

2011 ANNUAL TOWN MEETING

Commonwealth of Massachusetts

Middlesex, ss.

To any Constable in the Town of Weston, Greetings:

In the name of The Commonwealth you are hereby required to notify and warn the voters of said Town, qualified to vote in elections and Town affairs, to meet in the auditorium of the Town Hall in said Town, on Saturday, the seventh day of May, 2011, at 8:00 o'clock A.M. to act on Article 1 and Questions 1, 2 and 3 of this warrant for which polls will be open from 8:00 o'clock A.M. until 6:00 o'clock P.M. in said auditorium; and to meet in the auditorium of the High School in said Town, and also in the gymnasium of the High School if the number of voters in attendance shall exceed the capacity of the auditorium, on Monday, the ninth day of May, 2011 at 7:45 o'clock P.M. to act upon the remaining articles of this warrant.

**ARTICLE 1: TO BRING IN THEIR VOTES FOR THE FOLLOWING TOWN OFFICERS TO BE VOTED FOR ON ONE BALLOT**

	<u>For a term of</u>
A Moderator	One Year
One Selectman	Three Years
Two Assessors	Three Years
One Member of the School Committee	Three Years
Two Members of the Recreation Commission	Three Years
One Member of the Planning Board	Five Years
Two Library Trustees	Three Years
One Member of the Board of Health	Three Years
One Commissioner of Trust Funds	Three Years
Three Measurers of Lumber	One Year

And to give their vote, Yes or No, on the following questions:

**BALLOT QUESTION NO. 1: PROPOSITION 2½ DEBT EXCLUSION**

Shall the Town of Weston be allowed to exempt from the provisions of Proposition two and one-half, so called, the amounts required to pay for the bond(s) issued in order to design, engineer, construct and equip the following, including all costs incidental and related thereto: (1) High School Science Lab Design Fees-Sprinkler System; (2) Energy Engineering Services-Upgrades to Municipal & School Buildings; (3) DPW Drainage Improvement Projects; and (4) High School Science Lab Improvements?

Yes \_\_\_\_\_ No \_\_\_\_\_

**SUMMARY**

State law provides for an exemption from the limits of Proposition two and one-half of those amounts required to pay for the debt service for bonds approved by the voters. Question 1 would exempt the debt service for the bonds issued for projects previously approved at the November 2009 Special Town Meeting and for bonds that will be issued for projects to be considered at the May 2011 Annual Town Meeting:

**Projects approved at previous town meetings:**

- 1. High School Science Lab Design Fees-Sprinkler System (Article 1, 11/29/10) \$70,000
- 2. Energy Engineering Services-Upgrades to Municipal & School Buildings (Article 2, 11/29/10) 100,000

**Projects to be considered by Town Meeting, 2011**

- 3. High School Science Lab Improvements (Article 13) (estimated) 13,000,000
- 4. DPW Drainage Improvement Projects (Article 14) 300,000
- Total** **\$13,470,000**

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*It should be noted that projects 3 and 4 have not yet been approved by Town Meeting. Separate articles will appear in the Annual Town Meeting Warrant to appropriate the funds and authorize borrowing for each purpose. A two-thirds vote of Town Meeting in favor is required for approval. This ballot question is only to exempt the debt service from the limits of Proposition 2½, should these items be approved by Town Meeting.*

*The debt service for these projects will be approximately \$159,740 in fiscal year 2012, \$1,237,421 in fiscal year 2013, then decreasing each year until the bond reaches maturity. The number of years until maturity varies between five and thirty years depending on the type of project. This Proposition two and one-half debt exemption shall be deemed approved if a majority of the persons voting thereon vote “yes.”*

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**BALLOT QUESTION NO. 2: PROPOSITION 2½ DEBT EXCLUSION**

Shall the Town of Weston be allowed to exempt from the provisions of Proposition two and one-half, so called, the amounts required to pay for the bond(s) issued in order to design, engineer, and construct a new roof for the Weston Middle School, located at 456 Wellesley Street in Weston, including all costs incidental and related thereto?

Yes\_\_\_\_\_ No\_\_\_\_\_

**SUMMARY**

*State law provides for an exemption from the limits of Proposition two and one-half of those amounts required to pay for the debt service for bonds approved by the voters. Question 2 would exempt the debt service for the bonds that will be issued for this project, to be considered under Article 11 at the May 2011 Annual Town Meeting. The estimated cost for this project is \$780,000, of which approximately 25% is eligible to be reimbursed by the Massachusetts School Building Authority (MSBA). In order to appropriate the funds and authorize borrowing for this purpose, a two-thirds vote of Town Meeting in favor is required. This ballot question is only to exempt the debt service from the limits of Proposition 2½, should this article be approved by Town Meeting.*

*The debt service for this project, net of MSBA reimbursement, will be approximately \$7,313 in fiscal year 2012, \$52,650 in fiscal year 2013, then decreasing each year until the bond reaches maturity in twenty years. This Proposition two and one-half debt exemption shall be deemed approved if a majority of the persons voting thereon vote “yes.”*

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**BALLOT QUESTION NO. 3: PROPOSITION 2½ DEBT EXCLUSION**

Shall the Town of Weston be allowed to exempt from the provisions of Proposition two and one-half, so called, the amounts required to pay for the bond(s) issued in order to design, engineer, and replace the boiler at Weston High School, located at 444 Wellesley Street in Weston, including all costs incidental and related thereto?

Yes\_\_\_\_\_ No\_\_\_\_\_

**SUMMARY**

*State law provides for an exemption from the limits of Proposition two and one-half of those amounts required to pay for the debt service for bonds approved by the voters. Question 3 would exempt the debt service for the bonds that will be issued for this project, to be considered under Article 12 at the May 2011 Annual Town Meeting. The estimated cost for this project is \$960,000, of which approximately 31% is eligible to be reimbursed by the Massachusetts School Building Authority (MSBA). In order to appropriate the funds and authorize borrowing for this purpose, a two-thirds vote of Town Meeting in favor is required. This ballot question is only to exempt the debt service from the limits of Proposition 2½, should this article be approved by Town Meeting.*

*The debt service for this project, net of MSBA reimbursement, will be approximately \$8,340 in fiscal year 2012, \$60,048 in fiscal year 2013, then decreasing each year until the bond reaches maturity in twenty years. This Proposition two and one-half debt exemption shall be deemed approved if a majority of the persons voting thereon vote “yes.”*

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**FINANCE/BUDGET ARTICLES**

**ARTICLE 2: APPROPRIATE THE FISCAL YEAR 2012 OPERATING BUDGET**

To raise and appropriate and transfer from available funds such sums of money as may be necessary to defray the costs of government and other Town charges for the fiscal year beginning July 1, 2011, and to fix the salaries and compensation of elected officials of the Town on an annual basis for the said period; or take any other action relative thereto.

*Article 2 Explanation: The recommended fiscal year 2012 operating budget can be found on pages 6-8. It is anticipated that the following available funds will be transferred to fund a portion of the operating budget:*

1. Undesignated Fund Balance (free cash)	\$2,400,000
2. Accrued Income-Well Litigation Settlement	75,000
3. Well Litigation Settlement Account (principal)	250,000
4. Cemetery Trust Fund	40,000
5. Overlay Surplus	250,000
6. Josiah Smith Tavern Trust Fund	<u>6,000</u>
<b>Total</b>	<b>\$3,021,000</b>

**The Finance Committee unanimously supports adoption of this Article.**

**ARTICLE 3: APPROPRIATE THE FISCAL YEAR 2012 WATER ENTERPRISE BUDGET**

To raise and appropriate and transfer from receipts the following sums of money to operate the Water Division of the Department of Public Works during fiscal year 2012, under the provisions of M.G.L. Chapter 44, section 53F½:

	Expended <u>FY09</u>	Expended <u>FY10</u>	Appropriated <u>FY11</u>	Recommended <u>FY12</u>
Salaries	250,097	211,046	268,687	\$267,292
Expenses	218,224	203,404	215,280	219,280
MWRA Assessment/ Water Purchases	1,669,522	1,452,263	1,400,000	1,806,318
Debt Service (non-exempt)	105,267	104,329	235,405	479,868
Capital Outlay	<u>695</u>	<u>42,987</u>	<u>13,500</u>	<u>17,500</u>
<b>Total</b>	<b>\$2,243,805</b>	<b>\$2,014,029</b>	<b>\$2,132,872</b>	<b>\$2,790,258</b>

Or take any other action relative thereto.

*Article 3 Explanation: The increase in the MWRA Assessment is due to substantially more water having been used during calendar year 2010. Debt service includes 20% of the cost of construction of the new DPW facility, and an additional capital project: water main rehabilitation, to be considered under Article 16. The operating expenses for the Water Division are entirely funded by water fee revenue.*

**The Finance Committee unanimously supports adoption of this Article.**

**ARTICLE 4: APPROPRIATE THE FISCAL YEAR 2012 RECREATION ENTERPRISE BUDGET**

To raise and appropriate and transfer from receipts the following sums of money to operate the Recreation Department during fiscal year 2012, under the provisions of M.G.L. Chapter 44, section 53F½:

	Expended <u>FY09</u>	Expended <u>FY10</u>	Appropriated <u>FY11</u>	Recommended <u>FY12</u>
Salaries	\$927,780	\$965,960	\$1,009,768	\$1,040,061
Expenses	464,173	442,263	428,200	408,600
Community Center	<u>90,837</u>	<u>84,969</u>	<u>91,450</u>	<u>90,400</u>
<b>Total</b>	<b>\$1,482,790</b>	<b>\$1,493,192</b>	<b>\$1,529,418</b>	<b>\$1,539,061</b>

Or take any other action relative thereto.

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Article 4 Explanation: Program fees cover approximately 70 percent of the salaries and expenses for this department; the remaining 30 percent is funded by property taxes.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 5: APPROPRIATE THE FISCAL YEAR 2012  
BROOK SCHOOL APARTMENTS ENTERPRISE BUDGET**

To raise and appropriate and transfer from receipts the following sums of money to operate the Brook School Apartments during fiscal year 2012, under the provisions of Chapter 76 of the Acts of 2009 and M.G.L. Chapter 44, section 53F½:

	Expended FY09	Expended FY10	Appropriated FY11	Recommended FY12
Salaries	\$112,313	\$118,749	\$143,816	\$148,951
Expenses	342,678	354,142	362,580	370,800
Repairs and Replacements	90,365	117,512	97,609	103,466
Payment in Lieu of Taxes	18,710	19,177	19,656	20,148
Debt Service	<u>246,017</u>	<u>240,005</u>	<u>228,494</u>	<u>258,071</u>
Total	\$810,083	\$849,585	\$852,155	\$901,436

Or take any other action relative thereto.

Article 5 Explanation: Funding for the operation of the Brook School Apartments comes from rental income and the Community Preservation Fund, which is covering the cost of the debt service for construction of thirteen affordable units completed as part of the expansion project in 2004.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 6: APPROPRIATE TO STABILIZATION FUND**

To raise and appropriate a sum of money to the Stabilization Fund, as provided under M.G.L. Chapter 40, section 5B, as amended, to be used for any lawful purpose, capital budget program or purpose for which the Town may borrow; or take any other action relative thereto.

Article 6 Explanation: A stabilization fund is a type of reserve fund. The Board of Selectmen has adopted a comprehensive financial reserve policy for the Town. This policy calls for establishing a Stabilization Fund of \$2,000,000 by fiscal year 2013. This Stabilization Fund will be used for catastrophic or emergency events or when certain revenue sources are below prior year levels, which typically occurs during a recession. Currently the Town has approximately \$1.6 million in this Stabilization Fund. An appropriation of \$250,000 is anticipated. A copy of the Town's reserve policy can be found on the Town's website, [www.weston.org](http://www.weston.org). A two-thirds vote of Town Meeting is required to appropriate both to and from the Stabilization Fund.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 7: APPROPRIATE TO OTHER POST EMPLOYMENT BENEFITS (OPEB)  
TRUST FUND**

To raise and appropriate or transfer from available funds a sum of money to the Other Post Employment Benefits (OPEB) Trust Fund, to be used to pay the costs of post employment benefits; or take any other action relative thereto.

Article 7 Explanation: This article allows the Town to continue to fund its future liability for other post employment benefits (retiree health insurance) for Town of Weston retirees. Beginning with the fiscal year 2008 audit, the Town was required to disclose this liability. The 2009 Annual Town Meeting accepted Chapter 479 of the Acts of 2008 establishing a trust fund for this purpose. An appropriation of \$1,219,000 is anticipated. In addition, a balance in the Town's health insurance trust fund of approximately \$2 million will be proposed to be transferred to the OPEB trust fund.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 8: CONTINUE DEPARTMENTAL REVOLVING FUNDS**

To continue revolving funds for certain Town departments pursuant to the provisions of M.G.L. Chapter 44, section 53E½ for the fiscal year beginning July 1, 2011:

<b>Revolving Fund</b>	<b>Authority to Spend</b>	<b>Revenue Source</b>	<b>Use of Fund</b>	<b>FY12 Budget</b>
Recreation Skating Programs	Recreation Director	Program Fees	Program Costs	\$50,000
Historic Marker	Historical Commission	Program Fees	Costs Related to Purchase of Historic Markers	\$1,500
Josiah Smith Tavern	Town Manager	Rental Fees from Women's Community League	Building Repairs and Maintenance (Improvements)	\$30,000
Council on Aging Special Programs	Council on Aging Director	Program Fees	Program Expenses	\$25,000
Town Building Rentals	Town Manager	Rental Fees Town Hall	Utilities, Cleaning, Building Monitor	\$6,000
Board of Health	Health Director	Insurance Reimbursement, Flu Clinics	Public Health Education, Outreach, Health Clinics, Emergency Preparedness	\$20,000
Affordable Housing Monitoring	Town Manager	Fees from Original Sale and Resale of Affordable Homes	Monitoring Costs, including Salaries and Benefits	\$35,000
Ambulance Services	Fire Chief	Ambulance Fees	Paramedic (ALS) Service Fees	\$150,000

Or take any other action relative thereto.

*Article 8 Explanation:* A Revolving Fund established under the provisions of M.G.L. Chapter 44, section 53E½ must be authorized annually by vote of the Town Meeting. The Fund is credited with only the departmental receipts received in connection with the programs supported by such Revolving Fund, and expenditures may be made from the Revolving Fund without further appropriation. Please see Appendix 4 for a report on these Revolving Funds.

**The Finance Committee unanimously supports adoption of this Article.**

**ARTICLE 9: ACCEPT CHAPTER 90 ROAD IMPROVEMENT FUNDS**

To authorize the Board of Selectmen to permanently construct, reconstruct, resurface, alter or make specific repairs upon all or portions of various Town Ways and to authorize the expenditure of such sums of money as may be received for the fiscal year commencing July 1, 2011 provided or to be provided by the Commonwealth of Massachusetts through the Massachusetts Department of Transportation; or take any other action relative thereto.

*Article 9 Explanation:* State law requires that Town Meeting approve the use of funds received from the State for road construction purposes, including engineering or addressing traffic improvements. In fiscal year 2012, it is anticipated that the Town will receive \$476,173 from the State for this purpose, an increase of \$109,956 more than in fiscal year 2011.

**The Finance Committee unanimously supports adoption of this Article.**

**ARTICLE 10:                   APPROVE PROPERTY TAX DEFERRAL INCOME LIMITS**

To establish fiscal year 2012 income eligibility limits under Chapter 421 of the Acts of 2004, An Act Authorizing the Town of Weston to Regulate Certain Property Tax Exemption Eligibility Requirements for the Elderly; or take any other action relative thereto.

*Article 10 Explanation:* Several years ago, Weston obtained special legislation to change the eligibility criteria for the property tax deferral program, allowing the Board of Selectmen to set the interest rate for residents over 60 who defer their property taxes. For fiscal year 2012, the rate has been set at 4 percent. This legislation also allows the Board of Selectmen, with Town Meeting approval, to establish the income eligibility limit for this program each year. The Board of Selectmen is recommending that the income limit remain at \$70,000 for fiscal year 2012. Ratification of this amount is required by Town Meeting.

**The Finance Committee unanimously supports adoption of this Article.**

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**CAPITAL IMPROVEMENT BUDGET ARTICLES**

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**ARTICLE 11:                   APPROPRIATE FOR FACILITIES – MIDDLE SCHOOL ROOF**

To appropriate, borrow, or transfer from available funds a sum of money to be expended under the direction of the Permanent Building Committee to pay costs of replacing the roof at the Middle School, located at 456 Wellesley Street in Weston, and all incidental costs related thereto, for which the Town may be eligible for a grant from the Massachusetts School Building Authority (“MSBA”); or take any other action relative thereto.

The proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program. The MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant that may be received from the MSBA shall be the sole responsibility of the Town.

*Article 11 Explanation:* This project has been accepted by the MSBA “Green Repairs” Program and is eligible for approximately 25% reimbursement. Roof replacement is only for the pool and gym area of the Middle School. This 35 year old roof has required significant patching and re-seaming in recent years to address the breakdown of materials due to age. An engineering evaluation has been completed and replacement is recommended. The estimated cost of this work is \$780,000, but the actual amount to be requested will be based on bids received prior to town meeting. A two-thirds vote of Town Meeting is required for approval of this article.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 12:                   APPROPRIATE FOR FACILITIES – HIGH SCHOOL BOILER**

To appropriate, borrow, or transfer from available funds a sum of money to be expended under the direction of the Permanent Building Committee to pay costs of replacing the boiler at the Weston High School, located at 444 Wellesley Street in Weston, and all incidental costs related thereto, for which the Town may be eligible for a grant from the Massachusetts School Building Authority (“MSBA”); or take any other action relative thereto.

The proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program. The MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant that may be received from the MSBA shall be the sole responsibility of the Town.

*Article 12 Explanation:* This project has been accepted by the MSBA "Green Repairs" Program and is eligible for approximately 31% reimbursement. The existing boilers are 50 years old and have operated beyond their life cycle. Significant repairs have been required over the past several years. New energy efficient gas-fired boilers will decrease fuel consumption and reduce cost. The project also includes removal of an underground fuel storage tank. The estimated cost of this work is \$960,000, but the actual amount to be requested will be based on bids received prior to town meeting. A two-thirds vote of Town Meeting is required for approval of this article.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 13: APPROPRIATE FOR SCHOOLS – HIGH SCHOOL SCIENCE LAB IMPROVEMENTS**

To appropriate a sum of money to pay costs of constructing, equipping, and furnishing new high school science laboratory facilities and other related improvements to the High School building, and all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

*Article 13 Explanation:* The high school was built in 1961 and only partially renovated during the 1996-98 renovation. The science labs, which are now 50 years old, are in great need of renovation and/or replacement because of size, safety and curricular considerations. Given the importance of science education both nationally and locally, this project is critical to supporting the high school program and extending the life the school building. In November 2009, Town Meeting appropriated \$730K for an owner's project manager and design services for the project. In November 2010, Town Meeting appropriated \$70K for the design fees associated with the installation of a building sprinkler system to meet current fire regulations. The design for the addition has been chosen and the project is currently being bid. The amount to be requested is estimated at \$13 million but will be based on actual bids received prior to town meeting. The total represents \$11.3 million for construction costs and \$1.7 million for a building-wide sprinkler system. A two-thirds vote of Town Meeting is required for approval of this article.

**The Finance Committee unanimously believes that adoption of this Article will not adversely affect the Town's finances.**

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**ARTICLE 14: APPROPRIATE FOR DEPARTMENT OF PUBLIC WORKS – DRAINAGE IMPROVEMENTS**

To appropriate a sum of money for the construction or reconstruction of surface drains and all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 7, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

*Article 14 Explanation:* This request is part of the ongoing program to correct drainage problems in town. Future projects on the high priority list include the Shady Hill Road/Woodchester Road area, Summer Street, Silver Hill Road, Pine Street, and Winter Street. These funds will also be used for a variety of public/private partnerships whereby both the Town and property owner contribute to resolve deficient drainage systems which are on both public ways and private property. Drainage funds are also used for street drainage repairs for the road paving program. Future projects include: Concord Road, Bradyll Road, Granison Road, and Boston Post Road. The amount to be requested is \$300,000. A two-thirds vote of Town Meeting is required for approval of this article.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 15: APPROPRIATE FOR CAPITAL PROJECTS**

To raise and appropriate or transfer from available funds the following sums of money:

Purpose	Amount	Expend Under Direction of:
A. DPW Departmental Equipment	\$235,000	Town Manager
B. Transfer Station Paving	\$222,000	Town Manager
C. School Zone Speed Signs	\$30,000	Town Manager
D. Case's Corner Roundabout Design	\$75,000	Town Manager
E. Wellesley/Brown Intersection	\$30,000	Town Manager
F. School Bus Replacements	\$226,399	School Committee
G. Fire Departmental Equipment-Brush Truck	\$100,000	Town Manager
H. Fiber Network Improvements/Expansions	\$112,541	Town manager

Article 15 Explanation:

- A. **DPW Departmental Equipment - \$235,000:** *This year's proposed public works equipment replacement program includes: 1) 1 ton pickup truck with plow – replacing a 2000 Ford F150 pickup truck (77,985 hard miles), to be used for highway and stormwater maintenance, including snow plowing; and 2) heavy duty dump truck with plow and sander attachments – replacing a 1984 Mack R487 dump truck (92,433 miles, 6,700 engine hours), to be used for construction activities in all DPW divisions including use for plowing and sanding in the winter.*
  
- B. **Transfer Station Paving - \$222,000:** *The transfer station was built in 1994, and the road leading to the site and all other paved areas have deteriorated due to the age of the pavement, vehicular traffic, and weight of heavy equipment, as well as the flooding in March 2010. Life expectancy for the new pavement will be 15-20 years.*
  
- C. **School Zone Speed Signs - \$30,000:** *There are two school zones – one located on School Street (Woodland, Country, and Field Schools) and the other on Wellesley Street (Middle and High Schools) where the legal speed limit is reduced to 20 mph during school start and release times. Existing flashing signs on School Street have reached the end of their service life, and there are no flashing signs on Wellesley Street. The proposed variable speed limit signs can be remotely programmed and will clearly communicate the legal speed limit, with the lower limit displayed during specific days and hours only. Based on the speed of an approaching driver exceeding the speed limit, the signs may flash the speed limit or "slow down."*
  
- D. **Case's Corner Roundabout Design - \$75,000:** *Over the last two years, two Town Committees and an engineering consultant hired by the Town have recommended a modern roundabout as the best choice to maximize safety, provide a safer pedestrian crossing location, and reduce traffic congestion at Case's Corner. This proposal was presented twice to the Board of Selectmen in 2010. Although there is concern that traffic flow decisions for the Field School could affect this recommendation, the Traffic & Sidewalk Committee believes that a roundabout is optimal under any foreseeable Field School alternative and that Field School traffic flow decisions would be known by July 1, 2011, when design funds would potentially become available. Noting the above regarding the Field School, this location is one of the Committee's top priorities, has been extensively studied by a consultant, and all have agreed on the best "fix." This project is necessary in order to improve traffic safety and congestion at one of the most problematic locations in Weston.*

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- E. **Wellesley/Brown Intersection - \$30,000:** *This location combines high speed traffic, limited sight distance to the north, cut-through traffic avoiding Route 30, and Weston Middle School (MS) pick-up and drop-off traffic. The safety conditions here also raised the concerns of a large group of MS parents who signed a petition seeking the Town to identify a safety improvement. A consultant study recommended a traffic signal, modern roundabout, and raised intersection alternatives. The Traffic & Sidewalk Advisory Committee is also exploring lower cost, nearer term options, such as variable speed limit signs and re-striping Wellesley Street with turn lanes and shoulders to narrow the travel lanes. These funds would be used to do survey work and explore the feasibility of the various options.*
  
- F. **School Bus Replacements - \$226,399:** *This is for the ongoing replacement of school buses. National guidelines recommend replacement of vehicles that are either 10 years old or have reached 130,000 miles. Three 71-passenger school buses will be replaced, all of which meet or exceed the recommended replacement schedule for age and/or mileage.*
  
- G. **Fire Departmental Equipment-Brush Truck - \$100,000:** *This request is for the purchase of a new brush truck, which is used to respond to brush fires and must be heavy duty in order to carry 300 gallons of water and a variety of equipment. This truck will replace a 1991 vehicle with over 100,000 miles on it.*
  
- H. **Fiber Network Improvements/Expansions - \$112,541:** *The Town's fiber optic network supports communication between all school and municipal buildings. This is an expansion to the network that will connect the water tank on Highland Avenue as well as provide a third redundant line to Police and Fire Department communication equipment located at the Rivers School. It will also provide the groundwork for the High School to have a third redundant run to the core infrastructure at Town Hall. All departments will benefit from this redundancy.*

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 16: APPROPRIATE FOR WATER MAIN REHABILITATION**

To appropriate a sum of money to pay costs of laying and relaying water mains of not less than six inches but less than sixteen inches in diameter, and all incidental costs related thereto, to be spent under the direction of the Town Manager, the money so appropriated to be raised by borrowing under the authority of M.G.L. Chapter 44, section 8, or any other enabling authority, and to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds or notes for this purpose; or take any other action relative thereto.

Article 16 Explanation: *This request is part of a program to replace old asbestos transite water mains. These mains are no longer used in water transmission service. This appropriation is to replace 1,350 linear feet of asbestos transite water main in Montvale Road that was installed in 1937. The design for this project will be completed by the DPW's engineering division. The amount to be requested under this article is \$216,000, to be funded from water rates. A two-thirds vote of Town Meeting is required for approval of this article.*

**The Finance Committee unanimously supports adoption of this Article.**

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GENERAL BY-LAW ARTICLES

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**ARTICLE 17: AMEND GENERAL BY-LAWS – STORMWATER BY-LAW**

To amend the By-Laws of the Town of Weston by deleting the text and title of Article XXVII in its entirety and inserting in place thereof a new by-law, “Stormwater and Erosion Control” as stated below:

**ARTICLE XXVII. Stormwater and Erosion Control By-Law**

**Section I. Purpose**

A. The purpose of this By-Law is to protect, maintain and enhance the public health, safety, environment and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This By-Law seeks to meet that purpose through the following objectives:

1. Establish a mechanism by which the municipality can monitor and ensure compliance with requirements of its National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and other applicable State and Federal mandates.
2. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources.
3. Require that new development, redevelopment and other land alteration activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics where appropriate in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
4. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to alterations in volume, velocity, frequency, duration, and peak flow rate of storm water runoff; establish minimum design criteria for measures to eliminate or minimize to the extent feasible nonpoint source pollution from stormwater runoff which would otherwise degrade water quality.
5. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet or exceed the minimum post-development stormwater management standards.
6. Encourage the use of nonstructural stormwater management, better site design practices or “low-impact development practices”, such as reducing impervious cover, increasing site-wide infiltration, and preserving open space and other natural areas, to the maximum extent practicable.
7. Promote water conservation through the re-use of stormwater for irrigation.
8. Establish provisions that require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities.

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9. Establish provisions to ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained.

10. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety or the environment.

11. Establish provisions to ensure there is an adequate funding mechanism for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this By-Law.

12. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, erosion and sediment controls, and for the inspection of approved active projects, and long-term follow up; Establish certain administrative procedures and fees for the submission, review, approval, or disapproval of stormwater plans, inspection of construction sites, and the inspection of approved projects.

13. Ensure that construction and waste materials, toxic materials, hazardous materials, and other pollutants are prevented from mixing with stormwater runoff, which would degrade water quality.

14. Establish the Town of Weston's legal authority and capacity to ensure compliance with the provisions of this By-Law through funding, permitting, inspection, monitoring, and enforcement.

**B.** Nothing in this By-law is intended to replace the requirements of the Town of Weston Zoning By-Law, the Mass Wetlands Protection Act, the Town of Weston General By-Law, any other By-Law that may be adopted by the Town of Weston, or any Rules and Regulations adopted there under.

### **Section II Definitions**

The following definitions shall apply in the interpretation and implementation of this By-Law. Additional definitions may be adopted by separate regulation:

**ALTER:** Any activity that will measurably change the ability of a ground surface area to absorb water, will change existing surface drainage patterns, or will increase or decrease the rate or volume of flow from a site.

**BEST MANAGEMENT PRACTICE (BMP):** Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

**BETTER SITE DESIGN:** Site design approaches and techniques, including low-impact development (LID) that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and green space, reducing impervious cover, using natural features for stormwater management, and providing site-wide infiltration.

**DEVELOPMENT:** Any construction that disturbs or alters a parcel of land.

**DISTURBANCE OF LAND:** Any action causing removal of vegetation or a change in the position, location, elevation, or arrangement of soil, sand, rock, gravel or similar earth material.

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**IMPERVIOUS:** Any material or structure on, above or below the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved surfaces (parking lots, sidewalks, and driveways), concrete, brick, stone, and roof tops.

**INFILTRATION:** The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

**LOW IMPACT DEVELOPMENT (LID):** An ecosystem-based approach to land development and stormwater management that ensures that each development site is designed to protect, or restore, the natural hydrology of the site.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS:** The latest version as may be amended from time to time of the Stormwater Management Standards and accompanying Stormwater Handbook issued by the Department of Environmental Protection pursuant to authority under the Wetlands Protection Act, M.G.L. c. 131, § 40, and the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53. The Stormwater Management Standards are incorporated in the Wetlands Protection Act Regulations, 310 CMR 10.05(6)(k) and the Water Quality Certification Regulations, 314 CMR 9.06(6)(a).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, 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 of Weston.

**NONPOINT SOURCE POLLUTION:** Pollution from many diffuse sources caused by rainfall, snowmelt, or other method of pollutant transport moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

**NORMAL MAINTENANCE:** Activities that are regularly scheduled to maintain the health and condition of a landscaped area. Examples include removal of weeds or invasive species, pruning, mowing, raking, and other activities that are done at regular intervals within the course of a year.

**PRE-DEVELOPMENT:** The conditions that exist prior to the proposed disturbance activity. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

**POST-DEVELOPMENT:** The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity in accordance with approved plans on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

**RECHARGE:** The replenishment of underground water reserves.

**RECONSTRUCTION:** Any action causing complete removal and replacement of paved surfaces, such as driveways, parking areas and roads.

**REDEVELOPMENT:** Any construction, alteration, improvement, repaving, or resurfacing on a previously-developed site.

**RUNOFF:** Rainfall or snowmelt water flowing over the ground surface or other source which may result in transport of pollutants.

**SITE:** The entire parcel of land being developed.

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**STOCKPILING:** The storage of unsecured material for future use, excluding the storage of materials 10 cubic yards or less when secured utilizing erosion controls to prevent erosion of material.

**STORMWATER MANAGEMENT:** The use of structural or non-structural practices that are designed to control or treat stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates. Stormwater Management includes the use of Low-Impact Development (LID) management practices.

**STORMWATER MANAGEMENT PERMIT (SMP):** A permit issued by the Stormwater Permitting Authority (SWPA), after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

### **Section III. Authority**

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34., and as authorized by the residents of the Town of Weston at Town Meeting dated May 10, 2011

### **Section IV. Applicability**

Where a project is subject to Site Plan Approval, Definitive Subdivision or Special Permit Approval from the Planning Board, the Stormwater Regulations adopted by the Planning Board shall apply and the stormwater review shall be completed as part of the Planning Board process provided that the Planning Board also finds that the activity is in compliance with any additional performance standards contained in the Regulations promulgated to implement this By-Law.

- A.** For projects not subject to Site Plan Approval, Definitive Subdivision or Special Permit Approval from the Planning Board, this By-Law shall be applicable to all new development and redevelopment, land disturbance and any other activity that may result in an increased amount of stormwater runoff or pollutants, or changes to drainage characteristics causing an increases in runoff, flowing from a parcel of land, unless exempt pursuant to Section V of this By-Law. This By-Law shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this By-Law, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section IV.B and are not exempted by Section V. A development shall not be segmented or phased in a manner to avoid compliance with this By-Law.
- B.** No Permit Required – For activities listed below, no permit shall be required by the SWPA provided that erosion control measures are used and the activity will not result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land and entering a traveled way or adjacent properties.
  - 1. Land Disturbance not to exceed 5,000 square feet in area other than work described in Section IV.B.4 and Section IV.C.1.
  - 2. The creation of new impervious area, or expansion of existing impervious area, not to exceed 750 square feet.
  - 3. Repair, replacement or reconstruction of an existing driveway.
  - 4. Restoration of existing lawn areas provided that any imported material is spread at a thickness no greater than four inches and the total imported material does not exceed 250 cubic yards.
  - 5. The addition or on-site redistribution of up to 250 cubic yards of material.
  - 6. Demolition of a structure provided that any land disturbance, including the area of the structure, does not exceed 5,000 square feet.
- C.** Stormwater Management Permit Thresholds - A Stormwater Management Permit shall be required for any of the following, except for an activity exempt per Section V:

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### 1. Minor Permit

- a) The creation of new impervious area, or expansion of existing impervious area, greater than 750 square feet and not exceeding 2,500 square feet.
- b) Repair, replacement, expansion of septic systems provided the work does not exceed the thresholds in Section IV.C.2.d.
- c) The addition or on-site redistribution of more than 250 cubic yards, but not exceeding 500 cubic yards, of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.

### 2. Major Permit

- a) Construction of any new dwelling or new dwelling replacing an existing dwelling in conformance with Article VIII, Section V.B.1.a and Section V.C.1.a of the Weston Zoning By-Laws;
- b) Any land disturbance exceeding an area of 5,000 square feet, or more than 20% of a parcel or lot, whichever is less, other than activities described in section IV.B.4.
- c) Creation of new impervious surface area greater than 2,500 square feet.
- d) The addition or on-site redistribution of more than 500 cubic yards of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
- e) Reconstruction of public or private way.
- f) Reconstruction or replacement of existing non-residential parking lots, including associated driveways, greater than 2,500 square feet.

### **Section V. Exemptions**

Exemptions from this By-Law apply to the following activities, provided that a project is solely comprised of any one of these activities:

- A. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04 ("Agricultural") and the conversion of additional land to agricultural use, when undertaken in such a manner as to prevent erosion and siltation through the use of Best Management Practices recommended by the U.S. Department of Agriculture Natural Resources Conservation Service or the Massachusetts Department of Agricultural Resources.
- B. Any work or projects for which all necessary approvals and permits were issued before the effective date of this By-Law.
- C. Normal maintenance of existing landscaping, gardens or lawn areas
- D. Construction of any fence that will not alter existing terrain or drainage patterns.
- E. Construction of utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) other than drainage which will not alter terrain, ground cover, or drainage patterns, so long as BMPs are used to prevent erosion, sedimentation and release of pollutants.
- F. Emergency repairs to any existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) and emergency repairs to any stormwater management facility that poses a threat to public health or safety, designated by the SWPA. Where such activity is subject to the jurisdiction of the Conservation Commission, the work shall not proceed without the issuance of an Emergency Certification by the Commission.
- G. The maintenance or resurfacing (not including reconstruction) of any public or private way.

### **Section VI. Administration**

- A. The Board of Selectmen shall be the appointing authority for the Stormwater Permitting Authority. The Stormwater Permitting Authority is responsible for the administration, implementation, and enforcement of this By-Law. Meetings of the Stormwater Permitting Authority shall be subject to the Massachusetts Open Meeting Law, MGL Ch. 30A, §§ 18-25.

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**B. Stormwater Permitting Authority (SWPA).** The SWPA shall consist of (5) five members, four of whom shall permanently be the Town Engineer, the Town Planner, the Conservation Administrator, and the Public Health Director. One (1) member shall be a resident of the Town of Weston and possess a degree in landscape architecture, environmental or civil engineering or environmental science appointed by the Board of Selectmen serving a (3) year term. The SWPA shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the SWPA may be delegated in writing by the SWPA to any Town employee, board or agent.

**C. Stormwater & Erosion Control Regulations (“Regulations”).** The SWPA may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), delegation of authority, procedures and administration of this By-Law after conducting a public hearing to receive comments on the proposed rules and regulations or any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. Failure of the SWPA to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this By-Law.

**D. Massachusetts Stormwater Handbook**

The SWPA will utilize the policy, criteria and information including specifications and standards of the most recent edition of the Massachusetts Stormwater Handbook for execution of the provisions of this By-Law. Unless otherwise specified in the Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

**E. Stormwater Management Permit**

The SWPA shall have the authority to issue a Stormwater Management Permit (SMP) for projects exceeding the thresholds defined in Section IV.C. of this By-Law and not otherwise exempted by Section V. Requirements of the SMP may be defined and included within the Regulations promulgated pursuant to Section VI.C of this By-Law.

**F. SWPA Approval Process.**

1. Action by SWPA

- a. **Determination of Completeness:** The SWPA shall review the application submission and issue a determination stating whether the application is complete and whether it complies with the Design Standards established in the Stormwater Rules and Regulations, as may be waived in accordance with Section 3.E. of this By-Law.
- b. **Incomplete Applications:** If the SWPA determines the application is incomplete, including insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the SWPA may require the submission of additional information and/or disapprove the application and deny the Permit.
- c. **Applications deemed to be complete and in compliance with Design Standards.** Each application for a Stormwater Management Permit that complies with the Regulations, and is determined to be a complete application by the SWPA shall be acted upon within thirty (30) days of the date of filing with the SWPA, unless such application has been withdrawn from consideration. The SWPA may:
  - i. Approve the Permit Application upon finding that the proposed plan will protect water resources and meets the objectives and requirements of this By-Law;
  - ii. Approve the Permit Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirements of this By-Law; or
  - iii. Disapprove the Permit Application if the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-Law.

- d. Applications not in compliance with Design Standards.
  - i. For applications where the SWPA has determined that the Design Standards are not met, the Applicant may appeal the determination and request a public hearing with the SWPA to consider the application or resubmit the application demonstrating compliance.
  - ii. For applications where the Design Standards cannot be met due to site conditions or the applicant wishes to propose an alternative design not consistent with the Design Standards, the applicant may immediately request a public hearing with the SWPA.

2. Public Hearing Process

- a. A public hearing is required for all Minor and Major Stormwater Management Permits (SMP) where design standards cannot be met. Minor Permits and Major Permits that meet design standards shall not require a public hearing. Public hearings shall be published in a newspaper of general circulation for two (2) consecutive weeks. The first publication date shall be published not less than fourteen (14) days before the day of the hearing. A copy of the hearing notice shall be posted in the Office of the Town Clerk for a period of not less than fourteen (14) days before the date of the hearing. Copies of the notice shall be mailed, postage prepaid, to the applicant, property owner (if different) and to direct abutters and owners of land directly opposite on a public or private way as they appear on the most recent Assessor's list.
- b. The SWPA may take any of the following actions following the close of the public hearing for an application for a Stormwater Management Permit
  - i. Approve the Permit Application upon finding that the proposed plan will protect water resources and meets the objectives and requirements of this By-Law;
  - ii. Approve the Permit Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirements of this By-Law; or
  - iii. Disapprove the Permit Application if the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-Law.

**G.** Appeals of Action by the SWPA. A decision of the SWPA shall be final. Further relief of a decision by the SWPA made under this By-Law shall be to a court of competent jurisdiction.

**H.** Waivers. The SWPA may waive strict compliance with any of the requirements of this By-Law or the rules and regulations promulgated hereunder, if it determines that some of the application requirements are unnecessary because of the size or character of the development project or because of the natural conditions at the site and where such action is:

- 1. Allowed by federal, state and local statutes and/or regulations,
- 2. In the public interest, and
- 3. Not inconsistent with the purpose and intent of this By-Law.

Any request from an Applicant for a waiver of these rules shall be submitted, in writing, to the SWPA at the time of submission of the application. Such requests shall clearly identify the provision/s of the rule from which relief is sought and be accompanied by a statement setting forth the reasons why, in the applicant's opinion, the granting of such a waiver would be in the public interest or the specific information required to show strict compliance is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of this By-Law and the rules and regulations promulgated hereunder.

**Section VII. Performance Standards**

Criteria for Stormwater Management Standards shall be defined and included as part of any Rules and Regulations promulgated under Section VI.C of this By-Law.

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**Section VIII. Enforcement**

- A. The SWPA, or an authorized agent of the SWPA, shall enforce this By-Law, and any Regulations, permits orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for violations.
- B. If a person violates the provisions of this By-Law or its Regulations, or a permit, notice or order issued there under, the SWPA may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities which would create further violations or to compel the person to perform abatement or remediation of the violation.
- C. The SWPA, or an authorized agent of the SWPA, may issue a written order to enforce the provisions of this By-Law or the Regulations, which may include requirements to:
  - 1. Cease and desist from land-disturbing activity until there is compliance with the By-Law or provisions of an approved Stormwater Management Permit;
  - 2. Maintain, install or perform additional erosion and sediment control measures;
  - 3. Perform monitoring, analyses, and reporting;
  - 4. Remediate erosion and sedimentation resulting directly or indirectly from land-disturbing activity;
  - 5. Comply with requirements in the Stormwater Management Permit for operation and maintenance of stormwater management systems; and,
  - 6. Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management systems.

If the SWPA or its authorized agent determines that abatement or remediation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.

- D. Criminal Penalties. Any person who violates any provisions of this By-Law, regulation, order or permit issued hereunder, shall be punished by a fine of not more than \$300. Each day a violation exists shall constitute a separate violation.
- E. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, §21D and Article V of the Town By-Laws, in which case any police officer of the Town of Weston, the Town Engineer, and such other persons as are authorized by the SWPA shall be the enforcing person. If non-criminal disposition is used, any person who violates any provision of this By-Law, regulation, order or permit issued thereunder, shall be punished as follows:
  - 1. First Violation: Warning
  - 2. Second violation: \$100
  - 3. Third violation: \$200
  - 4. Fourth and subsequent violations: \$300
  - 5. Each day a violation exists shall constitute a separate violation
- F. Remedies Not Exclusive. The remedies listed in this By-Law are not exclusive of any other remedies available to the SWPA or the Town under any applicable federal, state or local law.

**Section IX. Severability**

The invalidity of any section, provision, paragraph, sentence, or clause of this By-Law shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

**Section X. Effective Date**

This By-Law shall take effect on October 1, 2011, provided that all other requirements of G.L. c.40, §32 have been met.

AND FURTHER, to amend the By-laws of the Town of Weston by inserting, at the end of Article IV, Section 5, the following sentence:

“No person shall discharge, cause the discharge, or divert a natural flow of surface or ground water in such a manner that it will cause an icing condition on a way.”

Or take any other action relative thereto.

*Article 17 Explanation: Stormwater runoff represents Massachusetts single largest pollutant source affecting water quality. In an attempt to lessen these adverse impacts, the state and federal government have mandated that towns regulate stormwater. The goal of the By-Law is to ensure that new development, redevelopment, and certain land disturbance activities do not increase stormwater runoff. This By-Law will help protect abutting wetlands, properties, and homeowners from the likelihood of experiencing increased flooding problems and erosion from nearby construction sites.*

**The Finance Committee takes no position on this Article.**

**ARTICLE 18: AMEND GENERAL BY-LAWS – MATERIAL REMOVAL BY-LAW**

To amend Article XI of the Town’s General By-laws by making the revisions shown below, with all the new provisions shown in underlined text and all of the deleted provisions shown in strikethrough text:

**ARTICLE XI  
MATERIAL REMOVAL**

**SECTION 1.** The removal of soil, loam, sand or gravel from any land in the Town not in public use is prohibited.

**SECTION 2.** The preceding section shall not prohibit such removal in any instance where it is expressly allowed by the provisions of Section V, Subsection ~~D 1.3~~ of the zoning by-law of the town-, ~~Article VIII of the by-laws~~ or in any instance where it is authorized by the Board of Appeals or board of appeals Planning Board by special permit granted thereunder and is in accordance with the terms of such permit.

**SECTION 3.** The penalty for violation of this by-law (Article XI) shall be a fine of fifty dollars for the first offense, ~~or~~ one hundred dollars for the second offense, and ~~or~~ two hundred dollars for each subsequent offense.

Or take any other action relative thereto.

*Article 18 Explanation: The purpose of this article is to correct the reference to the appropriate section of the zoning by-law, which was recodified and re-numbered by previous action of town meeting. The article also proposes minor formatting edits and the inclusion of the Planning Board as a Board having jurisdiction of material removal pursuant to existing provisions of the zoning by-law and a proposed zoning article.*

**The Finance Committee takes no position on this Article.**

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**ARTICLE 19: AMEND GENERAL BY-LAWS – ADOPT STRETCH ENERGY CODE**

To adopt the “Stretch Energy Code” set forth in the State Building Code at 780 CMR 120.AA (i.e., Appendix 120.AA), as may be amended from time to time, and to amend the Town of Weston’s General By-laws by inserting a new Article XXXII, entitled “Stretch Energy Code” as set forth below:

**Article XXXII. STRETCH ENERGY CODE**

**Section 1. Acceptance/Adoption.**

The Town of Weston has accepted and adopted the provisions of 780 CMR 120.AA (i.e., Appendix 120.AA of the State Building Code or the “Stretch Energy Code”), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.

**Section 2. Purpose.**

The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

Or take any other action relative thereto.

*Article 19 Explanation: In order to be eligible for designation by the Commonwealth of Massachusetts as a “Green Community,” the Town must adopt the Stretch Energy Code. The “stretch code” is an optional appendix to the Massachusetts building energy code that allows cities and towns to choose a more energy efficient option. This option increases the efficiency requirements in residential and many commercial buildings to minimize, to the extent feasible, the life-cycle cost of the facility by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies.*

**The Finance Committee takes no position on this Article.**

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**ZONING BY-LAW ARTICLES**

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**ARTICLE 20: AMEND ZONING BY-LAW – RENEWABLE ENERGY OVERLAY DISTRICT**

To amend the Zoning By-law of the Town of Weston, by adopting a new Renewable Energy Overlay District By-law as follows:

**Part 1, to insert the following text within Section IV, B. District Boundaries:**

7. Renewable Energy Overlay District.

For the purpose of this Zoning By-law there is hereby established within the Town of Weston a Renewable Energy Overlay District, which is delineated on a map entitled “Renewable Energy Overlay District Town of Weston, 2011,” which shall be considered superimposed over other districts established by the Zoning By-Laws of Weston and shall consist of the following parcels, identified on the Weston Assessors Maps as:

- Map # 23, Parcel # 035
- Map # 24, Parcel #001.

**Part 2, to adopt the following by-law by inserting the text below in Section V. Use Regulations:**

**L. RENEWABLE ENERGY OVERLAY DISTRICT**

**1. Purpose**

The purpose of this by-law is to promote the creation of new 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

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on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be subject to site plan review as specified in Section XI of the Town of Weston Zoning By-law, and in accordance with the additional requirements specified herein.

### 2. Applicability

This by-law applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also applies to physical modifications that materially alter the type, configuration, or size of any such installations or related equipment.

### 3. Definitions

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

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

**Solar Photovoltaic Array:** an arrangement of solar photovoltaic panels.

### 4. General Siting Requirements

#### a. Lot Requirements

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be permitted on parcels located within the Renewable Energy Overlay District as established in Section IV.7.

#### b. Site Control

The applicant 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.

#### c. Setbacks

For large-scale, ground-mounted solar photovoltaic installations, the setbacks shall be the same as the underlying district per Section VI of the Town of Weston's Zoning By-law.

### 5. Permitting Process & Requirements

#### a. Site Plan Review

Ground-mounted large-scale solar photovoltaic installations with 250 kW or larger rated nameplate capacity shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section.

#### b. General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

#### c. Required Documents

Pursuant to the site plan review process, the applicant shall provide the following documents:

- (i) A site plan showing:
  - (a) Property lines and physical features, including roads, for the project site;
  - (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

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- (c) Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
  - (d) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - (e) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
  - (f) Name, address, and contact information for proposed system installer;
  - (g) Name, address, phone number and signature of the applicant, as well as all co-proponents or property owners, if any; and
  - (h) The name, contact information and signature of any agents representing the applicant; and
- (ii) Documentation of actual or prospective access and control of the project site (see also Section 6.e);
  - (iii) An operation and maintenance plan (see also Section 7.h);
  - (iv) Zoning district designation for the parcel(s) of land comprising the project site;
  - (v) Proof of liability insurance; and
  - (vi) Description of financial surety that satisfies Section 7.e.

All material modifications to a solar photovoltaic installation made after final approval shall require approval by the Planning Board.

Any portion of this Section 5 may be waived, if in the opinion of the Planning Board the materials submitted are sufficient for the Board to make a decision.

### 6. Design Standards

#### a. Lighting

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

#### b. Signage

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Section VII of the Town of Weston Zoning By-laws. Solar photovoltaic installations shall not be used for displaying any advertising. Advertising shall not include reasonable identification of the manufacturer or operator of the solar photovoltaic installation. The solar photovoltaic installation shall identify the owner and provide a 24-hour emergency contact phone number.

#### c. Utility Connections

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

#### d. Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and by-laws.

e. Appurtenant Structures

All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

7. Additional Provisions

a. Maintenance

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Weston Fire Chief. 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.

b. Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

c. Removal Requirements

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 7.d of this by-law shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (i) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- (ii) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (iii) 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. Abandonment

Absent notice to the Planning Board, as provided above, of a proposed date of decommissioning or written notice to the Planning Board requesting an extension due to extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate or its operations are discontinued for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation. As a condition of approval, an applicant shall agree to grant the necessary license or easement to the Town to allow entry to remove an abandoned installation. All solar photovoltaic installations removal and associated costs will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property.

e. Financial Surety

Proponents of large-scale ground-mounted solar photovoltaic projects shall provide 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 installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally- or state-owned facilities. The applicant 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.

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f. Compliance with Laws, Ordinances and Regulations

The construction and operation of all large-scale solar photovoltaic installations 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.

g. Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

h. Operation & Maintenance Plan

The applicant shall submit a plan for the operation and maintenance of the large- scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

i. Utility Notification

No large-scale, ground-mounted solar photovoltaic installation 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.

j. Emergency Services

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Weston Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. 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.

Or take any other action relative thereto.

*Article 20 Explanation: In order to be eligible for designation by the Commonwealth of Massachusetts as a "Green Community," the Town must provide zoning for the as-of-right siting of renewable or alternative energy generating facilities. This amendment to the zoning by-law creates an overlay district on property owned by Boston Properties, currently housing Biogen Idec and on Town-owned property housing the current transfer station and the capped landfill. The proposed by-law will allow for the permitting of large scale ground mounted photovoltaic installations through the Town's Site Plan Review By-law. A two-thirds vote of Town Meeting is required to approve this article.*

**The Finance Committee takes no position on this Article.**

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**ARTICLE 21:                    AMEND ZONING BY-LAW – EARTH MOVEMENT**

To amend the Zoning By-law of the Town of Weston as follows:

***Part 1 - to amend Section II. Definitions by making the following insertions:***

EARTH -- Shall include soil, loam, sand, gravel, clay, rock or other natural minerals and peat.

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MOVE or MOVEMENT -- To dig, excavate, remove, deposit, fill, grade, replace, level, or otherwise alter or change the location of earth or contour of land.

**Part 2 - to amend Section IX. Permit and Special Permit Granting Authorities, Subsection B by making the following insertion (indicated in underlined text):**

B. PLANNING BOARD

The Planning Board shall be the Special Permit Granting Authority for Flexible Developments, construction and determination of flooding and suitability in the Wetlands and Floodplain Protection Districts, Personal Wireless Services Facilities, Earth Movement, and Active Adult Residential Developments.

**Part 3 - to amend the text in Section V.I.3 by inserting the text (indicated in underlined text) below:**

3. MATERIAL REMOVAL AND EARTH MOVEMENT

a. Material Removal

The removal of sod, loam, clay, sand, gravel, stone (whether quarried or not) or other natural inorganic material from any land in any district is allowed by right in instances when such removal is:

- (i) incidental to the lawful construction or alteration of a building or structure, or the lawful construction of a way (including driveway), on the portion of the premises where the removal occurs;

-or-

- (ii) incidental to the construction or operation of public works by the Town or other public body at the location where the removal occurs;

-or-

- (iii) incidental to the operation of a greenhouse or nursery on the premises where the removal occurs;

-or-

- (iv) incidental to farming, gardening or landscaping done on the premises where the removal occurs and not involving conveying any material away from such premises.

Otherwise, the removal of the above mentioned materials or any of them from any land in any district is prohibited, except that, subject to the provisions of Section X and XI, such removal may be authorized by the Board of Appeals or Planning Board by Special Permit in any appropriate instance where the appropriate Board determines that the removal will be advantageous to the premises in question or to the neighborhood or otherwise desirable and will be of such a character and can be so accomplished that by proper regrading, reloaming, reseeding or other means, which shall be regraded if necessary, the land involved will be left in sightly condition and protected against erosion.

b. Earth Movement

i. In any district, no earth in excess of 1,000 cubic yards on any parcel of land greater than 80,000 square feet shall be moved unless the quantity of material to be moved is certified by a registered professional engineer or land surveyor and a special permit from the Planning Board is obtained in accordance with the procedure provided in Section X. Special Permits, and only under such conditions as the Planning Board may impose, with the following exceptions:

- (1) Where incidental to farm or nursery activities.
- (2) Where the amount of earth to be moved is limited to the volume of the foundation and basement of the primary structure, or excavation for septic systems, driveway, utilities, or walkways. Certification by a registered professional engineer or land surveyor shall be provided stating that all earth movement on site is limited to the above activities.

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(3) Where the movement is on Town-owned land or is to be transferred between or among Town-owned parcels.

(4) Where the movement of earth is permitted in accordance with a special permit issued pursuant to Section IX. Subsection B of the Zoning By-law for Flexible Developments, construction and determination of flooding and suitability in the Wetlands and Floodplain Protection Districts, Personal Wireless Services Facilities, or Active Adult Residential Developments.

Nothing herein shall be interpreted to allow the movement of earth as a primary use.

ii. Nothing contained in Section V.I.3.b shall prevent the use of any land for farms, gardens, nurseries, cemeteries, parks, playgrounds and such purposes as are incidental to, or usual in connection with, any of said purposes.

iii. Before a special permit is issued, the applicant shall show to the satisfaction of the Planning Board that the movement will not impair the usability of the area for the purposes permitted in this Zoning By-law, that the grades to be established within the area will permit vehicular access to the area and the continuation of streets from the abutting premises, and that the area may ultimately be developed compatibly with the neighboring land.

iv. The movement of earth from within a subdivision, the plan of which has been approved by the Planning Board and duly recorded in the Middlesex South District Registry of Deeds, shall be permitted as of right when and to the extent that such is necessary for the lawful construction or alteration of a way shown on said plan or for the lawful installation of utilities, drainpipes or drain structures in said subdivision, provided that the quantity of earth so moved shall not exceed that in place in the particular space to be occupied by such way, utilities, drainpipes or drain structures, and subject to any requirements made by the Planning Board endorsed or referred to on the plan of such subdivision. Certification by a registered professional engineer or land surveyor shall be provided stating that all earth movement on site is related to an approved subdivision development.

Or take any other action relative thereto.

*Article 21 Explanation: The purpose of this by-law will be to regulate the movement of earth on parcels in excess of 80,000 square feet. The movement of earth in excess of 1,000 cubic yards will require a special permit issued by the Planning Board. The by-law proposes the exclusion of the volumes of earth associated with foundations, septic systems, driveways, utilities from the calculation for volume of earth to be moved. A two-thirds vote of Town Meeting is required to approve this article.*

**The Finance Committee takes no position on this Article.**

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**ARTICLE 22:                    AMEND ZONING BY-LAW – SECTION IX. B. – ADD “DAY CAMPS”**

To amend Section IX of the Zoning By-law of the Town of Weston by inserting the words “Day Camps” in section B. as indicated in underlined text:

**B. PLANNING BOARD**

The Planning Board shall be the Special Permit Granting Authority for Flexible Developments, construction and determination of flooding and suitability in the Wetlands and Floodplain Protection Districts, Personal Wireless Services Facilities, Day Camps, and Active Adult Residential Developments.

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*Article 22 Explanation: The purpose of this by-law is to consolidate the reviewing authority for Day Camps under one Board rather than two Boards as is currently required. Under the current zoning by-law, the Planning Board has jurisdiction over site plan review and the Zoning Board of Appeals issues the special permit for Day Camps. This article proposes that the Planning Board conduct both the site plan and special permit review, thereby consolidating the permitting process for Day Camps. A two-thirds vote of Town Meeting is required to approve this article.*

**The Finance Committee takes no position on this Article.**

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**STATE LAW ACCEPTANCE AND OTHER**

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**ARTICLE 23:                    **ACCEPT M.G.L. CHAPTER 44, SECTION 55C – CREATION OF WESTON AFFORDABLE HOUSING TRUST FUND****

To accept the provisions of M.G.L. Ch. 44, Section 55C and establish a trust to be known as the Weston Affordable Housing Trust Fund whose purpose shall be to provide for the creation and preservation of affordable housing in the Town for the benefit of low and moderate income households; and further, to amend the General By-laws of the Town by inserting a new Article XXXIII to be entitled "Weston Affordable Housing Trust Fund," as follows, or take any other action relative thereto.

**ARTICLE XXXIII.        **WESTON AFFORDABLE HOUSING TRUST FUND****

**Section 1.     **Board of Trustees****

There shall be a Board of Trustees of the Weston Affordable Housing Trust Fund, comprised of not less than five members, at least one of which shall be a Selectman. The Board of Selectmen shall appoint the Board of Trustees for rotating terms not to exceed two years. Vacancies shall be filled by the Board of Selectmen for the remainder of the unexpired term. The Board of Selectmen may remove any member of the Board of Trustees for cause after that member has been provided an opportunity to be heard by that Board.

**Section 2.     **Powers of Board of Trustees****

The powers of the Board of Trustees, all of which shall be carried on in furtherance of the purposes set forth in G.L. c.44, §55C, and pursuant to the provisions of a Declaration of Trust to be approved by the Board of Selectmen, shall include the following:

- (a) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B;
- (b) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (c) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (d) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
- (e) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- (f) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

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(g) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(h) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(i) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(j) to carry property for accounting purposes other than acquisition date values;

(k) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(l) to make distributions or divisions of principal in kind;

(m) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(n) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(o) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(p) to extend the time for payment of any obligation to the trust.

And such additional powers, if any, as may be set forth in G.L. c.44, §55C, as same may from time to time be amended.

### **Section 3. Audit Requirement**

The Board of Trustees shall provide for an annual audit of the books and records of the Trust. Such audit shall be performed by an independent auditor in accordance with accepted accounting practices. Upon receipt of the audit by the Board of Trustees, a copy shall be provided forthwith to the Board of Selectmen.

*Article 23 Explanation: This warrant article is the culmination of work that began in 2004, when the Selectmen made the development of affordable and moderately priced housing a priority for the Town. After reviewing a Town-sponsored survey, meeting with consultants, and considering the positive experience of other towns, a Housing Partnership of Weston volunteers appointed by the Selectmen in 2008, has now recommended a Town Meeting vote, as required by statute, to authorize a Weston Affordable Housing Trust. The Housing Partnership has also developed a list of Priorities and Criteria for affordable housing in Weston that was unanimously approved by the Selectmen and by the Community Preservation Committee when they recently endorsed the establishment of a Weston Affordable Housing Trust as recommended by the Housing Partnership.*

*If approved, the Affordable Housing Trust will be a separate legal entity, operated by Trustees appointed by the Selectmen, to work with the Selectmen and other Town committees to seize market opportunities and take other initiatives to preserve and increase moderate and low-income housing consistent with the Town's interests and the previously mentioned Priorities and Criteria. The Trustees will be required to advise the Selectmen before making any significant financial commitment, but will be able to acquire property by gift or purchase, borrow funds if necessary, and renovate and lease or sell property for affordable housing without need for a Town Meeting vote for each particular project.*

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*Any use of Community Preservation Act funds or other Town funds to support the activities of the Affordable Housing Trust will require the approval of Town Meeting. A separate request will be made at this Town Meeting for CPA funds for a site specific affordable housing feasibility study, and it is likely that, after successfully completing one or more projects, the Affordable Housing Trust will request CPA funding for affordable housing sites or projects not yet identified.*

**The Finance Committee takes no position on this Article.**

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**ARTICLE 24: PETITION GENERAL COURT FOR SPECIAL ACT RELATIVE TO PUBLIC EMPLOYEES SERVING IN THE ARMED FORCES OF THE UNITED STATES**

To petition the General Court for a special act providing that legislation be adopted as set forth below; and further, to authorize the General Court to 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, and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of this petition; or take any other action relative thereto:

**AN ACT RELATIVE TO THE REGULATION OF SALARIES OF EMPLOYEES OF THE TOWN OF WESTON SERVING IN THE ARMED FORCES OF THE UNITED STATES**

SECTION 1. Notwithstanding any general or special law to the contrary, an employee in the service of the town of Weston, including school department employees, who has been granted a military leave of absence, either before or after the effective date of this act, because the employee is a member of the army national guard, the air national guard or a reserve component of the armed forces of the United States called to active service in the armed forces of the United States after September 11, 2001, may, at the discretion of the Weston board of selectmen, subject to appropriation, be paid at his regular base salary as such a public employee, and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime. If the board elects to make payments under this act, an eligible employee shall be paid his regular base salary as such a public employee for each pay period of such military leave of absence after September 11, 2001, reduced by any amount received from the United States as pay or allowance for military service performed during the same pay period, excluding overtime pay, shift differential pay, hazardous duty pay or any other additional compensation. For the purposes of this section, the words "active service" shall not include active duty for training in the army national guard or air national guard or as a reservist in the armed forces of the United States. Provided, however, that nothing in this section shall limit or reduce a person's entitlement to benefits under section 59 of chapter 33 of the General Laws, and nothing in this section shall entitle a person to benefits in excess of the maximum benefit provided under said section 59 of said chapter 33 for any period during which that person is receiving benefits under this section.

SECTION 2. This act shall take effect upon passage.

Or take any other action relative thereto.

*Article 24 Explanation: For employees of the Town who are called to active duty in the military service, this special act will allow the Town to pay the difference between their military pay and what they would have earned had they not been deployed.*

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 25: PETITION GENERAL COURT FOR SPECIAL ACT TO GRANT CLUB AND SPECIAL LICENSES FOR THE SALE OF ALCOHOL**

To petition the General Court for a special act providing that legislation be adopted as set forth below; and further, to authorize the General Court to 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, and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of this petition; or take any other action relative thereto:

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### AN ACT RELATIVE TO THE GRANTING OF CLUB AND SPECIAL LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE TOWN OF WESTON

SECTION 1. Notwithstanding the provisions of section 17 of said chapter 138 of the general laws, or of any other general or special law to the contrary, the board of selectmen of the town of Weston may grant to the Weston Golf Club a club license to sell all alcoholic beverages to be drunk on the premises at 275 Meadowbrook Road in said town under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except for said section 17, and to any regulations and guidelines adopted by the Massachusetts Alcoholic Beverages Control Commission relative to the service of alcoholic beverages.

The board of selectmen shall not approve the transfer of the license to any other location but the license may be granted by the board of selectmen at the same location if an applicant for the license files with the board of selectmen a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid. If the license granted under this section is cancelled, revoked or no longer in use, such license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the board of selectmen and the board of selectmen may then grant the license to a new applicant at the same location and under the same conditions as specified in this section.

SECTION 2. Notwithstanding the provisions of section 17 of said chapter 138 of the general laws, or of any other general or special law to the contrary, the board of selectmen of the town of Weston may grant to the Pine Brook Country Club a club license to sell all alcoholic beverages to be drunk on the premises at 42 Newton Street in said town under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except for said section 17, and to any regulations and guidelines adopted by the Massachusetts Alcoholic Beverages Control Commission relative to the service of alcoholic beverages.

The board of selectmen shall not approve the transfer of the license to any other location but the license may be granted by the board of selectmen at the same location if an applicant for the license files with the board of selectmen a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid. If the license granted under this section is cancelled, revoked or no longer in use, such license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the board of selectmen and the board of selectmen may then grant the license to a new applicant at the same location and under the same conditions as specified in this section.

SECTION 3. Notwithstanding the provisions of section 17 of said chapter 138 of the general laws, or of any other general or special law to the contrary, the board of selectmen of the town of Weston may grant to the Hazel Hotchkiss Wightman Tennis Center a club license to sell all alcoholic beverages to be drunk on the premises at 100 Brown Street in said town under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except for said section 17, and to any regulations and guidelines adopted by the Massachusetts Alcoholic Beverages Control Commission relative to the service of alcoholic beverages.

The board of selectmen shall not approve the transfer of the license to any other location but the license may be granted by the board of selectmen at the same location if an applicant for the license files with the board of selectmen a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid. If the license granted under this section is cancelled, revoked or no longer in use, such license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the board of selectmen and the board of selectmen may then grant the license to a new applicant at the same location and under the same conditions as specified in this section.

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SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, the board of selectmen of the town of Weston may grant special licenses for the sale of alcoholic beverages pursuant to section 14 of said chapter 138. Licenses granted under this act shall be subject to all of said chapter 138, except said sections 11 and 11A. Once any such license is issued by the board of selectmen, said board of selectmen shall not approve the transfer of the license to any other person, organization, corporation, or location.

SECTION 5. Notwithstanding the provisions of sections 11 and 11A of chapter 138 of the General Laws as to the time and manner of voting on the question of issuing the licenses set forth set forth above, this act shall be submitted for its acceptance to the qualified voters of the town of Weston at an annual or special town election following the effective date of this act in the form of the following question:

“Shall an act passed by the General Court in the year 2011, entitled ‘An Act Relative to the Granting of Club and Special Licenses for the Sale of Alcoholic Beverages in the Town of Weston’ be accepted?”

Below the ballot question shall appear a fair and concise summary of the ballot question prepared by town counsel and approved by the board of selectmen.

If a majority of the votes cast in answer to the question is in the affirmative, this act shall immediately take effect in the town of Weston, but not otherwise.

SECTION 6. This act shall take effect upon passage.

*Article 25 Explanation: In order for the Weston Golf Club and Pine Brook Country Club to be able to sell alcoholic beverages, they must be duly licensed. However, the Town has not accepted the applicable provisions of M. G.L. c.138 of the General Laws authorizing the licensing of the sale of alcoholic beverages, and has instead addressed such authority through special legislation on a case by case basis. This special act would authorize the Board of Selectmen to issue so-called “club licenses” to the Weston Golf Club and Pine Brook Country Club. The Hazel Hotchkiss Wightman Tennis Center has asked to be included in this legislation so that they may request a license in the future, which will not be granted unless an amendment to their 1968 special permit, which prohibits the serving or consumption of alcoholic beverages, is approved by the Zoning Board of Appeals. In addition, the special act provides for the issuance by the Board of one-day or special licenses to non-profit organizations to sell alcoholic beverages during special events. If Town Meeting approves this Article, it will then go to the Legislature and Governor for approval. Following such approval, the Act would be placed on a Town ballot for acceptance by the voters of Weston. Only if the voters accept the special act at the election would the Board of Selectmen have authority to issue any of the licenses referenced in the special act.*

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 26: ACCEPT M.G.L. CHAPTER 39, SECTION 23D – ALLOWS BOARD MEMBERS TO MISS ONE SESSION OF ADJUDICATORY HEARINGS**

To accept the provisions of Massachusetts General Laws Chapter 39, Section 23D for the Board of Appeals, Board of Health, Conservation Commission, and Planning Board, which statute provides that a member of a board, committee, or commission holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to the member's absence from one session of such hearing, provided that certain conditions are met; or take any other action relative thereto.

*Article 26 Explanation: The provisions of this statute allow a member of the Board of Appeals, Board of Health, Conservation Commission or Planning Board, when holding an adjudicatory hearing, to be absent from one session of the hearing at which testimony or other evidence is received without being disqualified from voting in the matter. The statute requires such member to certify in writing that s/he has examined all evidence presented at the missed session. When unforeseen circumstances arise that prevent a volunteer Board or Commission member from attending a scheduled hearing, acceptance of this statute will allow a hearing to continue without the delay currently associated with rescheduling.*

**The Finance Committee takes no position on this Article.**

**ARTICLE 27: ACCEPT CHAPTER 73, SECTION 4 OF THE ACTS OF 1986:  
(INCREASE IN PROPERTY TAX EXEMPTION LIMITS)**

To accept, for fiscal year 2012, the provisions of section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, which amends Chapter 59 of the Massachusetts General Laws relative to real estate property tax exemptions and to approve an increase in the amount of 100 percent for each eligible exemption; or take any other action relative thereto.

*Article 27 Explanation:* Acceptance of this statute permits the Town to grant an additional property tax exemption to certain taxpayers who are surviving spouses, parents of veterans who died in wartime service, blind persons and those who qualify for an exemption under any one the following clauses of section 5 of Chapter 59 of the Massachusetts General Laws:

*Clauses 17, 17C, 17D, 22, 22A, 22B, 22C, 22E, 37, 37A, 41, 41B, 41C, 42, or 43.*

*Town Meeting approval of the additional exemption, as well as application for the exemption by the taxpayer, must be made annually. The Board of Selectmen has recommended that the amount of the exemption be increased by 100 percent, the maximum amount over the standard amount provided by this State law. This increase in the exemption was first approved by Town Meeting in 2002.*

**The Finance Committee unanimously supports adoption of this Article.**

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**COMMUNITY PRESERVATION ACT ARTICLES**

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**ARTICLE 28: APPROPRIATE FOR FISCAL YEAR 2012  
COMMUNITY PRESERVATION COMMITTEE OPERATING BUDGET**

To hear and act on the report of the Community Preservation Committee on the fiscal year 2012 Community Preservation budget and to appropriate from the Community Preservation Fund a sum of money to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for fiscal year 2012; and further, to reserve for future appropriation the amounts as recommended by the Community Preservation Committee: a sum of money for the acquisition, creation and preservation of open space, excluding land for recreational use; a sum of money for acquisition, preservation, rehabilitation and restoration of historic resources; and a sum of money for the acquisition, creation, preservation and support of community housing; and further, to appropriate from the Community Preservation Fund a sum of money for payment of debt service on Community Preservation projects previously approved by Town Meeting, all as recommended by the Community Preservation Committee, or take any other action relative thereto.

*Article 28 Explanation:* The Community Preservation property tax surcharge will raise over \$1,600,000 in fiscal year 2012, which is expected to be matched, in part, by the State. By law, a minimum of ten percent of Community Preservation funds must be spent or set aside for future spending in each of three categories: open space, historic resources and community housing. The remaining 70% of available funds may be allocated to any one or a combination of the three categories, and in addition, may be appropriated for the acquisition, creation and preservation of land for recreational use or the rehabilitation and/or restoration of recreational land acquired or created with Community Preservation funds.

*The administrative expense budget is estimated to be \$80,000 and is funded from the Community Preservation Fund. The administrative expense budget covers the cost of a part-time staff person for the Committee and Committee expenses.*

*The appropriation for debt service includes \$280,183 for Brook School Apartments and \$477,675 for Case Estates.*

**The Finance Committee takes no position on this Article.**

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**ARTICLE 29: APPROPRIATE FOR HISTORIC RESOURCES – OLD LIBRARY**

To appropriate a sum of money for historic resource purposes under the Community Preservation Program, to be used for the preservation, rehabilitation and restoration of the historic Old Library building, located at 356 Boston Post Road, to be spent under the direction of the Town Manager, said sum to be transferred from the Historic Resources allocation of the Community Preservation Fund; or take any other action relative thereto.

*Article 29 Explanation:* This request is for funds for the preservation, rehabilitation and restoration of the exterior of the Old Library building in order to stabilize it and prevent further deterioration. Although a future re-use has not yet been determined, this work would have to be done regardless of the future re-use, and it does not favor or preclude any particular re-use. Further, the building is in such a condition that waiting even longer to do the work will be more expensive and may preclude any re-use. The amount to be requested under this article is \$850,000.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 30: APPROPRIATE FOR OPEN SPACE – FIELD PRESERVATION**

To appropriate a sum of money for the preservation of open space under the Community Preservation Program, to be used for the preservation of several fields under the jurisdiction of the Conservation Commission, to be spent under the direction of the Town Manager, and as funding therefor, to transfer said sum from the Open Space allocation of the Community Preservation Fund; or take any other action relative thereto.

*Article 30 Explanation:* About three dozen Town fields are maintained by the Weston Conservation Commission and the Weston Forest & Trail Association. \$20,000 from the Community Preservation Fund is requested in this Article to continue the process of preserving fields in high priority areas, which generally requires work to cut them back to their appropriate boundaries--either stone walls or mature trees marking an old fencerow or woodlot edge. Once cleared, the fields would be maintained by annual mowing without further funding from the CPA fund. The Conservation Commission will determine the highest priority fields to be restored.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 31: APPROPRIATE FOR COMMUNITY HOUSING – REGIONAL HOUSING OFFICE AND HOUSING STAFF SUPPORT**

To appropriate a sum of money for community housing purposes under the Community Preservation Program in order to provide funds needed to participate in a regional housing services office and for staff assistance for the creation, preservation, and support of community housing; to be spent under the direction of the Town Manager, and as funding therefor, to transfer said sum from the Community Housing allocation of the Community Preservation Fund; or take any other action relative thereto.

*Article 31 Explanation:* Weston has collaborated with the Towns of Bedford, Concord, Lexington, Lincoln, and Sudbury to form a regional housing services office, effective July 1, 2011. Staff from the Sudbury Housing Trust will provide a variety of services related to lottery, monitoring, administration of the subsidized housing inventory, and consultation regarding specific projects. The amount requested is Weston's share for the first year, which represents 13% of the total cost. This request will also fund hours worked by an existing employee on affordable housing-related issues in the amount of 2.5 hours/week. The amount to be requested under this article is \$16,020.

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 32: APPROPRIATE FOR COMMUNITY HOUSING – WARREN AVENUE PROPERTIES**

To appropriate a sum of money for community housing purposes under the Community Preservation Program in order to perform a feasibility study for the development of affordable housing on an approximately 8 acre parcel of Town-owned land located at 66-68, 71 and 74 Warren Avenue, Weston as a grant to the Weston Affordable Housing Trust, pursuant to a grant agreement between the Town Manager and the Affordable Housing Trust, on such terms and conditions as the Town Manager, in consultation with the Community Preservation Committee, deems appropriate, and as funding therefor, to transfer said sum from the Community Housing allocation of the Community Preservation Fund; or take any other action relative thereto.

*Article 32 Explanation: If Article 23 proposing the creation of the Weston Affordable Housing Trust is approved, this would be the first project to be undertaken by the Trust. There are three buildings on this Town-owned parcel: 66-68 Warren Avenue is a two-family house, one unit of which is occupied; 71 Warren Avenue is a single family house no longer occupied; and 74 Warren Avenue is the recently vacated Water Division garage. An evaluation of the septic capacity is currently underway. This request will fund a study to evaluate the feasibility of developing additional housing units on the parcel to be used for affordable housing and to prepare a proposal for future CPA funds to be appropriated for the renovation of the existing housing units and, if feasible, the development of additional units to be used for affordable housing purposes. The amount to be requested under this article is \$100,000.*

**The Finance Committee unanimously supports adoption of this Article.**

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**ARTICLE 33: APPROPRIATE FOR RECREATION – DESIGN FEES**

To appropriate a sum of money for recreation purposes under the Community Preservation Program for rehabilitation of existing recreational areas under the jurisdiction of the Board of Selectmen and School Committee; to be spent under the direction of the Town Manager, and as funding therefor, to transfer said sum from the Open Space allocation of the Community Preservation Fund; or take any other action relative thereto.

*Article 33 Explanation: This request seeks a total of \$82,500 in design fees for the rehabilitation of Gail Rd. Field and High School Fields 1 & 2. If actual design costs are lower than projected, any remaining funds will be used for the rehabilitation of these fields. This request is made subject to the understanding that it may not be expended unless HB765 and SB1841 are enacted by the state legislature. If this legislation is enacted, it would permit the rehabilitation of recreational areas not acquired or created using CPA funds.*

**The Finance Committee unanimously supports adoption of this Article.**

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And you are to serve the warrant by posting four attested copies thereof at the Town Hall, at the Kendal Green Railroad Station, at the Town of Weston Transfer Station and on the kiosk at the front of the Weston High School on Wellesley Street by the gymnasium, seven days at least before the time appointed for said meeting.

Hereof fail not to make due return of this warrant with your doings thereon to the Selectmen at the time and place of said meeting.

Given under our hands April 12, 2011.

Steven L. Charlip  
Douglas P. Gillespie  
Michael H. Harrity  
Selectmen of the Town of Weston