

**November 4, 2013**

**Dear Fellow Residents of West Newbury:**

We have prepared this booklet to assist you in making informed decisions on this meeting's warrant articles. The articles of the Special Town Meeting (STM) are requests to be included in the Town's budget for the fiscal year ending June 30, 2014. The Finance Committee has reviewed each proposed article, and herein reports to you our recommendations to approve or disapprove each article. The committee's reasons for each recommendation are provided. However, they are only recommendations. We do not have all the answers. In fact, at this STM there are some articles that are nuanced and were quite difficult to select the best solution for the Town. We gave it our best shot. Everyone's vote at the meeting counts the same.

Participation at the STM is important. Voters will have the opportunity to decide to reduce their tax assessment for the year, to purchase a new police cruiser, to begin the process of developing a solar electricity generating facility or to change the direction and administration of the Fire Department, as well as to make other decisions. The results of your votes can have profound effects on the physical, financial and educational structures of the Town for years to come. The Town is presently in good financial shape as we have limited our borrowing and for the most part have saved to fund our large expenses. There is presently \$585,000 in the Stabilization Account, \$1,800,000 in the Community Preservation Account and \$1,767,000 in Free Cash.

We are fortunate to live in a town where individual voters can have a say in how their taxpayer's money is spent. The Finance Committee encourages and thanks you for your involvement. We meet Monday evenings at 7 pm in the 1910 Building. We genuinely welcome your participation.

*"Elections belong to the people. It's their decision. If they decide to turn their back on the fire and burn their behinds, then they will just have to sit on their blisters."* –Abraham Lincoln

*"Just Do It."* –Nike

The West Newbury Finance Committee

David Archibald, chair  
Sherrie Gadd, vice chair  
Frank Sisto, secretary  
Anna Marie Beech  
Carroll Winch  
Warren Sproul, ex officio  
Elisa Grammer, administrative assistant

PLEASE READ:

- 1) Calculations based on 1500 households for the town and an individual house valuation of \$450,000.  
Adjust house valuation accordingly to assess the individual tax impact on a household.
- 2) "Cost" column reflects tax impact on a per-household basis.

**Raise and Appropriate:** = Impact on FY 2014 Future Taxes

**Transfer:** = Impact on Taxes Already Collected by the Town,  
Already in Free Cash

| Article # | Article Description   | Requested By                     | Amount Requested | Taxpayer Cost |
|-----------|---|----------------------------------|------------------|---------------|
| 1         | Reports of Town officers and committees   |                                  | NA               | NA            |
| 2         | Transfer the sum of \$30,000.00 from the Water Enterprise Fund Free Cash Account for repairs  | Board of Water Commissioners     | \$30,000.00      | \$0.00        |
| 3         | Transfer the sum of \$10,000.00 from the Water Enterprise Fund Free Cash Account for removal of trees and brush                       | Board of Water Commissioners     | \$10,000.00      | \$0.00        |
| 4         | Transfer the sum of \$42.00 for a medical exam for a Police Officer   | Finance Director                 | \$42.00          | \$0.03        |
| 5         | Raise and appropriate or Transfer \$1,210.66 to the Harbormaster Expense Account  | Harbormaster                     | \$1,210.66       | \$0.00        |
| 6         | Transfer \$150,000 to the Stabilization Fund  | Finance Director                 | \$150,000.00     | \$100.00      |
| 7         | Raise and appropriate or Transfer \$1,500.00 for a part-time Admin. Assistant 20 weeks at 4 hours per week                            | Finance Committee                | \$1,500.00       | \$1.00        |
| 8         | Raise and appropriate or Transfer \$9,000.00 to reimburse DPW account for tables and chairs bought for the new Page School cafetorium | Board of Selectmen               | \$9,000.00       | \$6.00        |
| 9         | Raise and appropriate and/or Transfer \$5,088.00 to pay coverage for part-time, temporary workers                                     | Finance Director                 | \$5,088.00       | \$3.39        |
| 10        | Raise and appropriate or Transfer \$465.63 to reimburse a deficit from the State for a 911 Training Grant                             | Chief of Police                  | \$465.63         | \$0.31        |
| 11        | Raise and appropriate \$44,334 and/or reserve from the Community Preservation annual revenues in the amounts recommended              | Community Preservation Committee | \$44,334.00      | \$19.69       |
| 12        | Raise and appropriate and/or Transfer \$8,799.64 to pay for an additional position  | Board of Library Trustees        | \$8,799.64       | \$5.87        |
| 13        | Raise and appropriate and/or transfer \$250.00 to increase budget   | Open Space Committee             | \$250.00         | \$0.17        |

|    |   |   |               |           |
|----|---|---|---------------|-----------|
| 14 | Raise and appropriate or Transfer \$32,368.45 to purchase of a 2014 Police Cruiser, authorize the Police Chief and Board of Selectmen to dispose of old vehicle | Chief of Police                           | \$32,368.45   | \$21.58   |
| 15 | Transfer \$50,000.00 to pay the costs of the Town's share of expenses on Children's Castle facilities   | Board of Selectmen                        | \$50,000.00   | \$33.33   |
| 16 | Transfer \$50,000.00 to pay for the up-keep of the Page School and Children's Castle buildings and grounds  | Board of Selectmen                        | \$50,000.00   | \$33.33   |
| 17 | Raise and appropriate and/or Transfer from \$6,586.00 to pay for Aerial Photography   | Board of Selectmen and Building Inspector | \$6,586.00    | \$4.39    |
| 18 | Authorize the Board of Selectmen to enter into a lease for any or all of that portion of Town property located in the Solar Overlay District                    | Board of Selectmen                        | NA            | NA        |
| 19 | Authorize the Board of Selectmen to enter into a Power Purchase Agreement for photovoltaic energy   | Board of Selectmen                        | NA            | NA        |
| 20 | Change the Pentucket Schools' Assessment from the line item budget  | Board of Selectmen                        | (\$61,889.83) | (\$41.25) |
| 21 | Accept MA General Laws, Chapter 32B, Section 20 as amended, which includes the Acts of 2011, Chapter 68, Section 57   | Board of Selectmen                        | NA            | NA        |
| 22 | Amend Section 8 of the Town By-Laws to allow one member of the Finance Committee to be a member of the Investment Policy Committee                              | Board of Selectmen                        | NA            | NA        |
| 23 | Amend Zoning Bylaw, Section 10., Groundwater Protection Overlay District (GPOD)   | Planning Board                            | NA            | NA        |
| 24 | Amend the Zoning Bylaw by deleting the existing Section 8.B., Site Plan Review, and replacing it with a new Section 8.B., Site Plan Review                      | Planning Board                            | NA            | NA        |
| 25 | Amend Zoning Bylaw for a temporary Moratorium on Medical Marijuana facilities, through November 30, 2014  | Planning Board                            | NA            | NA        |
| 26 | Accept the provisions of MA General Laws, Chapter 48, Section 42  | Board of Selectmen                        | NA            | NA        |
| 27 | Amend Town Bylaw on Harbor Committee  | Board of Selectmen                        | NA            | NA        |

**TOWN OF WEST NEWBURY  
COMMONWEALTH OF MASSACHUSETTS  
WARRANT - SPECIAL TOWN MEETING – MONDAY, NOVEMBER 4, 2013**

Essex, ss.

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

In the name of the Commonwealth, you are hereby required to notify and warn all the inhabitants of the Town of West Newbury, who are qualified to vote in the elections and Town affairs, to meet at the **Town Annex, 379 Main Street**, at 7:00 p.m. on Monday, November 4, 2013 to act upon or take any other action relative to all of the following articles.

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**GENERAL GOVERNMENT MATTERS**

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

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**WATER ENTERPRISE FUND**

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**ARTICLE 2.** To see if the Town will vote to transfer the sum of \$30,000.00 from the Water Enterprise Fund Free Cash account to purchase or repair valves, hydrants, water main, meter pits, or any other devices that are associated with the water distribution system. By request of the Board of Water Commissioners.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *The Water Department is requesting financing to install new isolation valves (“live taps”) to address issues in water service outlined below.*

*West Newbury has long sections of water main that were installed when the original system was put in 1936. To work on one of those valves located at the beginning of the road, the Water Dept would need to close these large sections. Installing the live taps addresses two issues:*

*a) Creates smaller sections of water main to be controlled, thereby allowing the Water Dept to be more focused in their repair efforts without water shutoff to a larger section of population than would otherwise be necessary.*

*b) Water leaks on service lines accounts for ~17% slippage in water being lost in the ground. Installing the live taps will make it easier to isolate these leaks and implement repairs.*

*This article does not impact either past or future taxes, since the Water Department is a self-funding mechanism getting its revenue from residential billing, with receivables being deposited in the Town’s current cash.*

**ARTICLE 3.** To see if the Town will vote to transfer the sum of \$10,000.00 from the Water Enterprise Fund Free Cash account for the removal of trees and brush throughout the water distribution system. By request of the Board of Water Commissioners.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *The Water Department is requesting finances to remove tree and brush in areas of the water distribution system.*

*The Water Department does normal trimming back of trees and brush throughout the year. However there are larger items from previous storms which need to be addressed: a) at the well field there are large trees that have been dropping limbs over the past few years causing a safety issue, b) some trees that came down a couple of years ago during the Halloween storm of 2011, and c) there are trees located on the Brake Hill Standpipe access road that also need to be taken down for safety reasons.*

*This article does not impact either past or future taxes, since the Water Department is a self-funding mechanism getting its revenue from residential and commercial billing. Receivables are deposited in the Town's Water Enterprise Fund's current cash.*

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## APPROPRIATIONS

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**ARTICLE 4.** To see if the Town will vote to transfer from available funds the sum of \$42.00 to pay an outstanding bill from a prior year's expenditure to Northeast Radiology for a medical exam for a Police Officer. By request of the Finance Director.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *An invoice for \$42.00 from Northeast Radiology was received after the close of the fiscal year for services related to a police pre-employment physical. We need approval by 50% of the voters at Town Meeting to pay this invoice.*

**ARTICLE 5.** To see if the Town will vote to appropriate by transfer from available funds the sum of \$1,210.66 to the Harbormaster Expense Account. By request of the Harbormaster.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *Massachusetts General Law, Chapter 60B, section 2(i) requires that 50% of the boat excise tax collected each year be credited to the Municipal Waterways Improvement and Maintenance Fund. This money is placed in the harbormaster budget for gas and other marine related expenses. The \$1,210.66 represents 50% of the revenue collected in FY 2013.*

**ARTICLE 6.** To see if the Town will vote to transfer from Free Cash the sum of \$150,000 to the Stabilization Fund. By request of the Board of Selectmen.

**Selectmen Recommendation::**  
**FinCom Recommendation:**

Approve: 3-0-0  
Approve: 4-1-0

***Rationale:*** In FY 2014 to date the Town contributed \$300,000 into the Stabilization Fund to cover planned major capital expenses. Since there is currently a substantial amount in Free Cash the recommendation is to help alleviate a projected deficit in the Stabilization Account in 2018 by transferring \$150,000 from Free Cash to the Stabilization Fund. It is more fiscally conservative to add funds to the Stabilization Fund, because it takes only a 50% majority at Town Meeting to vote to spend Free Cash; while a 67% majority is required to spend Stabilization funds.

**ARTICLE 7.** To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$1,500.00 to hire an Administrative Assistant for the Finance Committee for 20 weeks of work at 4 hours per week. By request of the Finance Committee.

**Selectmen Recommendation::**  
**FinCom Recommendation:**

Approve: 3-0-0  
Approve: 5-0-0

***Rationale:*** The Finance Committee seeks additional funding for an administrative assistant to prepare minutes and assist with the preparation of the Town meeting booklets. Several Town boards and committees have secretarial help and until 2008 the Finance Committee also did. During the height of the fiscal crisis the committee gave up the help to save money. In recent years, due to changes in the State's open meeting laws, the paperwork requirements have increased and additional materials must be recorded. This has added to the burden of the job of committee secretary. Clerical assistance will allow preparation of better Town meeting booklets. Further, it will allow the members to better concentrate on the substance of the meetings instead of on taking notes.

**ARTICLE 8.** To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$9,000.00 to reimburse the DPW Building Operating Expenses account for tables and chairs that were bought for the new Page School cafetorium. By request of the Board of Selectmen.

**Selectmen Recommendation::**  
**FinCom Recommendation:**

Approve: 2-1-0  
Approve: 4-1-0

***Rationale:*** With the new construction of the Page School cafetorium, the school was in need of new cafeteria tables and chairs in order to accommodate the larger number of children during the lunch periods, which were decreased from five to three due to the additional space. The tables and chairs being replaced also reached their life expectancy of over 15 years and were no longer fully functional. The total cost of the new tables and chairs were \$14,000. The Pentucket Regional School District paid \$5,000 and the Town was responsible for the balance of \$9,000. The payment for the tables and chairs was made by taking funds from the DPW Building and Operations line item account. This article is to replace those funds to the DPW account. The funding source is through Free Cash.

**ARTICLE 9.** To see if the Town will raise and appropriate and/or transfer from available funds the sum of \$5,088.00 to fund the Finance Department Salaries and Wages for the part-time

coverage of temporary workers in the absence of the Finance Department's Administrative Assistant, who was on maternity leave. By request of the Finance Director.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *The Finance Department had an employee go on maternity leave. In her absence, two part-time personnel were hired for 12 weeks to make up the personnel shortfall for fiscal year 2014. This is critical for the functioning of the Town's Finance Department.*

*This article is not an increase on future taxes; it is a transfer from current available cash to the Finance Department salary line.*

**ARTICLE 10.** To see if the Town will raise and appropriate and/or transfer from available funds the sum of \$465.63 to fund the FY 2012 911 Training Grant account. By request of the Board of Selectmen.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *The Town received a 911 Training Grant from the state in FY 2012 for \$7,000.00 of which \$6,063.65 was subsequently expended. After the close of the 6/30/2012 fiscal year the Town eventually received reimbursement from the state, but \$465.63 less than the full amount. Thus, a transfer from Free Cash is required to fund the deficit.*

**ARTICLE 11.** To see if the Town will vote to raise and appropriate and/or reserve from the Community Preservation annual revenues in the amounts recommended by the Community Preservation Committee for community preservation projects and other expenses in the Fiscal Year 2014 with each item to be considered a separate appropriation:

**Reserves:**

From FY 2014 estimated revenues for Historic Resources Reserve account      \$14,778.00

From FY 2014 estimated revenues for Community Housing Reserve account      \$14,778.00

From FY 2014 estimated revenues for Open Space Reserve account      \$14,778.00

or to take any other action relative thereto. By request of the Community Preservation Committee.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *On May 1, 2006 the Town adopted the Community Preservation Act (CPA) which established a dedicated funding source to provide for Town land for open space or recreational use, community housing and historical preservation. The legislation mandates that CPA funds be allocated annually. This article presents the Community Preservation Committee's (CPC) recommendation to the Town, which earmarks the required minimum of 10% to each of the three categories. In order to spend any of the funds in any of the three CPA areas, additional approval must be given by both the CPC and Town Meeting. The Committee Administrative Expenses and Budgeted appropriations were allocated at the April 29, 2013*

*Annual Town Meeting. Two-thirds of these funds were raised from the CPA surcharge and one-third was from matching state aid.*

**ARTICLE 12.** To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$8,799.64 to fund GAR Library Salaries and Wages for additional funds to help cover vacations, sick time, and time to complete tasks. By request of the Director of the GAR Library.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 4-1-0

***Rationale:*** *The Library is understaffed. An additional part-time position is required to help cover staff vacations, sick leave, and time to complete required tasks. This position (10 hours) and the additional staff time (10 hours) will become a consideration in 2014 when the library engages in its first strategic planning process. Since the retirement of the long-time head librarian, who often volunteered her time to cover for other staff members, there was no calculation for these added wage costs in the FY 2014 budget.*

**ARTICLE 13.** To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$250.00 to the Open Space Committee's Expenses account to increase the total budget to \$750.00 to pay for printing, trail markers, and conferences and workshops. By request of the Open Space Committee.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *The Open Space Committee has been more active over the past year and as such been generating greater expenses. For the current year committee members have been making up the expenses out of pocket. Last year the OSC exceeded its budget, the shortfall being made up via transfer from the DPW's budget. Costs mainly comprise of printing, paint for trail markers and improving existing trails, and fees for conferences and workshops.*

**ARTICLE 14.** To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$32,368.45 for the purchase of a 2014 Police Cruiser and to authorize the Chief of Police and Board of Selectmen to dispose of the old vehicle in the best interest of the Town. By request of the Chief of Police.

**Selectmen Recommendation::**

Approve: 2-0-1

**FinCom Recommendation:**

Approve: 4-1-0

***Rationale:*** *The Town has implemented a cruiser replacement program to replace the oldest cruiser each year. As a result of this plan, the Town has been able to keep a well maintained and balanced vehicle usage program which has resulted in reduced costs of repairs. The purchase of this cruiser will replace the oldest cruiser (a 2010 Ford Crown Victoria) that currently has over 103,000 miles and if idling time is included, the equivalent engine mileage would be increased by 33%. The maintenance, repair and accident costs on this cruiser over its lifetime were \$7,730. Ford no longer makes the Crown Victoria models and, as such, the Police Chief is recommending purchasing a 2014 Ford Interceptor Sedan. While the cost of the vehicle is \$24,940, there are additional expenses of \$7,428.45 to refit and paint the new vehicle. This cost is higher*



than previous years since it is the first year of the new model and not all equipment is transferable. There is minimal trade-in value for the existing vehicle. The Finance Committee recommends that the funding source be Free Cash.

**ARTICLE 15.** To see if the Town will vote to appropriate by transfer from available funds the sum of \$50,000.00 to pay the costs of the Town's share of expenses, including but not limited to heating, water, and other utility costs, as stipulated in the lease by and between the Town and the Pentucket Regional School District for the Page School and Children's Castle facilities. By request of the Board of Selectmen.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

**Rationale:** This article is a request for \$50,000 to be set aside from Free Cash for the payment of all utilities and certain other expenses such as rodent and pest control for the Page School. The Town negotiated a new lease of the Page School building with the Pentucket district. Under this new lease, the Town is responsible for the direct payment of the expenses of the building. The Finance Director, after consultation with the Pentucket business manager, estimated \$50,000 for these expenses. Any funds not spent from this account by the end of the fiscal year will transfer to Free Cash.

**ARTICLE 16.** To see if the Town will vote to appropriate by transfer from available funds the sum of \$50,000.00 to pay for the up-keep, including but not limited to maintenance, repairs, and replacement of capital items, for the Page School and Children's Castle buildings and grounds on the property located at 694 Main Street. By request of the Board of Selectmen.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

**Rationale:** This article is a request for an additional \$50,000 to be set aside from Free Cash for the payment of maintenance and ground keeping expenses of the Page School and the Children's Castle. Under the terms of the new lease with the Pentucket district, the Town will be paying such expenses directly. The Finance Director, after consultation with the Pentucket business manager, estimated \$50,000 for these expenses. Any funds not spent from this account by the end of the fiscal year will transfer to Free Cash.

**ARTICLE 17.** To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$6,586.00 to pay for Aerial Photography to be done by Merrimack Valley Planning Commission and to be used by the West Newbury Planning Board, Inspection Department, Health Department, and Assessors' Office, the cost of which is shared by member towns. By request of the Building Inspector and the Board of Selectmen.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 3-2-0

**Rationale:** West Newbury is part of the Merrimack Valley Planning Commission and for the last ten years they have contracted with Pictometry International Corporation to conduct aerial oblique photography. This article will pay for West Newbury's share of the photography scheduled to take place in the spring, 2014. This will provide the Town with aerial photographs of all land parcels within the Town that can be used across

*all Town departments when providing services for inspection, planning and the necessary overlays for the Assessor's Office.*

**ARTICLE 18.** To see if the Town will vote to authorize the Board of Selectmen to enter into a lease for any or all of that portion of Town property located in the Solar Overlay District on Main Street for the installation and operation of a solar array. By request of the Board of Selectmen.

**Selectmen Recommendation::**

Approve: 2-1-0

**FinCom Recommendation:**

Approve: 4-1-0

***Rationale:*** *In 2012 West Newbury designated the approximately 5 acres west of the Page School (where the Colby's cows used to graze) as a Solar Overlay District. We received a \$12,500 grant from the Department of Energy Resources to hire an expert to develop a plan to attract a qualified developer. This "solar overlay" land would be leased to the selected developer, who would then, build the solar energy infrastructure. An attractive aspect of this lease is that most likely it would contain a "payment in lieu of taxes" clause whereby the developer would pay an annual personal property tax to the Town. Currently this Town-owned land generates no tax revenue. This Article would permit the Selectmen to negotiate a lease of the "solar overlay" land with the developer.*

**ARTICLE 19.** To see if the Town will vote to authorize the Board of Selectmen to enter into a Power Purchase Agreement for a period not to exceed thirty years for purchase of photovoltaic energy generated from a facility constructed within the Solar Overlay District. By request of the Board of Selectmen.<sup>1</sup>

**Selectmen Recommendation::**

Approve: 2-1-0

**FinCom Recommendation:**

Approve: 4-1-0

***Rationale:*** *The purpose of developing the Solar Overlay District is to generate solar energy for the municipal use. The utility company would provide a connection from the solar field to the grid so that in the event the solar system is producing less energy than required by the municipality, power would not be interrupted to Town buildings. In this article the Board of Selectmen request authorization to negotiate a Power Purchase Agreement with the selected developer. While the economics of this arrangement are yet unknown, the goal is to develop a solar field that will produce enough energy to serve the entire needs of the municipality. The Town would pay only for the energy produced. Additionally, the system will generate renewable energy certificates (RECs) which the Town may sell, which could result in further financial benefit for the Town. Power Purchase Agreements typically run from six to twenty-five years. One key to the financial success of this agreement for the Town is the careful negotiation of the electric rate over the length of the lease.*

**ARTICLE 20.** To see if the Town will vote to change the Pentucket Schools' Assessment from the line item budget, Article 3, in the April 2013 Annual Town Meeting's omnibus budget the following:

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<sup>1</sup> See Article 19 Appendix for Solar Purchase Agreements background information.

|                                |          |                    |
|--------------------------------|----------|--------------------|
| Pentucket Minimum Contribution | decrease | \$54,073.00        |
| Pentucket Other Assessment     | decrease | <u>\$ 7,826.83</u> |
|                                | Total    | \$61,899.83        |

By request of the Board of Selectmen.

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *At the annual Town meeting in the spring the Town voted to raise and appropriate funds (to tax) via the property tax an amount necessary to fund the Pentucket Regional School District's (PRSD) assessment. The Commonwealth recalculated the assessment to each of the Towns in the PRSD over the summer. West Newbury's assessment is actually lower than was first reported. Therefore, passage of this article will lower everyone's real estate taxes for 2013-2014.*

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## BYLAWS - OTHERS

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**ARTICLE 21.** To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 32B, Section 20 as amended, which includes the Acts of 2011, Chapter 68, Section 57. By request of the Board of Selectmen.<sup>2</sup>

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 4-0-1

***Rationale:*** *The Town has established a separate account for Other Post-Employment Benefits (OPEB) that is to be used to fund the promised health care insurance costs of retired Town employees. This account has approximately \$1,400,000 at the end of fiscal year 2013. Creation and funding of this account has contributed to the Town's excellent credit rating and has saved the Town borrowing charges. New legislation from the Commonwealth has established the regulations of exactly how a community may create, fund, oversee and disperse funds from this account. By adopting the OPEB MGL, Chapter 32B, Section 20 the Town's fund will be in compliance with Governmental Accounting Standards Board (GASB) recommendations. By accepting the change in OPEB regulations the Town will be able to invest in accordance with established state standards under the oversight of a custodian (the Town Treasurer), as is now the case, or if created in the future, a Board of Trustees. The OPEB funds, if this article is adopted, will be set aside for only the payment of retiree health insurance expenses and "shall not be subject to the claims of any general creditor of the Town." This effectively locks up the funds from any other Town use, which contributes to a good Town credit rating. The funds are to all intents and purposes already in this position, but this formalizes the process and keeps the Town in concert with GASB.*

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<sup>2</sup> See Article 21 Appendix for prior and revised Massachusetts statutory Other Post Employment Benefits trust provisions.

**ARTICLE 22.** To see if the Town will vote to amend Section 8 of the Town Bylaws to allow one member of the Finance Committee to be a member of the Investment Policy Committee. By request of the Board of Selectmen.<sup>3</sup>

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

***Rationale:*** *Currently by Town Bylaws the only Town Committee a Finance Committee member may join or participate in is the Capital Improvement Committee. This amendment would allow a Finance Committee member to join the potential Investment Policy Committee.*

*The role of the Investment Policy Committee may include for example the drafting of an investment policy statement; defining roles, responsibilities and procedures; developing an investment philosophy; identifying risk parameters; selecting and monitoring investment options; selecting and hiring professional investment managers and monitoring their performance.*

**ARTICLE 23.** To see if the Town will vote to amend the Zoning Bylaw, Section 10., Groundwater Protection Overlay District (GPOD), by amending the GPOD Map to add a new Zone II south of the existing Zone I, and to amend the date of the Map in Section 10.D. of the Bylaw. By request of the Planning Board.<sup>4</sup>

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 4-0-0

***Rationale:*** *This article corrects an oversight on the map delineating the groundwater protection district for the Town's wellfield. This is an administrative correction of parcels that were in the Zone but inadvertently omitted from the originally prepared map.*

**ARTICLE 24.** To see if the Town will vote to amend the Zoning Bylaw by deleting the existing Section 8.B., Site Plan Review, and replacing it with a new Section 8.B., Site Plan Review. By request of the Planning Board.<sup>5</sup>

**Selectmen Recommendation::**

Approve: 2-1-0

**FinCom Recommendation:**

Approve: 4-0-0

***Rationale:*** *After several years of extensive review, the Planning Board has prepared an amendment to the Zoning Bylaws to add a new site plan review. This proposed change in the Bylaws aims to lessen ambiguities in the process of approving the establishment of new non-residential development in the Town. By encouraging a conversation with the Planning Board, future developments may end up with improvements for all concerned: the new business, neighbors, and the Town. As a first step in the process, the building inspector will determine whether a new development or a change in the nature of an existing development needs a site plan review. If*

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<sup>3</sup> See Article 22 Appendix for the proposed revision to Town Bylaws § 8.

<sup>4</sup> See Article 23 Appendix for the proposed Ground Water Protection Overlay map.

<sup>5</sup> See Article 24 Appendix for the proposed new Site Plan Review Zoning Bylaw provisions.

*determined that the project does need a site plan review, the new Bylaw then delineates the necessary steps in the process. During the review, for example; the Board might suggest that a curb cut for a driveway be moved to more easily accommodate site lines for a turn or that a cement block façade might look better in brick. However, other than violations of Town Bylaws, the site plan review by the Planning Board can ultimately only provide recommendations to the applicant. The new Bylaws should be a win/win for all concerned: the Town by having a say in a proposed project, neighbors being informed before construction and the developers receiving input that might improve the project. This could result in greater acceptance of new developments. It could also help insulate the Town from potential lawsuits over problems that were not corrected before completion of the project.*

**ARTICLE 25.** To see if the Town will vote to amend the Zoning Bylaw by adding to Section 4., Use Regulations Pertaining to All Districts, a new Section 4.E., Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries and related facilities, through November 30, 2014. By request of the Planning Board.<sup>6</sup>

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 4-0-0

***Rationale:*** *By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession, and use of marijuana for medical purposes. This law became effective on January 1, 2013. The State Department of Public Health enacted regulations that became effective on May 24, 2013. The Regulations provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers and Registered Marijuana Dispensaries. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of such use and address such novel and complex issues, as well as to address the potential impact of the State Regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries and other uses related to the regulation of medical marijuana.*

*For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, this article will allow the Town to hereby adopt a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center/Registered Marijuana Dispensary. The moratorium shall be in effect through November 30, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, to consider the Department of Public Health Regulations, as well as any amendments thereto during the moratorium period, and to consider adopting an appropriate amendment to West Newbury's Zoning Bylaw to address the impact and operation of Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries and related uses.*

**ARTICLE 26.** To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 48, Section 42, or to take any other action relative thereto. By request of the Board of Selectmen.<sup>7</sup>

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<sup>6</sup> See Article 25 Appendix for the proposed medical marijuana temporary moratorium Town Bylaw.

<sup>7</sup> See Article 26 Appendix for Massachusetts' strong fire chief statute.

**Selectmen Recommendation::**

Approve: 2-1-0

**FinCom Recommendation:**

Approve: 3-0-2

**Rationale:** In 2004 the Board of Selectmen commissioned the O'Keefe study to make long-term recommendations for the professional development of the fire department. One of the recommendations of this report was the adoption of a Strong Fire Chief by 2006. Our Board of Fire Engineers is appointed annually for a term of one year. This arrangement was established by statute back in the 1800s. Only three other communities in Essex County still have a Board of Fire Engineers. (Essex, Merrimac and Newbury). The Board of Fire Engineers appoints a Chief Engineer, who reports to the Board. The authority of the Board of Fire Engineers comes from the state Fire Marshall. Over the years the Board of Selectmen have expanded and contracted the number of engineers serving on the Board with varying degrees of efficiency. This article requests the establishment of a strong fire chief in West Newbury, who would report to the Board of Selectmen. He/she would be the Fire Chief 24/7 but proposed to be paid as "Chief" for 16 hours per week and be compensated as a call firefighter for the remainder of his time. He would be the one to take command of every fire. During these 16 hours the Chief would perform all the administrative duties and inspections, etc., that currently are spread among various engineers. The call fire department would remain the same with the exception that there would be one Chief in charge, working under a contract and reporting to the Board of Selectmen. Having a Strong Fire Chief will give the department a professional manager and some much-needed continuity and leadership.

**ARTICLE 27.** To see if the Town will vote to accept the revision of the Town Bylaw, "Harbor Committee" for appointing members, Chapter XXVI, Section VII, by deleting "three registered voters" and replacing it with "three town residents". By request of the Board of Selectmen.<sup>8</sup>

**Selectmen Recommendation::**

Approve: 3-0-0

**FinCom Recommendation:**

Approve: 5-0-0

**Rationale:** The request in this article is a matter of Bylaw housekeeping. By changing the appointment section of the Harbor Committee Bylaw to read "three town residents" the section will be in conformity with other Town Bylaws.

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<sup>8</sup> See Article 27 Appendix for the proposed revised Town Bylaw concerning Harbor Committee membership.

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

LOCATIONS TO POST WARRANT:

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

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

Given under our hands this 18th day of October, 2013.

BOARD OF SELECTMEN:

Albert H. Knowles, Chairman

Glenn A. Kemper

Joseph Anderson

A true copy, Attested:

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Michael P. McCarron, Town Clerk

Pursuant to the above warrant to me directed, I hereby notify and warn all the inhabitants of the Town of West Newbury who are qualified to vote to meet at said time and place.

---

Constable

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Date of Posting

**TOWN OF WEST NEWBURY  
COMMONWEALTH OF MASSACHUSETTS  
WARRANT - SPECIAL TOWN MEETING – MONDAY, NOVEMBER 4, 2013**

## **APPENDICES**

|                      |  |
|----------------------|--|
| Article 19 Appendix: | Solar Purchase Agreements  |
| Article 21 Appendix: | Prior & Amended Mass. General Law Ch. 32B § 20 Other Post Employment Benefits Liability Trust Fund                       |
| Article 22 Appendix: | West Newbury Town Bylaws Finance Committee Member's Other Town Positions   |
| Article 23 Appendix: | Proposed Groundwater Protection Overlay Map  |
| Article 24 Appendix: | West Newbury Zoning Bylaws New Site Plan Review  |
| Article 25 Appendix: | West Newbury Zoning Bylaws Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries |
| Article 26 Appendix: | Mass. General Law Ch. 48 § 42 Fire Department Strong Chief   |
| Article 27 Appendix: | West Newbury Town Bylaws Harbor Committee Membership Qualifications  |



## **Article 19 Appendix**

### **Solar Purchase Agreements**

#### **What Is a Solar Power Purchase Agreement (SPPA)?**

A Solar Power Purchase Agreement (SPPA) is a financial arrangement in which a third-party developer owns, operates, and maintains the photovoltaic (PV) system, and a host customer agrees to site the system on its roof or elsewhere on its property and purchases the system's electric output from the solar services provider for a predetermined period. This financial arrangement allows the host customer to receive stable, and sometimes lower cost electricity, while the solar services provider or another party acquires valuable financial benefits such as tax credits and income generated from the sale of electricity to the host customer.

With this business model, the host customer buys the services produced by the PV system rather than the PV system itself. This framework is referred to as the "solar services" model, and the developers who offer SPPAs are known as solar services providers. SPPA arrangements enable the host customer to avoid many of the traditional barriers to adoption for organizations looking to install solar systems: high up-front capital costs; system performance risk; and complex design and permitting processes. In addition, SPPA arrangements can be cash flow positive for the host customer from the day the system is commissioned.

#### **How do SPPAs Work?**

A **host customer** agrees to have solar panels installed on its property, typically its roof, and signs a long-term contract with the solar services provider to purchase the generated power. The host property can be either owned or leased (note that for leased properties, solar financing works best for customers that have a long-term lease). The purchase price of the generated electricity is typically at or slightly below the retail electric rate the host customer would pay its utility service provider. SPPA rates can be fixed, but they often contain an annual price escalator in the range of one to five percent to account for system efficiency decreases as the system ages and inflation-related costs increases for system operation, monitoring, maintenance, and anticipated increases in the price of grid-delivered electricity. An SPPA is a performance-based arrangement in which the host customer pays only for what the system produces. The term length of most SPPAs can range from six years (i.e., the time by which available tax benefits are fully realized) to as long as 25 years.

The **solar services provider** functions as the project coordinator, arranging the financing, design, permitting, and construction of the system. The solar services provider purchases the solar panels for the project from a **PV manufacturer**, who provides warranties for system equipment.

The **installer** will design the system, specify the appropriate system components, and may perform the follow-up maintenance over the life of the PV system. To install the system, the solar services provider might use an in-house team of installers or have a contractual

## Article 19 Appendix

relationship with an independent installer. Once the SPPA contract is signed, a typical installation can usually be completed in three to six months.


An **investor** provides equity financing and receives the federal and state tax benefits for which the system is eligible. Under certain circumstances, the investor and the solar services provider may together form a **special purpose entity** for the project to function as the legal entity that receives and distributes to the investor payments from the sale of the systems kWh output and tax benefits.

The **utility** serving the host customer provides an interconnection from the PV system to the grid, and continues its electric service with the host customer to cover the periods during which the system is producing less than the site's electric demand. Certain states have net metering requirements in place that provide a method of crediting customers who produce electricity on-site for generation in excess of their own electricity consumption. In most states, the utility will credit excess electricity produced from the PV system, although the compensation varies significantly depending on state policies.

| Benefits & Challenges of SPPAs   |   |
|--|---|
| <i>Benefits for host customer</i>  | <i>Challenges for host customer</i>   |
| No upfront capital cost.<br>Predictable energy pricing.<br>No system performance or operating risk.<br>Projects can be cash flow positive from day one.<br>Visibly demonstrable environmental commitment.<br>Potential to make claims about being solar powered (if associated RECs are retained).<br>Potential reduction in carbon footprint (if associated RECs are retained).<br>Potential increase in property value.<br>Support for local economy and job creation. | More complex negotiations and potentially higher transaction costs than buying PV system outright.<br>Administrative cost of paying two separate electricity bills if system does not meet 100 percent of site's electric load.<br>Potential increase in property taxes if property value is reassessed.<br>Site lease may limit ability to make changes to property that would affect PV system performance or access to the system.<br>Understand trade offs related to REC ownership/sale. |

## **Article 19 Appendix**

### **SPPAs, Renewable Energy Certificates (RECs), and Green Power Partnership Eligibility**

In order to claim a system's on-site solar electricity production towards the Green Power Partnership's [purchase requirements](#) a Partner must retain the associated [renewable energy certificates](#) (RECs) generated by the system. Partners should take care in making environmental claims that extend past what is conveyed by the associated RECs owned by the system host. For more information on solar, RECs, and associated claims, read [Green-e's Solar FAQs and Claims \(PDF\)](#) (8 pp, 42K, [About PDF](#)) fact sheet. 

System hosts may choose to sell the RECs associated with the on-site solar PV system and in their place buy RECs sourced from other geographically eligible green power resources in order to make environmental claims. This process is referred to as REC arbitrage and allows the site host to capture the financial benefits of solar RECs, while also making environmental claims and meeting the Partnership's [purchase requirements](#). For an in-depth discussion of RECs, review EPA's white paper on [Renewable Energy Certificates \(PDF\)](#) (6 pp. 996K).

## Article 21 Appendix

### Prior & Amended Mass. General Law Ch. 32B § 20 Other Post Employment Benefits Liability Trust Fund

*[Text of section effective until July 1, 2011. For text effective July 1, 2011, see below]*

**Section 20.** A city, town, district, county or municipal lighting plant that accepts this section, may establish a separate fund, to be known as an Other Post Employment Benefits Liability Trust Fund, and a funding schedule for the fund. The schedule and any future updates shall be designed, consistent with standards issued by the Governmental Accounting Standards Board, to reduce the unfunded actuarial liability of health care and other post-employment benefits to zero as of an actuarially acceptable period of years and to meet the normal cost of all such future benefits for which the governmental unit is obligated. The schedule and any future updates shall be: (i) developed by an actuary retained by a municipal lighting plant or any other governmental unit and triennially reviewed by the board for a municipal lighting plant or by the chief executive officer of a governmental unit; and (ii) reviewed and approved by the actuary in the public employee retirement administration commission.

The board of a municipal lighting plant or the legislative body of any other governmental unit may appropriate amounts

recommended by the schedule to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. 1395w-132 may be added to and become part of the fund.

The custodian of the fund shall be: (i) a designee appointed by the board of a municipal lighting plant; or (ii) the treasurer of any other governmental unit. Funds shall be invested and reinvested by the custodian consistent with the prudent investor rule set forth in chapter 203C.

This section may be accepted in a city having a Plan D or Plan E charter by vote of the city council; in any other city by vote of the city council and approval of the mayor; in a town by vote of the town at a town meeting; in a district by vote of the governing board; in a municipal lighting plant by vote of the board; and in a county by vote of the county commissioners.

**Chapter 32B: Section 20. Other Post-Employment Benefits Liability Trust Fund** *[Text of section as amended by 2011, 68, Sec. 57 effective July 1, 2011. See 2011, 68, Sec. 221. For text effective until July 1, 2011, see above]*

**Section 20.** (a) A city, town, district, county or municipal lighting plant that accepts this section may establish an Other Post-Employment Benefits Liability Trust Fund, and

may appropriate amounts to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a

## **Article 21 Appendix**

governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. section 1395w-132 may be added to and become part of the fund. All monies held in the fund shall be segregated from other funds and shall not be subject to the claims of any general creditor of the city, town, district, county or municipal lighting plant.

(b) The custodian of the fund shall be (i) a designee appointed by the board of a municipal lighting plant; (ii) the treasurer of any other governmental unit; or (iii) if designated by the city, town, district, county or municipal lighting plant in the same manner as acceptance prescribed in this section, the Health Care Security Trust board of trustees established in section 4 of chapter 29D, provided that the board of trustees accepts the designation. The custodian may employ an outside custodial service to hold the monies in the fund. Monies in the fund shall be invested and reinvested by the custodian consistent with the prudent investor rule established in chapter 203C and may, with the approval of the Health Care Security Trust board of trustees, be invested in the State Retiree Benefits Trust Fund established in section 24 of chapter 32A.

(c) This section may be accepted in a city having a Plan D or Plan E charter, by vote of the city council; in any other city, by vote of the city council and approval of the mayor; in a town, by vote of the town at a town meeting; in a district, by vote of the governing board; in a municipal lighting plant, by vote of the board; and in a county, by vote of the county commissioners.

(d) Every city, town, district, county and municipal lighting plant shall annually submit

to the public employee retirement administration commission, on or before December 31, a summary of its other post-employment benefits cost and obligations and all related information required under Government Accounting Standards Board standard 45, in this subsection called "GASB 45", covering the last fiscal or calendar year for which this information is available. On or before June 30 of the following year, the public employee retirement administration commission shall notify any entity submitting this summary of any concerns that the commission may have or any areas in which the summary does not conform to the requirements of GASB 45 or other standards that the commission may establish. The public employee retirement administration commission shall file a summary report of the information received under this subsection with the chairs of the house and senate committees on ways and means, the secretary of administration and finance and the board of trustees of the Health Care Security Trust.

## **Article 22 Appendix**

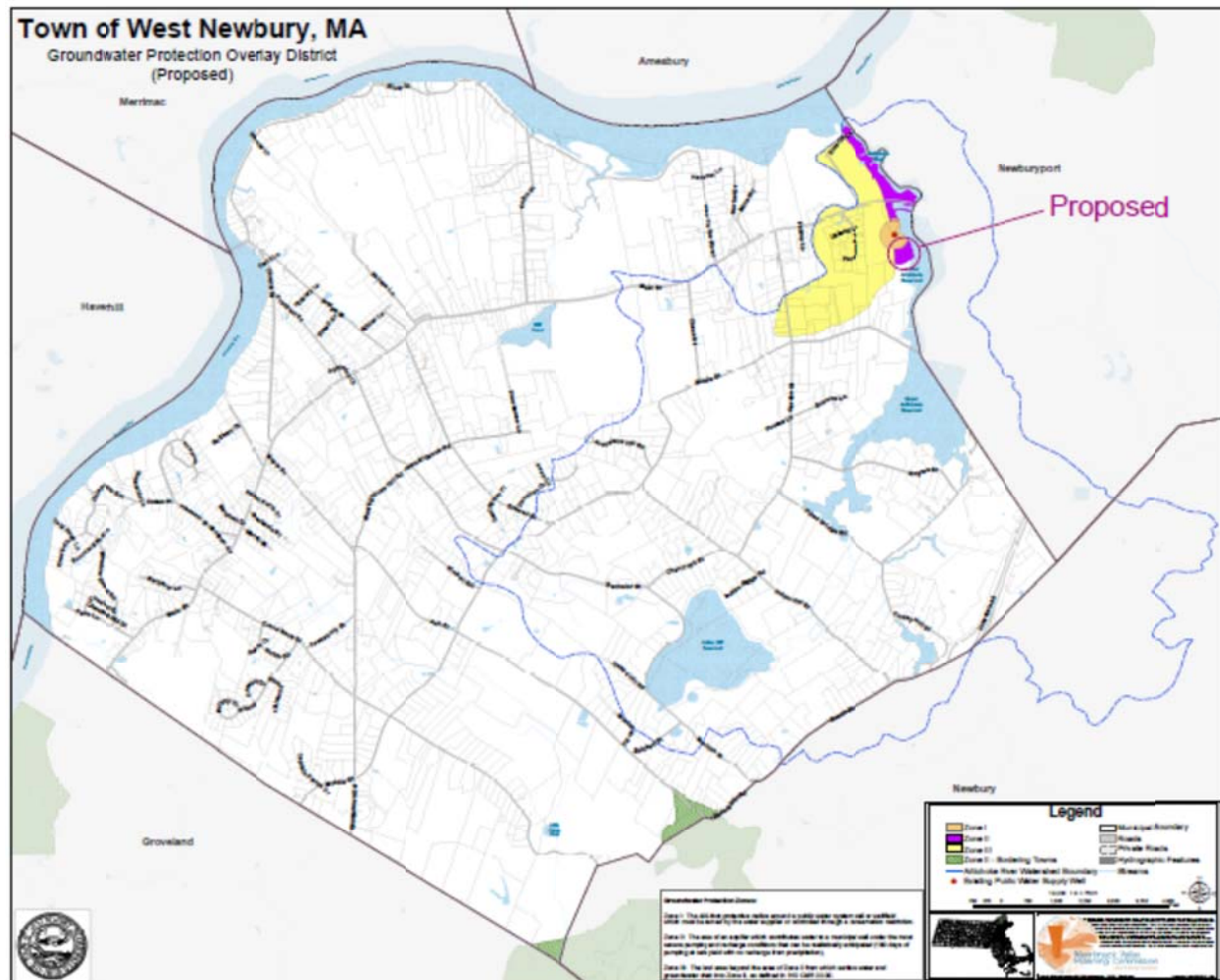
### **West Newbury Town Bylaws Finance Committee Member's Other Town Positions**

SECTION 8. In compliance with the provisions of law relating thereto, there shall be a Finance Committee consisting of six (6) qualified voters who shall not hold any other Town Office or position, except that one member of the Finance Committee shall be a member of the advisory Capital Improvements Committee and the Investment Policy Committee, and who shall be appointed by the Selectmen, two (2) each for a term of three (3) years, any vacancy arising may be filled by the Selectmen at any time. It shall be the duty of the Finance Committee to consider all municipal questions affecting the revenue, indebtedness or expenditures of the funds of the Town, and for this purpose the committee shall have access to all books and records of the Town.

*[Amended at the Special Town Meeting October 14, 1987, approved by the Attorney General November 24, 1987 and posted according to law on February 27, 1988.]*

## Article 23 Appendix

### Proposed Groundwater Protection Overlay Map



## **Article 24 Appendix**

### **West Newbury Zoning Bylaws New Site Plan Review**

#### **§8.B SITE PLAN REVIEW**

##### **8.B.1. Purposes**

The purposes of Site Plan Review are to promote logic, imagination, and innovation in the design process; to provide adequate review of development plans that may have significant impacts on traffic, stormwater, community services, environmental quality, and the character of the Town; and to protect public health and safety.

##### **8.B.2. Administration and Regulations**

- a. Site Plan Review shall be administered by the Planning Board.
- b. The Planning Board shall adopt, and from time to time amend, Regulations to effectuate the purposes and intent of the provisions of this Bylaw section. Such Regulations shall prescribe at a minimum the size, form, contents, number of plans, filing, materials and submittal requirements, Public Hearing requirements, and the Town boards or agencies from which the Planning Board shall request written reports.
- c. The Planning Board may adopt, and from time to time amend, Fees sufficient to cover reasonable costs incurred by the Town in review and administration of Site Plan Review Applications.
- d. The Planning Board may require a Technical Review Fee in appropriate circumstances subject to M.G.L. Chapter 44, §53G.
- e. Any work done in deviation from an approved Site Plan shall be a violation of this Bylaw unless such deviation is approved in writing by the Planning Board or its designated Agent, or determined by the Building Inspector to be an insubstantial change.

##### **8.B.3. Applicability**

Site Plan Review is required for all non-residential structures and uses, which include new construction, additions, reconstruction, new use or change of use, whether or not a Building Permit is required, for the following buildings, facilities, and/or uses:

- a. Commercial, industrial, and mixed-use



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- b. Public, municipal, and municipal recreational
- c. Institutional
- d. Agricultural, which includes:
  - 1. the commercial breeding and/or keeping of livestock;
  - 2. permanent farm stands and greenhouses for commercial production of plants or produce;
  - 3. stables providing boarding and/or services for more than six (6) horses in addition to those owned by the residents of the lot on which the stable is located.
- e. Uses which require a Special Permit, with the following exceptions:
  - 1. Common Driveways (Section 7.D.)
  - 2. Reduced Frontage Lots (Section 6.A.1.)
  - 3. Floodplain Overlay District (Section 5.D.)
  - 4. Other Special Permits which are specifically exempt in the Zoning Bylaw.
- f. Creation of six (6) or more new parking spaces.
- g. Any alteration of traffic or pedestrian flow for access to or egress from the site along any lot line bordering a right-of-way.

### **8.B.4. Review Procedure**

The following steps shall be followed for review of a project:

- a. Building Inspector Review. The Building Inspector will determine if Site Plan Review is required. If the Inspector determines that a Site Plan Review or Special Permit with Site Plan Review is required, following receipt of a written denial from the Building Inspector, the Applicant shall submit the appropriate Application(s) to the Planning Board.
- b. Pre-Application Conference. Prior to submission of a formal Application, it is required that the Applicant file a request with the Planning Board for a Pre-Application Conference. Said conference will be placed on the Agenda for a regularly scheduled Planning Board Meeting. The purpose of this conference is to determine the applicability of the informational requirements of this subsection and to obtain other information and guidance before the Applicant enters into binding commitments or incurs substantial expense in the preparation of plans, surveys, and other data. It is recommended that the Applicant provide information to the Planning

## **Article 24 Appendix**

Board to assist the Planning Board in understanding the scope and impact of the project. Said information may include conceptual drawings of the proposed project indicating a preliminary site layout, general building design, potential locations of curb cuts, parking areas, signs, and wetland resource areas, habitat areas, the location and type of surrounding uses, information regarding environmental impact or infrastructure capacity related to the project, and a list of potential Waivers to submittal requirements. The number of copies and size of plan submittal shall be determined.

- c. **Public Hearing.** The Planning Board shall hold a Public Hearing to act on a Site Plan Review Application filed. The following criteria shall apply:
  - 1. The current owner of record or an authorized representative shall submit an Application for Site Plan Review to the Planning Board that has been time-stamped at the Town Clerk's Office. The Application shall include an administrative Filing Fee in accordance with the schedule established by the Planning Board. See Planning Board Regulations for submittal requirements.
  - 2. The Planning Board shall schedule a Public Hearing within sixty-five (65) days of receipt of the Application. The notification requirements for the Public Hearing shall conform to the requirements of §IV. of Planning Board Regulations.
- d. **Planning Board Decision.** The Planning Board shall render and file a written Decision, agreed to by a majority vote of the Planning Board, with the Town Clerk within ninety (90) days of closing the Public Hearing, except where an Applicant has formally requested an extension of time which is mutually agreed to by a majority vote of the Planning Board. If the Planning Board fails to file a written Decision with the Town Clerk within the required time limit, or such further time as is mutually agreed upon by the Applicant and the Planning Board, the plan shall be deemed approved.

### **8.B.5. Waivers**

When reviewing an Application, the Planning Board, at the formal written request of the Applicant, may waive any submittal requirements listed in this Bylaw section. Said waiver requests shall be made in writing by the Applicant with stated reasons for requesting the waiver(s). The Planning Board shall review such requests and may vote to grant such waivers during the review process and in writing within the final Decision under Site Plan Review.

## **Article 24 Appendix**

### **8.B.6. Site Plan Review Guidelines**

In reviewing the Site Plan, the Planning Board shall promote the purposes set forth in §8.B.1. The Applicant is requested to comply with the Development and Performance Guidelines contained in Planning Board Regulations however, these are Guidelines and are not mandatory. These Guidelines may encompass the following criteria for the proposed development:

- a. Traffic, Parking, and Public Access:
  - 1. Minimizes vehicular traffic and safety impacts of the proposed development on adjacent highways or roads.
  - 2. Maximizes the convenience and safety of vehicular, bicycle, and pedestrian movement within the neighborhood and site.
- b. Health:
  - 1. Minimizes adverse air quality impacts, noise, glare, and odors.
  - 2. Provides for appropriate handling and disposal of waste and hazardous materials.
- c. Public Services and Utilities:
  - 1. Is designed with suitable water supply, wastewater systems, solid waste disposal systems, and stormwater management practices.
  - 2. Is within the capacity of the Town's infrastructure as determined by the Department of Public Works.
  - 3. Includes measures to prevent pollution of surface or groundwater, minimize erosion and sedimentation, prevent changes in groundwater levels, and prevent increased run-off, flow and flow rates, and limits the potential for flooding.
  - 4. Demonstrates an effort to conserve energy and water.
- d. Land Use Planning: Is consistent with the land-use goals of the Town's Master plan and other relevant documents.
- e. Open Space and Environmental Protection:
  - 1. Minimizes adverse impacts to open space and viewscales, and adverse environmental impacts to such features as wetlands, floodplains, surface water and groundwater.
  - 2. Proposes a landscape design that favors native and drought-tolerant species and avoids invasive plants.
- f. Community Character:
  - 1. Minimizes obstruction of scenic views from publicly accessible locations.
  - 2. Minimizes impacts to important natural or historical features.

## **Article 24 Appendix**

3. Screens objectionable features, such as large blank walls, open dumpsters, loading or storage areas, from neighboring properties and roadways.
4. Is appropriate with regard to the size, shape, and architectural design of the buildings or structures both in relation to the land area upon which the building or structure is situated and to the adjacent buildings and structures within the neighborhood.

### **8.B.7. Final Action for Site Plan Review**

- a. The Planning Board may make a Decision as follows:
  1. Approval as Submitted: Approval based on a determination that the Application complies with the criteria and design performance standards set forth in this Bylaw.
  2. Approval with Conditions: Approval of the Application subject to any conditions, modifications, and restrictions the Planning Board may deem necessary to ensure the health, safety, and general welfare of the community.
  3. Disapproval: A disapproval of the Application for the reasons of an incomplete Application, or non-compliance with the Zoning Bylaw.
- b. Distribution of Decisions
  1. The Planning Board shall file its Decision with the Town Clerk within 21 days of a vote taken.
  2. A notice of the Decision shall be mailed to the Applicant; to all parties to whom notice of the Public Hearing was mailed; to every person present at the Hearing who requested that notice be sent and who stated the address to which such notice was to be sent; to the Inspector of Buildings; and where applicable, to the Board of Health, the Conservation Commission, and other Town boards or departments.
- c. Decision Date

The Board's decision becomes final when the Decision is filed with the Town Clerk and duly recorded with accompanying documents at the Registry of Deeds. It is the responsibility of the Applicant to record all documents, and to provide the Planning Board with a recorded copy, prior to commencement of any work authorized under this Bylaw section.
- d. Modifications

The Planning Board has the sole discretion to determine whether a modification is Major or Minor. All modifications to an approved Site Plan

## **Article 24 Appendix**

made after issuance of the Decision require review by the Planning Board or its Agent as follows:

1. Minor Modifications: The Planning Board or its Agent may allow minor modifications of construction or Site Plan details, provided that they do not alter the intent or the Conditions of the Approval.
2. Major Modifications: The Applicant will be required to file an amended Site Plan Review Application.

e. Withdrawal of Application

Any Application may be withdrawn without prejudice by notice in writing to the Planning Board prior to the publication of the notice of Hearing, but thereafter, may be withdrawn without prejudice only with the approval of the Board.

### **8.B.8. Lapse of Approval**

Any approval which has been granted by the Planning Board shall lapse within two (2) years from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon written request of the Applicant.

### **8.B.9. Appeals**

Appeal of the Planning Board's final action on a Site Plan Review Application shall be made to the Zoning Board of Appeals in accordance with §8A of this Bylaw, and within 30 (thirty) days of filing the Decision with the Town Clerk. In the case where applications for Special Permit and Site Plan Review have been decided jointly, Appeals shall be made in accordance with M.G.L. Chapter 40A, §17.

### **8.B.10. Performance Guarantee**

- a. Performance Guarantee: The Planning Board may require that the Applicant file with the Planning Board, as a Condition of Approval, a bond or other such surety acceptable in form and amount. This surety is to cover costs of non-building construction, including, but not limited to: streets, utilities, erosion control measures, and off-site environmental impacts, which present a public health and safety hazard or nuisance if left incomplete or improperly constructed. Further, a Performance Agreement between the Applicant and the Board will specify the manner in which the on or off-site improvements will be completed and the specific manner and time frame in which the surety will be released.

## **Article 24 Appendix**

- b. **Plan Certification:** Prior to the final release of a Performance Guarantee, a copy of the final Site Plan(s), stamped by a professional Civil Engineer, Land Surveyor and/or Registered Architect, shall be submitted to the Building Inspector and the Planning Board. Said plans shall contain a certification that construction is consistent with the approved plans and conditions set forth by the Planning Board in the Site Plan Review approval. Any modifications shall be consistent with the requirements listed under Section 8.B.10. The Applicant shall also submit to the Planning Board all drawings and Site Plan(s) in an electronic Computer Aided Drafting (CAD) format.
- c. **Release of Performance Guarantee:** Upon completion of all or a portion of the improvements required by a Performance Agreement entered under this Bylaw, the Applicant may request either partial or full release of the bond, or other such surety as has been posted by the Applicant pursuant to this Bylaw, by sending a statement of completion and request for release to the Planning Board and to the Town Clerk. If the Planning Board, or its consulting engineer or designated representative, determines that said construction has been completed, it shall release the interest of the Town in such bond or other security and return it to the person(s) or entity who furnished it.
- d. **Refusal of Release:** If the Planning Board determines that said site improvements have not been either fully or adequately completed, it shall specify in a notice sent by Certified Mail to the Applicant and filed with the Town Clerk, how the site improvements fail to comply with the requirements of this Bylaw.

## **Article 25 Appendix**

### **West Newbury Zoning Bylaws Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries**

SECTION 4. *[Use Regulations Pertaining to All Districts, to add a section 4.E., Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries and related facilities, through November 30, 2014, as follows:]*

#### **4.E. Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries.**

##### **4.E.1. Purpose:**

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession, and use of marijuana for medical purposes. This law became effective on January 1, 2013. On May 8, 2013, the State Department of Public Health promulgated Regulations that became effective on May 24, 2013. The Regulations provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries. The regulation of medical marijuana raises complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of such use and address such complex issues, as well as to address the potential impact of the State Regulations on local zoning and to undertake a planning process to consider amending the Zoning By-Law regarding regulation of Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries and other uses related to the regulation of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries so as to allow sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact an appropriate amendment to the Zoning By-Law in a manner consistent with sound land use planning goals and objectives.

##### **4.E.2. Definition:**

***Medical Marijuana Treatment Center:*** A “not-for-profit” entity, as defined by Massachusetts law only, registered by the Department of Public Health as a Registered Marijuana Dispensary, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing

## **Article 25 Appendix**

marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

### **4.E.3. Temporary Moratorium:**

For the reasons set forth above and notwithstanding any other provision of the Zoning By-Law to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center/Registered Marijuana Dispensary. The moratorium shall be in effect through November 30, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, to consider the Department of Public Health Regulations, as well as any amendments thereto during the moratorium period, and to consider adopting an appropriate amendment to West Newbury's Zoning By-Law to address the impact and operation of Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries and related uses.



## **Article 26 Appendix**

### **Mass. General Law Ch. 48 § 42 Fire Department Strong Chief**

#### **Section 42 Establishment of fire departments; appointment of fire chief; compensation; removal; powers and duties**

**Section 42.** Towns accepting the provisions of this section and sections forty-three and forty-four, or which have accepted corresponding provisions of earlier laws may establish a fire department to be under the control of an officer to be known as the chief of the fire department. The chief shall be appointed by the selectmen, and shall receive such salary as the selectmen may from time to time determine, not exceeding in the aggregate the amount annually appropriated therefor. He may be removed for cause by the selectmen at any time after a hearing. He shall have charge of extinguishing fires in the town and the protection of life and property in case of fire. He shall purchase subject to the approval of the selectmen and keep in repair all property and apparatus used for and by the fire department. He shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in towns except as herein provided,

and shall appoint a deputy chief and such officers and firemen as he may think necessary, and may remove the same at any time for cause and after a hearing. He shall have full and absolute authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the selectmen from time to time as they may require, and shall annually report to the town the condition of the department with his recommendations thereon; he shall fix the compensation of the permanent and call members of the fire department subject to the approval of the selectmen. In the expenditure of money the chief shall be subject to such further limitations as the town may from time to time prescribe. The appointment of the chief of the fire department in any town or district having a population of five thousand or less may be for a period of three years.

## Article 27 Appendix

### West Newbury Town Bylaws Harbor Committee Membership Qualifications

#### VII. HARBOR COMMITTEE:

A. The Board of Selectmen shall appoint ~~three registered voters~~ three town residents of West Newbury to serve as a Harbor Committee. Initial appointments shall be for one, two, and three years with each subsequent term to be three years. The Harbor Master shall be an ex-officio member of the Committee.

B. The Committee is advisory and shall report to the Board of Selectmen from time to time to make recommendations on any and all matters related to marine activity afloat or ashore.

*[Amendment adding Section VI. to the General Harbor Regulations voted at the third session of the 1994 Annual Town Meeting held on June 16, 1994. Approved by the Attorney General on August 26, 1994, and posted according to law on August 31, 1994.]*

*[Amendment to rescind the original § I-V and adopt the new § I-V voted at the April 24, 2000, Annual Town Meeting, approved by the Attorney General on July 24, 2000, and posted according to law on July 27, 2000.]*

*[Amendment increasing mooring fees in the to the General Harbor Regulations voted at the second session of the 2005 Annual Town Meeting held on May 5, 2005. Approved by the Attorney General on May 25, 2005, and posted according to law on June 9, 2005]*