

Annual Town Meeting
May 11, 2009

Pursuant to the foregoing warrant, the inhabitants of the Town of Sutton, qualified to vote in Town Elections and in Town affairs, met in the Simonian Center for Early Learning, Boston Road, Monday the Eleventh day of May, 2009 at 7:30 o'clock in the evening, then and there to act on the following articles:

There were 109 voters and 21 non-voters in attendance.

ARTICLE 1 SPONSOR: Board of Selectmen

Voted unanimously to receive the reports of the Town Officers and Committees.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as it is a customary article calling for reports from town officers and committees.

ARTICLE 2 SPONSOR: Cemetery Commissioners

Voted unanimously to authorize the Cemetery Commissioners to employ themselves in the work of the several cemeteries and to fix the compensation to be paid from appropriations for said department.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0 as it is the annual authorization allowing the Cemetery Commissioners to employ themselves in the work of the cemeteries.

ARTICLE 3 SPONSOR: Board of Health

Voted unanimously to authorize the Board of Health to employ themselves in the performance of their work necessary to maintain health standards set by their department, and to fix the compensation to be paid from appropriations for said department.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as it is the annual authorization allowing the member of the Board of Health to employ themselves in the work of the department.

ARTICLE 4 SPONSOR: Board of Selectmen

Voted unanimously to authorize the Treasurer with the approval of the Board of Selectmen to borrow in anticipation of the revenue for the twelve month period beginning July 1, 2009 in accordance with M.G.L. c. 44, §4 and Acts and Amendments thereof and including in addition to Chapter 849 of 1969 as amended, as period of less than one year in accordance with M.G.L c.44, §17.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as it is the annual authorization for borrowing in anticipation of revenues. With the advent of quarterly billing the Finance and Warrant Advisory Committee recognizes that this article may become unnecessary in the future.

ARTICLE 5

SPONSOR: Board of Selectmen

Voted unanimously to authorize a charge for each written demand issued by the Collector a fee of \$10.00 to be added to and collected as part of the tax, as authorized by MGL Chapter 60, Section 15, effective July 1, 2009.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0. Increasing the demand fee from \$ 5.00 to \$ 10.00 will offset more of the costs associated with processing the demand.

ARTICLE 6

SPONSOR: Board of Selectmen

Voted unanimously to appropriate the following sums for the operating budget for fiscal year 2010:

| | |
|--|-------------------|
| General Government: | \$ 1,204,959 |
| Public Safety: | \$ 2,022,937 |
| Education: | \$ 14,350,063 |
| Public Works: | \$ 732,281 |
| Human Services: | \$ 264,547 |
| Culture & Recreation: | \$ 181,179 |
| Debt & Interest: | \$ 3,617,773 |
| Insurance & Employee Benefits | \$ 2,921,466 |
| Transfer to Capital Stabilization Fund | <u>\$ 499,047</u> |
| For a Total of: | \$ 25,794,252 |

And as funding therefor, that the Town raise and appropriate and transfer the following sums:

| | |
|---|------------------|
| Raise & Appropriate the amount | \$24,489,188 |
| A Transfer from Free Cash | \$ 524,674 |
| A Transfer From Stabilization Fund | \$ 75,000 |
| A Transfer from Overlay Reserve | \$ 40,000 |
| A Transfer from Other Reserves | \$ 48,121 |
| A Transfer from Capital Stabilization Fund | \$ 505,530 |
| A Transfer from Sewer Enterprise Fund | |
| For Indirect Cost | \$ 89,164 |
| A Transfer from Transfer Station Enterprise | |
| For Indirect Cost | <u>\$ 22,575</u> |
| For a Total of: | \$ 25,794,252 |

The Finance and Warrant Advisory Committee recommends passage of this Fiscal 2010 budget article 6-0. Faced with the difficult challenge of producing a balanced budget in the current economic conditions the Town Administrator and town-wide staff have offset any increased costs by reductions in departments and provided a budget that is essentially level funded from the prior year.

ARTICLE 7

SPONSOR: Board of Selectmen

Voted unanimously that \$334,000 is appropriated for the following purposes relating to the Town's Fiscal Year 2010 Capital Projects Plan:

| <u>Department</u> | <u>Purpose</u> | <u>Amount</u> |
|-------------------|--|---------------|
| Fire | Turnout Gear | \$10,000 |
| Police | Vehicle Replacement program | 60,000 |
| Town Hall | Upgrade boiler project-more energy efficient | 15,000 |
| Police | Radio/Computer Equipment | 5,000 |
| School | Purchase/Replace Textbooks | 60,000 |
| Town Hall | Replace Front Stairs | 25,000 |
| Planning | Shaw Master Plan and implementation | 20,000 |
| Fire | Overhaul chassis in Engine 2 and 3 | 15,000 |
| Fire | Oil Tank monitoring system | 6,000 |
| Highway | 11 foot reversible snow plow | 8,000 |
| Town Hall | Replace old computers | 5,000 |
| School | Continue technology replacement | 80,000 |
| School | Fire Detection Devices/Fire Pond | 10,000 |
| | Maintenance Building | |
| | Match for Manchaug Grant | 15,000 |

and that to meet \$294,000 of this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$294,000 for the projects listed above under M.G.L. c.44 or any other enabling authority and that to meet the \$40,000 balance of this appropriation \$40,000 be transferred from Article 18 of the October 19, 1992, Annual Town Meeting to be used for the upgrade of the town hall boiler and replace the front stairs at the Town Hall; and that any unexpended funds from each project shall be transferred to the Capital Stabilization Fund.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as the Capital Plan is an integral part of the town's budget.

ARTICLE 8

SPONSOR: Board of Selectmen

Voted unanimously to appropriate the sum of \$869,000.00, as part of the Town's Fiscal Year 2010 Capital Projects Plan, for the replacement of the roof at the Learning Center, including possible solar energy improvements and all other costs incidental and related thereto, for the School Department; and as funding therefor, that the sum of \$16,285 be transferred from the amount appropriated under Article 18 of the October 19, 1992 Annual Town Meeting, that the sum of \$25,731 be transferred from the amount appropriated under Article 1 of the January 21, 1997, Special Town Meeting, that the sum of \$6,851 be transferred from the amount

appropriated under Article 11 of the May 10, 2004 Annual Town Meeting, and further, that the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$820,133 under G.L. c.44 or any other enabling authority; provided, however, that said appropriation of \$820,133 shall not take effect until the Town votes to exempt from the limitation on total taxes imposed by G.L. c.59 §21C (Proposition 2 ½) amounts required to pay the principal of and interest on the borrowing authorized by this vote.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as it addresses an ongoing and serious problem with the roof at The Early Learning Center.

ARTICLE 9

SPONSOR: Board of Selectmen

Voted unanimously to appropriate the sum of \$875,000, as part of the Town's Fiscal Year 2010 Capital Projects Plan, to purchase and equip a Quint Ladder/Engine as a replacement for Engine 4 for the Fire Department; and that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$875,000 under G.L. c.44 or any other enabling authority; provided, however, that this vote shall not take effect until the Town votes to exempt from the limitation on total taxes imposed by G.L. c.59, §21C (Proposition 2 ½) amounts required to pay the principal of and interest on the borrowing authorized by this vote.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as the addition of this equipment to the Fire Department will enhance the protection and safety of the citizens of the community.

ARTICLE 10

SPONSOR: Sewer Commissioners

Voted unanimously to appropriate the following sums for the operation of the Sewer Department for fiscal year 2010:

| | |
|---------------------------|------------|
| Salary and Wages | \$ 211,397 |
| Operation and Maintenance | \$ 308,073 |
| Indirect Costs | \$ 89,164 |
| For a total of | \$ 608,634 |

And as funding therefor, that the Town vote to raise the \$608,634 as follows:

| | |
|---------------------------------|------------|
| User Fees and Connection Fees | \$ 564,052 |
| Transfer from Retained Earnings | \$ 44,582 |
| For a total of | \$ 608,634 |

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as it is the customary authorization of the Sewer Department budget.

ARTICLE 11

SPONSOR: Board of Selectmen

Voted unanimously to appropriate the following sums for the operation of the Transfer Station for fiscal year 2010:

| | |
|---------------------------|-----------|
| Salary and Wages | \$ 42,025 |
| Operation and Maintenance | \$ 64,400 |
| Indirect Costs | \$ 22,575 |
| For a total of | \$129,000 |

And as funding therefor, that the Town vote to raise the \$129,000 as follows:

| | |
|-----------|------------|
| User Fees | \$ 129,000 |
|-----------|------------|

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as it is the customary authorization of the Transfer Station budget.

ARTICLE 12

SPONSOR: Board of Selectmen

Voted unanimously to authorize the following revolving fund accounts under M.G.L. Chapter 44 Section 53E ½ for the fiscal year beginning July 1, 2009, as printed in the warrant.

As printed in the warrant:

| FUND | REVENUE SOURCE | AUTHORITY TO SPEND FUNDS | USE OF FUND | SPENDING LIMIT | DISPOSITION OF PRIOR FISCAL YEAR FUND BALANCE | RESTRICTION S/ COMMENTS |
|---|---------------------------------------|--------------------------|--|----------------|---|-------------------------|
| Manchaug Boat Ramp | Gate Receipts | Administration | Expenses & Salaries for Boat Ramp Operations | \$20,000 | Available for Expenditure | None |
| Planning Board | Applicant Receipts | Planning Board | Professional Services & Advertising | \$75,000 | Available for Expenditure | None |
| Summer Recreation & Beach Programs | Gate Receipts & Program Fees | Recreation Commission | Salaries & Expenses related to Summer Recreation & Beach Programs | \$50,000 | Available for Expenditure | None |
| Wetlands and Riverfront District Administration | Applicant Fees | Conservation Commission | Wetlands & Riverfront District Regulations Enforcement, including salaries & expenses. | \$15,000 | Available for Expenditure | None |
| Fire Department Revolving | Hazmat incidents | Fire Department | Wages and expenses | \$ 50,000 | Encumber | None |
| Planning Department Revolving | Payments for Service, fines/penalties | Planning Department | Tree maintenance and/or replacement | \$ 50,000 | Encumber | None |

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as it is the annual authorization of the town's revolving fund accounts

ARTICLE 13

SPONSOR: Board of Selectmen

Voted unanimously to adopt Section 1 of Chapter 137 of the Acts of 2003, as amended; An employee eligible under this section shall be paid his regular base salary as a public employee for each pay period of military leave of absence after September 11, 2001, reduced by any amount received from the United States as base pay for military service performed during the same pay period. For purposes of this section, base pay shall not include any allowances, overtime pay, shift differential pay, hazardous duty pay or any other additional compensation received for military service.

The Finance and Warrant Advisory Committee recommends passage of this article 6-0, as it is the adoption of a state statute, which prevents public employees from receiving a reduction in pay while in military service to the country.

ARTICLE 14

SPONSOR: Board of Selectmen

Voted **“to take no action”** to authorize the Board of Selectmen to convey the parcel of land located off of Providence Road, known as the Town Gravel Pit, shown as “Lot 1” on a plan entitled “Division of Land Off Hatchery Drive in Sutton, Mass. Owned by Town of Sutton,” dated March 2, 2009, prepared by Andrews Survey & Engineering, Inc., a copy of which is on file with the Town Clerk, containing 8.91 acres, more or less, and being a portion of the premises described in a deed recorded with the Worcester South Registry of Deeds in Book 5016, Page 115, together with a permanent access and utility easements over the parcels of land shown as “Hatchery Drive” and “50’ Wide Access Easement” on said plan, on such terms and conditions, and for such consideration, as the Board of Selectmen deems appropriate.

The Finance and Warrant Advisory Committee voted 5-1 to approve a conditional recommendation of these articles subject to a successful bidder and in support of the Board of Selectmen’s minimum bid of \$ 2,000,000.00.

ARTICLE 15

SPONSOR: Board of Selectmen

Voted **“to take no action”** to petition the General Court for special legislation, as set forth below, establishing a separate account for a portion of the proceeds from the sale of certain Town-owned land located off Hatchery Drive and identified as Assessors Map 6, Parcels 17 & 20, commonly known as the Town gravel pit; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition.

AN ACT AUTHORIZING THE TOWN OF SUTTON TO ESTABLISH A SEPARATE ACCOUNT FOR THE USE OF A PORTION OF PROCEEDS FROM THE SALE OF CERTAIN TOWN-OWNED LAND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding the provisions of sections 53 and 63 of chapter 44 of the General Laws, or of any other general or special law to the contrary, the Town of Sutton may establish a separate account for a portion of the proceeds from the sale of certain Town-owned land located off Hatchery Drive and identified as Assessors Map 6, Parcels 17 & 20, commonly known as the Town gravel pit. Following the sale of the parcel at issue, 50% of the proceeds from the sale of said parcel or \$1,000,000, whichever is lower, shall be deposited into said account, to be known as the Highway Maintenance Fund. Said account shall be expended without further appropriation solely for the purposes of purchasing sand, gravel, fill, road salt and highway materials by the Town. Expenditures from said fund shall not exceed in any fiscal year 5% of the amount originally deposited or \$50,000.00, whichever is greater. The remainder of the proceeds from the sale of the parcel at issue shall be governed by section 63 of chapter 44 of the General Laws.

SECTION 2. This act shall take effect upon its passage.

The Finance and Warrant Advisory Committee voted 5-1 to approve a conditional recommendation of these articles subject to a successful bidder and in support of the Board of Selectmen’s minimum bid of \$ 2,000,000.00.

ARTICLE 16

SPONSOR: Conservation Commission

Voted by a majority vote to amend Section 4, APPLICATIONS AND FEES, of Article 13 of the General Bylaws, Sutton Wetland and Riverfront District Administration Bylaw, by adding the following sentence to the end of first paragraph:

“All applications shall contain a full written project description in sufficient detail to describe the entire scope of work and/or alteration(s) associated with and consequential to the application.”

The Finance and Warrant Advisory Committee voted 6-0 to defer to the petitioner on this article.

ARTICLE 17

SPONSOR: Conservation Commission

Voted by a majority vote to amend Section 4.3 Drainage Structure Fees, of Article 13 of the General Bylaws, Sutton Wetland and Riverfront District Administration Bylaw, by deleting the final sentence:

“The above notwithstanding, in no case shall the wetlands filing fee for projects involving drainage structures be less than \$500.”

And replacing it with the following:

“The above notwithstanding, the wetlands filing fee for projects involving drainage structures shall be at a minimum \$500.”

The Finance and Warrant Advisory Committee voted 6-0 to take no action and defer to the petitioner for an explanation of this article.

ARTICLE 18

SPONSOR: Conservation Commission

Voted unanimously to amend Section 4.5. Consultant Fees, of Article 13 of the General Bylaws, Sutton Wetland and Riverfront District Administration Bylaw, as printed in the warrant,

As printed in the warrant:

by deleting Section 4.5.2, in its entirety:

“The Commission shall provide the applicant with a copy of the Agreement or Contract with said "consultant" or Qualified Professional. Any unused portion of the fee shall be returned to the applicant, unless the Commission at a public meeting decides that additional services will be required,”

and replacing it with the following:

“The Commission shall provide the applicant with the Consultant Fee Schedule, which shall also act as the contractual fee schedule for said Consultant. Such Consultant Fee Schedule may be amended from time to time in light of contemporary, competitive rates. The Consultant Fee Schedule shall be made available upon request. Any unused portions of the fee shall be returned to the applicant following the issuance of a Finding or issuance of a final Certificate of Compliance, unless the Commission at a public hearing decides that additional services will be required. Procedures for the hiring and payment of outside consultant(s) for their services shall be in accordance with MGL Ch. 44, Section 53G and rules promulgated by the Commission in accordance therewith.”

The Finance and Warrant Advisory Committee recommends passage of this article 6-0 as written.

ARTICLE 19

SPONSOR: Conservation Commission

Voted by a majority vote to amend Section 9. DEFINITIONS, of Article 13 of the General Bylaws, Sutton Wetland and Riverfront District Administration Bylaw, by adding the following definition:

“9.20 Great Pond - All bodies of water in excess of 10 acres, calculated at and from the natural, existing or historic high water mark, shall be considered a Great Pond.”

The Finance and Warrant Advisory Committee recommends passage of this article 6-0 as it provides a definition of “great pond” that is currently lacking in the bylaw.

ARTICLE 20

SPONSOR: Conservation Commission

Voted by a majority vote to amend Section 4.5.6, of Article 13 of the General Bylaws, Sutton Wetland and Riverfront District Administration Bylaw, by deleting “maximum” from the first sentence and the heading on the chart contained in Section 4.5.6, and replacing it with “minimum.”

The Finance and Warrant Advisory Committee voted 6-0 to take no action and defer to the petitioner for an explanation of this article.

ARTICLE 21

SPONSOR: Planning Board

Voted unanimously to amend the General Bylaw by adding Article 34 Illicit Storm Water Connections & Discharges, as printed in the warrant,

As printed in the warrant:

ARTICLE 34

Illicit Storm Water Connections & Discharges

34 -1. Purpose.

Increased and contaminated storm water runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

Regulation of illicit connections and discharges to the municipal storm drainage system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this bylaw are:

- (1) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
- (2) To prohibit illicit connections and unauthorized discharges to the MS4;
- (3) To require the removal of all such illicit connections;
- (4) To comply with state and federal statutes and regulations relating to storm water discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

34-2. Definitions.

AUTHORIZED ENFORCEMENT AGENCY — The Highway Department, its employees, officers, or agents are designated to enforce this bylaw.

BYLAW — Refers to Article 34 Non- Storm Water Discharges of the "General Bylaws of the Town of Sutton".

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS — The addition from any source of any pollutant or combination of pollutants into the municipal storm drainage system or into the waters of the Commonwealth of Massachusetts or United States from any source.

GROUNDWATER — Water beneath the surface of the ground.

ILLICIT CONNECTION — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drainage system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLCIT DISCHARGE — Direct or indirect discharge to the municipal storm drainage system that is not composed entirely of storm water, except as exempted in section 8, below. The term does not include a discharge in compliance with a NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to section 8 of this bylaw.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAINAGE SYSTEM — The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT — A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORM WATER DISCHARGE — Discharge to the municipal storm drainage system not composed entirely of storm water.

OWNER — A person with a legal or equitable interest in property.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT — Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Non-hazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and

K. Noxious or offensive matter of any kind.

PROCESS WASTEWATER — Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

STORM WATER — Storm water runoff, snowmelt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT — A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL OR WASTE — Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WASTEWATER — Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

WATERCOURSE — A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH OF MASSACHUSETTS — All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WETLANDS — Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to G.L. c. 131, § 40 and 310 CMR 10.00 et seq.

34-3. Applicability.

This bylaw shall apply to flows entering the municipal storm drainage system.

34-4. Authority.

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to G.L. c. 83, §§ 1, 10, and 16, as amended by St. 2004, c. 149, §§ 135-140, and the regulations of the federal Clean Water Act found at 40 CFR 122.34

34-5. Responsibility for administration.

The Authorized Enforcement Agency shall administer, implement and enforce this bylaw, and any rules and regulations adopted there under. Any powers granted to or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the Authorized Enforcement Agency to employees or agents of the Authorized Enforcement Agency.

34-6. Regulations.

The Authorized Enforcement Agency may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Authorized Enforcement Agency to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

34-7. Prohibited activities.

A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth of Massachusetts.

B. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drainage system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

C. Obstruction of Municipal Storm Drainage System. No person shall obstruct or interfere with the normal flow of storm water into or out of the municipal storm drainage system without prior written approval from the Authorized Enforcement Agency.

34-8. Exemptions.

A. Discharge or flow resulting from fire fighting activities.

B. The following non-storm water discharges or flows are exempt from the prohibition of non-storm waters provided that the source is not a significant contributor of a pollutant to the municipal storm drainage system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;
- (3) Springs;
- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Rising groundwater;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharge from de-chlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharge from street sweeping;
- (13) Dye testing, provided verbal notification is given to the Authorized Enforcement Agency prior to the time of the test;
- (14) Non-storm water discharge permitted under a NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States

Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

(15) Discharge for which advanced written approval is received from the Authorized Enforcement Agency as necessary to protect public health, safety, welfare or the environment.

34-9. Emergency suspension of municipal storm drainage system access.

The Authorized Enforcement Agency may suspend municipal storm drainage system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

34-10. Notification of spills.

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth of Massachusetts, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Fire and Police Departments, Board of Health, and the Department of Public Works. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

34-11. Enforcement.

The Highway Superintendent or his or her appointed designee shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

A. Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued there under, the Authorized Enforcement Agency may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B. Orders.

(1) The Highway Superintendent or his or her appointed designee may issue a written order to enforce the provisions of this bylaw or the regulations there under, which may include:

- (a) Elimination of illicit connections or discharges to the MS4;
- (b) Performance of monitoring, analyses, and reporting;
- (c) That unlawful discharges, practices, or operations shall cease and desist; and

(d) Remediation of contamination in connection therewith.

(2) If the Authorized Enforcement Agency determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

(3) Within thirty (30) days after completion by the Town of all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Authorized Enforcement Agency within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Authorized Enforcement Agency affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due.

C. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued there under, shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. Non-criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, § 21D and adopted by the Town as a general bylaw in which case the Authorized Enforcement Agency of the Town shall be the enforcing person. The penalty for the 1st violation shall be \$50, 2nd violation shall be \$100, and the penalty for the 3rd and subsequent violations shall be shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

E. Entry to Perform Duties Under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Authorized Enforcement Agency, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Authorized Enforcement Agency deems reasonably necessary.

F. Appeals. The decisions or orders of the Authorized Enforcement Agency shall be final. Further relief shall be to a court of competent jurisdiction.

G. Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

34-12. Severability.

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

34-13. Transitional provisions.

Residential property owners shall have 90 days from the effective date of this bylaw of this bylaw to comply with its provisions provided good cause is shown for the failure to comply with this bylaw during that period.

The Finance and Warrant Advisory Committee voted 6-0 to support the Planning Board recommendation of passage of this article as it brings the town into compliance with DEP regulations and provides for immediate enforcement for any violations.

Planning Board Vote: 6 in favor, 0 opposed, 0 abstaining

Commentary: While the Board is not required to vote a recommendation on this General Bylaw article, they felt it was important to show support for the strengthening of the Town's ability to protect its water resources. Therefore, as this regulation gives local enforcement ability that may not regularly be available from the State and Federal level in a timely manner, the Board fully supports this article.

ARTICLE 22

SPONSOR: Planning Board

Voted unanimously to amend the General Bylaw by adding the following regulations to the list of those that may be enforced by Non Criminal Disposition along with their particular fine structure, as printed in the warrant,

As printed in the warrant:

General Bylaws

Article 34 - Non-Storm Water Discharges

1st offense: \$50; 2nd offense: \$100; 3rd and subsequent offenses: \$300

Sutton Zoning Bylaw (in its entirety) and Approvals and Permits issued in accordance with said bylaws

1st offense: \$50; 2nd offense: \$100; 3rd and subsequent offenses: \$300

The Finance and Warrant Advisory Committee voted 6-0 to support the Planning Board recommendation of passage of this article as it brings the town into compliance with DEP regulations and provides for immediate enforcement for any violations.

Planning Board Vote: 6 in favor, 0 opposed, 0 abstaining

Commentary: While the Board is not required to vote a recommendation on this General Bylaw article, they felt it was important to show support for the strengthening of the Town's ability to protect its water resources. Therefore, as this regulation gives local enforcement ability that may not regularly be available from the State and Federal level in a timely manner, the Board fully supports this article.

ARTICLE 23

SPONSOR: Paul Tee

Voted unanimously to amend the Zoning Map to change the zoning from Industrial (I) to Business (B-2) from the existing Business 2 (B-2) zone boundary line northerly to the Millbury town line along the southbound lane of the Worcester Providence Turnpike (Route 146) as printed in the warrant,

As printed in the warrant:

Beginning at a point on the centerline of the Worcester Providence Turnpike at its intersection with the Millbury Sutton Town Line,

Thence Southwesterly in a straight line by the Millbury Sutton Town Line about 423 feet to a point;

Thence Southeasterly in a straight line by the extension of the easterly lines of Lot 1 and Lot 2 of the Burnap Industrial Park as shown on a plan recorded in the Worcester District Registry of Deeds in Plan Book 597, Plan 106 about 652 feet to the southeasterly corner of said Lot 2;

Thence Southeasterly in a straight line parallel to the centerline of the Worcester Providence Turnpike about 655 feet to the centerline of a National Grid transmission line easement;

Thence Northeasterly by the centerline of a National Grid transmission line easement and by the northerly line of the existing Business Highway (B-2) Zoning District about 541 feet to the centerline of the Worcester Providence Turnpike;

Thence Northwesterly by the centerline of the Worcester Providence Turnpike about 928 feet to the point of the beginning.

The Finance and Warrant Advisory Committee voted 6-0 to approve passage of this article.

Planning Board Vote: 5 in favor, 0 opposed, 0 abstaining

Commentary: This change will allow beneficial renovation of existing sites while not hindering development of other sites.

ARTICLE 24

SPONSOR: Paul Dauphinais

Vote unanimously **“to take no action”** to amend the Zoning Bylaw Section III.A.1. Use and Dimensional Regulations to allow multiple permitted and special permit uses as follows:

Multiple permitted and Special Permit uses may be located in the same structure *and on the same lot (except for single family homes)* as long as all requirements of the Zoning Bylaw and State Building Code have been satisfied.

The Finance and Warrant Advisory Committee voted 6-0 to recommend that this article be passed over as it shares the concerns of the Planning Board with regard to this article.

Planning Board Vote: 5 in favor of passing over, 0 opposed, 0 abstaining

Commentary: While the majority of the Board agreed this idea was a good one in concept, they felt the article should not be approved until specific regulations are in place to deal with separation between structures and treatment of conflicting uses.

ARTICLE 25

SPONSOR: Paul Dauphinais

Voted unanimously **“to take no action”** to amend the Zoning Bylaw Section III.B.3. Table 2 by deleting Footnote #1:

1. Except for shopping centers, industrial complexes, community facilities, public utilities and continued care retirement communities, only one principal structure shall be permitted on one lot.

and replace with a new Footnote #1 as follows:

1. Multiple single family structures shall not be allowed on a lot.

The Finance and Warrant Advisory Committee voted 6-0 to recommend that this article be passed over as it shares the concerns of the Planning Board with regard to this article.

Planning Board Vote: 5 in favor of passing over, 0 opposed, 0 abstaining

Commentary: While the majority of the Board agreed this idea was a good one in concept, they felt the article should not be approved until specific regulations are in place to deal with separation between structures and treatment of conflicting uses.

ARTICLE 26

SPONSOR: Planning Board

Voted unanimously to amend the Zoning Bylaw Section VI.C. – Wireless Communication Facilities, by inserting the language in italics, as follows:

- 3.e. In no event shall any facility be located closer than *a half mile* to any other such facility.

The Finance and Warrant Advisory Committee voted 5 in favor and 1 opposed to passage of this article.

Planning Board Vote: 6 in favor, 0 opposed, 0 abstaining

Commentary: Current location of communications towers is inadequate for some safety and personal cellular and radio coverage, particularly on the west side of town and at the school complex.

Adjusting this section will allow for the installation of more towers to service this communication gap.

ARTICLE 27

SPONSOR: Planning Board

Voted unanimously on an amended motion to amend the Zoning Bylaw Section IV.A. – Signs, as printed in the warrant,

As printed in the warrant:

by deleting the strike through text, by deleting text and/or inserting the language in italics and **eliminating line 5.d.**, so that the bylaw will provide as follows:

- 3.d. Prohibited Signs

Moving signs, swinging signs, changeable message/moveable signs, flashing signs, revolving signs, signs consisting of pennants, ribbons, streamers, spinners, strings of light bulbs, revolving beacons, search lights, ~~electric/internally illuminated signs~~ and animated signs illuminated to create the illusion of motions, billboards, and roof signs are prohibited in all districts.

4.a.

| Type of Sign | S.F. max | R 1 | R 2 | B 2 | V | I | OLI |
|--|-------------|--------|--------|--------|---|---|-----|
| Freestanding Business- <i>exterior illumination</i> | 75.0 | N | N | Y | Y | Y | Y |
| <i>Freestanding Business – internal illumination</i> | 50.0 | N | N | Y | Y | Y | Y |
| <i>Freestanding Multi- tenant</i> | 100.0 | N | N | Y | Y | N | N |
| <i>Banners</i> | 21.0 | N | N | Y | Y | N | N |

- 4.c. A wall sign, or individual letter sign, shall not exceed an area of one (1) square foot for each lineal foot of wall of a particular business *for externally illuminated signs, and three quarters (3/4) square foot for each lineal foot of that wall for internally illuminated signs.* No such sign shall extend beyond the full width of the premises wall on which it is mounted. No sign shall project above the top of wall on which it is mounted.
- 4.i. Temporary signs, other than real estate and contractor signs, may be allowed at the discretion of the Building Commissioner, in compliance with the General Guidelines – Section 3 of the bylaw, for periods not to exceed 3 months and size not to exceed 12 s.f. *Banners may be up to 21 s.f. and allowed for no more than 3 months, and also require permitting.*
- 4.j. *Internal illumination shall be allowed, however, signs with internal illumination may not have translucent or semi translucent white or light colored backgrounds. Said background colors produce glare that hinders reading of the sign and creates a distraction to passing traffic. White or light background constructed of fully opaque material that allow illumination of only the lettering/logo is permitted.*
- 5.d. *Design of signs shall avoid ad excess of wording and symbols as it makes a sign difficult to read.*

The Finance and Warrant Advisory Committee voted 6-0 in favor of passage of this article with the elimination of line 5.d.

Planning Board Vote: 5 in favor w/o section 5.d., 1 opposed, 0 abstaining

Commentary: These changes address concerns of the business community for visibility while still attempting to be true to the Town's design standards. The changes allow internal illumination but at a smaller size and with some color/material type restrictions. The majority of the Board felt the adjusted language of section 5.d. was not effective, although T. Connors felt it was still appropriate to have the language inserted to foster discussion.

ARTICLE 28

SPONSOR: Board of Selectmen

Vote by two-thirds vote to authorize the Board of Selectmen to exercise its option under MGL c. 61A, Section 14 to acquire, by purchase, gift, or eminent domain, a fee simple interest or lesser interest in a parcel of land, containing 5.633 acres, more or less, located at 16 Uxbridge Road, recorded with the Worcester District Registry of Deeds in Book 6693, Page 185, currently owned by Sarah M. Young and assessed and taxed under MGL Chapter 61A, and to authorize the Board of Selectmen to acquire

said parcel upon such terms and conditions as the Board shall determine to be appropriate, for general municipal purposes, and further to see if the Town will vote to borrow the sum of \$199,999.00 for this purpose and any expenses related thereto; authorize the Town Treasurer with the approval of the Board of Selectmen in order to meet such appropriation to borrow such sums under the provisions of Chapter 44 of the General Laws, as amended, or any other enabling authority, and to issue bonds or notes therefor; and to authorize the Board of Selectmen to enter into all agreements and execute any and all instruments on behalf of the Town to effect the foregoing.

The Finance and Warrant Advisory Committee voted 6-0 in favor of passage of this article.

The meeting was closed at 8:35 p.m.

Respectfully submitted,

Laura J. Rodgers
Town Clerk