

PROCEEDINGS OF ANNUAL TOWN MEETING
HELD ON MAY 6 & 10, 2006

PURSUANT TO THE FOREGOING WARRANT, THE LEGAL VOTERS OF THE TOWN OF ASHBURNHAM MET AT FAIRBANKS MEMORIAL TOWN HALL, 32 MAIN STREET, ASHBURNHAM ON MAY 6, 2006. WILLIAM WEBBER, DEPUTY MODERATOR, PRESIDED AT THE MEETING, WHICH WAS CALLED TO ORDER AT 10:10 AM WITH A QUORUM PRESENT. BEFORE THE MEETING STARTED, RONALD REED WAS HONORED BY SENATOR BREWER WITH A PROCLAMATION AND WAS GIVEN A CHAIR BY THE TOWN OF ASHBURNHAM FOR HIS YEARS OF SERVICE TO THE TOWN. THE MEETING ADJOURNED AT 4:39 PM. THE MEETING RECONVENED ON MAY 10, 2006 AT 7:08 PM. WITH A QUORUM PRESENT. DAVID UMINSKI, MODERATOR PRESIDED THE SECOND NIGHT OF THE MEETING BEGINNING WITH ARTICLE #27.

ARTICLE 1: To receive the reports of several town officers and all outstanding committees, or act in relation thereto. *(Requested by the Board of Selectmen)*

SELECTMEN RECOMMEND: YES **ADVISORY RECOMMEND:** YES **TAX RATE IMPACT:** N/A

ARTICLE 1 VOTED: On motion of Jonathan Dennehy, it was voted to receive the reports of several town officers and all outstanding committees.

Unanimous “YES”

ARTICLE 2: To see if the Town will vote to appropriate by transfer from available funds a sum of money to supplement existing departmental budgets for the current fiscal (2006) year, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: YES **ADVISORY RECOMMEND:** YES **TAX RATE IMPACT:** N/A

ARTICLE 2 VOTED: On motion of Christopher Gagnon, it was voted to transfer the sum of \$5,000 to the Town Administrator’s salary account, the sum of \$9,000 to the Treasurer/Collector’s salary account, the sum of \$18,000 to the Town Hall/VMS building expense account, and the sum of \$64,000 to the debt service account, all for the current fiscal year, and that to meet this appropriation the sum of \$30,000 be transferred from overlay surplus and the sum of \$66,000 be transferred from free cash.

Unanimous “YES”

ARTICLE 3: To raise and appropriate and/or transfer from available funds such sums of money as may be necessary to defray the expenses of the Town for the fiscal year commencing July 1, 2006 and to set the salary of elected officials; or act in relation thereto. *(Requested by the Board of Selectmen and Advisory Board)*

SELECTMEN RECOMMEND: YES **ADVISORY RECOMMEND:** YES **TAX RATE IMPACT:** N/A

| LINE | DEPARTMENT | FY05 SPENT | FY06 ACTUAL | FY07 TOWN ADMINISTRATOR REQUEST | FY07 ADVISORY BOARD RECOMMEND |
|------|--------------------|-------------|-------------|---------------------------------|-------------------------------|
| 1 | Moderator | \$ 100.00 | \$ 100.00 | \$ 100.00 | \$ 100.00 |
| 2 | Board of Selectmen | \$ 8,378.69 | \$ 9,050.00 | \$ 10,600.00 | \$ 10,600.00 |

| | | | | | |
|----|-----------------------------------|------------------------|------------------------|----------------------------------------|--------------------------------------|
| 3 | Town Administrator | \$123,589.29 | \$142,457.29 | \$ 142,259.70 | \$ 142,259.70 |
| 4 | Advisory Board | - | \$ 500.00 | \$ 1,500.00 | \$ 1,500.00 |
| 5 | Reserve Fund | - | \$ 95,000.00 | \$ 50,000.00 | \$ 50,000.00 |
| 6 | Town Accountant | \$ 42,910.80 | \$ 48,168.25 | \$ 49,676.18 | \$ 49,676.18 |
| 7 | Board of Assessors | \$ 37,621.29 | \$ 44,101.15 | \$ 60,084.00 | \$ 60,084.00 |
| 8 | Treasurer | \$ 84,129.49 | \$ 88,499.99 | \$ 68,520.15 | \$ 68,520.15 |
| 9 | Tax Title | \$ 42,069.92 | \$ 17,500.00 | \$ 15,600.00 | \$ 15,600.00 |
| 10 | Tax Collector | - | - | \$ 49,602.66 | \$ 49,602.66 |
| 11 | Tax Title | - | - | \$ 4,400.00 | \$ 4,400.00 |
| 12 | Town Clerk | \$ 43,204.55 | \$ 41,086.25 | \$ 46,680.28 | \$ 46,680.28 |
| 13 | Land Use | \$ 50,269.90 | \$ 75,067.68 | \$ 82,484.03 | \$ 82,484.03 |
| | | | | FY07 TOWN ADMINISTRATOR REQUEST | FY07 ADVISORY BOARD RECOMMEND |
| 14 | Town Hall & Stevens Memorial | \$ 59,845.84 | \$ 69,313.04 | \$ 80,947.20 | \$ 80,947.20 |
| 15 | Non-Departmental | \$105,872.70 | \$ 83,723.00 | \$ 147,302.00 | \$ 147,302.00 |
| 16 | Police | \$593,256.62 | \$678,161.09 | \$ 743,475.27 | \$ 743,475.27 |
| 17 | Fire | \$344,634.68 | \$419,173.67 | \$ 452,568.00 | \$ 452,568.00 |
| 18 | Emergency Dispatch | \$174,633.63 | \$194,118.01 | \$ 204,866.07 | \$ 204,866.07 |
| 19 | Weights & Measures | \$ 2,610.75 | \$ 3,050.00 | \$ 3,050.00 | \$ 3,050.00 |
| 20 | Inspections | \$ 37,196.59 | \$ 38,841.81 | \$ 40,025.81 | \$ 40,025.81 |
| 21 | Dog Officer | \$ 19,323.49 | \$ 20,189.86 | \$ 23,861.80 | \$ 23,861.80 |
| 22 | Trade & Monty Tech | \$397,924.00 | \$421,374.00 | \$ 409,399.00 | \$ 409,399.00 |
| 23 | Ash-West Regional School District | \$5,732,739.00 | \$5,918,112.00 | \$ 6,141,988.00 | \$ 6,141,988.00 |
| 24 | Highway | \$420,039.77 | \$464,767.35 | \$ 425,765.74 | \$ 425,765.74 |
| 25 | Snow & Ice | \$244,438.34 | \$100,000.00 | \$ 120,000.00 | \$ 120,000.00 |
| 26 | Waste Collection & Disposal | - | \$ 15,300.00 | \$ 20,890.00 | \$ 6,000.00 |
| 27 | Municipal Grounds | \$153,163.35 | \$175,500.00 | \$ 180,601.44 | \$ 180,601.44 |
| 28 | Board of Health | \$ 17,682.89 | \$ 18,094.00 | \$ 18,560.76 | \$ 18,560.76 |
| 29 | Council on Aging | \$ 23,464.00 | \$ 24,626.89 | \$ 36,656.88 | \$ 36,656.88 |
| 30 | Veterans' Services | \$ 7,535.00 | \$ 10,575.00 | \$ 10,610.00 | \$ 10,610.00 |
| 31 | Library | \$147,192.41 | \$153,000.00 | \$ 171,450.63 | \$ 171,450.63 |
| 32 | Historical Commission | - | \$ 500.00 | \$ 500.00 | \$ 500.00 |
| 33 | Debt Service | \$541,307.25 | \$582,393.52 | \$ 553,920.50 | \$ 553,920.50 |
| 34 | Employee Ins. Benefits | \$671,015.84 | \$766,698.41 | \$ 846,960.00 | \$ 846,960.00 |
| 35 | Water Fund | \$266,782.46 | \$281,251.27 | \$ 352,938.82 | \$ 352,938.82 |
| 36 | Sewer Fund | \$333,398.53 | \$294,818.11 | \$ 473,787.34 | \$ 473,787.34 |
| | | | | | |
| | ARTICLE 3 TOTAL | \$10,726,331.00 | \$11,295,111.00 | \$12,026,742.25 | \$12,026,742.25 |
| | | | | | |

Setting of Elected Salaries under Article 3:

- a. a. Town Moderator: \$100
- b. b. Board of Selectmen: Chairman - \$1,300; Clerk - \$1,100; Member - \$1,100
- c. c. Town Clerk: \$13,050.18
- d. d. Board of Health: \$140 per member

Transfers under Article 3:

- a. a. Water/Sewer Dept. receipts against line items 33,35 and 36: \$1,244,461
- b. b. Septic System Betterment receipts against line 33: \$19,854

ARTICLE 3 VOTED: On motion of Mark Carlisle, it was voted to raise and appropriate the sum of \$12,026,742.25 for the departments and purposes noted in the warrant, and to set the salaries of all elected officials as printed in the warrant, and that to meet this appropriation the sum of \$10,534,427.25 be raised and appropriated, that \$532,372 be transferred from water receipts, that \$765,089 be transferred from sewer receipts, that \$175,000 be transferred from light department receipts and \$19,854 be transferred from septic repair loan assessment collections.

| LINE | DEPARTMENT | FY07 ADVISORY BOARD RECOMMEND |
|------|-----------------------------------|-------------------------------|
| 1 | Moderator | \$ 100.00 |
| 2 | Board of Selectmen | \$ 10,600.00 |
| 3 | Town Administrator | \$ 142,259.70 |
| 4 | Advisory Board | \$ 1,500.00 |
| 5 | Reserve Fund | \$ 50,000.00 |
| 6 | Town Accountant | \$ 49,676.18 |
| 7 | Board of Assessors | \$ 60,084.00 |
| 8 | Treasurer | \$ 68,520.15 |
| 9 | Tax Title | \$ 15,600.00 |
| 10 | Tax Collector | \$ 49,602.66 |
| 11 | Tax Title | \$ 4,400.00 |
| 12 | Town Clerk | \$ 46,680.28 |
| 13 | Land Use | \$ 82,484.03 |
| 14 | Town Hall & Stevens Memorial | \$ 80,947.20 |
| 15 | Non-Departmental | \$ 147,302.00 |
| 16 | Police | \$ 743,475.27 |
| 17 | Fire | \$ 452,568.00 |
| 18 | Emergency Dispatch | \$ 204,866.07 |
| LINE | DEPARTMENT | FY07 ADVISORY BOARD RECOMMEND |
| 19 | Weights & Measures | \$ 3,050.00 |
| 20 | Inspections | \$ 40,025.81 |
| 21 | Dog Officer | \$ 23,861.80 |
| 22 | Trade & Monty Tech | \$ 409,399.00 |
| 23 | Ash-West Regional School District | \$ 6,141,988.00 |
| 24 | Highway | \$ 425,765.74 |
| 25 | Snow & Ice | \$ 120,000.00 |
| 26 | Waste Collection & Disposal | \$ 6,000.00 |

| | | |
|----|------------------------|------------------------|
| 27 | Municipal Grounds | \$ 180,601.44 |
| 28 | Board of Health | \$ 18,560.76 |
| 29 | Council on Aging | \$ 36,656.88 |
| 30 | Veterans' Services | \$ 10,610.00 |
| 31 | Library | \$ 171,450.63 |
| 32 | Historical Commission | \$ 500.00 |
| 33 | Debt Service | \$ 553,920.50 |
| 34 | Employee Ins. Benefits | \$ 846,960.00 |
| 35 | Water Fund | \$ 352,938.82 |
| 36 | Sewer Fund | \$ 473,787.34 |
| | | |
| | ARTICLE 3 TOTAL | \$12,026,742.25 |
| | | |

Setting of Elected Salaries under Article 3:

- a. a. Town Moderator: \$100
- b. b. Board of Selectmen: Chairman-\$1,300; Clerk-\$1,100; Member-\$1,100
- c. c. Town Clerk: \$13,050.18
- d. d. Board of Health: \$140 per member

Transfers under Article 3:

- a. a. Water/Sewer Dept. receipts against line items 33,35 and 36: \$1,297,461
- b. b. Septic System Betterment receipts against line 33: \$19,854
- c. c. Light Dept. receipts against indirect costs: \$175,000

Majority "YES"

ARTICLE 4: To see if the Town will vote to authorize the transfer of \$40,000 from any excess in the Municipal Light Plant Funds to the town treasury, as authorized by its Light Board in accordance with Chapter 164 of the General Laws of the Commonwealth, or act in relation thereto. *(Requested by the Light Department)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 4 VOTED: On motion of George Ainsleigh, it was voted to authorize the transfer of \$40,000 from excess in the Municipal Light Plant Funds to the town treasury, as authorized by its Light Board in accordance with Chapter 164 of the General Laws of the Commonwealth.

Unanimous "YES"

ARTICLE 5: To see if the Town will vote to authorize the Town Treasurer to enter into a compensating balance agreement or agreements for Fiscal Year 2007 pursuant to Chapter 44, Section 53F of the General Laws, or act in relation thereto. *(Requested by the Town Treasurer)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 5 VOTED: On motion of Christopher Gagnon, it was voted to authorize the Town Treasurer to enter into a compensating balance agreement or agreements for Fiscal Year 2007 pursuant to Chapter 44, Section 53F of the General Laws.

Unanimous "YES"

ARTICLE 6: To see if the Town will vote to authorize the Town Administrator to enter into a contract or contracts with the Massachusetts Highway Department for the construction and maintenance of town roads and for the purchase of qualifying equipment or vehicles, and to authorize the use of leasing for a period of three years, in conformance with the Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 6 VOTED: On motion of Mark Carlisle, it was voted to authorize the Town Administrator to enter into a contract or contracts with the Massachusetts Highway Department for the construction and maintenance of town roads in conformance with the Massachusetts General Laws.

Unanimous "YES"

ARTICLE 7: To see if the Town will vote to raise and appropriate or appropriate from available funds a sum of money if they become available from the Mass. Highway Department Chapter 90 bond issue proceeds to be used by the Highway Department for the repair and maintenance of town roads in conformance with the Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 7 VOTED: On motion of Jonathan Dennehy, it was voted to appropriate the sum of \$212,556 from the Mass. Highway Department Chapter 90 bond issue proceeds to be used by the Highway Department for the repair and maintenance of town roads and for the purpose of qualifying equipment of vehicles, and to authorize the use of leasing for a period of three years, in connection with the purposes of this article, all in conformance with the Massachusetts General Laws.

Unanimous "YES"

ARTICLE 8: To see if the Town will vote to raise and appropriate the sum of \$170,000 for the reconstruction of town roads and sidewalks with permanent pavement of a lasting character including necessary engineering and inspection fees, provided that no funds be spent and that no bonds or notes shall be issued unless the Town has voted at an election to exempt this expenditure from the provisions of Proposition 2 ½, so called, or act in relation thereto. *(Requested by the Board of Selectmen/Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: \$.27

ARTICLE 8 VOTED: On motion of Christopher Gagnon, it was voted to raise by taxation and appropriate the sum of \$170,000 for the reconstruction of town roads and sidewalks with permanent pavement of a lasting character including necessary engineering and inspection fees, provided that no funds be spent and that no bonds or notes shall be issued unless the Town has voted at an election to exempt this expenditure from the provisions of Proposition 2 1/2., so called.

Unanimous "YES"

ARTICLE 9: To see if the Town will vote to authorize a revolving fund, in accordance with G.L. c. 44, Sec. 53E ½, Said funds to be expended for waterways improvement and maintenance by the Ashburnham Lakes Coalition without further appropriation; said expenditures shall not exceed the current fund balance of \$8,700, or act in relation thereto. *(Requested by the Ashburnham Lakes Coalition)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 9 VOTED: On motion of Mark Carlisle, it was voted to authorize a revolving fund, in accordance with G.L. c. 44, Sec. 53E ½, and that said funds be expended for waterways improvement and maintenance by the Ashburnham Lakes Coalition without further appropriation; and further that said expenditures shall not exceed the current account balance of \$8,700.

Unanimous “YES”

ARTICLE 10: To see if the Town will vote to authorize a revolving fund, in accordance with G.L. c. 44, Sec. 53E ½, to be expended by the Town Administrator, for the purpose of demolishing, removing, securing or otherwise remedying conditions on real property determined to be unsafe or dangerous under G.L. c. 143, Sec. 6, et. seq. or G.L. c. 139, Sec. 3A, including the costs of engineering and legal services related thereto; said fund to be established from money recovered from demolition liens; said expenditures not to exceed \$10,000 unless an increase in such limitation is approved by the Board of Selectmen, or act in relation thereto. *(Requested by the Board of Selectmen)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 10 VOTED: On motion of Jonathan Dennehy, it was voted to authorize a revolving fund, in accordance with G.L. c. 44, Sec. 53E 1/2, to be expended by the Town Administrator, for the purpose of demolishing, removing, securing or otherwise remedying conditions on real property determined to be unsafe or dangerous under G.L. c. 143, Sec. 6, et. seq. or G.L. c. 139, Sec. 3A, including the costs of engineering and legal services related thereto; said fund to be established from money recovered from demolition liens; said expenditures not to exceed \$10,000.

Unanimous “YES”

ARTICLE 11: To see if the Town will vote to authorize a revolving fund, in accordance with G.L. c. 44, Sec. 53E ½; to receive receipts collected as a result of charges to responsible parties for the disposal of hazardous materials pursuant to G.L. c. 21E, Sec.4; said funds to be expended by the Fire Chief without further appropriation for the disposal of hazardous materials; said expenditures not to exceed \$15,000 unless an increase in such limitation is approved by the Board of Selectmen; or act in relation thereto. *(Requested by the Fire Department)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 11 VOTED: On motion of Paul Zbikowski, it was voted to authorize a revolving fund, in accordance with G.L. c 44, Sec. 53E ½; to receive receipts collected as a result of charges to responsible parties for the disposal of hazardous materials pursuant to G.L. c 21E, Sec. 4; said funds to be expended by the Fire Chief without further appropriation for the disposal of hazardous materials; said expenditures not to exceed \$15,000 unless an increase in such limitation is approved by the Board of Selectmen.

Unanimous “YES”

ARTICLE 12: To see if the Town will vote to adopt a new Wetlands Protection Bylaw as listed below, or act in relation thereto. *(Requested by the Conservation Commission)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

Town of Ashburnham Wetlands Protection Bylaw

Draft 03-27-06

Section 1: Purpose

- 1.1 The purpose of this Bylaw is to protect resource areas in the Town of Ashburnham by overseeing all activities deemed by the Conservation Commission (hereinafter "Commission") likely to have a significant or cumulative effect upon the following resource area interests: protection of public and private water supplies, protection of groundwater supply, flood control, storm damage prevention, prevention of pollution, protection fisheries, and protection of wildlife habitat, as identified in the Wetlands Protection Act M.G.L. c.131 s.40
- 1.2 It shall be the responsibility of the Conservation Commission to administer the protection of all wetlands within the geographical boundaries of the Town of Ashburnham, as defined in the Massachusetts Wetlands Protection Act, M.G.L. c.131, s.40, and enforce all provisions of this Bylaw as described below and adopt regulations for administrating this Bylaw.

Section 2: Jurisdiction

- 2.1 Except as permitted by the Commission or as provided by this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any wetlands; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; vernal pools; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; and, lands within 200 feet of a perennial river or stream, (hereinafter "resource areas").
- 2.2 Consistent with M.G.L. c.131 s.40 310 CMR 10.02, any activity other than minor activities identified in 310 CMR 10.02(2)(b)1 proposed or undertaken within 100 feet of a resource area (hereinafter called the Buffer Zone) which, in the judgment of the Commission, will alter a resource area is subject to regulation under this Bylaw, and requires the filing of an application with the Commission.

Section 3: Waivers

- 3.1 Strict compliance with this Bylaw may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing. The waiver shall be presented at the time of filing along with a written justification stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw.

Section 4: Exceptions

- 4.1 Pre-existing activities or structures not meeting the requirements set forth in this Bylaw need not be discontinued or removed but shall be deemed to be nonconforming. No new activity shall be commenced and no new structure shall be located closer to the edge of wetlands than existing non-conforming like activities or structures, but the Commission may permit new activity or structures as close to the edge of a resource area if it finds that such activity or structure will not affect the interests protected by the Bylaw no more adversely than the existing activity or structure.
- 4.2 The permit and application required by this Bylaw shall not be required for work on any pre-

existing lot when the alteration is required to protect public health and safety, provided that the applicant receives a Determination of Negligible Impact from the Commission as described in Section 5.

4.3 4.3 The permit and application required by this Bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public. An emergency project shall mean any project certified to be any emergency by the Ashburnham Conservation Commission or its agents within 24 hours of notice. Work necessary to abate the emergency shall proceed provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work, provided that the Commission certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of said emergency project a permit application shall be filed with the Commission for review as provided in the Bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Section 5: Applications

- 5.1 Written application shall be filed with the Commission to perform activities affecting resource areas protected by this Bylaw. The application, formally known as the Notice of Intent, Request for Determination of Applicability, or Abbreviated Notice of Resource Area Delineation, shall include such information and plans as are deemed necessary by the Commission to describe all resource areas and/or proposed activities and their effects on the resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit, formally known as an Order of Conditions or Conditions imposed on a Negative Determination of Applicability, issued pursuant to this Bylaw.
- 5.2 Any person may request, in writing, that the Commission review a minor activity, as defined in the Regulations of the Commission, for a Determination of Negligible Impact. The Commission shall review the request at a public hearing within 21 days from receipt of the request. In order to approve the request, the Commission must find that the proposed activity will have negligible or no impact on a resource area. A Request for Determination of Negligible Impact is decided upon at the sole discretion of the Commission, can be denied for good cause including failure to submit information requested by the Commission and can only be approved by a *super majority* vote of the Commission members present. A letter shall be sent informing the applicant of the Commission's decision within 21 days of the decision.
- 5.3 The Commission may accept as the permit application submittal under this Bylaw, the permit applications filed under the Wetlands Protection Act, M.G.L. c.131, s.40 and in accordance with Regulations set forth in 310 CMR 10.00.
- 5.4 At the time of a permit application submittal the applicant shall pay a filing fee specified in the Regulations of the Commission. The fee shall be deposited in a special account established pursuant to M.G.L. c.44, s.53E, from which the Commission may withdraw funds without further appropriation for use only for wetland protection activities.
- 5.5 The Commission is authorized to require the applicant to pay all reasonable costs and expenses for expert consultation deemed necessary by the Commission to review applications for compliance with this Bylaw and its Regulations. The specific consultant services may include, but are not limited to, performing or verifying, the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations,

hydrogeologic and drainage analysis; soils analysis, and researching environmental or land use law. The Commission shall make proper provision to continue the hearing until all information is received, but in no case shall this procedure be used so as to cause unreasonable delay.

- 5.6 The applicant may seek an administrative appeal from the selection of the outside consultant to the Ashburnham Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant chosen by the Conservation Commission has a conflict of interest or does not possess the minimum required qualifications. The minimum qualification shall consist either of an M.S. degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The required time limits for action upon an application by the Conservation Commission shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection of the Conservation Commission shall stand. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in these rules.
- 5.7 Failure of the applicant to pay such costs within 21 days after the close of the hearing shall be cause for the Commission to deny the issuance of a Determination or Order of Conditions.
- 5.8 The Commission may waive a filing fee, consultant fee, and/or costs and expenses for a permit application or Request for Determination filed by a town officer or agency.

Section 6: Public Notice and hearing.

- 6.1 In all respects, public notice and hearings shall be as provided in M.G.L. c.131, s.40, and regulations hereunder.
- 6.2 The Commission in an appropriate case may combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act, M.G.L. c.131, s.40 and Regulations 310 CMR 10.00

Section 7: Permits and Conditions

- 7.1 In all respects, procedures shall be as provided in M.G.L. c.131 s.40, and regulations hereunder
- 7.2. If the Commission, after a Public Hearing, determines that the activities which are subject to the permit application or the land or water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.
- 7.3 The Commission is empowered to deny a permit for the applicant's failure to meet the requirements of this Bylaw; to submit necessary information and plans requested by the Commission; to meet the design specifications, performance standards, and other requirements in regulations of the Commission; to avoid or prevent unacceptable significant or cumulative effects upon the wetland resource areas or interests protected by this Bylaw; or where it finds that no conditions are adequate to protect such values and interests.

- 7.4 7.4 The Commission may require in its regulations that the applicant maintain a strip of continuous, undisturbed vegetative cover and a strip of continuous area where no permanent structures or impervious surfaces exist within these areas, unless the applicant presents credible evidence which in the judgment of the Commission the area or part of it may be disturbed without harm to the values protected by this Bylaw.
- 7.5 A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be extended, provided that a request for an Extension is received in writing by the Commission 30 days prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land, their successors or assigns.
- 7.6 The Commission, in an appropriate case, may combine the decision issued under this Bylaw with the decision issued under M.G.L. c.131, s.40, and regulations hereunder.

Section 8 Definitions

- 8.1 The following definitions shall apply in the interpretation and implementation of this Bylaw.
- 8.1.1 Except as otherwise provided in this Bylaw or in regulations of the Commission, the definitions of terms in this Bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 s.40) and Regulations (310 CMR 10.00).
- 8.1.2 Buffer Zone – non-wetland areas, immediately adjacent to, and extending in a horizontal direction from any resource area, the activities on which are having or may have a significant or cumulative effect upon wetland values due to factors, such as, but not limited to, soil type, ground cover, slope and project proposed.
- 8.1.3 Resource Area – wetlands; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; vernal pools; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; respected buffer zones associated with the aforesaid resource areas; and, lands within 200 feet of a perennial river or stream.
- 8.1.4 Vernal Pool - a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, for site certified by the Massachusetts Division of Fisheries and Wildlife or where credible scientific evidence is presented demonstrate the area meets the Certification Criteria of The Massachusetts Natural Heritage & Endangered Species Program Vernal Pool Certification Program.

Section 9: Enforcement

- 9.1 In accordance with applicable law, including but not limited to the provisions of M.G.L. c.40, s.21D and 31, the Commission and or Town may enforce the provisions of this Bylaw and the Massachusetts Wetlands Protection Act, restrain violations thereof and seek injunctions and judgments to secure compliance with its Orders of Conditions.
- 9.2 The Commission, its agents, officers, and employees shall have authority to enter upon privately

owned land for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

9.3 The Commission shall have authority to enforce this Bylaw, its regulations, and permits issued thereunder by violation notices, non-criminal citations under M.G.L. c.40 s.21D, and civil and criminal court actions. Any person who violates provisions of this Bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

9.4 Upon written request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in the enforcement of this Bylaw.

9.5 As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in M.G.L. c.40 s.21D, which has been adopted by the Town in Article V Section 1 of the general Bylaws.

Section 10. Burden of Proof

10.110.1 The applicant for a permit shall have the sole burden of proving by a preponderance of credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide such adequate evidence to the Commission supporting, this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 11. Appeals

11.1 11.1 At the applicant's request, a decision of the Commission shall be reviewable in the Superior Court in accordance with M.G.L. c.249 s.4., each party independently responsible for their own legal expenses.

Section 12. Relation to the Wetlands Protection Act

12.1 This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. c.131 s.40) and Regulations (310 CMR 10.00) thereunder.

Section 13: Regulations

13.1 After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this Bylaw which shall be effective upon its filing with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.

13.2 At a minimum these regulations shall define key terms in this Bylaw not inconsistent with the Bylaw and procedures governing the amount and filing of fees. Said regulations shall be reviewed by a state certified wetland scientist of the Commission's choosing prior to adoption.

Section 14: Severability

14.114.1 The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously had been

issued.

Section 15: Security

- 15.1 In addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed as part of any Permit issued hereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:
- 15.1.1 15.1.1 By a corporate bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit. Such deposit shall be held by the Town Treasurer.
- 15.1.2 15.1.2 By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality, whereby the permit conditions shall be performed and observed before any lot may be conveyed, other than by mortgage deed.

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT:
N/A

ARTICLE 12 VOTED: On motion of Jonathan Dennehy, it was voted to adopt a new Wetlands Protection Bylaw as listed below:

Town of Ashburnham Wetlands Protection Bylaw

Section 1: Purpose

- 1.1 The purpose of this Bylaw is to protect resource areas in the Town of Ashburnham by overseeing all activities deemed by the Conservation Commission (hereinafter "Commission") likely to have a significant or cumulative effect upon the following resource area interests: protection of public and private water supplies, protection of groundwater supply, flood control, storm damage prevention, prevention of pollution, protection fisheries, and protection of wildlife habitat, as identified in the Wetlands Protection Act M.G.L. c.131 s.40
- 1.3 1.3 It shall be the responsibility of the Conservation Commission to administer the protection of all wetlands within the geographical boundaries of the Town of Ashburnham, as defined in the Massachusetts Wetlands Protection Act, M.G.L. c.131, s.40, and enforce all provisions of this Bylaw as described below and adopt regulations for administrating this Bylaw.

Section 2: Jurisdiction

- 2.1 Except as permitted by the Commission or as provided by this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any wetlands; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; vernal pools; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; and, lands within 200 feet of a perennial river or stream, (hereinafter "resource areas").
- 2.2 Consistent with M.G.L. c.131 s.40 310 CMR 10.02, any activity other than minor activities identified in 310 CMR 10.02(2)(b)1 proposed or undertaken within 100 feet of a resource area (hereinafter called the Buffer Zone) which, in the judgment of the Commission, will alter a

resource area is subject to regulation under this Bylaw, and requires the filing of an application with the Commission.

Section 3: Waivers

- 3.1 Strict compliance with this Bylaw may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing. The waiver shall be presented at the time of filing along with a written justification stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Bylaw.

Section 4: Exceptions

- 4.1 Pre-existing activities or structures not meeting the requirements set forth in this Bylaw need not be discontinued or removed but shall be deemed to be nonconforming. No new activity shall be commenced and no new structure shall be located closer to the edge of wetlands than existing non-conforming like activities or structures, but the Commission may permit new activity or structures as close to the edge of a resource area if it finds that such activity or structure will not affect the interests protected by the Bylaw no more adversely than the existing activity or structure.
- 4.2 The permit and application required by this Bylaw shall not be required for work on any pre-existing lot when the alteration is required to protect public health and safety, provided that the applicant receives a Determination of Negligible Impact from the Commission as described in Section 5.
- 4.4 4.4 The permit and application required by this Bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public. An emergency project shall mean any project certified to be any emergency by the Ashburnham Conservation Commission or its agents within 24 hours of notice. Work necessary to abate the emergency shall proceed provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work, provided that the Commission certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of said emergency project a permit application shall be filed with the Commission for review as provided in the Bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Section 5: Applications

- 5.1 Written application shall be filed with the Commission to perform activities affecting resource areas protected by this Bylaw. The application, formally known as the Notice of Intent, Request for Determination of Applicability, or Abbreviated Notice of Resource Area Delineation, shall include such information and plans as are deemed necessary by the Commission to describe all resource areas and/or proposed activities and their effects on the resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit, formally known as an Order of Conditions or Conditions imposed on a Negative Determination of Applicability, issued pursuant to this Bylaw.

- 5.2 Any person may request, in writing, that the Commission review a minor activity, as defined in the Regulations of the Commission, for a Determination of Negligible Impact. The Commission shall review the request at a public hearing within 21 days from receipt of the request. In order to approve the request, the Commission must find that the proposed activity will have negligible or no impact on a resource area. A Request for Determination of Negligible Impact is decided upon at the sole discretion of the Commission, can be denied for good cause including failure to submit information requested by the Commission and can only be approved by a *super majority* vote of the Commission members present. A letter shall be sent informing the applicant of the Commission's decision within 21 days of the decision.
- 5.3 The Commission may accept as the permit application submittal under this Bylaw, the permit applications filed under the Wetlands Protection Act, M.G.L. c.131, s.40 and in accordance with Regulations set forth in 310 CMR 10.00.
- 5.4 At the time of a permit application submittal the applicant shall pay a filing fee specified in the Regulations of the Commission. The fee shall be deposited in a special account established pursuant to M.G.L. c.44, s.53E, from which the Commission may withdraw funds without further appropriation for use only for wetland protection activities.
- 5.5 The Commission is authorized to require the applicant to pay all reasonable costs and expenses for expert consultation deemed necessary by the Commission to review applications for compliance with this Bylaw and its Regulations. The specific consultant services may include, but are not limited to, performing or verifying, the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; soils analysis, and researching environmental or land use law. The Commission shall make proper provision to continue the hearing until all information is received, but in no case shall this procedure be used so as to cause unreasonable delay.
- 5.6 The applicant may seek an administrative appeal from the selection of the outside consultant to the Ashburnham Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant chosen by the Conservation Commission has a conflict of interest or does not possess the minimum required qualifications. The minimum qualification shall consist either of an M.S. degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The required time limits for action upon an application by the Conservation Commission shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection of the Conservation Commission shall stand. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in these rules.
- 5.7 Failure of the applicant to pay such costs within 21 days after the close of the hearing shall be cause for the Commission to deny the issuance of a Determination or Order of Conditions.
- 5.8 The Commission may waive a filing fee, consultant fee, and/or costs and expenses for a permit application or Request for Determination filed by a town officer or agency.

Section 6: Public Notice and hearing.

- 6.1 In all respects, public notice and hearings shall be as provided in M.G.L. c.131, s.40, and regulations hereunder.

- 6.2 The Commission in an appropriate case may combine its hearing under this Bylaw with the hearing conducted under the Wetlands Protection Act, M.G.L. c.131, s.40 and Regulations 310 CMR 10.00

Section 7: Permits and Conditions

- 7.1 In all respects, procedures shall be as provided in M.G.L. c.131 s.40, and regulations hereunder
- 7.2. If the Commission, after a Public Hearing, determines that the activities which are subject to the permit application or the land or water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this Bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.
- 7.3 The Commission is empowered to deny a permit for the applicant's failure to meet the requirements of this Bylaw; to submit necessary information and plans requested by the Commission; to meet the design specifications, performance standards, and other requirements in regulations of the Commission; to avoid or prevent unacceptable significant or cumulative effects upon the wetland resource areas or interests protected by this Bylaw; or where it finds that no conditions are adequate to protect such values and interests.
- 7.5 7.5 The Commission may require in its regulations that the applicant maintain a strip of continuous, undisturbed vegetative cover and a strip of continuous area where no permanent structures or impervious surfaces exist within these areas, unless the applicant presents credible evidence which in the judgment of the Commission the area or part of it may be disturbed without harm to the values protected by this Bylaw.
- 7.5 A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission, in its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be extended, provided that a request for an Extension is received in writing by the Commission 30 days prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land, their successors or assigns.
- 7.6 The Commission, in an appropriate case, may combine the decision issued under this Bylaw with the decision issued under M.G.L. c.131, s.40, and regulations hereunder.

Section 8 Definitions

- 8.1 The following definitions shall apply in the interpretation and implementation of this Bylaw.
- 8.1.1 Except as otherwise provided in this Bylaw or in regulations of the Commission, the definitions of terms in this Bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 s.40) and Regulations (310 CMR 10.00).

- 8.1.2 Buffer Zone – non-wetland areas, immediately adjacent to, and extending in a horizontal direction from any resource area, the activities on which are having or may have a significant or cumulative effect upon wetland values due to factors, such as, but not limited to, soil type, ground cover, slope and project proposed.
- 8.1.3 Resource Area – wetlands; marshes; wet meadows; bogs; swamps; lakes; ponds; rivers; streams; creeks; banks; vernal pools; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; respected buffer zones associated with the aforesaid resource areas; and, lands within 200 feet of a perennial river or stream.
- 8.1.4 Vernal Pool - a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, for site certified by the Massachusetts Division of Fisheries and Wildlife or where credible scientific evidence is presented demonstrate the area meets the Certification Criteria of The Massachusetts Natural Heritage & Endangered Species Program Vernal Pool Certification Program.

Section 9: Enforcement

- 9.1 In accordance with applicable law, including but not limited to the provisions of M.G.L. c.40, s.21D and 31, the Commission and or Town may enforce the provisions of this Bylaw and the Massachusetts Wetlands Protection Act, restrain violations thereof and seek injunctions and judgments to secure compliance with its Orders of Conditions.
- 9.2 The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.
- 9.3 The Commission shall have authority to enforce this Bylaw, its regulations, and permits issued thereunder by violation notices, non-criminal citations under M.G.L. c.40 s.21D, and civil and criminal court actions. Any person who violates provisions of this Bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- 9.4 Upon written request of the Commission, the Board of Selectmen and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in the enforcement of this Bylaw.
- 9.5 Any person who violates any provision of this Bylaw or Regulations, any Order of Conditions, or any Permit, or Enforcement Order issued thereunder, with or without conditions issued pursuant to it may be punished by a fine in the amount of \$100 per violation, per day. Each day or portion thereof during which a violation continues shall constitute a separate offense; if there is more than one, each condition violated shall constitute a separate offense. The Commission, its agents, officers, employees or any police officer shall be empowered to enforce this Bylaw.

Section 10. Burden of Proof

- 10.1 The applicant for a permit shall have the sole burden of proving by a preponderance of credible

evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this Bylaw. Failure to provide such adequate evidence to the Commission supporting, this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

Section 11. Appeals

11.1 At the applicant's request, a decision of the Commission shall be reviewable in the Superior Court in accordance with M.G.L. c.249 s.4., each party independently responsible for its own legal expenses.

Section 12. Relation to the Wetlands Protection Act

12.1 This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. c.131 s.40) and Regulations (310 CMR 10.00) thereunder.

Section 13: Regulations

13.1 After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this Bylaw which shall be effective upon its filing with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.

13.2 At a minimum these regulations shall define key terms in this Bylaw not inconsistent with the Bylaw and procedures governing the amount and filing of fees. Said regulations shall be reviewed by a state certified wetland scientist of the Commission's choosing prior to adoption.

Section 14: Severability

14.214.2 The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously had been issued.

Section 15: Security

15.1 In addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed as part of any Permit issued hereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

15.1.3 15.1.3 By a corporate bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit. Such deposit shall be held by the Town Treasurer.

By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality, whereby the permit conditions shall be performed and observed before any lot may be conveyed, other than by mortgage deed.

73 YES 48 NO

ARTICLE 13: To see if the Town will vote to authorize an offset receipt account, in accordance with G.L. c. 44, Sec 53E, to receive receipts collected as a result of charges to wetlands altering permit

filers under the Town's wetlands protection by-law; said funds to be expended by the Conservation Commission without further appropriation for the purpose of executing its duties under the provisions of State law and the local wetlands protection by-law; said expenditures not to exceed \$30,000, or act in relation thereto. *(Requested by the Conservation Commission)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 13 VOTED: On motion of Jonathan Dennehy, it was voted to authorize an offset receipt account, in accordance with G.L. c 44, Sec. 53E, to receive receipts collected as a result of charges to wetlands altering permit filers under the Town's wetlands protection by-law; said funds to be expended by the Conservation Commission without further appropriation for the purpose of executing its duties under the provisions of State law and the local wetlands protection by-law; said expenditures not to exceed \$30,000.

Unanimous "YES"

ARTICLE 14: To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds, a sum of money to pay for the preparation of a forest stewardship plan for the Bush Hill conservation property, or act in relation thereto. *(Requested by the Conservation Commission)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 14 VOTED: On motion of Christopher Gagnon, it was voted to appropriate by transfer from overlay surplus the sum of \$4,000 to pay for the preparation of a forest stewardship plan for the Bush Hill conservation property.

Unanimous "YES"

ARTICLE 15: To see if the Town will vote to accept the provisions of MGL Ch. 44 sec. 53G allowing the Conservation Commission to establish a fund to collect fees from project applicants for the purpose of conducting wetlands and other specialized studies, or act in relation thereto. *(Requested by the Conservation Commission)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 15 VOTED: On motion of Jonathan Dennehy, it was voted to accept the provisions of MGL Ch. 44 sec. 53G allowing the Conservation Commission to establish a fund to collect fees from project applicants for the purpose of conducting wetlands and other specialized studies.

Unanimous "YES"

ARTICLE 16: To see if the Town will vote to raise and appropriate or appropriate from available funds a sum of money to pay for weapons and equipment for the Police Department, or act in relation thereto. *(Requested by Board of Selectmen, Town Administrator, Police Chief)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 16 VOTED: On motion of Jonathan Dennehy, it was voted to appropriate by transfer from overlay surplus the sum of \$11,986 to pay for weapons and other equipment for the Police Department.

Unanimous “YES”

ARTICLE 17: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$12,500 for the revaluation of real estate and personal property in the town, or act in relation thereto. *(Requested by Board of Assessors)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 17 VOTED: On motion of Richard Coswell, it was voted to appropriate by transfer from overlay surplus the sum of \$12,500 for the revaluation of real estate and personal property in the town.

Unanimous “YES”

ARTICLE 18: To see if the Town will vote to accept the provisions of MGL Chapter 40, Section 8G which authorizes the Town to enter into mutual aid agreements with other police departments, or to take any other action in relation thereto. *(Requested by Police Department)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 18 VOTED: On motion of Christopher Gagnon, it was voted to accept the provisions of MGL Chapter 40, Section 8G which authorizes the Town to enter into mutual aid agreements with other police departments.

Unanimous “YES”

ARTICLE 19: To see if the Town will vote to allow the Board of Selectmen to designate the proceeds from the sale of the Central Street Fire Station to be used towards the cost of building the new Public Safety Facility, or act in relation thereto. *(Requested by Board of Selectmen and Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 19 VOTED: On motion of Jonathan Dennehy, it was voted to designate the proceeds from the sale of the Central Street Fire Station in the amount of \$136,400 to be used towards the cost of building the new Public Safety Facility.

Unanimous “YES”

ARTICLE 20: To see if the Town will vote to approve the Non-union Personnel By-law which is available for review at all Town Offices or on the Town Website; or act in relation thereto. *(Requested by Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 20 VOTED: On motion of Christopher Gagnon, it was voted to approve the Non-union Personnel By-law as attached.

Majority “YES”

ARTICLE 21: To see if the Town will vote to change the charge for a Business Certificate to \$20.00, or act in relation thereto. *(Requested by the Town Clerk)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 21 VOTED: On motion of Christopher Gagnon, it was voted to change the charge for a Business Certificate to \$20.00.

Majority “YES”

ARTICLE 22: To see if the Town will vote to raise and appropriate the sum of \$13,000 for the purchase of two new Accu-Vote Electronic Tabulating Systems for the Election and Registration Department, or act in relation thereto. *(Requested by the Town Clerk)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 22 VOTED: On motion of Jonathan Dennehy, it was voted to raise by taxation and appropriate, the sum of \$13,000 for the purchase of two new Accu-Vote Electronic Tabulating Systems for the Election and Registration Department.

Unanimous “YES”

ARTICLE 23: To see if the Town will vote to approve the amount of the \$1,099,505 debt authorized by vote of the Ashburnham-Westminster Regional School District School Committee for the purpose of financing costs of reconstructing, making, extraordinary repairs to and equipping the Oakmont Athletic Field, Oakmont Track, and to the extent funds permit, the repaving of Overlook driveway and parking areas, including the payment of any and all other costs incidental and related thereto, which vote provides that no debt shall be issued thereunder unless and until each of the Towns of Ashburnham and Westminster shall have voted to exempt debt service on its apportioned share of any bonds or notes issued thereunder from the limitations of Proposition 2 1/2, so-called, or act in relation thereto. *(Requested by the Ashburnham-Westminster Regional School Committee)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: \$.21

ARTICLE 23 VOTED: On motion of Keith Glenny, it was voted to approve the amount of \$1,099,505 debt authorized by vote of the Ashburnham-Westminster Regional School District School Committee for the purpose of financing costs of reconstructing, making, extraordinary repairs to and equipping the Oakmont Athletic Field, Oakmont Track, and to the extent funds permit, the repaving of Overlook driveway and parking areas, including the payment of any and all other costs incidental and related thereto, which vote provides that no debt shall be issued thereunder unless and until each of the Towns of Ashburnham and Westminster shall have voted to exempt debt service on its apportioned share of any bonds or notes issued thereunder from the limitations of Proposition 2 1/2.

Unanimous “YES”

ARTICLE 24: To see if the Town will vote to raise and appropriate, the sum of \$150,000 to be used to fund the Ashburnham-Westminster Regional School District Five Year Capital Plan, provided that no funds voted under this article shall be expended unless the Town has first voted by ballot at a special election to exempt this expenditure from the provisions of Proposition two and one-half. Further, that said appropriation is subject to the Town of Westminster also voting to fund its share of the cost of said items, or act in relation thereto. *(Requested by the Ashburnham-Westminster Regional School*

Committee)

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: \$.24

ARTICLE 24 VOTED: On motion of David Christianson Jr., it was voted to raise by taxation and appropriate the sum of \$150,000 to be used to fund the Ashburnham-Westminster Regional School District Five Year Capital Plan, provided that no funds voted under this article shall be expended unless the Town had first voted by ballot at a special election to exempt this expenditure from the provisions of proposition two and one-half. Further, that said appropriation is subject to the Town of Westminster also voting to fund its share of the cost of said items.

Unanimous “YES”

ARTICLE 25: To see if the Town will vote to raise and appropriate, appropriate by transfer from available funds or appropriate by borrowing under the provisions of MGL Ch. 44, the sums of money for the departments and the purposes noted below, and for the costs incidental and related thereto, to meet the capital budget needs of the Town, and to authorize the use of leasing for a period not to exceed three (3) years, and to authorize the trade-in of any available vehicles, all to meet the costs and for the departments noted below:

| <u>Department</u> | <u>Brief Description of Item</u> | <u>Amount Requested</u> |
|----------------------------------------|-------------------------------------------------|-------------------------|
| Municipal Grounds | Replace 1995 Ford S-10 Truck w/Ford F-350 Truck | \$27,750 |
| | Whitney Field Irrigation | \$ 6,000 |
| | Enclosed Trailer | \$ 5,000 |
| Fire/EMS | Replace Chief’s Car | \$27,500 |
| | Refurbish 1983 Ladder Truck | \$57,000 |
| Police | Replace Chief’s Car | \$25,330 |
| Information Technology | Replace Voice System | \$32,000 |
| | Wide Area Network | \$48,000 |
| | Replace Finance Server | \$22,000 |
| Council on Aging | Grant Match for New Van | \$ 8,800 |
| Total: | | \$259,380 |
| Total New Debt: | \$200,000 | |
| Total Free Cash: | \$ 8,800 | |
| Total Capital Improvement Fund: | \$ 50,580 | |

or act in relation thereto. (Requested by Board of Selectmen, Advisory Board, Town Administrator)

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND YES TAX RATE IMPACT: N/A

ARTICLE 25 VOTED: On motion of Jonathan Dennehy, it was voted to appropriate by transfer from free cash the sum of \$8,800, and to appropriate by transfer from the capital improvements fund the sum of \$50,580 and to raise and appropriate by borrowing under the provisions of MGL Ch. 44 the sum of \$200,000 all for the departments and purposes listed in the warrant, and for the costs incidental and related thereto, to meet the capital budget needs of the Town, and to authorize the use of leasing for a period not to exceed three(3) years, and to authorize the trade-in of any available vehicles.

Unanimous “YES”

ARTICLE 26: To see if the Town will vote to accept M.G.L. Ch. 59, § 57C, for the purpose of

adopting a quarterly tax payment system for fiscal year 2007, or act in relation thereto. *(Requested by Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 26 VOTED: On motion of Jonathan Dennehy, it was voted to accept M.G.L. Ch. 59, §57C, for the purpose of adopting a quarterly tax payment system for fiscal year 2007.

Majority “YES”

ARTICLE 27: To see if the Town will vote to accept the provisions of Chapter 44, Section 53F ½ of the Massachusetts General Laws and establish the Water Enterprise Fund effective fiscal year 2007 to be administered and maintained in accordance with the requirements of law, and further to transfer any remaining accumulated fund balance, as of June 30, 2006 into the enterprise fund, or act in relation thereto. *(Requested by Water/Sewer Commission, Board of Selectmen, Advisory Board, Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 27 VOTED: On motion of Christopher Gagnon, it was voted to establish the Water Department as an enterprise fund by adopting the provisions of MGL Ch. 44 sec. 53F ½ and further to transfer any remaining accumulated fund balance, as of June 30, 2006 into the enterprise fund.

Majority “YES”

ARTICLE 28: To see if the Town will vote to accept the provisions of Chapter 44, Section 53F ½ of the Massachusetts General Laws and establish the Sewer Enterprise Fund effective fiscal year 2007 to be administered and maintained in accordance with the requirements of law, and further to transfer any remaining accumulated fund balance, as of June 30, 2006 into the enterprise fund, or act in relation thereto. *(Requested by Water/Sewer Commission, Board of Selectmen, Advisory Board, Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 28 VOTED: On motion of Jonathan Dennehy, it was voted to establish the Sewer Department as an enterprise fund by adopting the provisions of MGL Ch. 44 Sec. 53 F ½ and further to transfer any remaining accumulated fund balance, as of June 30, 2006 into the enterprise fund.

Majority “YES”

ARTICLE 29: To see if the Town will vote to raise and appropriate or appropriate by transfer from available revenues, a sum of money to pay for a water/sewer rate study, including an analysis of indirect costs charged to the water and sewer departments, or act in relation thereto. *(Water/Sewer Commission, Board of Selectmen, Advisory Board, Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 29 VOTED: On motion of Christopher Gagnon, it was voted to appropriate by transfer from water surplus the sum of \$15,000, and to appropriate by transfer from sewer surplus the sum of \$15,000 to pay for a water/sewer rate study, including an analysis of indirect costs charged to the water and sewer departments.

Unanimous “YES”

ARTICLE 30: To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds a sum of money to pay for a town-wide wastewater management study, or act in relation thereto. *(Requested by Water Sewer Commission, Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, and Town Administrator).*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 30 VOTED: On motion of Mark Carlisle, it was voted to **PASS OVER** this article.

Unanimous “YES”

ARTICLE 31: To see if the Town will vote to raise and appropriate or appropriate by transfer from available revenues a sum of money to pay the costs of an engineering analysis, as well as related studies, to determine the need for repairs to the existing water main on Route 12, as well as water mains on nearby roads, as well as the condition of the standpipe that serves the water main, and to authorize the Town Administrator to apply for and accept any State or Federal grants available to accomplish the purposes of this article, or act in relation thereto. *(Water/Sewer Commission, Board of Selectmen, Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

ARTICLE 31 VOTED: On motion of Jonathan Dennehy, it was voted to authorize the Town Administrator to apply for and accept any State or Federal grants available to accomplish the purposes of this article.

Unanimous “YES”

ARTICLE 32: To see if the Town will vote to raise and appropriate or appropriate from available funds a sum of money to be used by the Highway/Water/Sewer Department to design and construct the extension of the town water main from River Styx Road to the properties with private drinking water wells on Fitchburg Road Route 12 affected by the contamination of the Boutwell’s Garage; and for the Town to file a notice of lien with the registry of deeds for all properties in the Town of Ashburnham owned by the persons liable for the Boutwell’s Garage disposal site. Such lien to be used to reimburse the funds to the taxpayers of Ashburnham for all activities related to the extension of the town water supply to the Route 12 Fitchburg Road residents, or act in relation thereto. *(Requested by Citizen Petition)*

SELECTMEN RECOMMEND: NO ADVISORY RECOMMEND: NO TAX RATE IMPACT: N/A

ARTICLE 32 VOTED: On motion of Heidi Hertel-Therrien, it was voted to **PASS OVER** this article.

Majority “YES”

ARTICLE 33: To see if the Town will vote to amend the Town’s zoning map entitled “Zoning Map of Ashburnham, Massachusetts”, dated March 2004, and on file as subsequently amended, and referenced in Section 2.21 of the Town’s Zoning Bylaws by changing the boundaries thereon so that the I Zoning District and the LI-A Light Industrial overlay district shall not include a certain area which shall be rezoned Residential-A in the Murray Road area, as follows, or act in relation thereto. *(Requested by Citizen Petition)*

“The following land area in the vicinity of Murray Road is hereby incorporated into the R-A Zoning District:

Beginning at point at the northwest corner of Map 18 Parcel 5, as shown on the FY 2005 Assessor’s Maps; thence northeasterly 563.11 feet to intersection of southwest corner of Lot 1, as shown on Plan of Land in Ashburnham, Mass, prepared for Richard and Margaret Sisson, October 20, 2005, prepared by Whitman & Bingham Associates LLC; thence southeasterly 717.27 feet alongside the southerly property line of Lot 1 on Said Plan; thence continuing southeasterly 639.59 feet alongside said property line of Lot 1 to the southeast corner of Lot 1; thence northwesterly 750 feet alongside eastern property line of Lot 1; thence southwesterly 426.54 feet to the southwest corner of Map 18 Parcel 3; thence northwesterly 366.51 feet to the southeast corner of Map 18 Parcel 4; thence continuing northwesterly alongside the westerly property line of Map 18 Parcel 3 to the northwest corner of said Parcel; thence northeasterly along the northern property line of Map 18 Parcel 3 to the southeast corner of Map 17 Parcel 46; thence southeasterly alongside westerly property line of Map 17 Parcel 45 to southwest corner of said Parcel; thence northeasterly along the northern property line of Map 18 Parcel 3; continuing northeasterly across Murray Road to Map 18 Parcel 6; thence generally north to the northwest corner of Map 18 Parcel 6; thence northeasterly to the southeast corner of Map 58 Lot 107; thence southeasterly to the northeast corner of Map 18 Parcel 6; thence alongside the easterly property line of Map 18 Parcel 6; thence continuing in a general southeasterly direction along the easterly property lines of Map 18 Parcels 7, 7A, 13, and 13A to the southeast corner of Map 18 Parcel 13A; thence southwesterly along the town line of Ashburnham and Gardner to the southwest corner of Map 18 Parcel 1; thence northwesterly along the town line of Ashburnham and Gardner to the point of beginning.”

“LI-A: Light industrial use from South Pleasant Street to the Gardner line on the south side of Route 101 and southwest of the railroad bed on the north side of Route 101 overlaying the already established industrial zone, but excluding any residentially zoned parcels in this area, as depicted on the zoning map.”

Explanation: Given the residential characteristics of Murray Road, the fact that to access Murray Road vehicles have to utilize High Street, an existing residentially zoned area, and the fact that access to the rear portion of Map 18 Parcel 4 is difficult due to significant wetland presence, it is proposed to rezone the area of Murray Road from industrial to residential. This new residentially zoned area would include everything on the easterly side of Murray Road to the railroad property and all lands west of Murray Road and south of Gardner Road (Route 101) except 22.43 acres of existing Map 18 Parcel 5 and all of Map 18 Parcel 4.

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: TAX RATE IMPACT: N/A

ARTICLE 33 VOTED: On motion of Mark Carlisle, it was voted to amend the Town’s zoning map entitled “Zoning Map of Ashburnham, Massachusetts”, dated March 2004, and on file as subsequently amended, and referenced in Section 2.21 of the Town’s Zoning Bylaws by changing the boundaries thereon so that the I Zoning District and the LI-A Light Industrial overlay district shall not include a certain area which shall be rezoned Residential-A in the Murray Road area, as follows:

“The following land area in the vicinity of Murray Road is hereby incorporated into the R-A Zoning District:

Beginning at point at the northwest corner of Map 18 Parcel 5, as shown on the FY 2005 Assessor’s Maps; thence northeasterly 563.11 feet to intersection of southwest corner of Lot 1, as shown on Plan of Land in Ashburnham, Mass, prepared for Richard and Margaret Sisson, October 20, 2005, prepared by Whitman & Bingham Associates LLC; thence southeasterly 717.27 feet alongside the southerly property

line of Lot 1 on Said Plan; thence continuing southeasterly 639.59 feet alongside said property line of Lot 1 to the southeast corner of Lot 1; thence northwesterly 750 feet alongside eastern property line of Lot 1; thence southwesterly 426.54 feet to the southwest corner of Map 18 Parcel 3; thence northwesterly 366.51 feet to the southeast corner of Map 18 Parcel 4; thence continuing northwesterly alongside the westerly property line of Map 18 Parcel 3 to the northwest corner of said Parcel; thence northeasterly along the northern property line of Map 18 Parcel 3 to the southeast corner of Map 17 Parcel 46; thence southeasterly alongside westerly property line of Map 17 Parcel 45 to southwest corner of said Parcel; thence northeasterly along the northern property line of Map 18 Parcel 3; continuing northeasterly across Murray Road to Map 18 Parcel 6; thence generally north to the northwest corner of Map 18 Parcel 6; thence northeasterly to the southeast corner of Map 58 Lot 107; thence southeasterly to the northeast corner of Map 18 Parcel 6; thence alongside the easterly property line of Map 18 Parcel 6; thence continuing in a general southeasterly direction along the easterly property lines of Map 18 Parcels 7, 7A, 13, and 13A to the southeast corner of Map 18 Parcel 13A; thence southwesterly along the town line of Ashburnham and Gardner to the southwest corner of Map 18 Parcel 1; thence northwesterly along the town line of Ashburnham and Gardner to the point of beginning.”

“LI-A: Light industrial use from South Pleasant Street to the Gardner line on the south side of Route 101 and southwest of the railroad bed on the north side of Route 101 overlaying the already established industrial zone, but excluding any residentially zoned parcels in this area, as depicted on the zoning map.”

49 YES 16 NO

ARTICLE 34: To see if the Town will vote to amend the Town’s General By-Laws by amending Section 1 and Section 20 within Chapter XI – Use of Public Ways and Places, to require permits for Driveways and Opening of Town Streets and Ways and amend the penalties for Scenic Road violations so each day a violation exists will incur a separate fine. And add non-criminal enforcement of this Chapter, or act in relation thereto. *(Requested by the Planning Board)*

SELECTMEN RECOMMEND: ADVISORY RECOMMEND: TAX RATE IMPACT: N/A

NOTE: All additions are noted in ***bold and italicized*** text. Deletions or alterations to existing text are shown as ~~crossed out~~ text.

CHAPTER XI: USE OF PUBLIC WAYS AND PLACES

Section 1. ~~No person, including employees of the town except the Highway Department, may make an excavation, break or dig up the ground, dig a trench, lay a pipe, or in any way disturb the earth or materials thereon, in or along or under any sidewalk, street, public way or public square.~~

No person or other entity shall dig up, alter or obstruct any portion of any Town road, or way or any way that the town is responsible for maintenance, without first obtaining a Road and/or Sidewalk Opening Permit.

No person or other entity shall construct a driveway or curb cut exiting onto a Town road or way or other way that the town is responsible for maintenance, without first obtaining a Driveway Permit.

Enforcement shall be by non-criminal disposition pursuant to M.G.L. Chapter 40 § 21D. First and subsequent offenses: \$300 with each day of violation constituting a separate offense.

- a. ~~The request for said permit must be in writing and addressed to the selectmen on a form prepared~~

~~for the purpose and in triplicate.~~

- a. ***Road and/or Sidewalk Opening Permits shall be issued by the Highway Director or Town Engineer and shall be obtained before any obstructing, cutting, digging up, or altering in any Town road or way, or sidewalk and right of way or any way the Town maintains.***

The Highway Director or Town Engineer shall adopt, and may, from time to time, amend reasonable design standards and forms for Road and/or Sidewalk Openings to include fees and surety requirements.

- b. ~~The request shall specify the place of the proposed excavation, the time when the excavation will be made, the length of time necessary to make the excavation, and the barriers and lighting necessary for the protection of the highway or public place during the period of excavation.~~
- b. ***Driveway Permits shall be issued by the Highway Director or Town Engineer, and the Planning Board, and shall be obtained prior to construction of any and every new driveway, curb cut or alteration of any existing driveway at its intersection with the boundary line of any public street or way or any way the town maintains, including sidewalks and any right of ways.***

The Planning Board and Highway Director or Town Engineer shall adopt, and may from time to time, amend reasonable design standards and forms for driveways to include fees and surety requirements.

- c. ~~Any request for such a permit shall include an agreement in writing to restore the place of excavation to its original condition, at the expense of the person or department causing the excavation to be made.~~

Section 20: Anyone who violates the provisions of Chapter 40, Section 15C of the Massachusetts General Laws concerning the designation and improvement of scenic roads shall be punished by ~~a fine not to exceed three hundred dollars (\$300).~~ ***non-criminal disposition pursuant to M.G.L. Chapter 40 § 21D. First and subsequent offenses: \$300 with each day of violation constituting a separate offense.***

ARTICLE 34 VOTED: On motion of Joseph Kalagher, it was voted to amend the Town's General By-Laws by amending Section 1 and Section 20 within Chapter XI-Use of Public Ways and Places, to require permits for Driveways and Opening of Town Streets and Ways and amend the penalties for Scenic Road violations so each day a violation exists will incur a separate fine, and add non-criminal enforcement of this Chapter, so that it will read as follows:

CHAPTER XI: USE OF PUBLIC WAYS AND PLACES

Section 1

No person or other entity shall dig up, alter or obstruct any portion of any Town road, or way or any way that the town is responsible for maintenance, without first obtaining a Road and/or Sidewalk Opening Permit.

No person or other entity shall construct a driveway or curb cut exiting onto a Town road or way or other way that the town is responsible for maintenance, without first obtaining a Driveway Permit.

Anyone who violated the provision of Chapter XI, Section 1 of the Town of Ashburnham's General Bylaw shall be punished by a fine not to exceed three hundred dollars (\$300). Each day of violation shall

constitute a separate offense.

- a. Road and/or Sidewalk Opening Permits shall be issued by the Town Engineer or his/her designee, and shall be obtained before any obstructing, cutting, digging up, or altering in any Town road or way, or sidewalk and right of way or any way the Town maintains.

The Town Engineer or his/her designee, shall adopt, and may, from time to time, amend reasonable design standards and forms for Road and/or Sidewalk Openings to include fees and surety requirements with the approval of the Board of Selectmen..

- b. Driveway permits shall be issued by the Town Engineer or his/her designee, and shall be obtained prior to construction of any and every new driveway, curb cut or alteration of any existing driveway at its intersection with the boundary line of any public street or way or any way the town maintains, including sidewalks and any rights of way.

The Town Engineer or his/her designee with assistance from the Planning Board shall adopt, and may from time to time, amend reasonable design standards and forms for driveways to include fees and surety requirements, with the approval of the Board of Selectmen.

Section 20: Anyone who violates the provisions of Chapter 40, Section 15C of the Massachusetts General Laws concerning the designation and improvement of scenic roads shall be punished by a fine not to exceed three hundred dollars (\$300). ***Each day of violation shall constitute a separate offense.***

Unanimous “YES”

ARTICLE 35: To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds a sum of money to pay for consulting services to prepare an Industrial and Economic Development-related Land Siting Study, or act in relation thereto. *(Requested by the Planning Board)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

Explanation:

The Town of Ashburnham has a few locations in Town currently zoned for industrial purposes. One is an Industrial or I Zone. A second is LI-A or Light Industrial-A Zone. With the third being a LI-B, or Light Industrial-B Zone. The problem with the current industrially zoned lands within the Town of Ashburnham is that Town officials are finding that there appears to be various problematic conditions from them being developed. These problems include: significant presence of wetlands, the LI-B zoning district contains a number of parcels that are under M.G.L. Chapter 61 programs, lack of available infrastructure (e.g. water and sewer) for some of the industrially zoned lands and accessibility (such as wetlands and/or industrial zoned lands that are accessed through residentially zoned property which contains an existing residential neighborhood).

As the Town struggles with a heavy residential tax burden, other non-residential uses in addition to Industrial uses, such as commercial-based uses (e.g. retail or office) should also be considered.

The Town of Ashburnham had a *Community Development Plan*, prepared by the Montachusett Regional Planning Commission (MRPC) in 2004. This Plan was done under the Executive Order (EO) 418 planning process. The Plan contained an Economic Development element. This Plan did not get into a full detailed analysis of the usefulness of existing industrial and commercial zones, however, “Areas of consideration for future commercial and industrial development” were identified in a table and a GIS map (Ashburnham, MA: Economic Implementation Strategy Map) was created to identify those areas. A

parcel level analysis was not part of this planning process. Although some of these identified areas may warrant consideration for rezoning from residential to either commercial or industrial.

Therefore, the Town of Ashburnham Planning Board has been charged with coordinating an Industrial Lands Siting Study and is developing a Request for Proposal (RFP) to hire a consultant to do this Study. Passage of this article would allow a qualified consultant to review the Town's existing zoning districts and conduct an analysis of the existing zoning with a review of existing wetlands; State, Local, Private Land Trust and other Protected Lands (including lands under Chapter 61 programs); existing infrastructure (roads, water, wastewater, etc.) to determine where the ideal location(s) are within the Town of Ashburnham that could be utilized for industrial and other economic development related purposes (e.g. commercial, retail, office). Other constraints, such as areas of ledge, would be identified. The Study would ultimately provide area(s) of Town that are most conducive for industrial and economic related purposes. The end product will be an Industrial and Economic Development Land Siting Study, which shall consist of a series of maps and a written report that provides the requested analysis and zoning recommendations.

ARTICLE 35 VOTED: On motion of John MacMillan, it was voted to appropriate by transfer from overlay surplus the sum of \$10,000 to pay for consulting services to prepare an Industrial and Economic Development-related Land Siting Study.

Unanimous "YES"

ARTICLE 36: To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds a sum of money to pay for consulting services to prepare an Affordable Housing Plan, which shall include a comprehensive housing needs assessment, to meet the Planned Production Regulations of M.G.L. Chapter 40B and 760 CMR 31.07(1)(i), or act in relation thereto. *(Requested by the Affordable Housing Committee)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

Explanation:

The Affordable Housing Committee requests funding for consultant assistance in developing an Affordable Housing Plan that shall meet the Massachusetts Department of Housing and Community Development (DHCD) Guidelines per the Planned Production Regulations of 760 CMR 31.07(1)(i) for approval by the Town and the State. Currently the Town of Ashburnham only has 1.2% of the total year round units qualified as affordable, as listed on the latest Subsidized Housing Inventory prepared by the DHCD. If the Town has an approved Affordable Housing Plan and subsequently meets the required Planned Production annual affordable housing targets, it would have the same effect as the Town achieving 10% of affordable housing stock. Such achievement would allow the Town to have the ability to consider Chapter 40B projects without developer appeal to the State Housing Appeals Committee. In addition, the comprehensive housing needs assessment will assist the Town in ensuring that any affordable housing that is constructed will be of the type needed to house Ashburnham's residents.

ARTICLE 36 VOTED: On motion of Mark Carlisle, it was voted to appropriate by transfer from overlay surplus the sum of \$10,000 to pay for consulting services to prepare an Affordable Housing Plan, which shall include a comprehensive housing needs assessment, to meet the Planned Production Regulations of M.G.L. Chapter 40B and 760 CMR 31.07(1)(i).

Unanimous "YES"

ARTICLE 37: To see if the Town will vote to amend the Town's Zoning By-laws by amending Section 5, Special Regulations, by inserting the following new Section 5.15, Major Residential

Development, or act in relation thereto. *(Requested by the Planning Board)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

NOTE: All additions are noted in ***bold and italicized*** text. Deletions or alterations to existing text are shown as ~~crossed-out~~ text.

“Section 5.15 Major Residential Development (MRD)

5.15.1 5.15.1 Purpose. The purpose of this section is to preserve the natural and cultural resources of Ashburnham by insuring the larger-scale of conversion of land to residential use does not consume all of the Town’s woodlands, fields, farmlands, historic structures and landscapes, cart paths, stonewalls, geologic formations, water courses, wetlands, riparian zones, groundwater recharge areas, hilltops, scenic vistas, and other significant open spaces as well as providing a public voice and public authority in consideration of alternative approaches to conventional residential developments, which has been identified as an important goal to the Town, as stated in the 2001 Town of Ashburnham Open Space and Recreation Plan and 2004 Ashburnham Community Development Plan.

5.15.2 5.15.2 Applicability. Lands affected by this Section 5.15 include property within the Town’s Residential-A, Residential-B and the Green Business Zone, or set of contiguous properties, in common ownership as of May 6, 2006. The term “common ownership” shall be defined as ownership by the same person or persons or legal entities, or ownership by any two or more persons or entities, as evidenced by control, pursuant to established law.

A Major Residential Development shall mean any subdivision(s), as defined and limited in Massachusetts General Law Chapter 41, Section 81L, which in any five year period:

- a. a. Comprises ten (10) acres or more of new residential lots and road right-of-way;***
- b. b. Results in the creation of five (5) or greater residential lots, or***
- c. c. Results in the construction of greater than 500 feet of new roadway.***

Any subsequent subdivision proposals which, if approved, would result in total development in excess of any of the proceeding thresholds in any five year period, shall itself be subject to this Section 5.15, and shall cause any previously approved subdivision(s) which contributed to the aforesaid threshold calculation to then also be subject to this Section 5.15 as part of that subsequent subdivision proposal.

5.15.3 5.15.3 Application and Approval. Major Residential Developments shall be allowed only through the Special Permit process set forth in Section 5.13 Open Space Residential Development and this section. Application for Major Residential Developments shall include a preliminary conventional subdivision sketch plan and a subdivision plan designed per Section 5.13.

The Planning Board may require additional information necessary to make the determination and assessments cited herein.

5.15.4 5.15.4 Decision. The Planning Board shall make a decision for all Major Residential Developments whether or not the Plan developed in accordance with Section 5.13 provides a superior alternative in consideration of the criteria set out in Section 5.15.5 below, in which case the Planning Board may require that the development occur in accordance with the plan consistent with Section 5.13. If the Planning Board does not find that the plan consistent with Section 5.13 is superior, the proponent may select whether to pursue development under

Section 5.15 or use a traditional subdivision.

5.15.5 5.15.5 Decision Criteria. The Planning Board, in making its decision as to whether to require development in accordance with Section 5.13 or to allow a traditional subdivision, shall evaluate both plans and choose the development method which best meets, in the opinion of the Planning Board, the purpose of this section and the objectives of Section 5.132.1 to Section 5.132.9 and the criteria set forth in Section 5.140.8.

5.15.6 5.15.6 The Planning Board may adopt and from time to time amend reasonable rules and regulations for the administration of this bylaw.

Explanation: The Planning Board has developed a goal of when land is subdivided into residential house lots, these subdivisions should be in the form of Open Space Residential Developments, or OSRDs, not conventional cookie cutter subdivisions. The Planning Board believes OSRD subdivisions provide a development pattern that is less land intensive and therefore offer more environmental benefits than a conventional subdivision. Since the OSRD Zoning Bylaw was passed in 2004, 4 definitive subdivision applications have been filed with the Planning Board. Only 1 of these definitive plans has been approved as an OSRD. The Planning Board, therefore, has developed this Major Residential Development zoning article that, if passed by Town Meeting voters, would require submission of both a conventional subdivision plan and an OSRD subdivision plan for the Planning Board to review and determine which plan should be approved for construction.

ARTICLE 37 VOTED: On motion of John MacMillan, it was voted to amend the Town's Zoning By-laws by amending Section 5, Special Regulations, by inserting the following new section 5.15, Major Residential Development, to read as follows:

Section 5.15 Major Residential Development (MRD)

5.15.1 Purpose. The purpose of this section is to preserve the natural and cultural resources of Ashburnham by insuring the larger-scale of conversion of land to residential use does not consume all of the Town's woodlands, fields, farmlands, historic structures and landscapes, cart paths, stonewalls, geologic formations, water courses, wetlands, riparian zones, groundwater recharge areas, hilltops, scenic vistas, and other significant open spaces as well as providing a public voice and public authority in consideration of alternative approaches to conventional residential developments, which has been identified as an important goal to the Town, as stated in the 2001 Town of Ashburnham Open Space and Recreation Plan and 2004 Ashburnham Community Development Plan.

5.15.2 5.15.2 Applicability. Lands affected by this Section 5.15 include property within the Town's Residential-A, Residential-B and the Green Business Zone, or set of contiguous properties, in common ownership as of May 10, 2006. The term "common ownership" shall be defined as ownership by the same person or persons or legal entities, or ownership by any two or more persons or entities, as evidenced by control, pursuant to established law.

A Major Residential Development shall mean any subdivision(s), as defined and limited in Massachusetts General Law Chapter 41, Section 81L, which in any five year period:

- a. Comprises ten (10) acres or more of new residential lots and road right-of-way;***
- b. Results in the creation of five (5) or greater residential lots, or***
- c. Results in the construction of greater than 600 feet of new roadway.***

Any subsequent subdivision proposals which, if approved, would result in total development in

excess of any of the proceeding thresholds in any five year period, shall itself be subject to this Section 5.15, and shall cause any previously approved subdivision(s) which contributed to the aforesaid threshold calculation to then also be subject to this Section 5.15 as part of that subsequent subdivision proposal.

5.15.3 Application and Approval. *Major Residential Developments shall be allowed only through the Special Permit process set forth in Section 5.13 Open Space Residential Development and this section. Application for Major Residential Developments shall include a preliminary conventional subdivision sketch plan and a subdivision plan designed per Section 5.13.*

The Planning Board may require additional information necessary to make the determination and assessments cited herein.

5.15.4 5.15.4 Decision. *The Planning Board shall make a decision for all Major Residential Developments whether or not the Plan developed in accordance with Section 5.13 provides a superior alternative in consideration of the criteria set out in Section 5.15.5 below, in which case the Planning Board may require that the development occur in accordance with the plan consistent with Section 5.13. If the Planning Board does not find that the plan consistent with Section 5.13 is superior, the proponent may select whether to pursue development under Section 5.15 or use a traditional subdivision.*

5.15.5 5.15.5 Decision Criteria. *The Planning Board, in making its decision as to whether to require development in accordance with Section 5.13 or to allow a traditional subdivision, shall evaluate both plans and choose the development method which best meets, in the opinion of the Planning Board, the purpose of this section and the objectives of Section 5.132.1 to Section 5.132.9 and the criteria set forth in Section 5.140.8.*

5.15.6 5.15.6 *The Planning Board may adopt and from time to time amend reasonable rules and regulations for the administration of this bylaw.*

Unanimous "YES"

ARTICLE 38: To see if the Town will vote to amend the Town's Zoning By-laws by amending the following section within Section 5.13, Open Space Residential Development, to correct an existing grammatical error in the current Bylaw, or act in relation thereto. *(Requested by the Planning Board)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

NOTE: All additions are noted in ***bold and italicized*** text. Deletions or alterations to existing text are shown as ~~crossed out~~ text.

"5.135.2 The average lot size for each residential ~~structure~~ ***lot*** in an OSRD shall be no less than that required in the underlying zoning district. However, individual lot sizes may be reduced to no less than fifty (50%) percent of the minimum lot size in the underlying zoning district for parcels without municipal sewer and water service, and not less than 20,000 sq. ft. for parcels with either municipal sewer or water service.

Explanation: This section of the Open Space Residential Development (OSRD) zoning bylaw provides guidance for lot sizes of residential lots in an OSRD. Currently the wording in the first sentence of Section 5.135.2 does not make sense as the intent is to have the average lot size for each residential ***lot*** to be not less than that of the underlying zoning district. ***Structure*** size is regulated under lot coverage.

ARTICLE 38 VOTED: On motion of Bruce Whitney, it was voted to amend the Town's Zoning By-laws by amending the following section within Section 5.13, Open Space Residential Development, to correct an existing grammatical error in the current Bylaw, so that it will read as follows:

“5.135.2 The average lot size for each residential lot in an OSRD shall be no less than that required in the underlying zoning district. However, individual lot sizes may be reduced to no less than fifty (50%) percent of the minimum lot size in the underlying zoning district for parcels without municipal sewer and water service, and not less than 20,000 sq. ft. for parcels with either municipal sewer or water service.”

Unanimous “YES”

ARTICLE 39: To see if the Town will vote to amend the Town's Zoning By-laws by amending the following sections within Section 5.14, Common Driveways, to allow such common driveways within any zoning district and provide for common driveways to serve up to three (3) lots, or act in relation thereto. (*Requested by the Planning Board*)

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

NOTE: All additions are noted in ***bold and italicized*** text. Deletions or alterations to existing text are shown as ~~crossed out~~ text.

“5.14.1 Purpose

The purpose of allowing access to no more than ~~two (2) residential~~ ***three (3)*** lots in ~~the RA & RB~~ ***any zoning*** districts, except in an Open Space Residential Development, over a common driveway is: ...”

“5.14.2 Applicability and Requirements

The Planning Board may grant a Special Permit for Common Driveways serving no more than three (3) lots, except as specified in Section 5.139 for Open Space Residential Developments, each with approved frontage on a public way or a way approved by the Planning Board, upon receipt of an application and a site plan prepared by a registered engineer and showing that such Common Driveway meets the following requirements: ...”

Explanation: Currently common driveways serving no more than two (2) lots are allowed via Special Permit, but only in Residential-A and Residential-B zoning districts. Since common driveways reduce the number of curb cuts, thereby reducing the required amount of clearing, impervious surfaces and potential traffic conflicts, the Planning Board believes common driveways should be allowed elsewhere in Town besides the current limitation of just the R-A and R-B zoning districts and that common driveways should be allowed for up to three (3) lots.

ARTICLE 39 VOTED: On motion of Bruce Whitney, it was voted to amend the Town's Zoning Bylaws by amending the following sections within Section 5.14, Common Driveways, to allow such common driveways within any zoning district and provide for common driveways to serve up to (3) three lots, so that it will read as follows:

“5.14.1 Purpose

The purpose of allowing access to no more than ***three (3)*** lots in ***any zoning*** districts, except in an Open Space Residential Development, over a common driveway is:....”

“5.14.2 Applicability and Requirements

The Planning Board may grant a Special Permit for Common Driveways serving no more than **three (3)** lots, **except as specified in Section 5.139 for Open Space Residential Developments**, each with approved frontage on public way or a way approved by the Planning Board, upon receipt of an application and a site plan prepared by a registered engineer and showing that such Common Driveway meets the following requirements:....”

2/3 Majority “YES”

ARTICLE 40: To see if the Town will vote to amend the Town’s Zoning By-laws by amending the following sections within Section 5.13, Open Space Residential Developments (OSRD), to allow such subdivisions within the GB (“Green Business”) Zoning District, or act in relation thereto. (Requested by the Planning Board)

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

NOTE: All additions are noted in **bold and italicized** text. Deletions or alterations to existing text are shown as ~~crossed out~~ text.

“5.131 Introduction

The Planning Board may grant a special permit for an “Open Space Residential Development” (OSRD) in accordance with this by-law in the RA, & RB & **GB** zones, on one or more parcels of land in common ownership, except for parcels located in the Flood Plain District.”

“5.134.1 OSRD shall be located on a parcel or contiguous parcels of land in common ownership having an area of no less than three (3) acres in the RA district and eight (8) acres in the RB **and the GB** districts.”

Table 1a: Density/Lot Size/Frontage/Setbacks/Lot Coverage Open Space Residential Development

| Zone | Minimum Lot Area for Standard Subdivision | OSRD Average Lot Area Note 1 | OSRD Minimum Individual Lot Area Note 2 Septic / Sewer | OSRD Minimum Common Open Space | Minimum Frontage for Standard Subdivision | OSRD Minimum Frontage for Individual Lots | OSRD Minimum Setbacks | | | OSRD Maximum Impervious Surface Coverage of Build able Land |
|------|-------------------------------------------|---------------------------------|------------------------------------------------------------------|--------------------------------|-------------------------------------------|-------------------------------------------|-----------------------|-----------|-----------|-------------------------------------------------------------|
| | | | | | | | Front | Side | Rear | |
| RB | 60,000 | 60,000 | 30,000/ 20,000 | 50 | 200 | 75 | 15 | 15 | 40 | 15 |

Explanation: Residential uses are allowed in the GB (“Green Business”) Zone by right. Given the potential for additional residential uses within this zoning district, the Planning Board would like to see any future residential subdivisions located in the G-B zoning district to be developed under the OSRD Zoning Bylaw versus a conventional, cookie cutter type of subdivision. The Planning Board believes OSRD subdivisions provide a development pattern that is less land intensive and therefore offer more environmental benefits than a conventional subdivision. Any OSRD Subdivisions would require a special permit before the Planning Board.

ARTICLE 40 VOTED: On motion of John MacMillan, it was voted to amend the Town’s Zoning By-laws by amending the following sections within Section 5.13, Open Space Residential Developments (OSRD), to allow such sub-divisions within the GB (“Green Business”) Zoning District so that it will read as follows:

“5.131 Introduction

The Planning Board may grant a special permit for an “Open Space Residential Development” (OSRD) in accordance with this by-law in the RA, & RB & GB zones, on one or more parcels of land in common ownership, except for parcels located in the Flood Plain District.”

“5.134.1 OSRD shall be located on a parcel or contiguous parcels of land in common ownership having an area of no less than three (3) acres in the RA district and eight (8) acres in the RB and the GB districts.”

| Zone | Minimum Lot Area for Standard Subdivision | OSRD Average Lot Area Note 1 | OSRD Minimum Individual Lot Area Note 2 Septic / Sewer | OSRD Minimum Common Open Space | Minimum Frontage for Standard Subdivision | OSRD Minimum Frontage for Individual Lots | OSRD Minimum Setbacks | | | OSRD Maximum Impervious Surface Coverage of Build able Land |
|------|-------------------------------------------|---------------------------------|------------------------------------------------------------------|--------------------------------|-------------------------------------------|-------------------------------------------|-----------------------|-----------|-----------|-------------------------------------------------------------|
| | | | | | | | Front | Side | Rear | |
| RB | <i>60,000</i> | <i>60,000</i> | <i>30,000/ 20,000</i> | <i>50</i> | <i>200</i> | <i>75</i> | <i>15</i> | <i>15</i> | <i>40</i> | <i>15</i> |

2/3 Majority “YES”

ARTICLE 41: To see if the Town will vote to amend the Town’s Zoning By-laws by amending Section 3.3, Special Conditions, by inserting the following new Section 3.35, Prohibited Activities, or act in relation thereto. (*Requested by the Planning Board*)

SELECTMEN RECOMMEND: ADVISORY RECOMMEND: **YES** TAX RATE IMPACT: N/A

NOTE: All additions are noted in ***bold and italicized*** text. Deletions or alterations to existing text are shown as ~~crossed out~~ text.

“Section 3.35 Prohibited Activities in All Zoning Districts

Land clearing, excavation, gravel removal, or clear cutting of trees in anticipation of any use requiring action and/or approval by the Planning Board or Zoning Board of Appeals is prohibited prior to said action or approval. Limited clearing and excavation is permitted to obtain survey and engineering data, such as for percolation rate tests. The Planning Board and/or Zoning Board of Appeals reserves the right to order restoration of the site, if any clearing occurs beyond that permitted in this Section.

Explanation: The Planning Board and the Town Planner have heard from abutters of various projects expressing their concerns about clearing of trees, grading of land and other related construction work before permits are granted. The initial phases of a construction project can often have very damaging effects due to the removal of vegetation and topsoil on a site. Once a site is cleared, it is impossible to restore it to original conditions. Therefore, the Planning Board believes the Town should prohibit land clearing until the proposed use has been adequately reviewed by the appropriate permitting agency to ensure all development impacts will be addressed through appropriate design as well as to provide a

chance to have the development design adjusted to save important trees, or natural features before they are cleared. Projects that require such action and or approval include all Special Permits and Site Plan Reviews Applications.

ARTICLE 41 VOTED: On motion of Thomas Ruble, it was voted to commit Article 41 back to the Planning Board for further study.

Unanimous “YES”

ARTICLE 42: To see if the Town will vote to amend the Town’s Zoning By-laws by amending Section 3.2, Schedule of Use Regulations, by inserting the following new allowed use within Section 3.24, Business, or act in relation thereto. (Requested by the Planning Board)

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

NOTE: All additions are noted in *bold and italicized* text. Deletions or alterations to existing text are shown as ~~crossed out~~ text.

| Use | R- | R-B | G-B | LI-A | LI-B | B | V-C | I | W | WSP |
|-------------------------------------------------------------------------|----------|----------|-----------|-----------|-----------|-----------|----------|-----------|----------|----------|
| 3.24 Business | A | | | | | | | | | |
| <i>w. Self-Storage Facilities. No outdoor storage shall be allowed.</i> | <i>N</i> | <i>N</i> | <i>SP</i> | <i>SP</i> | <i>SP</i> | <i>SP</i> | <i>N</i> | <i>SP</i> | <i>N</i> | <i>N</i> |

Explanation: Currently Self-Storage Facilities are not an explicit use within the Town of Ashburnham’s Zoning By-law. Thus, the Building Inspector, as the Town’s Zoning Enforcement Officer, has indicated they are not an allowed use. Self-Storage Facilities are generally low traffic generators. There has been interest by at least two Ashburnham residents in developing such facilities, as there are no such facilities in Ashburnham at the present time. Passage of this zoning bylaw amendment would allow Self-Storage Facilities, but only after issuance of a special permit by the Zoning Board of Appeals.

ARTICLE 42 VOTED: On motion of Joseph Kalagher, it was voted to amend the Town’s Zoning Bylaws by amending Section 3.2, Schedule of Use Regulations, by inserting the following new allowed use within Section 3.24, Business, as written, with the following correction-adding the words, “at any such facility” after the words “No outdoor storage shall be allowed”. And will now read “Section w. Self-Storage Facilities. No outdoor storage shall be allowed at any such facility”.

| Use | R- | R-B | G-B | LI-A | LI-B | B | V-C | I | W | WSP |
|-------------------------------------------------------------------------|----------|----------|----------|-----------|-----------|-----------|----------|-----------|----------|----------|
| 3.24 Business | A | | | | | | | | | |
| <i>w. Self-Storage Facilities. No outdoor storage shall be allowed.</i> | <i>N</i> | <i>N</i> | <i>N</i> | <i>SP</i> | <i>SP</i> | <i>SP</i> | <i>N</i> | <i>SP</i> | <i>N</i> | <i>N</i> |

2/3 Majority “YES”

ARTICLE 43: To see if the Town will vote to amend the Town's Zoning By-laws by amending Section 5.34 Special Regulations for Village Center District, by deleting this section in its entirety and replacing with the following, or act in relation thereto. (Requested by the Planning Board)

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT: N/A

NOTE: All additions are noted in ***bold and italicized*** text. Deletions or alterations to existing text are shown as ~~crossed out~~ text.

~~“5.34 Special Regulations for Village Center District – The following regulations are intended to support commercial development in the Village Center District by establishing a mechanism for provision of public off-street parking facilities in lieu of private off-street parking.~~

- ~~a. – a. – Except for buildings or parts of buildings designed, intended to be used, used or occupied for residential use, all or a portion of the required off-street parking may be waived by the Zoning Board by special permit when the property is located within the Village Center District, provided that:~~
- ~~1. – 1. – The Board finds that there are sufficient publicly-owned parking spaces in the vicinity of the property to justify the waiver without detriment to the public health, welfare and safety, and~~
 - ~~2. – 2. – The owner or occupant of the property on which the waiver is to be applied pays to the Town a fee equal to the fair market value of the waived parking spaces (the area of which shall be determined by the number of waived spaces times 300 square feet) plus the cost of converting such spaces into a parking lot, as estimated by the Planning Board with the advice of the Highway Superintendent.~~
- ~~b. – b. – If the property owner donates to the Town a public right of way providing an important pedestrian or vehicular linkage in accordance with a downtown circulation plan adopted by the Planning Board, the Board may reduce the fee specified in paragraph 5.34 a(2) above by an amount equal to the value of the donation, up to the total amount of the fee.~~
- ~~e. – e. – Any waiver of off-street parking approved under this Section shall run with the land, and any subsequent changes of use that requires more parking shall require subsequent action to satisfy the additional parking requirement. No refund of any payment shall be made when there is a change to a use requiring less parking. Such payment and/or donation shall be made to the Town in total prior to the issuance of a building permit.~~

5.34 5.34 *Parking in the Village Center Zoning District*

The standards of Section 5.32 must be met for the additional parking demand created by new buildings, additions or changes of use unless, in performing a Site Plan Review and Approval under Section 5.10, the Planning Board determines that special circumstances dictate a different provision in order to meet all parking needs. In performing a Site Plan Review, the Planning Board may authorize a smaller number of parking spaces because of staggered hours of use or other circumstances. The Planning Board shall determine all parking space calculations based on information in the most recent edition of the Parking Generation manual by the Institute of Transportation Engineers (ITE), on studies and surveys done by qualified persons regarding parking, on parking requirements and use for similar facilities in the Montachusett region and/or other appropriate information.”

Explanation: The Planning Board has submitted this article due to problems encountered with

applications of the existing Section 5.34 of the Ashburnham Zoning Bylaw. Waivers of parking spaces under Section 5.34 are based on having the Applicant provide funding for public off-street parking facilities in lieu of private off-street parking via a Special Permit from the Zoning Board of Appeals. The Planning Board has determined there are issues associated with the Town's ability to adequately implement this section of the Bylaw at this time. For example, there are no existing Town-owned parcels available within the Village Center Zoning District available for the construction of municipal parking, which is the idea behind the "Fee in lieu of parking" concept.

Currently the Planning Board reviews each project in the Village Center under Section 5.10, Site Plan Review and Approval. Passage of this zoning article would allow for the Planning Board to streamline the process for Applicants who wish to reduce the amount of parking spaces required under Section 5.32 for each use. The Planning Board, working with the Town Planner, will carefully analyze each proposal and only waive any spaces where the ITE's *Parking Generation* manual or other related parking studies indicate a more appropriate number of parking spaces for the proposed use. In addition the Planning Board could waive parking spaces where a proposal indicates more than one use, each of which would contain staggered hours of use. An example of this would be a restaurant open only for dinner could be allowed to share spaces with an office open for normal 9-5 business hours. This concept is called "Shared Parking" in which parking spaces assigned to more than one use where persons utilizing the spaces are unlikely to need the spaces at the same time of day.

ARTICLE 43 VOTED: On motion of John MacMillan, it was voted to amend the Town's Zoning By-laws by amending Section 5.34 Special Regulations for Village Center District, by deleting this section in its entirety and replacing with the following:

5.34 5.34 Parking in the Village Center Zoning District

The standards of Section 5.32 must be met for the additional parking demand created by new buildings, additions or changes of use unless, in performing a Site Plan Review and Approval under Section 5.10, the Planning Board determines that special circumstances dictate a different provision in order to meet all parking needs. In performing a Site Plan Review, the Planning Board may authorize a smaller number of parking spaces because of staggered hours of use or other circumstances. The Planning Board shall determine all parking space calculations based on information in the most recent edition of the Parking Generation manual by the Institute of Transportation Engineers (ITE), on studies and surveys done by qualified persons regarding parking, on parking requirements and use for similar facilities in the Montachusett region and/or other appropriate information"

Unanimous "YES"

ARTICLE 44: To see if the Town will vote to appropriate by transfer from available funds a sum of money into the Stabilization Fund, or act in relation thereto. (*Requested by the Board of Selectmen, Town Administrator*)

SELECTMEN RECOMMEND: YES **ADVISORY RECOMMEND** YES **TAX RATE IMPACT:** N/A

ARTICLE 44 VOTED: On motion of Jonathan Dennehy, it was voted to **PASS OVER** this article.

Unanimous "YES"

ARTICLE 45: To see if the Town will vote to appropriate by transfer from available funds a sum of money into the Conservation Fund, or act in relation thereto. (*Requested by the Board of Selectmen, Conservation Commission and Town Administrator*)

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT : N/A

ARTICLE 45 VOTED: On motion of Jonathan Dennehy, it was voted to **PASS OVER** this article.

Unanimous “YES”

ARTICLE 46: To see if the Town will vote to appropriate by transfer from available funds a sum of money into the Capital Improvement Fund, or act in relation thereto. *(Requested by the Board of Selectmen, Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT:
N/A

ARTICLE 46 VOTED: On motion of Jonathan Dennehy, it was voted to **PASS OVER** this article.

Unanimous “YES”

ARTICLE 47: To see if the Town will vote to appropriate by transfer from available funds to pay bills incurred in a prior fiscal year, or act in relation thereto. *(Requested by the Town Administrator)*

SELECTMEN RECOMMEND: YES ADVISORY RECOMMEND: YES TAX RATE IMPACT:
N/A

ARTICLE 47 VOTED: On motion of Jonathan Dennehy, it was voted to **PASS OVER** this article.

Unanimous “YES”

Meeting Adjourned at 9:17 PM.

Wesley P. Landry-CMC
Town Clerk – Ashburnham