



FINANCE COMMITTEE APPROPRIATIONS BOOKLET

**SPECIAL TOWN MEETING FY 2014
ANNUAL TOWN MEETING FY 2015**

MAY 20, 2014

Town of Newbury Annual Report of the Finance Committee

As FY14 comes to a close and we look ahead to FY15, we find the Town of Newbury in a familiar place. The Town continues to face the challenge of regular, recurring revenues falling short of ongoing operating needs. As a result, cost containment measures continue in the municipal departments. Similarly the Triton Regional School District (TRSD) has worked on cost containment measures, although Chapter 70 state funding has not kept pace with regulatory cost growth.

In FY14 the most significant financial event was a late, aberrant adjustment in the state's calculation of Minimum Local (MLC's) which resulted in an unexpected reduction to Newbury's TRSD operating assessment of (\$346, 332). This reduction, which proved to be temporary, plus the avoidance of an expected \$250,000 educational budget increase, further collection of back taxes, and continued cost containment, provided over \$600,000 of avoided cost in FY14's operating budget. The direct savings were used to offset other educational cost increases, to fund \$30,000 in road improvements, and have enabled the addition of \$225,000 to the Stabilization Fund, as well as the retention of an unusually high current Free Cash reserve of \$813,263.

Looking ahead to FY15, the Town is facing significant increases in educational expenses:

- The aforementioned adjustment in the state's calculation of Minimum Local Contribution (MLC) requirements for FY 14 has been rescinded by the Legislature. While the TRSD made the decision to let it stand for FY14, which benefited Newbury, this will not be repeated for FY15. As a result, the FY15 TRSD operating assessment to Newbury will rise by \$424,714 (5%), vs. cost avoidance of about \$600,000 in FY 14.
- Due to increasing enrollment at Whittier Vocational Technical School and Essex North Shore Agricultural & Technical School those assessments will rise by \$98,371 (50% increase) and \$37,036 (148% increase), respectively, for a total educational cost increase of \$539,694.

Since the increases in educational and general operating costs are not offset by higher general revenues, in Chapter 70 funding to schools, or in unrestricted local aid to the Town, a structural deficit in the operating budget continues to exist and an override proposal in the future is inevitable. Thus, prudent cost containment must continue for the foreseeable future. Educational costs are now 56% of Newbury's total budget. However, Debt Service costs have decreased dramatically to 7% and are projected to decrease even more in FY15 as debt is retired.

Fortunately, capital reserves are currently at an all-time high. These reserves will enable continuing investments in important maintenance, replacement and renewal projects as recommended by the Capital Planning Committee. The current projection is to invest approximately \$1.2 million in needed capital replacements, including Chapter 90 road improvements in FY 14-15,

Key fund balances currently include:

- Stabilization Fund:	\$ 391,733
- Free Cash account:	\$ 813,263
- Land Sale Fund:	\$ 963,875

- Operating reserve account:	\$ 60,000
- OPEB Trust Fund:	\$ 50,000
- Chapter 90 revenue fund:	\$ 273,931
Total Fund Accounts	\$ 2,278,871

Since these funds are from one-time and/or circumstantial revenues, it is not financially prudent, nor lawful in the case of the Land Sale fund, to use such reserves for ongoing operations. Despite the fact that this is a record level for the Town, it is also significantly below the levels recommended by the Commonwealth of Massachusetts Department of Revenue (DOR) for capital, emergency and/or contingency needs. These funds are projected to be utilized for necessary maintenance, capital, equipment and emergency needs. For example, the FY14 Snow and Ice removal deficit of \$156,693 must be paid out of the Free Cash reserve, and any investment in new equipment or building maintenance must be paid out of the Stabilization, Free Cash or Land Sale Funds. \$60,000 for Town Hall and Police station environmental remediation will be paid from the Reserve Fund for FY 14. The projected use these funds for capital expenses will drive their balances even lower, much lower than DOR guidelines suggest for the prudent funding of our municipality.

Other highlights of FY14 and preparing for FY15 include:

- **FY14 and FY15 operations have been further adjusted to fit projected revenues:** In FY14 operating revenues were projected to drop by \$261,000, while fixed costs were projected to increase by \$390,000. As a result, the \$430,000 that was cut from FY12 operations and which largely continued in FY13 was much the same going into FY14. However, the unexpected, albeit temporary reduction in education costs in FY14 allowed for some recovery, although a good part of these one-time savings were ear marked for the Stabilization Fund or Free Cash. In FY15 total general revenues are projected to increase by only \$45,400, with no increase in local receipts, and \$160,000 in new growth. Notwithstanding the relatively flat revenue growth, there will be some minimal but essential cost adjustments of about 1.6% in FY15, partially funded by shifts in allocations.
- **Newbury's FY 14-15 capital plan includes \$1.2 million in capital maintenance and replacements:** As a result, warrant articles contain proposed adjustments in essential building maintenance and equipment needs, based on a five year rolling capital spending plan, pending available reserves. Current Warrant Articles propose \$1,209,516 in planned capital replacements and unallocated Chapter 90 road funds. This does not include an estimated \$750,000 in previously approved road improvements to Byfield Center to be financed by already available Chapter 90 funds.
- **Sale of surplus property for capital needs:** The Town has made considerable strides to sell surplus town property. Sales of larger parcels over the past two years have resulted in the Land Sale account balance of more than \$1 million. The sale of unused properties is a win-win for the Town. First, the town is no longer responsible for maintenance of these properties. Second, proceeds from the sale of property are placed in the Land Sale fund giving the Town a resource from which to make capital investments. (NB: Under state law, all Land Sale proceeds can only be used for capital needs.) Third, when the property is sold to private or commercial entities it becomes subject to local property tax. Since the inventory of excess property is virtually depleted, funds in the Land Sale account should be used judiciously for essential projects.
- **Continued pursuit of real estate tax delinquents:** The recent, diligent collection of back taxes has been positive for general revenues. While revenues generated through collection of back-taxes over last two years have been substantial, in FY14 they have begun to drop off. The list of delinquent properties is nearly exhausted. Out of 118 delinquent accounts in FY13

all but 38 have been collected with an outstanding balance of \$262,888. The remaining collectibles will be vigorously pursued.

- **Continue to implement operating efficiencies, cost reduction such as cost of Debt, and fee changes:** Outsourcing of Transfer Station operations continues to pay dividends of about \$70,000 per year and has enabled the BOH budget to stay flat. Debt service liabilities dropped by \$149,757 in FY14, and will drop by \$604,964 in FY15. Thus, through refinancing and retirement of Debt, debt service will drop by a total of 754,921 in FY14 and FY15. Some of this is a reduction of Debt Exclusion which benefits taxpayers, while much of it is also a reduction in state aid for school construction which reduces revenues. Updating of Fees to keep pace with the market have helped pay for inspectional services.
- **Maintain strong financial management and leadership:** Our Town Administrator/Finance Director continues in full control including the ongoing effort to "Right Size" town operations through cost-containment, staff adjustments, and revenue initiatives, including prudent examination of outsourcing and regional sharing of services where it is operationally justified. In addition, the administrative and finance staff has been augmented with part time assistants, the Town Clerk and COA staffs were augmented by the transfer of part time assistants, and the Assessor's office strengthened with a highly experienced Principal Assessor.

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Overall, the Town continues under sound fiscal management. However, the problem of our structural operating deficit remains. Moreover, despite TRSD's continued effort at cost containment, due to legislative vacillation, education costs are once again increasing for the district, and for Newbury. The good news is that reserves have been replenished, which enables critical capital replacements, and with slow economic recovery, cuts to police, fire and other vital services are slowly being restored.

Once again, the Finance Committee wishes to thank Newbury taxpayers, town officials, department heads, TRSD administrators, and employees for their commitment to Newbury's fiscal well being. While continuing to face difficult choices over the past three years, fiscal pressures have compelled Town Administration to plan and manage more innovatively. Newbury's business model continues to be reviewed for more creative solutions. We also convey our thanks especially to the many residents who have stepped up in time of need. We encourage all residents to recognize how important sound financial management is to the vitality of the Town. As always we remain dedicated to transparency and accountability in the management of Newbury's financial resources.

Respectfully submitted

Linda Allen
Eugene Case (Vice Chair)
Robert Connors (CPC Chair)
Lawrence Guay

Erica Jacobsen
Marshall Jespersen
Frank Remley (Chair)
Tracy Blais (Ex Officio)

**TOWN OF NEWBURY
SPECIAL TOWN MEETING
MAY 20, 2014**

ESSEX SS.

TO: ONE OF THE CONSTABLES FOR THE TOWN OF NEWBURY, MASSACHUSETTS

GREETINGS:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, YOU ARE HEREBY DIRECTED TO NOTIFY AND WARN THE INHABITANTS OF THE TOWN OF NEWBURY, QUALIFIED TO VOTE IN TOWN AFFAIRS, TO MEET AT THE NEWBURY ELEMENTARY SCHOOL ON HANOVER STREET IN SAID TOWN OF NEWBURY ON TUESDAY, THE 20th DAY OF MAY 2014 AT 7:00 P.M. TO ACT ON THE FOLLOWING ARTICLES, VIZ:

ARTICLE 1. To see if the Town will vote to authorize the payment of the following prior year bill, said sum to be taken from Free Cash.

Northeast Mosquito Control \$1,581.00 Greenhead Control

Selectmen Recommendation: **Approve 5-0-0**

Finance Committee Recommendation: **Approve 7-0-0**

***Rationale:** This amount represents the balance due on an invoice from FY 2013. As this is a prior year bill, it will require a 9/10 vote.*

ARTICLE 2. To see if the Town will vote to transfer the sum of \$156,694.00, or any other sum from Free Cash to the Snow & Ice Account to cover the existing deficit balance in this account.

Selectmen Recommendation: **Approve 5-0-0**

Finance Committee Recommendation: **Approve 7-0-0**

***Rationale:** The Town of Newbury appropriated \$155,000.00 to cover the costs associated with the removal of snow and ice. At this point we have spent \$311,694.00. Although there is a provision allowing for deficit spending of this account, you must cover the deficit prior to the close of the fiscal year (June 30th). This transfer will offset the current deficit.*

END OF SPECIAL TOWN MEETING WARRANT

**TOWN OF NEWBURY
ANNUAL TOWN MEETING
MAY 20, 2014**

ESSEX SS.

TO: ONE OF THE CONSTABLES FOR THE TOWN OF NEWBURY, MASSACHUSETTS

GREETINGS:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, YOU ARE HEREBY DIRECTED TO NOTIFY AND WARN THE INHABITANTS OF THE TOWN OF NEWBURY, QUALIFIED TO VOTE IN TOWN AFFAIRS, TO MEET AT THE NEWBURY ELEMENTARY SCHOOL ON HANOVER STREET IN SAID TOWN OF NEWBURY ON TUESDAY, THE 20th DAY OF MAY AT 7:00 P.M. TO ACT ON THE FOLLOWING ARTICLES, VIZ:

GENERAL GOVERNMENT MATTERS

ARTICLE 1. To act on the reports of the Selectmen, School Committee, Regular and Special Committees and all other Town Officers.

APPROPRIATIONS

ARTICLE 2. To see if the Town will vote to raise and appropriate the sum of \$16,417,182.00, or any other sum; and take from the Special Assessment Fund the sum of \$622,016.00, or any other sum; for the operation of the Town in Fiscal Year 2015; or act in relation thereto.

FINANCE COMMITTEE RECOMMENDS	FY 2014	FY 2015	FY 2015
	Adopted Budget	Budget	Recommended Inc (Dec)
Moderator's Salary & Wages	200.00	200.00	-
Moderator's Expenses	50.00	50.00	-
Selectmen's Stipend	15,000.00	15,000.00	-
Selectmen's Salary & Wages	47,650.00	47,650.00	-
Selectmen's Expenses	3,200.00	3,200.00	-
Admin & Finance Salary & Wages	281,700.00	287,683.00	5,983.00
IT Services	24,000.00	24,000.00	-
Professional & Technical Services	60,000.00	60,000.00	-
Tax Title & Foreclosure	50,000.00	20,000.00	(30,000.00)

	FY 2014	FY 2015	FY 2015
FINANCE COMMITTEE RECOMMENDS	Adopted Budget	Budget	Recommended Inc (Dec)
Admin & Finance Expenses	55,400.00	55,400.00	-
Finance Committee Expenses	425.00	425.00	-
Reserve Fund	90,000.00	90,000.00	-
Assessor's Stipend	8,500.00	8,500.00	-
Assessor's Salary & Wages	105,880.00	99,256.00	(6,624.00)
Assessor's Expenses	40,301.00	41,300.00	999.00
Audit Town Books	25,000.00	25,000.00	-
Legal Services	75,000.00	75,000.00	-
Personnel Board Expenses	500.00	500.00	-
Town Clerk Salary & Wages	69,786.00	71,340.00	1,554.00
General Code Updates	5,000.00	5,000.00	-
Town Clerk Expenses	5,800.00	5,800.00	-
Records Preservation	10,000.00	10,000.00	-
Elections	7,355.00	13,500.00	6,145.00
Registrars of Voters Salaries	750.00	750.00	-
Planning Salary & Wages	62,205.00	63,793.00	1,588.00
Pictometry, MIMAP	3,500.00	9,776.00	6,276.00
Planning Expenses	5,720.00	5,735.00	15.00
MVPC Dues	2,205.00	2,260.00	55.00
Zoning Salary & Wages	900.00	900.00	-
Zoning Expenses	250.00	400.00	150.00
Utilities	63,000.00	65,000.00	2,000.00
Repairs, Maintenance & Improvements	65,300.00	65,000.00	(300.00)
Property Related Services	40,000.00	41,000.00	1,000.00
Town Reports	250.00	250.00	-
Insurance Expense	144,900.00	127,296.00	(17,604.00)
Police Salary & Wages	1,122,113.00	1,145,000.00	22,887.00
Emergency Management Wages	-	-	-
Police Expenses	145,000.00	153,800.00	8,800.00
Emergency Management Expense	10,000.00	10,000.00	-
Police Capital Outlay	32,500.00	36,000.00	3,500.00

FINANCE COMMITTEE RECOMMENDS	FY 2014	FY 2015	FY 2015
	Adopted Budget	Budget	Recommended Inc (Dec)
Shellfish Salary & Wages	4,000.00	40,000.00	36,000.00
Shellfish Expenses	-	2,500.00	2,500.00
Fire Protection Wages	201,670.00	227,705.00	26,035.00
Call Fire Wages	157,210.00	157,210.00	-
Fire Training Wages	16,000.00	16,000.00	-
Fire Company Lease Payments	140,000.00	150,000.00	10,000.00
Fire Maintenance Expense		10,000.00	10,000.00
Fire Insurance Premiums	23,000.00	23,000.00	-
Fire Capital Outlay		-	-
Inspector's Salary & Wages	191,928.00	195,767.00	3,839.00
Inspector's Vehicle Allowance	7,200.00	7,200.00	-
Storm Water Management	5,000.00	5,000.00	-
Beaver Management	5,000.00	5,000.00	-
Beach Management Plan	5,000.00	5,000.00	-
Greenhead Control Expense	5,000.00	6,500.00	1,500.00
Inspector's Expenses	10,500.00	10,500.00	-
Sealer Weights & Measurers Service Fees	2,500.00	2,500.00	-
Animal Control Salary & Wages	21,805.00	22,242.00	437.00
Animal Control Expenses	3,500.00	3,500.00	-
Hydrant Service	15,000.00	15,000.00	-
Triton Regional Operating Assessment	8,568,972.00	8,993,686.00	424,714.00
Triton Regional Debt Service Assessment	188,040.00	169,167.00	(18,873.00)
Whittier Regional Operating Assessment	206,896.00	305,267.00	98,371.00
Whittier Regional Capital Assessment	16,646.00	15,092.00	(1,554.00)
Essex No Shore Agricultural & Tech Assmt	25,106.00	62,142.00	37,036.00
DPW Salary & Wages	430,521.00	439,132.00	8,611.00
Tree Warden Salary & Wages	3,000.00	3,000.00	-
Tree Warden Expenses	20,000.00	20,000.00	-
Highway Maintenance Expense	180,000.00	180,000.00	-
Road Improvement Program	80,000.00	48,000.00	(32,000.00)

	FY 2014	FY 2015	FY 2015
FINANCE COMMITTEE RECOMMENDS	Adopted Budget	Budget	Recommended Inc (Dec)
DPW Capital Outlay	-	-	-
Snow & Ice Removal	155,000.00	155,000.00	-
Street Lighting	50,000.00	51,000.00	1,000.00
Health Salary & Wages	60,960.00	62,244.00	1,284.00
Health Expenses	56,330.00	55,930.00	(400.00)
Council on Aging Salary & Wages	58,463.00	77,989.00	19,526.00
Council on Aging Expenses	4,010.00	4,010.00	-
Veteran's Assessment	19,260.00	25,503.00	6,243.00
Veterans Services Benefits	31,000.00	38,000.00	7,000.00
Library Salary & Wages	158,033.00	161,194.00	3,161.00
Library Expenses	65,000.00	68,000.00	3,000.00
Historical Expenses	650.00	650.00	-
Memorial Day	750.00	750.00	-
Cost of Bonding			-
Long Term Debt Principal	1,626,230.00	1,099,881.00	(526,349.00)
Short Term Debt Interest			-
Long Term Debt Interest	236,335.00	157,720.00	(78,615.00)
Essex Regional Retirement Assmt	476,172.00	499,505.00	23,333.00
Unemployment Expense	10,000.00	10,000.00	-
Health Insurance Expense	614,750.00	674,996.00	60,246.00
Dental Insurance Expense	28,240.00	29,652.00	1,412.00
Life Insurance Expense	1,300.00	1,300.00	-
Medicare Expense	40,000.00	40,000.00	-
TOTALS	16,905,317.00	17,039,198.00	133,881.00

Selectmen Recommendation:

Approve 5-0-0

Finance Committee Recommendation:

Approve 7-0-0

Rationale: This article requests approval of the Town's line-item budget. You may note that there have been a number of changes made to the operating budget presentation during the past few years. This is our attempt to adequately reflect expenses in the applicable cost centers. The Finance Department makes every attempt to follow the Uniform Municipal Accounting System and our budget presentation reflects this.

ARTICLE 3. To see if the town will vote to raise and appropriate the sum of \$50,000.00, or any other sum, to be added to the Stabilization Fund; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: In layman's terms the Stabilization Fund is the Town's savings account. The annual appropriation of funds into the Stabilization Fund in conjunction with a schedule of capital replacements and building repairs are critical components of sound fiscal policy. This "savings plan" enables the Town to pay for major expenditures from available funds, thus avoiding costly short-term bonding. Annual funding of the Stabilization Fund also enables the Town to spread out the cost of major purchases over a period of time, thus stabilizing the tax burden. Funding the Stabilization Fund is our best means of planning for future capital expenses.

The current balance in the Stabilization Fund, before this transfer, is \$391,835.89.

ARTICLE 4. To see if the town will vote to raise and appropriate the sum of \$25,000.00, or any other sum, to fund Other Post Employment Benefits; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: The Town of Newbury provides healthcare and life insurance benefits to its retirees and their spouse and dependents. The amount Newbury pays is uniform across all groups. All employees who retire directly from Newbury and meet the eligibility criteria may participate. The Governmental Accounting Standards Board (GASB) states that the post-retirement benefits, like pensions, are a form of deferred compensation. Accordingly, these benefits should be recognized when earned by employees, rather than when paid out.

The current unfunded liability of the town is \$3.791 million. Our trust fund balance to date is \$50,000.00.

ARTICLE 5. To see if the Town will vote to transfer the sum of \$9,000.00, or any other sum, from Free Cash to purchase portable radar units; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: Portable radar units are readily deployed in neighborhoods to monitor vehicle speeds as well as to conduct traffic counts that assist the police in determining when and where the majority of infractions occur. This allows us to more efficiently deploy directed

patrols.

ARTICLE 6. To see if the Town will vote to appropriate \$273,931.00 or any other sum, of so-called Chapter 90 funds for use by the Department of Public Works for street and road repair work, as well as related expenditures; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: This appropriation is made on an annual basis to allow the expenditure of funds from the state's transportation aid funding program also known as Chapter 90.

ARTICLE 7. To see if the Town will vote to transfer the sum of \$140,000.00, or any other sum, from the Stabilization Fund to purchase and equip a wheeled excavator; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: The town currently has two backhoe loaders, a 1999 which is used at the transfer station and a 2002 which is a front line piece of equipment utilized by the DPW on a daily basis. The 2002 was scheduled for replacement in FY 2012.

Once purchased, the new excavator will be used by the DPW and will have a mower attachment and grader bucket for town-wide brush cutting and ditch maintenance. The 2002 loader will be moved to the transfer station and the 1999 loader, which has outlived its useful life, will be traded in or disposed of in the best interest of the town.

The Capital Planning Committee has approved this purchase.

ARTICLE 8. To see if the Town will vote to appropriate the sum of \$55,000.00 or any other sum, from the Sale of Land Fund to lease a pumper; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: This lease will allow us to replace a 1989 Pumper which has been experiencing operational breakdowns and is out of certification pursuant to NFPA "open cab" guidelines.

The Capital Planning Committee has approved this purchase.

ARTICLE 9. To see if the Town will vote to appropriate the sum of \$36,000.00, or any other sum, from the Stabilization Fund to purchase structural firefighter gear; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: This transfer will provide funding for the Fire Department to purchase turn out gear for the department's personnel. This gear has an estimated useful life of 10 years. Most of our existing gear has outlived its useful life or is worn out. This transfer will fund the second year of a three year program.

The Capital Planning Committee has approved this purchase.

ARTICLE 10. To see if the Town will vote to transfer the sum of \$7,800.00, or any other sum, from the Receipts Reserved Fire Alarm Account to repair the fire alarm system; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: Each year the Board of Fire Engineers assesses a fee to the users of the fire alarm system. The fees collected are deposited into a special revenue account. These fees need to be appropriated out annually to fund various repairs to the fire alarm system.

ARTICLE 11. To see if the Town will vote to appropriate the sum of \$59,410.00, or any other sum, from the Stabilization Fund to make repairs to the Town of Newbury Library; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: This transfer will be used to fund the cost of repairs as outlined in the analysis provided by DMSdesign, llc. The work includes HVAC repairs, window repairs, caulking, sealing.

The Capital Planning Committee has approved this project.

ARTICLE 12. To see if the Town will vote to transfer the sum of \$37,000.00, or any other sum, from the Stabilization Fund to make repairs to the Grange Hall; or act in relation thereto.

Selectmen Recommendation:	Approve	4-1-0
Finance Committee Recommendation:	Disapprove	6-1-0

Rationale: This transfer will be used to fund the cost of repairs as outlined in the analysis provided by DMSdesign, llc. The work includes repairs to the windows.

The Capital Planning Committee has voted to take no action on this item.

ARTICLE 13. To see if the Town will authorize the continuance of the "Recreation Revolving Fund" as established in accordance with Section 53E ½ of Chapter 44 of the General Laws for the purposes of maintaining certain fields, and, further that the Recreation Committee is authorized to spend \$50,000.00 during Fiscal Year 2015; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
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Finance Committee Recommendation: **Approve** **7-0-0**

Rationale: *The appropriation made under this revolving fund will be used to fund the recreation program and maintenance for the year. The expenses include mowing and field maintenance as well as various other expenditures.*

ARTICLE 14. To see if the Town will vote to authorize the continuance of the "Municipal Waterways Improvement and Maintenance Fund" as established by Clause 72, Section 5 of Chapter 40 of the General Laws as a revolving fund account. Funding in addition to that required by Clause (i) Section 2 of Chapter 60B of the General Laws shall be by sums received from waterway fees, permits, fines or any other designated sources subject to all provisions of Section 53E ½ of Chapter 44 of the General Laws. The Harbormaster, subject to the approval of the Town Administrator, is authorized to spend up to \$70,000.00 during Fiscal Year 2015; or act in relation thereto.

Selectmen Recommendation: **Approve** **5-0-0**
Finance Committee Recommendation: **Approve** **7-0-0**

Rationale: *The appropriation made under this revolving fund will be used to pay the part time seasonal wages and expenses of the Harbormaster Department. The expenses include but are not limited to; town ramp/pier maintenance, dock maintenance, fuel, uniforms, etc.*

ARTICLE 15. To see if the Town will vote to transfer the sum of \$35,000.00, or any other sum, from the Waterways Maintenance and Improvement Fund to purchase and equip a boat for the Harbormaster; or act in relation thereto.

Selectmen Recommendation: **Approve** **5-0-0**
Finance Committee Recommendation: **Approve** **7-0-0**

Rationale: *M.G.L. Chapter 40, Section 5C, allows for the use of the Waterways Maintenance and Improvement Fund proceeds for this purpose. The appropriation made under this account will be used to purchase a 20-22' center console patrol boat with an open bow. Approximately \$5,000-\$10,000 of the appropriation will be used to equip the boat with electronics and emergency gear.*

The 23' Parker will be declared surplus by the Board of Selectmen and disposed of in the best interest of the town.

The Capital Planning Committee has approved this item.

ARTICLE 16. To see if the Town will vote to transfer the sum of \$31,000.00, or any other sum, from Free Cash to fund a town wide inventory and analysis of Newbury's roads; or act in relation thereto.

Selectmen Recommendation: **Approve** **4-1-0**
Finance Committee Recommendation: **Approve** **7-0-0**

Rationale: *The appropriation made under this article will be used to hire an independent firm to inventory and grade the town roads based on an established Pavement Condition Index (PCI). The Pavement Management Program resulting from this analysis will be used to prioritize road work with the intention of updating the program every 3-5 years.*

ARTICLE 17. To see if the Town will vote to transfer the sum of \$60,000.00, or any other sum, from Free Cash to fund a Master Plan and Open Space and Recreation Plan Update; or act in relation thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Disapprove	6-1-0

Rationale: The last Master Plan for the Town of Newbury was completed in 2006. This document is intended to be a tool that the town uses daily to provide the basis for decision making regarding the long-term physical development of the town. Ideally, the document should be updated every 5 years.

The Finance Committee has deliberated on this article and feels that the effort needs more clarification, which it will do in conjunction with the Planning Board. The Finance Committee endorses the update of the town Master Plan and Open Space and Recreational Plan update and we feel the town will be better served to revisit a more fully defined effort in our fall meeting.

BY-LAWS - OTHERS

ARTICLE 18. To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including (1) the acquisition, preservation or rehabilitation of historic resources including historic buildings, artifacts, documents and sites; (2) the creation or rehabilitation of outdoor recreational facilities including parks, playgrounds and athletic fields; (3) the acquisition, creation or preservation of land for scenic areas, drinking water supplies, beaches, marshes, forests, pastures, and agricultural lands; and (3) the acquisition, creation or support of local housing needs for families, seniors, veterans and others. That the amount of such surcharge on real property shall be 1.5% of the annual real estate tax levy against real property commencing in fiscal year 2016; and that the Town hereby accepts the following exemptions from such surcharge permitted under Section 3(e) of said Act: (1) property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act, (2) \$100,000 of the value of each taxable parcel of residential real property, and (3) \$100,000 of the value of each taxable parcel of class three, commercial property, and class four, industrial property as defined in section 2A of said Chapter 59; or to take any other action relative thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	7-0-0

Rationale: The Community Preservation Act is a state law passed in 2000 that allows an adopting community to establish a dedicated local fund to support affordable housing, develop new parks, playgrounds and recreational fields, protect open space and preserve historic buildings and resources.

Under the CPA, municipalities can set aside funds specifically for these key community purposes, and can also leverage state matching funds which are annually committed for this purpose. Since the passage of the CPA, municipalities have received a total of \$469.69 million from the Commonwealth to help fund these local projects, with about \$55,000,000 coming from the state in FY 2014 alone. About half of the municipalities in the Commonwealth participate in this program.

ARTICLE 19. To see if the Town will vote to amend ARTICLE IX – SPECIAL REGULATIONS of the Town of Newbury Zoning By-Law by deleting § 97-9.A. Site Plan Review in its entirety and replacing it with a new § 97-9.A. Site Plan Review as follows:

§ 97-9. Special Regulations.

A. Site Plan Review.

- (1) Purpose: To protect the health, safety, convenience and general welfare of the public by providing for a comprehensive review procedure of plans for uses and structures which may have impacts on traffic, parking, services and utilities, environmental quality, water resources, drainage and community character. Any use or structure, or expansion thereof, referred to in G.L. c. 40A, § 3, (exemption from zoning) is not exempt from the provisions of this section, provided any of the criteria contained in § 97-9.A.(4), below, also applies.
- (2) Reviewing Authority: The Planning Board shall be the reviewing authority for all projects subject to Site Plan Review.
- (3) Applicability: Any proposal for a commercial, industrial, institutional, educational, municipal, multi-family, or mixed-use project which requires construction of a new building or which will result in a substantive change in the outside appearance or a change of use of an existing building or buildings or premises shall be subject to Site Plan Review in accordance with the threshold levels established in Section A.(4) below.
- (4) Review Thresholds:
 - (a) Level I – Minor Projects: Level I applications will be subject to review by Town staff followed by Planning Board review and action thereon at a regularly scheduled Planning Board meeting, with no requirement for a public hearing. Level I Site Plan Review applies to any application for a construction project or change of use for any of the types of projects identified in Section A.(3) above and which meets one or more of the following thresholds:
 - 01) Any new building(s) or construction containing 1,000 gross square feet of floor area up to, but not including, 2,000 gross square feet of floor area;
 - 02) Expansion of an existing building resulting in an increase in floor area of 1,000 gross square feet of floor area up to, but not including, 2,000 gross square feet of floor area.

- 03) Construction or expansion of a parking area resulting in three (3) to five (5) new parking spaces;
 - 04) Any alterations to traffic flow patterns, including access, egress, deliveries, and pedestrian access;
 - 05) Any changes to loading areas, dumpster locations, exterior lighting, major landscaping features, or accessory structures.
- (b) Level II – Major Projects: Level II applications shall require review by Town staff followed by a public hearing conducted by the Planning Board. Level II Site Plan Review applies to any application for a construction project or change of use for any of the types of projects identified in Section A.(3) above which meets one or more of the following thresholds:
- 01) Any new building(s) or construction containing 2,000 gross square feet of floor area or more;
 - 02) Expansion of an existing building resulting in an increase of floor area of 2,000 gross square feet or more;
 - 03) Construction, expansion, or alteration of a parking area resulting in six (6) or more new parking spaces;
 - 04) Grading or re-grading and/or clearing of land and/or other land development activity over an area of 5,000 square feet or more, except for work incidental to agricultural activity, clearing necessary for percolation and other site tests, or work in conjunction with an approved subdivision plan or earth removal permit or stormwater permit;
 - 05) The development of 7,500 square feet or more of impervious surface area or more than 15% of the lot area, whichever is smaller;
 - 06) The construction of a drive-through retail establishment serving food or dispensing merchandise from inside a building to persons seated in their automobiles on the premises;
 - 07) Any proposed change of use from single- or two-family to multifamily or non-residential;
 - 08) Construction of a ground-mounted solar photovoltaic installation occupying at least ¼ acre of land, but less than two (2) acres of land.

(5) Procedure:

- (a) An applicant for site plan review shall file with the Planning Board at a regularly scheduled meeting a complete application and such submission materials in quantities and format as required by the Site Plan Review Submission Requirements and Procedures adopted by the Planning Board and filed with the Town Clerk. Copies of these Submission Requirements and Procedures shall be available from the Planning Department.

- (6) Decision Criteria: The Planning Board shall approve an application for site plan review if it finds that the Applicant has submitted sufficient information from which it can determine that the proposed project will:
- (a) Minimize:
 - 01) The volume of cut and fill;
 - 02) The number of removed trees 6" caliper or larger;
 - 03) The area of wetland vegetation displaced;
 - 04) Soil erosion;
 - 05) The threat of air and water pollution; and
 - 06) Traffic congestion.
 - (b) Avoid removal of existing stone walls or, where removal is required, minimize length of removal;
 - (c) Provide adequate stormwater management and other utilities consistent with the requirements of Newbury's Stormwater By-Law and the Planning Board's Subdivision Rules and Regulations;
 - (d) Maximize safety for pedestrians and vehicles both on the site and entering onto and egressing from it;
 - (e) Provide adequate access to each structure for fire and emergency service equipment;
 - (f) Minimize obstruction of scenic views from publicly accessible locations;
 - (g) Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
 - (h) Minimize intrusion of glare from headlights and site lighting on surrounding properties;
 - (i) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
 - (j) Prevent contamination of groundwater from any source;
 - (k) Enhance the appearance of the property to the greatest degree possible by means of landscaping and other site amenities;
 - (l) Minimize impacts of the use on adjacent properties through regulation of hours of operation, deliveries, noise, rubbish removal, and on-site storage;
 - (m) Ensure compliance with the provisions of Newbury's Zoning By-Law, including parking and signs.

Notwithstanding the above, regulation of uses and structures referred to in G.L. c. 40A, § 3 (exemptions from zoning) shall be limited to the extent allowed under said section of the General Laws.

(7) Conditions of Approval:

- (a) Site plan approval may be made subject to such conditions, modifications and restrictions as the Planning Board may deem necessary in order to satisfy any of the Decision Criteria listed above. Any construction, reconstruction, alteration or addition shall be carried on only in conformity with such conditions, modifications or restrictions and in conformity with the application and site plan.
 - (b) Any order of conditions from the Conservation Commission which imposes conditions inconsistent with site plan approval shall require a revision of the site plan. A request for such revision must be submitted in writing to the Planning Board.
 - (c) For any construction project or a change in use that requires site plan review, no building permit may be issued unless and until the applicant has complied with the provisions relating to site plan review under this article and the conditions, modifications, and restrictions contained within the Decision of Site Plan Review are referenced to and incorporated in, and made an express condition of, such building permit.
 - (d) The Planning Board reserves the right for itself and its Agent(s) to enter the site at any time without notice for the duration of the Site Plan Approval to determine compliance therewith.
 - (e) Site plan approval by the Planning Board shall not be construed as approval from any other Board, official or department.
 - (f) At the discretion of the Building Inspector, with the concurrence of the Planning Board, recording of a certification of the Town Clerk and the Decision of Site Plan Review at the Registry of Deeds may be included as an additional condition precedent to the issuance of any building permit (see G.L. c. 40A, § 11, Notice requirements for Public Hearings etc.).
- (8) Lapse: Site plan approval for a project shall lapse after two years from the date of issuance, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for good cause. This two year period shall not include time required to pursue or await determination of an appeal filed pursuant to G.L. c. 40A, §§ 8 and 17 (Appeals to permit granting authority), Site plan approval may, for good cause, in the sole opinion of the Planning Board, be extended in writing by the Board upon the written request of the applicant.
- (9) Modifications to Approved Site Plans: To request a modification to an approved site plan, an applicant shall submit to the Planning Board a written description of the proposed modifications. Modified site plans will, in most instances, be subject to the same submittal, review, and hearing procedures as was the original filing. In the case of a Level II approved site plan, if the Board determines that a particular modification

is not significant and is consistent with the previously approved site plan, the Board may deem an additional public hearing unnecessary.

(10) Performance Guarantee:

- (a) Performance Guarantee: As a condition of site plan approval, the Planning Board shall determine whether to require that a performance bond, deposit of money, negotiable securities, or other such surety acceptable to the Planning Board, be posted with the Town. This surety is to cover costs of non-building construction, including, but not limited to, any street disturbance, utilities, erosion control measures, stormwater management measures, and other on-site or off-site improvements which present a public health and safety hazard or nuisance if left incomplete or improperly constructed. The Board may also require that an amount be included for restoration of land disturbed during the course of construction. The amount of security shall be determined based on an estimate prepared by a professional cost estimator paid for by the Applicant, which estimate may be confirmed or increased by the Board. The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all improvements in a manner satisfactory to the Board within two years from the date of approval, or the final date of the last extension of such approval, if any.
- (b) Plan Verification: Prior to the final release of the Performance Guarantee, a copy of the final Site Plan(s), stamped by a professional Civil Engineer, Land Surveyor, and/or Registered Architect, shall be submitted to the Building Inspector and the Planning Board. Said plans shall contain a statement that construction is consistent with the approved plans and conditions set forth by the Planning Board in the Site Plan Review approval or approved modifications. The Applicant shall also submit to the Planning Board all drawings and plans in computer aided drafting (CAD) and PDF format.
- (c) Release of Performance Guarantee: Upon completion of all of the improvements required by a Performance Guarantee posted under this By-Law, the Applicant may request full release of the surety by sending a statement of completion and request for release to the Planning Board and to the Town Clerk. If the Planning Board, or its consulting engineer or designated representative, determines that said construction has been completed in compliance with the approved Site Plan, it shall release the Performance Guarantee and return it to the person(s) or entity who furnished it.
- (d) Refusal of Release: If the Planning Board determines upon inspection that said site improvements have not been either fully or adequately completed, it shall specify in a notice sent by Certified Mail to the Applicant and filed with the Town Clerk, how the site improvements fail to comply with the requirements of this By-Law.

- (11) Inspections: Construction inspections in relation to an approved site plan may be carried out by an agent designated by the Planning Board, and all such costs shall be borne by the Applicant, as provided for in the Site Plan Review Submission Requirements and Procedures. If said inspections find that work is not being done in

conformance with the approved plans, the Board may suspend the approval until the work in question is repaired.

- (12) **Enforcement:** Construction that does not comply with the site plan and stated conditions of approval shall be deemed to be in violation of this By-Law and, as such, shall be subject to fines and legal processes so authorized. The Building Inspector shall take such action as may be necessary to enforce full compliance with the provisions of this By-Law and approvals issued hereunder. Any approval or permit issued under this By-Law may be suspended when work is not performed as required.
- (13) **Penalty:** Any person violating any provisions of this Site Plan Review By-Law or any of the conditions under which approval is granted may be fined not more than three hundred dollars (\$300.00) for each offense. Each 24 hour period of continued violation shall be considered a separate offense.
- (14) **Project Completion:** No permanent occupancy permits shall be issued for any building or structure or portion(s) thereof, until:
 - (a) The Planning Board receives a record plan prepared by a professional land surveyor along with a statement from a professional engineer that all construction (including utilities) has been done in accordance with the approved site plan;
 - (b) The Planning Board or the Planning Board's designated agent verifies that the work has been completed in accordance with the approved site plan, including all conditions of approval;
- (15) **Adoption of Rules and Regulations, Fees, and Penalties:**
 - (a) **Rules and Regulations:** The Planning Board may, after notice and public hearing, adopt and from time to time amend rules and regulations to implement the provisions of this By-Law, including but not limited to specifying the content and number of required plans, application procedures, design and development standards, and other general requirements consistent with this By-Law.
 - (b) **Fees and Penalties:** Site plan review fees shall be governed and set by the Planning Board and shall be assessed to the owner and/or the applicant. Such fees may include a deposit for review by a consultant selected by the Town and/or for inspections during construction. The amount of fees shall be as listed in the Site Plan Review Submission Requirements and Procedures and administered in accordance with § 117-46 thru § 117-48 of the Town's Regulations for the Subdivision of Land.

or act in relation thereto.

Selectmen Recommendation:

Approve 5-0-0

Finance Committee Recommendation:

Approve Will of the Town

Rationale: A revision of the Site Plan Review by-law is being proposed (following a recommendation from Town Counsel that the by-law be updated) to:

- *Accelerate the timeframe for approval of Site Plan Review applications for all projects*
- *Establish two levels of permitting: Level I – Minor Projects (for new buildings or expansions containing 1,000 gross square feet of floor area up to, but not including, 2000 gross square feet of floor area) and Level II – Major Projects (for new buildings or expansions containing 2,000 gross square feet of floor area and larger), with an abbreviated review process for Level I projects*
- *Clarify and amend the Decision Criteria and Conditions of Approval*
- *Add new provisions regarding Performance Guarantee and work done during the approval period*

ARTICLE 20. To see if the Town will vote to amend the Town of Newbury Zoning By-Law to add provisions for Registered Marijuana Dispensaries as follows:

TABLE OF CONTENTS:

1. Under ARTICLE X **General Regulations**, delete "H. Temporary Moratorium on Medical Marijuana Treatment Centers/ Registered Marijuana Dispensaries".
2. Under ARTICLE V **Special Permits General**, insert "G. Registered Marijuana Dispensaries".

ARTICLE X – GENERAL REGULATIONS:

1. Delete § 97-10.H. Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries in its entirety.

ARTICLE V – SPECIAL PERMITS GENERAL:

1. Insert a new § 97-5.G.Registered Marijuana Dispensaries as follows:

G. Registered Marijuana Dispensaries/Medical Marijuana Treatment Centers:

(1) Purpose:

- (a) To provide a permitting process for the placement of Registered Marijuana Dispensaries (RMDs), also known as Medical Marijuana Treatment Centers, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.000, as the same may be amended from time-to-time, in locations suitable for lawful RMD facilities;
- (b) To minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, and placement of RMDs.

(2) Definitions:

- (a) Definition of Registered Marijuana Dispensary:

Registered Marijuana Dispensary, also known as a Medical Marijuana Treatment Center or RMD: a not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (MIPs), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

- (b) Definition of other terms used in this section: Where not expressly defined in the Code of the Town of Newbury, Chapter 97, Zoning, terms used in this Section shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.000, et seq., as the same may be amended from time-to-time, and otherwise by their plain language.

(3) General Requirements:

- (a) A Special Permit shall be required for the establishment of an RMD. For the purposes of this Section, the Special Permit Granting Authority (SPGA) shall be the Planning Board.
- (b) All permitted RMDs shall be properly registered with the Massachusetts Department of Public Health (DPH) pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No Building Permit or Certificate of Occupancy shall be issued for an RMD that is not properly registered with the Massachusetts Department of Public Health.
- (c) The Special Permit shall be valid only for the Applicant and shall become invalid if the Applicant ceases operating the permitted RMD.
- (d) The Special Permit shall become invalid upon the expiration or termination of the RMD's Certificate of Registration.
- (e) Parking and loading for an RMD shall be in accordance with § 97-7. Off Street Parking, Access, and Loading of Newbury's Zoning By-Law. However, the SPGA may require a greater number of parking spaces and/or loading bays if it finds, based on the application materials submitted to the Board regarding operation of the RMD, that the minimum requirements are not sufficient.
- (f) All signage shall conform to the requirements of § 97-8. Sign Regulations of Newbury's Zoning By-Law, and the SPGA may impose additional restrictions on signage as appropriate for the site, provided such regulations and restrictions do not conflict with any DPH regulation.

(4) Location:

- (a) The Zoning Districts in which RMDs may be located are the Business & Light Industrial District and the Commercial Highway District, excluding that area of the Commercial Highway District at the Northwestern Junction of the right-of-way of I-95 and Central Street.
 - (b) No RMD may be located within 1,000 feet of the real property comprising any of the following:
 - 01) A public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
 - 02) A playground; or
 - 03) A housing facility owned by a public housing authority.
 - (c) No RMD may be located within 500 feet of the real property comprising any of the following:
 - 01) Public or private youth center;
 - 02) A public swimming pool;
 - 03) A video arcade facility;
 - 04) Child Care Facility;
 - 05) Library;
 - 06) Public Park; or
 - 07) A similar facility in which minors commonly congregate.
 - (d) No RMD may be located within 300 feet of the real property comprising a residence.
 - (e) The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section (5)(b), (5)(c), or (5)(d) to the nearest point of the property line of the proposed RMD.
 - (f) The distance requirements set forth in paragraphs (5)(c) and (5)(d) above may be reduced by twenty-five percent or less, but only if:
 - 01) The applicant demonstrates that the RMD would otherwise be effectively prohibited within the municipality; and
 - 02) The applicant demonstrates to the satisfaction of the Planning Board that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.
- (5) Application Process and Requirements:

- (a) Application Procedures: The application for a Special Permit for an RMD shall be filed at a regularly scheduled Planning Board meeting and with the Town Clerk in accordance with § 97-11.C.(1) of Newbury's Zoning By-Law and with G.L. c. 40A § 9. The application shall be signed by a duly authorized officer of the Applicant.
- (b) Required Documents: The Applicant shall provide the SPGA with 15 copies of the application and the required fees. All plans and maps shall be prepared, stamped, and signed by a professional engineer or architect licensed to practice in Massachusetts. An application to the SPGA shall include, at a minimum, the following information:

- 01) The Applicant's name, address, telephone number, and email address;
- 02) Documentation of the legal right to use the proposed site (e.g. lease, purchase and sale agreement, or similar);
- 03) A certified copy of the Certificate of Registration issued by the DPH to the Applicant, along with copies of all other materials issued by the DPH to the Applicant, except for those materials that are deemed by the DPH to be confidential and therefore subject to the public records exemption;
- 04) A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana-infused products (MIPs), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities;
- 05) A map depicting all properties and land uses within a one thousand-foot (1,000') radius (minimum) of the project site, whether such uses are located in Newbury or within surrounding communities, including, but not limited to, all educational uses, daycare, preschool and afterschool programs, playgrounds, libraries, public parks, and housing facilities owned by a public housing authorities;
- 06) A plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of parking, the location of pedestrian and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type, and direction of all outdoor light on the site and any landscape design;
- 07) A plan or plans showing any proposed stormwater management system, which plan(s) shall meet the submission requirements of Newbury's Stormwater Management Rules and Regulations;
- 08) Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended, but not required;
- 09) A description of waivers, if any, from the DPH regulations issued for the RMD.

- (c) Within five business days of the receipt of the application, the SPGA shall refer copies of the application to the Building Commissioner, the Conservation Commission, the Board of Health, the Fire Department, and the Police Department. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 30 days of referral of the application shall be deemed lack of opposition.
 - (d) After notice and public hearing and consideration of application materials, public comments, and the recommendations of other Town boards and departments, the SPGA shall act upon the application.
- (6) Exemptions:
 - (a) Hardship Cultivation: There may be instances where the DPH determines that a qualifying patient is eligible for a hardship cultivation registration that would allow the cultivation of medical marijuana by the qualifying patient or his or her personal caregiver, only at the location specified in the application approved by DPH. In such instances, a special permit shall not be required and the provisions of this § 97-5.G. shall not apply.
 - (b) Agriculture: RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c. 40A § 3 are not required to obtain a Special Permit, but shall apply for Site Plan Approval pursuant to § 97-9 of the Zoning By-Law.
- (7) Decision Criteria: The SPGA shall issue a special permit for an RMD only if it finds that the Applicant has submitted sufficient information from which it can conclude that:
 - (a) The RMD is located in accordance with the distance requirements in § 97-5.G(5)(b), (5)(c), and (5)(d) above and will be sufficiently buffered so that abutting properties will not be adversely impacted by the operation of the RMD, except to the extent that any part of such buffering is contrary to 105 CMR 725.110(A)(11);
 - (b) The RMD is designed to minimize any adverse visual impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;
 - (c) The site is designed to provide convenient, safe, and secure access and egress for clients and employees arriving to and leaving from the site;
 - (d) Loading, refuse, and service areas are designed to be secure and shielded from abutters and from the street;
 - (e) The building and site have been designed to be compatible with other buildings in the area;
 - (f) The RMD is properly registered with the DPH as required in (3)(b) above and complies with all applicable state and local laws, regulations, and requirements, including, but not limited to, health and safety regulations, and construction and environmental requirements;

- (g) The Applicant has satisfied all of the conditions and requirements of Newbury's Zoning By-Law.
- (8) Special Permit Conditions: The SPGA shall impose conditions reasonably appropriate to improve siting, design, placement, traffic flow, and public safety; protect water quality, air quality, and significant environmental resources; preserve the character of the surrounding area; and otherwise serve the purpose of this By-Law. In addition to any specific conditions applicable to the RMD, the SPGA shall include the following conditions in any special permit granted under this By-Law:
- (a) The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Board of Selectmen, with copies to the Zoning Enforcement Officer and the SPGA, within 24 hours of creation by the RMD. Such reports may be redacted as necessary to comply with any and all applicable laws and regulations;
 - (b) The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Board of Selectmen, with copies to the Zoning Enforcement Officer and the SPGA, within 48 hours of receipt by the RMD;
 - (c) The permit holder shall provide to the Board of Selectmen, the Zoning Enforcement Officer, the SPGA, the Police Chief, and the Fire Chief the name, telephone number and email address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder;
 - (d) The permit holder shall be required annually to provide the Board of Selectmen with a copy of its DPH registration renewal. If the permit holder wishes to renew the Special Permit, a renewal application must be submitted to the Board of Selectmen at least 120 days prior to the expiration of the Special Permit. The Board of Selectmen shall refer it to the SPGA for review and recommendation. Such Special Permit renewal shall not require the technical submission of the original application, provided that conditions of the site and facility have not changed materially from the original application.
 - (e) The Special Permit shall be limited to the current applicant and shall become invalid if the permit holder ceases operating the RMD;
 - (f) The special permit shall become invalid upon the expiration or termination of the applicant's registration by DPH;
 - (g) The permit holder shall notify the Board of Selectmen in writing, with copies to the Zoning Enforcement Officer, the Police Department, and SPGA, within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH;

(h) In the event that the DPH revokes, fails or refuses to issue a Certificate of Registration for the RMD, a Special Permit issued by the Town for the RMD shall be deemed null and void;

- (9) Prohibition against Nuisances: The RMD shall not create a nuisance to abutters or to the surrounding area, or create any hazard, including, but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent, or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
- (10) Conflicts with State Law and Regulations: If any provision, paragraph, sentence, or clause of this By-Law shall be determined to be in conflict with applicable State Law or Regulations, the provisions of said State Law or Regulations shall prevail.
- (11) Severability: The provisions of this By-Law are severable. If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By-Law.

ARTICLE IX – SPECIAL REGULATIONS:

1. In § 97-9.A. Site Plan Review, as amended by Article PB1 above, insert a new § 97-9.A.(4)(b)09) as follows:

- 09) Construction, expansion, or alteration of an RMD that demonstrates that it is protected pursuant to the agricultural exemption under G.L. c. 40A § 3.

97 Attachment 4: Town of Newbury TABLE OF USE REGULATIONS

1. In the TABLE OF USE REGULATIONS, under “Commercial Uses” insert “Registered Marijuana Dispensaries” after “Nursing home and rehabilitation center” as follows, with insertion shown in underlined italics:

PRINCIPAL USE	DISTRICT										
	R- AG	PR	R- LB	BVB	CH	CHA	LIB	UGB	BLI	PRM	
COMMERCIAL USES (cont'd)											
Nursing home and rehabilitation center	SPS	NP	NP	NP	SP	SP	NP	NP	SP	NP	
<u>Registered Marijuana Dispensaries (see Notes 1, 4, and 5 below)</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>SP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>SP</u>	<u>NP</u>	

2. At the end of the TABLE OF USE REGULATIONS, amend Note 4. to read as follows, with deletions shown in ~~strike through~~ and insertions shown in underlined italics:
 4. See Article V – Special Permits General for regulations pertaining to Bed and Breakfast Establishments, ~~and Large Wind Energy Facilities,~~ and Registered Marijuana Dispensaries.
3. At the end of the TABLE OF USE REGULATIONS, insert a new Note 5, to read as follows:
 5. The Zoning Districts in which RMDs may be located are the Business & Light Industrial District (BLI) and the Commercial Highway District (CH), excluding that area of the Commercial Highway District at the Northwestern Junction of the right-of-way of I-95 and Central Street.

or act in relation thereto.

Selectmen Recommendation:

Approve 5-0-0

Finance Committee Recommendation:

Approve Will of the Town

Rationale: *This by-law is being proposed to establish a permitting process and standards for the placement of Registered Marijuana Dispensaries (RMDs), also known as Medical Marijuana Treatment Centers, within Newbury in accordance with the Humanitarian Medical Use of Marijuana Act, passed by Massachusetts voters in November 2012, and with the Department of Public Health Regulations promulgated thereunder.*

ARTICLE 21. To see if the Town will vote to adopt new Map Panels numbered 25009C0117G, 25009C0118G, 25009C0119G, 25009C0136G, 25009C0137G, 25009C0138G, 25009C0139G, 25009C0141G, 25009C0143G, 25009C0256G, 25009C0257G, 25009C0276G, 25009C0277G and 25009C0281G of the Essex County Flood Insurance Rate Map (FIRM), issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program, dated July 16, 2014, and to amend certain provisions of the Town of Newbury Zoning By-Laws, ARTICLES II and IV, as follows:

ARTICLE II – USE DISTRICTS, § 97-2.D. Location of Overlay Districts:

1. At the end of § 97-2.D.(2) Flood Hazard add the words “and July 16, 2014” so that this paragraph reads as follows:

- (2) Flood Hazard:

Applicable as indicated on the Federal Emergency Management Agency’s Essex County Flood Insurance Rate Maps (FIRM), effective July 3, 2012 and July 16, 2014.

ARTICLE IV – REGULATIONS OF OVERLAY DISTRICTS, § 97-4.E. Flood Hazard:

1. Replace paragraph § 97-4.E.(2) in its entirety and replace it with a new paragraph § 97-4.E.(2) as follows:

- (2) Flood Hazard Overlay District Boundaries and Base Flood Elevation Data: The Flood Zone District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Newbury designated as Zone AE or VE on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the Town of Newbury are panel numbers 25009C0114F, 25009C0116F, and 25009C0252F dated July 3, 2012; and panel numbers 25009C0117G, 25009C0118G, 25009C0119G, 25009C0136G, 25009C0137G, 25009C0138G, 25009C0139G, 25009C0141G, 25009C0143G, 25009C0256G, 25009C0257G, 25009C0276G, 25009C0277G and 25009C0281G dated July 16, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report, incorporated herein by reference, shall be kept on file with the Town Clerk, the Planning Board, and Inspectional Services.

2. At the end of § 97-4.E.(3)(h) add the words "and July 16, 2014" so that this paragraph reads as follows:

- (h) The provisions of § 97-4.E.(4) through § 97-4.E.(12) inclusive, including all subsections thereof, shall be applicable in all districts of the Town which are classified as being within Zone VE on the Federal Emergency Management Agency's Essex County FIRM effective July 3, 2012 and July 16, 2014.

3. In § 97-4.E.(4), delete paragraphs (b) (Reserved), (c) (Reserved), (d) (Reserved), (e) (Reserved), (f) (Reserved), and (g) (Reserved).

or act in relation thereto.

Selectmen Recommendation:

Approve 5-0-0

Finance Committee Recommendation:

Approve Will of the Town

Rationale: These amendments are being proposed as required by FEMA in conjunction with issuance of new Flood Insurance Rate Maps (FIRM) for Newbury, to become effective July 16, 2014.

ARTICLE 22. To see if the Town will vote to amend the Code of the Town of Newbury, Chapter 87, Stormwater Management and Illicit Discharge and Erosion Control to change the Stormwater Permit Granting Authority from the Planning Board to the Conservation Commission as follows, with deletions indicated by ~~strikethrough~~ and new and revised language indicated by underlined italics:

1. Revise definitions in Section (2) **DEFINITIONS** as follows:

AUTHORIZED ENFORCEMENT AGENCY: The ~~Planning Board~~ Conservation Commission, its employees or agents designated to enforce this By-Law.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops. Impervious surface also includes soils, gravel driveways, and

similar surfaces with a high runoff coefficient (Rational Method), as determined by the Planning Board Conservation Commission.

STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the Planning Board Conservation Commission, after review of an application, plans, calculations, and other supporting documents designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

2. Revise Section **(4) APPLICABILITY**, paragraphs (a), (c), and (d)04) as follows:

- (a) This By-Law shall apply to all activities that result in the alteration or disturbance of one or more acres of land that drain to the Town of Newbury's MS4. Except as authorized by the Planning Board Conservation Commission in a Stormwater Management Permit or as otherwise provided in this By-Law, no person shall perform any activity that results in disturbance of an acre or more of land.
- (c) No person may alter or disturb any land equal to or greater than one acre, or less than one acre that is part of a larger common plan of development or sale, that will ultimately alter or disturb any land equal to or greater than one acre that drains into the Town of Newbury MS4 without a Stormwater Management Permit from the Planning Board Conservation Commission.
- (d) Construction activities that are exempt are:
 - 04) Normal maintenance of Town owned public land, ways, and appurtenances, including minor road repair, emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or further maintenance activities as deemed necessary by the Planning Board Conservation Commission.

3. Revise Sections **(5) ADMINISTRATION, (6) RULES AND REGULATIONS, (7) FEE STRUCTURE, AND (8) ENFORCEMENT** as follows:

(5) ADMINISTRATION

- (a) The Planning Board Conservation Commission shall administer, implement and enforce this By-Law. Any powers granted to, or duties imposed upon, the Planning Board Conservation Commission may be delegated in writing by the Planning Board Conservation Commission or its authorized agent to such individual or individuals as the Board or its agent may, from time to time, deem appropriate.
- (b) Waiver. The Planning Board Conservation Commission may waive strict compliance with any requirement of this By-Law or the rules and regulations promulgated hereunder, where such action:
 - 01) is allowed by federal, state and local statutes and/or regulations;
 - 02) is deemed to be in the public interest; and
 - 03) is consistent with the purpose and intent of this By-Law.

- (c) Public Hearing. The ~~Planning Board~~ Conservation Commission shall hold a public hearing within sixty-five (65) days of the receipt of a complete application and shall take final action within ninety (90) days from the time of the close of the hearing unless such time is extended by agreement between the applicant and the Permit Authority. Notice of the public hearing shall be given by publication and posting and by certified mail or certificates of mailing at the Applicant's expense to abutters at least fourteen (14) days prior to the hearing. The ~~Planning Board~~ Conservation Commission shall make the application available for inspection by the public during business hours at the Newbury Town Hall.
- (d) Information requests. The applicant shall submit all additional information requested by the ~~Planning Board~~ Conservation Commission to issue a decision on the application.
- (e) The ~~Planning Board~~ Conservation Commission may;
 - 01) Approve the SMP (Stormwater Management Permit) Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this By-Law;
 - 02) Approve the Stormwater Management Permit Application and issue a permit with conditions, modifications or restrictions that the ~~Planning Board~~ Conservation Commission determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this By-Law;
 - 03) Disapprove the Stormwater Management Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-Law.
- (f) Failure of the ~~Planning Board~~ Conservation Commission to take final action. Failure of the ~~Planning Board~~ Conservation Commission to take final action upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without the ~~Planning Board~~ Conservation Commission's action, the Stormwater Management Permit shall be issued by the Town Clerk.

(6) RULES AND REGULATIONS

- (a) The ~~Planning Board~~ Conservation Commission shall adopt, and periodically amend rules and regulations to effectuate the purposes of this By-Law. Failure by the ~~Planning Board~~ Conservation Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law. The Rules and Regulations shall include, at a minimum, Permits and Procedural Requirements; Stormwater Management Plan Requirements; Operation and Maintenance Plan Requirements, etc.

(7) FEE STRUCTURE

- (a) Fees: Stormwater Management review fees shall be governed and set by the ~~Planning Board~~ Conservation Commission and shall be assessed to the owner and/or the applicant. Such fees may include a deposit for review by a consultant selected by the Town. The amount of fees shall be as listed in the Stormwater Management Rules and

Regulations and administered in accordance with § 117-46 through § 117-48 of the Town's Regulations for the Subdivision of Land.

(8) ENFORCEMENT

- (a) The ~~Planning Board~~ Conservation Commission or its authorized agent shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations, in accordance with the regulations.
- (b) Any person violating any provision of this By-Law may be fined \$300.00 for each offense. Each day such violation continues shall constitute a separate offense. Fines may be levied pursuant to G.L. c. 40, § 21, or, in the alternative, the ~~Planning Board~~ Conservation Commission, its authorized agents, police officers, or any other person having police powers, may impose such specified penalties pursuant to the non-criminal disposition provisions set forth in G.L. c. 40, § 21D.

or act in relation thereto.

Selectmen Recommendation:

Approve 5-0-0

Finance Committee Recommendation:

Approve Will of the Town

Rationale: Article 22 transfers authority from the Planning Board to the Conservation Commission for granting Stormwater Management Permits under EPA's National Pollutant Discharge Elimination Program (NPDES). The Commission administers the Massachusetts Wetlands Protection Act (310 CMR 10.0), reviewing, permitting and inspecting projects in or adjacent to Newbury's wetlands, floodplains and water bodies. Related to this, the Commission plays an important role in implementing the Massachusetts Stormwater Management Policy and Standards. It is therefore appropriate for them also to take on responsibility for administering Newbury's Stormwater Management and Illicit Discharge and Erosion Control By-Law, which is intended to control the harmful impacts of stormwater run-off, soil erosion, and sedimentation on Newbury's wetlands and water resources."

ARTICLE 23. To See if the Town will vote to amend the Town of Newbury Capital Planning Committee bylaw (Chapter 12) by replacing the following sections with the language below:

Chapter 12 CAPITAL PLANNING COMMITTEE

§ 12-1. Committee Appointed; terms.

There is hereby established a Capital Planning Committee consisting of the Town Administrator (*ex-officio*), two members of the Finance Committee annually chosen by it, one member of the Board of Selectmen and two members appointed by the Selectmen from among the registered voters of the town, who shall be appointed for a term of two years. Any vacancy shall be filled for the unexpired term in the manner of the original appointment. The Capital Planning Committee shall annually choose a chairman and such other officers as it deems appropriate.

§ 12-3. Proposed and anticipated projects. [Added 5-22-2012 ATM, Art. 28]

The Committee shall study proposed capital projects and improvements involving major non-recurring tangible assets and projects which:

- 1) Are purchased or undertaken at intervals of not less than five years;
- 2) Have a useful life of at least five years; and
- 3) Cost over \$50,000.

All officers, boards and committees, including the Selectmen and the School Committee, shall, by November 1st of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects requiring Town Meeting action during the ensuing six years. The Committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town. No appropriation shall be voted for a capital improvement requested by a department, board or commission unless the proposed capital improvement is considered in the Committee's report or the Committee shall first have submitted a report to the Board of Selectmen explaining the omission.

Selectmen Recommendation:

Approve 5-0-0

Finance Committee Recommendation:

Disapprove 7-0-0

Rationale: *After a review of the current by-law, the Board of Selectmen submit the above changes for consideration and acceptance.*

The Capital Planning Committee voted not to support the amendments as presented.

ARTICLE 24. To See if the Town will vote to amend the Town of Newbury Charter (Chapter 460 of the Acts of 2008) to: (1) make the fish commissioners appointees of the Board of Selectmen as opposed to elected officials; (2) clarify that the Town Administrator has the authority to appoint her (or his) own assistant, and the Principal Assessor and his (or her) Clerk, in recognition of the fact that the Principal Assessor should be a person who is especially fitted by education, training, and experience, to complete the duties of that office, and will ensure that applicants for that position would be subject to customary hiring practices, such as review and comparison of applicants' resumes, as well as an interview process; and (3) change the time line for budgeting to reflect the realities of the process, and give town officials more flexibility in reacting to changes in the State budget and local aid reimbursement figures; by replacing the following sections with the language below, and, consistent therewith, authorize the Board of Selectmen to petition the General Court to enact legislation essentially as follows:

AN ACT AMENDING AN ACT ESTABLISHING A SELECTMEN-ADMINISTRATOR FORM OF GOVERNMENT FOR THE TOWN OF NEWBURY.

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

Chapter 460 of the Acts of 2008 is hereby amended as follows:

SECTION 1. Section 3 of said Chapter 460 is hereby amended so that it now reads:

The purpose of this position is to perform professional, administrative and technical work in managing the operations of the Assessor's department and in the appraisal of town-wide property in accordance with state and local statute and regulations.

SECTION 2. Section 13 of Chapter 460 is hereby amended so that it now reads:

The town administrator shall appoint, with the approval of the board of selectmen, the town treasurer, the tax collector, the town accountant, the administrative assistant, the principal assessor, the assessor's clerk, the building inspector and assistant building inspector, the conservation agent, the highway superintendent, the harbormaster, the town planner, and the director of veterans' affairs. The town administrator shall appoint, and may remove subject to the approval of the board of selectmen, department heads, officers, and subordinates and employees for whom no other method of appointment is provided in this act, except the assistant town clerk, who shall be appointed by the town clerk, and persons serving under other elected agencies and appointments made by representatives of the commonwealth. Appointments to the permanent positions made by the town administrator shall become effective on the fifteenth day following the day notice of appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period, by a majority vote of the full board, vote to reject any such appointment.

SECTION 3. Section 14 of Chapter 460 is hereby amended so that it now reads:

The registered voters of the town of Newbury shall, in accordance with applicable laws, town by-laws, and votes of the town, continue to elect the following:

- (1) moderator;
- (2) members of the board of selectmen;
- (3) regional school committee members;
- (4) members of the planning board;
- (5) members of the board of health;
- (6) library trustees;
- (7) town clerk;
- (8) constables;
- (9) trustees of the First Settlers Burial Ground;
- (10) tree warden; and
- (11) the members of the board of assessors.

This act shall not affect the term of office of an elected official or elected member of a board, committee or authority. Every other elective office, board, committee, or commission of the town shall be terminated or shall become appointive as provided herein, any other law to the contrary notwithstanding. The term of office of a person elected to an office, board, committee, or commission of the town, existing at the time of such acceptance and terminated hereunder, shall continue until the appointment of the town administrator, and thereafter the offices, boards, committees, and commissions shall be abolished, and all powers, duties and obligations conferred or imposed thereon by law, except as provided by this act, shall be conferred and imposed upon the town administrator to the extent hereinafter provided. The term of office of a person elected to an office, board, committee, or commission, existing as an elected office on the effective date of this act and having become appointive hereunder, shall continue until the term for which that person was elected shall have expired, and until the appointment and qualification of a successor. The powers, duties, and responsibilities of elected officials shall be as now or hereafter provided by applicable General Laws, special acts, town by-laws, and votes of the town, except as otherwise expressly provided herein. Notwithstanding the election by the voters of the town of the officers named in this section, those officers shall be available to the administrator for consultation, conference and discussion on matters relating to their respective offices. The town administrator may require those officials, except the selectmen, to prepare reports for the town administrator necessary for the efficient administration of any of the fiscal responsibilities of the office.

SECTION 4. Section 15 of Chapter 460 is hereby amended so that it now reads:

The town administrator shall submit in writing to the board of selectmen a careful detailed estimate of the probable expenditures of the town government for the ensuing fiscal year, stating the amount

required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the preceding year and an estimate of the expenditures for the current year. The town administrator shall also submit a statement showing all revenues received by the town in the preceding fiscal year together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. The town administrator shall report the probable amount required to be levied and raised by the taxation to defray all expenses and liabilities of the town, together with an estimate of the tax rate necessary to raise that amount. For the purposes of enabling the town administrator to make up the annual estimates of expenditures, all boards, offices, and committees of the town shall, at least 120 days before the annual town meeting, furnish all information in their possession and submit in writing to the town administrator a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

SECTION 5. Section 16 of Chapter 460 is hereby amended so that it now reads:

The board of selectmen shall consider the tentative budget submitted by the town administrator and make recommendations relative thereto as it considers expedient and proper in the interests of the town. On or before the thirtieth day before the annual town meeting, the board of selectmen shall transmit a copy of the budget, together with its recommendations relative thereto, to each member of the finance committee.

SECTION 6. This act shall take effect upon its passage.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	Will of the Town

***Rationale:** The Board of Selectmen and Town Administrator, in consultation with Town Counsel, have determined that several changes to the Town's Charter are necessary and desirable for smoother functioning of the Town Government. The Charter will be altered to make the fish commissioners appointees of the Board of Selectmen as opposed to elected officials in order to address the ethics issues that have been identified during the past year. Additionally, the Charter will be changed to clarify that the Town Administrator has the authority to appoint her (or his) own assistant, the Principal Assessor and his (or her) Clerk—all of which are new positions created since the act was initially passed. This change recognizes that the Principal Assessor should be a person who is especially fitted by education, training, and experience, to complete the duties of that office, and will ensure that applicants for that position would be subject to customary hiring practices, such as review and comparison of applicants' resumes, as well as an interview process. Finally, the time line for budgeting in the Charter will be changed to reflect the realities of the process, and give town officials more flexibility in reacting to changes in the State budget and local aid reimbursement figures.*

ARTICLE 25. To see if the Town will vote to grant an easement or any other interest in the land on the edge of the right of way on Hay Road for purposes of maintenance of a well which was inadvertently located within the bounds of the right-of-way, or take any other action relative thereto.

Selectmen Recommendation:	Approve	5-0-0
Finance Committee Recommendation:	Approve	Will of the Town

Rationale: If passed, this Article will allow a property owner to sell her property notwithstanding the fact that the property's well is partially located within the bounds of the right-of-way of Hay St. The well cannot be relocated, and the existence of the well within the bounds of the right-of-way does not in any way interfere with the public's access to Hay Street.

ARTICLE 26. To See if the Town will vote to instruct the Board of Selectmen to petition the General Court to adopt the following:

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

SECTION 1. Notwithstanding any general or special law to the contrary, Robert Haynes, Wayne Reetz and Edward Stearns, designated as "Senior Support Staff", who are members of Protection Fire Co. No. 1 Byfield, Massachusetts; may continue to serve in that capacity past the age of 65, until the date of retirement or until the date he or she is relieved of his or her duties by the Board of Fire Engineers, whichever occurs first; provided, however, that he or she is mentally and physically capable of performing the duties of his office. The Board of Selectmen of the Town of Newbury may require such individuals be examined, at their own expense, by an impartial physician designated by the board to determine his or her mental and physical capability. No further deductions shall be made from the regular compensation of such individuals under chapter 32 of the General Laws for any service subsequent to the date such individual turns 65 years old, and upon retirement, he or she shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired at 65.

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

<i>Selectmen Recommendation:</i>	<i>Approve</i>	<i>5-0-0</i>
<i>Finance Committee Recommendation:</i>	<i>Approve</i>	<i>Will of the Town</i>

Rationale: This legislation is being proposed at the request of the Board of Fire Engineers to allow 3 current members to continue working beyond the mandatory retirement age of 65.

ARTICLE 27. To See if the Town will vote to accept M.G.L. Chapter 41, Section 108P allowing for the Treasurer/Collector to receive an additional \$1,000.00 in annual compensation; or act in relation thereto.

<i>Selectmen Recommendation:</i>	<i>Approve</i>	<i>5-0-0</i>
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Finance Committee Recommendation: **Approve** **7-0-0**

Rationale: Acceptance of this section of Massachusetts General Laws allows for a collector or treasurer who has completed the necessary courses of study and training and has been awarded a certificate by the Massachusetts Collectors and Treasurers Association to receive an amount equal to 10 per cent of such regular annual compensation, but not more than \$1,000.00 per year.

ARTICLE 28. To see if the Town will vote to authorize the Board of Selectmen to negotiate and enter into agreements, including but not limited to payment in lieu of tax agreements ("PILOTs") pursuant to Massachusetts General Laws Chapter 59, Section 38H, with one or more renewable energy companies operating one or more solar systems; or take any vote or votes in relation thereto.

Selectmen Recommendation: **Approve** **5-0-0**
Finance Committee Recommendation: **Approve** **7-0-0**

Rationale: This will allow the Board of Selectmen to negotiate tax agreements with renewable energy companies operating solar systems for the benefit of the community.

ARTICLE 29. To See if the Town will vote to instruct the Board of Selectmen to petition the General Court to adopt the following:

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

AN ACT DIRECTING THE COMMISSIONER OF FISHERIES, WILDLIFE AND RECREATIONAL VEHICLES TO CONVEY CERTAIN LAND IN NEWBURY TO RICHARD J. BOUDREAU AND PAULINE C. BOUDREAU.

Be it enacted, etc., as follows:

SECTION 1. For the purpose of promoting the public good, the Commissioner of Fisheries, Wildlife and Recreational Vehicles is hereby authorized and directed to convey to Richard J. Boudreau and Pauline C. Boudreau, in the name and on behalf of the Commonwealth, by a quitclaim deed approved as to form by the attorney general, the following described land situated in Newbury on the Southwesterly side of Moody Street, so called, bounded and described as follows:

Commencing at the easterly corner thereof on said Moody Street by land of Simeon O. Rogers, thence running by said land of Rogers on the following courses, about South 57° West 10 rods, about South 35° West 10 rods 12 links, about South 36° West 13 rods 20 links, about South 44° West 16 rods to land of Thomas Ruddick (formerly Moses Newell) thence about North 41° West by the last mentioned land 28 rods to land of Asa Rogers (formerly Thomas Elliot) thence about North 68° East by said land of Asa Rogers 55 rods 20 links more or less to said Moody Street and thence South easterly by said street 8 rods more or less to the point of beginning, containing about 5 acres 130 posts more or less; the above courses are taken from plan made January 2, 1839 by Richard Coffin.

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

Selectmen Recommendation: **Approve** **5-0-0**

Finance Committee Recommendation: **Approve** **7-0-0**

Rationale: *This land was taken by the Federal Government in 1945 and subsequently conveyed to the Commonwealth of Mass. In 1969 the owners purchased the property and built their home on it. They have lived there since and are seeking our assistance in attempting to clear the title.*

END OF ANNUAL TOWN MEETING WARRANT



CAPITAL PLANNING COMMITTEE

LETTER FROM CAPITAL PLANNING COMMITTEE CHAIRMAN

April 22, 2014

Chairman Joseph Story
Members of the Board of Selectmen
Chairman Frank Remley
Members of the Finance Committee

Dear Members:

On behalf of the Capital Planning Committee (CPC), I am submitting herewith our Annual Report setting forth our recommendations for the Town of Newbury's Capital Expenditures through April 17, 2014.

Newbury like many communities continues to face financial distress due to dwindling grant programs, reduced state, federal aid and limited local tax levy increases and struggles to deliver basic services or funds to adequately maintain all assets.

Newbury Town Meeting voted to adopt a comprehensive Capital Planning bylaw to create the proper checks and balances insuring a consistent process for review of capital requests while providing the necessary planning to insure that taxpayer dollars are being reinvested wisely into town assets based on merit.

BACKGROUND

Prior to the adoption of Capital Improvement Plan, Newbury's critical facilities were in various stages of disrepair or closed due to a loss of occupancy. Vehicles were old with high mileage and DPW equipment was failing. DPW fleet replacements were being funded by charitable donations or by using Chapter 90 road improvement funds provided by the state resulting in deferred road maintenance causing further degradation of our roadway system.

MISSION

The Capital Planning Committee's primary objective is to provide the framework of best practices which will enable Newbury to make strategically planned consistent decisions regarding the construction and maintenance of its infrastructure and to undertake careful project planning and design to avoid costly mistakes.

The Capital Planning Committee identifies all town owned assets, deficiencies and needs for new tangible assets, new and/or updated critical facilities and makes recommendations on the appropriate methods of funding based upon budgetary constraints.

RESULTS:

Over the last three years gains have been made using donated services and funds to restore occupancy to the DPW Garage and major repairs to the Town Hall. Capital need's assessments have been secured on the elementary school, library and other town-owned assets. Additionally for the first time, Newbury has an action plan to address deficiencies

relevant to maintain assets to do the following: protect the town's capital investment; identify projects most important to the community; and provide rationale for project's importance.

CPC annual report recommendations for FY 12 & 13 presented to Town Meeting for adoption has resulted in capital improvements and purchase of tangible assets totaling \$745,187.20.

FY 12: \$380,500.00

FY 13: \$364,687.20

The annual budget now has line items for ordinary repairs, maintenance and improvements to fund items below the \$10,000 threshold and is administrated through the Town Administrator subject to current procurement laws.

The highest priority is municipal operational necessity replacements (tangible assets) and capital improvement projects to maintain critical facilities which house municipal operations and/or have outstanding debt such as:

- ✓ Police department
- ✓ Town Hall
- ✓ DPW Garage
- ✓ Newbury Elementary School;
- ✓ Newbury Public Library
- ✓ Roadways and infrastructure
- ✓ Manter playing fields

After careful review, CPC requests for FY15 a total **\$1,048,905.00** (as of 4-17-14) and the committee recommends **\$866,410.00** for capital improvements and municipal operational necessity replacements to the Board of Selectmen and Finance Committee for Town Meeting consideration.

Further, the Capital Planning Committee has identified capital improvement needs in the amount of **\$797,308.00 for the Library, \$1,468,790.00 for the Round School** adjusted for 3% annual inflation over the next 20 years (**\$2,266,098.00**). No appropriate method of funding anticipated reserves has been identified and is a cause for concern. Pursuant to *CPC Manual and in accordance with CPC criteria*, the committee has reviewed, complied and evaluated all requests based on the following.

1. Does the requested project contribute to the achievement of existing town goals, policies, plans and work programs?
2. What are the general benefits of the project?
3. What is its total cost (both capital and annual operating and maintenance expenses, including replacements); and what is its effect on the tax rate?
4. Is the project acceptable to the public?
5. Are there legal requirements that must be met?
6. Can the project be effectively managed and maintained with existing staff once implemented?

CPC MAKES THE FOLLOWING RECOMMENDATIONS FOR FY15.
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1. Equipment Replacement request for Newbury Fire Department

The committee received an equipment replacement request from Fire Chief William Pearson regarding the replacement of aging NFD turn-out gear "Protective Gear". The committee recommended a 3-year replacement schedule in 2013

with year 1 of 3 being previously funded by Reserve Fund transfer and FY14 ATM warrant article. CPC recommends the amount of \$36,000.00 from Free Cash. (Year 2 of 3)

2. Equipment replacement request for DPW

The committee received equipment replacement request from the DPW Director pursuant to the current status of the DPW fleet. Tim Leonard presented the committee with a vehicle replacement request to replace 1999 rubber tire Backhoe/loader with "Rubber Tired Excavator" and boom-mounted rotary mower attachment for roadway/drainage maintenance. This type of equipment provides a primary function for the DPW on a daily basis and will reduce hazards/injury to staff by reducing drainage swale cleaning currently performed by hand. CPC recommends the amount of \$140,000.00 from Free Cash.

3. Equipment replacement request for Newbury Police Cruiser

The committee received an equipment replacement request from Police Chief, Mike Reilly and reviewed the current status of the NPD fleet. Chief Reilly presented the committee with a vehicle replacement requests pursuant to current "NPD Equipment Inventory" CPC Report 2012 presented at Town Meeting; May 22, 2012. Newbury P.D. currently rotates three cruisers daily covering three shifts. Two patrols per shift generate approximately 35,000 mile per year per vehicle requiring an annual replacement program. It should be noted that disposition of replacement cruisers are available for possible reuse as administrative/service vehicles or for other departmental use within the community. CPC recommends the amount of \$36,000.00 from Police Capital Outlay Account.

4. Patrol Boat Replacement Request for Newbury Harbormaster

The committee received an equipment replacement request from Police Chief, Mike Reilly and reviewed the current status of the Harbormaster fleet. Chief Reilly presented the committee with a replacement quote and specifications to update fleet. CPC recommends amount of \$35,000 from Waterways Maintenance & Improvement Fund.

5. Police HQ Repairs and HVAC Upgrade

The committee received a request from Facilities manager, Sam Joslin to undertake specified work pursuant to "Environmental Report" dated March 12, 2014 made recommendations for immediate remediation and system upgrades. The committee previously identified several shortcomings within the current NPD headquarters within the 2013 Annual Report. Recent flooding, ongoing moisture problems and ventilation-filtration deficiencies within the HQ have worsened. CPC recommends the amount of \$60,000.00 (not to exceed) from Reserve Fund.

6. Fire Truck Replacement Request for Newbury Fire Department

A capital equipment replacement request was submitted on **October 30, 2013** by Newbury Fire Protection #2 to replace 1989 Pumper which has been experiencing operational breakdowns, out of certification pursuant to NFPA "open cab" guidelines and the annual operational costs exceed anticipated annual purchase costs.

Background

The committee at the **November 21, 2013** regular meeting took this request under advisement and forwarded presented documents to the Board of Fire Engineers for comment, review and recommended course of action: Further, the committee requested additional information from Protection #2 regarding additional pumper options specifically outfitted to match current service area and more information on pumper warranty options for new fire apparatus.

The committee was informed that pumper E10 has experienced numerous breakdowns and **Fire Protection #2 has requested emergency action on this truck** request. Further, this request was presented to the Board of Fire engineers at the **November 18, 2013** meeting for review and recommendations. CPC has been informed that BOFE approved this request and recommended replacement with new fire pumper. Protection #2 has supplied requested information on outfitted service area needs and detailed warranty information for review. A joint meeting with Capital Planning, Finance Committee and Board of Fire Engineers was held on **December 16, 2013** to address this request, contingency plans for coverage, funding options, ownership options and to reach a consensus on next steps.

Over the last several years, Newbury has level funded the department or cut line items to balance the budget despite rising operating costs for both departments. Both departments in the past have used collected fees (ambulance) and donations to fund vehicle/truck purchase, equipment, gear and repairs. With reduced municipal funding each department now uses collected fees to keep the lights on, buy fuel, and pay insurance *while falling behind building reserves* to purchase new or “good used equipment” as the fleet continues to age and approach the end of expected operational life.

Based upon the cost of inflation/energy/operations increasing about 3% per year, it’s clear that the level funding approach to the department’s budget over the last decade and recent budget cuts has had a negative impact (-\$1,734,526.38) on the department’s ability to operate, build reserves to purchase new vehicles, gear and to maintain the vast amount of portable equipment each department currently owns.

As the fire department provides a valuable service to the town and its citizens, to continue down the current funding path is a perfect storm for operational gaps, reduced service and failing equipment/gear and additional capital equipment requests in the future. **CPC voted unanimously to recommend the purchase of Fire Truck with a not to exceed amount of \$450,000.**

CPC recommends the following capital expenditures through April 17, 2014

CAPITAL IMPROVEMENT PROJECTS

Project Description	Goals And Benefits	Funding Expenditure & Source	Status
NES repairs per Needs Assessment Report	Preventive maintenance	50,000-Land Sale	FY 15 warrant article
Library repairs per Needs Assessment Report	Preventive maintenance	59,410-Land Sale	FY15 warrant article
TOTAL		109,410.00	

CPC voted unanimously to take no action on the following capital expenditures

1. Asphalt Roller Replacement

CPC voted to hold/review next year purchasing this equipment for FY15 as the current roller is operational and the demands of other high priority purchases will greatly reduce free cash & land sale available funds.

2. Manter Fields Septic System Replacement

CPC voted to hold/review next year pending final scope/use/costs of the field house to avoid a repeat of the original septic system installed but not operational based upon proposed use/regulation at this time. The adoption of CPA would be an appropriate funding source.

3. Grange Hall Improvements

CPC voted to hold and review next year. BOS granted 3 year lease to provide the tenant the opportunity to seek grant opportunities to fund requested work. The adoption of CPA would be an appropriate funding source for this warrant article.

4. Central Fire Alarm Receiving System Replacement

In consultation with Fire Department Chief Pearson, CPC voted to hold and review next year as the current system is operational the demands of other high priority purchases will greatly reduce free cash & Land Sale available funds.

Respectfully submitted by the Town of Newbury Capital Planning Committee

Robert D. Connors

Robert Connors, Chair (Finance Committee)

Tracy Blais, Member (Town Administrator)

Larry Guay, Member (Finance Committee)

Nick Orem, Vice Chair (Member)

Frank Visconti, (Member)

