

**TOWN OF NEWBURY
SELECT BOARD**

MINUTES

DATE: February 28, 2023

PRESENT: **Select Board:** Chair Alicia Greco; Vice Chair JR Colby; Clerk Dana Packer;
Gerry Heavey

Staff:

Tracy Blais, Town Administrator
Julie O'Brien, Executive Administrator
Martha Taylor, Town Planner
Patty Fisher, Police Chief

Speakers:

State Representative Kristin Kassner
Erica Jacobson, FinCom Chair
Marshall Jespersen, Fincom Vice Chair
Susan Noyes, Fincom
Frank Visconti, Fincom

Call to Order:

At 7:00 p.m. Chair Alicia Greco called the meeting to order with a salute to the flag

Motion: JR Colby moved to open the meeting, seconded D. Packer and voted unanimously

Discussion: None

Public Comment:

None

Board and Committee Reports

Report of Chair Greco: None

Grants, Gifts & Donations

(Chapter 44: Section 53A Grants and gifts; acceptance and expenditure)

None

New Business:

State Representative Kristin Kassner

Discussion: Representative Kristin Kassner introduced herself to the Board, stated she worked in a municipal role for over 20 years and discussed some of the main topics her team is focusing on, asked for a list of needs from the district and provided her email, Kristin.kassner@mahouse.gov

Kim Snyder, dba Climb41 LLC/DBA Human Truth, 13 Plum Island Blvd., Music Publishing, Art Merchandise

Motion: JR Colby moved to approve the new business license seconded, D. Packer and voted unanimously

Discussion: Kim Snyder addressed the Board, provided information regarding her website and answered questions from the Board

Tessa Janvrin, dba Janvrink, 65 Newburyport Turnpike, Tattoo shop

Motion: JR Colby moved to approve the new business license seconded D. Packer and voted unanimously

Discussion: A. Greco passed the email around to the Board members which Tessa had provided and discussion ensued

David Williamson dba Plum Island Enterprises/Williamson Parking lot, 3 Northern Blvd. (U02-0-195), Parking Lot

Motion: JR Colby moved to approve the 2023 Business License renewal seconded, D. Packer and voted unanimously

Discussion: None

David Williamson dba Plum Island Enterprises/Williamson Parking lot, 34 Plum Island Blvd. (U02-0-111), Parking Lot

Motion: JR Colby moved to approve the 2023 Business License renewal seconded, D. Packer and voted unanimously

Discussion: None

Public Property Use Request - Byfield Newbury Baseball/Softball, Pearson Field, Opening Day Event, April 30, 2023

Motion: JR Colby moved to approve the Public Property Use request seconded, D. Packer and voted unanimously

Discussion: None

Public Property Use Request - Michelle Abren, Byfield Coffee Company, by Coco, Newbury Town Library parking area, during Town League sporting events; April 30th and other event dates to be determined and agreed upon

Motion: JR Colby moved to approve the Public Property Use request seconded, D. Packer and voted unanimously

Discussion: None

Declare surplus - 2009 Ford E-450 AEV Ambulance, mileage 108,676

Motion: JR Colby moved to approve the surplus request seconded, D. Packer and voted unanimously

Discussion: None

Annual Town Meeting - April 25, 2023 Newbury Elementary School Gymnasium

Motion: JR Colby moved to approve the Annual Town Meeting date of April 25, 2023 at Newbury Elementary School seconded, D. Packer and voted unanimously

Discussion: Discussion ensued

Local Election Hours May 9, 2023 7:00 a.m. to 8:00 p.m.

Motion: JR Colby moved to approve of the Local Election Hours of May 9, 2023 7:00 a.m. to 8:00 p.m. seconded, D. Packer and voted unanimously

Discussion: None

At 13:51 Public Hearings: Marsh Meadow continuance 7:15 p.m. Open Dana then Gerry

Motion: D. Packer moved to continue the Public Hearing to Tuesday, September 26th at 7:15 p.m. seconded, A. Greco. D. Packer and A. Greco voted in favor; G. Heavey voted against; JR Colby recused

Discussion: A. Greco read an email from the applicant. G. Heavey asked about the time requirements/time periods

Essex Regional Retirement - COLA increase

Motion: JR Colby moved to approve the requested 2% additional COLA increase seconded, G. Heavey, JR Colby, A. Greco and G. Heavey voted in favor; D. Packer recused

Discussion: T. Blais spoke to the COLA increase and answered questions from the Board

Joint meeting with the Finance Committee - Review Draft Warrant

Motion: Finance Committee Chair Erica Jacobsen moved to open the Fincom meeting and took a roll call vote to establish a quorum

Frank Visconti - Yes

Marshall Jespersen - Yes

Susan Noyes - Yes

Erica Jacobsen - Yes

Discussion: The April 25, 2023 ATM Warrant was reviewed by the Town Administrator. She also addressed questions from both the Select Board and Finance Committee

**TOWN OF NEWBURY
ANNUAL TOWN MEETING**

APRIL 25, 2023

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 GYMNASIUM AT 63 HANOVER STREET** IN SAID TOWN OF NEWBURY ON TUESDAY, THE **25TH DAY OF APRIL 2023**, AT 7:00 P.M., TO ACT ON THE FOLLOWING ARTICLES, VIZ:

GENERAL GOVERNMENT MATTERS

ARTICLE 1. To meet in our respective voting districts on Tuesday, May 9, 2023, the polls will open at 7:00 AM and close at 8:00 PM, to vote on the following offices:

Pct. 1 – Firefighter’s Memorial Hall, 3 Morgan Ave.

Pct. 2 – Newbury Town Library – 0 Lunt St.

<u>Position</u>	<u>Term</u>
Board of Assessors (1)	Three Years
Board of Health (1)	Three Years
Constable (1)	Four Years
Fish Commissioner (1)	Three Years
Library Trustee (2)	Three Years
Moderator	Three Years
Planning Board (1)	Five Years
Select Board (2)	Three Years
Town Clerk	One Year
Tree Warden	Three Years
Triton Regional School Committee - Newbury	Three Years
Triton Regional School Committee - Rowley	Three Years
Triton Regional School Committee - Salisbury	Three Years
Trustee of First Settlers Burial Ground	Three Years

ARTICLE 2. To receive the reports of the Select Board, School Committee, Regular and Special Committees, and all other Town Officers, or take any other action in relation thereto.

ARTICLE 3. To see if the Town will fix the salaries and compensation of certain elective officers of the Town as follows:

Town Moderator		\$ 500.00
Select Board	Each Member	\$ 7,500.00
Board of Assessors	Chair	\$ 3,500.00
Board of Assessors	Each Member	\$ 2,500.00

Town Clerk		\$65,171.88
Tree Warden		\$ 5,000.00
Fish Commissioner	Each Member	\$ 1,300.00
Planning Board	Chair	\$ 1,500.00
Planning Board	Each Member	\$ 1,000.00
Board of Health	Chair	\$ 1,500.00
Board of Health	Each Member	\$ 1,000.00

APPROPRIATIONS

ARTICLE 4. To see if the Town will vote to raise and appropriate, transfer from available funds or otherwise provide to meet the salaries and wages of Town Officers and employees, expense and outlays of the Town Departments, and other sundry and miscellaneous, but regular expenditures necessary for the operation of the Town for Fiscal Year 2024;

General Government \$
Public Safety
Education
DPW
Human Services
Culture & Recreation
Debt Service
Benefits

Total Budget \$

or take any other action in relation thereto.

ARTICLE 5. To see if the Town will vote to raise and appropriate the sum of \$150,000.00, or any other sum, to be added to the Stabilization Fund; or take any other action in relation thereto.

ARTICLE 6. To see if the Town will vote to transfer from available funds the sum of \$200,000.00, or any other sum, to fund Other Post-Employment Benefits; or take any other action in relation thereto.

ARTICLE 7. To see if the Town will vote to transfer or appropriate the sum of \$95,000.00, or any other sum, from the Receipts Reserved Cable Television PEG Access Special Revenue Fund, for the support of PEG access service and programming; or take any other action in relation thereto.

ARTICLE 8. To see if the Town will vote to authorize the total expenditures for the following revolving funds pursuant to G.L. c. 44 Section 53E ½ for the fiscal year beginning July 1, 2023 to be expended in accordance with the bylaws heretofore approved;

Fund	Spending Limit
Recreation Revolving Fund	\$50,000.00
Municipal Waterways Improvement and Maintenance Fund	\$59,496.00

or take any other action in relation thereto.

ARTICLE 9. To see if the Town will vote to raise and appropriate or transfer from available funds the following sums, or any other sums, to operate the Ambulance Enterprise;

Salaries & Wages	\$ 115,500.00
Expenses	98,364.00
Capital Outlay	12,000.00
Debt Service	0.00
Insurance	5,000.00
Medicare	2,195.00
Indirect Costs	62,518.00
Extraordinary/Unforeseen	12,000.00
Prior Year Deficit	0.00
Total:	\$ 307,577.00

And further that \$307,577.00 be raised as follows:
Departmental Receipts \$307,577.00

or take any other action in relation thereto.

ARTICLE 10. To see if the town will vote to transfer from available funds the sum of \$6,039.43 to pay the following outstanding bill from Fiscal Year 2022:

Morton Salt	\$6,039.43
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Or take any other action in relation thereto.

ARTICLE 11. To see if the Town will vote to transfer from available funds the sum of \$50,000.00 or any other sum, to purchase Firearms, or take any other action in relation thereto.

ARTICLE 12. To see if the Town will vote to transfer from available funds the sum of \$11,000.00 or any other sum, to purchase solar powered speed signs, or take any other action in relation thereto.

ARTICLE 13. To see if the Town will vote to transfer from available funds the sum of \$13,500.00 or any other sum, to purchase flashing crosswalk beacon systems, or take any other action in relation thereto.

ARTICLE 14. To see if the Town will vote to transfer from available funds the sum of \$150,000.00, or any other sum, to make repairs to the Newbury Elementary School Roof; or act in relation thereto.

ARTICLE 15. To see if the Town will vote to transfer from available funds the sum of \$72,645.00, or any other sum, to purchase a dump truck; or act in relation thereto.

ARTICLE 16. To see if the Town will vote to transfer from available funds the sum of \$1,000,000.00, or any other sum, to the Town Hall Project Account; or act in relation thereto.

ARTICLE 17. To see if the Town will appropriate \$XX,XXX,XXX.00 or any other amount, to pay costs of designing, constructing, reconstructing, furnishing and equipping the Town Hall, including the payment of all costs incidental and related thereto; to determine whether this amount should be raised by transfer from available funds, borrowing or otherwise, or to take any other action relative thereto.

Motion: move to approve seconded

ARTICLE 18. To see if the Town will vote to accept Massachusetts General Laws Chapter 59, Section 5C1/2, which provides for an additional real estate exemption for taxpayers, as defined by state law, who are granted personal exemptions on their domiciles under Massachusetts General Laws Chapter 59, Section 5, Clauses 22 (a-f), for qualifying veterans and surviving spouses, and to provide that the additional exemption shall be up to 100 percent of the personal exemption, to be effective for exemptions granted for any fiscal year beginning of after July 1, 2023, or take any other action relative thereto.

ARTICLE 19. To see if the Town will vote to initiate the process to aggregate electrical load pursuant to M.G.L. c. 164, § 134 and, further, to adopt the following resolution:

WHEREAS, the Commonwealth of Massachusetts has engaged in a process to establish a competitive market place through the restructuring of the electricity market; and

WHEREAS, citizens of Newbury have a substantial economic and social interest in terms of greater customer choice and opportunities for savings in this restructured market; and

WHEREAS, the Town of Newbury hereby finds that it may be in the interest of its citizens who are electric ratepayers, both residential and commercial/industrial, to develop and secure such approvals and enter into appropriate agreements with consultants, experts and attorneys in connection with the establishment and operation of an electricity aggregation plan.

BE IT THEREFORE RESOLVED that the Town of Newbury hereby:

Publicly declares its intent to become an aggregator of electric power on behalf of its residential and business electric customers and to reestablish such plan if its operation is suspended; and

To negotiate and enter into such contracts for power supply pursuant to the plan or services for such plan, with the understanding that if a power supply contract is executed, individual consumers would retain the option not to participate in the aggregation plan and, instead, to choose any electricity alternatives they desire and, further, to take any other action relative thereto.

ARTICLE 20. To see if the Town will vote to amend the Town of Newbury Bylaws by adding a new Section 118, Temporary Repairs to Private Ways to read as follows:

Chapter 118: Temporary Repairs to Private Ways

§ 118-1. Purpose and Applicability

1) Pursuant to Massachusetts General Laws Chapter 40, Section 6N, the Select Board is hereby authorized to make temporary repairs to private ways which have been open to the public for a period of at least five (5) years and have a current paved condition, out of funds appropriated for said purpose by Town Meeting. Repair does not mean new construction.

2) The repairs shall be those required by public necessity, including but not limited to:

- a) The necessity of providing adequate passable ways for public safety vehicles and other Town vehicles from public ways to private residences and Town-owned land and facilities.
- b) The Select Board upon recommendation by the Director of Public Works, shall make the determination of public necessity.

§ 118-2. Types of Repairs

- 1) The repairs must be temporary in nature, such as filling, grading, patching and surface coating, and may include such repairs to existing drainage swales, conduits and structures as are necessary to preserve the integrity of surface repairs to the roadway, and shall not be such as to constitute a reconstruction of the roadway.
- 2) The work may include removal of brush or limbs to the extent they are impeding safe passage on the way.
- 3) The repairs shall not include the construction of new drainage structures or features.
- 4) The temporary repair shall have a minimum expected life equal to five (5) years.

§ 118-3. Petition

A minimum of two-thirds (2/3) of the owners of property abutting the portion of the way proposed to be repaired must petition for the repair, with each lot ownership entity counting as one. The Select Board is authorized to waive this requirement.

§ 118-4. Status of Way

- 1) This bylaw does not confer any obligation or duty on the Town or its agents to either initially place or to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or want of repair.
- 2) The making of such temporary repairs to private ways, no matter how often or to what extent, does not constitute an acceptance by the Town of such private ways as public ways, nor does it constitute a way being "maintained and used as a public way" under the Massachusetts Subdivision Control Law.
- 3) Any private way repaired under the provisions of this bylaw need not be brought up to full Town standards and may continue to remain a private way. Repaired private ways may be brought to Town Meeting for acceptance as a public way by completing the steps required to construct a new way under the Town's Subdivision Control Regulations, which may be amended from time to time or otherwise as allowed by law. The Town shall have no obligation to pay for the improvements of a road to bring it up to Subdivision Standards.

§ 118-6. Liability

The Town, in making repairs under this section shall not be liable for any damages to persons or property caused by negligent repair or maintenance of the private way.

§ 118-7. Indemnity Agreement

- 1) No repair of a private way shall be undertaken until the Select Board has in its possession agreements executed by at least two-thirds (2/3rds) of abutting owners on the portion of the way to be repaired holding the Town harmless from any additional damage arising from any negligent repair, and which includes the following provisions:
 - a) that the Town assumes no liability to any owners by making the repairs;
 - b) jointly and severally, to indemnify and hold harmless the Town with respect to such statutory liability and any and all other liability for claims of injury, death or property damage to such owners or third parties caused by alleged defects in the way, including attorneys' fees and other costs of defense;

- c) that should the Town decide not to continue to provide temporary repairs to such way, the owners will themselves keep such way in good repair so as to minimize the liability of the Town for having undertaken such repairs;
- d) that such repair shall not constitute "maintenance" of such way, so as to give the way the status of a way "maintained and used as a public way" under the Massachusetts Subdivision Control Law; and
- e) that if assessed for repairs, the owners will not appeal the amount of the assessment and agree that the assessment may be apportioned over the number of years of the expected lifetime of the repair to be determined by the Select Board.

§ 118-8. Continually Open to Public Use

The indemnity agreement required in Section 118-7 shall provide that any private way for which repairs and maintenance are performed pursuant to this bylaw shall remain open to public use for a period of at least twenty (20) years.

§ 118-9. Severability

If any portion of this bylaw should be determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of this bylaw as a whole or impact any other portion thereof.

or to take any other action relative thereto.

AND YOU ARE HEREBY DIRECTED TO SERVE THIS WARRANT BY POSTING AN ATTESTED COPY THEREOF IN EACH VOTING DISTRICT, FOURTEEN DAYS AT LEAST BEFORE THE TIME OF HOLDING SAID MEETING.

HEREOF, FAIL NOT, AND MAKE DUE RETURN OF THE WARRANT WITH YOUR DOINGS THEREON TO THE TOWN CLERK AT THE TIME AND PLACE AFORESAID.

GIVEN UNDER OUR HANDS THIS 28nd DAY OF MARCH, 2023.

Alicia Greco, Chair

JR Colby, Vice Chair

Dana Packer, Clerk

Geraldine Heavey

Geoffrey Walker

SELECT BOARD, TOWN OF NEWBURY

A TRUE COPY ATTEST

PURSUANT TO THE ABOVE WARRANT TO ME DIRECTED, I HEREBY NOTIFY AND WARN THE INHABITANTS OF THE TOWN OF NEWBURY, QUALIFIED TO VOTE IN TOWN AFFAIRS, TO MEET AT THE TIME AND PLACE MENTIONED FOR THE PURPOSE HEREIN NAMED.

DATE:

CONSTABLE:

PURSUANT TO THE ABOVE WARRANT TO ME DIRECTED, I HAVE NOTIFIED AND WARNED THE INHABITANTS OF THE TOWN OF NEWBURY, QUALIFIED TO VOTE IN TOWN AFFAIRS, TO MEET AT THE TIME AND PLACE MENTIONED FOR THE PURPOSE HEREIN NAMED.

DATE:

CONSTABLE:

Town Administrators Report

- Reported that with the exception of the police department the Towns debt services are paid

G. Heavey inquired what the amount was. T. Blais stated would send her an email

Old Business

None

Correspondence

None

Meeting Updates

D. Packer provided update regarding Essex County Vet meeting. Going through their budget also but has not been voted on yet

A. Greco attended a MMA fiscal policy meeting. Governor's budget was a topic. Also discussed the student opportunity act. Chap. 70 money

Review of Meeting Minutes

Draft meeting minutes 2.14.23

Motion: JR Colby moved to approve the draft meeting minutes seconded, D. Packer and voted unanimously

Discussion: None

Warrants

Motion: JR Colby moved to sign warrants seconded, D. Packer and voted unanimously

Discussion: None

Roll Call Vote:

Executive Session:

Pursuant to M.G.L. c. 30A sec21(a)(2) the Board moves to enter into Executive Session to discuss strategy with respect to Collective Bargaining Contract with the Department of Public Works

A.Greco, I move we enter into Executive Session to discuss strategy with respect to a Collective Bargaining Contract with DPW because an open meeting may have a detrimental effect on the bargaining position of this body.

Second: JR Colby

Roll call vote:

Select Board:

JR Colby - Yes

Gerry Heavey - Yes

Dana Packer - Yes

Alicia Greco - Yes

Pursuant to M.G.L. c.30A, sec 21(a)(3) the Board moves to enter into Executive Session to discuss and vote to participate in the Teva, Allergan, CVS, Walgreens, & Walmart National Prescription Opioid Litigation Settlement Implementation Administrator

A. Greco, I move that the Board moves to enter into Executive Session to discuss and vote to participate in the Teva, Allergan, CVS, Walgreens, & Walmart National Prescription Opioid Litigation Settlement Implementation Administrator

Second: JR Colby

Roll call vote:

Select Board:

JR Colby - Yes

Gerry Heavey - Yes

Dana Packer - Yes

Alicia Greco - Yes

This meeting will not reconvene at the conclusion of the Executive Session

Respectfully submitted,
Julie O'Brien
Executive Administrator