

Annual Town Meeting  
October 17, 2011

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 Seventeenth day of October, 2011 at 7:30 o'clock in the evening, then and there to act on the following articles:

There were 145 voters and 23 non-voters in attendance.

**ARTICLE 1**

**SPONSOR: Board of Selectmen**

Voted unanimously to rescind the following borrowing authorizations:

May 12, 2008, ATM, Article 13 -- School Feasibility Study in the amount of \$352,990. Original authorization was \$695,000.

May 10, 2010, ATM, Article 8 -- ELC Solar Panels, in the amount of \$40,000. Original authorization was \$590,000.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.*

*This article rescinds excess borrowing authority for projects where spending is complete. This is an appropriate housekeeping and control measure.*

**ARTICLE 2**

**SPONSOR: Board of Selectmen**

Voted unanimously to amend the vote taken on Article 7 of the May 9, 2011 Annual Town Meeting warrant by revising the sources of previously authorized borrowings as follows:

Previously Approved Transfers of Prior Borrowings:

June 2007 ATM Article #5 – Water Quality	\$200,000
June 2007 ATM Article #5 – ELC HVAC	5,483
May 11, 2009 ATM Article #9 – Quint Fire Truck	84,500
May 10, 2010 ATM – Opticom Transmitters	3,560
May 12, 2008 ATM Article #5 – Miscellaneous	21,067
May 11, 2009 Article #7 – Miscellaneous	<u>1,790</u>
	\$316,400

Newly Authorized Transfers of Prior Borrowings:

June 2007 ATM Article #5 – Water Quality	\$200,000
June 2007 ATM Article #5 - Multimedia Planning	9,671
June 2007 ATM Article #5 – ELC HVAC	5,483
May 11, 2009 ATM Article #9 – Quint Fire Truck	74,829
May 10, 2010 ATM – Opticom Transmitters	3,560
May 12, 2008 ATM Article #5 – Miscellaneous	21,067
May 11, 2009 Article #7 – Miscellaneous	<u>1,790</u>
	\$316,400

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.*

*This is an amendment to a previous vote, to correct sources of funding.*

### **ARTICLE 3**

#### **SPONSOR: Board of Selectmen**

Voted by a majority pursuant to Section 3-2 of the Home Rule Charter for the Town of Sutton (“Charter”) to authorize the Board of Selectmen to appoint up to two (2) members of the Board of Selectmen to the Charter and By-law Review Committee established pursuant to Section 7-7 of the Charter.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.*

### **ARTICLE 4**

#### **SPONSOR: Board of Selectmen**

Voted unanimously to transfer from the Treasurer/Collector for tax title purposes, to the Board of Selectmen for general municipal purposes, including the purpose of sale, the care, custody, management and control of the following parcels of land: (1) the property located at 56 Highland View Drive, Sutton, Massachusetts, Assessors Map 12, Lot 292 acquired by the Town following entry of judgment by the Land Court in a tax lien case recorded in the Worcester District Registry of Deeds in Book 47230 Page 123, and (2) the property located at 4 Highland View Drive, Sutton, Massachusetts, Assessors Map 11, Lot 173 acquired by the Town following entry of judgment by the Land Court in a tax lien case recorded in the Worcester District Registry of Deeds in Book 47230 Page 124; and further to authorize the Selectmen to convey such parcels or any lesser portion thereof upon such terms and conditions as the Selectmen shall deem appropriate.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.*

*This article authorized the Board of Selectmen to transfer title to a small parcel of land to the entity that maintains the property.*

### **ARTICLE 5**

#### **SPONSOR: Board of Selectmen**

Voted by a two-thirds vote to transfer the sum of \$32,700 from the Capital Stabilization Fund for the purpose of funding capital improvements to Marion’s Camp, in accordance with the Marion’s Camp Master Plan, and to authorize the Board of Selectmen to take any other action to carry out this project.

*Finance and Warrant Advisory Committee voted 3-2 against passage of this article. The majority vote against this article reflects concern over the timing of this article. Capital projects are typically funded as part of the Town’s overall budget at the spring Town Meeting. The majority felt that this project should be included in the next budgeting cycle to be prioritized against other projects at that time, in keeping with budgeting process norms. The minority vote reflected the merits of the project and particularly that the funding source is from unspent funds from previous Marion’s Camp projects.*

### **ARTICLE 6**

#### **SPONSOR: Board of Selectmen**

Voted unanimously to transfer the sum of \$2,683 from Human Resources/Accounting Assistant (01135-51120) to the following underfunded fiscal 2012 accounts:

Town Administrator Administrative Asst. (01123-51120)	\$ 490.00
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Assistant Tax Collector (01146-51120)

\$2,193.00

Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.

This article is a technical correction of the budget, to reflect salary movements between departments. It does not change the overall budget, only the allocation within departments.

## **ARTICLE 7**

### **SPONSOR: Board of Selectmen**

Voted unanimously to amend the Town's General Bylaws by adding the following new article, Tax Title Payment Agreements, as printed in the warrant.

As printed in the warrant:

#### **ARTICLE 37: TAX TITLE PAYMENT AGREEMENTS**

The Town Treasurer is authorized to enter into payment agreements with persons entitled to redeem parcels in tax title. Such agreements shall be for a maximum term of one year. Each agreement will require a minimum payment at the inception of 25% needed to redeem the parcel. During the term of the agreement the Town Treasurer may not bring an action to foreclose the tax title unless payments are not made in accordance with the schedule set out in the agreement or timely payments are not made on other amounts due to the Town that are a lien on the same parcel

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.*

*This article formalizes practices that are already in place, allowing the Treasurer to make payment arrangements with taxpayers.*

## **ARTICLE 8**

### **SPONSOR: Board of Selectmen**

Voted by a majority vote authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, for general municipal purposes, for consideration of One Dollar (\$1.00) and on such other terms and conditions as the Selectmen deem appropriate, all or any portion of the lands and improvements thereon in Sutton and Douglas presently owned by the Manchaug Reservoir Corporation, which are believed to include the Manchaug Pond Dam (National Dam ID No. MA 00955), as well as lands bordering on, flowed by, or beneath the high water mark of Manchaug Pond, and to authorize the Board of Selectmen to accept a gift of \$350,000 from the Manchaug Reservoir Corporation for the purpose of maintaining the foregoing land and improvements and to enter into all agreements and to execute on behalf of the Town any and all instruments as may be necessary or convenient to effectuate this acquisition, including, without limitation, a donation agreement, and further to authorize the Board of Selectmen to seek such authorization and approval of the General Court to allow for such acquisition.

*Finance and Warrant Advisory Committee voted 4-1 to recommend passage of this article.*

*This article allows the Town to take possession of a dam along with receipt of a \$350,000 grant for maintenance and upkeep. The town plans to install hydroelectric capacity on the dam to provide continuing revenue streams. The dissenting vote reflects concerns over costs and liabilities of owning and operating the dam as well as the limited usefulness of the dam to the majority of citizens.*

## **ARTICLE 9**

### **SPONSOR: Board of Selectmen**

Voted unanimously to amend the vote taken on Article 6 of the May 9, 2011 ATM warrant by increasing the amount appropriated for the debt principle line item, and to raise and appropriate the sum of \$25,000 for this purpose.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.*

*The Town is able to sell energy credits associated with the solar panels installed at the schools. Revenues from this activity have been greater than budgeted. This article authorizes the town to use some of the excess revenue to pay debt from the cost of the solar panels.*

## **ARTICLE 10**

### **SPONSOR: Planning Board**

Voted unanimously to accept as a public way in the Town the roadway known as “Gale Road”, as heretofore laid out by the Board of Selectmen and shown on a plan of land entitled: “Layout Plan of Gale Road in Sutton, MA” by Guerriere & Halnon, Inc., dated April 30, 2002, a copy of which is on file with the Town Clerk, and further to authorize the Board of Selectmen to acquire, by gift, purchase, eminent domain or otherwise, interests in land sufficient to provide for the use and maintenance of said way as a public way.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article. This article*

*authorizes the Town to accept certain roadways as “public”. This is a qualified roadway that was built to the specifications and requirements of the Town with the intention of being accepted as a public road.*

## **ARTICLE 11**

### **SPONSOR: Planning Board**

Voted unanimously to accept as a public way in the Town the roadways known as “Jenna Lane & Jared Drive”, as heretofore laid out by the Board of Selectmen and shown on a plan of land entitled: “Layout Plan of Jenna Lane & Jared Drive in Sutton, MA” prepared by Guerriere & Halnon, Inc., dated July 19, 2011, a copy of which is on file with the Town Clerk, and further to authorize the Board of Selectmen to acquire, by gift, purchase, eminent domain or otherwise, interests in land sufficient to provide for the use and maintenance of said way as a public way.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article. This article*

*authorizes the Town to accept certain roadways as “public”. This is a qualified roadway that was built to the specifications and requirements of the Town with the intention of being accepted as a public road.*

## **ARTICLE 12**

### **SPONSOR: Planning Board**

Voted unanimously to accept as a public way in the Town the portion of the roadway within the Town of Sutton known as “Gilmore Drive”, as heretofore laid out by the Board of Selectmen and shown on a plan of land entitled: “Sutton Commerce Park – Gilmore Drive - Road Acceptance Plan” prepared by Andrews Survey & Engineering, Inc., dated August 8, 2011, a copy of which is on file with the Town Clerk, and further to authorize the Board of Selectmen to acquire, by gift, purchase, eminent domain or otherwise, interests in land sufficient to provide for the use and maintenance of said way as a public way.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article. This article*

*authorizes the Town to accept certain roadways as “public”. This is a qualified roadway that was built to the specifications and requirements of the Town with the intention of being accepted as a public road.*

ARTICLE 1 3

SPONSOR: Planning Board

Voted unanimously to amend Section III.A. – Use and Dimensional Regulations, by adding a new section “H. RENEWABLE ENERGY RESOURCES” to the Table of Uses, and re-letter subsequent sections accordingly.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.  
This article amends the Town’s Zoning Bylaw to provide control over large scale solar installations.*

Planning Board voted 5 in favor, 0 opposed, 0 abstaining. Commentary: This is a housekeeping article. The article creates a new section for renewable energy resources and puts existing renewable energy uses into this section.

ARTICLE 1 4

SPONSOR: Planning Board

Voted unanimously to amend Section III.A. Table 1 – Table of Uses, by moving “B.7. Small Hydropower Installations” and “E. 17. Small Wind Turbines” as separate use categories to Section H. Renewable Energy Resources, and numbering them accordingly.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.  
This article amends the Town’s Zoning Bylaw to provide control over large scale solar installations.*

Planning Board voted 5 in favor, 0 opposed, 0 abstaining. Commentary: This is a housekeeping article. The article creates a new section for renewable energy resources and puts existing renewable energy uses into this section.

ARTICLE 1 5

SPONSOR: Planning Board

Voted unanimously to amend the Zoning Bylaw Section III.A.Table 1 – Table of Use Regulations, by adding Solar Photovoltaic Installations of different sizes as permitted uses in various districts under Section H. RENEWABLE ENERGY RESOURCES, as printed in the Warrant.

As printed in the warrant:

	R-1	R-2	V	B-2	I	OL I
<b>H. RENEWABLE ENERGY RESOURCES</b>						
3. Small Solar Photovoltaic Installations (less than 250 kW)	P	P	P	P	P	P
4. Large Ground-Mounted Solar Photovoltaic Installations (250 kW+)	-	-	-	P	P	P

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.  
This article amends the Town’s Zoning Bylaw to provide control over large scale solar installations.*

Planning Board voted 5 in favor, 0 opposed, 0 abstaining. Commentary: This article adds small and large solar photovoltaic installations as permitted uses in varying districts. MGL prohibits unreasonable regulation of solar uses, including requiring a Special Permit; therefore all are proposed as of right with just Site Plan Review. The following article imposes some additional review criteria for larger installations.

## **ARTICLE 16**

## **SPONSOR: Planning Board**

Voted unanimously to amend the Zoning Bylaw by adding the following “Large Scale Solar Photovoltaic” regulation to Section VI. Special Regulations as printed in the Warrant.

As printed in the Warrant:

### **VI.O. - Large Scale Solar Photovoltaic**

#### **1.0 Purpose**

The purpose of this bylaw is to reasonably regulate large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

#### **1.1 Applicability**

This bylaw applies to large-scale ground-mounted solar photovoltaic installations, as defined herein, proposed to be constructed after the effective date of this bylaw. This bylaw also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. The bylaw is not intended to regulate systems of less than 250 kW or roof-mounted systems. It is also not intended to regulate systems that are consumptive power systems, where all power that is generated is utilized to power onsite operations.

#### **2.0 Definitions**

**Building Permit:** A permit issued by the Building Inspector allowing for the construction of a large-scale ground-mounted solar photovoltaic installation consistent with the state and federal building codes and the Zoning Bylaw.

**Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI):** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, has a minimum nameplate capacity of 250 kW DC, and generates power utilized at least in part off-site.

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

**Zoning Bylaw:** The Sutton Zoning Bylaw.

#### **3.0 General Requirements for all Large Scale Solar Power Generation Installations**

The following requirements are common to all LGSPI.

### **3.1 Compliance with Laws, Ordinances and Regulations**

The construction and operation of all LGSPI shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

### **3.2 Building Permit**

No LGSPI shall be constructed, installed or modified except pursuant to a building permit. The building permit application for a LGSPI must be accompanied by the required fee.

### **3.3 Site Plan Review**

No LGSPI shall be constructed, installed or modified except in conformity with a site plan approved by the Planning Board in accordance with the Zoning Bylaw. The Planning Board shall consider and apply the requirements set forth in this bylaw in reviewing and deciding an application for site plan approval. Upon receipt of an application for site plan approval of a LGSPI, the Planning Board may engage, at the applicant's cost, professional and technical consultants, including legal counsel, to assist the authority with its review of the application, in accordance with the requirements of Section 53G of Chapter 44 of the Massachusetts General Laws. The Planning Board may direct the applicant to deposit funds with the Planning Board for such review at the time the application is accepted, and to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying the application. Upon approval of the application, any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the applicant.

### **3.4 Site Control**

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

### **3.5 Operation & Maintenance Plan**

The project proponent shall submit a plan for the operation and maintenance of the LGSPI, which shall include measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.

### **3.6 Utility Notification**

No LGSPI shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

### **3.7 Design Standards**

#### **3.7.1 Setbacks and Screening**

Front, side and rear yards for LGSPI shall be as follows:

- (a) Front yard: The front yard depth shall be at least 100 feet
- (b) Side yard. Each side yard shall have a depth at least 50 feet

- (c) Rear yard. The rear yard depth shall be at least 50 feet
- (d) Every abutting property shall be visually screened from the LGSPI through any one or combination of the following: location, distance, plantings, existing vegetation and fencing (not to exceed 6 feet in height)

### **3.7.2 Appurtenant Structures**

All appurtenant structures to a LGSPI shall be subject to the same regulations that pertain to primary structures as set forth in the Zoning Bylaw.

### **3.7.3 Landscaping**

The project proponent shall submit a landscape plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting and screening vegetation and/or fences/walls.

### **3.7.4 Land Clearing & Grading, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the LGSPI or otherwise prescribed by applicable laws, regulations, and bylaws. Land clearing and grading plans shall avoid practices that cause erosion and shall minimize habitat disruption.

### **3.7.5 Lighting**

Lighting of LGSPI, including appurtenant structures, shall be consistent with local, state and federal law, and otherwise shall be limited to that required for safety and operational purposes. It shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light-pollution.

### **3.7.6 Signage**

Signs on LGSPI shall comply with all applicable legal requirements, including the Zoning Bylaw. One sign consistent with the Zoning Bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

### **3.7.7 Utility Connections**

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

## **3.8 Monitoring and Maintenance**

### **3.8.1 Solar Photovoltaic Installation Conditions**

The owner or operator of the LGSPI shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and local emergency medical



services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

### **3.8.2. Emergency Services**

Prior to issuance of a building permit, the LGSPI owner or operator shall provide a project summary, electrical schematic, and approved site plan to the town's local safety officials, including the Police Chief, Fire Chief and Building Inspector. Upon request the owner or operator shall cooperate with local safety officials in developing an emergency response plan, which may include ensuring that emergency personnel have immediate, 24-hour access to the facility. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation, and shall provide a mailing address and telephone number for such person(s).

### **3.9 Modifications**

All material modifications to a LGSPI made after issuance of the required building permit shall require approval by the Planning Board through Site Plan Review.

### **3.10 Discontinuance and Removal**

#### **3.10.1 Removal Requirements**

Any LGSPI, or any substantial part thereof, not used for a period of one continuous year or more without written permission from the Planning Board, or that has reached the end of its useful life, shall be considered discontinued, and shall be removed. Upon written request from the Building Inspector addressed to the contact address provided and maintained by the owner or operator as required above, the owner or operator shall provide evidence to the Building Inspector demonstrating continued use of the LGSPI. Failure to provide such evidence within thirty days of such written request shall be conclusive evidence that the installation has been discontinued. Anyone intending to decommission and/or remove such an installation shall notify the Planning Board and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal.

The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. Removal shall consist of:

- (a) Physical removal of all parts of and appurtenances to the LGSPI, including structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (d) Gravel or ground cover consistent with landscape.

If the owner or operator of the LGSPI fails to remove the installation in accordance with the requirements of this section, the town shall have the right, to the extent it is otherwise duly authorized by law, to enter the property and remove the installation at the expense of the owner of the installation and the owner(s) of the site on which the facility is located.

#### **3.10.2 Financial Surety**

Proponents seeking to construct and operate an LGSPI shall provide, prior to construction, a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event

the town must remove the LGSPI and remediate the landscape. The amount and form of such surety shall be determined by the Planning Board. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

*Finance and Warrant Advisory Committee voted 5-0 to recommend passage of this article.*

*This article amends the Town's Zoning Bylaw to provide control over large scale solar installations.*

Planning Board voted 5 in favor, 0 opposed, 0 abstaining. Commentary: MGL prohibits unreasonable regulation of solar uses, including requiring a Special Permit. Therefore all solar installations are reviewed in accordance with the Site Plan Review criteria. This article imposes some additional review criteria for larger installations.

Meeting adjourned at 8:45 pm

Respectfully submitted  
Laura J. Caruso  
Town Clerk