parks & Rec Article and a leaf blower ordinance, with Town Manager Jennings stating that the main purpose was that there wasn't Town personnel available to handle this request.

J. Request for Authorization to Pursue Municipal Energy Technical Assistance (META) Grant Application:

Select Board Chair Parker updated on this topic. (See Exhibit J, Supplemental Packet, pages 1 through 76 for information) He stated that this regards the proposal from Solect and that there was concern about whether or not the process that we were using was the best way to do things.

He stated that he reached out to get other options and other clients and also discussed with Town Counsel regarding this, who was somewhat skeptical of the references in Chapter 156, Section 137 of MGL and whether that would assure us of the best overall arrangement for the Town in terms of risk exposure and things like that and suggested caution. He stated that after speaking with him it seemed prudent to seek other options and use the typical process of following more typical procurement procedures and put together an RFQ to have potential vendors make proposals and quotes.

With the Town Manager's suggestion and due to the time constraints, Select Board Chair Parker stated that he went ahead with the grant and is now bringing it to the meeting for discussion and approval, and the grant application is to have the five sites originally considered and discussed with Solect, which can only pick one, to have those five sites reviewed for feasibility by existing state approved vendors. He further stated that he has spoken to a vendor who reached out who had worked with the Town before. Discussion ensued on this topic with questions and answers by Board members.

Motion made by Select Board Chair Parker to that we approve the application that has previously been made for the grant regarding sites for solar. Seconded by Select Board Member Reed.

Yes 3, No 0

K. Review Draft Employee COVID-19 Exposure Protocol:

Town Manager Jennings updated on this topic. (See Exhibit K, pages 118 through 123 for information) Stated that there were just a couple of minor changes in the draft to make it better and clearer and explained what those changes were. Further discussion ensued on this topic as to how this would apply to Town employees and union members, and it was decided to circulate the protocol for comment.

L. Draft Policy to Require Advance Town Manager Approval of Overtime and Hours Worked Above Budgeted:

(See Exhibit L, pages 124 through 129 for information) This topic was tabled until the next meeting.

M. Review of Proposed Amendment to FY22 Wage Schedule:

(See Exhibit M, page 130 for information)

Motion made by Select Board Member Archibald to change the Council on Aging grade from 1 to 3 with a rate increase to \$20.00. Seconded by Select Board Member Parker.

Yes 3, No 0

N. Update on Community Compact Grant Application Re: Wage Study, Preparation for Meeting with Boards/Commission Chairs Regarding Personnel Policy/Administration:

Town Manager Jennings updated on this topic. (See Exhibit N, pages 131 through 132 for information) Stated that the grant has already been submitted and stated that in order to discuss this topic fully, it should be discussed at a stand-alone meeting.

O. Discussion of Affordable Housing Policy/Strategy:

(See Exhibit O, pages 133 through 166 for information) (no discussion on this topic)

P. Meeting Minutes: July 26, 2021, July 28, 2021:

Town Manager Jennings updated on this topic. (See Exhibit P, pages 167 through 185 for information)

Motion made by Select Board Chair Parker to approve the Meeting Minutes of 7/26/21 and 7/28/21. Seconded by Select Board Member Archibald.

Yes 3, No 0

TOWN MANAGER UPDATES

Q. Update on Initial Orientation With New Conservation/Land Agent, Michelle Green:

Town Manager Jennings updated on this topic. (See Exhibit Q, page 186 through 199 for information) Stated that this is a great hire and it's great to have a new dedicated person who is very positive with a lot of energy and a good knowledge base.

R. Update Regarding New Signage at Mill Pond/Pipestave (Re: Applicability of Dog Leash Requirements):

Town Manager Jennings updated on this topic. (See Exhibit R, pages 200 through 204 for information) Stated that Parks & Rec was fine with putting up signs and have a good game plan with that.

S. MS4 Stormwater FY21 Annual Report (As Submitted):

Town Manager Jennings updated this topic. (See Exhibit S, pages 205 through 221 for information) Stated that the Annual Report was put in.

T. Follow-up Meeting Assignments:

(No discussion on this topic)

U. Placing Items on Future Agendas:

Select Board Member Reed inquired as to the packets going public, was thinking that maybe could be done via e-mail with Town Manager Jennings providing information on this.

Select Board Chair Parker stated that an unexpected agenda item on which a decision should be made is regarding employee vacation that was not used from FY20/21, and whether there should be a single time extension reflecting the fact that a number of people have vacation time left over because of the situation surrounding COVID and people were not able to use their earned vacation.

Motion made by Select Board Chair Parker to add this topic to tonight's agenda as an unexpected agenda item. Seconded by Select Board Member Archibald.

Yes 3, No 0

Motion made by Select Board Chair Parker to allow people until December 31, 2021 to use unexpended vacation from FY20/21, that this is a single time extension, will not be repeated for FY22. Seconded by Select Board Member Archibald.

Yes 3, No 0

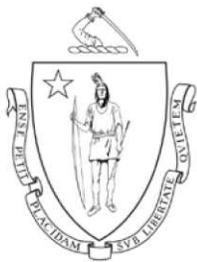
Select Board Chair Parker asked that agenda items for the next meeting, whenever possible, be introduced at a prior meeting since a significant amount of time is spent regarding what should be carried to the next meeting and having a heads-up as to new items would be helpful in formulating an agenda for the next meeting.

**Motion was made by Select Board Member Archibald to enter into Executive Session.
Seconded by Select Board Chair Parker.**

Yes 3, No 0

Respectfully submitted,

Susan M. Lobie, Certified Electronic Transcriptionist
Office Solutions Plus
15 Marion Road, Salem, MA 01970



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
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March 9, 2022

James RW Blatchford, Town Clerk
Town of West Newbury
381 Main Street
West Newbury, MA 01985

**Re: West Newbury Special Town Meeting of October 23, 2021 -- Case # 10383
Warrant Article # 14 (General)**

Dear Mr. Blatchford:

Article 14 - We approve Article 14 from the October 23, 2021 West Newbury Special Town Meeting.¹ Under Article 14 the Town voted to amend the general bylaws to add a new Section XLI, “Stormwater Management Bylaw.”

The purpose and objectives of the new Stormwater Management by-law include: (1) protecting the health, safety, general welfare and environment by controlling the adverse effects of construction site stormwater runoff and post-construction runoff; (2) protecting water resources; (3) preventing and reducing pollutants from entering the Town’s municipal separate storm sewer system (MS4) and (4) complying with state and federal statutes and regulations relating to stormwater discharges. Section 1, “Purpose and Objective.” We offer the following comments to the Town on the new “Stormwater” by-law.

A. Law Applicable to the New Stormwater By-laws

Both the federal government and the Commonwealth of Massachusetts have enacted certain regulations relative to stormwater management by municipalities. For instance, the federal Environmental Protection Agency has enacted requirements pertaining to operators of municipal separate storm sewers. See 40 C.F.R. § 122.34. The Massachusetts Department of Environmental Protection (the Department) has promulgated regulations at 310 C.M.R. § 10.05 (6) (k)-(q) (“Stormwater Management Standards”), pursuant to G.L. c. 131, § 40. Furthermore, the Department has promulgated stormwater regulations at 314 C.M.R. §§ 3.04 and 5.04, pursuant to G.L. c. 21, §§ 26-53 (the Massachusetts Clean Waters Act). Any local regulation of stormwater management must be supplementary to and consistent with the regulation of such

¹ On February 3, 2022, by agreement with Town Counsel, we extended the deadline for our review of Article 14 for an additional thirty days until March 9, 2022.

matters by the federal government and the Commonwealth of Massachusetts. Operators of municipal separate storm sewers are required to develop and implement a stormwater management plan that meets certain minimum measures. See 40 C.F.R. § 122.34.

The federal regulations suggest that municipalities adopt local laws or regulations as part of an effective stormwater management plan. See, e.g., 40 C.F.R. § 122.34 (b) (3) (ii) (B); 40 C.F.R. § 122.34 (b) (4) (ii) (A); 40 C.F.R. § 122.34 (b) (5) (ii) (B). It appears the new Stormwater bylaw is part of the Town’s efforts to effectively manage stormwater.

B. Comments on the New Stormwater Management By-law

1. Article I, Section 2 – Definitions

Section 2 defines the term “Person” as follows:

An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

We approve the definition of “Person.” However, the Town’s authority to regulate state and federal entities is limited. “The doctrine of essential governmental functions prohibits municipalities from regulating entities or agencies created by the Legislature in a manner that interferes with their legislatively mandated purpose, absent statutory provisions to the contrary.” Greater Lawrence Sanitary Dist. v. Town of North Andover, 439 Mass. 16 (2003). See also Teasdale v. Newell & Snowling Const. Co., 192 Mass. 440 (1906) (holding local board of health could not require state park commissioners to obtain license to maintain stable on park land). Similarly, municipalities may not regulate federal governmental entities in a manner that impedes with their purpose. Cf. First Nat’l Bank v. Missouri, 263 U.S. 640, 656 (1926) (state laws may not regulate federal entities if “such laws interfere with the purposes of their creation [or] tend to impair or destroy their efficiency as federal agencies”); Palfrey v. City of Boston, 101 Mass. 329 (1869) (federal internal revenue stamps not subject to state or local property tax). The Town’s enforcement of the new bylaw cannot impermissibly interfere with the operation of state or federal entities. The Town should discuss any questions regarding the proper application of the by-law with Town Counsel.

2. Article I, Section 7 – Regulations

Article I, Section 7 authorizes the Stormwater Authority to “adopt...[and] periodically amend regulations, rules and/or written guidance” relating to the terms, conditions, definitions, enforcement, fees, procedure and administration of the by-law. Any rules or regulations adopted by the Stormwater Authority must be consistent with state law. See American Lithuanian Naturalization Club v. Board of Health of Athol, 446 Mass. 310, 321 (2006) (“A town may not promulgate a regulation that is inconsistent with State law.”) The Town should discuss with Town Counsel any proposed rules and regulations adopted pursuant to Section 7 to ensure that they comply with state law.

3. Article II, Sections 3 and 4 - Consent to Entry onto Property and Inspection and Site Supervision

Article II, Section 3 provides that the applicant should consent to the entry of the Stormwater Authority or its agents in or on the site to verify the information in the application and inspect for compliance. Article II, Section 4 also authorizes the Stormwater Authority or its agent to “make inspections as outlined in the Stormwater Management Regulations to verify and document compliance with the Stormwater Management Permit.

In applying the provisions in Article II, Sections 3 and 4, the Town should be mindful that municipal officials do not have the authority to conduct non-emergency warrantless searches of private property without permission of the owner. Commonwealth v. John G. Grant & Sons Co., Inc., 403 Mass. 151, 159-60 (1988). The U.S. Supreme Court has held that warrants are required for non-emergency administrative inspections. Camara v. Municipal Court of San Francisco, 387 U.S. 523 (1966) (requiring warrant for health inspector non-emergency entry); See v. City of Seattle, 387 U.S. 541 (1966) (requiring warrant for nonemergency inspection by fire chief). “[A]dministrative entry, without consent, upon the portions of commercial premises which are not open to the public may only be compelled through prosecution or physical force within the framework of a warrant procedure.” See, 387 U.S. at 545. Massachusetts courts have similarly recognized that “statutes can no longer convey blanket powers of warrantless entries.” Commonwealth v. Hurd, 51 Mass. App. Ct. 12, 17 (2001) (holding that G.L. c. 129, § 7 does not authorize warrantless searches for animal inspection). The Town should consult with Town Counsel to ensure that these Sections are applied in a manner that is consistent with state law and applicable constitutional requirements.

In addition, Article II, Section 3 also provides “[r]efusal to grant access may constitute grounds for denial and/or revocation of a Stormwater Management Permit.” However, the by-law is silent as to any due process considerations, including notice and a hearing, prior to the revocation of a Stormwater Management Permit. To avoid a due process challenge, the Town may wish to consult with Town Counsel regarding a future amendment to the by-law to establish a notice and hearing process, as well as identify any standards and criteria that will guide the Stormwater Authority’s decision

4. Article II, Section 6 – Surety

Section 6 authorizes the Stormwater Authority to require the applicant to post a surety bond or other acceptable surety, prior to the start of any land-disturbing or construction activity to ensure that the work will be completed in accordance with the permit. General Laws Chapter 44, Section 53 requires that performance security funds of the sort contemplated here must be deposited with the Town Treasurer and made part of the Town’s general fund (and subject to future appropriation), unless the Legislature has expressly made other provisions that are applicable to such receipt. General Law c. 44, Section 53G ½ does allow the deposit of surety proceeds into a special account under certain circumstances, as follows:

Notwithstanding section 53, in a...town that provides by by-law...rule, regulation or contract for the deposit of cash, bonds, negotiable securities, sureties or other financial guarantees to secure the performance of any obligation by an applicant as a condition

of a license, permit or other approval or authorization, the monies or other security received may be deposited in a special account. Such by-law...rule or regulation shall specify: (1) the type of financial guarantees required; (2) the treatment of investment earnings, if any; (3) the performance required and standards for determining satisfactory completion or default; (4) the procedures the applicant must follow to obtain a return of the monies or other security; (5) the use of monies in the account upon default; and (6) any other conditions or rules as the...town determines are reasonable to ensure compliance with the obligations. Any such account shall be established by the municipal treasurer in the municipal treasury and shall be kept separate and apart from other monies. Monies in the special account may be expended by the authorized board, commission, department or officer, without further appropriation, to complete the work or perform the obligations, as provided in the by-law...rule or regulation. This section shall not apply to deposits or other financial surety received under section 81U of chapter 41 or other general or special law.

For the Town to deposit surety proceeds into a special account, the Town must comply with the requirements of G.L. c. 44, § 53G ½. Otherwise, surety proceeds must be deposited into the Town's general fund pursuant to G.L. c. 44, § 53. The Town should consult with Town Counsel with any questions regarding the proper application of Section 6.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Nicole B. Caprioli

By: Nicole B. Caprioli
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4418

cc: Town Counsel Timothy D. Zessin



MS4 Year 4 Permit Requirements



Annual MS4 Requirements

- **Annual opportunity for public participation in review and implementation of SWMP**
- **Annual report submitted and available to the public**
- Keep records relating to the permit available for 5 years and make available to the public
- **Continue public education and outreach program**
- Implement IDDE program & annual training to employees involved in IDDE program
- Update inventory of all known locations where SSOs discharged to the MS4 in the last 5 years
- Inspect and maintain stormwater treatment structures
- Update outfall and interconnection inventory and priority ranking and include data collected in connection with the dry weather screening and other relevant inspections conducted
- Log catch basins cleaned or inspected
- Sweep all uncurbed streets at least annually
- Properly store and dispose of catch basin cleanings and street sweepings so they do not discharge to receiving waters



Annual MS4 Requirements

- Review site plans of construction sites as part of the construction stormwater runoff control
- Conduct site inspection of construction sites as necessary
- Continue investigations of catchments associated with Problem Outfalls
- Review inventory of all permittee owned facilities in the categories of parks and open space, buildings and facilities, and vehicles and equipment; update if necessary
- Review O&M programs for all permittee owned facilities; update if necessary
- Implement all maintenance procedures for permittee owned facilities in accordance with O&M programs
- Implement program for MS4 infrastructure maintenance to reduce the discharge of pollutants
- Enclose all road salt storage piles or facilities and implemented winter road maintenance procedures to minimize the use of road salt
- Review as-built drawings for new and redevelopment to ensure compliance with post construction bylaws, regulations, or regulatory mechanism consistent with permit requirements



Year 4 MS4 Requirements

- Report assessing current street design and parking lot guidelines and other local requirements that affect the creation of impervious cover as per 2.3.6.b
- Report assessing existing local regulations to determine the feasibility of making green roofs, infiltration practices, and water harvesting devices allowable as per 2.3.6.c
- Identify a minimum of 5 permittee-owned properties that could be modified or retrofitted with BMPs designed to reduce the frequency, volume, and pollutant loads of stormwater discharges as per 2.3.6.d



Year 4 MS4 Requirements

- Report assessing current street design, zoning, and lot guidelines and other local requirements that affect the amount of impervious cover as per 2.3.6.b
- Report assessing local conditions to determine the feasibility of making green roofs, permeable pavement, and water harvesting devices allowable as per 2.3.6.c
- Identify a minimum number of unimproved properties that could be modified or retrofitted to be designed to reduce the frequency, volume, and pollutant load of stormwater discharges as per 2.3.6.d

Town Manager

From: Town Manager
Sent: Wednesday, March 2, 2022 3:43 PM
To: West Newbury Summer Rec; Amy Wilson; Krista Niles; Puteri, Emily
Cc: COA; [REDACTED]
Subject: Update re MyRec page and brochure

Importance: High

Hi,
I'm pleased to share the draft MyRec page:

<https://westnewburyma.myrec.com>

The Summer Rec page is under "Programs" and is here:

https://westnewburyma.myrec.com/info/activities/program_details.aspx?ProgramID=29826

We'll need to do some troubleshooting etc. before we go live – plus get people trained (MyRec has availability next Monday and pretty much any day next week) – but we are all configured for online payment (separate bank account, different transactions linked to different accounts, i.e. summer rec, field use revenues, facility rental revenues, etc.).

So basically, we are very, very close. They estimate 6-8 weeks to build out the site, in about 2 weeks we're almost there – thanks to a lot of effort and great work!

Because we are so close, I wonder... do we still want to do 350 copies of a print brochure with "coming soon" – or do we want to update the brochure with the actual link, and plan to distribute it the first of next week so the rollout can be complete?

I also think we should program a registration cap on each of the 6 weeks, in case we are a victim of our own success. I'd hate to see 120 people sign up for one week if we can't in fact accommodate that type of attendance. Amy/Krista, please let me know if you agree, and if so what that number should be. We can easily key that into the system. (We can also program the system to only allow in-town registrations for an initial period of time, so if we want to do that I'd need to know the specifics).

Much to discuss, please let me know best way to connect, thanks,
Angus

p.s. literally everything you see on the draft page can be easily changed, so if you find any issues just send them along and we'll get them resolved, thanks -

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org



Charles D. Baker, Governor
 Karyn E. Polito, Lieutenant Governor
 Jamey Tesler, Secretary & CEO

Q

February 17, 2022

Angus Jennings, Town Manager
 Town of West Newbury
 381 Main Street
 West Newbury, MA 01985

RECEIVED
 MAR 02 2022
 TOWN MANAGER
 TOWN OF WEST NEWBURY

Dear Angus Jennings, Town Manager

We are pleased to inform you that we anticipate Chapter 90 local transportation aid funding for Fiscal Year 2023 will total \$200 million statewide, pending final legislative approval.

This letter certifies that, pending final passage of the bond authorization, your community's Chapter 90 apportionment for Fiscal Year 2023 is \$213,530.00. This apportionment will automatically be incorporated into your existing 10-year Chapter 90 contract, and will also be listed on the MassDOT website www.massdot.state.ma.us/chapter90.

The Chapter 90 Program is an integral part of maintaining and enhancing your community's infrastructure and is an essential component of our state-local partnership. We look forward to working with you in the coming year to continue the success of this program.

Thank you for all that you do to make the Commonwealth of Massachusetts a great place to live, work and raise a family.

Sincerely,

Charles D. Baker
 Governor

Karyn E. Polito
 Lieutenant Governor