



Town of West Newbury
Select Board
Monday, March 13, 2023 @ 5:30pm
381 Main Street, Town Office Building
www.wnewbury.org
AGENDA

REC'D W. NEWBURY CLERK
28 MAR 9 PM 1:23

Executive Session: 5:35pm in 1910 Building, 381 Main Street: Town Manager's office

- ❖ 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 (*FY23 wages, FY24 non-union wage budgeting*);
- ❖ MGL Ch. 30A §21(a) 6: To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body (*31 Dole Place*);
- ❖ 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 (*review of legal opinions, Town Counsel and Special Counsel*).

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

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

Announcements:

- This meeting is being broadcast on local cable TV and recorded for rebroadcast on the local cable channels and on the internet. Meeting also accessible by remote participation; instructions below.
- Summer Recreation Program at Page School – Online Registration Opens Friday, March 10th at 7am! Details on Town website and at <https://westnewburyma.myrec.com/>
- Affordable Housing Trust listening session, Thursday, March 16th at 7pm
- Annual & Special Town Meeting: Monday, April 24, 2023 at 7pm
- Town Election Monday, May 1st. Nomination papers due to Town Clerk by March 13th at 5pm.
- Call for volunteers! Open positions on Boards/Commissions/Committees. See www.wnewbury.org/volunteer
- Reminder to subscribe for emailed Town agendas/news/announcements at www.wnewbury.org/subscribe

Regular Business

- A. Special Event Permit Application – Road Race on June 11 at 8am – *Yukan Sports LLC (cont'd from 2/27)*
- B. Request for temporary signage – *Natale Smith, Pentucket Youth Football and Cheer*
- C. Presentation of proposed FY24 Whittier Tech budget, and discussion of proposed MSBA construction project (for potential Town Meeting consideration in Spring 2024)
- D. Report on recommendations for FY24 Capital Articles – *Capital Improvements Committee*
- E. Presentation of proposed FY24 Water budget – *Board of Water Commissioners*
- F. Follow-up discussion of proposed warrant articles for spring Annual and Special Town Meetings; including article proposals from Water Commission
- G. Request for allocation of ARPA funds for Church/Prospect water main replacement – *Board of Water Commissioners*
- H. Updates regarding proposed FY24 Town Operating Budget incl. Finance Committee reviews to date
- I. Discussion of Ch. 70 State educational funding formula
- J. Review of draft Annual and Special Town Meeting warrants, incl. determination of which articles would be on Special (instead of Annual) Town Meeting warrant
- K. Proposed adoption of Financial Policies (recommended from MassDOR Division of Local Services Municipal Best Practices grant)
- L. Review of proposed revisions to Facility Rental fee schedule
- M. Meeting minutes: January 9, 2023; January 17, 2023

Town Manager Updates

- N. Update on pending issuance of Page School Feasibility Study Request for Qualifications
- O. Public Comment period for regional Transportation Improvement Program
- P. Updates on ongoing/active projects/initiatives
- Q. Follow up meeting assignment; placing items for future agendas

Addendum to Meeting Notice regarding Remote Participation

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

Zoom Meeting

Phone: (646) 558 8656
Meeting ID: 831 9800 6384
Passcode: 744917

Join at: <https://us06web.zoom.us/j/83198006384?pwd=TzI0NnIiUXpwOE40bUcvSGJlZWxRdz09>

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



Town of West Newbury Massachusetts

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

[Home](#) > 2023 Summer Recreation Program at Page School

2023 Summer Recreation Program at Page School

Registration opens on Friday, March 10th at 7am!

The West Newbury Summer Rec Program is returning this summer with many fun activities planned!

**WEST NEWBURY
SUMMER
REC**

SESSION 1:
06/19-06/23
\$160

SESSION 2:
06/26-06/30
\$160

SESSION 3:
07/03 +
07/05-07/07
\$130

SESSION 4:
07/10-07/14
\$160

SESSION 5:
07/17-07/21
\$160

SESSION 6:
07/24-07/28
\$160

**WEST NEWBURY
Summer
Recreational
Program**

REGISTRATION OPENS FRIDAY MARCH 10TH AT 7A.M!
WESTNEWBURYMA.MYREC.COM
WNSUMMERREC@GMAIL.COM

Registration will be open on **Friday, March 10th at 7:00am!**

The program is offered at the Page School to children who will be entering Grades 1-7 in the fall of 2023. Older children entering Grades 8 and 9 who are interested in being a CIT may also attend. Information can be found at the links below. There will be six individual weekly sessions beginning June

19 through July 28.

Program Information:

- Complete program information can be found [HERE](#)
- Early drop off information can be found [HERE](#)
- C.I.T program information can be found [HERE](#)

Sessions & Dates: *dates are subject to change in the event of unforeseen snow days*

- Session 1: Monday June 19-Friday June 23
- Session 2: Monday June 26-Friday June 30
- Session 3: Monday July 3, Wednesday July 5-Friday July 7 *reduced weekly rate of \$130*
- Session 4: Monday July 10-Friday July 14
- Session 5: Monday July 17-Friday July 21
- Session 6: Monday July 24-Friday July 28



Summer Rec FIELD TRIPS

SESSION	TRIP
ONE	CANOBIE LAKE PARK
TWO	COCO KEYS
THREE	CEDARLAND - HAVERHILL
FOUR	WN FIRE DEPT/ACTION COVE
FIVE	MOVIES
SIX	LAUNCH TRAMPOLINE PARK



Affordable Housing Trust Public Listening Session

Thursday, March 16, 2023 at 7:00 p.m.
First Floor Hearing Room
Town Office Building

The Affordable Housing Trust has partnered with a housing consultant to draft a three-year Action Plan for the creation and support of housing that's affordable in West Newbury. We would like your input on the Action Plan and our goals and strategies before it is finalized in April. Please join us on **Thursday, March 16** at our Public Listening Session and share your thoughts and questions. The Draft Action Plan is available on the Trust's webpage at:

[AHT Draft Action Plan](#)

You may also submit input by email at housingtrust@wnewbury.org

Special Event Application

A

Organization or Group YuKan Sports, LLC

Person Making Reservation Rich Morrell

Mailing Address [REDACTED]

Phone [REDACTED] e-mail [REDACTED]

Event Date: 6/11/23 Start Time 8:00am End 11:00am

Time _____

Reason for Event Road Race

Number of attendees 350

Check Appropriate Block:

Resident Non-resident

Fund Raising Group Non-Profit Commercial Other

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

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

1. The location of the event on the property _____

Start and finish at 40 Parker St., Newburyport, MA 01950

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

Please see attached map

3. Features and attractions _____

4. Participant circulation _____

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

Parking at 40 Parker St., Newburyport, MA 01950

6. Any proposed road closures n/a

7. Location of trash receptacles and dumpsters _____

Water stations near 43 Moulton St. and 38 Rogers St. West Newbury, MA

8. Location of temporary toilet facilities _____

9. Accessible routes for the disabled or mobility impaired _____

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

11. Location, size, and description of any signage or banners

"RACE" arrow signs on telephone poles to direct runners

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

Water and Gatorade at aid stations

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

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

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



1/30/23

Individual/Authorized Signature for Group

Date

Chief of Police's Signature: _____ Date: _____

Requests and comments:

Fire Chief's Signature: _____ Date: _____

Requests and comments:

Approval granted if signed here by Board of Selectmen: _____ Date: _____

Requests and comments:

Town & Country Half Marathon

(21.0975 km)

Newburyport, Massachusetts

Start/Finish & Turnaround marked with PK-Nail and a spot of blue paint (UP = Utility Pole).

Start/Finish: On west side of 40 Parker Road parking lot 18 ft 7 inches east of the parking lot curb, 22 ft 7 inches S of a parking lot light pole, & 26 ft 4 inches S from end of handicapped ramp to the RiverWalk Brewing Co. on opposite side.

Mile 1: On northwest side of Parker St 18 ft 3 inches SW of a storm drain on same side, & 8 ft 3 inches SW of the southwest side of 104 Parker St (pink bldg) on opposite side.

Mile 2: On north side of Scotland Rd 56 ft NE of UP 64 84 on same side but opposite northeast side of Scotland Heights Dr.

Mile 3: On northwest side Scotland Rd 27 ft NE of "Massachusetts State Police Newbury" sign in grass opposite driveway for 193 Scotland Rd.

Mile 4: On northwest side of South St 66 ft NE of UP 27 20 20 with "Speed Limit 30 & Caution Children" signs & about 130 ft NE of driveway for 50 South St.

Mile 5: On northeast side of Ash St even with southeast side of driveway for 220 Ash St.

Mile 6: On east side of Moulton St 9 ft S of UP 46 46 on opposite side, about 150 ft SW of unmarked driveway for a house high on hill.

Mile 7: On north side of Indian Hill St at the beginning of intersection with Garden St & 25 ft E of mailboxes for 55 & 57 Indian Hill.

Mile 8: On south side of Rogers St 35 ft W of UP 11 11, about 95 ft W of "Raw Milk Eggs" farm sign, & about 150 ft E of 40 Rogers mailbox.

Mile 9: On east side of Turkey Hill Rd at beginning of sharp curve about 75 ft SW of double yellow curve signs on opposite side.

Mile 10: On south side of South/Scotland Sts 38 ft W of I-95 West Exit Ramp & opposite I-95 West Entrance Ramp.

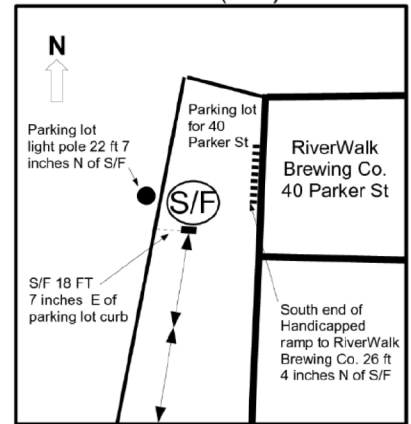
Mile 11: On south side of Scotland Rd 9 ft W of "Speed Limit 45" sign on same side & about 130 ft W of driveway for 105 Scotland.

Mile 12: On southeast side of Scotland/Parker Sts in the middle of the intersection with Highfield Rd.

Turnaround (TA): In middle of Perkins Way 17 ft 6 inches E of a red Fire Hydrant & 88 ft 10 inches E of UP with no # both on north side of Perkins Way, UP is opposite east side of driveway for 4 Perkins Way.

Mile 13: On west side of the entrance to the parking lot for 40 Parker St, 23 ft S of "Parking for 40 Parker Street Business Only..." sign, & 12 ft 6 inches N of the white shoulder line on north side of Parker St.

Start/Finish (S/F) Detail

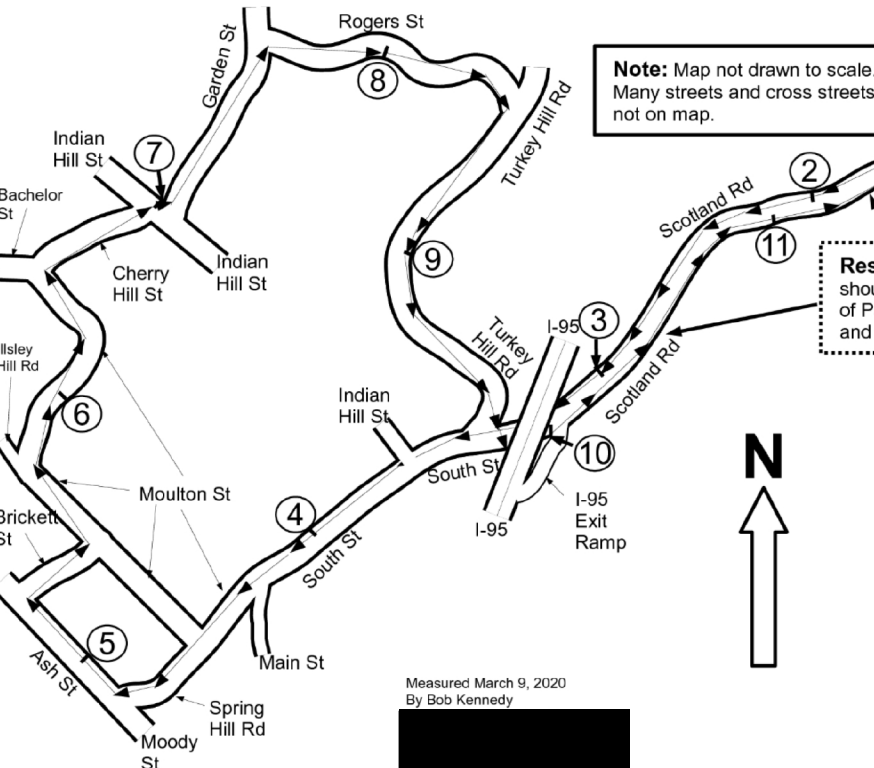


USATF Certificate

MA20002BK

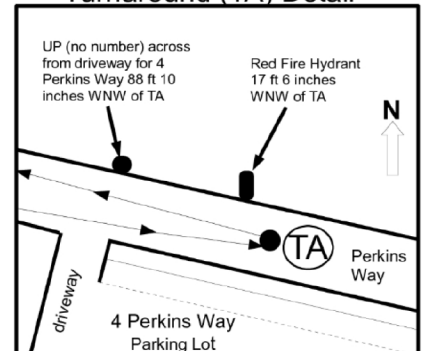
Effective: 03/19/2020

Through: 12/31/2030



Restrictions: Runners restricted to the wide shoulder to the right of the white shoulder line of Parker St, Scotland Rd & South St going out and returning.

Turnaround (TA) Detail



Measured March 9, 2020
By Bob Kennedy

Town Manager

From: Michael Dwyer <dwyer@westnewburysafety.org>
Sent: Monday, March 6, 2023 9:05 AM
To: Town Manager
Subject: Re: Special Event permit application

It is about the same. I remember the bridge closure caused some changes in the course. We also utilize the 2 day shift officers to assist with the course but do not charge.

From: Town Manager <townmanager@wnewbury.org>
Date: Monday, March 6, 2023 at 8:56 AM
To: Michael Dwyer <dwyer@westnewburysafety.org>
Subject: RE: Special Event permit application

Is this more detail officers than required for this event in prior years?

From: Michael Dwyer <dwyer@westnewburysafety.org>
Sent: Monday, March 6, 2023 8:41 AM
To: Town Manager <townmanager@wnewbury.org>
Cc: Town Clerk <townclerk@wnewbury.org>; Assistant Clerk <assistantclerk@wnewbury.org>
Subject: Re: Special Event permit application

Good morning,

I will approve with the following conditions:

- 5 detail officers assigned to traffic control throughout the racecourse.
- Fire/EMS details if needed by the sponsor.

Thanks,

Mike

From: Town Manager <townmanager@wnewbury.org>
Date: Tuesday, February 28, 2023 at 10:19 AM
To: Michael Dwyer <dwyer@westnewburysafety.org>
Cc: Town Clerk <townclerk@wnewbury.org>, Assistant Clerk <assistantclerk@wnewbury.org>
Subject: Special Event permit application

Chief,

Please review the attached and if you have any questions please follow up directly with the event sponsor Rich Morrell. (This may have already been shared with you, I'm not sure – Jim is out sick so I don't know if this was circulated). The Select Board will take this up at their next mtg on March 13, so if you have any questions or comments please let us know (or if not, sign off on application) by the end of next week. If that timeline doesn't work for you we can push this to later in March.

Thanks,

Town Clerk

From: Selectboard
Sent: Tuesday, February 28, 2023 11:22 AM
To: Natale Smith
Cc: Town Clerk
Subject: Re: Yard signs

Hi Natale,

Thank you for reaching out with this request. I am copying the Town Clerks office on this response as they are now the office that would coordinate getting this on a Select Board agenda. Someone will be in touch regarding the schedule for review of your request.

Thanks,

Wendy Reed
WN Select Board

Get [Outlook for iOS](#)

From: Natale Smith [REDACTED]
Sent: Monday, February 27, 2023 12:34:05 PM
To: Selectboard <selectboard@wnewbury.org>
Subject: Yard signs

Hello,
My name is Natale Smith and I am the Vice President of Pentucket Youth Football and Cheer. We currently serve the youth of Groveland, Merrimac, West Newbury and Georgetown. We are looking to get approval from the Selectman to put 5 of our yard signs around town to advertise registration for the upcoming season. As always your time and attention to this matter is appreciated. Please let me know if you have any questions.

Natale Smith
[REDACTED]



Policies of the West Newbury Select Board

31. Signs on Town Property

The Town of West Newbury prohibits all signs on public property without prior approval by the Select Board or designee.

The Board adopts the following requirements and limitations applicable to requests to install signs on public property (including within Town roadway rights-of-way):

- a) Organizations are limited to placement of a total of five (5) temporary signs, town-wide, at any given time, with no more than one (1) temporary sign at any one location.
- b) Installation of temporary signs may be approved in the following locations: Page School; Pipestave; Middle/High School; along roadway rights-of-way if/as specified in the organization's initial request. Installation of temporary signs may also be approved at Ferry Park or Cammett Fields (Bachelor Street), but temporary signs in those locations also require the approval of the Parks and Recreation Commission, which has care and custody of those properties.
- c) The duration of allowance for temporary signs is limited to two two-week periods (so, a total of 28 calendar days) over the course of a calendar year. At the option of the organization, the two two-week periods may or may not be consecutive.
- d) In no instance shall the installation of temporary signs be approved at the following locations: Town Offices (1910 Building); GAR Memorial Library; Training Field; Public Safety Building; or traffic islands (unless grandfathered at the time of policy adoption).

All requests to place a sign on public property must include the reason, the location(s), and duration the sign will need to be posted for and confirmation that permission has been obtained from the property owner. Applicant must acquire permission from the property owner if placing a sign on the property or in the right of way. Real estate open house signs are permitted as long as they are posted and removed the day of the open house.

Some examples of public property are rights-of-way (property running parallel to the roadway), traffic islands, utility poles, sidewalks and town-owned property. Please submit all requests to the Select Board either by email at selectboard@wnewbury.org or mail/drop off at 381 Main Street, West Newbury, MA 01985.

*Adopted: 9/18/2017
Amended: 11/13/2017
Amended: 7/26/2021*

March 13, 2023

TO: Select Board, West Newbury, Mass.
FROM: Capital Improvements Committee
SUBJECT: FY 2024 Capital Improvements Committee Report

This is the FY2024 Capital Request Priorities report of the West Newbury Capital Improvements Committee to the Select Board due prior to the Annual Town Meeting. There were six Form B's (Special Article Request Form) from Town Departments submitted to the committee this year.

Copies of the Form Bs were circulated to each member of our committee by the Town Manager. At meetings in February and March the committee met with Department representatives to discuss their Form B requests. The Committee then used the established Litmus Test to score and prioritize the projects.

While funding of the Town's stabilization account will not always match the projected capital asset replacement costs, the committee feels strongly, as always, that the stabilization fund should strive to be sufficient to address the Town's capital needs. After updating the Stabilization Chart for FY2024 and following years, and reviewing the Town's finances for FY24, the committee unanimously recommends an appropriation of \$600,000 to stabilization for this year.

Below is the prioritization of this year's requests with brief comments from the committee.

--Priority No 1--Water Department – pre-order water main piping and related hardware for the water main project on Church and Prospect Streets, engineering for the bid process and staging rental for storage of materials

The request is for \$625,000.00 to purchase the pipe and hardware for the replacement of 7,700 linear feet of the 6" water main on Church and Prospect Streets with an 8" main. The new line will help with pressure for firefighting. Pipe buildup on the interior also restricts flow. A bid for installation labor would be done after the pipe is obtained. Purchasing the pipe avoids a contractor markup and broadens the pool of project bidders as the contractor would not have to front the cost for the materials. Purchasing the pipe before bidding for installation labor also addresses issues associated with the current lengthy lead time needed to obtain the materials and time-limitations on bids.

--Priority No. 2—Fire Department - Purchase a Ford F350 pick-up truck with safety equipment to replace a 21-year-old F250 Ford pick-up truck used as an EMS vehicle and for off-road firefighting response

The request is for \$117,000.00 to purchase a new Ford F350 pick-up truck with new fire response equipment to be housed at the Garden Street fire station. It will serve as an EMS vehicle and will be designed for off-road firefighting response. The currently used Ford

F250 is over 21 years old. The current water pump, tank and mounted equipment have been reused on a number of vehicles and are no longer serviceable.

**--Priority No. 3— Department of Public Works and school facilities manager –
Replace broken HVAC unit at the Page School main office and entry area**

The request is for a currently estimated \$100,000.00 to \$115,000.00 to replace the HVAC unit at the Page School main office and entry area and break room with a roof heat pump with four heads. The current system is not functioning and replacement parts are not available. The new system will provide both heat and cooling for approximately 2,000-3,000 square feet of the school. Some of these areas have no exterior doors or windows and the HVAC system provides air circulation.

**--Priority No. 4 –Department of Public Works – Purchase Bombardier sidewalk
snow-clearing plow to replace a 15-year-old sidewalk snow-clearing plow**

The request is for \$172,000.00 to replace a 15-year-old, rubber tired, sidewalk snow-clearing plow with a track-propelled machine that is better able to address heavy snow events, particularly after the state has cleared Main Street (Rte 113). The equipment is used after every plowable snowstorm. It will also allow the DPW to clear sidewalks more quickly in one pass with less impact to traffic and pedestrians. The current sidewalk plow has some major rusting and is showing other signs of wear and tear.

The committee also reviewed a request from the water department for \$30,000.00 to purchase hydrants and valves, and other parts associated with the water distribution system. There was some question as to whether the request fell within the criteria set out in the capital improvements bylaw and not all members ranked the proposal.

Respectfully Submitted:

Julie Boria, Ross Capolupo, Elisa Grammer, Rick Parker, Judy Mizner, Chair

Capital Improvement Committee "Form E" rating test for budget request priorities:

FY 2024	Amount	\$172,000	\$117,000	\$40,000	\$625,000	\$30,000
	Dept	DPW	Fire Dept	DPW	Water Dept	Water Dept
	Project	Sidewalk Plow	F350 Pickup Truck	Replace Page HVAC	Preorder pipe: Main Replacem	Hydrant, etc parts
Judy Mizner		1225	1550	1325	1375	1375
Polly McDowell						
Julia Boria		1250	1400	1200	1700-	
Elisa Grammer		900	1300	1295	1560	1455
Rick Parker		1605	1465	1665	1555-	
Ross Capolupo		1375	1300	1225	1300	1225
XX						
Total Number		6355	7015	6710	7490	4055
Ranking		4	2	3	1	5

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SPECIAL ARTICLE REQUEST FORM

(To be presented at the Fiscal Year 2024 **Annual** Town Meeting.)

ARTICLE:

To see if the Town will vote to appropriate, in anticipation of Water Department revenue, the sum of \$1,051,559 of which \$310,236 for Salaries and Wages which include \$1,700 for Water Commissioners stipends, \$52,191 for Insurances, \$445,027 for Expenses, \$167,913 for Debt Service, \$20,000 for Extraordinary and Unforeseen and \$56,192 for Indirect Cost.

AMOUNT REQUESTED: \$ 1,051,559

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 x128

Why should the town make this purchase? What needs will be met? Who will benefit? This will give us funds to operate for fiscal year 2024.

What factors affect the timing of this purchase? N/A

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

REVISED BUDGET ON 3/12/2023 AFTER TOWN MANAGER INFORMED BOWC OF DEBT INCREASE - EXPENDITURE REPORT

	FY2022 Final	FY2022	FY2022	FY2023	FY2023	FY2024	
	Budget	Expended	Turned	Budget	Budget	Budget	
			Back	Requested	Expended Through 2/16/23	Requested	
	\$ 863,649			\$ 1,050,948		\$1,051,559	
WATER DEPARTMENT							
Salaries & Wages	280,038	269,399	10,639	319,961	177,171	310,236	-9,725
Insurance	47,248	40,559	6,689	73,196	32,344	52,191	-21,005
Expenses	339,399	356,814	-17,415	440,313	340,128	445,027	4,714
Debt Service	124,068	123,711	357	144,188	104,188	167,913	23,725
Extraordinary & Unforeseen	20,000	0	20,000	20,000	0	20,000	0
<hr/>							
SUBTOTAL	810,753	790,483	20,270	997,658	653,831	995,367	-2,291
INDIRECT COST	52,896	52,896	0	53,954	53,955	56,192	2,238
TOTAL	863,649	843,379	20,270	1,051,612	707,786	1,051,559	-53

EXPLANATION OF INCREASE/DECREASE

Salaries & Wages	9,725						
	\$3,153 less for new Manager/Superintendent						
	\$7,672 less Season Laborer/OT help and any additional labor cost						
	\$1,100 increase On-Call Duty						
Electricity	10,000						
	Cost increase for new Bedrock Well motor and New Chemical Building						
Phones, Comcast, SCADA	\$2,000						
	Cost increase						
Water Barn Oil	\$500						
	Cost increase for more usage						
Essex County Retirement	\$14,106						
	Cost decrease Manager/Superintendent retired						
Consultant-Engineering	\$7,820						
	Cost increase for more projects						
Instrument Maintenance	\$1,000						
	Additional Instruments to Calibrate						
Computer Maintenance	\$1,000						
	More Maintenance						
Meter Materials	\$5,000						
	More meters needed to replace older meters and transponders						
Brass Goods, Hydrants, Hydrant Materials, Outlays, Tools & Equipment	\$7,000						
	Maintenance goods cost are up and we plan to repair/replace more this year						
Maintenance/Contractors	\$4,000						
	We have more distribution projects planned with contractors in FY 2024						
Road Repair Materials	\$4,000						
	We have more distribution projects planned that will need to make road repairs						
Mileage Reimbursement	\$1,500						
	Discontinued						
Purchased water from Newburyport or Groveland	\$80,000						
	When the new Bedrock Well was put into service we felt we could cut back the volume of water purchased from Newburyport and/or Groveland. The new Bedrock Well is required to run along with the Tubular Wells and/or purchased water to blend the sources. Because of the drought conditions last year and this year, the Tubular Wells reached their trigger points and had to be turned off. Therefore we had to start purchasing water from Newburyport. The current purchased water line item for FY2023 is already \$20,000 in the negative and we still have drought conditions and the hottest months ahead of us.						
Insurance	\$21,005						
	New Licensed Water Operator already has insurance						
Debt	\$23,725						
	More Debt/BAN's						
Town Indirect Cost	\$2,238						

**TOWN OF WEST NEWBURY
DEPARTMENTAL PERSONNEL FORM**

PROPOSED FY 2024 BUDGET

DEPT.	PERSONNEL	LEVEL	POSITION	HRS FY 2023		52.2 Weeks		0% COLA		52.2 Weeks	
				WK	RATE	AMOUNT IN FY 2023	HOURLY INCREASE	TOTAL AMOUNT BUDGETED IN FY 2024			
Water	Mark Marlowe	9	Manager/Superintendent	40	43.00	89,784.00	0.00			89,784.00	
	Joanne Bertrand	5	Administrative Asst.	24	27.83	34,865.42	0.00			34,865.42	
	Jason Allard	6	Licensed Operator	40	28.76	60,050.88	0.00			60,050.88	
	Donald Goodwin	6	Licensed Operator	40	30.08	62,807.04	0.00			62,807.04	
	<u>Water Commissioner's Stipend</u>										
	Robert Janes	N/A	Chairman		700.00	700.00	0.00			700.00	
	Larry Corcoran	N/A	Water Commissioner		500.00	500.00	0.00			500.00	
	Richard Cushing	N/A	Water Commissioner		500.00	500.00	0.00			500.00	

249,207.34

249,207.34

FY 2024 New Rates	0% COLA
Mark Marlowe	43.00
Joanne Bertrand	27.83
Jason Allard	28.76
Donald Goodwin	30.08
WC's Stipend	1,700.00

Seasonal Labor/OT help and any other additional labor cost =
On Call Pay =

40,000.00
18,000.00

FY 2022 TOTAL PAYROLL BUDGET =

307,207.34

**TOWN OF WEST NEWBURY
DEPARTMENTAL PERSONNEL FORM**

PROPOSED FY 2024 BUDGET

DEPT.	PERSONNEL	LEVEL	POSITION	HRS WK	FY 2023 RATE	52.2 Weeks	2% COLA	52.2 Weeks
						AMOUNT IN FY 2023	HOURLY INCREASE	TOTAL AMOUNT BUDGETED IN FY 2024
Water	Mark Marlowe	9	Manager/Superintendent	40	43.00	89,784.00	0.86	91,579.68
	Joanne Bertrand	5	Administrative Asst.	24	27.83	34,865.42	0.56	35,566.99
	Jason Allard	6	Licensed Operator	40	28.76	60,050.88	0.58	61,679.52
	Donald Goodwin	6	Licensed Operator	40	30.08	62,807.04	0.61	64,080.72
<u>Water Commissioner's Stipend</u>								
	Robert Janes	N/A	Chairman		700.00	700.00	0.00	700.00
	Larry Corcoran	N/A	Water Commissioner		500.00	500.00	0.00	500.00
	Richard Cushing	N/A	Water Commissioner		500.00	500.00	0.00	500.00

249,207.34

254,606.91

FY 2024 New Rates	2% COLA
Mark Marlowe	43.86
Joanne Bertrand	28.39
Jason Allard	29.54
Donald Goodwin	30.69
WC's Stipend	1,700.00

Seasonal Labor/OT help and any other additional labor cost =
On Call Pay =

40,000.00
18,000.00

FY 2022 TOTAL PAYROLL BUDGET =

312,606.91

Filter by: Segment 1: 61
Segment 4: 000000

Parameters: Fiscal Year: 2023 Start Date: 7/1/2022 end: 6/30/2023

Ledger History - Allocated Summary - Expenditure Ledger

Account Number	Name	Allocated	Expended	Ending	% Var.
61-429-5118-000000	Water Department Salaries & Wages	319,297.00	-189,254.16	130,042.84	59.27
61-429-5170-000000	Water Dept Insurance	73,196.00	-34,412.17	38,783.83	47.01
61-429-5400-000000	Water Dept Expenses	348,133.00	-289,466.41	58,666.59	83.15
61-429-5720-000000	Water Extraordinary and Unforseen	20,000.00	0.00	20,000.00	0.00
61-429-5781-000000	Water Indirect Cost	53,954.00	-53,954.00	0.00	100.00
61-429-5900-000000	Water Dept Debt Service	144,188.00	-104,187.50	40,000.50	72.26
61-429-5951-000000	Water BAN Expense	0.00	-4,110.00	-4,110.00	0.00
61-429-5967-000000	Transfer to Water Stabilization	7,500.00	-7,500.00	0.00	100.00
	8 Account(s) totaling:	966,268.00	-682,884.24	283,383.76	70.67



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: Water Dept / Board of Water Commissioners

FROM: Angus Jennings, Town Manager

DATE: March 7, 2023

RE: FY24 Indirect Costs

This is provided to document the FY24 indirect costs, for inclusion in the proposed FY24 Water operating budget. Taking into account the proposed FY24 Town operating budget, and the estimated percentage of different offices' functions supporting the Water Dept., the proposed FY24 indirect cost about is **\$56,192**. This is an increase of \$2,238 (4.1%) from FY23.

This calculation of indirect costs was undertaken consistent with the Indirect Costs financial policy approved in 2019 (which basically just documented what had been past practice at that time). A summary of the basis of the FY24 indirect costs calculation is as follows:

Town of West Newbury, MA			Exhibit 1
West Newbury Water Department			
Indirect Costs	Fiscal Year 2024 - PROPOSED		
SUMMARY SHEET			
	2024		
	Salaries and		
Departmental Costs	Fringe Benefits	Expenses	Total
Select Board & Town Mgr	\$6,404	\$6,743	\$13,147
Finance Department	\$18,360	\$2,098	\$20,458
Assessor	\$263	\$532	\$795
Town Clerk	\$2,628	\$331	\$2,959
DPW	\$9,527	\$5,317	\$14,844
Planning Board	\$0	\$0	\$0
Fire Department	\$0	\$0	\$0
Inspections	\$0	\$0	\$0
Board of Health	\$0	\$0	\$0
Total Departmental	\$37,181	\$15,021	\$52,202
Water Enterprise FICA			\$3,451
Indirect Salaries FICA			\$539
Administrative Expenses			\$0
Total Expenses			\$3,990
Total Indirect Costs			\$56,192

Memo re FY24 Water Indirect Costs

The calculation of indirect costs does not include those costs the Water Dept. pays directly (incl. Retirement, Debt Service, Health Insurance, and other Insurances).

A review of the past several years’ indirect costs calculations shows that the Town’s allocation to the Water Dept. has increased at a steady rate of 1.9-2.0%/year. Over the same period of time, the portions of the Town’s operating budget (not including portions that either don’t support Water – such as Education – as well as those portions that Water pays directly – namely Retirement, Health Insurance, Insurances, and Debt Service) have increased by the following percentages:

Town Budget and Indirect Costs Trends, FY20-23 (FY24 Proposed)						
	<u>Indirect</u> <u>Costs</u>	<u>Change</u> <u>from</u> <u>Prior \$</u>	<u>Change</u> <u>from</u> <u>Prior %</u>	<u>% of</u> <u>water</u> <u>budget</u>	<u>Town budget</u> <u>change from</u> <u>prior %</u>	<u>Town budget</u> <u>change from</u> <u>prior % (Not</u> <u>incl. Ed, etc.)</u>
FY24	\$ 56,192	\$ 2,238	4.1%	6.265%	3.3%	3.7%
FY23	\$ 53,954	\$ 1,058	2.0%		3.9%	3.5%
FY22	\$ 52,896	\$ 986	1.9%		1.0%	5.1%
FY21	\$ 51,910	\$ 956	1.9%		5.5%	4.2%
FY20	\$ 50,954	\$ 945	1.9%		4.2%	7.3%

One of the major changes in the Town’s and the Water Dept.’s financial relationship in FY24 is that, for the first time in many years (perhaps ever), the only debt carried by the Town is for Water projects. Therefore, a truer calculation of FY24 indirect costs would shift a greater share of my office’s and the Treasurer/Collectors’s time toward Water, for work related to debt issuance, continuing disclosures (to bond rating agencies), work with our financial advisors, etc. However, we have not made this adjustment, as it is my opinion that this warrants a broader policy discussion regarding how certain finance/administrative functions (related to debt/borrowing, grants management incl. ARPA, procurement/contracting, etc.). The proposed FY24 number also almost certainly understates the level of effort my office expends toward Water-related initiatives, such as capital planning, and the potential proposal to acquire land as a new public water source. However, I believe that discussions of these policy matters can happen more comfortably outside of the context of the deadline-driven budget season.

Additional detail regarding the FY24 indirect costs allocation can be provided upon request, and the Town Accountant and I would be pleased to meet with the Water Superintendent and BOWC on request. Once the Spring Town Meeting cycle is complete, and as we look ahead to FY25 budgeting, I recommend that we schedule a time over the summer or in early fall to jointly conduct a more comprehensive review of the indirect cost calculation. Thank you.

INDIRECT COST ALLOCATION

PURPOSE

To apportion all the indirect costs associated with the Town's water enterprise fund in an equitable manner that reflects the operation's true shared costs, this policy provides guidelines for calculating, allocating, and reviewing those costs.

Under authority established in [M.G.L. c. 44 § 53F½](#), the water service is managed and accounted for separately from the general fund and has its own financial statements. Consolidating the program's direct and indirect costs, debt service, and capital expenditures into a segregated fund allows the Town to demonstrate to the public the true, total cost of providing the service.

APPLICABILITY

This policy applies to budgetary functions of the Finance Department/Town Accountant, the Water Department Superintendent and the Board of Water Commissioners. Further, it encompasses enterprise-related administrative functions of the Finance Department/Town Accountant, Treasurer/Collector, and Town Manager.

POLICY

As part of the annual budget process, the Town Accountant will calculate the Water Department's indirect costs to the general fund and will review the figures with the Water Department Superintendent. The calculations will take into account all the enterprise-related expenses of the Town departments that provide administrative services to the water operation, namely:

- Accounts payable, payroll, and general ledger services provided by the Town Accountant
- Turnover processing, banking, investment, tax title, and payroll services provided by the Treasurer/Collector Department
- Annual budget development and coordination services provided by the Town Manager

For these expenses and those listed below, the Town Accountant will calculate indirect costs using the most recent fiscal year's appropriations and based on the estimated support methodology, which is outlined as follows and takes into account:

- Benefits for active and retired employees, including insurances, Medicare tax, unemployment, workers' compensation
- Pensions
- Vehicle insurance
- Property insurance
- Independent audit services
- Actuarial services
- Legal services
- Information technology expenses
- Other costs that may be considered and agreed to and documented

The Town Accountant will maintain a written procedure detailing the costs and calculation methodologies used. Upon preparation of the calculated results for the subsequent fiscal year budget, the Finance Department will provide the calculated amount, with supporting methodology, to the Water Department Superintendent and the Board of Water Commissioners as early in the annual budgeting process as is feasible, based on when information becomes known regarding the indirect costs to be allocated. The Finance Department will make the Town Accountant, or other department representative, available to meet with the Water Superintendent and Water Commission if and as needed to review the calculated amount and methodology.

If the Water Commission wishes to contest the amount or methodology of the calculated amount, it may do so in writing to the Town Manager. The Town Manager shall have the authority, based on his/her review of the methodology and based on conferral with the parties, to authorize the calculated amount, or another amount if found to be a more accurate estimate, which will appear in the Water Department expense budget to be proposed to Town Meeting.

Upon approval of the Annual Town Budget, including a Water Department expense budget that incorporates the calculated amount, the Town Account will record transfers between the relevant funds by January 1 each year.

Methodology for Calculating Indirect Costs

The Finance Department will prepare a reasonable **estimate of support** (i.e., an estimate of the average time spent to support a particular service). For example, the Town Manager estimates he/she spends on average four hours weekly, or 10 percent of his/her time, on water-related activities (e.g., meetings, budgeting, clerical tasks). This percentage is applied against the department's or official's salary and benefits, including health and life insurance, Medicare, retirement and any workers' compensation.

$$\frac{\text{Hours worked on enterprise activities per year by individual(s)}}{\text{Total hours worked per year by individual(s)}} \times \text{Salary and benefits of individual(s) working on enterprise activities} = \text{Indirect Departmental Salaries}$$

The sum total of all departments' or officials' expenses related to water operations will be included in the annual Water Department budget per the aforementioned process, then charged directly to the Water Department's budget within the subsequent fiscal year.

REFERENCES

DLS Informational Guideline Release 08-101: [Enterprise Funds](#)
 Government Finance Officers Association Best Practices: [Indirect Cost Allocation](#) and [Full Cost Accounting for Government Services](#)

EFFECTIVE DATE

This policy was adopted on August 5, 2019.

Town Manager

From: Town Manager
Sent: Thursday, March 2, 2023 3:47 PM
To: Mark Marlowe; WNWater; Mike Gootee
Cc: Bob Janes [REDACTED]; Larry Corcoran [REDACTED]; John Duggan
Subject: FY24 Water budget input - Health Insurance
Attachments: Health Insurance - FY24 Water budget calc.pdf

Mark,

Please find attached the budget backup to support an amount of \$36,644 to be included in the FY24 Water budget for Health Insurance. The calculation reflects known FY24 renewal rates, and reflects current Water head count (as shown on the spreadsheet). Please note: this does not carry any contingency in the Water side, so if there were a mid-year cost increase (due to an employee changing from opt-out to a plan, or individual to family; or due to employee turnover and a new employee taking a more costly plan) this could cause an overage so would rely on a transfer from the Extraordinary & Unforeseen line. If the BOWC wishes to build in contingency (as we do on the Town side) I'm happy to advise as to what may be a reasonable amount for budget purposes. If you have any questions please contact me or Kaitlin Gilbert.

I am still working on the other FY24 Water budget inputs and will send ASAP.

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: Town Manager
Sent: Thursday, March 2, 2023 3:52 PM
To: Mark Marlowe; WNWater; Mike Gootee
Cc: Bob Janes [REDACTED]; Larry Corcoran [REDACTED]; John Duggan
Subject: FY24 Water budget input - ERRS Retirement
Attachments: ERRS FY24 Water Dept Appropriation.pdf; fy2024_appropriation_letter.pdf

Mark,

Please find attached the budget backup to support an amount of \$58,884 to be included in the FY24 Water budget for ERRS Retirement. The calculation reflects known FY24 ERRS appropriation, allocated proportionally with the Water Dept's total share of total pensionable compensation (as shown on the spreadsheet).

Please note: the FY24 appropriation is a reduction from FY23. We were very skeptical of this when we first received the appropriation, but followed up with Chuck Kostro multiple times in order to triple-check that this was not in error. Chuck verified the number (multiple times, in writing) and said that it will not change, so can be relied upon for budgeting. If you have any questions please contact me or Jennifer Walsh.

I am still working on the other FY24 Water budget inputs and will send ASAP.

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: Town Manager
Sent: Monday, March 6, 2023 10:41 AM
To: Mark Marlowe; Mike Gootee; WNWater
Cc: Bob Janes [REDACTED]; Corcoran, Larry; John Duggan
Subject: Recommended FY24 Water budget amount for non-health insurances

Mark/Mike/Jodi,

This is to provide an additional input to the recommended FY24 Water budget, regarding insurance (other than health insurance, which was already provided).

As you know, every summer MIIA provides us a premium breakdown between Water and General Fund, but they cannot provide this until the summer, after the actual FY24 policies and premiums are finalized.

For budgeting purposes, I have been working with MIIA for the past couple of months to estimate our FY24 increases for our insurance coverages. I received updated numbers this morning, and (for the MIIA policies incl. property; generally liability; cyber; automobile; machinery; umbrella liability; and workers' comp) I am budgeting a total of \$192,496 for FY24. In FY23, Water was allocated about 6.8% of this cost based on the allocation received from MIIA last summer. If the same 6.8% is applied to the overall estimated FY24 total budget number of \$192,496, this would result in \$13,147 allocated to Water (with the remainder to be carried in the General Fund budget).

I therefore recommend that the FY24 Water budget carry \$13,147 for insurance (not incl. health insurance, a budget amount which was previously provided). This is a small increase from the current FY23 Water cost (for these policies) of \$12,711.

With this information, I believe there is only one remaining FY24 budget input you need from my office, which is Indirect Costs. I'm working on that with Jenny, and will have a budget number over to you later today.

Please let me know if you have any questions.

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: Town Manager
Sent: Monday, February 27, 2023 3:43 PM
To: Mark Marlowe; Bob Janes [REDACTED]
Cc: Rick Parker
Subject: MassDEP Regs re "Provisional Certificate"

Mark and Bob,

As discussed earlier, MassDEP regs set out an option for a 6-month "Provisional Certificate" per 236 CMR 4.05(4). This is different than (and is only intended to be issued after) the "Temporary Emergency Certificate" the department received in October. The language is excerpted below, and online [here](#) (see pg. 7 of 8).

(3) "Temporary Emergency Certificate" as defined in M.G.L. c. 112, § 87DDDD shall, upon approval of the Board, be issued to the person designated by the public water system as the operator of said system upon payment of a non-refundable fee set by the Commissioner of Administration and Finance. Temporary Emergency Certificates are valid for a period of six months and shall not be renewed.

(4) A six-month "Provisional Certificate" may be issued upon payment of a non-refundable fee set by the Commissioner of Administration and Finance to any public water system meeting all of the requirements except examination for the grade applied for. It is the intent of 236 CMR 4.05(4) that it be used only in specific instances where a public water system has provided evidence satisfactory to the Board that the supplier is presently unable to obtain a certified operator. Furthermore, it is the intent of this provision that it only be used after the "Temporary Emergency Certificate" issued under 236 CMR 4.05(3) has expired. Issuance of the provisional certificate does not relieve the water supplier from the responsibility of vigorously pursuing the goal of obtaining a fully certified operator of appropriate grade at the earliest possible opportunity.

It was agreed today that at tomorrow's BOWC mtg the BOWC will decide whether to pursue the Provisional Certificate in the event that Mark doesn't secure the required licensing prior to the April 9th expiration of the Temp Emergency Certificate.

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

Increasingly, communities are establishing enterprise funds for their business-type services (e.g., water, sewer, trash disposal, ambulance services, skating rinks, golf courses, airports, etc.). A community adopts an enterprise by a vote of town meeting or city council with the mayor's approval. The enterprise fund establishes a separate accounting and financial reporting mechanism for a municipal service for which a fee is charged in exchange for goods or services ([M.G.L. c. 44, §53F½](#)). Under enterprise accounting, the service's revenues and expenditures are segregated into a separate fund with its own financial statements, rather than being commingled with the revenues and expenses of all other governmental activities.

Enterprise accounting allows a community to demonstrate to the public the total cost of providing a service by consolidating all the program's direct and indirect costs (e.g., interdepartmental support, insurance costs, etc.), debt service, and capital expenditures into a segregated fund. To support the service, a community may choose to recover total costs through user charges (rates), through a tax levy subsidy, or through appropriation of other available funds.

At year-end, the enterprise fund's performance is measured in terms of positive (surplus) or negative (deficit) operations. An operating surplus results from revenue collected in excess of estimates and appropriation turnbacks and translates into retained earnings, which are retained in the fund rather than closing to the general fund. The Division of Local Services (DLS) Director of Accounts must certify enterprise fund retained earnings as an available fund based on the community's submission of a June 30th balance sheet to DLS. Once certified, retained earnings may be appropriated only for expenditures relating to the enterprise fund.

The consolidation of a program's revenues and costs combined with information on the fund's operating performance (positive or negative) provides the community with useful information to make decisions on user charges and other budgetary items. The community can analyze how much the user fees and charges support the service and the extent to which the tax levy or any other available revenues may be needed to subsidize the enterprise fund. The community can include the enterprise's fixed assets and infrastructure as assets in financial statements and recognize these assets' annual depreciation.

Establishing an enterprise fund does not create a separate, autonomous entity from the municipal government operation. Like every other department, the municipal department overseeing the enterprise service prepares a budget to be reviewed and analyzed. The budget and any line-item transfers among the enterprise fund's appropriations still require action by the mayor and council or town meeting. And

the enterprise-related department must fulfill the same financial and managerial reporting requirements as any other department.

For further information on enterprise funds, please refer to our guidance issued in April 2021 as [IGR-2021-11, Enterprise Funds](#).

F

Annual OR Special Warrant Articles - Spring 2023 Town Meeting				Recommendations	
# (DRAFT) Article	Amt (if \$)	Sponsor	Date of FinCom review	Select Board	FinCom
1	To give votes to the election of the public offices	n/a	Select Board	n/a	n/a
2	Reports of Town Officers and Committees	n/a	Select Board	n/a	n/a
39	Adoption of MGL Ch. 166, Sec. 32A (Wiring Inspectors)	n/a	Select Board	n/a	3-0 on 2/13
42	Zoning Bylaw Recodification (Planning Board public hearing March 7th)	n/a	Planning Board	n/a	3-0 on 2/27
3	School Stabilization Fund transfer	\$ 200,000	Select Board	2/15/2023	3-0 on 2/13
18	Transfer funds to Other Post-Employment Benefits (OPEB) Stabilization Fund	\$ 6,868	Select Board	2/15/2023	3-0 on 2/13
37	MBTA Communities grant matching funds	\$ 7,500	Select Board	2/15/2023	3-0 on 2/13
16	Appropriation from Septic Loan Revolving Fund	\$ 10,364	Board of Health	2/22/2023	3-0 on 2/27
22	Allocate and/or reserve Community Preservation Fund annual revenues	\$ 609,037	CPC	2/22/2023	3-0 on 2/27
23	Sawmill Brook (Poorhouse Lane) land acquisition	\$ 350,000	CPC/SB	2/22/2023	6-0 on 2/22
24	Transfer CPC funds to Affordable Housing Trust	\$ 172,178	CPC/SB	2/22/2023	6-0 on 2/22
29	Ash Tree Treatments (Multi-Year Funding Program)	\$ 60,180	DPW Director	2/22/2023	3-0 on 2/13
<i>NOTE: At its meeting on Feb. 22nd, following discussion, the FinCom voted 3-2-1 IN FAVOR of appropriating \$18,700 for this purpose. Its vote for the amount proposed FAILED 2-3-1.</i>					
30	Page School security cameras	\$ 8,300	DPW Director	2/22/2023	3-0 on 2/27
35	Funding for cemetery cleanup	\$ 4,150	Hist. Comm.	2/22/2023	3-0 on 2/27
38	Invasive Species management	\$ 20,000	Open Space Comm.	2/22/2023	2-1 on 2/27
17	Transfer funds for Pension Liability Stabilization Fund	\$ 67,514	Select Board	3/1/2023	3-0 on 2/13
21	Fix FY24 max amounts that may be spent from revolving funds 5.1 to 5.5	\$ -	Select Board	3/1/2023	6-0 on 3/1
<i>NOTE: At its meeting on March 1st, following discussion, the FinCom voted 6-0 in favor of Revolving Funds 5.1-5.5; and tabled action on Fund 5.6 (Curbside Collection & Recycling).</i>					
32	Purchase infield grader	\$ 4,425	P&R Comm	3/1/2023	2-1 on 2/27
33	Pipestave Field 6 Restoration	\$ 15,000	P&R Comm	3/1/2023	2-1 on 2/27
34	Pipestave fencing	\$ 9,960	DPW Director	3/1/2023	3-0 on 2/27
21	Fix FY24 max amounts that may be spent from revolving fund 5.6 (Curbside/Recycling)	\$ -	Select Board	3/15/2023	
6	FY24 Water Operating Budget	TBD	BOWC	3/15/2023	
7	Church/Prospect Water Main Replacements - CAPITAL ARTICLE	\$ 625,000	BOWC	3/15/2023	
8	Appropriation of Water Retained Earnings for FY23 purchase of water	\$ 140,000	BOWC	3/15/2023	
9	Water - purchase new Master Meter at Pipestave Booster Station	\$ 3,865	BOWC	3/15/2023	
10	Water - purchase Continuous Chlorine Monitoring System	\$ 19,900	BOWC	3/15/2023	
11	Water - purchase SCADA Remote Terminal Units	\$ 7,340	BOWC	3/15/2023	
12	Water - Exterior Repairs to Wellfield #1 Building - CAPITAL ARTICLE	\$ 16,610	BOWC	3/15/2023	
13	Water - Clean Wellheads at Wellfield #1	\$ 9,975	BOWC	3/15/2023	
14	Water - Valves hydrants water mains meter pits	\$ 30,000	BOWC	3/15/2023	
26	Fire Pickup Truck replacement - CAPITAL ARTICLE	\$ 117,000	Fire Chief	3/15/2023	
28	Police Cruiser purchase, supplemental funding (FY23 vehicle)	\$ 25,000	Police Chief	3/15/2023	
25	DPW Sidewalk Plow replacement - CAPITAL ARTICLE	\$ 172,000	DPW Director	3/22/2023	
27	Page School HVAC - CAPITAL ARTICLE	\$ 115,000	DPW Director	3/22/2023	
5	Instructions, Rules and Regulations for Board of Water Commissioners	n/a	Select Board	3/22/2023	
4	FY24 Town Operating Budget	TBD	Select Board	3/22/2023	
15	Funds for study of 31 Dole Place	TBD	Select Board	3/22/2023	
19	Snow & Ice deficit	TBD	DPW Director	3/22/2023	
20	Appropriation of PEG Reserved Revenues under MGL c.44 s.53F3/4	\$ 90,000	Select Board	3/22/2023	
31	Funds for Pipestave/Page crosswalk	TBD	Select Board	3/22/2023	
40	Solar Bylaw amendments (Planning Board public hearing March 7th)	n/a	Planning Board	3/22/2023 ???	
43	Wetlands Bylaw (potential Conservation Commission hearing March 29th)	n/a	ConCom	3/22/2023 ???	

Notes:

Numbering does not correspond to order or numbering that will appear on Town Meeting warrants.

Cells shaded in blue are recommended/requested for STM, not ATM.

Amounts shaded in yellow are revised from initial draft proposed Articles.

# (DRAFT) Article		Proposed Funding Source (DRAFT)						
		Free Cash	Stabilization	School Stabilization	CPA	Water Retained Earnings	Water Stabilization	Other
1	To give votes to the election of the public offices							
2	Reports of Town Officers and Committees							
39	Adoption of MGL Ch. 166, Sec. 32A (Wiring Inspectors)							
42	Zoning Bylaw Recodification (Planning Board public hearing March 7th)							
3	School Stabilization Fund transfer			\$ 200,000				
18	Transfer funds to Other Post-Employment Benefits (OPEB) Stabilization Fund	\$ 6,868						
37	MBTA Communities grant matching funds	\$ 7,500						
16	Appropriation from Septic Loan Revolving Fund							\$ 10,364
22	Allocate and/or reserve Community Preservation Fund annual revenues				\$ 609,037			
23	Sawmill Brook (Poorhouse Lane) land acquisition				\$ 350,000			
24	Transfer CPC funds to Affordable Housing Trust				\$ 172,178			
29	Ash Tree Treatments (Multi-Year Funding Program)	\$ 60,180						
30	Page School security cameras	\$ 8,300						
35	Funding for cemetery cleanup	\$ 4,150						
38	Invasive Species management	\$ 20,000						
17	Transfer funds for Pension Liability Stabilization Fund	\$ 67,514						
21	Fix FY24 max amounts that may be spent from revolving funds 5.1 to 5.5							\$ -
32	Purchase infield grader	\$ 4,425						
33	Pipestave Field 6 Restoration	\$ 15,000						
34	Pipestave fencing	\$ 9,960						
21	Fix FY24 max amounts that may be spent from revolving fund 5.6 (Curbside/Recycling)							\$ -
6	FY24 Water Operating Budget							
7	Church/Prospect Water Main Replacements - CAPITAL ARTICLE					TBD	TBD	
8	Appropriation of Water Retained Earnings for FY23 purchase of water					\$ 140,000		
9	Water - purchase new Master Meter at Pipestave Booster Station						\$ 3,865	
10	Water - purchase Continuous Chlorine Monitoring System						\$ 19,900	
11	Water - purchase SCADA Remote Terminal Units						\$ 7,340	
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14	Water - Valves hydrants water mains meter pits					\$ 30,000		
26	Fire Pickup Truck replacement - CAPITAL ARTICLE		\$ 117,000					
28	Police Cruiser purchase, supplemental funding (FY23 vehicle)	\$ 25,000						
25	DPW Sidewalk Plow replacement - CAPITAL ARTICLE		\$ 172,000					
27	Page School HVAC - CAPITAL ARTICLE		\$ 115,000					
5	Instructions, Rules and Regulations for Board of Water Commissioners							
4	FY24 Town Operating Budget							
15	Funds for study of 31 Dole Place	TBD						
19	Snow & Ice deficit							
20	Appropriation of PEG Reserved Revenues under MGL c.44 s.53F3/4							\$ 90,000
31	Funds for Pipestave/Page crosswalk	TBD						
40	Solar Bylaw amendments (Planning Board public hearing March 7th)							
43	Wetlands Bylaw (potential Conservation Commission hearing March 29th)							
Sub-Totals (Preliminary and Incomplete):		\$ 228,897	\$ 404,000	\$ 200,000	\$ 1,131,215	\$ 179,975	\$ 47,715	\$ 100,364

Notes:

Numbering does not correspond to order or numbering that will appear on Town Meeting warrants.
 Articles will be assigned to Annual or Special Town Meeting warrants at a later date.

Town Manager

From: Town Manager
Sent: Thursday, February 23, 2023 1:52 PM
To: Mark Marlowe; Mike Gootee
Cc: Bob Janes [REDACTED]; Larry Corcoran [REDACTED]; John Duggan; WNWater; Town Accountant
Subject: Select Board and FinCom review of FY24 Water articles and op. budget
Attachments: Select Board memo to Dole Place owner Feb 1 2023.pdf

Mark/Mike and BOWC,

The Select Board will continue its review of proposed Town Mtg articles at its upcoming mtg on Feb 27 and again on March 13. Prior to voting their recommendations on the proposed Water articles and budget, they'd like to invite a representative of the BOWC and/or Superintendent to present the proposed articles and respond to any questions the Board members may have.

Please let me know if someone can be available to attend the Select Board mtg on March 13th. The same night, the Board will also be discussing its proposed article to allocate funds for further study of Dole Place. Since this spring Town Meeting will be the first time in several years that Town Meeting will be presented with an article re Dole Place, it will be important to increase public understanding of the town's interest in this property and the process to date.

Since the Board sent its Feb 1st letter to the landowner (attached), we did receive an email back from Mark Dickinson acknowledging receipt of the letter, but he was out of the country at the time. He said he would discuss the letter with the family once he returned (which was a few days ago), so we do expect to connect with him further regarding any comments or questions, ahead of the public discussion on March 13th. We will let you know what we learn.

The complete list of articles, with backup materials, are posted to the Select Board page ([here](#)) and to the FY24 budget page ([here](#), under the Feb 15 mtg "Supplemental packet with proposed Town Meeting Warrant Articles with backup"). In order for the Select Board to vote its recommendations on the proposed articles, we will need to receive updated articles with the placeholder amounts updated with proposed amounts, no later than Friday March 10th for inclusion in their March 13th meeting packet. That is the same day we'll need to receive this same info for inclusion in the Finance Committee packet for their meeting on March 15th (which is when they're scheduled to review Water Articles and FY24 operating budget).

Mark/Mike – I still owe you some inputs for the FY24 operating budget: specifically, insurance, and indirect costs. I believe you already have the info you need to budget FY24 debt service, but if any questions let me know. I'll get you the insurance and indirect costs info by mid-week next week, and sooner if I can. If you'd like I am happy to set up a time to meet to go over these items.

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

ARTICLE REQUEST FORM

(To be presented at the Fiscal Year 2024 **Special** Town Meeting.)

ARTICLE:

To see if the town will vote to transfer the sum of \$140,000.00 from the Water Enterprise Fund Free Cash Account to purchase water from the City of Newburyport and to replenish the line items within the FY 2023 Operating Budget that needed to be used to pay the water bills.

AMOUNT REQUESTED: \$140,000.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext. 128

Why should the town make this purchase? What needs will be met? Who will benefit?

Last July the City of Newburyport increased their water rate by 10% with no advanced notice to the West Newbury Water Department. Because of the severe drought conditions, we experienced last summer and fall the existing wellfield water levels were very low and we were not able to yield our normal daily volume. We depleted 100% of those funds in just 7-months because of those drought conditions and additional cost of water. During CY 2023 we had to purchase over 5-million more gallons of water than the previous year.

We anticipated purchasing less water from Newburyport than the year before because the new Bedrock Well was put in to service which could blend with the Driven Wells. The problem was that the Driven Wells reached their trigger points so we needed to purchase water from Newburyport to keep up with demand.

We have been moving funds around within the FY 2023 Operating Budget to pay for the water and we need additional funds to replenish the funds from other line items.

We will also be purchasing a large volume of water from Newburyport when we need to take the Pipestave Water Tank off-line for repairs. The repairs to the tank are estimated to take 6-8 weeks to complete. During that time, we will be purchasing all our water from Newburyport.

What factors affect the timing of this purchase?

Those funds are needed to pay for the additional water needed to keep up with demand and replenish the funds that are used to pay the Newburyport water bills.

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

n/a

SPECIAL ARTICLE REQUEST FORM

ARTICLE: (To be presented at the Fiscal Year 2024 **Special** Town Meeting.)

To see if the town will vote to transfer the sum of \$3,865.00 from the Water Enterprise Stabilization Fund Account to purchase a new Krone Magnetic Master Meter located at the Pipestave Booster Station.

AMOUNT REQUESTED: \$3,865.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext. 128

Why should the town make this purchase? What needs will be met? Who will benefit?

The Krone Magnetic Master Meter calculates how much water is pumped to the Brake Hill Water Tank. The meter is over 20-years old and has now failed to calculate the volume of water correctly.

What factors affect the timing of this purchase?

We will be able to calculate water pumped.

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

None other than yearly calibrations which are part of the water operating budget.

SPECIAL ARTICLE REQUEST FORM

ARTICLE: (To be presented at the Fiscal Year 2024 Special Town Meeting.)

To see if the town will vote to transfer the sum of \$19,900.00 from the Water Enterprise Stabilization Fund Account to purchase a continuous chlorine monitoring system.

AMOUNT REQUESTED: \$19,900.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext. 128

Why should the town make this purchase? What needs will be met? Who will benefit?

The Department of Environmental Protection requires the water department to continuously 24/7 monitor chlorine and pH residuals.

What factors affect the timing of this purchase?

The existing chlorine analyzer is over 15-years old and repair parts are no longer available.

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

Normal daily and yearly maintenance is required. Normal yearly maintenance cost around \$3,000/year.

SPECIAL ARTICLE REQUEST FORM

ARTICLE: (To be presented at the Fiscal Year 2024 **Special** Town Meeting.)

To see if the town will vote to transfer the sum of \$7,340.00 from the Water Enterprise Stabilization Fund Account to purchase SCADA Remote Terminal Units (RTU's).

AMOUNT REQUESTED: \$7,340.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext.128

Why should the town make this purchase? What needs will be met? Who will benefit?

The RTU acts as the primary control system with the Supervisory Control and Data Acquisition (SCADA) system. RTUs are configured to control specific functions within the SCADA system, which can be modified as necessary through the user interface.

What factors affect the timing of this purchase?

The 10-year-old RTUs are dropping out communications more frequently.

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

The new RTUs should communicate without issues for about 5-years.

SPECIAL ARTICLE REQUEST FORM

ARTICLE: (To be presented at the Fiscal Year 2024 **Special** Town Meeting.)

To see if the town will vote to transfer the sum of \$16,610.00 from the Water Enterprise Stabilization Fund Account to make exterior repairs to the original Wellfield #1 building.

AMOUNT REQUESTED: \$16,610.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext. 128

Why should the town make this purchase? What needs will be met? Who will benefit?

The Wellfield #1 building needs the exterior stucco stripped and refinished. During the process the old stucco would be stripped, pressure washed, two coats of Basecoat mash imbedded and one coat of Finish.

What factors affect the timing of this purchase?

This is the last remaining building maintenance needed at the Wellfield.

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

Pressure washing any algae growth periodically.

SPECIAL ARTICLE REQUEST FORM

ARTICLE: (To be presented at the Fiscal Year 2024 **Special** Town Meeting.)

To see if the town will vote to transfer the sum of \$9,975.00 from the Water Enterprise Fund Free Cash Account to clean the wellheads located at Wellfield #1.

AMOUNT REQUESTED: \$9,975.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext. 128

Why should the town make this purchase? What needs will be met? Who will benefit?

Every two or three years the wellheads need to be surged, chemically treated and cleaned.

What factors affect the timing of this purchase?

The Wellfield is experiencing normal buildup of sediment and Manganese.

This process scours the wellhead pipe to remove as much sediment and Manganese as possible.

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

This is required to do maintain good water quality.

ARTICLE REQUEST FORM

(To be presented at the Fiscal Year 2024 *Special* Town Meeting.)

ARTICLE: To see if the town will vote to transfer the sum of \$30,000 from the Water Enterprise Fund Stabilization Account to purchase and/or repair valves, hydrants, water main, meter pits, meters or any other devices that are associated with the water distribution system.

AMOUNT REQUESTED: \$30,000.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext. 128

Why should the town make this purchase? What needs will be met? Who will benefit?

Over the last 25-years the department has been able to maintain the older Corey and Rensselaer hydrants. The main manufacturing company for those type of hydrants has now gone out of business since the COVID pandemic surfaced. Replacement parts are very hard to find anymore. We now need more funds than we normally carry for maintenance within the yearly Operating Budget to replace the aging hydrants and valves. When the original water system was installed most isolation valves were installed at the beginning and end of most roads with no isolation valves in between. We need to continue to install more valves to be able to isolate shorter sections of water main to be able to repair or replace older valves. During flushing season, these new valves will also help the department isolate sections of water main so they can uni-directional (opposite of normal flow) flush. Hydrants that are on roads that are scheduled for water main replacement within the near future will not be replaced unless it is an emergency situation. There are also long water services (over 150') to dwellings that were installed many years ago and we now need to install meter pits to capture any unaccounted water that may be leaking from those services.

What factors affect the timing of this purchase?

Having funds available when supplies are needed.

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

Minimal cost with a good flushing program that the department currently has. New hydrants will last 80+ years maintained properly.

SPECIAL ARTICLE REQUEST FORM

ARTICLE: (To be presented at the Fiscal Year 2024 **Special** Town Meeting.)

To see if the town will vote to raise and appropriate and/or transfer available funds from the Water Enterprise Fund Free Cash Account and/or from the Water Enterprise Stabilization Fund Account the amount of \$625,000.00 to purchase water main for the Water Main Project on Church and Prospect Street, engineering for the Bid Process and staging rental for the storage of the water main.

AMOUNT REQUESTED: \$625,000.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext. 128

Why should the town make this purchase? What needs will be met? Who will benefit?

The original plan was to start the water main replacement in FY 2024. The BOWC'S decided that it would be best to purchase the water main in CY 2023 after the pipe company informed the department that there would be a 30-week lead time before we would see a delivery. Other municipalities are following the same process with the backlog of the supply chains.

What factors affect the timing of this purchase?

The plan is to borrow funds for the water main project and ask for approval at the FY 2025 Town Meeting. By purchasing the water main in CY 2023 the water main replacement project would be able to move forward once approved at Town Meeting. If we don't purchase the water main in CY 2023 and wait until CY 2024 the project would need to be pushed off for an additional year.

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

Once the water main is installed the department would continue its yearly flushing schedule to remove sediment and maintain good water quality.

**WEST NEWBURY WATER DEPARTMENT
(WATER MAIN REPLACEMENT FROM HYDRAULIC STUDY)
PLAN TO START IN FY 2025
Cost Estimates Revised on 3/6/2023**

Please Note; By the time we go out to bid for the water main construction, the cost will most likely be more and we will need to adjust the cost estimates.

2	Phase (Priority)	Description/Location	From	To	Proposed Diameter	Length Feet	FY2024-WHENEVER Estimated Cost	COMMENTS
3	1	Church Street	Church Street	Ferry Point	R(8)	4752	\$ 1,663,200	The new 8-inch water main cost estimate on Church and Prospect is now \$2,623,950
4	1	Prospect Street	Main Street	Church Street	R(8)	2745	\$ 960,750	
5	1	Chase Street	Main Street	End of 2-inch on Chase St.	R(6)	470	\$ 141,000	
6	1	Chestnut Hill	Chestnut Street	End of Chestnut Hill Street	R(6)	528	\$ 184,800	
7	1	Maple Street	Main Street	Georgetown Rd. (Mud Pt.)	C&L(8)	3432	\$ 943,800	
8	2	Main Street	1 Main Street	Hydrant #76	C&L(8)	1594	\$ 438,350	
9	2	Main Street	Hydrant #76	117 Main Street	R(8)	1125	\$ 393,750	
10	3	Whetstone Street	Follinsbee Lane	End of main	C&L(6)	1361	\$ 306,225	physically measured in field
11	3	Sullivan Court	Whetstone Street	New main on Sullivan Ct.	C&L(6)	282	\$ 77,550	physically measured in field
12	3	Harrison Avenue	Main Street	Existing 8" Main	R(8)	658	\$ 230,300	physically measured in field
13	3	Bailey's Lane	Main Street	1st Hydrant on Bailey's Ln.	C&L(6)	1688	\$ 379,800	
14	3	Bailey's Lane	1st Hydrant	End (only 2" Main)	R(6)	1125	\$ 337,500	
15	3	Training Field	Bailey's Lane	Main Street (only 2" Main)	R(6)	564	\$ 183,300	
16	3	Mechanic Street	Hydrant	End (only 2" Main)	R(6)	520	\$ 169,000	physically measured in field
17	3	Merrill Street	Main Street	Hydrant	C&L(6)	580	\$ 130,500	physically measured in field
18	3	Merrill Street	Hydrant	End (only 2" Main)	R(6)	240	\$ 78,000	physically measured in field
19	3	Crane Neck Street	Main Street	Existing 8" AC main	R(8)	938	\$ 375,200	
20	3	Crane Neck Street	Existing 8" AC Main	End	R(8)	3938	\$ 1,378,300	
21	4	Main Street	Bailey's Lane	Coffin Street	R(12)	2670	\$ 1,068,000	
22	4	Garden Street	Main Street	End of existing main	R(8)	1530	\$ 535,500	
23	4	Main Street	117 Main Street	Bachelor Street	R(16)	5870	\$ 2,494,750	
24	4	Main Street	Bachelor St	Training Field Rd	R(12)	1990	\$ 796,000	
25								
26	DIAMETER	NEW DI PIPE	NEW DI PIPE LESS THAN 1,000 FEET	CLEAN AND LINE	TOTAL FEET =	38600		
27	6	\$300	\$325	\$225				
28	8	\$350	\$400	\$275	TOTAL COST =	\$ 13,265,575		
29	12	\$400	\$450	\$325				
30	16	\$425	\$475					
31	C&L=(Clean & Line). R=(Replace). DI=(Ductile Iron).							

WATER DEPARTMENT CAPITAL PLAN INFORMATION

Description/Location	FUNDING SOURCE	FY2024	FY2025	FY2026	FY2027	FY2024 - WHENEVER 2028	COMMENTS
FUNDS FROM BORROWING OVER A PERIOD OF TIME							
Build new Water Treatment Facility on new Dole Place Well Site if Town or Water Department buy's the land.	BORROW					\$5,000,000 ???	The cost is an estimate and the year it is built depends on the year purchased and available funds
Purchase Land at Dole Place <small>(Hopefully Town Will Commit to purchase land) Water Department = ? Town = ?</small>	BORROW					?	The cost and the year to purchase is unknown. The BOS are negotiating with owner
CHURCH AND PROSPECT STREET WATER MAIN CONSTRUCTION	BORROW		\$2,000,000	CONTINUE TO FOLLOW THE WATER MAIN REPLACEMENT SCHEDULE.			THE WATER MAIN CONSTRUCTION COST MAY COST MUCH MORE THAN 2M
FUNDS FROM FREE CASH (FC) OR STABILIZATION FUND (S)							
WELLHEAD CLEANING	S	\$9,975					
OLD WELLFIELD BUILDING REHAB	S	\$16,610					
DISTRIBUTIONS SUPPLIES	S	\$30,000					
SCADA RTU COMUNICATIONS	S	\$7,340					
NEWBURYPORT ETC.	S	\$140,000					
CHLORINE CONTINUOUS	S	\$19,900					
BOOSTER STATING MAG METER	S	\$3,865					
CHURCH AND PROSPECT STREET WATER MAIN	S-FC OR ARPA	\$625,000					
TOTAL =		\$852,690	\$2,000,000	\$0	\$0	\$0	

Town Manager

From: Conservation
Sent: Thursday, March 9, 2023 2:04 PM
To: Town Manager
Cc: Judy Mizner
Subject: Wetlands Protection Bylaw 2023
Attachments: WN Wetlands Protection Bylaw rev 1 2023.docx; Redline between final 2022 bylaw and proposed 2023 bylaw rev 1.docx

Hi Angus,

Attached please find the wetlands protection bylaw as currently proposed for spring 2023 town meeting for review of the Select Board. I have also included a redline document comparing the changes which have been made in this bylaw with the final version of the bylaw which was proposed in 2022. While the Commission will prepare a presentation for the SB at their 3/27 meeting which will highlight changes made to the proposed bylaw and go over the bylaw in more detail, some notable changes in this version include:

- Removal of the previously proposed 200' buffer zone around intermittent streams (page 1)
- An exemption for maintenance of existing lawns, gardens, and landscaped areas within buffer zone and riverfront area which were in existence prior to the effective date of the bylaw or were lawfully created under the bylaw (page 2)
- Streamlining abutter notification under the bylaw to follow what is required in the state regulations under the Wetlands Protection Act and not requiring abutter notification for permits issued only under the bylaw (page 3)
- Creating a threshold for ponds subject to jurisdiction under the bylaw by updating the definition of "pond" to include that "a size threshold of 1,000 square feet shall apply" (page 6)
- Adding a caveat that if a good faith effort is being made to comply with the bylaw, a fine will not be issue for violations of the bylaw (page 8)
- The bylaw has also been reduced in size by 1 page and 449 words

Would you be able to distribute this to the SB for their 3/13 meeting packets? For awareness, I have BBC'd the Commission to this email and this is the first time they are seeing the bylaw with the revisions made at our 3/6 meeting incorporated. If I receive any feedback from them on items that may warrant further revisions ahead of the 3/13 SB meeting, I will send that to you so the SB can be looped in on the potential changes when they review the bylaw.

Please let me know if you have any questions.

Thank you,

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

Warm rainy nights this month will trigger frogs and salamanders to migrate from their winter burrows to vernal pools to mate and many amphibians will have to cross roadways on their journey. Learn how you can help amphibians make it to their vernal pool destinations successfully with [tips from MA Division of Fish and Wildlife](#).

**Town of West Newbury
Conservation Commission**

WETLANDS PROTECTION BYLAW

I. Purpose

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

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

II. Jurisdiction

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

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

III. Exemptions and Exceptions

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

The applications and permits required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice is provided to the Conservation Commission before the commencement of work, and

provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

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

The applications and permits required by this bylaw shall not be required for maintenance of lawns (including routine mowing), gardens, and landscaped areas (including tree pruning) in the buffer zone or riverfront area, in existence on the effective date of this bylaw or which are created after such date in accordance with the terms of this bylaw;

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

Other than as stated in this bylaw, the exemptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), including the exemptions in 310 CMR 10.02(2)(b)(2)(a)–(f) and (q) shall not apply under this bylaw.

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

IV. Applications and Fees

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

The Commission may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) where they are sufficient to meet the requirements of the bylaw and any regulations promulgated thereto.

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

At the time of an application, the applicant shall pay a filing fee specified in the regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and regulations. The Commission may waive fees required by West Newbury regulations for applications filed by a government agency, including a

municipal department, board, and/or committee, a not-for-profit organization, or for projects the Commission finds have a net benefit to wetland resources and a primary purpose of restoring wetland ecological functions.

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

V. Notice and Hearings

With the exception of permits issued solely under this bylaw, which will not require abutter notification, abutter notification shall be made in compliance with the abutter notification requirements of the Wetlands Protection Act regulations, currently found at 310 CMR 10.05: (4).

In addition, the notices required for abutter notification shall provide a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall state where copies of the application and plans may be examined and obtained by abutters. An affidavit of the person providing such notice attesting that such notice was provided, with a copy of the notice mailed or delivered and a copy of the certified abutters list obtained from the Assessor's Office shall be filed with the Commission. When a person requesting any determination or permit is someone other than the property owner, the person making the request must provide the property owner with a copy of the request, the notice of the hearing, and the determination itself and submit proof of provision of those documents to the Commission.

The Commission shall conduct a public hearing on any permit application, Notice of Intent (NOI), RDA, or ANRAD with written notice given at the applicant's expense, at least five business days before the hearing, in a newspaper of general circulation in the municipality or in any other manner approved by the Massachusetts Department of Environmental Protection (DEP) for filings under the Wetlands Protection Act and its regulations. No written notice in a newspaper is required for an application for minor activities defined in 310 CMR 10.02(2)(b)(2)(a)-(f) and (q). The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, NOI, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to request that the applicant agree to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission. An applicant's refusal to agree to a requested continuance shall be grounds for denial of the application.

The Commission shall issue its permit, Order of Conditions (OOC), Determination of Applicability (DOA), order of Resource Area Delineation (ORAD), other order, or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with a hearing conducted under the Wetlands Protection Act and regulations.

VI. Burden of Proof

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

with the applicant's permission, to continue the hearing to another date to enable the applicant or others to present additional evidence upon such terms and conditions the Commission deems reasonable.

VII. Permits and Conditions

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, NOI, or DOA, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 calendar days of the close of the hearing, shall issue or deny a permit, OOC or DOA for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect.

If it issues a permit, OOC, or DOA the Commission shall impose conditions that the Commission deems necessary or desirable to protect said resource area values. All activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit, OOC, or DOA for failure to meet the requirements of this bylaw. It may also deny a permit, OOC or DOA: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. Upon written request, the Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

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

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

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The

Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the significant likelihood of failure of replication.

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

The Commission shall presume that all areas meeting the definition of "vernal pools" under §X of this bylaw, including the area surrounding vernal pools not to be disturbed, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence, which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

A permit, OOC, DOA, or ORAD shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. At the discretion of the Commission, any permit, OOC, or ORAD may be extended for one or more periods of up to three years, provided that a request for an extension is received in writing by the Commission at least thirty days prior to expiration. Notwithstanding the above, a permit or OOC may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

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

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

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

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

VIII. Regulations

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

IX. Definitions

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

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

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

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion, or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including but not limited to cutting or trimming of trees, shrubs, and other vegetation
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work that may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse effect on the resource areas protected by this bylaw.

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

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

The term "isolated wetlands" means freshwater wetlands not bordering on a water body at least 1000 square feet in surface area.

The term "permit" means a document issued by the West Newbury Conservation Commission under this bylaw for activities not requiring an Order of Conditions or Determination of Applicability.

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

The term "pond" shall follow the definition of 310 CMR 10.04 except a size threshold of 1,000 square feet shall apply.

The term "rare species" shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and

Wildlife or the United States Fish and Wildlife Service, regardless of whether the habitat in which they occur has been previously identified by the Massachusetts Division of Fisheries and Wildlife.

The term "rare species habitat" means an area subject to protection under this bylaw which, due to its plant community, composition and structure, hydrologic regime or other characteristics, provides important food, shelter, migratory or overwintering areas or breeding areas for rare species.

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

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

X. Security

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

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

XI. Enforcement

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

The Conservation Commission, its agents, officers, and employees shall have authority to request authorization to enter upon privately owned land to perform their duties under this bylaw subject to the constitutions and laws of the United States and the Commonwealth. They may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth. The refusal to authorize entry in connection with review of an application for a permit, NOI, RDA or ANRAD shall be grounds for denial of that application.

The Commission, its agents, officers, and employees shall have authority to enforce this bylaw, its regulations, permits, and determinations issued thereunder by letters, phone calls, electronic communication and other

informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Select Board.

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

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

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

Fines shall not be issued as long as any person in violation demonstrates, in the judgment of the Commission, a reasonable, good faith effort to comply with this bylaw.

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

XII. Appeals

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

XIII. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00 *et seq.*) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

XIV. Severability

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

XV. Effective Date

The effective date of this bylaw shall be January 1 of the year following approval of the bylaw by the Attorney General. Projects approved prior to the effective date will not be subject to the Bylaw.

**Town of West Newbury
Conservation Commission**

WETLANDS PROTECTION BYLAW

I. Purpose

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

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

II. Jurisdiction

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

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

III. Exemptions and Exceptions

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

The applications and permits required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services,

provided that written notice is provided to the Conservation Commission before the commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

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

The applications and permits required by this bylaw shall not be required for maintenance of lawns (including routine mowing), gardens, and landscaped areas (including tree pruning) in the buffer zone or riverfront area, in existence on the effective date of this bylaw or which are created after such date in accordance with the terms of this bylaw;

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

Other than as stated in this bylaw, the exemptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), including the exemptions in 310 CMR 10.02(2)(b)(2)(a) –(f) and (q) shall not apply under this bylaw.

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

IV. Applications and Fees

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

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

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

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

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

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

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

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

~~V. Notice and Hearings~~

~~Any person filing a permit or other application, or Notice of Intent (NOI), or ANRAD, or other request with the Conservation Commission shall give written notice thereof, at the time of filing, by certified mail (return receipt requested) or hand delivery, or by certificates of mailing, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the property where work is being proposed, including any in another municipality or across a body of water. Mailing at least seven days prior to the public hearing shall constitute timely notice.~~

~~Any person filing an RDA shall give written notice thereof, at the time of filing, by certified mail (return receipt requested) or hand delivery, or by certificates of mailing, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the property where work is being~~

~~proposed, including any in another municipality or across a body of water. Mailing at least seven days prior to the public hearing shall constitute timely notice.~~

V. Notice and Hearings

~~With the exception of permits issued solely under this bylaw, which will not require abutter notification, abutter notification shall be made in compliance with the abutter notification requirements of the Wetlands Protection Act regulations, currently found at 310 CMR 10.05: (4).~~

In addition, the notices required ~~for abutter notification~~ shall provide a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall state where copies of the application and plans may be examined and obtained by abutters. An affidavit of the person providing such notice attesting that such notice was provided, with a copy of the notice mailed or delivered and a copy of the certified abutters list obtained from the Assessor's Office shall be filed with the Commission. When a person requesting any determination or permit is someone other than the property owner, the person making the request must provide the property owner with a copy of the request, the notice of the hearing, and the determination itself and submit proof of provision of those documents to the Commission.

The Commission shall conduct a public hearing on any permit application, ~~Notice of Intent (NOI),~~ RDA, or ANRAD with written notice given at the applicant's expense, at least five business days before the hearing, in a newspaper of general circulation in the municipality ~~or in any other manner approved by the Massachusetts Department of Environmental Protection (DEP) for filings under the Wetlands Protection Act and its regulations. No written notice in a newspaper is required for an application for minor activities defined in 310 CMR 10.02(2)(b)(2)(a)-(f) and (q).~~ The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, NOI, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to request that the applicant agree to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission ~~in its discretion, based on comments and recommendations of the boards and officials listed in §VI.~~ An applicant's refusal to agree to a requested continuance shall be grounds for denial of the application.

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

VI. Coordination with Other Boards

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

VHVI. Burden of Proof

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have significant or cumulative adverse effects on the interests protected by this bylaw. Failure to provide the Commission with adequate evidence supporting a determination that the proposed work will not have such adverse effects on the interests protected by this bylaw shall be sufficient cause

for the Commission to deny a permit or grant a permit with conditions, or, at the Commission's discretion and with the applicant's permission, to continue the hearing to another date to enable the applicant or others to present additional evidence upon such terms and conditions the Commission deems reasonable.

VIII. Permits and Conditions

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, [NOI, or DOA](#), or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 calendar days of the close of the hearing, shall issue or deny a permit, [OOC or DOA](#) for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect.

If it issues a permit, [OOC, or DOA](#) the Commission shall impose conditions that the Commission deems necessary or desirable to protect said resource area values. All activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit, [OOC, or DOA](#) for failure to meet the requirements of this bylaw. It may also deny a permit, [OOC or DOA](#): for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. Upon written request, the Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

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

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

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

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

The Commission shall presume that all areas meeting the definition of "vernal pools" under §X of this bylaw, including the area surrounding vernal pools not to be disturbed, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence, which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

A permit, ~~Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD)~~OOC, DOA, or ORAD shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. ~~Any~~At the discretion of the Commission, any permit, OOC, or ORAD may be ~~renewed once~~extended for ~~an additional one-year period or more periods of up to three years~~, provided that a request for a ~~renewal~~extension is received in writing by the Commission at least thirty days prior to expiration. Notwithstanding the above, a permit ~~or OOC~~ may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

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

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

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

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

IX.VIII. Regulations

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

X.IX. Definitions

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

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

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

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion, or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including but not limited to cutting or trimming of trees, shrubs, and other vegetation
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work that may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse effect on the resource areas protected by this bylaw.

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

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

The term "isolated wetlands" means freshwater wetlands not bordering on a water body at least 1000 square feet in surface area.

The term "permit" means a document issued by the West Newbury Conservation Commission under this bylaw for activities not requiring an Order of Conditions or Determination of Applicability.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent

subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term "pond" shall follow the definition of 310 CMR 10.04 except ~~that the~~ size threshold of ~~101~~,000 square feet shall ~~not~~ apply.

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

The term "rare species habitat" means an area subject to protection under this bylaw which, due to its plant community, composition and structure, hydrologic regime or other characteristics, provides important food, shelter, migratory or overwintering areas or breeding areas for rare species.

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

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

XIX. Security

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

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

XX.XI. Enforcement

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

The Conservation Commission, its agents, officers, and employees shall have authority to request authorization to enter upon privately owned land to perform their duties under this bylaw subject to the constitutions and laws of the United States and the Commonwealth. They may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth. The refusal to authorize entry in connection with review of an application for a permit, [NOI](#), RDA or ANRAD shall be grounds for denial of that application.

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

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

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

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

[Fines shall not be issued as long as any person in violation demonstrates, in the judgment of the Commission, a reasonable, good faith effort to comply with this bylaw.](#)

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

XIII.XII. Appeals

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

XIV.XIII. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00 *et seq.*) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

XV.XIV. Severability

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

XVI.XV. Effective Date

The effective date of this bylaw shall be January 1 of the year following approval of the bylaw by the Attorney General. Projects approved prior to the effective date will not be subject to the Bylaw.



Town of West Newbury
SLFRF - state and local fiscal recovery funds ARPA
Project Request Form

Please complete this form and attach any additional paperwork to support your request.

Date:	3/3/2023
Project Name:	Church and Prospect Street Water Main Project
Project ID: (accounting use only)	
Expense Category:	ARPA or Water Department Stabilization and Free Cash
<p>Description of Project: Water main pipe replacement on Church and Prospect Street. The original plan was to start the water main replacement in FY 2024. The BOWC'S decided that it would be best to purchase the water main in CY 2023 after the pipe company informed the department that there would be a 30-week lead time before we would see a delivery. Other municipalities have successfully followed the same process with the backlog of the supply chains. The plan is to borrow funds for the water main project and ask for approval of the installation cost (estimated to be \$2M+) at the FY 2025 Town Meeting. By purchasing the water main in CY 2023 the water main replacement project would be able to move forward once approved at next year's Town Meeting. If we don't purchase the water main in CY 2023 and wait until CY 2024 the project would need to be pushed off for an additional year. Please Note: The BOWC would like to receive approval to use ARPA funds to purchase the water main this year. We plan to present eight articles at Town Meeting totaling \$853,276. That would leave \$0.51 in Stabilization and \$255,686 Free Cash. If the Select Board would be willing to appropriate \$625,000 out of ARPA funds for the water main purchase this year the Water Department would be more comfortable having the additional funds to pay the loan payments starting in FY 2025 (water rate increase required). That loan will be in the ballpark of \$2M-\$2.5M at this point. If the ARPA funds are not available this year the Water Department would deplete most of their available funds. We are not sure what the ARPA funds are allowed to be used for. We did put a 10% contingency on the water main cost for any cost increases in the future.</p>	
Estimated Project cost	water main=\$625,000. The total project including the \$625,000 for the water main at this time is around 3M.
Status of completion:	The Water main project should be completed by the end of CY 2024 if the water main is purchased in CY 2023.
Which FY will these expenses occur:	FY 2024

Dept head approval/Date

MARCH 3, 2023

BOS approval/Date

Accounting approval/Date

SPECIAL ARTICLE REQUEST FORM

ARTICLE: (To be presented at the Fiscal Year 2024 Special Town Meeting.)

To see if the town will vote to raise and appropriate and/or transfer available funds from the Water Enterprise Fund Free Cash Account and/or from the Water Enterprise Stabilization Fund Account the amount of \$625,000.00 to purchase water main piping and related hardware for the Water Main Project on Church and Prospect Street, engineering for the Bid Process and staging rental for the storage of these materials.

AMOUNT REQUESTED: \$625,000.00

CONTACT PERSON: Mark Marlowe

PHONE NUMBER: 363-1100 ext. 128

Why should the town make this purchase? What needs will be met? Who will benefit?

The original plan was to start the water main replacement in FY 2024. The BOWC'S decided that it would be best to purchase the water main in CY 2023 after the pipe company informed the department that there would be a 30-week lead time before we would see a delivery. Other municipalities have successfully followed the same process with the backlog of the supply chains.

What factors affect the timing of this purchase?

The plan is to borrow funds for the water main project and ask for approval of installation cost (estimated to be \$2,000,000+) at the FY 2025 Town Meeting. By purchasing the water main in CY 2023 the water main replacement project would be able to move forward once approved at next year's Town Meeting. If we don't purchase the water main in CY 2023 and wait until CY 2024 the project would need to be pushed off for an additional year.

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

Once the water main is installed the department would continue its yearly flushing schedule to remove sediment and maintain good water quality.

Olympic Fence Company



TO
 Mark Marlowe
 Water Manager/Superintendent
 Town of West Newbury
 381 Main Street
 West Newbury, MA 01985
 (978) 363-1100 x129
 water.superintendent@wnewbury.org

SALESPERSON	JOB	PAYMENT TERMS	DUE DATE
James LaPierre	Town West Newbury Temporary Fence Rental		

DESCRIPTION	UNIT PRICE	AMOUNT	LINE TOTAL
Monthly Rental Fee for (45) 12x6' free standing temporary fence sections with base weights. Includes fence panels, stands and clamps, including extra clamps for gate setup.	\$15.00	45	\$675.00
Setup and removal fee for temporary fence. All wages based off rate for "Fence and Guardrail Erectors - Laborers Zone II"	\$1,440.00	1	\$1,440.00
Delivery Fee	\$500.00	1	\$500.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00

SUBTOTAL	\$2,615.00
SALES TAX	EXEMPT
INITIAL BILLING AMT	\$2,615.00

WEST NEWBURY WATER DEPARTMENT
381 MAIN STREET
WEST NEWBURY, MA

01985



2/13/23 Bid ID: 5499806 WEST NEWBURY, MA - WNWD CHURCH PROS Bid expires on 03/15/23 Page 2

Quantity	Sell Per	Description	Unit Price	Extended Price
		NEED SERVICE SADDLE SIZE		

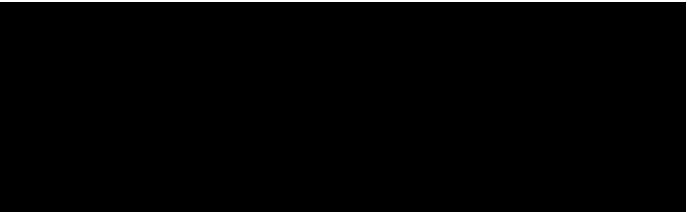
water main cost
Pipe - \$559,053.50
10% Contingency - \$55,905.35
Fencing - \$10,040.00

\$624,998.85
\$625,000

Subtotal: 559,053.50
Tax: .00
Bid Total: 559,053.50

WEST NEWBURY WATER DEPARTMENT
 381 MAIN STREET
 WEST NEWBURY, MA

01985



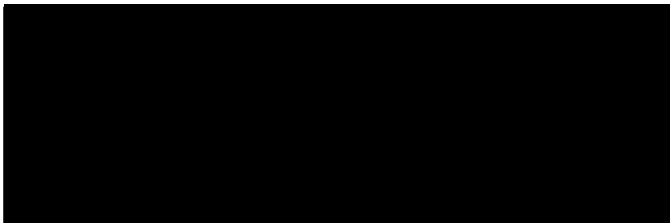
2/13/23 Bid ID: 5499806 WEST NEWBURY, MA - WNWD CHURCH PROS Bid expires on 03/15/23 Page 1

Quantity	Sell Per	Description	Unit Price	Extended Price
60	FT	12 FST PIPE DUCTILE 52 CL	78.00	4,680.00
20	FT	10 FST PIPE DUCTILE 52 CL	66.00	1,320.00
7320	FT	8 FST PIPE DUCTILE 52 CL	48.00	351,360.00
240	FT	6 FST PIPE DUCTILE 52 CL	34.50	8,280.00
1300	FT	1X100 K COPPER TUBE	10.50	13,650.00
60	FT	1X60 K COPPER TUBE	10.50	630.00
14	EA	5 B62 HYD 6-0 OR 6MJNSTB41-3WAY	3,550.00	49,700.00
4	EA	12 MJ DI RS VALVE OL	3,350.00	13,400.00
16	EA	8 MJ DI RS VALVE OL	1,685.00	26,960.00
15	EA	6 MJ DI RS VALVE OL	1,075.00	16,125.00
45	EA	26/36 TF VALVE BOX BELL W/CVR	175.00	7,875.00
55	EA	1 BALL CORP CCXQUICK LEAD FREE	122.00	6,710.00
55	EA	1 BALL CURB QUICK W/DRAIN LF	205.00	11,275.00
2	EA	8 202S SADDLE 1CC 863980	180.00	360.00
55	EA	4-1/2-5-1/2 SERVICE BOX L/C	50.00	2,750.00
55	EA	1/2X30 SERVICE BOX ROD STAINLESS	28.00	1,540.00
55	EA	1 SERVICE BOX PLUG COVER ROPE	14.50	797.50
33	EA	8 MJ DI 45 BEND CL	210.00	6,930.00
1	EA	8 MJ DI 22-1/2 BEND CL	205.00	205.00
2	EA	6 MJ DI 45 BEND CL	150.00	300.00
2	EA	12X8 MJ DI TEE CL	590.00	1,180.00
3	EA	8 MJ DI TEE CL	380.00	1,140.00
1	EA	8X6 MJ DI TEE CL	320.00	320.00
14	EA	8X6 MJ DI HYD TEE CL	365.00	5,110.00
4	EA	12X10 MJ DI REDUCER CL	290.00	1,160.00
2	EA	8X6 MJ DI REDUCER CL	152.00	304.00
15	EA	6 MJ DI SOLID CAP CL	75.00	1,125.00
2	EA	8X12 MJ DI SOLID SLEEVE CL	255.00	510.00
4	EA	10X6 DUCT CPLG 10891140 201-11401140600	350.00	1,400.00
1	EA	6X5 DUCT CPLG 686720 201-07200720500	200.00	200.00
1	EA	6X8 MACRO CPLG 660760	455.00	455.00
16	EA	12 ONE-LOK PACK DI	188.00	3,008.00
4	EA	10 ONE-LOK PACK DI	145.00	580.00
147	EA	8 ONE-LOK PACK DI	94.00	13,818.00
52	EA	6 ONE-LOK PACK DI	68.00	3,536.00
10	EA	1X3/4 CPLG QUICK LEAD FREE	36.00	360.00

NO 5/8 COUPLINGS

WEST NEWBURY WATER DEPARTMENT
 381 MAIN STREET
 WEST NEWBURY, MA

01985



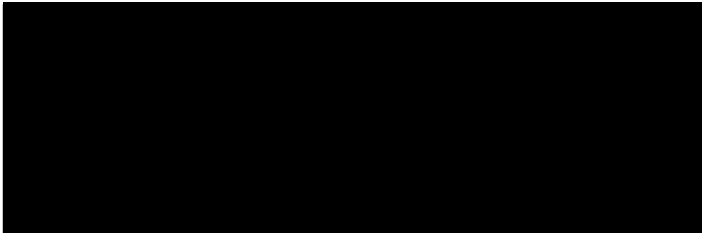
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NO 5/8 COUPLINGS

WEST NEWBURY WATER DEPARTMENT
381 MAIN STREET
WEST NEWBURY, MA

01985



2/13/23 Bid ID: 5499806 WEST NEWBURY, MA - WNWD CHURCH PROS Bid expires on 03/15/23 Page 2

Quantity	Sell Per	Description	Unit Price	Extended Price
		NEED SERVICE SADDLE SIZE		

Subtotal: 559,053.50
Tax: .00
Bid Total: 559,053.50

Town Manager

From: Town Manager
Sent: Monday, March 6, 2023 11:11 AM
To: Murray, Kayleigh
Cc: Jennifer Walsh - Town of West Newbury (townaccountant@wnewbury.org)
Subject: FW: Request for ARPA funds for watermain
Attachments: ARPA application.pdf; Notes from call with CLA 2-22-23.docx; L-ARPA Funds.pdf

Hi Kayleigh,

This is to follow up from our call a couple of Wednesdays ago.

I have attached (in Word format) our (rough) notes from the call. This includes the questions we reviewed on the call, along with my notes from your responses. **Request 1:** If you could please respond to either confirm that we understood your advice correctly, or to correct or clarify our notes to ensure everything is clear, that would be very helpful.

Request 2: We have an additional question for you, and it is time-sensitive. We recently received the attached request for ARPA funds from our Water Dept. This project (water main replacements on Church and Prospect Streets) is one we've been working together on for well over a year, and the request is not unexpected. I anticipate that the Select Board will look on this favorably.

At a staff level, we (Jenny and I) are very confident that this requested use is an eligible use of ARPA funds. Even aside from the "revenue replacement" option, we know that this project would be eligible for SRF financing which we understand to be a precursor to eligibility of Water projects for ARPA funds. (In August 2022 we worked with our engineering consultant to apply for SRF financing in the current year's funding round. While the project was not awarded financing in this highly-competitive program, it was included on the DEP list, which documents its eligibility for SRF financing).

The attached request will be brought to our Select Board for consideration **next Monday, March 13th**. We would therefore like something from your office in writing to document that this is in fact an eligible use of ARPA funds. If this could be provided by the end of this week, we could include it in the Board's meeting packet.

Request 3: We have a related question, which is not as time-sensitive, but if you're able to answer it relatively quickly that's great too. Regarding Question 3 on the attached Word doc, you had said that if the Town (Select Board/General Fund) authorizes ARPA funds for use by the Water Dept (Enterprise Fund), it would be an "internal decision" as to whether such authorization of funds should be accompanied by a sub-grantee agreement. We had separately consulted with our Special Counsel, and they recommended consideration of either a Grant Agreement or MOU (between the Select Board and the separately-elected Board of Water Commissioners). At a staff level (Town Manager & Town Accountant), we believe this is strongly advisable. **If** you have comments or recommendations re either of the sample agreements appended to Special Counsel's attached memo, we would welcome them. While this would be helpful to receive this week, if this is not possible on your end I think we'd be ok just with response to the first question above (verifying project eligibility). If the Select Board were to vote to authorize ARPA funds next Monday, and we haven't yet firmed up a draft grant agreement or MOU, their vote could be conditioned upon reducing the terms of such award/authorization to writing, which would allow us (staff) more time to get a formal agreement in place.

Please don't hesitate to contact me or Jenny with any questions.

Thanks,
Angus

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

2/22/23 Call re ARPA w Kayleigh, CLA; Angus Jennings, Town Manager, and Jennifer Walsh, Town Acct.

CLA working with 4 active MA counties. Also working with cities and towns.

Some are leaving it (decisions on ARPA funding) up to departments, some are getting public outreach, some are doing a single large project. Counties are administering funds to sub-recipients.

1. If any ARPA funds are expended on a project, does the full project need to comply with all ARPA requirements (procurement, Buy American, etc.)?

Yes.

2. Regarding "revenue loss," was the Town's SLFRF Annual Report (March 2022) answering "Yes" to question "Is your jurisdiction electing to use the standard allowance of up to \$10 million, not to exceed your total award allocation, for identifying revenue loss?" sufficient to consider the Town's full \$1.4M ARPA funds "revenue loss" (and therefore allowable for a broader set of uses)?
 - a. Follow-up question: what (if anything) is significance of Town's response to the following question in its March 2022 Annual Report: Q. "Revenue Loss Due to Covid-19 Public Health Emergency". A. "\$493,408.00".

4 elements under revenue replacement that are not allowable. Other than that pretty much every government service can be purchased as long as it complies with state procurement. Cant be used for stabilization, pension/opeb, debt, settlements.

Under revenue loss, only state procurement applies.

3. If ARPA funds are approved for use by the Water Department, which is an enterprise funded department under the primary operational oversight of an elected Board of Water Commissioners, would it be advisable to enter a sub-grantee agreement? Would this be necessary, and sufficient, to ensure compliance with all applicable requirements/restrictions? Or would additional steps be advisable to ensure program compliance incl. provisions for reporting?

More of an internal decision. From a grant standpoint, the town is the town.

4. Would water quality testing, and engineering work, related to a potential future public well site (which is currently in private ownership) be an eligible use of ARPA funds? (See Item III.c. of the March 9, 2022 KP Law E-Update).

Yes, if it's revenue replacement.

5. When funds are authorized (by Select Board vote) for an ARPA-funded project, should a separate line be set up for the approved project within the chart of accounts, with the max authorized amount noted?

Set up a new fund specific to ARPA. For expenses, set up a different project code for each project you're working on.

Town Manager

From: Murray, Kayleigh [REDACTED]
Sent: Monday, March 6, 2023 5:41 PM
To: Town Manager
Cc: Town Accountant
Subject: RE: [External] FW: Request for ARPA funds for watermain

Hi Angus,

Request 1 – Yes, I can confirm the notes that you have included are accurate.

Request 2 – For the water main project, our suggestion is as follows:

1. Yes it is eligible – the Town should have it approved as an ARPA request by the BOS as Phase 1 for a stand-alone project. When the Town votes the rest (that is going to be debt financed), call it phase 2 (separate project). You will need to keep the ARPA funds separate from funds that are going to be debt financed.
2. No subgrant is needed for this as even though it is an enterprise, it is the same entity from the federal perspective. The only exception would be if it is set up as a completely separate legal entity, but then it wouldn't be part of the towns financials.

Request 3

1. For federal purposes the enterprise is part of the town. Either way the town (and its departments) are responsible for following the requirements of the grant.
2. That being said, if it is a different “management” for the enterprise and a MOU would smooth the process, there is no issue with that, it's just not required for Federal Treasury purposes. I would lean toward calling it a MOU though and not a subgrant as the town cannot subgrant itself and additionally, the Feds have said subrecipient agreements are not required under revenue loss.

Please let me know if you have any additional questions and we will make sure to have them back to you ASAP for your March 13th deadline.

Thank you,
Kayleigh



Kayleigh Murray
BizOps Associate
State and Local Government



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CLA is an independent member of Nexia International. See [member firm disclaimer](#) for details.



Ivria G. Fried



February 10, 2023

Via email
West Newbury Select Board
381 Main Street
West Newbury, MA 01985

Re: ARPA Funds

Dear Select Board:

You have asked what tools, if any, may be available to the Select Board to ensure that American Rescue Plan Act of 2021 (ARPA) funds are used in compliance with the Act. As you are aware, ARPA is the federal government's economic stimulus bill to speed up the nation's recovery from the economic and health effects of the COVID 19 public health emergency. Under ARPA, Massachusetts communities received federal aid to respond to these public health and economic impacts. However, such funds may only be used for eligible purposes. The making of “necessary investments in water, sewer, or broadband infrastructure” is an eligible purpose. *See*, Department of the Treasury’s Final Rule, 31 CFR Part 35 RIN 1505-AC77. There are two ways to ensure that funds are appropriately used: (1) Select Board project review prior to awarding the grant; and (2) Execution of a Grant Agreement or Memorandum of Understanding relative to the use of such funds.


First, the Select Board must vote to appropriate all ARPA funds. Thus, the Select Board should review funding requests to ensure that the proposed project is eligible under the Treasury’s Final Rule. A blanket award to a grantee for “allowed” purposes is discouraged.

Second, the Select Board may execute a Grant Agreement or MOU with the entity receiving the funds to ensure that the Board has sufficient oversight and control over the funds. If grantee fails to use the funds as provided in the Grant Agreement or MOU, the Select Board could seek repayment. In my opinion, a Grant Agreement or MOU should include provisions that:

- Incorporate by reference any federal rules that apply to the grant award.
- Require open and direct communication with grantees.
- Require regular and thorough reporting from grantees relating to expenditures.

- Tie grant disbursements to deliverables, milestones or other reportable actions when possible.
- Obligate the grantee to track and maintain records of all grant-related documents, including communications, receipts and invoices.
- Include a right-to-audit clause. A right-to-audit clause allows a jurisdiction to request documents and engage in an active review process.
- Establish attainable program goals and targets, and understand which expenditures are allowable under federal law.

I have attached two sample agreements: one under ARPA and one under Coronavirus Aid, Relief, and Economic Security Act. While both agreements were with private parties, the agreements could be amended to incorporate a situation where the recipient is a town department or public body. Please let me know if you have any questions or concerns.

Sincerely,

Ivria Glass Fried

Option 1

**TOWN OF _____
ARPA GRANT AGREEMENT**

THIS GRANT AGREEMENT (“Agreement”) is made as of this ____ day of _____, 2022, by and between

_____, a _____ corporation with an address of _____ (hereinafter referred to as the “Recipient”), and the Town of _____ (the “Town”), with an address of _____, Massachusetts (collectively, the “Parties”).

RECITALS

WHEREAS, the American Rescue Plan Act (“ARPA”) provides for the use of funds to provide assistance to small businesses including, without limitation, programs, services or capital expenditures that respond to the negative economic impacts of the COVID-19 pandemic; and

WHEREAS in November 2021 the Town of _____ Select Board approved the use of a portion of the Town’s ARPA funds to create the _____ Small Business Recovery Grant Program (the “Program”); and

WHEREAS the purpose of this program is to provide limited financial assistance to eligible small businesses in _____ for qualifying projects intended to mitigate the negative financial impacts resulting from the COVID-19 pandemic; and

WHEREAS, the Recipient submitted an application for funding to under the Program to [describe proposed use of funds here] at its business located at _____, MA; and

WHEREAS, the Town has reviewed the Recipient’s application and has determined that the proposed project is consistent with the terms of ARPA and the Program, and has elected to award funding to the Recipient on condition that such funding be used exclusively for the purposes described below, and in a manner consistent with the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. The Project. The Recipient agrees that all grant funds provided for herein shall be used exclusively for the work described in **EXHIBIT A** (the “Project”).
2. Award. Subject to the terms of this Agreement, the Town agrees to award the Recipient the amount of up to \$_____ from the _____ Small Business Recovery Grant Program, with grant funds to be disbursed to Recipient upon submission of receipts for eligible expenses associated with the Project.

3. Additional Funding. The Recipient shall ensure that adequate funding is in place to complete the Project. In the event that the grant alone is for any reason insufficient to complete the Project, the Recipient will obtain or have available other funds sufficient in the aggregate to ensure completion of the Project.
4. Term. This Agreement shall remain in effect until the Recipient has completed the Project and the Town has disbursed final payment of the grant awards.
5. Return of funds.
 - a. If the Town determines that the Recipient has failed to use all grant funds on the Project as required by this Agreement, or has otherwise defaulted under its obligations under this Agreement, it shall send the Recipient written notice to that effect. Upon delivery of said notice, the Recipient shall immediately reimburse the Town in whole or in part, as the Town may determine. The Town may take such steps as are necessary, including legal action, to recover said funds if not timely reimbursed.
 - b. In the event that a court of competent jurisdiction issues a final, binding, conclusive Judgment that the grant of funds as described by this Agreement violates the law, then the Recipient shall be liable to repay to the Town the entire amount of funding provided under this Agreement, and the Town shall take such steps as are necessary, including legal action, to recover said funds.
 - c. In the event the Town is required to take legal action under this Agreement, the Recipient shall be liable for all of the Town's costs expended for the enforcement of this Agreement, including but not limited to reasonable attorney's fees and court costs.
6. Notice. Any and all notices, or other communications required or permitted under this agreement, shall be in writing and delivered in hand or mailed by certified mail, return receipt requested or by other reputable delivery service to the parties hereto at the following addresses:

If to the Recipient: *[add Recipient contact information]*

If to the Town:
7. No Liability of Town. By making this award, the Town does not accept any liability whatsoever for any acts, omissions or errors associated with the Project. Nothing in this Agreement shall be construed to render the Town or any elected or appointed official or employee of the Town, or their successors in office, personally liable for any obligation under this Agreement. Recipient agrees to indemnify and defend the Town from all

claims, suits or demands, costs and expenses, including attorney's fees, resulting from implementation of the Project or this Agreement.

8. Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby.
9. Governing Law and Consent to Venue. This Agreement shall be construed under, and governed by, the laws of the Commonwealth of Massachusetts. The Recipient agrees that any litigation arising in connection with this Agreement shall be conducted exclusively in Dedham District Court or in the Norfolk Superior Court, both of which are located in the County of Norfolk, Commonwealth of Massachusetts. This choice of venue is intended to be mandatory and not permissive in nature. The parties to this Agreement further agree to waive their rights to a jury trial.
10. Entire Agreement: This Agreement constitutes the entire agreement between the parties hereto, and may be amended only in writing executed by both the Town of _____ and the Recipient. Signatory below acknowledges and avers that he/she has the authority to execute this Agreement on behalf of the Recipient.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be duly executed this ____ day of _____, 2022

[Insert name of Recipient]

By:
Its:

Town of _____

_____, Town Manager

Option 2

**CARES ACT SUBGRANT AGREEMENT BETWEEN
TOWN OF _____ AND THE _____ LIBRARY ASSOCIATION**

This Subgrant Agreement is entered into by the Town of _____, a municipality organized under the laws of the Commonwealth of Massachusetts with its usual place of business located at _____, Massachusetts (the “Grantor”) and the _____ Library Association, a Massachusetts non-profit corporation with an address of _____ Massachusetts (the “Subgrantee”).

WITNESSETH:

WHEREAS, the Commonwealth of Massachusetts received approximately \$2.67 billion from the federal government through the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”); and

WHEREAS, the Commonwealth established a state-level Coronavirus Relief Fund – Municipal Program (the “Fund”) to distribute federal funds to municipalities in the Commonwealth for the purpose of navigating the impact of the COVID-19 outbreak; and

WHEREAS, the CARES Act and Fund allow for the subgrant of funds from the Grantor to non-profit organizations, provided that the transfer qualifies as an eligible expenditure; and allow for the expenditure of funds on air filtration/HVAC systems; and

WHEREAS, the Subgrantee provides library and museum services to the public in the Town of _____ and seeks to install a new air filtration/HVAC system; and

WHEREAS, the Grantor desires to subgrant to the Subgrantee funds in the amount of \$100,000 to assist the Subgrantee with the cost of a new filtration/HVAC system; and

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants, and agreements herein contained, the sufficiency of which is hereby acknowledged, the parties hereto represent and agree as follows:

I. PURPOSE

Subgranting of Coronavirus Relief Funding to provide financial assistance is permissible if (1) necessary due to the public health emergency and (2) said funds will be used to meet the eligibility criteria as required by the U.S. Department of Treasury. The purpose of this Subgrant Agreement is to transfer to the Subgrantee funding from the Fund to assist with the installation of a new air filtration/HVAC system in the Subgrantee’s library building.

II. RESPONSIBILITIES OF GRANTOR

Grantor agrees to:

- A. Provide funding to Subgrantee in accordance with this Subgrant Agreement, federal, state, and local laws.
- B. Provide information on current and any subsequent changes to the terms and conditions of the grant awards addressed by the funding in this agreement.
- C. Take action to recover funds that are not used in accordance with the conditions, requirements, or restrictions applicable to funds awarded.

III. RESPONSIBILITIES OF SUBGRANTEE

Subgrantee agrees to:

- A. Ensure the funds subject to this Subgrant Agreement are used in accordance with all applicable conditions, requirements, and restrictions of federal, state, and local laws, as well as the federal terms and conditions of the grant award.
- B. Provide Grantor information, upon request, to allow Grantor to comply with the financial reporting requirements necessary to meet its operational needs and obligations, including obligations to state and federal government.
- C. Take prompt and corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, if Grantor, the Commonwealth's Executive Office for Administration and Finance's Federal Funds Office ("FFO"), any federal agency, or other entity authorized by federal, state, or local law to determine compliance with the conditions, requirements, and restrictions applicable to the federal program from which this Subgrant is awarded determines compliance has not been achieved.
- D. Make records available to Grantor, the FFO, federal agencies, and other authorized governmental agencies for review, audit, and investigation.

IV. EFFECTIVE DATE OF THE SUBGRANT

- A. This Subgrant Agreement will be in effect from _____ 2021 through December 31, 2021. All required purchases and expenses hereunder shall be completed by December 31, 2021.

V. AMOUNT OF GRANT/PAYMENT

- A. This subgrant is in the total amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).
- B. Payment will be made to Subgrantee by Grantor in one (1) payment.
- C. Subgrantee understands that availability of funds is contingent upon the availability of CARES Act Funds granted to Grantor.
- D. Subgrantee understands and agrees that the subgrant award is subject to the following conditions:
 - 1. The expenditure must be necessary expenditures incurred due to the public health emergency with respect to COVID-19;
 - 2. Expenses must be unbudgeted as of March 27, 2020; and
 - 3. Expenses must be incurred during the covered period beginning March 1, 2020, and ending December 31, 2021.
 - a. The U.S. Department of the Treasury has clarified that to be an eligible use of the Fund, recipients must receive the “beneficial use” of the good or service (goods delivered and in use or services rendered) by December 31, 2021.

VI. GENERAL PROVISIONS

- A. **COMPLIANCE WITH LAWS.** Subgrantee agrees to comply with all applicable laws, ordinances and regulations of the governmental entities having jurisdiction over matters that are the subject of this Subgrant Agreement.
- B. **ASSIGNMENT.** This Subgrant Agreement may not be assigned.
- C. **INDEMNIFICATION.** Subgrantee shall be fully liable for the actions of its agents, employees, officers, partners, contractors, and subcontractors, and shall fully indemnify, defend, and save harmless the Grantor from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Subgrantee’s performance of this Subgrant Agreement cause by any act or omission of Subgrantee, its agents, employees, officers, partners, contractors, or subcontractors, without limitation.

VII. NOTICES

Communications concerning this Subgrant Agreement shall be directed to the following:

TOWN OF _____
_____, Town Administrator

SUBGRANTEE
The _____ Library Association

IN WITNESS WHEREOF, this Subgrant Agreement is effective upon the date of the last signature.

SUBGRANTEE – THE _____ LIBRARY ASSOCIATION

Date: _____

TOWN OF _____
By its Board of Selectmen

_____, Chair



TOWN OF WEST NEWBURY



FY24 Operating Budget

	FY 2021	FY 2022	FY 2023	YTD thru 2/1/2023		FY 2024	FY 2024	Proposed Change		TM proposed	Proposed Change		FY 2024
	Expended	Expended	Approved	\$	%	DH/BCC	TM proposed	\$	%	/ SB referred	\$	%	FinCom rec.
	6/30/2021	6/30/2022	5/14/2022	Percent of yr: 58.9%			2/6/2023			2/13/2023			
EDUCATION													
Pentucket Regional Sch Assessment	7,387,515	7,242,985	7,408,673	4,939,115	66.7%	7,705,020	8,038,620	629,947	8.5%	7,871,758	463,085	6.3%	7,871,758
Pentucket Capital Assessment	710,567	1,196,556	835,497	821,881	98.4%	1,232,822	1,123,071	287,574	34.4%	1,123,070	287,573	34.4%	1,123,070
Pentucket Assessment Page Phase II	501,438	493,338	485,238	323,492	66.7%	485,238	479,838	(5,400)	-1.1%	479,838	(5,400)	-1.1%	479,838
304 Total Pentucket	8,599,520	8,932,879	8,729,408	6,084,489	69.7%	9,423,080	9,641,529	912,121	10.4%	9,474,666	745,258	8.5%	9,474,666

Notes

TM and SB budget UPDATED based on proposed Pentucket budget amounts received on March 2, 2023; and updated numbers received from Pentucket Business Manager on March 8, 2023.



GROVELAND
MERRIMAC
WEST NEWBURY

PENTUCKET REGIONAL SCHOOL DISTRICT

OFFICE OF THE SUPERINTENDENT

22 MAIN STREET

WEST NEWBURY, MASSACHUSETTS 01985-1897

TEL: (978) 363-2280 / FAX: (978) 363-1165

Justin Bartholomew, Ed.D. **Brent Conway** **Catherine Page** **Greg A. Labrecque** **Michael A. Jarvis, Ed.D.**
Superintendent of Schools Assistant Superintendent IT & Digital Learning Director Business Manager Director of Student Services

March 8, 2023

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

RECEIVED
MAR 08 2023
TOWN MANAGER
TOWN OF WEST NEWBURY

Dear Mr. Jennings:

The Pentucket Regional School District's School Committee approved an operating budget for fiscal year 2024 at their meeting held on March 7, 2023. Based upon that approved budget, West Newbury's assessment for FY24 totals **\$9,474,666.00**. The attached calculation, which is in accordance with the Pentucket Regional School District Regional Agreement and Bylaws as well as Chapter 70, section 6 of the Massachusetts General Laws, provides the details for your assessment.

If you have any questions, please feel free to contact us at 978-363-2280, extension 132.

Sincerely,

Justin Bartholomew
Superintendent of Schools

Rebekah Hayden
Treasurer

cc: Board of Selectmen
Finance Committee

enclosure: Assessment calculation

RECEIVED

MAR 08 2023

TOWN MANAGER
TOWN OF WEST NEWBURY

FY24 Town Assessments

Pentucket Regional School District Operating and Capital Assessment Worksheet for FY24

General Fund Budget	\$	50,720,090
Operating	\$	45,057,522
District Wide Capital	\$	4,659,854
Town Specific Capital	\$	1,002,714

Town Assessment Calculations

Two Step Methodology

Operating Budget	\$	45,057,522
Revenue In	\$	15,440,105
Amount Assessed to Towns	\$	29,617,417

Minimum Contributions- DOE

Groveland	7,848,340
Merrimac	7,031,799
West Newbury	5,668,857
Total	20,548,996

Amount Above Minimum

Total Assessment To Towns	\$	29,617,417
Total Minimum Contributions	\$	20,548,996
Difference (Assessment- Total Minimum)	\$	9,068,421

Per Pupil Assessment

Actual ratio

	Difference	Enrollment	2 Town %	3 Town %	Total Above Minimum		
Groveland	\$ 9,068,421	X	0.52347	0.39631	=	\$	3,593,906
Merrimac	\$ 9,068,421	X	0.47653	0.36077	=	\$	3,271,614
West Newbury	\$ 9,068,421	X		0.24292	=	\$	2,202,901
Total			1.000000	1.000000		\$	9,068,421

Minimum + Percentage Above Minimum = Local Assessment

Groveland	\$ 7,848,340	+	\$ 3,593,906	\$	11,442,246
Merrimac	\$ 7,031,799	+	\$ 3,271,614	\$	10,303,413
West Newbury	\$ 5,668,857	+	\$ 2,202,901	\$	7,871,758
Total	\$ 20,548,996		\$ 9,068,421	\$	29,617,417

District Wide Capital Assessment

Three Town Debt Service	\$	4,623,354
Two Town Debt Service	\$	36,500
State Construction Aid	\$	-
Amount Assessed to Towns	\$	4,659,854

	FY 23 Total Capital Assessment	FY 24 Three Town Capital Assessment	FY 24 Two Town Capital Assessment	FY 24 Total Capital Assessment
Groveland	\$ 1,793,158	\$ 1,832,300	\$ 19,107	\$ 1,851,407
Merrimac	\$ 1,634,341	\$ 1,667,984	\$ 17,393	\$ 1,685,377
West Newbury	\$ 1,232,822	\$ 1,123,070		\$ 1,123,070
Total	\$ 4,660,321	\$ 4,623,354	\$ 36,500	\$ 4,659,854

Town Specific Capital Assessment

	FY24 QECB Debt Service	FY24 QECB Subsidy	FY24 G.O. Debt Service	FY24 Total Town Specific Capital Assessment
Groveland	\$ 92,563	\$ (13,192)	\$ 327,807	\$ 407,178
Merrimac	\$ 110,446	\$ (15,148)	\$ 20,400	\$ 115,698
West Newbury	\$ 131,213	\$ (18,660)	\$ 367,285	\$ 479,838
Total	\$ 334,222	\$ (47,000)	\$ 715,492	\$ 1,002,714

FY 24 Total Town Assessment

	FY 24 Operating Assessment	FY 24 DW Capital Assessment	FY 24 Town Specific Capital Assessment	FY 24 Total Assessment
Groveland	\$ 11,442,246	\$ 1,851,407	\$ 407,178	\$ 13,700,831
Merrimac	\$ 10,303,413	\$ 1,685,377	\$ 115,698	\$ 12,104,488
West Newbury	\$ 7,871,758	\$ 1,123,070	\$ 479,838	\$ 9,474,666
Total	\$ 29,617,417	\$ 4,659,854	\$ 1,002,714	\$ 35,279,985

PRSD FY24 Budget Assessments

General Fund Budget of \$50,720,090.00

	FY23	Proposed	
	Assessment	FY24	
	Assessment	Assessment	Difference
Groveland	\$ 12,391,678	\$ 13,700,831	\$ 1,309,153
Merrimac	\$ 10,912,650	\$ 12,104,488	\$ 1,191,838
West Newbury	\$ 9,126,733	\$ 9,474,666	\$ 347,933
Total	\$ 32,431,061	\$ 35,279,985	\$ 2,848,924

Revenue

	<u>FY24 Projected</u>
Chapter 70	\$13,453,802
Transportation	\$646,053
Medicaid Reimbursement	\$125,000
Interest Income	\$50,000
Misc Receipts	\$20,000
Excess and Deficiency	\$1,098,250
Treasury Subsidy	\$47,000
	<hr/> <u>\$15,440,105</u> <hr/>

FY2024 Preliminary Cherry Sheet Estimates
 Pentucket

PROGRAM	FY2023 Cherry Sheet Estimate	FY2024 Governor's Local Aid Proposal	FY2024 HWM Budget Proposal	FY2024 SWM Budget Proposal	FY2024 Conference Committee
Education Receipts :					
Chapter 70	13,385,162		13,453,802		
Charter Tuition Reimbursement	158,706		144,293		
Regional School Transportation	641,806		646,053		
Offset Receipts :					
School Choice Receiving Tuition	90,000		40,000		
Total Estimated Receipts	14,275,674		14,284,148		
Estimated Charges :					
Special Education	1,329		19,522		
School Choice Sending Tuition	336,834		275,166		
Charter School Sending Tuition	595,064		655,583		
Total Estimated Charges	933,227		950,271		
Total Receipts Less Charges :					
Net Receipts	13,342,447		13,333,877		

Massachusetts Department of Elementary and Secondary Education

FY23 Chapter 70 regional district summary

LEA	District	LEA	Member city or town	Foundation enrollment	Foundation budget	Required contribution	Chapter 70 Aid	Required net school spending
745	Pentucket	116	Groveland	866	9,959,669	7,341,071		
745	Pentucket	180	Merrimac	795	9,136,276	6,568,248		
745	Pentucket	329	West Newbury	589	6,767,612	5,426,548		
745	Pentucket	999	Total	2,250	25,863,556	19,335,867	13,317,662	32,653,529

Massachusetts Department of Elementary and Secondary Education

FY24 Chapter 70 regional district summary

LEA	District	Town ID	Member city or town	Foundation enrollment	Foundation budget	Required contribution	Chapter 70 Aid	Required net school spending
745	Pentucket	116	Groveland	895	10,941,197	7,848,340		
745	Pentucket	180	Merrimac	818	10,006,462	7,031,799		
745	Pentucket	329	West Newbury	575	7,034,483	5,668,857		
745	Pentucket	999	Total	2,288	27,982,142	20,548,996	13,453,802	34,002,798

FY 24 Town Assessments at \$50,720,090.00

	FY 20	FY 21	FY 22	FY 23	FY 24	Increase	Percentage
	Total	Total	Total	Total	Total		
	Assessment	Assessment	Assessment	Assessment	Assessment		
Groveland	\$ 9,864,501	\$ 11,050,265	\$ 12,324,685	\$ 12,391,678	\$ 13,700,831	\$ 1,309,153	10.5648%
Merrimac	\$ 8,341,413	\$ 9,563,633	\$ 10,668,760	\$ 10,912,650	\$ 12,104,488	\$ 1,191,838	10.9216%
West Newbury	\$ 7,940,578	\$ 8,599,520	\$ 8,932,879	\$ 9,126,733	\$ 9,474,666	\$ 347,933	3.8122%
Total	\$ 26,146,492	\$ 29,213,418	\$ 31,926,324	\$ 32,431,061	\$ 35,279,985	\$ 2,848,924	8.7846%

TOWN OF WEST NEWBURY



FY24 Operating Budget

	FY 2021	FY 2022	FY 2023	YTD thru 2/1/2023		FY 2024	FY 2024	Proposed Change		TM proposed	Proposed Change		FY 2024
	Expended	Expended	Approved	\$	%	DH/BCC	TM proposed	\$	%	/ SB referred	\$	%	FinCom rec.
	6/30/2021	6/30/2022	5/14/2022	Percent of yr: 58.9%			2/6/2023			2/13/2023			
PUBLIC SAFETY													
School Resource Officer	67,495	68,845	69,883	4,611	6.6%	-	3/13/2023	(69,883)	-100.0%	2/6/2023	(69,883)	-100.0%	3/15/2023
Police Salaries & Wages	882,496	885,785	955,220	536,246	56.1%	992,044	1,010,658	55,438	5.8%	993,604	38,384	4.0%	
Police OT Wages	67,775	101,301	63,427	77,123	121.6%	71,467	71,468	8,041	12.7%	71,468	8,041	12.7%	
Police Expenses	67,473	99,984	105,560	63,407	60.1%	108,560	108,560	3,000	2.8%	108,560	3,000	2.8%	
Police Cruiser	38,903	40,000	40,000	-	0.0%	67,000	60,000	20,000	50.0%	60,000	20,000	50.0%	
210 Total Police	1,124,141	1,195,914	1,234,090	681,387	55.2%	1,239,071	1,250,686	16,596	1.3%	1,233,632	(458)	0.0%	-

TOWN OF WEST NEWBURY



FY24 Operating Budget

	FY 2021	FY 2022	FY 2023	YTD thru 2/1/2023		FY 2024	FY 2024	Proposed Change		TM proposed	Proposed Change		FY 2024
	Expended	Expended	Approved	\$	%	DH/BCC	TM proposed	\$	%	/ SB referred	\$	%	FinCom rec.
	6/30/2021	6/30/2022	5/14/2022	Percent of yr: 58.9%			2/6/2023			2/13/2023			3/15/2023
Whittier Minimum Contribution	146,262	136,998	219,455	186,537	85.0%	233,971	233,971	14,516	6.6%	233,971	14,516	6.6%	
Whittier Other Assessments	22,570	18,727	27,420	23,307	85.0%	32,904	32,904	5,484	20.0%	32,904	5,484	20.0%	
Whittier Debt/Capital Assessment	21,781	21,602	23,860	20,281	85.0%	23,860	23,860	-	0.0%	23,860	-	0.0%	
305 Total Whittier	190,613	177,327	270,735	230,125	85.0%	290,735	290,735	20,000	7.4%	290,735	20,000	7.4%	-

TOWN OF WEST NEWBURY



FY24 Operating Budget

	FY 2021	FY 2022	FY 2023	YTD thru 2/1/2023		FY 2024	FY 2024	Proposed Change		TM proposed	Proposed Change		FY 2024
	Expended	Expended	Approved	\$	%	DH/BCC	TM proposed	\$	%	/ SB referred	\$	%	FinCom rec.
	6/30/2021	6/30/2022	5/14/2022	Percent of yr: 58.9%			2/6/2023			2/13/2023			2/15/2023
Council on Aging Salary & Wages	55,905	71,524	100,308	53,597	53.4%	100,341	109,908	9,600	9.6%	109,908	9,600	9.6%	102,908
Council on Aging Expenses	16,097	21,808	19,500	10,323	52.9%	19,500	19,500	-	0.0%	19,500	-	0.0%	19,500
541 Total Council on Aging	72,002	93,331	119,808	63,920	53.4%	119,841	129,408	9,600	8.0%	129,408	9,600	8.0%	122,408

Notes

The proposed FY24 Council on Aging budget amount reflects a proposal to pay \$7,000 of the FY24 Nutrition Coordinator wages from the COA Formula Grant.

This practice of paying a portion of this position's wages from the Formula Grant is consistent with prior years' budgets, and is supported by the COA Director and COA Board.

TOWN OF WEST NEWBURY



FY24 Operating Budget

	FY 2021	FY 2022	FY 2023	YTD thru 2/1/2023		FY 2024	FY 2024	Proposed Change		TM proposed	Proposed Change		FY 2024
	Expended	Expended	Approved	\$	%	DH/BCC	TM proposed	\$	%	/ SB referred	\$	%	FinCom rec.
	6/30/2021	6/30/2022	5/14/2022	Percent of yr: 58.9%			2/6/2023			2/13/2023			2/22/2023
Soldiers Grave Expense	3,161	3,632	3,592	1,592	44.3%	3,592	3,592	-	0.0%	3,592	-	0.0%	3,592
Memorial Day Expenses	-	1,661	2,200	-	0.0%	2,320	2,320	120	5.5%	2,320	120	5.5%	2,320
Veterans benefits & expenses	21,112	5,816	4,400	2,831	64.3%	4,532	24,240	19,840	450.9%	4,532	132	3.0%	4,664
Eastern Essex Veterans Services	3,976	21,695	21,096	21,095	100.0%	25,000	25,000	3,904	18.5%	25,000	3,904	18.5%	22,960
543 Total Veterans	28,248	32,804	31,288	25,518	81.6%	35,444	55,152	23,864	76.3%	35,444	4,156	13.3%	33,536

TOWN OF WEST NEWBURY



FY24 Operating Budget

	FY 2021	FY 2022	FY 2023	YTD thru 2/1/2023		FY 2024	FY 2024	Proposed Change		TM proposed	Proposed Change		FY 2024
	Expended	Expended	Approved	\$	%	DH/BCC	TM proposed	\$	%	/ SB referred	\$	%	FinCom rec.
	6/30/2021	6/30/2022	5/14/2022	Percent of yr: 58.9%			2/6/2023			2/13/2023			3/1/2023
Recreation Wages	239	1,335	2,700	1,358	50.3%	5,072	5,072	2,372	87.9%	5,072	2,372	87.9%	-
Recreation Expenses	16,415	16,000	19,085	3,375	17.7%	38,272	33,200	14,115	74.0%	38,272	19,187	100.5%	33,200
Action Cove Expenses	1,320	1,826	3,000	-	0.0%	-	-	(3,000)	-100.0%	-	(3,000)	-100.0%	-
630/637 Total Recreation	17,974	19,161	24,785	4,733	19.1%	43,344	38,272	13,487	54.4%	43,344	18,559	74.9%	33,200

TOWN OF WEST NEWBURY



FY24 Operating Budget

	FY 2021	FY 2022	FY 2023	YTD thru 2/1/2023		FY 2024	FY 2024	Proposed Change		TM proposed	Proposed Change		FY 2024
	Expended	Expended	Approved	\$	%	DH/BCC	TM proposed	\$	%	/ SB referred	\$	%	FinCom rec.
	6/30/2021	6/30/2022	5/14/2022	Percent of yr: 58.9%			2/6/2023			2/13/2023			
BENEFITS													
Essex Regional Retirement Assessment	687,493	731,432	805,420	805,419	100.0%	675,135	675,135	(130,285)	-16.2%	675,135	(130,285)	-16.2%	2/15/2023 675,135
911 Total Essex Regional Retirement	687,493	731,432	805,420	805,419	100.0%	675,135	675,135	(130,285)	-16.2%	675,135	(130,285)	-16.2%	675,135
Unemployment Insurance & Benefits	-	439	1,500	-	0.0%	1,200	1,200	(300)	-20.0%	1,200	(300)	-20.0%	2/15/2023 1,200
913 Total Unemployment Insurance	-	439	1,500	-	0.0%	1,200	1,200	(300)	-20.0%	1,200	(300)	-20.0%	1,200
Group Insurance	394,029	406,997	481,857	270,952	56.2%	554,551	2/25/2023 527,865	46,008	9.5%	2/6/2023 554,551	72,694	15.1%	3/1/2023 527,865
914 Total Group Insurance	394,029	406,997	481,857	270,952	56.2%	554,551	527,865	46,008	9.5%	554,551	72,694	15.1%	527,865
FICA Insurance	46,737	52,412	51,485	28,587	55.5%	57,233	57,233	5,748	11.2%	56,406	4,921	9.6%	
916 Total FICA Insurance	46,737	52,412	51,485	28,587	55.5%	57,233	57,233	5,748	11.2%	56,406	4,921	9.6%	-
Insurance and Bonds	174,508	187,002	199,865	186,972	93.5%	217,349	3/6/2023 219,643	19,778	9.9%	217,649	17,784	8.9%	
945 Total Insurance and Bonds	174,508	187,002	199,865	186,972	93.5%	217,349	219,643	19,778	9.9%	217,649	17,784	8.9%	-
TOTAL BENEFITS:	1,302,767	1,378,282	1,540,127	1,291,930	83.9%	1,505,468	1,481,076	(59,051)	-3.8%	1,504,941	(35,186)	-2.3%	1,204,200

TOWN OF WEST NEWBURY



FY24 Operating Budget

	FY 2021	FY 2022	FY 2023	YTD thru 2/1/2023		FY 2024	FY 2024	Proposed Change		TM proposed	Proposed Change		FY 2024
	Expended	Expended	Approved	\$	%	DH/BCC	TM proposed	\$	%	/ SB referred	\$	%	FinCom rec.
	6/30/2021	6/30/2022	5/14/2022	Percent of yr: 58.9%			2/6/2023			2/13/2023			
TRANSFERS OUT - STABILIZATION													
Transfers Out - to Capital Stabilization	500,000	500,000	500,000	500,000	100.0%	500,000	3/9/2023 600,000	100,000	20.0%	2/6/2023 500,000	-	0.0%	3/15/2023
992 Total Transfers Out	500,000	500,000	500,000	500,000	100.0%	500,000	600,000	100,000	20.0%	500,000	-	0.0%	-
TOTAL TRANSFERS OUT:	500,000	500,000	500,000	500,000	100.0%	500,000	600,000	100,000	20.0%	500,000	-	0.0%	-

Town Manager

From: bruce.tarr@masenate.gov@mg.communityfluency.com on behalf of Bruce Tarr
<bruce.tarr@masenate.gov>
Sent: Wednesday, March 1, 2023 2:41 PM
To: Town Manager
Subject: Governor's FY 2024 Budget Proposal



The Commonwealth of Massachusetts

Office Of The Senate Minority Leader

Senator Bruce Tarr

State House, Boston, MA 02133-1054

To: Municipal and School District Officials

Date: March 1, 2023

Re: H.1, Governor Healey's State Budget Proposal for Fiscal Year 2024

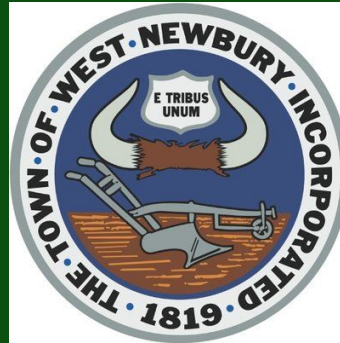
Today, Governor Healey filed her administration's budget proposal for Fiscal Year 2024, which begins on July 1 of this year. Notably, this budget proposal provides significant increases in a number of accounts, including a 9.8 percent increase from Fiscal Year 23 in Chapter 70 school funding to \$6.58 billion and 2 percent increase in Unrestricted General Government Aid to \$24.6 million. You can find the entire document at [Home | Governor's FY24 Budget Recommendation \(mass.gov\)](#), and the figures for Local Aid are contained in Section 3 of the document, which is located here [Local Aid Distribution | Governor's FY24 Budget Recommendation \(mass.gov\)](#).

The proposal filed by the governor is the first such document to be filed in the process of developing and approving a final budget document for our commonwealth and will be subjected to review and analysis by both branches of the legislature in the days ahead, particularly by the House and Senate Committees on Ways and Means, which will release their own budget proposals for debate in the House in April and the Senate in May.

Please do not hesitate to contact me with any questions, concerns, or comments regarding this budget proposal or any other matters. I look forward to continuing to work with you to maximize state funding for those we represent. Thank you for that partnership.



Joint Meeting of Board of Selectmen & Finance Committees



March 8, 2023

INTRODUCTIONS
&
Public Comment

PRSD Budget

(Approved by the School Committee on 3/7/23)



Operational Budget (what we spend to run school) - \$45,057,522

+

Capital Budgets (building projects that have happened) - \$5,662,568

=

Total Proposed Budget - \$50,720,090

How did we arrive at that number?

We looked at:

1. What we cannot control
2. What we can control
3. What happens if the budget fails?

4 Major budget impacts of which we have no control



- 1. Chapter 70 Funding**
 - a. (PRSD received a 0.51% or \$68,640 increase)
- 2. OSD (Operational Services Division), Student Opportunity Act, & Health Insurance**
- 3. Held Harmless**
- 4. Inflation & Utility Increases**

#1 - Chapter 70

(Celebrated as a big increase in the Governor's Budget)



Pentucket's Ch. 70 increase

0.51% or \$68,640

Ch. 70 % Increases

Scratch your head on these... Top 11 wealthiest municipalities based on Per capita Income (2020 data) & their Ch. 70 % Increase for FY24



Pentucket - 0.51% Triton - 0.74%

Weston (1) - 7.73%

Dover (2) - 9.75%

Sherborn (3) - 9.20%

Brookline (4) - 1.33%

Newton (5) - 4.66%

Lexington (6) - 16.94%

Pentucket - 0.51% Triton - 0.74%

Concord (7) - 3.11%

Westwood (8) - 17.68%

Carlisle (9) - 1.26%

Wellesley (10) - 1.30%

Sudbury (11) - 6.55%

***Groveland (103), West Newbury (127), Merrimac (132)**

Chapter 70 - WHAT IF



If PRSD received the AVERAGE Ch. 70 percentage increase that the top 11 wealthiest communities received?

Average Chapter 70 increase of the top 11 wealthiest municipalities - **7.23%**

For Pentucket, that would be an increase of
\$967,747

Instead, our three, much less affluent communities received **0.51%**, or **\$68,640**

How about just the Cape Ann League?

Ch. 70 % Increases

(CAL % Increases)



Pentucket - 0.51% Triton - 0.74%

Amesbury - 0.59%

Newburyport - 20.9%

Lynnfield - 19%

Georgetown - 0.65%

North Reading - 0.93%

Pentucket - 0.51% Triton - 0.74%

Hamilton-Wenham - 3.33%

Rockport - 1.13%

Manchester-Essex - 1.11%

Ipswich - 2.79%

Chapter 70 - WHAT IF

If PRSD received the AVERAGE Ch. 70 percent increase that the CAL districts received?



Average Chapter 70 increase of the CAL districts - **4.70%**

For Pentucket, that would be an increase of
\$629,102

Instead, our three, much less affluent communities
received **0.51%, or \$68,640**

Chapter 70 - So, PRSD is only getting \$68,640 from MA?



Actually, **NO!** The total Massachusetts is giving PRSD this year is... **-\$8,570** (and we have more students than last year)

How?

Ch. 70 (\$68,640) + Regional Transportation (\$4,247) - School Choice (-\$50,000) - Charter School Tuition (-\$14,413)

FY23 to FY24 change: \$-8,570

How much has MA been contributing to our Operational Budget? (Net School Spending)



2010 - 2011 - 42.1%

2016 - 2017 - 39% (+0.6%)

2022 - 2023 - 34.6% (+0.5%)

2011 - 2012 - 41.3% (-0.8%)

2017 - 2018 - 37.2% (-1.8%)

2023 - 2024 - 31.57% (-3.03%)

2012 - 2013 - 39.9% (-1.4%)

2018 - 2019 - 35.2% (-2.0%)

2013 - 2014 - 39.7% (-0.2%)

2019 - 2020 - 36.2% (+1.0%)

2014 - 2015 - 38.4% (-1.3%)

2020 - 2021 - 34.8% (-1.4%)

2015 - 2016 - 38.4% (0%)

2021 - 2022 - 34.1% (-0.7%)

Since FY 11: - 10.53%

How do you feel about this?

Changes made to the Chapter 70 formula since 2018-2019

(because every legislator knows this is a problem)



2018-2019 - No Change

2019-2020 - No Change

2020-2021 - No Change

2021-2022 - No Change

2022-2023 - No Change

Why do the top 11 wealthiest municipalities get a higher % increase than Groveland, West Newbury, and Merrimac?



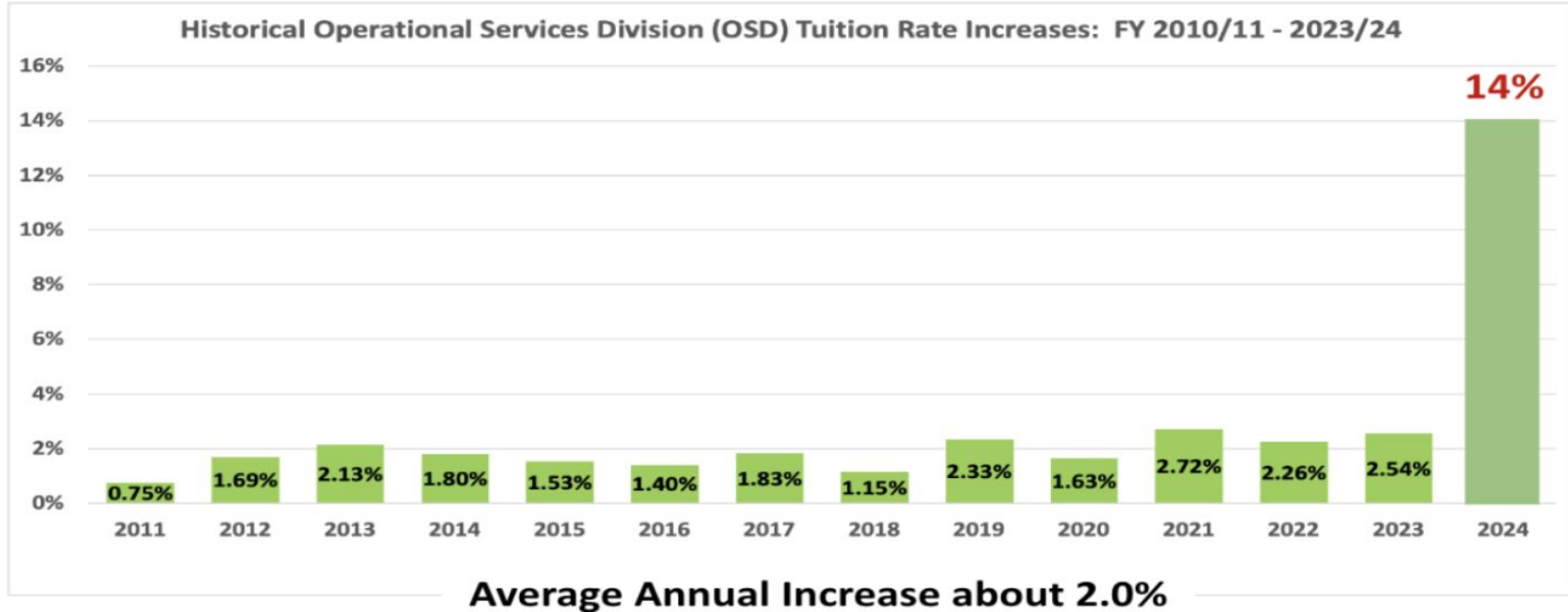
How does this make you feel?

#2 - OSD, SOA, & Health Insurance



- OSD - 14% (no control and still unsure where it is going)
- Student Opportunity Act SOA - \$1.5 billion over 7 years
 - Is that money really growing districts' budgets? NO.
 - Pentucket's cut of that \$1.5 billion ~ **\$58,000** (or, not even 1 teaching position)
- Health Insurance plan rates - Up 8% - 10% for employees; 2.1% for retirees

The FY24 OSD Special Education Tuition Increase is Unprecedented:



Are you familiar with the Shell Game?



- District budget is \$65M
- District gets \$3M in SOA
- Budget is now \$68M, right? **NOPE**
- Municipality can tell district, you're budget is \$66M, and we are pulling back \$2M.
- This happens everywhere in MA and US. Lottery proceeds, gambling, etc.



#3 - Held Harmless



How much are we getting per student increase?

Yup... \$30/student

This is dictated to us by the Governor/Legislature because they view us as a “wealthy district” (but... don’t forget the top 11 wealthiest towns and their % increase of Ch. 70 money... they get their \$30 PLUS their significant increase.

#4 - Inflation & Utilities



Inflation Rate - 9.1% (Expense)

Utilities increase - 15% - 25% (Expense)

OSD increase - 14% (Expense)

Chapter 70 increase - 0.51% (Revenue)

Most a municipality can increase taxes - 2.5% (Revenue)

What happens when **Expense** is much greater than **Revenue**?

What PRSD can control in this budget



- **Positions**
- **Transportation**
- **Materials & Supplies**
- **Maintenance Costs**
- **OPEB and Stabilization**
- **Extracurriculars/Athletics/Clubs**



Positions

(recall the “elementary red” class sizes)

What was cut from last year’s budget?

\$1.34M shortfall

- \$1.34M = the equivalent of roughly 20.6 teaching positions.
- SC offset some cuts with fee increases (BASP and Athletics) and then cut positions.

This year’s budget?

\$2.07M estimated shortfall

What’s added?

- 8 Teaching (all cuts from last year) positions including
 - Elementary Classrooms & MSHS (including Arts 1.5)
 - Nurse
- 1 HR Coordinator
- 2.5 SPED - (required)
- 2 Library/Media Aides (elementary)
- Percussion Contract
- Curriculum and Literacy Coordinator (ESSER)
- 9 Coaches and 7 Teams that were cut
- Athletic Cap reinstated at \$1,500 per family

Transportation, Materials/Supplies, Maintenance



Transportation - This is the biggest potential area to save funds. The number of buses, how long a student is on a bus, and who gets transported dictates this number

Materials & Supplies - What materials and supplies do we want our students to have? Workbooks, texts, updated curriculum are all in this.

Maintenance Costs - If materials break, do we replace them?



OPEB & Stabilization

OPEB and Stabilization - We have control of these. Per policy, the School Committee can reduce the amount of funds they commit to these areas on an annual vote as you did last year (\$250,000 to prevent cutting an additional ~ 4 positions).



Extracurriculars

Extracurriculars/Athletics/Clubs - The School Committee does have the ability to make adjustments here if the budget needs it.

What if it fails?



1. We will discuss this as a major topic at our March 28th meeting.
2. Right now, we see the least impactful approach being:
 - a. Cut any transportation that is not required
 - b. Remove proposed athletics cap and/or eliminate more sports
 - c. Possible use of stabilization funds
 - d. Possible modification of MSHS Schedule (Teacher Cuts)
 - i. Serious impact on elective opportunities
 - ii. Serious impact on Arts

Common thoughts that are either incorrect, misguided, or hurt our school system



- “We need the State to fix this. Let’s organize!”
- “They are too top heavy... just cut administrators.”
- “This is just a scare tactic.”
- “What about (fill in a specific budget item)... why do they need that?”
- “They are going to need to adjust their budget.”
- “This is happening too quickly... why didn’t we know about this.”

Budget Process Timeline



- **Mid-March** - Budget #s certified by Treasurer and sent to Pentucket Towns (override known or not at that point)
- **March 13th** - Budget conversation with stakeholders at Sweetsir Elementary School @ 6:30PM
- **March 15th** - Budget conversation with stakeholders at Bagnall School @ 6PM
- **March 28th** - School Committee meeting - likely discuss what SC would recommend removing if budget fails
- **Monday, April 24th** - Town Meetings (budget/potential override vote)
- **Monday, May 1st** - Town elections (potential override vote)

Note: Meeting monthly with Town Administrators and also started budget conversation publicly on November 1st.

Fact: While people can debate the merits of Town finances and PRSD finances, the fact is that if an override is needed and if all Towns do not pass it, one entity will be in horrific financial trouble.

PRSD Budget Website - www.pentucketbudget.com



PENTUCKET REGIONAL SCHOOL DISTRICT
Official Budget Website

[HOME](#) [IMPORTANT DATES](#) [HELPFUL DOCUMENTS](#) [MEETING RECORDINGS](#) [GLOSSARY OF TERMS](#) [FAQS](#) [NEWS](#) [CONTACT](#)



BUDGET QUESTIONS?

Welcome to the Pentucket Regional School District budget site. We encourage you to use this site to learn more about the District's finances and challenges, and to stay up to date with District budget meetings.

[Visit the FAQs](#)

IMPORTANT DATES

- MAR 6:00 pm – 8:00 pm
8 Joint meeting of Groveland, West Newbury, and Merrimac's BOS and Finance Committees
- MAR 6:30 pm – 8:30 pm
13 Merrimac: Pentucket Budget Discussion with Dr. B
- MAR 6:00 pm – 8:00 pm
15 Bagnall: Pentucket Budget Discussion with Dr. B
- MAR 6:00 pm – 7:30 pm
28 School Committee Meeting
- APR All day
24 Groveland & Merrimac Town Meetings

[View Calendar](#)

FREQUENTLY ASKED QUESTIONS

- What challenges does the District face?
- Why can't you work with the budget you have?

SUBSCRIBE TO NEWS VIA EMAIL

E-mail Address:



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

James RW Blatchford,
Town Clerk

TO: Select Board
FROM: James Blatchford, Town Clerk; with Angus Jennings, Town Manager
DATE: March 13, 2023
RE: Proposed Articles for Annual and Special Town Meetings

Notice was provided that proposed Town Meeting articles were to be submitted on or before February 6, 2023, and the Select Board voted on February 6, 2023 to close the Town Meeting warrants. The following article requests for the Annual or Special Town Meeting were timely received in the Town Manager’s and Select Board’s office (*NOTE: Some listed below will be ATM articles and some will be STM articles. All article ordering and numbering shown below is preliminary and **subject to change***):

GENERAL GOVERNMENT MATTERS

ARTICLE 1: To give their votes to the election of the following offices:

Term Position Seat(s);
Three Years Selectman (1) Three Years School Committee (1) Three Years Assessor (1)
Three Years Board of Health (1) Five Years Planning Board (1) Three Years Library Trustees
(3) Three Years Park & Recreation Commissioner (1) Two Years Park & Recreation
Commissioner (1) Three Years Water Commissioner (1) Two Years Water Commissioner
(1) Three Years Constable (1). *By request of the Select Board.*

ARTICLE 2: To hear and act upon the reports of Town officers and committees, or take any other action relative thereto. *By request of the Select Board.*

ARTICLE 3: To see if the Town will vote to transfer and/or appropriate the sum of \$200,000 from the School Stabilization Fund to pay a portion of the Town share of debt services associated with the building of the new Middle/High School, or take any other action relative thereto. *By request of the Select Board.*

ARTICLE 4: To determine what sums of money the Town will raise and appropriate for defraying the expenses of the Town for ensuing fiscal year and for the payment of Town debt, or take any other action relative thereto. *By request of the Select Board.*

NOTE from Town Manager: If Article 2 is passed as proposed, or in some lesser amount, it is recommended that a HOLD be placed on Pentucket Capital Assessment line item 23 in order to reduce the budgeted amount to account for the availability of funds from School Stabilization to pay that portion of next year's debt service.

WATER ENTERPRISE FUND

ARTICLE 5: In accordance with the provisions of Chapter 38 of the Acts of 1936, to see what instructions, rules, and regulations the Town may wish to impose on the Board of Water Commissions, 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 appropriate, in anticipation of Water Department revenues, the sum of \$ ___ of which \$ ___ for salaries and wages, which include \$ ___ for Water Commissioners' Stipends; \$ ___ for insurances; \$ ___ for expenses; \$ ___ for debt services; \$ ___ for transfer to Water Stabilization; \$ ___ for extraordinary and unforeseen expenses; and \$ ___ for indirect costs, 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 and/or appropriate from available funds the sum of \$625,000.00 to purchase equipment and materials to be used for water main replacements on Church Street and Prospect Street, as further described in plans entitled "Church Street and Prospect Street Water Main Replacement" dated July, 2022, prepared by Tata & Howard, Inc. on behalf of the Board of Water Commissioners, and available for review in the Town Clerk's office, or take any other action relative thereto. *By request of the Board of Water Commissioners. (Recommended for SPECIAL TOWN MEETING).*

ARTICLE 8: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$140,000.00 for the purchase of water from the City of Newburyport and to replenish the line items within the FY 2023 Operating Budget that need to be used to pay water bills, or take any other action related thereto. *By request of the Board of Water Commissioners. (Recommended for SPECIAL TOWN MEETING).*

ARTICLE 9: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$3,865.00 for the purchase of equipment and materials to replace the current Master

Meter, or take any other action related thereto. *By request of the Board of Water Commissioners.*
(Recommended for SPECIAL TOWN MEETING).

ARTICLE 10: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$19,900.00 for the purchase of equipment and materials for a continuous chlorine monitoring system, or take any other action related thereto. *By request of the Board of Water Commissioners.* **(Recommended for SPECIAL TOWN MEETING).**

ARTICLE 11: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$7,340.00 for the purchase of equipment and materials for SCADA Remote Terminal Units (RTU's), or take any other action related thereto. *By request of the Board of Water Commissioners.* **(Recommended for SPECIAL TOWN MEETING).**

ARTICLE 12: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$16,610.00 for the purchase of equipment and materials to be used for repairs to the original Wellfield #1 building, or take any other action related thereto. *By request of the Board of Water Commissioners.* **(Recommended for SPECIAL TOWN MEETING).**

ARTICLE 13: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$9,975.00 for the purchase of equipment and materials to be used for cleaning of the well heads located at Wellfield #1, or take any other action related thereto, or take any other action related thereto. *By request of the Board of Water Commissioners.* **(Recommended for SPECIAL TOWN MEETING).**

ARTICLE 14: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$30,000.00 for the purchase of equipment and materials to be used for repair and/or replacement of valves, hydrants, water main, meter pits or any other devices that are associated with the water distribution system, or take any other action related thereto, or take any other action related thereto. *By request of the Board of Water Commissioners.* **(Recommended for SPECIAL TOWN MEETING).**

ARTICLE 15: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$_____ for the **31 Dole Place**, or take any other action related thereto, or take any other action related thereto. *By request of the Board of Water Commissioners.* **(Recommended for SPECIAL TOWN MEETING).**

ANNUAL APPROPRIATIONS

ARTICLE 16: To see if the Town will vote to transfer and/or appropriate the sum of \$10,364.00 from the Septic Loan Revolving Account for the repayment of debt service, or take any other action related thereto. *By request of the Board of Health.*

ARTICLE 17: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$67,514.00 for the Pension Liability Stabilization Fund, or take any other action related thereto. *By request of the Select Board.*

ARTICLE 18: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$6,868.00 for contribution to the Other Post-Employment Benefits (OPEB) Stabilization Fund, or take any other action related thereto. *By request of the Select Board.*

ARTICLE 19: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$_____ to fund the existing year snow and ice deficit during the fiscal year 2023, or take any other action related thereto. *By request of the DPW Director. (Recommended for SPECIAL TOWN MEETING).*

ARTICLE 20: To see if the Town will vote to transfer and/or appropriate the sum of \$_____ from the PEG Access and Cable Related Fund for the purposes of funding its FY24 cable-related expenses; or take any other action relative thereto. *By request of the Select Board.*

ARTICLE 21: To see if the Town, in accordance with Massachusetts General Laws Chapter 44, Sec. 53E1/2, and Section XL of the Bylaws of the Town of West Newbury, will fix the maximum amounts that may be spent during the fiscal year beginning on July 1, 2023 for the revolving funds established in town bylaws, as set forth below for certain departments, boards, committees, agencies or officers, with such expenditure limits to be applicable for each fiscal year until such time as Town Meeting votes, prior to July 1 for the ensuing fiscal year, to revise the same:

▪ Section 5.1 Summer Recreation Revolving Fund	\$ 75,000
▪ Section 5.2 GAR Library Fines and Penalties Revolving Fund	\$ 10,000
▪ Section 5.3 Police Vehicle Revolving Fund	\$ 20,000
▪ Section 5.4 Pipestave/Mill Pond Care and Maintenance Revolving Fund	\$ 5,000
▪ Section 5.5 Electric Vehicle Charging Stations Revolving Fund	\$ 10,000
▪ Section 5.6 Curbside Collection of Trash, Recycling and Food Waste Revolving Fund	\$ 50,000

or take any other action relative thereto. *By request of the Select Board.*

ARTICLE 22: To see if the Town will vote to allocate and/or reserve from the Community Preservation Fund annual revenues, the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in the Fiscal Year beginning July 1, 2023, with each item to be considered a separate appropriation:

- Appropriate \$30,452 from FY 2024 estimated revenues for Committee Administrative Expenses.
- Reserve \$60,904 from FY 2024 estimated revenues for Community Housing Reserve.
- Reserve \$60,904 from FY 2024 estimated revenues for Historic Resources Reserve.
- Reserve \$60,904 from FY 2024 estimated revenues for Open Space & Recreation Reserve.
- Reserve \$395,873 from FY 2024 estimated revenues for Budgeted Reserve.

or take any other action related thereto. *By request of the Community Preservation Committee.*

ADDITIONAL APPROPRIATIONS

ARTICLE 23: To see if the Town will vote to transfer and/or appropriate from Community Preservation Act funds, in accordance with the provisions of Massachusetts General Laws Chapter 44B, the sum of \$350,000 to purchase the following: 1) a conservation restriction on approximately 32 acres of real estate located to the rear of property located at Archelaus Place and Poor House Lane, being generally described on West Newbury Assessors Map R14 as Lots 30 and 30F; and, 2) said purchases to be subject to approval of the conservation restriction by all parties; and that the Board of Selectmen is to be authorized to execute, acknowledge and deliver all grants, agreements and such other instruments, including, but not limit to, the conservation restrictions in accordance with Massachusetts General Laws Chapter 184 and any other applicable statute or regulation, as may be necessary on behalf of the Town of West Newbury to effectuate the purchases herein mentioned: and to take any other action relative thereto. *By request of the Community Preservation Committee, the Open Space Committee and Essex Country Greenbelt Association, Inc. By request of the Select Board.*

ARTICLE 24: To see if the Town will vote to transfer and/or appropriate from the CPA Community Housing Reserve the sum of \$172,174 into Affordable Housing Trust, or take any other action related thereto. *By request of the Affordable Housing Trust. (Recommended for SPECIAL TOWN MEETING).*

ARTICLE 25: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$172,000 to fund the replacement of a sidewalk snow clearing vehicle for use by the Facilities Division of the Department of Public Works (DPW), or take any other action related thereto. *By request of the DPW Director.*

ARTICLE 26: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$117,000.00 to fund the replacement of a Fire Pick-up Truck including all safety equipment for use by the Fire Department, or take any other action related thereto. *By request of the Board of Fire Engineers.*

ARTICLE 27: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$40,000.00 to fund the replacement of HVAC unit at the Page School Main Office and Entry Area, or take any other action related thereto. *By request of the DPW Director*
(Recommended for SPECIAL TOWN MEETING).

ARTICLE 28: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$25,000.00 to fund the purchase of a 2023 Ford Police Cruiser for use by the Police Department, or take any other action related thereto. *By request of the Police Chief.* **(Recommended for SPECIAL TOWN MEETING).**

ARTICLE 29: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$60,180.00 to fund an inoculation treatment program for public right-of-way Ash Trees in town against the effects of the Emerald Ash Borer, or take any other action related thereto. *By request of the DPW Director.* **(Recommended for SPECIAL TOWN MEETING).**

ARTICLE 30: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$8,300.00 to fund the purchase of Security Cameras for the Page School, or take any other action related thereto. *By request of the DPW Director.*

ARTICLE 31: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$_____ to fund the planning and design efforts for pedestrian safety improvements on Route 113 (Main Street), including but not limited to the Page/Pipestave/113 intersection and crosswalk, or take any other action related thereto. *By request of the Select Board.*

ARTICLE 32: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$4,425.00 to fund the purchase of an ABI infield rascal pro infield maintainer for use of field maintenance, or take any other action related thereto. *By request of the Parks & Recreation Commission.*
(Recommended for SPECIAL TOWN MEETING).

ARTICLE 33: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$15,000.00 to fund the restoration of field 6 at Pipestave, or take any other action related thereto. *By request of the Parks & Recreation Commission.*

ARTICLE 34: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$9,960.00 to fund replacement and repair of the soccer field fencing at Pipestave Athletic Field, or take any other action related thereto. *By request of the Parks & Recreation Commission.*
(Recommended for SPECIAL TOWN MEETING).

ARTICLE 35: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$4,150.00 to fund maintenance, clean up, and repair of the Town-owned cemeteries, or take any other action related thereto. *By request of the Historical Commission*

ARTICLE 37: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$7,500.00 to provide matching funds for the One Stop for Growth grant awarded to the Town of West Newbury for planning and zoning consulting services related to the MBTA Communities Act, so-called, or take any other action related thereto. *By request of the Select Board*
(Recommended for SPECIAL TOWN MEETING).

ARTICLE 38: To see if the Town will vote to transfer and/or appropriate from available funds the sum of \$20,000.00 to fund professional invasive species management on town owned land, or take any other action related thereto. *By request of the Open Space Committee* **(Recommended for SPECIAL TOWN MEETING).**

BYLAWS – OTHERS

ARTICLE 39: To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 166, §32A, related to Assistant Electrical Inspectors, or take any other action related thereto. *By request of the Select Board.*

ARTICLE 40: Solar Bylaw *By request of the Planning Board.*

ARTICLE 42: Zoning Bylaw Recodification *By request of the Building Inspector.*

ARTICLE 43: To see if the Town will vote to amend the West Newbury Town Bylaws, by inserting a new Section X, for the purpose of wetlands protections, with the proposed bylaw 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 to ensure consistency with the remainder of the Bylaws; or take any other action related thereto. *By request of the Conservation Commission.*



Town of West Newbury

Town Office Building - 381 Main Street
West Newbury, Massachusetts 01985
DPWadmin@wnewbury.org

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February 22, 2023

Memo: Change to Policy and Rental Fees of Town Facilities

To: Select Board

After reviewing the Town's current policy and rental fees for Town-owned facilities, I am proposing a new rental fee schedule and a change to the non-profit fee waiver policy.

In an effort to offer fair and accurate pricing to all, I am proposing a flat rate fee for use of the following facilities – 1910 building 1st and 2nd floor hearing/meeting rooms, Bandstand and Mill Pond Recreation Building, and a per-hour rate for the use of the Annex and Old Town Hall. The flat rate fees would be the same for all renters, regardless of non-profit status. The hourly rate fee would offer two different rates – one for commercial/private functions and one for non-profit organizations. This fee structure would replace the resident and non-resident fee structure which is currently in place.

The Select Board has previously voted to not charge non-profits for the use of Town facilities up to six (6) times per year. After carefully reviewing the time and effort by staff to prepare for and clean up after events, I am proposing to omit the six (6) waived facility fees per calendar year. Some non-profit events require much more staff time than others; i.e. a 100-person volunteer appreciation party with food vs. a one-hour Boy Scouts meeting. This new policy would offer fair pricing to all and allow for the appropriate funds to be allocated for cleanup by Town staff.

Thank you for your consideration,

Katelyn Bradstreet
DPW Business Administrator & Purchasing Assistant



TOWN OF WEST NEWBURY

381 Main Street
 West Newbury, MA 01985
 978-363-1100 ext. 135
 978-363-1826 (Fax)

RENTAL FEE SCHEDULE

	Commercial or Private Function	Non-Profit Organizations
1910 Building 1 st Floor Hearing Room	\$15 flat rate fee	\$15 flat rate fee
1910 Building 2 nd Floor Meeting Room	\$15 flat rate fee	\$15 flat rate fee
Bandstand	\$25 flat rate fee	\$25 flat rate fee
Mill Pond Recreation Building	\$75 flat rate fee	\$75 flat rate fee

Annex	\$50/hour	\$25/hour
Old Town Hall (across from GAR Library)	\$50/hour	\$25/hour
Set-up/breakdown/access to reserved space prior to event	No charge for one hour prior and one hour after event. Current hourly rate per each additional hour.	

All fees include the use of available equipment (i.e. tables, chairs, stage, etc.)

TERMS AND CONDITIONS OF USE:

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

**PLEASE NOTE: IF YOU ARE APPLYING TO OFFER ANY KIND OF CAMP FOR CHILDREN, YOU MUST GET PRIOR APPROVAL FROM THE BOARD OF HEALTH
 978-363-1100 x118**



**Town of West Newbury
Select Board**

Monday, January 9, 2023 @ 7:00pm

381 Main Street, Town Office Building

www.wnewbury.org

Open Session Meeting Minutes- DRAFT

Open Session: Open session was called to order at 7:14pm by Chairperson Archibald

Participation at the Meeting:

David Archibald, Richard Parker, and Wendy Reed; *Select Board Members*

Angus Jennings, *Town Manager*

James Blatchford, *Town Clerk*

Deb Hamilton, *Vice Chairperson of the Essex County Trail Association*

Carol Lloyd, *Essex County Trail Association*

Sue Brown, *Town Planner*

Vanessa Johnson-Hall, *Greenbelt Director of the Land Conservation Division*

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; See agenda for details; <https://www.youtube.com/watch?v=Z9JM-Vr4emU>
- Select Board to vote to close warrant for Spring Annual and Special Town Meetings on Monday, February 6th
- Town awarded \$32,000 Green Communities Action Grant for improvement to HVAC controls in SAGE Center and Town Annex!
- SAGE Center Lunch & Learn, Thursday, January 12th from 11:30am-1pm: Merrimack Valley public transportation options. Suggested donation: \$5
- SAGE Center News: Jan/Feb 2023. Many upcoming events incl. Games & Puzzles, luncheons, exercise & yoga classes, wellness checks (Jan 10 and Feb 14), Coffee & Conversation, Veterans' Agent hours, Sen. Tarr hours etc. Full details in current newsletter and available on Town website www.wnewbury.org/senior-center/newsletters
- Call for volunteers! Open positions on Boards/Commissions/Committees. See www.wnewbury.org/volunteer
- Reminder to subscribe for emailed Town agendas/news/announcements at www.wnewbury.org/subscribe
- West Newbury's Bond rating was upgraded to the highest rating of AAA by Moody's

Regular Business

A. Request for one-day liquor license, Northeast Equine Rescue League: Sat., Jan 14th, Town Annex

This item was passed over with no action as the application had been withdrawn (see exhibit A page 15 for details).

B. Request for Special Event Permit: Canicross "Tails for the Trails" 5K event, Sat., March 25th from 8am-1pm, Pipestave/Mill Pond/Dunn property

Deb Hamilton, Board Member and Vice Chairperson of the Essex County Trail Association, appeared before the Select Board in person for this request (see exhibit B pages 16-23 for details). Hamilton described the Canicross event as an opportunity for community members complete a trail run similar to the cross country route, with a dog attached to the run with a harness and bungee cord. As this would be a new event for the community, Hamilton anticipated no more that 50 people to attend/participate, portable toilets would be present on the grounds, and stated there would be low impact on the trails that would be used. Carol Lloyd appeared before the Select Board remotely and the planned trail route of the event would avoid the wooded paths and remain on the grass and gravel areas. Jennings, Hamilton, and Lloyd discussed the acknowledgement forms and waivers that would be completed at the time of registration to ensure the Town would not be held liable if an injury was to occur. **Reed made a motion to approve the request for use of facilities for the ACTA Canicross event on March 25, 2023. Parker seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).**

C. Proposed MBTA Communities Interim Compliance Action Plan – Sue Brown, Town Planner

Archibald gave a brief overview of the legislation requirements for MBTA Communities and stated that West Newbury would be required to submit housing district plan that could accommodate the construction of 87 units. Archibald stated that the plan would need to be brought before Town Meeting and submitted to the Commonwealth, and that failure to submit a plan would result in the town losing eligibility for state grant funding. Sue Brown, Town Planner, appeared before the Select Board remotely and stated the interim compliance action plan was the next step for the town to take to remain in compliance (see exhibit C pages 24-37 for details). Brown stated the plan would not obligate the Town to take action on the plan set forth, but it would act as a sign of good faith of the steps the Town was anticipated to take. Brown discussed the state online questionnaire and stated the draft action plan was due by January 31, 2023. Brown stated the Planning Board had reviewed the draft and had accepted it as written, and was seeking endorsement from the Select

Board before submission to the state. Brown informed the Select Board the Town would need to be in full compliance by December 2025. The objective was to propose the housing district plan at the 2024 Annual Town Meeting where in the event it did not pass, the Town could make necessary changes in time for the 2025 Annual Town Meeting. It was stated that a simple majority would be needed to approve the plan at Town Meeting. The Select Board, Jennings, and Brown discussed the importance of robust public engagement and broad community support in order to get the plan right. Brown stated the consultant would be relied on heavily to create a community engagement plan. Discussion continued surrounding the consequences that would affect everyone in Town if they did not stay in compliance and the need to inform the voters as much as possible. **Parker made a motion to endorse the plan as presented and authorize the Town Manager to sign and submit. Reed seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).**

D. Review/endorsement of proposal to CPC, with Greenbelt, for funding to support “Sawmill Brook Conservation Project” including acquisition of property on Poorhouse Lane (Map R14, Lots 30 and 30F)

Archibald briefly reviewed that the Sawmill Brook Conservation Project involved the possible acquisition of approximately 32 acres of land, for conservation, that bordered Mill Pond off of Poorhouse Lane (see exhibit D pages 38-54 for details). Vanessa Johnson-Hall, Greenbelt Director of the Land Conservation Division, appeared before the Select Board in person and stated the proposed land acquisition would connect Mill Pond acreage to the conservation land set aside from the Deer Run development on the western side. Johnson-Hall stated that Greenbelt would work with the Town to apply for the state grants and that due to the competitive nature of the grant, Greenbelt had advised the town to authorize up to \$350,000 of CPC to be used towards the acquisition. The remaining portion of \$750,000 would be fundraised by Greenbelt private fundraising and state grant funds. It was stated the Conservation Commission had voted in support and agreed to maintain care, custody, and control of the land after acquisition and that CPC was scheduled to review the application at the January 19th meeting. **Reed made a motion to support the application for Sawmill Brook Conservation Project. Parker seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).**

E. Review of updated draft Wage/Classification study; consideration of Board endorsement of final report

Jennings stated the Wage Study had been completed and all non-union positions had been placed on a Classification/grade schedule with established wage ranges comparable to neighboring communities of the Commonwealth (see exhibit E pages 55-79 for details). Jennings requested Select Board endorsement of the completed report as it contained the salary survey and staffing structure of different communities. **Parker made a motion to accept the wage/classification compensation study. Reed seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).**

F. Correspondence to Towns of Groveland, Merrimac and to Pentucket Regional School District (PRSD) Administration with suggested amendments to PRSD Regional Agreement

Jennings stated responses had not yet been received from the other towns concerning the suggested amendments to the PRSD Agreement (see exhibit F pages 80-93 for details). Archibald stated it would take some time for each of the boards to receive and review the document. Archibald explained that the suggested amendments had been sent to Merrimac and Groveland in an effort for each town to be able to vote at their respective Annual Town Meetings if the towns were in agreeance. Jennings stated that Merrimac and Groveland Town Warrants closed in March and a placeholder could remain on the warrant until they received responses. Archibald stated if a consensus could not be reached in time for the Annual Town Meeting this item would need to wait until the 2024 Annual Town Meeting. **No motion was made at this time.**

G. Preview of January 24th 6pm School Committee meeting regarding FY24 budgeting

Archibald stated a tri-town meeting with the School Committee, Select Boards, and Finance Committees of the three Pentucket communities regarding the FY24 budget would take place January 24, 2023 (see exhibit G pages 94-95 for details). Jennings stated the Governor’s budget would not be known at the time of the meeting, but known costs in budgeting would be discussed at that time. Parker suggested the boards of the Pentucket community draft letters to the Governor’s Counsel highlighting the impact that less school funding would have on the quality of education delivered. The Select Board members agreed and Archibald volunteered to draft the letter from the West Newbury Select Board. **No motion was made at this time.**

H. Request for consent for KP Law to represent Whittier Tech, and for determination that no conflict of interest arises from dual representation of Whittier Tech and the Town of West Newbury

The Select Board discussed the correspondence received from KP Law that disclosed Whittier Regional Vocational Technical High School’s intention of retaining the firm as Special Counsel (see exhibit H pages 96-99 for details). The Select Board reviewed that a number of neighboring communities who had a student population attend the school were also represented by KP Law. After further discussion, the Select Board agreed conflicts of interest were not foreseen if KP Law represented the School District as Special Counsel. **Parker made a motion to sign the letter with the determination that the Town consents to KP Law**

representing Whittier School District as well as West Newbury. Reed seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).

I. Review proposed updates to Select Board meeting schedule

The Select Board reviewed the upcoming Select Board meeting dates and discussed known items that would be addressed across the next few meetings (see exhibit I page 100-101 for details). It was decided not to modify the meeting schedule at that time. **No motion was made at this time.**

J. Meeting minutes: November 21, 2022; December 5, 2022; December 12, 2022

See exhibit J pages 102-108 for details). **Parker made a motion to accept the meeting minutes for November 21, 2022, December 5, 2022, and December 12, 2022. Reed seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).**

Town Manager Updates

K. FY24 budget and capital planning calendar and packet

Reed asked, referring to the *Salary and Wage Worksheet* section under the Town Manager Budget Guidelines, if staff rate increases would wait until the implementation of performance evaluations (see exhibit K pages 109-119 for details). Jennings stated the belief that it would and explained that the language used within the FY24 Budget Policy Direction was the same language included in the past. Jennings emphasized that article request forms were the expectation for all proposed article this year. The Select Board discussed attending upcoming Finance Committee meetings. Jennings stated the meetings would take place every Wednesday from February 15th- March 22nd at 6pm. **No motion was made at this time.**

L. Updates re active/pending projects

Jennings this topic was informational to apprise the Select Board of the status of projects within the Town (see exhibit L pages 120-135 for details). The Select Board and Jennings discussed the Middle Street Bridge 401 verification and the need to seek renewals for previously issued permits as they were set to expire in April. Archibald suggested contacting the state to request an extension of the grant through the next year. Jennings discussed the need for tangible documents from the City of Newburyport in the form of a intermunicipal agreement and documented funding in the FY24 Capital Program for the Middle Street Bridge Project. Jennings stated those items would be helpful in the extension of the grant. Parker suggested enlisting help from the newly appointed State Representatives for West Newbury and Newburyport.

The Select Board and Jennings discussed the traffic safety law signed by Governor Baker that would improve the ability of the Town to request changes with speed limits and the addition of crosswalks on state roads. Archibald stated a petition to the Department of Transportation would be needed but the Town's ability to pursue changes would be increased. The Select Board discussed specific streets within the town where a reduced speed limit could increase the safety of community members. **No motion was made at this time.**

M. Follow-up from ratings review by Moody's

Jennings stated that Moody's had upgraded the town's bond rating from Aa2 to AAA, the highest rating, and the town now held the highest rating in both Standard & Poor's and Moody's (see exhibit M pages 136-140 for details). **No motion was made at this time.**

N. Follow up meeting assignment; placing items for future agendas

Archibald made a motion to adjourn. Parker seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain). Open session adjourned at 9:13pm.



Town of West Newbury Select Board

Tuesday, January 17, 2023 @ 5:30pm

381 Main Street, Town Office Building

www.wnewbury.org

Open Session Meeting Minutes-DRAFT

Open Session: Open session was called to order at 5:32pm by Chairperson Archibald

Participation at the Meeting:

David Archibald, Richard Parker, and Wendy Reed *Select Board Members*

Angus Jennings, *Town Manager*

James Blatchford, *Town Clerk*

Corrin Flaherty

Fred Chanania, Marcia Sellos-Maura

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; See agenda for details; https://www.youtube.com/watch?v=GcEbP_uD_5U
- Select Board to vote to close warrant for Spring Annual and Special Town Meetings on Monday, February 6th
- SAGE Center News: Jan/Feb 2023. Many upcoming events.; see details in current newsletter available on Town website www.wnewbury.org/senior-center/newsletters
- Call for volunteers! Open positions on Boards/Commissions/Committees. See www.wnewbury.org/volunteer
- Reminder to subscribe for emailed Town agendas/news/announcements at www.wnewbury.org/subscribe

Regular Business

A. Presentation of G.A.R. Memorial Library Strategic Plan, FY24-FY28 – Board of Library Trustees

Corrin Flaherty, Fred Chanania, and Marcia Sellos-Maura appeared in person to present the FY24-FY28 G.A.R. Memorial Library Strategic Plan. Chanania stated the Strategic Plan was filed in October and the Action plan was filed shortly before December 1, 2022 with the Massachusetts Board of Library Commissioners. Flaherty explained that annual submission of an action plan was required in order to receive state certification and remain eligible for state grants. It was stated the town received around \$8,000 per year in state grant funds. Flaherty explained that a Strategic Planning Committee, that consisted of 18 individuals, had been formed to establish goals/objectives to guide the work of the library over the next 5yrs and create a new mission and vision statement for the library. Flaherty reviewed the goals and objectives identified by the committee for the Strategic Plan (see exhibit A pages 2-34 for details). Flaherty and Chanania discussed various ways and ideas on how to meet the goals set in the strategic plan. The Select Board, Flaherty, and Chanania discussed the lack of meeting space within the library and using the grounds/courtyard in a better way. Chanania stated an architect had not reviewed the library structure as a large-scale was not within the bandwidth of the volunteer group and would require town staff and town resources. The Select Board thanked Corrin Flaherty, Fred Chanania, and Marcia Sellos-Maura for the presentation. **No motion was made at this time.**

Item C was taken out of order at this time.

B. Review/endorsement of proposal to CPC to seek Town Meeting approval to transfer funding from the Community Preservation Fund (Housing Reserve) to the Affordable Housing Trust

Jennings stated the intent was to put a proposal before CPC to transfer funds from the CPA designated Community Housing Fund into the Affordable Housing Trust (see exhibit B pages 35-42 for details). Reed stated the numbers listed were an estimate and would be updated to the actual numbers as of the end of

December before submission of the application. Reed stated the existing balance was around \$173,000 as a result of putting 10% in over time. Reed estimated the addition of 10% for the past year would bring the balance to around \$225,000. Reed stated work had been started on a draft grant agreement between the CPC and the Trust which would stipulate how the funds would be spent. The Select Board and Jennings discussed restrictions on the use of funds from the CPA and under the Affordable Housing Trust. Jennings clarified a vote at Town Meeting would be required each year to the transfer of the funds. **Parker made a motion to approve the funding and the eligibility mechanisms to transfer the CPA Community Housing balance to the Affordable Housing Trust Fund. Archibald seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).**

C. Review/endorsement of proposed updated Memorandum of Understanding Between Pentucket Regional School District and West Newbury Police Department to maintain the partnership between the District and the Police Department to provide a School Resource Officer

Chief Dwyer and School Resource Officer, Manny Terrero, appeared before the Select Board in person. Dwyer stated the School Resource Officer position was a full-time position during school hours (see exhibit C pages 43-57 for details). The primarily location would be at Pentucket, but certain days Officer Terrero would take trips to Page School. Dwyer informed the Select Board that over the next year Terrero would complete the required specialized training, including a 5-day Resource Officer Training Academy in April. The Select Board and Dwyer discussed the compensation agreed upon by the school district and the agreement in place with Groveland as a portion of the school was on Groveland Town land. **Parker made a motion to extend the current agreement with the Pentucket Regional School District for FY24 with the option to extend through fy25 and fy26. Reed seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).**

D. Review of Town of West Newbury Employee COVID-19 Exposure Protocol (last update July 25, 2022)

Jennings stated if no action was taken the protocols would continue to sunset and time missed from work due to Covid would be taken from accrued sick time (see exhibit D pages 58-63 for details). The Select Board discussed how other communities had phased out the requirement for employees to stay out of work due to close contact with a Covid positive individual. **No motion was made at this time.**

E. Meeting minutes: November 15, 2021

Reed noted clerical errors to be amended (see exhibit E pages 64-66 for details). **Reed made a motion to accept the minutes as amended. Parker seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain).**

Town Manager Updates

F. Recent publication of Final Credit Opinion, Moody's Investors Service

Jennings stated the information provided was a more detailed report of the AAA rating from Moody's (see exhibit F 67-76 for details). **No motion was made at this time.**

G. Year-to-date General Fund expenses and revenues

Jennings stated that Archibald had requested a mid-year report (see exhibit G pages 77-84 for details). The Select Board reviewed the year-to-date General Fund expenses and revenues. Reed questioned if the line item for hydrant mapping would occur as it appeared funds had not been used to date. Dwyer believed the expense had been paid the previous pay cycle as it is a single expense and is only billed once. **No motion was made at this time.**

H. Recent submittal by Climate Change Resiliency Committee of Expression of Interest (EOI) for FY24 Municipal Vulnerability Preparedness (MVP) Action Grant

Parker stated feedback on strengths and weakness should be received in the next few weeks from the

submission of the expression of interest (see exhibit H pages 85-105 for details).

I. Updates re active/pending projects

No items were discussed at this time.

J. Follow up meeting assignment; placing items for future agendas

No items were discussed at this time.

Reed made a motion to recess into Executive session. Parker seconded. Motion unanimously passed (3 Yes, 0 No, 0 Abstain). Open session recessed at 7:05pm.

Archibald made a motion to move into executive session in accordance with MGL Ch. 30A §21(a) 3, MGL Ch. 30A §21(a) 2, MGL Ch. 30A §21(a) 6, and MGL Ch. 30A §21(a) 7. Upon role call, motion unanimously passed (3 Yes, 0 No, 0 Abstain).

Open session returned from executive session at 10:00pm. Motion to adjourn unanimously passed (3 Yes, 0 No, 0 Abstain). Open session adjourned at 10:00pm.

Town Manager

From: Tony Collins [REDACTED]
Sent: Thursday, March 2, 2023 11:19 AM
To: Town Manager
Subject: Public Comment on Amendments to 23-27 TIP

[View this email in your browser](#)



Merrimack Valley Metropolitan Planning Organization March 2023



Public Hearings/Availability for Review and Comment
Audiencias Públicas / Disponibilidad para Revisión y Comentarios
公众听证会/可供审阅并提出意见
Draft Amendments to the
2023-2027 Transportation Improvement Program (TIP)

March 15, 2023 at 1 to 2 p.m. and at 6 to 7 p.m.

Virtual Meetings, Visit www.MVPC.org/News



Public Review of Proposed Draft Amendment to the 23-27 TIP

Notice is hereby given of the Availability of the following Draft Document for public review and comment:

- Draft Amendment #1 to the MVMPO FFYs 2023 to 2027 Transportation Improvement Program
- Draft Amendment #2 to the MVMPOs FFYs 2023 to 2027 Transportation Improvement Program

View a summary of the Draft Amendments [here](#)

Two (2) VIRTUAL Public Hearings to take place virtually:

Public Hearings (Virtual)

Date: Wednesday, March 15, 2023

Time: 1:00 p.m. to 2:00 p.m. (Hearing #1)

6:00 p.m. to 7:00 p.m. (Hearing #2)

Location: On-line through VIRTUAL access Only

Check www.mvpc.org/news/ for instructions about how to join the meeting virtually.

The Merrimack Valley Metropolitan Planning Organization



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MVPC Contact

Our mailing address is:

Merrimack Valley Planning Commission

160 Main St

Mvpc

Haverhill, MA 01830-5061

[Add us to your address book](#)

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You can [update your preferences](#) or [unsubscribe from this list](#).

MBTA Community Multi-Family Zoning District

Wayne Amoral (Chief Procurement Officer) is negotiating a contract with Dodson and Flinker.

I would expect we will set up a kick-off meeting in early March.

Please see and direct others to the project webpage. [MBTA Communities Multi-Family Housing District | Town of West Newbury MA \(wnewbury.org\)](#)

Housing Production Plan

MVPC is gathering information and will be scheduling an initial public meeting within the next 4-6 weeks.

Solar Facilities Bylaw

Town Counsel Robin Stein has submitted a final redlined draft with comments.

I am still waiting for maps from MVPC.

Housing Initiatives

I have developed a brief overview of the four housing related initiatives currently underway in town to help explain both the reason for the initiatives and what each is about.

- Affordable Housing Trust Action Plan
- Housing Production Plan
- MBTA Communities Multi-Family Overlay District Study
- ADU Bylaw Study

I am happy to have your input via email, phone or face-to-face.

Regarding the Affordable Housing Trust Action Plan:

The AHT is hosting a listening session on March 16 at 7 PM to solicit input on their [AHT Draft Action Plan](#). You may also submit input by email at housingtrust@wnewbury.org

Stormwater Management Regulation

The Stormwater Task Force last met on Feb 15. Following a discussion on the definition of “connect or contribute to a municipal stormwater system” – the Task Force recommends eliminating the language and instead giving the Stormwater Authority’s Designee (Board of Health) the authority to require any single and two-family residential project to install one or more BMP’s to assure adequate protection regardless of whether they connect or contribute to a municipal stormwater system. Making this change would remove the need to define “connect or contribute to” as the Stormwater Group and Horsley Witten agree it is open to interpretation without substantial qualifications built into the definition. The change also provides the Authority greater ability to require more than a single BMP.

Any single or two-family project outside the MS4 district would be a Tier Two project with the more limited submittal requirements, no reporting requirement AND

- All projects would require a minimum of one BMP sized to handle the 1” storm event.
- All projects would be prohibited from increasing runoff (rate and flow) from the project site.

Town Planner Report
March 7, 2023

- the BOH as the PGA's agent could require at its discretion one or more additional BMP's to control runoff.

Should the BMPs (even if installed as permitted) not adequately handle runoff, the BI could find the project to not be in compliance and could require additional actions to be taken until the project is deemed compliant. The applicant would have the option to be permitted as a Tier One project.

The Working Group recommends pricing as follows:

Tier 1: Base price \$500 plus an additional \$100 for each additional acre or fraction of an acre that would be rounded to the next full number

Ex: 1 acre to 1.49 acres = \$500, 1.5 acres to 2.49 acres = \$600, 2.5 acres to 3.49 acres = \$700...

Tier 2: Base price \$250 plus an additional \$50 for each additional acre or fraction of an acre that would be rounded to the next full number

Ex: 1 acre to 1.49 acres = \$250, 1.5 acres to 2.49 acres = \$300, 2.5 acres to 3.49 acres = \$350...

Other Bylaws under consideration for amendments:

ADU Bylaw – Draft regulations being developed by the Board.

Wireless Bylaw – Existing bylaw may be unenforceable due to changes in state regulations.

Adult Use Marijuana Bylaw – Must be brought before Town Meeting. Consider a six-month time frame to prepare.

Steep Slopes Bylaw – Consider new bylaw to protect environment from impacts of developing on steep slopes.



Maura Healey, Governor
Kimberley Driscoll, Lieutenant Governor
Gina Fiandaca, Secretary & CEO
Jonathan L. Gulliver, Highway Administrator



March 3, 2023

Subject: Newburyport/West Newbury – Chapter 85 Bridge
Plummer Spring Road and Middle Street over the Artichoke River
Use of Non-Compliant Safety Hardware

Micah Morrison, P.E.
Project Manager
BSC Group, Inc.
803 Summer Street
Boston, MA 02127
[REDACTED]

Dear Mr. Morrison:

MassDOT has completed its review of your proposal to include a non-MASH-compliant w-beam guardrail system on the subject Chapter 85 bridge replacement project in Newburyport and West Newbury. It is understood that the design plans for this project include a steel w-beam guardrail system placed immediately in front of a prefabricated modular block retaining wall. It is also understood that this proposed safety hardware system has not been crash tested to MASH criteria and therefore does not comply with MASH requirements.

MassDOT's Design Solutions Committee discussed this issue at its meetings in January and February and considered design review comments provided by Gill Engineering on behalf of MassDOT. Our reviews have concluded that your proposed design, as presented in a summary report dated 1/26/23, is appropriate and acceptable for this location. We make particular note of a reference on the plans to Section 3.3.2.4 of the MassDOT Bridge Manual, which requires among other things that the wall be designed to withstand a 10-kip impact load. We also make further note of a review comment from Gill Engineering to include a requirement in the contract special provisions that the wall design and shop drawings be stamped by a Massachusetts P.E.

MassDOT has also determined that the justification provided in your report dated 1/26/23, for using this non-compliant safety hardware is sufficient and we have determined that the proposed system will closely conform with a compliant system and will provide the best possible protection to shield the hazards given the anticipated vehicular travel speeds, the roadway geometry and the physical constraints at the affected location.

Therefore, the detail drawings included with your report dated 1/26/23 are acceptable for inclusion in the construction contract bid documents for this project, provided that you also include a contract requirement for wall design and shop drawing approval by a Massachusetts P.E., as described above.

Thank you for your attention to this matter. If you have any further questions, please contact Tom DiPaolo, Assistant Chief Engineer, at thomas.dipaolo@dot.state.ma.us.

Sincerely,

A handwritten signature in cursive script that reads "Carrie Lavalley".

Carrie Lavalley, P.E.
Chief Engineer

cc: Shawn Rouleau, Bridge Technical Reviewer
Fred Nohelty, Bridge Technical Review Supervisor
Alex Bardow, State Bridge Engineer
Kathryn Eagan, BSC Group



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

100 Cambridge Street 9th Floor Boston, MA 02114 • 617-292-5500

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Gary Moran
Acting Commissioner

February 28, 2023

City of Newburyport & Town of West Newbury
c/o Sara Kreisel – BSC Group, Inc.
803 Summer Street
Boston, MA 02127

Re: Administrative Completeness Review – Waterways License/Permit App. No: 22-WW01-0128-APP
Middle Street & Plummer Spring Road Rights-of-Way, Waters of Artichoke River (Artichoke Upper Reservoir), West Newbury and Newburyport, Essex County

Ms. Kreisel:

The 30-day public comment period for the referenced Waterways License/Permit Application ended on January 23, 2023. At the time of this letter, the Department of Environmental Protection Waterways Regulation Program (the “Department”) has not received any comment letters by email or U.S. Postal Mail.

The Department is performing its Administrative Completeness Review and has determined that the following information must be submitted before the technical review for the project can be initiated and the Chapter 91 Waterways License/Permit for the project can be issued:

- 1) Pursuant to 310 CMR 9.13(1)(a), please provide proof of notification to abutters and mailing list by providing a copy of the signed certified mail return receipt cards;
- 2) Plan edits will be sent under separate cover once technical review is completed.
- 3) Any additional plan edits, documentation, and other information requested by the Department during technical review of this application, or a statement by the Applicant indicating that no further information will be forthcoming in response to such request.
- 4) Provide documentation as to the status of all other applicable state regulatory approvals, identified on the List of Environmental Regulatory Programs pursuant to 310 CMR 9.33.

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.
TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

February 28, 2023

- 5) Final Mylar License Plans pursuant to 310 CMR 9.11(3)(c)(1) will be required upon notice from the Department and prior to issuance of the Chapter 91 Waterways License.

In accordance with 310 CMR 9.11(4)(a) please forward the information above to my attention as soon as practicable but no later than August 28, 2023, which is 180-days from the date of this letter. Pursuant to 310 CMR 4.00, if the Department does not receive the requested information by the date specified, then the Department is not required to consider it when making its determination on the administrative completeness of this application.

Additional information may be required as the Department continues its technical review of the application. If you have any questions, please contact me at ivan.morales@mass.gov. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ivan Morales', with a horizontal line extending to the right.

Ivan Morales
Environmental Analyst
Waterways Regulation Program

Cc: Angus Jennings, Town of West Newbury

John-Eric White, City of Newburyport

Encl: