

Selectman Albert H. Knowles, Jr. moved no action.

The Moderator ruled that this motion passed unanimously.

At 8:13 P.M. on motion of Selectman Thomas M. Atwood, it was unanimously voted to dissolve the Special Town Meeting.

Attest:

Michael P. McCarron
Town Clerk

ANNUAL TOWN MEETING -- MONDAY, APRIL 30, 2012

Pursuant to the Warrant issued by the Selectmen on April 12, 2012, which was posted on April 13, 2012 according to law by Constable Brian Richard, who made proper return of his doings thereon, the Annual Town Meeting was held on April 30, 2012 at the Annex, 379 Main Street, West Newbury. The meeting was called to order at 7:11 P.M. by the Moderator Kathleen C. Swallow, upon report of the Board of Registrars of Voters of a quorum of 90 or more registered voters. The Town Clerk read the return of service. The Moderator introduced Town Officials and reviewed Town Meeting procedures. There were no objections to non-resident Town Officials who were in attendance addressing the meeting, if necessary. At 7:50 P.M. after presentation of the Citizen of the Year Award and the Employee of the Year Award, the Moderator recessed the Annual Town Meeting to open the Special Town Meeting. The Annual Town Meeting was re-opened at 8:13 P.M. following dissolution of the Special Town Meeting. The record of the Special Town Meeting follows the record of the Annual Town Meeting. The reconvened Annual Town Meeting continued with the reports of Town officers and committees under Article 3 of the Annual Town Meeting warrant.

ARTICLE 1. Calling for the election of Town officers was passed over for action at the Annual Town Election on May 7, 2012.

ARTICLE 2. A ballot question on a proposed reduction of the CPA tax levy from 3% to 0.5% was passed over for action at the Annual Town Election on May 7, 2012

ARTICLE 3. To hear and act upon the reports of Town officers and committees.

Pursuant to custom, this Article was left open throughout the meeting.

Selectman Thomas M. Atwood presented the Citizen of the Year Award to Thomas J. Flaherty of 460 Main Street.

Selectman Richard J. Cushing and Planning Board Chairman John T. Sarkis presented the Employee of the Year Award to Jean Nelson, Planning Director.

ARTICLE 4. (The Budget) The Finance Committee Booklet contained the Finance Committee's Fiscal Year 2013 recommended budget and also a recommended budget from the Selectmen which varied from the Finance Committee's recommended budget on a number of Line Items. The Moderator addressed the procedure for adoption of the Line Item Budget for Fiscal Year 2013. For purposes of this Article the recommendation of the Finance Committee is considered the main motion. Each Line Item is considered a separate appropriation and the main motion for each line item may be considered separately. Any Town Meeting member wishing to discuss a line item or move a different amount may call out "Hold" when the

line item is read. Amending a line item requires two steps; first a motion to amend the main motion (the Finance Committee recommendation) and then a motion to approve the main motion, as amended. The Moderator read each Line Item. Holds were placed on Lines . After the Moderator finished reading the Line Item Budget each “Hold” was considered in turn.

Finance Committee Reserve Fund: Town Meeting Member Glenn A Kemper requested an explanation of the increase in this line item. Finance Committee Chairman, David Archibald explained that other line items were reduced and those funds placed in the Reserve Fund in order to provide the Town with greater flexibility in the future. No motion to amend the line item was made, line item passed as recommended.

Finance Department Annual Audit: Town Meeting Member Glenn A. Kemper requested an explanation of the projected costs associated with this line item. Finance Director Warren G. Sproul explained that the intention of the Finance Department was to expand the scope of the audit to include a review of internal controls which would result in additional work.

No motion to amend the line item was made, the line item passed as recommended.

Department of Public Work- Street Lighting: Town Meeting Member Glenn A. Kemper requested an explanation for the decrease in this line item. DPW Director Gary Bill explained that the service has remained constant, but there has been a reduction in electrical cost.

No motion to amend the line item was made, the line item passed as recommended.

Selectmen Thomas M. Atwood moved to adopt the Line Item Budget as amended. The Moderator declared that the motion passed unanimously. It was voted to raise and appropriate the sum of \$12,399,881.82 for the Total Line Item Budget.

**Town of West Newbury
Line Item Appropriations
FY 2013**

1	***** TOWN MODERATOR *****		
	Salary & Wages		200.00
	Expenses		60.00
		Department Total	260.00
2	***** BOARD OF SELECTMEN *****		
	Selectmen's Stipend		3.00
	Salary & Wages		62,396.00
	Professional & Technical Services		23,900.00
	Expenses		7,650.00
		Department Total	93,949.00
3	***** FINANCE COMMITTEE*****		
	Expenses		2,500.00
	Reserve Fund		66,500.00
		Department Total	69,000.00
4	***** BOARD OF ASSESSORS *****		
	Assessors' Stipends		3.00
	Salary & Wages		111,901.92
	Expenses		22,500.00
	Vehicle Allowance		1,800.00
		Department Total	136,204.92

5	***** FINANCE DEPARTMENT *****		
	Salary & Wages		245,741.09
	Annual Audit		31,000.00
	Tax Title & Foreclosure		2,000.00
	Expenses		37,006.00
	1910 Building Technology Expense		33,006.00
	1910 Building Telephone Expense		8,000.00
	1910 Building Postage Expense		12,800.00
		Department Total	369,547.09
6	***** SPECIAL COUNSEL *****		
	Legal Fees		2,500.00
		Department Total	2,500.00
7	***** TOWN CLERK/TOWN COUNSEL *****		
	Salary & Wages		96,363.07
	Preservation of Town Records		-
	Operation of Facsimile Machine/Photocopiers		6,060.00
	Expenses		9,400.00
		Department Total	111,823.07
8	***** BOARD OF REGISTRARS/ELECTIONS *****		
	Town Clerk Compensation		150.00
	Salary & Wages		5,400.00
	Expenses		7,800.00
		Department Total	13,350.00
9	***** CONSERVATION COMMISSION *****		
	Salary & Wages		11,726.00
	Expenses		1,950.00
		Department Total	13,676.00
10	***** PLANNING BOARD *****		
	Salary & Wages		26,709.88
	Expenses		8,225.00
	MVPC Assessment		1,366.20
		Department Total	36,301.08
11	***** BOARD OF APPEALS *****		
	Salary & Wages		1,000.00
	Expenses		500.00
		Department Total	1,500.00
12	***** OPEN SPACE & RECREATION COMMITTEE *****		

35	Expenses		500.00
		Department Total	500.00

13	**** CABLE ADVISORY COMMITTEE ****		
	Expenses		750.00
		Department Total	750.00

TOTAL - GENERAL TOWN GOVERNMENT			849,361.16
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14	**** POLICE DEPARTMENT ****		
	Salary & Wages		684,630.76
	Overtime		64,462.40
	Expenses		94,545.00
	Capital Outlay		-
		Department Total	833,638.16

15	**** FIRE DEPARTMENT ****		
	Alarms		85,425.00
	Drills		20,400.00
	Miscellaneous Fire Department Wages		20,400.00
	Administration		22,736.00
			-
	Fire Protection Fees		62,872.00
	Fire Alarm & Communications		9,500.00
	Expenses		39,600.00
	Capital Outlay		44,844.05-
		Department Total	305,777.05

16	**** AMBULANCE SERVICE ****		
	Ambulance Retainer		-
		Department Total	-

17	**** INSPECTION DEPARTMENT ****		
	Salary & Wages		92,360.94
	Expenses		8,420.00
	Vehicle Allowance		4,980.00
		Department Total	105,760.94

18	**** EMERGENCY MANAGEMENT AGENCY ****		
	Salary & Wages		6,801.00
	Expenses		3,000.00
		Department Total	9,801.00

19	**** ANIMAL CONTROL OFFICER ****		
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Salary & Wages	21,540.00
Expenses	2,040.00
Department Total	<u>23,580.00</u>

20 *** HARBORMASTER *******

Wages and Expenses	10,800.00
Department Total	<u>10,800.00</u>

21 *** PUBLIC SAFETY DISPATCH *******

Salary & Wages	226,991.28
Overtime	18,098.72
Expenses	31,910.00
Department Total	<u>277,000.00</u>

TOTAL - PUBLIC SAFETY 1,566,357.15

EDUCATION

22 *** ASSESSMENTS *******

Pentucket Minimum Contribution	4,612,097.00
Pentucket Other Assessment	1,107,165.00
Pentucket Capital Assessment	95,516.00
Page School Phase II	466,000.00
Whittier Minimum Contribution	121,260.00
Whittier Other Assessment	26,012.00
Whittier Capital Assessment	-
Department Total	<u>6,428,050.00</u>

TOTAL - EDUCATION 6,428,050.00

23 *** DEPARTMENT OF PUBLIC WORKS *******

Salary & Wages	386,838.45.00
Overtime Wages	10,404.00
Snow & Ice Removal	150,000.00
Town Buildings Operating Expenses	185,400.00
Town Buildings Improvements	41,000.00
Road Improvement Program	95,000.00
Highway, Sidewalk & Trees	105,000.00
Vehicle Allowance	4,800.00
Expenses	4,000.00
Parks & Playground Expenses	15,000.00
Road Machinery Expense	49,000.00
Capital Outlay	-
Street Lighting	12,000.00

Department Total 1,058,442.45

TOTAL - DEPARTMENT OF PUBLIC WORKS 1,058,442.45

24 *** HEALTH DEPARTMENT *******
80 Salary & Wages 92,516.00
81 Newburyport Health Center 5,500.00
82 Waste Collection 302,788.00
83 Hazardous Waste Collection 2,500.00
84 Expenses 6,500.00
Department Total 409,804.00

25 *** COUNCIL ON AGING *******
85 Salary & Wages 47,281.70
86 Expenses 14,568.00
Department Total 61,849.70

26 *** VETERANS *******
87 Rental C.L. Carr Post 300.00
88 Soldiers' Graves Expenses 1,200.00
89 Assessment 17,300.00
90 N. Essex Veterans Services Benefits 8,045.00
Department Total 26,845.00

TOTAL - HUMAN SERVICES 498,498.70

27 *** GAR MEMORIAL LIBRARY *******
Salary & Wages 202,624.28
Expenses 30,751.00.00
Books & Periodicals 58,183.00
Department Total 291,558.28

28 *** RECREATION *******
Parks & Recreation Expense 5,435.00
Mill Pond Operating Expense 4,450.00
Bandstand Operating Expense 3,000.00
Department Total 12,885.00

29 *** CULTURAL COUNCIL *******
Expenses 100.00
Department Total 100.00

30 *** HISTORICAL COMMISSION *******

Expenses		500.00
	Department Total	500.00

TOTAL - CULTURE & RECREATION		305,043.28
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31	***** MATURING DEBT SERVICE *****	
	Maturing Debt	630,000.00
	Interest & Paydowns on Long/Short Term Debt	120,859.59
	Department Total	<u>750,859.59</u>

TOTAL - DEBT SERVICE		750,859.59
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32	***** BENEFITS/INSURANCE *****	
	Essex Regional Retirement	416,929.49
	Unemployment Insurance	1,000.00
	Group Health Insurance	238,822.00
	F.I.C.A. Insurance	38,760.00
	Insurance & Bonds	144,758.00
	Other Post Employment Benefits	103,000.00
	Department Total	<u>943,269.49</u>

TOTAL - BENEFITS/INSURANCE		943,269.49
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TOTAL TOWN LINE ITEM BUDGET		12,399,881.82
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ARTICLE 6. The Finance Committee recommended Will of the Town on this Article to see, in accordance with the provisions of Chapter 38 of the Acts of 1936, what instructions, rules and regulations the town may wish to impose on the Board of Water Commissioners. No motions were brought under this Article.

ARTICLE 7. The Finance Committee recommended approval.

Water Commissioner, Albert H. Knowles, Jr. moved to appropriate, in anticipation of Water Department revenues, the sum of \$614,081.00 of which \$171,651.00 is for Salaries and Wages, \$24,859.00 for Insurances, \$374,800.00 for Expenses, \$30,772.00 for Debt Service, and \$12,000.00 for Extraordinary and Unforeseen expenses.

The Moderator declared the motion passed unanimously.

ARTICLE 8. The Finance Committee recommended approval..

Water Commissioner, Albert H. Knowles, Jr. moved to transfer the sum of \$54,000.00 from Water Enterprise Free Cash to the Water Enterprise Stabilization Fund. The Moderator declared that a 2/3 vote was required for passage.

The Moderator declared the motion passed unanimously.

ARTICLE 9. The Finance Committee recommended approval.

Water Commissioner, Albert H. Knowles, Jr. moved to transfer the sum of \$10,731.00 from the Water Enterprise Fund Free Cash Account to pay Fiscal Year 2012 Post Retirement Benefits.

The Moderator declared the motion passed unanimously

ARTICLE 10. The Finance Committee recommended approval.

Selectman, Thomas M. Atwood, moved to raise and appropriate the sum of \$170,000.00 and transfer \$30,000.00 from Free Cash to be added to the Stabilization Fund. The Moderator declared that a 2/3 vote was required for passage.

The Moderator declared the motion passed unanimously.

ARTICLE 11. The Finance Committee recommended approval.

Selectman, Richard J. Cushing, moved to transfer from Free Cash the sum of \$144,969.00 into the Other Post Employment Benefits Trust Fund.

The Moderator declared the motion passed unanimously.

ARTICLE 12. The Finance Committee recommended approval.

Board of Health Member, Robert P. Janes, moved to appropriate the sum of \$21,402.00 from the Septic Loan Revolving Account for the repayment of septic loan debt service.

The Moderator declared the motion passed unanimously.

ARTICLE 13. The Finance Committee recommended approval, contingent upon the failure of Question 1 as it appears on the ballot of May 7, 2012.

Selectman, Thomas M. Atwood, moved that the Town vote to appropriate and reserve from the Community Preservation annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in Fiscal Year 2013, with each item to be considered a separate appropriation:

Appropriations:

From FY 2013 estimated revenues for Committee Administrative Expenses	\$ 12,216.00
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Reserves:

From FY 2013 estimated revenues for Historic Reserve	\$ 24,431.00
From FY 2013 estimated revenue for Community Housing Reserve	\$ 24,431.00
From FY 2013 estimated revenue for Open Space Reserve	\$ 24,431.00
From FY 2013 estimated revenues for Budgeted Reserve	\$158,802.00

Said appropriations to be contingent upon failure of Question 1 as it appears on the ballot of May 7, 2012.

The Moderator explained that this was a mirror of Article 14 and that this appropriation would only take effect upon the failure of Question 1 as set forth in Article 2 of the Town Warrant which was to be decided on the Town Election on May 7, 2012.

The Moderator declared that this Motion passed unanimously.

ARTICLE 14. The Finance Committee recommended approval, contingent upon the approval of Question 1 as it appears on the ballot of May 7, 2012.

Selectman, Richard J. Cushing, moved that the Town vote to appropriate and reserve from the Community Preservation annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in Fiscal Year 2013, with each item to be considered a separate appropriation:

Appropriations:

From FY 2013 estimated revenues for Committee Administrative Expenses	\$ 2,036.00
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Reserves:

From FY 2013 estimated revenues for Historic Reserve	\$ 4,072.00
From FY 2013 estimated revenue for Community Housing Reserve	\$ 4,072.00
From FY 2013 estimated revenue for Open Space Reserve	\$ 4,072.00
From FY 2013 estimated revenues for Budgeted Reserve	\$26,467.00

As in the case with Article 13 hereof, the Moderator explained that this would only take effect upon the approval of Question 1 as set forth in Article 2 hereof.

The Moderator declared that the Motion passed unanimously.

ARTICLE 15. The Finance Committee recommended approval.

Selectman Albert H. Knowles, Jr. moved to approve the \$800,000.00 borrowing authorized by vote of the Pentucket Regional School District, for paying costs or repairs, including the payment of all costs incidental or related thereto, as follows:

- Repair or replace the Middle School Track (not to exceed \$500,00),
- Repair or replace the High School Tennis Courts (not to exceed \$100,00),
- Repair or replace the High School Exterior Bleachers (not to exceed \$100,000), and
- Upgrade or replace High School Theatre rigging, lighting, choral risers and platforms, instrument storage, and any other safety related items (not to exceed \$100,000).

Doctor Paul Livingstone spoke in favor of the Article stating that the repairs are necessary for the full utilization of these facilities and that with the retirement of other debt of the District, there would be no net increase in the amount of the Regional School District's indebtedness.

The Moderator called for a showing of hands and it being clear that the majority voted in the affirmative, the Moderator declared the Motion passed.

ARTICLE 16. The Finance Committee declined to give a recommendation and left the determination to the will of the Town.

Town Meeting Member Phyllis Leonard moved that the Town support an Amendment to the United States Constitution to reverse the Citizens United v. The Federal Election Commission Decision in which the Supreme Court upheld the right of nonprofit corporations, corporations and unions to contribute unlimited amounts of money to election campaigns.

The Moderator ruled that this Motion constituted a non binding sense of the Town.

Ms. Leonard spoke at considerable length on the dangers of unlimited and unrestricted campaign contributions and urged the Town to support a Constitutional Amendment to reverse the Supreme Court decision. Discussion ensued both in support and in opposition to the Motion.

Upon a showing of hands, the Moderator declared that the majority was in support of the Motion and declared the Motion passed.

At 9:45 PM, Town Meeting Member, Glenn A. Kemper moved for a quorum count. Such a motion being non debatable, the Moderator requested that the Board of Registrars conduct a count of those Town Meeting Members still in attendance. The Board of Registrars declared that there was eighty five Town Meeting Members present. Lacking the quorum requirement of ninety, the Moderator stated that the Annual Town Meeting of 2012 would be adjourned to Thursday, May 3, 2012 at 7:00 PM at the same location, that being the Town Annex.

May 3, 2012

Town Annex

The meeting was called to order at 7:39 P.M. by the Moderator Kathleen C. Swallow, upon report of the Board of Registrars of Voters of a quorum of 90 or more registered voters. The Moderator announced that the meeting would commence with Article 17 of the Warrant.

Article 17. The Finance Committee recommended approval.

Planning Board Chairman John Todd Sarkis moved that the Town amend the Section 5.D of the Zoning Bylaw by deleting the existing Bylaw and replacing it with a new Floodplain Overlay District which includes references to new Federal Insurance Rate Maps as printed in the Finance Committee Booklet Appendix C for Article 17, pages 39 through 43 which reads as follows:

SECTION 5.D. FLOODPLAIN OVERLAY DISTRICT

5.D.1. Purpose and Intent

The purposes of the Floodplain Overlay District are to:

- a. Ensure public safety through reducing the threats to life and personal injury;
- b. Eliminate new hazards to emergency response officials;
- c. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- d. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- e. Eliminate costs associated with the response and cleanup of flooding conditions;
- f. Reduce damage to public and private property resulting from flooding waters.

5.D.2. Applicability

Any Development (See Definitions) proposed in the Floodplain shall require a Special Permit from the Planning Board.

5.D.3. Application Procedure

See Section 8.A.2. of the Zoning Bylaw and Planning Board Regulations for Special Permits for filing and other requirements. When feasible, the Planning Board and Conservation Commission may schedule a joint Public Hearing for Applications submitted. Applications are exempt from the requirement of Site Plan Review, Section 8.B.

5.D.4. Definitions

Area of Special Flood Hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A or AE.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Development means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District means Floodplain Overlay District.

Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Flood Insurance Rate Map (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

New Construction means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

One-Hundred-Year Flood - see Base Flood.

Regulatory Floodway - see Floodway

Special Flood Hazard Area means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A and Zone AE.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Zone A means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

Zone AE (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

Zone X are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

5.D.5. Floodplain Overlay District Boundaries

The Floodplain Overlay District is herein established as an Overlay District. The District includes all special flood hazard areas within West Newbury designated as Zones A and AE, on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the Town of West Newbury are panel numbers 25009C0084F, 25009C0092F, 25009C0094F, 25009C0103F, 25009C0104F, 25009C0108F, 25009C0111F, 25009C0112F, 25009C0113F, 25009C0114F, 25009C0116F, and 25009C0118F dated July 3, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, and the Building Inspector.

5.D.6. Base flood Elevation and Floodway Data

- a. **Floodway Data.** In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. **Base Flood Elevation Data.** Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or on 5 acres, whichever is the lesser, within unnumbered A zones.

5.D.7. Notification of Watercourse Alteration

In a riverine situation, the Building Inspector/Zoning Enforcement Officer shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700

Boston, MA 02114-2104

- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

5.D.8. Use Regulations

a. Reference to Existing Regulations

All development in the Floodplain Overlay District, including structural and non-structural activities, whether permitted by right or by Special Permit must be in compliance with M.G.L. Chapter 131, § 40 and with the following:

- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR)
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

b. Other Use Regulations

- 1) In Zone AE, along watercourses that have a regulatory floodway designated on the __Essex County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

5.D.9 Permitted Uses

The following uses of low flood damage potential and which will not cause obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- a. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- b. Forestry and nursery uses.
- c. Outdoor recreational uses, including fishing, boating, play areas, etc.
- d. Conservation of water, plants, wildlife.
- e. Wildlife management areas, foot, bicycle, and/or horse paths.
- f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- g. Buildings lawfully existing prior to the adoption of these provisions.

5.D.10. Planning Board Findings

The Planning Board shall make the following Findings relative to Special Permit approval in the Floodplain:

- a. Such proposals shall minimize flood damage;
- b. All public utilities and facilities shall be located and constructed to minimize or eliminate flood damage, and
- c. Adequate drainage shall be provided to reduce exposure to flood hazards.
- d. There is no volumetric loss of flood storage within the designated floodplain.

Mr. Sarkis spoke in favor the Motion indicating that adoption of the new Floodplain maps was essential for maintaining Federal Flood Insurance for affected landowners.

The Moderator explained that since this was an amendment to the Zoning Bylaw, it required a two thirds vote. The Moderator declared that the Motion passed unanimously.

Article 18. The Finance Committee recommended approval.

Planning Board Member Arthur Wallace moved that the Town amend the Zoning Bylaw by adopting a Large-Scale Ground-Mounted Solar Photovoltaic Installations (LGSPI) Overlay District Bylaw, Section 5.G as printed in the Finance Committee Booklet Appendix D for Article 18, pages 43 through 46 which reads as follows:

Section 5.G. LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS OVERLAY DISTRICT

5.G.1. Purpose

The purpose of this Bylaw is to regulate Large-Scale Ground-Mounted Solar Photovoltaic Installations (LGSPI) in an established district(s) where they are allowed. The Bylaw provides standards for the placement, design, and construction of such installations. The standards aim to address public safety, and minimize impacts on scenic, natural, and historic resources.

5.G.2. Definitions

Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI): A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI) Overlay District: The location[s] designated by a Town Meeting vote in accordance with Massachusetts General Laws Chapter 40A, §5., where LGSPI are a permitted use. Any designated location[s] [is/are] shown on the Town of West Newbury Zoning Map pursuant to Massachusetts General Laws Chapter 40A §4. A plan of an approved Overlay District delineated by metes and bounds shall be recorded at the Southern Essex Registry of Deeds. These plans shall also be filed in the Office of the Town Clerk.

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

Rated Nameplate Capacity: The nominal rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels.

5.G.3. Applicability

This Section applies to LGSPI proposed to be constructed after the effective date of this Section. This Section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. The provisions set forth in this Section shall apply to the construction, operation, and/or repair LGSPI.

5.G.4. General Requirements for all Large Scale Ground-Mounted Solar Photovoltaic Installations

The following requirements are common to all LGSPI to be sited in designated locations:

- a. **Compliance with Laws, Ordinances and Regulations.** The construction and operation of all LGSPI shall be consistent with all applicable local, state and federal requirements, including all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
- b. **Building Permit and Building Inspection.** A Building Permit is required for construction, installation, or modification of LGSPI as provided in this Section. An Application for a Building Permit for LGSPI must be submitted with all documents required by the Building Inspector's Office and the requirements of the Site Plan Review Decision.
- c. **Site Plan Review.** LGSPI are subject to Site Plan Review, Zoning Bylaw Section 8.B., by the Planning Board prior to construction, installation or modification as provided in this Section. In addition to the requirements of Section 8.B., Site Plan Review, and Planning Board Regulations, the Applicant shall submit the following:
 - i. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property Owners, if any
 - ii. The name, address, contact information and signature of any agents representing the project proponent, and
 - iii. Documentation of actual or prospective access and control of the project site. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation
 - iv. Zoning district designation for the parcel(s) of land comprising the project site, Street Address, Assessors' Map and Lot Number, North Arrow, and Locus Map
 - v. An aerial photograph showing the existing property and structures, abutting properties, structures and streets. The proposed LGSPI, appurtenant structures, driveways and other proposed improvements shall be superimposed upon the aerial photograph.
 - vi. Blueprints or drawings of the solar photovoltaic installation signed by a Registered Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.
 - vii. A description of the type of mounting system.

Waiver Authority. The Planning Board may waive documentary requirements of Site Plan Review as it deems appropriate.

5.G.5. Dimensional Requirements.

a. All LGSPI and Appurtenant Structures shall conform with the Table of Dimensional Control below.

Table of Dimensional Control for Large- Scale Ground-Mounted Solar Photovoltaic Installations Overlay District

Structures	Minimum Lot Area In feet	Lot Frontage In feet	Percent of Required Lot area as Contiguous and Buildable (6.A.2)	Distance from Overlay District Boundary In feet	Maximum Lot Coverage %	Maximum Building Coverage %	Maximum Height in feet (6.A.3.)
PV Array	n/a	n/a	n/a	50	n/a	n/a	15
Appurtenant Structures	n/a	n/a	n/a	40	n/a	n/a	35

b. Appurtenant Structures. All appurtenant structures, including equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or fencing, and/or joined or clustered to avoid adverse visual impacts.

5.G.6. Design Standards

a. Lighting. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

b. Signage. Signs on LGSPI shall comply with Section 7.C. of the Zoning Bylaw. A sign consistent with the Zoning Bylaw shall be required to identify the Owner and provide a 24-hour emergency contact phone number. Reasonable identification of the manufacturer or Operator of the solar photovoltaic installation may be provided.

Solar photovoltaic installations shall not be used for displaying any advertising.

c. Utility Connections. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

d. Safety and Security. Appropriate measures shall be proposed to secure the facility from unauthorized entry.

5.G.7. Environmental Standards

a. Wetlands. LSGPI shall comply with the requirements of M.G.L. Chapter 130, as amended.

b. Stormwater Management. Stormwater Management shall comply with Department of Environmental Protection Stormwater Management Policy, as amended.

c. Noise. LSGPI and equipment shall comply with Section 7.A.4. of the Zoning Bylaw, and the provisions of the Department of Environmental Protection's Division of Air Quality Noise Regulations, (310 CMR 7.10., as amended).

d. Land Clearing, Soil Erosion and Habitat Impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the facility or otherwise prescribed by applicable laws, regulations, and bylaws.

5.G.8. Monitoring and Maintenance.

The Large-Scale Ground-Mounted Solar Photovoltaic Installation Owner or Operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.

5.G.9. Modifications

The Building Inspector shall determine if a proposed Modification to an LGSPI made after issuance of the required Building Permit shall require the filing and approval of a new Site Plan and Application with the Planning Board .

Mr. Wallace spoke in favor the Motion indicating that this new Overlay District would permit the construction on solar facilities on those areas designated by the Town and this would fulfill a requirement for the Town to be considered a Green Community by the Commonwealth of Massachusetts.

The Moderator declared since this was a vote to amend the zoning bylaw a two-thirds majority was necessary for passage. Since there was not unanimous approval, the Moderator declared that a count was necessary and that by a count of 85 voting in the affirmative and 5 voting in the negative, the Moderator declared that the Article passed.

Article 19. The Finance Committee recommended approval.

Planning Board Member Arthur Wallace moved that the Town amend the Zoning Map by designating a portion of 694 Main Street, Assessors' Map R-23 Parcel 23, as a Large-Scale Ground-Mounted Solar Photovoltaic Installations (LGSPI) Overlay District, as shown on a plan entitled "Plan Showing Proposed LGSPI Overlay District located at 694 Main St., West Newbury, MA, prepared for the Town of West Newbury, dated: March 28, 2012, scale: 1"= 80', prepared and donated by Patrick G. Higgins, PLS" which Plan is attached to the Finance Committee Booklet Appendix B, page 38.

Mr. Parker spoke in favor the Motion indicating that this site provided the best Town owned site for the placement of such a facility. Numerous Town Meeting members spoke in favor and in opposition to the Motion.

The Moderator declared since this was a vote to amend the zoning bylaw a two-thirds majority was necessary for passage. Since there was not unanimous approval, the Moderator declared that a count was necessary and that by a count of 78 voting in the affirmative and 12 voting in the negative, the Moderator declared that the Article passed.

Article 20. The Finance Committee recommended approval.

Planning Board Chairman John Todd Sarkis moved that the Town amend Section 6.A.1 of the Zoning Bylaw by deleting the existing Section and replacing it with a new Reduced Frontage Lot Special

Permit Zoning Bylaw which new section is attached to the Finance Committee Booklet Appendix E, page 47 and reads as follows:

6.A.1. REDUCED FRONTAGE LOT SPECIAL PERMIT. The Planning Board may authorize a Reduced Frontage Lot in the Residential A, B, and C Districts pursuant to the grant of a Special Permit subject to the following criteria:

a. Table of Dimensional Control for Reduced Frontage Lots

District	Min. Lot Area In feet	Lot Frontage In feet (6.A.9.)	Percent of Required Lot area as Contiguous and Buildable (6.A.2.)	Min. Front Yard In feet (6.A.4.)	Min. Side Yards In feet (6.A.4.)	Min. Rear Yard In feet (6.A.4.)	Max. Lot Cover-age %	Max. Bldg. Cover-age %	Max. Height in feet (6.A.3.)	Diameter of Circle In feet (6.A.1.c.)
Res. A	160,000	100	75	40	40	40	30	20	35	200
Res. B	80,000	100	75	40	40	40	30	25	35	200
Res. C	40,000	100	75	40	20	20	35	30	35	150

- b. Frontage must be continuous on a public or approved way.
- c. The lot shall have at least one area that can accommodate a circle with a diameter as indicated in Table 6.A.1.a.
- d. Not more than two Reduced Frontage Lots shall have abutting frontage.
- e. Reduced Frontage Lots shall not block future extensions or connections of a dead-end street.
- f. A Reduced Frontage Lot created by Special Permit shall not be further subdivided, reduced in area, and/or changed in size or shape. The Planning Board shall require a recorded Deed Restriction setting forth this restriction in perpetuity.
- g. Applications for Reduced Frontage Lot Special Permit are exempt from the requirement of Section 8.B., Site Plan Review.
- h. A Reduced Frontage Lot shall not interfere with the use and enjoyment of an abutting lot, and shall not adversely affect the neighborhood.

The Moderator declared since this was a vote to amend the zoning bylaw a two-thirds majority was necessary for passage. Since there was not unanimous approval, the Moderator declared that a count was necessary and that by a count of 88 voting in the affirmative and 2 voting in the negative, the Moderator declared that the Article passed.

Article 21. The Finance Committee recommended approval.

Planning Board Chairman John Todd Sarkis moved that the Town amend Section 1 of the Zoning Bylaw, Purpose and Authority to read as follows:

1.B. This Bylaw is adopted under the authority provided by and in accordance with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, and Article 89 of the Massachusetts Constitution, the Home Rule Amendment.

1.C. All references to the Zoning bylaw, state statutes, and other references shall be considered “as amended.”

The Moderator declared since this was a vote to amend the zoning bylaw a two-thirds majority was necessary for passage. The Moderator declared that the vote was unanimous and the Article passed.

Article 22. The Finance Committee recommended approval.

Planning Board Chairman John Todd Sarkis moved that the Town amend Section 3.A.1 of the Zoning Bylaw, Zoning Districts to read as follows:

- Residence A
- Residence B
- Residence C
- Business
- Industrial
- Overlay Districts:
 - Flood Plain
 - Floodplain Overlay District
 - Groundwater Protection Overlay District
 - Large-Scale Ground-Mounted Photovoltaic Installations Overlay District

The Moderator declared since this was a vote to amend the zoning bylaw a two-thirds majority was necessary for passage. The Moderator declared that the vote was unanimous and the Article passed.

Article 23. The Finance Committee recommended approval.

Planning Board Chairman John Todd Sarkis moved that the Town amend SubSection 6.A Intensity of Use, Table of Dimensional Control as printed in the Finance Committee Booklet Appendix F for Article 23, page 47 which reads as follows:

SECTION 6.A. TABLE OF DIMENSIONAL CONTROL

District	Min. Lot Area In feet	Lot Frontage In feet (6.A.1.) (6.A.9.)	Percent of Required Lot area as Contiguous and Buildable (6.A.2.)	Min. Front Yard. In feet (6.A.4.)	Min. Side Yards In feet (6.A.4.)	Min. Rear Yard In feet (6.A.4.)	Max. Lot Cov. %	Max. Bldg Cov. %	Max. Height in feet (6.A.3.)
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The Moderator declared since this was a vote to amend the zoning bylaw a two-thirds majority was necessary for passage. The Moderator declared that the vote was unanimous and the Article passed.

Article 24. The Finance Committee recommended approval.

Selectman, Richard J. Cushing moved that the Town amend the Regional Agreement of the Pentucket Regional School District to replace the Regional Agreement as most recently amended on July1, 2009 and replace it with the document entitled "Pentucket Regional School District Regional Agreement, PK-12 Regional Agreement of April 30, 2012". As attached to the document entitled "Final Draft Pentucket Regional School District Regional Agreement PK-12 Regional Agreement of April 30, 2012, West Newbury Town Meeting, April 30, 2012."

Selectman Cushing, a member of the Regional Agreement Task Force, explained the updates and changes to the Regional Agreement including the provision that only two schools would now be required to vote

to separate themselves from the region and there was a more detailed explanation of what constituted a capital expense regarding relative to the towns elementary schools.

The Moderator declared that the Motion passed unanimously.

Upon the motion of Town Meeting Member Deborah Hamilton, it was voted to dissolve the 2012 Annual Town Meeting at 8:39 P.M.

Attest:

Michael P. McCarron
Town Clerk

MAY 7, 2012 ANNUAL TOWN ELECTION RESULTS
WEST NEWBURY, MASSACHUSETTS

Pursuant to Articles 1 and 2 of the Warrant issued by the Board of Selectmen on April 12, 2011, the Annual Town Election was held on Monday, May 7, 2012 in the Annex, 379 Main Street. The Constable, Brian Richard, duly posted the Warrant on April 13, 2012, according to applicable statutes and the Town Bylaws, and made proper return of his doings. The polls were opened at 7:00 A.M. and closed at 8:00 P.M. Prior to opening of the polls, the Clerk read the Warrant and Return of Service, swore in the Election Officers and turned over election materials to the Warden. The Warden, Clerk and Constable inspected the ballot box and a zero report was printed. The Election Officers sworn to the faithful performance of their duties were: Warden, M. Dorothy Cavanaugh, Clerk Nancy Mitchell; Tellers Liesa Mingo, Sharon Plummer, Maureen Curtin, Elizabeth Samson, Dianne Faulkner, Susan Prokop, Margaret Dunlap, and Joan Tranfaglia.

There were 673 ballots cast, representing a 21% voter turnout. The Town Clerk announced the preliminary results at 8:05 PM. There were no provisional ballots cast.

SELECTMAN (For Three Years)

Votes Received

Blank	150
Glenn A. Kemper	483
Jane Wild	13
Others	27

BOARD OF HEALTH (For Three Years)

Blank	153
Robert P. Janes	519
Others	1

PLANNING BOARD (For Five Years)

Blank	592
Robert Bridges	23
Thomas Atwood	22
Others	36