



TOWN OF WINCHESTER BOARD OF SELECTMEN'S MEETING
BOARD OF SELECTMEN MEETING ROOM

- A. 6:30 P.M. OPENING
- B. 6:31 P.M. EXECUTIVE SESSION (CLOSED TO PUBLIC)

Litigation – Eversource Intervener Status – MGL Ch. 30A §21(a)3 [Open Meeting discussion may have a detrimental effect on the litigating position of the Board of Selectmen as declared by the chairman.] – Siting Board Filing Update

- C. 7:30 P.M. NOTIFICATION OF OTHER MEETINGS AND HEARINGS (OPEN TO PUBLIC)
 - 1. Monday, July 25, 2016 – Board of Selectmen – Regular Session
 - 2. Wednesday, July 27, 2016 – Public Informational Session – Forest Ridge Residences 40B Development Proposal – McCall Middle School Auditorium – 7:00 PM
 - 3. Monday, August 8, 2016 – Board of Selectmen – Regular Session
 - 4. Monday, August 29, 2016 – Board of Selectmen – Regular Session

D. TOWN MANAGER REPORT AND COMMENTS

- 1. Appointment – Police Department – (2 full-time permanent intermittent police officers Frank Spinosa and Shelby Santini);
- 2. Appointment – Fire Department (Sean Doherty)
- 3. Mass Historical Commission Grant Award
- 4. Green Community Grant Award

Documents: [MANAGER.PDF](#)

- E. MATTERS FROM THE AUDIENCE
- F. CHAIRMAN'S COMMENTS
- G. SELECTMEN'S COMMENTS AND NON-DOCKET BUSINESS
- H. COMPTROLLERS REPORT
- I. LICENSES

J. HEARINGS

K. BUSINESS

1. Noise Bylaw Briefing

Documents: [G1.PDF](#)

2. Solicitation Bylaw Briefing

Documents: [G2.PDF](#)

3. Community Aggregation Plan - Opening Of Comment Period

Documents: [G3.PDF](#)

4. Eversource Update

5. Town Counsel Selection Committee Discussion

L. CONSENT AGENDA

Acceptance of Donation:

1. Cummings Foundation Grant (\$25,000) to the Board of Health Coalition for a Safer Community

One Day Alcoholic Beverage License(s) [ten applications]

2. Mike Bodall for Griffin Museum – July 14, 2016 – Griffin Museum; Mariah Contreras and Alex Tee – July 16, 2016 – Wright Locke Farm;
3. David Gordon for Fong Tan LLC – August 13, 2016 – Griffin Museum;
4. Laura Lewis for Essex Catering – September 16, 2016 – Wright Locke Farm;
5. Laura Lewis for Essex Catering – July 17, 2016 – Wright Locke Farm;
6. Archie McIntyre for Wright Locke Farm Conservancy – July 9, 2016 – 1827 Barn;
7. Archie McIntyre for Wright Locke Farm – July 14, 2016 – 1827 Barn;
8. Archie McIntyre for Wright Locke Farm Conservancy – July 21, 2016 – 1827 Barn;
9. Archie McIntyre for Wright Locke Farm Conservancy – July 28, 2016 – 1827 Barn;
10. Archie McIntyre for Wright Locke Farm Conservancy – August 27, 2016 – 1827 Barn;

Other

11. Granara-Skerry Trust Walk – Run Road Race – Saturday, September 24, 2016
12. Approve / Correct Meeting Minutes: Wednesday, June 22, 2016

Documents: [CONSENT.PDF](#)

M. COMMUNICATIONS AND WORKING GROUP REPORTS

1. Housing Appeals Committee Decision: Hilltop Preserve Ltd. Partnership v. Walpole Board of Appeals – April 10, 2002
2. Eversource – Electricity Savings to Customers in Eastern Massachusetts
3. Winchester Housing Authority – Volunteer Vacancy posting
4. [Certified Letter] MassHousing re: Forest Ridge, Winchester, MA
5. EPA Newsletter re: Industri-plex Superfund Site, Operable Unit 2
6. School Committee Agenda for Tuesday, July 12, 2016 – Parkhurst School

Documents: [CORRESPONDENCE.PDF](#)



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Wednesday, July 6, 2016

TOWN MANAGER REPORT AND COMMENTS

Docket Item B-1: Appointment: Police Department: Frank Spinosa and Shelby Santini

Docket Item B-2: Appointment: Fire Department: Sean P. Doherty

B - 3: MassHistorical Commission Grant Award

B - 4: Green Communities Grant Award

Supporting Documents:

B - 1: Memo from Town Manager; Memo from Chief Albertelli;

B - 2: Memo from Town Manager; Memo from Chief Nash;
Candidate's resume

B - 3: MassHistorical Commission Grant Award

B - 4: Green Communities Grant Award

Action Required:

B - 1 - 4: Hear Town Manager's Report



Winchester Police Dept
Kenneth C. Albertelli
Chief of Police

30 Mount Vernon Street, Winchester, Ma 01890 781.729.1212 (fax) 781.721.5613
www.winchesterpd.org

Docket Item:

B-1:

July 6, 2016

To: Richard Howard, Town Manager
From: Kenneth C. Albertelli, Chief of Police 
Date: June 27, 2016
Re: Appointment of 2 Permanent Police Officers

At this time I am recommending the following two Permanent Intermittent Police Officers be appointed to the position of Permanent Intermittent Full-Time Police Officer:

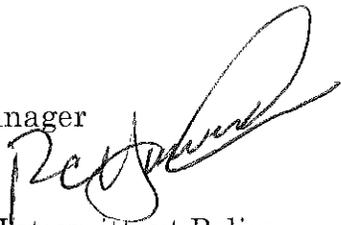
- 1) Frank Spinosa – Appointment to be effective 7/25/16
11 Hastings Road, Winchester, MA 01890
D.O.B.: 3/30/92
Starting Salary: P-1, Step 1 \$48,334
- 2) Shelby Santini – Appointment to be effective 7/26/16
4 Briarwood Lane, Winchester, MA 01890
D.O.B.: 3/3/93
Starting Salary: P-1, Step 1

Thank you for your consideration.



June 27, 2016

TO: Board of Selectmen

FROM: Richard C. Howard, Town Manager 

SUBJECT: Appointment: (2) Permanent Intermittent Police Officers – Full-time

In accordance with Section 4-2b of the **Town Charter**, and in accordance with the Rules and Regulations of the Department of Personnel Administration (Civil Service) I have made the following Permanent full-time appointments in the Police Department:

Frank Spinosa, 11 Hastings Road, Winchester, MA
Full-time Permanent-Intermittent Police Officer
Appointment effective date: July 25, 2016

Shelby Santini, 4 Briarwood Lane, Winchester, MA
Full-time Permanent-Intermittent Police Officer
Appointment effective date: July 26, 2016

RCH;pcm

attachment

July 6, 2016



June 27, 2016

TO: Board of Selectmen

FROM: Richard C. Howard, Town Manager

SUBJECT: Appointment – Fire Department

In accordance with Section 4-2b of the **Town Charter**, and in accordance with the Rules and Regulations of the Department of Personnel Administration (Civil Service) I have made the following temporary full-time appointment in the Fire Department:

**Sean P. Doherty, 20 Seven Spring Lane Apt. G, Burlington, MA 01803
Temporary Full-Time Appointment – Military Replacement**

This individual is a certified paramedic and will fill the position of a firefighter who is serving in the US Armed Forces. Chief Nash is confident that this individual has both the desire and ability to serve Winchester in a professional manner.

/pcm

Article 4
TOWN MANAGER

Section 4-1 Appointment; Qualifications; Term

The board of selectmen shall appoint a town manager for an indefinite term and fix his compensation within the amount annually appropriated for that purpose. The office of town manager shall not be subject to the consolidated personnel by-law. The town manager shall be appointed solely on the basis of his executive and administrative qualifications. He shall be a professionally qualified person of proven ability, especially fitted by education, training and previous experience in municipal administration to perform the duties of the office. He shall not have served in an elective office in the town government for at least twelve months prior to his appointment. He shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during his term, unless such action is approved in advance, in writing, by the board of selectmen. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

Section 4-2 Powers and Duties

The town manager shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the proper administration of all town affairs placed in his charge by or under the charter. He shall have the following powers and duties:

- (a) He shall supervise and be responsible for the efficient administration of all functions under his control, as may be authorized by the charter, by by-law, by other town meeting vote or by the board of selectmen, including all officers appointed by him and their respective departments.
- (b) He shall appoint, and may remove subject to the civil service laws where applicable, all department heads, all officers and all subordinates and employees for whom no other method of appointment is provided in the charter, except persons serving under other elected agencies and appointments made by representatives of the Commonwealth.

Appointments made by the town manager shall become effective on the fifteenth day following the day notice of appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period, by a majority vote of the full board, vote to reject any such appointment. Appointments of a temporary or seasonal nature shall become effective immediately.¹

¹ Art 2 1978 Fall Town Meeting added the sentence, "Appointments of a temporary or seasonal nature shall become effective immediately."

Due: Monday, February 8, 2016

FY 2016 FULL APPLICATION FOR FUNDING:

Survey and Planning Projects

SECTION I: INFORMATION AND GUIDELINES

A. Introduction

The Massachusetts Historical Commission, a division of the Office of the Secretary of the Commonwealth, is the state agency responsible for the administration of the National Historic Preservation Act of 1966, as amended. This act authorizes the Secretary of the Interior, through the National Park Service, to grant funds to states for a wide range of preservation-related activities. These include: completion of cultural resource inventories, nomination of significant properties to the National Register of Historic Places, completion of communitywide preservation plans, and other survey and planning projects. The goal is to identify all significant cultural resources of the community--buildings, structures, sites, and landscapes--and to plan for their protection.

The attached is a Full Application for these matching funds. GRANTS ARE 50/50% MATCHING REIMBURSEMENT GRANTS. Funding priorities will be survey and planning activities.

B. Eligible Applicants

Eligible applicants for FY 2016 Survey and Planning Grant funding are:

1. Local historical commissions created under M.G.L., Chapter 40 sec. 8(d);
2. Historic district commissions or study committees*;
3. City and town planning offices and boards or community development offices*;
4. Regional planning agencies and state agencies;
5. Educational institutions;
6. Certified Local Governments* of Boston, Bedford, Brookline, Danvers, Eastham, Falmouth, Grafton, Hingham, Holyoke, Lexington, Lowell, Marblehead, Medfield, Medford, Methuen, New Bedford, Newton, Plymouth, Quincy, Salem, Somerville, and Worcester; and
7. Private non-profit organizations.

All applicants must be able to meet deadlines, monitor project work, and have a financial system that meets federal standards.

*** If the municipal applicant is not the local historical commission, a letter including the comments of the local historical commission must be included with the full application.**

C. Eligible Projects that will be Funding Priorities for FY16

All projects must be consistent with the objectives of the Massachusetts State Historic Preservation Plan (updated 2011), which stresses the need for identification, evaluation, and protection of the state's cultural resources (available on line at: www.sec.state.ma.us/mhc/). The following project types are considered eligible for funding:

1. Intensive or reconnaissance-level inventory of historic, architectural, and/or archaeological resources.
2. Other survey and/or planning projects relating to the identification, evaluation, and protection of National Register-eligible resources. For example the preparation of National Register of Historic Places nominations, the development of a communitywide preservation plan or the preservation plan component for a community master plan, the development of historic preservation public information, support of heritage tourism activities, or the development of training and/or educational programs.
3. Development of local initiatives for the protection of historic resources, including local historic districts, neighborhood conservation districts, design guidelines, demolition delay ordinances, and historic landscape preservation mechanisms.
4. Studies necessary to future development or protection of a public or private nonprofit owned National Register-listed property, including development of plans and specifications for restoration or rehabilitation. Historic Structures Reports may include the preparation of outline plans and specifications for a Massachusetts Preservation Projects Fund (MPPF) application. (Only CLG applicants may apply in this category.)

D. Program Requirements and Grant Conditions

All survey and planning grant recipients are subject to applicable federal, state, and local laws and regulations, including OMB A-102 revised (43 CFR 12), A-87, A-128, A-133, A-110 and National Park Service policies and procedures. Before project work may begin, the MHC and the grant recipient will enter into a written agreement that clearly identifies the responsibilities of each party. The general program requirements are defined and made part of the agreement as Attachment A, General Provisions of the Massachusetts Historical Commission Grant Projects. The General Provisions, among other things, define allowable costs and matching share, allow for MHC inspection of records, and outline the kinds of records the grant recipient must keep.

All survey and planning projects require a Local Project Coordinator who will be MHC's contact person for the grant project and who should be the person authorized to assume responsibility for the administration of the grant project. All correspondence and project information will be directed to the local project coordinator by the MHC. The MHC will expect the local project coordinator to act as liaison with the preservation consultant (if applicable), and to obtain, coordinate, and submit reports, authorize signatures, and prepare financial documentation and other project information. *The local project coordinator must be available during weekday business hours to attend an orientation workshop and periodic phase meetings at MHC offices in Boston.*

E. Funding

Funding for survey and planning grants is provided by the National Park Service through the Massachusetts Historical Commission. Grants are 50/50% matching reimbursement grants. The local share must be from a non-federal source; the only exception is Community Development Block Grant funding, which can be used as a local match. A cash match is preferable. Existing paid staff may, however, use the value of their time donated to the project as part of the match. The donated time must be necessary and reasonable to meet the project goals and must be adequately documented by MHC timesheets and payroll records.

Grant requests should be for no less than \$4,000 for a minimum total project cost of \$8,000. Please note: Community wide survey requests should be no less than \$10,000 for a total project cost of \$20,000. Projects should be from 6-12 months in duration and should be able to be under contract with MHC no later than July 2016. Because survey and planning grants are reimbursement grants, the grant recipient must expend the total project cost before requesting reimbursement. Upon submission of a satisfactory project completion report, the recipient will then be reimbursed for 50% of eligible project costs up to the amount of the grant allocation. No partial reimbursements will be considered. It is imperative that you have cash on hand to cover 100% of project costs. Project work must be completed by June 30, 2017.

Because both federal and state procurement regulations require an open selection process, it is important to note that consultants cannot be pre-selected by the applicant. The applicant, if selected for funding, will receive further instructions on procurement procedures. Potential consultants should play no role in shaping an application.

F. Application Procedures

A complete, hard-copy, original Full Application (form attached) must be received at the MHC office no later than 5:00 p.m., Monday, February 8, 2016. Faxed and emailed applications are not accepted. Applications should be addressed to:

Michael Steinitz, Deputy State Historic Preservation Officer
Survey and Planning Grants 2016
Massachusetts Historical Commission
Massachusetts Archives Building
220 Morrissey Boulevard
Boston, MA 02125

G. Selection Process

Letters of intent have been evaluated by MHC staff and a subcommittee of the full Commission. The Commission invited full applications at its monthly meeting, December 9, 2015. **The full application will be due by Monday, February 8, 2016.** Full applications will be reviewed by MHC staff and the Commission subcommittee. Grant awards will be made at the March 9, 2016 MHC meeting. All MHC monthly meetings are open to the public.

H. Selection Criteria

Requests for funds will be evaluated against the following criteria. **Project applicants must directly address all applicable criteria:**

1. Level of Information: Preference will be given to survey projects in communities where the existing level of information about cultural resources is low or nonexistent, as identified by the State Reconnaissance Survey, Regional Report, the State Historic Preservation Plan, or as otherwise identified by the MHC.
2. Level of Significance: Preference will be given to communities with significant historic, architectural, or archaeological resources of value for further study, as identified by the State Reconnaissance Survey, Regional Report, the State Historic Preservation Plan, or as otherwise identified by the MHC.
3. Potential for Loss or Destruction: Preference will be given to communities whose historic, architectural, or archaeological resources are threatened with loss or destruction, as identified by the State Reconnaissance Survey, Regional Report, the State Historic Preservation Plan, or as otherwise identified by the MHC. Major threats to a community's resources include pressure from new development, abandonment, deterioration, or underutilization.

4. Level of Local Preservation Activity: Preference will be given to communities that have active local historical commissions. For applications submitted by an organization other than the local historical commission, the supporting documents **must** include a letter of support as evidence that the applicant is coordinating efforts with the local historical commission.
5. Appropriateness of Proposed Project: Preference will be given to applications that demonstrate a clear understanding of the preservation needs of the community and that propose to complete projects that address priority needs identified in the State Historic Preservation Plan.
6. Demonstrated Understanding of Work to be Performed: Preference will be given to applications that demonstrate a clear understanding of the tasks to be undertaken and products to be submitted under the appropriate MHC scope of work and timetable.
7. Extent and Nature of Public Benefit: Preference will be given to applications that demonstrate that the project's products will be available and of benefit to the general public. Preference will also be given to applications that complement other ongoing national, state, or regional planning and revitalization efforts.
8. Administrative and Financial Management Capabilities: Preference will be given to applicants who demonstrate strong capabilities to administer funds and ensure completion of the project in a timely and effective manner. Completeness of the full application will be taken into account. Past performance as a grantee, if applicable, will be considered. All project work must be completed by June 30, 2016.
9. MHC will consider geographic distribution in its grant awards. MHC also will give special consideration to municipal applicants who have not previously received a Survey and Planning grant.

If you have any questions regarding the scope of work or the work program to be submitted, please contact:

National Register	Betsy Friedberg, Director, National Register Program (betsy.friedberg@sec.state.ma.us)
Planning	Christopher Skelly, Director, Local Government Programs (christopher.skelly@sec.state.ma.us)
Survey	Peter Stott, Preservation Planner, (peter.stott@sec.state.ma.us)
Archaeology	Edward Bell, Deputy State Historic Preservation Officer (ed.bell@sec.state.ma.us)

If you have any questions on funding or grant administration, please contact:

Michael Steinitz, Deputy State Historic Preservation Officer (michael.steinitz@sec.state.ma.us)

An electronic version of this application is available from MHC on request.

This program has been financed in part with Federal funds from the National Park Service, U.S. Department of the Interior. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior.

This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, disability or age in its federally assisted programs. If you believe you have been discriminated against in any program, activity or facility as described above, or if you desire further information please write to:

Office of Equal Opportunity
National Park Service
1849 C Street, N.W.
Washington, D.C., 20240.

SECTION II: GUIDELINES FOR COMPLETING APPLICATION

Full applications must contain the following:

- I. Proposal Cover Sheet (Attachment A)
- II. Work Program
- III. Narrative Statement
- IV. Matching Share and Budget Information (include Attachment C and Attachment D)
- V. Assurances (Attachment B) /Lower Tier Debarment Certification (Attachment E)
- VI. Letter of Support from Local Historical Commission

PART I-PROPOSAL COVER SHEET

Please fill out the proposal Cover Sheet (Attachment A), check off the attachments, and attach the appropriate information. **Please note that a dated Legally Authorized Applicant Signature is required.**

PART II-WORK PROGRAM

Attach a project narrative. In the following format, discuss each item thoroughly and concisely:

- A. Define project goals and explain how the proposal will meet these goals.
- B. Prepare a complete project description by phase. Define personnel working on each phase, what they will be doing, and their relationship to specific project goals. Describe specific methodology to be used in each phase of the project. Identify products that will result from each phase. Incorporate meetings with the MHC into appropriate phase. Consult with MHC staff on typical or required work plans for your project type.
- C. Outline a proposed timeframe for accomplishing project objectives, broken down by phase. Indicate proposed starting and end dates. Projects must be under contract with MHC no later than July 2016 and must be completed by June 30, 2017. Consult with MHC staff on typical timeframes for your project type.

PART III-NARRATIVE STATEMENT

Explain in a concise statement how the proposed project relates to the past, current, and future preservation activity in the community. Describe how the results of the proposed project will be incorporated into the community planning process, and the extent to which the results will be made available to and used by the general public. Provide any other information on the project or the applicant organization that would be useful to MHC in making funding decisions. Address all applicable selection criteria listed in Section I, Part H.

PART IV-MATCHING SHARE AND BUDGET INFORMATION

Complete and attach to the work program the Matching Share (Attachment C) and Budget (Attachment D) forms.

Matching Share Information: The matching share information shows the source of the match and its kind, either in cash or services. The total should equal 50% of the total project cost.

1. Identify the amount of cash used to match the grant and its source(s), i.e., Community Development Block Grant, Community Preservation funds, town appropriation, land assessments, private donor (provide full name).
2. Identify the dollar value of employee (in-kind) services being donated to the project, and the agency affiliation of the employee.

3. Please refer any questions you may have on matching share requirements to MHC before submitting the application. **Applications that do not provide clear and accurate information on matching share will be considered incomplete and will not be considered for grant allocations.**

The certifications of match statement **must** be signed by the person legally authorized to certify and commit applicant funds (i.e. **Mayor, Chairperson of the Board of Selectmen, CFO**, etc.). If matching funds come from a third party, written evidence of a firm and binding commitment from the donor must be attached to the application. Applicants should be careful to certify only those funds that are actually available, or for which a firm and binding financial commitment has been made. Uncollected pledges may NOT be considered a firm commitment unless a legally binding agreement exists.

Budget Sheet: Identify, in the appropriate columns, which budget items are being provided by the local share and the items for which federal funding is being sought. Instructions for each category are as follows:

1. **Personnel:** Principal project personnel, whether hired consultants and/or in-house staff, must meet the professional qualifications of 36 CFR 61. Submit resumes of any in-house staff that will be serving as principal project personnel.
 - a. **In-Kind (employee) services:** If applicable, list by title or type of work each employee who will be contributing time to the project. Note annual salary, percent of time contributed to project, and total dollar amount. MHC-approved timesheets and payroll records must document time. General supervision not directly related to the project is not allowable as time contributed to the project. Employee vacation time, holidays, and other paid time off may not be attributed to the grant project on timesheets.
2. **Consultant services:** If applicable, list by title or function consultants who will be associated with the project. List total dollar amount estimated for consultant services. (If you are considering hiring a professional preservation consultant, all costs [i.e. travel, supplies, etc.] should be made part of consultant services. Therefore, omit the travel (#3) and supplies (#4) sections of the Budget form on page 12.)

IF YOU NEED ADDITIONAL SPACE, ATTACH A CONTINUATION SHEET.

NOTE: CONSULTANTS CANNOT BE PRE-SELECTED BY THE APPLICANT. FEDERAL REGULATIONS REQUIRE AN OPEN SELECTION PROCESS IN THE SELECTION OF ALL CONSULTANTS PAID WITH FEDERAL FUNDS. STATE PROCUREMENT REGULATIONS ALSO REQUIRE AN OPEN PROCUREMENT PROCESS. POTENTIAL CONSULTANTS MAY NOT PLAY A ROLE IN SHAPING AN APPLICATION.

If a consultant is required after the grant award is made, the consultant position must be advertised and a Request for Proposal sent to an adequate number of qualified sources to assure an open procurement process that follows federal and state guidelines. After the consultant open selection process, the MHC must review and approve the qualifications and proposals of the top three consultants before the applicant hires one. The applicant's budget must allow sufficient funding for payment of consultant services prior to MHC reimbursement. Please note that municipalities are required to follow Chapter 30B of the Massachusetts General Laws (the Uniform Procurement Act) as amended July 1 2000.

If using consultants, the applicant must affirm that professional consultants will meet the following minimum criteria (36 CFR 61) as appropriate to the type of project:

A Bachelor's Degree in Historic Preservation, Architectural History, History, Anthropology, Archaeology, Planning, or a closely related field and at least two years full-time experience in an area relevant to the project, or;

A Master's Degree in Historic Preservation, Architectural History, History, Anthropology, Archaeology, Planning, or a closely related field relevant to the project.

MHC will provide further instructions on the advertising and Request for Proposals (RFP) process once a grant award has been made. Documentation of the above qualifications must be provided before project work may begin.

3. Travel: The mileage rate charged to the project should be the recipient's usual rate but may not exceed the current federal rate. Indicate total number of miles and dollar amount. Tolls and parking, if necessary to the project and documented by receipts, are allowable costs. Meals are not allowable and cannot be charged to the project. If a consultant is to be hired, omit this section.
4. Supplies: List major items or categories, i.e., office supplies, maps, etc. If a consultant is to be hired, omit this section.
5. Other: You may list other allowable costs necessary to the project.
6. Total Direct Charges: Add total dollar amounts for items 1 through 5.

PART V-ASSURANCES /LOWER TIER DEBARMENT CERTIFICATION

The person who is authorized to sign the project agreement must also sign the Assurances (Attachment B) and Debarment Certification (Attachment E). If a town local historical commission is applying, the **Chairperson of the Board of Selectmen must sign the Assurances**; if a Community Development Office or other town/city office is applying, **the Mayor or appropriate official must sign the Assurances**. Review the items carefully before signing. If you have any questions, call Michael Steinitz at the MHC.

PART VI-COMMENTS FROM LOCAL HISTORICAL COMMISSION

If the applicant is not the local historical commission and a local historical commission exists, the applicant must solicit signed comments from the local historical commission. Attach the signed comments to the full application.

ATTACHMENT A

**FISCAL YEAR 2016
SURVEY AND PLANNING GRANT - FULL APPLICATION**

**COVER SHEET FOR APPLICATION PROPOSAL
DEADLINE – MONDAY, FEBRUARY 8, 2016**

1. Project Title: Winchester Historic Properties Update Survey Plan
2. Project Type: Communitywide Reconnaissance Survey Plan
3. Community/Communities: Town of Winchester
4. Local Project Coordinator: John D. Clemson

Address: Winchester Town Hall
71 Mount Vernon St.
Winchester, MA 01890
c/o Brian Szekely, Town Planner.
Phone: 781-721-7162
Fax: 781-721-7166
E-mail:

5. Amount of Funding Requested: \$5,000
Local Share: \$5,000
Total Project Cost: \$10,000

6. Attachments: (Please check as completed)

<input checked="" type="checkbox"/> Work Program	<input checked="" type="checkbox"/> Matching Share Information (Attachment C)
<input checked="" type="checkbox"/> Narrative Statement	<input checked="" type="checkbox"/> Assurances (Attachment B)
<input checked="" type="checkbox"/> Budget (Attachment D)	<input checked="" type="checkbox"/> Debarment Certification (Attachment E)
	<input type="checkbox"/> N/A Local Historical Commission Comment (If Applicable)

7. Authorized Applicant Signature:

(Signature)

Lance R. Grenzeback
(Name -- please print)

Chairman, Board of Selectmen
(Title)

(Date)

ATTACHMENT B

ASSURANCES

In consideration of and for the purpose of obtaining a grant from the Department of the Interior, National Park Service, through the Massachusetts Historical Commission, The Town of Winchester Historical Commission (hereinafter called "Applicant-Recipient") hereby agrees that it will comply with the following:

- A. Grants will be administered in conformance with all applicable federal and state laws, regulations, policies, requirements and guidelines, including OMB Circular A-102 revised (43 CFR 12), policies and procedures of the Historic Preservation Grant-in-Aid Program, and civil rights (Title VI of 1964 Civil Rights Act); non-discrimination on the basis of handicap (Sec. 506 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990); age (the Age Discrimination Act of 1975); equal employment opportunity and labor law requirements of federal grants;
- B. All procurement actions will be conducted in a manner that provides for maximum open and free competition in compliance with federal and state requirements, including OMB Circular A-102 revised (43 CFR 12);
- C. Adequate financial resources will be available for performance (including necessary experience, organization, technical qualifications and facilities) to complete the proposed project or a firm commitment, arrangement or ability to obtain such will be made;
- D. All costs charged to the grant project will be in payment of an approved budget item during the project period and conform to the cost principles of OMB Circular A-87;
- E. An adequate financial management system (and audit procedure when deemed applicable) will be maintained which provides efficient and effective accountability and control of all property, funds and assets. Subgrantees which are state or local governments must comply with the Single Audit Act of OMB Circular A-133; Subgrantees which are non-profit organizations or universities must comply with OMB Circular A-110 outlining audit requirements for non-profit and educational institutions.
- F. Matching share will not consist of funds from the Federal Government under another assistance agreement unless authorized;
- G. Applicant-Recipient will comply with required completion schedule for the project.

The Applicant-Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance, and that the United States shall reserve the right to seek judicial enforcement of this Assurance. This Assurance is binding on the Applicant-Recipient, its successors, transferees, and assignees; the person or persons whose signature appears below (is) are authorized to sign this Assurance on behalf of the Applicant-Recipient.

DATE

The Town of Winchester Historical Commission
APPLICANT-RECIPIENT SIGNATURE

TITLE (Chairman of Board of Selectmen, Mayor or Chief Elected Official)

ATTACHMENT C
MATCHING SHARE INFORMATION

1. Cash

Donor: Winchester Historical Commission

Source: Appropriation of Town Meeting

Amount: \$5,000

2. In-Kind Services (if applicable)

Donor: _____

Source: _____

Amount: \$N/A

I certify that the matching share identified above is available and will be allocated to the survey and planning project called:

Winchester Historic Properties Update Survey Plan
(Name of Project)

(Signature)

Heather von Mering
(Name -- please print)

Chair, Winchester Historical Commission
(Title) (Date)

ATTACHEMENT D

BUDGET

	MATCHING (LOCAL) SHARE	FEDERAL SHARE	TOTAL
1. Consultant Services Title/Function Rate per Hour # of Hours <u>or</u> Total Dollars Estimated	\$5,000	\$5,000	\$10,000
2. Personnel - In-Kind (paid) Title/Function Annual Salary % Time to Project			None
3. Travel - Rate per Mile _____ # Miles _____			
4. Supplies - (list each item or category)			
5. Other			
TOTAL PROJECT COST	\$5,000	\$5,000	\$10,000

ATTACHMENT E

**Certification Regarding
Debarment, Suspension, Ineligibility and
Voluntary Exclusion**

Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, **Debarment and Suspension**, 43 CFR Part 12, Section 12.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations are included in the proposal package. For further assistance in obtaining a copy of the regulations, contact the U.S. Department of the Interior, Acquisition and Assistance Division, Office of Acquisition and Property Management, 18th and C Streets, N.W., Washington, D.C. 20240.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Lance R. Grenzeback, Chairman

Name and Title of Authorized Representative

Signature

Date

DI-1954

(9/88)

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



COMMONWEALTH OF MASSACHUSETTS
 EXECUTIVE OFFICE OF
 ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES
 100 CAMBRIDGE ST., SUITE 1020
 BOSTON, MA 02114
 Telephone: 617-626-7300
 Facsimile: 617-727-0030

Docket Item:
B - 4:
 July 6, 2016

Charles D. Baker
 Governor

Matthew A. Beaton
 Secretary

Karyn E. Polito
 Lt. Governor

Judith F. Judson
 Commissioner

June 28, 2016

Richard C. Howard, Town Manager
 Town of Winchester
 71 Mt. Vernon Street
 Winchester, MA 01890

RECEIVED
 2016 JUN 29 PM 12:00
 TOWN OF WINCHESTER
 TOWN MANAGER
 BOARD OF SELECTMEN

Dear Town Manager Howard:

I am pleased to inform you that the Department of Energy Resources (DOER) Green Communities Division has approved an award of \$215,204 for the following project proposed in the Town of Winchester's Green Communities Competitive Grant application.

List of projects funded:

- \$10,244, Ambrose Elementary School—Exterior and parking lot lighting, switch to LED
- \$15,549, McCall Middle School—Exterior and parking lot lighting, switch to LED
- \$7,440, Lynch Elementary School—Exterior and parking lot lighting, switch to LED
- \$50,815, Parkhurst School—HVAC improvements: steam trap repair and other upgrades
- \$20,020, Parkhurst School—Ductless splits/air source heat pumps to replace window unit A/Cs
- \$26,683, Mystic School/Recreation Department—Steam trap repair and replacement
- \$2,500, Town Hall—Auditorium damper controls and air sealing in the sheave room
- \$77,728, McCall Middle School—Interior Lighting: switch to LED
- \$4,225, McCall Middle School—Refrigeration controls on kitchen walk in freezer and refrigerator

The Division reviewed Winchester's grant application and has determined these are viable projects that meet the eligibility requirements of our Competitive Grant program. **Please note that, due to the competitive nature of this grant program, the use of these funds is restricted to the specifically- approved projects listed above.**

Jane Pfister, Green Communities Grant Coordinator, will follow up with the contact listed in your competitive grant application to discuss next steps, including coordination of the grant contract process. The Green Communities Division looks forward to working with the Town of Winchester on your grant projects. We congratulate you on your grant award, and applaud your efforts to create a cleaner energy future for your community and the Commonwealth as a whole.

Please do not hesitate to contact me at 617-626-7358 or by email at dan.knapik@state.ma.us with any questions you may have regarding your grant award.

Sincerely,

A handwritten signature in black ink, appearing to read 'DMK', is positioned above the typed name.

Daniel M. Knapik, Director
Green Communities Division

CC: Jennifer N. S. Wilson, Chair, Board of Selectmen



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Wednesday, July 6, 2016

BUSINESS

Docket Item G - 1:

Noise Bylaw Briefing

Supporting Documents:

G - 1:

Attachments from May 23rd packet:

Memo from Town Manager;

Email from Town Manager re: withdrawal of

Article from Warrant

Memo from David Heinold, Chair, Board of Health

DRAFT of proposed Spring 2016 Town Meeting Article

Action Required:

G - 1:



Town of Winchester

Richard C. Howard,
Town Manager

Docket Item:
G - 1:
July 6, 2016

Board of Selectmen
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

MEMORANDUM

May 20, 2016

TO: Board of Selectmen
FROM: Richard C. Howard, Town Manager
SUBJECT: Noise ByLaw

For your consideration, attached please find the following documents pertaining to the Noise Bylaw that was proposed for consideration at the Spring 2016 Annual Town Meeting and ultimately withdrawn.

/pcm

Howard, Richard

From: Howard, Richard
Sent: Wednesday, March 30, 2016 9:36 AM
To: Murphy, Jennifer
Cc: Tassi, Patricia; David Heinold ; dheinold@comcast.net; Kerry Bartlett; Shannon Bottari (shannonbottari@hotmail.com); Cafarella, Jennifer; Peter Haley (Peter.Haley@nelsonmullins.com)
Subject: RE: BOH Chair comment re: Noise ByLaw

All – I apologize for having caused this level of surprise. The topic has been under consideration for a while and I assumed that that folks may have been more aware that something substantive was forthcoming. My error. I'm happy to withdraw the Article until the Board of Health has had an appropriate amount of time to consider the subject matter. I'm also happy to appear before the Board, perhaps sometime after Spring Town Meeting, to discuss the elements of the proposed by-law with a goal of bringing the matter forward at Fall Town Meeting.

Jennifer, please omit the Article from the Warrant before publication.

From: Murphy, Jennifer
Sent: Tuesday, March 29, 2016 12:08 PM
To: Howard, Richard
Cc: Tassi, Patricia; David Heinold ; dheinold@comcast.net; Kerry Bartlett; Shannon Bottari (shannonbottari@hotmail.com)
Subject: BOH Chair comment re: Noise ByLaw

Richard –
This memo is from David Heinold, Chair, BOH.

The memo is cc'd to the BOS. Patti could you please forward to the BOS?
Thank you,
Jennifer

Board of Health
71 Mt. Vernon Street
Winchester, MA 01890



Tel: 781-721-7121
Fax: 781-729-1794

David Heinold, CCM, Chair
Kerry Bartlett, MHS, Vice-Chair
Shannon Bottari, MD

Jennifer Murphy, MPH, Director
Kathy Whittaker, RN, Public Health Nurse

TO: Richard Howard, Town Manager
Cc: Board of Selectmen

FROM: David Heinold, Chair Board of Health

DATE: March 28, 2016

RE: Draft ARTICLE 14: Noise Mitigation Bylaws

On Friday March 25th, Health Director Jennifer Murphy forwarded to the Board of Health members the draft of the spring 2016 Town Meeting warrant articles for our review. Ms. Murphy brought our attention to *Article 14: Noise Mitigation Bylaws*, proposed by the Town Manager, which identifies the Board of Health as the regulatory authority. Given that the Town election is on March 29th, the late timing has put the Board at a disadvantage as we have not been able to discuss the provisions of the proposed bylaws or deliberate if the Board should either endorse or oppose Article 14 at Town Meeting. Pending certification of the election results, a re-constituted Board will hold its first meeting in early April. At that time the Board is likely to take-up Article 14 and may then be able to provide formal feedback to the Town Manager. However, because Ms. Murphy has indicated that the Town Manager's objective is to finalize the warrant articles this week, it is appropriate for me, as present Chair of the Board of health, to briefly share with you some of my personal observations on draft Article 14, as listed below.

- The existence of this article and the proposed role of the Board of Health were made known at such a late date that it effectively subverted due process by not allowing time for the Board to review and provide input. Whether or not this breach of courtesy displayed was deliberate or simply the result of expediency, the appropriate procedure would be for the article's proponent to have requested a spot on the Board of Health's agenda, at which time an opportunity would have been provided for the proponent to explain the need, scope and provisions of the article, and why the Board should have a role in its implementation and enforcement.
- Article 14 in its present form does not advance or protect public health. The draft article states: "*This by-law is not intended to maintain public health and safety with respect to noise*". Given this stated limitation, it is not straightforward to see why the Board of Health should have a role in its administration and enforcement.
- The Board of Health was not consulted in the development of the noise criteria. As such, we cannot confirm the legitimacy of specified noise criteria in meeting "*acceptable noise conditions from the receiver's perspective*".
- The Reasonable Person Determination concept is insufficiently objective. The provision in the article for a member of the Board of Health (or designee) to determine what level of noise is deemed excessively loud to a "reasonable person" is inherently flawed because the level is entirely subjective and therefore, indeterminate.
- Considerable and unwarranted resources could be required to interpret and carry out the provisions. The logistics of determining of whether a violation has occurred and enforcement would be very difficult and divert resources from important matters that directly affect public health.

Please consider these issues regarding Article 14 prior to finalizing the spring 2016 Town Meeting warrant and if possible delay this article until the re-constituted Board of Health is provided the opportunity for legitimate input in its development.

Howard, Richard

From: Murphy, Jennifer
Sent: Tuesday, March 29, 2016 12:08 PM
To: Howard, Richard
Cc: Tassi, Patricia; David Heinold ; dheinold@comcast.net; Kerry Bartlett; Shannon Bottari (shannonbottari@hotmail.com)
Subject: BOH Chair comment re: Noise ByLaw
Attachments: BOH to TMBOS re NoiseByLaw 3-16.pdf

Richard –
This memo is from David Heinold, Chair, BOH.

The memo is cc'd to the BOS. Patti could you please forward to the BOS?
Thank you,
Jennifer

Howard, Richard

From: Murphy, Jennifer
Sent: Friday, March 25, 2016 12:15 PM
To: Howard, Richard
Cc: Szekely, Brian
Subject: FW: Spring and Special Town Meeting Warrant
Attachments: 16 Warrant S.doc

So, the noise by-law now puts the enforcement on the Health Dept. My concerns are:

-manpower. I'm it.

-I can name "designees" but that becomes my internal battle to get other depts to agree. Why not name others outright – like police, zoning officer, etc to share enforcement power?

Thanks.

From: Cafarella, Jennifer
Sent: Friday, March 25, 2016 10:59 AM
To: Szekely, Brian <bszekely@winchester.us>; Murphy, Jennifer <jenmurphy@winchester.us>; Heather von Mering <hvonmering@yahoo.com> <hvonmering@yahoo.com>; helenphilliou@comcast.net; Mariano Goluboff <goluboff@gmail.com> <goluboff@gmail.com>
Cc: Twogood, Mark <mtwogood@winchester.us>; Howard, Richard <rhoward@winchester.us>; lgrenzeback@comcast.net; mbettencourt@mac.com; slpowers@bonnelford.com; ejwhitehead@verizon.net; jmsjfo@yahoo.com; wwelch@welchdonohoe.com
Subject: Spring and Special Town Meeting Warrant

All,

Attached is the draft warrant for the Spring and Special Town Meeting. I am hoping to have this to the printer on Thursday, March 31st.

Thank you,
Jenn

ARTICLE 14. To see if the Town will vote to add Chapter 20 to the Town's By-laws as follows: Noise Mitigation Bylaws: An Act Limiting the Levels of Noisiness Activities within Town Limits:

CHARTER: Section 20: Noise

1. Purpose

The purpose of this Noise By-law is to allow the Town of Winchester, Massachusetts (the Town) to establish reasonable guidelines, restrictions and limitations to maintain acceptable noise conditions within the Town.

This by-law defines noise criteria limits and restrictions for the purposes of (1) maintaining acceptable existing conditions, equipment operations, social interactions, and avoidance of disruption of the peace, and (2) managing and controlling potential future noise conditions in the Town stemming from development of properties, equipment operations, and infrastructure.

This by-law is intended to maintain the quality-of-life within the Town from an acoustical perspective. This by-law addresses so-called "community noise" by establishing acceptable noise conditions from the receiver's perspective in order to support the continued use and enjoyment of the receiving property for its intended purpose.

This by-law is not intended to define safe noise levels to protect people's hearing or avoid auditory damages from excessively loud noises either within the workplace or from private activities. As such, this by-law is not intended to maintain public health and safety with respect to noise. The remedies for maintaining acceptable noise conditions as outlined in this by-law are intended to be in addition to, and not excluding of, such other laws, regulation and rules of the Commonwealth, the Town of Winchester, and its agents departments.

Therefore, it shall be unlawful for a person or persons to knowingly generate, or allow continued generation of, noise levels which either (1) exceed the criteria limits found in Section 3, except under conditions defined in Section 5, when measured at a receiving party's property line or at any location on the receiving property, OR (2) are deemed to be excessively loud by a "reasonable person" as defined to be a Member of the Board of Health of the Town, and/or their designee, as defined in Section 4.

2. Acoustical Terms and Definitions

Community noise is generated by natural and man-made sources such as transportation systems, industrial processes, construction operations, building air handling systems, power generation, agricultural processes, landscaping machinery, human activities, meteorological conditions, etc. In general, noise can be quantified by its magnitudinal (loudness), tonal (frequency) and temporal (time) characteristics. The following are definitions to terms typically used to describe community noise.

Sound – Sound is a physical parameter which is produced when a vibrating surface transfers energy in the form of air pressure waves which fluctuate above and below barometric pressure to such a degree and within a frequency range that it can be perceived by the human auditory system (i.e. sound can be heard).

Noise – Noise is defined as "unwanted sound" which can occur when a source is either too loud, uncontrollable, conveys unwanted information, masks-out other desirable sound, occurs at unacceptable times, or has annoying characteristics.

Decibels (dB) – The magnitude or loudness of noise is expressed in units of decibels (dB). Decibels relate the actual fluctuating air pressure levels against a standardized reference air pressure level of 20 micro-pascals. Human beings can hear noise over a tremendously large range of air pressure so the use of a decibel scale (from about 0 dB to 140 dB) is used for convenience. Zero decibels represents the "threshold of hearing", while at the other extreme, pain and hearing damage can occur at noise levels of about 140 decibels.

Audible Frequency Range (and A-weighting) – Human beings can perceive noise only if the fluctuating air pressure waves are within the so-called “audible frequency range” of about 20 Hz to 20,000 Hz (Hertz, or cycles-per-second). However, people do not hear noise equally well at all frequencies. As such, a frequency weighting adjustment has been standardized in ANSI Standard S1.42 to account for humans responding less sensitively to lower and higher frequency ranges. This frequency weighted adjustment is referred to as “A-weighting”, with results expressed as A-weighted decibels, or dBA.

Time Constant (RMS Slow) – The speed with which the electronic root-mean-square (RMS) detector of a sound level meter responds to changes in instantaneous noise levels has been standardized in ANSI Standard S1.4. A “fast” time constant is defined as a rise-time of 0.125 seconds, while “slow” is defined as a rise-time of 1 second. For the purpose of this by-law, all noise levels and limits are expressed in units of A-weighted decibels using an RMS “slow” time constant (dBAs).

Background (Bkgd) Noise – The background noise is the prevailing or pre-existing noise conditions that can be measured at a given location of interest *without* the contribution of the noise source of concern.

Nuisance Noise – Nuisance noise is defined as noise which can annoy or disturb individual listeners. When measured, nuisance noise levels may or may not exceed specified noise criteria limits so nuisance noise is often defined qualitatively by listing specific examples, as in Section 3.A of this by-law.

Equivalent Sound Level (Leq) – The Leq represents the energy-averaged noise level over some time period of interest. The Leq is expressed in dBA, and the time period over which the Leq value applies should also be stated (i.e. Leq(1min) represents a one minute average; Leq(24h) represents a 24-hour average, etc.).

Maximum and Minimum Sound Levels (Lmax and Lmin) – The Lmax and Lmin represents the absolute loudest and quietest noise levels experienced for just an instant during some time period of interest. The Lmax and Lmin levels are expressed in dBA.

Noise Percentile Levels (Ln) – Ln levels are a statistical representation of changing noise levels indicating the noise level that was exceeded *n* percent of the time. For example, the L10, L50, and L90 represent the noise levels exceeded 10%, 50%, and 90% of the time, respectively. The L10 is often used to identify an intrusive noise level, while the L90 is considered to represent the steady background noise level.

Reasonable Person – Acting on behalf of the greater good of the public, a reasonable person is able to judge in an unbiased manner the appropriateness of a given situation. A reasonable person is appropriately informed, rational, capable, aware of the law, and fair-minded when applications of the law is sought, compatible with planning, working, or getting along with others. For the purpose of this by-law, a reasonable person shall be defined as a Member of the Town, and/or their designee, as further described in Section 4.

Sound Level Meter (SLM) – A sound level meter is a calibrated electrical device used to measure the loudness of noise. For the purposes of this by-law, a SLM must be capable of measuring and expressing noise levels in A-weighted decibels using an RMS “slow” time constant in accordance with Type 1 or Type 2 accuracy requirements of ANSI Standard S1.4. In addition, an “integrating” SLM must be used if any time-averaged noise metrics (such as Leq or Ln percentiles) are to be reported.

Stationary Noise Sources – Sources that emit noise on a continuous or repeatable basis and that are located in fixed positions. Example stationary noise sources would include, but are not limited to, building mechanical (HVAC) systems, power transformers, commercial processing machinery, etc.

Construction Noise Sources – Sources, activities, vehicles and/or equipment that emit noise as part of a construction or demolition project. Typically some form of engine power is required such as diesel or gasoline motors, hydraulic or pneumatic pressure, or electric power.

Designee – A person, who after due consideration, is selected by the Winchester Board of Health to respond in their place to investigate noise complaints. The designee becomes an authorized representative of the Board of Health only for matters involving this by-law. A designee should work for the Town in some capacity such as, but not limited to, the Building Department, or a consultant hired by the Town to act in these regards.

3. Noise Criteria Limits

Noise criteria limits in this by-law are based on the type of noise being produced, the sensitivity of the receiver and land-use being affected, the time of day during which the noise is generated, and the existing background noise level. Except where noted, the following noise criteria limits and restrictions are based on noise propagating to and affecting the receiver's location.

3.A. Nuisance Noise

Noise which has the potential to annoy or disturb can be described as nuisance noise. Nuisance noise can vary significantly from person to person, and typically exhibit aspects such as pure tone squealing or whining, loud impulsive noises, repetitive thumping, low-frequency air-borne vibrations, etc.

For the purposes of this by-law, nuisance noise shall be qualitatively defined by listing specific examples which are deemed to be annoying.

Therefore, it will be prohibited for persons or equipment to generate the following nuisance noises:

- The use of excessively loud radios, public address systems, shouting, or other noises associated with communications or advertisement, that have the potential to disturb nearby residents during the nighttime hours of 10:00 PM to 7:00 AM.
- The emptying and/or replacing of waste dumpsters during the nighttime hours of 10:00 PM to 7:00 AM.
- The use of powered landscaping tools, such as but not limited to lawn mowers and leaf blowers, during the nighttime hours of 10:00 PM to 7:00 AM.
- The use of truck Jake-brakes (other than emergency vehicles).
- The use of noise enhancing exhaust muffler systems (i.e. glass packs, sport mufflers) on motor vehicles and motorcycles at any time of day or night.
- The use of excessively loud automobile sound systems (i.e. radios, CD players, etc.), as judged by a reasonable person as defined in Section 4, at any time of day or night.
- The unreasonable extended use of vehicle horns under non-emergency conditions.
- The unnecessary (i.e. false) sounding of vehicle security alarm systems.

Comment [SB1]: Make separate times for weekends

Comment [SB2]: Question for Erik regarding enforcement.

3.B. Stationary Noise Sources

Stationary sources of noise may include, but are not limited to, building HVAC systems, power generation facilities, industrial equipment, water or sewage pump stations, railroad and subway lay-over facilities, electric power transformers, commercial factories and plants, truck depots, and recreational events. The noise level emitted by stationary noise sources shall not exceed the limits contained in Table 1 when measured at the property line of the receiving property.

Table 1.
Noise Criteria Limits from Stationary Noise Sources

Receiver Land-Use	Daytime Noise Limit (7 AM to 6 PM)	Evening Noise Limit (6 PM to 10 PM)	Nighttime Noise Limit (10 PM to 7 AM)
Residential: - including private residences, multi-family residences, apartment complexes, retirement homes, etc.	55 dBAs Leq(1min) or Background Leq(1min), whichever is greater	50 dBAs Leq(1min) or Background Leq(1min), whichever is greater	45 dBAs Leq(1min) or Background Leq(1min), whichever is greater
Residential within Commercial: - mixed land-use, primarily commercial areas but with some residential development, hotel/motels, hospitals, etc.	60 dBAs Leq(1min) or Background Leq(1min), whichever is greater	60 dBAs Leq(1min) or Background Leq(1min), whichever is greater	55 dBAs Leq(1min) or Background Leq(1min), whichever is greater
Commercial: - including retail stores, business offices, houses of worship, restaurants, libraries, theaters, public parks, etc.	65 dBAs Leq(1min) or Background Leq(1min), whichever is greater	65 dBAs Leq(1min) or Background Leq(1min), whichever is greater	60 dBAs Leq(1min) or Background Leq(1min), whichever is greater

Notes: Background Leq(1min) noise levels should be measured without the noise source in question operating.
Average noise levels measurements can be estimated if an integrating Leq noise meter is not available.

3.C. Construction Noise Sources

In general, construction and/or demolition activities shall only be permitted to occur within the town during the hours of 7:00 AM to 10:00 PM. However, it is understood that construction and demolition are inherently noisy activities which will likely be heard by adjacent residents and business operators during short periods of time. As such, the intent of this section is to balance the needs for the necessary construction work to be performed with the needs of the community for peace and quiet.

Therefore, cumulative noise generated by construction and/or demolition activities and operations shall not exceed the limits contained in Table 2, when evaluated at the property line of the receiving property, nor shall the noise emission level of any individual piece of construction equipment exceed the noise emission limits contained in Table 3 when measured at a distance of 50 feet from the loudest side of the piece of equipment.

**Table 2.
Construction Noise Criteria Limits**

Receiver Land-Use	Daytime Noise Limit (7 AM to 6 PM)	Evening Noise Limit (6 PM to 10 PM)	Nighttime Noise Limit (10 PM to 7 AM)
Residential: - including private residences, multi-family residences, apartment complexes, retirement homes, etc.	65 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	60 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	N/A (*) Non-emergency construction and/or demolition activities are prohibited
Residential within Commercial: - mixed land-use, primarily commercial areas but with some residential development, hotel/motels, hospitals, etc.	75 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	70 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	N/A (*) Non-emergency construction and/or demolition activities are prohibited
Commercial: - including retail stores, business offices, houses of worship, restaurants, libraries, theaters, public parks, etc.	80 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	75 dBAs L10 or Bkgd L10 + 5 dBAs, whichever is greater	N/A (*) Non-emergency construction and/or demolition activities are prohibited

Notes: Criteria approach taken from FHWA Roadway Construction Noise Handbook (FHWA, 2006).

L10 noise levels shall be measured over a period of 20 minutes.

Background (Bkgd) L10 noise levels should be measured prior to construction commencing in the field or without the noise source in question operating.

L10 noise levels measurements can be estimated if an integrating noise meter is not available by determining the average or Leq noise level plus 3 dB(A).

Table 2 noise limits do not apply to roadway construction activities.

(*) Except when determined necessary by the Board of Selectmen to protect public safety.

**Table 3.
Construction Equipment Noise Emission Criteria Limits**

Generic Type of Construction Equipment	Noise Emission Limit at 50 feet
Blasting -- as well as explosive tools such as concrete nail guns	95 dBAs Lmax
Pile Drivers -- including impact and vibratory type drivers	95 dBAs Lmax
Impact Devices -- such as hoe rams, jackhammers and pavement breakers	90 dBAs Lmax
Saws and Drills -- including chain saws, concrete saws and vermeer saws, rock drills, and auger drill bits	90 dBAs Lmax
Demolition Equipment -- such as grapples and shears	85 dBAs Lmax
Earth Movers -- including excavators, backhoes, bull dozers, gradalls, front end loaders, scrapers and vacuum excavators	85 dBAs Lmax
Trucks and Tractors -- including dump trucks, concrete mixers, concrete pump trucks, flatbed trucks, and street sweepers	85 dBAs Lmax
Finishing Equipment -- including graders, rollers, pavers and compactors	80 dBAs Lmax
Support Equipment -- such as cranes, compressors, generators and pumps	80 dBAs Lmax
Tools -- including pneumatic and gas-powered hand tools	80 dBAs Lmax
Any other equipment not listed above	85 dBAs Lmax

Notes: Criteria limits consistent with FHWA Roadway Construction Noise Handbook (FHWA, 2006). Lmax noise emission levels shall be measured 50 feet from the loudest side of the equipment while the equipment is engaged in its intended activity.

In addition to the construction noise criteria limits shown in Tables 2 and 3, the following restriction(s) shall apply to any and all pieces of construction and/or maintenance equipment.

- The use of standard vehicle backup alarms, whose noise level exceeds 105 dBAs at a distance of 4 feet behind the vehicle, shall be prohibited. Alternatively, quieter-type manually-adjustable or automatically-adjustable backup alarms, or the use of observers used in lieu of audible backup alarms, are permitted for use in accordance with applicable OSHA Guidelines (29 CFR Part 1926, Subpart "O", 1926.601.b.4 and 1926.602.a.9.).

4. Reasonable Person Determination

It shall be unlawful to knowingly generate, or allow continued generation of, noise levels which a reasonable person would consider to be excessively loud. For the purposes of interpretation and enforcement, a *reasonable person* shall be defined in this by-law as Member of the Board of Health and/or their designee.

To be applicable, the Member, and/or their designee, must hear for him/herself the noise source in question. The Member, and/or their designee, must take conditional, circumstantial and extenuating factors into account, including but not limited to, the following:

- The necessity of the noise source to continue to operate.
- The extent to which the noise propagates to, and is heard by, noise-sensitive receivers.

- The time of day or night that the noise is occurring.
- The duration of time that the noise is expected to continue.

5. Exceptions

The following cases shall be exceptions to the restrictions and criteria limits contained in this noise by-law. The Town shall maintain the right to modify, add or remove any or all of these exemption cases.

- Grandfathering - All existing residential, commercial, industrial and/or agricultural stationary noise sources, which have been operating on a lawful basis prior to the effective date of this by-law, shall be allowed. However, this exception does not apply to any new or upgraded sources of noise subsequently brought into operation at an existing location.
- Noise generated by transportation systems in motion, such as vehicular traffic traveling on public roadways, aircraft overflights, commuter and freight trains, public transit systems and buses, are generally not regulated by local ordinances, and as such, shall not be a part of this noise by-law (however, specific motor vehicle noise-enhancing devices, as described in Section 3.A, will still be subject to this by-law). Commercial deliveries involving idling trucks and/or idling freight trains will be subject to this by-law after a period not to exceed 20 minutes.
- Noise emitted by utility or Town service crews and equipment performing emergency repairs to restore supply of and/or operation of critical public utilities such as natural gas, electrical power, steam, potable water, telecommunications, sewerage removal, etc.
- Any noise emitted by public safety or emergency response vehicles while performing their intended duties. Specific examples of emergency equipment include sirens, horns, generators, pumps, public address systems, etc.
- Noise generated by sources intended for public entertainment, when said sources are part of a legal activity such as, but not limited to, parades, sporting events, public concerts, fireworks display, etc.
- All snow clearance activities at any time of day evening or night.
- The performance of Town-sponsored street sweeping operations at night on public ways which are otherwise inaccessible during daytime hours.
- Due to the continuously progressing nature of roadway work, the cumulative property line construction noise limits shown in Table 2 shall not apply for roadway construction (however, individual pieces of equipment used for roadway construction will still be subject to the 50 foot emission limits shown in Table 3).
- The use of hand tools, powered lawn equipment and small motorized vehicles for construction, maintenance or repair of properties between the hours of 7:00 AM to 10:00 PM.

Comment [SB3]: DEP idling law lookup

Comment [SB4]: Consolidate this section and take out.

6. Noise Compliance Measurements

Quantitative noise level measurements performed to demonstrate compliance or exceedance of the various noise criteria limits contained in this by-law must be collected in accordance with accepted practices and procedures as recommended in ASTM Standards E1686-03, E1780-04, and E1014-84, using a sound level meter (SLM) capable of meeting ANSI Standard S1.4 for Type 1 or Type 2 accuracy. Noise data shall be collected using a calibrated SLM using a "slow" time

constant with results expressed in A-weighted decibels (dBAs). The minimum information necessary to collect and report shall include the following:

- (1) The make and model of SLM and portable calibrator used for the noise readings.
- (2) The date which the SLM was last certified by the manufacturer, or other independent calibration laboratory, as meeting ANSI Standard S1.4 for Type 1 or Type 2 accuracy requirements (should be within previous two years).
- (3) The SLM calibration readings obtained prior to, and immediately following, performing the compliance noise measurements.
- (4) The type of windscreen used to cover the microphone.
- (5) The height at which the noise readings were collected (should be at least 5 feet above ground), and an estimate of the distance (in feet) from the noise source to the SLM.
- (6) The time of day, date, and duration of noise data collected by the SLM.
- (7) An indication of the background noise level collected in the absence of the noise source in question.
- (8) A brief description of the meteorological conditions during the noise readings including wind speed and direction, air temperature, precipitation, and ground cover conditions.
- (9) A clear and concise comparison of the measured noise level data (expressed in dBAs) versus the applicable noise criteria limits contained in Section 3 of this by-law.
- (10) The findings and conclusions to be drawn from the noise compliance measurements.

7. Enforcement, Penalties, Appeals

7.A. Enforcement

In the event a noise complaint is received from a resident or business owner, or at any time at the discretion of the Town, a representative of the Winchester Board of Health, and/or their designee, shall respond and investigate the circumstances surrounding the noise issue. Noise levels may be judged excessively loud by a "reasonable person" standard as defined in Section 4 or may be measured at the receiving party's property line by a properly designated investigating agent. If measurements are deemed necessary, the investigating agent shall first have been trained in the proper use of, and equipped with, a calibrated sound level meter meeting the requirements described above in Section 6. The investigating agent shall collect all relevant information, perform noise compliance measurements (if available), and prepare a written report summarizing their findings in a manner consistent with the procedure described in Section 6.

If the investigating agent's findings indicate a violation of the noise criteria limits or restrictions contained in Section 3, except in those cases as described in Section 5, then the producer(s) of said noise shall be found in violation of this noise by-law and will be cited to a civil penalty consistent with the guidelines in Section 7.B together with such relief as outlined in Section 34 of Chapter 8 of the Town's by-laws.

7.B. Penalties

1. The first violation of this by-law shall result in the issuance of a *written warning* indicating the reason(s) for the violation and stating, at the investigating agent's discretion, a time period within which the offender(s) must cease production of the noise, or mitigate (reduce) the noise down to acceptable levels which will then comply with the restrictions and noise criteria limits in this by-law.

2. The second violation of this by-law stemming from the same noise issue within any 12 month period shall be punished by a fine of one hundred dollars (\$100.00).
3. Further violations of this by-law within any 12 month period shall be punished by a fine of one thousand dollars (\$1,000.00), together with a loss of permit or license applicable to any stationary or construction noise source as defined in 2 above.
4. Each such act in violation of this by-law which either continues or occurs more than one hour after issuance of a written warning of violation of this by-law shall be deemed a *separate* offense and shall be prosecuted as such, unless it occurs within the time period granted for correcting the original offense.
5. If the violation occurs on the premises of rental property which is not owned by the offender, then in the interest of assisting property owners in exercising responsible property management, the Town will notify the owner-of-record in writing that the violation has occurred, including the nature and circumstances of the violation.

7.C. Appeals

An offender who has been cited and/or fined under the terms and procedures of this noise by-law can *appeal* the citation within 30 days after receiving it by presenting to the Board of Selectmen's appointed Hearing Officer any alternative information, situational evidence, noise measurement data, extenuating circumstances, or explanation to the contrary of the investigating agent's findings. The Hearing Officer will serve in judgment of the appeal, and will have full discretion to reject, request additional details, reduce the severity of the penalties, continue, or enforce as issued the violation under appeal. The ruling of the Hearing Officer shall be final and not subject to further appeals within the Town's governance system.

8. Invalidity

If any provision of this by-law shall be determined to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction, the remaining provisions of this by-law shall continue in effect to the fullest extent permitted by law.

(Town Manager)

ARTICLE 15. To see if the Town will vote to transfer a certain parcel of land, located off High Street, Winchester, for nominal consideration to the Wright-Locke Land Trust, as shown on the plan entitled "Plan of Land 78 Ridge Street Winchester, MA" containing 7,630 square feet more or less, dated February 8, 2016 by Schofield Brothers, LLC. This parcel is currently part of the land leased to the Wright-Locke Farm Conservancy by the Town. The purpose of the transfer to the Wright-Locke Land Trust is to correct the encroachment of the building located at 82 High Street and to be leased by the Land Trust from the Conservancy. The land to be transferred is currently under lease to the Conservancy. This proposed transfer was approved by the Board of Selectmen and ratified by Town Meeting in the Development Agreement that was incorporated in the documents of transfer from the Town to the Land Trust or take any other action in relation thereto.

(Town Manager)

ARTICLE 16. To see if the Town will vote to authorize the Treasurer, with the approval of the Town Manager and the Board of Selectmen, to borrow money from time to time in anticipation of revenue for the fiscal year beginning July 1, 2016 in accordance with Massachusetts General Law, Chapter 44, Section 4 as amended and to issue a note or notes therefore, payable within one year, and to renew any note or notes as may be given for a period of less than one year in accordance with the provisions of Massachusetts General Law, Chapter 44, Section 17, or take any other action in relation thereto.

(Town Manager)



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, July 6, 2016

BUSINESS

Docket Item G - 2: Solicitation Bylaw Discussion

Supporting Documents:

G - 2: Proposal Chronology:
Town Clerk's Record of town Meeting action on Article 17;
2009 Fall Town Meeting Article Background/Motions;
2009 Fall Town Meeting Warrant Article
Board of Selectmen Meeting Minutes:
March 1, 2010; February 8, 2010;
November 5, October 26, 19, 5, 2009
September 17, July 27, June 22, 2009

Town of Reading Bylaw
Town of Wilmington Bylaw
Town of Lynnfield Bylaw
Town of Stoneham Bylaw
Town of North Reading Bylaw
Town of Lexington Bylaw

Action Required:

G - 2:

Solicitation Bylaw Proposal Chronology

- Town Clerk's Record of town Meeting action on Article 17
- 2009 Fall Town Meeting Article 17 Background and Motion
- 2009 Fall Town Meeting Warrant / Article 17: *To see if the Town will vote to amend the Town of Winchester Code of By-Laws by Adding a new chapter as follows:*
 - Board of Selectmen Meeting Minutes discussing the Solicitation Bylaw
 - March 1, 2010
 - February 8, 2010
 - November 5, 2009
 - October 26, 2009
 - October 19, 2009
 - October 5, 2009
 - September 17, 2009
 - July 27, 2009
 - June 22, 2009



Town of Winchester
OFFICE OF THE TOWN CLERK
Town Hall 71 Mt. Vernon Street Winchester, MA 01890
Phone 781-721-7130 Fax 781-721-1153 E-Mail melannon@winchester.us

Mary Ellen Lannon, Town Clerk
Joanne G. Cerasoli, Records Clerk

Kathleen Cramer, Asst. Town Clerk
Suzanne M. Gill, Records Clerk

Fall Annual Town Meeting
November 2, 2009

ARTICLE 17: To see if the Town will vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

CHAPTER 19. SOLICITATIONS AND CANVASSING:

Section 19.1. STATEMENT OF PURPOSE

This By-Law is intended to secure for residents of the Town the tranquility which they reasonably expect to enjoy in the privacy of their homes and to protect them from unreasonable intrusion by unrequested and unwanted solicitation and canvassing. It is framed with deep respect for the principles embodied in the constitutions of the United States and the Commonwealth of Massachusetts and attempts to achieve a workable balance between the right of free speech and the right of privacy. It is intended to be framed narrowly and construed strictly to achieve its purpose by imposing certain restrictions as to the time, place and manner in which solicitation and canvassing are conducted. It is not intended to be applied to political or religious activities entitled to protection under the First Amendment to the United States Constitution.

Section 19.2. DEFINITIONS

(a) "Solicitation or canvassing" means traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, for salary, commission or other remuneration, whether on behalf of oneself or of another person, firm or corporation and:

(1) Selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including without limitation books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or

(2) Seeking or requesting donations of money, goods or services for any for-profit or nonprofit entity.

(b) "Residential property" includes without limitation each individual dwelling unit.

Section 19.3. PROHIBITION AND REQUIREMENTS

(a) No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Winchester, and no firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon

any residential property, without first registering with the Chief of Police not less than seven days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.

(b) Persons engaged in solicitation or canvassing shall carry such certificate or registration while so engaged and shall produce such certificate upon the request of a police officer.

(c) Immediately upon encountering an occupant of any residential property, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform the occupant of the nature and purpose of his business and, if he is representing an organization, firm or other entity, the nature and purpose of such organization, firm or other entity.

(d) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.

(e) No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.

(f) No person engaging in solicitation or canvassing shall misrepresent in any way his true objective, status or mission or that of any organization on behalf of which he is so engaged.

(g) Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as MGL c. 93, 93A and 255D.

Section 19.4. REGISTRATION

(a) Application. Persons seeking registration certificates in accordance with this by-law shall apply thereof not less than seven days before commencing solicitation or canvassing in the Town of Winchester. Such application shall be signed under the penalties of perjury and shall contain the following information on a form provided by the Chief of Police:

- (1) Applicant's name;
- (2) Applicant's business, residence and local address;
- (3) Applicant's business, residence and local telephone numbers;
- (4) Applicant's date of birth;
- (5) Applicant's driver's license number and state of issue;
- (6) Applicant's sex, race, height, weight, hair color and eye color;
- (7) Applicant's photograph and fingerprint record card taken by the Police Department at the time of application;
- (8) Length of time for which applicant seeks to conduct business in the Town of Winchester;
- (9) Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
- (10) Name, home office address and home office telephone number of applicant's employer, if any, or statement of self-employment;

(11) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.

(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

Section 19.5. INVESTIGATION AND ISSUANCE

(a) Upon receipt of an application for registration the Chief of Police shall cause to make an investigation of the applicant's background and reputation. Within seven days of the filing [of] such application the Chief of Police or his designee shall either approve such application and cause the certificate of registration to be issued or deny such application, stating the reason(s) for such denial. Failure of the Chief of Police or his designee to so act within seven days shall constitute approval of said application.

(b) Grounds for denial shall include but are not limited to the following:

(1) A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following named offenses committed within seven years prior to the date of such shall constitute grounds for denial of such application: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct as specified in Chapter 265, Sections 13B and 22 through 24, and Chapter 272, Section 53 of the General Laws, unlawfully carrying weapons, or the attempt of any such offense;

(2) The failure to include any of the information requested in the application.

Section 19.6. CONTENTS OF CERTIFICATE

Each certificate of registration shall contain the signature of Chief of Police or his designee and shall show the name, address and photograph of the holder of said certificate, date of issue and registration number.

Section 19.7. APPEAL

(a) Any applicant aggrieved by the action of the Chief of Police in denying such application or in revoking such certificate of registration may appeal in writing to the Board of Selectmen within seven days of the action complicated of. The Board of Selectmen shall hold a hearing and render a decision within 30 days of the date the appeal is received.

(b) If the Board of Selectmen fails to render a decision within 30 days the appeal shall be deemed to be upheld.

Section 19.8. EXPIRATION OF CERTIFICATE

Each certificate of registration issued pursuant to this by-law shall expire 90 days from date of issue.

Section 19.9. TRANSFER OF CERTIFICATE

No certificate of registration may be transferred to any other person or entity.

Section 19.10. REVOCATION OF CERTIFICATE:

The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this by-law or for providing false information on the application.

Section 19.11. DUTIES OF POLICE DEPARTMENT

The Police Department shall keep a record of all certificate of registration, including registration numbers, and application thereof for a period of six years after application. Enforcement authority of this By-Law shall be by criminal complaint filed by the Police Department.

Section 19.12. EXCEPTION

The provisions of this By-Law shall not apply to the following persons:

- (a) Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, Section 69, Chapter 180, Section 4, or any other General Law.
- (b) Any officer or employee of the Town, county, state or federal government on official business; or
- (c) Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.

Section 19.13. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this by-law shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

Section 19.14. PENALTY

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

Or take any other action in relation thereto.

(Board of Selectmen)

MOVED AND SECONDED that the Town vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

CHAPTER 19. SOLICITATIONS AND CANVASSING:

Section 19.1. STATEMENT OF PURPOSE

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(1) Selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including without limitation books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or

(2) Seeking or requesting donations of money, goods or services for any for-profit or nonprofit entity.

(b) "Residential property" includes without limitation each individual dwelling unit.

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(b) Persons engaged in solicitation or canvassing shall carry such certificate or registration while so engaged and shall produce such certificate upon the request of a police officer.

(c) Immediately upon encountering an occupant of any residential property, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform the occupant of the nature and purpose of his business and, if he is representing an organization, firm or other entity, the nature and purpose of such organization, firm or other entity.

(d) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.

(e) No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.

(f) No person engaging in solicitation or canvassing shall misrepresent in any way his true objective, status or mission or that of any organization on behalf of which he is so engaged.

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- (7) Applicant's photograph and fingerprint record card taken by the Police Department at the time of application;
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- (10) Name, home office address and home office telephone number of applicant's employer, if any, or statement of self-employment;
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(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

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(a) Upon receipt of an application for registration the Chief of Police shall cause to make an investigation of the applicant's background and reputation. Within seven days of the filing [of] such application the Chief of Police or his designee shall either approve such application and cause the certificate of registration to be issued or deny such application, stating the reason(s) for such denial. Failure of the Chief of Police or his designee to so act within seven days shall constitute approval of said application.

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- (1) A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following named offenses committed

within seven years prior to the date of such shall constitute grounds for denial of such application: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct as specified in Chapter 265, Sections 13B and 22 through 24, and Chapter 272, Section 53 of the General Laws, unlawfully carrying weapons, or the attempt of any such offense;

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Section 19.14. PENALTY

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

Forrest Fontana presented the motion on behalf of the Board of Selectmen. The BOS recommends favorable action on this article. Police Chief Kenneth Albertelli was present and reviewed the reasons he asked the BOS to present the article. He stated he felt it was his obligation to protect the citizens of the community and that many similar communities have a similar bylaw. He stated he has been concerned with the solicitors targeting the senior population in town. Discussion took place from the floor and several Town Meeting Members expressed their objection to this article stating the bylaw infringes on freedom of speech and makes it difficult for legitimate business's to conduct door to door sales.

Discussion continued and the Chief was asked if the Police Department currently does any community outreach on educated the public about vendors going door to door. The Chief stated that the department could certainly do an outreach campaign but that he still felt strongly that the bylaw would be an additional tool for his department. The moderator called for the vote a standing vote.

Motion Failed
Standing Vote
YES: 66 NO: 80

I certify that the foregoing is a true account of the action taken under Article 17 of the Fall Annual Town Meeting of November 2, 2009.

ATTEST:



Mary Ellen Lannon
Winchester Town Clerk



Town of Winchester
2009 Annual Fall Town Meeting

ARTICLE 17

To see if the Town will vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

CHAPTER 19. SOLICITATIONS AND CANVASSING:

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- (5) Applicant's driver's license number and state of issue;
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- (7) Applicant's photograph and fingerprint record card taken by the Police Department at the time of application;
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- (9) Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
- (10) Name, home office address and home office telephone number of applicant's employer, if any, or statement of self-employment;
- (11) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.

(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

Section 19.5. INVESTIGATION AND ISSUANCE

(a) Upon receipt of an application for registration the Chief of Police shall cause to make an investigation of the applicant's background and reputation. Within seven days of the filing [of] such application the Chief of Police or his designee shall either approve such application and cause the certificate of registration to be issued or deny such application, stating the reason(s) for

such denial. Failure of the Chief of Police or his designee to so act within seven days shall constitute approval of said application.

(b) Grounds for denial shall include but are not limited to the following:

- (1) A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following named offenses committed within seven years prior to the date of such shall constitute grounds for denial of such application: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct as specified in Chapter 265, Sections 13B and 22 through 24, and Chapter 272, Section 53 of the General Laws, unlawfully carrying weapons, or the attempt of any such offense;
- (2) The failure to include any of the information requested in the application.

Section 19.6. CONTENTS OF CERTIFICATE

Each certificate of registration shall contain the signature of Chief of Police or his designee and shall show the name, address and photograph of the holder of said certificate, date of issue and registration number.

Section 19.7. APPEAL

(a) Any applicant aggrieved by the action of the Chief of Police in denying such application or in revoking such certificate of registration may appeal in writing to the Board of Selectmen within seven days of the action complicated of. The Board of Selectmen shall hold a hearing and render a decision within 30 days of the date the appeal is received.

(b) If the Board of Selectmen fails to render a decision within 30 days the appeal shall be deemed to be upheld.

Section 19.8. EXPIRATION OF CERTIFICATE

Each certificate of registration issued pursuant to this by-law shall expire 90 days from date of issue.

Section 19.9. TRANSFER OF CERTIFICATE

No certificate of registration may be transferred to any other person or entity.

Section 19.10. REVOCATION OF CERTIFICATE:

The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this by-law or for providing false information on the application.

Section 19.11. DUTIES OF POLICE DEPARTMENT

The Police Department shall keep a record of all certificate of registration, including registration numbers, and application thereof for a period of six years after application. Enforcement authority of this By-Law shall be by criminal complaint filed by the Police Department.

Section 19.12. EXCEPTION

The provisions of this By-Law shall not apply to the following persons:

- (a) Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, Section 69, Chapter 180, Section 4, or any other General Law.

(b) Any officer or employee of the Town, county, state or federal government on official business; or

(c) Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.

Section 19.13. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this by-law shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

Section 19.14. PENALTY

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

Or take any other action in relation thereto.

(Board of Selectmen)

MOTION #1:

MOVED AND SECONDED, that the Town vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

CHAPTER 19. SOLICITATIONS AND CANVASSING:

Section 19.1. STATEMENT OF PURPOSE

This By-Law is intended to secure for residents of the Town the tranquility which they reasonably expect to enjoy in the privacy of their homes and to protect them from unreasonable intrusion by unrequested and unwanted solicitation and canvassing. It is framed with deep respect for the principles embodied in the constitutions of the United States and the Commonwealth of Massachusetts and attempts to achieve a workable balance between the right of free speech and the right of privacy. It is intended to be framed narrowly and construed strictly to achieve its purpose by imposing certain restrictions as to the time, place and manner in which solicitation and canvassing are conducted. It is not intended to be applied to political or religious activities entitled to protection under the First Amendment to the United States Constitution.

Section 19.2. DEFINITIONS

(a) "Solicitation or canvassing" means traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, for salary, commission or other remuneration, whether on behalf of oneself or of another person, firm or corporation and:

(1) Selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including without limitation books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or

(2) Seeking or requesting donations of money, goods or services for any for-profit or nonprofit entity.

(b) "Residential property" includes without limitation each individual dwelling unit.

Section 19.3. PROHIBITION AND REQUIREMENTS

- (a) No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Winchester, and no firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon any residential property, without first registering with the Chief of Police not less than seven days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.
- (b) Persons engaged in solicitation or canvassing shall carry such certificate or registration while so engaged and shall produce such certificate upon the request of a police officer.
- (c) Immediately upon encountering an occupant of any residential property, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform the occupant of the nature and purpose of his business and, if he is representing an organization, firm or other entity, the nature and purpose of such organization, firm or other entity.
- (d) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.
- (e) No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.
- (f) No person engaging in solicitation or canvassing shall misrepresent in any way his true objective, status or mission or that of any organization on behalf of which he is so engaged.
- (g) Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as MGL c. 93, 93A and 255D.

Section 19.4. REGISTRATION

- (a) Application. Persons seeking registration certificates in accordance with this by-law shall apply thereof not less than seven days before commencing solicitation or canvassing in the Town of Winchester. Such application shall be signed under the penalties of perjury and shall contain the following information on a form provided by the Chief of Police:
 - (1) Applicant's name;
 - (2) Applicant's business, residence and local address;
 - (3) Applicant's business, residence and local telephone numbers;
 - (4) Applicant's date of birth;
 - (5) Applicant's driver's license number and state of issue;
 - (6) Applicant's sex, race, height, weight, hair color and eye color;
 - (7) Applicant's photograph and fingerprint record card taken by the Police Department at the time of application;
 - (8) Length of time for which applicant seeks to conduct business in the Town of Winchester;
 - (9) Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
 - (10) Name, home office address and home office telephone number of applicant's employer, if any, or statement of self-employment;
 - (11) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.

(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

Section 19.5. INVESTIGATION AND ISSUANCE

(a) Upon receipt of an application for registration the Chief of Police shall cause to make an investigation of the applicant's background and reputation. Within seven days of the filing [of] such application the Chief of Police or his designee shall either approve such application and cause the certificate of registration to be issued or deny such application, stating the reason(s) for such denial. Failure of the Chief of Police or his designee to so act within seven days shall constitute approval of said application.

(b) Grounds for denial shall include but are not limited to the following:

- (1) A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following named offenses committed within seven years prior to the date of such shall constitute grounds for denial of such application: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct as specified in Chapter 265, Sections 13B and 22 through 24, and Chapter 272, Section 53 of the General Laws, unlawfully carrying weapons, or the attempt of any such offense;
- (2) The failure to include any of the information requested in the application.

Section 19.6. CONTENTS OF CERTIFICATE

Each certificate of registration shall contain the signature of Chief of Police or his designee and shall show the name, address and photograph of the holder of said certificate, date of issue and registration number.

Section 19.7. APPEAL

(a) Any applicant aggrieved by the action of the Chief of Police in denying such application or in revoking such certificate of registration may appeal in writing to the Board of Selectmen within seven days of the action complicated of. The Board of Selectmen shall hold a hearing and render a decision within 30 days of the date the appeal is received.

(b) If the Board of Selectmen fails to render a decision within 30 days the appeal shall be deemed to be upheld.

Section 19.8. EXPIRATION OF CERTIFICATE

Each certificate of registration issued pursuant to this by-law shall expire 90 days from date of issue.

Section 19.9. TRANSFER OF CERTIFICATE

No certificate of registration may be transferred to any other person or entity.

Section 19.10. REVOCATION OF CERTIFICATE:

The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this by-law or for providing false information on the application.

Section 19.11. DUTIES OF POLICE DEPARTMENT

The Police Department shall keep a record of all certificate of registration, including registration numbers, and application thereof for a period of six years after application. Enforcement authority of this By-Law shall be by criminal complaint filed by the Police Department.

Section 19.12. EXCEPTION

The provisions of this By-Law shall not apply to the following persons:

- (a) Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, Section 69, Chapter 180, Section 4, or any other General Law.
- (b) Any officer or employee of the Town, county, state or federal government on official business; or
- (c) Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
- (d) Political or religious groups entitled to protection under the First Amendment to the United States Constitution.

Section 19.13. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this by-law shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

Section 19.14. PENALTY

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

MOTION #2:

MOVED AND SECONDED, to rescind Section 3, 4 and 5 from CHAPTER 8 - PUBLIC ORDER of the Code of By-Laws.

ARTICLE 19 BACKGROUND:

Article 19 was submitted by the Board of Selectmen at the request of the Chief of Police. It is intended to establish a more formal and rigorous regulation of parties that solicit or canvass residents of the Town of Winchester on a "door to door" basis.

For the past several years, the Police Department has had an increasingly growing problem with door to door solicitation. Solicitors are often hired by companies with little or no background checks. Many solicitors have no identification and some have been found to possess criminal backgrounds. In many cases, the attitude and demeanor of solicitors is aggressive. The Police Department has had to arrest or summons several solicitors for disturbing the peace, assaults or warrants from other jurisdictions.

The proposed by-law has been adapted from one that was successfully implemented in the Town of Marblehead, Massachusetts. It has been reviewed by the Committee of Government Regulations.

Majority vote required for passage.

ARTICLE 13. To see if the Town will vote to appropriate a sum of money for drainage improvements in the Main Street, Manchester Field and Manchester Road area, including but not limited to, catch basins and infiltration systems, all related engineering, and all other costs incidental or related thereto; to determine whether this appropriation shall be raised by borrowing or otherwise, or take any other action in relation thereto.

(Capital Planning Committee)

ARTICLE 14. To see if the Town will vote to appropriate a sum of money for sewer line rehabilitation, including replacing and/or lining existing sewer pipes and all engineering and other costs incidental or related thereto; to determine whether this appropriation shall be raised by borrowing from the Massachusetts Water Resources Authority or otherwise, or take any other action in relation thereto.

(Capital Planning Committee)

ARTICLE 15. To see if the Town will vote to appropriate a sum of money for the replacement of the Johnson Road sewer main including engineering and all other costs incidental or related thereto; to determine whether this appropriation shall be raised by borrowing, transfer from unexpended bond proceeds or otherwise; or take any other action in relation thereto.

(Capital Planning Committee)

ARTICLE 16. To see if the Town will vote to raise and appropriate, or transfer from the Parking Meter Fund or other available funds, a sum of money in order to complete a Parking Study for the center of Town and related areas, or take any other action in relation thereto.

(Board of Selectmen)

ARTICLE 17. To see if the Town will vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

CHAPTER 19. SOLICITATIONS AND CANVASSING:

Section 19.1. STATEMENT OF PURPOSE

This by-law is intended to secure for residents of the town the tranquility which they reasonably expect to enjoy in the privacy of their homes and to protect them from unreasonable intrusion by unrequested and unwanted solicitation and canvassing. It is framed with deep respect for the principles embodied in the constitutions of the United States and the Commonwealth of Massachusetts and attempts to achieve a workable balance between the right of free speech and the right of privacy. It is intended to be framed narrowly and construed strictly to achieve its purpose by imposing certain restrictions as to the time, place and manner in which solicitation and canvassing are conducted. It is not intended to be applied to political or religious activities entitled to protection under the First Amendment to the United States Constitution.

Section 19.2. DEFINITIONS

(a) "Solicitation or canvassing" means traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, for salary, commission or other remuneration, whether on behalf of oneself or of another person, firm or corporation and:

(1) Selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including without limitation books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or

(2) Seeking or requesting donations of money, goods or services for any for-profit or nonprofit entity.

(b) "Residential property" includes without limitation each individual dwelling unit.

Section 19.3. PROHIBITION AND REQUIREMENTS

(a) No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Winchester, and no firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon any residential property, without first registering with the Chief of Police not less than seven days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.

(b) Persons engaged in solicitation or canvassing shall carry such certificate or registration while so engaged and shall produce such certificate upon the request of a police officer.

(c) Immediately upon encountering an occupant of any residential property, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform the occupant of the nature and purpose of his business and, if he is representing an organization, firm or other entity, the nature and purpose of such organization, firm or other entity.

(d) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.

(e) No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.

(f) No person engaging in solicitation or canvassing shall misrepresent in any way his true objective, status or mission or that of any organization on behalf of which he is so engaged.

(g) Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as MGL c. 93, 93A and 255D.

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(a) Application. Persons seeking registration certificates in accordance with this by-law shall apply thereof not less than seven days before commencing solicitation or canvassing in the Town of Winchester. Such application shall be signed under the penalties of perjury and shall contain the following information on a form provided by the Chief of Police:

- (1) Applicant's name;
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- (3) Applicant's business, residence and local telephone numbers;
- (4) Applicant's date of birth;
- (5) Applicant's driver's license number and state of issue;
- (6) Applicant's sex, race, height, weight, hair color and eye color;
- (7) Applicant's photograph and fingerprint record card taken by the Police Department at the time of application;
- (8) Length of time for which applicant seeks to conduct business in the Town of Winchester;
- (9) Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
- (10) Name, home office address and home office telephone number of applicant's employer, if any, or statement of self-employment;
- (11) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.

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(b) Grounds for denial shall include but are not limited to the following:

(1) A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following named offenses committed within seven years prior to the date of such shall constitute grounds for denial of such application: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct as specified in Chapter 265, Sections 13B and 22 through 24, and Chapter 272, Section 53 of the General Laws, unlawfully carrying weapons, or the attempt of any such offense;

(2) The failure to include any of the information requested in the application.

Section 19.6. CONTENTS OF CERTIFICATE

Each certificate of registration shall contain the signature of Chief of Police or his designee and shall show the name, address and photograph of the holder of said certificate, date of issue and registration number.

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(a) Any applicant aggrieved by the action of the Chief of Police in denying such application or in revoking such certificate of registration may appeal in writing to the Board of Selectmen within seven days of the action complained of. The Board of Selectmen shall hold a hearing and render a decision within 30 days of the date the appeal is received.

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Section 19.8. EXPIRATION OF CERTIFICATE

Each certificate of registration issued pursuant to this by-law shall expire 90 days from date of issue.

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No certificate of registration may be transferred to any other person or entity.

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The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this by-law or for providing false information on the application.

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The Police Department shall keep a record of all certificate of registration, including registration numbers, and application thereof for a period of six years after application. Enforcement authority of this By-Law shall be by criminal complaint filed by the Police Department.

Section 19.12. EXCEPTION

The provisions of this by-law shall not apply to the following persons:

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Section 19.13. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this by-law shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

Section 19.14. PENALTY

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

Or take any other action in relation thereto.

(Board of Selectmen)

ARTICLE 18. To see if the Town will vote to transfer the proceeds from the sale of raspberries at the Wright-Locke Farm that have been deposited into a revolving fund (Fund #8762) under the jurisdiction of the Town pursuant to Massachusetts General Law Chapter 44 section 53E½ to the Wright-Locke Farm Conservancy, Inc, a 501 (c)(3) not-for-profit corporation as reimbursement for management and other services provided and to be provided to the Town and expenses incurred and to be incurred pursuant to a Memorandum of Understanding between the Town and the Conservancy dated July 1, 2009, or take any other action in relation thereto.

(Town Manager)

ARTICLE 19. To see if the Town will vote to raise and appropriate, or transfer from available funds, a sum or sums of money to supplement appropriations previously voted for Fiscal Year 2010 Budgets, or take any other action in relation thereto.

(Town Manager)

ARTICLE 20. To see if the Town will vote to accept committee reports, dissolve old committees, authorize new committees, or take any other action in relation thereto.

(Board of Selectmen)

ARTICLE 21. To see if the Town will vote to take appropriate action to comply with provisions of M.G.L. Chapter 59, Section 21c, a law known as "2 ½ Tax Limitation", or take any other action in relation thereto.

(Town Manager)

And you are hereby directed to serve this warrant by mailing a printed copy thereof, by you attested, to every occupied dwelling house in said Town and by posting on the Town bulletin board at least ten days before the holding of said meeting.

Hereof fail not and make due return of this warrant with your doings thereon to the Town Clerk before the day of said meeting.

Given under our hands and seals this 5th day of October two thousand nine.

BRIAN P. O'CONNOR, CHAIRMAN
JAMES A. JOHNSON III, VICE CHAIRMAN
THOMAS R. HOWLEY
ROGER L. BERMAN
FORREST N. FONTANA

Board of Selectmen
Town of Winchester

A true copy:
ATTEST:

Richard S. Kelley, Constable

And you are hereby directed to serve this warrant by mailing a printed copy thereof, by you attested, to every occupied dwelling house in said Town and by posting on the Town bulletin board at least ten days before the holding of said meeting.

Hereof fail not and make due return of this warrant with your doings thereon to the Town Clerk before the day of said meeting.

Given under our hands and seals this 5th day of October two thousand nine.

Board of Selectmen
Town of Winchester

A true copy:
ATTEST:

Richard S. Kelley, Constable

Town Manager reported that on Tuesday, March 9th, Mass. DOT is conducting the required public hearing on the bikeway project. A preliminary meeting was held with the Mayor of Woburn and the Town Administrator from Stoneham, and the project has a long, complicated, controversial history. One of the major issues in Winchester concerned the Town Hall campus, now successfully segregated from the State portion of the project. Issues remain in both Woburn in Stoneham, however the process must move on. Mass DOT will conduct the hearing that is being held in Maurer Auditorium here in Town Hall. The Town's bikeway and Greenway Committee will be present to offer their support for this project.

BUSINESS

Town Meeting Warrant Articles

Town Manager presented a list of potential Spring Town Meeting Warrant Articles for the Board's review. He pointed out that the deadline for submitting warrant articles is Friday, March 12th.

 Board members discussed review and refinement of the Solicitation Bylaw, with the Chairman commenting that he feels it should be more basic and not so far reaching. Selectman Fontana suggested that the privacy issue should be better vetted. Selectman Berman indicated that the case was not made for what the issues and concerns were, and what the real problem is that the Police Chief is trying to address. Selectman Fontana informed his colleagues that he would work on this article with the Town Manager and the Chief of Police.

In discussion about including an article in the warrant authorizing the transfer of the deed to the property, farmhouse, garage, 1827 barn, ice house and shed (all known as the Wright-Locke Farmstead), Selectman Howley indicated that the transfer could be made to the Conservancy but there may be less of a risk to protect the buildings no matter what happens with the Abbott Development deal, although the Conservancy is not in a legal position to address the problems with the buildings. He pointed out that Town Meeting was previously informed that the transfer would not occur until the deal with Abbott Development closed. Selectman Howley suggested that the reluctance might relate to a transfer before it is known what is going on with Abbott. He informed his colleagues that he believes in the vision that the Conservancy has and hopes that any developer would be in agreement.

As far as leasing to the Conservancy, Selectman Howley explained that while the buildings would be protected, it still does not give the Conservancy the legal rights for preservation. He indicated that the Board needs to find an interim way to address the gap. He noted that Town Counsel was concerned because if the property is going to be leased to the Conservancy it must first be advertised under the law. Vice Chairman Johnson indicated that an RFP could be written to address the needs of the community. Selectman Howley pointed out that the third amendment to the Abbott Agreement contemplates that the Town would hold the permits and approvals for a development that does not include the raspberry patch or the historic farmstead buildings.

Speaking to the placeholder article to enact as a By-Law the Stretch Energy Code, Selectman Howley informed his colleagues that this issue is currently being addressed by staff and it has been decided that the most important thing that can be done is to educate residents on what it is and how the stretch code applies, along with access to funding sources to offset the mandates, holding workshops and educating the public in general.

Selectman Howley informed the Board that the Sanborn House proponents would like to get the Preservation Restriction in place and the parking situation rectified. He recalled that the Board approved the use of approximately \$5,000 towards the \$12,500 design plan. He noted that the Historical Society has been somewhat hesitant because there is a demand for their money. Selectman Howley referenced his conversation with Bob Colt informing him that if the Historical Society does not want to proceed at this time, is it possible to work on the handicap portion only. He informed his colleagues that he feels Town Counsel's preference is for the whole plan to be done and in place, but questions remain concerning who would pay for this parking. Selectman Howley informed his colleague that there are

Monday, February 8, 2010
Board of Selectmen Meeting

Selectman Howley noted that the Board of Selectmen has adopted a policy that is very similar to the students pledge, where the Board is trying to help the Town become more energy efficient and more environmentally conscious; a number of things are being done to try to achieve this. Solar panels are being considered for various locations in Town, one of which is the Transfer Station, the same location the students are considering for a wind turbine. Selectman Howley suggested that the team come back to the Board with their grant application for a formal vote to authorize application at that time. Town Manager Kleckner presented a mini wind turbine to the Turbinators for their classroom.

CONSENT AGENDA

One Day Alcoholic Beverage Licenses:

Winchester Seniors Association – Jenks Senior Center – February 27, 2010;
Wheaton College Group – Mahoney's Rocky Ledge Nursery – March 24, 2010

Road Race Request:

Michael J. Dunleavy Annual Walk and Road Race – April 11, 2010

Acceptance of \$500 Donation from Whip Saltmarsh

Expenses relating to the memorial plaque honoring Ed O'Connell which is
located at the Edward F. O'Connell Memorial Plaza

Request for Funding for ADA Plan

- * Motion: That the Board of Selectmen approve the Consent Agenda for Monday, February 8, 2010 that includes One Day Alcoholic Beverage licenses for the Winchester Seniors Association and the Wheaton College Group, a road race request for April 11th, acceptance of a \$500 donation from Whip Saltmarsh to defray expenses for a memorial plaque in honor of Ed O'Connell, and up to \$7,000 from the Hospital Gift Account to develop a plan to address ADA issues.

Johnson – Berman

All in Favor

VOTED.

Approve / Correct Meeting Minutes of Monday, January 25, 2010

- * Motion: That the Board of Selectmen approve the Meeting Minutes of Monday, January 25, 2010 as written.

Johnson – Howley

All in Favor

VOTED.

Approve / Correct Meeting Minutes of Monday, January 4, 2010

- * Motion: That the Board of Selectmen approve the Meeting Minutes of Monday, January 4, 2010 as written.

Johnson – Howley

All in Favor

VOTED.

Non-Docket Business from the Selectmen

Selectman Fontana, speaking to both the physical and television audience, asked that people understand that the Board does listen to their concerns about various issues. He pointed to the hard work that has been done to resolve the train station issues, noting that the Board does hear and with a combination of effort from citizens and public officials, is able to make progress.

Selectman Fontana noted that recently, there has been some dialogue on solicitation complaints that have been voiced and transferred to the Police Department staff. He asked residents to understand that the safety of the public is an important issue and it is important for residents to make their concerns known so that data can be assembled. Also of concern is the scaffolding at the Black Horse Tavern. He noted that the Board is monitoring this, is aware of the inconvenience created for residents, therefore

Thursday, November 5, 2009

Board of Selectmen Meeting – Room A108 Winchester High School

* Referencing Article 17, the Solicitation ByLaw proposal, Selectman Howley informed his colleagues that he feels this is not ready as it has not been discussed by the Board nor properly vetted through usual channels. He explained that the other articles all have a 'champion', but this article came forward without a lot of Board interaction or public discussion. Town Counsel indicated that this is a policy decision for the Board however he did not vet this article. Vice Chairman Johnson suggested that this article be postponed for action in the Spring.

Chairman O'Connor noted that he feels there is a problem in the Town that has been pointed out by the Police Chief on many different occasions. This warrant article could alleviate the robberies, flim flam, etc. as well as provide protection to the residents. Town Counsel indicated that approval of this article would provide a tool for the Police Department against this situation, which has been a problem for a number of years. Chairman O'Connor noted that the success of this article would enhance the safety of the citizens in Winchester.

Town Manager reported that the proposed bylaw for Winchester was taken from a bylaw that had been approved in another community, has had Attorney General review. He noted that there will always be lawyers that are on both sides of the issue.

COMMUNICATIONS AND REPORTS

The Board acknowledged receipt of the following correspondence:

1. List of upcoming Committee Meetings
2. EFPBC Minutes of 8/19/09; 8/26/09; 9/2/09; 9/30/09, and 10/14/09
3. Public Hearing Notices: NSTAR Grant of Location Petitions
4. Letter from Lorraine McDonough: Suggestions for Hemingway Street
5. MOA: Mass. Dept. of Environmental Protection, Abbott Real Estate Development, Mass. Historical Commission and the Town of Winchester
6. Press Release: Abbott Real Estate Development, LLC – Purchase and Sale Agreement

Recess to Town Meeting – 7:28 PM

* Motion: That the Board of Selectmen recess to the floor of Town Meeting.

Howley – Berman

By Roll Call: Fontana, Berman, Howley, Johnson, O'Connor

VOTED.

Respectfully submitted,

Melvin A. Kleckner, Town Manager

The Moderator noted that the Town Charter calls for the Town Manager to develop a capital plan, and the ByLaw requires that the Capital Planning Committee be appointed to assist the Town Manager. The Charter stipulates that the Town Manager's Capital Plan is provided to the Finance Committee along with a recommendation from the Capital Planning Committee; the recommendation from the Finance Committee is what is provided to the Town Meeting. The Moderator recalled that in 2002 a committee was appointed at Town Meeting to develop a report which recommended that the Capital Planning Report be made in the Fall with appropriations made in the Spring Town Meeting. The Moderator noted that this year, appropriations are being made in the Fall, not a good idea because it takes the capital priority evaluation versus the operational budget out of sequence.

The Moderator recommended that the motions for Article 12 and Article 15 require a transfer from an existing account to use as partial funding. He noted that it is important to list the original account and original appropriation. Article 16 appropriates \$40,000 to fund the costs of the Winchester Center Parking Study. The Moderator informed the Board that he feels this motion is deficient in one minor point, that being that the Town Manager has authority to enter into contracts and approve payments with respect to the project. He requested that this verbiage be added to the motion for Article 16.

Article 17: To amend the Code of By-Laws by adding a new Chapter 19: Solicitations and Canvassing.

Moderator Sullivan explained that he has read the By-Law and there may be a conflict in Chapter 8 ss. 4 and 5 of the existing by-law. He explained that there are two paragraphs in the existing by-law, one for hawking and the other for peddling, where there was litigation on the hawking portion filed by the Jehovah Witnesses as a violation of their rights. Town Manager informed the Board that the Government Regulations Committee has suggested a second motion to eliminate this. The Moderator indicated that this would be out of order, resulting in two choices, passage of this article and conflict with the other section. He noted that the conflict could be removed at the Spring Town Meeting. He suggested that the legal team review this.

Article 19: To raise and appropriate a sum of money to supplement the FY2010 Budget.

The Moderator noted that Motion #1 under this article is out of order. Motion #2 is in order and pertains to reallocation in the Planning Board budget. He explained that this particular motion does not do what is discussed in the article, e.g., appropriating or transferring from available funds.

Town Manager explained that the Town refinanced its debt therefore there is no longer the need to appropriate the same amount as was needed in the Spring. Town Manager indicated that he would check with Department of Revenue.

Winchester Housing Authority Interviews

Present: Richard Rohan, Chairman; Anne Bailey Berman; Catherine Boyle, Karen Courtney

Town Manager informed the Board that the candidates to fill the vacant seat on the Winchester Housing Authority Board of Directors are present. Candidates are: Patrick J. Capobianco, Laura Glynn and Craig R. Miller.

Patrick Capobianco, 7 Middlesex Street informed the Board that he is a mortgage loan officer and has approved thousands of mortgage loans and participated in as many closings. He noted that he has experience with affordable housing issues by virtue of his work. He informed the Board that he was not in attendance at the recent public hearing concerning the group home proposal for Highland Avenue.

Laura Glynn, 20 Churchill Road informed the Board that she is an employee of the City of Medford in their Community Development office, spending years in the affordable housing sector. She pointed out that those who are served by the Housing Authority are those of lower income. She informed the Board that she did not attend the recent hearing held related to the proposed group home for Highland Avenue. Ms. Glynn did question the funding source for this proposal, as well as what would happen in ten years should this property be run by a private developer. Ms. Glynn indicated that she looks at the role of the Housing Authority as being advisory to those who work at the authority on a day to day basis.

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 12 [repairs at DPW Yard] in the Fall 2009 Town Meeting Warrant.
- Howley – Berman All in Favor VOTED.

Article 13: Drainage Improvements at Manchester Field

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 13 [drainage improvements at Manchester Field] in the Fall 2009 Town Meeting Warrant.
- Berman – Howley All in Favor VOTED.

Article 14: Sewer Line Rehabilitation

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 14 [sewer line rehabilitation] in the Fall 2009 Town Meeting Warrant.
- Berman – Howley All in Favor VOTED.

Article 15: Johnson Road sewer main

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 15 [Johnson Road sewer main] in the Fall 2009 Town Meeting Warrant.
- Berman – Howley All in Favor VOTED.

Article 16: Parking Study funded with Parking Meter Account Funds

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 16 [parking study] in the Fall 2009 Town Meeting Warrant with the source of funding the study identified to Town Meeting Members.
- Howley – Berman All in Favor VOTED.

Article 17: Solicitation Bylaw

Town Manager informed the Board that the Moderator has indicated that sections of this bylaw cannot be eliminated at this Town Meeting. It was suggested that the article could be approved as is, then brought back for corrections in the Spring. Board members requested that Town Counsel review the motion as presented. It was the consensus of the Board to vote on a recommendation to Town Meeting Members at Table on the floor of Town Meeting.

Article 18: Wright-Locke Farm Raspberry Sales

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 18 [Wright-Locke Farm raspberry sales] in the Fall 2009 Town Meeting Warrant.
- Howley – Berman All in Favor VOTED.

Article 19: To amend / adjust FY2010 Budgets

Town Manager explained that this article is in the warrant each year and allows adjustment to the current year budget. He noted that since the Town has refinanced its debt, too much money has been appropriated into the Debt Service Budget, something that has to be adjusted at some point. The article does not discuss adjustments only supplemental appropriations. Town Manager indicated that he will ask the Department of Revenue about how this should best be handled.

It was the consensus of the Board to table a recommendation to Town Meeting on Article 19.

Articles 20: Accept Committee Reports/Dissolve Old Committees, etc.:

Article 21: Comply with Proposition 2 ½

Johnson – Berman

All in Favor

VOTED.

CONSENT AGENDA

Request to Close Laraway Road

Chamber of Commerce for Tree Lighting Ceremony

Approval of Contract:

Legal Review of Subdivision Regulations

One Day Alcoholic Beverage Licenses:

Boston’s Best Bartending for Next Door Theatre – October 30, 2009;

Boston’s Best Bartending for Robyn Bonnett – Sanborn House – October 24, 2009

* Motion: That the Board of Selectmen approve the Consent Agenda for Monday October 19th that includes the Chamber of Commerce request to close Laraway Road for the Tree Lighting Ceremony, approval of a contract for the legal review of Subdivision Regulations and Once Day Alcoholic Beverage Licenses for Boston’s Best Bartending on October 30th and October 24, 2009.

Johnson – Berman

All in Favor

VOTED.

Fall Annual Town Meeting Review

Chairman O’Connor noted that Articles 9 through 15 in the Fall Town Meeting Warrant deal primarily with Capital Planning issues. The following is a list of Warrant Articles and the name of the individual who will present that Article to Town Meeting.

Article	Presenter
Article 9 – Report of Capital Planning Com.	Chairman H. Philliou
Article 10 – Capital Projects Appropriation	Part 1: Sel. Berman; Parts 2 & 3: H. Philliou
Article 11 – Muraco School Heating System	Sel. Johnson
Article 12 – DPW Facility Repairs	H. Philliou
Article 13 – Drainage / Manchester Field	Sel. Johnson
Article 14 – Sewer Line rehabilitation	Sel. Johnson
Article 15 – Sewer Main – Johnson Road	Sel. Johnson
Article 16 – Parking Study Funding	Sel. Howley
<u>Article 17</u> – Solicitation and Canvassing Bylaw	Sel. Fontana and Sel. O’Connor
Article 4 – Quinn Bill	Town Manager
Article 5 – Personnel Board Report	Personnel Board
Article 7 – Sanborn House	Sel. Howley
Article 21 – Proposition 2.5 tax limitation	

purposes the premises known as the Sanborn House, being more fully identified on Exhibit A-1 of the lease between the Town of Winchester and the Winchester Historical Society dated March 20, 2006, or take any other action in relation thereto.

Article 8: Amendment to the Code of ByLaws by adding a new chapter – Chapter 19 Solicitations and Canvassing...

Town Manager informed the Board that this article is proposed by the Chief of Police and has been adapted to Winchester. The article will be reviewed by the Committee on Government Regulations and Town Counsel.

In response to the question concerning who will speak to this article at Town Meeting, Town Manager explained that since this is a proposal made by Chief Albertelli, he is prepared to speak to the article to the extent possible, however there are some legal issues that require review by Town Counsel. Selectman Fontana indicated that he would represent the Board's recommendation at Town Meeting.

Town Manager reported that Article 9 will go forward contingent upon receipt of a grant from the State for the Borggaard Beach Project. Selectman Johnson will speak to this article at Town Meeting.

Chairman O'Connor indicated that he will provide the Board's Town Meeting action recommendation regarding the Quinn Bill; Selectman Howley agreed to speak to the parking study; Selectman Johnson agreed to represent the Board's position on Articles 12 through 18, all of which pertain to Capital appropriation requests. He explained that not only will the Town Meeting be voting on these articles, but funding them as well, as some of the appropriation is from grant funding, some from money on hand and some the result of borrowing. The thought process here is because of the present economy bid pricing will be advantageous, as well as completion early in the season. He noted that this is a change in usual Town Meeting practice.

* Motion: That the Board of Selectmen approve the Fall 2009 Town Meeting Warrant subject to the modification of the order of the Articles and any minor verbiage edits made by Town Counsel.

Johnson – Berman

All in Favor

VOTED.

Update: Additional Liquor License Authorization

Chairman O'Connor noted that additional beer and wine restaurant alcohol licenses will be specific to a particular establishment's request. Representative Lewis will take the application to the Floor of the House of Representatives for approval. These licenses will no longer be transferred from owner to owner. Chairman O'Connor noted that this is a change statewide, not specific to Winchester and does not apply to the existing licenses, only the new requests. Selectman Howley noted that under these circumstances, it would not be unusual to have a lease that is contingent upon receipt of a license.

Town Manager informed the Board that there are no restrictions on the all alcohol licenses; these licenses are open to anyone because the Town has not reached its quota here. He noted that any changes to the all alcohol regulations are under the sole jurisdiction of the Board.

Recalling the discussion at the first Community Conversation, Selectman Howley noted that there are uses that are thought to be desirable in terms of capturing more dollars for the Town. He indicated that the use that is most significant is restaurant use. He suggested that the changes are good and likely overdue as the community has changed.

Board members requested that Town Counsel review the ByLaw regarding seating requirements. Selectman Berman requested that Town Counsel provide recommendations for language clarification,

that if the Town was able to reach agreement with the Police Unions to vary from the program, legislative action would be required. This article eliminates the Quinn Bill as it is currently known in Winchester.

Article 6: Capital Planning Committee article for various projects. A number of subsets will be added to this for the various projects.

Article 28: a standard article that allows money to be moved around in FY2010.

Article 29: Personnel Board report that allows a number of personnel issues to be dealt with, including reclassification of jobs and appropriations to meet collective bargaining agreements. The School Committee will be seeking an appropriation under this article.

Article 31: standard housekeeping article; **Article 32** is housekeeping in nature as well.

Placeholder Articles: These articles require some additional work

1. Sign Bylaw – proposed to regulate contractor and political signs.
2. Newsrack Bylaw – proposal previously submitted by the Garden Club.
3. Solicitation Bylaw – proposed by the Chief of Police to regulate solicitation.
4. Local Meals Tax – adoption.
5. FY2010 Capital Plan related articles.
6. PARC Grant – acceptance, if successfully awarded, for renovations at Borggaard Beach.
7. Transfer of money from Planning Board Other Expense Budget to Personal Services Budget to fund Recording Secretary position. Town Manager indicated that this might be covered by the article to move money around within various budgets.
8. Appropriate funds from Water / Sewer retained earnings.
9. High Street – acceptance of a portion of the road as a public way. Vice Chairman Johnson noted that this pertains to High Street extension. He explained that approximately fifteen years ago, the Town accepted this portion of High Street as a public way as it was improved by the developer. The recording was never made by the then Town Clerk, and this has been in limbo ever since. It has been determined that this now has to go back to Town Meeting with an explanation that an error had been made and proper recording was never done.
10. Sanborn House preservation restriction.
11. Teacher Contract Issue – this should be covered under the Personnel Board Article.
12. Winning Farm – this would pertain to the acquisition of those parcels that were being held up because a cleanup was needed.

Vice Chairman Johnson informed his colleagues that he and Selectman Fontana are working with the Chairman of the Planning Board to address the Town Planner issue. He was informed that this would be considered under the Personnel Article.

Selectman Howley suggested that another potential Warrant Article is a request to fund the parking survey from the Parking Meter Fund.

Selectman Berman referenced the letter from the Attorney General to the Town Clerk where that office reviewed the action of the April 27th Spring Annual Town Meeting pertaining to zoning. He noted that the action taken was approved, but cautions were added to some of the contents. Selectman Berman questioned whether the Board needs to include a placeholder article for the Planning Board to allow them to come back with language or administrative changes, bringing the Spring Town Meeting action into compliance with the concerns of the Attorney General. Town Manager informed the Board that he did discuss this with Attorney Bobrowski who felt that all of the notations were standard and routine cautions that referenced case law. Attorney Bobrowski expressed that he did not believe that it was necessary to incorporate this into the bylaw, however it is up to the Planning Board to make this judgment. Selectman Berman suggested that a placeholder article be included to allow time for a Planning Board response. He explained that he would rather clear issues up now than incur legal expenses at a later date. Town Manager noted that there is still another day for warrant article submission.

Selectman Fontana suggested a joint meeting with the School Committee, as once the State gives the go ahead for a particular option there are 120 days in which to act.



Chairman O'Connor also requested that the Town Manager include an article pertinent to a solicitation bylaw in the Fall 2009 Town Meeting Warrant. The other issue of concern relates to the placement of temporary signs and what constitutes this type of sign. He requested that his colleagues bring other issues of concern forward for consideration and inclusion in the Warrant. Selectman Berman recalled that one of the garden clubs brought forward a proposal for a unified news rack structure and asked that the Town Manager research this again.

Vice Chairman Johnson – Coordination of Community Development, Staffing and Consultants

Vice Chairman Johnson informed his colleagues that coordination is coming along slowly and his hope is to have the information ready for discussion in September. He referenced a capital spending issue which is reinforced by the Energy Management Committee, as the Town has realized a substantial savings through the installation of energy efficient systems. Selectman Johnson noted that while efficient systems make sense they are typically more expensive to purchase. Upfront costs must be funded through either the Capital or Building Stabilization Funds. He recommend that the Board consider a new policy, i.e., where the savings realized as a direct result of specific project requests revert back to the capital accounts. He explained that the issue on the forefront relates to the Muraco School boiler, which is efficient and uses energy optimally, as well as being able to accommodate a new building. He suggested that reverting the funds would be one way to supplement the Capital and Stabilization accounts. Selectman Johnson indicated that if there is a savings in energy then the amortized cost is negligible.

Selectman Berman commented that anything that can be done to incentivize efficiency is good however his concern is with the savings realized remaining and reinvested in the operating budget. He explained that this plan proposes an increase for the stabilization accounts. Chairman O'Connor urged Comptroller Keveny to become engaged because moving money around is involved. Vice Chairman Johnson disagreed with the Comptroller's involvement, explaining that the Board could direct the Town Manager to make an increased allocation during budget preparation. Board members agreed that the concept of Vice Chairman Johnson's suggestion is a good one but needs work.

Selectman Howley indicated that the trick is to make a policy based upon theoretical usage and savings. He informed his colleagues that he likes the idea of incentivizing. Town Manager noted that this is the first he has heard of this proposal and agreed that the concept of incentivizing savings is a good one. He explained that up to this point, the program has been more on an operational level. Selectman Fontana indicated that he conceptually agrees with this as well, noting that this might have been the equivalent of a 30-60-90 day project idea before Selectman Johnson came up with his proposal. He suggested that this now has merit to work its way into capital planning and be fleshed out through more analysis. Vice Chairman Johnson indicated that his proposal is in its infancy stage.

Selectman Fontana noted that there could be savings through efficiency as well as through opportunities identified to cost savings and risk avoidance. He explained that there would be an interim report generated prior to commencing on phase two; although as more fact finding unfolds, the realization is not to be too premature. He asked his colleagues not to set their expectations that there are a lot of dollars to be found, as dollars are being spent wisely and more should be spent for a better output and risk avoidance.

Selectman Howley noted that a number of really important projects have been identified. He indicated that in order to realize a return on investment there might be a need to make more of an investment in certain areas. Selectman Fontana noted that a look should be taken at the past as well as the future.

Selectman Fontana – School / Town MIS Coordinator

Selectman Fontana outlined the things that he feels Winchester does well: use of Free Cash in an appropriate manner, cutting / maintaining expenditures where appropriate, and dealing with staff issues, as many towns have had to do layoffs although Winchester has been able to avoid this.

Selectman Fontana indicated that what the Town needs to do a better job with is the structural permanent changes, looking at areas of consolidation, regionalization and re-prioritization, automation and e-government.

Vice Chairman Johnson noted that he and Selectman Fontana have met with individual department heads, and where appropriate the elected / appointed board chairmen. A recommendation will be developed once all meetings are completed in order to outline the issues to be brought back to the Board. The Vice Chairman acknowledged the donation of the Winchester Cooperative Bank to the Board of Health in the amount of \$4,000 to support the Winchester Substance Abuse Coalition No Child Left Behind program at the McCall Middle School.

Chairman O'Connor announced a breakthrough with the Wildwood Cemetery Advisory Committee as regards the reorganization of the Cemetery. He explained that the Chairman of the Conservation Commission and the Chair of the Cemetery Advisory Committee have agreed to work collaboratively. He noted that the 1997 Wildwood Cemetery Expansion Master Plan has been revived, and an effort will be made to get the Historical Commission involved to execute the plan.

TOWN MANAGER REPORT AND COMMENTS

MassHighway Intersections – Cambridge Street

Town Manager reported that the Town is making progress in getting these intersection projects funded. The intersections to be made safer for motorists and pedestrian are Cambridge Street and Everett Avenue, Cambridge Street and High Street, Cambridge Street and Pond Street and Church Street / Bacon Street / Fletcher Street. The 100% design has been fully funded by the State Highway Department, and based upon this a strong pitch has been made to the MPO for inclusion on the Transportation Improvement Program list for next year. Representative Lewis has been asked to provide assistance.

Solicitation ByLaw

Town Manager noted that he has included a communication from the Chief of Police who believes that the Town should develop a bylaw that regulates door – to – door solicitation. The Chief is encouraging adoption of a bylaw that would regulate this activity. Town Manager informed the Board that he will be seeking assistance from Town Counsel and other applicable boards and staff to "T" this up. The goal is to consider this for Fall Annual Town Meeting.

Temporary Signs

Town Manager noted that the Board has been discussing temporary signs in response to an issue with the Post Office, where a request was made to place a number of temporary signs in various areas throughout the Town. The Board did not approve this request and a number of other suggestions were put forward with the hope that the Post Office would take advantage of them. Town Manager indicated that temporary signs on public property are not permitted for any reason and the Town will be proactively regulating this by removing these signs from Town property. The issue of temporary signs on private property needs to be further vetted for an understanding of how they can be regulated.

FY2010 State Budget / State Aid

Town Manager informed the Board that it does appear that the final State Budget has been presented by the Legislative Conference Committee and the Governor has been talking about vetoing various aspects

8.9.8.5 Permits

The Chief of Police or his designee (the Chief), may in his reasonable discretion, issue permits in response to written applications authorizing applicants to perform construction during hours other than those permitted by this bylaw. Such permits may be issued upon a determination by the Chief, in consultation with the Building Inspector, the Town Engineer or other Town staff, that literal compliance with the terms of this bylaw would create an unreasonable hardship and that the work proposed to be done (with or without any proposed mitigative measures) will have no adverse effects of the kind which this bylaw seeks to reduce. Each such permit shall specify the person authorized to act, the dates on which or within which the permit will be effective, the specific hours and days when construction otherwise prohibited may take place, and any conditions required by the Chief to mitigate the effect thereof on the community. The Chief may promulgate a form of application and charge a reasonable fee for each permit. No permit may cover a period of more than thirty (30) days. Mitigative measures shall include notice to residents in the surrounding area, and other mitigation as determined by the Chief. Objections by such residents shall be noted by the Chief and shall be taken into account when considering issuance of such permit.

8.9.8.6 Unreasonable Noise

Regardless of the hour or day of the week, no construction shall be performed within the Town in such a way as to create unreasonable noise. Noise shall be deemed unreasonable if it interferes with the normal and usual activities of residents and businesses in the affected area and could be reduced or eliminated through reasonable mitigative measures.

8.9.8.7 Copy of Bylaw

The Building Inspector shall deliver a copy of this bylaw to each person to whom it issues a building permit, razing permit, electrical permit, plumbing permit, gas permit or mechanical permit at the time that the said permit is issued.

8.9.8.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.9.9 Door-To-Door Solicitors and Canvassers**8.9.9.1 Definitions**

- As used in this section, the terms "solicit" and "canvas" shall mean and include any one or more of the following activities conducted at residences without the previous consent of the owner:
 - Seeking to obtain the purchase, or orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever for any kind of consideration whatsoever; or
 - Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

8.9.9.2 Applicability

- The provisions of this section shall not apply to officers or employees of the Town, State or Federal government, or any subdivision thereof when on official business, or to neighborhood youth and students who solicit for the shoveling of snow or cutting of lawns or similar services to residents, nor shall it be construed to prevent route salespersons or other persons having established customers to whom they make periodic deliveries from calling upon such customers.
- If any solicitor or canvasser is under the age of eighteen (18) years and is selling goods or periodicals for a commercial purpose, the provisions of MGL Chapter 101 Section 34 shall apply.
- The provisions of this section shall not apply to any person soliciting solely for religious, charitable or political purposes.

8.9.9.3 Registration Required

It shall be unlawful for any person to solicit or canvas or engage in or conduct business as a canvasser or solicitor without first having obtained a Certificate of Registration from the Chief of Police as provided in this section.

8.9.9.4 Application for Certificate of Registration

- Application for a Certificate of Registration shall be made upon a form provided by the Police Department along with a nonrefundable application fee. Said fee to be determined by the Board of Selectmen.
- An authorized representative of the sponsoring organization shall apply to the Chief of Police or his designee either in person or by mail. All statements on the application or in connection therewith shall be under oath. The applicant shall provide all information requested on the application, including:
 - Name, address and telephone number of the sponsoring organization, along with a listing of all officers and directors;
 - State and/or Federal Tax Identification Number of the sponsoring organization;
 - Name, residential and business address, length of residence at such residential address, telephone number, social security number and date of birth of each representative of the sponsoring organization who will be soliciting or canvassing in the Town;
 - Description sufficient for identification of the subject matter of the soliciting or canvassing in which the organization will engage;
 - Period of time for which the Certificate is applied (every Certificate shall expire within one year of date of issue);
 - The date of the most recent previous application for a Certificate under this section;
 - Any previous revocation of a Certificate of Registration issued to the organization or to any officer, director or representative of the organization by any city or town and the reasons therefore;
 - Any convictions or imprisonment for a felony, either state or federal, within five (5) years of the application, by the sponsoring organization, any of its officers or directors, or any representative who will be soliciting or canvassing in the Town;
 - Names of the three (3) communities where the organization has solicited or canvassed most recently;
 - Proposed dates, hours and method of operation in the Town;

- Signature of an authorized representative of the sponsoring organization.
- A photograph or an acceptable photocopy of a photograph of each representative of the sponsoring organization who will be soliciting or canvassing in the Town shall be attached to the application.
- No Certificate of Registration shall be issued to any person, or to any organization having an officer or director, who was convicted of commission of a felony, either state or federal, within five (5) years of the date of the application, nor to any organization or person whose Certificate of Registration has previously been revoked as provided below.
- Fully completed applications for Certificates shall be acted upon within five (5) business days of receipt. The Chief of Police shall cause to be kept in his office accurate records of every application received together with all other information and data pertinent thereto and of all Certificates of Registration issued under this section and of all denials.
- Upon approval of an application, each solicitor or canvasser shall be issued a Certificate of Registration with a photo identification badge to carry upon his person at all times while soliciting or canvassing in the Town and to display the certificate whenever asked by any police officer or any person solicited.

8.9.9.5 Revocation of Certificate

- Any Certificate of Registration issued hereunder may be revoked by the Chief of Police for good cause, including conviction of the holder of the Certificate of a Violation of any of the provisions of this section or a false material statement in the application. Immediately upon such revocation, the Chief of Police shall give written notice to the holder of the Certificate in person or by certified mail addressed to his residence address set forth in the application.
- Immediately upon the giving of such notice, the Certificate of Registration shall become null and void. In any event, every Certificate of Registration shall state its expiration date, which shall be no later than one year from date of Issue.

8.9.9.6 Deceptive Practices

No solicitor or canvasser registered or exempt from registering may use any plan, scheme, or ruse which misrepresents the true status or mission of any person conducting the solicitation or canvas in order to gain admission to the home, office or other establishment of any person in the Town.

8.9.9.7 Duties of Solicitors and Canvassers

It shall be the duty of every solicitor and canvasser going onto any premises in the Town to:

- Display a Town-issued photo identification badge on the outside of their person; and
- First examine whether there is a notice posted stating that no solicitors are welcome. If such notice is present, then the solicitor or canvasser shall immediately and peacefully depart from the premises; and
- Any solicitor or canvasser who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

8.9.9.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.10 Maintenance of Vacant Buildings and Land

All vacant structures and vacant land within the Town of Reading shall be maintained in a safe, secure and clean condition so as not to compromise the health, safety and general welfare of the community.

8.10.1 Definitions

For purposes of this bylaw the following definitions shall apply:

8.10.1.1 Building

A structure enclosed within exterior walls or firewalls, built, erected, or framed of any materials, and fixed to the ground, having a roof, to form a structure for the shelter of persons, animals or property, or the storage of commercial or industrial personal property.

8.10.1.2 Owner

A person, entity, service company, property manager or real estate broker, who alone or severally with others:

- has legal or equitable title to any building, structure or parcel of land, vacant or otherwise; or
- has care, charge or control of any building or structure, parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- is a mortgagee in possession of any such property; or
- is an agent trustee or other person appointed by the courts and vested with possession or control; or
- is an officer or trustee of the association of unit owners of a condominium; each such person being bound to comply with the provisions of these minimum standards as if he were the owner; or
- is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated a foreclosure process.

8.10.1.3 Vacant

Buildings or property that are unoccupied for a period greater than one hundred eighty (180) days by a person or persons with legal right to occupancy thereof.

8.10.2 Minimum Maintenance Requirements

Owners of vacant properties must fulfill the following minimum adequate maintenance requirements for any such property they own:

- Maintain vacant properties in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes.
- Secure vacant properties to prevent unauthorized entry and exposure to the elements.
- Maintain vacant properties in a manner that ensures their external/visible maintenance, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features.

Mawn, Patti

From: Martel, Justin <jmartel@ci.reading.ma.us>
Sent: Friday, May 20, 2016 3:39 PM
To: Mawn, Patti
Subject: Solicitation and Canvassing ByLaw Proposal
Attachments: 2015-06_general_bylaw.pdf

Hi Patti:

My Chief asked me to send you a copy of our Door-to-Door Solicitor Registration bylaw. I have attached that bylaw to this e-mail for your review. Also, by [clicking here](#), you can download our registration package. If you need anything further on this, please let me know. Thank you.

Respectfully,
Justin Martel, Badge 78
Armorer, Licensing Officer, Fleet Manager
Reading Police Department
15 Union Street
Reading, Massachusetts
Desk: (781) 942-6766
Dispatch: (781) 944-1212
Fax: (781) 944-2893

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SOLICITORS OR CANVASSERS

SECTION 40:

Section 1: License required. It shall be unlawful for any solicitor or canvasser, as defined in Section 2 of this by-law to engage in such business in the Town of Wilmington without first obtaining a license in compliance with the provisions of this by-law. Any person who is not properly licensed under this by-law shall be ordered to immediately cease and desist all solicitation in the town until they attain a proper license. Whoever continues to solicit without a proper license after being notified to cease and desist by a police officer, may be summoned for court prosecution and fined up to \$300.00 for each violation.

Section 2: Definition. A canvasser or solicitor is defined as any individual, whether resident of the Town or not, traveling either by foot, motor vehicle, or any other type of conveyance, from place to place, house to house, taking or attempting to take orders for sale of goods, wares, merchandise, personal property of any nature for immediate or future delivery or for services to be furnished or performed immediately or in the future and whether or not he or she collects advance payments on such sales.

This definition shall include any person who, for him or herself, or for another person or firm or corporation hires, leases, uses, or occupies any building, structure, tent, rail car, boat, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

Section 3: Application. An applicant for a license under this by-law shall file with the Chief of Police, or his designee, a sworn application in writing at least 10 working days prior to the requested starting date for solicitation, on a form provided by the Police Department. Said form shall include, but not be limited to the following information:

- a. Name and physical description, date of birth, social security number of the applicant;
- b. Permanent home address, and full local address of the applicant;
- c. A brief description of the nature of the business and/or goods to be sold;
- d. If employed, name and address of employer, including credentials which establish the exact relationship;
- e. The length of time for which the permit is desired;
- f. Names of manufacturer, of source of merchandise, proposed method of delivery;
- g. Two photographs of the applicant, taken within the past 60 days prior to filing of the application, showing only the head and shoulders of the applicant in a clear and distinguishing manner;
- h. Provide evidence of business responsibility or good character of the applicant;
- i. A statement as to whether or not the applicant has been convicted of any crime, or violation of any municipal by-law, rule or regulation, the nature of the offense and the punishment or penalty assessed therefore.

At the time of filing the application, a fee of \$25.00 per individual applicant payable to the Town of Wilmington shall be submitted to the Police Department to cover the cost of investigation of the facts stated therein. This fee may be waived for individuals representing non-profit organizations.

Section 4: Investigation and Issuance

- A. The Chief of Police shall direct an investigation of the facts contained in the license application to determine the following.
 1. Whether of not fraud, misrepresentation, or false statements have been made on the application.
 2. Whether or not the applicant has been convicted of any crime or misdemeanor involving moral turpitude.

- B. If after investigation the Chief or his designee determines either of the above paragraphs (A1-A2) were answered in the affirmative the application shall be denied, and the applicant so notified.
- C. If after investigation, the character and business responsibility of the applicant has been found to be satisfactory the application shall be approved. The applicant will then be issued a Solicitation Identification Card.

Section 5: Solicitation Identification Card

The Police Department shall issue to each successful applicant an identification card which shall contain the words "Licensed Solicitor", the individual's picture, identification and expiration date of the license. Such Identification Card shall be worn in a conspicuous manner on the outer garment of the licensee during any and all times the licensee is engaged in soliciting. The above requirements may be waived by the Chief of Police for solicitors of non-profit organizations based in the Town of Wilmington.

Section 6: Solicitors and Canvassers are required to exhibit their licenses at the request of any resident.

Section 7: Duty of the Police to Enforce. It shall be the duty of any police officer of the Town to require any person seen soliciting or canvassing and who is not known by such officer to be duly licensed, to produce his or her solicitor's or canvasser's license and to enforce the provisions of this by-law against any person found to be violating the same.

Section 8: Trespass after notice, M.G.L. Chapter 266, Section 120. Notwithstanding the above licensing procedures, no licensee may enter private property after being forbidden to do so either directly by the person in charge of the property, or by a conspicuously posted notice of No Trespassing. Punishment for violations of this section are controlled by M.G.L. Chapter 266, Section 120. A person found committing such a trespass in the presence of a police officer may be arrested without a warrant.

Section 9: Solicitation hours. A properly licensed solicitor or canvasser may solicit between the following hours:

Monday through Friday	8 a.m. through 7 p.m.
Saturday	10 a.m. through 5 p.m.
Sunday	12 noon through 5 p.m.

Section 10: The Chief of Police shall maintain all pertinent records of licenses issued, and violations recorded.

Section 11: Revocation of license.

- A. Licenses issued under the provisions of this by-law may be revoked by the Chief of Police or his designee after notice and hearing for any of the following causes:
 1. Fraud, misrepresentation, or false statement contained in the license application;
 2. Fraud, misrepresentation or false statements made in the course of carrying on the business of solicitation;
 3. Any violation of this by-law;
 4. Conviction of any crime or misdemeanor involving moral turpitude;
 5. Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to health, safety, or the general welfare of the public;

6. High-pressure tactics, harassment, or a refusal to accept a refusal as an answer, when verified in writing.

B. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and a time and place of the hearing. Such notice shall be forwarded by certified mail to the licensee at his or her last known address at least five days prior to the hearing date.

Section 12: Expiration of License. All licenses for soliciting in the town shall expire on December 31, each year, regardless of when the license is obtained.

Section 13: Severance Clause. The provisions of this by-law are declared to be severable, and if any section, sentence, clause or phrase of this by-law shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this by-law and they shall remain in effect, it being the legislative intent that this by-law shall stand, notwithstanding the invalidity of any part.

Section 14: This by-law shall take effect 90 days after its passage.

REGULATION OF UTILITY POLES

SECTION 41. No public or private organization or utility company shall place or allow more than one utility pole to exist within five feet of another utility pole on any public or private way within the Town of Wilmington, without the prior written permission of the Selectmen, which permission may contain conditions.

Following a public hearing, the Selectmen may issue an order for the removal, relocation or alteration of any utility pole or poles in excess of one at any given location, upon the determination that more than one utility pole at any given location presents a nuisance, hazard or threat to the public safety, welfare or convenience to the inhabitants of the Town.

Any organization or utility company which owns or is responsible for a utility pole or poles subject to any order issued by the Selectmen shall fully comply with the terms and conditions of any such order within one hundred and eighty (180) days of the date of its issuance unless such period is extended by the Selectmen in its sole and absolute discretion. In the event of noncompliance with the terms of any order issued by the Selectmen, the Selectmen may take whatever enforcement action it deems appropriate, including, without limitation; the imposition of a fine of up to three hundred (\$300.00) dollars per day for each day of noncompliance; the application for an injunction restraining the continued existence of any such pole or poles subject to such order; and any other penalties, impositions or relief as the Selectmen may deem necessary.

SECTION 42. WATER FOWL No person shall feed any water fowl on public land in the Town of Wilmington. No person shall distribute any food or scatter any foodstuffs upon or around any park, recreation area, playing field, beach, or any public land. The fine for any violation of this section shall be \$10.00. The provisions of Chapter 40, Section 21-D of the General Laws of the Commonwealth shall apply and shall authorize the issuance of a citation for any such violation of this section by any police officer, animal control officer, health officer or agent.

SECTION 43.

Municipal Water Supply Use Restriction

Section 1 Authority

This by-law is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. C.40, §21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L.C. 41, §69B. This by-law also implements the Town's authority under M.G.L.C. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

Article II: Solicitors and Canvassers

[Adopted 4-27-1981 ATM (Ch. 5, § 23, of the Bylaws)]

§ 192-7 Permit and license required.

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the corporate limits of the Town of Lynnfield without first obtaining a permit and license therefor in compliance with the provisions of this bylaw.

§ 192-8 Exceptions.

[Added 10-20-2014 ATM by Art. 16]

The provisions of this bylaw shall not apply to the following persons:

- A. Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, § 69, Chapter 180, § 4, or any other General Law;
- B. Any officer or employee of the Town, county, state or federal government on official business; or
- C. Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
- D. Any person or persons canvassing or soliciting for political, religious and philanthropic purposes.

§ 192-9 Hours of operation.

[Amended 10-21-1985 TM]

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the Town of Lynnfield before the hour of 8:00 a.m. in the morning and (a) after the hour of 8:00 p.m. in the evening during the period when Eastern Standard Time is in effect, and (b) after 9:00 in the evening during the period when Daylight Savings Time is in effect.

§ 192-10 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CANVASSER OR SOLICITOR

Any individual, whether resident of the Town of Lynnfield or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, distributing sales information in any manner, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future or soliciting information opinions for surveys or polls, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place with the Town for the sole purpose of exhibiting samples and taking orders for future delivery. All census enumerators employed by the United States of America, or the Commonwealth of Massachusetts, or the Town of Lynnfield shall not be included in this definition of canvassers and solicitors.

§ 192-11 Application for permit; fee.

- A. All solicitors or canvassers who engage in activities described in § 192-10 hereof for more than one day per month within Lynnfield must file with the Town Clerk a sworn application in writing (in duplicate) on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the applicant;
 - (2) Permanent home address and full local address of the applicant;
 - (3) A brief description of the nature of the business and the goods to be sold, if any;
 - (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
 - (5) The length of time for which the right to do business is desired;
 - (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
 - (7) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
 - (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor; and
 - (9) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.
[Added 10-20-2014 ATM by Art. 16]
- B. At the time of filing the application, a fee of \$10 shall be paid to the Town Clerk to cover the cost of investigation of the facts stated therein.

§ 192-12 Investigation and issuance of permit and license.

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the Town Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

§ 192-13 Fees.

- A. The license fee which shall be charged by the Town Clerk for such license shall be \$10 per day, \$7 per week or part thereof, \$30 per month, \$300 per year, per each solicitor.
- B. The annual fees herein provided shall be assessed on a calendar-year basis, and on or after July 1 the amount of such fee for annual license shall be 1/2 the amount stipulated above the remainder of the year.
- C. None of the license fees provided for by this bylaw shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Selectmen for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of

business and the gross volume or estimated gross volume of business and such other information as the Selectmen may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Selectmen shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which they shall determine whether the fee fixed by this bylaw is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.

§ 192-14 Badges.

The Town Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of 10 feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

§ 192-15 Exhibition of license.

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

§ 192-16 Residential property.

[Added 10-20-2014 ATM by Art. 16]

No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing or solicitation or canvassing.

§ 192-17 Enforcement.

It shall be the duty of any police officer of the Town of Lynnfield to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this bylaw against any person found to be violating the same.

§ 192-18 Records.

The Chief of Police shall report to the Town Clerk all convictions for violation of this bylaw, and the Town Clerk shall maintain a record for each license issued and record the reports of violation therein.

§ 192-19 Revocation of license.

- A. Permits and licenses issued under the provision of this bylaw may be revoked by the Board of Selectmen of the Town of Lynnfield after notice and hearing, for any of the following causes:
- (1) Fraud, misrepresentation, or false statement contained in the application for license;
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on business as a solicitor or as a canvasser;
 - (3) Any violation of this bylaw;
 - (4) Conviction of any crime or misdemeanor involving moral turpitude; or
 - (5) Conducting the business of soliciting, or of canvassing, in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

§ 192-20 Appeals.

Any person aggrieved by the action of the Chief of Police or the Town Clerk in the denial of a permit or license as provided in § 192-12 of this bylaw or the action of the Selectmen in the assessing of the fee as provided in § 192-13C of this bylaw shall have the right of appeal to the Board of Selectmen. Such appeal shall be taken by filing with the Selectmen, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Selectmen shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in § 192-19 of this bylaw for notice of hearing on revocation. The decision and order of the Selectmen on such appeal shall be final and conclusive.

§ 192-21 Expiration of license.

All annual licenses issued under the provisions of this bylaw shall expire on December 31 in the year when issued. Other than annual licenses shall expire on the date specified in the license.

§ 192-22 Renewal of license.

[Added 10-20-2014 ATM by Art. 16]

A license issued under the provisions of this bylaw may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information and pay such fees as is required to obtain an initial license.

§ 192-23 Violations and penalties.

Any person violating any of the provisions of this bylaw shall, upon conviction thereof, be punished in accordance with Chapter 58, Penalties and Enforcement.

§ 192-24 Severability.

The provisions of these regulations are declared to be severable, and if any section, sentence, clause, or phrase of this bylaw shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this bylaw, but they shall remain in effect, it being the legislative intent that this regulation shall stand notwithstanding the invalidity of any part.

§ 192-25 Repeal of conflicting regulations.

All ordinances or parts of regulations inconsistent with the provisions of this bylaw shall be and the same are hereby repealed.

§ 192-26 Effective date.

These regulations shall take effect from and after May 8, 1981.

Chapter 12

Solicitors, Canvassers, Etc.

State Law Reference - Transient vendors, hawkers, and peddlers, generally, G.L. c. 101, sec. 1-34.

Article I. In General.

Section

- 12-1. Definitions.
- 12-2. Soliciting, peddling, etc., without consent of owner or occupant or registration declared nuisance.
- 12-3. Notice to be posted by owners or occupants.
- 12-4. Duty of solicitors generally.
- 12-5. Uninvited soliciting prohibited.
- 12-6. Hour limitations.
- 12-7. Penalty.

Article II. Registration.

- 12-8. Required.
- 12-9. Information required generally.
- 12-10. Records.
- 12-11. Fees.
- 12-12. Certificates - Issuance generally.
- 12-13. Same - Carrying; display.
- 12-14. Same - Application required.
- 12-15. Same - Application contents.
- 12-16. Revocation.

Article I. In General

Sec. 12-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Registered solicitor. Any person who has obtained a valid certificate of registration as provided in this chapter, which certificate is in the possession of the solicitor or on his person while employed in soliciting.

Residence. Every separate living unit occupied for residential purposes by one or more persons contained therein, within any type of building or structure.

Soliciting. Any one or more of the following activities:

- (a) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever; or
- (b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
- (c) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or
- (d) Seeking to obtain gifts or contributions of money or clothing for any charitable or nonprofit association, organization, corporation or project. (11-12-73, Art. 13)

Sec. 12-2. Soliciting, peddling, etc., without consent of owner or occupant or registration declared nuisance.

The practice of going in and upon private residences in the town by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise, not having been registered or invited to do so by the owner or occupant of such private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise or for the purpose of disposing of and or peddling or hawking the same is declared to be a nuisance. (11-12-73, Art. 13)

Sec. 12-3. Notice to be posted by owners or occupants.

Every person desiring to secure the protection provided by the provisions pertaining to soliciting contained in this chapter shall comply with the following directions: Notice of the determination by the occupant of giving invitation to solicitors, or the refusal of invitation to solicitors, to any residence, shall be given in the manner following: A weatherproof card approximately three inches by four inches in size, shall be exhibited on or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words as follows:

Only solicitors registered in Stoneham invited

Or:

No solicitors invited

The letters shall be at least one third inch in height. For the purpose of uniformity, the cards shall be provided by the chief of police to persons requesting them at the cost thereof.

Such cards so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon. (11-12-73, Art. 13)

Sec. 12-4. Duty of solicitors generally.

(a) It shall be the duty of solicitors upon going into any premises in the town upon which a residence is located, to first examine the notice provided for in this chapter, if any is attached, and be governed by the statement contained on any notice. If the notice states "only solicitors registered in Stoneham invited," then the solicitor not possessing a valid certificate of registration as provided in this chapter shall immediately and peacefully depart from the premises; and if the notice states, "no solicitors invited," then the solicitor, even though registered in the town, shall immediately and peacefully depart the premises.

(b) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant. (11-12-73, Art. 13)

Sec. 12-5. Uninvited soliciting prohibited.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting, in defiance of the notice exhibited at the residence in accordance with the provisions of Section 12-4. (11-12-73, Art. 13)

Sec. 12-6. Hour limitations.

It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door of a residence located thereon, or create any sound in any other manner calculated to attract attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 9:00 A.M. or after sundown on any day. (11-12-73, Art. 13; 4-12-76, Art. 23)

Sec. 12-7. Penalty.

Any person violating any of the provisions of this chapter shall upon conviction thereof, be subject to a fine of not more than that which is provided by Section 1-4 of this Code. (11-12-73)

Article II. Registration**Sec. 12-8. Required.**

It shall be unlawful for any person to engage in business as a canvasser or solicitor calling at residences within the town, without the previous consent of the occupant, for the purpose of soliciting orders, sales, subscriptions or business of any kind or seeking donations without first having registered in the office of the chief of police. (11-12-73, Art. 13)

Sec. 12-9. Information required generally.

The registrant shall give his complete identification, his signature, the name of the products or services in which he is interested, the names of manufacturers of such products or of the organization which he is representing and the proposed method of operations in the town. (11-12-73, Art. 13)

Sec. 12-10. Records.

The chief of police shall cause to be kept in his office an accurate record of every applicant and application received and acted upon, together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this chapter and of the denial of applications.

Applications for certificates shall be numbered in consecutive order as filed, and every certificate issued and any renewals thereof shall be identified with the duplicate number of the application upon which it was issued. (11-12-73, Art. 13)

Sec. 12-11. Fees.

Each registrant shall pay to the town a registration fee of two dollars for the period expiring ninety days after the date of such registration. (11-12-73, Art. 3)

Sec. 12-12. Certificate—Issuance generally.

Each applicant who shows evidence of good character and who pays the fee provided for herein shall be furnished a certificate, indicating that he has registered and showing the date covered by such registration. (11-12-73, Art. 13)

Sec. 12-13. Same—Carrying; display.

Each person shall at all times, while soliciting or canvassing in the town, carry upon his person the registration certificate; and such certificate shall be exhibited by such registrant whenever he is required to do so by any police officer or by any person solicited. (11-12-73, Art. 3)

Sec. 12-14. Same—Application required.

Every person desiring to engage in soliciting as herein defined from persons in residences within this municipality is hereby required to make written application for a certificate of registration as hereinafter provided. (11-12-73, Art. 13)

Sec. 12-15. Same—Application contents.

Applications for certificates of registration shall be made upon a form provided by the town. The applicant shall truthfully state in full the information requested on the application, to wit:

- (a) The name and address of present place of residence and length of residence at such address; also business address if other than present address.
- (b) The age of applicant.
- (c) The physical description of the applicant.
- (d) The name and address of the person whom the person is employed by or represents; and the length of time of such employment or representation.
- (e) The name and address of employer during the past three years if other than the present employer.
- (f) A description sufficient for the identification of the subject matter of the soliciting in which the applicant will engage.
- (g) The period of time for which the certificate is applied.
- (h) The date or approximate date of the latest previous application for certificate under this chapter, if any.

(i) Whether a certificate of registration issued to the applicant under this chapter has ever been revoked.

(j) Whether the applicant has ever been convicted of a felony under the laws of the state or any other state or federal law. (11-12-73, Art. 3)

Sec. 12-16. Revocation.

Any such registration may be revoked by the selectmen or the chief of police because of any violation by the registrant of this chapter or of any other provision of this Code or bylaw of the town or of any state or federal law or whenever the registrant shall cease to possess the qualifications and character required in this chapter for the original registration. (11-12-73, Art. 13)

Town of Lexington, MA Licenses and Permits: § 76-2 Hawkers and peddlers.

Except as otherwise provided by law the Selectmen may grant licenses to owners of vehicles upon such rules and regulations as said Board may deem proper, not inconsistent with these by-laws, to use such vehicles for the conveyance of persons or property for hire, and may designate stands and locations upon the streets of the Town where such vehicles may stand or wait for employment.

Every such license shall be granted to expire on the first day of May next ensuing after the date of its issue and it may be revoked at any time for cause satisfactory to said Board. Each license may cover one or more vehicles belonging to the same owner, shall bear upon its face the date of its issue, the date of its expiration, the name and address of the owner of the vehicle or vehicles to whom the license is issued, and a description of each vehicle so licensed sufficient for its identification. A separate number shall be designated for each vehicle so licensed and the owner shall before using such vehicle for hire have such number plainly marked upon each side thereof, excepting only in the case of motor vehicles duly registered under the laws of this Commonwealth, and in such cases the license issued hereunder shall contain the registration number of such motor vehicle. The fee for each license shall be fixed by the Board of Selectmen for each vehicle covered thereby and no license shall be transferred except with the approval of the Board of Selectmen duly endorsed thereon.



Town of North Reading, MA
Thursday, June 30, 2016

Chapter 131. Peddlers, Solicitors and Transient Vendors

[HISTORY: Adopted by the Town Meeting of the Town of North Reading as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Carnivals, fairs and exhibitions — See Ch. 37.

Secondhand dealers and pawnbrokers — See Ch. 143.

Article I. Peddlers and Solicitors

[Adopted 5-3-1971 ATM by Art. 36, approved 6-11-1971]

§ 131-1. Registration required; exceptions.

[Amended 10-17-1977 ATM by Art. 19, approved 2-28-1978; 10-2-1989 ATM by Art. 9, approved 12-7-1989]
No person, firm, or corporation shall offer for sale, solicit funds, or offer services door-to-door within the Town of North Reading without prior registration with the North Reading Police Department, said registration to consist of the name and address of all persons, firms, or corporations, together with a list of all persons to be engaged in said canvassing. Canvassing is to be done during daylight hours only. Provided, nevertheless, the above requirements shall not apply to any political, charitable, or religious organizations duly chartered under the laws of the states or of the Federal Government nor shall they apply to persons running for political office. Each violation of this by-law shall be punishable by a fine of ten (\$10) dollars for each offense.

Article II. Transient Vendors

[Added 3-12-1973 ATM by Art. 2, approved 10-11-1973; amended 10-5-1998 ATM by Art. 13, approved 1-27-1999]

§ 131-2. Definitions.

The term "transient vendor," for the purpose of this by-law, shall be the same as defined in Section 1 of Chapter 101 of the General Laws. The term "outdoor transient vendor" for purposes of this by-law shall mean any person, either principal or agent, who engages in any exhibition and sale of goods, wares, or merchandise, in one locality, which business is not conducted in or under a tent, booth, building or other structure.

§ 131-3. License required; fee; term.

Every transient vendor or outdoor transient vendor, before making any sale of goods, wares, or merchandise in the Town, shall apply to the Board of Selectmen for a license and shall accompany such application with a license fee of twenty-five (\$25) dollars. Thereupon the Board of Selectmen shall issue a license to the applicant, provided that the applicant meets all the requirements that may be established by law. Such license shall authorize the sale of goods, wares, and merchandise, and shall remain in force so long as the licensee shall continuously keep and expose for sale in the Town such stock of goods, wares or merchandise, but not later than January 1 following the date of issuance.

§ 131-4. Compliance with state regulations required.

No license shall be granted under this by-law until the applicant has complied with the provisions of General Laws, Chapter 101, Section 3 and has exhibited to the Board of Selectmen a license by the Director of Standards of the Commonwealth where applicable.

§ 131-5. Revocation of license.

The Board of Selectmen is hereby authorized to revoke any license under the provisions of this by-law where the licensee is guilty of violating any provisions of this by-law or any provisions of laws or by-laws which violation would make such licensee a person unfit to hold the license.

§ 131-6. Sales in open areas or vacant lots.

No person, whether principal or agent, who engages in temporary or transient business shall offer for sale, expose for sale any article in any open area, alley, or vacant lot, and, without limiting the generality of the foregoing, such items as wreaths, flowers, Christmas trees or Christmas decorations, unless such person has first obtained an outside transient vendor license therefore from the Board of Selectmen as provided by § 131-3. This section shall not apply to any person who is assessed or is liable for assessment of personal property taxes on the above referenced goods, as of January 1 in the year in which the sales referred to above are to be made. Religious and charitable institutions shall be exempt from the provisions of this section.

§ 131-7. Severability.

In [sic] any clause, sentence, paragraph or section of this by-law or the application thereof to any person or circumstances shall for any reason be adjudged by a court to be invalid, such judgment shall not affect, impair or invalidate the remainder of this by-law or its application.

SOLICITORS OR CANVASSERS

SECTION 40:

Section 1: License required. It shall be unlawful for any solicitor or canvasser, as defined in Section 2 of this by-law to engage in such business in the Town of Wilmington without first obtaining a license in compliance with the provisions of this by-law. Any person who is not properly licensed under this by-law shall be ordered to immediately cease and desist all solicitation in the town until they attain a proper license. Whoever continues to solicit without a proper license after being notified to cease and desist by a police officer, may be summoned for court prosecution and fined up to \$300.00 for each violation.

Section 2: Definition. A canvasser or solicitor is defined as any individual, whether resident of the Town or not, traveling either by foot, motor vehicle, or any other type of conveyance, from place to place, house to house, taking or attempting to take orders for sale of goods, wares, merchandise, personal property of any nature for immediate or future delivery or for services to be furnished or performed immediately or in the future and whether or not he or she collects advance payments on such sales.

This definition shall include any person who, for him or herself, or for another person or firm or corporation hires, leases, uses, or occupies any building, structure, tent, rail car, boat, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

Section 3: Application. An applicant for a license under this by-law shall file with the Chief of Police, or his designee, a sworn application in writing at least 10 working days prior to the requested starting date for solicitation, on a form provided by the Police Department. Said form shall include, but not be limited to the following information:

- a. Name and physical description, date of birth, social security number of the applicant;
- b. Permanent home address, and full local address of the applicant;
- c. A brief description of the nature of the business and/or goods to be sold;
- d. If employed, name and address of employer, including credentials which establish the exact relationship;
- e. The length of time for which the permit is desired;
- f. Names of manufacturer, of source of merchandise, proposed method of delivery;
- g. Two photographs of the applicant, taken within the past 50 days prior to filing of the application, showing only the head and shoulders of the applicant in a clear and distinguishing manner;
- h. Provide evidence of business responsibility or good character of the applicant;
- i. A statement as to whether or not the applicant has been convicted of any crime, or violation of any municipal by-law, rule or regulation, the nature of the offense and the punishment or penalty assessed therefore.

At the time of filing the application, a fee of \$25.00 per individual applicant payable to the Town of Wilmington shall be submitted to the Police Department to cover the cost of investigation of the facts stated therein. This fee may be waived for individuals representing non-profit organizations.

Section 4: Investigation and Issuance

- A. The Chief of Police shall direct an investigation of the facts contained in the license application to determine the following.
 1. Whether or not fraud, misrepresentation, or false statements have been made on the application.
 2. Whether or not the applicant has been convicted of any crime or misdemeanor involving moral turpitude.

- B. If after investigation the Chief or his designee determines either of the above paragraphs (A1-A2) were answered in the affirmative the application shall be denied, and the applicant so notified.
- C. If after investigation, the character and business responsibility of the applicant has been found to be satisfactory the application shall be approved. The applicant will then be issued a Solicitation Identification Card.

Section 5: Solicitation Identification Card

The Police Department shall issue to each successful applicant an identification card which shall contain the words "Licensed Solicitor", the individual's picture, identification and expiration date of the license. Such Identification Card shall be worn in a conspicuous manner on the outer garment of the licensee during any and all times the licensee is engaged in soliciting. The above requirements may be waived by the Chief of Police for solicitors of non-profit organizations based in the Town of Wilmington.

Section 6: Solicitors and Canvassers are required to exhibit their licenses at the request of any resident.

Section 7: Duty of the Police to Enforce. It shall be the duty of any police officer of the Town to require any person seen soliciting or canvassing and who is not known by such officer to be duly licensed, to produce his or her solicitor's or canvasser's license and to enforce the provisions of this by-law against any person found to be violating the same.

Section 8: Trespass after notice, M.G.L. Chapter 266, Section 120. Notwithstanding the above licensing procedures, no licensee may enter private property after being forbidden to do so either directly by the person in charge of the property, or by a conspicuously posted notice of No Trespassing. Punishment for violations of this section are controlled by M.G.L. Chapter 266, Section 120. A person found committing such a trespass in the presence of a police officer may be arrested without a warrant.

Section 9: Solicitation hours. A properly licensed solicitor or canvasser may solicit between the following hours:

Monday through Friday	8 a.m. through 7 p.m.
Saturday	10 a.m. through 5 p.m.
Sunday	12 noon through 5 p.m.

Section 10: The Chief of Police shall maintain all pertinent records of licenses issued, and violations recorded.

Section 11: Revocation of license.

- A. Licenses issued under the provisions of this by-law may be revoked by the Chief of Police or his designee after notice and hearing for any of the following causes:
 1. Fraud, misrepresentation, or false statement contained in the license application;
 2. Fraud, misrepresentation or false statements made in the course of carrying on the business of solicitation;
 3. Any violation of this by-law;
 4. Conviction of any crime or misdemeanor involving moral turpitude;
 5. Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to health, safety, or the general welfare of the public;

6. High-pressure tactics, harassment, or a refusal to accept a refusal as an answer, when verified in writing.

B. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and a time and place of the hearing. Such notice shall be forwarded by certified mail to the licensee at his or her last known address at least five days prior to the hearing date.

Section 12: Expiration of License. All licenses for soliciting in the town shall expire on December 31, each year, regardless of when the license is obtained.

Section 13: Severance Clause. The provisions of this by-law are declared to be severable, and if any section, sentence, clause or phrase of this by-law shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this by-law and they shall remain in effect, it being the legislative intent that this by-law shall stand, notwithstanding the invalidity of any part.

Section 14: This by-law shall take effect 90 days after its passage.

REGULATION OF UTILITY POLES

SECTION 41. No public or private organization or utility company shall place or allow more than one utility pole to exist within five feet of another utility pole on any public or private way within the Town of Wilmington, without the prior written permission of the Selectmen, which permission may contain conditions.

Following a public hearing, the Selectmen may issue an order for the removal, relocation or alteration of any utility pole or poles in excess of one at any given location, upon the determination that more than one utility pole at any given location presents a nuisance, hazard or threat to the public safety, welfare or convenience to the inhabitants of the Town.

Any organization or utility company which owns or is responsible for a utility pole or poles subject to any order issued by the Selectmen shall fully comply with the terms and conditions of any such order within one hundred and eighty (180) days of the date of its issuance unless such period is extended by the Selectmen in its sole and absolute discretion. In the event of noncompliance with the terms of any order issued by the Selectmen, the Selectmen may take whatever enforcement action it deems appropriate, including, without limitation; the imposition of a fine of up to three hundred (\$300.00) dollars per day for each day of noncompliance; the application for an injunction restraining the continued existence of any such pole or poles subject to such order; and any other penalties, impositions or relief as the Selectmen may deem necessary.

SECTION 42. WATER FOWL. No person shall feed any water fowl on public land in the Town of Wilmington. No person shall distribute any food or scatter any foodstuffs upon or around any park, recreation area, playing field, beach, or any public land. The fine for any violation of this section shall be \$10.00. The provisions of Chapter 40, Section 21-D of the General Laws of the Commonwealth shall apply and shall authorize the issuance of a citation for any such violation of this section by any police officer, animal control officer, health officer or agent.

SECTION 43.

Municipal Water Supply Use Restriction

Section 1 Authority

This by-law is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. C.40, §21 *et seq.* and implements the Town's authority to regulate water use pursuant to M.G.L.C. 41, §69B. This by-law also implements the Town's authority under M.G.L.C. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.



8.9.8.5 Permits

The Chief of Police or his designee (the Chief), may in his reasonable discretion, issue permits in response to written applications authorizing applicants to perform construction during hours other than those permitted by this bylaw. Such permits may be issued upon a determination by the Chief, in consultation with the Building Inspector, the Town Engineer or other Town staff, that literal compliance with the terms of this bylaw would create an unreasonable hardship and that the work proposed to be done (with or without any proposed mitigative measures) will have no adverse effects of the kind which this bylaw seeks to reduce. Each such permit shall specify the person authorized to act, the dates on which or within which the permit will be effective, the specific hours and days when construction otherwise prohibited may take place, and any conditions required by the Chief to mitigate the effect thereof on the community. The Chief may promulgate a form of application and charge a reasonable fee for each permit. No permit may cover a period of more than thirty (30) days. Mitigative measures shall include notice to residents in the surrounding area, and other mitigation as determined by the Chief. Objections by such residents shall be noted by the Chief and shall be taken into account when considering issuance of such permit.

8.9.8.6 Unreasonable Noise

Regardless of the hour or day of the week, no construction shall be performed within the Town in such a way as to create unreasonable noise. Noise shall be deemed unreasonable if it interferes with the normal and usual activities of residents and businesses in the affected area and could be reduced or eliminated through reasonable mitigative measures.

8.9.8.7 Copy of Bylaw

The Building Inspector shall deliver a copy of this bylaw to each person to whom it issues a building permit, razing permit, electrical permit, plumbing permit, gas permit or mechanical permit at the time that the said permit is issued.

8.9.8.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.9.9 Door-To-Door Solicitors and Canvassers

8.9.9.1 Definitions

- As used in this section, the terms "solicit" and "canvas" shall mean and include any one or more of the following activities conducted at residences without the previous consent of the owner:
 - Seeking to obtain the purchase, or orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever for any kind of consideration whatsoever; or
 - Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

8.9.9.2 Applicability

- The provisions of this section shall not apply to officers or employees of the Town, State or Federal government, or any subdivision thereof when on official business, or to neighborhood youth and students who solicit for the shoveling of snow or cutting of lawns or similar services to residents, nor shall it be construed to prevent route salespersons or other persons having established customers to whom they make periodic deliveries from calling upon such customers.
- If any solicitor or canvasser is under the age of eighteen (18) years and is selling goods or periodicals for a commercial purpose, the provisions of MGL Chapter 101 Section 34 shall apply.
- The provisions of this section shall not apply to any person soliciting solely for religious, charitable or political purposes.

8.9.9.3 Registration Required

It shall be unlawful for any person to solicit or canvas or engage in or conduct business as a canvasser or solicitor without first having obtained a Certificate of Registration from the Chief of Police as provided in this section.

8.9.9.4 Application for Certificate of Registration

- Application for a Certificate of Registration shall be made upon a form provided by the Police Department along with a nonrefundable application fee. Said fee to be determined by the Board of Selectmen.
- An authorized representative of the sponsoring organization shall apply to the Chief of Police or his designee either in person or by mail. All statements on the application or in connection therewith shall be under oath. The applicant shall provide all information requested on the application, including:
 - Name, address and telephone number of the sponsoring organization, along with a listing of all officers and directors;
 - State and/or Federal Tax Identification Number of the sponsoring organization;
 - Name, residential and business address, length of residence at such residential address, telephone number, social security number and date of birth of each representative of the sponsoring organization who will be soliciting or canvassing in the Town;
 - Description sufficient for identification of the subject matter of the soliciting or canvassing in which the organization will engage;
 - Period of time for which the Certificate is applied (every Certificate shall expire within one year of date of issue);
 - The date of the most recent previous application for a Certificate under this section;
 - Any previous revocation of a Certificate of Registration issued to the organization or to any officer, director or representative of the organization by any city or town and the reasons therefore;
 - Any convictions or imprisonment for a felony, either state or federal, within five (5) years of the application, by the sponsoring organization, any of its officers or directors, or any representative who will be soliciting or canvassing in the Town;
 - Names of the three (3) communities where the organization has solicited or canvassed most recently;
 - Proposed dates, hours and method of operation in the Town;

- Signature of an authorized representative of the sponsoring organization.
- A photograph or an acceptable photocopy of a photograph of each representative of the sponsoring organization who will be soliciting or canvassing in the Town shall be attached to the application.
- No Certificate of Registration shall be issued to any person, or to any organization having an officer or director, who was convicted of commission of a felony, either state or federal, within five (5) years of the date of the application, nor to any organization or person whose Certificate of Registration has previously been revoked as provided below.
- Fully completed applications for Certificates shall be acted upon within five (5) business days of receipt. The Chief of Police shall cause to be kept in his office accurate records of every application received together with all other information and data pertinent thereto and of all Certificates of Registration issued under this section and of all denials.
- Upon approval of an application, each solicitor or canvasser shall be issued a Certificate of Registration with a photo identification badge to carry upon his person at all times while soliciting or canvassing in the Town and to display the certificate whenever asked by any police officer or any person solicited.

8.9.9.5 Revocation of Certificate

- Any Certificate of Registration issued hereunder may be revoked by the Chief of Police for good cause, including conviction of the holder of the Certificate of a Violation of any of the provisions of this section or a false material statement in the application. Immediately upon such revocation, the Chief of Police shall give written notice to the holder of the Certificate in person or by certified mail addressed to his residence address set forth in the application.
- Immediately upon the giving of such notice, the Certificate of Registration shall become null and void. In any event, every Certificate of Registration shall state its expiration date, which shall be no later than one year from date of issue.

8.9.9.6 Deceptive Practices

No solicitor or canvasser registered or exempt from registering may use any plan, scheme, or ruse which misrepresents the true status or mission of any person conducting the solicitation or canvas in order to gain admission to the home, office or other establishment of any person in the Town.

8.9.9.7 Duties of Solicitors and Canvassers

It shall be the duty of every solicitor and canvasser going onto any premises in the Town to:

- Display a Town-issued photo identification badge on the outside of their person; and
- First examine whether there is a notice posted stating that no solicitors are welcome. If such notice is present, then the solicitor or canvasser shall immediately and peacefully depart from the premises; and
- Any solicitor or canvasser who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

8.9.9.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.10 Maintenance of Vacant Buildings and Land

All vacant structures and vacant land within the Town of Reading shall be maintained in a safe, secure and clean condition so as not to compromise the health, safety and general welfare of the community.

8.10.1 Definitions

For purposes of this bylaw the following definitions shall apply:

8.10.1.1 Building

A structure enclosed within exterior walls or firewalls, built, erected, or framed of any materials, and fixed to the ground, having a roof, to form a structure for the shelter of persons, animals or property, or the storage of commercial or industrial personal property.

8.10.1.2 Owner

A person, entity, service company, property manager or real estate broker, who alone or severally with others:

- has legal or equitable title to any building, structure or parcel of land, vacant or otherwise; or
- has care, charge or control of any building or structure, parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- is a mortgagee in possession of any such property; or
- is an agent trustee or other person appointed by the courts and vested with possession or control; or
- is an officer or trustee of the association of unit owners of a condominium; each such person being bound to comply with the provisions of these minimum standards as if he were the owner; or
- is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated a foreclosure process.

8.10.1.3 Vacant

Buildings or property that are unoccupied for a period greater than one hundred eighty (180) days by a person or persons with legal right to occupancy thereof.

8.10.2 Minimum Maintenance Requirements

Owners of vacant properties must fulfill the following minimum adequate maintenance requirements for any such property they own:

- Maintain vacant properties in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes.
- Secure vacant properties to prevent unauthorized entry and exposure to the elements.
- Maintain vacant properties in a manner that ensures their external/visible maintenance, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features.

Mawn, Patti

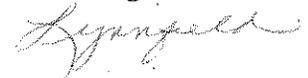
From: Martel, Justin <jmartel@ci.reading.ma.us>
Sent: Friday, May 20, 2016 3:39 PM
To: Mawn, Patti
Subject: Solicitation and Canvassing ByLaw Proposal
Attachments: 2015-06_general_bylaw.pdf

Hi Patti:

My Chief asked me to send you a copy of our Door-to-Door Solicitor Registration bylaw. I have attached that bylaw to this e-mail for your review. Also, by [clicking here](#), you can download our registration package. If you need anything further on this, please let me know. Thank you.

Respectfully,
Justin Martel, Badge 78
Armorer, Licensing Officer, Fleet Manager
Reading Police Department
15 Union Street
Reading, Massachusetts
Desk: (781) 942-6766
Dispatch: (781) 944-1212
Fax: (781) 944-2893

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Article II: Solicitors and Canvassers

[Adopted 4-27-1981 ATM (Ch. 5, § 23, of the Bylaws)]

§ 192-7 Permit and license required.

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the corporate limits of the Town of Lynnfield without first obtaining a permit and license therefor in compliance with the provisions of this bylaw.

§ 192-8 Exceptions.

[Added 10-20-2014 ATM by Art. 16]

The provisions of this bylaw shall not apply to the following persons:

- A. Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, § 69, Chapter 180, § 4, or any other General Law;
- B. Any officer or employee of the Town, county, state or federal government on official business; or
- C. Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
- D. Any person or persons canvassing or soliciting for political, religious and philanthropic purposes.

§ 192-9 Hours of operation.

[Amended 10-21-1985 TM]

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the Town of Lynnfield before the hour of 8:00 a.m. in the morning and (a) after the hour of 8:00 p.m. in the evening during the period when Eastern Standard Time is in effect, and (b) after 9:00 in the evening during the period when Daylight Savings Time is in effect.

§ 192-10 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CANVASSER OR SOLICITOR

Any individual, whether resident of the Town of Lynnfield or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, distributing sales information in any manner, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future or soliciting information opinions for surveys or polls, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place with the Town for the sole purpose of exhibiting samples and taking orders for future delivery. All census enumerators employed by the United States of America, or the Commonwealth of Massachusetts, or the Town of Lynnfield shall not be included in this definition of canvassers and solicitors.

§ 192-11 Application for permit; fee.

- A. All solicitors or canvassers who engage in activities described in § 192-10 hereof for more than one day per month within Lynnfield must file with the Town Clerk a sworn application in writing (in duplicate) on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the applicant;
 - (2) Permanent home address and full local address of the applicant;
 - (3) A brief description of the nature of the business and the goods to be sold, if any;
 - (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
 - (5) The length of time for which the right to do business is desired;
 - (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
 - (7) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
 - (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor; and
 - (9) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.
[Added 10-20-2014 ATM by Art. 16]
- B. At the time of filing the application, a fee of \$10 shall be paid to the Town Clerk to cover the cost of investigation of the facts stated therein.

§ 192-12 Investigation and issuance of permit and license.

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the Town Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

§ 192-13 Fees.

- A. The license fee which shall be charged by the Town Clerk for such license shall be \$10 per day, \$7 per week or part thereof, \$30 per month, \$300 per year, per each solicitor.
- B. The annual fees herein provided shall be assessed on a calendar-year basis, and on or after July 1 the amount of such fee for annual license shall be 1/2 the amount stipulated above the remainder of the year.
- C. None of the license fees provided for by this bylaw shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Selectmen for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of

business and the gross volume or estimated gross volume of business and such other information as the Selectmen may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Selectmen shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which they shall determine whether the fee fixed by this bylaw is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.

§ 192-14 Badges.

The Town Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of 10 feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

§ 192-15 Exhibition of license.

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

§ 192-16 Residential property.

[Added 10-20-2014 ATM by Art. 16]

No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing or solicitation or canvassing.

§ 192-17 Enforcement.

It shall be the duty of any police officer of the Town of Lynnfield to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this bylaw against any person found to be violating the same.

§ 192-18 Records.

The Chief of Police shall report to the Town Clerk all convictions for violation of this bylaw, and the Town Clerk shall maintain a record for each license issued and record the reports of violation therein.

§ 192-19 Revocation of license.

- A. Permits and licenses issued under the provision of this bylaw may be revoked by the Board of Selectmen of the Town of Lynnfield after notice and hearing, for any of the following causes:
- (1) Fraud, misrepresentation, or false statement contained in the application for license;
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on business as a solicitor or as a canvasser;
 - (3) Any violation of this bylaw;
 - (4) Conviction of any crime or misdemeanor involving moral turpitude; or
 - (5) Conducting the business of soliciting, or of canvassing, in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

§ 192-20 Appeals.

Any person aggrieved by the action of the Chief of Police or the Town Clerk in the denial of a permit or license as provided in § 192-12 of this bylaw or the action of the Selectmen in the assessing of the fee as provided in § 192-13C of this bylaw shall have the right of appeal to the Board of Selectmen. Such appeal shall be taken by filing with the Selectmen, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Selectmen shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in § 192-19 of this bylaw for notice of hearing on revocation. The decision and order of the Selectmen on such appeal shall be final and conclusive.

§ 192-21 Expiration of license.

All annual licenses issued under the provisions of this bylaw shall expire on December 31 in the year when issued. Other than annual licenses shall expire on the date specified in the license.

§ 192-22 Renewal of license.

[Added 10-20-2014 ATM by Art. 16]

A license issued under the provisions of this bylaw may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information and pay such fees as is required to obtain an initial license.

§ 192-23 Violations and penalties.

Any person violating any of the provisions of this bylaw shall, upon conviction thereof, be punished in accordance with Chapter 58, Penalties and Enforcement.

§ 192-24 Severability.

The provisions of these regulations are declared to be severable, and if any section, sentence, clause, or phrase of this bylaw shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this bylaw, but they shall remain in effect, it being the legislative intent that this regulation shall stand notwithstanding the invalidity of any part.

§ 192-25 Repeal of conflicting regulations.

All ordinances or parts of regulations inconsistent with the provisions of this bylaw shall be and the same are hereby repealed.

§ 192-26 Effective date.

These regulations shall take effect from and after May 8, 1981.



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Wednesday, July 6, 2016

BUSDINESS

Docket Item G-3: Community Aggregation Plan – Opening of Comment Period

Supporting Documents:

G - 3: Procedure for Review by Residents;
Outline of the Aggregation Program;
Sample Announcement for Newspaper & Website

Petition and Supporting Documents for the
Town of Winchester Municipal Aggregation Plan

email from Susan McPhee outlining the process

Action Required:

G - 3:

PROCEDURE FOR REVIEW BY RESIDENTS

The Municipal Aggregation Law (MGL Chapter 164, Section 34(a)) requires that a municipal aggregation plan developed by a municipality be made available for review by its residents.

The Department of Public Utilities (DPU) requires a two (2) week period for public review of the aggregation plan.

A suggested procedure for providing a two (2) week period for review by residents of an aggregation plan by a municipality:

1. Read an Outline of the Aggregation Program at a public meeting or publish an announcement on the Town website or local newspaper. (Suggested outline attached).

Suggestions

1. At a meeting of the Board of Selectmen or other public meeting read a brief Outline of the Aggregation Program or publish an announcement on the Town website or local newspaper.
 2. Announce that the aggregation plan will be available for review in the municipal offices and on the Town website or other related website.
 3. Announce that there will be a two (2) week period to submit written comments from _____ to _____.
2. After the two (2) week period or coincident with the end of the two (2) week period, hold a public hearing at a meeting of the Board of Selectmen or other public meeting for oral or written comments concerning the aggregation plan.

Suggestions

1. At a meeting of the Board of Selectmen open a public hearing and request oral or written comments concerning the aggregation plan.
2. Any oral comments from the public should be recorded in the minutes and any written comments should be included as an addendum to the minutes. If there are no oral or written comments received from the public, that should be so stated in the minutes.
3. Close the public hearing period for oral or written comments concerning the municipal aggregation documents.

OUTLINE OF THE AGGREGATION PROGRAM

(To be read at a meeting of the Board of Selectmen, other public meeting and/or published as an announcement on the Town website or local newspaper, sample enclosed)

Municipalities are authorized by Massachusetts General Law Chapter 164, Section 134(a) to aggregate the electric load of its residents and businesses.

At our Town Meeting on _____ our residents voted to authorize the Board of Selectmen to research, develop and implement an aggregation program and enter into a contract with a competitive supplier of electricity.

The objectives of the aggregation program are to:

- lower the cost of electricity;
- gain longer term price stability; and
- offer more renewable energy options.

The Board of Selectmen has selected an aggregation consultant, Good Energy, L.P., to:

- develop the aggregation program;
- formulate and implement a public outreach and education program;
- guide the aggregation plan through a very strict and comprehensive review and approval process with the Department of Energy Resources (DOER) and the Department of Public Utilities (DPU);
- develop a Request for Proposals for a competitive electricity supplier;
- monitor and manage the aggregation program during the term of the competitive supplier contract; and
- develop and submit all required reports to the Board of Selectmen and DOER.

An important element of the process leading to approval of the aggregation program of a municipality by the DPU is to allow for review of the aggregation plan by residents. The aggregation plan is available for review at our municipal offices and on our website.

In order to comply with the law, residents will have a time period to submit written comments and a public meeting to offer oral comments.

The two (2) week period to submit written comments will be from _____ to _____

Oral comments can be offered at a public meeting that will be held on _____.

This public review period will be completed before the aggregation plan is submitted to the DPU for their review and approval.

SAMPLE ANNOUNCEMENT FOR TOWN WEBSITE OR LOCAL NEWSPAPER

AGGREGATION PLAN PUBLIC REVIEW PERIOD FROM

_____ TO _____

At our Town Meeting on _____ the residents voted to authorize the Board of Selectmen to research, develop and implement an aggregation program and enter into a contract with a competitive supplier of electricity.

The objectives of the aggregation program are to:

- lower the cost of electricity;
- gain longer term price stability; and
- offer more renewable energy options.

The aggregation plan will go through a very strict and comprehensive review and approval process with the Department of Energy Resources (DOER) and the Department of Public Utilities (DPU).

An important element of the process leading to approval of the aggregation plan of a municipality by the DPU is to allow for review of the aggregation plan by its residents. The aggregation plan is available for review at our municipal offices and on our website.

Please review the aggregation plan and submit any comments or questions in writing to the Board of Selectmen during the review period or attend a meeting of the Board of Selectmen during the review period to offer comments or questions orally.

This public review period will be completed before the aggregation plan is submitted to the DPU for their review and approval.

D.P.U. 16 - _____

PETITION

AND SUPPORTING DOCUMENTS

FOR THE

TOWN OF WINCHESTER

MUNICIPAL AGGREGATION PLAN

AGGREGATION DOCUMENTS

1. Petition

Attachments

1. Historical Overview

Exhibits

- A. Certified Vote to Pursue Municipal Aggregation
- B. Energy-Related Services Agreement
- C. Department of Energy Resources (DOER) Consultation Letter
- D. Certified Vote to Approve the Aggregation Plan
- E. Documentation of Opportunity for Public Review and Comment

2. Aggregation Plan

Exhibits

- A. Customer Enrollment, Opt-Out and Opt-In Procedures
- B. Sample Customer Notification Letter and Opt-Out Card

3. Public Outreach and Education Plan

Exhibit

- A. Sample of Available Media Outlets

4. Electric Services Agreement

**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

Town of Winchester Municipal Aggregation Plan) D.P.U. 16-____
_____)

PETITION FOR APPROVAL OF MUNICIPAL AGGREGATION PLAN

The Town of Winchester (“Municipality”) respectfully petitions the Department of Public Utilities (“Department”), pursuant to G.L. Chapter 164, Section 134(a), for approval of its Municipal Aggregation Plan. In support of this Petition, the Municipality states the following:

1. The goals of the community electricity municipal aggregation program (the “Program”) are to bring the benefits of competitive choice of electric supplier, longer-term price stability than provided by the local utility, lower cost power and more renewable energy options to the residents and businesses of the Municipality. Under the program the Municipality will have the opportunity to provide a portion of renewable or green power through renewable energy certificates (“RECs”). The program will employ a procurement process designed to maximize savings and will provide a full set of consumer protections, including the right for any customer to opt out of the program at any time at no charge.

2. The Municipality formally initiated the process to develop an aggregation plan through a vote of the Town Meeting. The vote and the actions of the Municipality preceding and following this vote for approval are outlined in the Historical Overview. (Attachment 1)

3. The Municipality seeks the Department’s approval of its Municipal Aggregation Plan (“Plan”) (Attachment 2) that describes the key features, structure and operation of the aggregation program and explains how the Plan meets the statutory requirements.

4. A Public Outreach and Education Plan has been formulated to ensure that residents and businesses are fully informed about the important aspects of the Plan to enable them to make intelligent decisions concerning participation in the Program. (Attachment 3)

5. The Plan and the associated form of Electric Services Agreement (“ESA”) (Attachment 4) ensure that the program complies with all requirements of G L. Chapter 164, Section 134(a), including providing universal access, a reliable power supply and the equitable treatment of all customer classes.

6. The Municipality consulted with the Department of Energy Resources (“DOER”) and sought the input of the Local Distribution Company (“LDC”) in the development of the Plan.

7. The Municipality is a member of the Metropolitan Area Planning Council (“MAPC”). Although Municipalities are not required to follow the competitive bidding process of G.L. Chapter 30B when entering into a contract for energy-related services, the MAPC issued a Request for Proposals for Community Choice Aggregation Consulting Services on behalf of its member municipalities. The MAPC selected Good Energy L.P. as its green municipal aggregation consultant through an open and competitive process.

8. The Municipality respectfully requests that the Department conduct an expeditious review of this petition to allow the Municipality to proceed with implementation to maximize benefits for eligible consumers. Municipal aggregators are required to conduct their business openly and with full public participation. The Municipality requests a streamlined process, including a public hearing, discovery, and an opportunity for interested persons to submit written comments.

9. The Municipality also respectfully requests a waiver, both for itself and for its competitive supplier, from the requirement to mail a quarterly information disclosure label to every customer. The requirement for quarterly distribution of the disclosure label is specified in 220 C.M.R. § 11.06(4)(c). The Department has determined that for municipal aggregators, the distribution would normally be made

by individual mailings to customers. City of Marlborough, D.T.E. 06-102, at 24. The Department, however, may grant an exception to any provision of 220 C.M.R. 11.00 for good cause shown. 220 C.M.R. Section 11.08. In support of its request for waiver, the Municipality states that quarterly mailings would be burdensome and expensive, raising the supply price for customers. The Municipality will employ an alternative disclosure strategy, including press releases, public service announcements on local access cable television, postings at Municipality buildings and postings on the program website, that will provide the required information to customers as effectively as quarterly mailings. The Department has granted similar waivers to other municipal aggregators using equivalent disclosure strategies. Cape Light Compact, D.T.E. 00-47, at 28; City of Marlborough, D.T.E. 06-102, at 24; Town of Lanesborough, D.P.U. 11-27, at 23; Town of Ashland, D.P.U. 11-28, at 22; Town of Lunenburg, D.P.U. 11-32, at 22; Town of Lancaster, D.P.U. 12-39, at 23; City of Lowell, D.P.U. 12-124, at 51; Town of Ashby, D.P.U. 12-94, at 37; Town of Natick, D.P.U. 13-131, at 29; Town of Greenfield, D.P.U. 13-183, at 27.

WHEREFORE, the Petitioner hereby respectfully requests that the Department:

1. Adopt a streamlined review and approval process;
2. Approve the Aggregation Plan of the Municipality;
3. Approve the request of the Municipality for a waiver of the requirement of 220 C.M.R Section 11.06(4)(c) to mail the quarterly disclosure label; and
4. Provide such other and further relief as may be necessary or appropriate.

Respectfully submitted,

TOWN OF WINCHESTER

By Attorney for Good Energy, L.P.

Scott J. Mueller
Scott J. Mueller Law Office
16 Conant Road
Chestnut Hill, MA 02467
978-460-0693
scott@sjmuellerlaw.com
Dated: _____, 2016



Town of Winchester

Town Manager's Office
Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Wednesday, July 6, 2016

CONSENT AGENDA

- Docket Item H-1: Acceptance of Donation: \$25,000 Cummings Foundation Grant to Coalition for Safer Community
- H - 2- 10: One Day Alcoholic Beverage Licenses:
Griffin Museum – July 14th; Wright Locke Farm – July 16th;
Griffin Museum – August 13th; Wright Locke Farm –
July 9, 14, 17, 21, 28; August 27 and September 16th, 2016
- H - 11 & 12: Granara-Skerry Trust Walk / Run Road Race – Saturday,
September 24, 2016;
Approve / Correct Meeting Minutes: June 22, 2016

Supporting Documents:

- H - 1: Memo from Board of Health Chairman
- H - 2-10: License Applications
- H - 11-12: Letter of request form Granara-Skerry Trust
Meeting Minutes for Wednesday, June 22, 2016

Action Required:

VOTE to approve. (Licenses in RED BOOK for signature)

Board of Health
71 Mt. Vernon Street
Winchester, MA 01890

Tel: 781-721-7121
Fax: 781-729-1794



Kerry Bartlett, MHS, Chair
Shannon Bottari, MD, Vice-Chair
Catherine Donaghey

Jennifer Murphy, MPH, Director
Kathy Whittaker, RN, Public Health Nurse

Docket Item:
H - 1:
July 6, 2016

TO: Board of Selectmen

FROM: Kerry Bartlett, Chair
Board of Health

DATE: June 27, 2016

RE: 2016 Grant Disbursement to Winchester Coalition for a Safer Community

The Board of Health is in receipt of a \$25,000 check, representing the 2016 Disbursement of the grant awarded to the WCSC.

Please accept this disbursement on behalf of the Board of Health. Thank you.

KB:rmc



June 24, 2016

Trustees:

Joseph Abate, M.D.
North Suburban Orthopedic Associates

Hon. Margot Botsford
Massachusetts Supreme Judicial Court

Rep. Paul C. Casey
MA House of Representatives (ret.)

Joyce M. Cummings
Community volunteer

Patricia A. Cummings, Psy.D.
President, New Horizons Marlborough

William S. Cummings
President, Cummings Foundation

Rep. Carol A. Donovan
MA House of Representatives (ret.)

Arlan F. Fuller, Jr., M.D.
Vice president for oncology services,
Winchester Hospital

Deborah T. Kochevar, D.V.M., Ph.D.
Dean, Cummings School of Veterinary
Medicine at Tufts University

Anthony P. Monaco, M.D., Ph.D.
President, Tufts University

Jason Z. Morris, Ph.D.
Fordham University

Marilyn C. Morris, M.D., M.P.H.
Columbia Presbyterian Hospital

Richard C. Ockerbloom
President, *The Boston Globe* (ret.)

Executive Director:

Joel B. Swets

Jennifer Murphy
Winchester Board of Health/Coalition for a Safer Community
71 Mt. Vernon St.
Winchester, MA 01890

Dear Jennifer:

We are pleased to enclose a check in the amount of \$25,000, representing your 2016 disbursement from the \$100,000 grant awarded to **Winchester Board of Health/Coalition for a Safer Community** by Cummings Foundation, Inc.

Subsequent installments, if applicable, will be paid on or about June 30 of each year due, provided any required reports have been previously completed and approved.

A link to an online Impact Report will be emailed to you in **December 2016**, and a completed report will be due by **March 31, 2017**. If you do not receive this email by the end of December, please contact us (after first checking your junkmail folder for an email from an "@cumplings.com" address).

Please accept our very best wishes for the success of your organization. If you have questions, please contact Communications Specialist Julie DeSilva at 781-932-7093 or jmd@cumplings.com.

Sincerely,

CUMMINGS FOUNDATION, INC.

Joel B. Swets
Executive Director

Joyce Vyrriotes
Communications Director



Docket Item:

H - 2 - 10:

July 6, 2016

Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

*In accordance with MGL c.138, s.14, 23; CMR 7:04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses*

Name of Applicant/ Organization: Griffin Museum of Photography

Address: 67 Shore Road

Telephone Number: 781-729-1158

Permit Applying For:

All Alcohol License (\$75.00)*

Beer and Wine Only License (\$75.00)*

Nature and purpose of the event: Opening reception

Number of persons attending event: 100-200

Description of premises and location of facility where liquor will be sold and/or distributed:

Small museum

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Mike Bodell

Date(s) and times of event and/or specific times when alcoholic beverages will be on the premises:

7/14/16 6-9

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Print Name of Responsible Manager:

Mike Bodell

RECEIVED
2016 JUN 21 PM 3:12
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to:
Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890.

***A \$75.00 LATE FEE WILL BE CHARGED FOR ANY APPLICATION SUBMITTED LESS THAN TWO WEEKS BEFORE THE EVENT.**



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

In accordance with MGL c.138, s.14, 23; CMR 7:04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses

Name of Applicant/ Organization:

MARIAH CONTRERAS AND ALEX TEE

Address: 2 RYDER ST. ARLINGTON MA 02476

Telephone Number: MC: 347-804-4999 / AT: 978-771-4686

Permit Applying For:

All Alcohol License (\$75.00) Beer and Wine Only License (\$75.00)

Nature and purpose of the event: evening family reunion / cookout
and dancing

Number of persons attending event: 160 adults

Description of premises and location of facility where liquor will be sold and/or distributed:

Wright-Locke Farm, 78 Ridge St
a small organic farm run by a town conservancy

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Mariah Contreras
Alexander Tee

Date(s) and times of event and/or specific times when alcoholic beverages will be sold or distributed:

July 16, 2016 : distribution of alcohol 6p-10p only

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager: [Signature]

[Signature]

Print Name of Responsible Manager: Mariah M. Contreras

ALEXANDER K

RECEIVED
2016 JUN 27 AM 8:49
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890

Cafarella, Jennifer

From: Peter MacDonnell <pmacdonnell@winchesterpd.org>
Sent: Monday, June 27, 2016 9:22 AM
To: Cafarella, Jennifer
Subject: RE: 1 day liquor license

Hi Jen,
The police department has no objections.
Thanks, Peter

Lieutenant-in-Charge Peter Macdonnell
Winchester Police Department
30 Mount Vernon Street
Winchester, MA 01890
Main: (781)729-1212
Office: (781)721-4625

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

From: Cafarella, Jennifer [mailto:jcafarella@winchester.us]
Sent: Monday, June 27, 2016 9:13 AM
To: Peter MacDonnell
Cc: Barbara Bosco
Subject: 1 day liquor license

Chief,

Can I please have your comments on the attached 1 day application?

Group: Mariah Contreras and Alex Tee
Location: Wright Locke Farm
Date: July 16

Thanks -
Jenn



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

*In accordance with MGL c.138, s.14, 23; CMR 7.04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses*

Name of Applicant/ Organization:

Fong Tan LLC

Address: 519A Boston Post Rd / Sudbury, MA 01776

Telephone Number: 978-579-7988

Permit Applying For:

All Alcohol License (\$75.00)*

Beer and Wine Only License (\$75.00)*

Nature and purpose of the event:

Wedding ceremony and reception on August 13, 2016

Number of persons attending event: 80

Description of premises and location of facility where liquor will be sold and/or distributed:

Griffin Museum of Photography

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor, date of birth(s), and Social Security Number(s):

David Gordon /

Date(s) and times of event and/or specific times when alcoholic beverages will be on the premises:

August 13, 2016 / 5 PM - 11:00 PM

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

[Signature]

Print Name of Responsible Manager:

Tim Fong David Gordon

NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890.

***A \$75.00 LATE FEE WILL BE CHARGED FOR ANY APPLICATION SUBMITTED LESS THAN TWO WEEKS BEFORE THE EVENT.**

m: forms one day alcoholic application

RECEIVED
2016 JUN 27 AM 11:27
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

Cafarella, Jennifer

From: Peter MacDonnell <pmacdonnell@winchesterpd.org>
Sent: Monday, June 27, 2016 3:49 PM
To: Cafarella, Jennifer
Cc: Barbara Bosco
Subject: RE: 1 day license

Hi Jen,
Police Department has no objections

Lieutenant-in-Charge Peter Macdonnell
Winchester Police Department
30 Mount Vernon Street
Winchester, MA 01890
Main: (781)729-1212
Office: (781)721-4625

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

From: Cafarella, Jennifer [mailto:jcafarella@winchester.us]
Sent: Monday, June 27, 2016 3:05 PM
To: Peter MacDonnell
Cc: Barbara Bosco
Subject: 1 day license

Chief,

Can I please have your comments on the attached one day liquor application?

Group: Fong Tan LLC
Location: Griffin Museum
Date: August 13

Thanks!
Jenn



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

*In accordance with MGL c.138, s.14, 23; CMR 7:04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses*

Name of Applicant/ Organization:

Essex Catering

Address:

25 Lafayette St Waterfield MA 01880

Telephone Number:

481-325-3290

Permit Applying For:

All Alcohol License (\$75.00)*

Beer and Wine Only License (\$75.00)*

Nature and purpose of the event:

YMCA Fundraiser gala

Number of persons attending event:

150 - 175

Description of premises and location of facility where liquor will be sold and/or distributed:

Wright Locke Farm, Ridge St, Winchester

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Laura Lewis

Date(s) and times of event and/or specific times when alcoholic beverages will be on the premises:

September 16, 2016 6:00 PM - 11:00 PM

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Print Name of Responsible Manager:

Laura Lewis

NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to:
Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890.

***A \$75.00 LATE FEE WILL BE CHARGED FOR ANY APPLICATION SUBMITTED LESS THAN TWO WEEKS BEFORE THE EVENT.**

RECEIVED
2016 JUN 28 PM 12:47
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

*In accordance with MGL c.138, s.14, 23; CMR 7:04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses*

Name of Applicant/ Organization: Essex Catering

Address: 25 Lafayette St Wakefield, MA

Telephone Number: 781-325-3290

Permit Applying For:

All Alcohol License (\$75.00)* Beer and Wine Only License (\$75.00)*

Nature and purpose of the event: Engagement Party

Number of persons attending event: 60 ppl

Description of premises and location of facility where liquor will be sold and/or distributed:

Wright Locke Farm, Ridge St Winchester

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Laura Lewis
6

Date(s) and times of event and/or specific times when alcoholic beverages will be on the premises:

7/17 5:00 PM - 10:00 PM

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Print Name of Responsible Manager:

Laura Lewis

RECEIVED
2016 JUN 28 PM 12:47
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to:
Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890.

***A \$75.00 LATE FEE WILL BE CHARGED FOR ANY APPLICATION SUBMITTED LESS THAN TWO WEEKS BEFORE THE EVENT.**

Cafarella, Jennifer

From: Peter MacDonnell <pmacdonnell@winchesterpd.org>
Sent: Tuesday, June 28, 2016 1:26 PM
To: Cafarella, Jennifer
Cc: Barbara Bosco
Subject: RE: 1 day liquor applications

The police dept has no objections.

Lieutenant-in-Charge Peter Macdonnell
Winchester Police Department
30 Mount Vernon Street
Winchester, MA 01890
Main: (781)729-1212
Office: (781)721-4625

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

From: Cafarella, Jennifer [mailto:jcafarella@winchester.us]
Sent: Tuesday, June 28, 2016 1:25 PM
To: Peter MacDonnell
Cc: Barbara Bosco
Subject: 1 day liquor applications

Chief,

Can I please have your comments on the attached one day liquor applications?

Group: Essex Catering
Location: Wright Locke Farm
Dates: July 17, September 16

Thanks!
Jenn



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

In accordance with MGL c.138, s.14, 23; CMR 7:04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses

Name of Applicant/ Organization:

Wright-Locke Farm Conservancy

Address: 78 Ridge Street, Winchester, MA 01890

Telephone Number: 781-729-8775

Permit Applying For:

All Alcohol License (\$75.00)

Beer and Wine Only License (\$75.00)

Nature and purpose of the event: WEDDING

Number of persons attending event: 100

Description of premises and location of facility where liquor will be sold and/or distributed:

Inside the 1827 Barn

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Archie McIntyre

Date(s) and times of event and/or specific times when alcoholic beverages will be sold or distributed:

SATURDAY JULY 9, 2016 5³⁰_P - 10³⁰_P

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Print Name of Responsible Manager:

Archie McIntyre

NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to:
Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890

RECEIVED
2016 JUN 28 AM 11:01
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

In accordance with MGL c.138, s.14, 23; CMR 7:04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses

Name of Applicant/ Organization:

Wright-Locke Farm Conservancy

Address: 78 Ridge Street, Winchester, MA 01890

Telephone Number: 781-729-8775

Permit Applying For:

All Alcohol License (\$75.00)

Beer and Wine Only License (\$75.00)

Nature and purpose of the event: FAMILY FARM NIGHT

Number of persons attending event: 500+

Description of premises and location of facility where liquor will be sold and/or distributed:

Inside the 1827 Barn

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Archie McIntyre

Date(s) and times of event and/or specific times when alcoholic beverages will be sold or distributed:

THURSDAY JULY 14, 2016 5pm-8pm

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Print Name of Responsible Manager:

Archie McIntyre

**NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to:
Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890**



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

In accordance with MGL c.138, s.14, 23; CMR 7:04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses

Name of Applicant/ Organization:

Wright-Locke Farm Conservancy

Address: 78 Ridge Street, Winchester, MA 01890

Telephone Number: 781-729-8775

Permit Applying For:

All Alcohol License (\$75.00)

Beer and Wine Only License (\$75.00)

Nature and purpose of the event:

FAMILY FARM NIGHT

Number of persons attending event: 500+

Description of premises and location of facility where liquor will be sold and/or distributed:

Inside the 1827 Barn

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Archie McIntyre

Date(s) and times of event and/or specific times when alcoholic beverages will be sold or distributed:

THURSDAY JULY 21, 2016 5PM - 8PM

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Print Name of Responsible Manager:

Archie McIntyre

**NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to:
Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890**



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

In accordance with MGL c.138, s.14, 23; CMR 7:04 and
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Name of Applicant/ Organization:

Wright-Locke Farm Conservancy

Address: 78 Ridge Street, Winchester, MA 01890

Telephone Number: 781-729-8775

Permit Applying For:

All Alcohol License (\$75.00)

Beer and Wine Only License (\$75.00)

Nature and purpose of the event:

FAMILY FARM NIGHT

Number of persons attending event:

500+

Description of premises and location of facility where liquor will be sold and/or distributed:

Inside the 1827 Barn

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Archie McIntyre

Date(s) and times of event and/or specific times when alcoholic beverages will be sold or distributed:

TUESDAY JULY 28, 2016 5PM - 8PM

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Print Name of Responsible Manager:

Archie McIntyre

**NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to:
Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890**



Town of Winchester

Application for Special (One Day) Alcoholic Beverage License

In accordance with MGL c.138, s.14, 23; CMR 7:04 and
Town of Winchester Procedural Requirements for Special (One Day) Alcoholic Beverage Licenses

Name of Applicant/ Organization:

Wright-Locke Farm Conservancy

Address: 78 Ridge Street, Winchester, MA 01890

Telephone Number: 781-729-8775

Permit Applying For:

All Alcohol License (\$75.00)

Beer and Wine Only License (\$75.00)

Nature and purpose of the event:

WEDDING

Number of persons attending event:

100

Description of premises and location of facility where liquor will be sold and/or distributed:

Inside the 1827 Barn

Name(s) of responsible manager (s) who will be in charge of dispersing the liquor; date of birth(s) and Social Security Number(s):

Archie McIntyre

Date(s) and times of event and/or specific times when alcoholic beverages will be sold or distributed:

SATURDAY AUGUST 27, 2016 5⁰⁰ p - 10³⁰ p

I have read the Procedural Requirements for Special (One Day) Alcoholic Beverage License (attached) and agree to all the terms and conditions:

Signature of Responsible Manager:

Print Name of Responsible Manager:

Archie McIntyre

**NOTE: Application must be submitted a minimum of TWO WEEKS prior to the scheduled event to:
Board of Selectmen; 71 Mt. Vernon Street; Winchester, MA 01890**

Cafarella, Jennifer

From: Peter MacDonnell <pmacdonnell@winchesterpd.org>
Sent: Tuesday, June 28, 2016 12:08 PM
To: Cafarella, Jennifer
Cc: Barbara Bosco
Subject: RE: One Day Alcohol License

Hi Jen
The police dept has no objections

Peter

Lieutenant-in-Charge Peter Macdonnell
Winchester Police Department
30 Mount Vernon Street
Winchester, MA 01890
Main: (781)729-1212
Office: (781)721-4625

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

From: Cafarella, Jennifer [mailto:jcafarella@winchester.us]
Sent: Tuesday, June 28, 2016 11:27 AM
To: Peter MacDonnell
Cc: Barbara Bosco
Subject: One Day Alcohol License

Chief,

Can I please have your comments on the attached 1 day liquor licenses?

Group: Wright Locke Farm Conservancy
Location: Wright Locke Farm
Dates: July 9, 14, 21, 28 and August 27

Thanks -
Jenn

Cafarella, Jennifer

From: Barbara Bosco <bbosco@winchesterpd.org>
Sent: Friday, June 24, 2016 12:43 PM
To: Cafarella, Jennifer; Peter MacDonnell
Subject: RE: 1 day license

The Chief has no objection to this request.

Thanks.

Barbara

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

From: Cafarella, Jennifer [mailto:jcafarella@winchester.us]
Sent: Tuesday, June 21, 2016 3:52 PM
To: Peter MacDonnell
Cc: Barbara Bosco
Subject: 1 day license

Chief,

Can I please have your comments on the attached one day liquor license?

Group: Griffin Museum
Location: Griffin Museum
Date: July 14th

Thanks -
Jenn



Granara-Skerry Trust

Pancreatic Cancer Research

Docket Item:

H - 11:

July 6, 2016

June 15, 2016

Winchester Town Hall
Town Manager's Office
71 Mount Vernon Street
Winchester, MA 01890

RE: Request for Road Race Permit – September 24, 2016

Dear Sir:

The Granara-Skerry Trust, a non-profit corporation dedicated to raising funds for Pancreatic Cancer research at the Massachusetts General Hospital, is once again seeking a Road Race Permit from the Town of Winchester for our 10th Annual 5K Walk/Run.

The details are as follows:

- Date: Saturday, September 24, 2016
- The Walk/Run will begin at 10:00 AM sharp. It will start and finish at the American Legion Hall 321 Winthrop Street, Medford, MA
- This is an Out and Back Race. The route is the same as last year. Walkers and runners will proceed straight up Winthrop Street (Route 38) Medford, exactly 1.55 miles. We will use orange cones to safely redirect the runners and walkers. Two details from the Winchester Police will also be in place to assist this year. One will be at the turn around and the second will be at Highland Ave and Route 38. Sergeant Groux is aware that we will be hiring two details.
- A cruiser or motorcycle unit from the Medford Police Department will lead and follow the runners.
- Signs will be posted in the area to notify residents of the upcoming race a few days prior to the event.
- Granara-Skerry Trust will furnish the Town of Winchester with an Insurance Certificate of Liability in the amount of \$1,000,000 naming the Town of Winchester as Additional Insured prior to the event.

Please let me know if you require further information regarding our request. I can be reached at 781-864-0892.

Thank you for your consideration.

Sincerely,

Nancy Sabatase, President
Granara-Skerry Trust

cc: Sergeant Groux, Safety Officer

Granara-Skerry Trust is a 501 (c)3 non-profit organization

RECEIVED
2016 JUN 20 AM 11:17
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

20 Butler Street • Medford, MA 02155

781-864-0892

www.PANCURE.org

Cafarella, Jennifer

From: Nash, John
Sent: Monday, June 20, 2016 12:50 PM
To: Cafarella, Jennifer
Subject: RE: Road Race approval

The Winchester Fire Department has no objection to the permitting of the Granaara-Skerry Trust annual road race, provided the usual and customary restrictions.

Chief John Nash

Winchester Fire Department

32 Mount Vernon Street Winchester MA 01890
Phone (781) 729-5993 | Fax (781) 721-6722

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

From: Cafarella, Jennifer
Sent: Monday, June 20, 2016 11:45 AM
To: Gill, James <jgill@winchester.us>; Nash, John <jnash@winchester.us>; pmacdonnell@winchesterpd.org
Subject: Road Race approval

All,

Attached please find a request from the Granaara-Skerry Trust for the annual road race. Please send me your comments on this race.

Thank you,
Jenn

Cafarella, Jennifer

From: Gill, James
Sent: Monday, June 27, 2016 6:49 PM
To: Cafarella, Jennifer
Cc: pmacdonnell@winchesterpd.org; Thomas Groux (tgroux@winchesterpd.org)
Subject: Re: Road Race approval

Hi Jenn,

The Dpw has no objection .

Thx
Jay

Sent from my iPhone

> On Jun 27, 2016, at 6:46 PM, Cafarella, Jennifer <jcafarella@winchester.us> wrote:

>
> Jay and Peter,
>
> Can you please send me your comments on the attached road race request?

>
> Thanks -
> Jenn

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

> From: Cafarella, Jennifer
> Sent: Monday, June 20, 2016 11:45 AM
> To: Gill, James; Nash, John; pmacdonnell@winchesterpd.org
> Subject: Road Race approval

>
> All,

>
> Attached please find a request from the Granaara-Skerry Trust for the annual road race. Please send me your comments on this race.

>
> Thank you,
> Jenn

>
>
> <201606201134.pdf>

Cafarella, Jennifer

From: Peter MacDonnell <pmacdonnell@winchesterpd.org>
Sent: Monday, June 27, 2016 7:00 PM
To: Cafarella, Jennifer
Cc: Gill, James; Thomas Groux; Barbara Bosco
Subject: Re: Road Race approval

Jen,
The Police Dept has no objection.

Sent from my iPhone

> On Jun 27, 2016, at 6:46 PM, Cafarella, Jennifer <jcafarella@winchester.us> wrote:

>
> Jay and Peter,
>
> Can you please send me your comments on the attached road race request?
>
> Thanks -
> Jenn

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

> From: Cafarella, Jennifer
> Sent: Monday, June 20, 2016 11:45 AM
> To: Gill, James; Nash, John; pmacdonnell@winchesterpd.org
> Subject: Road Race approval

> All,

> Attached please find a request from the Granaara-Skerry Trust for the annual road race. Please send me your comments on this race.

> Thank you,
> Jenn

> <201606201134.pdf>

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TOWN OF WINCHESTER
BOARD OF SELECTMEN MEETING
Wednesday, June 22, 2016
Record

Chairman Lance R. Grenzeback called the meeting to order at 7:00 PM in the Board of Selectmen Meeting Room located in Town Hall. Present were Selectman Stephen L. Powers, Selectman Michael Bettencourt and Selectman David P. Errico. Vice Chairman E. James Whitehead was absent. Also present were Town Manager Richard C. Howard, Town Counsel Wade M. Welch and Special Counsel Mark Bobrowski.

OPENING

*Motion: That the Board of Selectmen adjourn to Executive Session for the purpose of discussing matters related to a Litigation Update: Winchester Wine & Spirits – Chapter 30A §21(a)3.
Bettencourt – Powers
By Roll Call Vote: Errico, Bettencourt, Powers, Grenzeback VOTED.

*Motion: That the Board of Selectmen adjourn from Executive Session to Public Session, not to return to Executive Session.
Bettencourt – Powers
By Roll Call Vote: Errico, Bettencourt, Powers, Grenzeback VOTED.

Notification of Meetings and Hearings

- Monday, July 6, 2016 – Board of Selectmen – Regular Session
- Monday, July 25, 2016 – Board of Selectmen – Regular Session
- Monday, August 8, 2016 – Board of Selectmen – Regular Session
- Monday, August 29, 2016 – Board of Selectmen – Regular Session

BUSINESS

Forest Ridge Residences – Comprehensive Permit Site Approval – Discussion

Present: Special Land Use Counsel Attorney Mark Bobrowski

Town Manager informed the Board that the only staff contact made by the applicant is through Town Planner Brian Szekely. The information provided for review is the same as that contained in the Board's packet for review. He noted that the Board has just dealt with a 40B petition for 416 Cambridge Street (Winchester North), and the Board's input for Forest Ridge Residences would be the same. The documents submitted are posted on the Town's website, www.winchester.us.

Town Manager informed the Board that there will be a site visit with local staff in attendance on Thursday, June 30th in the morning. MassHousing representatives will also be in attendance to walk the site. The purpose of the walk is to determine whether the site is appropriate for a development of this type. He explained that the local level input will be the same as that submitted for the 416 Cambridge Street 40B proposal. Town Manager noted that the Board will be able to communicate with MassHousing as to whether the site is appropriate for this type of development.

Town Manager informed the Board and the audience that what is currently known about this proposal is posted on the website, which will be updated as new information is received. He explained that

Wednesday, June 22, 2016
Board of Selectmen Meeting

1 access to the site will be through the Town of Stoneham, requiring activity in that town. The
2 development proposal is massive however the appropriateness is determined by the State.

3
4 Chairman Grenzeback urged those in attendance to utilize the "notify me" tool on the Town website. He
5 also suggested that the neighborhood start their own email circulation list.

6
7 Town Manager indicated that with assistance from his staff, notifications would be made to relevant
8 addresses by both email and direct mail. Town Meeting Members would be notified as well.

9
10 Chairman Grenzeback recalled that the Town previously declined construction of a subdivision at this
11 same location. He informed the audience that Attorney Bobrowski will explain the nuances of the
12 Chapter 40B statute and the process going forward.

13
14 Attorney Bobrowski informed the audience that this is the second of these types of developments
15 proposed for Winchester. This particular development proposal is submitted by Krebs Investment
16 Group LLC. The bulk of the traffic will be in Stoneham, where the primary entrance would be located;
17 Forest Circle would be for emergency access only. The developer has to go to MassHousing or DHCD to
18 obtain a project eligibility letter and the Town would have thirty (30) days to outline impacts of the
19 proposal. All information will be assembled for review by the Board and then transmitted to
20 MassHousing. Attorney Bobrowski urged those in attendance to highlight problems that they are
21 aware of in the area. He explained that MassHousing rarely rejects this type of PEL request but has
22 done so once previously in Winchester (Cross Street).

23
24 Attorney Bobrowski provided an overview of Chapter 40B, which was originally known as the Anti-Snob
25 Zoning Act, adopted in 1969. The project is 296 units and the hope is that 25% of the units would be
26 moderate income and remainder market rate units. He noted that there is a difference between a
27 Comprehensive Permit and a Special Permit, however in this case there is a presumption built into the
28 statute that states where a city / town has less than 10% of its housing stock as affordable, i.e., deed
29 restricted for not less than thirty years for low or moderate income families, there is a presumption that
30 there is a need for the housing which outweighs any local concerns, in this case, traffic, stormwater,
31 height of building, impact on neighborhood, etc. It is tilted in favor of the housing and unless the Town
32 can show that the local concerns outweigh the regional need, the 40B would be approved. Attorney
33 Bobrowski indicated that at this early stage, it should be pointed out to MassHousing just what is
34 wrong with this site for this number of units.

35
36 Attorney Bobrowski explained that at the Board of Appeals level, that body would make an intelligent
37 decision as to whether or not the project should be approved, approved with conditions, or denied. If the
38 developer does not like the decision rendered by the Board of Appeals, the developer alone has an
39 appeal to the Housing Appeals Committee within the Department of Housing and Community
40 Development. This is a special agency set up just for appeals under Chapter 40B. If residents do not
41 like the Board of Appeals decision, residents may also appeal the decision of the Board of Appeal to
42 Land Court or Superior Court. In some instances, both the developer and residents appeal the Board of
43 Appeal decision. Attorney Bobrowski indicated that in order for a resident to appeal they have to be an
44 aggrieved person, i.e., presumptively one who receives a certified mail notification, an abutter, an
45 abutter to an abutter within three hundred feet (300 ft.), or a person living directly across the street.
46 These are the key players for making an appeal after the ZBA renders a decision. Residents living 600
47 feet away are not a qualified party in interest or an aggrieved person; those who live closest to the site
48 have the best chance of surviving a challenge if the developer files as to whether there is standing in
49 order to be a plaintiff.

50
51 Attorney Bobrowski informed the audience that his advice for those in attendance is to target the issues
52 that best express the concerns about this project, explaining those concerns in great detail, not in a way

Wednesday, June 22, 2016
Board of Selectmen Meeting

1 that express chagrin about what is being proposed. He explained that detailed facts are needed, i.e.,
2 inability to exit from driveway because of voluminous traffic, etc.
3

4 Attorney Bobrowski explained that once MassHousing decides whether or not to issue a PEL, once
5 issued, the Board of Appeals must open a hearing within thirty (30) days or the project is constructively
6 approved. He indicated that the process will be lengthy and the expectation is that this issue will be on
7 the forefront for the better part of 180 days after the public hearing is opened. Once a hearing is
8 opened, the ZBA has only 180 days to close the public hearing and then an additional forty (40) days in
9 which to render a decision. He informed the audience that he does not want to discourage them from
10 engaging counsel or from engaging experts that would add a third point of view. He indicated that the
11 developer must provide funds for the Board of Appeals to conduct a Peer Review, Chapter 44, §53G
12 allows the Board of Appeals to hire its own traffic engineer, civil engineer, stormwater analyst. He
13 noted that there will be good people representing the Town's residents and the Board of Appeals in this
14 process. He explained that if the problem is felt to be overwhelming, it does not hurt to have a third
15 voice in the matter.
16

17 Selectman Bettencourt noted that school impacts are not typically a part of the equation. Attorney
18 Bobrowski suggested that those present Google the case "Hilltop Preserve vs Board of Appeals of
19 Walpole", a location close to Foxboro Stadium. The Housing Appeals Committee reviewed all of the
20 complaints reported by Walpole residents, including water capacity, sewer capacity, school capacity,
21 traffic capacity, and open space needs, and wrote a readable decision about how these issues are
22 litigated before the Housing Appeals Committee. He indicated that this is worthwhile reading for
23 Winchester residents.
24

25 Attorney Bobrowski informed the audience that the Housing Appeals Committee is not of the opinion
26 that school impacts are a reason for denial of a 40B, particularly because other non-subsidized projects,
27 i.e. regular housing, and if the schools are crowded, the non-subsidized projects were allowed, so the
28 40B must be allowed as well. Local concerns are considered to be significant that relate to stormwater
29 that cannot be attenuated, or traffic that will congest roadways, and the Housing Appeals Committee
30 has been sympathetic to this argument. Attorney Bobrowski informed the audience that he is paying
31 particular attention to the appraised value, recalling that this was originally a twelve (12) unit
32 subdivision sponsored by the Shannon Trust approximately ten years ago and was denied by the
33 Planning Board at that time; the developer pulled the plug and went away. He pointed out that twelve
34 units is a lot less than 296 units. He indicated that he intends to find out the appraised value of this
35 property, which has to be based upon conditions as of right, not on the value as a 40B site. He recalled
36 from litigating the Shannon Estates case that there was a problem at the intersection at Forest Circle,
37 questions about Forest Circle itself as a road that had adequate characteristics for fire, police and
38 emergency vehicles. The need for a waiver from the Planning Board to construct an "as of right"
39 subdivision in this location is not an "as of right" appraisal. Attorney Bobrowski indicated that he is
40 sure that there was a considerable sum of money exchanged for this property and it is his duty as the
41 Town's Land Counsel to find out what the appraisal is.
42

43 The question was asked if the Cambridge Street 40B development provides any safety for the Town
44 against future developments of this type with Attorney Bobrowski reporting that the 416 Cambridge
45 Street proposal is not large enough to provide a safety net. He noted that some municipalities have a
46 housing production plan and if the proposal is contained in that plan and the project is built, then the
47 municipality receives credit for it; this was not in Winchester's plan. He explained that the benchmark
48 is 2% and this does not bring Winchester close to the 2% requirement.
49

50 Chairman Grenzeback explained that the Board of Selectmen does not have jurisdiction over this, so the
51 Board would not be holding a formal public hearing on this proposal. He noted that there are several
52 areas for exploration and obtaining more information.
53

Wednesday, June 22, 2016
Board of Selectmen Meeting

1 Attorney Bobrowski informed the Board that he has contacted Stoneham's town attorney with the hope
2 of working collaboratively. Caroline Colarusso, Stoneham Board of Selectmen, informed the Board that
3 no access permit has been filed in Stoneham. She indicated that she feels that Stoneham will be very
4 concerned about this proposed project.

5
6 The access road from Forest Circle was the subject of concern in the previous development proposal and
7 the question was raised as to whether this would remain a concern. Attorney Bobrowski recalled that
8 he represented the Town during the last project proposal for this area and he would bring out many of
9 the concerns elaborated upon at that time. He informed the audience that any written comments would
10 be attached to his letter to MassHousing.

11
12 Chairman Grenzeback informed the audience that the Board will be holding a public information
13 session on this subject on July 27th, location to be determined. Information will be posted on the Town's
14 website.

15
16 **HEARING**

17
18 **NStar d/b/a Eversource Energy – Grant of Location Petition:**
19 **Foxcroft Road – Northwesterly from pole 54 / 4 approximately**
20 **115 feet northeast of Wedgemere Avenue – a distance of about**
21 **18 feet conduit**

22
23 At 8:04 PM Chairman Grenzeback opened the hearing. Jackie Duffy, Eversource Rights of Way and
24 Permits, informed the Board that installation will be in the grass area and no pavement will be
25 disturbed. The installation is necessary to provide service to 33 Wedgemere Avenue. Town Manager
26 informed the Board that both the Engineering Department and the Department of Public Works
27 support this installation. Seeing no one in the audience wishing to make comment, Chairman
28 Grenzeback closed the hearing at 8:05 PM.

29
30 *Motion: That the Board of Selectmen approve the NStar d/b/a
31 Eversource Energy Grant of Location Petition for Foxcroft
32 Road northwesterly from pole 54 / 4 approximately 115 feet
33 northeast of Wedgemere Avenue, a distance of about 18 feet
34 conduit in accordance with the Town of Winchester Grant of
35 Location Policy and the memorandum from the Town Engineer
36 dated June 1, 2016.

37 Bettencourt – Powers

All in favor.

VOTED.

38
39 **National Grid Grant of Location Petition:**
40 **Pond Street – Extension of Gas Main 370 feet on Pond Street from #21**
41 **Pond Street to Cambridge Street / 3A as part of gas main**
42 **replacement project on Pond Street in conjunction with State road work.**

43
44 Chairman Grenzeback opened the hearing at 8:10 PM. Christopher Maher, NGrid Construction
45 Supervisor, informed the Board that this work is in coordination with the State Cambridge Street
46 reconstruction and paving project from Cambridge Street to Pond Street. The construction should take
47 eight to nine weeks in total. In response to the question concerning whether half of the road would be
48 shut down during the project, Mr. Maher indicated that drilling verification holes will require shutting
49 down half of the roadway and abutters will be notified when this is the case. Construction hours are 7
50 AM to 4 PM. Selectman Powers requested that the construction hours be abbreviated to 8 AM to 4 PM
51 to allow commuters to get out of Town. Mr. Maher indicated that he would coordinate this with the
52 Police Department and police detail officers. Seeing no one in the audience wishing to make comment,
53 Chairman Grenzeback closed the hearing at 8:15 PM.

Wednesday, June 22, 2016
Board of Selectmen Meeting

1
2 *Motion: That the Board of Selectmen approve the National Grid Grant
3 of Location Petition for Pond Street – extension of gas main
4 370 feet from #21 Pond Street to Cambridge Street / 3A as part
5 of gas main replacement project on Pond Street in conjunction
6 with State road work in accordance with the Town of
7 Winchester Grant of Location Policy and the memorandum
8 from the Town Engineer dated June 1, 2016.

9 Bettencourt – Powers

All in favor.

VOTED.

10
11 **Chairman's Comments**

12
13 Chairman Grenzeback recognized the Winchester High School Boys Team for winning the State
14 Championship title.

15
16 Selectman Errico noted that he attended the newly created MIAA Hall of Fame event for the first class
17 of inductees. Winchester's native son, Joe Bellino was one of the six inductees. He explained that for
18 those who may not be aware, Joe Bellino is a Winchester High School graduate where he was an
19 outstanding athlete; he was selected for the United States Naval Academy where he was also a stand-
20 out athlete and recruited for the then Boston Patriots after graduation from the Academy.

21
22 Selectman Powers questioned when the brick stairway at Town Hall will be repaired. Town Manager
23 explained that the crews are working at the rear of Town Hall first, then will move to the front of the
24 building. A different product is being used and a new granite step will be installed at the top of the
25 staircase.

26
27 **Town Manager Report and Comments**

28
29 **Complete Streets Update**

30
31 Town Manager reported that the application has been submitted for the new road improvement
32 program. It was noted that Winchester was the second community in the Commonwealth to submit an
33 application. The hope is to hear from the state about project improvement funds for several years
34 consecutively. He explained that the Town Engineer and the Town Planner have done a great job along
35 with MAPC engineer, Sarah Lee. If the Town receives this grant there will be up to an additional
36 \$400,000 available for improvements. These funds can also be used for traffic control devices.

37
38 **Winchester Center MBTA Commuter Rail Stop Update**

39
40 Town Manager informed the Board that the working group continues to meet with the MBTA Design
41 Team and great strides have been made with the design and aesthetic appeal of this redesign. The
42 MBTA is concerned about making this commuter rail station safe. Town Manager indicated that the
43 hope is that the MBTA Capital Program will continue listing this project as a priority. The project cost
44 is currently listed at \$33 million.

45
46 **Eversource Update**

47
48 Town Manager reported that representatives from Stoneham have proposed a regional meeting but they
49 have pulled back on what they want to tell the Energy Facilities Siting Board what it is they would like
50 to see in their town. A meeting was scheduled with Woburn representatives about the 345kV line
51 proposed for Cross Street and Washington Street but has been rescheduled for next week. He reported
52 that documentation is beginning to flow in reaction to the preferred route, the lining itself, emissions,
53 etc. He indicated that this is all a work in progress and time and effort is being expended on this effort

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1 to develop a convincing case before the Siting Board so that this installation does not occur in
2 Winchester; however if it does, there will be built-in protections. Nothing specific has happened to date
3 and updates will continue. Selectman Powers requested a more in-depth update to be scheduled as a
4 business item for the July 25th meeting with the EMF consultant in attendance.
5

6 Skillings Field Project Update
7

8 Town Manager reported that the Town has just received the Chapter 91 Waterway License so things
9 can now move forward with all three flood mitigation projects, i.e. Scalley Dam, Skillings Culvert and
10 the Mt. Vernon Street Bridge. Activities at Skillings Field are being coordinated with National Grid
11 and things are progressing as planned.
12

13 Appointment / Supplemental Agenda Appointment
14

15 Town Manager announced that in accordance with Section 4-2b of the Town Charter, and in accordance
16 with the Rules and Regulations of the Department of Personnel Administration (Civil Service) he has
17 made the following temporary full-time appointment in the Fire Department:
18

**Jak Letien, 6 Victory Road, Salem, MA 01970
Temporary Full-Time Appointment – Military Replacement**

19
20
21
22 Mr. Letien is a certified paramedic and will fill the position of a firefighter who is serving in the US
23 Armed Forces.
24

**Suzanne Norton, 5 Randolph Road, Wilmington
Geriatric Social Worker – Council on Aging**

25
26
27
28 Ms. Norton has worked at the Somerville COA social worker for over ten years and in addition to a
29 geriatric background, Ms. Norton has experience working with veterans as well as with facilitating
30 groups for caregivers. Her employment will commence July 11, 2016.
31

32 Good Energy
33

34 Town Manager reported that the initial stages of outreach for aggregate purchasing of electricity has
35 begun. Residents will be able to purchase electricity in bulk and obtain a reduced rate for usage. The
36 plan will be before the Board at the July 25th meeting. Residents not wishing to participate have the
37 ability to “opt-out”. Selectman Powers requested that enough information for opting out of this program
38 is supplied to the public. Town Manager indicated that residents have the ability to “opt-out” at any
39 time.
40

41 MATTERS FROM THE AUDIENCE
42

43 Kristen Fitzgerald, Spruce Street, asked if there is any way to get the MBTA Bridge on Swanton Street
44 painted. Town Manager reported that staff is talking with the State Legislative delegation about
45 several issues related to this area including the relocation of the boxcars parked here. Chairman
46 Grenzeback indicated that a reflective edge on the Cross Street Bridge would be useful as well.
47

48 LICENSES
49

**Common Victualler License Transfer
Toscano's Italian Kitchen, 740 Main Street**

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1 Mina Askander informed the Board that he also owns a pizza shop in Watertown, likes Winchester and
2 is looking for a home here. He will keep the same type of restaurant operation.

3
4 *Motion: That the Board of Selectmen approve the transfer of the
5 Common Victualler License for Toscano's Italian Kitchen,
6 740 Main Street from William Bararseh to Mina A.
7 Askander and Peter M. Gerges through December 31, 2016.
8 Bettencourt – Powers All in favor.

VOTED.

**Common Victualler License
Wright Locke Farm Stand, 78 Ridge Street**

10
11
12
13 Archie McIntyre, Executive Director of Wright Locke Farm, informed the Board that the Farm Stand is
14 newly renovated and sells a variety of products including vegetables grown on site. Currently, they
15 serve beverages and snacks. The facility has been reviewed and inspected by the Health Director and
16 Building Inspector. Hours of operation are from 9:30 AM to 12:30 PM Monday through Saturday,
17 however on Thursdays the Farm Stand stays open later due to the weekly Farm Night.

18
19 *Motion: That the Board of Selectmen approve a Common Victualler
20 License for the Wright Locke Farm Stand, 78 Ridge Street
21 for the hours of operation indicated through December 31, 2016.
22 Bettencourt – Powers All in favor.

VOTED.

BUSINESS

Bond Signing – Sheila Tracy, Town Treasurer / Collector

23
24
25
26
27
28 Treasurer Tracy informed the Board that the approval this evening is for short term borrowing in an
29 amount over \$25million; \$20 million is for the WHS construction project, \$2.5million for the Skillings
30 Field Culvert, \$2.5million for Skillings Field remediation, and \$300,000 for the Vinson-Owen School
31 Project. The Board was informed that the Town NET interest rate is less than ½% and the borrowing is
32 for the period through the end of October when the bond is due. Town Manager pointed out that
33 beginning in July, the FY2017 real estate tax bills are mailed to residents and this is the year where a
34 sizeable portion of the debt exclusion is included in the tax bill. The impact is approximately 8% for
35 FY2017; about 5% is due to permanent borrowing when the full \$60million for the High School is
36 issued. He indicated that there is a little more remaining to be borrowed. Town Manager explained
37 that over the four real estate tax quarters for payment, the increase on a \$10,000 real estate tax bill will
38 be \$800.

39
40 Chairman Grenzeback pointed out that because of the hard work, the interest rate is low with
41 approximately \$4million saved. He noted that the Town works very hard to keep spending under
42 control in order to obtain favorable interest rates. Town Manager indicated that this is due to the good
43 efforts put forth by the Treasurer, Comptroller and Assessor, all of whom participated in the call with
44 Moody's.

45
46 *Motion: That the Board of Selectmen approve the sale of \$25,395,000
47 2 percent General Obligation Bond Anticipation Note (the
48 "Notes") of the Town dated June 28, 2016 and payable October 28,
49 2016 to J.P. Morgan Securities LLC at par and accrued interest plus
50 a premium of \$129,006,600.

51
52 Further Voted: that in connection with the marketing and sale of the Notes, the
53 preparation and distribution of a Notice of Sale and Preliminary Official Statement

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1 dated June 7, 2016 and a final Official Statement dated June 14, 2016, each in such
2 form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed,
3 approved and adopted.
4

5 Further voted: that the Town Treasurer and the Board of Selectmen be, and hereby are,
6 authorized to execute and deliver a significant events disclosure undertaking in
7 compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to
8 the Town, which undertaking shall be incorporated by reference in the Note for the
9 benefit of the holders of the Notes from time to time.
10

11 Further voted: that we authorize and direct the Treasurer to establish post issuance
12 federal tax compliance procedures in such form as the Treasurer and bond counsel deem
13 sufficient, or if such procedures are currently in place, to review and update said
14 procedures, in order to monitor and maintain the tax-exempt status of the Notes.
15

16 Further voted: that each member of the Board of Selectmen, the Town Clerk and the
17 Town Treasurer be and hereby are, authorized to take any and all such actions, and
18 execute and deliver such certificates, receipts or other documents as may be determined
19 by them, or any of them, to be necessary or convenient to carry into effect the provisions
20 of the foregoing votes.

21 Bettencourt – Powers All in favor. VOTED.
22

23 Town Manager informed the Board that the average assessed value of a home in Winchester is just
24 under \$1million.
25

26 **Veterans Services Agreement between Winchester and Arlington – Renewal Vote**
27

28 Town Manager reported that this continues the second half of the agreement for the remainder of
29 FY2016 and the beginning of FY2017. The effort is a collaborative one where there is a full-time
30 Veterans Services Officer who collaborates with the Town's part-time Veterans Services Officer,
31 something that works out well for the Town's veterans.
32

33 *Motion: That the Board of Selectmen approve the extension of the
34 Veterans Services Officers Agreement between Winchester
35 and Arlington for the remainder of FY2016 (January – June 30,
36 2016) and for FY2017 (July 1, 2016 – June 30, 2017).
37

38 Bettencourt – Powers All in favor. VOTED.
39

40 **Dog Park Options Briefing – Chris Nelson, Recreation Director**
41

42 Andrew Leonard, Consultant Landscape Architect
43

44 Chairman Grenzeback informed the audience that the Board would not be making a decision this
45 evening, only hearing a report from Chris Nelson, the Recreation Director and Jay Gill, DPW Director,
46 however Mr. Gill had a last minute conflict and is unable to be present. Andrew Leonard has assisted
47 with reviewing locations for a dog park. This request has also been brought before the Field
48 Management Committee who has indicated that they cannot endorse any of the locations being
49 presented for review this evening.
50

51 Andrew Leonard indicated that he has been retained to evaluate a number of locations for their
52 potential as a dog park. Most dog parks are developed with grant funds provided by the Stanton
53 Foundation. He noted that there is still money available in this grant, which is typically awarded in the
amount of \$250,000. He noted that Thorndike Field in Arlington is the benchmark for dog parks in the
area. One of the stipulations of the Stanton Grant is that the site proposed is owned by the

Wednesday, June 22, 2016
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1 municipality and development is relatively easy, have a minimum of neighborhood impacts. Focus was
2 on six sites in Winchester that look to have potential for development as a dog park. There are two sites
3 at the Leonard Field area adjacent to the pond, one on either side of the pond, i.e., the former beach
4 area and an open space that lies between the pond and the Aberjona River; Leonard Beach is accessed
5 by an existing gravel parking area with access from Cross Street, however this is a part of the future
6 TriCommunity Bikeway location. These sites are adjacent to wetlands resources area, i.e. the pond and
7 the river.

8
9 Mr. Leonard noted that two sites at West Side / Nuttle Field have been reviewed and Field D is not
10 currently in use for a specific athletic activity, but is level and is adjacent to an existing playground; the
11 other site is a small field that is not an official sized baseball field and is currently used as a practice
12 field and for T-ball activities. Two other sites were reviewed, one at Lynch Elementary School, i.e., the
13 wooded area adjacent to the Horn Pond Bikeway, which is undeveloped with access only from the
14 bikeway and two residential streets one of which is located in Woburn. Pathways would need to be
15 developed from the Lynch School field to provide access. The last area reviewed was Eliot Park, the
16 existing open space at the corner of Main Street and Lake Street. This is adjacent to Wedge Pond and
17 approximately one-third would be used for a dog park. Each site evaluated has concerns and each site
18 has political and neighborhood implications.

19
20 Mr. Leonard informed the Board that the dog parks in other towns are in wetland buffer zones and
21 designed with irrigation systems that are very much like a septic system; there is no surface run-off.
22 He pointed out that the Stanton Foundation provides a \$250,000 grant and there are other agencies
23 that fund community development. The cost estimate was prepared and based upon studies considering
24 the characteristics of each site. Mr. Leonard informed the Board that the Thorndike Dog Park in
25 Arlington is approximately 18,000 square feet of space. Arlington has hired a retired gentleman to rake
26 and clean the area and has also used a community services gang from the Middlesex Sheriff's
27 Department. Maintenance is low once the park is installed. He suggested that a community could also
28 tap into a local dog advocacy group where there are clean-up days, etc.

29
30 As far as dogs and children mixing in a play field area, Mr. Leonard informed the Board that some
31 communities have a "green dog park" policy where dogs are allowed to run off-leash during specific
32 hours. He suggested that this should first be vetted by legal staff.

33
34 Selectman Errico questioned whether there is any way to use space in the Fells. Director Nelson
35 indicated that the Fells was removed from consideration because the Department of Conservation and
36 Recreation has control there. Mr. Leonard suggested that this is not impossible because the DCR does
37 have dog park facilities in other areas.

38
39 Chairman Grenzeback asked about the capacity, i.e. how many dogs and people a dog park facility can
40 accommodate. Mr. Leonard indicated that there are no specifics on this. The Chairman also asked how
41 far people would travel to use a dog park facility. Director Nelson indicated that Winchester residents
42 use the dog park in Arlington.

43
44 In response to the question concerning whether the sites presented this evening are an exhaustive list,
45 Director Nelson reported that they also reviewed Davidson Park, the corner of Eaton Street and
46 Highland Avenue, and the Town Forest because the overall feeling is that it is not a good idea to take
47 playfield space due to the lack of it.

48
49 Discussion continued on the deficiencies of each site. Chairman Grenzeback suggested that staff follow
50 up with the Soccer Club to determine if the site at Leonard Pond that abuts the Soccer Club property is
51 available. It was noted that dog feces does contribute to algae blooms in rivers, ponds and streams. Mr.
52 Leonard informed the Board that people who utilize a dog park pick up after their pets.

53

**Wednesday, June 22, 2016
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1 Director Nelson informed the Board that staff is not ready to make a recommendation but rather
2 looking for direction towards a 'next step'. Chairman Grenzeback noted that the Board's favorite topic
3 is money and coming up with funding over what the grant would provide would tax the Town Manager's
4 Budget.
5

6 Catherine Alexander, Executive Director of the Chamber of Commerce, commented that she appreciates
7 that this has come to the Board's table and believes that a dog park is an opportunity for people to get
8 together, meeting and greeting. She suggested that more of this spirit is needed. She explained that
9 she has been inundated with support and could probably raise the additional funds as a dog park would
10 be an asset to the Town.
11

12 Kristen Taylor, Tufts Road, informed the Board that Leonard Pond is literally in her back yard. She
13 explained that she favors a dog park but has significant concerns about noise and odor, particularly in
14 the hot summer months. Ms. Taylor also expressed concern about vehicular traffic on Nathaniel and
15 Tufts Roads and the proximity of a dog park to the children attending the Muraco Elementary School.
16 She indicated that it is her hope that the neighborhood concerns are considered.
17

18 Director Nelson pointed out that there are a number of pros and cons for each of the sites discussed this
19 evening.
20

21 Helena Champion, Tufts Road, informed the Board that there is no need for a dog park in Winchester
22 because of the suburban nature of the Town and its walk-ability. She suggested that a dog park is more
23 appropriate in an urban setting.
24

CONSENT AGENDA / SUPPLEMENTAL CONSENT AGENDA

Approve / Correct Meeting Minutes:

April 11, 2016; May 16, 2016; May 23, 2016; June 6, 2016;
June 14, 2016; June 17, 2016

One Day Alcoholic Beverage Licenses:

Archie McIntyre for the Wright Locke Farm Conservancy – June 25, 2016 – 1827 Barn;
Gail Freeman for Studio on the Common – June 30, 2016 –
Studio on the Common;

Other

Police Department request for Budget Transfer from
Personal Services to Other Expenses;

Supplemental Consent Agenda:

Year-End Budget Transfers in Accordance with MGL Chapter 44 §33B

40 *Motion: That the Board of Selectmen approve the Meeting Minutes for
41 April 11, 2016; May 16, 2016; May 23, 2016; June 6, 2016;
42 June 14, 2016 and June 17, 2016, as written.

43 Bettencourt – Powers All in favor. VOTED.
44

45 *Motion: That the Board of Selectmen approve One Day Alcoholic
46 Beverage Licenses for the Wright Locke Farm Conservancy on
47 June 25th and Studio on the Common on June 30th, 2016.

48 Bettencourt – Powers All in favor. VOTED.
49

50 *Motion: That the Board of Selectmen approve a Year-End Budget
51 transfer in accordance with MGL Chapter 44 §33B for the
52 Police Department from Personal Services to Other Expenses,
53 for the DPW Other Expenses to Personal Services; DPW Other

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1 Expenses to Energy Other Expenses; Recreation Department
2 Other Expenses to Recreation Personal Services; Veterans
3 Other Expenses to fund Veterans Salaries.
4 Bettencourt – Powers All in favor. VOTED.
5

6 **COMMUNICATIONS AND WORKING GROUP REPORTS**
7

8 The Board acknowledged the following correspondence:
9

- 10 1. Representative Katherine Clark – Tree City Congratulations
11 2. Emmanuel Lamy, Maire de Saint-Germain-en-Laye – support and friendship in
12 light of the Orlando tragedy
13 3. DEP re: issuance of Chapter 91 Waterways License
14 4. Helen Philliou, Capital Planning Committee Chairman – Available Capital Funds
15 5. Letters from Grade 5 Ambrose Elementary School students re: athletic centers
16 for Winchester
17

18 **Non-Docket Business from the Selectmen**
19

20 In response to Selectman Powers' question as to whether the Town Manager had communicated
21 concerns about the condition of the CVS site on Washington Street, Town Manager reported that he had
22 communicated with the attorneys and requested legal action on the Town's behalf. Selectman Powers
23 noted that the area is an eyesore to the Town and it should be on record that something is being done to
24 rectify the situation because the public should not be subjected to this eyesore. Town Manager
25 indicated that efforts will continue and at some point the Board could conduct an abandonment public
26 hearing. The Board's concerns will continue to be registered.
27

28 **Adjournment: 9:45 PM**
29

30 *Motion: That the Board of Selectmen adjourn for the evening.
31 Bettencourt – Powers
32 By Roll Call Vote: Enrico, Bettencourt, Powers, Grenzeback VOTED.
33

34 Respectfully submitted,
35
36
37

38 Richard C. Howard, Town Manager
39
40

Housing Appeals Committee Decisions

struction would actually take place. Because the (planned to build on roughly 20 percent of the land, over 80 percent of the total acreage was excluded from the calculation.

The Board has failed to convince us that the Town of Natick has met the 1.5 percent statutory threshold. For the foregoing reasons, the Board's motion to dismiss is hereby denied.

March 4, 2002, Housing Appeals Committee, Werner Lohe, Chairman, Presiding Officer, Kristen L. Vanasse, Counsel.

* * * * *

Docket Item:

I - 1:

July 6, 2016

FE AS 1 MHACR 641

FD. PARTNERSHIP

v.

WALPOLE BOARD OF APPEALS

Decision No. 00-11

April 10, 2002

Werner Lohe, Chairman

Local Needs Consistency Determination

Inconsistency With Local Needs

Test II--Local Needs Balancing

Health, Safety and Environmental Factors

— Emergency Access

— Fire Safety and Protection

— Health Service

— Sewage Disposal

— Sidewalks and Pedestrian Access

— Water Supply

Permit Eligibility

Fundability/Financing

In a decision furnishing a thorough overview of decisions addressing comprehensive permit denials based upon inadequate municipal services, HAC ordered that a comprehensive permit be issued for a proposed 300-unit mixed-income affordable rental housing apartment development in Walpole near Route 1, having found water supply and pressure sufficient for sprinkler systems and for firefighting at the site, a code-compliant sprinkler system proposal, a feasible plan to pump sewage from the site via a force main to a town sewer, and no exacerbation by the development of existing town-wide sewer and sidewalk inadequacies.

DECISION

I. PROCEDURAL HISTORY

On March 16, 2000, the Hilltop Preserve Limited Partnership submitted an application to the Walpole Zoning Board of Appeals for a Comprehensive Permit pursuant to G.L. c. 40B, §§20-23 to build mixed-income affordable rental housing near Route 1 in Walpole, to be financed under the Massachusetts Housing Finance Agency (MHFA) 80/20 or the Expanding Rental Affordability (ERA) program. After due notice and public hearings, the Board unanimously denied the permit on October 4, 2000. From this decision the developer appealed to the Housing Appeals Committee. The Committee held a conference of counsel, conducted a site visit, and held six days of *de novo* evidentiary hearing, with witnesses sworn, full rights of cross-examination, and a verbatim transcript.¹ Following the presentation of evidence, counsel submitted post-hearing briefs.

1. The Committee issued a joint Pre-Hearing Order (Jan. 10, 2001), agreed to by the parties. In it, the parties stipulated that the developer satisfies two of the three jurisdictional requirements found in 760 CMR 31.01(1), that is, that it is a limited dividend organization and that it controls the site. Pre-Hearing Order, §§1-3, 1-4. Whether the proposal is fundable pursuant to 760 CMR 31.01(1)(c) remained at issue. But by choosing not to brief this question, the Board has conceded that the

introduction into evidence of a project eligibility or site approval letter from the Massachusetts Housing Finance Agency (MassHousing) has satisfied this third requirement. See *Cameron v. Carelli*, 39 Mass. App. Ct. 81, 85, 653 N.E.2d 595, 598 (1995); also see Pre-Hearing Order, §II-C(1)(a). In any case, we find that the MassHousing letter of June 20, 2000 (Exh. 2), updated September 11, 2000 (Exh. 3), established that the proposal is fundable. 760 CMR 31.01(2)(f).

II. FACTUAL BACKGROUND

The developer proposes to build a 300-unit apartment complex on a 42-acre site off Hilltop Drive and Pine Street in Walpole at the Foxborough town line. The apartments will be directly south of the strip of land bordering Route 1 that has been reserved for commercial use. See Exh. 5, sheet 5. Route 1 is a divided, four-lane highway, and in this location runs generally east-west. It can fairly be described as "a commercial strip," though in this area, at least half of the lots along the highway are undeveloped. Board's Brief, p. 25; Exh. 27; Tr. I, 41-44. The site is generally shaped like the letter "U," with the upper, northern portions abutting the highway. As a result of the earlier proceedings before the Board, in order to accommodate to the town's interest in preserving commercial uses along the highway, four acres at the top of the U directly adjacent to Route 1 have been set aside by the developer for future commercial development. Tr. I, 34-35, 61; Exh. 7, p. 4.

The bottom of the U is formed by the shoreline of a large pond, Ganawatte Farm Pond. The housing will be built in the middle part of the U, on the central, 20-acre portion of the site, which is separated from the pond by several acres of wetlands and six acres of upland, open-space buffer. Tr. I, 33, 35.

Inside the U is an area which is not controlled by the developer, and which was subdivided some time ago into approximately a dozen lots—three abutting Route 1 and the remainder located on a short cul-de-sac, Sunset Drive. Sunset Drive was intended as a residential subdivision, though only two houses have been built. Exh. 5; Tr. I, 27.

When the application was filed in March 2000, nearly all of the site and Sunset Drive were zoned as a Rural Residence (RR) district, though the portions along Route 1 and Pine Street were within a Limited Manufacturing (LM) district. Pre-Hearing Order, §I-7. In May 2000, the town enacted a zoning change. The only areas affected by the change were the proposed development site and the lots it surrounds on Sunset Drive. These areas are now zoned Limited Manufacturing, which permits a wide variety of manufacturing, retail, professional, and other commercial uses. Pre-Hearing Order, §I-8; Exh. 16; Tr. I, 54.

The proposed development consists of thirteen three-story buildings with one-, two-, and three-bedroom apartments. Tr. I, 58-59. There will also be a swimming pool, a tot lot, two tennis courts, and a clubhouse, which will contain common facilities for the residents and management offices. Exh. 5; Tr. I, 59.

III. ISSUES

When the Board has denied a comprehensive permit, the ultimate question before the Committee is whether the decision of the Board is consistent with local needs. Under the Committee's reg-

ulations, the developer may establish a *prima facie* case by showing that its proposal complies generally with state and federal requirements or other generally recognized design standards. 760 CMR 31.06(2). The burden then shifts to the Board to prove first, that there is a valid health, safety, environmental, or other local concern, which supports the denial, and second, that such concern outweighs the regional need for housing. 760 CMR 31.06(6); also see *Hanover v. Housing Appeals Committee*, 363 Mass. 339, 365, 294 N.E.2d 393, 412 (1973); *Hamilton Housing Authority v. Hamilton*, No. 86-21 [1 MHACR 350], slip op. at 11 (Mass. Housing Appeals Committee Dec. 15, 1988). As will be seen, our analysis of each of the local concerns raised by the Board leads us to conclude that the Board has failed to meet its burden.

This case is somewhat unusual, however, in that each of the local concerns raises, to one degree or another, the question of adequacy of existing municipal services. That is, though town counsel was skilled in presenting the Board's evidence so as to focus attention on this particular proposal, that could not disguise a much more general concern on the part of the Board that it is difficult for existing municipal services to accommodate the demands of large multifamily developments.

There can be no doubt that in Walpole, as in any number of towns, ongoing development is stretching municipal services to their limits. Any additional burden on services, whether from affordable housing or other development, is problematic. Therefore, it comes as no surprise that much of the testimony presented by the town in this case implicitly raises the argument that the Board's denial of a comprehensive permit should be upheld because of the inadequacy of municipal services, that is, because of the difficulty the town faces in expanding these services in the face of unabating demand. Though we fully appreciate the difficulties of municipal finance, that argument has been presented frequently since the Comprehensive Permit Law was enacted over thirty years ago, and it has found little favor under the statute and our regulations. And because this issue is complicated and often misunderstood, before we address the particular facts before us, we believe it is useful to review the law of municipal services, particularly as applied to subdivision approval and special permits.²

A. Municipal Services In a Traditional Land Use Context

Early court cases addressed services, particularly water supply, in general terms. "Provision for an ample supply of water for the use of those who dwell or do business in crowded centers of population is manifestly a public utility of first importance." *Loring v. Commissioners of Boston*, 264 Mass. 460, 464, 163 N.E. 82, 84 (1928). "[T]he ... landowner had a right to a supply of water, which it was the duty of the city as the operator of a public utility [citing *Loring*] to furnish on the same terms on which it furnished

The Board also conceded that Walpole has not met any of the statutory minima defined in G.L. c. 40B, §20 (e.g., that 10% of its housing stock be subsidized housing; see 760 CMR 31.04), thus foreclosing the defense that its decision is consistent with local needs as a matter of law pursuant to that section. Pre-Hearing Order, §§I-2.

2. With regard to issues on which the Comprehensive Permit Law and regulations are silent, we frequently look to precedents from traditional land use law for guidance. See *Northern Middlesex Housing Assoc. v. Billerica*, No. 89-48 [1 MHACR 508], slip op. at 9 (Mass. Housing Appeals Committee Dec. 3, 1992), *aff'd* No. 93-0067-D (Suffolk Super. Ct. May 17, 1994). Even when that is not the case, such precedents provide useful background for our analysis.

water to others." *B. & B. Amusement Enterprises, Inc. v. City of Boston*, 297 Mass. 307, 308, 8 N.E.2d 788, 789 (1937).

Later court cases began to differentiate between the role of planning boards and the role of water and sewer commissions. The role of planning boards under the Subdivision Control Law, Chapter 41, §81K, et seq. is to ensure that appropriate infrastructure is provided when subdivisions are created. Thus, even where "there was an acute shortage of water and lack of water pressure... and... a fire hazard had been created," the Court stated that "the Legislature, by the subdivision control law..., thus far has not given to planning boards the power unconditionally to disapprove a subdivision plan because its execution would impose new demands upon a community's existing water supply." *Daley Construction, Inc. v. Planning Board of Randolph*, 340 Mass. 149, 156, 163 N.E.2d 27, 31 (1959). But the Court noted that the record did not present the question of "whether, once the plan is approved, the owners of the lots... can later compel the provision to their premises of their share of the available town or water company water."

The *Daley* analysis was extended in *Baker v. Planning Board of Framingham*, 353 Mass. 141, 144-145, 228 N.E.2d 831, 833 (1967) in the context of sewer and drainage services. The Court held that the planning board had no power to deny subdivision approval where proposed sewage and surface drainage installations met established local requirements, even though the town would incur the additional expense of construction of a sewer pump station and rerouting of drainage water.

But more critical to our inquiry into municipal services is the role of water and sewer commissions, which are the bodies that authorize the actual connection of new developments to existing services. In *Rounds v. Board of Water & Sewer Commissioners of Wilmington*, 347 Mass. 40, 44, 46, 196 N.E.2d 209, 212-214 (1964), the Court provided general guidance concerning the factual decisions that must be made with regard to both water connections and service extensions. It noted that "[a] town water system... is obliged to furnish water to each prospective customer 'on the same terms on which it [furnishes] water to others' (see *B. & B. Amusement Enterprises, Inc. v. City of Boston*...), but it does not follow that all prospective customers are similarly situated so that the same terms must be applied to all of them. Prospective customers whose demands for water necessitate extensions of existing systems may stand on a different basis. ... A municipality... is permitted to exercise a reasonable and fair discretion in determining whether and upon what terms to make extensions of its lines." In *Clark v. Board of Water & Sewer Commissioners of Norwood*, 353 Mass. 708, 710-711, 234 N.E.2d 893, 895 (1968), the Court stated that "if the connection would at once overload the sewer and risk serious flooding and danger of injury to persons and property, immediate [connection to the sewer] would not be required.... The sewer commissioners, [however,] are not empowered to postpone presently sought connections to give precedence to connections contemplated for the future.... Reasonable sewer capacity being shown to serve the petitioners' buildings, they had a right to the connections."

Off-site municipal roadways present issues that are slightly different from those presented by water and sewer services. But the courts have been similarly circumspect in construing the power of a planning board under the Subdivision Control Law, and yet have left room to address the practical need to address off-site problems, at least in a limited way. Thus, in *Mac-Rich Realty Construction Co. v. Planning Board of Southborough*, 4 Mass.App.Ct. 79, 341 N.E.2d 916, 920 (1976), the Appeals Court stated, in dictum, "An otherwise proper subdivision plan may not be disapproved on the grounds that the subdivision will adversely affect traffic patterns or municipal services in the community as a whole. [citing *Daley*, supra]." But the Supreme Judicial Court, in *North Landers Corp. v. Planning Board of Falmouth*, 382 Mass. 432, 437 n.6, 416 N.E.2d 934, 938 n.6 (1981), held that the adequacy of a public way adjacent to a proposed development could properly be considered (without deciding, however, whether inadequacy of the public way alone would justify disapproval of the subdivision). The board's power was narrowly confined to issues that it had precisely regulated. Thus, a board may not require improvements to a state highway where subdivision regulations authorize it to require improvements only to streets and ways. *Sullivan v. Planning Board of Acton*, 38 Mass.App.Ct. 918, 920, 645 N.E.2d 703 (1995) (rescript); also see *North Landers Corp. v. Planning Board of Falmouth*, supra; *Castle Estates, Inc. v. Park and Planning Board of Medfield*, 344 Mass. 329, 334, 182 N.E.2d 540, 545 (1962). And yet where a developer had offered to mitigate inadequacies in the public way, it was within the authority of the board to impose conditions requiring those traffic improvements. *Miles v. Planning Board of Millbury*, 29 Mass.App.Ct. 951, 954, 558 N.E.2d 1150, 1153 (1990) (rescript), rev. den. 408 Mass. 1104, 562 N.E.2d 90.

Early cases involving special permits under the Zoning Act are somewhat similar to those under the Subdivision Control Law. In *Weld v. Board of Appeals of Gloucester*, 345 Mass. 376, 379, 187 N.E.2d 854 (1963), the Court held that permit conditions requiring later determinations rendered a decision advisory and therefore invalid, but it implied that conditions requiring off-site road improvements—if specific enough—would be proper. In *MacGibbon v. Board of Appeals of Duxbury*, 369 Mass. 512, 340 N.E.2d 487, 492 (1976), rehearing den. 369 Mass. 523, 344 N.E.2d 523, the Court found that concern about erosion was not grounds for outright denial of the special permit because "[t]he board [had] the power to order... conditions [that would mitigate erosion of on-site fill and adjoining upland]."

When the Zoning Act was substantially revised in 1975, a specific provision was added regarding special permits that allow an increase in density. The board may require the developer, "as a condition for the grant of said permit, [to] provide certain open space... traffic or pedestrian improvements, installation of solar energy systems... or other amenities." G.L. c. 40A, §9, para. 2. At the same time, the existing, general power of local boards to impose design conditions on special permits remained clear. G.L. c. 40A, §9, para. 1; also see *V.S.H. Realty, Inc. v. Zoning Board of Appeals of Plymouth*, 30 Mass.App.Ct. 530, 533, 570 N.E.2d 1044, 1045 (1991). There are no reported cases, however, that

clarify to what extent a board may require off-site improvements when no density bonus is being sought.³

To summarize, two things emerge from the above analysis of municipal services in a traditional land use context. First, in the case of special permits, the legislature chose to explicitly authorize the permitting authority to condition the permit on the provision of infrastructure improvements by the developer when the proposal takes advantage of a density bonus. G.L. c. 40A, §9. Second, in the absence of such explicit provision for other proposals in the Zoning Act or for any proposal under the Subdivision Control Law, off-site improvements are generally not required unless agreed to by the developer, although in some fact-dependent situations, courts have made exceptions and approved conditions requiring such work.

B. Municipal Services In the Context of the Comprehensive Permit Law

It might be argued as a matter of public policy that because comprehensive permits typically involve density increases as certain special permits do, boards of appeals should have the power to require developers to make off-site improvements. There is an equally strong, or stronger argument, however, that such a rule would be a barrier to the construction of affordable housing. But where possible this Committee demurs at setting public policy. The Comprehensive Permit Law was enacted by the legislature without a provision authorizing the requiring of off-site improvement of municipal services. Further, the law stated in our regulations and precedents is clear. The regulations provide that the difficulties in providing municipal services should not stand in the way of the development of affordable housing. Specifically, they state clearly that the denial of a comprehensive permit may be upheld based upon the inadequacy of municipal services or infrastructure only if the Board proves that installation of adequate services is not technically feasible or is not financially feasible due to unusual geographical or environmental circumstances. 760 CMR 31.06(8).⁴

But the nature of municipal services—from public water supply to schools, for instance—varies greatly, as do the facts surrounding different proposed developments and the availability of services in particular locations. For certain types of municipal services, our regulation applies straightforwardly. But for others, notably water and sewer services and roadways, while the general principle in the regulation that the town must provide municipal services usually applies, in certain cases, based upon careful factual analysis, we have fashioned a narrow exception within the regulation. Therefore, before we review the facts in the case before us, it is useful to examine how different types of services are dealt with under the Comprehensive Permit Law.

1. Schools - School budgets are constantly in flux, and in all school districts, teacher hiring, classroom sizes, and catchment boundaries for particular schools are adjusted to account for changes in population. Thus, our rulings have been uniform. Three of our earliest cases addressed the issue. In *Interfaith Housing Corp. v. Gardner*, No. 72-05 [1 MHACR 35], slip op. at 14 (Mass. Housing Appeals Committee Feb. 13, 1974), where the local schools were overcrowded and the high school had lost its accreditation, we said, "...the legislature felt that existing needs for low and moderate income housing were so overriding as to have priority over the admittedly pressing problem of overcrowded schools." In *Wilson Street Trust v. Norwood*, No. 71-06 [1 MHACR 49], slip op. at 25 (Mass. Housing Appeals Committee Feb. 13, 1974), *aff'd*, No. 112304 Eq. (Norfolk Super. Ct. May 7, 1975), we said, "the impact on the school system is not a ground under the statute to support a denial of a comprehensive permit." And in *Woodcrest Village Assoc. v. Maynard*, No. 72-13 [1 MHACR 61], slip op. at 27 (Mass. Housing Appeals Committee memorandum Feb. 13, 1974), *aff'd*, 370 Mass. 64, 345 N.E.2d 382 (1976), we concluded that "...the statute does not recognize [inadequate school facilities, rising costs, and the exacerbation of these problems by additional schoolchildren] as sufficient grounds for denial of a comprehensive permit." In *Georgetown Housing Auth. v. Georgetown*, No. 87-08 [1 MHACR 314], slip op. at 12 (Mass. Housing Appeals Committee June 15, 1988), a case involving the cost of both schools and other town services, we stated the principle more broadly: "We have ruled in other cases that the requirement for a town to provide municipal services is imposed upon it by law. The Town cannot use its duty to provide such services as a basis for denying or restricting a Comprehensive Permit. The cost of necessary municipal services is simply *not* an element of the concept of consistency with local needs." Also see *Millhaus Trust of Upton v. Upton*, No. 74-08 [1 MHACR 128], slip op. at 7 (Mass. Housing Appeals Committee July 8, 1975); *Haverhill Green Assoc. Ltd. Partnership v. Haverhill*, No. 87-14 [1 MHACR 332], slip op. at 33 (Mass. Housing Appeals Committee Sep. 15, 1988), *aff'd*, No. 88-5861 (Suffolk Super. Ct. Nov. 28, 1989); *Silver Tree Ltd. Partnership v. Taunton*, No. 86-19 [1 MHACR 341], slip op. at 33 (Mass. Housing Appeals Committee Oct. 19, 1988), *aff'd*, No. 88-6435E (Suffolk Super. Ct. May 10, 1989).

2. Emergency services - Police, firefighting, and emergency medical services present issues that are very similar to school services. In fact, in many cases, towns are less immediately concerned with the additional drain on emergency services caused by new development. Because of class size limitations, even a handful of new students may require a direct, measurable outlay of resources to hire a new teacher, but new households do not create any such immediate effect on emergency service person-

3. Such conditions would also be subject to the "rational nexus" and "rough proportionality" limitations related to uncompensated takings under the U.S. Constitution. See, e.g., *Dolan v. City of Tigard*, 512 U.S. 374, 114 S.Ct. 2309 (1994).

4. 760 CMR 31.06(8) provides: "In the case of either a denial or an approval with conditions, if the denial or conditions are based upon the inadequacy of existing municipal services or infrastructure, the Board shall have the burden of proving that the installation of services adequate to meet local needs is not technically or financially feasible. Financial feasibility may be considered only where there is evidence of unusual topographical, environmental, or other physical circumstances which make the installation of the needed service prohibitively costly."

nel needs. Instead, they increase the pressure on resources in an incremental way, and it is perhaps for this reason that rarely in our cases have towns argued that affordable housing should not be permitted since it would require the hiring of additional emergency personnel.

One difference between emergency services and school services is that the *location* of new development may affect the availability of emergency services. That is, particularly if emergency services are provided from one central location, development at the outskirts of town may strain services in the sense that response times may lengthen. But even though the housing may be "at such distance from the center of Town, [that] there will be delays in police and fire services reaching [the site],... [the] duty of supplying adequate fire and police services is a municipal duty which the town must supply as it does to other residents..." *Line Street Assoc. v. Southampton*, No. 83-06 [1 MHACR 278], slip op. at 5-7 (Mass. Housing Appeals Committee Nov. 22, 1985), *aff'd sub nom. Houle v. Housing Appeals Committee*, No. 85-472 (Hampshire Super. Ct. Jan. 2, 1987). Also see discussion in section II-C(1)(b), *infra*.

3. Roadways - Quite different from school services and emergency services is the roadway infrastructure that a town provides for its residents. But on the townwide level, affordable housing creates incremental pressure on the townwide roadway infrastructure, just as it does on schools, and the costs associated with that can no more be used to justify denial of a comprehensive permit than can the costs of schools. *Merrimack Meadows Corp. v. Tewksbury*, No. 87-10 [1 MHACR 321], slip op. at 33 (Mass. Housing Appeals Committee Aug. 23, 1988) ("There is no evidence that the Town has done anything to limit or control [traffic] growth. It is simply not realistic for the Town to start to address the overall problems in the Route 133 corridor by denying this application...").

Further, the town cannot require the developer to remedy existing traffic problems even if they are in the area where the proposed development is located. *Mapleleaf Development Assoc. v. Haverhill*, No. 88-14 [1 MHACR 516], slip op. at 22 (Mass. Housing Appeals Committee Jan. 27, 1993) ("The city cannot point to a bad situation which it is under a duty to remedy as a ground for denying a comprehensive permit..."); *Silver Tree Ltd. Partnership v. Taunton*, No. 86-19 [1 MHACR 341], slip op. at 24-26 (Mass. Housing Appeals Committee Oct. 19, 1988), *aff'd*, No. 88-6435E (Suffolk Super. Ct. May 10, 1989) (developer's offer of limited roadway improvements cannot be used to impose upon him the burden of a major realignment of bridge approaches); also see *Medway Housing Auth. v. Medway*, No. 82-07 [1 MHACR 237], slip op. at 22, 26 (Mass. Housing Ap-

peals Committee Mar. 28, 1983) (off-site sidewalks); *Sheridan Development Co. v. Tewksbury*, No. 89-46 [1 MHACR 393], slip op. at 6 (Mass. Housing Appeals Committee Jan. 16, 1991) (existing off-site traffic hazard).

The exception within our regulation, however, is that a developer may properly be required to mitigate specific traffic problems that the new development will cause on roads in the immediate vicinity of the site.⁵ *CMA, Inc. v. Westborough*, No. 89-25 [1 MHACR 458], slip op. at 36-37 (Mass. Housing Appeals Committee June 25, 1992). As is clear from the lengthy discussion in *Westborough*, when mitigation is necessary, it frequently addresses existing problems as well. Thus, a detailed factual analysis is necessary to apportion the costs of mitigation between the problems caused by the new development and existing problems. See *CMA, Inc. v. Westborough*, *supra*, slip op. at 37.

4. Water and Sewer - Water and sewer services present issues quite similar to traffic, though sometimes more complex. Again, the developer cannot be expected to address townwide inadequacies. *Millhaus Trust of Upton v. Upton*, No. 74-08 [1 MHACR 128], slip op. at 20-21 (Mass. Housing Appeals Committee July 8, 1975) (possible inadequacies of water supply not justification for denial of comprehensive permit where the entire town would benefit from various needed improvements, in regard to which the town has been derelict).

Similarly, the town cannot require the developer to remedy existing infrastructure problems even if they are in the area where the proposed development is located. *Dexter Street L.L.C. v. North Attleborough*, No. 00-01 [1 MHACR 614], slip op. at 17 (Mass. Housing Appeals Committee Jul. 12, 2000) (partial sewer blockage and manhole surcharging problem unaddressed for fifteen years may not be used as the basis for denial of permit); *Franklin Commons Ltd. Partnership v. Franklin*, No. 00-09 [1 MHACR 633], slip op. at 15 (Mass. Housing Appeals Committee Sep. 27, 2001) (long-standing sewer capacity problems related to inflow and infiltration not sufficient justification for denial of permit).

What may properly be required of the developer is that it provide limited off-site water or sewer services or mitigate specific problems if necessitated by the new development itself. This is the clear implication, if not the holding, of one of our earliest cases, *Woodcrest Village Assoc. v. Maynard*, No. 72-13 [1 MHACR 61], slip op. at 18-19 (Mass. Housing Appeals Committee memorandum Feb. 13, 1974), *aff'd*, 370 Mass. 64, 345 N.E.2d 382 (1976) (developer agreed to construct 2,000 feet of sewer). It is also consistent with our holding with regard to traffic in *CMA, Inc. v. Westborough*, *supra*, slip op. at 36. And, as discussed above with regard to traffic, sorting out what mitigation is re-

5. This is common practice for development under traditional land use controls as well. See *Miles v. Planning Board of Millbury*, 29 Mass.App.Ct. 951, 558 N.E.2d 1150, 1153 (1990), rev. den. 408 Mass. 1104, 562 N.E.2d 90 (conditions formalizing the developer's offer to improve an adjoining public way are within the authority of the board). We believe that where the developer does not offer such mitigation, under the Comprehensive Permit Law it may be required. An exception to this rule may be if the town has no history of requiring traffic mitigation when approving traditional development.

In *Stuborn v. Barnstable*, No. 98-01 [1 MHACR 599], slip op. at 20, n.14 (Mass. Housing Appeals Committee Mar. 5, 1999), we indicated that it may also be permissible for a board to impose certain unusual on-site requirements, such as public access.

quired because of the proposed development and what is necessitated by existing problems requires detailed factual analysis.⁶

C. The Board has not satisfied its burden of proving a local health and safety concern that outweighs the regional need for housing.

The local concerns raised by the Board, as enumerated in the Pre-Hearing Order, are the adequacy of the sprinkler system proposed for the development, the adequacy of emergency access, the adequacy of water supply for fire protection and for domestic use, the adequacy of sewer service, and pedestrian safety. Pre-Hearing Order, §II-C(2). We will address each, grouping them into four slightly different categories.

1. *Fire protection*

a. *Water supply at the site is adequate for fire protection.*

Water for both fire protection and domestic use will be supplied to the development by the Walpole municipal water system. The developer maintains that the water supply to the site is adequate, and the town disputes this. Water for fire protection must be sufficient to supply both sprinkler systems in the buildings and the needs of firefighters who arrive at the scene of a fire. (All of the buildings in the proposed development will be built with an integrated "fire protection package," that is, they will have automatic fire detection devices, sprinkler systems, and alarm systems. Tr. I, 126. The Board also maintains that the development should be built to a sprinkler system standard higher than that required by the Massachusetts State Building Code; see section III-C(1)(b), below.)

The developer presented testimony from Bob Cummings, a well-qualified, expert, professional engineer, who specializes in sprinkler and alarm systems. Tr. I, 120-126, 133. Mr. Cummings undertook an analysis of water needs and availability for the proposed development. Tr. I, 134-137; II, 31-52; see Exh. 14.

Beginning his analysis of the need for water on the National Fire Protection Association requirements for the sprinkler system, he determined that the maximum demand would be 328.9 gallons per minute (gpm) at 54.3 pounds per square inch (psi) (including 100 gallons per minute additional "hose stream" for firefighters to use—typically from within the building on a fire partially suppressed by the sprinklers). Tr. II, 31-34, 36, 42, 95. He then reviewed results of the water flow tests performed using hydrants located on Route 1 at the site and on Pine Street at the intersection of Route 1, just north of the site. See Exh. 12, 5, 13; Tr. II, 43-49. The test at Pine Street showed static pressure of 58 psi and 505 gpm flow with residual pressure of 42 psi. The test on Route 1 showed static pressure of 63 psi and 995 gpm flow with residual pressure of 54 psi. Tr. II, 43-44, 49; Exh. 12. Using the location with the higher pressure and flow—Route 1—Mr.

Cummings calculated that at the 54.3 psi pressure required for the combined sprinkler/hose stream demand, 995 gpm would be available, leaving an excess of roughly 670 gpm at 54.3 psi. Exh. 28; Tr. II, 50-52, 61. This, in his opinion, was more than adequate for fire protection. Tr. II, 53. (There was no indication in testimony of how many gallons per minute this excess would be equivalent to 20 psi, though clearly it would be more than 670 gpm.)

The Walpole fire chief, who is also highly qualified in terms of both academic credentials and practical experience, approached the problem differently, and testified that both using the Iowa Formula and his own experience, 3,600 to 4,000 gpm at 20 psi would be necessary. Tr. III, 116. His opinion was based on the assumption that the building would not be sprinklered. Tr. III, 172.

Finding common ground between different approaches used by different experts is never easy. It can be helpful to examine independent standards such as those used by the Insurance Services Office, Inc. (ISO) in its classification system, which provides guidance in setting private insurance rates. See Exh. 31. Though these standards are in no way binding, they are sometimes illuminating.

For fire insurance purposes, the ISO calculates flows at 20 psi. Exh. 31, at p. HPLP 3006. The fire chief testified and Exhibit 14 clearly shows that 2,200 gpm are available at 20 psi.⁷ Tr. III, 170, 172; Exh. 14, at p. HPLP 1826 (upper right corner). Mr. Cummings testified that ISO standards for needed flow for an *unsprinklered* building the size of the proposed buildings are 2,200 to 4,000 gpm at 20 psi. Tr. II, 97. Presumably a sprinklered building would require less flow, though not significantly less in the worst case scenario, that is, if the sprinklers fail to contain the fire and the entire building burns. But in that case, the excess flow of 670 gpm at 54 psi plus the 100 gpm "hose stream" would be available to the firefighters. Though it is not clear how much this flow represents at 20 psi—the availability of this excess is consistent with Mr. Cummings' testimony that there is adequate water supply for fire protection.

We accept Mr. Cummings' conclusion, and find that the Board has not rebutted it.

Finally, even if we had found that water service was inadequate here, if that situation resulted from a townwide problem or an existing infrastructure problem, then under our law and regulations the town would be obligated to find a remedy rather than deny the comprehensive permit. In this case, there has been no proof by the town that installation of adequate services is not technically or financially feasible, nor that there is a specific water service problem caused by the proposed development. See 760

6. In exceptional factual circumstances where there are no practical solutions to the problem the proposal presents, the permit may be denied. This appears to be the holding in *Berkshire East Assoc. v. Huntington*, No. 80-14 [1 MHACR 226], slip op. at 19-23 (Mass. Housing Appeals Committee June 1, 1982), and is consistent with the "technical feasibility" provision of 760 CMR 31.06(8). Assuming that the water problems in *Huntington* were not specifically related to the proposed housing, if mitigation had been technically and financially feasible, the town should have been required to provide the services.

7. Exhibit 31 (at p. HPLP 3006) shows figures used by the ISO for both needed and available flows in various locations in Walpole. The *needed* flow figures are not particularly helpful since they range from 750 gpm at 20 psi to 6000 gpm at 20 psi, and for a "Rte 1@ Pine" test location they simply indicate the needed flow as "info only." The available flow at that location is shown as only 850 gpm at 20 psi. But it seems likely that this test was done at the Pine Street location where the developer's consultants also found lower pressure, since this 850-gpm figure is consistent with the graphic representation of pressure for "Test 1" on page HPLP 1825 of Exhibit 14.

CMR 31.06(8); *Millhaus Trust of Upton v. Upton*, No. 74-08 [1 MHACR 128], slip op. at 20-21 (Mass. Housing Appeals Committee July 8, 1975); and discussion in section III-B(4), above. In fact, part of the case presented by the Board was that an additional problem in fighting fires was that in the case of a fire that could not be extinguished for several hours, an insufficient volume of water might be available due to storage problems in the town water system. We discuss the storage issue in more detail in section III-B(2), below, but if this were in fact true, it would certainly not be a problem specific to this site, but rather an existing, widespread or townwide problem that the municipality would be under an obligation to remedy.⁸ See Tr. III, 189-190, 193; Exh. 25, p. HPLP 1791.

b. Adequate fire fighting services can and will be supplied to the proposed housing.

The location in which this housing development is proposed is unusual. For everyday access, its location near a major commercial highway is ideal for an automobile-oriented apartment complex. Residents and visitors can come and go easily, and traffic and visual impacts on neighbors are minimized. Tr. I, 30. But because this development is at the edge of town, access for emergency services is less than ideal.

The primary concern articulated by the town is that the site's location is inherently unacceptable for the proposed housing due to the length of time required for fire apparatus to respond to a fire. The crux of the problem, however, lies with the inadequacy of the townwide emergency response system.⁹ The Walpole fire chief testified that the town's system of response from a single central location is "an extremely ineffective way to run the business," and that not only is fire response in Walpole inadequate in comparison to surrounding towns, but that it also prevents the town from doing fire prevention. Tr. III, 36, 41-42, 143-149, 212-216, 244-245. But, as discussed in section III-B(2), above, the inadequacy of townwide emergency services is not justification for denial of a comprehensive permit.¹⁰ 760 CMR 31.06(8); *Line Street Assoc. v. Southampton*, No. 83-06 [1 MHACR 278], slip op. at 5-7 (Mass. Housing Appeals Committee Nov. 22, 1985), *aff'd sub nom. Houle v. Housing Appeals Committee*, No. 85-472 (Hampshire Super. Ct. Jan. 2, 1987) (even though the

housing may be "at such distance from the center of Town, [that] there will be delays in police and fire services reaching [the site],... [the] duty of supplying adequate fire and police services is a municipal duty which the town must supply as it does to other residents....").

Related to fire response times are concerns about the sprinkler system in the buildings, since such systems are designed to suppress fires quickly and control or limit the spread of the fire while firefighters are en route. The developer proved that the proposed fire protection system has been designed to comply with accepted safety standards, and it has provided the sprinkler system required by the Massachusetts State Building Code. Tr. I, 137-146; Tr. II, 18-21; Exh. 14; see particularly 780 CMR §§310.4, 503.1 (Table 503), 904.7, 906.2.2 (Massachusetts State Building Code). The Board argues, however, that if this housing is built, the sprinkler system should be designed to the NFPA 13 standard rather than the NFPA 13R¹¹ standard, that is, that the developer should be required to meet a higher sprinkler system standard than that required by the state building code.

There can be no doubt that in most fire situations, the primary purpose of a sprinkler system is to slow the spread of a fire and thus lengthen the effective response time. Tr. I, 7. On the surface, the NFPA 13 system would seem to provide a significant amount of additional protection for residents. In addition to the normal sprinkler heads in living units, hallways, and stairwells, sprinkler heads would be placed in uninhabited areas, such as attic spaces. Tr. I, 147-148, 151-152. For fires starting in those areas, the enhanced system might add to the effective response time.¹² But in apartment buildings, the vast majority of all fires—and an even greater number of fires resulting in injury or death—start in inhabited areas. Exh. 29; also see Tr. I, 150, 153. Thus, the NFPA 13 system, which is designed principally to provide property protection, does not provide significantly more life protection in an apartment than does the residential, NFPA 13R system. Tr. I, 150; II, 8. We find that the Board has not proven that protection in such limited circumstances justifies the installation of the NFPA 13 system.¹³ And, in addition, we are very reluctant to impose building code requirements on affordable housing that could not be imposed on market rate housing. Such requirements

8. There was testimony that since the area in which the site is located is supplied by booster pumps and the central area of Walpole has excess storage capacity, improvements in those pumps could remedy the situation. Tr. V, 122, 123, 126; also see Tr. VI, 124-126. Other improvements are also being undertaken by the town. See section III-B(??), below; also see Tr. V, 46-49, 59, 182-183.

9. The developer also argues convincingly that the Board's unwavering focus on response time is misplaced. The fire protection system design is based on an integrated system of detection, alarm, and fire suppression. When the system detects a fire (even in an attic, where there are heat sensors), an alarm will sound both in the building and the fire department, and if the fire is in an inhabited location, the fire will be suppressed to give residents additional time to get out of the building safely. Tr. II, 11. Such a system provides an added margin of safety since it does not rely on an uncertain manual alarm and unpredictable response time by the fire department. Tr. II, 9, 12, 25.

10. The Board makes the interesting argument that because of the number of units in this distant location, there is an increased probability of fire apparatus being far from the scene of a second, nearly simultaneous alarm. This is undoubtedly true. And, if we could infer a coherent plan to locate housing in central areas of the town and leave outlying areas truly rural, this might bear consideration.

But the Board has not shown that any such comprehensive plan exists in Walpole, and in fact, subdivisions of single-family homes are scattered in what appears to be quite random fashion throughout the town. Exh. 38. Thus, where the Board has not proven a nexus between a reasonably well implemented, townwide development plan and fire safety concerns, we will not consider the location of this development *per se* to be a legitimate local concern.

11. The NFPA 13R (National Fire Protection Association, 13-Residential) standard was developed as a less comprehensive and therefore less costly version of the NFPA 13 standard in order to encourage more widespread use of sprinkler systems in residential buildings Tr. I, 150.

12. This cannot be said conclusively, however, because even with the NFPA 13R system, the heat sensors in some locations, *e.g.*, the attic would send an alarm to the Fire Department. See Tr. II, 11.

13. There was also testimony from both experts about the added protection provided by the sprinklers in closets and bathrooms required in the NFPA 13 system. See, *e.g.*, Tr. II, 66, 72-73; II, 112. We find that the Board has not sustained its burden in proving that these offer a significant advantage.

obviously raise the costs of construction, and the purpose of the Comprehensive Permit Law is to eliminate barriers to the construction of affordable housing. It is only truly exceptional circumstances, which have not been proven here, that would justify deviating from the policy stated in the Comprehensive Permit Law that local requirements be "applied as equally as possible to both subsidized and unsubsidized housing." G.L. c. 40B, §20.

The Board also argues that the proposed development is isolated by Route 1, and attempts to portray the highway as a nearly impenetrable barrier, which might prevent firefighters from reaching the proposed housing. A large stadium used for professional football games and concerts is located on Route 1 in Foxborough, approximately a mile south of the site. Undoubtedly, there is very heavy traffic on the highway for about two hours before and after particularly large events at the stadium, which occur approximately 20 times per year. Tr. III, 131-132. But state police officers control the highway and intersections during these events, and we have not been convinced that emergency vehicles are unable to pass through the intersection of Route 1 and Pine Street. See Tr. III, 63-69, 126-128; Exh. 26. In addition, there are already a number of residences in the same area, including the recent, partially built Ganawatte Farms subdivision. Tr. I, 37-38; II, 133; III, 124, 201; IV, 176; also see Tr. I, 43-44, III, 158-167. And, the catastrophe that the Board conjures up is too remote a possibility to justify the denial of a comprehensive permit. See *Silver Tree Ltd. Partnership v. Taunton*, No. 86-19 [1 MHACR 341], slip op. at 24-25 (Mass. Housing Appeals Committee Oct. 19, 1988) (possibility that a 100-year storm might flood a street on both sides and cut off a peninsula is speculative).

Finally, the Board presented evidence to show that provision of emergency services is not financially feasible. The Walpole town administrator testified that budget constraints may require reductions in public safety personnel, and that there is no possibility of opening a fire station in south Walpole. Tr. VI, 16-17. But our discussion of emergency services, above, has assumed that there would be no fire station in south Walpole, and we have seen no proof as to how personnel reductions might affect the specific housing development that is before us. Under the facts presented here, even though the housing site is on the south side of Route 1 at the town line, the Board has not sustained its burden of proving that "installation... of services... is not technically or financially feasible... due to unusual... physical circumstances..." See 760 CMR 31.06(9), Pre-Hearing Order, §II-D(5), Tr. VI, 13.

c. Access to the site for medical emergencies is adequate.

Little time was spent during the hearing on medical emergencies, which pose problems similar to, but of even less concern than fires. Residents of these apartments are the same distance or even slightly closer to emergency services than residents of the new Ganawatte Farm subdivision. Assuming that the first response when a medical emergency call is received is by fire apparatus, the response time would be the same. Tr. II, 30. And, apartment residents are arguably at a slight advantage in any case since they have more neighbors close at hand who may offer assistance than do those who live in single-family homes. To prohibit the construction of affordable housing based upon inadequate medical

emergency response time would violate the Comprehensive Permit Law's injunction that local requirements are to be "applied as equally as possible to both subsidized and unsubsidized housing." G.L. c. 40B, §20.

2. Townwide Water Supply

In addition to the testimony of the fire chief with regard to the adequacy of water supply for firefighting specifically at the site (see II-B(1)(a), above), the Board also presented evidence from a registered professional civil engineer concerning the overall, townwide water supply in Walpole. In particular, it argues that townwide storage capacity affects water availability for both general use and for firefighting.

Walpole draws its water from its own wells, and accounts for variations in short-term supply and usage by maintaining several large storage tanks. Tr. V, 13-15. There has been at least some water supply deficiency since 1987, when the town began adding new wells. Tr. V, 65; VI, 33-34; Exh. 25, p. HPLP 1791, 1806. In particular, there are water quality problems and lack of storage capacity that make it difficult to respond to high mid-summer demand and routine maintenance needs. Tr. V, 29-30, 35, 45-48, 59. There is not, however, an emergency situation that has resulted in water being unavailable or the town needing to place a moratorium on water connections. Tr. V, 73, 77-78, 110-111. It is fair to say, however, that at present water shortages are likely during dry summer months. For example, the town imposed an outdoor water restriction in 1999, though this is quite common in towns in the vicinity of Walpole. Tr. VI, 105-107.

The Board's expert testified that there is adequate water available in the aquifer below the town, and that in fact the amount of water available to be drawn from wells in 1999 exceeded the average daily demand by about 40%. Tr. V, 112-113, 185, 67. But because of expected increases in demand, that expert believes that there will be serious deficits by 2010 and 2020. Tr. V, 28, 109-110. It is quite clear, however, that such deficits are not inevitable, but have been projected so that the town can plan to meet future needs. Tr. VI, 108. In fact, the town has plans for rehabilitating wells, for building a new storage tank, and for implementing leak detection and water conservation programs. Tr. V, 46-49, 59, 182-183. This work is likely to be completed in 2004. Tr. V, 58, 62; VI, 96. Because of this situation, the Board "has not suggested that the insufficiency... should stand as a permanent bar to construction" of the proposed development, but rather that it be delayed until the water system improvements have been made. Board's Brief, p. 29 (filed Jun. 25, 2001).

The developer's expert forcefully challenges the conclusions that the Board relies upon. He points to a conceded calculation error, as well as a number of disagreements over methodology. Tr. V, 91, 95, 102, 130-131; VI, 97-98, 114-115, 118, 145-147, 155, 158-159; Exh. 46-50; cf. Tr. V, 190-193. He concludes that both water demands and resulting supply deficits were overestimated. Tr. VI, 87. Further, from 1997 until 2000, the South Walpole storage tank never dropped below its normal operating water level. Tr. VI, 110-112. Taking all of the relevant factors into consideration, he believes that the town does not need to build the planned additional storage tank. Tr. VI, 156.

On balance, we find the presentation by the developer's expert regarding water supply to be the more credible. And particularly since the town is moving ahead with plans to rehabilitate wells and increase storage capacity, we find that the Board has not sustained its burden of proving that the water supply is so inadequate so as to constitute a local concern which outweighs the regional need for housing.

Finally, any inadequacy in water supply is an existing townwide problem. See, e.g., Tr. V, 29-30, 44; Exh. 25, p. HPLP 1791, 1806. This cannot justify the denial of the comprehensive permit. 760 CMR 31.06(8); *Millhaus Trust of Upton v. Upton*, No. 74-08 [1 MHACR 128], slip op. at 20-21 (Mass. Housing Appeals Committee July 8, 1975); also see discussion in section III-B(4), above.

3. Sewer

The developer proposes that sewage flow by gravity within the site to a privately-owned pump station (which will have a holding tank and 24-hour maintenance), and then be pumped by force main to connect to an existing town sewer at the intersection of Route 1 and Pine Street. Tr. II, 119-125, 155; Exh. 5, sheet 6. There is currently no sewer main along Route 1, though such a main was recommended in the town's 2000 Master Sewer Plan. Tr. II, 121; VI, 33; Exh. 17, 19. The Board argues that the developer's plan is inconsistent with the town's sewer master plan, that it will use an inordinate amount of future capacity, that it will perhaps cause surcharging of the existing system, and that therefore the comprehensive permit should be denied.¹⁴

We will address the sewer master plan in general first. A sewer master plan is a planning tool which attempts to anticipate the sewer needs of future development; its purpose is not to control development, nor does it impose specific requirements on new development. Tr. 2, 140-141, 158; Tr. IV, 10-11, 127-128. It must be contrasted with a Zoning Master plan. If the town's zoning by-law is consistent with a master plan, then together they actually control development in the town. Under some circumstances, when such a master plan provides sufficiently for affordable housing, we will give it deference. See *Harbor Glen Assoc. v. Hingham*, No. 80-06 [1 MHACR 230], slip op. at 12-14 (Mass. Housing Appeals Committee Aug. 20, 1982); *KSM Trust v. Pembroke*, No. 91-02 [1 MHACR 427], slip op. at 5-8 (Mass. Housing Appeals Committee Nov. 18, 1991). Obviously, when it makes technical and financial sense, a developer should attempt to conform to the town's sewer master plan. But such a plan may not be used as a barrier to the development of affordable housing. We understand that at some indefinite time in the future the town hopes to be able to install a sewer main along Route 1, and as a result would prefer that no new development take place in this area until that service is available. But that is not justification for preventing the proposed development from taking advantage of

the practical alternative of connecting by force main to the existing sewer at the intersection of Route 1 and Pine Street.

The Board also argues that under any design scenario, the construction of the proposed 300 units greatly exceeds the growth projections upon which the sewer master plan was based. Specifically, the master plan assumed that 85 additional single-family homes (or 340 Bedrooms) would be added each year.¹⁵ Tr. IV, 44. To place this projection in context, calculations from the Master Sewer Plan show 6,309 developed lots and 3,916 undeveloped lots in Walpole (whose 2000 population was 22,912). Exh. 17, pp. HPLP 2032-2044; also see Tr. IV, 129-130; V, 86. Of the developed lots, 3,539 currently have municipal sewer service. *Id.* We believe that in essence the town's argument is the one we rejected in *Millhaus Trust of Upton v. Upton*, *supra*, namely that the proposal overburdens the townwide sewer system as a whole. Under the Comprehensive Permit Law, it is not sufficient to simply point to the fact that a large multifamily affordable housing proposal was not anticipated in the master plan. 760 CMR 31.06(8); see discussion in section II-B(4), above.

Moving beyond planning issues to specific design concerns raised by the town, we credit the testimony of the developer's expert witness, James Colantonia, a registered professional engineer with prior experience working in the town of Walpole. Tr. II, 103, 108-110. The proposed approach is consistent with industry standards, and in fact has some advantages over a purely gravity fed system. Tr. II, 129-131, 151. In general, force mains are common in Walpole, which has many public and private pump stations, with three in the immediate area of the site and additional stations proposed for the future. Tr. II, 133, 137-138; Exh. 19; Exh. 17, p. HPLP 2088. Specifically, the town is concerned that the system has not yet been designed to the point of providing full construction drawings, and that there is the potential for it to cause surcharging of the municipal system, perhaps requiring upgrading of downstream sewer mains. Tr. IV, 40-43, 46.

The design of the on-site pumping station with a holding tank is straightforward, and final construction drawings need not be provided at this time. Tr. II, 151; see *Oxford Housing Auth. v. Oxford*, No. 90-12 [1 MHACR 433], slip op. at 4-5 (Mass. Housing Appeals Committee Nov. 18, 1991). The problem of possible surcharging is minimized by the use of a pumping system. While flows in the parts of the municipal system that are fed by gravity tend to peak at the same time—at the times of day when domestic usage is highest—the holding tank permits the release of sewage from the proposed development to be timed for intervals when more capacity is available in the municipal system. Tr. II, 142. The Board's expert conceded this. Tr. IV, 48, 110-112. The Board has not established a concern with the sewer design sufficient to outweigh the need for affordable housing. See Tr. IV, 120.

Finally, even if improvements to the municipal sewer infrastructure were essential, we find that the possible lack of downstream

14. Neither party has proposed, in the context of this hearing, that the developer install a gravity sewer system, apparently because of the great expense involved. See Tr. II, 159; IV, 88, 133-137; Board's Brief, pp. 32-33.

15. Testimony indicated that there is townwide restriction limiting new development to 85 homes per year. The bylaw or regulation that contains this restriction was not offered into evidence, nor was the restriction itself put forward in evidence or argument as an independent justification for denying the comprehensive permit. Therefore, we do not consider it.

capacity is not a problem specific to this development, but rather, an existing infrastructure shortcoming that the town is obligated to remedy. *E.g.*, Tr. IV, 97-98; see 760 CMR 31.06(8); *Dexter Street L.L.C. v. North Attleborough*, No. 00-01 [1 MHACR 614], slip op. at 17 (Mass. Housing Appeals Committee Jul. 12, 2000); *Franklin Commons Ltd. Partnership v. Franklin*, No. 00-09 [1 MHACR 633], slip op. at 15 (Mass. Housing Appeals Committee Sep. 27, 2001); and discussion in section III-B(4), above.

4. Pedestrian Safety

The Board also raised the concern that there are not adequate pedestrian facilities along Route 1 and for crossing Route 1. The sidewalks within the proposed development are adequate, although as proposed they would not connect with either Route 1 or Pine Street. Exh. 5; Tr. III, 197.

There are currently no sidewalks along Route 1. Tr. III, 198; IV, 162. Though it is unclear to what extent people desire to walk along the highway, there are already several existing uses that are just as likely to need pedestrian access as the proposed housing. An amusement center, a dormitory that will house young people at the Iorio skating facility, and a new preschool are all located on Route 1, and football fans routinely walk along the highway to and from the stadium. Tr. III, 198-199, 204, 207-208; IV, 165, 163, 198; Exh. 39. The intersection nearest the proposed housing is that of Route 1 and Pine Street. It currently has traffic signals, but no crosswalks; other intersections on Route 1 do have crosswalks, and crosswalks could be added at this location. Tr. III, 130, 198; IV, 168-170. Finally, as part of infrastructure improvements related to the construction of a new stadium, sidewalks will be extended on both sides of Route 1, at least as far as the Foxborough/Walpole town line, and perhaps as far as the proposed development. Tr. III, 202-203.

Pedestrian access is an existing problem, which will not be exacerbated by the proposed development, and is not grounds for denial of the comprehensive permit. *Sheridan Development Co. v. Tewksbury*, No. 89-46 [1 MHACR 393], slip op. at 6 (Mass. Housing Appeals Committee Jan. 16, 1991); also see cases cited in section III-B(3), above. If pedestrian controls at the intersection do not exist when the stadium-related improvements are completed, they should be installed at the developer's expense, and in any case the developer should extend the sidewalks within the development to provide access to both Route 1 and Pine Street. See conditions in sections IV-2(b), IV-2(c), below.

IV. CONCLUSION

Based upon review of the entire record and upon the findings of fact and discussion above, the Housing Appeals Committee concludes that the decision of the Walpole Board of Appeals is not consistent with local needs. The decision of the Board is vacated and the Board is directed to issue a comprehensive permit as provided in the text of this decision and the conditions below.

1. The comprehensive permit shall conform to the application submitted to the Board except as provided in this decision.
2. The comprehensive permit shall be subject to the following conditions:

(a) The development shall be constructed as shown on drawings entitled "The Preserve," dated March 15, 2000, revised August 18, 2000, signed and stamped by Harold William Moore, P.E. (Exhibit 5).

(b) Sidewalks within the development shall be extended to both Route 1 and Pine Street.

(c) If pedestrian controls at the intersection of Route 1 and Pine Street do not exist when stadium-related sidewalk improvements are completed, the developer shall pay for installation of such controls if approved by the town.

(d) The developer shall apply, pursuant to usual town procedures, for water and sewer connection permits. Such permits shall be issued pursuant to 760 CMR 31.09(3) upon payment of established fees in effect at the time of the developer's original application to the Board (including the usual required contribution to an infiltration/inflow reduction program, if any), reduced by the proportion that affordable units are in relation to total housing units.

(e) The developer shall install the sewage holding tank described at Tr. II, 155, which shall be subject to town review and approval pursuant to 760 CMR 31.09(3).

3. Should the Board fail to carry out this order within thirty days, then, pursuant to G.L. c. 40B, §23 and 760 CMR 31.09(1), this decision shall for all purposes be deemed the action of the Board.

4. Because the Housing Appeals Committee has resolved only those issues placed before it by the parties, the comprehensive permit shall be subject to the following further conditions:

(a) Construction in all particulars shall be in accordance with all presently applicable local zoning and other bylaws except those waived by this decision or in prior proceedings in this case.

(b) The subsidizing agency may impose additional requirements for site and building design so long as they do not result in less protection of local concerns than provided in the original design or by conditions imposed by the Board or this decision.

(c) If anything in this decision should seem to permit the construction or operation of housing in accordance with standards less safe than the applicable building and site plan requirements of the subsidizing agency, the standards of such agency shall control.

(d) No construction shall commence until detailed construction plans and specifications have been reviewed and have received final approval from the subsidizing agency, until such agency has granted or approved construction financing, and until subsidy funding for the project has been committed.

(e) The Board shall take whatever steps are necessary to ensure that a building permit is issued to the applicant, without undue delay, upon presentation of construction plans, which conform to the comprehensive permit and the Massachusetts Uniform Building Code.

This decision may be reviewed in accordance with the provisions of G.L. c. 40B, §22 and G.L. c. 30A by instituting an action in the Superior Court within 30 days of receipt of the decision.

April 10, 2002, Housing Appeals Committee, Werner Lohe, Chairman, Joseph P. Henefield, Marion v. McEttrick, Mark Siegenthaler, and Frances C. Volkmann

* * * * *

Eversource to Deliver Significant Electricity Savings to Customers in Eastern Massachusetts

Six-month Basic Service Supply Charge to Drop by 24 Percent

BOSTON (May 16, 2016) – Eversource today filed a proposed supply rate with the Department of Public Utilities that is 24 percent lower than the current rate. If approved, Eversource customers in Eastern Mass. who are on the company's Basic Service supply option will see the savings on their electric bill beginning July 1st. Eversource was able to secure the lower six-month price for customers thanks to a drop in wholesale power prices.

"We're very excited to share such positive news with our customers," said Penni Conner, Senior Vice President and Chief Customer Officer at Eversource. "This drop in generation prices is coming at the time of year when customers are increasingly using more energy to cool their homes and businesses."

The proposed supply rate is 8.208 cents per kilowatt-hour, down from the current rate of 10.844 cents. The decrease will result in a monthly savings on the supply charge of \$15.81 for residential customers using an average of 600 kilowatt-hours of electricity.

As a regulated delivery company, Eversource purchases electricity from suppliers and passes on the cost, with no profit added, directly to customers on the company's Basic Service supply option. All customers also have the option to purchase electricity from competitive suppliers. The Mass. Department of Public Utilities licenses competitive suppliers within the commonwealth and maintains a [list of current offers available from suppliers](#).

Also effective July 1st will be an increase in the rate used to fund statewide energy efficiency programs. The increase of 1.042 cents per kilowatt-hour will add \$6.26 to the average monthly bill. These highly successful programs, available to all customers of the commonwealth's investor-owned utilities, have led to Massachusetts being named number one in the nation in energy efficiency for five straight years.

The combined effect of the changes in the supply and energy efficiency charges will result in an overall decrease of nearly \$10 a month. Residential bills for 600 kilowatt-hours of electricity in Eversource's Greater Boston and MetroWest service area will decrease to \$120.34 from \$129.89, or 7.4 percent on the total bill.

Because delivery charges vary by region, residential bills for 600 kilowatt-hours of electricity in Eversource's South Shore and Greater New Bedford service area will go to \$126.43 from \$135.98, also a decrease of nearly \$10 a month.

"Even with the drop in the price of electricity, our customers can take advantage of deeper savings by making full use of the energy efficiency programs available to them," added Conner.

The new statewide Three-Year Energy Efficiency Plan, approved earlier this year, is expected to deliver an estimated \$8 billion in economic, environmental and energy benefits – or three dollars in benefits for every dollar invested in efficiency. The program is expected to reduce statewide carbon emissions by

nearly 2 million tons annually, which is comparable to taking more than 410,000 cars off the road over the course of the Three-Year Plan.

While Eversource is pleased supply prices are going down this summer, regional electricity reliability and price volatility remain very real concerns. That's why the company is working on a number of innovative projects, including Access Northeast and Northern Pass, to help address New England's significant energy challenges.

Eversource has partnered with Spectra Energy and National Grid on the proposed Access Northeast project to expand the region's natural gas capacity using existing pipeline routes. More than half of New England's electricity is now produced using natural gas. Though natural gas remains an abundant and inexpensive fuel, regional pipeline limitations and the growing dependency on gas to produce electricity will continue to affect electricity prices in the near-term, particularly during the winter months when demand for natural gas is highest.

Additionally, Eversource's proposed Northern Pass Project will bring clean, low-cost energy from Hydro-Québec's world-class hydroelectric plants into New England.

Eversource (NYSE: ES) transmits and delivers electricity and natural gas to 1.7 million customers throughout Massachusetts, including approximately 1.4 million electric customers in 140 communities and 300,000 gas customers in 51 communities. Recognized as the top-ranked "green" utility in the U.S. by Newsweek magazine, Eversource harnesses the commitment of its approximately 8,000 employees across three states to build a single, united company around the mission of delivering reliable energy and superior customer service. For more information, please visit our website (www.eversource.com) and follow us on Twitter ([@eversourceMA](https://twitter.com/eversourceMA)) and Facebook (facebook.com/EversourceMA).

CONTACT:

Mike Durand
508-441-5831
michael.durand@eversource.com

Rhiannon D'Angelo
617-424-2116
rhiannon.dangelo@eversource.com

###

Mawn, Patti

From: Christine.Collier@eversource.com on behalf of community.update@eversource.com
Sent: Monday, June 27, 2016 2:21 PM
To: community.update@eversource.com
Subject: Re: Eversource Files for Lower Basic Service Supply Rate
Attachments: 2016-06-ma-choose-a-supplier.pdf; Eversource files for lower Basic Service supply rate
EMA 5-16.docx

Please note that Bill Zamparelli's office phone number is 617-629-3265. Sorry for the confusion.

From: EVERSOURCE Community Update/NUS
To: EVERSOURCE Community Update/NUS@NU,
Date: 06/27/2016 02:17 PM
Subject: Eversource Files for Lower Basic Service Supply Rate
Sent by: Christine M. Collier

Good Afternoon,

I'm sharing an important reminder regarding Eversource supply rate changes that go into effect on July 1, 2016. As you may recall, Eversource's Basic Service price for residential and small commercial customers changes twice a year, on January 1 and July 1, to reflect pricing in the energy marketplace. On July 1, 2016 electric supply rates will decrease and we're pleased to pass savings on to our customers.

In Eastern Massachusetts, the new Basic Service supply rate is 8.208 cents per kilowatt-hour, down from the current rate of 10.844 cents. This will result in a monthly savings on the supply charge of \$15.81 for residential customers using an average of 600 kilowatt-hours of electricity.

Also effective July 1st will be an increase in the rate used to fund statewide energy efficiency programs. The increase of 1.042 cents per kilowatt-hour will add \$6.26 to the average monthly bill. These highly successful programs, available to all customers of the commonwealth's investor-owned utilities, have led to Massachusetts being named number one in the nation in energy efficiency for five straight years.

The combined effect of the changes in the supply and energy efficiency charges will result in an overall decrease of nearly \$10 a month. Residential bills for 600 kilowatt-hours of electricity in Eversource's Greater Boston and MetroWest service area will decrease to \$120.34 from \$129.89, or 7.4 percent on the total bill.

In June, we notified customers of the change through a bill insert. In May, we reached out to customers through mainstream and social media. We're planning additional reminders through media channels around July 1, suggesting to customers that now may be a good time to compare energy supply options to make an informed choice for their home or business.

We value our partnership with you. If you have any questions about this change, as always, I invite you to contact me for more information.

Bill Zamparelli
Community Relations Specialist
617-369-5532

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Eversource Basic Service Rate changes on January 1 and July 1.

Learn how to shop and compare [\(see back\) >](#)


EVERSOURCE

It may be a good time to compare
your energy supply options.

More information about competitive
supply, including a link to offers, is
available on the "Choose A Supplier" page
under "My Account" on Eversource.com.

EVERSOURCE

This is important information from Eversource. Please have it translated if your first language is not English.
Esta información de Eversource es importante. Por favor pidan que se la traduzcan si su primer idioma no es Inglés.



Docket Item:

I - 3:

July 6, 2016

Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us



Town of Winchester

WINCHESTER HOUSING AUTHORITY - VOLUNTEER

The Board of Selectmen and the Winchester Housing Authority seek applicants to fill a vacancy on the Winchester Housing Authority. The term of office will expire at the Annual Town Election in March, 2017.

If interested, please submit a letter by mail to the Board of Selectmen at 71 Mt. Vernon Street in Winchester, MA 01890 or via email at townmanager@winchester.us.

Your letter or email should be submitted by the close of business on Wednesday, July 20, 2016. The letter should state that you are interested in applying to serve as a member of the Winchester Housing Authority and be accompanied by a brief statement of your qualifications and a short resume.

Applicants shall be a registered voter in the Town of Winchester.

Posted: June 27, 2016



Town of Winchester Notice of Public Meeting

In accordance with Massachusetts General Law, Chapter 41, Section 11, the Board of Selectmen and the Housing Authority will meet on Monday, July 25, 2016 at 8:00 PM to jointly interview the candidates and appoint a member to fill the vacancy on the Housing Authority. The meeting will be held in the Board of Selectmen Meeting Room on the 2nd floor of Winchester Town Hall. The person appointed to fill the vacancy will serve until the next annual Town Election scheduled for March 28, 2017. The public is invited to attend.

Posted June 27, 2016



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

TEL: 617.854.1000 | FAX: 617.854.1091
VP: 866.758.1435 | www.masshousing.com

Docket Item:

I - 4:

July 6, 2016

2016 JUN 23 AM 9:35

TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

June 21, 2016

VIA CERTIFIED MAIL

Lance Grenzeback, Chairman
Winchester Board of Selectmen
71 Mount Vernon Street, 2nd Floor
Winchester, MA 01890

Re: Forest Ridge, Winchester, MA # 847

Dear Mr. Grenzeback:

The Massachusetts Housing Finance Agency (MassHousing) is currently reviewing an application for Site Approval submitted by Krebs Investor Group, LLC (the Developer). The proposed development (Forest Ridge) will consist of a 296-unit apartment on 13.34-acre (581,280 square feet) site on Forest Circle in Winchester.

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 town boards, officials or other interested parties. Pursuant to the 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 Forest Ridge. 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 within 30 days of receipt of this letter so we may process this application in a timely manner.

Forest Ridge, Winchester, MH #847

During the course of its review, MassHousing will conduct a site visit, which Local Boards, as defined in 760 CMR 56.02, may attend. The site visit for Forest Ridge has been scheduled for Tuesday, June 28 at 10:00 AM. Please notify me promptly if any representatives of your office or if other Local Boards plan to attend the scheduled site visit.

Please note that if and when an application is submitted for a comprehensive permit, assistance is available to the Winchester 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 \$10,000 to engage qualified third-party consultants to work with the Winchester 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 communityinfo@mhp.net. Also available at MHP's web site are the "Local 40B Review and Decision Guidelines" that were released in November 2005 to provide guidance to local officials as they review comprehensive permit applications. The Chapter 40B regulations and accompanying guidelines issued by DHCD, however, take legal precedence over the MHP guidelines.

If you have any questions, please do not hesitate to telephone me at (617) 854-1098.

Thank you for your assistance.

Sincerely,



Katharine Lacy, AICP

Monitoring and Permitting Specialist
Comprehensive Permit Program

cc: Richard Howard, Town Manager
Brian Szekely, Town Planner
Joan Langsam, Chairman, Zoning Board of Appeals

Docket Item:

I - 5:

July 6, 2016

SITE UPDATE

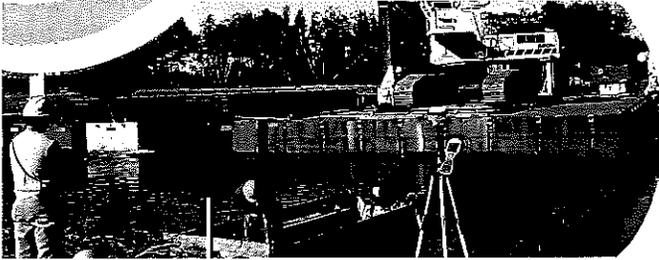


SUPERFUND

Industri-plex Superfund Site, Operable Unit 1

RECEIVED
2016 JUN 23 AM 9:33
TOWN OF WINCHESTER
TOWN MANAGER
BOARD OF SELECTMEN

U.S. EPA | HAZARDOUS WASTE PROGRAM AT EPA NEW ENGLAND



THE SUPERFUND PROGRAM protects human health and the environment by investigating and cleaning up often-abandoned hazardous waste sites and engaging communities throughout the process. Many of these sites are complex and need long-term cleanup actions. Those responsible for contamination are held liable for cleanup costs. EPA strives to return previously contaminated land and groundwater to productive use.

The Industri-plex Superfund Site located in Woburn, MA was added to the Superfund National Priority List in 1983 and includes industrial, commercial and undeveloped properties. Various chemical and glue manufacturing facilities operated at the Industri-plex Superfund Site from 1853 to 1969. As a result of these industrial operations, soil, sediment, groundwater, surface water and air became contaminated with various compounds including arsenic, lead, chromium, ammonia, benzene, toluene, and hydrogen sulfide. Successor companies to those that performed the industrial operations are conducting the cleanup work. They are termed the "Settling Defendants" in the various legal documents for the Site.

EPA established a 1986 Record of Decision (ROD) for the first phase of cleanup at Industri-plex (known as Operable Unit 1 or OU1), which included the construction of various protective caps over approximately 110 acres of soils contaminated with heavy metals and animal hide wastes. These caps include grass and graveled areas, parking lots, and building foundations. Construction of these caps was completed in 1998.

CLEANUP PLAN FOR THE ABERJONA RIVER:

Currently, contaminated groundwater from Industri-plex travels into the Halls Brook Holding Area Pond (HBHA), which flows into the Aberjona River. A portion of the contaminants entering the pond travel downstream in surface water and sediment. Contaminants have accumulated in sediments within the HBHA Pond, Aberjona River and Cranberry Bog Conservation Area within the Industri-plex Site. In 2006, EPA established a second cleanup plan (or ROD) to address this contamination.

The Settling Defendants for OU2 at the Industri-plex Superfund Site are responsible for implementing the second phase of cleanup (known as Operable Unit 2 or OU2). In 2008, EPA and the Settling Defendants entered into a Consent Decree settlement for implementing the OU2 cleanup. The Settling Defendants have hired **de maximis, inc.** to oversee the design and implementation of the cleanup. Work began on the initial stage of the cleanup in 2014. The final stage of the cleanup has been designed and is ready to be implemented over the next 8 months.

KEY CONTACTS:

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1-888-EPA-7341

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continued >

WHAT HAS ALREADY BEEN DONE:

EPA and the Settling Defendants already completed the following portions of OU2 cleanup:

- Removal of contaminated sediment from Lower South Pond (LSP) at the northern portion of the Site (completed 2014); and
- Preparation of HBHA Pond for treatment by installing structures in the pond and controlling storm water conditions (completed 2015).

NEXT STEPS OF THE OU2 CLEANUP PLAN:

The next portion of the OU2 cleanup began this May.

- Construction of a laydown area near Cabot Road in Woburn;
- removal of sediments from southern half of the HBHA Pond (referred to as the secondary treatment cell) and installation of aeration/treatment equipment and a settling zone (Figure 1);
- removal of sediments from the Wells G&H Wetland and Cranberry Bog Conservation Area along the Aberjona River in Woburn and restoration of the area (Figure 2);
- construction of new wetlands near Cabot Road in Woburn, enhancement of wetland habitat near Rifle Range Road in Woburn, and construction of a fish ladder in Winchester (Figures 1 and 2); and
- Implementation of environmental monitoring.

2016 CONSTRUCTION:**Sediment Removal from the Southern Half of HBHA Pond (known as Secondary Treatment Cell)**

From May – July 2016, the Settling Defendant's contractor, DA Collins, has mobilized to the HBHA Pond to prepare the laydown area for supporting construction activities and implement temporary stormwater management activities along the HBHA Pond to support sediment removal. DA Collins will then remove sediment from the southern half of the pond, place the sediment on the sediment management pad constructed inside the laydown area, and transport the sediment off-site to a permitted facility. A crane will be placed on a floating platform in the pond and will remove sediment with an "environmental clam shell bucket." The clam shell bucket is designed to minimize sedi-

ment disturbance in the pond while removing the contaminated material. DA Collins will add amendments to these sediments, such as cement, to further reduce their wetness at the laydown area. Regular monitoring of surface water quality conditions will be conducted within, upstream, and downstream of the dredging area in the pond. After the sediments have been removed, DA Collins will install aeration treatment units and establish a settling zone within the secondary treatment cell to help further reduce contamination in the surface water. The aeration treatment units will look like floating docks in the pond with bubbles coming from them.

The workers will typically be on-site Monday through Friday from 6:00 AM to 5:00 PM, and will wear appropriate personal protective equipment for the work being performed. This protective equipment is a precautionary measure to ensure workers are not exposed to contaminated sediments during their work. If odors are encountered, DA Collins will minimize odors with foam sprays. Truck traffic in the project area will increase during transportation of contaminated material off site. Up to 12 trucks per day are expected to move either in or out of the site area. The truck traffic will be generally routed from Commerce Way to Cabot Road in order to enter the site, and will leave the site using the same roads. This truck traffic route has been coordinated with the City of Woburn.

Sediment Removal and Restoration Wells G&H Wetland and Cranberry Bog Conservation Area (CBCA)

During June – September 2016, the Settling Defendant's contractor, DA Collins, will sequence through the three wetland areas below (1 through 3) conducting preparation, sediment dredging and restoration:

1. Wells G&H Wetland Area (East Side): Access to the area will occur off Rifle Range Road.
Duration: 4 weeks
2. Wells G&H Wetland Area (West Side): Access to the area will occur off-Salem Street. Duration: 4 weeks
3. CBCA (West Side): Access to the area will occur off Washington Circle.
Duration: 4 weeks

DA Collins anticipates it will take approximately four weeks for each work area to complete sediment removal and restoration cleanup activities, and work will progress in the above order (1, 2, 3). The work will include installation of temporary

port-o-dams/cofferdams to minimize water management during sediment removal and restoration. The sediments will be excavated using mechanical excavation equipment, such as a backhoe and water tight dump trucks. As sediments are excavated, they will be loaded on to trucks and transferred to the sediment management pad, and transported off-site for disposal at a permitted facility. Where necessary, DA Collins will add amendments to the sediments, such as cement, to further reduce their wetness. Regular surface water monitoring of water quality conditions will be conducted within, upstream, and downstream of the work areas. Clean organic soils will be brought on-site to restore all disturbed areas. The wetlands will be restored with native plantings. When excavating contaminated sediments in the areas, there is potential for an odor to be generated from the work area. Any potential odors would come from disturbing the organic material in the wetland sediments and not from any contamination that may exist there (the contamination in these sediments is primarily metals, such as arsenic). If odors are encountered, DA Collins will minimize odors with foam sprays. At the completion of the work in area 1, the east side of the Wells G&H wetland, the access roads created will be converted to walking trails and the truck entrance to this area will be converted to a small parking lot for future recreational use (this property is owned by the City of Woburn).

Workers will typically be on-site 5 days per week Monday through Friday from 6:30 AM to 5:00 PM (except for the CBCA work near residential areas which will be from 7:00 AM to 5:00 PM). Workers will wear appropriate personal protective equipment for the work being performed. This protective equipment is a precautionary measure to ensure workers are not exposed to contaminated sediments during their work. Truck traffic will increase during transportation of contaminated sediment off site and while bringing in clean organic soil. Up to 24 trucks per day are expected to move either in or out of the site area. The truck traffic will be routed from Washington Street to Salem Street and/or Washington Circle to enter the sites, and will leave the site going the same way. These truck traffic routes have been coordinated with the City of Woburn.

Wetland Mitigation

A summary of Industri-plex Phase 2 (OU2) cleanup wetland/floodplain mitigation is as follows (see Figures 1-2):

- Approximately 2.4 acres of new wetlands will be created at 32 Cabot Road, Woburn, MA;
- Approximately 1 acre of floodplain habitat enhancements will be created off Rifle Range Road, Woburn, MA, including the removal of various debris

piles from the floodplain. In addition, a conservation easement is planned for this area to maintain it as undeveloped land. These enhancements will also help support the City of Woburn's plan for future open green space of the area;

- Greater than 6,000 cubic yards of flood storage space will be created in Woburn, MA;
- A fish ladder will be constructed at Center Falls Dam, Winchester, MA, and is expected to expand habitat for migratory fish, such as herring, upstream of the ladder.

The above mitigation projects have been coordinated with the City of Woburn and Town of Winchester.

AIR MONITORING:

Air monitors that monitor for dust will be placed around the work areas along the perimeter of the site/work areas during construction. If dust is detected at elevated levels, work will be stopped, and dust controls will be put in place to eliminate the potential for dust leaving the site. DA Collins will implement dust controls (e.g. wetting of soil, etc.) as needed to manage and minimize airborne dust throughout construction. If odors are encountered, DA Collins will minimize odors with foam sprays. Monitoring for volatile organic compounds and other contaminants will be conducted within the active work zones to evaluate construction worker health and safety, need for increased levels of personal protection, and/or modification of work practices.

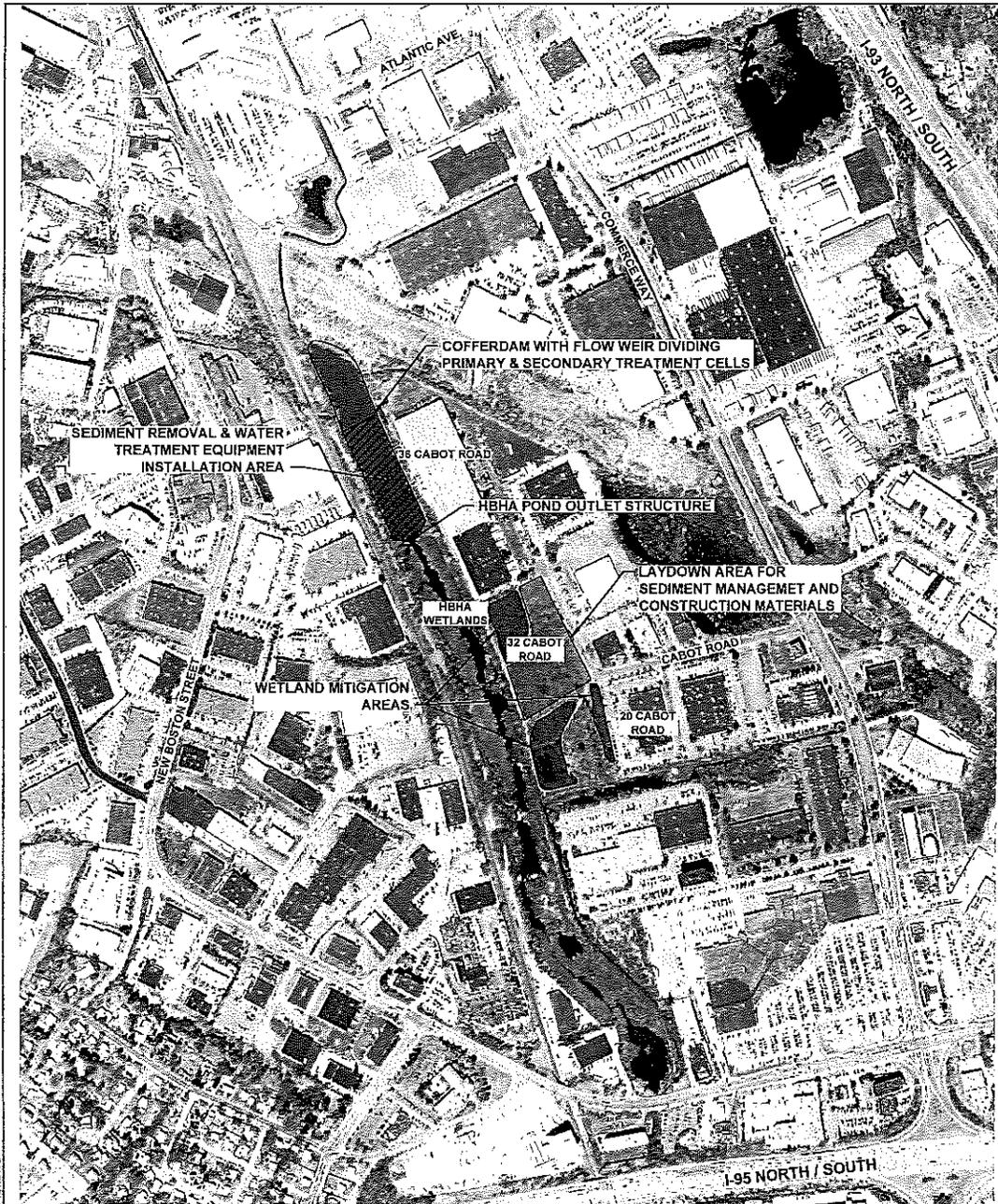
EPA Public Informational Meeting 7:00 PM, June 27, at the Woburn City Hall; and

EPA Neighborhood Open House 4:00 PM - 7:00 PM, July 19 outside at the Cranberry Bog Conservation Area, off Washington Circle, Woburn, MA

EPA has scheduled the above meetings to discuss with the community the sediment removal and restoration construction activities, environmental monitoring, and answer any neighborhood questions.

Additional Contacts

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Layer: POND COMPONENTS

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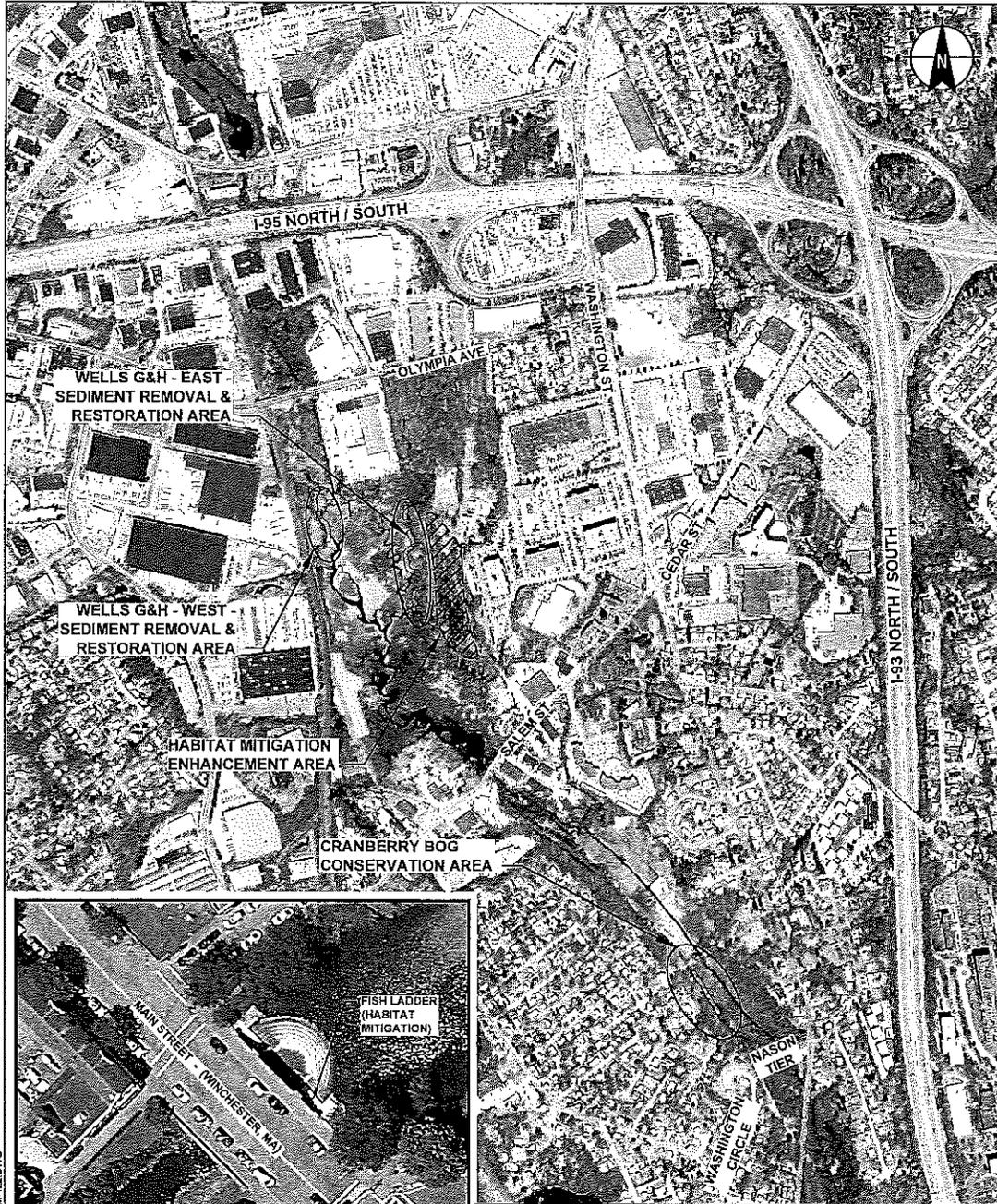
**HALEY
ALDRICH**

INDUSTRI-PLEX
OPERABLE UNIT 2 SUPERFUND SITE
WOBURN, MASSACHUSETTS

HBHA POND DREDGING AND
WETLAND MITIGATION COMPONENTS
SUMMER - FALL 2016

SCALE: AS SHOWN
MAY 2016

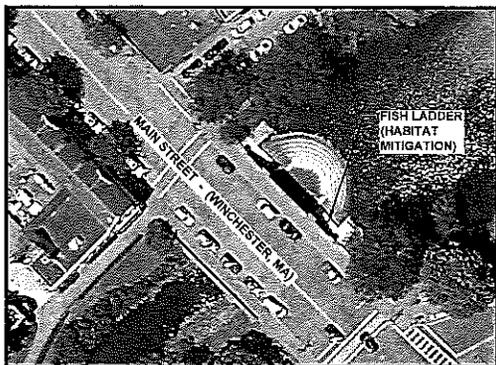
FIGURE 1



Layout: POND COMPONENTS

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CENTER FALLS DAM FISH LADDER CONSTRUCTION
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LEGEND

 SEDIMENT REMEDIATION AREA

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INDUSTRI-PLEX
 OPERABLE UNIT 2 SUPERFUND SITE
 WOBURN, MASSACHUSETTES

WELLS G&H & CBCA SEDIMENT
 REMOVAL AND RESTORATION
 HABITAT MITIGATION & ENHANCEMENT
 SUMMER FALL 2016

SCALE: AS SHOWN
 MAY 2016

FIGURE 2



**Winchester Public Schools
Winchester, Massachusetts**

School Committee

Regular Session 7:00 p.m.

July 12, 2016

Parkhurst School

- I. Call to Order
- II. Public Comment
- III. Reports and Discussion Items
 - A. School Committee Calendar 2016-2017
 - B. Superintendent's Goals: 2016-2017
 - C. Update on Projected Enrollment: 2016-2017
 - D. Update on WPS ADA Requests
 - E. Curriculum Sub-Committee Appointments
- IV. Chair Report
- V. Superintendent Report
- VI. Action Items
 - A. Vote to Approve: Minutes of June 7, 2016 and June 21, 2016 (2)
 - B. Vote to Approve: Capital Plan Priority List
 - C. Vote to Approve: Partial Hearing Loop System
 - D. Vote to Approve: Ambrose Elementary School Sign
- VII. Policy Subcommittee Action Items:
 - A. Vote to Approve: Field Study/Travel Policy
- VIII. Future Agenda Items
 - A. Athletic Fees/Transportation
 - B. District Goals 2016-2017
 - C. Three-Year Master ADA Plan
 - D. Master Plan Discussion
 - E. Approval of Italy Field Trip
 - F. Year-End Budget Report

IX. Next Meeting Dates:

- A. July 26 (Workshop meeting)
- B. August 9
- C. August 24 (Dinner with leadership team)

X. Adjournment