



Town of West Newbury
Select Board
Monday, October 4, 2021 @ 5:30pm
381 Main Street, Town Office Building
www.wnewbury.org

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2021 SEP 30 PM 5:20

AGENDA

Executive Session: 5:30pm in the 1910 Building, 381 Main Street, First Floor Conference Room

- ❖ MGL Ch. 30A §21(a) 1: To discuss complaints against a public officer, employee, staff member or individual;
- ❖ 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 (*request for accrued vacation carry-forward; FY22 wages and staffing updates; review draft: employer self-evaluation of pay practices per MGL Ch. 151B*);
- ❖ 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 (*update on transition to new General Counsel – legal issues ongoing/under review; updates on tax title/properties in foreclosure; Middle Street Bridge MOU with Newburyport; potential intermunicipal agreement regarding regional vaccination clinics*).

The Board will 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.
- Trick or Treating: Sunday, October 31 from 5:30-7:30pm
- Public Meeting regarding Soldiers & Sailors Building, Monday, Oct. 25 at 7pm
- Call for 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. Tree Committee Report on Results of Community Survey – *Fred Chanania, Tree Committee Chair*
- B. Cont'd discussion of parking options for Coffin Street property, incl. potential parking on/off of Cortland Lane – *Essex County Greenbelt*
- C. Public hearing re changes to Personnel Policy: Qualified Part-Time holiday pay; internal hiring policy
- D. Discussion of draft stormwater bylaw and regulations – *Jennifer Hughes, MVPC*
- 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
- F. Updates on Finance Committee and Capital Improvements Committee recommendations re Special Town Meeting (STM) warrant articles
- G. Review of whether/what amount to propose at STM for Free Cash transfer to reduce FY22 tax rate
- H. Approve and sign Special Town Meeting warrant
- I. Discussion of process for response to proposed/potential Warrant articles
- J. Request for authorization to pursue Municipal Energy Technical Assistance (META) grant application
- K. Review draft Employee COVID-19 Exposure Protocol
- L. Draft policy to require advance Town Manager approval of overtime and hours worked above budgeted
- M. Review of proposed amendment to FY22 wage schedule
- N. Update on Community Compact grant application re wage study; preparation for meeting with Boards/Commission Chairs regarding personnel policy/administration
- O. Discussion of affordable housing policy/strategy
- P. Meeting minutes: July 26, 2021; July 28, 2021

Town Manager Updates

- Q. Update on initial orientation with new Conservation/Land Agent Michelle Greene
- R. Update regarding new signage at Mill Pond/Pipestave (re applicability of dog leash requirements)
- S. MS4 Stormwater FY21 Annual Report (as submitted)
- T. Follow up meeting assignments
- U. 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: 851 4501 4183

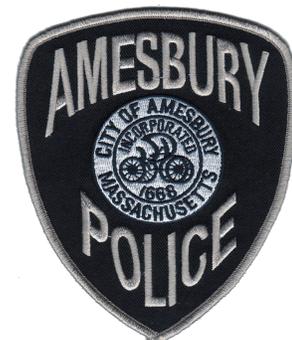
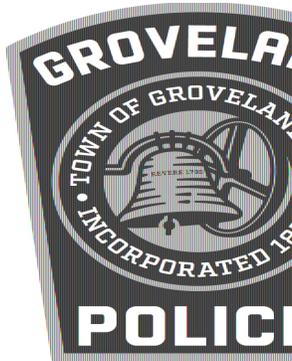
Passcode: 101489

Join at <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 West Newbury website an audio or video recording of proceedings as soon as practicable after the meeting.

Town Manager

From: [REDACTED] on behalf of Robert Mills [REDACTED]
Sent: Thursday, September 30, 2021 1:31 PM
To: Town Manager
Subject: *Joint Press Release* Groveland, Merrimac, West Newbury, Newburyport and Amesbury Police Departments Offer Halloween Safety Tips

Display problems? [Open this email in your web browser.](#)



FOR IMMEDIATE RELEASE

Thursday, Sept. 29, 2021

Contact: Robert Mills
Phone: 617-993-0003
Email: robert@jgpr.net

Joint Press Release
Groveland, Merrimac, West Newbury,

Newburyport and Amesbury Police Departments Offer Halloween Safety Tips

The Groveland, Merrimac, West Newbury, Newburyport, and Amesbury Police Departments would like to share basic safety tips as Halloween approaches to help keep kids safe as they head out trick-or-treating and celebrate the holiday.

All five communities will hold trick-or-treating on Sunday, Oct. 31, from 5:30 p.m. to 7:30 p.m.

Police urge all families to protect themselves by taking precautions against COVID-19 this year, even as they head out to once again enjoy all the sweet and spooky fun that Halloween has to offer.

Costume Safety

Picking a great costume is often the first step in Halloween preparation. Police encourage parents to consider these tips while shopping with kids:

- All costumes, wigs and accessories should be fire-resistant
- If children are allowed out after dark, fasten reflective tape to their costumes and bags, or give them a flashlight or glow sticks
- When buying Halloween makeup, make sure it is nontoxic and always test it in a small area first
- Remove all makeup before children go to bed to prevent skin and eye irritation

Trick-or-treating safety

Trick-or-treating is a favorite activity of many children, but the National Safety Council says children are more than twice as likely to be struck by a car and killed on Halloween than on any other day of the year. To help prevent such a tragedy and to protect your kids against COVID-19, police encourage parents and kids to consider these tips before heading out:

- A responsible adult should accompany young children on the neighborhood rounds
- If your older children are going alone, plan and review a route acceptable to you
- Agree on a specific time children should return home
- Teach your children never to enter a stranger's home or car
- Instruct children to travel only in familiar, well-lit areas and stick with their friends
- Tell your children not to eat any treats until they return home
- Children and adults are reminded to [put electronic devices down](#), keep heads up and walk, don't run, across the street
- Wear a face mask or face covering
- Observe good hand hygiene, including hand washing and use of alcohol-based sanitizers with at least 60% alcohol. Carry hand sanitizer and use it often, especially after coming into contact with frequently touched surfaces and before eating candy
- Refrain from touching your face
- Maintain social distancing of at least 6 feet of physical distance from all other participants who are not members of the same household

Driving Safety

Halloween can be a dangerous night for both pedestrians and drivers, so police would like to offer these basic safety tips for drivers:

- Watch for children walking on roadways, medians, and curbs
- Enter and exit driveways and alleys carefully
- At twilight and later in the evening, watch for children in dark clothing
- Discourage new, inexperienced drivers from driving on Halloween

Anyone who feels unwell, has been exposed to someone with COVID-19, or who has tested positive for COVID-19 should stay at home and refrain from Halloween activities.

Those who do not wish to participate in trick-or-treating are asked to shut off their outdoors lights as an indicator.

Handing out candy

If you will be handing out candy this year, police recommend these tips to help stop the spread of COVID-19:

- Avoid providing candy via a shared bowl, and instead use small, individual bags for each trick-or-treater
- Wear a face covering while distributing candy to trick-or-treaters
- Practice good hygiene and ensure your hands have been washed before handing out candy

For those staying in:

Those who do not want to participate in trick-or-treating this year due to ongoing threats from COVID-19 may want to consider the following the activities that are considered lower risk:

- Carving or decorating pumpkins with members of your household and displaying them
- Decorating your house, apartment, or living space
- Doing a Halloween scavenger hunt where children are given lists of Halloween-themed things to look for while they walk outdoors from house to house admiring Halloween decorations at a distance
- Having a Halloween movie night with people you live with
- Having a scavenger hunt-style trick-or-treat search with your household members in or around your home rather than going house to house

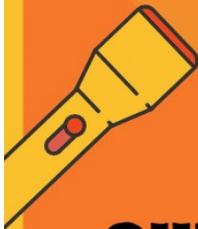
The Amesbury, Newburyport, West Newbury, Merrimac, and Groveland Police Departments wish everyone a safe and happy Halloween!

###

STAY SAFE ON HALLOWEEN

BE VISIBLE

If children are allowed out after dark, fasten reflective tape to their costumes and bags, or give them a flashlight or glow sticks.



STAY TOGETHER



A responsible adult should accompany young children while trick-or-treating around neighborhoods

CHECK CANDY

Tell your children not to eat any treats until they return home and the candy can be inspected.



WALK SAFELY

Put electronic devices down, keep heads up and walk, don't run, across the street



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617-993-0003



Town of West Newbury Massachusetts

Published on *Town of West Newbury MA* (<https://www.wnewbury.org>)

[Home](#) > [Departments](#) > [Select Board](#) > 2021-22 Volunteer Opportunities

2021-22 Volunteer Opportunities

Fiscal Year 2022

The Town of West Newbury has volunteer opportunities on the following Boards, Commissions and Committees:

Climate Change Resiliency Committee - 2 open positions

Conservation Commission - 1 open position

Council on Aging - 1 open position

Cultural Council - open positions

Finance Committee - 1 open position

Historic District Commission - 2 alternate member positions. Learn more about the Historic District Commission in the Town Bylaws. **Click here** for the Town Bylaws.

Historical Commission - 1 open position

Mill Pond Committee - 4 associate member positions

Tree Committee - 1 open position

Zoning Board of Appeals - 2 associate member positions. Learn more about the ZBA in the Town Bylaws. **Click here** for the Town Bylaws.

While we strive to keep this list current, there may be other opportunities to volunteer and we welcome your interest. Please inquire within.

To learn more, please check the Board/Commission/Committee web page on the town website or contact the Select Board's Office at 978-363-1100 ext. 113 for more information.

Please submit a completed **Application for Appointment** to the Town Manager's Office by email at selectboard@wnewbury.org or drop it off at the office. Hard

copies of the Application for Appointment can also be picked up at the Town Clerk's office.

Page last updated 9/21/2021

Source URL: <https://www.wnewbury.org/volunteer>

From: Town Manager
Sent: Thursday, September 23, 2021 2:06 PM
To: SSV-Lynne Spencer
Cc: DPW Director; Gerald Sullivan; SSV-Doug Manley; Mary Bulso
Subject: RE: S & S Memorial, options moving forward

We're going to hold a special Select Board mtg on Monday, Oct 25th to invite resident input re how best to move forward. As time allows, hopefully within a few work days from now, we'll do a post to the Town website and Facebook to announce this and to share the various suggestions (incl. yours) that have been received, within invitation for input or further ideas. One way or another, we expect to bring some proposal to the spring Annual Town Meeting, depending on what emerges as the best way forward.

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: SSV-Lynne Spencer [REDACTED]
Sent: Thursday, September 23, 2021 8:18 AM
To: Town Manager <townmanager@wnewbury.org>
Cc: DPW Director <dpwdirector@wnewbury.org>; Gerald Sullivan [REDACTED]; SSV-Doug Manley [REDACTED]; Mary Bulso [REDACTED]
Subject: RE: S & S Memorial, options moving forward

Good morning,

Now that bidders have been notified that this is on hold, I am wondering if there is any further thinking on this project?

Asking this while knowing that you are busier than a one armed paper hanger,

Lynne

SSV Architects

1 Thompson Square | Charlestown, MA 02129-3308
[REDACTED] | office: 617.861.4291 x22

CODE RED NOTICE;

The West Newbury Water Department will begin its fall hydrant flushing on Saturday night, October 9th and ends on October 22th. Flushing hydrants will cause the water to become discolored as sediment is removed from the water system. Property owners may experience intervals of low water pressure as well. Before doing laundry, residents are advised to run the cold water first to make sure it runs clear. Avoid using bleach whenever possible.

The entire flushing announcement is also located on the town web site at www.wnewbury.org. This announcement only pertains to residents on the municipal water system.

The Water Department appreciates your cooperation during this period.

Thank You

WEST NEWBURY / NEWBURYPORT FALL HYDRANT FLUSHING

NEWBURYPORT

BEGINNING: MONDAY, SEPTEMBER 20, 2021

The Water Division of the Newburyport Department of Public Services has begun flushing the city's water system on Monday, September 20, 2021 and will continue through the month of October. The work will begin in the west end of the city and proceeds eastward across the entire system. Flushing will take place between the hours of 8:00 a.m. and 2:00 p.m.

Night flushing of the large mains will take place from 7:00 p.m. until midnight. Schedules for specific areas will be listed on the City's website at www.cityofnewburyport.com.

The Town of West Newbury purchases some of its domestic water from the City of Newburyport so when they are flushing hydrants it will affect West Newbury residents that are connected to the municipal water system.

Low water pressure, discolored/milky water, air in pipes and at times, no water, may be experienced during flushing. When flushing is completed in your area, or at the end of each day, running your cold-water faucet should alleviate this problem.

Residents are advised to check the City's website at www.cityofnewburyport.com for daily street location updates or call the DPS Water/Sewer Business Office at (978) 465-4420. Office hours are: Monday-Friday 8:00 a.m. - 4:00 p.m.

WEST NEWBURY

BEGINNING: SATURDAY, OCTOBER 9, 2021

The West Newbury Water Department will begin its fall hydrant flushing on Saturday night, October 9th. The process will start at 9:00 p.m. with hydrants along Main Street from the Groveland town line to the Newburyport town line. Flushing will continue through 4:00 a.m. on Sunday morning.

We will **not** be flushing hydrants on Monday, October 11th (Columbus Day).

Daytime Hydrant Flushing on secondary roads will commence on Tuesday, October 12th and continue through Friday, October 22nd from 9:00 a.m. to 3:00 p.m. No flushing will take place during the weekend of October 16th. At this time hydrants on roads **south of Main Street** are scheduled to be flushed October 12th-15th including Norino Drive and Mirra Way on the north side of Main Street. Hydrants on roads **north of Main Street** are scheduled to be flushed October 18th-22rd. This schedule could change if the south side of Main Street is completed sooner than we expected, so please be aware of hydrant flushing in your neighborhood.

Flushing hydrants will cause the water to become discolored as sediment is removed from the water system and customers may experience intervals of low water pressure as well. If you have discolored water, wait until flushing is completed in your area and at a minimum, wait 15-minutes and then run the cold-water faucet until the water runs clear.

Do not run the hot water as discolored water can be pulled into your hot water tank and take longer to clear up. Before doing laundry, residents are advised to run the cold water to make sure it runs clear. Try to avoid using bleach whenever possible as it may cause the iron and manganese to permanently stain clothes.

If clothing is stained after washing, **DO NOT MACHINE DRY**.

There are products available, free of charge, in the Water Department office that will help take the stain out during **re-washing** or you can purchase the product at most grocery and hardware stores. The product would have a name like Iron Out or Rust-B-Gone.

Officials recommend that homeowners refrain from washing laundry after 9:00 p.m. on Saturday, October, 9th through the late afternoon on Sunday, October 10th.

Starting on Tuesday, October 12th, residents should only plan on washing laundry during the evening hours, after 6:00p.m. when flushing is not scheduled. Continue to wash laundry in the evening until Friday, October, 22nd when flushing is scheduled to be completed.

Please note that hydrant flushing takes place twice a year in West Newbury during the months of April (Patriots Day) and October (Columbus Day).

The Water Department appreciates your cooperation during this period.

If you have any questions please contact the Water Department at (978) 363-1100 ext. 127 or email the department at wnewater@wnewbury.org.

Report on Results of Community Survey



West Newbury Tree Committee

September 2021

I. INTRODUCTION

A. Background

The Town of West Newbury (WN) is a semi-rural community that spans 14.7 square miles on the North Shore of Massachusetts and that is bordered on the north by the Merrimack River. West Newbury has approximately 4,700 residents; commercial development is very limited; and there are no industrial facilities.

West Newbury is comprised mainly of a green landscape interspersed with significant water features, agricultural lands, and residences. Approximate land uses are:

- tree cover and forests (57%),
- wetlands (6%)
- open water (9%)
- agriculture (10%)
- non-agricultural grass lands (10%)
- soil or bare ground (1%)
- impervious surfaces (i.e., roofs, roads, and driveways) (7%)

The West Newbury Tree Committee (TC) was initially formed in August of 2019 with primarily an educational and advisory mission. The TC has established a number of ongoing programs and routinely advises residents on issues related to maintaining and enhancing the trees and forest of West Newbury. The TC also maintains a website replete with information and advice on trees and forests.

B. Community Survey

From May 25 to June 15, 2021, the Tree Committee conducted a community-wide survey to gather the views of WN residents. The goals of the survey were to assess community attitudes towards the trees and forests of WN and to help the TC determine appropriate priorities for the coming years.

The survey consisted of 13 questions, 11 of which asked respondents to select among a variety of choices (see Part III of this report). Two questions also sought narrative responses answers (see Part IV and the Appendix). 151 responses were received.

Over the late spring and summer of 2021, the TC reviewed the responses and prepared this Report. Our intention is to present this information and analysis to the Select Board, the Planning Board, and the residents of West Newbury in the near future.

II. SUMMARY OF RESPONSES - Multiple Choice Questions

- Over 92% of respondents indicated that trees and forests are viewed as "extremely" or "very important" to the character of West Newbury.
- Just under 75% of respondents value trees primarily as providing wildlife habitat and secondarily as enhancing the natural beauty and landscape of West Newbury. Mitigating climate change was the third most important.
- On the question of the biggest threats to WN trees and forests, over 70% chose (1) insect disease and damage and (2) clear-cutting during property development.

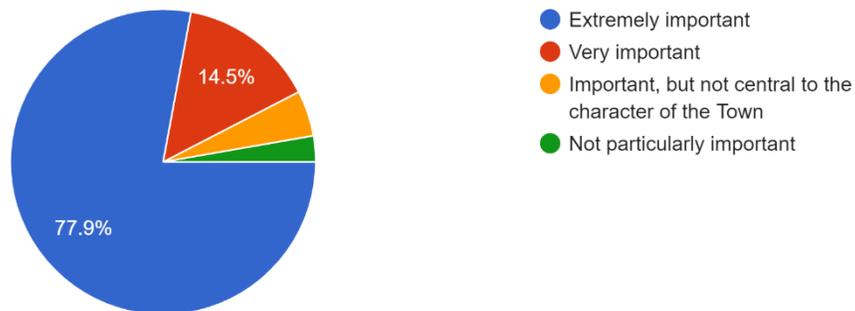
- Respondents identified three priorities for the Tree Committee:
 - (1) advising the Town Planning Board on developer applications (71%)
 - (2) publishing guidance on protecting trees during construction (61%), and
 - (3) facilitating tree planting along public roads (60%).
- Respondents supported plans to protect existing trees, plant new trees, and restore the tree canopy along Rt. 113/Main Street. Two-thirds of the respondents indicated support for budget initiatives relating to such projects.
- When asked about "useful and appropriate" measures for developers, respondents indicated preference for:
 - (1) avoiding cutting down any significant or remarkable trees onsite (81%)
 - (2) following guidelines on protecting trees during construction (80%)
 - (3) submitting tree protection plans as part of a permit application (71%)
- 87% supported an initiative for elementary and/or middle school educational programs about local trees and forests

III. GRAPHS - Multiple Choice Questions

A. Importance and Values of Trees

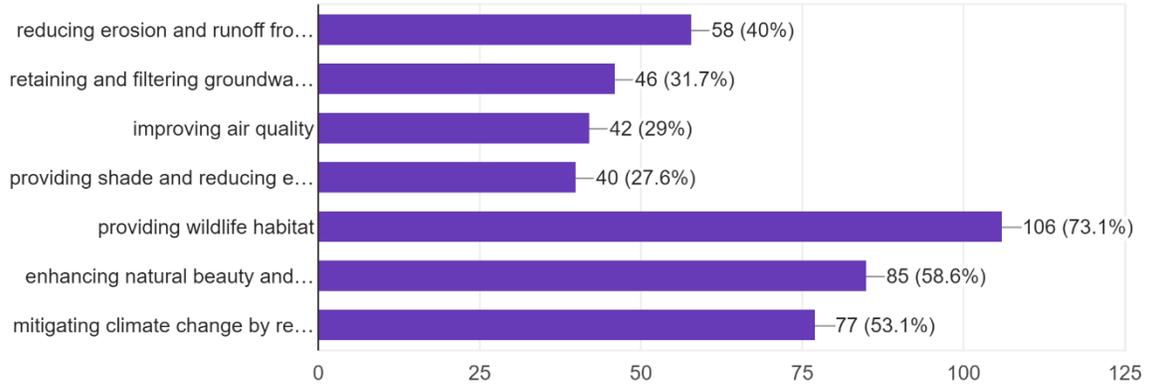
1. How important in your opinion are trees and forests to the character of West Newbury?

145 responses



2. Which value of trees and forests are the most important in your opinion? Please check up to three from the list below.

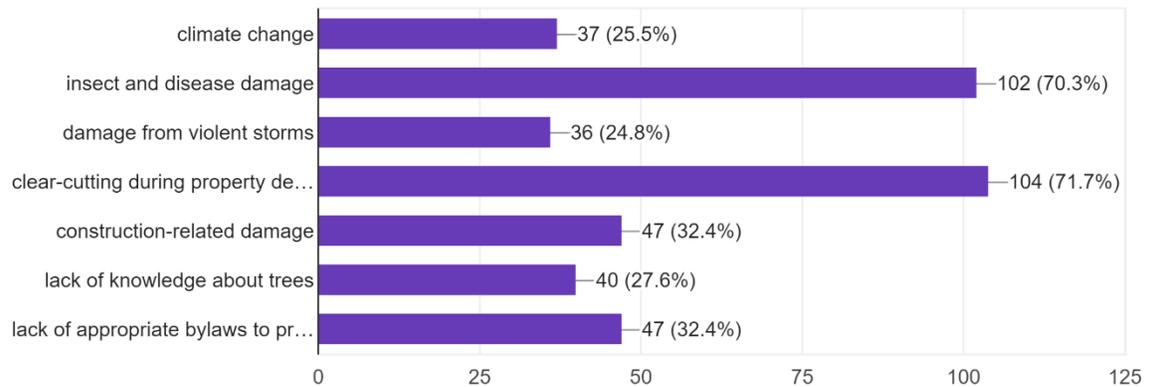
145 responses



B. Major Threats to West Newbury Trees

3. What do you think are the major threats to the trees and forests in West Newbury? Please check up to three from the list below.

145 responses

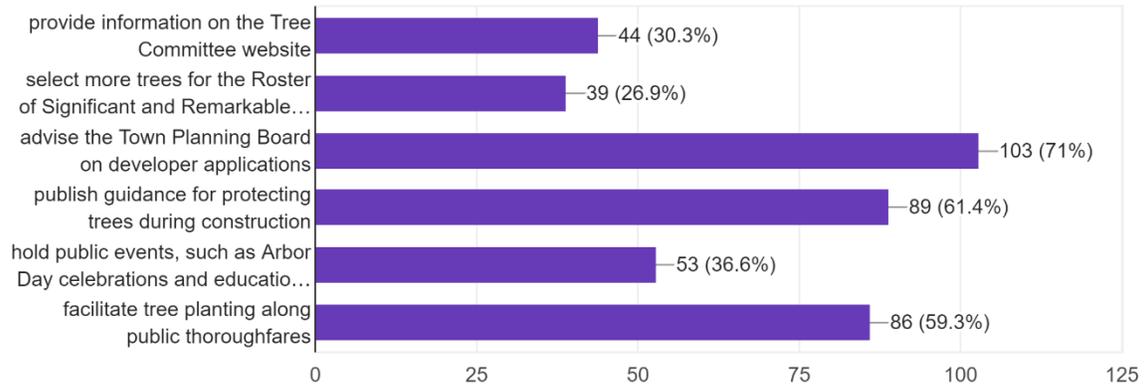


C. Priorities for Tree Committee

4. What are activities that you would like the Tree Committee to prioritize in the next two years?

Please check up to three from the list below.

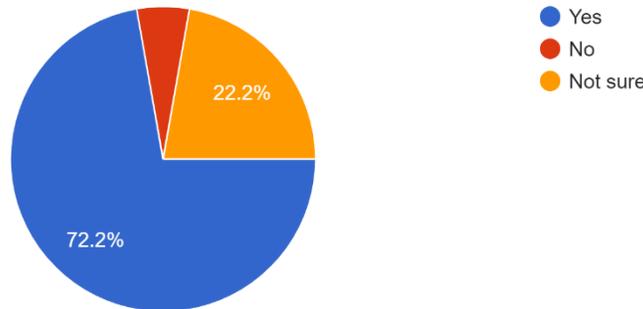
145 responses



D. Community Interest in Specific Projects or Measures

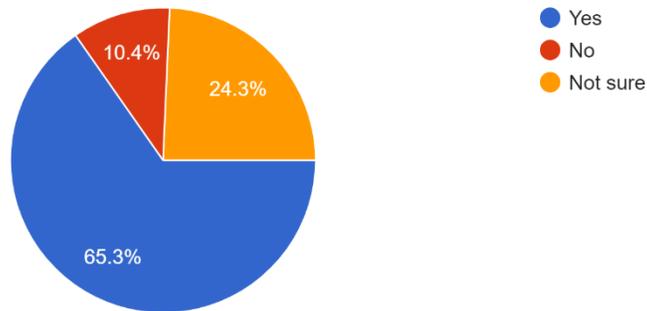
5. Would you like the Town to do more to protect trees and restore the tree canopy along Rt. 113/Main Street?

144 responses



6. Would you support a budget initiative for planting more trees along Rt. 113/Main Street?

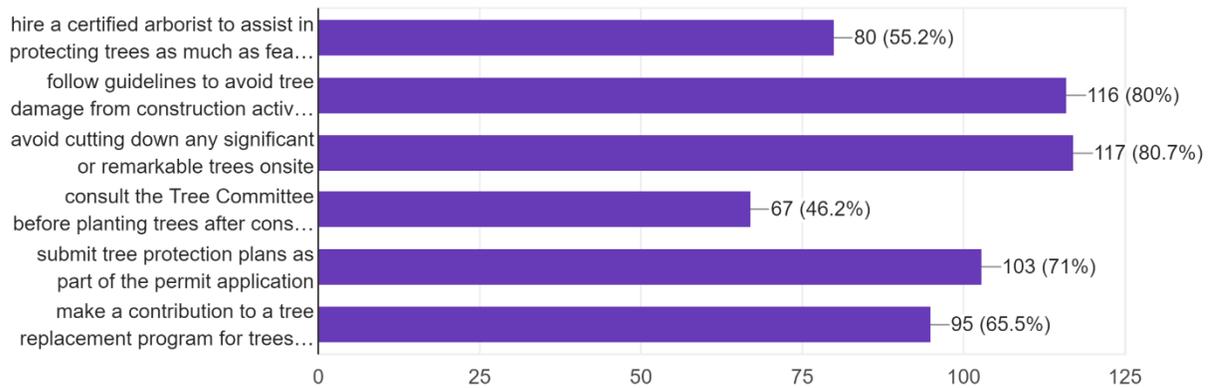
144 responses



E. Other - Development and Education

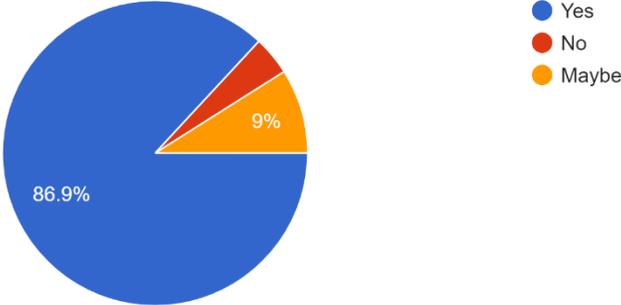
7. When land is being developed in West Newbury, do you think it would be useful and appropriate for the project developers to do any of following..(check all that you recommend from the list below)

145 responses



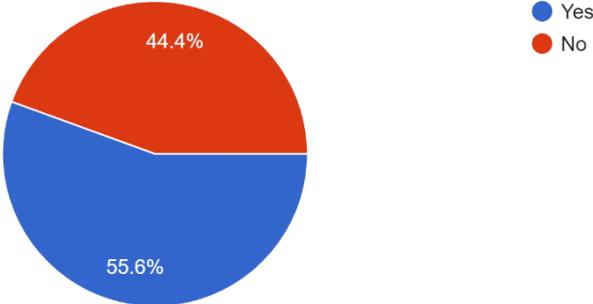
8. Would you support an educational program in our elementary and/or middle schools about local trees and forests?

145 responses



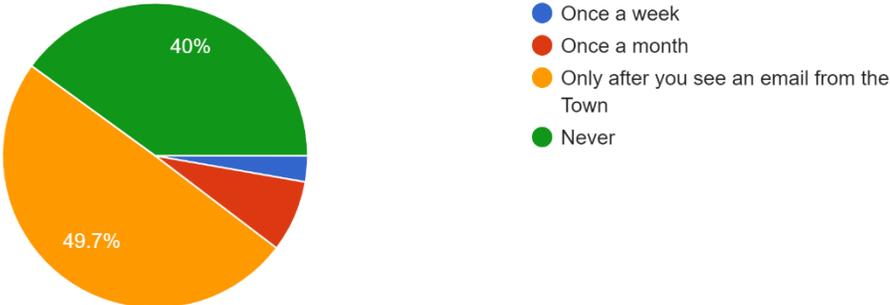
9. Do you know how to contact the Tree Committee on a particular matter of concern?

144 responses



10. How often have you visited the Tree Committee website at www.wnewbury.org/tree-committee?

145 responses



NOTE: Question 12 about potentially joining the Friends of WN Trees has been omitted.

IV. SUMMARY OF RESPONSES - Narrative Questions

The Appendix to this report contains the text of all the narrative responses to Questions 11 and 13. Question 11 asked for opinions and recommendations on what more could be done by the Town to protect WN trees, and Question 13 asked for comments or suggestions for the Tree Committee to consider.

Five major areas were raised in the narrative responses to Questions 11 and 13:

- Property development and tree cutting/removal (21 comments)
- Native trees (7)
- Control of invasive plants and pests (12)
- Planting and protecting trees (27)
- General comments on Tree Committee (27)

In addition, 24 comments on a wide range of other topics were submitted. Only 3 comments out of the total of the over 110 written responses indicated that no more action should be taken by the Tree Committee. One comment stated that Question 7 was flawed.

- Property Development and Tree Cutting/Removal: An overwhelming majority of the 21 comments wanted the Town to address the cutting and removal of trees as property development occurs. Comments included a variety of means to achieve this goal, ranging from reducing the amount of development to instituting more rules and requirements on developers related to tree cutting and removal. Many comments displayed a strong preference for retaining the natural character of the WN landscape.
- Native Trees: Almost all of 7 comments on native trees indicated that respondents valued native trees and plants and wanted more information on what species to plant.
- Control of Invasives and Tree Disease: Twelve respondents had significant concerns about controlling and removing invasive plants and pests and, in particular, oriental bittersweet. Roadside problem areas were mentioned in a number of comments.
- Planting and Protecting Trees: The greatest number of comments addressed this issue, although most did so in a general way. A thread of support for increased town action and funding appeared in many of the comments. Two comments opposed town action or funding and cited the natural reforestation of WN forests as sufficient.
- General Comments Related to Tree Committee: Community support for the Tree Committee was strongly manifested in 27 comments, with an emphasis on asking for more education of residents on tree and forest management.
- Other: As mentioned above, a wide range of other topics appeared in response to Questions 11 and 13. Education on a variety of topics (maple syrup making, history, tree benefits, etc.) was supported or requested in 11 of the 24 comments. Removal of trees or limbs around power lines also appeared in 4 comments.

V. NEXT STEPS

We look forward to meeting with the Select Board and the Planning Board to discuss the survey results and this Report. This Report will also be made electronically available to the residents of West Newbury.

Respectfully submitted,

West Newbury Tree Committee

Fred Chanania, Chair
Molly Hawkins, Vice-Chair
Francesca Pomerantz, Secretary
Rita Wollmering
Claudia Woods
Wayne Amaral, ex officio

September 2021

V. APPENDIX

Written Comments to Questions 11 and 13

Question 11. Overall, do you think the Town should do more to protect the health and shared benefits of West Newbury's trees? If so, what would you recommend?

Question 13. Do you have any other comments or suggestions for the Tree Committee to consider?

PROPERTY DEVELOPMENT AND TREE CUTTING/PROTECTION

There is so much development in this town, it is incredibly disheartening to see beautiful forests and farmland turned into cheap looking model homes. I think the town needs to reduce the amount of development that happens on otherwise undeveloped lots and prioritize protecting open spaces and forest land.

Guidelines for cutting of trees on property and for construction.

Enhance tree protection and planting requirements in subdivision and site plan review regs.

This is a beautiful landscape and too much development will destroy the reasons why we chose to live in this community.

The woodlands are what make West Newbury beautiful and unique. I cringe every time I see a new development/home being built - there are so many homes that could be fixed up on land that is already developed; to cut down the woods for new homes is an atrocity.

When people buy property, they chop down too many trees and there is too much development going on.

There should be a moratorium on development. There has been way too much building in West Newbury.

Prevent clear cutting during development.

Make development more difficult and less common.

A tree bylaw prohibiting removal of trees from property unless diseased, damaged or pose a significant risk of injury.

Mitigating major risks (disease, development).

West Newbury's forests are being whittled away in a number of areas by sequential developments, and the cumulative impact is negative for the Town's character and landscape as well as contiguous wildlife habitat and other ecological functions. In addition to land acquisition and securing conservation restrictions, and managing/planting trees on public property, I believe that the Town must take a significantly stronger stand in actively regulating the removal vs. protection of forests on private land. The Town's shared character is dependent on all of the forests on private land. Eventually the publicly protected trees and forests will be "islands" within a larger sea of subdivisions and developments, as can be seen in other Greater Boston communities that were once significantly forested, unless more is done to alter the trajectory of clearing more and more over the years. New more active bylaws and review and enforcement mechanisms are needed. There will be some who will be opposed to this approach due to a focus on private property rights, cost, complexity, etc., but the financial value of our

private property in West Newbury is significantly dependent and based on the overall character, quality, and desirability of this community. We will be able to maintain, enhance, and protect the property rights of the majority of us by applying a much stronger hand in reviewing and regulating individual developments that will otherwise shave our forests away year by year.

Focus on minimizing tree loss due to development.

More stringent rules and oversight of developers. (2)

I am concerned of clearcutting trees for development. I hope the town can put into law that during construction that trees would be taken into consideration as they develop the property.

Construction rule making site plan to include tree plan with a minimum ratio of trees removed to be replaced with new trees say 50%.

Good luck with this it is very important not to allow developers to drastically change the landscape. I think Newton has a rule of one to one to cut trees and the replacement must be the same diameter as the cut trees. Just because it is easier to clear cut a lot does not mean it should be allowed.

While the town needs to continue to develop itself it needs to take every possible precaution with preserving our trees. For me, our wildlife sets us apart from other local areas. Having a member or representative involved with permitting and construction activities would be helpful. Also, a "Tree Fund" would be a great way of helping the town replace any trees lost.

NATIVE TREES

I think it is vital that only native trees are planted and those with the highest pollinator value such as oaks for example. Doug Tallamy has more listed on-line and in his publications. When tree seedlings are given away, they must be native seedlings. Although the Dawn Redwood is a beautiful tree, it is not native and does not support native pollinators. It has little to no value in natural ecosystems and every yard should support pollinators and birds.

Develop and provide a species preferred plan with annual publication along with the trash pickup calendar.

Offer webinars about our native trees, their importance, and how to protect them.

We need to start replacing Norway Maples with native maples.

The tree committee should work on developing and publishing a listing of tree species that residents should consider planting, in anticipation of climate change / northward progression of warmer growing zones and likely loss of existing native trees due to disease and insect damage. Focus should be on native trees currently with low prevalence due to our latitude being toward the northern extreme of their climate range, but which climate warming will make more suitable. Much as we may be dismayed, climate change is real and we should help nature adapt as much as possible.

I think working with Wild and Native West Newbury to remove invasive species that contribute to tree damage and ensuring that trees being replanted or preserved are native to the area should be a priority.

Guide townspeople about the most appropriate native trees to plant.

CONTROL OF INVASIVES AND TREE DISEASE

Get rid of invasive such that are choking trees, e.g., corner of Chase and Middle streets.

Show people how to manage invasive species like strangler vine.

Have a vine (bittersweet?) control program.

I am extremely concerned about Japanese knotweed that is creeping into the waterways and woodlands and would like to help the town mitigate the problem before it becomes unmanageable - there is still hope if we act now.

I am concerned about the bittersweet and black locust that appears to be taking over a lot of West Newbury.

Removing the thick vines that are choking the trees to death on many streets (Middle St., Crane Neck Road, etc.).

Funding, support for fighting invasive pest damage to trees.

A list of what trees/shrubs NOT to plant would be nice, so we don't introduce invasive/damaging species. Is there an initiative to reduce the amounts of harmful plants/vines/shrubs along trails and public spaces (like poison ivy, Virginia creeper, buckthorn, etc.)?

A resource for finding out which tree species that are common in WN are beneficial and which species are invasive/harmful (shrubs, too) would be helpful when weeding/pruning our yards.

Focus on damage from invasives (plants & insects).

Educate us on the biological threats and how to fend them off.

Please eradicate the poison ivy and bittersweet, especially along the sides of roads. These invasive vines strangle trees and can pull them down and they are hazardous to most people.

PLANTING AND PROTECTING TREES

Planting more trees than we lose every year.

Develop a budget for plantings and conservation.

Adopt a plan for maintenance and care of the Town's trees. This would be facilitated through a line item in the Town budget.

Plant many trees on side streets as well as on Main Street.

It would be great if the town put more of an emphasis on tree protection and perhaps could tie it in with other "green" initiatives to keep the idea pertinent and help make protecting our trees part of WN town culture.

I was uncertain about the canopy of trees along Main Street -- I love the idea but also worry about potential impact on power lines, electric and cable service, etc.

Protect really beautiful copper beech, oak and maple trees.

Develop a group of volunteers who can plant and advise on the care of trees for residents on their property (hard time digging the hole).

How to protect trees from tree killing insects.

Planting more fruit trees in certain areas to promote edible landscaping. (2)

Support or promote organizations that plant memorial or special occasion trees as a gift option

Increase funds for protected land (i.e., Essex Greenbelt).

Plant trees that future generations can enjoy, like a sugarbush of maples, street canopies, etc.

The town should do more to protect the trees that make West Newbury unique and beautiful. I recommend doing everything stated in questions 4 and 7.

Plant trees and giveaway trees.

Plant more trees along roadsides, especially Main St and Maple St.

Enforce tree cutting along the riverfront.

Inspect trees by sectors in the town every few years for damage or diseases.

Simply do all that is necessary to protect the natural beauty and beneficial rewards of well cared for trees.

Manage trees that are damaged, replant.

Protect a greater number of trees.

Organize a volunteer event to plant new trees on town property.

Important to make people aware that it isn't just about trees, but all the species, including us, that depend on them and how makes the planet healthy. Newburyport has had city-wide tree planting for decades and we need to, as well.

West Newbury does not need to do more – West Newbury's forests are all new, a function of the decrease in farming in West Newbury. Look at the pictures from 1900 – West Newbury was all fields.

Offer to consult with homeowners to improve tree variety and planting on their own property.

I don't think we should pay extra for this (planting). I would like to see more pruning and culling of dead trees. Our town used to be all fields and open. In the year 2021, we have mostly trees covering the town in comparison to the former fields. We do not need a program to plant more trees. Our trees currently re-seed and forests grow naturally. I think any program to plant new trees would be a waste of money and fiscally irresponsible.

GENERAL COMMENTS RELATED TO TREE COMMITTEE

Thank you, i.e., for your efforts, work, and tree stewardship. (9)

Follow the recommendations of the tree committee.

You seem to have a wide range of very good ideas --keep going!

Now that I know the tree committee has a website. I will definitely check it out.

I think you are an invaluable asset, and you are doing much to educate us all. I'm grateful you are here now, and I'm hopeful you will continue to "speak for our trees."

Would the tree committee have anyone who would advise on tree management in private properties?

Happy there is now a tree committee in town. (2)

I love the old photos of my family home with the two gorgeous elms out front that died from Dutch Elm disease - thank you for your efforts.

I wish I had time to join such a committee, but I don't. I am so glad that our town has you.

They should respond to the question of the right of way on Rt. 113 for National Grid Tree cutting.

I am pleased with what they do, so please continue.

I would support committee in ways I can.

Tree Committee should partner with the Open Space Committee for tree education on public trail walks. Tree Committee is hard to get an answer from; no response to emails.

Love that this committee exists and listens to residents.

Contact homeowners with explanations and suggestions.

This committee has had a great start and already doing valuable work.

The Tree Committee should weigh in on open space purchased with CPA funds. Developers clear cut forest for housing and then put in non-native species and usually dwarf size.

Provide an arborist to answer tree questions for West Newbury citizens? How to deal with disease, etc.

OTHER

Education for the residents. (4)

Silviculture is a topic not known to many, but proper forest management is essential for healthy forests. I would love to see our town help educate landowners about forest management.

I'd also like to see the town work with woodworkers so that when trees do need to get cut down, they go to artisans who will respect the lumber rather than seeing it all chipped or burned.

Implement educational programs about trees and their history in West Newbury for all ages.

We should have an appointed 'tree warden' as most towns do; I believe that 'trees' are now under the supervision of our DPW director; he has too much to do already.

Maybe teach residents how to tap maple trees for syrup, or what to do with fruit or seeds from trees that can be harvested.

Survey is flawed. Question 7 offers no option other than encroaching on rights of landowners/taxpayers. Suggest you add "None of the above " option.

Regular awareness-raising like the recent tree walk co-sponsored with ACES are great ways to get more public consciousness of trees and tree benefits.

Supporting programs of education (schools and the general public) regarding trees (benefits, care, planting).

Fund town curb side pickup and or chipping of downed tree limbs and branches after severe storms on all roadways particularly in residential areas. Restore free-to-residents wood chip pile at Pipestave Hill. If necessary, consider appropriate treatment to mitigate risk of spreading ash borer beetles.

Increasing public/protected land, finding more conservation land easements with local property owners.

Keep trees not maintained by property owners trimmed to avoid storm and electrical damage.

Continuing public awareness efforts both for public and at schools.

Many dead trees on power lines. Need to go around and cut many trees. Many fallen branches during storms and it's dangerous.

Cut dead tree branches on Main Street and side streets near power lines. They are everywhere.

Limit development of multiple usage housing, like condos where the impact is greater than single family homes.

Require major restrictions on pesticide use and lawn watering for all residential and commercial properties.

I think education is most important. Teaching our youth to respect and appreciate the nature around us. Perhaps cleanup/restoration efforts to help improve conditions.

We have been West Newbury residents for only a short time and have no tree complaints yet. Trees give life and personality to a community or street. On our hikes we have noticed many blow downs and wonder if it is end of life or disease that resulted in fallen trees.

Overall, I think the careless clearcutting of our old growth hardwoods and trees with particular value that aren't a nuisance is sad and absurd. That being said, I understand that trees can be dangerous and ultimately it should be the property owner's decision. However, I believe that many people don't see the value and resources that trees can provide.

NO MORE ACTION NEEDED

No more action. (2)

The Highway Department should keep an eye out for damage to trees in WN.

Town Manager

From: Town Manager
Sent: Tuesday, September 28, 2021 12:43 PM
To: Shirin Everett
Cc: Timothy D. Zessin, Esq. [REDACTED]
Subject: RE: Add'l question(s) re Cortland Lane, West Newbury

Hi Shirin,

I wanted to check in to see if you'll have time to look into the issue below so I can update the Select Board at their upcoming 10/4 mtg. In addition to below, another abutter (the owner of the house northwest of the cul-de-sac, and immediately abutting the "L" to the north) has raised concerns re the proposal to construct 2 off-street spaces within the ROW. We, along with Greenbelt, met with him and his spouse on site yesterday.

If you'd like to pencil in a call to talk over the issues and what legal advice we're seeking, I have some time available late this afternoon, off and on tomorrow, and Thursday afternoon.

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: Town Manager
Sent: Tuesday, September 21, 2021 10:56 AM
To: Shirin Everett [REDACTED]
Cc: Timothy D. Zessin, Esq. [REDACTED]
Subject: Add'l question(s) re Cortland Lane, West Newbury

Shirin,

As you know, Cortland Lane is now accepted as a public way.

The layout (specifically, the "L" past the cul-de-sac) abuts land that the Town has voted to protect (via CR) in partnership with Essex County Greenbelt. (The layout of the land to be protected, which is under agreement but not yet closed, is shown on page 25 [here](#)).

Throughout the planning process last winter/spring/summer, the Town and Greenbelt have envisioned the end of Cortland Lane as the primary "trailhead" to the network of walking paths, and has envisioned the creation of 2-3 parking spaces to serve this location. Last night, the Board took up the question of whether to approve, in concept, the creation of parking spaces in this location, with the expectation that they would probably be located within the "L" just off the cul-de-sac. Multiple site visits have been held, and neighbors have been kept apprised.

The Board did vote 3-0 last night to "approve potential creation of a 2-space parking lot off Cortland Lane with 1 on-street handicapped space, if deemed compliant by the ADA Coordinator, to be undertaken after definitive survey to determine property lines." Their intent is that the handicapped space would be on the cul-de-sac, if allowable, and if not allowable (and if the handicapped spot takes one of the 2 off-street space) then there would be a third spot on the paved area.

Most of the discussion arose in response to concerns raised by an abutting landowner, who objected to the creation of the parking with the right-of-way, and has raised concerns that this could affect his rights and reduce his property value. He sent follow-up written correspondence this morning, which I have forwarded below.

Going back to my Town Planner days, I don't believe that construction of parking would in any way affect abutting property owners' rights. However, I wanted to bring this situation to you for review, and ask for your advice as to any concerns this may raise if the Town and Greenbelt were to go forward and construct parking in this location.

Perhaps it may be advisable, if it looks like the Town's final intent for this "L" will be for it to provide pedestrian – not vehicular – access, and limited parking, would be to discontinue the "L" through further vote of Town Meeting?

Thanks,
Angus

-----Original Message-----

From: Albert Ting [REDACTED]
Sent: Tuesday, September 21, 2021 9:29 AM
To: Town Manager [REDACTED]
Subject: Cortland Ln parking for Greenbelt

Hi Angus,

I wanted to follow up on the discussion last night regarding the Cortland Lane Parking for Greenbelt. I feel strongly that placing the parking lot directly on and obstructing the public way would eliminate access to the back acreage of our property via Cortland Lane and affect the value of our property. (The back acreage is now bounded by a ravine/stream and conservation restricted lands on the other boundaries. By eliminating our frontage on Cortland Lane via permanent obstacle, that portion will be land locked).

As all of Cortland Lane was accepted as a public way, I do have questions if the town/Greenbelt can place a parking lot in the middle of a public way. While parking can be permitted on the sides of a public way, a parking lot obstructing use of a public way does not seem correct.

Also, a quick look at case law on mass.gov, an abutter of a paper street, accepted as public way, has the right to use the public way in its entirety.

> A rescript opinion from the Appeals Court in Brennan v. DeCosta, 24 Mass. App. Ct. 968 (1987) arose in the context of a paper street and a dispute among neighbors abutting on the paper street as to who had the rights to use it. The Court stated "as a general rule, the title of persons who acquire land bounded by a street or way runs to the center line of the way, G.L. c.183, §58, and carries with it the right to use the way along its entire length. Goldstein v. Beal, 317 Mass. 750, 755 (1945). Casella v. Sneierson, 325 Mass. 85, 89 (1949). Murphy v. Mart Realty of Brockton, Inc., 348 Mass. 675, 677- 678 (1965). The rule is applicable even if the way is not physically in existence, so long as it is contemplated and sufficiently designated. Id. at 968.

I'm interested in what the Town Council's opinion is on placement of the parking lot, and will follow up with our real estate attorney as well.

If the Town's decision is to locate the parking on Cortland Lane, my preference is on street parking or parking that is off of the public way.

I would welcome the opportunity to further discuss this with you.

Thank you,

Albert

Albert Ting



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

Town Manager

From: David connors [REDACTED]
Sent: Friday, October 1, 2021 4:04 PM
To: Town Manager
Cc: DPW Director; Paul Botto; John Neal; Lynn Connors
Subject: Re: Coffin St Conservation Area Parking

Angus,

We'd like to formally request a reconsideration of the decision to install a parking lot at the entrance of the green belt hiking trail on Cortland lane. The current plans show the placement of a 2 car parking lot adjacent to our and our neighbors front yard. The installation of the parking lot will completely change the view that we bought the property for and ultimately devalue our properties. Being new residents to the town of West Newbury we'd like to impress upon the board our discontent with the current plans for the parking lot. The precedent set forth by the town in similar entrance ways do not require parking lots. The solution to provide parking in the existing over sized cul de sac seems like the appropriate course of action. This solution allows for parking for the trail goers, does not require the displacement of trees and will keep the integrity/value of our properties as purchased. This ultimately satisfies all the taxpayers in the community.

Please let us know what can be done remedy this situation

Regards
David Connors
[REDACTED]

On Sep 22, 2021, at 6:10 PM, Town Manager <townmanager@wnewbury.org> wrote:

9am Monday is confirmed, we'll meet at the Cortland cul-de-sac then. Thanks, all!

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: David connors [REDACTED]
Sent: Wednesday, September 22, 2021 3:56 PM
To: Vanessa Johnson-Hall [REDACTED]
Cc: DPW Director <dpwdirector@wnewbury.org>; Paul Botto [REDACTED] Rick Parker <rparker@wnewbury.org>; John Neal [REDACTED]; Town Manager <townmanager@wnewbury.org>; Mike Carbone [REDACTED]
Subject: Re: Coffin St Conservation Area Parking

9 am works for me.

On Sep 22, 2021, at 3:27 PM, Vanessa Johnson-Hall [REDACTED] wrote:

How's Monday at 9am?

I invited Greenbelt's Assistant Director of Stewardship Mike Carbone (copied) to also attend.

Vanessa

On Wed, Sep 22, 2021 at 3:21 PM David connors [REDACTED] wrote:

Hello

Monday would work best for me. I am flexible on start time but have a hard stop at 10:30 for a work commitment.

On Sep 22, 2021, at 11:04 AM, Town Manager

<townmanager@wnewbury.org> wrote:

Hi,

It sounds like a meeting on site would be worthwhile. Our Select Board Chair Rock Parker can be available next Monday or Wednesday before 10am. Vanessa, DPW Director Wayne Amaral, and I are also all available on those times.

David, would either of those days work for you, and if so what time is good?

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

Sent from my mobile device

On Sep 21, 2021, at 5:09 PM, David connors

[REDACTED] wrote:

Hello Vanessa,
I am available most mornings before 10 am. I just moved here and spent a substantial amount of money to live in a cul de sac with out a parking lot in front of my home. I don't understand the decision when ample parking is located on coffin or the circle but happy to meet to hear your perspective.

Best Regards
David Connors

On Sep 21, 2021, at 4:24 PM, Vanessa Johnson-Hall [REDACTED] wrote:

Hi David,

I'd be happy to set up a meeting with you, W Newbury DPW Director, and Angus Jennings (copied) to discuss the Town's installation of a 2-car, graveled parking area just off of Cortland Lane, which will be a trailhead for a trail connecting to the Coffin Street Conservation Project area. If you could give us some times you're available during the week, we'll be glad to meet you on-site. Please also feel free to call me.

Best regards,
Vanessa

Vanessa Johnson-Hall
Assistant Director of Land Conservation
Essex County Greenbelt Association
P.O. Box 1026
82 Eastern Avenue
Essex, MA 01929



www.ecga.org



----- Forwarded message -----

From: **John Neal**

[REDACTED]
Date: Tue, Sep 21, 2021 at 4:05 PM
Subject: Re: Coffin St Conservation
Area Parking
To: Vanessa Johnson-Hall

[REDACTED]
Cc: Angus Jennings
<townmanager@wnewbury.org>,
DPW Director
<dpwdirector@wnewbury.org>

Hi Vanessa,

Thank you for the update. What was the opposition toward marking spaces for on-street parking in the cul de sac? I was supposed to hear back from the survey company this week, but have not yet heard from them. I know they are busy. I will follow up with them soon. It's going to cost \$1,200 to have my property surveyed, which I wasn't planning on doing until I spoke to Land Tech when they were here dropping those APEX markers down... I know Dave Connors will also most likely have to have his property re surveyed as well. Hoping we can use the same company.

I did have a chance to catch up with Dave Connors (neighbor at [REDACTED] [REDACTED])... He has a lot more questions and would like the opportunity to discuss plans in more detail which is understandable as this project will mostly impact his current property situation. Overall, he's not happy about it, especially just having moved here in July.

During the site visit I know Paul and I were OK with either option... If one of these options absolutely 100% has to happen then it is what it is.... I think the biggest thing is really the practicality of putting two off-street parking spots and a trail head at the end of a dead end cul de sac. The reality of people driving down Cortland Lane to park and hike I feel is slim.

Here is Dave's contact info:

email: [REDACTED]

Thank you,
John

On Tue, Sep 21, 2021 at 3:45 PM

Vanessa Johnson-Hall

[REDACTED] wrote:

Hi John,

The Select Board voted to move forward with creating off-street parking on Cortland Lane, pending completion of surveys by you and your neighbor at 15 Cortland Lane confirming where your respective corners meet Cortland Lane on the cul-de-sac. Do you have an idea of when your survey will be completed?

I have not heard from your neighbor at 15 Cortland. Did you happen to update them on the site meeting we had, and did they offer you any feedback? If you are comfortable sharing their contact information with me, I can reach out to them.

Thank you,
Vanessa



Coffin Street Conservation Project

Proposed Conservation Area

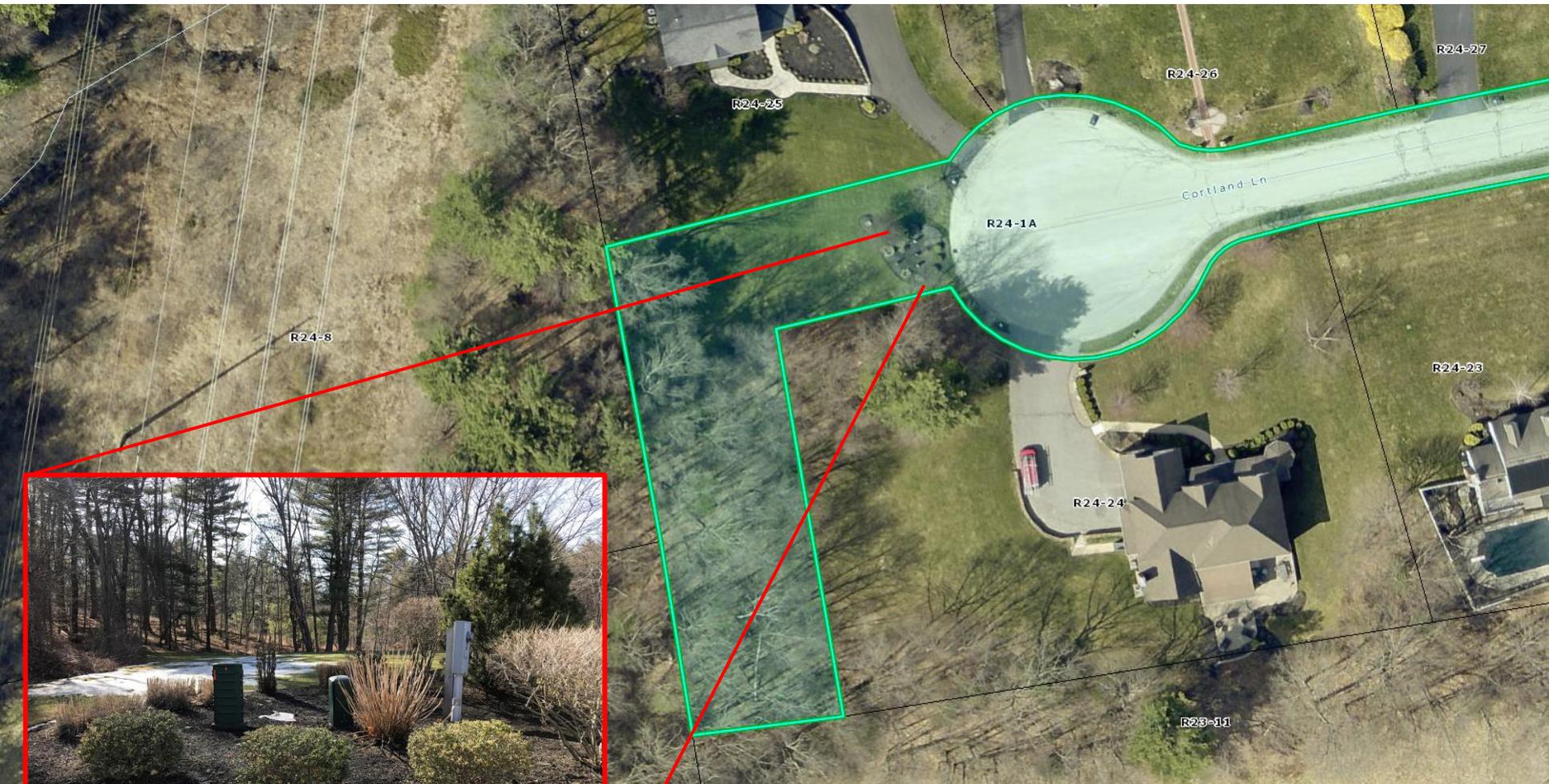
West Newbury

50 Acres

- Proposed Public Conservation Area
 - Proposed Private Open Space & Public Trails
 - Existing Protected Land
 - Water
 - Wetlands
 - Stream
 - Road
 - Existing Trails
 - Proposed Trails
 - Trail Option B
 - P Potential Parking (Only one area will be created)
- *CR = Conservation Restriction



Source data obtained from the Office of Geographic Information Systems (Mass GIS), survey plans, and global positioning systems (GPS). Boundaries are approximate. Map produced by Essex County Greenbelt Association, 2021



R24-8

R24-25

R24-26

R24-27

R24-1A

Cortland Ln

R24-23

R24-24

R23-11



50
326 (11 pgs.)

PLAN BOOK 326 PLAN 50
ESSEX REGISTER OF DEEDS, SO. DIST.
RECEIVED
JUNE 19, 1998
with APPLICANT, Town of
West Newbury, and
Rec. B. 14889 P. 502
Attest:
J. J. Gorman
Register of Deeds
(11 pgs.)

FOR REGISTRY USE ONLY
I HEREBY CERTIFY THAT THIS PLAN
CONFORMS WITH THE RULES AND
REGULATIONS OF THE REGISTER OF DEEDS
Brian S. Korman

TOWN OF
WEST NEWBURY
PLANNING BOARD
Chad Lewis
Ruthie Fisher
Shirley L. Kniffin
William C. ...

JUNE 3, 1998
DATE

I CERTIFY THAT 20 DAYS HAVE ELAPSED SINCE
PLANNING BOARD APPROVAL AND AN APPEAL
WAS FILED IN THIS OFFICE IN THE CASE OF
PHILLIPS v. KNOWLES, et al., ESSEX SUPERIOR
COURT CASE No. 97-144-C, AND THAT A
STIPULATION OF DISMISSAL WAS FILED WITH THE
ESSEX SUPERIOR COURT ON JUNE 3, 1998 AND
THAT THE STIPULATION OF DISMISSAL WAS FILED
WITH THIS OFFICE ON JUNE 3, 1998
Margaret ...
TOWN CLERK
JUNE 3, 1998
DATE

APPROVED _____ SUBJECT TO
COVENANT CONDITIONS SET FORTH IN
A COVENANT
EXECUTED BY: _____
DATED: _____
AND TO BE RECORDED HEREWITH



Brian S. Korman 5/26/98
MASSACHUSETTS PROFESSIONAL LAND SURVEYOR #39689

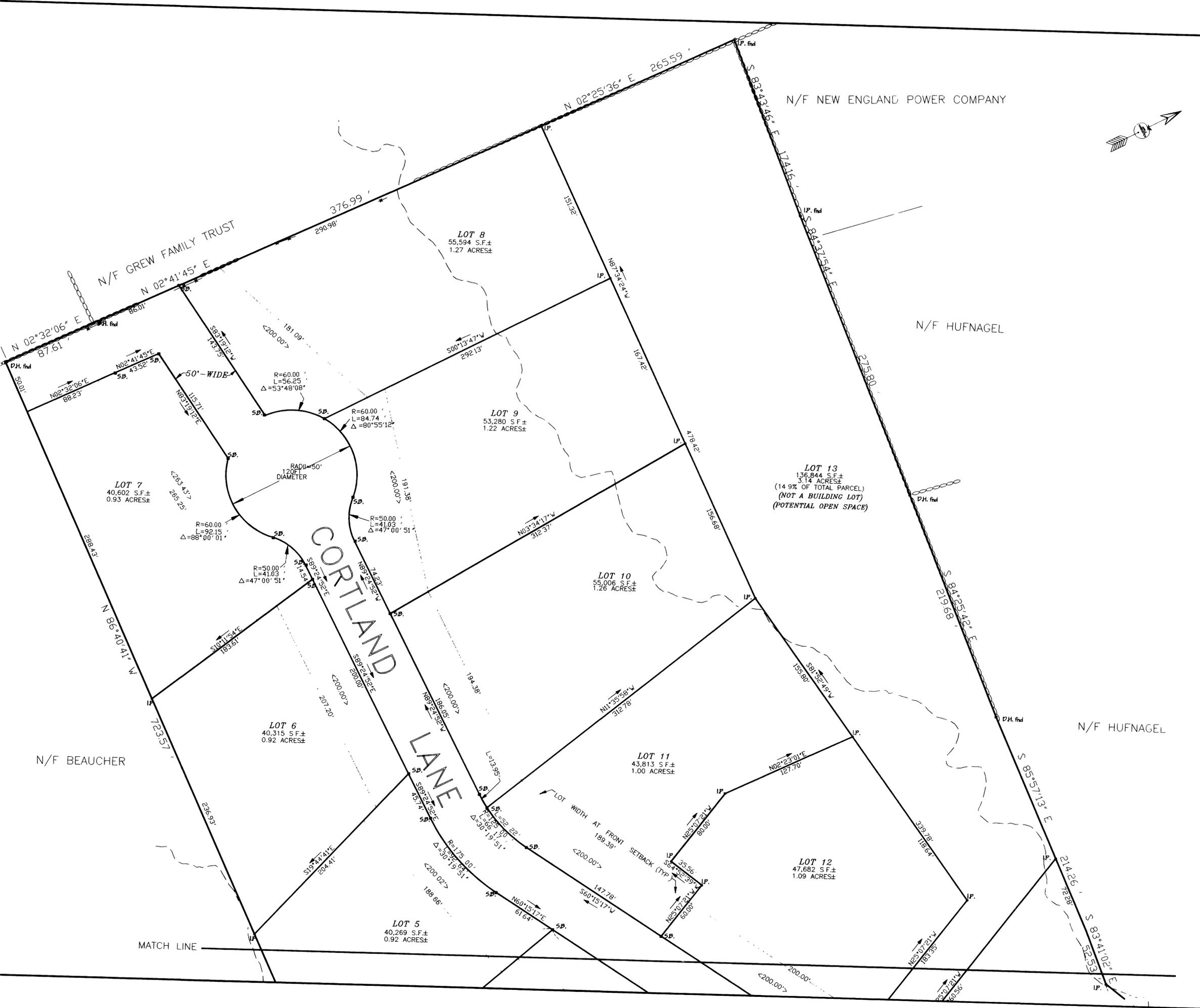
Scale 1" = 40 ft

DEFINITIVE SUBDIVISION PLAN
OF
APPLEWOOD FARM
IN
WEST NEWBURY, MA
SURVEY PLAN 2 of 2

SCALE AS NOTED	REVISIONS:	DESIGN BY: WGC
DATE 5/8/97	5/23/97	DRAWN BY: DCC
SHEET 5 OF 11	6/5/97	CHECKED BY: BSK
DWG #SP-97-20 05		APPROVED BY: BJB

APPLICANT: APPLEWOOD FARM REALTY TRUST
P.O. BOX 445
NEWBURYPORT, MA 01950
OWNER: MARIANA A. MORSE
72 COFFIN SREET
WEST NEWBURY, MA 01985

APPIE ASSOCIATES, INC.
74 Storey Avenue, Newburyport, MA 01950 (508) 463-0333





C

Town of West Newbury

Select Board

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

Public Hearing Notice

Amendment to the Personnel Policy

Monday, October 4, 2021 @ 7pm

On September 7, 2021, the Select Board proposed an amendment to the Personnel Policy. 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 revision to Sec. 7.3 of the Personnel Policy, the Qualified Part-Time Holiday Pay Policy (proposed deletions in ~~strike through~~ and proposed additions in double underlined):

Current:

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work. Qualified part-time employees will be given holiday pay for all holidays, based on the number of hours in their regular scheduled work week divided by forty (40). For example, a qualified part-time employee whose regular scheduled work week is twenty-four hours will be paid holiday pay for all holidays at the rate of 60% of their salary for an eight-hour day.

Proposed:

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work without loss of pay. ~~Qualified part-time employees will be given holiday pay for all holidays, based on the number of hours in their regular scheduled work week divided by forty (40). For example, a qualified part-time employee whose regular scheduled work week is twenty-four hours will be paid holiday pay for all holidays at the rate of 60% of their salary for an eight-hour day.~~

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

381 Main Street

West Newbury, Massachusetts 01985

Angus Jennings, Town Manager

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

townmanager@wnewbury.org

TO: Select Board
FROM: Angus Jennings, Town Manager
DATE: August 26, 2021
RE: Potential amendments to Personnel Policy re QPT holiday pay

In response to my outreach to Qualified Part-Time personnel¹ (attached), I recommend the Board propose the following amendments to the existing policy for consideration at a public hearing on a future agenda:

Current:

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work. Qualified part-time employees will be given holiday pay for all holidays, based on the number of hours in their regular scheduled work week divided by forty (40). For example, a qualified part-time employee whose regular scheduled work week is twenty-four hours will be paid holiday pay for all holidays at the rate of 60% of their salary for an eight-hour day.

Suggested:

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work without loss of pay. ~~Qualified part-time employees will be given holiday pay for all holidays, based on the number of hours in their regular scheduled work week divided by forty (40). For example, a qualified part-time employee whose regular scheduled work week is twenty-four hours will be paid holiday pay for all holidays at the rate of 60% of their salary for an eight-hour day.~~

The above is intended to reflect the input received from one QPT on 8/16/21, as follows:

“I think the easiest way to make this fair and clear is to get rid of this policy all together. If anyone works on a holiday they should get paid... if a holiday falls on a day they are not scheduled to work you do not get paid.. how easy and fair is that. Thank you for asking for feedback and I hope we can all agree on a better policy.”

The input above was copied to other QPT employees on the initial distribution and, in response, several other employees expressed agreement with this sentiment.

As background, I have provided minutes from the 2014 vote adopting the current policy, and a related memo from Mike McCarron from that era.

¹ Defined in Personnel Policy as ““Qualified part-time employee,” a part-time employee working at least twenty (20) hours per week for 52 weeks per year.”

I feel vacation should be paid for whatever hours you would normally work on the particular day. For instance, for a Monday holiday, I would be paid for 7 hours.

Here are my feelings about being paid for a holiday on a day when one does not work, i.e. Thursdays for me. I think if the town offers a specific number of paid holidays to every employee who is 20+ hours, then you have to offer those holidays to everyone. If the policy changes, and states that holiday pay is only offered on days employees are scheduled to work, then that is another story.

Pro-rating for vacation/personal/sick seems not to make sense. I feel an employee should have whatever their daily hours are for a personal day, whatever their weekly hours are for vacation and sick.

Personally, I have never gotten paid for holidays that fall on days I don't work. Even then, holidays rarely fall on the day I'm not scheduled to work (which is Friday). For that reason, I would prefer to be paid my full hours for holidays that fall on days I'm scheduled to work. The way it is set up now, I only get paid 5.6 hours for holidays and need to make up the 1.4 hours somewhere else during the week.

I was also hoping the town would look into our personal time. I work 4 days at 7 hours a day, so 28 hours total. For my one personal "day" I am given 5.6 hours - not a full 7.

Source: Corinn Flaherty, on behalf of QPT Library personnel, Aug 30, 2021

Town Manager

From: Town Manager
Sent: Thursday, August 12, 2021 9:06 PM
To: Leah Zambarnardi (lzambarnardi@wnewbury.org); WNWater; Joan Croteau; Jane Krafton; Assistant Assessor; Annie Sterling (residents.admin@wnewbury.org); Susan Curry; Corinn Flaherty
Cc: Town Accountant; Kaitlin Gilbert (treasurer@wnewbury.org); Jennifer Walsh (finance.admin@wnewbury.org)
Subject: Review of Personnel Policy re holiday pay for Qualified Part-Time employees

Hi,

As you know, our Personnel Policy defines Qualified Part-Time (QPT) employees as those “working at least twenty (20) hours per week for 52 weeks per year.” I am writing to each of you whose jobs fit in this category (and to Corinn, with the request that you share it with those QPT employees on your staff).

The Personnel Policy Sec. 7.3 addresses holiday pay for QPT employees, and reads as follows:

Current Policy:

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work. Qualified part-time employees will be given holiday pay for all holidays, based on the number of hours in their regular scheduled work week divided by forty (40). For example, a qualified part-time employee whose regular scheduled work week is twenty-four hours will be paid holiday pay for all holidays at the rate of 60% of their salary for an eight-hour day.

My office is aware that this policy is disliked (or worse) by some, and we’re also aware that it has been a challenge (for staff and for the Finance Dept) to administer this policy consistently. For instance, we’ll sometimes see timesheets showing hours for holidays that don’t align with the math in the policy, or at other times we’ll see timesheets that omit holidays that fall on days the employee isn’t normally scheduled to work (even though those days should be paid as holidays, on a prorated basis).

I’ve brought this concern to the Select Board, and my office with Finance staff would like to bring the Board recommendations on how we can make this policy clearer (and better). For reference, and for those of you who have joined the organization more recently, I am providing as a reference the prior policy that was in effect before the Board’s adoption of the current (above) policy in July 2014:

Former Policy in effect until July 2014:

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work without loss of pay. If a qualified part-time employee is not scheduled to work on a holiday, he or she will be excused from work without loss of pay on an alternate day to be designated, with the approval of the department manager.

At an upcoming Board meeting (either Monday, Aug 30 or, if it doesn’t come together by then, Tuesday, Sept 7), I’d like to bring recommended revisions to the Board for consideration. As you know, once the Board decides to propose revisions to the Personnel Policy, the proposed revisions would be advertised for at least 10 days and considered at a public hearing. The near-term goal is to get them language that makes sense, which they can then refer for hearing and adoption.

This is an invitation for you (and Corinn, for your QPT staff) to provide suggestions on what you think would be a fair and clear policy on this topic. My office will take all feedback into account, and share it with the Board (though unless you specify otherwise, would share staff input anonymously). Please send any comments/suggestions to me, Stephanie

and/or Jenny. If you would prefer to remain anonymous in your comments, you could leave unattributed written comments in the Finance Dept mailbox.

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

TOWN COUNSEL MEMO

CONFIDENTIAL

RECEIVED
SEP 19 2014
BY: *Kalyle*

TO: Board of Selectmen
FROM: Michael P. McCarron
SUBJECT: Holiday Pay 2014
DATE: September 18, 2014
CC:

This is a confidential communication subject to the attorney client privilege. This communication is exempt from disclosure pursuant to the Public Records Act.

Following up the discussion with the holiday pay, here is a short outline of the voted on policy and scenarios. I have also included some policy promoted by some of the Town Employees.

VOTED ON POLICY:

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work. Qualified part-time employees will be given holiday pay for all holidays, based on the number of hours in their regular number divided by 40. In other words, a qualified part-time employee who regularly works 24 hours per week will be paid holiday pay for all holidays at 60% of their normal pay rate.

My interpretation of this is that all qualified part time employees will be paid for eleven holidays based on their average work schedule. So an employee who works Monday, Tuesday, Wednesday and Thursday, 5.0 hours per day would be entitled to 4.0 hours of holiday pay for each holiday (50% of an average 40 hour week). Now if the holiday fell on Monday, then the employee would earn 19 hours for that week, 4 for the holiday pay and 15 for the other regularly scheduled hours. If another employee worked Tuesday, Wednesday, Thursday and Friday for five hours each day, then for that employee when a holiday fell on Monday, he would be entitled to 24 hours of pay that week, 4 for the holiday pay and 20 for the regularly scheduled hours.

In order for this system to function, it is necessary to determine the average number of hours per employee per week. This could prove problematic for qualified part time employees who work differing schedules throughout the year, ie. Library employees

who work fewer hours in the summer or part time dispatch or police who may work more in the summer.

OTHER POLICY CONSIDERATIONS

In a meeting with the Finance Director, certain Town employees advocated retention of what they considered to be the current policy.

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work. Qualified part-time employees will be given holiday pay for those days that they are regularly scheduled to work, based upon their scheduled hours. In other words, if a qualified part-time employee's regular scheduled Monday hours were 5, and a holiday fell on a Monday, then the qualified part-time employee would be paid for 5 hours.

This policy would keep the weekly pay of qualified part-time employees at a constant. Using the examples cited above, for the employee who worked Monday thru Thursday would be paid for 20 hours on a Monday holiday week, while the person who worked Tuesday thru Friday would also be paid 20 hours on a Monday holiday week. Some employees calculated that under the policy put in place by the Selectmen, they would lose a day's pay over the course of the year. While that may not sound like much, that factored with the increase in health insurance costs could negate this year's raise. The recommendation is driven by the fact that most qualified part time employees work on Monday and of the 11 holidays, six are guaranteed to occur on Monday (Obviously, this is fact specific since in FY 2016 three of the holidays will occur or be observed on a Friday (Christmas, New Year's and July 4th) it is likely that the Adopted Policy would be more generous.) .



Town of West Newbury

Select Board

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

Public Hearing Notice

Amendment to the Personnel Policy

Monday, October 4, 2021 @ 7pm

On September 20, 2021, 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 create, within Section 2.0 Recruitment and Hiring, a new sub-section 2.2.1, as follows:

2.2.1 Internal Hiring Policy.

Current Town employees are encouraged to apply for open positions and will be given first preference before recruiting externally. This will be accomplished by posting the notice internally for five days prior to advertising or posting externally. Any interested employee should notify the department manager of their interest. If an employee has the stated minimum qualifications or ability to be trained to perform the duties without unduly burdening the department, they will be formally interviewed and given full consideration.

And to further amend Sec. 4.3, Employee development and training, as follows:

The Board shall foster and promote programs of training for employees when appropriate to improve the quality of services provided by the Town and to help employees develop skills needed for career development. Appointing authorities and department managers shall identify effective sources of training and provide resources to allow designated employees to pursue training opportunities. Town employees interested in transferring to other departments or promotions within their current department should be encouraged to seek training and professional development that will make them eligible for consideration when such openings arise.

And to further amend the Appendix A, Affirmative Action Plan, sub-section "Responsibilities for Affirmative Action," as follows:

~~Whenever possible, a current minority or female employee shall be upgraded before a position is filled from outside.~~

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 PLANNING BOARD

Tuesday, October 5, 2021 7:00 p.m.

AGENDA

by Remote Participation (see below)

1. Review of Draft Stormwater Bylaw and Regulations with Alex Weisheit, KP Law and Jennifer Hughes, MVPC
2. General Business:
 - Updates
 - Correspondence
 - Minutes
 - Administrative Details
 - Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting

The Planning Board reserves the right to take Agenda items out of order.

Addendum to Meeting Notice Regarding Remote Participation

"Pursuant to Chapter 20 of the Acts of 2021, An Act Extending Certain COVID - 19 Measures Adopted During the State of Emergency, this meeting of the West Newbury Planning Board will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at www.wnewbury.org. For this meeting, members of the public who wish to view and/or listen to the meeting may do so by logging in to the website or by calling the telephone number listed below.

Zoom Meeting Instructions:

Phone: 1+(646) 558-8656

Video Link: <https://us06web.zoom.us/j/85757777457?pwd=M1pacHptd3NVV3c3YkExcjRGMIVCUT09>

Meeting ID: 857 5777 7457

Passcode: 132122

No in-person attendance of members of the public will be permitted, but 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, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.

Town Manager

From: Leah Zambernardi
Sent: Wednesday, September 22, 2021 1:45 PM
To: Stein Robin
Cc: Town Manager
Subject: Fwd: Availability for 10/4 Select Board mtg?
Attachments: Draft Stormwater Rules and Regulations_Sept 2021_CLEAN.docx; DRAFT West Newbury Stormwater Bylaw Draft Sept 2021.docx

Hi Robin, Please see the amended bylaw (the Select Board decided to go town-wide with this), and the draft rules and regulations. The Building Inspector, DPW and I need to work out the sections that are or may be within our jurisdictions. For me, I have changes I'd like to make to the permitting process - I.e. does the PB have to have a public hearing on applications that aren't part of a larger subdivision or site plan development (not to be answered now - just an example. I think you indicated that you can, but is your office able to send comments back in time for the October 5th PB meeting?

Sent from my iPhone

Begin forwarded message:

From: Jennifer Hughes [REDACTED]
Date: September 22, 2021 at 12:09:40 PM EDT
To: Town Manager <townmanager@wnewbury.org>
Cc: DPW Director <dpwdirector@wnewbury.org>, Leah Zambernardi <lzambernardi@wnewbury.org>, Building Inspector <building.inspector@wnewbury.org>, Conservation <conservation@wnewbury.org>, Paul Sevigny <psevigny@wnewbury.org>
Subject: RE: Availability for 10/4 Select Board mtg?

Hi Angus,

I have made the change to the bylaw and reviewed to be sure there were no other references to the MS4 area. I have also cleaned up the regulations although there are some areas that still require discussion. Please see both documents attached. Should we set up another meeting for early October?

Jennifer Hughes

Environmental Program Manager
Merrimack Valley Planning Commission
160 Main Street, Haverhill, MA 01830
[REDACTED]

From: Town Manager <townmanager@wnewbury.org>
Sent: Tuesday, September 21, 2021 2:25 PM
To: Jennifer Hughes [REDACTED]
Cc: dpwdirector@wnewbury.org; Leah Zambernardi <lzambernardi@wnewbury.org>; Building Inspector <building.inspector@wnewbury.org>; Conservation <conservation@wnewbury.org>; psevigny@wnewbury.org
Subject: RE: Availability for 10/4 Select Board mtg?

Jen,

As part of the Select Board's vote to recommend adoption of the Bylaw, they specified that they would like it to apply town-wide (not just within the urbanized area). Therefore I believe the redlined language we were looking at last Thursday in Sec. 6.B. would become moot. There may be other language changes in the Bylaw to reflect this, do you have time to look at that?

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: Jennifer Hughes [REDACTED]
Sent: Monday, September 20, 2021 9:59 PM
To: Town Manager <townmanager@wnewbury.org>
Cc: DPW Director <dpwdirector@wnewbury.org>; Leah Zambarnardi <lzambarnardi@wnewbury.org>; Building Inspector <building.inspector@wnewbury.org>; Conservation <conservation@wnewbury.org>; Paul Sevigny <psevigny@wnewbury.org>
Subject: RE: Availability for 10/4 Select Board mtg?

Hi Angus,

I can be there on 10/4. The MS4 permit only addresses ground disturbance. There are no requirements related to tree canopy.

I am still cleaning up the regulations and should have them ready for circulation tomorrow.

Jennifer Hughes

Environmental Program Manager
Merrimack Valley Planning Commission
160 Main Street, Haverhill, MA 01830



From: Town Manager <townmanager@wnewbury.org>
Sent: Monday, September 20, 2021 9:45 PM
To: Jennifer Hughes [REDACTED]
Cc: dpwdirector@wnewbury.org; Leah Zambarnardi <lzambarnardi@wnewbury.org>; Building Inspector <building.inspector@wnewbury.org>; Conservation <conservation@wnewbury.org>; psevigny@wnewbury.org
Subject: Availability for 10/4 Select Board mtg?

Hi Jen, the Select Board voted tonight to favorably recommend the proposed stormwater bylaw, but continued to have questions (such as regarding definition of disturbance, whether land area disturbed is based on ground or tree canopy) that I wasn't able to totally answer. Would you have availability to

“zoom” into a portion of the Board’s next mtg on 10/4, to help with public education re this proposed bylaw? If not, perhaps we could get a memo into their packet to help clarify things. Please let me know, 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

Sent from mobile device

Town Manager

From: Alex Weisheit [REDACTED]
Sent: Monday, September 27, 2021 10:28 AM
To: Robin Stein; Town Manager; Jennifer Hughes
Cc: Leah Zambarnardi
Subject: RE: Draft Stormwater Regulations
Attachments: KP-#781308-v1-WNWB_Planning_Bd_-_53G1_2_Rule.DOCX; KP-#780970-v1-WNWB_Stormwater_Management_Regulations_-_KP_Edits.DOCX; KP-#780948-v1-WNWB_Stormwater_Bylaw_-_KP_Edits.DOCX; KP-#780935-v1-STHM_Stormwater_Bylaw_-_AG_Comments.PDF

CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

All:

Attached please find updated versions of the proposed Stormwater Management Bylaw and Regulations with edits and comments in red-line format. I have also attached for the Planning Board's consideration a Rule to establish a special account for surety pursuant to G.L. c. 44, Section 53G1/2. Some of my proposed comments and edits are based on the attached recent decision of the Attorney General's Municipal Law Unit regarding a similar proposed stormwater management bylaw for the Town of Southampton. I look forward to discussing these issues with the Board on October 5th. In the meantime, I am happy to answer any questions. Thank you.

-Alex

A. Alexander Weisheit, Esq.

KP | LAW

101 Arch Street, 12th Floor
Boston, MA 02110

[REDACTED]
[REDACTED]
[REDACTED]
www.k-plaw.com

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 attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

From: Robin Stein [REDACTED]
Sent: Thursday, September 23, 2021 3:15 PM
To: Town Manager <townmanager@wnewbury.org>; Jennifer Hughes [REDACTED] Alex Weisheit [REDACTED]
Cc: Leah Zambarnardi <lzambarnardi@wnewbury.org>
Subject: RE: Draft Stormwater Regulations

Angus:

I am looping in my colleague, Alex Weisheit, who is reviewing the drafts so that he can respond with his availability for October 5.

Thank you.

-Robin

Robin Stein, Esq.

KP | LAW

101 Arch Street, 12th Floor
Boston, MA 02110

www.k-plaw.com

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 attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

From: Town Manager <townmanager@wnewbury.org>

Sent: Thursday, September 23, 2021 3:08 PM

To: Jennifer Hughes [REDACTED]; Robin Stein [REDACTED]

Cc: Leah Zambernardi <lzambernardi@wnewbury.org>

Subject: Draft Stormwater Regulations

Hi Jen, Robin,

This email is partially to “virtually” introduce you to one another. Robin: Jen is our consultant through Merrimack Valley Planning Commission, and is helping us with the stormwater bylaw and regs. Jen: Robin is our dedicated land use counsel with KP Law, and has reviewed and provided comments on the draft stormwater bylaw, and will do the same with the draft Regs once they’re far enough along.

Leah is hoping that you both can be available to attend (via zoom) the Planning Board’s Oct 5th (7pm) mtg, at which the draft Regs would be discussed. She has left for the day so I offered to reach out to hopefully get this on your calendars. If you are not available, please let Leah know. If you are, note that the zoom link will be included on the PB agenda to be posted to the Town website late the prior week.

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

Town of West Newbury
DRAFT Stormwater Management -Bylaw
DATE

ARTICLE I – GENERAL PROVISIONS

Section 1. Purpose and Objective

- A. The purpose of this Bylaw is to protect public health, safety, general welfare, and environment by controlling the adverse effects of construction site stormwater runoff and post-construction runoff. Stormwater runoff can be a major cause of:
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater and drinking water supplies;
 - (2) Contamination of drinking water supplies;
 - (3) Contamination of downstream coastal areas;
 - (4) Alteration or destruction of aquatic and wildlife habitat;
 - (5) Overloading or clogging of municipal stormwater management systems; and
 - (6) Flooding.
- B. The objectives of this Bylaw are to:
- (1) Protect water resources;
 - (2) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements;
 - (3) Prevent and reduce pollutants from entering the Town of West Newbury’s municipal separate storm sewer system (MS4);
 - (4) Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
 - (5) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed are maintained, and pose no threat to public safety; and
 - (6) Recognize the Town of West Newbury’s legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.

Section 2. Definitions

Unless a different definition is indicated in other sections of this Bylaw, the following definitions and provisions shall apply throughout this Bylaw. Additional definitions may be adopted by separate regulation:

ALTERATION: Any activity that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC): A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of [an existing](#) use, usually involving construction.

DISTURBANCE: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of the ground surface to absorb waters; removes trees or vegetation; clears or grades land; or results in an alteration of drainage characteristics.

[EROSION AND SEDIMENT CONTROL PLAN:](#) [A document containing narrative, drawings and details—developed by a qualified professional engineer \(PE\) or a certified professional in erosion and sedimentation control \(CPESC\) — that includes best management practices or equivalent measures designed to control surface runoff, erosion, and sedimentation during construction and construction-related land disturbance activities.](#)

IMPERVIOUS COVER: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious [Surface cover](#) includes without limitation roads, paved parking lots, sidewalks, and rooftops.

INFEASIBLE: Means not technologically possible, or not economically practicable and achievable in light of best industry practices.

INFILTRATION: The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The latest version, as may be amended from time to time, of the Stormwater Management Standards and accompanying Stormwater Handbook issued by the Department of Environmental Protection pursuant to authority under the Wetlands Protection Act, [M.G.L. c. 131, § 40](#), and the Massachusetts Clean Waters Act, [M.G.L. c. 21, §§ 26 through 53](#). The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, [310 CMR 10.05\(6\)\(k\)](#), and the Water Quality Certification Regulations, [314 CMR 9.06\(6\)\(a\)](#).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater,

including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of West Newbury.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency (EPA) or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

NPDES PHASE II REGULATED AREA: The area within West Newbury identified by EPA as “Designated MS4 Area” under the NPDES Phase II Stormwater Program.

NONPOINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and man-made pollutants finally depositing them into a water resource area.

NEW DEVELOPMENT: Any construction activities or land alteration resulting in earth disturbance on an area that has not previously been developed to include impervious cover.

NORMAL MAINTENANCE: Activities that are regularly scheduled to maintain the health and condition of a landscaped area. Examples include removal of weeds or invasive species, pruning, mowing, raking, and other activities that are done at regular intervals within the course of a year.

OPERATION AND MAINTENANCE PLAN: A plan that defines the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

PERSON: 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.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POST-DEVELOPMENT: The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project

PRE-DEVELOPMENT: The conditions that exist prior to the proposed disturbance activity. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites. The creation of new areas of impervious surface or new areas of land

disturbance on a site constitutes new development, not redevelopment, even where such activities are part of a common plan which also involves redevelopment. Redevelopment includes maintenance and improvement of existing roadways including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems and repaving; and remedial projects specifically designed to provide improved stormwater management such as projects to separate storm drains and sanitary recharge and stormwater retrofit projects.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of Sediment.

SITE: Any lot or parcel of land or area of property where Land-Disturbing or Development Activities are, were, or will be performed.

STORMWATER AUTHORITY: Town of West Newbury Planning Board or the board, commission, or its agent, designated [by the Planning Board](#) to administer and enforce this Bylaw.

STORMWATER: Runoff from precipitation or snow melt and surface water runoff and drainage.

STORMWATER MANAGEMENT: The use of structural or nonstructural practices that are designed to control or treat stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater management includes the use of low-impact development (LID) management practices.

STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the [PGA Stormwater Authority](#), after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

TOTAL MAXIMUM DAILY LOAD or TMDL: the greatest amount of a pollutant that a water body can accept and still meet water quality standards for protecting public health and maintaining the designated beneficial uses of those waters for drinking, swimming, recreation, and fishing. A TMDL is also a plan, adopted under the Clean Water Act, specifying how much of a specific pollutant can come from various sources, including stormwater discharges, and identifies strategies for reducing the pollutant discharges from these sources so as not to violate Massachusetts surface water quality standards. (314 CMR 4.00, *et seq.*)

TOTAL SUSPENDED SOLIDS OR TSS: Undissolved organic or inorganic particles in water.

Section 3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Massachusetts home rule statutes, the regulations of the Federal Clean Water Act, 40 CFR 122.34, and as authorized by the residents of the Town of West Newbury at Town Meeting dated (insert date).

Section 4. Responsibility for administration

Stormwater Authority shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon Stormwater Authority may be delegated in writing by Stormwater

Authority to its employees or agents.

Section 5. Applicability

- A. This Bylaw shall be applicable to any alteration, disturbance, including clearing, grading, excavation, development, or redevelopment that will disturb land surface area equal to or greater than 1 acre (43,560 s.f.).
- B. This Bylaw shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly controlled persons or entities) as of the effective date of this Bylaw, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds established in the West Newbury Stormwater Bylaw and are not exempted by Section 6, ~~and then~~ no such activity shall commence until a permit under this Bylaw has been issued. A development shall not be segmented or phased in a manner to avoid compliance with this Bylaw.

Section 6. Exemptions

- A. Any activity which will disturb or alter land areas below the thresholds ~~stipulated-described~~ in Section 5-A above.
- B. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations, 310 CMR 10.04 and G.L.c. 40A, § 3.
- C. Any work or projects for which all necessary approvals and permits, including building permits, have been issued before the effective date of this Bylaw.
- D. Normal maintenance of existing lawn, landscaping or garden areas.
- E. Construction of any fence that will not alter existing terrain or drainage patterns.
- F. Construction of utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) other than drainage which will not alter terrain, ground cover, or drainage patterns, provided that appropriate BMPs are used to prevent erosion, sedimentation and release of pollutants.
- G. Emergency repairs to any existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) or emergency repairs to any stormwater management facility that poses a threat to public health or safety as determined by the Stormwater Authority/~~PGA~~; ~~Where~~ Where such work is subject to the jurisdiction of the Conservation Commission, the work shall not proceed without the issuance of an Emergency Certification by the Commission ~~(WPA reference)~~; pursuant to 310 CMR 10.06.
- H. The maintenance or resurfacing (not including reconstruction) of any public or private way.
- I. The repair or replacement of an existing and lawfully located driveway servicing not more than two dwelling units (see definition of dwelling unit in the Town's Zoning Bylaw) provided that all work remains within the existing limits of the existing driveway, erosion control measures are utilized to prevent runoff and sediment from entering a traveled way or adjacent properties, and all surfaces are permanently stabilized within 14 days of final grade.

Section 7. Regulations

- A. The Stormwater Authority ~~shall~~may adopt within one (1) year, and may periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures, and administration of this Stormwater Management Bylaw by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. Failure of the Stormwater Authority to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this Bylaw.
- B. Stormwater Management regulations, rules or guidance shall identify requirements for Stormwater Management Permits required by this Bylaw and not inconsistent with the most recent Small Municipal Separate Sewer System General Permit (MS4).

Section 8. Enforcement

The Stormwater Authority or its authorized agent shall enforce this Bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil ~~and criminal~~ remedies for such violations.

- A. Civil relief. If a person violates the provisions of this Bylaw, regulations, permit, notice, or order issued there under, the Stormwater Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation(s).
- B. Orders.
 - (1) If the Stormwater Authority determines that a person's failure to follow the requirements of a Stormwater Management Permit and/or the related Erosion and Sedimentation Control Plan, and/or Operations and Maintenance Plan and/or any other authorization issued pursuant to this Bylaw or regulations issued hereunder, then the Stormwater Authority may issue a written order to the person to remediate the non-compliance and/or any adverse impact caused by it, which may include:
 - (a) A requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw and provisions of the Stormwater Management Permit and/or other authorization;
 - (b) Maintenance, installation or performance of additional erosion and sediment control measures;
 - (c) Monitoring, analyses, and reporting;
 - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity; and/or
 - (e) A requirement to eliminate discharges, directly or indirectly, into a watercourse or into the waters of the Commonwealth.

- (2) If the Stormwater Authority or its authorized agent determines that abatement or remediation of ~~contamination~~ any adverse impacts caused by the permit holder is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of West Newbury may, at its option, pursue a Court Order allowing the Town to undertake such work, and expenses thereof shall be charged to the violator pursuant to G.L. c. 40, §58.
- (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by **the Town of West Newbury**, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment/municipal charge against the property owner and shall constitute a lien on the owner's property for the amount of said costs pursuant to G.L. c 40, §58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59, § 57 after the 31st day at which the costs first become due.
- C. Noncriminal disposition. As an alternative to ~~criminal prosecution or civil~~ a civil action, **the Town of West Newbury** may elect to utilize the noncriminal disposition procedure set forth in M.G.L. c. 40, § 21D in which case the agent of the Stormwater Authority shall be the enforcing person. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violation~~s~~ shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Entry to perform duties under this Bylaw. To the extent permitted by local, state, or federal law, or if authorized by the owner or other party in control of the property, the Stormwater Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Authority deems reasonably necessary.
- E. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be appealed to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

Commented [AW1]: We recommend that no Town Official ever enter privately owned property without the written permission of the owner or a court order allowing such access.

Section 8. Severability

The provisions of this Bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

ARTICLE II– STORMWATER MANAGEMENT PERMITS

Section 1. Applicability

No person may undertake a construction activity or land disturbance, including clearing, grading, excavation or redevelopment that will disturb equal to or greater than 1 acre without a Stormwater Management Permit approved by a majority ~~of the~~ Stormwater Authority ~~members~~ or as otherwise provided in this Bylaw.

Any person that fails to follow the requirements of a Stormwater Management Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan, or any Permit issued under the Stormwater Management Regulations shall be in violation of this Bylaw.

Section 2. Approval and/or Permit

A Stormwater Management Permit must be obtained prior to the commencement of Land Disturbing Activity or Redevelopment based on the thresholds established in this Bylaw. An applicant seeking an approval and/or permit shall file an appropriate application with the Stormwater Authority in a form and containing information as specified in this Bylaw and in regulations adopted by the Stormwater Authority.

Section 3. Consent to Entry onto Property

An applicant ~~consents~~ should consent to entry of Stormwater Authority or its authorized agents in or on the site to verify the information in the application and to inspect for compliance with Review or Permit conditions. Refusal to grant access may constitute grounds for denial of a Stormwater Management Permit.

Section 4. Inspection and Site Supervision

The Stormwater Authority or its designated agent shall make inspections as outlined in the Stormwater Management Regulations to verify and document compliance with the Stormwater Management Permit.

Section 5. Compliance with the provisions of EPA's General Permit for MS4s in Massachusetts

This Bylaw and its related Stormwater Management Regulations shall be implemented in accordance with the requirements of United States Environmental Protection Agency's most recent Massachusetts Small Municipal Separate Storm Sewer System (MS4s) General Permit relating to construction site runoff, and post-construction stormwater management, as well as the Massachusetts Wetlands Protection Act (WPA) and Regulations as may be amended. Where conflicts exist between the MS4 Permit and the WPA, the stricter shall prevail. The Stormwater Authority may establish additional requirements by regulation to further the purposes and objectives of this Bylaw so long as they are not less stringent than those in the MS4 General Permit for Massachusetts.

Section 6. Surety

The Stormwater Authority may require the applicant to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed

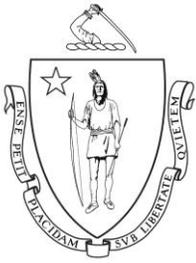
sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit.

Section 7. Final Reports

Upon completion of the work, the applicant shall submit a report (including certified as-built construction plans) from a Professional Engineer (P.E.), surveyor, or Certified Professional in Erosion and Sedimentation Control (CPESC), certifying that all BMPs, erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved Erosion and Sediment Control Plan and Stormwater Management Plan. The Stormwater Authority may, by regulation, require ongoing reporting to ensure long-term compliance, including, but not limited to, appropriate operation and maintenance of stormwater BMPs. Any discrepancies shall be noted in the cover letter.

Commented [AW2]: As written, in my opinion, these funds will need to be deposited into the Town's General Fund and subject to appropriation. The Town may wish to consider creating a special account for these funds pursuant to G.L. c. 44, Section 53G1/2. Please advise if you would like assistance preparing the regulation necessary to create this special account.

DRAFT



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
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WORCESTER, MA 01608

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September 21, 2021

Lucille A. Dalton, Town Clerk
Town of Southampton
210 College Highway Suite 2
Southampton, MA 01073

**Re: Southampton Annual Town Meeting of June 13, 2021 -- Case # 10224
Warrant Article # 12 (Zoning)
Warrant Articles # 2, 3, 5, 6, 7, 8, 9, 10 and 12 (General)**

Dear Ms. Dalton:

Articles 2, 3, 5, 6, 7, 8, 9, 10 and 12 - We approve Articles 2, 3, 5, 6, 7, 8, 9, 10 and 12 from the June 13, 2021 Southampton Annual Town Meeting. Our comments regarding Articles 6 and 12 are provided below.

Article 6 – Article 6 amends the general by-laws, Article XVII, “Fire Lands and Fire Hydrants” to make specific identified changes. One change adds a new Section 4, that provides:

It shall be unlawful for any person(s) to willfully open or tamper with any fire hydrant to cause damage and/or to allow water to flow on any public or private property in the Town of Southampton unless previously authorized to do so by the Water Department or Fire Chief. Each unauthorized opening/tampering of a hydrant shall constitute a separate offense; penalty shall not exceed \$200 per offense.

In certain circumstances, tampering with a fire hydrant could be a criminal offense under G.L. c. 268, § 32A which provides:

Whoever willfully obstructs, interferes with or hinders a fire fighter in the lawful performance of his duty, or whoever willfully obstructs, interferes with or hinders a fire fighting force in the lawful performance of its duty, shall be punished by a fine of not less than one hundred nor more than one thousand dollars or by imprisonment in a jail or house of correction for not less than thirty days nor more than two and one half years or by imprisonment in the state prison for not more than five years, or by both such fine and imprisonment in a jail or house of correction.

Before imposing any penalties for violations of Article XVII, Section 4, the Town should discuss with Town Counsel the principles of double jeopardy established under federal and state

law, to ensure that enforcement of a by-law violation (a lesser offense), doesn't foreclose prosecution of a potential criminal act, for example, under G.L. c. 268, 32A.

Article 12 – Article 12 amends both the Town's zoning and general by-laws regarding Stormwater by: (1) deleting from the zoning by-laws Section XIV, "Erosion and Sediment Control for Stormwater Management," in its entirety; and (2) inserting into the general by-laws a new Section XIV, "Stormwater Management & Erosion and Sediment Control" (Stormwater Management By-law").

The purpose and objectives of the new by-law include: (1) protecting, maintaining and enhancing the public health, safety and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff; (2) reducing the adverse water quality impacts of stormwater discharges; (3) preventing the discharge of pollutants into stormwater runoff; (4) minimizing damage to public and private property from flooding; and (5) bringing the Town into compliance with requirements of the NPDES general permit for stormwater discharges. Section A, "Purpose and Authority." We offer the following comments to the Town on the new Stormwater Management By-law.

A. Law Applicable to the New Stormwater Management Bylaw

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 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 Management Bylaw is part of the Town's efforts to effectively manage stormwater.

B. Comments on the New Stormwater Management Bylaw

1. Section B – Definitions

Section B defines the term "Person" as follows:

Person is any individual, group of individuals, entity, including an association, partnership, corporation, company, business, organization, trust, estate, administrative

agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof.

We approve the definition of “Person.” However, the Town’s authority to regulate state 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). The Town’s enforcement of the by-law cannot impermissibly interfere with the operation of state entities. The Town should discuss any questions regarding the proper application of the by-law with Town Counsel.

2. Section C – Applicability

Section C provides that prior to the issuance of a special permit, site plan approval or other development permit for certain proposed new developments or redevelopments, a stormwater management permit (or waiver of the need for a permit) must be approved by the Southampton Planning Board. This section of the by-law must be applied consistent with G.L. c. 40A, § 9 pertaining to special permits. General Laws Chapter 40A, Section 9 establishes the process for special permits applications and provides in pertinent part as follows:

Each application for a special permit shall be filed by the petitioner with the...town clerk and a copy of said application, including the date and time of filing certified by the...town clerk, shall be filed forthwith by the petitioner with the special permit granting authority. The special permit granting authority shall hold a public hearing, for which notice has been given as provided in section eleven, on any application for a special permit within sixty-five days from the date of filing of such application;...The decision of the special permit granting authority shall be made within ninety days following the date of such public hearing.

The Town should be mindful that notwithstanding the requirements of Section C that a project must obtain a stormwater permit prior to the issuance of a special permit, the filing of a special permit application begins the administrative clock in which the Special Permit Granting Authority must render a decision. Mark Bobrowski, *Handbook of Massachusetts Land Use and Planning Law*, § 10.03 (2003). If the Town fails to hold a public hearing on a special permit application within the time set forth under G.L. c. 40A, § 9, a special permit may be constructively approved. The Town may wish to discuss this issue in more detail with Town Counsel.

3. Section E – Administration

The by-law designates the Planning Board as the Stormwater Authority. See Section A (2). Section E (5) authorizes the Planning Board, as the Stormwater Authority, to establish a permit review fee schedule “based on the type and complexity of projects” in order to “cover the costs of permit administration for Stormwater Management Permits.” Any fee established must

be consistent with state law. A municipality may impose fees, but it “has no independent power of taxation.” Silva v. City of Attleboro, 454 Mass. 165, 169 (2009). In distinguishing valid fees from impermissible taxes, the Supreme Judicial Court has noted that fees tend to share the following common traits: (1) fees, unlike taxes, are charged in exchange for a particular governmental service which benefits the party paying the fee in a manner not shared by other members of society; (2) user fees (although not necessarily regulatory fees) are paid by choice, in that the party paying the fee has the option of not utilizing the governmental service and thereby avoiding the charge; and (3) fees are collected not to raise revenues but to compensate the governmental entity providing the services for its expenses. See Silva, 454 Mass. at 168 (citing Emerson College v. City of Boston, 391 Mass. 415, 424-25 (1984)). The Town should consult with Town Counsel to ensure that any fees established constitute valid fees rather than impermissible taxes.

4. Section F – Enforcement and Penalties

Section F (2)(f), “Notice of Violation” pertains to enforcement of the by-law. Specifically, it allows the Town to charge the property owner and violator for costs incurred by the Town to abate or remediate violations of the by-law. If the costs are not paid by the property owner and/or violator, then the costs “shall become a special assessment against the property owner and shall constitute a lien” on the property.

Betterments or special assessments are special property taxes assessed to recover costs of installing infrastructure or other public improvements that specifically benefit properties in a defined area. See G.L. c. 80 and c. 83. According to the Department of Revenue, Division of Local Services (DOR/DLS), an expense incurred by a Town to abate or remediate violations of a by-law is not a betterment or special assessment and cannot be added to the real estate tax for collection purposes as a betterment or special assessment. Absent express statutory authority, the Town cannot impose a “special assessment” for the costs incurred by the Town for remediating violations of the by-law.

Here, although Section F (2)(f) uses the term “special assessment,” it appears that the by-law contemplates a lien against the owner’s property, rather than adding such costs to a real estate tax bill. As such, the expenses incurred by the Town to abate or remediate violations of the by-law or permit may be considered a charge for purposes of G.L. c. 40, § 58, the municipal charges lien statute. However, in order for the Town to utilize the provisions of G.L. c. 40, § 58, the Town must either amend its by-law to specify that the costs will be a lien for purposes of G.L. c. 40, § 58, or take a separate vote authorizing the use of G.L. c. 40, § 58, for charges the Town may incur abating or remediating by-law violations. Before the Town charges any expenses or costs to the property owner, the Town should discuss these issues with Town Counsel.

5. Section G - Surety

Section G provides that the Stormwater Authority can require the applicant to post a surety before the start of land disturbance 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 G.

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 Michele Randazzo

**Town of West Newbury
Draft Stormwater Regulations
DATE**

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Section 1. Purpose

The purpose of these Stormwater Regulations is to protect, maintain and enhance public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased runoff, decreased ground water recharge, erosion and sedimentation, and nonpoint source pollution associated with new development and redevelopment of land, pursuant to the Town of West Newbury Stormwater Bylaw.

These Stormwater Regulations (Regulations) have been developed to provide reasonable guidance for the regulation of project design, construction, and post-development stormwater runoff, for the purpose of protecting local water resources from degradation. It is in the public interest to regulate construction and post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with construction site and post-development stormwater runoff.

Section 2. Definitions

A. All definitions provided in the Town of West Newbury Stormwater Management Bylaw shall apply to these Regulations. Terms not defined in the Bylaw are included below.

B. Additional definitions:

ABUTTER: The owner(s) of land adjacent to regulated activity. For the purpose of Stormwater Management Plans and Permit applications, the term “Abutters” includes abutters, owners of land directly opposite or across a public or private street or way, and abutters to the abutters within three hundred feet of the property line of the Applicant as they appear on the most recent applicable Tax List, including land in another city or town.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined or discrete discharge, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

AS-BUILT DRAWING: Drawings that completely record and document applicable aspects and features of conditions of a project following construction using Stormwater Management Plans derived from a Stormwater Management Permit.

CERTIFICATE OF COMPLETION (COC): A document issued by the Stormwater Authority after all construction activities have been completed and a final report has been submitted, which states that all conditions of an issued Stormwater Management Permit have been met and that a project has been completed in compliance with the conditions set forth in the permit.

CLEARING: Any activity that removes the vegetative surface cover of land.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and/or sanitary waste at a construction site that may adversely impact water quality.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

DRAINAGE EASEMENT: A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

ESTIMATED HABITAT OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools under the Wetlands Protection Act Regulations (310 CMR 10.00, *et seq.*) and the Forest Cutting Practices Act Regulations (304

CMR 11.00, *et seq.*).

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system or into a watercourse or the waters of the Commonwealth that is not composed entirely of stormwater. ¹

LAND USE WITH HIGHER POTENTIAL POLLUTANT LOAD (LUHPPL): Land uses such as auto salvage yards, auto fueling facilities, exterior fleet storage yards, vehicle service and equipment cleaning areas, commercial parking lots with high intensity use, road salt storage areas, outdoor storage and loading areas of hazardous substances, confined disposal facilities and disposal sites, marinas, boat yards or other uses as identified by the Massachusetts Stormwater Handbook.

LOT: A single area of land in one ownership, with definite boundaries, uses, or available for use, as the site of one or more buildings. An individual tract of land as shown on the current Assessor's Map for which an individual tax assessment is made. For the purposes of these regulations, a lot also refers to an area of a leasehold on a larger parcel of land, as defined in the lease agreement and shown by approximation on the Assessor's Map².

OUTFALL: The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into Waters of the Commonwealth.

PRE-CONSTRUCTION: All activity in preparation for construction.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works, watercourse or Waters of the Commonwealth. Pollutants include, but are not limited to:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes;
- G. Sewage, fecal coliform and pathogens;
- H. Dissolved and particulate metals;
- I. Animal wastes;
- J. Rock, sand, salt, soils;
- K. Construction wastes and residues; and
- L. Noxious or offensive matter of any kind.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act (M.G.L. c. 131A) and its regulations.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical

¹ See Board of Health Regulation: <https://www.wnewbury.org/board-public-health/files/prohibiting-illicit-connections-and-discharge>

² Check for consistency for definitions of "Lot" in Zoning and Subdivision Regs.

distance.

SOIL: Any earth, sand, rock, gravel, or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or minimize erosion.

STORMWATER AUTHORITY: Town of West Newbury Planning Board or its authorized agent(s).

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings, details and reporting requirements developed by a qualified professional engineer (PE), which describes structural and non-structural best management practices designed to control the discharge of pollutants from impervious surfaces and onsite activities as well as the volume and peak rate of surface runoff from a site on an ongoing basis after construction has been completed.

VERNAL POOLS: Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater and Waters of the United States as defined under the Federal Clean Water Act (33 U.S.C. § 1251, *et seq.*) as hereafter amended.

WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act G.L. c. 131, § 40.

Section 3. Authority

- A. The Stormwater Regulations have been adopted by the Stormwater Authority in accordance with the Town of West Newbury Stormwater Bylaw.
- B. The Stormwater Authority may periodically amend these regulations pursuant to Section 7 of the Stormwater bylaw and other relevant provisions of the General bylaws of the Town of West Newbury.
- C. Nothing in these Regulations is intended to replace or be in derogation of the requirements of the Town of West Newbury Zoning Bylaw, Subdivision Control Law or any other Town of West Newbury Bylaw or Rules and Regulations adopted thereunder.

Section 4. Administration

- A. The Planning Board, is designated as the Stormwater Authority under the Town of West Newbury Stormwater Bylaw and shall administer, implement and enforce these regulations. Any powers granted to or duties imposed upon the Stormwater Authority may be delegated in writing by the Stormwater Authority to its employees or agents including other town departments and staff.
- B. Waiver. Following a public hearing on a written waiver request, the Stormwater Authority may waive strict compliance with any requirement of these regulations, where such action is:
 - (1) allowed by federal, state, and local statutes and/or regulations;
 - (2) in the public interest; and
 - (3) not inconsistent with the purpose and intent of the Stormwater Management Bylaw.

Section 5. Applicability

- A. These Rules and Regulations apply to all projects or activities subject to the Applicability Section of the Town of West Newbury Stormwater Management Bylaw. Projects and/or activities within the jurisdiction of the Bylaw must obtain a Stormwater Management Permit (SMP) from the Planning Board or its designee in accordance with the permit procedures and requirements defined in Sections 4 through 9 of these Rules and Regulations.

No work on a project within the jurisdiction of the Bylaw may commence without written approval of the Planning Board or its designee, confirming that the project or activity is in compliance with the Design Standards of these Regulations. If work commences without approval, enforcement action and/or fines may be pursued.

- B. The following activities are exempt from the requirements of Section 5(A):
 - (1) All activities listed in Section 6 of the Bylaw;
 - (2) Disturbance of Land, New Development, or Redevelopment that is subject in its entirety to jurisdiction under the Massachusetts Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management **Standards and the Town of West Newbury** Stormwater Management Bylaw and Regulations as reflected in an Order of Conditions issued by the Conservation Commission. The entire project and construction activities and all Stormwater Management must be fully within the jurisdiction of the Conservation Commission.

- (3) A project that has been reviewed and definitively approved by the Planning Board under the Massachusetts Subdivision Control Law or the special permit provisions of the West Newbury Protective Zoning Bylaws, may be deemed as acceptable under the Stormwater Management Bylaw only if the entire project and construction activities, including all land disturbance, adhere fully and meet the requirements as specified in the Town of West Newbury Stormwater Management Bylaw and these regulations adopted under the Bylaw. The Planning Board's issued Definitive Subdivision Permit, Final Approved Plans, and/or applicable Special Permit and associated permit conditions must require compliance with the Stormwater Management Bylaw and these associated Regulations.

Section 6. Stormwater Management Permit and Procedure

- A. **Permit Required.** A permit must be obtained prior to the commencement of land disturbing activity that may result in the disturbance of an area of one acre or more, or activities that are part of a larger common plan of Development disturbing one acre or more. A Stormwater Management Permit must be obtained prior to applying for a building, grading, or other local development permit.
- B. **Application.** A completed application for a Stormwater Management Permit shall be filed with the Planning Board. The Stormwater Management Permit Application package shall include:
 - (1) A completed Application Form with original signatures of all property owners;
 - (2) A list of abutters within 300 feet of the property, certified by the Town of West Newbury Assessors Office;
 - (3) Three (3) copies each of the
 - (a) Stormwater Management Plan;
 - (b) Erosion and Sediment Control Plan;
 - (c) Operation and Maintenance Plan;
 - (4) Payment of the application and review fees; and
 - (5) One (1) copy each of the Application Form and the list of abutters filed with the Town Clerk.
- C. **Information Requests.** The applicant shall submit all additional information requested by the Stormwater Authority to issue a decision on the application.
- D. **Determination of Completeness:** The Stormwater Authority or its agent shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application is determined complete.
- E. **Fee Structure.** Each application must be accompanied by the appropriate application fee as established by the Stormwater Authority and may be subject to an additional consultant fee as authorized in section F below..
- F. **Employment of Outside Technical Consultants.** In accordance with M.G.L. c. 44, §53G, as amended, the Planning Board may impose project review fees for those applications which require the services of outside consultants for the review process due to the size, complexity, or scale of a proposed project; the need for additional expertise in the review; inspection services, or because of the potential impacts of a

project. The Board may engage engineers, or other appropriate professionals to perform a peer review at the applicant's expense.

- (1) Fee Payment. The Planning Board shall determine the amount of the initial deposit to be made and the amount of any additional funds that may be required during the review process. The applicant shall pay such fees to the Town of West Newbury and such fees shall be deposited in a special account with the Town.
- (2) The Planning Board shall notify the Applicant in writing of its selection of a consultant prior to engaging the services of a consultant. See Section (6) below for Administrative Appeals.
- (3) Expenditure of Fees. Outside consultants retained by the Planning Board shall be paid from this special account. The expenditure of said fees shall be at the direction of the Planning Board, without further appropriation. Said fees are to be expended only in connection with services rendered for the specific project for which the fees were collected.
- (4) Excess Fees. After completion of the Planning Board's review of a project, any excess fee amount, including interest, shall be refunded to the applicant or the applicant's successor in interest and a final report of said account shall be made available to the applicant or applicant's successor in interest.
- (5) Failure to Pay Fee. Failure to pay a Review Fee by the applicant shall be grounds for disapproval of the subject Application.
- (6) Administrative Appeals. The choice of a consultant selected by the Planning Board for the review of an application may be appealed in writing to the Board of Selectmen by the applicant, provided such appeal is initiated within two weeks of the date of issuance of the Board's written notification of selection of the consultant. The Board of Selectmen shall hold a public hearing on any such appeal within thirty (30) days of receipt of the appeal. The potential grounds for such an appeal could include, without limitation, claims that the consultant:
 - a) has a conflict of interest; or
 - b) does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three years of practice in the field at issue or a related field.
 - c) The required time limits for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal.
 - d) In the event that no decision is made by the Board of Selectmen within one month following the filing of an Administrative Appeal, the selection made by the Planning Board shall stand.
- (7) W-9 Form. The Applicant shall be responsible for filing a completed W-9 Form with the Planning Board in order to facilitate the opening of the consultant fee account.

- G. Entry. When filing an application for a permit, the applicant should grant the Stormwater Authority or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions. Refusal to grant access may be grounds for denial of the permit.

- H. Other Boards. The Stormwater Authority shall notify the Town Clerk of receipt of the application, and shall provide an electronic copy of the application package to the Conservation Commission, Board of Health, Department of Public Works, and the Building Department.
- I. Public Hearing. Stormwater Authority shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the time of the close of the public hearing unless such time is extended by agreement between the applicant and Stormwater Authority. Notice of the initial public hearing shall be by publication, posting and by first-class mailings to abutters at least seven (7) days prior to the hearing. Stormwater Authority shall make the application available for inspection at Town Hall by the public during business hours.

The Stormwater Authority may advertise/hold public hearings on the Stormwater Management Permit Application concurrent with other permit application(s) for which the applicant may be required to appear before the Stormwater Authority (i.e. Subdivision, Special Permit).

- J. Action by the Stormwater Authority. The Stormwater Authority may:
 - (1) Approve the Stormwater Management Permit Application and issue a permit if it finds that the proposed plan will protect water resources, not cause or contribute to a violation of State Water Quality Standards, and meets the objectives and requirements of the Town of West Newbury Stormwater Bylaw and related regulations;
 - (2) Approve the Stormwater Management Permit Application and issue a permit with conditions, modifications or restrictions that the Stormwater Authority determines are required to ensure that the project will protect water resources and meets the objectives and requirements of the Town of West Newbury Stormwater Bylaw and related regulations;
 - (3) Disapprove the Stormwater Management Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of the Town of West Newbury Stormwater Bylaw and related regulations; or
 - (4) Disapprove the Stormwater Management Permit Application “without prejudice” where an applicant fails to provide requested additional information or review fees that in the Stormwater Authority’s opinion are needed to adequately describe or review the proposed project.
- K. Final Approval. Final approval, if granted, shall be endorsed on the Stormwater Management Permit by the signature of the majority of the Stormwater Authority (or by the signature of the person officially authorized by the Stormwater Authority).
- L. Project Changes. The permittee, or their agent, must notify the Stormwater Authority in writing of any proposed change or alteration of a land-disturbing activity authorized in a Stormwater Management Permit before any change or alteration occurs. If the Stormwater Authority determines that the change or alteration is significant, based on the design requirements listed in Section 8(E) and accepted construction practices, the Stormwater Authority may require that an amended Stormwater Management Permit application be filed and a public

hearing be held. If any change or alteration from the Stormwater Management Permit occurs during any land disturbing activities, the Stormwater Authority may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

Section 7. Stormwater Management Plan for Permit Applications

- A. The application for a Stormwater Management Permit shall include a Stormwater Management Plan. The Stormwater Management Plan shall contain sufficient information for the Stormwater Authority to evaluate the environmental impact, effectiveness, and acceptability of the site planning process and the measures proposed by the applicant to reduce adverse impacts from stormwater runoff during construction, and post-construction in the long-term.
- B. The Stormwater Management Plan shall fully describe the project in narrative, drawings, and calculations. It shall at a minimum include:
 - (1) Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected;
 - (2) Narrative describing:
 - (a) Purpose;
 - (b) Methodologies and assumptions;
 - (c) Existing and proposed uses and conditions;
 - (d) Project impacts and mitigation techniques including:
 - i. Summary of proposed land area to be cleared, proposed impervious area, work within proximity of regulated wetland resource area(s), aquifer protection zones, earthwork within 4 feet of seasonal high groundwater elevations, and other sensitive environmental areas;
 - ii. Low Impact Development (LID) techniques considered for this project and an explanation as to why they were included or excluded from the project;
 - iii. Proposed best management practices;
 - iv. Identifying the immediate down gradient waterbody(s) that stormwater runoff from the project site discharges to, EPA's waterbody assessment and TMDL and/or impairment status of the waterbody(s), and the LIDs and BMP's included in the project to address the pollutant(s) of concern;
 - (e) Summary of pre- and post-development peak rates and volumes of stormwater runoff demonstrating no adverse impacts to down-gradient properties, stormwater management systems and wetland resources; and
 - (f) Conclusions
 - (3) Plans

- (a) Portion of the USGS Map indicating the site locus and properties within a minimum of 500 feet of project property line;
 - (b) Existing conditions and proposed design plans showing:
 - i. Buildings and/or structures including materials, approximate height;
 - ii. Utilities including size, material and invert data; and
 - iii. Regulated wetland resource areas within proximity of the site
 - (c) Stormwater management design plan(s) and details showing:
 - i. Location, size, material, inverts data and details for all existing and proposed stormwater management system components including structures, pipes, swales, detention, retention, and infiltration systems and any other Low Impact Development techniques or BMPs;
 - ii. Profiles of drainage trunk lines; and
 - iii. Drainage easements;
 - (d) Separate Pre- and Post- Condition Watershed Plans indicating:
 - i. Structures, pavements, surface vegetation and other ground cover materials;
 - ii. Topography sufficient to delineate watershed areas;
 - iii. Point(s) of analysis;
 - iv. Watershed areas including upgradient areas that contribute stormwater flow onto the project site, labeled to be easily identified in calculations. Total pre and post watershed areas should be equivalent;
 - v. Breakdown summary of various surface conditions by soil hydrologic group rating; and
 - vi. Flow path for time of concentration (Tc) calculation.
- (4) Calculations
- (a) Hydrologic calculation to determine pre and post peak rates and volumes of stormwater runoff for 2-, 10-, 25- and 100-year 24-hour storm events;
 - (b) Groundwater recharge calculations and BMP drawdown (time to empty);
 - (c) Water quality calculations including (if applicable):
 - i. TSS removal calculation for each watershed;
 - ii. Specific BMPs utilized in critical areas;
 - iii. Specific BMPs utilized for land uses of higher potential pollutant loads; and

- iv. Specific treatment for pollutant causing impairment of down-gradient waterbody identified by U.S. Environmental Protection Agency and Massachusetts Department of Environmental Protection.
 - (d) Hydraulic calculations to size drainage pipes, swales and culverts; and
 - (e) Supplemental calculations for sizing LID and BMPs and addressing impairments to water bodies.
 - (5) Soil mapping and test data;
 - (6) Massachusetts Department of Environmental Protection Checklist for Stormwater Report completed, stamped and signed by a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts to certify that the Stormwater Management Plan is in accordance with the criteria established in the Massachusetts Stormwater Management Standards, Town of West Newbury Stormwater Management bylaw and these regulations; and
 - (7) Any other information requested by the Stormwater Authority.
- C. General Performance Standards for All Sites.
- (1) Low Impact Development (LID) and Green Infrastructure (GI) site design strategies shall be utilized to preserve existing natural features of the site, minimize the creation of impervious surfaces and manage stormwater in a decentralized fashion, unless infeasible.
 - (2) The selection, design and construction of all pre-treatment, treatment and infiltration BMPs shall be in accordance with the Massachusetts Stormwater Handbook and shall be consistent with all elements of the Massachusetts Stormwater Standards including but not limited to those regarding new stormwater conveyances, peak runoff rates, recharge, land uses with higher potential pollutant loads, discharges to Zone II or interim wellhead protection areas, sediment and erosion control, and illicit discharges.
 - (3) Stormwater management systems on new development sites shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site and 60% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site. Average annual pollutant removal requirements shall be achieved through one of the following methods:
 - (a) Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved

- BMP design guidance or performance standards (see Massachusetts Stormwater Handbook and design guidance manuals) may be used to calculate BMP performance; or
- (b) Retaining the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the new development site; or
 - (c) Meeting a combination of retention and treatment that achieves the above standards.
- (4) Stormwater management systems on redevelopment sites shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual post-construction load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorous (TP) related to the total post-construction impervious surface area on the site. Annual pollutant removal requirements are achieved through one of the following methods:
- (a) Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (See Massachusetts Stormwater Handbook and design guidance manuals) may be used to calculate BMP performance; or
 - (b) Retaining the volume of runoff equivalent to, or greater than, 0.8 inch multiplied by the total post-construction impervious surface area on the redeveloped site; or
 - (c) Meeting a combination of retention and treatment that achieves the above standards.

E. Stormwater Management Design Standards

- (1) Projects must be designed to collect and dispose of stormwater runoff from the project site in accordance with Massachusetts Stormwater Management Standards, standards of the Town of West Newbury Department of Public Works, recognized engineering methodologies and these regulations, with an emphasis to include Low Impact Development techniques in the design.⁵
- (2) Projects must manage surface runoff so that no flow is conducted over public ways, nor over land not owned or controlled by the Applicant unless an easement in proper form is obtained permitting such discharge.
- (3) Projects must use Low Impact Development (LID) techniques where adequate soil, groundwater and topographic conditions allow. These may include but not be limited to reduction in impervious surfaces,

⁵ The Stormwater Bylaw and Regulations will be referenced in the Subdivision Regulations.

disconnection of impervious surfaces, bioretention (rain gardens) and infiltration systems.

- (4) Projects must use TR-55 and TR-20 methodologies to calculate peak rate and volume of runoff from pre-development to post-development conditions.
- (5) Stormwater management systems shall be designed to avoid disturbance of areas susceptible to erosion and sediment loss, avoiding, to the greatest extent practicable: the damaging of large forest stands; building on steep slopes (15% or greater); and disturbing land in wetland buffer zones and floodplains.
- (6) Watershed area for hydrologic analysis and BMP sizing calculations must include at a minimum the site area and all upgradient areas from which stormwater runoff flows onto the site.
- (7) For purposes of computing runoff, all pervious lands in the site are assumed prior to Development to be in "good hydrologic condition" regardless of the conditions existing at the time of the computation.
- (8) Length of sheet flow used for times of concentration is to be no more than 50 feet.
- (9) At a minimum, utilize the 24-hour rainfall data taken from the NOAA Atlas 14 Point Precipitation Frequency Estimates unless the Massachusetts DEP Stormwater Management Standards adopts other sources for 24-hour rainfall data.
- (10) Soil tests to be conducted by a Registered Professional Engineer or Massachusetts Soil Evaluator, performed at the location of all proposed Low Impact Development techniques and BMPs, to identify soil descriptions, depth to estimated seasonal high groundwater, depth to bedrock, and soil texture.
- (11) The design infiltration rate shall be determined from the on-site soil texture and published Rawls rates or saturated hydraulic conductivity tests.
- (12) Size drainage pipes to accommodate the 25-year storm event and maintain velocities between 2.5 and 10 feet per second using the Rational Method.
- (13) Size drainage swales to accommodate the 25-year storm event and velocities below 4 feet per second
- (14) Size culverts to accommodate the 50-year storm event and design adequate erosion protection. Design stream crossing culverts in accordance with the latest addition of the Massachusetts Stream Crossing Handbook.
- (15) Size stormwater basins to accommodate the 100-storm event with a minimum of one foot of freeboard.
- (16) All drainage structures are to be able to accommodate HS-20 loading.

- (17) Catch basin structures are to be constructed as required by the Town Department of Public Works or other local law and spaced a maximum of 250 feet apart in roadways.
 - (18) Catch basins adjacent to curbing are to be built with a granite curb (or bituminous concrete berm) inlet as required by Town Department of Public Works.
 - (19) Catch basins in low points of road and on roads with profile grades greater than 5 percent are to be fitted with double grates (parallel with curb) as required by the Town Department of Public Works.
 - (20) All drain pipes are to be reinforced concrete pipe or High Density Polyethylene pipe and have a minimum diameter of 12 inches.
 - (21) Outfalls are to be designed to prevent erosion of soils, and pipes 24 inches or larger are to be fitted with grates or bars to prevent ingress.
 - (22) Drainage easements are to provide sufficient access for maintenance and repairs of system components and be at least 20 feet wide.
 - (23) Minimize permanently dewatering soils by:
 - (a) Limiting grading within 4 feet of seasonal high groundwater elevation (SHGWE);
 - (b) Raising roadways to keep roadway section above SHGWE; and
 - (c) Setting bottom floor elevation of building(s) a minimum of 2 feet above SHGWE.
- F. Permittees shall submit as-built drawings no later than one year after completion of construction projects. The as-built drawings must depict all on-site controls, both structural and non-structural, designed to manage stormwater associated with the completed site.

Section 8. Erosion and Sedimentation Control Plan of Permit Applications

- A. The Erosion and Sediment Control Plan shall be designed to ensure compliance with these regulations, the MS4, and if applicable, the NPDES General Permit for Storm Water Discharges from Construction Activities. In addition, the plan shall ensure that the Massachusetts Surface Water Quality Standards (314 CMR 4.00) are met in all seasons.
- B. If a project requires a Stormwater Pollution Prevention Plan (SWPPP) per the NPDES General Permit for Storm Water Discharges from Construction Activities (and as amended), then the applicant is required to submit a complete copy of the SWPPP (including the signed Notice of Intent and approval letter). If the SWPPP meets the requirements of the General Permit, it will be considered equivalent to the Erosion and Sediment Control Plan described in this section.
- C. The Erosion and Sediment Control Plan shall remain on file with the Stormwater Authority. Applicants shall refer to the latest version of the Massachusetts Erosion and Sediment Control Guidelines for Urban & Suburban Areas for detailed guidance.
- D. Erosion and Sedimentation Control Plan Content. The Plan shall contain the following information:

- (1) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
- (2) Title, date, north arrow, names of abutters, scale, legend, and locus map;
- (3) Location and description of natural features including:
 - (a) Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a professional engineer for areas not assessed on these maps;
 - (b) Existing vegetation including tree lines, canopy layer, shrub layer, and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest communities; and
 - (c) Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.
- (4) Lines of existing abutting streets showing drainage and driveway locations and curb cuts;
- (5) Existing soils, volume and nature of imported soil materials;
- (6) Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed;
- (7) Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;
- (8) Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plans);
- (9) Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;
- (10) Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable. When determining whether the requirements have been met, the Stormwater Authority shall consider all stormwater management practices available and capable of being implemented after taking into consideration costs, existing technology, proposed use, and logistics in light of overall project purposes. Project purposes shall be defined generally (e.g., single family home or expansion of a commercial development);
- (11) Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;

- (12) Stormwater runoff calculations in accordance with the Massachusetts Department of Environmental Protection's Stormwater Management Policy;
 - (13) Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;
 - (14) A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (15) A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;
 - (16) Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sediment Control; and
 - (17) Such other information as is required by the Stormwater Authority.
- E. Erosion Controls Design Standards. The Sediment and Erosion Control Plan shall be developed to comply with the MS4 and shall meet the following standards:
- (1) Minimize total area of disturbance;
 - (2) Sequence activities to minimize simultaneous areas of disturbance;
 - (3) Minimize peak rate of runoff in accordance with the Massachusetts Department of Environmental Protection Stormwater Standards;
 - (4) Minimize soil erosion and control sedimentation during construction;
 - (5) Divert uncontaminated water around disturbed areas;
 - (6) Maximize groundwater recharge;
 - (7) Install and maintain all Erosion and Sediment Control measures in accordance with the Massachusetts Erosion and Sedimentation Control Guidelines for Urban and Suburban Areas, manufacturers specifications and good engineering practices;
 - (8) Prevent off-site transport of sediment;
 - (9) Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);
 - (10) Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
 - (11) Protect natural resources and prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species from the proposed activities;

- (12) Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;
- (13) Properly manage on-site construction and waste materials, including truck washing and cement concrete washout facilities;
- (14) Prevent off-site vehicle tracking of sediments; and
- (15) Incorporate appropriate BMPs designed to comply with the Massachusetts Stormwater Handbook.

Section 9. Operation and Maintenance Plan for Permit Applications

- A. A stand-alone Operation and Maintenance Plan is required at the time of application for all projects that include structural and non-structural stormwater BMPs. The Operation and Maintenance Plan shall be designed to ensure compliance with the Permit and these regulations for the life of the system. The Operation and Maintenance Plan shall remain on file with the Stormwater Authority and compliance with said Plan shall be an ongoing requirement. The Applicant shall provide copies of the Operation and Maintenance Plan to all persons responsible for maintenance and repairs.
- B. The Operation and Maintenance Plan shall include:
 - (1) The name(s) of the owner(s) for all components of the system;
 - (2) A map showing the location of the systems and facilities including all structural and nonstructural stormwater best management practices (BMPs), catch basins, manholes/access lids, pipes, and other stormwater devices. The plan showing such systems and facilities to be privately maintained, including associated easements shall be recorded with the Essex County Registry of Deeds prior to issuance of a Certificate of Completion by the Stormwater Authority pursuant to Section 13.
 - (3) Maintenance Agreement with the Stormwater Authority that specifies:
 - (a) The names and addresses of the person(s) responsible for operation and maintenance;
 - (b) The person(s) financially responsible for maintenance and emergency repairs;
 - (c) An Inspection and Maintenance Schedule for all stormwater management facilities including routine and non-routine maintenance tasks to be performed. Where applicable, this schedule shall refer to the Maintenance Criteria provided in the Stormwater Handbook or the EPA National Menu of Stormwater Best Management Practices or equivalent;
 - (d) Instructions for routine and long-term operation and maintenance shall have sufficient detail for responsible parties to perform necessary maintenance activities and prevent actions that may adversely affect the performance of each structural and/or nonstructural stormwater BMP;

- (e) A schedule for submitting written reports to the Stormwater Authority describing inspection results, recommendations, and actions taken to ensure continued compliance with the Standards and permit requirements. At a minimum, the applicant shall provide for annual certification documenting the work that has been done over the prior 12 months to properly operate and maintain the stormwater control measures. The certification shall be signed by the person(s) or authorized agent of the person(s) named in the permit as being responsible for ongoing operation and management;
 - (e) A list of easements with the purpose and location of each; and
 - (f) The signature(s) of the owner(s) and all persons responsible for operation and maintenance, financing, and emergency repairs, as defined in the Maintenance Agreement, if maintenance is to be performed by an entity other than the owner.
- (4) Stormwater Management Easement(s)
- (a) Stormwater Management easements shall be provided by the property owner(s) as necessary for:
 - i. Access for facility inspections and maintenance;
 - ii. Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event; and
 - iii. Direct maintenance access by heavy equipment to structures requiring maintenance.
 - (b) The purpose of each easement shall be specified in the Maintenance Agreement signed by the property owner.
 - (c) Stormwater Management easements are required for all areas used for permanent stormwater control, unless a waiver is granted by the Stormwater Authority pursuant to Section 4(B).
 - (d) Easements shall be recorded with the Southern Essex District Registry of Deeds prior to issuance of a Certificate of Completion by the Stormwater Authority pursuant to Section 13.
- (5) Changes to Operation and Maintenance Plans
- (a) The owner(s) of record of the Stormwater Management system must notify the Stormwater Authority of changes in ownership, assignment of Operation and Maintenance responsibilities, or assignment of financial responsibility within 30 days of the change in ownership. The owner of record shall be responsible for Operation and Maintenance activities until a copy of the updated Operation and Maintenance Plan has been furnished to the Stormwater Authority signed by the new owner or any new responsible person.
 - (b) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of the Stormwater Management Bylaw by mutual agreement of the Stormwater

Authority and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational and/or maintenance responsibility.

- (6) To ensure adequate long-term operation and maintenance of stormwater management practices, applicants are required to implement one or more of the following procedures, as directed by the Stormwater Authority:
 - (a) Filing by the applicant of an annual Operation and Maintenance Report with the Stormwater Authority on a form specified by the Stormwater Authority, accompanied by an annual filing fee established by the Stormwater Authority for administration and enforcement of the Operation and Maintenance Plan.
 - (b) Establishment by the applicant of a dedicated fund or escrow account in the form of a Bond, Insurance Policy, or similar instrumentality, to be maintained for a number of years and for an amount specified by the Stormwater Authority. Such fund or account may be used by the applicant to perform its operation and maintenance responsibilities or, if the Stormwater Authority finds that the applicant has failed to comply with the Plan, by the Stormwater Authority to perform or cause to be performed the required operation and maintenance tasks;
 - (c) Payment by the applicant to the Stormwater Authority of an amount specified by the Stormwater Authority as compensation for its acceptance of ownership of all privately constructed BMPs;
 - (d) Submission by the applicant of an annual certification documenting the work that has been done over the last 12 months to properly operate and maintain the stormwater control measures. The certification shall be signed by the person(s) or authorized agent of the person(s) named in the permit as being responsible for ongoing operation and management;
 - (e) Recording of Operation and Maintenance Plans at the appropriate Southern Essex District Registry of Deeds.

Section 10 Inspection and Site Supervision for permit applicants.

- A. Pre-construction Meeting. Prior to starting the clearing, excavation, construction, Redevelopment or land disturbing activity, the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project, may be required to meet with the Stormwater Authority or its designated agent, to review the approved plans and their proposed implementation. The need for a pre-construction meeting shall be determined by the Stormwater Authority based on the project scope.
- B. Stormwater Authority Inspection. The Stormwater Authority or its designated agent, or selected consultant pursuant to Section 6 (F) above shall make inspections as herein required and shall either approve that portion of the work completed or shall notify the applicant how the work fails to comply with the Erosion and Sedimentation Control Plan or the Stormwater Management Plan as approved. The approved Erosion and Sedimentation Control Plan and associated

plans for grading, stripping, excavating, and filling work, bearing the signature of approval of the Stormwater Authority, shall be maintained at the site during the progress of the work. In order to obtain inspections, the applicant shall notify the Stormwater Authority at least two (2) working days before each of the following events:

- (1) Erosion and sedimentation control measures are in place and stabilized;
- (2) Site Clearing has been substantially completed;
- (3) Rough Grading has been substantially completed;
- (4) Final Grading has been substantially completed;
- (5) Close of the Construction Season; and,
- (6) Final Landscaping (permanent stabilization) and project final completion.

C. Stormwater Management System Inspections.

- (1) An inspection may be made of the excavation for the stormwater management system to ensure adequate separation of the stormwater system from ground water and presence of approved soil type.
- (2) Stormwater Management System Inspection: An inspection may be made of the completed stormwater management system, prior to backfilling of any underground drainage or stormwater conveyance structures.

D. Applicant Inspections. The applicant or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the Erosion and Sedimentation Control Plan, and the need for maintenance or additional control measures as well as verifying compliance with the Stormwater Management Plan. The applicant or his/her agent shall submit monthly reports to the Stormwater Authority or designated agent in a format approved by the Stormwater Authority.

Section 11. Surety for projects requiring permits.

The Stormwater Authority may require the permittee to post before the start of any land disturbing activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by town counsel and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the Stormwater Authority has received the final report as required by Section 12 and issued a Certificate of Completion pursuant to Section 13. Said surety funds shall be maintained in a special account established by the Stormwater Authority pursuant to G.L. c. 44, §53G1/2.

Section 12. Final Reports for projects requiring permits

Upon completion of the work allowed under a Stormwater Management Permit, the permittee shall submit a report (including certified as-built construction plans) stamped by a Professional Engineer (P.E.), surveyor, or Certified Professional in Erosion and Sediment Control (CPESC), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

Section 13. Certificate of Completion for projects requiring permits.

The Stormwater Authority shall issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work has been conducted in conformance with these regulations and the Stormwater Management Permit conditions.

September 24, 2021

Timothy D. Zessin
 tzessin@k-plaw.com

BY ELECTRONIC MAIL ONLY (rparker@wnewbury.org)

Hon. Richard Parker and
 Members of the Select Board
 West Newbury Town Hall
 381 Main Street
 West Newbury, MA 01985

Re: Determination and Consent Pursuant to Massachusetts Rules of Professional Conduct, Rule 1.7 – Representation of the Town of West Newbury and City of Amesbury Related to Intermunicipal Agreement for Administration of COVID-19 Vaccination Clinics

Dear Members of the Select Board:

The Town of West Newbury and City of Amesbury have jointly requested KP Law to review and advise each municipality regarding a proposed Intermunicipal Agreement for the administration and coordination of COVID-19 Vaccination Clinics (“the Agreement”) by and between the City of Amesbury and the Town of West Newbury, whom the firm represents as City Solicitor and Town Counsel, respectively. The parties further agreed that the costs for such representation will be split equally between both municipalities.

Our relationship with West Newbury and Amesbury creates interests that require disclosure pursuant to the Rules of Professional Conduct of the Massachusetts Bar that require us to obtain the express permission of the Appointing Authority of each town before we can represent another town. The purpose of this letter is to make such disclosure and to request that you determine whether you will permit such representation. In addition, while the State Ethics Commission has determined that KP Law, P.C. and its individual attorneys are not “municipal employees” pursuant to the Conflict of Interest Law, we provide this letter to dispel any appearance of a conflict on the firm’s behalf in this matter.

MULTIPLE REPRESENTATION DISCLOSURE

The representation of multiple clients is regulated under the Massachusetts Rules of Professional Conduct. The relevant provision, Rule 1.7, states that an attorney may not represent multiple clients if the interests of one client are directly adverse to those of another client, or if his representation of one client may be materially limited by his responsibilities to another client or his own interests. If, however, the attorney reasonably believes that the representation of either client will not be adversely affected, and each of the clients consents after consultation, the attorney may represent the client in such a situation. Where representation of multiple clients in a single matter is undertaken, we are also required to disclose and explain the implications of the common representation and the advantages and risks involved.

Hon. Richard Parker
and Members of the Select Board
September 24, 2021
Page 2

In our opinion, our position as City Solicitor to the City of Amesbury will not adversely affect the representation we will provide to West Newbury with respect to the Agreement. It is our further opinion that this joint representation provides the advantage of cost effectiveness (i.e., the cost of our time spent on preparing the Agreement will be split between the communities) and efficiency. The only risk I would note would be in the unlikely event that negotiations or performance of the Agreement breaks down between the parties, to the point where one municipality seeks legal redress from the other. Under these circumstances, KP Law, P.C. would likely have to cease representing both municipalities with regard to the Agreement. You must consider whether our representation of Amesbury, as described above, will be likely to adversely affect our ability to exercise independent professional judgment on behalf of West Newbury.

DETERMINATION

It is our belief that our representation of Amesbury, for the purposes and under the conditions described in this letter, will not affect the exercise of our independent professional judgment on behalf of West Newbury with regard to the Agreement or any other matter. It is your determination as Appointing Authority, however, as to whether the representation described herein will not impair the integrity of this firm's services to West Newbury.

Accordingly, I request that the Select Board, as Appointing Authority, consent to our representation of the Town of West Newbury and the City of Amesbury regarding the proposed Agreement. Should you so consent, I ask that you sign the enclosed determination as required by the Rules of Professional Conduct. Please sign the two originals provided, return one copy to this office, and retain one copy for your records.

Thank you for your consideration. Of course, if you have any questions, please do not hesitate to contact me.

Very truly yours,



Timothy D. Zessin

TDZ/
Enc.
cc: Town Manager (By Electronic Mail Only)

DETERMINATION

It is determined, pursuant to Rule 1.7 of the Massachusetts Rules of Professional Conduct, that the Select Board of the Town of West Newbury consents to KP Law, P.C. representing the City of Amesbury with regard to the Intermunicipal Agreement for COVID-19 Vaccination Clinics, as disclosed in a letter to the Select Board dated September 24, 2021, notwithstanding that KP Law, P.C. also serves as City Solicitor for the City of Amesbury.

Dated: _____

TOWN OF WEST NEWBURY
By its Select Board,

Richard Parker, Chair

David Archibald, Vice Chair

Wendy Reed, Clerk

CARES Act Coronavirus Relief Fund - Municipal Program *Reconciliation Period Application Summary*

Municipality: West Newbury	
Total Eligible Amount	413,595
Remaining Eligible Amount:	291,803
Amount Requested Reconciliation Round	23,613
Remaining CvRF Amount	268,190

CARES Act Coronavirus Relief Fund - Municipal Program *Reconciliation Period Application Checklist*

Please certify the following steps are complete before uploading your application.

Confirm Completion (Y/N)	Tab Name	Action	If incomplete, action required
Enter Value	<i>Start Here</i>	Contact information is populated	Enter contact's name & information and municipal CEO's name & information
Enter Value	<i>FEMA True Up</i>	Uncovered FEMA costs have been populated	Enter itemized eligible uncovered FEMA costs for which you are seeking reimbursement (remaining 75%)
Enter Value	<i>New Expenditures</i>	New COVID-19 expenditures have been populated	Enter COVID-19 expenditures above and beyond CvRF-MP funding received to-date for which you are seeking reimbursement
Enter Value	<i>End Here</i>	Summary information (above) has been reviewed for accuracy	Review summary information to validate accuracy of amount reported
Enter Value	<i>Att. B Certification</i>	Certification document printed, signed, and scanned	Print certification, sign form, and scan completed form

Once checklist is complete, please upload your completed application here:

<https://www.mass.gov/forms/crf-mp-reconciliation-round-application-submission>

Submission 5 Summary

Municipality: West Newbury

Total Eligible Amount	413,595
Total CvRF Amount Received	121,792
Total Amount Previously Reported	43,184
Total Amount Reported Submission 5	77,853
Remaining Amount to be Reported	755

Municipal Final Checklist

Please certify the following steps are complete before uploading your reporting submission.

Confirm Completion (Y/N)	Tab Name	Action
Enter Value	<i>Start Here</i>	Contact information is populated and certification section is complete.
Enter Value	<i>Contracts, Grants, Transfers, Direct Payments</i>	All columns highlighted in yellow are populated for each cost reported.
Enter Value	<i>End Here</i>	Summary information (above) has been reviewed for accuracy.

Once checklist is complete, please upload your completed reporting submission here:

https://massgov.formstack.com/forms/reporting_municipal_covid19_spending

COVID Related Expenses

<u>Quarter</u>	<u>Check</u>	<u>Date</u>	<u>Incurred Expense</u>	<u>Paid To</u>
		Category Sub-totals:	\$ 6,728.97	
		Category Sub-totals:	\$ 28,137.00	
		Category Sub-totals:	\$ 24,123.04	
		Category Sub-totals:	\$ 9,981.77	
		Category Sub-totals:	\$ 76,357.54	
		Category Sub-totals:	\$ 22,328.17	
		Category Sub-totals:	\$ -	
		Category Sub-totals:	\$ 5,443.75	
		Category Sub-totals:	\$ 41,068.60	
		Category Sub-totals:	\$ 125.00	
		Incurred costs:	\$ 214,293.84	
		CARES Round 1 Funds	\$ 8,583.00	Rec'd
		CARES Round 2 Funds	\$ 113,209.00	Rec'd
		CARES Round 3 Funds	\$ 23,612.71	Accepted
		FEMA Submission 1	\$ 24,471.85	Rec'd
		FEMA Submission 2	\$ 38,198.81	Accepted
		FEMA Submission 3	\$ -	Filed
		FEMA Submission 4	\$ 7,587.14	Filed
		Unreimbursed:	\$ (1,368.67)	

FEMA Expenses for CARES Reconciliation

Round	Check	Date	Amount	FEMA Reported	FEMA Rejected	Reported to	CARES Recon	
				Amount	Amount	CARES		
			Category Sub-totals: \$ 6,728.97	\$ 6,930.84	\$ -	\$ 1,682.24	\$ (1,682.24)	
			Category Sub-totals: \$ 28,137.00	\$ 10,123.21	\$ 18,280.02	\$ 7,034.25	\$ 11,245.77	
			Category Sub-totals: \$ 238.24	\$ 238.24	\$ -	\$ 238.24	\$ (238.24)	
			Category Sub-totals: \$ 9,981.77	\$ 6,579.91	\$ 3,529.09	\$ 1,969.46	\$ 1,600.63	
			Category Sub-totals: \$ 76,357.54	\$ 7,214.53	\$ 69,143.01	\$ 17,200.03	\$ 51,942.98	
			Category Sub-totals: \$ 5,443.75	\$ -	\$ 5,443.75	\$ -	\$ 5,443.75	
			Category Sub-totals: \$ 41,068.60	\$ 39,171.07	\$ 1,915.53	\$ 10,083.47	\$ (8,167.94)	
			Category Sub-totals: \$ 125.00	\$ -	\$ 125.00	\$ 31.25	\$ 93.75	
				\$ 168,080.87	\$ 70,257.80	\$ 98,436.40	\$ 38,238.94	\$ 60,238.45
	LEGEND	Submission 1		\$ (24,471.85)				
		Submission 2		\$ (38,198.81)				
		Submission 3		\$ -				
		Submission 4		\$ (7,587.14)				
		FEMA Pre-determined Ineligible		\$ -				
				-				



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: Select Board
 FROM: Angus Jennings, Town Manager
 DATE: October 2, 2021
 RE: Status of review, STM Warrant Articles

At meetings in September, the Finance Committee and Capital Improvements Committee have each favorably recommended proposed STM articles, as follows:

1. N/A
2. Budget amendments
 - a. Increase in Special Counsel budget due to engagement of outside counsel KP Law
 - b. Reduction of Town Clerk salary/wages budget (salary reduced from Clerk/Counsel)
 - c. Increase budgeted wages for Conservation to carry total costs (with increased portion to be offset by revenues received from Merrimac pursuant to MOA)
 - d. Reduction of Pentucket assessment due to amended school budget (adopted Aug. 2021)
 - e. Reduction of retirement assessment due to error in West Newbury initial assessment
3. **No FinCom recommendation; FinCom will review what amount Select Board may propose.**
4. To broaden allowable uses for funds appropriated at May 2021 ATM to include allowance for use for seasonal flu vaccine clinics and to conduct COVID-19 contact tracing
5. Water Free Cash: Water Main engineering – *both FinCom and CIC favorably recommend*
6. Water Stabilization: replacement pickup truck – *both FinCom and CIC favorably recommend*
7. Capital Stabilization: DPW Backhoe – *both FinCom and CIC favorably recommend*
8. Funding for invasive species internship program, spring/summer 2022
9. Adoption of MGL Sec. 59, Sec. 8A re Farm Excise Tax – **proposed for removal from warrant**
10. Adoption of MGL Sec. 59, Sec. 57A re combining low tax bills (amounts below \$100)
11. Adoption of MGL Sec. 33, Sec. 59 re employees serving in military (active or reserves)
12. Adoption of MGL Sec. 44, Sec. 55C to establish Affordable Housing Trust Fund
13. Funding for matching funds for Green Communities grant
14. *Non-financial article, no FinCom recommendation*
15. *Non-financial article, no FinCom recommendation*

Note: All are aware that article numbers shown **are expected to change** prior to signing/posting STM Warrant, due to the recommended removal of what is shown as Article 10 (background enclosed).



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: Select Board

FROM: Angus Jennings, Town Manager

DATE: October 2, 2021

RE: Est. FY22 tax rate and consideration of potential Free Cash transfer at Fall STM

Based on available information, our estimate of the FY22 tax rate is \$13.56/thousand. This would be a significant reduction from the FY21 tax rate of \$14.88. Taking into account changes in estimated FY22 assessed values, this would result in an estimated increase in the FY22 tax bill for the median value single-family home of about \$105/year, or 1.29%. (See enclosed calculations, esp. FY22 Tax Rate Workbook pg. 7 of 7. The page after that, entitled “Town-wide Average Single Family Assessed Value and Tax Bill,” provides historical context.

While the somewhat modest growth in the FY22 operating budget (from FY21) is obviously a contributor to this good news, a primary factor is the Assessors’ projection of substantial increases in FY22 assessed values, totaling 11.4%. While the growth in residential property values (as informed by actual sales) is a primary driver of these values, there are other contributing factors, such as the revised methodology in valuing utilities, building on the valuation study the Assessors’ commissioned with funds appropriated at the May 2021 Annual Town Meeting.

This estimate of FY22 tax rate **does not take into account any Free Cash transfer as may be proposed/approved at Fall STM**. (See highlighted cell III.d.1.b. on page 2 of the tax recap model, enclosed.

As a hypothetical scenario, a Free Cash transfer in the amount of \$200,000 would result in an estimated tax rate of \$13.36, which – even taking into account estimated increases in FY22 assessed values – would result in an estimated \$0 and 0% increase for both the median and the typical single-family home.

We will have the tax rate recap model available for Monday’s meeting, so the Board can consider various options and see the estimated tax rate/tax bill impact on an interactive basis.

		Estimated					
Balances Report		Town Capital Stabilization	Pension Stabilization	School Stabilization	Town Free Cash	Water Stabilization	Water Retained Earnings
	7/1/2021	1,946,407	314,205	1,257,733	1,749,980	520,479	731,245
10/2021 STM	Art #						
Reduce tax rate	3						
Engineering for water main replacement	5						(100,000)
Water Dept. Truck	6						(47,000)
DPW backhoe	7	(150,000)					
Invasive Species Internship program	8				(8,000)		
Matching funds Green Communities	9				(10,000)		
Balances after STM		1,796,407	314,205	1,257,733	1,731,980	520,479	584,245

Source: West Newbury Finance Department, 10/1/21

Free Cash Trends, FY15-FY21

<u>Fiscal Year</u>	<u>Year-End Certified Free Cash¹</u>	<u>Free Cash transfer to reduce Tax Rate²</u>
FY22	<i>Unknown</i>	<i>TBD</i>
FY21	\$ 1,749,980	\$ - *
FY20	\$ 1,954,878	\$ 400,000
FY19	\$ 2,102,586	\$ 220,000
FY18	\$ 1,718,985	\$ 114,000
FY17	\$ 1,824,005	\$ 144,300
FY16	\$ 1,892,315	\$ -
FY15	\$ 1,960,718	\$ -

Avg (FY17-21)	\$ 175,660
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¹ Source: MA DOR Form B-1, FY15-FY21

² Source: MA DOR Tax Rate Recaps, Item IIIId, FY15-FY21

* Note: In FY21 the Town did allocate \$220,000 of Overlay Surplus in order to reduce the FY21 Tax Rate. If that amount were to be included in table above, the FY17-21 Average would be \$219,660.

Source: Angus Jennings, Town Manager

Tax Rate Options and Shifts

CLASS	TOTAL VALUE	%	
Residential	1,085,114,250	97.0093%	R O %
Open Space	0	0.0000%	
Commercial	9,536,515	0.8526%	C I P %
Industrial	2,273,000	0.2032%	
Personal Property	21,644,030	1.9350%	
Total	1,118,567,795	100.0000%	

Residential Exemption

# Eligible Parcels	
Res Parcel Count	
Res Exemption %	
Total Res Value Net of Exemption	

Small Commercial Exemption

# Eligible Parcels	
Total Value of Eligible Parcels	
Com Exemption %	
Total C & I Value Net of Exemption	
	11,809,515

Single Tax Rate	13.54
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Maximum Allowable Levy	16,368,043.00
Estimated Levy	15,141,864.72

Estimated Levy cannot exceed the Maximum Allowable Levy

CIP Shift

Enter the desired CIP Shift from table below (Col. A):	1.000	Use 1.00 for a Single Tax Rate (no shift)
Residential Factor Selected:	100.0000	

CIP Shift	Res Factor	Share Percentages						Levy Amounts					Estimated Tax Rates						
		Res	O S	Com	Ind	PP	Total	Res	O S	Com	Ind	PP	Total	Res	O S	Com	Ind	PP	
1.000	100.000000	97.0093	0.0000	0.8526	0.2032	1.9350	100.0000	14,689,010	0	129,094	30,769	292,992	15,141,865	13.54			13.54	13.54	13.54

MASSACHUSETTS DEPARTMENT OF REVENUE
 DIVISION OF LOCAL SERVICES
 BUREAU OF ACCOUNTS

Town of West Newbury
 CITY/TOWN

Estimated Levy Limit Calculations

Fiscal Year 2022

FOR BUDGET PLANNING PURPOSES

TO CALCULATE THE FY 2021 LEVY LIMIT

A. FY 2020 Levy Limit	14,138,156	
A1. Add Amended FY 2020 Growth	0	
B. ADD (IA + IA1) X 2.5%	353,454	
C. Add FY 2021 New Growth	240,868	
C1. Add FY 2021 New Growth Adjustment	0	
D. Add FY 2021 Override	0	
E. FY 2021 Subtotal	14,732,478	
F. FY 2021 Levy Ceiling	25,043,101	
		I. \$ 14,732,478 FY 2021 Levy Limit

TO CALCULATE THE FY 2022 LEVY LIMIT

A. FY 2021 Levy Limit from I. above	14,732,478	
A1. Add Amended FY 2021 Growth	0	
B. ADD (IIA + IIA1) X 2.5%	368,312	
C. Add FY 2022 New Growth	177,973	Est. based on 5-yr avg FY17-21
C1. Add FY 2022 New Growth Adjustment	0	
D. Add FY 2022 Override	0	
E. FY 2022 Subtotal	15,278,763	
F. FY 2022 Levy Ceiling	27,964,195	
		II. \$ 15,278,763 FY 2022 Levy Limit

TO CALCULATE THE FY 2022 MAXIMUM ALLOWABLE LEVY

A. FY 2022 Levy Limit from II. above	15,278,763
B. FY 2022 Debt Exclusion(s)	1,089,280
C. FY 2022 Capital Expenditure Exclusion(s)	0
D. FY 2022 Stabilization Fund Override	0
E. FY 2022 Other Adjustment	0
F. FY 2022 Water/Sewer	0
G. FY 2022 Maximum Allowable Levy	\$ 16,368,043

PAGE 1

**DIVISION OF LOCAL SERVICES
TAX RATE RECAP & BUDGETING TOOL**

City/Town/District of:

Fiscal Year:

I. TAX RATE SUMMARY

la. Total amount to be raised (from Page 2 IIe)	\$ 22,287,884.60
lb. Total estimated receipts and other revenue sources (from Page 2 IIIe)	7,146,019.88
lc. Tax levy (Ia minus Ib)	<u>\$ 15,141,864.72</u>
ld. Distribution of Tax Rates and levies	

CLASS	(b) Levy percentage (from Options worksheet)	(c) IC above times each percent in col (b)	(d) Valuation by class (from Options worksheet)	(e) Tax Rates / (d) x 1000 (c)	(f) Levy by class (d) x (e) / 1000
Residential	97.0093%	14,689,009.69	1,085,114,250	13.54	14,692,446.95
Net of Exempt					
Open Space	0.0000%	0.00	0		
Commercial	0.8526%	129,094.20	9,536,515	13.54	129,124.41
Net of Exempt					
Industrial	0.2032%	30,769.22	2,273,000	13.54	30,776.42
SUBTOTAL	98.0650%		1,096,923,765		14,852,347.78
Personal	1.9350%	292,991.61	21,644,030	13.54	293,060.17
TOTAL	100.0000%		1,118,567,795		15,145,407.95

PAGE 2

II. Amounts to be raised

Ila. Appropriations (col. (b) through col. (g) from Page 4)	<u>22,158,481.60</u>
Ilb. Other amounts to be raised	
1. Amounts certified for tax title purposes	<u>0.00</u>
2. Debt and interest charges not included on page 4	<u>0.00</u>
3. Final awards	<u>0.00</u>
4. Total overlay deficit	<u>0.00</u>
5. Total cherry sheet offsets (see cherry sheet 1-ER)	<u>9,403.00</u>
6. Revenue deficits	<u>0.00</u>
7. Offset receipts deficits Ch. 44, Sec. 53E	<u>0.00</u>
8. CPA other unappropriated/unreserved	<u>0.00</u>
9. Snow and ice deficit Ch. 44 Sec. 31D	<u>0.00</u>
10. Other: <input type="text"/>	<u>0.00</u>
TOTAL Ilb (Total lines 1 through 10)	<u>9,403.00</u>
Ilc. State and county cherry sheet charge (C.S. 1-EC)	
Ild. Allowance for abatements and exemptions (overlay)	<u>120,000.00</u>
Ile. Total amount to be raised (Total Ila through Ild)	<u>22,287,884.60</u>

III. Estimated receipts and other revenue sources

IIla. Estimated receipts - State	
1. Cherry sheet estimated receipts (C.S. 1-ER Total)	<u>410,121.00</u>
2. Massachusetts school building authority payments	<u>0.00</u>
TOTAL IIla	<u>410,121.00</u>
IIlb. Estimated receipts - Local	
1. Local receipts not allocated (Page 3, col. (b), Line 24)	<u>1,305,418.28</u>
2. Offset receipts (See Schedule A-1)	<u>0.00</u>
3. Enterprise funds (See Schedule A-2)	<u>2,050,649.00</u>
4. Community Preservation Funds (See Schedule A-4)	<u>938,938.00</u>
TOTAL IIlb	<u>4,295,005.28</u>
IIlc. Revenue sources appropriated for particular purposes	
1. Free cash (Page 4, col. (c))	<u>1,120,205.60</u>
2. Other available funds (Page 4, col. (d))	<u>1,320,688.00</u>
TOTAL IIlc	<u>2,440,893.60</u>
IIId. Other revenue sources appropriated specifically to reduce the tax rate	
1. a. Free cash..appropriated on or before June 30, <input type="text"/>	<u>0.00</u>
1. b. Free cash..appropriated on or after July 1, <input type="text"/>	<u>0.00</u>
2. Municipal light source	<u>0.00</u>
3. Other source : <input type="text"/>	<u>0.00</u>
TOTAL IIId	<u>0.00</u>
IIle. Total estimated receipts and other revenue sources (Total IIla through IIId)	<u>7,146,019.88</u>

IV. Summary of total amount to be raised and total receipts from all sources

a. Total amount to be raised (from Ile)	<u>22,287,884.60</u>
b. Total estimated receipts and other revenue sources (from IIle)	<u>7,146,019.88</u>
c. Total real and personal property tax levy (from Ilc)	<u>15,141,864.72</u>
d. Total receipts from all sources (total IVb plus IVc)	<u>22,287,884.60</u>

PAGE 3 LOCAL RECEIPTS NOT ALLOCATED *

	(a) Actual Receipts <u>FY 2021</u>	(b) Estimated Receipts <u>FY22</u>
→ 1. Motor vehicle excise	\$ 814,348.35	\$ 775,000.00
→ 2. Other excise		
a. Meals	0.00	0.00
b. Room	0.00	0.00
c. Other	1,617.00	1,600.00
d. Cannabis	0.00	0.00
→ 3. Penalties and interest on taxes and excises	59,004.06	45,000.00
→ 4. Payments in lieu of taxes	53,368.71	42,443.00
5. Charges for Services - water	0.00	0.00
6. Charges for Services - sewer	0.00	0.00
7. Charges for Services - hospital	0.00	0.00
8. Charges for Services - solid waste fees	0.00	0.00
9. Other charges for services	0.00	0.00
10. Fees	0.00	0.00
a. Cannabis Impact Fee	0.00	0.00
11. Rentals	138,272.84	160,625.28
12. Departmental revenue - Schools	0.00	0.00
13. Departmental revenue - Libraries	0.00	0.00
14. Departmental revenue - Cemeteries	0.00	0.00
15. Departmental revenue - Recreation	0.00	0.00
16. Other departmental revenue	24,976.97	20,000.00
17. Licenses and permits	227,540.92	200,000.00
18. Special assessments	0.00	0.00
→ 19. Fines and forfeits	9,069.75	10,000.00
→ 20. Investment income	21,372.80	20,000.00
21. Medicaid Reimbursement	0.00	0.00
→ 22. Miscellaneous recurring (please specify)	30,000.00	30,750.00
23. Miscellaneous non-recurring (please specify)	72,948.83	0.00
24. TOTALS	\$ 1,452,520.23	\$ 1,305,418.28

* Do not include receipts in columns (a) or (b) that were voted by the City/Town/District Council or Town Meeting as offset receipts on Schedule A-1, enterprise funds on Schedule A-2, or revolving funds on Schedule A-3. Written documentation must be submitted to support increases / decreases of estimated receipts to actual receipts.

→ Written documentation must be submitted to support increases/decreases of current year estimated receipts to prior year estimated receipts to be used in calculating the municipal revenue growth factor.

SINGLE-FAMILY PROPERTY TAX BILL COMPARISON TOOL									
	2021 PROPERTY VALUE	FY 2021 TAX RATE	FY 2021 TAX BILL	2022 PROPERTY VALUE	FY 2022 ESTIMATED TAX RATE	EST FY 2022 TAX BILL	EST \$ INCREASE IN BILL	EST % INCREASE IN BILL	
10TH PERCENTILE	396,000	14.88	5,892.48	439,000	13.54	5,944.06	51.58	0.88%	
20TH PERCENTILE	433,840	14.88	6,455.54	482,760	13.54	6,536.57	81.03	1.26%	
30TH PERCENTILE	467,790	14.88	6,960.72	521,120	13.54	7,055.96	95.25	1.37%	
40TH PERCENTILE	501,800	14.88	7,466.78	561,000	13.54	7,595.94	129.16	1.73%	
50TH PERCENTILE	545,800	14.88	8,121.50	607,550	13.54	8,226.23	104.72	1.29%	
60TH PERCENTILE	586,460	14.88	8,726.52	654,220	13.54	8,858.14	131.61	1.51%	
70TH PERCENTILE	639,800	14.88	9,520.22	714,310	13.54	9,671.76	151.53	1.59%	
80TH PERCENTILE	709,980	14.88	10,564.50	787,480	13.54	10,662.48	97.98	0.93%	
90TH PERCENTILE	808,520	14.88	12,030.78	902,520	13.54	12,220.12	189.34	1.57%	
EST. TYPICAL INCREASE:							1.37%		

Source: Angus Jennings, Town Manager, and Christian Kuhn, Chief Assessor/GIS Coordinator. 9/30/21

Town-wide Average Single Family Assessed Value and Tax Bill

Town of West Newbury, FY10-FY21

Fiscal Year	Total Single Family Value	Single Family Parcels	Average Single Family Value	Average Single Family Tax Bill	Dollar Change from Prior Year	% Change from Prior Year
2021	\$814,289,900	1,390	\$585,820	\$8,717	\$366	4.4%
2020	\$804,428,300	1,389	\$579,142	\$8,351	\$50	0.6%
2019	\$785,068,500	1,378	\$569,716	\$8,301	\$451	5.7%
2018	\$738,617,100	1,370	\$539,137	\$7,850	\$140	1.8%
2017	\$721,692,600	1,362	\$529,877	\$7,710	\$67	0.9%
2016	\$708,878,300	1,357	\$522,386	\$7,643	\$171	2.3%
2015	\$644,831,600	1,354	\$476,242	\$7,472	\$220	3.0%
2014	\$616,881,300	1,344	\$458,989	\$7,252	\$96	1.3%
2013	\$607,427,900	1,337	\$454,322	\$7,156	\$414	6.1%
2012	\$602,788,900	1,326	\$454,592	\$6,742	\$233	3.6%
2011	\$627,563,400	1,319	\$475,787	\$6,509	\$162	2.6%

Source: Christian Kuhn, Chief Assessor/GIS Coordinator

Town Manager

From: Town Manager
Sent: Friday, October 1, 2021 7:26 PM
To: Rick Parker - Selectman (rparker@wnewbury.org); David Archibald; Wendy Reed (wreed@wnewbury.org)
Cc: Town Accountant; Town Clerk; Jennifer Walsh (finance.admin@wnewbury.org); KC Swallow
Subject: Updated draft STM Warrant
Attachments: 2021 Fall STM Warrant - DRAFT 10-1-21.pdf; 2021 Fall STM Warrant - REDLINED DRAFT 10-1-21.pdf

Board,

Please find attached an updated draft STM warrant (understanding, of course, that the Free Cash amount in Art. 3 is not yet filled in). I have attached both "clean" and with redlines to show recent changes.

The redlines primarily reflect review by Town Counsel, which we received yesterday and I talked through with Tim Zessin earlier today.

The most substantive change is the proposed deletion of Art. 10 (MGL re assessments of agricultural equipment). The reason for this follows:

Town Counsel advises that MGL Ch. 59, Sec. 8A (online [here](#)) is not a local option statute. The 5% tax rate established by this MGL applies to all such agricultural machinery, equipment and livestock.

The statute includes the language "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." This was understood to require Town Meeting adoption, as had been proposed, and Christian had reviewed this matter with Mike McCarron prior to his retirement. However, Tim has advised that the voter approval referenced in the statute in fact requires placement of this question on a ballot, and adoption at a Town Election. (Tim acknowledges that the statute as written is confusing).

I have discussed this matter with Christian, and he'll review with the Board of Assessors as to whether this will be proposed for adoption at a future Town Election. Presumably (and subject to Select Board sponsorship) it will. The assessors are also actively reviewing qualifying accounts to ensure proper taxation under the law.

While the Select Board has not yet removed Art. 10 from the STM Warrant, I do expect you'll make this change prior to voting to sign the Warrant this Monday evening. Therefore, the attached draft Warrant reflects this change, with numbering updated accordingly. Following Board vote on Monday night, the approved Warrant would be signed and posted no later than next Friday 10/8. My office is also working with the FinCom to get their booklet finalized and published on the same timeline.

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

**TOWN OF WEST NEWBURY
COMMONWEALTH OF MASSACHUSETTS
WARRANT – SPECIAL TOWN MEETING
SATURDAY, OCTOBER 23, 2021 @ 9:30am**

Essex, ss.

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

In the name of the Commonwealth, you are hereby required to notify and warn all the inhabitants of the Town of West Newbury, who are qualified to vote in the elections and Town affairs to meet outdoors behind the Town Annex (near the Bandstand), 379 Main Street, at 9:30 a.m. on Saturday, October 23, 2021 to act upon or take any other action relative to all of the following articles.

ARTICLE 1. To see if the Town will vote to hear and act upon the reports of Town officers and committees, or take any other action relative thereto. *By request of the Board of Selectmen.*

ARTICLE 2. To see if the Town will vote to amend the following Line Items:

- 7 – Special Counsel Legal Fees & Expenses;
- 8 – Town Clerk/Town Counsel Salary & Wages;
- 10 – Conservation Commission Salary & Wages, Expenses, Vehicle Allowance;
- 23 – Pentucket Regional School Assessment;
- 37 – Essex County Retirement Fund, Regional Retirement Assessment;

as set forth in the Fiscal Year 2022 Town Omnibus Budget adopted under the Motion for Article 3 of the Annual Town Meeting on May 22, 2021 and vote to raise and appropriate a sum or sums of money as may be necessary to defray the expenses of the Town for Fiscal Year 2022, or take any other action relative thereto. *By request of the Board of Selectmen.*

ARTICLE 3. To see if the Town will vote to transfer from available funds the sum of \$____.00 to reduce the current year tax rate, or take any other action relative thereto. *By request of the Board of Selectmen.*

ARTICLE 4. To see if the Town will vote to amend the vote ~~of the Town~~ taken under the Motion for Article 9 of the May 22, 2021 Special Town Meeting, which appropriated \$100,000.00 to fund unbudgeted costs associated with the operation and administration of public health clinics to administer the COVID-19 vaccine, to provide that such appropriation of the remaining funds from the \$100,000.00 may also be used to fund unbudgeted costs associated with the operation and administration of public health clinics to administer the seasonal flu vaccine and to conduct contact tracing for positive COVID-19 individuals, or take any other action relative thereto. *By request of the Board of Health.*

ARTICLE 5. To see if the Town will vote to appropriate the sum of \$100,000.00 from the Water Enterprise Fund ~~Free-Cash~~Retained Earnings for the purposes of funding the engineering

and design of approximately 7,700 linear feet of new 8-inch diameter ductile iron water main on Church Street and Prospect Street, as well as any incidental and related expenses, or take any other action relative thereto. *By request of the Board of Water Commissioners.*

ARTICLE 6. To see if the town will vote to transfer the sum of \$47,000.00 from the Water Enterprise Fund Stabilization Account ~~to for the purpose of purchase-purchasing and equipping~~ a ¾ ton 4WD pickup truck with plow, and to dispose of the existing pickup truck in accordance with the Town policy for disposition of surplus property, or take any other action relative thereto. *By request of the Board of Water Commissioners.*

ARTICLE 7. To see if the Town will vote to transfer ~~from available funds~~ the sum of \$150,000.00 from ~~the Capital Stabilization Account~~ available funds ~~to for the purpose of purchase-purchasing and equipping~~ a new DPW backhoe to replace a 2010 John Deere backhoe with same or comparable equipment, and to dispose of the existing backhoe in accordance with the Town policy for disposition of surplus property, or take any other action relative thereto. *By request of the Board of Selectmen.*

ARTICLE 8. To see if the Town will vote to transfer from available funds the sum of \$8,000.00 for all costs and expenses pertaining to identifying, mapping and remediating invasive species on public lands in the Town of West Newbury, or take any other action relative thereto. *By request of the Climate Change Resiliency Committee.*

ARTICLE 9. To see if the Town will vote to transfer from available funds the sum of \$10,000.00 to provide matching funds upon award of a Green Communities grant in the FY22 grant round, or take any other action relative thereto. *By request of the Board of Selectmen.*

~~**ARTICLE 10.** To see if the Town will vote to accept Massachusetts General Laws Chapter 59, Section 8A to exempt, in certain circumstances, an entity, not including corporations, engaged principally in an agricultural business, from taxation of their machinery, equipment, and livestock. *By request of the Board of Assessors.*~~

ARTICLE 10. To see if the Town will vote to accept Massachusetts General Laws Chapter 59, Section 57A to allow for a single notice of preliminary or actual real estate or personal property taxes due for amounts not in excess of \$100.00, and if unpaid after the day of the first installment of the notice of preliminary tax or actual tax bill for the year is due, shall be subject to interest at the same rate and from the same date as any delinquent preliminary or actual tax first installment, or take any other action relative thereto. *By request of the Board of Selectmen.*

ARTICLE 11. To see if the Town will vote to accept Massachusetts General Laws Chapter 33, Section 59 to allow Town employees who serve in the military to perform required military service without loss of seniority, accrued vacation leave, sick leave, personal leave, compensation time, or earned overtime, or take any other action relative thereto. *By request of the Board of Selectmen.*

ARTICLE 12. To see if the Town will vote to accept Massachusetts General Laws Chapter 44, Section 55C and to authorize the Board of Selectmen to establish a Trust, to be known as the

West Newbury Affordable Housing Trust Fund, for the purpose of creating and preserving affordable housing in West Newbury for the benefit of low- and moderate-income households, and for the funding of community housing, or take any other action relative thereto, or take any other action relative thereto. *By request of the Board of Selectmen.*

ARTICLE 13. To see if the Town will vote to amend the West Newbury Zoning Bylaw to ~~replace~~ amend Section 5.D. Floodplain Overlay District, as on file and available for viewing in the Town Clerk's Office, in compliance with the National Flood Insurance Program, and further, to authorize the Town Clerk to make any non-substantive, ministerial changes to numbering and formatting, so as to ensure consistency with the rest of the Zoning Bylaws, as necessary, or take any other action relative thereto. *By request of the Planning Board.*

ARTICLE 14. To see if the Town will vote to amend the West Newbury Town Bylaws to adopt a new Section XLI Stormwater Management Bylaw, in compliance with the MS4 (Municipal Separate Storm Sewer System) Post Construction Stormwater Management requirements and the Town of West Newbury's MS4 General Permit [National Pollutant Discharge Elimination System (NPDES) Permit ID #: MAR041231, Town of West Newbury], as on file and available for viewing in the Town Clerk's Office, and further, to authorize the Town Clerk to make any non-substantive, ministerial changes to numbering and formatting, so as to ensure consistency with the rest of the Town Bylaws, as necessary, or take any other action relative thereto. *By request of the Board of Selectmen.*

You are hereby directed to serve this warrant by posting attested copies thereof at least 14 days before the date of the Special Town Meeting, as provided within the Town Bylaws.

LOCATIONS TO POST WARRANT:

Town Hall
1910 Town Office Building
G.A.R. Memorial Library
Post Office
Laurel Grange

Hereof fail not to make due return of this warrant with your doings thereon at the time and place of holding said meeting.

Given under our hands this ____ day of October, 2021.

BOARD OF SELECTMEN:

Richard G. Parker, Chairman

**TOWN OF WEST NEWBURY
COMMONWEALTH OF MASSACHUSETTS
WARRANT – SPECIAL TOWN MEETING
SATURDAY, OCTOBER 23, 2021 @ 9:30am**

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Laurel Grange

Hereof fail not to make due return of this warrant with your doings thereon at the time and place of holding said meeting.

Given under our hands this ____ day of October, 2021.

BOARD OF SELECTMEN:

Richard G. Parker, Chairman

David W. Archibald

Wendy J. Reed

Town Manager

From: [REDACTED]
Sent: Tuesday, September 28, 2021 6:27 PM
To: Town Manager
Subject: Re: Parks and Recreation authorities MCL Ch 45 Sec 5

Ok Angus thank you
John

> On Sep 28, 2021, at 5:59 PM, Town Manager <townmanager@wnewbury.org> wrote:

>
> John,
> Over the summer, this MGL, along with the backup documents, was included in memos to the Select Board re potential/known/likely articles for the Fall STM. The Board favored more study before bringing this forward for consideration by Town Meeting. Since that time I've continued correspondence with the Parks & Rec Commission and with the Board re the topic. I believe that the goal is to ensure that there is a broad understanding of, and ideally consensus regarding, this proposal before bringing to Town Meeting.

>
> I've made Rick as Chair aware of your concern (and in fact had spoken with him about the issue as recently as yesterday).

>
> 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

> -----Original Message-----

> From: [REDACTED]
> Sent: Tuesday, September 28, 2021 4:04 PM
> To: Town Manager <townmanager@wnewbury.org>
> Cc: Wendy Reed <wndreed@gmail.com>
> Subject: Parks and Recreation authorities MCL Ch 45 Sec 5

>
> Hello
> In reviewing the draft warrant for fall Special Town Meeting I see no article re subject.
> Please inform me about it's
> absence.
> John McGrath

Town Manager

From: Wendy Reed
Sent: Wednesday, September 29, 2021 7:15 AM
To: Town Manager
Subject: Parks and Rec warrant article

Hi Angus,

I don't recall the discussion about needing further study on this. Can you remind me what further information was needed? I need to call John back about this today.

Thanks,
Wendy

Get [Outlook for iOS](#)

Town Manager

From: Wendy Reed
Sent: Wednesday, September 29, 2021 7:42 AM
To: Town Manager
Subject: Re: Parks and Rec warrant article

Yes, I have the packet but don't recall the discussion to not include the article. Was there missing information or concerns that hadn't been addressed? If it was one of those marathon meetings, I may just not be remembering it.

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From: Town Manager <townmanager@wnewbury.org>
Sent: Wednesday, September 29, 2021 7:38:23 AM
To: Wendy Reed <wreed@wnewbury.org>
Cc: Rick Parker <rparker@wnewbury.org>
Subject: Re: Parks and Rec warrant article

It was in the late July/early August mtg packets, with backup materials incl. the supplemental packet around that time of known/likely/potential warrant articles. I've also discussed this issue at length with Rich as Chair.

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

Sent from my mobile device

On Sep 29, 2021, at 7:15 AM, Wendy Reed <wreed@wnewbury.org> wrote:

Hi Angus,

I don't recall the discussion about needing further study on this. Can you remind me what further information was needed? I need to call John back about this today.

Thanks,
Wendy

Get [Outlook for iOS](#)

Town Manager

From: Wendy Reed
Sent: Wednesday, September 29, 2021 1:03 PM
To: Town Manager
Subject: Re: Parks and Rec warrant article

Thanks for looking into this. I thought the way it was left after an overview on Aug 9 was that you were going to discuss with P and R. The minutes may prove me wrong but I don't recall any follow up to that discussion. It may be that you and Rick decided based on the information you shared in your prior email that we weren't ready. I think we just voted on the list of articles you presented rather than actively voting not to accept those on the proposed list.

I've apologized to John and will follow up with him. I'm also thinking the Board may want to adopt a warrant article request response process if the article will not be brought forward. Having a resident or B/C member learn by its absence in the warrant that their request was denied is not ideal. Could this be added to our agenda for 10/4?

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From: Town Manager <townmanager@wnewbury.org>
Sent: Wednesday, September 29, 2021 11:08:01 AM
To: Wendy Reed <wreed@wnewbury.org>
Cc: Rick Parker <rparker@wnewbury.org>; David Archibald <darchibald@wnewbury.org>
Subject: RE: Parks and Rec warrant article

The related materials were in the 7/28 mtg packet (pg. 90) and in the supplemental packet for the 8/9 packet ("Agenda Item L Supp – STM Warrant Articles.pdf") pp. 8-25.

The topic was also referenced on pg. 3 of the supplemental packet for the 9/7 mtg ("09_07_2021 SUPPLEMENTAL OS Packet re Fall Special Town Meeting.pdf") though by that time had been moved (in my summary memo) from the "Known" (STM articles) category (in my 7/24/21 memo) to "Known (or Likely)" category (in my 8/6/21 memo) to the "Potential Articles (this fall or in the future)" category (in my 9/6/21 memo).

I don't recall whether the Board's substantive discussion of the topic was at the 7/28 mtg, the 8/9 mtg or both. I would think the latter, since that packet changed the heading from "Known" to "Known (or Likely)" and I believe that change reflected some feedback to inform this change (whether from the Board or from discussions with the Chair in agenda prep/ lead-up to meetings). Definitely by the time of the 9/7 mtg, I was clear that the Board did not intend to include the proposal on the STM warrant, but I left it in the memo so it wouldn't be overlooked as a future matter.

Hope this helps -

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

Town of West Newbury
Employee COVID19 Exposure Protocol
DRAFT, October 2021

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. Because the town of West Newbury does not currently mandate or track employee vaccination status, the most protective approach is to use the exposure protocols for unvaccinated individuals.

Precautions

In order to minimize COVID19 exposure, Town employees and residents entering Town buildings are 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 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, consult their healthcare provider 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

An employee who tests positive for COVID19 must notify their supervisor and may not return to work until:

- 10 days after the date of testing if asymptomatic OR
- 10 days after the onset of symptoms, and
- They are fever free for 72 hours without use of medication, and
- They show overall improvement of symptoms

Approval to return to work must be given by the Town Manager or the Town Accountant/Business Manager.

Quarantine

An employee who has been within 6 feet of an infected individual for a cumulative total of 15 minutes over a 24-hour period is considered to be a close contact. The employee must notify their supervisor and remain out of work for a total of 10 days since the last contact with the infected individual. The employee may elect to be tested on Day 5 following exposure and if they receive a negative test result and do not exhibit COVID19

symptoms may return on Day 8. Approval to return to work must be given by the Town Manager or the Town Accountant/Business Manager.

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. 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. If the employee is too ill to work and accrued sick time has been depleted, the Town will seek alternative funding to maintain normal pay for the employee.

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.

DRAFT

Town Manager

From: Town Manager
Sent: Thursday, September 23, 2021 6:13 PM
To: Wendy Reed (wreed@wnewbury.org)
Subject: RE: Draft COVID19 Policy

Have been completely out straight today – just finished lunch – and now have FinCom 6:30 then CPC 7:30 so won't have time to review the draft til tomorrow. 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

From: Town Manager
Sent: Wednesday, September 22, 2021 11:00 PM
To: Wendy Reed <wreed@wnewbury.org>
Subject: Re: Draft COVID19 Policy

Will review tomorrow - looks like you've given a great head-start so thank you! Will be in touch sometime tomorrow and see a game plan coming together by week's end.

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

Sent from my mobile device

On Sep 22, 2021, at 10:07 PM, Wendy Reed <wreed@wnewbury.org> wrote:

Hi Angus,

Draft attached. There are three points that need your consideration and approval/revision:

1. This is a conservative approach based on the fact that we are not mandating or tracking employee vaccination status. For instance, while CDC guidance allows vaccinated individuals to return to work while waiting for test results, this policy would treat everyone as unvaccinated and require a negative test result before returning.

2. The issue of pay if an employee is required to remain out of work. As written, the employee would work remotely as much as possible, use accrued sick time and be made whole for any remaining hours they weren't able to work.
3. There should be someone in management that is aware of and tracks adherence to this policy. I assigned you that role, but perhaps it could be Stephanie.

Hopefully we're on the declining end of the recent surge in cases and these protocols won't be needed. I think there are employees who would appreciate having them in place just in case, though.

Let me know if you want to talk about any of this. I could also arrange to participate remotely if there's a meeting tomorrow or Friday.

Wendy

<COVID19 Protocol.docx>

Town Manager

From: Town Manager
Sent: Tuesday, September 21, 2021 6:12 PM
To: Wendy Reed
Subject: Re: COVID reopening plan etc.

Yes I'd welcome the help.

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

Sent from my mobile device

On Sep 21, 2021, at 5:43 PM, Wendy Reed <wreed@wnewbury.org> wrote:

I think he's missing the point. Because this wasn't done when it was required, we don't have any protocols in place to guide employees and department heads in how to respond to current exposure scenarios. By establishing a plan now, we'll have a framework in place for handling current and possible future scenarios with the pandemic. I think this is really important as we head into fall and winter, and with vaccine protection possibly waning. I assumed that he would be resistant to developing something and that's why I was offering to draft it. I was hoping to avoid creating any more tension with that department. Let me know if you still want me to come up with a draft for discussion.

From: Town Manager <townmanager@wnewbury.org>
Sent: Tuesday, September 21, 2021 4:09 PM
To: Wendy Reed <wreed@wnewbury.org>
Subject: Fwd: COVID reopening plan etc.

Begin forwarded message:

From: Paul Sevigny <psevigny@wnewbury.org>
Date: September 21, 2021 at 4:04:27 PM EDT
To: Town Manager <townmanager@wnewbury.org>
Cc: Town Accountant <townaccountant@wnewbury.org>, DPW Director <dpwdirector@wnewbury.org>, Finance Admin <finance.admin@wnewbury.org>, Residents Admin <residents.admin@wnewbury.org>
Subject: RE: COVID reopening plan etc.

Hi Angus,

These are old documents and workforce safety plans (written control plans) are not required with the termination of the State of Emergency back in July. Any questions, let me know.

From: Town Manager <townmanager@wnewbury.org>
Sent: Tuesday, September 21, 2021 2:11 PM
To: Paul Sevigny <psevigny@wnewbury.org>
Cc: Town Accountant <townaccountant@wnewbury.org>; DPW Director <dpwdirector@wnewbury.org>; Finance Admin <finance.admin@wnewbury.org>; Residents Admin <residents.admin@wnewbury.org>
Subject: COVID reopening plan etc.

Paul,

I was recently made aware of requirements that municipalities are subject to re COVID-19 protocols, employee training, and various written plans. Please see attached.

Stephanie is at a conference through tomorrow but will be back in the office Thursday and Friday. I'm hoping we can all meet to review what's required and set up a division of labor to get whatever needs to be drafted, drafted, along with a plan for implementation (incl. posting posters and training staff). While I don't know that this requires Select Board review/approval, I did tell them we'd work toward addressing these requirements promptly, and that I'd provide a status update at their next mtg on 10/4.

Please let me know your availability Thursday or Friday, as well as whether you have any guidance on this topic from your listservs or other local health colleagues.

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



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: Select Board
FROM: Angus Jennings, Town Manager
DATE: October 2, 2021
RE: Proposed policy to require advance Town Manager approval for OT/hours above budget

As you may be aware, there is presently no written policy requiring advance approval for non-union staff overtime or hours worked above budget. On occasion, my office has only become aware of extra hours worked when timesheets are submitted during the payroll process. At that point, if the hours have been worked, the Town is obligated to pay for the time under Federal labor law. I believe this represents a gap in our internal financial controls. Further, I have been contacted by staff in multiple departments in recent weeks with concerns about their ability to get their job done within budgeted hours; my response and advice is enclosed. In short, this is a present, and expanding, issue.

I have been working with Stephanie to prepare a policy to require advance written Town Manager approval prior to non-union employees working either OT, or hours above budgeted. We both think that this could be reasonably promulgated by my office under statutory authority (and the Board's corresponding Financial Operating Procedures policy, as follows:

Financial Operating Procedures

Pursuant to Sec. 8(a) of Chapter 97 of the Acts of 2017 (the Town Manager legislation), the Select Board voted to give the Town Manager the authority to establish and implement financial procedures and guidelines regarding day-to-day Town financial operations, as he or she so determines to be necessary and beneficial.

Adopted: 1/6/2020

However, because this also affects personnel administration we'd also recommend an amendment to the Personnel Policy, potentially for referral on 10/4 for a 10/18 hearing.

A draft policy is enclosed, and draws from comparable policies in effect in other communities. Unless the Board expresses opposition, my intent would be to issue this policy (if/as amended prior to being finalized) on an interim basis, pursuant to my office's authority under Section 8 of the Town Manager Act and the above-referenced Select Board policy, and to also request Board referral of this policy (again, if/as may be amended) to public hearing for consideration as an amendment to the Personnel Policy.

COMPENSATORY/OVERTIME/TIME WORKED ABOVE BUDGETED HOURS POLICY

Exempt Employees

Employees holding exempt positions are never entitled to overtime pay. Generally, employees holding exempt positions are not entitled or allowed to use or accrue compensatory time. Rather, it is expected and understood that professional positions often require more than 9 hours in one day or 40 hours in one week.

The sole exception to this prohibition is that in unusual circumstances, when pre-approved by the Town Manager in writing an exempt employee may request the accrual of a limited amount of earned time. In this situation, earned time shall be accrued on an hour for hour basis.

Use of earned time by exempt employees is strictly subject to the written approval of the Town Manager. Exempt employees are never, no matter the circumstances, entitled to payment for any accrued and unused earned time. Any earned time earned must be used within 60 days of accrual.

The reason it is rare that earned time accrual will be approved is that it is expected and understood that professionals will dedicate the number of hours necessary to succeed at their position. As professionals, it is expected that there will be no earned time requests for things like attending night meetings or working late during busy times. As professionals however, and in the interest of preventing employee burnout, where the hours of work required exceed the “normal” work week due to night/weekend meetings, special projects, DPW winter operations, etc., and said hours are documented, you would be eligible to receive earned time off at the discretion of the Town Manager.

Overtime, Overtime Pay and Compensatory Time Non-Exempt Employees Only

This portion of the policy solely applies to non-exempt (hourly) employees.

Overtime is the term given to hours worked beyond 40 hrs in one work week. Overtime hours are compensated either monetarily (pay) or in compensatory time off, both at the one-and-one-half time rate for each hour over 40.

1. Overtime

The granting of overtime is contingent upon an existing need, usually temporary, such as additional workload, special projects or events, or to cover the absence of another employee. Working additional hours for the purpose of receiving additional pay or accruing extra compensatory time off for future use is prohibited and creates an unnecessary fiscal obligation for departments.

Overtime is reached once an employee has actually worked beyond the 40-hour maximum allowable hours in a given workweek. Compensation for overtime hours must be paid at the one-and-one-half time rate to non-exempt employees for any hours worked in excess of 40 hours in any given week. The Town Manager is responsible for oversight of overtime for non-union employees, consistent with appropriated funds. Overtime must be authorized in advance by the Town Manager.

2. Overtime Hours.

In determining whether an employee has worked any overtime, only those hours actually worked will be considered. This is not the same as "in-pay status" which includes all paid leave hours, no matter the type.

An instance of "in-pay status" as opposed to overtime status is the scenario where the number of hours worked is less than or equal to 40, but when added to leave time taken becomes greater than 40. In this case, the extra hours are termed "additional" and are to be paid at the regular annualized rate of pay. To avoid placing an employee into an overtime situation, an employer can plan in advance to change the employee's work schedule.

3. Overtime Pay.

Payment for overtime worked will be at one and one-half times the employee's regular rate of pay.

4. Compensatory Time.

Compensatory time is an alternative method of overtime compensation for hours worked over 40 for non-exempt employees. As such, it must be approved in advance as overtime. The same overtime principles apply: Working extra hours in order to accrue compensatory time off for future use is prohibited.

In lieu of paying a non-exempt employee for overtime worked, employees may be granted compensatory time off at the rate of one and one-half hours off for each hour of overtime worked, at some time after the workweek in which the overtime was worked if the following conditions are met:

- a. The employer reaches an agreement with the employee to accept compensatory time off in lieu of overtime pay prior to the performance of the overtime worked. The same agreement does not have to be reached with each employee.
- b. The employee knowingly and voluntarily agrees to accept compensatory time.

Employees who have requested the use of compensatory time will be permitted to use such time within a reasonable period after making the request if use of the time does not unduly disrupt the operations of the department. Mere inconvenience to a department is insufficient reason to deny an employee's request to use compensatory time. Likewise, each employee who has accrued compensatory time off may be required to use the compensatory time within a reasonable period after receiving notice to do so. The notice will include the length of time in which a specified number of hours of compensatory time are to be used.

Time Worked Above Budgeted Hours

Non-Exempt Employees Only

If the work demands of a non-exempt position exceed budgeted hours within a given pay period, the affected employee may request advance Town Manager approval to work more hours than are budgeted.

The approval to work hours above budgeted is contingent upon an existing need, usually temporary, such as additional workload, special projects or events, or to cover the absence of another employee. Working additional hours for the purpose of receiving additional pay is prohibited and creates an unnecessary fiscal obligation for departments.

Within the Town Manager's consideration of the request, discussion will take place with the affected employee, including (if/as appropriate) the primary Board or Commission to which the employee provides direct support. Discussion will consider what factors are driving the workload above budgeted hours, and whether the best answer is to increase hours (with the employee's specific agreement), or to somehow reduce workload.

Avoiding a situation where the employee's actual pay exceeds what is budgeted could include reducing hours worked in future weeks, to offset any overage; or increasing the budgeted expense line (whether by budget amendment or by approved Reserve Fund or Line Item transfer) to cover the actual hours/cost, if necessary. In either case, advance approval by the Town Manager is required for hours worked above the budgeted hours.

Town Manager

From: Town Manager
Sent: Friday, September 24, 2021 4:06 PM
To: Leah Zambarnardi
Cc: Town Accountant
Subject: RE: Thoughts on Hourly v Salary w backup

Leah,

Your timesheet should reflect your actual hours worked. As an hourly employee you're entitled to pay for all hours worked.

Under the Town Personnel Policy sec. 2.8, the designation of an employee as exempt (salaried) or non-exempt (hourly) is supposed to be made at the time of hire. I don't find that your 2015 offer letter specifies this, but as we have discussed I do not see your position as exempt. If you oversaw more personnel, and/or had more independent authority to make significant decisions that were binding on the town, that could change, but at present I think it's clear that the position is hourly.

With regard to working (and being paid for) the 25 hours/wk budgeted, I suggest that we schedule a time that you, me and Tim Cronin can talk about what factors are driving the workload above budgeted hours, and whether the best answer is to increase hours (with your assent, of course), or to somehow reduce workload. To avoid a situation where your actual pay exceeds what is budgeted could include reducing hours worked in future weeks, to offset any overage; or to increase the budgeted expense line (whether by budget amendment or by reserve fund or line item transfer) to cover the actual hours/cost. But in either case, it would be important for your direct supervisor to approve, in advance, hours worked above the 25 hrs budgeted.

As you know, it could be debated whether that approving entity would be the PB (presumably acting through its Chair) or my office. I think the [Town Manager Act](#) (esp. Sec. 8) vests substantial authority in my office (beyond what has in practice been asserted), and know of no such language empowering the Planning Board (other than for initial personnel appointment... and even that, I'm told by town counsel, is not totally clear). Now may be a good time to get the lines of authority clarified. My feeling is that, if there's work to be done (above budgeted hours), and you're willing to work, I'd rather see the work get done (and find the funds to pay for it). If it starts to look like the hours needed, week-in/week-out, exceed 25 hrs (as you suggest), the budget should (in my opinion) be adjusted to reflect that.

Please let me know if you'd like to get a call, zoom or mtg on the calendar to include Tim C.

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: Leah Zambarnardi <lzambarnardi@wnewbury.org>
Sent: Thursday, September 23, 2021 10:54 AM
To: Town Manager <townmanager@wnewbury.org>
Subject: Thoughts on Hourly v Salary w backup

Hi Angus,

I think I brought this up when talking about TP position and salary v hourly. I've had a number of weeks where I had to work more than 25 hours to do my job, and I'm conflicted with how to report them. I've been keeping track of this very closely in August and September. You can see the most recent weeks attached if you'd like.

So I want to bring this to your attention because I'm having an increasing problem with performing my job and limiting myself to 25 hours per week. Can you help me figure out how to report this? Should I report all work, including those beyond my 25 hours? This goes against my 2015 offer letter and what is budgeted. Should I make a point to stop at 25, even if I'm not done? If I understand correctly, this might be addressed by changing my pay from hourly to salary. If we went this route, I think my hours per week might need to be increased to about 30.

These are just some of my thoughts on this for now.

Thank you.

Ohk#M# dp ehqdgj/#DIFS#
Wrz q#Sdqgh#
Wrz q#i#z hw@ hz exu|#Sdqqlj#R iilfh#
6;4#P dq#wjh#
Z hw@ hz exu|#P D#4<;8#
40<;;069604433h{w#58#
#

Sdqqlj#R iilfh#K rxw#P rogd|#N xhvgd|#bg#Wkxugd|#urp #-63#p 1#w#5-63#s1p 1#

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: Thursday, September 23, 2021 10:24 AM
To: Town Accountant <townaccountant@wnewbury.org>; Finance Admin (finance.admin@wnewbury.org) <finance.admin@wnewbury.org>; [REDACTED]; Tim Cronin [REDACTED]; WNWater <wewater@wnewbury.org>; Planning Admin <planning.admin@wnewbury.org>
Subject: LZ Timesheet for signature, submission and filing

Ohk#M# dp ehqdgj/#DIFS#
Wrz q#Sdqgh#
Wrz q#i#z hw@ hz exu|#Sdqqlj#R iilfh#
6;4#P dq#wjh#
Z hw@ hz exu|#P D#4<;8#
40<;;069604433h{w#58#
#

Sdqqlj#R iilfh#K rxw#P rogd|#N xhvgd|#bg#Wkxugd|#urp #-63#p 1#w#5-63#s1p 1#

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.



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

M

TO: Select Board
FROM: Angus Jennings, Town Manager
DATE: October 2, 2021
RE: FY22 Wages and Staffing Updates

If the Board is supportive of either or both proposals considered within Executive Session (see pp. 8-20 of ES packet), you are requested to vote the following revisions to the corresponding wage schedule under Item M of the Open Session agenda.

Form Name: FY22 Best Practices Compact Program Application
Submission Time: September 30, 2021 2:41 pm
Browser: Chrome 93.0.4577.82 / Windows
IP Address: 72.74.89.122
Unique ID: 867895972
Location: 42.837398529053, -71.012100219727



Municipal Designation	Town
City or Town Name	West Newbury
Contact	Angus Jennings
Contact Phone	(978) 363-1100
Contact Email	townmanager@wnewbury.org
Compact Signatory	Angus Jennings
Signatory Title	Other
Signatory Title	Town Manager
Best Practice Area #1	Human Resources
Are you applying for this best practice with other communities?	No
Human Resources - Best Practice Focus Area	Develop a formal Wage and Classification Plan that details, at a minimum, job descriptions, employee grades, and salary ranges, thereby providing the municipality with a tool to make pay decisions that are reasonable in comparison to similar work being carried out in all areas of city/town government.

Why did you choose this best practice and what assistance would you need to accomplish this best practice?

The Town of West Newbury recently transitioned to a new Town Manager form of government, following on the prior form of government in which the Select Board was the Chief Administrative Official (supported by an Executive Administrator). The Town Manager Act vests authority over personnel matters with the Town Manager, with provisions for Board approval of matters including wages/salaries (i.e. Town Manager proposes wages/salaries, subject to Board modification/approval).

During this period of transition, now 3 years underway, adjustments have been made to the assigned Grade (per Wage Scale) and actual pay rate for some municipal positions, and some job descriptions have also been revised (with commensurate adjustment to compensation, as warranted). Some of these changes have affected Town employees, while others have been made during transitions of different positions (such as due to retirements, i.e. job descriptions of incumbent personnel have been revised prior to posting the job for hire).

However, the Town does not have the bandwidth to undertake a comprehensive review of wages and job classifications, including job descriptions/responsibilities, grades/ranges, actual wages. Building on the incremental changes that have been made in the past couple of years, the Town - through its Town Manager and with the Select Board and other Town employees and officials - seeks to initiate a formal Wage and Classification Plan based on a thorough review of job descriptions/responsibilities, staffing levels, internal comps, regional comps, etc.

Town personnel, including the Town Manager and Finance department will be closely involved, and outside counsel will be engaged as needed on labor/personnel issues, but it will be necessary to engage a specialized consultant/vendor in order to supplement the Town's bandwidth and bring such a study to completion.

If we receive a Community Compact grant to support this effort, our goal would be to get the work done timely to inform our FY23 budget process.

Would you like to apply for a second best practice?

No

Are you applying for this best practice with other communities?

No



Town Manager

From: Town Manager
Sent: Saturday, September 18, 2021 5:59 PM
To: Wendy Reed; Rick Parker; David Archibald
Subject: RE: MSA Affordable Housing Webinar Follow Up

This would be a great topic for a mtg in October, 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

From: Wendy Reed <wreed@wnewbury.org>
Sent: Friday, September 10, 2021 4:10 PM
To: Rick Parker <rparker@wnewbury.org>; David Archibald <darchibald@wnewbury.org>
Cc: Town Manager <townmanager@wnewbury.org>
Subject: Fwd: MSA Affordable Housing Webinar Follow Up

I attended this today and thought it might be of interest to all.

Get [Outlook for iOS](#)

From: Isabelle Nichols <inichols@mma.org>
Sent: Friday, September 10, 2021 4:01 PM
To: Isabelle Nichols
Subject: MSA Affordable Housing Webinar Follow Up

Good Afternoon,

Thank you for registering for today's MSA webinar: How to Bring Affordable Housing to Your Town. We hope that you enjoyed the session and found it useful! [Please take a few moments to complete this brief survey](#) so that we can continue to develop programs and trainings that are of interest to you.

Today's webinar was recorded and is available to [view on the MMA's website by following this link](#). Additionally, attached please find the slides used by Dottie, Jennifer, and Judi.

Have a wonderful weekend!

Best,

Isabelle

Isabelle Nichols
Member Services Coordinator



The MMA has moved! Please note our new address as of 3/22/2021:

3 Center Plaza

Suite 610

Boston, MA 02108

p: 617-426-7272 x104

inichols@mma.org | www.mma.org

Building Affordable Housing

Our experience at Metro West CD

Metro West Collaborative Development

- 2010-2020 projects in: Watertown, Medway, Newton and Norwell = 161 of 100% affordable housing (30%, 60%, 80% and 100% AMI) in PERPETUITY
- Exploring projects with Housing Trusts/Partnerships in: Hudson, Natick, Waltham, Watertown
- A compliance partner in deals in: Concord, Dedham, Duxbury, Everett, Lexington, Medford, Reading, Scituate, Sherborn, Stoughton, Watertown, Weston, Westwood
- 25 Towns/Cities trying to make affordable housing happen

How “affordable” housing happens

1. Zoning: inclusionary (special permit) or “40B”
2. Municipal land / building disposition
3. Non-profit developers

How Non-Profit Affordable Housing Happens

1. The Idea
2. Feasibility: A) is there a permitting path, B) is there \$, C) is there political will?
3. Site control
4. Design, Permitting, Financing
5. Construction, Lease-up
6. Celebrate and begin again

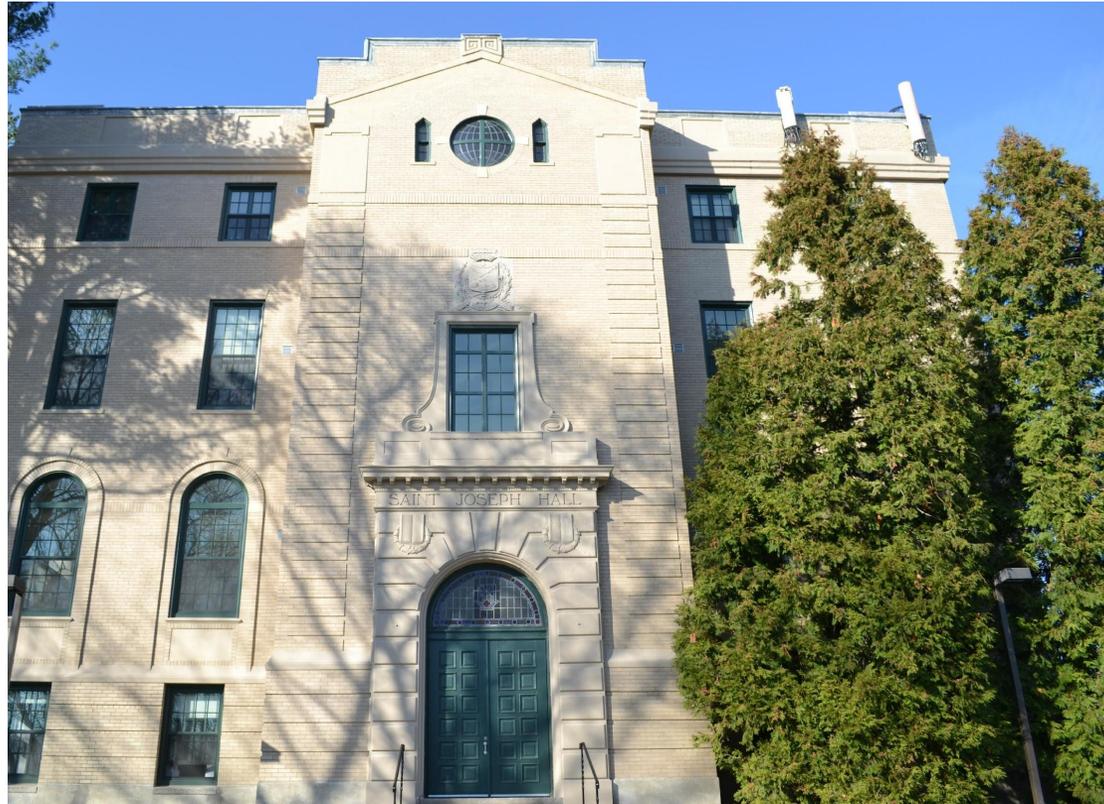
Metro West CD works with Partners

- Property owner
- Neighbors and community stakeholders and municipal leaders
- Local and state funders
- Private lenders
- General contractor and team of professionals
- Tenants – both residential and commercial long term stewards of the community assets



1060 Belmont: Watertown

- 18 unit family rental
- Occupied rehab.
- Created 3 handicapped accessible units
- \$1 million in local funds
- \$4.4 in other public and private funds



St. Joseph Hall: Watertown

- 25 units of VLI seniors
- Occupied rehab.
- Pre-school
- \$1 million local HOME
- \$1.5 private debt
- \$3 million state



Herring Brook Hill: Norwell

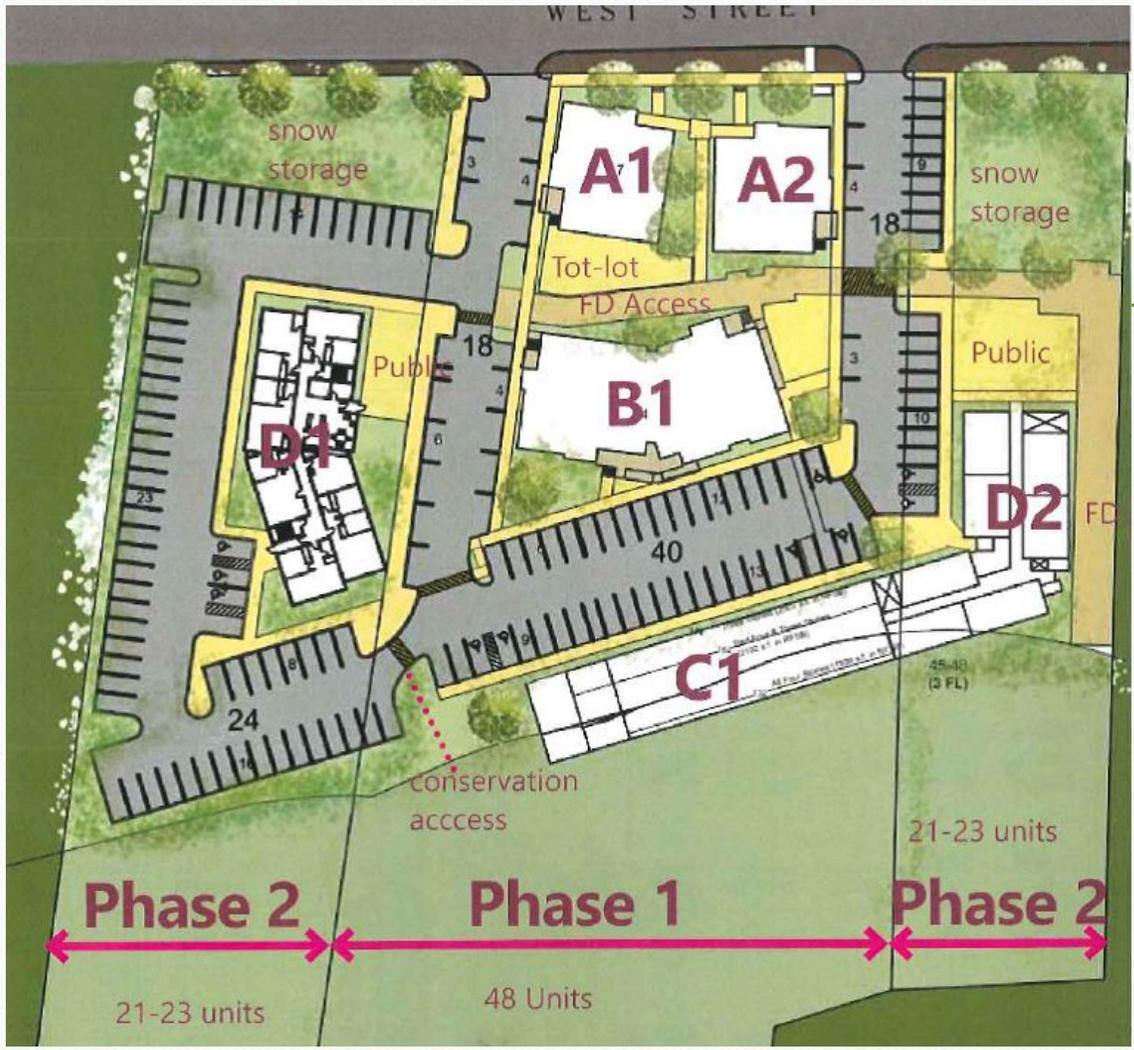
- 18 age-restricted units
- Comprehensive permit
- \$1.3 million CPA
- \$2 million private debt
- \$3 million state funds



236 Auburn: Newton

- 8 units
- Comprehensive permit
- \$2.5 million local
- \$.5 million private debt
- \$.5 million state funds

Glen Brook Way: Medway



- 92 units
- Comprehensive Permit
- \$2 million in CPA
- \$10 million private debt
- \$30 million state/feds



Hudson Police Station

- 40 units
- Comprehensive Permit
- Town donated land
- \$.5 million in CPA
- \$2.5 million private debt
- \$14 million state/feds

Secret Sauce

Hudson

- Strong Housing Trust
- Consensus on goals (who/how to help)
- Planning grant outside technical support made it **real** for all
- Money, reduced fees (!) and land
- Sense of partnership
- Political leadership

Other Town

- Weak Housing Trust
- No clear vision or goal
- No community planning or outside TA
- Money and land
- Developer is “bad guy”
- No political leadership

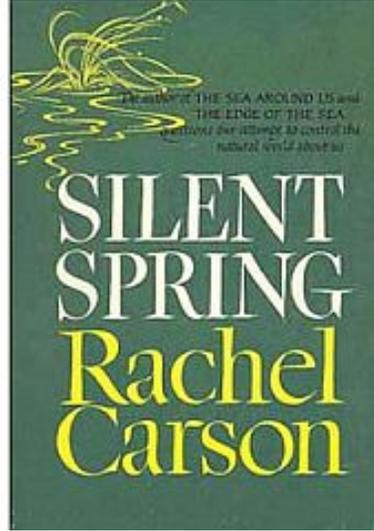
Jennifer Van Campen
jvc@metrowestcd.org

www.metrowestcd.org

Does your town have room for me?

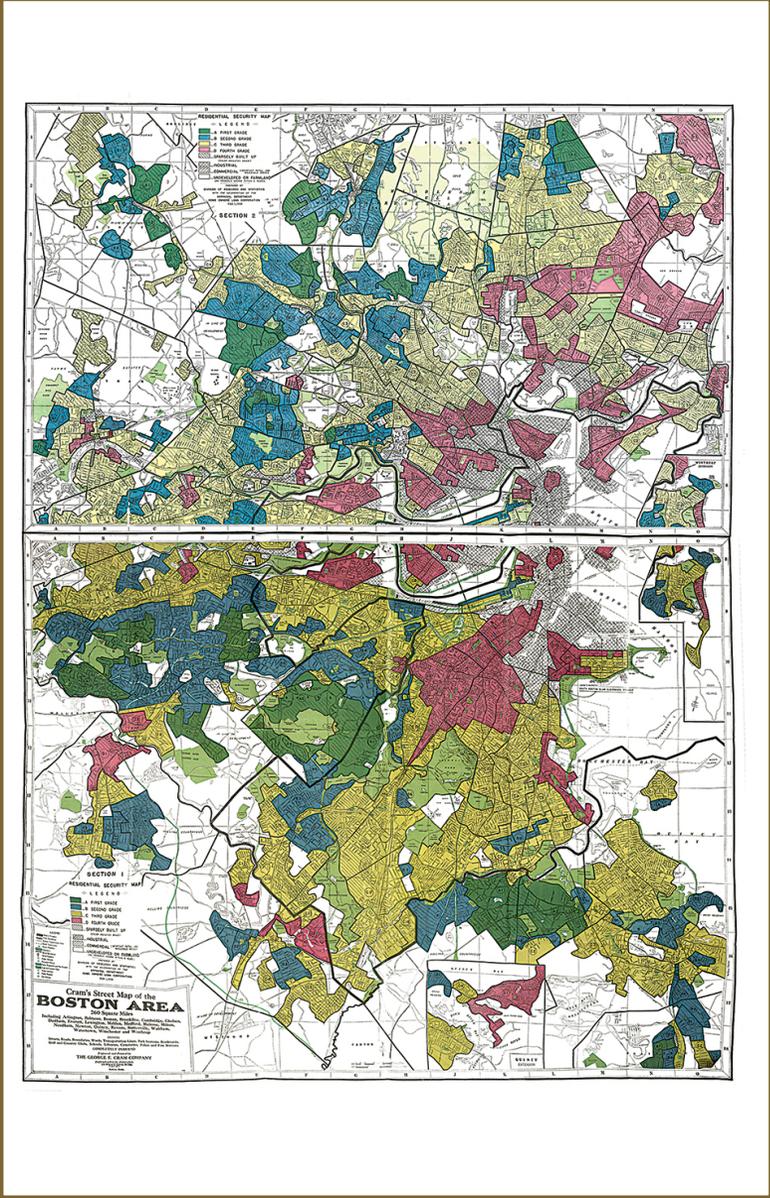
HOUSING EQUITY,
INCLUSION, AND HOME
RULE





Connecting the dots

- Federal Fair Housing Act
- Massachusetts Chapter 40B
- Diversity, Equity, and Inclusion



What can cities & towns do about equity, diversity, and inclusion?



How?

- Leadership
- Advocacy
- Regulatory
- Investment



Select Board Meeting July 2021 to December

JUL '21							AUG '21						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
			7	1	2	3		1	2				
4	5	6		8	9	10		8	9				
11	12	13	14	15	16	17		15	16				
18	19	20	21	22	23	24		22	23				
25	26	27	28	29	30	31		29	30				
SEP '21							OCT '21						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
				1	2	3	4						
5	6	7	8	9	10	11		5	6				
12	13	14	15	16	17	18		10	11				
19	20	21	22	23	24	25		17	18				
26	27	28	29	30				24	25				
								31					
NOV '21							DEC '21						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
				4	5	6							
7	8	9	10	11	12	13		5	6				
14	15	16	17	18	19	20		12	13				
21	22	23	24	25	26	27		19	20				
28	29	30						26	27				

● = Regularly Scheduled Meetings
Note: Calendar will be updated



LEADERSHIP

Equity Policy Perspective

Where is your City or Town Manager? Mayor or Select Board? Planning Board? Economic Development Commission?

What does your City or Town Master Plan say about where to encourage mixed uses and higher-density housing? Has that plan been implemented? Has it produced affordable housing?

Do your Planning Board, Economic Development Commission, and Housing Trust or Housing Partnership communicate? *Ever?*

Does your Community Preservation Committee have a good working relationship with the Affordable Housing Trust, Conservation Commission, Historical Commission, and Recreation Commission?

LEADERSHIP Equity Policy Perspective

- Where is your community's leadership for equity and affordable housing?
 - Housing insecurity is not evenly distributed across the population. It disproportionately affects people of color, older people, and those living on low incomes.
 - High-quality, stable housing is central to the health and well-being of families. It helps foster relationships and opportunities in communities, limits chronic stress, and reduces food insecurity.

ADVOCACY

Cultivating support for housing equity

- What is your community's official messaging about housing affordability? Multifamily housing? Investing in housing for people who work in your town?
- Does your community have people who will speak at public hearings, town meeting, or town or city council hearings about the need for and benefits of affordable housing?
- Do you welcome group homes for people with disabilities in your town? Sober homes?



HERE'S THE DATA 2020 Occupational Employment and Wage Statistics, 2019 American Community Survey

An **experienced server** in Acton makes an average of **\$36,173** a year.

Without being housing cost burdened, or paying more than 30% of their income on housing and utilities, an **experienced server** in Acton can spend no more than **\$900** per month on housing.

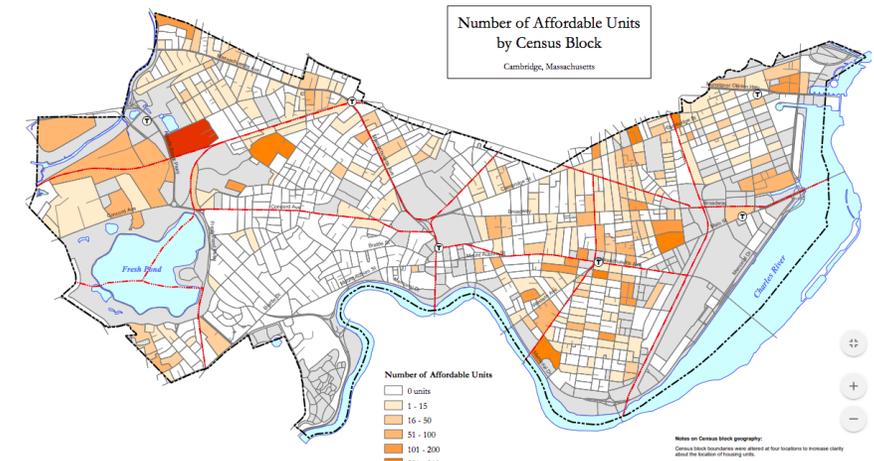
Fewer than 25% of the rental units are at this price range, and the median gross rent in Acton is **\$1,450** per month.

The median price of a house in Acton is **\$581,400**. In order to buy a home in Acton with a **10%** down payment, monthly housing cost would be **\$3,757**, requiring an annual income of **\$150,280**.



Regulating for Housing Equity

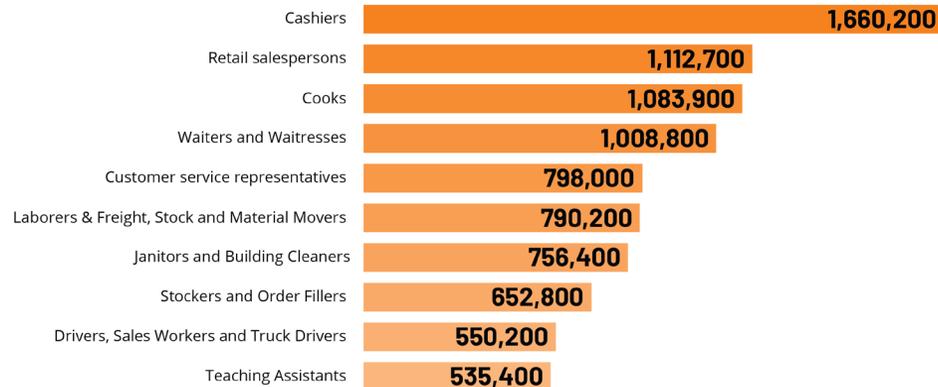
- Inclusionary zoning ... do you have it, and what has it produced?
- Where do you encourage a mix of different types of housing?
- Do you allow multifamily units at a realistic density in your town center? Neighborhood commercial centers?
- If you have *any* public transportation in your community, do you encourage a housing mix, including affordability, within walking distance?
- If you have a train station or commuter ferry, have you created a transit-oriented mixed-use district?



Regulating for Housing Equity

Top 10 Occupations Among Low-Wage Workers, 2018

Number of low-wage workers, by select occupations:



- Have you taken the time to study wage levels and housing prices in your community? What is the impact of housing costs on local workers? Where do they commute from?
- Have you talked to local workers? Local business owners (the business tenants, not just the property owners)?
- Do you have opportunities to use proven tools like Chapter 40R or Chapter 40B to increase your housing supply?
- What is the demographic make-up of your community? How does it compare to the region?
- Has your community done a racial impact study to evaluate whether current rules disproportionately affect Black people and people of color?

What is low income?

(FY20 HUD Income Limits, Boston Metro Area)

Household Size	Very Low Income (50%)	Extremely Low Income (30%)	Low Income (80%)
1	\$44,800	\$26,850	\$67,400
2	\$51,200	\$30,700	\$77,000
3	\$57,600	\$34,550	\$86,650
4	\$63,950	\$38,350	\$96,250
5	\$69,100	\$41,450	\$103,950
6	\$74,200	\$44,500	\$111,650

Management Analyst or Paralegal

School Bus Monitor, Fast-Food Cook

Fitness Studies Teacher, Accountant



What can they afford?

(FY20 HUD Income Limits, Boston Metro Area)

12

Household Size	Very Low Income (50%)	Extremely Low Income (30%)	Low Income (80%)
1	\$1,120	\$671	\$1,685
2	\$1,280	\$768	\$1,925
3	\$1,440	\$864	\$2,166
4	\$1,599	\$959	\$2,406
5	\$1,728	\$1,036	\$2,599
6	\$1,855	\$1,113	\$2,791

Management Analyst or Paralegal

School Bus Monitor, Fast-Food Cook

Fitness Studies Teacher, Accountant



Investments in Equity



- What does your City or Town Master Plan, or any neighborhood plans, say about targeting development?
- Where are your opportunity nodes?
- Have you aligned your capital spending commitments with your planning goals?
- Is your capital plan a “sidebar” to the annual budget cycle, or does your Planning Department, Economic Development Commission, Housing Partnership, and Finance or Advisory Committee work together to develop your five-year capital plan? (**Do you have a five-year capital plan?**)
- Have you funded a full-time Economic Development Director? Municipal **Housing Director**? Or a **Regional Housing Coordinator** shared with nearby towns?

Investments in Equity

- Does your Community Preservation Committee work closely with your Affordable Housing Trust? Does your community automatically transfer its CPA housing funds to the Affordable Housing Trust and let the AHT decide how best to invest those dollars?
- Does your City Council or Town Meeting make non-CPA resources available for affordable housing development?
- Has your community prepared a municipal land study and identified potential locations for affordable housing?
- Have you invested in a comprehensive housing strategy for your town?
- Does your community pay for training each year for your Planning Board, ZBA, other boards, and municipal staff?

You have choices!

HOUSING EQUITY, INCLUSION, AND HOME RULE



Housing success from an elected perspective

- Be Proactive
- Do your homework – use data
- Master Plan, Housing Production Plan
- Affordable Housing Trust
- Use examples from communities you identify with
- Fiscal Impact analysis
- Engage supporters...renters...downsizers
age in place, just starting out

Managing Public Conversations

- Set the ground rules – post them if possible
- Remind everyone that you are neighbors
- Set a time limit for comments
- Encourage people to limit their comments so everyone can have an opportunity to speak
- Be calm and patient

Ground Rules:

After the presentation, the Board members will be ask questions and make comments. After the Board is done, the audience will be able to comment.

The chair will recognize you and invite you to speak during the public comment portion of the meeting.

We are neighbors and we appreciate a robust and respectful discussion.

Thank you for making brief comments so everyone has an opportunity to share their perspective

Dottie Fulginiti
Select Board Chair, Town of
Easton
dfulginiti@Easton.ma.us



P

**Town of West Newbury
Board of Selectmen
Monday, July 26, 2021**
381 Main Street, Town Office Building
www.wnewbury.org

Minutes of Meeting

Open Session: 7:10 p.m. by in-person attendance or remote participation (see below)

Addendum to Meeting Notice regarding Remote Participation

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 23, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the West Newbury Board of Selectmen will be conducted via remote participation to the greatest extent possible.

Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at www.wnewbury.org. 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: 835 3362 6605

Passcode: 609014

Or from computer, tablet, or smartphone:

<https://us06web.zoom.us/j/83533626605?pwd=dWJrWGdHbzOzWStHb3RGUUpUNTlVZz09>

No in-person attendance of members of the public will be permitted, but 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, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.

The meeting was called to order at 7:10 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
- ❖ Town Clerk/Counsel & Procurement Officer, Michael McCarron
- ❖ Kayleigh Delibac, August Kowski (Regarding C(a))
- ❖ DPW Director Amaral
- ❖ Police Chief Durand
- ❖ Steve Spanger
- ❖ Jim Blatchford
- ❖ Kurt Umholtz, Lisa Forbush-Umholtz

- ❖ Sheri Chandler, Middle Street resident
- ❖ Ellen Alden
- ❖ Jen Wright, Mike Morris
- ❖ Richard and Cathy Withington
- ❖ Ryan Goodwin, Mill Pond Committee

Announcements:

- State Budget funding authorization for safety audit of Rte. 113/Pipestave/Page School Intersection (See page 3 for information through 4 for information)
- Congratulatory well wishes to outgoing Town Clerk/Counsel Mike McCarron, Wednesday, July 28th, 4:00 to 6:00 p.m., Annex (See page 5 for information)
- Summer Concert Series: Thursdays, 6:30 to 8:00 p.m. at the Bandstand (rain or shine). More details on the Town website.
- Upcoming town-wide mailer from Assessors to residents regarding tax exemption programs. (See pages 6 through 13 for information)
- 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.
- Reminder to subscribe, e-mailed Town news/announcements <https://www.wnewbury.org/subscribe>

REGULAR AGENDA

A. Requests for Placement of Temporary Roadside Signs:

- a) Cultural Council (See Exhibit A, page 14 for information)
- b) West Newbury Youth League

Select Board Chair Parker stated that the Cultural Council, in the previous meeting, was allowing two two-week periods at their selection, together or separated, and also allowing for five locations where there are no plantings, Pipestave, Page School, Bachelor Street, strip of land between Farm Lane and the high school, Bridge/Church Street traffic island. Further discussion ensued on this topic.

Motion made by Select Board Member Reed to allow the Cultural Council to place temporary road signs for two two-week periods, as discussed. Seconded by Select Board Member Archibald.

Yes 3, No 0

With regard to the West Newbury Youth League requesting the same type of request as the Cultural Council.

Motion made by Select Board Member Reed to approve the Youth League's request to post signs at the five locations already mentioned, for the two two-week periods. Seconded by Select Board Member Archibald.

Yes 3, No 0

B. Proposed FY22 Committee Appointments/Reappointments:

Select Board Chair Parker updated on this topic. (See Exhibit B, pages 15 through 16 for information) Stated that requests for tonight are for Heather Karp for Cultural Council for a three-year position through June 30, 2024, Margaret "Peggy" Dunlap for the Historic District Commission for three years, through June 30, 2024, and Ryan Goodwin for the Personnel Advisory Committee for a one-year position through June 30, 2022.

Motion made by Select Board Member Archibald to approve the nominees stated. Seconded by Select Board Member Reed.

Yes 3, No 0

C. Requests for Special Events Permits:

- a) Request for Use of Dunn Property for wedding ceremony, August 28 (See Exhibit Ca, pages 17 through 23 for information)

Select Board Chair Parker stated that this is something new, hasn't been considered before, and sounds interesting, but we also have to consider the implications for the Town on a broader basis than this single event. Went over the details of the event. Stated that concerns are that they are hoping the fields will be mowed, which is not on the current Town mowing schedule, the DPW is already understaffed and has more than it can get done, and will eventually be mowed by J. R. Colby, but they can't assure that the field will have been mowed by that date. Kayleigh Delibac and August Kawski, who were the requesters of the permit, answered questions from Select Board Members regarding this topic regarding mowing and traffic. DPW Director Amaral also offered information on this topic regarding mowing.

Town Manager Jennings offered his views on traffic and the possibility of future events being requested and ramifications of that regarding exposure to the Town. Select Board Chair Parker explained to the applicants that if this is allowed, a detail officer would have to be hired at a 4-hour minimum at time and a half for a weekend day. Ms. Delibac stated that they can also get liability coverage, and Town Counsel McCarron stated that the Town would have to be listed as an additional insured, but that the police detail would be more of a public safety issue and that the Select Board has the right to require a detail, as well. He also added that perhaps regarding parking, should be limited to the field side of the road so that people don't cross the road. Police Chief Durand also offered his opinion on this topic. Further discussion ensued on this topic.

Motion made by Select Board Member Reed to approve the special event permit based on parking and police detail arrangements as noted by Chief Durand. Seconded by Select Board Member Archibald.

Yes 3, No 0

- b) Essex County Greenbelt, fundraising cycling event, September 18 (See Exhibit Cb, pages 24 through 27 for information)

Select Board Chair Parker gave an overview of the route that would be taken, limited within West Newbury.

Motion made by Select Board Member Reed to approve the special event permit for Essex County Greenbelt on Saturday, September 18, 2021. Seconded by Select Board Member Archibald.

Yes 3, No 0

- c) Newburyport Half Marathon, October 24 (See Exhibit Cc, pages 28 through 33 for information)

Select Board Chair Parker provided details on this request. Select Board Member Reed inquired as to the temporary bathroom facilities, inquiring as to whether that's something that usually happens. The representative for the event stated that they usually have a stop there, further explained that 50-100 people do a relay, they do the transportation, as well, but they've always had at least one Port-A-Potty there. Select Board Archibald stated that they like to minimize the time that the Port-A-Potty is there, and the representative stated that they could have it removed the next day.

Motion made by Select Board Member Archibald to approve the event permit for the Newburyport Half Marathon on October 24th. Seconded by Select Board Member Reed.

Yes 3, No 0

- d) Newburyport Half Marathon, November 7 (See Exhibit Cd, pages 34 through 37 for information)

Discussion ensued regarding the route of this half marathon as opposed to the previous one. Select Board Member Archibald stated that the bridge that they intend to cross is getting uneven and the runners should be aware of that fact. Select Board Member Reed had questions regarding police detail for the event and questions were answered by Police Chief Durand.

Motion made by Select Board Member Archibald to approve the event permit for the Newburyport Half Marathon on November 7th. Seconded by Select Board Member Reed.

Yes 3, No 0

D. Request for One-Day Liquor License for Remembrance of Life in Town Annex, August 21, (Steve Spanger):

(See Exhibit D, page 38 for information) Discussion ensued about the box being checked off stating that the activity being for profit, and Steve Spanger stated that it's non-profit. Select Board Member Archibald inquired as to the number of people attending and Mr. Spanger stated that somewhere between 50 and 100, that they are currently trying to determine that, but

that they will have calling hours between 1:00 and 4:00 at the funeral home and people can also stop in between 4:00 to 6:00. Select Board Member Archibald stated that if it's 100, a police detail would be required. Further discussion ensued on this topic.

Motion made by Select Board Member Archibald to approve the request for a one-day liquor license on August 21st with the caveat that there has to be a police detail. Seconded by Select Board Member Reed.

Yes 3, No 0

E. Request for Appointment of Cameron Fountain as Reserve Police Officer:

Police Chief Durand stated that he would like to have Cameron Fountain appointed as a Reserve Officer for the Town and provided information regarding his qualifications. (See Exhibit E, page 39 for information)

Motion made by Select Board Member Archibald to appoint Cameron Fountain as a Reserve Officer in the West Newbury Police Department for a term ending 6/30/22. Seconded by Select Board Member Reed.

Yes 3, No 0

F. Request for Waiver of 15-Day Period for Appointment of Katelynn Chuilli as Reserve Dispatcher:

Police Chief Durand asked that a 15-day waiver take place and provided information regarding her qualifications. (See Exhibit F, page 40 for information)

Motion made by Select Board Member Archibald to approve Katelynn Chuilli as a Reserve Dispatcher, term ending 6/30/22. Seconded by Select Board Member Reed.

Yes 3, No 0

G. Request for Waiver of 15-Day Period for Appointment of Assistant Town Clerk:

Select Board Chair Parker updated on this topic. (See Exhibit G, pages 41 through 42 for information) Stated that the new Assistant Town Clerk would be coming in within the wage range of a Level Grade 5 within the approved budget.

Town Manager Jennings provided an update on the topic, stating that they received 12 applications for the Town Clerk position, invited 4 for interview, one candidate withdrew after being offered an interview, so interviewed 3. Christine Marshall is the candidate that he is going to recommend for appointment, providing information regarding her qualifications.

Motion made by Select Board Member Reed to change the grade level for the Assistant Town Clerk to Grade 5. Seconded by Select Board Member Archibald.

Yes 3, No 0

Motion made by Select Board Member Reed to waive the 15-day period for appointment of the Assistant Town Clerk. Seconded by Select Board Member Archibald.

Yes 3, No 0

H. Request for Waiver of 15-Day Period for Appointment of Town Clerk:

Select Board Chair Parker updated on this topic. (See Exhibit H, pages 43 through 45 for information) Stated that this appointment is to replace the current Town Clerk McCarron. Town Manager Jennings provided an update on the topic, stating that the same number of applicants responded, they invited 4 for interview and explained the process. Town Manager Jennings stated that he was pleased to present Jim Blatchford as the recommended candidate that he intends to appoint and provide information regarding his qualifications.

Jim Blatchford spoke to the Select Board, stating that he feels that he can really sink his teeth in here, he can learn what he doesn't know, and is looking forward to working with the team. Select Board Members had questions of Mr. Blatchford, which he provided responses to.

Motion made by Select Board Member Reed to waive the 15-day period for appointment of the Town Clerk. Seconded by Select Board Member Archibald.

Yes 3, No 0

I. Continued Discussion of Chapter 61A Right of First Refusal for Graf Property (Middle Street at Kimball Road):

Select Board Member Reed updated on this topic. (See Exhibit I, page 46 for information) Stated that two additional letters were received today. Select Board Chair Parker stated that it's a difficult decision for everybody. Stated that the property represents an iconic view with a startling number for the price tag and inquired as to how they can balance the aesthetics with the price tag.

Select Board Member Archibald stated that he can't see the Town putting up funds in whole from CPA or regular Town budgeting, but this would be something that future residents would gain benefit from, but that current residents might not see the benefit of spending money now on a scenic view. Stated that if the Town supported it, he could get behind bonding for the purchase which could be paid over 20 years and future residents would also bear part of the tax burden. Select Board Chair Parker stated that he has also been concerned with using \$1.1 million of CPA funds at one time but hadn't thought about the potential bonding. Further discussion ensued on this topic.

Kurt Umholtz inquired as to whether it could be bonded and paid for from CPA revenue to which Select Board Member Archibald stated that would be the idea. Select Board Chair Parker stated that we would be encumbering future payments into CPA, and if that becomes a habit, it will reduce the available CPA funds.

Select Board Member Reed stated that it's really not the value of that particular property, that it doesn't have trails or that it's not connected to other networks, it's clearly a valuable scenic resource, but that she just has a hard time with the price tag but doesn't see any way around it if the owners aren't willing to negotiate and the abutters aren't able to put together funds to

help with the purchase. With regards to the abutters and fundraising, Mr. Umholtz explained how this opportunity developed and their efforts of raising funds through Greenbelt, but that this didn't meet Greenbelt's objectives, but could participate meaningfully with having the opportunity to preserve vistas, because if you don't preserve them, you have nothing to preserve in this category.

Town Counsel McCarron stated that you also have to consider that this is only half of the apple, that if you want to preserve the view there, you would have to also purchase the back property, also another \$1 million, so it's now multi-millions of dollars in the future since it would be somewhat foolhardy to purchase the front part and leave the back 9 acres to be developed, which it could be.

Select Board Member Reed stated that at the last meeting, someone had said that there was a conservation restriction on it, and it's not actually a conservation restriction, but there is a deed restriction, but it's only a 20-year deed restriction. It was inquired if the owners of that property were to commit to a longer term, perhaps a conservation restriction as part of this, would that move the needle. Select Board Chair Parker stated that he feels that it would since his personal opinion is that it's a conservation restriction, if it times out at 20, 30, or 40 years, it still times out, and if our goal is to preserve something, ought to be preserving it as close to perpetuity as we can get. Select Board Member Reed stated if they were willing to work with Greenbelt to establish a conservation restriction on the property, that would make a difference, even though not sure how would pay for it.

Sheri Chandler, Middle Street resident, stated that she did send a letter, but wanted to attend to show her support. She stated that future generations could pay for it since it would increase their property values, and that in addition to that, there are a limited number of scenic vistas left in West Newbury, that this location is well traveled and loved, that it's used by many runners, and that it preserves the character of West Newbury and makes a statement regarding what the Town is willing to preserve. Ellen Alden stated that there is a trail system that runs through that property and feels that it's important and that the Town's property has always been scenic views.

Town Counsel McCarron stated that the deed to the current owner states that the property would be kept in 61A for at least 5 years and can't be subdivided for 20 years, but that doesn't mean it couldn't be developed, someone could theoretically build an open space development there and there would be a subdivision.

Jen Wright, owner of the back lot, stated that she appreciates the Select Board having this conversation, that they have done much research with the neighbors about offering up a trail system, and if the Select Board has a desire to continue this conversation to talk about creating long-term restrictions on the property, they would be happy to have discussions, since they would also like to see it preserved and remain open space.

Select Board Chair Parker stated that he feels it's worth having more conversation regarding this, that they have 120 days, the clock started ticking on June 15th, so only 40 days into it now. He also stated that would have to figure out how to fund it with certain funding, which changes the discussion, but a decision doesn't have to be made tonight. Town Manager Jenings stated that the Select Board has the authority to set a Special Town Meeting for this purpose.

Richard and Cathy Withington stated that this seems like a good idea and stated that they understand the concerns about the perpetuity costs, stated that he's in favor of using CPA money where it's appropriate, and inquired whether there are other ongoing CPA projects. Select Board Chair Parker stated that although they can't offer a lot of detail at this point in time, there is at least one other significant piece of property mentioned on the front page of the Daily News this morning, that perhaps could be something that CPA funds would be used for, but that he doesn't know much about the opportunity at this time because he just learned about it, but also offered that the nature of land acquisitions using CPA funds seems to be that you may have identified 50 parcels but you never know which parcel will become available, and when it does become available, you frequently don't have a lot of time to deliberate and figure out how you're going to raise the money, so have to be careful about how we deplete the pool of readily available funds, with Mr. Withington offering that he is in favor of this acquisition.

Select Board Chair Parker stated that it would make sense to talk further, and Select Board Member Archibald stated that more information is good. Select Board Member Reed inquired as to whether the conversations with the landlord would be in executive or open session, and Town Counsel McCarron stated that if there is a quorum of the Board to meet with the owner, it would have to be in open session because the purpose for executive session is a meeting to discuss strategy with regard to the acquisition of land, not for the location of the land. Obviously, one member of the Board could have discussions and then strategize with the Board as to acquisition of real estate, but if a quorum meets with the owner, it will have to be in open meeting.

With regards to having a meeting with the owner, Select Board Member Reed offered her time, advised Ms. Wright that she'll reach out regarding a time to meet. Ms. Wright introduced her husband, Mike Morris, who stated that before they bought the property, they wanted to preserve the lower field, and that his dad owned a property in Newbury, who worked out a situation with Greenbelt and the State of Massachusetts to establish the Morris Reservation, explaining the layout of the land and trails and would like to see this happen for this land, as well.

Lisa Forbush-Umholtz stated that she could reach out to Greenbelt again and Select Board Member Reed suggested starting with the owners, then the Town, then reach out to Greenbelt. Ms. Forbush-Umholtz stated that there's also potential for trails on the property. Select Board Chair Parker stated that perhaps if the Town were to acquire the land, they might be able to locate a duplex for affordable housing in a location where it doesn't impact or only has a small impact on the view, which would serve a need that the Town has for affordable housing.

J. Discussion of Animal Bylaw and Enforcement Thereof:

Select Board Chair Parker updated on this topic. (See Exhibit J, pages 47 through 54 for information) Stated this comes up following an incident a few weeks ago at Pipestave down by Mill Pond where somebody with two dogs that should have been under their control but were not harassed a group of high school cross country runners and bit one of them significantly enough that they had to go to the ER and now having a rabies regimen of shots since they were unable to locate the owner of the dog, inquiring as to what can be done to prevent that type of incident of happening again in the future or to minimize the possibility.

Ryan Goodwin from the Mill Pond Committee stated that these incidents happen occasionally where dogs are actually chasing people, but this one is a little more serious with high school runners out there and being chased by dogs. So, prior to the last committee meeting, spoke with Town Manager Jennings to understand the Town Bylaws and how they differed from the Mill Pond Management Plan, which also has rules for animal control.

Goodwin also stated that there are hundreds of people who utilize Mill Pond on a regular basis, and some people are not abiding by the rules, but there are hundreds of examples of people doing the right thing. He also stated that the current Town Bylaw which states, "on a leash or under immediate control" is difficult to enforce because it means different things to different people, so how could the bylaw be enforced. Suggestions at the last meeting were to provide a better knowledge base, install better signage, and secondly to increase the land area where dogs are on leash, perhaps in the parking lot where there are an increased number of dogs, which could mitigate the risk. He further stated that they certainly don't want one incident to lead to punishment for everyone.

Select Board Member Archibald questioned whether for people using Mill Pond and Moulton Street reservoir, do we have professional dog walkers coming here because other towns don't allow it? Goodwin replied that he feels that most people are probably from the area and utilizing the recreational area to walk their dogs. Town Counsel McCarron stated that the bylaw was amended to state that anyone who has four or more dogs must be on a leash. Select Board Member Reed stated that the one comment that she has heard from people is that yes, you only hear about the bad incidents, but some numbers of residents don't go to Mill Pond because they don't like dogs or are afraid of them and don't want to be in that environment. Select Board Member Reed suggested perhaps designating one trail as no dogs allowed in order for residents to enjoy the area without concern.

Town Counsel McCarron stated that per the Management Plan, animals are supposed to be leashed in the parking lot. Further discussion ensued on enlarging the parking lot area to minimize interactions, how to make people aware and how this could be enforced. Suggestion that clarifying the bylaw and working on the education piece regarding what immediate control means. All Board members felt that something needs to be done, but that it will probably have to be done over time with marginal gains with Goodwin suggesting that could be accomplished through education and signage without taking away from the freedom that the area provides.

Select Board Member Reed stated that she feels that the Town should enforce what's on the books right now and inquired whether the visibility of the Animal Control Officer could be increased with regards to the current contract. Town Manager Jennings stated that they could but that he would have to check the schedule of the Animal Control Officer and his responsibilities to Newburyport as well as here. Further discussion ensued regarding what would be the best days and times that this increased presence would have the most impact.

K. Proposed MOA with Merrimac for Joint Posting/Hiring of Conservation Agent:

Select Board Chair Parker updated on this topic. (See Exhibit K, page 55 for information) Stated that this has now become a futile effort. Town Manager Jennings stated that he spoke with Carol from Merrimac today regarding an updated proposal, and stated that it's gotten a little bit messy, so he told her that he didn't have anything for them to vote tonight.

He further stated that now, the question is how we move forward without further compromising other pressing things that need to be done in Town. Stated that the position has been posted, that he has not received any applicants, but that the posting will remain up in hopes of receiving applications.

Further discussion ensued on what has been going on and what might happen in the future, with questions regarding having one person for both towns, pay rate, and how Merrimac would like to pay. Select Board Chair Parker stated that it probably won't work based on how Merrimac's vision for this position is different and Select Board Member Archibald suggested posting a 25-hour position for the Town, but Town Manager Jennings stated that he feels we should wait to see if somebody might apply since there are many other more pressing issues that he has to deal with at this time. Further discussion also ensued regarding timing and the order of how and when things should be done.

L. Review of Town Building Access Protocols/Whether Masking will Continue to be Required in Common Areas:

(See Exhibit L, page 56 for information)

Motion made by Select Board Member Archibald to continue the policy as is until a further date. Seconded by Select Board Chair Parker.

Yes 3, No 0

M. Review of Proposed Revisions to Signs on Town Property Policy:

(See Exhibit M, pages 57 through 59 for information) (This item deferred to 8/27/21)

N. Review of Proposed Town Mailbox Policy:

Town Manager Jennings updated on this topic. (See Exhibit N, pages 60 through 65 for information) Stated that the policy in the packet had been adopted in the previous town he worked in. Discussion ensued regarding the \$85 reimbursement proposal. DPW Director Amaral stated that he came up with that price based on the pricing for a metal mailbox and explained how he came up with that price. Discussion also ensued regarding the current MGL statutory language. Further discussion ensued regarding relocating the mailboxes that are continually damaged and how this could be communicated to the public. Town Counsel McCarron added that the Assessor has a welcome packet given to new residents and it could be put in there. Discussion ensued further with town members offering comments regarding this topic, further stating that the USPS offers suggestions for mailbox placement for the benefit of their drivers.

Motion made by Select Board Member Reed to adopt the mailbox policy for the Town of West Newbury as proposed on 7/24/2021. Seconded by Select Board Member Archibald.

Select Board Member Archibald added that would be voting no because he feels that \$85 is too much.

Yes 2, No 1 (Archibald)

O. Review of Proposed Revisions to Policy for Request for Review of an Issue by Town Counsel:

Select Board Member Archibald inquired of Town Counsel McCarron regarding whether he gets random questions from random departments. (See Exhibit O, pages 66 through 69 for information) Town Counsel McCarron stated that it's a mix, gets people coming in to ask questions and discuss a matter, and sometimes it's a little difficult in the sense that citizens call him to ask questions since he is Town Counsel and what is the Town's position on this, to which he has to say if it's like a zoning issue, have to talk to the Building Inspector, who will ask me and I'd give him the advice, not the citizen, and further explained how he handles questions that he gets. Further discussion was held regarding how this should run through the Town Manager's office and/or the Select Board for approval.

(This item deferred to 8/27/21 for further discussion)

P. Review of Proposed Revisions to Select Board Policies:

(See Exhibit P, pages 70 through 88 for information) (This item deferred to 8/27/21)

Q. Review of Date for Fall Special Town Meeting Warrant Article Submittal and Expected Warrant Closure Date; Preview of Any Known/Potential Warrant Articles:

Select Board Chair Parker updated this topic. (See Exhibit Q, pages 89 through 90 for information)

Motion made by Select Board Chair Parker to set September 1st as a deadline for warrant article to be submitted for the upcoming Fall Special Town Meeting. Seconded by Select Board Member Archibald.

Yes 3, No 0

R. Letter from MVPC re Potential Designation of Rep to Metropolitan Planning Organization (MPO):

(See Exhibit R, pages 91 through 92 for information) (This item deferred to 8/27/21)

S. Discussion of Trail Upkeep on Open Space Developments:

(See Exhibit S, page 93 for information) (This item deferred to 8/27/21)

T. Discussion of PIE Rivers Grant for Low Impact Development Bylaw Review:

(See Exhibit T, page 93 for information) (This item deferred to 8/27/21)

U. Timing to Conduct Board Appointed Staff and Town Manager Evaluations:

(See Exhibit U, page 93 for information) (This item deferred to 8/27/21)

V. Meeting Minutes: 5/24/21, 6/14/21:

(See Exhibit V, pages 94 through 112 for information) (This item deferred to 8/27/21)

TOWN MANAGER UPDATES

W. Receipt of Grant Funded ADA Audit of Municipal Facilities:

(See Exhibit W, page 113 for information) (This item deferred to 8/27/21)

X. Update on Stormwater Bylaw Review Process:

Town Manager Jennings updated on this topic. (See Exhibit X, pages 114 through 124 for information) Stated that Town Planner Leah Zambenardi is preparing comments for the Planning Board to review for the stormwater bylaw to work, and that he is trying to get some input so we can be in a position to propose something and have a public hearing, as well.

Y. Middle Street Bridge, Submittal of ENF, Update on Newburyport MOU, Review of Potential Repair Options:

Town Manager Jennings updated on this topic. (See Exhibit Y, pages 125 through 152 for information) Stated that this has been circulated to various boards and knows that the Board of Health and Conservation are planning to put it on their agenda. Stated that working with DPW Director Amaral, he has provided a binder with the report, and is also working on identifying improvements that can be built into the work plan for future studying proposals, but there is still much to be done. Further discussion ensued on this topic regarding engineering, problems, budget, design costs, further funding, etc. Amaral stated we need documentation of Newburyport's action, as well.

Town Manager Jennings stated that with the Board's agreement, he will draft up a letter to the Newburyport City Council to request that it be added to their agenda in the near term, reminding them of the September 17th date, and should be an agreement that whatever action is taken or not taken should be in open session and not just have this wither away. Select Board Chair Parker stated he would like it to be before the MOU expires.

Z. Update on Investigation of Potential Establishment of Affordable Housing Trust:

(This item deferred to 8/27/21)

AA. Report on Reduction of FY22 Essex Retirement Assessment:

(See Exhibit AA, pages 153 through 154 for information) (This item deferred to 8/27/21)

BB. Update on Paving Bid Process and Timeline:

DPW Director Amaral updated on this topic. Stated that bids will be available for contractors to take and review as of July 29th, due back by August 20, 2021. Stated that looking at Crane Neck (2 sections, Main to Georgetown Road), the Town Hall parking lot (drainage structures). Stewart Street (major cracking), Whetstone Street. Stated that the price is pretty high but has come down a bit from where they were in the spring, but still high, estimated \$85/ton but now

looking at around \$97/ton. Further discussion and questions on this topic were asked and answered regarding how often these sections of roads are chosen to be repaired or replaced.

CC. Update on Bid Process for Soldiers & Sailors Memorial Building Rehabilitation:

Town Manager Jennings updated on this topic. (See Exhibit CC, pages 155 through 157 for information) Stated that there were a couple of prospective vendors who showed up, and it was pushed back a week since an addendum was issued and he also provided further information on this bid process and the course that it will take.

DD. Notice from Tree Warden re Removal of High Hazard Trees at 1910 Building:

DPW Director Amaral updated on this project. (See Exhibit DD, pages 158 through 164 for information) Stated that there are trees that are dying, two already dead. Stated that Fred Chanania of the Tree Committee will help pick the new trees, perhaps 8" caliper. Further discussion ensued on this topic with questions regarding pricing, etc.

EE. Update on Request for Potential Guardrail on Farm Lane:

Town Manager Jennings updated on this topic. (See Exhibit EE, pages 165 through 167 for information) Stated has been in touch with the Superintendent a couple of times regarding trees, stated that they were taken out by National Grid in order to provide power to the school, and further discussion ensued regarding hazard that remains in the area of the piece of property where the trees were removed. DPW Director Amaral stated that the addition of retaining walls increased the hazard and discussion ensued regarding this topic.

FF. Report on Reduction of FY22 Essex Retirement Assessment:

(This item deferred to 8/27/21)

GG. Updates Regarding Active and Pending Town Manager and DPW Projects:

.(See Exhibit GG, pages 168 through 171 for information) (This item deferred to 8/27/21)

HH. Follow-up Meeting Assignments and Placing Items for Future Agendas:

(This item deferred to 8/27/21)

Motion was made by Select Board Chair Parker to adjourn the meeting with the intention to complete tonight's agenda when reconvene to a place and time certain at the same space, room, on Wednesday, July 28, 2021 at 6:30 p.m., and the remaining items on the agenda, which are Items M, O, P, R, S, T, U, V, Z, AA, FF, GG, and HH. Seconded by Select Board Member Archibald.

Yes 3, No 0

Respectfully submitted,

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



**Town of West Newbury
Board of Selectmen
Wednesday, July 28, 2021**
381 Main Street, Town Office Building
www.wnewbury.org

Minutes of Meeting

Open Session: 6:35 p.m. by in-person attendance or remote participation (see below)

Addendum to Meeting Notice regarding Remote Participation

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 23, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the West Newbury Board of Selectmen will be conducted via remote participation to the greatest extent possible.

Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at www.wnewbury.org. 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: 894 8298 7246

Passcode: 601809

Or from computer, tablet, or smartphone:

<https://us06web.zoom.us/j/89482987246?pwd=ckeyVFZlVWc0RkSlpMzVZlYwdz09>

No in-person attendance of members of the public will be permitted, but 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, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.

The meeting was called to order at 6:35 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
- Town Clerk/Counsel & Procurement Officer, Michael McCarron

This meeting is a continuation of the Select Board Meeting held on July 28, 2021.

REGULAR AGENDA
(CONTINUED)

M. Review of Proposed Revisions to Signs on Town Property Policy:

Select Board Chair Parker updated on this topic. (See Exhibit M, pages 57 through 59 for information) Stated that this topic was discussed earlier in the 7/26 meeting regarding applications requested for signs, but not fully discussed with regards to the policy itself.

He further stated that the policy spoken about was potentially two two-week windows that could be anywhere within the timeframe that the sign permit applicant requested, and up to five locations that were approved within town, the locations discussed as potential locations included Pipestave, Page School, Bachelor Street, strip of land between Farm Lane and the high school, Bridge/Church Street traffic island. Town Manager Jennings stated that he had spoken to school officials at the Middle/High School who have their own approval process for placing signs because it's not Town land.

Further discussion ensued on what areas were previously approved and how to set a policy for approving signs in the future with Town Manager Jennings pointing to the draft policy contained in the 7/26 packet, with Town Counsel McCarron providing information regarding the legalities of the language in the draft policy. Finally, Town Manager Jennings also stated that his recommendation would be that the Building Inspector would be in charge of sign enforcement rather than the DPW, which the Building Inspector was happy to do, and also that Annie would be coordinating the requests and times.

Motion made by Select Board Member Reed to adopt the Signs on Town Property Policy with the removal of Item D. Seconded by Select Board Member Archibald.

Yes 3, No 0

O. Review of Proposed Revisions to Policy for Request for Review of an Issue by Town Counsel:

Select Board Chair Parker updated on this topic. (See Exhibit O, pages 66 through 69 for information) He stated that this topic was somewhat discussed on 7/26. Town Manager Jennings pointed to the draft policy on page 66, stating that he tried to write something that was fully consistent with the Town Counsel bylaw, but that also left in place enough oversight to allow for budget management.

Further discussion ensued on this topic and the process and mechanism for initiating working with or speaking to KP Law going forward, with Town Manager Jennings explaining his vision and rationale for how things should be done going forward and members of the Select Board providing their thoughts of what they would like to see, including having the request submitted in writing if Select Board Members are asked to approve an expenditure.

Select Board Member Reed inquired as to how the Town Manager would handle a request if it was in conflict with members of the Select Board, with Town Counsel McCarron stating that the rule is that the Select Board controls Town Counsel and that no independent board has the

right to its own counsel, which is well settled throughout the state legislature. Further discussion ensued on this topic.

Motion made by Select Board Member Reed to adopt the Request for Review of an Issue by Town Counsel policy, with the addition of that the request be in writing. Seconded by Select Board Member Archibald.

Yes 3, No 0

P. Review of Proposed Revisions to Select Board Policies:

Town Manager Jennings updated on this policy. (See Exhibit P, pages 70 through 88 for information) (This item deferred to 8/27/21) Stated that these policies have been reviewed and amended or left as is in the last three years, so he doesn't feel there is anything that needs to be looked at. He further stated that with regards to page 86 of the packet, he didn't have time to go back to his notes or meeting tape from June 28th with regards to the variable message board produced by Wayne, but seemed to recall some changes made before being voted upon, so not totally clear on this until he checks into what was voted on, Further discussion ensued on this topic, including proposed changes.

Motion made by Select Board Chair Parker to adopt the Revised Set of Policies, in particular, Section 32, Variable Message Board Placement. Seconded by Select Board Member Reed.

Yes 3, No 0

Q. Review of Date for Fall Special Town Meeting Warrant Article Submittal and Expected Warrant Closure Date; Preview of Any Known/Potential Warrant Articles:

This item was talked about on 7/26, but not the Preview of Any Known/Potential Warrant Articles. (See Exhibit Q, pages 89 through 90 for information) Select Board Member Archibald inquired as to "Addressing Bylaw," and it was explained by Town Manager Jennings that it's basically like an E-911, just to standardize what the process is for assigning a street address to a new property, that it was recommended by Sam and reviewed by Leah and Christian. He further explained that this has basically already happened and has gone fine, but there's not a document that sets out clearly the sequence of how the address is assigned, ensuring that public safety signs off on it, that it gets properly built into the E-911. Has a complete draft, which is not included in the packet, but just to advise that it's on there and at the next meeting, he can offer information on this and other bylaws.

Town Manager Jennings further added that there is an MGL that sets out the duties of a Park & Rec Commission, that Town Counsel McCarron did some research, and when the Town's Park & Rec Commission was first established in the early 50's, that statute wasn't cited, so there's a question as to whether those powers and duties rest with our Park & Rec Commission, which is not knowable right now, so the idea is to clarify that one way or the other, that it can be put on the table if the Board feels that should be done, and if so, the Board should sponsor it. He also stated that he advised the resident who brought it to him that it would be put on the table for discussion.

Select Board Member Reed inquired as to the item regarding funding for Groveland Dog Park, and Town Counsel McCarron provided information regarding this topic with further questions and answers ensuing on this topic, including whether West Newbury would offer funds to help this happen, with Town Counsel McCarron stating that he feels that the Town should get something for their money.

With regards to other potential Town Meeting Articles that Town Manager Jennings feels could be started to be working on are the Mooring Field and whether CPA will accept it as a project or not, and if not, does the Board or Harbor Committee might want to propose a separate Article not through CPA.

With regards to Emerald Ash Borer, discussion ensued on whether or not the Town wants to try strategic mitigation of that, and if so, what would be the right amount, how would that be managed, and best use of funds, as well as what can be done to mitigate the problem, perhaps having someone in to explain what should be done to alleviate the problem and whether it should be put on the warrant or not.

With regards to the Animal Bylaw, where thoughts of the Board have changed, would need a proposal. With the noise bylaw, would be a Board proposal. With regard to funding for the next phase of town Office HVAC work, Select Board Chair Parker gave an update on this project and discussion ensued with regards to a potential timeline for this project's work and completion.

With regards to the Affordable Housing Trust, Town Manager Jennings stated that he's working on it with Leah Zambarnardi and the consultant as well as Mass Housing Partnership, there's going to be a meeting on the 17th with the Planning Board where Mass Housing is going to be providing advice on what types of things a trust can do, as well as operationally what it takes to set it up and operate it successfully. Knows there are people in the community who want to see that proposed this fall, and if that's the way we go, we should make sure there is some allocation of funding to engage whether a part-time staff person or consultant to support the trust. He further explained the legalities and what is needed to bring forward the proposal and answered questions from Select Board Members regarding this topic with Board members stating that they would like to get the process started but also looking into what the costs would be to see if it's worth it or not.

With regards to the reduced assessment for retirement, which is a substantial amount, if the budget is reduced by \$32,000, might be worth it if it's a couple cents off of the tax rate, so may want to do a budget amendment on that, and also thinking about the Graf property.

With regards to projects that are priorities, Town Manager Jennings stated that the stormwater bylaw should have been done by June 30th and wasn't able to be accomplished. He also stated that thinks perhaps the Board might want to do a pre-cash transfer, depending on once we do the tax recap model and come up with an estimated tax rate, he would present to the Board in early September, then if comfortable with the estimated tax rate, that's great, but sometimes the Board chooses to propose a free cash transfer, so that would be the Board's option to do it or not.

R. Letter from MVPC re Potential Designation of Rep to Metropolitan Planning Organization (MPO):

Select Board Chair Parker updated on this topic. (See Exhibit R, pages 91 through 92 for information) Stated that the current rep for the region is out of Rowley. Town Manager Jennings stated doesn't recall getting a letter like this before. Further discussion ensued on this topic, including reaching out to the current rep to build a relationship then move forward from there at that point.

S. Discussion of Trail Upkeep on Open Space Developments:

Select Board Member Reed updated on this topic. (See Exhibit S, page 93 for information) She stated she doesn't feel need to go anywhere with that tonight, but just wanted to bring up that when open space developments are approved, the Planning Board does their part, and then the Homeowner's Associations are responsible for upkeep on the trails, which isn't always being done, so might need to come up with a good way to ensure that this is done, , how it should be done, and who should implement it.

T. Discussion of PIE Rivers Grant for Low Impact Development Bylaw Review:

Select Board Member Reed updated on this topic. (See Exhibit T, page 93 for information) Stated that this is a free tool, not sure if it's appropriate to ask the Planning Board to take a look at this. The tool looks into existing bylaws with the potential to apply for the grant. Further discussion ensued on this topic.

U. Timing to Conduct Board Appointed Staff and Town Manager Evaluations:

Select Board Member Reed updated on this topic. (See Exhibit U, page 93 for information) Stated that still have to set a date for the Town Manager evaluation or formally decide to not do it this year.

Town Manager Jennings stated that with regards to appointed staff, there are five total positions, and feels that the Select Board should spend time with Stephanie to get a fuller picture of things. Select Board Chair Parker stated that he has already met with Stephanie and Chief Durand to inquire into what their concerns and thoughts were, and perhaps each Board member should do the same. Further discussion ensued on this topic as to problems regarding finding the time to conduct the evaluations and the process that should be taken in the future to ensure that this process is done most efficiently and most consistently.

Select Board Chair Parker stated that the Board will defer until the first of next year to discuss evaluations for Town Manager, Town Accountant, and Police Chief, with Town Manager Jennings suggesting meeting with each Board member individually to discuss topics that are important versus those that can be pushed to next year.

V. Meeting Minutes: 5/24/21, 6/14/21:

(See Exhibit V, pages 94 through 112 for information) Select Board Member Reed commented with regards to Section E on page 96, that it should also be noted, with regards to "Face masks and social distancing encouraged but not required," should specify that in common areas, it is required. Select Board Member Archibald referenced that on page 102,

Section C, the vote should have been Yes 2, No 1. Select Board Member Reed referenced that on page 105, Section E, that the first Motion made by Select Board Chair Parker should have been noted to have been withdrawn.

Motion made by Select Board Chair Parker to accept the 5/24/21 and 6/14/21 minutes with changes made as noted above. Seconded by Select Board Member Reed.

Yes 3, No 0

TOWN MANAGER UPDATES

HH. Follow-up Meeting Assignments and Placing Items for Future Agendas:

Town Manager Jennings stated that he has put together a project list of active projects, not ready to circulate, but he will circulate in the next week or so in order for the Board to have a good sense of what's going on.

Motion was made by Select Board Chair Parker to adjourn the meeting. Seconded by Select Board Member Archibald.

Yes 3, No 0

Respectfully submitted,

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

Town Manager

From: Town Manager
Sent: Wednesday, September 29, 2021 5:17 PM
To: [REDACTED]
Subject: RE: ConCom Agent intro/orientation

Hi, how about tomorrow at 6pm? I may have time earlier in the afternoon but it has been very busy and there are some things I'll need to get off my desk, so want to leave some open time on the calendar. 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

From: [REDACTED]
Sent: Wednesday, September 29, 2021 12:20 PM
To: Town Manager <townmanager@wnewbury.org>
Subject: Re: ConCom Agent intro/orientation

Hi Agus,
 It would be good to talk. Is tomorrow good for you? If so, what time? I have a 9:00 call tomorrow morning that should be no longer than 30 minutes and am fairly flexible the rest of the day. I'm in at 7:00 am. and stay until at least 7:00 pm.
 Judy

----- Original Message -----

From: Town Manager <townmanager@wnewbury.org>
To: Judith Mizner [REDACTED]
Subject: ConCom Agent intro/orientation
Date: Tue, 28 Sep 2021 16:58:31 +0000

Hi Judy,

I think Michelle's initial tenure is off to a great start! I've been getting her background on some active projects, and I know you're doing the same, and I've emphasized a number of times that her primary focus (and hours spent) should be toward "baseline" responsibilities for the Commission. I know that sooner or later – and I think sooner or later (she may already be there) she'll realize that the potential projects/initiatives, cumulatively, would far outstrip her available time (at least in the "Land Agent" side of things).

I'd like to get her set up with a mtg w John Dodge in prep for becoming engaged with the OSC, but I also know that John could present her with a laundry list of potential projects. I want to ensure that we support her in setting up an overall work plan that allows her to do what's needed for ConCom (both here and in Merrimac); support OSC as she's able within the allocated hrs; and be engaged with overall town initiatives (esp. with regard to permitting/development/construction oversight). (Ideally, the OSC priorities would be shared priorities with the Select Board). With her, Leah, Sam and Paul, and Wayne and Mike G. as appropriate (as relates to public infrastructure), I think

we have the makings of a really good “development review team” that will benefit from regular exchange of info and coordination on field issues.

I’d like to find time for a call with you, ideally this week, so we can be on the same page re how/when best to get her set up with John Dodge/OSC. I think this should happen pretty soon (incl. spending some time walking existing trails, looking at planned/potential new trails), but I also want to ensure that her primary focus remains on ConCom issues – for which I expect there is likely a substantial punchlist (and perhaps backlog) due to the interim/intermittent staffing over the summer.

Please let me know if you’d like to connect later this week or if not on Monday.

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

Town Manager

From: John Dodge [REDACTED]
Sent: Friday, October 1, 2021 5:42 PM
To: Town Manager
Cc: Leah Zambarnardi; DPW Director; Cronin Hotmail Tim; Verizon TC
Subject: Re: Drake's Landing

Hi Angus,

The residents pushing for this will attend our next OSC meeting to get the ball rolling. I suspect folks from Drake's Landing would do much of the work. I'll keep you all in the loop.

J

On Fri, Oct 1, 2021 at 5:14 PM Town Manager <townmanager@wnewbury.org> wrote:

John,

Our new Conservation Agent has a full plate in the near term, having taking over after an extended period of interim/under-staffing in that office, so her immediate focus is understandably on regulatory issues as well as overall orientation to the community and new position. I did discuss this initiative with Judy Mizner earlier this week, since she and I each have a role in overseeing/supporting the new Agent, and recommended that, once this is timely on a ConCom agenda, that the OSC (or rep/reps) meet with the Commission to discuss potential initiatives and how they may fit in with overall work planning.

If the OSC does intend to proceed with a volunteer-driven initiative, as you suggested, either in lieu of or to complement staff involvement, please let me know whenever the time comes. If/as trails may be added, I need to document same through our insurance carrier, so please keep me in the loop. Also, I know that I provided the attached indemnification to the OSC during my initial tenure in 2018, but am sharing this again now to ensure that you also have this on file. This form has been in use in several communities I've worked in in MA and ME, and has been reviewed by both counsel and insurance.

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: John Dodge [REDACTED]
Sent: Wednesday, September 22, 2021 6:39 PM
To: Town Manager <townmanager@wnewbury.org>
Cc: Leah Zambarnardi <lzambarnardi@wnewbury.org>; DPW Director <dpwdirector@wnewbury.org>; Cronin Hotmail
Tim [REDACTED] Verizon TC [REDACTED]
Subject: Re: Drake's Landing

Hi Angus,

Here you go. It's a good proposal, IMO, and it would be good if we could finish those trails even if we have to use volunteers.

(978) 363-1100 x111

townmanager@wnewbury.org

From: John Dodge [REDACTED]
Sent: Wednesday, September 22, 2021 4:46 PM
To: Leah Zambarnardi <lzambarnardi@wnewbury.org>
Cc: DPW Director <dpwdirector@wnewbury.org>; Town Manager <townmanager@wnewbury.org>; Cronin Hotmail Tim [REDACTED]; Verizon TC [REDACTED]
Subject: Re: Drake's Landing

Thanks Leah.

I am guessing the OSC would like to do the connecting trails, perhaps using volunteers and keeping it simple. What would be the next steps. Steve Greason's proposal is a good one.

Thanks..J

On Wed, Sep 22, 2021 at 7:14 AM Leah Zambarnardi <lzambarnardi@wnewbury.org> wrote:

Hi John,

There isn't any such Planning Board requirement for the Town to "finish" trails off-site around Drakes Landing. The planning Board certainly doesn't have authority to require this and we were very careful not to put conditions on the project requiring any off- site improvements. I know the Board saw benefit in the developer providing for future trail connections by bringing the trail to the property line (if I'm recalling this correctly), in the event the Town is able to take on such a project. Leah

Sent from my iPhone

> On Sep 22, 2021, at 6:49 AM, John Dodge [REDACTED] wrote:

>
>
> Hi Leah,
>
> Some Drake's Landing residents are maintaining the town needs to or is legally required to finish the trails on town property around Drake's Landing. Is there anything in the planning documents for Drake's Landing for the town to do that?
>
> Thanks. [REDACTED]

**INTERMUNICIPAL AGREEMENT BETWEEN THE
TOWNS OF WEST NEWBURY AND MERRIMAC
FOR SHARED CONSERVATION AGENT SERVICES**

THIS AGREEMENT dated as of August 9, 2021 (“Agreement”) by and between the **TOWN OF WEST NEWBURY**, a Massachusetts municipal corporation, acting by and through its Board of Selectmen (hereinafter referred to as “West Newbury”), and the **TOWN OF MERRIMAC**, a Massachusetts municipal corporation, acting by and through its Board of Selectmen (hereinafter referred to as “Merrimac”) (collectively, the parties shall hereinafter be referred to as the “Municipalities”).

WHEREAS, the Municipalities have each determined that it is mutually beneficial to share between them the services and costs of a Conservation Agent as more fully described hereinafter;

WHEREAS, West Newbury is willing and capable serving as the Lead Party;

WHEREAS, each Municipality has authority to enter into this Agreement pursuant to G.L. c. 40, §4A and has obtained authorization by vote of its Board of Selectmen as attested to by certified copies thereof attached hereto in Appendix A;

NOW, THEREFORE, the Municipalities, in mutual consideration of the covenants contained herein, intending to be legally bound thereby, agree under seal as follows:

1. PURPOSE

The purpose of this Agreement is to establish a contractual relationship between the Municipalities for a shared Conservation Agent and for shared associated costs and expenses.

2. LEAD PARTY

A. The Municipalities hereby designate West Newbury as the lead party (hereinafter the “Lead Party”).

B. The Lead Party shall:

1. Employ through its standard personnel practices a full-time Conservation Agent. All necessary steps in the hiring process of the Conservation Agent and maintenance of related employment records shall be the responsibility of the Lead Party; however, the Conservation Agent shall be hired with the mutual agreement of the Municipalities, with each Municipality having, inter alia, the opportunity to: a) review and comment on each qualified candidate’s resume; and b) participate in candidate interviews. West Newbury’s appointment would be made by vote of its Conservation Commission, with the rate of pay subject to approval of its Select Board. Merrimac’s appointment would be made by vote of its Board of Selectmen, upon recommendation of its Conservation Commission.

2. Provide all fringe benefits to which the Conservation Agent is entitled under the Lead Party's standard personnel practices.
3. Maintain separate, accurate, and comprehensive records of all services performed by the Conservation Agent for each Municipality and all funds received by the Lead Party from Merrimac pursuant to this agreement. All bills and payrolls submitted for work done under this Agreement shall be plainly marked to indicate that the work was done under the authority hereof.

3. THE SHARED CONSERVATION AGENT

- A. The Conservation Agent shall perform for each Municipality the duties listed in the job descriptions attached hereto in Appendix B. Changes to the job description in West Newbury shall be made in accordance with the procedures established in the West Newbury Personnel Policy or, in the absence of any such prescribed procedures, shall not be made without the approval of both the West Newbury Conservation Commission and the Select Board. Changes to the job description in Merrimac shall not be made without the approval of the Merrimac Board of Selectmen. Any proposed changes to the job descriptions that would materially affect the Agent's work schedule or availability to the other community shall not be made without the mutual agreement of the Towns.
- B. The Conservation Agent shall provide services for each Municipality as follows: 25 hours per week on behalf of West Newbury, 10 hours per week on behalf of Merrimac (hereinafter referred to as "Staffing Schedule"). The details of the Staffing Schedule, including rate of pay, hours of work, and availability for inquiries in each Municipality, shall be determined jointly by the Town Manager/Administrator of the Municipalities.

Supervision of the duties and responsibilities of the Conservation Agent in West Newbury shall be provided by the Conservation Commission or its designee. Supervision of the duties and responsibilities of the Conservation Agent in Merrimac shall be provided by Conservation Commission or its designee.

- C. While providing services in or for Merrimac under this Agreement, the Conservation Agent shall be deemed to be engaged in the service and employment of the Lead Party, notwithstanding that such service activity or undertaking is being performed in or for Merrimac.
- D. The Conservation Agent shall prepare and submit biweekly timesheets to the Lead Party in accordance with the schedule and policy for payroll processing. The time spent on behalf of Merrimac for each payroll period shall bear the signature of the Merrimac Conservation Commission Chair or written designee.
- E. An annual performance evaluation of the Conservation Agent will be prepared by the Lead Party with input from Merrimac's Town Administrator or his/her designee in the other Municipalities. Any disciplinary action rising to the level of potential suspension or termination of the Conservation Agent shall be by the Lead Party in accordance with its standard personnel practices, but such decisions shall be made in consultation with the other Municipality.

4. ALL PARTIES

- A. Notwithstanding any other provision of this Agreement, each Municipality, at its own cost and expense, shall provide the Conservation Agent with the necessary office space, office equipment and supplies, software, applications and forms, and other tools, equipment and materials necessary for the performance of services in or for that Municipality.
- B. Each Municipality shall supply the Conservation Agent with access to complete copies, including supplements and revisions, of its respective personnel contacts and agreements, records and files, support documents and by-laws.
- C. All files, including closed and inactive files, records and support documents shall be permanently stored at the office of the generating Municipality.
- D. The Municipalities agree to allow the Conservation Agent to use such vacation, sick and personal days and other paid leave as he/she may be entitled to receive under the standard personnel practices of the Lead Party. No Municipality shall make any demand on or take any action with respect to the Conservation Agent that is in violation of his/her rights under personnel policies of the Lead Party or under any applicable legislation.
- E. Prior to January 15 of each year of this Agreement, the Lead Municipality, with the assistance of the Conservation Agent, will annually prepare a report of the activities of the Conservation Agent during the preceding 12-month period.

5. TERM /TERMININATION

- A. The initial term of this Agreement shall begin as of the date of hire of the Conservation Agent, and extend through June 30, 2022 (the “Initial Term”). Thereafter, the term of this Agreement shall automatically renew on an annual basis for additional one-year terms (“Extended Terms”), with said terms beginning on July 1 of each year, unless either party, by vote of its Board of Selectmen, by no later than January 15th of each year, votes to withdraw from the Agreement.
- B. In the event that either Municipality votes not to renew this Agreement during either the Initial Term or an Extended Term, this Agreement shall terminate effective June 30th of that year. Both Municipalities shall continue to perform all obligations under this Agreement until the effective date of termination. The Lead Party shall prepare a full statement of each Municipality’s outstanding financial obligations for the remainder of the then current fiscal year with any final payments due within thirty (30) days of the end of the current fiscal year.
- C. If a Municipality defaults on payment of any assessment or otherwise breaches this Agreement during either the Initial Term or an Extended Term, such Municipality shall be subject to termination upon a written determination of the Town Manager/Administrator of the Lead Municipality. Upon termination, the Lead

Municipality shall prepare a full statement of the terminated Municipality's outstanding unpaid financial obligations for the remainder of the then current term and present the same to the terminated Municipality for payment within thirty (30) days thereafter.

- D. Termination or breach of this Agreement shall not relieve either Municipality from any obligations of indemnification that may have arisen hereunder prior to such termination or breach nor from any financial obligations that by agreement extends beyond the termination date.

6. BUDGET AND ASSESSMENTS

- A. The Lead Party shall establish for each fiscal year, subject to appropriation, the annual operating budget for the provision of shared Conservation Agent services (hereinafter "Budget"). The Budget shall include, but not be limited to, the cost of the Conservation Agent's wages, taxes, retirement contributions, paid time off, recruitment costs, professional development, dues, cell phone, mileage reimbursement, training costs, and any other costs related to the proper functioning of this Agreement.
- B. The Municipalities shall share the cost of the total Budget in proportion to the percentages set forth in Exhibit A: Conservation Agent Shared Services Cost Allocation.
- C. On July 1st of each fiscal year of this Agreement, Merrimac shall be assessed its share of the Budget that fiscal year, which shall be automatically due and payable to the Lead Party in that fiscal year without further notice in equal quarterly installments on July 1, October 1, January 1, and April 1. On a quarterly basis during each year of this Agreement, the Lead Party shall prepare and distribute to Merrimac an expense report summarizing the incurred costs of the program for the prior quarter.
- D. In the event that the Agent staff position is vacant for some portion of the budget year, Merrimac's costs shall be prorated to exclude that period of time, and West Newbury shall be under no obligation to provide services to Merrimac during the period of vacancy.
- E. By February 1st of each fiscal year, the designees of the Municipalities shall meet to agree on the Budget for the next fiscal year. The Budget and Fee Structure shall be reviewed and adjusted, if necessary, in accordance with each Municipality's typical annual budget process.
- F. Notwithstanding any other provision in this Agreement to the contrary, the Municipalities agree that, following dissolution or termination of this Agreement, each shall be responsible for continuing their shared respective contribution for the Conservation Agent's retirement, unemployment and/or workers' compensation benefits that may accrue while the Municipality was a party to this Agreement.

7. INDEMNIFICATION

- A. This Agreement is by and between the Municipalities which have executed it with the understanding that it is intended for their mutual benefit and is not intended to confer any express or implied benefits on any other person or entity. This Agreement is not intended to confer third-party beneficiary status on any person or entity.
- B. It is expressly understood that the services provided hereunder are deemed for public and governmental purposes and all privileges and immunities from liability enjoyed by the Municipalities shall extend to their participation hereunder and to the activities so undertaken to the fullest extent provided by law.
- C. Notwithstanding the final sentence of G.L. c. 40, §4A, to the extent permitted by law, each Municipality (the “Indemnifying Municipality”) separately agrees to indemnify the Lead Party, including all officials, officers, employees, agents, servants and representatives, from and against any claim arising out of the duties performed by the Conservation Agent pursuant to this Agreement in or on behalf of the Indemnifying Municipality for any claim of liability, loss, damages, costs and expenses for personal injury or damage to real or personal property by reason of any negligent act or omission by the Conservation Agent while performing services for the Indemnifying Party. As to any claim or occurrence, the express indemnification set forth above shall be limited to the services provided by Conservation Agent for the specified Municipality.
- D. An Indemnifying Municipality’s obligation to indemnify under this Section shall be limited to and benefited by the immunities or limitations of damages which may be extended to them by operation of law. Furthermore, the Indemnifying Municipalities shall not be liable for any claims arising from the following:
 - a) Violations of state or federal civil rights statutes;
 - b) Violations of state or federal discrimination statutes;
 - c) Wrongful termination claims;
 - d) Violations of any state or federal statute dealing with employment practices; and
 - e) Claims that are covered by any insurance policy.

8. ASSIGNMENT

No party shall assign or transfer any of its rights or interests in or to this Agreement, or delegate any of its obligations hereunder, without the prior written consent of the others.

9. CONFLICT RESOLUTION

The Town Manager/Administrator of the Municipalities shall confer periodically with one another and with their respective Conservation Commissions (or designees) in order to address matters of policy, operations and logistics as may be necessary. The Municipalities may hold additional meetings to discuss and resolve any conflicts that may arise including, but not limited to, disagreements regarding the needs of each Municipality and changes to the Staffing Schedule or Fee Schedule. Both Municipalities must agree, acting through their Boards of Selectmen/Select Boards, on any recommendations to adjust the Staffing Schedule or Fee Schedule or resolve a conflict.

10. AMENDMENTS

Except as otherwise expressly provided, this Agreement may be amended only by the unanimous written consent of all of the Municipalities as of the date of the Amendment. A proposed amendment must be approved by the governing body of each Party to be effective.

11. SEVERABILITY AND COMPLIANCE WITH APPLICABLE LAW

Should any term, portion, or provision of this Agreement or the application thereof to any person or circumstances be in conflict with any local, state or federal law or otherwise be rendered unenforceable or ineffectual the validity of the remaining parts terms portions or provisions or the application thereof to other persons or circumstances shall be deemed severable and shall not be affected thereby. The Municipalities further intend for this Agreement to be modified to comply with any applicable local, state or federal law should it be determined not to be in compliance and to remain binding between them as so modified. In particular, but without limiting the generality of the foregoing, the Municipalities intend for this Agreement to remain binding against each of them notwithstanding any legal requirement that would alter the term hereof or change the way in which any party is required to pay its share of assessments. The Municipalities will remain bound hereunder subject to such modified terms.

12. NOTICES

Any notice permitted or required hereunder to be given or served on either Municipality shall be in writing signed in the name of or on behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual receipt of any hand-delivery, upon the date of verified delivery by courier of package delivery service, or three (3) business days after the date of any properly addressed notice sent by mail as set forth below:

For WEST NEWBURY: Town of West Newbury
ATTN: Town Manager
381 Main Street
West Newbury, MA 01985

For MERRIMAC: Town of Merrimac
ATTN: Town Administrator
2 School Street
Merrimac, MA 01860

13. MISCELLANEOUS PROVISIONS

- A. Entire Understanding: This Agreement represents the entire understanding of the Municipalities with respect to its subject matter.

- B. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and venue for any action shall be in the Superior Court of Essex County.
- C. Binding Effect. All of the terms and provisions of this Agreement shall be binding on and inure to the benefit of and be enforceable by the respective parties hereto, their successors and assigns.
- D. Headings. The headings used herein are for convenience only and shall not be considered in any interpretation of any disputes over the terms of this Agreement.
- E. Joint Drafting. Each Municipality acknowledges that it has participated equally in the drafting of this Agreement and that each has or had consulted with legal counsel of its own choosing in entering into this agreement.

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed and attested by their proper officers hereunto duly authorized and their official seals to be hereto affixed as of the day and year first above written.

For the TOWN OF WEST NEWBURY

By: Angus Jennings Date: 9/29/21

Angus Jennings, Town Manager
Title:

Duly authorized
by vote of Select Board on August 9, 2021

For the TOWN OF MERRIMAC

By: B. S. B. Date: 9/28/21

Chair, BOS
Title:

EXHIBIT A: CONSERVATION AGENT SHARED SERVICES COST ALLOCATION

**Conservation Agent Shared Services
FY22 Cost Allocation**

Combined # Hours	35
Weeks Remaining in FY22	40
F.I.C.A.	1.45%
FY22 ERRS Appropriation	28%
Hourly pay rate	\$ 27.76
Start Date	9/23/2021

Payment Schedule

Budget

Wage	\$	38,864.00
Health Insurance	\$	-
FICA	\$	563.53
ERRS	\$	10,881.92
Travel/Training	\$	3,310.00
Total Cost	\$	53,619.45
Less Health Ins.	*	\$ -
Shared Cost	\$	53,619.45

1-Aug	\$	-
(Jul - Sep)		
1-Nov	\$	5,106.61
(Oct - Dec)		
1-Feb	\$	5,106.61
(Jan - Mar)		

Municipality

West Newbury	25	\$	38,299.61
Merrimac	10	\$	15,319.84
Annualized total cost:	35	\$	53,619.45

1-May	\$	5,106.62
(Apr - Jun)		
FY22 est. cost:	\$	15,319.84

**Note: West Newbury would pay all of Town share of employee health insurance (currently 65%) because employee would qualify for health insurance solely based on 25 hrs/wk in West Newbury.*

Town Manager

From: DPW Director
Sent: Tuesday, September 21, 2021 5:44 PM
To: [REDACTED]; Brad Buschur
Cc: Jeff Durand; Town Manager
Subject: RE: ACO/animal bylaw
Attachments: 20210921173807306.pdf

Ryan and Brad,

I wanted to follow-up regarding the e-mail below from the Town Manager regarding our dog leash bylaw. Angus and I are focusing on both Pipe Stave (under P&R) and Mill Pond (under Mill Pond Committee) and we want to start a discussion with both committees regarding the leash bylaw.

From the direction of the Select Board, we were asked to sign and enforce the dog leash bylaw, however this is a challenge without understanding fully what the areas / zones are. These areas/zones should be delineated from the bylaw inserted below;

(esp. sec. A.2 Dog Walking Use; sec. C.9 Dogs; and sec. F.6 Dogs; which collectively have the effect of requiring leashes in all parking areas, roadways, picnic areas, dock, boat ramp/launch area, in and around the Mill Pond Building, and on and around the athletic fields).

Before I figure out sign design and placement, we think it would be very important to determine the dog leash areas / zones. Angus suggested that we minimize the signage required to educate the public on this bylaw – by adding a small map of the area / zone actually on the sign. These limited number of signs can be installed at kiosk, gate entrances and any other places where there may be heavy dog walker activity. A sign with a map inserted should eliminate posting dozens of them at every possible entrance points to these areas. However, first things first. Can you add this topic to a future committee meeting to discuss the dog leash areas/ zones?

I have attached draft plans on what I think is the areas / zones – but of course is offering this as a guide and welcome your thoughts. I will not attempt to design or order the signage until we are all in agreement on what these areas /zones should be. I will stand-by until we hear back from both committees with your thoughts and recommendations.

Thanks,
Wayne

From: Town Manager <townmanager@wnewbury.org>
Sent: Tuesday, August 10, 2021 3:03 PM
To: [REDACTED]
Cc: Jeff Durand (durand@westnewburysafety.org) <durand@westnewburysafety.org>; DPW Director <dpwdirector@wnewbury.org>
Subject: ACO/animal bylaw

Ryan,

At last night's Board mtg it was reaffirmed that the Board's objective is to see improved communication of, and enforcement of, the existing regulations re dogs/animal control (specifically, the [Animal Bylaw](#) esp. sec. 4.2 Restraint of

Dogs), as well as the more specific restrictions applicable at Pipestave/Mill Pond as reflected in the [Pipestave/Mill Pond Management Plan](#) (esp. sec. A.2 Dog Walking Use; sec. C.9 Dogs; and sec. F.6 Dogs; which collectively have the effect of requiring leashes in all parking areas, roadways, picnic areas, dock, boat ramp/launch area, in and around the Mill Pond Building, and on and around the athletic fields). The Board would like to continue with and expand upon recent efforts with regard to ACO/enforcement presence, as well as more/clearer signage to help visitors understand the applicable rules.

We don't need anything from you/Mill Pond Committee at this time, but wanted to make you aware that these continue to be topics of discussion, and that the Board will discuss this further at their next mtg on Aug 30 at/after 7pm (specific order of topics won't be known til agenda is posted on/around 8/25). Chief Durand attended last night's discussion and will be there again on 8/30, and we may also be joined by the ACO Kayla Provencher subject her availability. Wayne will also be in attendance that night on a couple of other topics, and we're working together in the meantime re what signage may be most effective. Happy to run signage ideas past you once there's something to discuss.

I'll be out on vacation next week but around this week and 8/23-8/25 if needed.

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

PIPE STAVE 1 - LEASE ZONE V₁

Town of West Newbury

9/16/2021



Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the Town of West Newbury & MassGIS/MassGIS. MVPC AND THE TOWN OF WEST NEWBURY MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE TOWN OF WEST NEWBURY AND MVPC DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.

MVPC Boundary	Parcels	Roads	Interstate	Major Road	Local Road	Trails	Easements	Hydrographic Features	Streams	Wetlands
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9-21-2021
WSA

Projection: NAD_1983_StatePlane_Massachusetts_Mainland_FIPS_2001

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PIPE STAVE PARK 2- LENSH ZONE V₁
 Town of West Newbury

9/16/2021



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|---------------|---------|-------|------------|------------|------------|--------|-----------|-----------------------|---------|----------|
| MVPC Boundary | Parcels | Roads | Interstate | Major Road | Local Road | Trails | Easements | Hydrographic Features | Streams | Wetlands |
|---------------|---------|-------|------------|------------|------------|--------|-----------|-----------------------|---------|----------|

1:2,400

9-21-2021
 WSA



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Projection: NAD_1983_StatePlane_Massachusetts_Mainland_FIPS_2001

MILL POND - LEASH ZONE V₁

Town of West Newbury

9/16/2021



Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the Town of West Newbury & MassGIS. MVPC AND THE TOWN OF WEST NEWBURY MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE TOWN OF WEST NEWBURY AND MVPC DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.

<input type="checkbox"/> MVPC Boundary	<input type="checkbox"/> Parcels	Roads	<input type="checkbox"/> Interstate	<input type="checkbox"/> Major Road	<input type="checkbox"/> Local Road	Legend	<input type="checkbox"/> Trails	<input type="checkbox"/> Easements	<input type="checkbox"/> Hydrographic Features	<input type="checkbox"/> Streams	<input type="checkbox"/> Wetlands
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9-21-2021
WSN

Projection: NAD_1983_StatePlane_Massachusetts_Mainland_FIPS_2001

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Year 3 Annual Report
Massachusetts Small MS4 General Permit
Reporting Period: July 1, 2020-June 30, 2021

S

Please DO NOT attach any documents to this form. Instead, attach all requested documents to an email when submitting the form

Unless otherwise noted, all fields are required to be filled out. If a field is left blank, it will be assumed the requirement or task has not been completed. Please ONLY report on activities between July 1, 2020 and June 30, 2021 unless otherwise requested.

Part I: Contact Information

Name of Municipality or Organization:

EPA NPDES Permit Number:

Primary MS4 Program Manager Contact Information

Name: Title:

Street Address Line 1:

Street Address Line 2:

City: State: Zip Code:

Email: Phone Number:

Stormwater Management Program (SWMP) Information

SWMP Location (web address):

Date SWMP was Last Updated:

If the SWMP is not available on the web please provide the physical address:

Part II: Self-Assessment

First, in the box below, select the impairment(s) and/or TMDL(s) that are applicable to your MS4. Make sure you are referring to the most recent EPA approved Section 303(d) Impaired Waters List which can be found here: <https://www.epa.gov/tmdl/region-1-impaired-waters-and-303d-lists-state>

Impairment(s)			
<input checked="" type="checkbox"/> Bacteria/Pathogens	<input type="checkbox"/> Chloride	<input type="checkbox"/> Nitrogen	<input type="checkbox"/> Phosphorus
<input type="checkbox"/> Solids/ Oil/ Grease (Hydrocarbons)/ Metals			
TMDL(s)			
<i>In State :</i>	<input type="checkbox"/> Assabet River Phosphorus	<input type="checkbox"/> Bacteria and Pathogen	<input type="checkbox"/> Cape Cod Nitrogen
	<input type="checkbox"/> Charles River Watershed Phosphorus	<input type="checkbox"/> Lake and Pond Phosphorus	
<i>Out of State :</i>	<input type="checkbox"/> Bacteria/Pathogens	<input type="checkbox"/> Metals	<input type="checkbox"/> Nitrogen
			<input type="checkbox"/> Phosphorus
Clear Impairments and TMDLs			

Next, check off all requirements below that have been completed. By checking each box you are certifying that you have completed that permit requirement fully. If you have not completed a requirement leave the box unchecked. Additional information will be requested in later sections.

Year 3 Requirements

- Inspected and screened all outfalls/interconnections (excluding Problem and Excluded outfalls)
- Updated outfall/interconnection priority ranking based on the information collected during the dry weather inspections as necessary
- Post-construction bylaw, ordinance, or other regulatory mechanism was updated and adopted consistent with permit requirements

Optional: If you would like to describe progress made on any incomplete requirements listed above, provide any additional information, and/or if any of the above year 3 requirements could not be completed due to the impacts of COVID-19, please identify the requirement that could not be completed, any actions taken to attempt to complete the requirement, and reason the requirement could not be completed below:

The Town is deeply involved in preparing a Stormwater Bylaw and Regulations, with the stormwater working group meeting on a monthly basis. We plan to bring the Bylaw to our October 2021 annual town meeting for final vote by West Newbury residents.

Annual Requirements

- Provided an opportunity for public participation in review and implementation of SWMP and complied with State Public Notice requirements
- Kept records relating to the permit available for 5 years and made available to the public
- The SSO inventory has been updated, including the status of mitigation and corrective measures implemented
 - This is not applicable because we do not have sanitary sewer
 - This is not applicable because we did not find any new SSOs

- The updated SSO inventory is attached to the email submission
- The updated SSO inventory can be found at the following website:

- Properly stored and disposed of catch basin cleanings and street sweepings so they did not discharge to receiving waters
- Provided training to employees involved in IDDE program within the reporting period
- All curbed roadways were swept at least once within the reporting period
- Updated system map due in year 2 as necessary
- Enclosed all road salt storage piles or facilities and implemented winter road maintenance procedures to minimize the use of road salt
- Implemented SWPPPs for all permittee owned or operated maintenance garages, public works yards, transfer stations, and other waste handling facilities
- Updated inventory of all permittee owned facilities as necessary
- O&M programs for all permittee owned facilities have been completed and updated as necessary
- Implemented all maintenance procedures for permittee owned facilities in accordance with O&M programs
- Implemented program for MS4 infrastructure maintenance to reduce the discharge of pollutants
- Inspected all permittee owned treatment structures (excluding catch basins)

Optional: If you would like to describe progress made on any incomplete requirements listed above, provide any additional information, and/or if any of the above annual requirements could not be completed due to the impacts of COVID-19, please identify the requirement that could not be completed, any actions taken to attempt to complete the requirement, and reason the requirement could not be completed below:

West Newbury does not have any facilities that require SWPPPs within the MS4 regulated area.

Bacteria/ Pathogens (Combination of Impaired Waters Requirements and TMDL Requirements as Applicable)

Annual Requirements

*Public Education and Outreach**

- Annual message was distributed encouraging the proper management of pet waste, including noting any existing ordinances where appropriate
- Permittee or its agents disseminated educational material to dog owners at the time of issuance or renewal of dog license, or other appropriate time
- Provided information to owners of septic systems about proper maintenance in any catchment that discharges to a water body impaired for bacteria

** Public education messages can be combined with other public education requirements as applicable (see Appendix H and F for more information)*

Optional: If you would like to describe progress made on any incomplete requirements listed above or provide any additional details, please use the box below.

Optional: Use the box below to provide any additional information you would like to share as part of your self-assessment:

Part III: Receiving Waters/Impaired Waters/TMDL

Have you made any changes to your lists of receiving waters, outfalls, or impairments since the NOI was submitted?

- Yes
- No

If yes, describe below, including any relevant impairments or TMDLs:

Part IV: Minimum Control Measures

Please fill out all of the metrics below. If applicable, include in the description who completed the task if completed by a third party.

MCMI: Public Education

Number of educational messages completed **during this reporting period**:

Below, report on the educational messages completed during this reporting period. For the measurable goal(s) please describe the method/measure used to assess the overall effectiveness of the educational program

BMP: Stormwater management brochures

Message Description and Distribution Method:

Distributed Greenscapes brochures at Town Hall

Targeted Audience:

Responsible Department/Parties:

Measurable Goal(s):

Distributed approximately 50 brochures at Town Hall

Message Date(s):

Message Completed for: Appendix F Requirements Appendix H Requirements

Was this message different than what was proposed in your NOI? Yes No

If yes, describe why the change was made:

BMP: Dog owner education

Message Description and Distribution Method:

Distributed dog waste management brochure to dog owners seeking or renewing dog licenses

Targeted Audience:

Responsible Department/Parties:

Measurable Goal(s):

Distributed approximately 125 brochures

Message Date(s): Ongoing

Message Completed for: Appendix F Requirements Appendix H Requirements

Was this message different than what was proposed in your NOI? Yes No

If yes, describe why the change was made:

BMP: Storm drain stenciling

Message Description and Distribution Method:

Repainted the "No Dumping into Catch Basin" stencils at all catch basins in the MS4 area

Targeted Audience: Residents, Businesses, Contractors

Responsible Department/Parties: DPW

Measurable Goal(s):

Stencils repainted on 239 catch basins

Message Date(s): July 2020

Message Completed for: Appendix F Requirements Appendix H Requirements

Was this message different than what was proposed in your NOI? Yes No

If yes, describe why the change was made:

BMP: Think Blue Massachusetts educational advertising campaign

Message Description and Distribution Method:

On behalf of the members of Greenscapes North Shore, Think Blue Massachusetts ran an educational advertising campaign from May 17th to June 4th, 2021. The "Fowl Water" advertisement helps viewers visualize stormwater pollution from motor oil, pet waste, and trash become stormwater pollution.

Targeted Audience: Residents

Responsible Department/Parties: Think Blue Massachusetts

Measurable Goal(s):

Facebook/Instagram impressions: 1,859; YouTube ad impressions: 4,868; Spanish language impressions: 819; Total: 7,546

Message Date(s): May 17 to June 4, 2021

Message Completed for: Appendix F Requirements Appendix H Requirements

Was this message different than what was proposed in your NOI? Yes No

If yes, describe why the change was made:

BMP: Annual message about septic system maintenance

Message Description and Distribution Method:

Provided information about septic system maintenance to all new residents and distributed septic system brochures at Town Hall.

Targeted Audience: Residents

Responsible Department/Parties: Health Department and DPW

Measurable Goal(s):

Distributed approximately 50 brochures at Town Hall, including septic system brochures

Message Date(s): Ongoing

Message Completed for: Appendix F Requirements Appendix H Requirements

Was this message different than what was proposed in your NOI? Yes No

If yes, describe why the change was made:

BMP: Annual message about dog waste management

Message Description and Distribution Method:

Distributed brochures about dog waste management at Town Hall.

Targeted Audience: Residents

Responsible Department/Parties: DPW

Measurable Goal(s):

Distributed approximately 50 brochures at Town Hall, including pet waste management brochures

Message Date(s): Ongoing

Message Completed for: Appendix F Requirements Appendix H Requirements

Was this message different than what was proposed in your NOI? Yes No

If yes, describe why the change was made:

Add an Educational Message

MCM2: Public Participation

Describe the opportunity provided for public involvement in the development of the Stormwater Management Program (SWMP) **during this reporting period**:

The SWMP and other stormwater program materials continue to be posted on the DPW/Stormwater web page. The Town hosted an Earth Day town-wide roadside cleanup on May 1st and 2nd, 2021. The Town advertised the event on the Town of West Newbury facebook page and DPW provided and picked up trash bags.

Was this opportunity different than what was proposed in your NOI? Yes No

Describe any other public involvement or participation opportunities conducted **during this reporting period**:

MCM3: Illicit Discharge Detection and Elimination (IDDE)

Sanitary Sewer Overflows (SSOs)

Check off the box below if the statement is true.

This SSO section is NOT applicable because we DO NOT have sanitary sewer

Below, report on the number of SSOs identified in the MS4 system and removed during this reporting period.

Number of SSOs identified:

Number of SSOs removed:

MS4 System Mapping

Optional: Provide additional status information regarding your map:

West Newbury's MS4 map was updated during Permit Year 3 in conjunction with dry-weather outfall inspections. The public map interface is at <https://mimap.mvpc.org/map/index.html?viewer=westnewbury>. More detailed mapping data are on West Newbury's internal mapping application.

Screening of Outfalls/Interconnections

If conducted, please submit any outfall monitoring results from this reporting period. Outfall monitoring results should include the date, outfall/interconnection identifier, location, weather conditions at time of sampling, precipitation in previous 48 hours, field screening parameter results, and results from all analyses. Please also include the updated inventory and ranking of outfalls/interconnections based on monitoring results.

- No outfalls were inspected
- The outfall screening data is attached to the email submission
- The outfall screening data can be found at the following website:

<https://www.westnewbury.org/department-public-works/pages/ms4-illicit-discharge-detection-and-elimination-idde-plan>

Below, report on the number of outfalls/interconnections screened during this reporting period.

Number of outfalls screened:

Below, report on the percent of outfall/interconnections screened to date.

Percent of outfalls screened:

Optional: Provide additional information regarding your outfall/interconnection screening:

All MS4 outfalls were screened except for the 3 outfalls located at Pentucket Regional High School, which is under construction. The remaining 3 outfalls will be screened after construction is complete.

Catchment Investigations

If conducted, please submit all data collected during this reporting period as part of the dry and wet weather investigations. Also include the presence or absence of System Vulnerability Factors for each catchment.

- No catchment investigations were conducted
- The catchment investigation data is attached to the email submission
- The catchment investigation data can be found at the following website:

Below, report on the number of catchment investigations completed during this reporting period.

Number of catchment investigations completed this reporting period:

Below, report on the percent of catchments investigated to date.

Percent of total catchments investigated:

Optional: Provide any additional information for clarity regarding the catchment investigations below:

IDDE Progress

If illicit discharges were found, please submit a document describing work conducted over this reporting period, and cumulative to date, including location source; description of the discharge; method of discovery; date of discovery; and date of elimination, mitigation, or enforcement OR planned corrective measures and schedule of removal.

- No illicit discharges were found
 The illicit discharge removal report is attached to the email submission
 The illicit discharge removal report can be found at the following website:

Below, report on the number of illicit discharges identified and removed, along with the volume of sewage removed during this reporting period.

Number of illicit discharges identified:

Number of illicit discharges removed:

Estimated volume of sewage removed: gallons/day

Below, report on the total number of illicit discharges identified and removed to date. At a minimum, report on the number of illicit discharges identified and removed since the effective date of the permit (July 1, 2018).

Total number of illicit discharges identified:

Total number of illicit discharges removed:

Optional: Provide any additional information for clarity regarding illicit discharges identified, removed, or planned to be removed below:

No known or suspected illicit discharges.

Employee Training

Describe the frequency and type of employee training conducted **during this reporting period:**

Richard Hills and Wayne Amaral, West Newbury DPW, watched the IDDE training video prepared by the Central Massachusetts Regional Stormwater Coalition on April 8th, 2021.

MCM4: Construction Site Stormwater Runoff Control

Below, report on the construction site plan reviews, inspections, and enforcement actions completed during this reporting period.

Number of site plan reviews completed:

Number of inspections completed:

Number of enforcement actions taken:

Optional: Enter any additional information relevant to construction site plan reviews, inspections, and enforcement actions:

MCM5: Post-Construction Stormwater Management in New Development and Redevelopment

As-built Drawings

Below, report on the number of as-built drawings received during this reporting period.

Number of as-built drawings received:

Optional: Enter any additional information relevant to the submission of as-built drawings:

Street Design and Parking Lots Report

Describe the status of the street design and parking lots assessment due in year 4 of the permit term, including any planned or completed changes to local regulations and guidelines:

This assessment will be completed during Permit Year 4 (FY22).

Green Infrastructure Report

Describe the status of the green infrastructure report due in year 4 of the permit term, including the findings and progress towards making the practice allowable:

This assessment will be completed during Permit Year 4 (FY22).

Retrofit Properties Inventory

Describe the status of the inventory, due in year 4 of the permit term, of permittee-owned properties that could be modified or retrofitted with BMPs to mitigate impervious areas and report on any properties that have been modified or retrofitted:

This inventory will be completed during Permit Year 4 (FY22).

MCM6: Good Housekeeping

Catch Basin Cleaning

Below, report on the number of catch basins inspected and cleaned, along with the total volume of material removed from the catch basins during this reporting period.

Number of catch basins inspected:

Number of catch basins cleaned:

Total volume or mass of material removed from all catch basins:

Below, report on the total number of catch basins in the MS4 system.

Total number of catch basins:

If applicable:

Report on the actions taken if a catch basin sump is more than 50% full during two consecutive routine inspections/cleaning events:

No catch basin has been more than 50% full during two consecutive routine inspections.

Street Sweeping

Report on street sweeping completed during this reporting period using one of the three metrics below.

Number of miles cleaned:

Volume of material removed: [Select Units]

Weight of material removed: [Select Units]

Stormwater Pollution Prevention Plan (SWPPP)

Below, report on the number of site inspections for facilities that require a SWPPP completed during this reporting period.

Number of site inspections completed:

Describe any corrective actions taken at a facility with a SWPPP:

Additional Information

Monitoring or Study Results

Results from any other stormwater or receiving water quality monitoring or studies conducted during the reporting period not otherwise mentioned above, where the data is being used to inform permit compliance or permit effectiveness must be attached.

- Not applicable
- The results from additional reports or studies are attached to the email submission
- The results from additional reports or studies can be found at the following website(s):

If such monitoring or studies were conducted on your behalf or if monitoring or studies conducted by other entities were reported to you, a brief description of the type of information gathered or received shall be described below:

Additional Information

Optional: Enter any additional information relevant to your stormwater management program implementation during the reporting period. Include any BMP modifications made by the MS4 if not already discussed above:

COVID-19 Impacts

Optional: If any of the above year 3 requirements could not be completed due to the impacts of COVID-19, please identify the requirement that could not be completed, any actions taken to attempt to complete the requirement, and reason the requirement could not be completed below:

Activities Planned for Next Reporting Period

Please confirm that your SWMP has been, or will be, updated to comply with all applicable permit requirements including but not limited to the year 4 requirements summarized below. (Note: impaired waters and TMDL requirements are not listed below)

Yes, I agree

- Develop a report assessing current street design and parking lot guidelines and other local requirements within the municipality that affect the creation of impervious cover
- Develop a report assessing existing local regulations to determine the feasibility of making green infrastructure practices allowable when appropriate site conditions exist
- Identify a minimum of 5 permittee-owned properties that could potentially be modified or retrofitted with BMPs to reduce impervious areas

Annual Requirements

- Annual report submitted and available to the public
- Annual opportunity for public participation in review and implementation of SWMP
- Keep records relating to the permit available for 5 years and make available to the public
- Properly store and dispose of catch basin cleanings and street sweepings so they do not discharge to receiving waters
- Annual training to employees involved in IDDE program
- Update inventory of all known locations where SSOs have discharged to the MS4
- Continue public education and outreach program
- Update outfall and interconnection inventory and priority ranking and include data collected in connection with the dry weather screening and other relevant inspections conducted
- Implement IDDE program
- Review site plans of construction sites as part of the construction stormwater runoff control program
- Conduct site inspection of construction sites as necessary
- Inspect and maintain stormwater treatment structures
- Log catch basins cleaned or inspected
- Sweep all curbed streets at least annually
- Continue investigations of catchments associated with Problem Outfalls
- Implemented SWPPPs for all permittee owned or operated maintenance garages, public works yards, transfer stations, and other waste handling facilities
- 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
- Inspect all permittee owned treatment structures (excluding catch basins)

Provide any additional details on activities planned for permit year 4 below:

Part V: Certification of Small MS4 Annual Report 2021

40 CFR 144.32(d) Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name: Title:

Signature:  Date:

Digitally signed by Angus Jennings
Date: 2021.09.24 16:11:27 -0400

[Signatory may be a duly authorized representative]

Note: When prompted during signing, save the document under a new file name.

Annual Report Submission

Please submit the form electronically via email to both EPA and MassDEP by clicking on one of the links below or using the email addresses listed below. Please ensure that all required attachments are included in the email and not attached to this PDF.

EPA: stormwater.reports@epa.gov

MassDEP: laura.schifman@mass.gov

Paper Signature:

If you did not sign electronically above, you can print the signature page by clicking the button below.

Optional: If you did not sign electronically above, you may lock the form by clicking the "Lock Form" button below which will prompt you to save the locked version of the form. Save this locked version under a new file name.