



Town of West Newbury
Board of Selectmen
Monday, June 15, 2020 @ 4:00pm
381 Main Street, Town Office Building
www.wnewbury.org

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2020 JUN 11 PM 3:50

AGENDA

Executive Session: 4:00pm by remote participation

- ❖ 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 (*proposed Coffin Street development*).

Open Session: 4:30pm by remote participation (*see 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.
- Reminder to subscribe for emailed Town news/announcements at <https://www.wnewbury.org/subscribe>

Regular Business

- Informational presentation regarding West Newbury Police Department policies and protocols governing the use of force – *Police Chief Durand*
- Review and approval of draft Board of Selectmen comments regarding Coffin Street/Main Street 40B application for 40B site eligibility, due to MassHousing on Tuesday, June 16th
- Discussion of Special and Annual Town Meeting scheduled for Saturday, June 27, 2020 at 10am, incl. health/safety considerations resulting from COVID-19, and discussion of potential reduction in quorum requirement as authorized by recent legislation
- Request for authorization of Saturday painting work by contractor for the Brake's Hill water tank
- Review and approval of Board of Selectmen Report for inclusion in FY19 Town Report
- Follow up meeting assignments; and placing items for future agendas

Addendum to Meeting Notice regarding Remote Participation

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

Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at www.wnewbury.org. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner:

GoToMeeting

Phone: (408) 650-3123

Access Code: 350-521-085

Or, from computer, tablet or smartphone: <https://global.gotomeeting.com/join/417365965>

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.



WEST NEWBURY POLICE DEPARTMENT

401 Main Street, West Newbury, MA 01985

978-363-1213
978-363-1114 fax

Jeff Durand, Police Chief
durand@westnewburysafety.org

TO: Angus Jennings, Town Manager

FROM: Jeff Durand, Chief of Police

DATE: June 11, 2020

RE: Use of Force Policy/Training

Angus, I sent you our policy on use of force. This policy is part of the departments accreditation process. I can provide other stats for you, not sure how much info you need.

As a department we train twice a year with firearms, and during that training we also go over use of force training. We also train yearly with defensive tactics technics which also include use of force options. This year we are teaching a class specific to de-escalation.

We have also taken classes on bias based policing and other related classes. I did not find one complaint of a use of force issue in town filed against any officer on the department. 99% of the training is mandatory through the MPTC, municipal police training committee, and is reviewed and approved for departmental training through out the state.



West Newbury Police

USE OF FORCE

POLICY & PROCEDURE NO. 1.01	ISSUE DATE: 08/25/16
	EFFECTIVE DATE: 08/25/16
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.3.1; 1.3.2; 1.3.3; 1.3.5;	REVISION DATE: 08/25/20

I. GENERAL CONSIDERATIONS AND GUIDELINES

Because of their law enforcement and peacekeeping role, police officers will be required at times to resort to the use of physical force to enable them to fully carry out their responsibilities. Police officers are confronted continually with situations requiring or resulting in the use of various degrees of force to affect a lawful arrest, to ensure public safety, or to protect themselves or others from harm. The degree of force used is dependent upon the facts surrounding the situation the officer may face. Only a reasonable and necessary amount of force may be used. The degree of force the officer is forced to use often depends upon the amount of resistance or threat to safety the situation produces.

In any use of force, the goal of the officer's use of force is to have the subject **STOP** his/her violent activity, imminent threat of violent activity, resistance to lawful control, etc... A subject is stopped when [s]he is effectively prevented from using or threatening the imminent use of force. Once the subject is stopped, the officer must immediately stop the actual application (i.e. actual striking) of force, although staying prepared for use again if necessary.

II. POLICY

It is the policy of the department that:

1. Officers use only the force that is reasonably necessary to accomplish lawful objectives such as to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and others. [1.3.1]
2. The mere presence of an officer does not constitute a use of force.

III. DEFINITIONS

- A. *Force*: Any physical effort used to control, compel, or repel.
- B. *Less-Lethal Force*: (Non-Deadly Force) that force which is not likely or intended to cause serious bodily harm or death.
- C. *Lethal Force*: (Deadly Force) that force which is likely or intended to cause serious bodily harm or death.
- D. *Bodily Harm*: A bodily injury that does **not** create a substantial risk of death; causes serious and/or permanent disfigurement; or results in significant loss or impairment of the functioning of any body part.
- E. *Serious Bodily Harm*: (Serious Bodily Injury) A bodily injury that creates a substantial risk of death; causes serious and/or permanent disfigurement; or results in significant loss or impairment of the functioning of any body part.
- F. *Taser*: The commonly used name for the Electronic Control Weapon (ECW) as utilized by this department, specifically, the Taser X-26P system.

IV. PROCEDURES

A. *Use of Force by Sworn Officers*

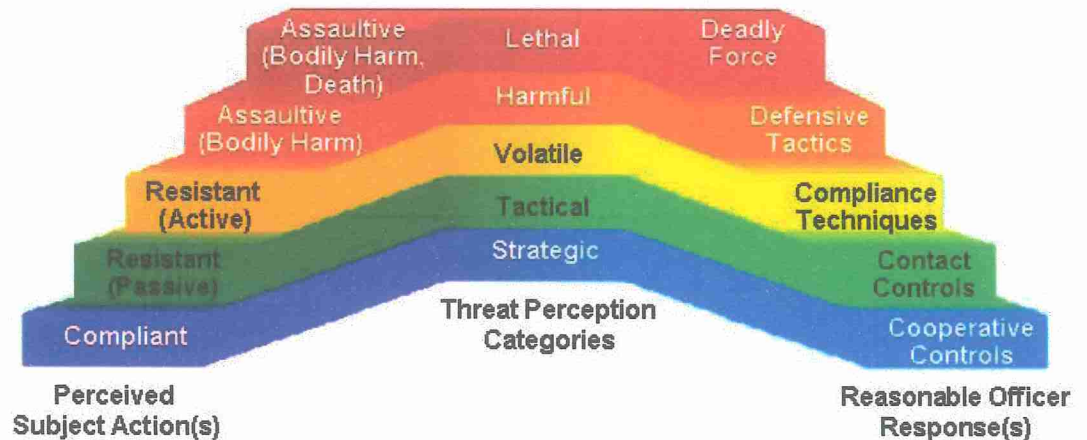
1. SWORN OFFICERS: Officers use only the force that is reasonably necessary to accomplish lawful objectives such as to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and others. [1.3.1]
2. When exigent and unforeseen circumstances cause officers to deviate from the provisions of this rule, officers are still expected to act with intelligence, sound judgment and in full conformity with both state and federal laws and constitutional provisions. Any such deviations

from the provisions of this rule shall be examined on a case by case basis

3. It is the balanced combination of **perceived subject levels of resistance, perceived threat categories, and reasonable officer response levels** that make up a reasonable use of force. Only when there is a reasonably balanced (matched) threat/risk perception and perceived subject threat level, may an officer apply a balanced (matched level) response.
4. Officers escalate or de-escalate to a higher or lower level of force depending on threat perception and perceived subject's response to the officer's actions. Officers must always be prepared to defend their use of force choice and give explanation why a lower level of force could not have been used.
5. **PERCEIVED CIRCUMSTANCES:** The level of force used by an officer shall be a response based upon:
 - a. **Threat Perception** - the reasonable officer's perspective of the situation in reference to the severity of any crime, the existence of an immediate safety threat to the officer or others, and the degree of compliance/non-compliance from the subject. The various levels of Threat Perception Categories are:
 - 1) Strategic: Aware of your job and surroundings, baseline safety precautions, accepted occupational risks.
 - 2) Tactical: Heightened sense of facts, some enforcement interaction is occurring or is about to start.
 - 3) Volatile: The seriousness of the situation is increasing and so is the potential for the situation to develop into possible harm to the officer or others. Reasonable control needs to be gained.
 - 4) Harmful: Physical harm to the officer or others can/will/is occur(ing).
 - 5) Lethal: Death or Serious Bodily Injury to the officer or another will/is occur(ing).
 - b. **Perceived Subject Action**- the subject action as perceived by the reasonable officer include:
 - 1) Compliant: Within the normal realm of interaction. The vast majority of officer/subject encounters are positive and the subject fully cooperative. The officer maintains or gains compliance to desired directives via respect, acceptance, and verbalization skills.
 - 2) Passive Resistive: In some confrontational contacts, the subject may offer a preliminary level of non-compliance. The subject's

resistance is passive, with the subject offering no physical or mechanical energy enhancement toward the resistance effort.

- 3) **Active Resistive:** The subject's non-compliance has become more active in scope and intensity. The indifference to control has increased to a level of energy- enhanced physical or mechanical defiance.
- 4) **Assaultive (Bodily Harm):** The officer's attempt to gain lawful compliance has met with active, hostile non-compliance, culminating in an actual or perceived attack on the officer or others. The scope and severity of the attack would support the reasonable officer's perception that the actions of the attacker would not result in anyone's death or serious bodily harm.
- 5) **Assaultive (Serious Bodily Harm/Death):** This category represents the least encountered, yet the most serious threat to officer safety. Here the officer can draw a reasonable conclusion that he/she or another would be subjected to death or great bodily harm as a result of the subject's attack.



6. REASONABLE OFFICER RESPONSES

- a. **Cooperative Controls:** (Compliant) - Includes the fundamentals of professional training, capitalizing on the subject's acceptance of authority by the general population through the use of a variety of controls including; communication skills, proper restraint applications, etc...
- b. **Contact Controls:** (Passive Resistant) – The officer must deploy tactical strategies to proportionately gain control and cooperation through "hands on" techniques used to guide or to direct the subject. The primary force component at this level could be leverage, strategic stabilization, and direction.

- c. **Compliance Techniques:** (Active Resistant) – The officer must deploy sufficient counter force to overcome this resistance, while remaining increasingly vigilant for more aggressive behavior from the subject. At this stage, the force forms could include control and restraint techniques, distraction techniques, etc...

Weapons and techniques that may be used include hands, Pepper Spray, defensive baton, and ECW in “Drive Stun” mode.

- d. **Defensive Tactics:** (Assaultive) – The officer is justified in taking appropriate steps to immediately cease the assaultive action and to gain control of the subject. Force options could include impact techniques (personal weapons, baton and other impact tools), etc...

Weapons and techniques that may be used include hands, baton, ECW, and 12 SIM (12 ga. beanbag shotgun).

- e. **Deadly Force:** (Lethal) – The officer is now confronted with an assaultive act that reaches the ultimate degree of danger. Absolute and immediate tactics must be deployed to stop the lethal threat and secure conclusive control. Force options could include those leading to permanent debilitation or even death, including firearms and weapons of available means.

Weapons that may be used include duty pistol, patrol rifle, and, in exigent circumstances, weapons of available means (knife, 12 SIM shots to the torso or head, baton strikes to head or chest, ECW deployment to head, face, or eyes).

B. Use of Deadly Force [1.3.2]

1. Officers are authorized to use deadly force to:
 - a. Protect the officer or others from what is reasonably believed to be a threat of death or serious bodily injury; and/or
 - b. To effect an arrest only if¹:
 - 1) The arrest is for a felony;
 - 2) The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
 - 3) The officer reasonably believes (i.e. has “probable cause” to believe) that:
 - a) The crime for which the arrest is to be made involved conduct including the use or threatened use of deadly force; or

- b) There is a substantial risk that the person to be arrested will cause death or serious bodily harm if such person's apprehension is delayed.
2. Where tactically permissible and practical prior to discharging a firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

C. Deadly Force Restrictions

1. **WARNING SHOTS:** Firearms shall not be discharged as a bluff, warning, or signal shot. [1.3.3]
2. **MOVING VEHICLES:** Officers should refrain from discharging a firearm at a moving or fleeing vehicle unless any occupant is using or threatening to use deadly force. Officers shall not shoot when the vehicle is no longer an imminent threat.
3. Officers may use deadly force to euthanize an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured when the officer reasonably believes that deadly force can be used without harm to the officer or others

D. Use of Less - Lethal Force

1. Where deadly force is not authorized, officers may use only that level of force that is reasonably necessary to bring an incident under control.
2. Officers are authorized to use department-approved, less-lethal force techniques and authorized equipment to:
 - a. Protect the officer or others from physical harm;
 - b. Restrain or subdue a resistant individual, while making a lawful arrest or placing a person in protective custody; and/or
 - c. Bring an unlawful situation safely and effectively under control.
3. The mere placing of handcuffs on a prisoner will not be construed to be a use of physical force. Use of restraining devices is mandatory on all prisoners, unless in the officer's judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (e.g., very young juvenile, handicapped, injured).
 - a. It is best practice that all prisoners be handcuffed with their hands to the rear. Officers may use multiple sets of handcuffs or the restraint belt to affect this on very large or injured prisoners. Handcuffing in the front is discouraged as a dangerous practice and should only be done after careful consideration of the hazards involved.

E. After Care

1. ELECTRICAL WEAPONS: Suspects subdued by the use of an electrical weapon (“Taser”) must receive specific after care. See the department policy on ***Electronic Control Weapon*** for further information.
2. CHEMICAL WEAPONS:
 - a. Pepper Spray
 - 1) Suspects subdued through the use of pepper spray may need to be decontaminated. Officers shall not decontaminate detainees while they are violent or assaultive.
 - 2) Remove suspect from contaminated area. If the subject was sprayed in a closed room or vehicle, ventilate the area.
 - 3) Suspects should be instructed to try to be calm and not to touch their face. If wearing contact lenses, remove as soon as reasonably possible.
 - 4) Decontamination wipes may be used if available.
 - 5) Allow suspect access to a running hose, holding cell sink or eye wash station if circumstances permit. The effected area may be washed with soap and water.
 - 6) Creams and oils should be avoided as they lock the capsicum against the skin.
 - 7) If symptoms such as breathing difficulties, gagging, or profuse sweating persist, or a loss of consciousness occurs, seek medical attention.
 - b. Tear Gas – CN, CS, CR
 - 1) Remove suspect from contaminated area to fresh air. Wind or a fan blowing on the suspect will remove particles.
 - 2) Avoid rubbing eyes. Wash affected area with soap and water.
 - 3) Remove contaminated clothing.
 - 4) Exercise caution to avoid becoming cross contaminated.

F. Medical Attention [1.3.5]

1. Officer(s) shall, as soon as is practically and safely possible, render first aid and evaluate the need for further medical attention or treatment for individuals injured as the result of the use of force. This

includes any officer on the scene or arriving on the scene after the force was used.

2. Injury to Subject or Officer:

- a. The officer shall promptly notify the Duty Sergeant or Supervisor of the incident.
- b. The officer shall attempt to locate and identify all witnesses, and obtain and document their statements.
- c. The officer shall prepare and submit all required reports. If more than one officer is involved in a use of force incident resulting in an injury, each officer shall complete a report outlining his/her actions and observations in the incident. (See **Reporting Use of Force**)

3. Sergeant

- a. If available, the Duty Sergeant shall immediately respond to the scene of any incident where, as the result of the application of physical force, a subject or officer is injured, or a subject has a visible injury, or complains of injury or discomfort and requests medical attention, and
- b. [S] he shall:
 - i. Ensure that officers receive any necessary assistance, including medical treatment, and that any injuries to officers are properly documented;
 - ii. Ensure that the need for medical treatment for the subject is properly evaluated and provided;
 - iii. Determine if the Chief should respond to the scene and the level of investigative services to be utilized (including photos, measurements and diagrams.) If an injury or complaint of pain exists, Sergeants are encouraged to obtain photographs; and,

Note: A photograph showing no injury may be just as important as one which shows injury.

- c. If the Duty Sergeant is unavailable, the senior West Newbury police officer or Supervisor shall respond and assume the above duties.
- 4. Any person requesting and/or deemed in need of immediate medical attention shall be evaluated by medical personnel or transported (in accordance with the departmental policy on **Transporting Prisoners**) to the appropriate hospital or medical facility. All medical treatment received shall be noted in the officer's report.**
- a. If the suspect displays Impaired thinking, disorientation, hallucinations and/or delusions, intense paranoia, violent and/or

bizarre behavior AND during the arrest exhibits great strength, a diminished sensitivity to pain, the individual may be showing signs of Excited Delirium. During the arrest or immediately after the struggle sudden death may ensue. Arrestees displaying these symptoms should be checked by medical personnel.

- b. Persons suffering from Cocaine Intoxication, particularly if additional alcohol is used, are subject to increased blood pressure, heart rate and body temperature. Sudden death may occur in such persons. Arrestees displaying these symptoms should be checked by medical personnel.
- c. Psychiatric patients who display hyperthermia (over heating), are in and out of consciousness and have lumpiness of skeletal muscles may be suffering from Neuroleptic Malignant Syndrome and may also be prone to sudden death. Arrestees displaying these symptoms should be checked by medical personnel.

G. **Reporting Use of Force:** Officers and assisting officers (where applicable) shall report all such incidents, including animal destruction incidents, on a department Incident Report, addressed to the Chief, in the "To: From:" format.

Reports will be as clear and concise as possible, and shall include all particulars of the case, such as subject actions and/or threats made prior to the use of force incident, distances, nature of the crimes committed, any photographs taken of the subject, nature of injuries sustained by the subject and officers (if applicable), and medical treatment received.

Upon completion of the report, a signed copy will be sent directly to the Chief of Police and another copy filed as an Incident Report.

See West Newbury Police Policy and Procedure No. 1.03, *Use of Force Reporting*.

¹ *Com. v. Klein*, 372 Mass. 823, 363 N.E.2d 1313 (1977)



West Newbury Police

USE OF FORCE REPORTING

POLICY & PROCEDURE NO. 1.03	ISSUE DATE: 03/01/2020
	EFFECTIVE DATE: 03/01/2020
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.3.6; 1.3.7; 1.3.8;1.3.13	REVISION DATE: 03/01/2024

I. GENERAL CONSIDERATIONS AND GUIDELINES

The manner in which police officers use deadly force/ firearms is an extremely critical issue to the department and one that generates intense public scrutiny. When these incidents occur they demand a thorough and complete inquiry into all aspects of the incident. Only through an exhaustive inquiry can the facts of the incident evolve and public confidence be maintained.

II. POLICY

Reportable Use of Force: It is the policy of the West Newbury Police Department to require a written report any time an employee:

1. Discharges a department issued or authorized firearm, for other than training or recreational purposes. The intentional discharge of firearms for ballistic testing, or firearms maintenance shall be excluded from the reporting requirement.
[1.3.6(a)]

2. Takes action that results in, or is alleged to have resulted in, the injury or death of another person [1.3.6(b)];
3. Applies force through the use of a lethal or less-lethal weapon [1.3.6(c)]; or
4. Applies weaponless physical force which results in an injury to either the department member or another person. [1.3.6(d)].

III. DEFINITIONS

- B. *Weaponless Physical Force*: The application of force and hand control techniques that have little or no chance of producing injuries when gaining control over, or subduing non-compliant or resisting persons. These techniques include, but are not limited to: physical touching, gripping or holding, frisking, pain compliance measures, pressure point application, handcuffing or other custodial procedures.
- C. *Employee*: For the purposes of the application of this policy, any person officially affiliated with the department whether full or part time.
- D. *Reportable Use of Force*: A level of force used by a member of this department which would trigger a report as directed under this policy.

Note: The use of handcuffs as a restraint; physical removal of peacefully resisting demonstrators; display of weapon (unholstering or handling of firearm or other weapon); discharge of a weapon to euthanize an animal, the presence of police department personnel or animals, or the use of verbal commands are not considered a use of force for this policy.

IV. PROCEDURES

A. Employee Responsibilities

1. Each employee who used reportable force as defined in this policy shall:
 - a. Immediately following a reportable use of force incident, employees shall notify a shift supervisor. The officer shall complete a "Response to Resistance Form" and submit it to their supervisor as soon as is practicable. This form records the particulars of the event, to include a description of

injuries sustained by any party, reason for subject contact, and witness information.

- b. Complete an incident report unless the requirement of such report would violate the officer's Fifth Amendment protections and/or if transactional immunity for said officer(s) would be triggered. The report shall be submitted in writing. At a minimum, the report shall include:
 - 1) Actions of the suspect that necessitated the use of force;
 - 2) Why the employee used force;
 - 3) What force was used by the employee;
 - 4) The effect of the force on the suspect;
 - 5) Injuries to the suspect, employees, or others;
 - 6) Complaints of injury by the suspect or others; and
 - 7) Medical treatment received or refused by the suspect or others.
- c. An injured employee shall submit the required reports as soon as practical.
- d. Any employee, whose action(s) or use of force results in death or serious physical injury, shall be removed from line-duty assignment, and placed on paid administrative leave, pending an administrative review. [1.3.8]
- e. .

B. Supervisors/Investigators Responsibilities

1. Response and Investigation

- a. A supervisor shall respond to and investigate any incident where force results in death or serious bodily injury.
- b. A supervisor directly involved in an incident shall not investigate the use of force in that same incident. [1.3.8] Another supervisor or the Chief of Police shall investigate. If deemed necessary by the Chief of Police an outside investigator/agency shall be contacted to investigate such incidents involving a supervisor.
- c. In cases involving death or serious bodily injury a qualified outside agency shall be notified and shall supervise or assign supervision of the investigation.
- d. In those instances where death has or is likely to occur, the District Attorney's office shall immediately be notifiedⁱ.

- e. In conducting the investigation, the supervisor shall:
 - 1) document the suspect's statements;
 - 2) document injuries sustained by the employee, suspect, or others;
 - 3) arrange medical treatment needed or requested;
 - 4) identify and interview witnesses;
 - 5) document, as necessary, the scene of the incident, injuries, property damage, etc.; and
 - 6) Interview any medical care provider concerning the injury and its consistency with the reported use of force.

2. *Employee Statement/Reports*

- a. The investigating supervisor may:
 - 1) Order the involved employee(s) to submit a full and complete report of the incident in writing; or
 - 2) Schedule a time by which an employee involved in the incident must meet with department investigators and submit a written report of the incident.
- b. The investigating supervisor conducting the investigation shall file a preliminary report prior to the conclusion of the tour of duty.
- c. The investigating supervisor will complete a detailed investigative report and submit it to the Chief of Police as soon as practical after the completion of the investigation.
- d. For further information, see the department policies on Internal Affairs.

C. *Administrative Review:*

- 3. The Chief of Police shall be responsible for the following:
 - a. Ensuring that a thorough investigation was conducted and that all reports were prepared and submitted;
 - b. The investigative Sergeant will conduct a supervisory review of all reports submitted along with any accompanying comments or recommendations to determine whether the use of force was in compliance with department policy and procedures. Such review may not be conducted by any person who was involved in the incident. [1.3.7]; and

4. The Chief of Police will conduct an administrative review of each report and shall take appropriate action.[1.3.7]

D. Use of Force Reports

1. The use of Force Reports shall be filed in the Incident file cabinet as well as in the Investigative Sergeants office.
2. Annual Analysis: THE SERGEANT SHALL CONDUCT AN ANNUAL ANALYSIS OF ALL USE OF FORCE REPORTS AND SUBMIT A WRITTEN REPORT TO THE CHIEF. SUCH ANALYSIS AND CONCLUSIONS MAY INDICATE THE NEED FOR TRAINING, EQUIPMENT UPGRADES, OR POLICY MODIFICATION. THE REVIEW SHOULD CONSIDER: [1.3.13]
 - a. A comparison of the total number of use of force incidents compared to previous years;
 - b. Type of force used;
 - c. Type of weapons used;
 - d. Effectiveness of the use of force techniques;
 - e. Nature of the incident that required force;
 - f. Intensity of attack or resistance;
 - g. Suspect demographics;
 - h. Day of the week, time of day, shift
 - i. Years of experience of employee(s) involved;
 - j. Uniform or plain clothed employee;
 - k. Severity of injuries to employee or suspect, if any; and
 - l. Summary breakdown of the disposition of the administrative reviews (justified/not justified, compliance with policy, etc.)

Police Budgets as percent of total, Comparative (Random) Sample

Town	Population (2015)	Police Budget	Overall Budget	Police %	Notes
Westminster	7,570	\$ 1,917,343	\$ 23,026,369	8.3%	9.3% if incl. dispatch
Groveland	6,750			8.0%	
Athol	11,654	\$ 1,625,000		7.8%	10.0% if incl. dispatch
Phillipston	1,747			7.5%	
West Newbury	4,541	\$ 1,192,167	\$ 16,538,680	7.2%	9.2% if incl. dispatch
Newbury	6,971			7.0%	7.8% if incl. dispatch
Montague	8,272			6.9%	
Shelburne	1,848	\$ 311,365	\$ 4,581,854	6.8%	
Hadley	5,352			6.7%	
Sterling	7,992	\$ 1,649,185	\$ 24,323,887	6.7%	not incl. dispatch
West Boylston	7,894	\$ 1,707,722		6.5%	
West Tisbury	2,896	\$ 1,276,894	\$ 19,777,899	6.5%	
Lanesborough	2,991			6.4%	
Leicester	11,334	\$ 2,033,475		6.3%	
Gill	1,492	\$ 202,035	\$ 3,461,000	5.8%	
Ware	9,888	\$ 1,713,475	\$ 29,359,406	5.8%	
Halifax	7,834	\$ 1,406,321	\$ 24,541,088	5.7%	Does not include Animal Control (separate department) or benefit payments such as health insurance or retirement assessment or capital budget
Douglas	8,728			5.7%	We do animal control under an inter-municipal agreement with several other towns and don't show benefits by department in our budget. I also don't show the cost of any special insurance coverages in the police budget, as these are rolled into one general insurance line item.
Carlisle	5,245	\$ 1,696,035		5.5%	
Warwick	762	\$ 60,000	\$ 2,000,000	3.0%	
Conway	1,881	\$ 128,670	\$ 6,165,362	2.1%	
			AVERAGE	6.3%	

Note: Comparison between towns may be difficult; due to different cost in the PD budget, population, economic status of residents, number or road miles, unusual businesses and events, etc.

Source: Angus Jennings, Town Manager, based on responses to inquiry posted to Small Town Administrators & Managers (STAM) listserv, 6/11/20



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 |
FAX: 617.854.1091 | www.masshousing.com

Videophone: 857.366.4157 or Relay: 711

April 2, 2020

David W. Archibald, Chairman
Board of Selectmen
Town of West Newbury
381 Main Street
West Newbury, MA 01985

**RE: Proposed 40B—The Cottages at Rolling Hill
West Newbury, MA
MH ID No. 1077**

Dear Mr. Archibald:

The Massachusetts Housing Finance Agency (MassHousing) is currently reviewing an application for Site Approval submitted by Cottage Advisors MA, LLC (the Applicant). The proposed development will consist of 152 units of housing on approximately 75 acres of land located at 28 Coffin Street and 566 Main Street in West Newbury, MA.

The site approval process is offered to project sponsors who intend to apply for a Comprehensive Permit under Chapter 40B. MassHousing's review involves an evaluation of the site, the design concept, the financial feasibility of the proposal, and the appropriateness of the proposal in relation to local housing needs and strategies. As part of our review, we are soliciting comments from the local community and we would appreciate your input. You also may wish to include in your response, issues or concerns raised by other Local Boards, officials or other interested parties. Pursuant to the new Massachusetts General Laws Chapter 40B regulations (760 CMR 56.00) your comments may include information regarding municipal actions previously taken to meet affordable housing needs such as inclusionary zoning, multifamily districts adopted under G.L. c.40A and overlay districts adopted under G.L. c.40R. Your comments will be considered as part of our review.

We have been informed by the Applicant that the Town has received a copy of the application and plans for The Cottages at Rolling Hills and that the Applicant has met with the Town to discuss the proposal. Please inform us of any issues that have been raised or are anticipated in the Town's review of this application. We request that you submit your comments to this office by Tuesday, June 16, 2020, within 75 days of the date of this letter is issued, so we may process this application in a timely manner.

During the course of its review, MassHousing will conduct a site visit pursuant to 760 CMR 56.02. In light of the circumstances surrounding COVID-19, MassHousing staff has been directed to refrain from scheduling in-person meetings with external parties at this time and will conduct this site visit independently. As such, we strongly encourage local officials to visit the Site independently, as well. MassHousing will subsequently hold a conference call to address any initial questions and/or concerns about the Site. Please notify me promptly if any representatives of your office or of other Local Boards would like to be included in the conference call

Please note that if and when an application is submitted for a comprehensive permit, assistance is available to the West Newbury Zoning Board of Appeals (ZBA) to review the permit application. The Massachusetts Housing Partnership's (MHP) Ch. 40B Technical Assistance Program administers grants to municipalities for up to \$15,000 to engage qualified third-party consultants to work with the town's ZBA in reviewing the Chapter 40B proposal. For more information about MHP's technical assistance grant visit MHP's web site, www.mhp.net/40B or e-mail MHP at kbosse@mhp.net.

If you have any questions, please do not hesitate email me at mbusby@masshousing.com.

Thank you for your assistance.

Sincerely,

Michael Busby
Relationship Manager

cc: Angus Jennings, Town Manager



Town of West Newbury

Board of Selectmen

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

NOTIFICATION TO ABUTTERS

Application to MassHousing for 40B Project Eligibility / Site Approval Application
Proposed Comprehensive Permit for property at 28 Coffin Street and 566 Main Street

The Board of Selectmen very recently received a developer's application to MassHousing for 40B Project Eligibility/Site Approval. The proposal is for 152 units on a ~75 acre site that includes 566 Main Street and 28 Coffin Street.

The complete application package is posted to the Town website at:

<https://www.wnewbury.org/masshousing-40b-project-eligibility-site-approval-application>

What does Project Eligibility / Site Approval Mean?

The MassHousing project eligibility/site approval process is not the comprehensive permit (40B) application; it is the required first step in the process. The developer is required to receive project eligibility/site approval from MassHousing in order to apply for a comprehensive permit locally.

If that happens, the developer would be eligible to file a 40B comprehensive permit application with the Zoning Board of Appeals, and the ZBA would hold public hearings at that time. As a project abutter, you would receive formal public notice at that time.

Comment Period

The Board's receipt of this notice from MassHousing would normally begin a 30-day comment period. We contacted MassHousing to urge that this process be substantially extended (if not tabled altogether) until things return to normal. We have received confirmation that the comment period was extended to 75 days.

This means the Town's comments to MassHousing on the Project Eligibility/Site Approval application are due on or before Tuesday, June 16th.

The Town's comments should be sent in a single package, so we are requesting that all interested parties including residents, town departments and Boards/ Commissions/ Committees review the application and provide comments to my office on or before June 1st. This is to allow time for the Town Manager's office and the Board of Selectmen to review all comments and prepare an additional comment letter from the Board to MassHousing that is reflective of the other comments received. In addition to preparing

its own comments, the Board would include other correspondences received as attachments to its submittal to MassHousing on/before June 16th.

Please note that the Town is actively reviewing recent and tracking proposed COVID-19 related legislation to determine whether there may be any further extension of the 75-day comment period, but at this time we are proceeding with the expectation that the deadline for Town comments to MassHousing is June 16th.

Relationship to Conservation Commission Review

The developer has also filed with an ANRAD (Abbreviated Notice of Resource Area Delineation) with the Conservation Commission in order to confirm the delineation of regulated resource areas. We are aware that the developer's consultant, Hughes Environmental Consultant, sent an abutter notice earlier this week referring to an April 6th Conservation Commission hearing date, and that a legal ad for an April 6th date appeared in the newspaper. **A public hearing is not scheduled for Monday April 6th.** The Conservation Commission has not scheduled a hearing date. Once a hearing date is confirmed with the Conservation Commission, a new abutter notice will be mailed.

It is important to understand that the ANRAD is not the Conservation Commission's formal review of the proposed development project – only the resource area delineation. If a 40B comprehensive permit application is filed with the ZBA, it would also be filed with the Conservation Commission for their formal review. As a project abutter, you would receive formal public notice at that time.

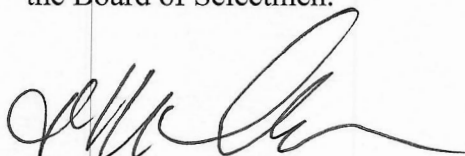
Communications and Special Board of Selectmen Meeting

The Board of Selectmen will post a special (remote) meeting and listening session regarding the project eligibility/site approval application on **Thursday, April 9th at 6pm.** (The meeting posting will include instructions for remote participation). In addition to periodic updates at its regular meetings, the Board will post at least one additional special meeting as we get closer to the deadline for comments to MassHousing. You can subscribe to receive emailed notice of agendas (and other News/Updates, etc.) online at:

<https://www.wnewbury.org/subscribe>

We will be working with department heads and with Chairs of Boards/ Commissions/ Committees to facilitate sharing of all available information regarding this proposal, and to help ensure that all information is shared as broadly as we're able both early and on an ongoing basis through this process.

If you have comments or questions please feel free to contact the Town Manager and/or the Board of Selectmen.



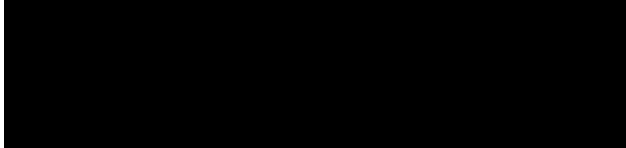
David W. Archibald, Chair
Board of Selectmen
selectmen@wnewbury.org



Angus Jennings, Town Manager
(978) 363-1100 x111
townmanager@wnewbury.org

Town Manager

From:
Sent:
To:
Subject:



Hi Angus,

My apologies – I had mistakenly written down that developer had the PEL and was waiting to apply for comp. permit.

Regarding the consultants scope of work, they will help the ZBA through the process and make sure the ZBA on stays on track for the important timelines. The consultant will attend all public hearings and they will certainly be able to give a training on the 40B process. We would ideally want to do this once the PEL has been granted, although we will make sure it is prior to the public hearings.

Ezra and Judi would be especially great if you anticipate a contentious project. I personally love how Ezra conducts his 40B trainings. Ezra does go on sabbatical for a few months starting in Feb, so depending on the timing he might be unavailable.

Please keep us posted and let me know if you have any questions moving forward.

Thanks,



Katie Bosse, Program Coordinator



From: Town Manager [mailto:townmanager@wnewbury.org]
Sent: Thursday, December 19, 2019 4:01 PM
Subject: RE: 40B TA and Training

Hi,

At this point nothing has been proposed; the developer is doing perc tests and resource area delineation. Assuming they do go forward, which I expect based on conversations w him and his legal counsel, it will take some time before they're submitting a request to MassHousing for a Site Eligibility approval. I just want to be sure that, if/once that does happen, we can move quickly to line up support.

Our ZBA has little to no experience with 40B, and only processes 1 or 2 applications a year. There is no staff support, and we have just a part-time town planner who is stretched with her current workload. I'm not sure what type of work is appropriately within scope for the type of support we could receive, but I am interested in ensuring that the ZBA has both the technical assistance and the professional support they'll need to professionally and timely process an application. I would hope this would include attendance at any/all public hearings, as well as (ideally) a ZBA training early in (if not prior to) the process.

In my prior life as a town planner and planning consultant I've worked with most of the vendors on the list, and would think that either Ezra or Judi could be very helpful – but I'll look to you for guidance on what would be a typical/appropriate scope for this work.

Thanks,
Angus

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

Sent: Thursday, December 19, 2019 2:47 PM
To: Town Manager <townmanager@wnewbury.org>
Subject: 40B TA and Training

Good afternoon,

Following up from our call earlier this week on an incoming 40B – I have attached the application package and list of consultants to choose from. I will say that Paul Haverty is full to capacity so he will not be an option. If you could give me a sense of the concerns the town has it might help in directing you to a consultant.

Could you remind me the name and size of the project? And Mass Housing is the subsidizing agency correct?

Please let me know if you have any questions.

Thanks,





RECEIVED
TOWN CLERK
WEST NEWBURY, MA

2020 JUN 11 AM 8:01

Town of West Newbury Board of Selectmen

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

NOTICE OF CONSIDERATION OF CHANGE OF TOWN MEETING QUORUM

In accordance with the provisions of Section 7 (b) of Chapter 92 of the Acts of 2020, NOTICE is hereby given that the Board of Selectmen of the Town of West Newbury shall meet by remote participation at 7:00 PM on Monday, June 22, 2020 to consider whether to lower the quorum requirements for the Annual and Special Town Meetings to be held on June 27, 2020. The Board of Selectmen will consult with the Town Moderator to proscribe the number of voters necessary to constitute a quorum at these town meetings. The public is invited to attend and participate in this discussion. Information as to how to remotely attend this meeting will be published in the Open Meeting Notice for the Board of Selectmen's June 22, 2020 meeting, which will be available on the Town website, www.wnewbury.org.

This NOTICE shall be placed at all places required for the posting of warrants in the Town of West Newbury, as well as on the Town website and Town Facebook account.

BOARD OF SELECTMEN

Chapter 92 of the Acts of 2020: An Act Relative to Municipal Governance During the COVID-19 Emergency

Municipal Election Extensions; Sections 1 through 5, and sections 15 and 16: These sections amend chapter 45 of the acts of 2020 to extend the dates of for municipal elections and also eliminates the caucus requirement for town elections.

- Effect of changes is to allow a city or town with a municipal caucus or annual or special municipal election scheduled between March 23rd and July 31st, 2020 to postpone up until August 1st, 2020.
- Allows a town by vote of the select board, town council or board of registrars to eliminate a municipal caucus that is scheduled to occur between March 23, 2020 and July 31, 2020 and to allow nomination papers signed by at least 10 registered voters of the town and requires that nomination papers be returned between 36 and 32 days prior to the town election.

District Essential Services; Section 6: This section amends section 11 of chapter 53 of the acts of 2020 to add “districts” to the list of local entities that may not shut off essential services for non-payment of taxes or fees as a result of COVID-19. The existing section only specifies cities and towns.

Reduced Quorum Requirement for Town Meeting; Section 7: This section would allow for a reduced quorum requirement of not less than 10% of the existing quorum for town meetings and requires that notice of this change be made at least 7 days prior to the vote of the select board.

Remote Representative Town Meetings; Section 8 and 17: This section sets forth a process for remote town meetings to be conducted for representative town meetings through means of video or telephone conferencing platforms.

Geographic Limits for Town Meeting; Section 9: This section would allow town meeting to be held outside of geographic limits of the town upon a vote of the select board and with the approval of the town moderator.

FY21 Suspension of Municipal Revenue Dedication; Appropriation from Stabilization Funds; Section 10: This section allows cities and towns to suspend the dedication of revenue (such as local option meal tax) to a stabilization fund(s) for FY2021. Also allows a selectboard or town council by 2/3 vote to appropriate from any 40:5B stabilization fund or any special fund created by special law for any purpose without legislative body approval during FY2021.

City Budget Extension; Sections 11 and 18: This section would give mayors in cities additional time before they must submit their budget to the city council for approval to due to COVID-19.

Contract Services; Sections 12 and 13: These sections would allow cities, towns and regional school districts to make payment for education-related contracted services such as transportation, custodial, food services as well as payments to education collaboratives, non-residential vocational enrollments, and inter-district tuition agreements when the COVID-19 state of emergency prevents the services from being actually rendered as a result of the state of emergency.

Emergency Educator Licenses; Section 14: This section establishes an emergency educator license process by which the Commissioner of Elementary and Secondary Education may issue emergency educator licenses to individuals who apply for a period of up to 180 days after the termination of the state of emergency. An emergency educator license shall be valid through June 30, 2021 or a different time specified by the commissioner, unless the license has been suspended or revoked by the Commissioner.

REVIEW OF TOWN MEETING PROPOSALS AMID COVID-19 PANDEMIC

Working Draft of 6/8/20

STM		Time Sensitive			
<u>Art #</u>	<u>Topic</u>	<u>Amount</u>	<u>Essential</u>	<u>Can Wait</u>	<u>Notes</u>
1	Hear and act upon reports of officers and committees	n/a			<i>BOS voted 6/8/20 to provide A/V support to B/C/Cs and encourage them to pre-record any Reports to Town Meeting, with recordings (or written reports) made available prior to Town Meeting instead of in-person reports.</i>
2	CPC Page School Playground	\$ 462,857	y		
3	Town building repairs	\$ 49,150	y		
4	Snow & Ice deficit	\$ 61,087	y		
5	2020 voting expenses	\$ 3,800	y		
6	Mill Pond benches/tables	\$ 14,000		y	<i>BOS VOTED 5/14/20 to recc no action</i>
7	Electric vehicle charging	\$ 8,048	y		
8	Essex Ag FY20 costs	\$ 16,443	y		
9	Nat'l Grid underbilled costs	\$ 20,247	y		

ATM		Time Sensitive			
<u>Art #</u>	<u>Topic</u>	<u>Amount</u>	<u>Essential</u>	<u>Can Wait</u>	<u>Notes</u>
1	Give votes to election of offices	n/a	y		
2	Hear and act upon reports of officers and committees	n/a			<i>See ATM #1 above.</i>
3	Omnibus Budget	\$ 16,538,680	y		
4	Water Commissioners' rules	n/a	y		
5	Water Dept budget	\$ 861,446	y		
6	Pension Liability Stab. Fund	\$ 68,750		y	<i>BOS VOTED 4/13/20 to recc no action</i>
7	OPEB Stab. Fund	\$ 5,000		y	<i>BOS VOTED 4/13/20 to recc no action</i>
8	School Stabilization Fund	\$ 328,600	y		
9	From School Stab. Fund	\$ 652,340	y		
10	Septic loan revolving fund	\$ 21,965	y		
11	Capital Stabilization	\$ 300,000		y	<i>BOS VOTED 4/13/20 to recc no action</i>
12	CPC Estimated Receipts	\$ 389,160	y		
13	CPC Artichoke River Woods	\$ 170,000	y		
14	CPC Soldiers & Sailors debt	\$ 85,000	y		
15	DPW dump truck	\$ 229,020		y	<i>BOS VOTED 4/28/20 to recc no action</i>
16	Page School Fire Alarm	\$ 304,000	y		
17	Page School floor repairs	\$ 40,000	y		
18	Police radios	\$ 19,000	y		
19	Fire ice/water rescue suits	\$ 4,000	y		
20	Fire Dept. power fans	\$ 7,500	y		
21	Gold Star tax abatement opt-in	n/a	y		
22	Requirements and fines for dog waste disposal	n/a		y	<i>BOS VOTED 6/8/20 to recc no action</i>
23	Revolving funds	n/a	y		
24	Zoning bylaw amendments	n/a		y	<i>BOS VOTED 6/8/20 to recc no action</i>

Source: Angus Jennings, Town Manager



GUIDANCE FOR TOWN MEETINGS TO ADDRESS COVID-19 As of June

Purpose

These sector specific COVID-19 safety recommendations for Town Meetings are issued to provide municipalities with instructions to help protect against the spread of COVID-19 as in- person meetings resume.

These standards are advisory only and are not exclusive or exhaustive. The public health data for disease prevention upon which these guidelines are based can and does change frequently.

General Standards

These standards apply to all town meetings.

Town officials should communicate to residents that if they are feeling sick, are exhibiting any of the following symptoms (fever, cough, shortness of breath, chills, muscle pain, headache, sore throat, or new loss of taste or smell), or have potentially been exposed to someone with confirmed or suspected COVID-19, then they should not attend town meeting in person. A potential exposure means having household contact or having close contact (within 6 feet) with an individual with confirmed or suspected COVID-19 for prolonged periods of time (over 15 minutes) while the person is symptomatic or 48 hours before symptoms developed.

Persons who are particularly vulnerable to COVID-19 according to the Centers for Disease Control (e.g., due to age or underlying conditions) are encouraged to stay home.

Town officials are encouraged, to the extent feasible, to hold meetings virtually or outdoors and to ensure that attendees are spaced at least 6 feet apart. If outdoor meetings are not feasible, towns are advised to abide by the following policies in conducting town meeting.

I. Attendance

- Hosting town meeting by remote participation and reduction of quorum as allowed by [Chapter 92 of the Acts of 2020](#), is strongly encouraged
- Attendees of town meeting should sign in as they would normally do. Town staff should ensure that they have the correct contact information for attendees.

II. Social Distancing

Seating

- Seating should be arranged to permit attendees to sit at least 6 feet apart. Members of the same immediate household may be allowed to sit together and less than 6 feet apart
- If there is fixed seating, rows should be blocked off and kept empty to allow for sufficient distancing between rows

- Town officials are encouraged to place tape or other visual distancing markings on seating to delineate 6 ft separations and to post signage indicating the maximum number of persons permitted per row
- Promote ventilation for enclosed spaces where possible. For example, open windows and doors to allow airflow
- Lines at microphones for questions or comments should be taped to keep people six feet apart. Microphones should be disinfected after each speaker

Entering and Exiting

- Town meetings are advised to take steps to encourage orderly entering and exiting of meetings in a manner that encourages social distancing. For example:
 - Signage or floor markings should be posted to have one-way aisles or otherwise direct attendees to follow certain pathways for entering and exiting the meetings
 - If a line forms outside of the meeting, those waiting should be directed to maintain social distancing. Tape or other markings on the ground outside of the meeting should be placed to encourage attendees to maintain social distancing of at least 6 feet
 - Staff should direct people in high traffic areas to help maintain social distancing
 - Town officials or other staff should direct successive, row-by-row exiting

III. **Face Coverings**

- All residents over the age of 5 and staff must wear face coverings or masks in accordance with COVID-19 Order No. 31 and the Department of Public Health’s Guidance while inside and while entering and exiting locations of town meeting or otherwise participating in in-person meetings, except where a person is unable to wear a face covering or mask because of a medical or disabling condition
- A person who declines to wear a face covering or mask because of a medical or disabling condition shall not be required to produce documentation verifying the condition
- Individuals addressing town meeting may remove his or her face covering while doing so, provided that he or she is able to maintain a distance of at least 6 feet from other persons present.
- Installation of protective, plexi-glass or other transparent barriers are recommended for podiums and other points of address
- Towns are strongly advised not to arrange for or permit communal gathering pre or post meeting (e.g., coffee or other food services)

IV. **Cleaning and Disinfecting and Hygiene Protocols**

- Locations of meetings shall be cleaned and disinfected before and after each meeting, including disinfection of heavy transit areas and high-touch surfaces (e.g., doorknobs, bathrooms, microphones, shared instruments)
- Markings should be placed outside of bathrooms to adhere to the 6 ft distance between each attendee
- If town meeting officials learn that an individual with COVID-19 attended a meeting or otherwise entered the building, the town should conduct a deep cleaning and disinfecting of any areas visited by the infected individual consistent with the Centers for Disease Control guidance: <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>

- Town meeting officials should ensure that officials and residents have access to handwashing facilities, including soap and running water, and allow workers sufficient break time to wash hands, as necessary. They are also encouraged to make alcohol-based hand sanitizers with at least 60% alcohol available, if possible
- Town Warrants and other paper that is distributed at a meeting should be done so in a manner to ensure social distancing and not be shared between attendees Towns that use electronic voting machines should disinfect the machine between each use

V. Notification of Positive Case

- Town meeting officials should work with the board of health in the event that anyone is exposed to COVID-19 at the meeting. Meeting attendees may need to be identified and contacted by the board of health or Contact tracing Collaborative.

Town Manager

From: DPW Director
Sent: Friday, June 5, 2020 5:43 PM
To: Kathleen Swallow; Town Manager; Dave Archibald; Paul Sevigny; Chief Jeffrey Durand; Michael Dwyer; Michael McCarron
Subject: Town meeting capacity and draft plan
Attachments: IMG_3692.jpg; IMG_3693.jpg

All,

Great discussion today at the band stand. Seems we got the A-team on this and I would expect success once we get all the logistics worked out.

From our conversation today, I prepared two plans (done by hand with my high school drafting tools) showing the following:

1. Resident sitting zones in both the ballfield and parking lot.
2. Three entry points to the field.
3. Rest Room locations. Assuming two locations with one HC and washing station at both locations.
4. Town Clerk / Registrars check-in locations. We will supply table, tent and power at both locations.
5. Police and Fire tent.
6. Police, Fire and DPW staging area.

I had no equipment to copy these plans – so I have taken photographs. Hope this is helpful for Monday nights discussion and the letter KC is preparing. You may need to zoom in to read.

In regards to capacity. Our conversation today was helpful and using my experience with special event coordinating training I have estimated the following:

1. Ball Field. If we leave one aisle {X} as shown on the plan for staff and emergency response access, we will have 180 voter zones. If we assume 1.5 people per zone then we have enough space to sit 270 voters – Which I think is very conservative.
2. Parking Lot. 15 zones will sit 45 voters.
3. Bandstand ? COA overflow area. Will sit another 18 people.

My conservative number of capacity is 333 voters.

Feel free to send comments now or wait until we meet again to discuss.

Thanks,
Wayne

Wayne S. Amaral
Director of Public Works
Town of West Newbury
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x120
dpwdirector@wnewbury.org



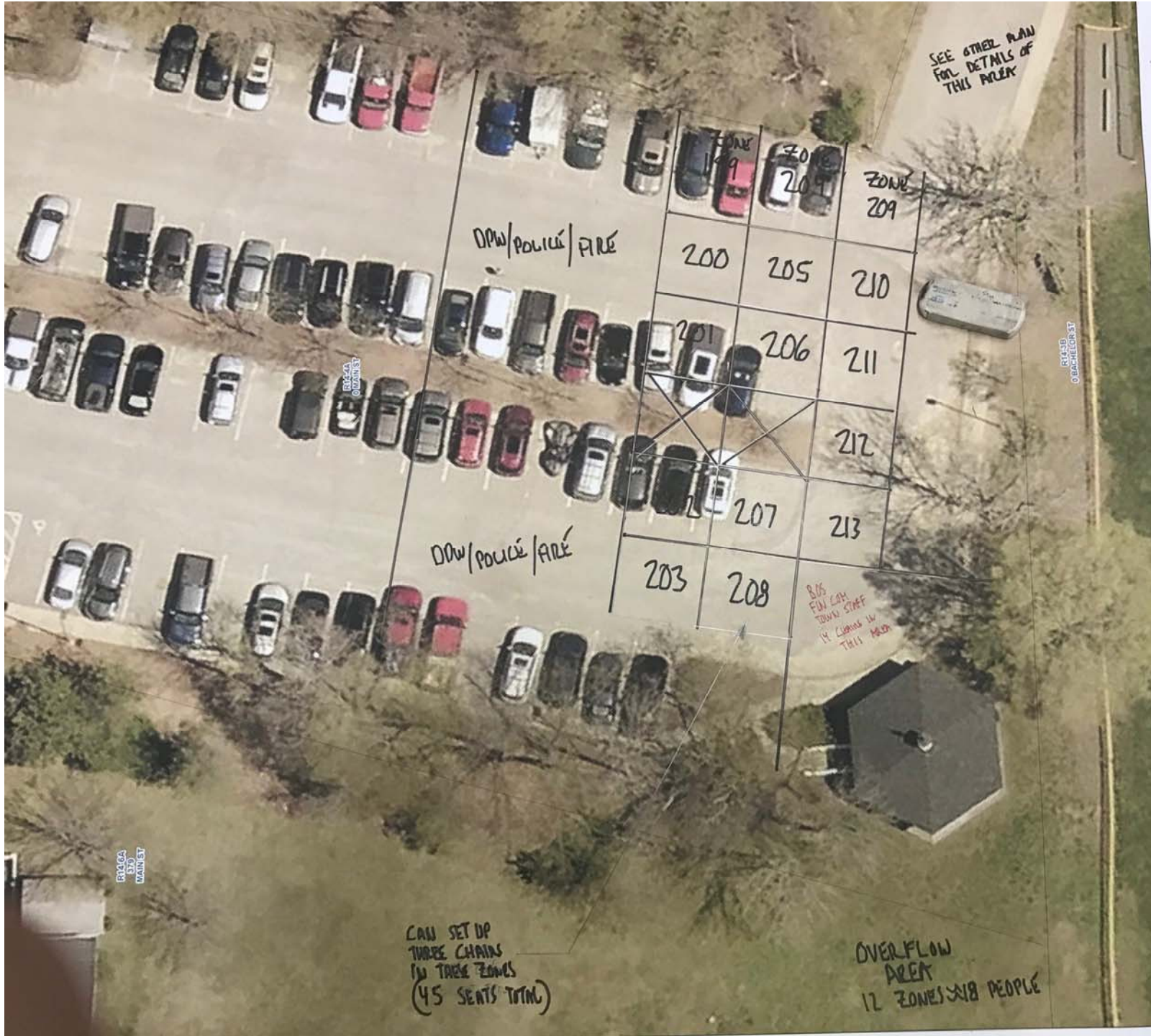
1:120
1 inch = 10 feet

Town of West Newbury
Town Meeting Map A



Merrimack Valley
Planning Commission





1 inch = 10 feet
 10 5 0 10 20

Town of West Newbury
 Town Meeting Map B
 1:120



**Merrimack Valley
 Planning Commission**

Merrimack Valley Planning Commission is a non-profit organization established in 1972 to provide a regional planning forum for the Merrimack Valley region. The Commission is composed of representatives from the various municipalities within the region. The Commission's primary purpose is to provide a regional planning forum for the Merrimack Valley region. The Commission is authorized to provide technical assistance and to conduct studies and research in the field of regional planning. The Commission is also authorized to provide a regional planning forum for the Merrimack Valley region. The Commission is authorized to provide technical assistance and to conduct studies and research in the field of regional planning. The Commission is also authorized to provide a regional planning forum for the Merrimack Valley region.

Town Manager

From: Mike Gootee
Sent: Friday, June 5, 2020 10:42 AM
To: Town Manager
Subject: RE: Water Tank work hours

Hi Angus,

The tank contractors would like to work on the following Saturdays. 6/20, 6/27, (no work on 7/4), 7/11, 7/18 and 7/25. This is of course weather dependent. I also let the contractors and engineers know even if the BOS approve their request, that they may not be able to start on 6/20 and wait until 6/27 because we need to send out letters to the Hilltop Circle residents and we may not be able to guarantee that all the residents would receive the notifications in that short period of time. Mail moves very slow in West Newbury.

What do you think of this idea? You post a newsletter to the Hilltop residents on the web site next week informing them that the Brake Hill construction will be starting back up on 6/15 and I could make up a couple of signs stating that and place them at the beginning of the neighborhood and one at the entrance of the tank.

Thanks,
 Mike

From: Town Manager <townmanager@wnewbury.org>
Sent: Thursday, June 04, 2020 3:41 PM
To: Mike Gootee <mgootee@wnewbury.org>; BRIAN <[REDACTED]@[REDACTED]>
Cc: Leah Zambarnardi <lzambarnardi@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>; ray.cook@unh.edu; Building Inspector <building.inspector@wnewbury.org>
Subject: RE: Water Tank work hours

Mike, all,

I conferred w Archie and we'll place the contractor request on the 6/15 BOS agenda. (This is a special mtg intended as a one-topic mtg but due to the time sensitivity of the request we can add this). Mike G. once the contractor gets you more detail re what date they want to start working Saturdays let me know. My office can take the lead on getting the word out to the neighbors that this will be considered, but given overall workload a notice won't be able to go out til early next week. Mike if Jodi can help w stuffing envelopes (assuming we end up doing an actual mailing) that would be a big help.

Thanks,
 Angus

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

From: Mike Gootee <mgootee@wnewbury.org>
Sent: Thursday, June 4, 2020 9:13 AM

To: BRIAN <[REDACTED]@[REDACTED].[REDACTED]> Town Manager <townmanager@wnewbury.org>
Cc: Leah Zambarnardi <lzambarnardi@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>;
[REDACTED]@[REDACTED].[REDACTED]
Subject: RE: Water Tank work hours

Good morning,

The intent from the very beginning of the notifications to the Hilltop residents was the BOS responsibility. I'm not sure how it was written up legal wise but that was the intent. Sometimes we need to do what makes sense. If residents have an issue with any changes on the Brake Hill Tank project they are going to call the town (BOS or TM) with questions. They wouldn't know the Building Inspector would be responsible for those changes and I'm sure the BOS or TM aren't going to say sorry but that's not our responsibility call the Building Inspector. I may be completely off track here but I think the officials that the residents are going to call with issues should be the ones that make these kind of decisions.

Mike

From: BRIAN <[REDACTED]@[REDACTED].[REDACTED]>
Sent: Wednesday, June 03, 2020 3:48 PM
To: Town Manager <townmanager@wnewbury.org>
Cc: Leah Zambarnardi <lzambarnardi@wnewbury.org>; Michael McCarron <mmccarron@wnewbury.org>; Mike Gootee <mgootee@wnewbury.org>; [REDACTED]@[REDACTED].[REDACTED]
Subject: Re: Water Tank work hours

Hi Angus..

My recollection is that the intent of the PB was to have the Town, meaning water dept and selectmen, in charge of hours of work, and any modification of them. Leah sent a note affirming that, so it is in your hands, as intended.

I have not heard of any complaints from abutters, so let's get the work completed.

Take care..

Brian

Sent from Xfinity Connect Application

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

From: townmanager@wnewbury.org
To: [REDACTED]
Cc: lzambarnardi@wnewbury.org, mmccarron@wnewbury.org, mgootee@wnewbury.org
Sent: 2020-06-03 12:47:33 PM
Subject: Water Tank work hours

Brian,

Please see below. Based on how the Planning Board decision is written, it's not clear to me which entity has jurisdiction to allow weekend hours – presumably either the PB or the BOS. I'd like your thoughts on this so I can advise Water how this will be handled procedurally.

I've asked Mike G. to confirm the date of the first Saturday they're looking to work, and advised him that a decision may not be made by June 15, but we'd like to move this quickly to keep the project on track. Will depend on which entity has jurisdiction and how that Board wants in handled (i.e. public notice ahead of time, or notice afterward, after a decision is made following the issue being posted on a public agenda). We have sent periodic mailings to the neighborhood to keep them apprised (see [here](#)), and could do so again either prior to or following a decision re weekend work.

If PB is content for BOS to make this decision we'll proceed w agenda and notice.

Thanks,
Angus

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

From: Mike Gootee <mgootee@wnewbury.org>
Sent: Wednesday, June 3, 2020 11:33 AM
To: Town Manager <townmanager@wnewbury.org>; Selectmen <selectmen@wnewbury.org>
Cc: WNWater <wnwater@wnewbury.org>
Subject: BHT work hours

Good morning,

Please see attachment.

The Brake Hill Tank contractors have informed me that they will be returning back to work on June 15th. During the course of that week they will be bringing all the heavy equipment to start the painting process. The contractor is requesting permission to allow the employees to work on Saturdays (not holiday weekends) during the paint process. They explained that no heavy equipment will be going in or out on Saturdays if they were allowed to work. There would only be paint contractors painting the tank so they would show up for work at 6:45AM and leave by 5:15PM.

No matter what your decision is, we would need to update the "Neighborhood News Letter" to inform the residents that work will begin again.

Thanks,

Michael E. Gootée
Water Manager/Superintendent
Town of West Newbury, MA
381 Main Street
West Newbury, MA 01985
Phone:(978)363-1100 X-128



RECEIVED
TOWN CLERK
WEST NEWBURY, MA

2018 FEB 12 PM 1:15

**PLANNING BOARD
TOWN OF WEST NEWBURY, MASSACHUSETTS**

**CERTIFICATE OF VOTE
SITE PLAN REVIEW FOR PUBLIC, MUNICIPAL USE
(ZONING BYLAW §8.B.3.b.)
BRAKE HILL, OFF MAIN STREET AND HILLTOP CIRCLE
Assessors Map R-2, Parcels 270, 350 & 1110
February 6, 2018**

On December 12, 2017, the West Newbury Planning Board (hereinafter the "Board") received a Site Plan Review Application for the demolition of the existing water storage tank and installation of a 0.4 million gallon water storage tank equipped with solar panels and improvements to the existing access road, at Brake Hill, off Main Street and Hilltop Circle (Assessors Map R-2, Lots 270, 350 & 1110), made by the Town of West Newbury (hereinafter the "Owner"), and the West Newbury Water Department (hereinafter the "Applicant"). Planning Board Members Ann E. Bardeen, Richard W. Bridges, Raymond A. Cook and John Todd Sarkis were present and voting during all of the public hearings. Board Member Brian R. Murphey was present for the January 23, 2017 meeting only. The application, plans and supporting documents submitted upon application and during the course of the public hearings are herein incorporated by reference. The submittal is further described as follows:

OWNER:

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

APPLICANT:

West Newbury Water Department, 381 Main Street, West Newbury, MA 01985

REFERENCES:

Site Plan: "Site Plan Brake Hill Tank Planning Board Review Not For Construction", dwg. C-1, dated 12/17, rev. 1/18, scale: 1"=40', drawn by Tata & Howard; "Site Plan Planning Board Review Not For Construction", dwg. C-2, dated 12/17, various scales, drawn by Tata & Howard; "Topographic Plan for Tata & Howard, Inc of Brake Hill Water Storage Tank: 2 sheets, dated 9/14/17, scale: 1"=40', drawn by Doucet Survey Inc.

Details: Elevation drawing of Brake Hill Water Storage Tank, fig. 2
Chain Link Fence Details, fig. 3
Gate Details, fig. 4
Temporary Construction Entrance, fig. 1
Rip Rap with Filter Fabric Detail, fig. 2
all by Tata & Howard

FILING and PUBLIC HEARING INFORMATION:

The Application package was filed with the Town Clerk and the Planning Board on December 12, 2017. In accordance with Section IV.A of the Planning Board Rules and Regulations, Legal Notice was published in the Daily News of Newburyport on January 9, 2018, mailed to Abutters on December 29, 2017 and Planning Boards of abutting cities and towns on January 3, 2018, and posted with the Town Clerk on December 21, 2017. Copies of the Application package were distributed to the Board of Health, Building Inspector, Conservation Commission, Department of Public Works, Fire, Police, and Water Departments.

The Public Hearing was opened on January 23, 2018 and was continued to February 6, 2018. The Public Hearing was closed on February 6, 2018.

FINDINGS:

The Planning Board made the following findings in support of the proposal pursuant to the Zoning Bylaw and the Boards Rules and Regulations as follows:

The Planning Board found that the project promotes the purposes set forth in Section 8.B.1. by promoting logic, imagination, and innovation in the design process; by sufficiently addressing traffic, stormwater, community services, environmental quality, and the character of the Town; and by protecting public health and safety. The Board also found that the project generally conforms to the Site Plan Review Guidelines in Section 8.B.6. and the Development and Performance Guidelines contained in the Planning Board Regulations, Section IV.C

VOTE:

At the February 6, 2018 meeting, the Board voted unanimously, 4-0 (Bardeen, Bridges, Cook and Sarkis in favor), to APPROVE WITH CONDITIONS the application and then stipulated the following Conditions of Approval:

CONDITIONS OF APPROVAL:

- A. The project shall be built in accordance with the Plans, as approved, except where stated otherwise in this Certificate of Vote. Any questions from the Applicant or its construction team about technical aspects of the plan or field changes shall be conveyed by the Applicant or the Engineer to the Town Planner. Minor changes or deviations may be authorized by the Planning Board or its designee, without formal refileing, as minor field changes, if the Planning Board determines that such changes are warranted to meet field conditions or to improve site conditions.
- B. The Contractor's responsibilities for restoration/replacement of damaged public or private property, the gravel access roadway, steel tank painting, sequence of construction and hours of operation are stated in Sections 01100, 01700, 02200 and 09900 of the Contractor Specifications, as may be amended by the West Newbury Water Department. Copies of these specifications have been submitted to the Planning Board and are incorporated herein by reference.
- C. Hours of Construction shall be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. No

work shall occur outside these hours, including weekends and holidays, without prior approval from the Town. Hours of construction shall be posted at the entrance to the site.

D. Pre-Construction Conference: A Pre-Construction Conference shall be conducted to review the Conditions of Approval and the Construction Schedule prior to the start of any construction as follows:

1. The Applicant shall submit the Construction Schedule to the Town Planner as a pre-requisite to scheduling a Pre-Construction Conference.
2. The Town Planner shall distribute the proposed Construction Schedule to the following entities for review and comment: Planning Board, DPW Director, Fire Chief, Health Agent and Police Chief.
3. The Pre-Construction Conference shall be scheduled by the Town Planner subsequent to receipt of the Construction Schedule. The Owner, Applicant and entities listed in B.2. above shall be invited to attend.
4. At the Conference, the Applicant shall submit to all present a list of contact information for the Owner, Contractor, Engineer and Surveyor.
5. 24-Hour Emergency Contact: At the time of the Pre-Construction Conference an emergency email or phone number shall be established. The contact information shall be posted at the entrance to the site, on the Town Website, and in a conspicuous place at Town Hall. The Applicant shall be responsible for responding to said communications or for referring the party to the appropriate entity within 24 hours.

E. Control of Dust and Debris:

1. The Owner shall provide appropriate measures to limit construction debris, dust, and materials on the site. In the event that debris is carried onto any public way, the Owner shall be responsible for all cleanup of the roadway. All cleanups shall occur within twenty-four hours after first written notification to the Owner by the Board or its designee. Failure to perform such cleanup may result in the project being shut down until said public way is clear. Any Town-performed cleanup is at the Owner's expense.
2. In the event that dust, dirt and other materials are carried onto abutting private property, the Owner shall be responsible for cleanup if determined necessary by the Planning Board.

F. The site and the staging area shall be restored to their natural state upon completion of the project.

APPEALS: Appeals, if any, shall be made to the Zoning Board of Appeals in accordance with Section 8.A of the Zoning Bylaw within thirty (30) days of filing the Decision in the Office of the Town Clerk of the Town of West Newbury.

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