

The following is a list of warrant articles and the recommendations of the Board of Selectmen, the Advisory Board and the Capital Planning Committee for the October 29, 2013 Special Town Meeting.

Article	Description	Board of Selectmen Recommend	Advisory Board Recommend	Capital Planning Recommend
Art. 1	Transfer funds from Free Cash to install security cameras at Sweeney and Winchester Parks	YES	YES	YES
Art. 2	Transfer funds from Free Cash to erect a Veterans’ Memorial at Winchester Park	YES	YES	YES
Art. 3	Transfer funds from Free Cash to demolish VMS Building located at Winchester Park	YES	YES	YES
Art. 4	Transfer control of VMS property at Winchester Park to the control of BOS for purposes of demolition.	YES	YES	N/A
Art. 5	Authorize the borrowing for the installation of water lines on Williams Rd., So. Maple Ave., Westminster Rd., and Holden St.	YES	YES	YES
Art. 6	Change time and date of Annual Town Meeting	YES	YES	N/A
Art. 7	Amend General Bylaws by adding a Stretch Code section	YES	YES	N/A
Art. 8	Amend Zoning Bylaws by adding a Moratorium for Marijuana section	TBD	TBD	N/A
Art. 9	Amend General Bylaws by adding a Nuisance Vicious Dog section	YES	YES	N/A
Art 10	Transfer money to Capital Fund	YES	YES	YES
Art. 11	Transfer money to Stabilization Fund	YES	YES	N/A

**PROCEEDINGS OF SPECIAL TOWN MEETING**  
**HELD ON OCTOBER 29, 2013**

Pursuant to the foregoing warrant, the legal voters of the Town of Ashburnham met at the Oakmont Regional High School Auditorium on October 29, 2013. Moderator Donald "Jeff Lawrence presided at the meeting which was called to order at 7:00 P.M. The veterans presented were recognized. A moment of silence was observed for those serving our country. Veterans Bob McGowan and Dennis Driscoll led the Pledge of Allegiance.

**Article 1.**

**To see if the Town will vote to transfer from available funds (free cash) a sum of money to pay for the purchase and installation of surveillance cameras at Winchester and Sweeney Playgrounds, or act in relation thereto. *(Requested by the Parks & Recreation Committee)***

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: YES

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *Recent vandalism at both Winchester and Sweeney playgrounds, along with a \$5,000 grant from MIA our insurance company, has prompted us to look to insure our investment and safety at both playgrounds.*

**Article 1 Voted:**

**On motion of Duncan Phyfe it was voted to transfer from Free Cash the sum of \$35,000 to pay the costs associated with the purchase and installation of surveillance cameras at Winchester and Sweeney Playgrounds.**

**Majority "YES"**

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**Article 2.**

**To see if the Town will vote to transfer from available funds, (free cash) a sum of money to pay for the costs associated with erecting a Veteran's Memorial in Winchester Park, or act in relation thereto. *(Requested by Town Administrator)***

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: YES

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *For many years there has been discussion about erecting a suitable memorial for our veterans. It is planned to not only move some of the monuments that are currently in the front of the Town Hall but to add monuments in remembrance of the other veterans.*

**Article 2 Voted:**

**On motion of Nick Davis it was voted to transfer from Free Cash the sum of \$50,000 for the costs associated with erecting a Veteran's Memorial in Winchester Park.**

**Majority "YES"**

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**Article 3.**

**To see if the Town will vote to transfer from available funds, (free cash) a sum of money to pay for the demolition of 12 Memorial Drive also known as the Veteran's Memorial School, or act in relation thereto. *(Requested by the Town Administrator)***

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: YES

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *The Veteran's Memorial School in Winchester Park has served its usefulness and now that it is vacant becomes a liability and a burden to the Town. This article contains the funding necessary to take the building down.*

**Article 3 Voted:**

On motion of Leo Janssens it was voted to transfer from Free Cash the sum of \$75,000 to pay for the demolition of 12 Memorial Drive also known as the Veteran's Memorial School.

**56 YES 36 NO**

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**Article 4**

To see if the Town will vote to transfer custody to the Board of Selectmen for purposes of demolition, and to authorize the Board of Selectmen to demolish the building at 12 Memorial Drive also known as the Veteran's Memorial School, being the same property shown on Assessors' Map 62, Parcel 51 recorded in the Worcester Northern Registry of Deeds at Book 166 Page 215 , or act in relation thereto. (*Requested by the Town Administrator.*)

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: N/A

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *Once the funding for the demolition is secured it is now necessary for the Town to transfer the custody of the VMS building as excess property for the purpose of having it removed.*

**Article 4 Voted:**

On motion of Leo Janssens it was voted to transfer custody to the Board of Selectmen for purposes of demolition, and to authorize the Board of Selectmen to demolish the building at 12 Memorial Drive also known as the Veteran's Memorial School, being the same property shown on Assessors' Map 62, Parcel 51 recorded in the Worcester Northern Registry of Deeds at Book 166 Page 215.

**54 YES 37 NO The article failed- not the required 2/3 needed.**

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**Article 5.**

To see if the Town will vote to raise and appropriate by borrowing for up to forty (40) years a sum of money for the purpose of financing the design, construction, and water system upgrades and maintenance as recommended by the "Engineering Report" prepared by Tighe & Bond dated October 2013, a copy of which is on file in the Town Clerk's office, including, without limitation, all costs associated with:

- Installation of approximately 8,800 linear feet of various diameter water mains on South Maple Avenue, Westminster Road, Williams Road, and Holden Street

And that to meet this appropriation, the Treasurer with the approval of the Board of Selectmen, be authorized to borrow a sum of money and to issue bonds or notes thereof under Chapter 44, Section 8, of the General Laws, or general authority; that such bonds or notes shall be general obligations of the Town and notes and charges shall be so established as to provide sufficient funds to ensure that the entire principal and interest payable on any borrowing associated with this project will be assessed to the users of the system; that the Board of Selectmen be authorized to apply for, accept and expend, federal or state aid for the project, that the Treasurer, with approval of the Board of Selectmen, is authorized to borrow all or a portion of such amount from the United States Department of Agriculture (USDA), and otherwise to contract with the USDA with respect to any such loan; and that the Board of Selectmen is authorized to expend all funds available from the project and to take other action necessary to carry out this project; including but not limited to entering into any and all contracts on such terms and

conditions as are in the best interest of the Town; provided, however, that the Board of Selectmen has determined that grants or other financial assistance are available from the Federal Government, the Commonwealth or any other source, which in the aggregate, will provide at least 20% of the project costs.  
(Requested by the Town Administrator)

**or act in relation thereto.** (Requested by the Town Administrator)

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: YES

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *The Town has a new water tank that is located at the top of Meeting House Hill. It was the first step in modernizing our water system. There are several water mains and lines under roads in the water district that are aged and exceeding their useful life. With the increase of water pressure these fragile pipes on these four roads represent a majority of our water breakage. Once the water mains have been replaced the roads will then be in line to be repaved.*

**Article 5 Voted:**

On motion of Duncan Phyfe it was voted to borrow a sum of \$2,025,000 for up to forty (40) years for the purpose of financing the design, construction, and water system upgrades and maintenance as recommended by the “Engineering Report” prepared by Tighe & Bond dated October 2013, including, without limitation, all costs associated with as printed in the warrant.

**2/3 Majority “YES”**

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**Article 6.**

To see if the Town will vote to amend the General Bylaws, Chapter II, Section 1 by deleting

*“The Annual Town Meeting shall be held on the first Saturday in May at 10:00 a.m. in the morning.”*  
and adding in its place

*“The Annual Town Meeting shall be held on the first Tuesday in May at 7:00 p.m. in the evening. Notwithstanding the foregoing, however, the Selectmen may, in their discretion, vote to designate any other date in April or May for the Annual Town Meeting.”*

*or act in relation thereto.* (Requested by the Town Administrator)

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: N/A

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *It has been requested that we change the ATM to a weekday evening rather than the first Saturday in May. People tend to want to work in the yard rather than attend a meeting on a beautiful sunny morning and having the meeting in the evening might help boost the attendance.*

**Article 6 Voted:**

On motion of Nick Davis it was voted to amend the General Bylaws, Chapter II, Section 1 by deleting *“The Annual Town Meeting shall be held on the first Saturday in May at 10:00 a.m. in the morning.”* and adding in its place *“The Annual Town Meeting shall be held on the first Tuesday in May at 7:00 p.m. in the evening. Notwithstanding the foregoing, however, the Selectmen may, in their discretion, vote to designate any other date in April or May for the Annual Town Meeting.”*

**Majority “YES”**

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**Article 7**

To see if the Town will vote to enact Article XII Section 5 of the General Bylaws, entitled “Stretch Energy Code” for the purpose of regulating the design and construction of buildings for the effective use of energy, and pursuant to Appendix 115.AA, of the Massachusetts Building Code, 780 CMR, adopt the Stretch Energy Code, including the amendments or modifications thereto; with a concurrency date of January 1, 2014, a copy of which is on file with the Town Clerk, or act in relation thereto. *(Requested by Town Administrator)*

SELECTMEN  
RECOMMEND: YES

PLANNING BD  
RECOMMEND: YES

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *The “Stretch Energy Code” is an addendum of the Building Code that deals with the heat efficiency of “new” building greater than 3000 square feet and is also the 3<sup>rd</sup> step of 5 in achieving Green Community status. There was a public hearing held on October 1, 2103.*

#### **Article 7 Voted:**

On motion of Leo Janssens it was voted to enact Article XII Section 5 of the General Bylaws, entitled “Stretch Energy Code” for the purpose of regulating the design and construction of buildings for the effective use of energy, and pursuant to Appendix 115.AA, of the Massachusetts Building Code, 780 CMR, adopt the Stretch Energy Code, including the amendments or modifications thereto; with a concurrency date of January 1, 2014.

#### **Section 5. STRETCH ENERGY CODE**

- § 5-1 Definitions
- § 5-2 Purpose
- § 5-3 Applicability
- § 5-4 Stretch Code

##### **§5-1 Definitions**

**International Energy Conservation Code (IECC)** – The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

**Stretch Energy Code** – Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8<sup>th</sup> edition Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

##### **§5-2 Purpose**

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

##### **§5-3 Applicability**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

## §5-4 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Ashburnham General Bylaws, Chapter 12.

The Stretch Code is enforceable by the Inspector of Buildings or Building Commissioner.

## **Majority “YES”**

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### **Article 8.**

**To see if the Town will vote to amend the Ashburnham Zoning By-laws as follow:**

## **SECTION 5.20 TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS**

### **Section 5.20.1. PURPOSE**

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013 and the State Department of Public Health is required to issue regulations regarding implementation within 120 days of the law’s effective date. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Medical Marijuana Treatment Centers and other uses related to the regulation of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.

### **Section 5.20.2. DEFINITION**

“Medical Marijuana Treatment Center” shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.”

### **Section 5.20.3. TEMPORARY MORATORIUM**

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center. The moratorium shall be in effect through June 30, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations regarding Medical Marijuana Treatment Centers and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: N/A

ADVISORY BD.  
RECOMMEND: YES

PLANNING BOARD  
RECOMMEND: YES

### **Article 8 Voted:**

**On motion of Duncan Phyfe it was voted to amend the Ashburnham Zoning By-laws as printed in the warrant.**

## **SECTION 5.20 TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS**

### **Section 5.20.1. PURPOSE**

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### **Section 5.20.3. TEMPORARY MORATORIUM**

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center. The moratorium shall be in effect through June 30, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations regarding Medical Marijuana Treatment Centers and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

**2/3 Majority "YES"**

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### **Article 9.**

**To see if the Town will vote to, amend the Ashburnham General Bylaws as follows:**

Chapter XVI - Section 2 – add the following:

- e. *“Dangerous dog”, a dog that either; (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.*
- f. *“Nuisance dog”, a dog that; (i) by excessive barking or other disturbance is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one’s quiet and peaceful enjoyment: or (iii); barking, whining or howling in an excessive, continuous or untimely fashion, (more than 10 minutes in any hour overnight between the hours of 10:00 p.m. and 7:00 a.m. or for more than 15 minutes in any hour during the day between 7:01 a.m. and 9:59 p.m.; or (iv) has threatened or attacked livestock, a domestic animal or a person, including threatening or attacking passersby or passing vehicles including bicycles but such threat or attack was not a grossly disproportionate reaction under all the circumstances; (v) trespassing on school grounds or other public or private property or damaging public or private property.*

Addition of the following:

**Section 4A. Nuisance or Dangerous Dogs**

*The owner or keeper of a dog shall be prohibited from allowing a dog to be dangerous or a nuisance.*

Change in Section 9 as follows:

**Enforcement:** *The Dog Officer or any duly appointed law enforcement officer of the Town shall enforce the provisions of this by-law relating to dogs, and shall attend to all complaints or other matters pertaining to dogs in the Town of Ashburnham.*

**a copy of which is on file in the Town Clerk’s office, or act in relation thereto. (Requested by the Town Administrator)**

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: N/A

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *This addition to the Town’s bylaws for dogs will hopefully work to insure that the ownership of dogs is an enjoyable experience for all.*

**Article 9 Voted:**

**On motion of Leo Janssens it was voted to, amend the Ashburnham General Bylaws as written in the warrant.**

Chapter XVI - Section 2 – add the following:

- e. *“Dangerous dog”, a dog that either; (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.*
- f. *“Nuisance dog”, a dog that; (i) by excessive barking or other disturbance is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one’s quiet and peaceful enjoyment: or (iii); barking, whining or howling in an excessive, continuous or untimely fashion, (more than 10 minutes in any hour overnight between the hours of 10:00 p.m. and 7:00 a.m. or for more than 15 minutes in any hour during the day between 7:01 a.m. and 9:59 p.m.; or (iv) has threatened or attacked livestock, a domestic animal or a person, including threatening or attacking passersby or passing vehicles including bicycles but such threat or attack was not a grossly disproportionate reaction under all the circumstances; (v) trespassing on school grounds or other public or private property or damaging public or private property.*



Addition of the following:

**Section 4A. Nuisance or Dangerous Dogs**

*The owner or keeper of a dog shall be prohibited from allowing a dog to be dangerous or a nuisance.*

Change in Section 9 as follows:

**Enforcement:** *The Dog Officer or any duly appointed law enforcement officer of the Town shall enforce the provisions of this by-law relating to dogs, and shall attend to all complaints or other matters pertaining to dogs in the Town of Ashburnham.*

**Majority “YES”**

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**Article 10.**

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

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: YES

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *The Town is looking to achieve the Department of Revenue’s guidance in cash reserves. Increasing our Capital Fund helps to reach the goal as well as putting away monies for future capital expenditures.*

**Article 10 Voted:**

**On motion of Nick Davis it was voted to transfer from Free Cash the sum of \$55,000 to the Capital Improvement Fund.**

**Unanimous “YES”**

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**Article 11.**

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

SELECTMEN  
RECOMMEND: YES

CAPITAL PLAN. COMM.  
RECOMMEND: N/A

ADVISORY BD.  
RECOMMEND: YES

TAX RATE  
IMPACT: N/A

**Explanation:** *The Stabilization Fund is the other segment of savings. Putting money into this fund also acts as a buffer for future unexpected expenses.*

**Article 11 Voted:**

**On motion of Duncan Phyfe it was voted to transfer from Free Cash the sum of \$58,527 to the Stabilization Fund.**

**Unanimous “YES”**

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**Meeting adjourned at 9:05 P.M.**

**Respectfully submitted,  
Linda A. Ramsdell, CMMC  
Town Clerk**