

FALL ANNUAL TOWN MEETING MINUTES

TUESDAY, OCTOBER 22, 2019 – 7:00 P.M.

VALLEY CHAPEL AUDITORIUM

14 HUNTER ROAD

UXBRIDGE, MASSACHUSETTS

Pursuant to the foregoing Warrant, the inhabitants of the Town of Uxbridge, qualified to vote in the Town elections and in Town affairs, met at the Valley Chapel Auditorium, in Precinct 1, in said Uxbridge, and transacted the following business on October 22, 2019:

Moderator Charles "Ed" Maharay called the Spring Town Meeting to order at 7:00pm, declaring the presence of a quorum (50 required, 151 voters present). Rules for conducting business and taking votes of the meeting were announced. The Town has purchased an electronic voting system and all Town Meeting votes will be taken by electronic vote.

* * *

ARTICLE 1: TRANSFER TO STABILIZATION FUND

To see if the Town will vote to transfer and appropriate a sum or sums, including free cash to the stabilization fund account.

Or take any actions related thereto.

SPONSOR: Town Manager

COMMENTARY: *This article serves to transfer FY2019 Free Cash to the Stabilization Fund. The opening balance in the Stabilization Fund as of 8-28-19 before any other activity is \$2,461,762.62.*

Because of the changes in the Treasurer/Collector's office and the Town Accountant's office, it is unlikely that we will have Free Cash certified by October 22, 2019. The Town has been operating with consultant help for the Treasurer/Collector and Town Accountant positions for over 9 months, and although we have both positions now filled with very skilled and qualified personnel, they probably will not have been able to clean up an extensive backlog in balancing all books and getting Free Cash certified that early. In that event, this article would be passed over.

MOTION: *Pass over*

Vote required for passage: simple majority vote per M.G.L. c.4 §5b

THE FINANCE COMMITTEE RECOMMENDATION: Pass over

THE BOARD OF SELECTMEN RECOMMENDATION: Pass over

No Motion

No Action

ARTICLE 2: DISPOSITION OF SURPLUS TOWN OWNED PROPERTY – MCCLOSKEY SCHOOL

To see if the Town will vote to:

(a) Authorize the School Committee to transfer some or all of the parcels that comprise the McCloskey School property located at 62 Capron Street to the Board of Selectmen, said parcels being depicted on a certain plan of

land on file with the Town Clerk; and to further authorize the School Department, Board of Selectmen, and Town Manager to execute any and all instruments necessary to obtain approval of said plan; and

(b) Authorize the Town, acting by and through the Board of Selectmen, to convey any or all of the resulting parcels as shown on such plan; and to further authorize the Selectmen and Town Manager to execute any and all deeds, easements, and other instruments to effectuate such conveyances.

Or take any actions related thereto.

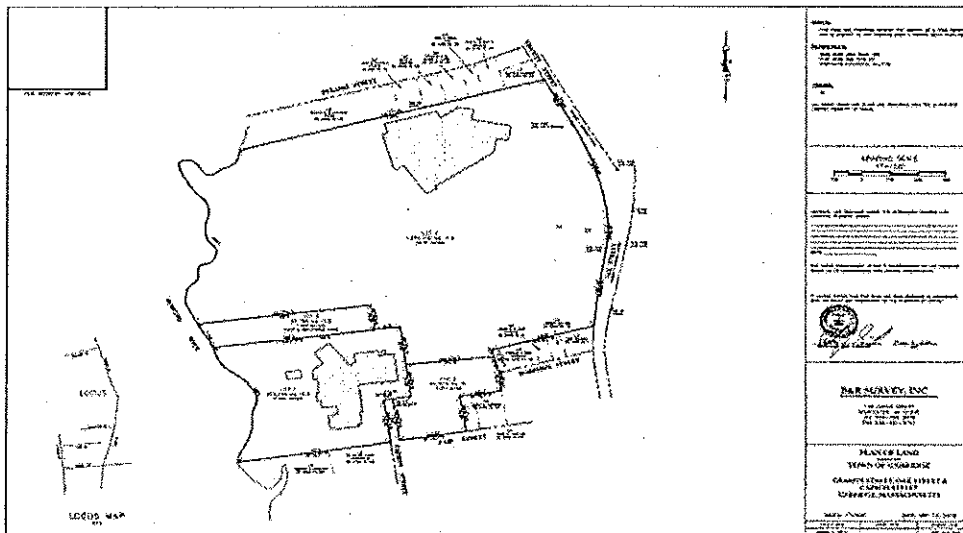
SPONSOR: Board of Selectmen

COMMENTARY: *The McCloskey School building at 62 Capron Street has been declared by the School Committee as surplus and has been closed as an education facility. The building is being transferred to allow it to be redeveloped or otherwise used or sold for the benefit of the Town.*

Further discussion between the full Board of Selectmen and the School Committee is scheduled for October 17. The major purpose of this discussion is to determine what portion of land will be transferred with the building. The major concern that has been raised is the parking lot. In order for there to be any realistic re-use of the building, whether by the Town or for private development, requires parking. The existing parking lot is used for residents attending or participating in sporting events on the abutting playing fields. It is also used by parents picking up or dropping off students on the adjacent active school.

If the transfer is approved, funding is requested under Article 5 to fund a study of the physical facility, and work with the Town as to the proposed use of the building.

MOTION: *Move that the Town vote to authorize the School Committee to transfer the parcels that comprise the McCloskey School property located at 62 Capron Street to the Board of Selectmen, said parcels being the three parcels depicted on a certain plan of land on file with the Town Clerk; and to further authorize the School Department, Board of Selectmen, and Town Manager to execute any and all instruments necessary to obtain approval of said plan.*



Vote required for passage: 2/3rds vote

THE FINANCE COMMITTEE RECOMMENDATION: Favorable Action (5-1-0)

THE BOARD OF SELECTMEN RECOMMENDATION: No recommendation (5-0-0)

THE PLANNING BOARD RECOMMENDATION: No recommendation (5-0-0)

The motion was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-117, No-15

ARTICLE 3: TRANSFER OF FUNDS – MCCLOSKEY SCHOOL

To see if the Town will vote to transfer a sum of funds from the School Department FY2020 budget to the Town's General Fund for FY2020 for the maintenance of the McCloskey School Property, subject to the conveyance thereof to the Town.

Or take any actions related thereto.

Item #	Department	Budget	Adjustment	Revised FY19 Budget	Funding Source
1	Facilities Department (Town Hall)	\$159,675.80	\$104,704.25	\$264,380.05	School Department (McCloskey school)

SPONSOR: Town Manager

COMMENTARY: *The transfer of all remaining funds in the School Department budget which have been designated for the operation and maintenance of the McCloskey School building to the Town will provide the assets for the Town to continue to maintain the building until it is re-used or sold. For Fiscal Year 2020, the total was \$111,550, but there have been expenses to date that the School Department has paid from that budget, so the amount transferred will have to be the estimated balance as of 10-15-19.*

MOTION: *Move that the Town vote to transfer a sum of funds from the School Department FY2020 budget to the Town's General Fund for FY2020 for the maintenance of the McCloskey School Property, as follows:*

Item #	Department	Budget	Adjustment	Revised FY19 Budget	Funding Source
1	Facilities Department (Town Hall)	\$159,675.80	\$104,704.25	\$264,380.05	School Department

Vote required for passage: simple majority

THE FINANCE COMMITTEE RECOMMENDATION: Favorable Action (5-1-0)

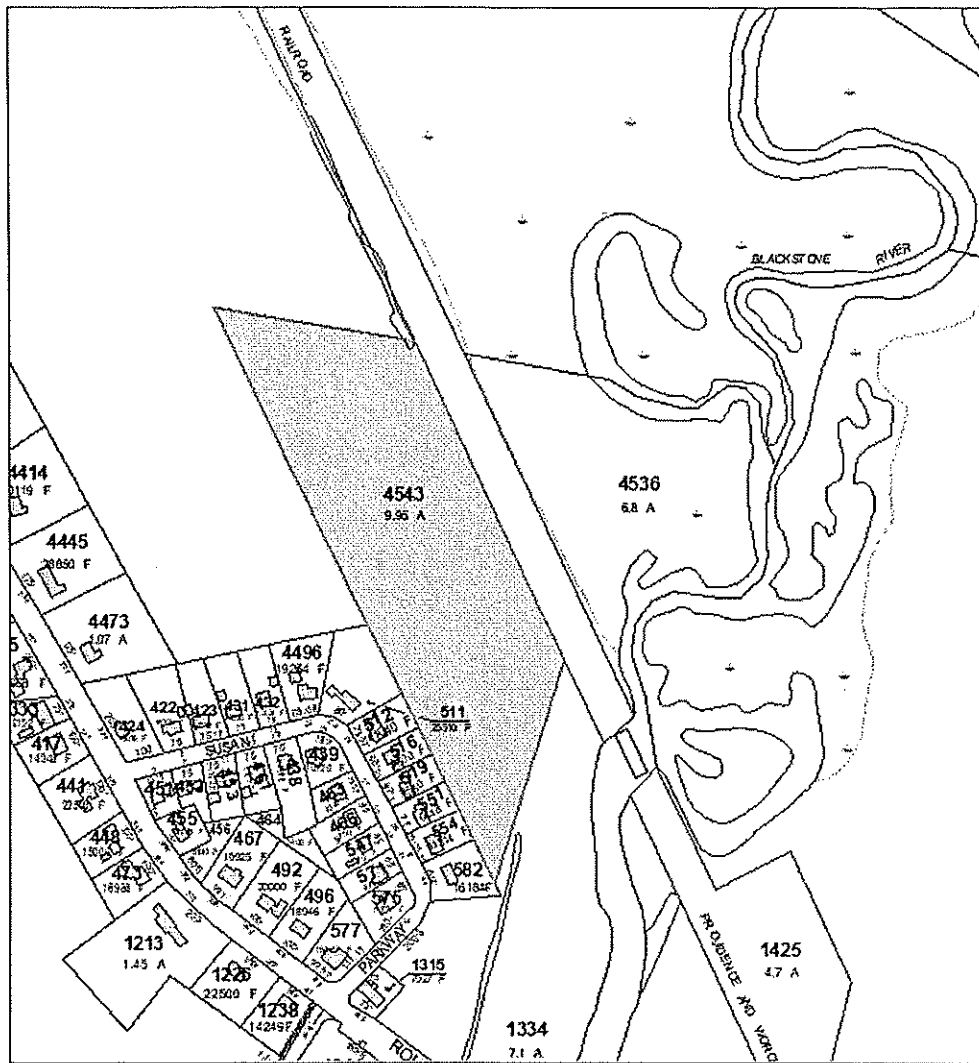
THE BOARD OF SELECTMEN RECOMMENDATION: No recommendation (5-0-0)

The motion was seconded

Moderator declares a Simple majority vote, motion carries, Yes-125, No-11

ARTICLE 4: AUTHORIZING THE BOARD OF SELECTMEN TO SELL, EXCHANGE, OR TRANSFER A PARCEL OF LAND ON SOUTH MAIN STREET KNOWN AS TOWN OF UXBRIDGE ASSESSORS MAP 30 LOT 4543 ON MILLVILLE ROAD

To see if the Town will transfer the care, custody, and control of Town of Uxbridge Assessors Map 30 Lot 4543 consisting of 9.95 acres of land on Millville Road to the Board of Selectmen for general municipal purposes including the sale thereof; and further that the Town authorizes the Board of Selectmen, Town Manager, or other agents of the Town to sell, exchange, or transfer said parcel of land for such minimum price and under the conditions and circumstances that the Board of Selectmen and Town Manager feel are in the best interests of the Town,



Or take any actions related thereto.

SPONSOR: Town Manager

COMMENTARY: *The Town-Owned property in question is a 9.95 landlocked parcel situated on Millville Road abutting other Town owned property (to be retained for easement purposes) and a large privately-owned parcel that is zoned Industrial-A. There is a sewer easement that runs across the rear edge of the property.*

The owner of the abutting large parcel has expressed an interest in purchasing the subject property. He is currently developing plans for the development of his site as an industrial/commerce sub-division.

The subject property will be offered through the Request for Proposal process with a minimum bid stipulation. The minimum bid will be based on a professional real estate appraisal and market value.

Proceeds of the sale of a municipal asset must go to fund capital improvements.

MOTION: *Move that the Town transfer the care, custody, and control of Town of Uxbridge Assessors Map 30 Lot 4543 consisting of 9.95 acres of land on Millville Road to the Board of Selectmen for general municipal purposes including the sale thereof; and further to authorize the Board of Selectmen, Town Manager, or other agents of the Town to sell, exchange, or transfer said parcel of land for such minimum price and under the*

conditions and circumstances that the Board of Selectmen and Town Manager determine are in the best interests of the Town.

Vote required for passage: 2/3rds vote

THE FINANCE COMMITTEE RECOMMENDATION: Favorable Action (6-0-0)
THE BOARD OF SELECTMEN RECOMMENDATION: Favorable Action (5-0-0)
THE PLANNING BOARD RECOMMENDATION: Favorable Action (5-0-0)

The motion was seconded

Moderator declares motion fails, Yes-59, No-83

ARTICLE 5: FY20 INTER/INTRA DEPARTMENTAL TRANSFERS

To see if the Town will vote to transfer and appropriate from available funds, including funds previously appropriated to other uses or Free Cash, Stabilization Fund and enterprise fund retained earnings, or to raise a sum or sums of money to appropriate to accounts for purposes to be specified at the Fall Annual Town Meeting.

Or take any actions related thereto.

SPONSOR: Town Manager

COMMENTARY: *This article provides for the amendment to the budget as follows:*

ONE TIME EXPENSES

1 – *The Senior Center internet access has been problematic for some time. The technology infrastructure is inadequate to support it. The requested funding is for materials that the IT Department will install.*

2 – *The Board of Selectmen has determined that it needs additional information and assistance to evaluate the physical condition of the McCloskey Building and to determine its optimal use. The Town has issued an RFP for consulting assistance and the proposals were submitted on October 1. The low (and only) bid was \$115,600. If the Town is to make some productive use of the McCloskey building, either for its own use or to sell, the information to be created through this process will be essential. The Town needs an independent evaluation of the condition of the building, the cost to bring it up to a standard where no new capital investment would be needed for 20 years, and assistance to the town (through a McCloskey re-use Committee) in evaluating alternative re-use options. Otherwise experience in Massachusetts is that Towns and Cities are poor stewards of vacant municipal property.*

3 – *Over the past year, it has become clear that salaries that Uxbridge offers for many of its positions are not adequate to recruit or retain the quality of employee that the Town wants. Just in the past year, the Town has had to increase salaries to attract good candidates for the Town Accountant, Treasurer/Collector, and Town Manager positions. We have had the Police Chief and Fire Chief leave Uxbridge to work in other Towns, and still have the vacancy in the Fire Chief position. Rather than continue to piecemeal the Town's salary structure, it would be better to take a holistic approach and evaluate and develop a proper salary structure throughout Town government.*

Water Department Modeling – Pass Over

ANNUALLY RECURRING EXPENSES

4 – *The budget as adopted does not provide for periodic replacement of PC's and peripheral equipment in the Town buildings. There are a total of 100 PC's plus peripheral equipment (printers, scanners, copiers, etc.) and a program to replace 1/5 of them a year will cost \$25,000. The IT Director has provided the Finance Committee with a full inventory of the technology equipment by building.*

5 – *The Town has learned that archiving the Town's social media accounts is a requirement of the Public Records law and regulations. The Town has determined that the cost of having a third party provide this service is our only option - we do not have the time, expertise, or equipment to do this. The Town receives 80*

to 100 public records requests in a typical year. To date none of these has been for social media content, but it is probable that this will happen.

6 – As part of the FY 2020 budget approved in June 2019, the Town approved the Town's Information Technology budget with an increase of \$30,000 in the salary line item to address additional staffing needs. That sum is not adequate to hire even the most basic level staff person in this field. Additionally, the Town Manager has had extensive conversations with the Superintendent of Schools and IT Director, and has determined that the model which will work best for the Town and School IT functions going forward, is to create a Department that has the Director, a well-trained and experienced Coordinator/Senior Technical to work under the Director with primary responsibility for Town IT, and junior technicians to be shared jointly by the Town and Schools. If Uxbridge does not move forward with a model like this, then the shared IT function is likely to dissolve next June 30. The shared model is working so much better and at significantly lower cost than the previous model of the Town's IT function, but this additional investment is needed to sustain it in the long run.

7 – We discovered after the Spring Annual Town Meeting that the Veterans Agent's salary was budgeted too low, and this appropriation will address that shortfall.

8 – During the FY 2020 budget process there was discussion about creating a Town Facilities Department. Under the powers of reorganization in the Charter, the Town Manager with the approval of the Board of Selectmen, has created that department for Town (non-school) buildings and facilities. The Town has posted the part time position of Facilities Administrator. A key part of the creation of the department is to hire a full time "handy-person" who will be able to do preventative maintenance, small repairs, painting, manage rubbish/recycling, and carry out other work in the 6 Town buildings and 4 other sites.

MOTION: Move that the Town appropriate by transfer from available funds sums of money to supplement appropriations previously voted under Article 8 of the Annual Town Meeting of 2019 for the Fiscal Year beginning July 1, 2019 for line items in the budgets of various Town Departments as follows:

Item #	Department	Budget	Adjustment	Revised FY19 Budget	Funding Source
1	Information Technology (Senior Center TV)	\$177,500	\$700	\$178,200	Account 135 – Accounting Professional Salaries
2	Facilities Department (McCloskey evaluation and recommendation for re-purposing)	\$159,676.80	\$115,600	\$275,276.80	Other non-property tax local receipts (Cannabis tax revenue)
3	Town Manager (Pay and Classification study for Town employees)	\$433,881	\$19,000	\$452,881	Account 123 – Town Manager Services and Supplies (Auditing)
	Water Department Modeling				Pass Over
4	Information Technology (PC and peripheral replacement)	\$177,500	\$25,000	\$202,500	Account 135 – Accounting Professional Salaries
5	Information Technology (Social Media Archiving)	\$177,500	\$3,500	\$181,000	Account 145 – Treasury Professional Salaries
6	Information Technology	\$177,500	\$50,000	\$227,500	Tax levy
7	Veterans Agent Salary	\$63, 698	\$1,905	\$65,603	Account 145 – Treasury Professional Salaries
8	Facilities Department (Hire a handy-person)	\$159,676.80	\$35,800	\$195,476.80	Tax levy
	TOTAL		\$252,505		

Vote required for passage: simple majority

THE FINANCE COMMITTEE RECOMMENDATION:

#1 Senior Center Favorable Action (6-0-0)

#2 McCloskey Favorable Action (5-1-0)

#3 Salary Survey Unfavorable Action (5-0-1)

Water Department Modeling Unfavorable Action (6-0-0)

#4 Information Technology (PC replacement) Favorable Action (6-0-0)

#5 Information Technology (Social Media Archiving) Favorable Action (6-0-0)

#6 Information Technology Favorable Action (5-1-0)

#7 Veterans agent salary Favorable Action (6-0-0)

#8 Facilities Department Favorable Action (6-0-0)

THE BOARD OF SELECTMEN RECOMMENDATION: Favorable action (5-0-0)

Move to accept item #1 as written

The motion for IT Senior Center was seconded

Moderator declares a Simple majority vote, motion carries, Yes-121, No-14

Move to accept item #2 as written

The motion for McCloskey evaluation was seconded

A motion was made by the Finance Committee to amend the main motion to be "Move to reduce the amount to \$52,400 in order to fund the "task 1 Assessment" portion of the Project Cost Estimate"

Moderator declares the Amendment passes by Simple majority vote, Yes-88, No-47

Moderator declares a Simple majority vote, the Amended motion carries, Yes-126, No-10

Move to accept item #3 as written

The motion for Salary Survey was seconded

Moderator declares, motion fails Yes-40, No-100

Move to accept item #4 as written

The motion for IT PC Replacement was seconded

Moderator declares a Simple majority vote, motion carries, Yes-121, No-12

Move to accept item #5 as written

The motion for Social Media Archival was seconded

Moderator declares a Simple majority vote, motion carries, Yes-119, No-10

Move to accept item #6 as written

The motion for IT Salaries was seconded

Moderator declares a Simple majority vote, motion carries, Yes-117, No-20

Move to accept item #7 as written

The motion for Veterans Agent salary was seconded

Moderator declares a Simple majority vote, motion carries, Yes-120, No-8

Move to accept item #8 as written

The motion for Facilities salary was seconded

Moderator declares a Simple majority vote, motion carries, Yes-116, No-18

ARTICLE 6: CAPITAL PURCHASES/PROJECTS

To see if the Town will vote to appropriate a sum or sums of money for capital purchases and/or projects as recommended by the Town Manager in conjunction with the Capital Planning Committee.

Or take any actions related thereto.

SPONSOR: Town Manager

COMMENTARY: *The capital projects listed below, with the details as noted, are needed at this time. Funding will come from the Stabilization fund. The Stabilization fund currently stands at just below \$2.5 million, and is 5.6% of the operating budget. The Board of Selectmen's policy provides that the stabilization fund should be not less than 5% of the operating budget, but not less than \$2.5 million. Under normal circumstances we would have free cash certified by the FATM, and that free cash would be moved to the Stabilization Fund and then would be available to use for capital projects. Given the lack of financial staff from November 2018 until recently, we are making good progress in getting free cash certified, but it will not happen until probably November 2019. It may therefore be justified to use more of the Stabilization Fund than normal, given those circumstances.*

MOTION 1: *Move that the Town vote to appropriate the sum of \$45,000 in the amounts stated in the Table below in the Fall Annual Town Meeting warrant report, and to meet said appropriation transfer the sum of \$45,000 from the Stabilization Fund, with each item being considered a separate appropriation:*

Capital Project	Details	Amount
Fire Department - replace passenger vehicle	Replace 2011 – Ford Crown Vic – 150,000+ (unknown miles due to malfunctioning speedometer); this was a handed-down police cruiser and most likely will not pass the next inspection. The vehicle being replaced is used for fire inspections.	\$45,000

The motion for FD Vehicle was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-114, No-19

MOTION 2: *Move that the Town vote to appropriate the sum of \$146,130 in the amounts stated in the Table below in the Fall Annual Town Meeting warrant report, and to meet said appropriation transfer the sum of \$146,130 from the Stabilization Fund, with each item being considered a separate appropriation:*

Capital Project	Details	Amount
DPW – replace trackless machine for sidewalk snow clearing	Replace 1996 trackless machine with attachments. The current unit requires repairs in excess of its value. This equipment is integral to winter maintenance activities, and without replacement will have a dramatic negative impact on our winter maintenance operations during the winter of 2019-2020.	\$146,130

The motion for DPW trackless sidewalk snow removal was seconded

A motion was made by the Board of Selectmen to amend the main motion to be “Move to amend the dollar amount to \$72,500 to purchase a used 2007 trackless machine with no attachments”

Moderator declares the Amendment fails, Yes-22, No-113

Moderator declares a 2/3rds majority vote on the Main motion, motion carries, Yes-110, No-23

MOTION 3: *Move that the Town vote to appropriate the sum of \$80,000 in the amounts stated in the Table below in the Fall Annual Town Meeting warrant report, and to meet said appropriation transfer the sum of \$80,000 from the Stabilization Fund with, each item being considered a separate appropriation:*

Capital Project	Details	Amount
DPW – replace 1 ton Dump Truck	Replace 2000 H-16 which was taken out of service in the winter of 2018-2019, and is inoperable.	\$80,000

Vote required for passage: 2/3 majority because the source of funding is the Stabilization Fund

THE FINANCE COMMITTEE RECOMMENDATION:

Fire Department Vehicle Favorable Action (6-0-0)

DPW Trackless Machine No Recommendation – Committee was unable to obtain consensus

DPW 1 Ton Dump Truck No Recommendation – Committee was unable to obtain consensus

THE BOARD OF SELECTMEN RECOMMENDATION:

Fire Department Vehicle Favorable action (5-0-0)

DPW Trackless Machine Unfavorable action (5-0-0)

DPW 1 Ton Dump Truck Unfavorable action (5-0-0)

The motion for DPW Dump truck was seconded

A motion was made by the Board of Selectmen to amend the main motion to be "Move to amend the dollar amount to \$59,650 to purchase a new one-ton dump truck chassis and body only"

Moderator declares the Amendment fails, Yes-22, No-108

Moderator declares a 2/3rds majority vote on the Main motion, motion carries, Yes-101, No-27

ARTICLE 7: BILLS OF PRIOR FISCAL YEAR

To see if the Town will vote pursuant to M.G.L. c.44, §64 to raise and appropriate and/or transfer from available funds such sums of money necessary for the purpose of paying outstanding bills from prior fiscal years.

Or take any actions related thereto.

SPONSOR: Town Manager

COMMENTARY: *This article seeks authorization to pay prior year bills; which is required pursuant to M.G.L. c.44, §64. There are no known prior year's bills and therefore this article may be passed over.*

MOTION: *Pass over*

Vote required for passage: Requires a 4/5th majority vote per M.G.L. c.44, §64.

THE FINANCE COMMITTEE RECOMMENDATION: Pass over

THE BOARD OF SELECTMEN RECOMMENDATION: Pass over

No Motion

No Action

ARTICLE 8: TRANSFER FUNDS FROM THE OVERLAY RESERVE TO PROVIDE FOR THE REVALUATION

To see if the Town will vote to transfer from the overlay reserve and/or appropriate a sum of money to pay for the required real estate and personal property revaluation.

Or take any actions related thereto.

SPONSOR: Assessor

COMMENTARY: *The Town is required to do its periodic revaluation in FY 2020 for FY 2021. The Town has bid the consulting for 2 contracts – real estate, and personal property. Bids were taken on October 2, 2019, and the low qualified bids total \$52,000 for the real estate certification and full data quality field review, plus \$19,604 for the list and valuation of personal property and appraisal and review of utilities and wireless and CATV. The total transfer required will be \$71,604. The Overlay Reserve has funds in it that are available to fund these contracts. The Overlay Reserve contains a balance of \$469,158.81, and the revaluation account has a balance of \$21,055.53.*

MOTION: *Move the sum of \$71,604 be transferred from overlay surplus for the purposes stated in the article as written.*

Vote required for passage: simple majority

THE FINANCE COMMITTEE RECOMMENDATION: Favorable Action (6-0-0)
THE BOARD OF SELECTMEN RECOMMENDATION: Favorable action (5-0-0)

The motion was seconded

Moderator declares a Simple majority vote, motion carries, Yes-79, No-43

ARTICLE 9: CHANGE THE COLA ADJUSTMENT FOR SECTION 17D EXEMPTIONS

To see if the Town will vote to change the annual cost of living adjustment (COLA) under Chapter 59 Section 5 clause 17D to "0".

Or take any actions related thereto.

SPONSOR: Assessor

COMMENTARY: *In 1989 the Town accepted Chapter 17D exemptions which provide a payment to homeowners who are 70 years old and older with no income limit but a limit on their estate exclusive of domicile in the amount of \$63,430. The exemption is for a payment of \$175 per year for which it is applied, and the Town approved a COLA for this exemption in 2001. With the COLA, the exemption has grown to \$248.31 per year. The Town has a number of other exemptions that have been approved over the years, but none of them have a COLA. In conversation with the Department of Revenue, they have suggested that Uxbridge eliminate the COLA, freezing the payments at current levels.*

MOTION: *Pass over.*

Vote required for passage: simple majority

THE FINANCE COMMITTEE RECOMMENDATION: Unfavorable Action (6-0-0)

THE BOARD OF SELECTMEN RECOMMENDATION: Pass over

No Motion

No Action

ARTICLE 10: PAYMENT IN LIEU OF TAXES - SOLAR PILOT AGREEMENT

To see if the town will vote in accordance with M.G.L. c. 59, §38H to authorize the Board of Selectmen and Board of Assessors to negotiate and enter into a "Payment in Lieu of Taxes" Agreement with:

A. MA CS Uxbridge, LLC or its assign, for a period of up to twenty (20) years, under which MA CS Uxbridge, LLC or its assign, will pay the Town a sum of money per year relative to the construction and operation of a Large-Scale Ground Mounted Solar Photovoltaic Installation with an expected nameplate capacity of approximately 5575.0 kW DC, on an 14 acre +/- portion of land located on Newell Road and on Assessor's Map 25 as Lots 2065 and 4434, Uxbridge, MA, and further to allow the Board of Selectmen and Board of Assessors to negotiate any amendments as necessary to said PILOT Agreement.

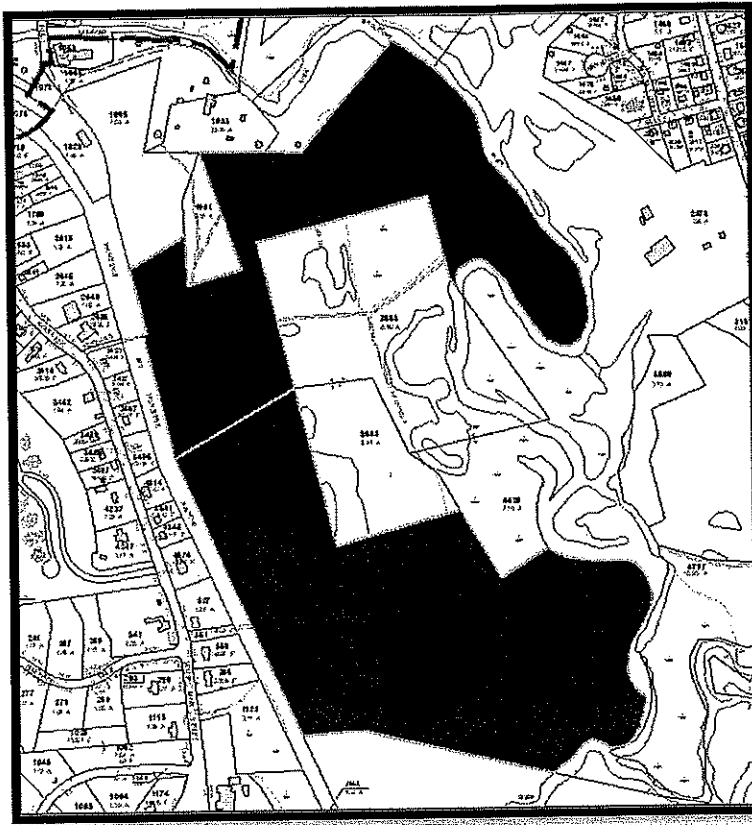
Or take any actions related thereto.

and

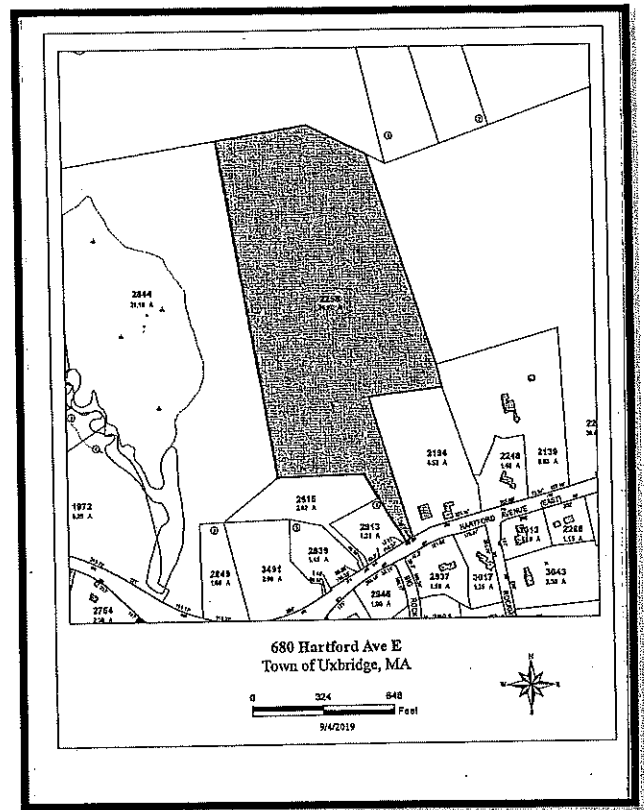
B. Kearsarge Uxbridge LLC or its assign, for a period of up to twenty (20) years, under which Kearsarge Uxbridge, LLC or its assign, will pay the Town a sum of money per year relative to the construction and operation of a Large-Scale Ground Mounted Solar Photovoltaic Installation with an expected nameplate capacity of approximately 2,685 kW DC, on an 11.27 acre +/- portion of land located at 680 and 690 Hartford Road, on Assessor's Map 8, Lots 2258 and 2184, Uxbridge, MA and further to allow the Board of Selectmen and Board of Assessors to negotiate any amendments as necessary to said PILOT Agreement.

Or take any actions related thereto.

Map 25, Parcels 2065 & 4434



Map 8, Parcel 2258
(formerly 2065 and & 2184)



SPONSOR: Board of Selectmen

COMMENTARY: *Passage of this article will authorize the Board of Selectmen and Board of Assessors to negotiate and enter into Payment in Lieu of Taxes (PILOT) agreements with solar energy developers regarding parcels of privately-owned land on Newell Road and Hartford Avenue. There are currently no PILOT agreements in place on these parcels. M.G.L. requires PILOT agreements to collect essentially the same amount of revenue that would be generated if the subject property and equipment was subject to full and fair taxation. M.G.L. c. 59 § 38H requires a vote by Town Meeting in order to authorize negotiating and entering into agreements for these projects. There will be 2 motions under this article.*

Note that for the motion under item A, the street address will be "70 Depot Street".

Note that for the motion under item B, the street name will be corrected to read "680 Hartford Avenue East" and the lot will be corrected to read "Map 8, Parcel 2258"

MOTIONS:

Motion A: *Move that the town vote in accordance with M.G.L. c. 59, §38H to authorize the Board of Selectmen and Board of Assessors to negotiate and enter into a "Payment in Lieu of Taxes" Agreement with:*

MA CS Uxbridge, LLC or its assign, for a period of up to twenty (20) years, under which MA CS Uxbridge, LLC or its assign, will pay the Town a sum of money per year relative to the construction and operation of a Large-Scale Ground Mounted Solar Photovoltaic Installation with an expected nameplate capacity of approximately 5575.0 kW DC, on an 14 acre +/- portion of land located on 70 Depot Street and on Assessor's Map 25 as Lots 2065 and 4434, Uxbridge, MA, and further to allow the Board of Selectmen and Board of Assessors to negotiate any amendments as necessary to said PILOT Agreement.

Motion B: *Move that the town vote in accordance with M.G.L. c. 59, §38H to authorize the Board of Selectmen and Board of Assessors to negotiate and enter into a "Payment in Lieu of Taxes" Agreement with: Kearsarge Uxbridge LLC or its assign, for a period of up to twenty (20) years, under which Kearsarge Uxbridge, LLC or its assign, will pay the Town a sum of money per year relative to the construction and operation of a Large-Scale Ground Mounted Solar Photovoltaic Installation with an expected nameplate capacity of approximately 2,685 kW DC, on an 11.27 acre +/- portion of land located at 6800 Hartford Road East, on Assessor's Map 8, Parcel 2258, Uxbridge, MA and further to allow the Board of Selectmen and Board of Assessors to negotiate any amendments as necessary to said PILOT Agreement.*

Vote required for passage: Requires a simple majority vote per M.G.L. c. 59 §38H

THE FINANCE COMMITTEE RECOMMENDATION: Favorable Action (6-0-0)

THE BOARD OF SELECTMEN RECOMMENDATION: Motion A – Favorable action (5-0-0);
Motion B – Favorable action (5-0-0)

Motion A was seconded

Moderator declares a Simple majority vote, motion carries, Yes-107, No-24

Motion B was seconded

Moderator declares a Simple majority vote, motion carries, Yes-101, No-20

ARTICLE 11: AMEND THE SECTIONS OF THE ZONING BYLAWS WHICH ESTABLISH THE MAXIMUM NUMBER OF RETAIL MARIJUANA ESTABLISHMENTS

To see if the Town will vote to amend the Zoning Bylaw to increase the number of marijuana retail facilities (excluding growers and medical treatment centers) from three (3) to six (6) by amending the zoning bylaw §400-23, subsection B 1., Marijuana Establishments, and Medical Marijuana Treatment Centers as follows:

B. Number of Marijuana Establishments and Medical Marijuana Treatment Centers

1. The maximum number of marijuana retailers shall be no more than six (6) in total. ~~20 per cent the total number of licenses which have been issued within Uxbridge for the retail of alcoholic beverages not to be drunk on the premises for the preceding fiscal year, or three, whichever the greater.~~

Or take any actions related thereto.

SPONSOR: Board of Selectmen

COMMENTARY: *This article would change the maximum number of retail marijuana establishments from 3 to 6. All other requirements under zoning, and Host Community Agreements (HCA's) would remain in place.*

The Board of Selectmen has issued 4 HCA's for retail establishments to date, and there appears to be a continuing demand. If the bylaw is not changed, there would be one of the 4 retail establishments that would not be permitted to open because of the current limitation.

The one retail establishment currently in operation is generating to the Town (for the 3rd quarter of 2019) \$121,000, or on an annualized basis, over \$400,000.

MOTION: *Move the article as written.*

Vote required for passage: Requires a 2/3rds majority per M.G.L. c. 40A §5

THE FINANCE COMMITTEE RECOMMENDATION: Unfavorable Action (4-2-0)

THE BOARD OF SELECTMEN RECOMMENDATION: Favorable Action (5-0-0)

THE PLANNING BOARD RECOMMENDATION: Favorable Action (4-0-0)

The motion was seconded
Moderator declares, motion fails, Yes-67, No-57

ARTICLE 12: AMEND THE SECTIONS OF THE ZONING BYLAWS WHICH ESTABLISH THE MAXIMUM NUMBER OF MARIJUANA CULTIVATORS, MARIJUANA TESTING FACILITIES, RESEARCH FACILITIES, MARIJUANA PRODUCT MANUFACTURER OR ANY OTHER TYPE OF LICENSED MARIJUANA-RELATED BUSINESS (EXCLUSIVE OF MARIJUANA RETAILERS OR MARIJUANA TREATMENT CENTERS)

To see if the Town will vote to amend the Zoning Bylaw to increase the number of marijuana facilities (excluding growers and medical treatment centers) by amending the zoning bylaw §400-23, subsection B, Number of Marijuana Establishments, and Medical Marijuana Treatment Centers as follows:

B. Number of Marijuana Establishments and Medical Marijuana Treatment Centers

2. There shall be no maximum on the number of marijuana cultivators, marijuana testing facilities, research facilities, marijuana product manufacturer or any other type of licensed marijuana-related business (exclusive of marijuana retailers or marijuana treatment centers) shall be no more than twelve in total.

Or take any actions related thereto.

SPONSOR: Board of Selectmen

COMMENTARY: *This article would eliminate the limit on the permitted number of marijuana cultivators, marijuana testing facilities, research facilities, marijuana product manufacturer or any other type of licensed marijuana-related business (exclusive of marijuana retailers or marijuana treatment centers). All other requirements under zoning, and Host Community Agreements (HCA's) would remain in place.*

Currently the Zoning Bylaw allows 12 such marijuana facilities in Uxbridge. The Board of Selectmen has approved 10 HCA's to date, and one more is pending. In conversation with developers and operators in the business, there is a large demand for supplying marijuana and marijuana products in Massachusetts, and it appears that the market is not close to saturation. Developers and operators in Uxbridge have found this to be a good community to develop and operate in.

MOTION: *Move the article as written with the correction that the word "if" in the third line of the article, shall be corrected to read "of".*

Vote required for passage: Requires a 2/3rds majority per M.G.L. c.40A §5

THE FINANCE COMMITTEE RECOMMENDATION: Favorable Action (5-1-0)

THE BOARD OF SELECTMEN RECOMMENDATION: Favorable Action (5-0-0)

THE PLANNING BOARD RECOMMENDATION: Favorable Action (4-0-0)

The motion was seconded
Moderator declares, motion fails, Yes-83, No-47

ARTICLE 13: GENERAL BYLAW AMENDMENT - DATE OF ANNUAL TOWN MEETINGS FOR ELECTION OF OFFICERS

To see if the Town will vote to amend the Town's General By-laws, Section 125-1: Date of Annual Town Meetings for election of officers, by replacing the text with the following:

DATE OF ANNUAL TOWN MEETINGS FOR THE ELECTION OF OFFICERS

The annual Town election for the election of Town officers and for the determination of all other matters to be referred to the voters shall be held on the fourth Tuesday in May, except in those years when the immediately preceding Monday is a holiday, in which years the subsequent election shall be held on the third Tuesday in May.

Or take any actions related thereto.

SPONSOR: Board of Selectmen

COMMENTARY: *The changed text is underlined. This amendment was previously voted at the November 20, 2007 Fall Town Meeting. It was approved by the Attorney General's Office and was erroneously never updated in the text of the General Bylaws. This Article is an effort to clean up the Bylaws and will ensure the amendment gets added to the General Bylaws.*

MOTION: *Move the article as written*

Vote required for passage: Uxbridge General Bylaws requires a 2/3rds majority

THE FINANCE COMMITTEE RECOMMENDATION: Favorable Action (6-0-0)

THE BOARD OF SELECTMEN RECOMMENDATION: Favorable action (5-0-0)

The motion was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-105, No-4

ARTICLE 14: ADOPTION OF WETLANDS BYLAW

To see if the Town will vote to approve the following Wetland Protection Bylaw

Section I. Purpose

The purpose of this Wetland Protection Bylaw (herein after "the Bylaw") is to conserve and protect for the common good all wetlands, streams, rivers, ponds, flood prone areas and adjoining upland areas in the Town of Uxbridge by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values.

Such values include, but are not limited to, the following:

public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, climate resiliency, carbon storage, and recreation values deemed important to the community (collectively, "the resource area values protected by this Bylaw").

This Bylaw is intended to be administered as a mandate unto itself and an adjunct to MGL c. 131, Section 40, Chapter 258 of the Acts of 1996 their Regulations and 310 CMR 10.00 (the Rivers Protection Act Regulations), and as they may be amended from time to time. Where the Bylaw differs from or exceeds State law, it is by inference to aid in the consistent and effective implementation, regulation, and enforcement of it by way of further definition, explanation, specification, illustration, and example.

This Bylaw is intended to utilize the Home Rule authority of this municipality so as to:

1. protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 Section 40; the Act) to a greater degree,
2. to protect additional resource areas beyond the Act recognized by the Town as significant,
3. to protect wetland resource areas for their additional values beyond those recognized in the Act, and
4. to encode in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (310 CMR 10.00).

These standards and procedures are subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Uxbridge.

Section II. Jurisdiction

Except as permitted by the Conservation Commission, no person shall commence to remove, fill dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas:

1. Areas Subject to Protection under M.G.L. c. 131, §40, areas identified in 310 CMR 10.02(1)(a – d) and streams; lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone,
2. any perennial rivers, perennial streams, cold water fisheries, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area,
3. any potential vernal pool (mapped by the MA Natural Heritage and Endangered Species Program), documented or certified vernal pool as well as the area within twenty-five (25') feet of the mean annual boundary of such a depression.
4. Bordering land subject to flooding and isolated land subject to flooding as regulated in 310 CMR 10.57 and defined in 310 CMR 10.04.

Collectively, these areas shall be known as the “resource areas protected by this Bylaw”. Said resource areas shall be protected whether or not they border surface waters.

Section III. Exemptions and Exceptions

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

Projects considered to be minor activities pursuant to 310 CMR 10.02(2)(b) shall not be subject to review under this Bylaw.

The applications and permits required by this Bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this Bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that

1. the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof,
2. advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement,
3. the Commission or its agent certifies the work as an emergency project,
4. the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and
5. within 21 days of commencement of an emergency project, a permit application shall be filed with the Commission for review as provided by this Bylaw.

Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this Bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 Section 40) and regulations (310 CMR 10.00) shall not apply under this Bylaw.

Section IV. Limitations of Construction and Disturbance

- A. The Commission may prohibit the disturbance of any land within 25 feet of any resource area, excluding riverfront areas and lands subject to flooding, defined herein if it is determined that the proposed disturbance may pose a threat to the resource areas protected by this Bylaw. The applicant shall bear the burden of proof to demonstrate that work or permanent disturbances within 25 feet of said resource area will have a negligible impact on the functions and values established within this Bylaw.
- B. No structures or impermeable features shall be constructed within 50 feet of any resource area, excluding riverfront areas and lands subject to flooding, described herein unless the applicant can demonstrate to the Commission that such a regulatory setback represents an undue hardship on the applicant's reasonable use of the property.
- C. The reconstruction, alteration, extension, or structural change of a building or utility existing on or before the inception of this Bylaw shall be exempt from the provisions of Section IV (A - B) of this Bylaw; however, said work shall require approval from the Commission if it is within the jurisdictional limits established herein.
- D. The Commission may waive any provisions of Section IV of this Bylaw, Limitations on Construction and Disturbance, where the Commission specifically finds that literal enforcement of the provision would involve demonstrated substantial or undue hardship to an applicant or that desirable relief may be granted without substantial detriment to the statutory interests of this Bylaw established in Section I.

Section V. Applications and Fees

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this Bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 Section 40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this Bylaw may, in writing, request a determination from the Commission. Such a Request for Determination of Applicability (RDA) filed under this Bylaw shall include information and plans as are deemed necessary by the Commission.

Pursuant to G.L. Ch. 44 Section 53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose.

Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

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

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

The applicant may appeal the selection of an outside consultant to the Selectboard, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of an educational degree and three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

VI. Notice and Hearings

Any person filing a Notice of Intent with the Conservation Commission shall at the same time give written notice thereof, by certified mail (return receipt requested) or certificates of mailing, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters within 200 feet of the property line of the applicant including any in another municipality or across a body of water. Working within the Riverfront Area under a Notice of Intent will require abutter notifications 300 feet with the same stipulations.

Any person filing a Request for Determination of Applicability with the Conservation Commission shall at the same time give written notice thereof, by certified mail (return receipt requested) or certificates of mailing, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters within 100 feet of the property line of the applicant including any in another municipality or across a body of water.

The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, and shall state where copies of plans may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at

the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in Section VII of this Bylaw. The Commission shall reserve the right to require the permits/findings of other Boards and permitting authorities before issuing any Order of Conditions.

The Commission shall issue its permit, order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 Section 40) and regulations (310 CMR 10.00).

VII. Coordination with Other Boards

The Conservation Commission reserves the right to share information with other Boards pertaining to submitted application materials, so long as it complies with open meeting laws.

VIII. Permits and Conditions

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.

If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this Bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this Bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest.

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

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this Bylaw, has proved by a preponderance of the evidence that

1. there is no practicable alternative to the proposed project with less adverse effects, and that
2. such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this Bylaw.

The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

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

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

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

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

For good cause, the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this Bylaw after notice to the holder, the public, abutters, and town boards, pursuant to Section VIII and Section IX of this Bylaw, and after a public hearing.

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

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

No work proposed in any application shall be undertaken until the permit, DOA, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

IX. Regulations

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

Section X. Pre-acquisition Violations

Any person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw, or in violation of any permit issued pursuant to this Bylaw, shall forthwith comply with any such order or restore such land to its condition prior to any such violation.

Section XI. Enforcement

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

Upon request of the Commission, the Selectboard and town counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.

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

Any person who violates any provision of this Bylaw, or regulations, or permits, or administrative orders issued thereunder, shall be notified by certified mail, or in hand, of the alleged violation. The landowner, or his or her representative, shall appear at the next scheduled meeting of the Conservation Commission. If any landowner fails to correct the violation within time approved by the Commission, they shall be punished by a fine of \$50 for single family residential properties, or up to \$300 for disturbances under other land-use categories. Each day, or portion thereof, during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense. Each provision of the Bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense. In order to suspend the accumulation of fines, the property owner must demonstrate to the Commission substantial compliance with this Bylaw and an approved plan to mitigate the violation.

XII. Definitions

The following definitions shall apply in the interpretation and implementation of this Bylaw:

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

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

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees and shrubs; the maintenance of ornamental plantings within buffer zones and other regulated areas shall be evaluated on a case-by-case basis by the Commission
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

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

The term "habitat characteristics of inland resource areas" shall defer to those described in 310 CMR 10.60(2) in addition to those identified by a qualified professional in the review process.

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

The term "competent source" may include, but is not limited to, any member of the Conservation Commission or an individual holding at least a bachelor's degree in environmental science, wildlife biology, ecology, or a similar field that the Commission determines to be relevant. The project proponent may, at their discretion, provide input from a qualified professional to aid in deliberating the potential for impacts to the resource area from disturbances within 25 linear feet of the wetland.

A "qualified professional" would be an individual with at least the same credentials as a 'competent source' plus work experience of a minimum of three years or more in a relevant field.

The term "pond" shall follow the definition of 310 CMR 10.04. Private man-made ponds are excluded from this definition.

“Private man-made ponds” are defined as waterbodies that, without the use of a liner, would not maintain enough water to qualify as a pond under 310 CMR 10.04.

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

The term “stream” shall include bodies of running water, including brooks and creeks, which moves in a definite channel in the ground due to a hydraulic gradient, and which flows within, into or out of an Area Subject to Protection under M.G.L. c. 131, § 40. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is regulated as a stream under this bylaw.

The term “vernal pool” shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act as “vernal pool habitat”, any confined basin or depression not occurring in existing lawns, gardens or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

The term “documented vernal pool” shall mean any vernal pool which has not been certified by the MDFW or NHESP but information supporting its certification has been collected by a Conservation Commissioner, the Conservation Agent or MassDEP with written or oral approval from the property owner.

The term “potential vernal pool” shall mean any depression mapped as a potential vernal pool by the MA NHESP.

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

XIII. Security

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

A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Conservation Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XIV. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide adequate evidence to the Conservation

Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

XV. Appeals

During an appeal of a decision of the Commission, the findings of a concurrent Massachusetts Department of Environmental Protection review under Mass. Gen. Laws Ch. 131, Sec. 40 shall be presumed correct except in those areas in which this Bylaw specifically exceeds Mass. Gen. Laws Ch. 131, Sec. 40. For situations where this bylaw specifically exceeds Mass. Gen. Laws Ch. 131, Sec. 40, the decisions of the Commission shall be reviewable in the Superior Court in an action filed by the Applicant, any person aggrieved by the Commission's decision, any abutter, or any 10 citizens of Uxbridge within 60 days thereof, in accordance with Mass. Gen. Laws Ch. 249, Sec. 4.

XVI. Relation to the Wetlands Protection Act

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

XVII. Severability

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

Or take any actions related thereto.

SPONSOR: Conservation Commission

COMMENTARY: *More than 100 towns in Massachusetts have adopted Wetlands Bylaws to aid in clarifying and implementing the state Wetlands Protections Act, including every Massachusetts town bordering Uxbridge. This Bylaw is intended to protect the wetland and water resources of Uxbridge. Passing the Bylaw will provide guidance to functionally maintain the values provided by vernal pools, cold water fisheries, and buffer zones, and will add climate resiliency, carbon storage, and recreation to the recognized values provided by enumerated wetland resource areas. The Bylaw allows exemptions for minor activities, agricultural activity, existing structures, and where its application causes undue hardship.*

MOTION: *Move the article as written.*

Vote required for passage: 2/3rds vote is required

THE FINANCE COMMITTEE RECOMMENDATION: Unfavorable Action (4-2-0)

THE BOARD OF SELECTMEN RECOMMENDATION: Favorable action (5-0-0)

THE PLANNING BOARD RECOMMENDATION: Favorable Action (2-2-1)

The motion was seconded

Moderator declares, motion fails, Yes-48, No-68

ARTICLE 15: CITIZEN'S PETITION – ACCEPT TUCKER HILL ROAD AS A PUBLIC WAY

To see if the Town will vote to accept as a public way the street known as Tucker Hill Road as laid out by the Board of Selectmen in the name and behalf of the Town to acquire by gift easements and appurtenant rights in and for said way for the purpose for which public ways are used in the Town.

Or take any actions related thereto.

SPONSOR: Citizen's Petition

COMMENTARY: *Citizen's petition articles are voted upon as written.*

MOTION: *Pass over*

Vote required for passage: Requires a simple majority

THE FINANCE COMMITTEE RECOMMENDATION: No Recommendation – Committee was unable to obtain consensus

THE BOARD OF SELECTMEN RECOMMENDATION: passed over/no recommendation

THE PLANNING BOARD RECOMMENDATION: passed over/no recommendation

No Motion

No Action

ARTICLE 16: CITIZEN'S PETITION – RESCINDING SOLID WASTE AND RECYCLING ENTERPRISE FUND

To see if the Town will vote to rescind the Solid Waste and Recycling Enterprise Fund set up pursuant to the provisions of G.L. Ch. 44 sec. 53F1/2 as authorized in Article 15 of the May 8 2007 Spring Annual Town Meeting with the vote taking place on June 12, 2007 (continuation of the meeting)

SPONSOR: Citizen's Petition

COMMENTARY: *Citizen's petition articles are voted upon as written.*

MOTION: Move that the Town vote to rescind the Solid Waste and Recycling Enterprise fund set up pursuant to the provisions of G.L.Ch. 44 sec 53F ½ as authorized in Article 15 of the May 8, 2007 Spring Annual Town Meeting with the vote taking place on June 13, 2007 (continuation of meeting).

Vote required for passage: Requires a simple majority vote

THE FINANCE COMMITTEE RECOMMENDATION: Favorable Action (6-0-0)

THE BOARD OF SELECTMEN RECOMMENDATION: Unfavorable Action (5-0-0)

The motion was seconded

Moderator declares a Simple majority vote, motion carries, Yes-64, No-45

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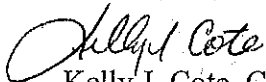
All Articles having been acted upon a motion was made to dissolve the meeting.

The motion was seconded

Moderator declares a Unanimous vote, motion carries.

The Meeting dissolved at 10:37pm.

A true copy attest,


Kelly J. Cote, CMC
Uxbridge Town Clerk