

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 May 6, 2014 Annual Town Meeting.

<u>4/14/2014</u>		Selectmen Recomm.	Capital Plan. Recomm.	Advisory Recomm.	Tax Rate Increase
	CONSENT AGENDA – Articles 1 thru 8	Yes	N/A	Yes	
Art. 1	Accept reports of Town Officers and Committees	Yes	N/A	Yes	
Art. 2	Light Department PILOT payment	Yes	N/A	Yes	
Art. 3	Tax Anticipation Note Authority for Treasurer	Yes	N/A	Yes	
Art. 4	Authority for Town Administrator to Contract with Mass. Highway	Yes	N/A	Yes	
Art. 5	Authority to Expend Ch. 90 Road Repair Money	Yes	N/A	Yes	
Art. 6	Transfer of Cushing Academy Trust Fund Income	Yes	N/A	Yes	
Art. 7	Transfer Title V receipts to pay principal and interest on septic loans	Yes	N/A	Yes	
Art. 8	Offset receipt account for Waterways Improvement Fund	Yes	N/A	Yes	

Art. 9	FY15 Budget	Yes	N/A	Yes	\$2.52
Art. 10	FY15 Water Enterprise Budget	Yes	N/A	Yes	
Art. 11	FY15 Sewer Enterprise Budget	Yes	N/A	Yes	
Art. 12	Capital Planning Committee recommended expenditures	Yes	Yes	Yes	
Art. 13	Vote on DPW facility	Yes	Yes	Yes	\$.70 FY16
Art. 14	Donation of park bench – Phil White	Yes	N/A	Yes	
Art. 15	Donation of property Murray road to Conservation	Yes	N/A	Yes	
Art. 16	Sell land of low value	Yes	N/A	Yes	
Art. 17	Marijuana By-Law – Planning Board	Yes	N/A	TBD	
Art. 18	Solar By-Law – Planning Board	Yes	N/A	TBD	
Art. 19	Citizen Petition VMS Study Committee	No	N/A	No	
Art. 20	Citizen Petition Advisory Bd on standing Committee	No	N/A	No	
Art. 21	Move money into Capital Fund	Yes	TBD	Yes	
Total Estimated increase for FY 15 tax rate if all passes:					\$2.52

Current Tax Rate for FY14 is \$19.83

Estimated Tax Rate for FY15 is \$22.35

**Proceedings of the Annual Town Meeting
May 6, 2014**

Pursuant to the foregoing warrant, the legal voters of the Town of Ashburnham met at Oakmont Regional High School Auditorium, 9 Oakmont Drive, Ashburnham on May 6, 2014. Moderator Donald "Jeff" Lawrence presided at the meeting which was called to order at 7 p.m. The veterans present were recognized for their service to their country with a moment of silence. The Pledge of Allegiance was recited. A moment of silence was observed for Al Hart, John Hoyer, Dan Root, John Reilly, Raymond Klingenberg, Willie Lashua, and Frances Godfrey.

CONSENT CALENDAR

On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent. Unanimous "YES":

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

SELECTMEN
RECOMMEND: YES

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: YES

TAX RATE
IMPACT: N/A

Brief Explanation: *Annual article to accept the reports of Town officials and boards.*

Article 1 Voted: On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent.

Unanimous "YES"

ARTICLE 2: To see if the Town will vote to authorize a PILOT payment based on the annual kilowatt sales of the Light Department multiplied by a per kilowatt value. from 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 Municipal Light Department)*

SELECTMEN
RECOMMEND: YES

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: YES

TAX RATE
IMPACT: N/A

Brief Explanation: *The PILOT agreement is tied to the Pilot payment in the annual kilowatt sales of the light department multiplied by a per kilowatt value. This was put in place for FY13 to ease the calculation and establish a standard process for future years. In FY14 it is estimated we will receive \$66,345.*

Article 2 Voted: On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent.

Unanimous "YES"

ARTICLE 3: To see if the Town will vote to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow money from time to time in anticipation of the revenue of the financial year beginning July 1, 2014, in accordance with the provisions of the Massachusetts General Laws, Chapter 44, Section 4, and to issue a note or notes as may be given for a period of less than one year in accordance with the Massachusetts General Laws, Chapter 44, Section 17, or act in relation thereto. *(Requested by the Town Treasurer)*

SELECTMEN
RECOMMEND: YES

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: YES

TAX RATE
IMPACT: N/A

Brief Explanation: *Precautionary article allowing the Treasurer to temporarily borrow operating funds for the Town if it becomes necessary due to cash flow shortages. Since the passage of quarterly tax billing we have not needed to make TAN borrowings.*

Article 3 Voted: On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent.

Unanimous "YES"

ARTICLE 4: 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 in conformance with the Massachusetts General Laws, 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

Brief Explanation: *This article allows the Town Administrator to contract with the State to do road repairs in Ashburnham.*

Article 4 Voted: On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent.

Unanimous "YES"

ARTICLE 5: To see if the Town will vote to appropriate all funds which become available in the Fiscal Year 2015 from the Commonwealth of Massachusetts Department of Highways, Chapter 90 Bond Issue proceeds, to be used by the DPW for the repair and maintenance of town roads in conformance with Massachusetts General Laws, 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

Brief Explanation: *This annual article allows the Town to expend its Chapter 90 state funds. For fiscal year 2015 the amount of those funds is estimated to be \$349,927.*

Article 5 Voted: On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent.

Unanimous “YES”

ARTICLE 6: To see if the Town will vote to authorize the transfer of trust fund income not to exceed \$2,500 from the Cushing Academy Trust Fund to pay for the fiscal year 2015 secondary school expenses, 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

Brief Explanation: *This is the transfer of funds (interest) from the Cushing Academy Trust fund (\$116,000). When the Town students were removed from Cushing Academy it was required to deposit \$114,000 into the Town’s funds and the interest earned on these monies were to be used to offset the cost to the Town for secondary education in public schools.*

Article 6 Voted: On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent.

Unanimous “YES”

ARTICLE 7: To see if the Town will vote to transfer \$25,873 from special assessments Title V Receipts Account (septic system loan program) to pay principal and interest due on notes payable to the Water Pollution Abatement Trust, 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

Brief Explanation: *The Town established a Septic System Loan Program where the cost was established as betterments. Each year charges are levied on the tax bills, and the revenue required is reserved or appropriated. We then must transfer monies required to cover the loan payment.*

Article 7 Voted: On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent.

Unanimous “YES”

ARTICLE 8: To see if the Town will vote to transfer a sum of money not to exceed \$3,500 from the Waterways Improvement Fund for the purpose of waterway improvement, maintenance, and safety, or act in relation thereto. *(Requested by the Ashburnham Lakes Coalition)*

SELECTMEN
RECOMMEND: YES

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: YES

TAX RATE
IMPACT: N/A

Brief Explanation: *The Waterways Improvement Fund is funded by a portion of the boat excise tax to be used for waterways maintenance, access, law enforcement or fire prevention. The Lakes Association has been given the charge of recommending uses of these monies to*

the Board of Selectmen who then approve or disapprove expenditures. In the past these monies have been used for Police boat patrols, lifesaving courses, purchase of a Police boat and other water related expenditures.

Article 8 Voted: On motion of Leo Janssens II, it was moved that article **1 through 8** be approved by consent.

Unanimous "YES"

ARTICLE 9: To see if the Town will vote to raise and appropriate or appropriate by 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, 2014 and to set the salaries of elected officials; or act in relation thereto. *(Requested by the Board of Selectmen and Advisory Board)*

SELECTMEN
RECOMMEND: YES

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: YES

TAX RATE
IMPACT: \$2.52

LINE	DEPARTMENT	FY13 SPENT	FY14 BUDGET	FY15 RECOMMEND	Reason for Increase or Decrease Wage increase- 3% for all Employees
1	Moderator	\$ 100	\$ 100	\$ 100	
2	Board of Selectmen	\$ 5,554	\$ 6,625	\$ 6,816	
3	Town Administrator	\$ 179,525	\$ 184,838	\$ 191,615	
4	Advisory Board	\$ 72,736	\$ 50,500	\$ 50,500	
5	Town Accountant	\$ 70,530	\$ 75,936	\$ 72,023	Removed additional training \$\$
6	Board of Assessors	\$ 94,935	\$ 100,376	\$ 101,893	
7	Treasurer	\$ 80,773	\$ 99,893	\$ 105,252	Increase hours of Assistant Treasurer
8	Tax Collector	\$ 66,642	\$ 69,014	\$ 71,222	
9	Information Technology	\$ 155,995	\$ 163,777	\$ 183,858	IMC software plus managed network systems to include all buildings
10	Town Clerk	\$ 57,354	\$ 48,062	\$ 57,090	Increase due to State Primary and Election
11	Land Use	\$ 26,624	\$ 27,632	\$ 32,402	Increase in % of salary apportioned to department from Conservation Com
12	Town Hall	\$ 40,712	\$ 41,145	\$ 42,299	
13	Town Buildings	\$ 154,463	\$ 143,408	\$ 146,758	Town Hall, Public Safety and DPW
14	Non-Departmental	\$ 106,340	\$ 88,849	\$ 93,853	Legal, town report, communication, trash, sewer assessment, supplies
15	Police	\$ 987,150	\$ 1,066,416	\$ 1,145,394	New Police Officer
16	Emergency Dispatch	\$ 227,164	\$ 255,452	\$ 263,168	
17	Fire	\$ 519,249	\$ 595,464	\$ 635,975	Increase "on-call" & "per diem" wages to compliment 24/7 coverage
18	Inspections	\$ 59,659	\$ 81,148	\$ 63,045	FY14 was for Solar Project and School
19	Animal Control	\$ 32,015	\$ 30,600	\$ 30,600	
20	Monty Tech	\$ 380,964	\$ 444,495	\$ 442,182	Decrease of 3 students
21	AWRSD	\$ 6,276,558	\$ 6,432,648	\$ 6,577,007	Eleven additional students
22	DPW	\$ 640,862	\$ 668,702	\$ 721,220	Re-allocation of costs from Sewer budget. Added \$10,000 for DEP testing of landfill.
LINE	DEPARTMENT	FY13 SPENT	FY14 BUDGET	FY15 RECOMMEND	Reason for Increase or Decrease Wage increase- 3% for all Employees

23	Snow & Ice	\$ 266,617	\$ 180,000	\$ 200,000	Increase to cover shortage usually raised on recap sheet.
24	Board of Health	\$ 18,725	\$ 18,586	\$ 18,586	
25	Conservation Commission	\$ 20,378	\$ 28,520	\$ 26,837	Increase in % of salary apportioned to department from Land Use.
26	Council on Aging	\$ 14,093	\$ 21,061	\$ 21,529	
27	Veterans' Services	\$ 76,961	\$ 97,883	\$ 107,821	Increase in # of veterans, which is offset 75% with one year lag.
28	Library	\$ 185,495	\$ 190,229	\$ 194,495	
29	Agricultural Commission	\$ -	\$ 300	\$ 300	
30	Parks & Recreation Comm.	\$ 8,730	\$ 8,430	\$ 20,040	Increase is \$10,000 to repair basketball court at Sweeney Park
31	Historical Commission	\$ -	\$ 2,000	\$ 2,000	
32	Debt Service	\$ 846,751	\$ 930,471	\$ 2,031,310	New Briggs School loan
33	Employee Ins. Benefits	\$ 1,091,682	\$ 1,183,502	\$ 1,342,881	Increase in health insurance cost plus retirement benefits assessment
ARTICLE 9 TOTAL		\$ 12,765,509	\$ 13,336,062	\$ 15,000,071	

Setting of Elected Salaries under Article 9:

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

Brief Explanation: *Annual operating budget article as noted. The revenues to offset the cost of the proposed budget come from the following sources:*

Taxes	\$12,526,975
State Aid	\$ 887,081
Local Receipts	\$ 1,586,015

ARTICLE 9 VOTED: On motion of Bill Johnson, it was voted to raise and appropriate the sum of \$15,000,071 for the Departments and purposes noted in the warrant and to set the salary for all Elected Officials as printed in the warrant.

93 YES 77 NO

ARTICLE 10: To see if the Town will vote to raise and appropriate a sum of money to operate the Water Department for the fiscal year beginning July 1, 2014, 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

Brief Explanation: *Budget is an increase of \$22,333 from the FY14 budget, which includes a 3% wage increase, debt service on the Water Tank loan. The revenue source for this article comes from Water revenues.*

ARTICLE 10 VOTED: On motion of Bill Johnson, it was voted to appropriate the sum of \$735,830 to operate the Water Department for the fiscal year, beginning July 1, 2014, as set forth in the Advisory Board recommendations and as printed in the warrant.

Majority "YES"

ARTICLE 11: To see if the Town will vote to raise and appropriate a sum of money to operate the Sewer Department for fiscal year beginning July 1, 2014, 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

Brief Explanation: *Budget is a decrease of \$46,778 from the FY14 budget, which includes a 3% wage increase. The revenues for this article comes from Sewer Receipts*

ARTICLE 11 VOTED: On motion of Bill Johnson, it was voted to appropriate the sum of \$854,581 to operate the Sewer Department for the fiscal year beginning July 1, 2014, as set forth in the Advisory Board recommendation and printed in the warrant.

Unanimous "YES"

ARTICLE 12: To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds the sum of \$469,910 to fund the recommendation of the Capital Planning Committee to include the following:

Line	Item	Amount
1	Fire Dept Turnout gear	\$ 16,910
2	Fire Dept Radio equipment	\$ 1,000
3	DPW Ford Dump Truck- sander	\$157,000
4	DPW John Deere Backhoe	\$100,000
5	DPW – Road Repair	\$100,000
6	Police - Ford Cruiser Interceptor Utility Vehicle	\$ 40,000
7	Police – 2014 Ford Taurus Cruiser	\$ 34,000
8	Fire – UTV and Trailer	\$ 21,000
	TOTAL	\$469,910

And to authorize the Board of Selectmen to sell, trade in, or dispose of any equipment being replaced, 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

Brief Explanation: *The Capital Planning Committee has developed a sustainable capital plan that can be funded within the raise and appropriated tax levy. This year's plan includes spending \$469,910. Revenue to offset cost for this article will come from Local receipts.*

ARTICLE 12 VOTED: On motion of Bill Johnson, it was voted to raise and appropriate the sum of \$469,910 to fund the capital items as presented in the article.

Majority "YES"

ARTICLE 13: To see if the Town will vote to raise and appropriate by borrowing or otherwise, an amount not to exceed \$8,565,000 to be used for the design, construction and related costs associated with the construction of a new Department of Public Works and Water and Sewer facility, provided 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 2½, so called, 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

Brief Explanation: *This facility is the culmination of 8 years of work to remove the DPW from the center of town to an appropriate site. This facility meets all current state and local guidelines. Funding for the project will be supported proportionally with funds from the Town, Water, and Sewer departments.*

ARTICLE 13 VOTED: On motion of Carmine Antidormi, it was voted to PASS OVER this article.

2/3 Majority "YES"

ARTICLE 14: To see if the Town will vote to accept the donation of a marble park bench by the White family to be located in Winchester Park in memory of their son Thomas, 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

Brief Explanation: *Thomas, a life long resident of Ashburnham, died in a car accident in August of 2013. The White family would like to honor their son and offer a place where his friends and family can sit and enjoy.*

Article 14 Voted: On motion of Nick Davis, it was voted to accept the donation of a marble park bench by the White family to be located in Winchester Park in memory of their son Thomas.

Unanimous "YES"

ARTICLE 15: To see if the Town will vote to accept a gift of land for conservation purposes consisting of approximately 44.39 acres located in South Ashburnham, on the Gardner-Ashburnham town line, together with a 20 foot wide access easement off Murray Road, such land being shown as Parcel A and said easement being shown on the southerly boundary of Lot 2 on a "Plan of Land in Ashburnham Mass., prepared for Richard & Margaret Sisson" prepared by Whitman & Bingham Associates, LLC, dated July 1, 2013 and duly recorded in the Worcester County North Registry of Deeds in Plan Book 497, Page 3, 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

Brief Explanation: *This land together with the access easement is being offered to the Town in accordance with an agreement between the Conservation Commission and tenK Energy as*

mitigation for potential wetland resource impacts associated with tenK's solar project. Parcel A is not buildable.

ARTICLE 15 VOTED: On motion of Marshall Dennis, it was voted to accept a gift of land for conservation purposes consisting of approximately 44.39 acres located in (South Ashburnham), on the Gardner-Ashburnham town line, together with a 20 foot wide access easement off Murray Road, such land being shown as Parcel A and said easement being shown on the southerly boundary of Lot 2 on a "Plan of Land in Bingham Associates, LLC, dated July 1, 2013 and duly recorded in the Worcester County North Registry of Deeds in Plan Book 497, Page 3.

Unanimous "YES"

ARTICLE 16: To see if the Town will transfer custody of a certain parcel of land consisting of 7,500 square feet located on Winchendon Road, shown on Assessor's Map 14, Lot 27, being the same lot conveyed to the Town by a treasurer's deed recorded on May 20, 2011, at the Worcester County North Registry of Deeds in Book 7411, Page 110, to the Board of Selectmen for purposes of conveying said parcel and to authorize the Board of Selectmen to convey said parcel for such terms and conditions as are in the best interest of the Town, 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

Brief Explanation: *This parcel of land is only 7,500 sq. ft. and is not buildable. When sold, this property will be put back on the tax role.*

ARTICLE 16 VOTED: On motion of Leo Janssens II, it was voted to transfer custody of a certain parcel of land consisting of 7,500 square feet located on Winchendon Road, shown on Assessor's Map 14, Lot 27, being the same lot conveyed to the Town by a treasurer's deed recorded on May 20, 2011, at the Worcester County North Registry of Deeds in Book 7411, Page 110, to the Board of Selectmen for purposes of conveying said parcel and to authorize the Board of Selectmen to convey said parcel for such terms and conditions as are in the best interest of the Town.

Unanimous "YES"

ARTICLE 17: To see if the town will vote to amend the Ashburnham Zoning By-laws as follows:

5.20 REGISTERED MARIJUANA DISPENSARIES

5.20.1 Purposes

- a. To provide for the limited establishment of Registered Marijuana Dispensaries (RMD) in appropriate places and under strict conditions in accordance with applicable laws.
- b. To minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said RMDs.

- c. To regulate the siting, design, placement, safety, monitoring, modification, and removal of RMDs.
- d. To limit the overall number of RMDs in Ashburnham to what is essential to serve the public convenience and necessity.

5.20.2 Applicability

The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as an RMD under this Section 5.20.

If any provision of this Section or the application of any provision of this Section to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and shall remain in effect.

5.20.3 Definitions

Registered Marijuana Dispensary: a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possess, processes (including development of related projects such as edible Marijuana-Infused Products (MIP), tinctures, aerosols oils, or ointments, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

Marijuana for Medical Use: Marijuana that is designated and restricted for use by, and for the benefit of Qualifying Patients in the treatment of Debilitating Medical Conditions.

Marijuana: Shall be defined as "marijuana" under Chapter 94C of the Massachusetts General Laws and 105 Code of Massachusetts Regulations (CMR)725.004

5.20.4 Eligible Locations for Registered Marijuana Dispensaries

An RMD shall be permitted only in the RMD Use Overlay District by special permit by the Special Permit Granting Authority (SPGA) in accordance with the provisions of M.G.L. c. 40A. §9, this Section 5.20, Section 5.10 (Site Plan Review) and the general Special Permit provisions of Section 6.42 of these bylaws.

5.20.5 General Requirements and Conditions for all Registered Marijuana Dispensaries.

- a. No RMD shall have a gross floor area in excess of [2,500] square feet. An RMD may be located in buildings that exceed [2,500] square feet of floor area, provided that the gross floor area of the RMD shall not exceed [2,500] square feet.
- b. All RMD shall be contained within a building or structure, except as otherwise permitted by the Department of Public Health Regulations at 105 CMR 725.000, et seq.
- c. The hours of operation of a RMD shall be set by the SPGA, but in no event

shall RMD's be open and/or operating between the hours of 9:00 PM and 8:00 AM.

- d. No special permit for an RMD shall be issued to a person who has been convicted of a felony or a violation of a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs. Further, no special permit for a RMD shall be issued to a business or nonprofit corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of a felony or a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs.
- e. No special permit for an RMD shall be issued to a person who has been convicted of a violation of Massachusetts General Law Chapter 119, Section 63 or MGL Chapter 272, Section 28. Further, no special permit for an RMD shall be issued to a business or non-profit corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of MGL Chapter 119, Section 63 or Massachusetts General Law Chapter 272, Section 28.
- f. No RMD shall be located within [100] feet of a residential zoning district.
- g. No RMD shall be located within [500] feet of any of the following:
 - 1) Any school attended by children under the age of 18, any day care center, or any other facility where children commonly congregate such as, but not limited to, playgrounds, athletic fields, or other similar facilities.
 - 2) Any drug or alcohol rehabilitation facility;
 - 3) Any correctional facility, half-way house, or similar facility; or
 - 4) Any other RMD.
- h. No smoking or burning of marijuana or marijuana-related products shall be permitted on the premises of an RMD.
- i. No RMD shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- j. Signage for an RMD shall be limited to one exterior sign which shall not be directly illuminated and shall otherwise comply with the dimensional requirements of the underlying zoning district, and the applicable regulations promulgated by the DPH in 105 CMR 725.105.L.
- k. All RMDs shall provide the SPGA with the name, phone number and email address of an on-site community relations staff person designated by the RMD to be contacted by town officials in the event of any operating problems associated with the RMD.
- l. All employees of an RMD shall be at least 18 years of age.
- m. No one under the age of 18 years old shall be permitted on the premises of an RMD during hours of operation unless that person is a qualified patient or

caregiver with a valid registration card as set forth in DPH regulations 105 CMR 725.000 et seq.

5.20.6 RMD Special Permit Requirements

- a. Special permits granted under this Section shall be limited to the applicant for the duration of the applicant's ownership and/or use of the premises as an RMD. A special permit may be transferred only upon approval of the SPGA in the form of an amendment to the special permit pursuant to all applicable provisions of M.G.L. c. 40A and the town's zoning bylaws.
- b. A special permit for an RMD may be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - 1) Cultivation of Marijuana for Medical Use (horticulture);
 - 2) Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - 3) Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
 - 4) Wholesale sale of Marijuana for Medical Use to other RMDs as permitted by the DPH regulations found in 105 CMR 725.000.
- c. In addition to the application requirements set forth in this Section and Section 6.42 of the zoning bylaws, a special permit application for an RMD shall include the following:
 - 1) A statement from the Applicant under oath, setting forth the following information:
 - a) The name and address of each owner, manager, member, partner and employee of the RMD, and a certification that the application conforms is to Sections 5.20.5 above;
 - b) The source of all marijuana that will be sold or distributed at the RMD;
 - c) The source of all marijuana that will be cultivated, processed, and/or packaged at the RMD;
 - d) The quantity of marijuana that will be cultivated, processed, packaged, sold and/or distributed at the RMD; and
 - e) If marijuana is to be cultivated, processed, and/or packaged at the RMD, the name and address of each purchaser of said marijuana.
 - 2) A copy of the Applicant's current Articles of Organization or Articles of Incorporation, a current Certificate of Legal Existence, from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a public agency, evidence of the agency's authority to engage in the development and operation of the RMD as proposed in the application;
 - 3) Copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the RMD;
 - 4) Evidence of the Applicant's right to use the site of the RMD as an RMD,

such as a deed, lease, or purchase and sale Agreement;

- 5) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- 6) A market study demonstrating sufficient demand for the Marijuana for Medical Use proposed to be sold or distributed by the RMD;
- 7) Proposed security measures for the RMD, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft in accordance with 105 CMR 725.110.
- 8) Resume(s) of the Applicant and all members of the RMDs management, including company history, references, and relevant experience.

5.20.7 Required Findings.

The SPGA may issue a special permit for an RMD upon finding that:

- a. The RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;
- b. That the project is compatible with the immediately surrounding uses. In determining same, the Special permit Granting Authority shall consider how the proposed use fits in with the surrounding uses, and shall consider traffic impacts, pedestrian safety impacts, odor(s), and noise impact(s).
- c. The RMD is fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations;
- d. In the case of retail sale or distribution, the RMD is serving a measurable demand for Marijuana for Medical Use that is currently unmet within the municipality;
- e. The applicant has not provided materially false documents or testimony; and
- f. The applicant has satisfied all of the conditions and requirements of this Bylaw.

5.20.8 Annual Reporting.

Every RMD permitted under this Bylaw shall, as a condition of its special permit, file an annual report to the Special Permit Granting Authority and the Town Clerk no later than January 31, providing a copy of all current applicable state licenses for the RMD and/or its owners, and certifying that answers to each of the questions set forth under Sections 5.20.6.C of this bylaw for the preceding calendar year, as well as the RMDs good faith estimate of the same information for the ensuing calendar year.

5.20.10 Violations

Any violation of this Section, the special permit issued hereunder, or any

suspension or revocation of any license or permit issued by the Commonwealth of Massachusetts for the RMD shall be grounds for revocation or suspension of the special permit issued under this Section in accordance with M.G.L. c. 40A as may be applicable.

SELECTMEN
RECOMMEND: YES
PLANNING BOARD
RECOMMEND: YES

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: YES

TAX RATE
IMPACT: N/A

Brief Explanation: *From Planning Board*

ARTICLE 17 VOTED: On motion of William Nolan it was voted to approve Article 17 as printed in the warrant with the following corrections. Remove brackets in Section 5.20.5 Section A, Section F, Section G and add Section 5.20.9 Waivers as presented in the handout and below.

ARTICLE 17: To see if the town will vote to amend the Ashburnham Zoning By-laws as follows:

5.20 REGISTERED MARIJUANA DISPENSARIES

5.20.1 Purposes

- a. To provide for the limited establishment of Registered Marijuana Dispensaries (RMD) in appropriate places and under strict conditions in accordance with applicable laws.
- b. To minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said RMDs.
- c. To regulate the siting, design, placement, safety, monitoring, modification, and removal of RMDs.
- d. To limit the overall number of RMDs in Ashburnham to what is essential to serve the public convenience and necessity.

5.20.2 Applicability

The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as an RMD under this Section 5.20.

If any provision of this Section or the application of any provision of this Section to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and shall remain in effect.

5.20.3 Definitions

Registered Marijuana Dispensary: a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possess, processes (including development of related projects such as edible Marijuana-Infused Products (MIP), tinctures, aerosols oils, or ointments, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or

their personal caregivers.

Marijuana for Medical Use: Marijuana that is designated and restricted for use by, and for the benefit of Qualifying Patients in the treatment of Debilitating Medical Conditions.

Marijuana: Shall be defined as "marijuana" under Chapter 94C of the Massachusetts General Laws and 105 Code of Massachusetts Regulations (CMR)725.004

5.20.4 Eligible Locations for Registered Marijuana Dispensaries

An RMD shall be permitted only in the RMD Use Overlay District by special permit by the Special Permit Granting Authority (SPGA) in accordance with the provisions of M.G.L. c. 40A. §9, this Section 5.20, Section 5.10 (Site Plan Review) and the general Special Permit provisions of Section 6.42 of these bylaws.

5.20.5 General Requirements and Conditions for all Registered Marijuana Dispensaries.

- a. No RMD shall have a gross floor area in excess of 2,500 square feet. An RMD may be located in buildings that exceed 2,500 square feet of floor area, provided that the gross floor area of the RMD shall not exceed 2,500 square feet.
- b. All RMD shall be contained within a building or structure, except as otherwise permitted by the Department of Public Health Regulations at 105 CMR 725.000, et seq.
- c. The hours of operation of a RMD shall be set by the SPGA, but in no event shall RMD's be open and/or operating between the hours of 9:00 PM and 8:00 AM.
- d. No special permit for an RMD shall be issued to a person who has been convicted of a felony or a violation of a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs. Further, no special permit for a RMD shall be issued to a business or nonprofit corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of a felony or a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs.
- e. No special permit for an RMD shall be issued to a person who has been convicted of a violation of Massachusetts General Law Chapter 119, Section 63 or MGL. Chapter 272, Section 28. Further, no special permit for an RMD shall be issued to a business or non-profit corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of MGL Chapter 119, Section 63 or Massachusetts General Law Chapter 272, Section 28.
- f. No RMD shall be located within 100 feet of a residential zoning district.
- g. No RMD shall be located within 500 feet of any of the following:
 - 1) Any school attended by children under the age of 18, any day care center,

or any other facility where children commonly congregate such as, but not limited to, playgrounds, athletic fields, or other similar facilities.

- 2) Any drug or alcohol rehabilitation facility;
 - 3) Any correctional facility, half-way house, or similar facility; or
 - 4) Any other RMD.
- h. No smoking or burning of marijuana or marijuana-related products shall be permitted on the premises of an RMD.
- i. No RMD shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- j. Signage for an RMD shall be limited to one exterior sign which shall not be directly illuminated and shall otherwise comply with the dimensional requirements of the underlying zoning district, and the applicable regulations promulgated by the DPH in 105 CMR 725.105.L.
- k. All RMDs shall provide the SPGA with the name, phone number and email address of an on-site community relations staff person designated by the RMD to be contacted by town officials in the event of any operating problems associated with the RMD.
- l. All employees of an RMD shall be at least 18 years of age.
- m. No one under the age of 18 years old shall be permitted on the premises of an RMD during hours of operation unless that person is a qualified patient or caregiver with a valid registration card as set forth in DPH regulations 105 CMR 725.000 et seq.

5.20.6 RMD Special Permit Requirements

- a. Special permits granted under this Section shall be limited to the applicant for the duration of the applicant's ownership and/or use of the premises as an RMD. A special permit may be transferred only upon approval of the SPGA in the form of an amendment to the special permit pursuant to all applicable provisions of M.G.L. c. 40A and the town's zoning bylaws.
- b. A special permit for an RMD may be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
- 1) Cultivation of Marijuana for Medical Use (horticulture);
 - 2) Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - 3) Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
 - 4) Wholesale sale of Marijuana for Medical Use to other RMDs as permitted by the DPH regulations found in 105 CMR 725.000.
- c. In addition to the application requirements set forth in this Section and

Section 6.42 of the zoning bylaws, a special permit application for an RMD shall include the following:

- 1) A statement from the Applicant under oath, setting forth the following information:
 - a) The name and address of each owner, manager, member, partner and employee of the RMD, and a certification that the application conforms is to Sections 5.20.5 above;
 - b) The source of all marijuana that will be sold or distributed at the RMD;
 - c) The source of all marijuana that will be cultivated, processed, and/or packaged at the RMD;
 - d) The quantity of marijuana that will be cultivated, processed, packaged, sold and/or distributed at the RMD; and
 - e) If marijuana is to be cultivated, processed, and/or packaged at the RMD, the name and address of each purchaser of said marijuana.
- 2) A copy of the Applicant's current Articles of Organization or Articles of Incorporation, a current Certificate of Legal Existence, from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a public agency, evidence of the agency's authority to engage in the development and operation of the RMD as proposed in the application;
- 3) Copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the RMD;
- 4) Evidence of the Applicant's right to use the site of the RMD as an RMD, such as a deed, lease, or purchase and sale Agreement;
- 5) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- 6) A market study demonstrating sufficient demand for the Marijuana for Medical Use proposed to be sold or distributed by the RMD;
- 7) Proposed security measures for the RMD, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft in accordance with 105 CMR 725.110.
- 8) Resume(s) of the Applicant and all members of the RMDs management, including company history, references, and relevant experience.

5.20.7 Required Findings.

The SPGA may issue a special permit for an RMD upon finding that:

- a. The RMD is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;
- b. That the project is compatible with the immediately surrounding uses. In determining same, the Special permit Granting Authority shall consider how

the proposed use fits in with the surrounding uses, and shall consider traffic impacts, pedestrian safety impacts, odor(s), and noise impact(s).

- c. The RMD is fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations;
- d. In the case of retail sale or distribution, the RMD is serving a measurable demand for Marijuana for Medical Use that is currently unmet within the municipality;
- e. The applicant has not provided materially false documents or testimony; and
- f. The applicant has satisfied all of the conditions and requirements of this Bylaw.

5.20.8 Annual Reporting.

Every RMD permitted under this Bylaw shall, as a condition of its special permit, file an annual report to the Special Permit Granting Authority and the Town Clerk no later than January 31, providing a copy of all current applicable state licenses for the RMD and/or its owners, and certifying that answers to each of the questions set forth under Sections 5.20.6.C of this bylaw for the preceding calendar year, as well as the RMDs good faith estimate of the same information for the ensuing calendar year.

5.20.9 Waivers

A waiver of strict compliance from these Rules and Regulations may be granted if the SPGA determines that such a waiver is in the public interest and not inconsistent with the Zoning Bylaw. All requests shall identify the provision or provisions of the regulations from which relief is sought. The request shall also include a statement explaining why the applicant thinks that granting a waiver would be in the public interest and not inconsistent with the purpose and intent of these rules and regulations and Zoning Bylaw.

5.20.10 Violations

Any violation of this Section, the special permit issued hereunder, or any suspension or revocation of any license or permit issued by the Commonwealth of Massachusetts for the RMD shall be grounds for revocation or suspension of the special permit issued under this Section in accordance with M.G.L. c. 40A as may be applicable.

2/3 Majority "YES"

ARTICLE 18: To see if the town will vote to amend the Ashburnham Zoning Bylaws as follows:

5.21 LARGE-SCALE GROUND-MOUNTED PHOTOVOLTAIC INSTALLATIONS

5.21.1 Purpose

The purpose of this subsection of the Zoning Bylaw is to establish appropriate criteria and standards for the placement, design, construction, operation, monitoring, modification and removal of new large-scale ground-mounted solar

photovoltaic installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

5.21.2 Applicability

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

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

5.21.2. A Definitions

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and including related buildings and structures and equipment not roof-mounted, and has a minimum nameplate capacity of 250kWDC.

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

5.21.3 Location

A Large-Scale Ground Mounted Photovoltaic Installation Overlay District is hereby established over all zoning districts in the town of Ashburnham. Large-Scale Ground Mounted Photovoltaic Installations shall be allowed as of right with Site Plan Review in accordance with this section and section 5.10 of this bylaw in the Large-Scale Ground Mounted Photovoltaic Installation Overlay District on all parcels of land under single ownership or control

5.21.4 General Requirements for all Large-Scale Ground-Mounted Photovoltaic Installations

The following requirements are common to all large-scale ground-mounted solar photovoltaic installations.

5.21.4.1 Compliance with Laws, Bylaws and Regulations

The construction and operation of all large scale solar photovoltaic installations shall meet all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code, and further comply with all other provisions of the Ashburnham Zoning bylaws.

5.21.4.2 Utility Notification

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that Ashburnham Municipal Light Plant (AMLPL) has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. All proponents should inform themselves of AMLPL's Distributed Generation Interconnection Study to the extent applicable.

5.21.4.2 Building Permit and Building Inspection

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

5.21.4.3 Fees

An application fee for site plan review is required. (See the Planning Board Fee Schedule for the amount required.)

In addition, a Review Fee may be required by the Planning Board which sum shall be based upon an estimate provided by the peer review engineer appointed by the Planning Board to review the project. The Review Fee shall be paid to the town and deposited into a 53G Account prior to commencement of the hearing. Sufficient funds to compensate the town's engineer shall remain in the account until final payment is made at the end of the process.

5.21.5 Site Plan Review

The proponent is required to provide the Planning Board with the following Application Requirements and must obtain site plan approval from the planning board prior to construction, installation or modification as provided in this section. No large scale solar photovoltaic installation shall be added to, modified or changed without site plan approval from the Planning Board, and without first obtaining a building permit as may be required for such addition, modification or change.

5.21.5.1 Application Requirements

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts except to the extent that the applicant is exempt pursuant to G.L. c. 112, §81R, and/or a Registered Land Surveyor, as the case may be.

1. A site plan showing:

(a) Existing conditions on the site including property lines and physical features including existing grades, vegetation, roads, buildings, and other significant features.

(b) Proposed changes to the site, including landscape, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures; a landscape plan (in plan view) identifying plant material to be used to screen all appurtenant structures and identifying plant material or fencing to be used to satisfy the requirement for a buffer between installation and property edge as per Section 5.21.8.3, and structures.

(c) Schematic or blueprints of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, except to the extent that the applicant is exempt pursuant to G.L. c. 112, §81R, showing the proposed layout of the structures and any potential shading from nearby structures.

- (d) Schematic or outline electrical diagram showing proposed solar panels and associated components, and electrical interconnection methods, with all Massachusetts Electric Code compliant disconnects and overcurrent devices.
 - (e) Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter.
 - (f) Name, address, and contact information for proposed system installer.
 - (g) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.
 - (h) Name, contact information and signature of any agents representing the project proponent, if any.
2. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.
 3. An operation and maintenance plan, which shall include measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.
 4. Proof of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
 5. Payment of financial surety that satisfies Section 5.21.11.3
 6. Other reasonable documentation requested by the Planning Board.

5.21.6 Design Standards

5.21.6.1 Dimensional and Density Requirements

Setbacks

For large scale ground-mounted solar photovoltaic installations, front, side and rear setbacks and Lot Coverage shall be as follows:

- (1) Front yard. The front yard depth shall be at least 40 feet; provided, however, that where the lot abuts the front yard shall not be less than 50 feet.
- (2) Side yard. Each side yard shall have a depth at least 25 feet; provided, however, that where the lot abuts the side yard shall not be less than 50 feet.
- (3) Rear yard. The rear yard depth shall be at least 25 feet; provided, however, that where the lot abuts a the rear ear yard shall not be less than 50 feet.
- (4) Lot coverage. For purposes of determining compliance with lot coverage standards of the underlying zone (See Schedule of Dimensional Regulations), the total surface area of all ground-mounted and freestanding solar collectors including solar photovoltaic cells, panels, and arrays, shall be considered impervious and as structures. The horizontal area projected on the ground surface of a ground mounted system, regardless of the mounted angle, the areas of buildings and accessory structures, and other impervious surfaces shall be calculated as part of the overall lot coverage.
- (5) When a proposed large-scale ground-mounted solar photovoltaic installation does not abut a residential zoning district or use, the Planning Board may

waive the above dimensional requirements for front, side and rear yard setbacks as provided in subsection 5.21.10 (Waivers). In no case, however, shall the front, side or rear yard setback be less than 10 feet.

5.21.6.2 Lighting

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

5.21.6.3 Signage

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer. Signage identifying the owner and/or operator of the solar installation and a 24-hour emergency contact telephone number shall be provided at all points of access. In all other respects, any signs shall comply with the applicable requirements of the underlying zoning district.

5.21.6.4 Utility Connections

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

5.21.6.2 Appurtenant Structures

All appurtenant structures to large-scale ground-mounted solar photovoltaic arrays shall conform to the setback requirements of the zoning district in which the installation is located. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

5.21.7 Safety and Environmental Standards

5.21.7.1 Emergency Services

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief and AMLP. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall provide the name, phone number, and email of the person responsible for public inquiries throughout the life of the installation.

5.21.7.2 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large scale ground-mounted

solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

5.21.7.3 Landscaped Buffer Strip

A landscaped buffer strip is intended to provide in a reasonable time a visual barrier between the Large scale ground-mounted solar photovoltaic installation and adjacent parcels. Except for vehicular and pedestrian passways, the areas shall be used only for an interplanting of deciduous and evergreen trees and shrubs, with lawn or other suitable and appropriate ground cover. The buffer must provide coverage of three feet in height from the proposed grade to the top of the majority of the planting material at time of installation. Reasonable leeway may be provided by the Planning Board to allow for expected growth of the buffer strip over time. The buffer strip shall occupy at least 20% of the depth between the property line and the mandated setback of the zoning district where the installation is located. Where considered appropriate in the judgment of the Planning Board, walls and fences may be used in addition to in lieu of plantings. A planting plan showing the types, sizes and locations of material to be used shall be subject to the approval of the Planning Board. The Planning Board may waive the requirements of the visual barrier where it deems it advisable.

5.21.8 Monitoring and Maintenance

5.21.8.1 Installation Conditions

The large scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, AMLP and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

5.21.8.2 Modification Conditions/Change in Ownership or Operator

Any material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board, and AMLP as the case may be.

If the owner and/or operator of a large-scale ground-mounted solar photovoltaic installation changes, written notice shall be given to the Planning Board and AMLP within 30 days of such change, and such notice shall include the contact information for the new owner/operator and the effective date of the change.

5.21.9 Waivers

1. The Planning Board may waive strict compliance with any requirement of the Design Standards, Safety and Environmental Standards section of this bylaw, or any rules and regulations promulgated hereunder, where:
 - (a) Such action is allowed by federal, state and local statutes and/or regulations;
 - (b) It is in the public interest:

- (c) It is not inconsistent with the purpose and intent of this by-law.
- 2. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the by-laws does not further the purposes or objectives of this by-law.
- 3. All waiver requests shall be discussed and voted on by the Planning Board.
- 4. If the Planning Board deems additional time or information is required in the review of a waiver request, the Planning Board may continue the request for a waiver until such time as the Planning Board deems it is ready to vote on said request.

5.21.10 Abandonment or Decommissioning

5.21.10.1 Removal Requirements

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

- (a) Physical removal of all large scale ground solar photovoltaic installations, arrays, structures, equipment, security barriers and above ground transmission lines from the site, if any.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below grade foundations in order to minimize erosion and disruption to vegetation.

5.21.10.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. The AMLP shall have the right of first refusal as to whether it will choose to assume responsibility for the abandoned solar operation. If the AMLP chooses to forgo such responsibility and assume the operation, and the owner or operator of the large- scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

5.21.11.3 Financial Surety

The Planning Board shall require the applicant for a large-scale ground-mounted solar photovoltaic installation to provide a form of surety, either through the

Planning Board or AMLP before construction to cover the estimated cost of removal as set forth herein. If setting up a surety with the Planning Board, the form of surety must be either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation or otherwise due to a Cost of Living Adjustment.

SELECTMEN
RECOMMEND: YES
PLANNING BOARD
RECOMMEND: YES

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: YES

TAX RATE
IMPACT: N/A

Brief Explanation: *From Planning Board*

ARTICLE 18 VOTED: On motion of William Nolan, it was voted to adopt the Large Scale Solar Photovoltaic Bylaw as printed in the Warrant.

ARTICLE 18: To see if the town will vote to amend the Ashburnham Zoning Bylaws as follows:

5.21 LARGE-SCALE GROUND-MOUNTED PHOTOVOLTAIC INSTALLATIONS

5.21.1 Purpose

The purpose of this subsection of the Zoning Bylaw is to establish appropriate criteria and standards for the placement, design, construction, operation, monitoring, modification and removal of new large-scale ground-mounted solar photovoltaic installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

5.21.2 Applicability

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

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

5.21.2. A Definitions

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and including related buildings and structures and equipment not roof-mounted, and has a minimum nameplate capacity of 250kWDC.

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

5.21.3 Location

A Large-Scale Ground Mounted Photovoltaic Installation Overlay District is hereby established over all zoning districts in the town of Ashburnham. Large-Scale Ground Mounted Photovoltaic Installations shall be allowed as of right with Site Plan Review in accordance with this section and section 5.10 of this bylaw in the Large-Scale Ground Mounted Photovoltaic Installation Overlay District on all parcels of land under single ownership or control

5.21.4 General Requirements for all Large-Scale Ground-Mounted Photovoltaic Installations

The following requirements are common to all large-scale ground-mounted solar photovoltaic installations.

5.21.4.1 Compliance with Laws, Bylaws and Regulations

The construction and operation of all large scale solar photovoltaic installations shall meet all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code, and further comply with all other provisions of the Ashburnham Zoning bylaws.

5.21.4.2 Utility Notification

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that Ashburnham Municipal Light Plant (AMLPL) has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. All proponents should inform themselves of AMLPL's Distributed Generation Interconnection Study to the extent applicable.

5.21.4.2 Building Permit and Building Inspection

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

5.21.4.3 Fees

An application fee for site plan review is required. (See the Planning Board Fee Schedule for the amount required.)

In addition, a Review Fee may be required by the Planning Board which sum shall be based upon an estimate provided by the peer review engineer appointed by the Planning Board to review the project. The Review Fee shall be paid to the town and deposited into a 53G Account prior to commencement of the hearing. Sufficient funds to compensate the town's engineer shall remain in the account until final payment is made at the end of the process.

5.21.5 Site Plan Review

The proponent is required to provide the Planning Board with the following Application Requirements and must obtain site plan approval from the planning board prior to construction, installation or modification as provided in this section. No large scale solar photovoltaic installation shall be added to, modified or changed without site plan approval from the Planning Board, and without first obtaining a building permit as may be required for such addition, modification or change.

5.21.5.1 Application Requirements

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts except to the extent that the applicant is exempt pursuant to G.L. c. 112, §81R, and/or a Registered Land Surveyor, as the case may be.

1. A site plan showing:

(a) Existing conditions on the site including property lines and physical features including existing grades, vegetation, roads, buildings, and other significant features.

(b) Proposed changes to the site, including landscape, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures; a landscape plan (in plan view) identifying plant material to be used to screen all appurtenant structures and identifying plant material or fencing to be used to satisfy the requirement for a buffer between installation and property edge as per Section 5.21.8.3, and structures.

(c) Schematic or blueprints of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, except to the extent that the applicant is exempt pursuant to G.L. c. 112, §81R, showing the proposed layout of the structures and any potential shading from nearby structures.

(d) Schematic or outline electrical diagram showing proposed solar panels and associated components, and electrical interconnection methods, with all Massachusetts Electric Code compliant disconnects and overcurrent devices.

(e) Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter.

(f) Name, address, and contact information for proposed system installer.

(g) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.

(h) Name, contact information and signature of any agents representing the project proponent, if any.

2. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

3. An operation and maintenance plan, which shall include measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.
4. Proof of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
5. Payment of financial surety that satisfies Section 5.21.11.3
6. Other reasonable documentation requested by the Planning Board.

5.21.6 Design Standards

5.21.6.1 Dimensional and Density Requirements

Setbacks

For large scale ground-mounted solar photovoltaic installations, front, side and rear setbacks and Lot Coverage shall be as follows:

- (1) Front yard. The front yard depth shall be at least 40 feet; provided, however, that where the lot abuts the front yard shall not be less than 50 feet.
- (2) Side yard. Each side yard shall have a depth at least 25 feet; provided, however, that where the lot abuts the side yard shall not be less than 50 feet.
- (3) Rear yard. The rear yard depth shall be at least 25 feet; provided, however, that where the lot abuts a the rear ear yard shall not be less than 50 feet.
- (4) Lot coverage. For purposes of determining compliance with lot coverage standards of the underlying zone (See Schedule of Dimensional Regulations), the total surface area of all ground-mounted and freestanding solar collectors including solar photovoltaic cells, panels, and arrays, shall be considered impervious and as structures. The horizontal area projected on the ground surface of a ground mounted system, regardless of the mounted angle, the areas of buildings and accessory structures, and other impervious surfaces shall be calculated as part of the overall lot coverage.
- (5) When a proposed large-scale ground-mounted solar photovoltaic installation does not abut a residential zoning district or use, the Planning Board may waive the above dimensional requirements for front, side and rear yard setbacks as provided in subsection 5.21.10 (Waivers). In no case, however, shall the front, side or rear yard setback be less than 10 feet.

5.21.6.2 Lighting

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

5.21.6.3 Signage

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer. Signage identifying the owner and/or operator of the solar installation and a 24-hour emergency contact telephone number shall be provided at all points of access. In all other respects,

any signs shall comply with the applicable requirements of the underlying zoning district.

5.21.6.4 Utility Connections

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

5.21.6.2 Appurtenant Structures

All appurtenant structures to large-scale ground-mounted solar photovoltaic arrays shall conform to the setback requirements of the zoning district in which the installation is located. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

5.21.7 Safety and Environmental Standards

5.21.7.1 Emergency Services

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief and AMLP. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall provide the name, phone number, and email of the person responsible for public inquiries throughout the life of the installation.

5.21.7.2 Land Clearing, Soil Erosion and Habitat Impacts

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

5.21.7.3 Landscaped Buffer Strip

A landscaped buffer strip is intended to provide in a reasonable time a visual barrier between the Large scale ground-mounted solar photovoltaic installation and adjacent parcels. Except for vehicular and pedestrian passways, the areas shall be used only for an interplanting of deciduous and evergreen trees and shrubs, with lawn or other suitable and appropriate ground cover. The buffer must provide coverage of three feet in height from the proposed grade to the top of the majority of the planting material at time of installation. Reasonable leeway may be provided by the Planning Board to allow for expected growth of the buffer strip over time. The buffer strip shall occupy at least 20% of the depth between the property line and the mandated setback of the zoning district where the installation is located. Where considered appropriate in the judgment

of the Planning Board, walls and fences may be used in addition to in lieu of plantings. A planting plan showing the types, sizes and locations of material to be used shall be subject to the approval of the Planning Board. The Planning Board may waive the requirements of the visual barrier where it deems it advisable.

5.21.8 Monitoring and Maintenance

5.21.8.1 Installation Conditions

The large scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, AMLP and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

5.21.8.2 Modification Conditions/Change in Ownership or Operator

Any material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board, and AMLP as the case may be.

If the owner and/or operator of a large-scale ground-mounted solar photovoltaic installation changes, written notice shall be given to the Planning Board and AMLP within 30 days of such change, and such notice shall include the contact information for the new owner/operator and the effective date of the change.

5.21.9 Waivers

1. The Planning Board may waive strict compliance with any requirement of the Design Standards, Safety and Environmental Standards section of this bylaw, or any rules and regulations promulgated hereunder, where:
 - (a) Such action is allowed by federal, state and local statutes and/or regulations;
 - (b) It is in the public interest;
 - (c) It is not inconsistent with the purpose and intent of this by-law.
2. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the by-laws does not further the purposes or objectives of this by-law.
3. All waiver requests shall be discussed and voted on by the Planning Board.
4. If the Planning Board deems additional time or information is required in the review of a waiver request, the Planning Board may continue the request for a waiver until such time as the Planning Board deems it is ready to vote on said request.

5.21.10 Abandonment or Decommissioning

5.21.10.1 Removal Requirements

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

- (a) Physical removal of all large scale ground solar photovoltaic installations, arrays, structures, equipment, security barriers and above ground transmission lines from the site, if any.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below grade foundations in order to minimize erosion and disruption to vegetation.

5.21.10.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. The AMLP shall have the right of first refusal as to whether it will choose to assume responsibly for the abandoned solar operation. If the AMLP chooses to forgo such responsibility and assume the operation, and the owner or operator of the large- scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

5.21.11.3 Financial Surety

The Planning Board shall require the applicant for a large-scale ground-mounted solar photovoltaic installation to provide a form of surety, either through the Planning Board or AMLP before construction to cover the estimated cost of removal as set forth herein. If setting up a surety with the Planning Board, the form of surety must be either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation or otherwise due to a Cost of Living Adjustment.

ARTICLE 19: To see if the Town will vote to instruct the Board of Selectmen to form a Veterans Memorial School Study Committee to investigate areas of study that were not fully investigated by the prior committee. These areas would include:

1. Are there any potential uses for the building not being met in any other way that could enrich the lives of the citizens of Ashburnham and potentially create business partnerships to increase our tax base.
2. Are there any potential grants available now or that will be available in the foreseeable future that would help with the renovation or parts of the renovation.
3. What would it cost per year to renovate the building in stages.
4. What would the potential operating cost be to the town to maintain this building if it were once again usable.
5. Would it be more cost effective to tear the building down or use the money already approved to start renovating.

SELECTMEN
RECOMMEND: NO

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: NO

TAX RATE
IMPACT: N/A

Brief Explanation: *(From Petitioners).*

ARTICLE 19 VOTED: On motion of Bill Johnson, it was voted to PASS OVER this article.

2/3 Majority "YES"

ARTICLE 20: To see if the Town will vote to amend the General By-Law of the Town of Ashburnham, Chapter VI: Advisory Committee, Section 1 to read: The Advisory Committee shall consist of seven members each a registered voter and domiciled in the town, who shall be appointed by the moderator and no member of the Advisory Committee may serve on any other appointed committee except those specifically stated in the General By-Laws of the Town of Ashburnham.

SELECTMEN
RECOMMEND: NO

CAPITAL PLAN. COMM.
RECOMMEND: N/A

ADVISORY BD.
RECOMMEND: NO

TAX RATE
IMPACT: N/A

Brief Explanation: *(From Petitioners)*

ARTICLE 20 VOTED: On motion of Bill Claybaugh it was voted to PASS OVER this article.

2/3 Majority "YES"

ARTICLE 21: To see if the Town will vote to raise and appropriate or transfer a sum of money to the Capital Fund, 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

Brief Explanation: ***This article will be used should there be monies not appropriated from other capital articles.***

ARTICLE 21 VOTED: On motion of Bill Johnson, it was voted to PASS OVER this article.

Unanimous “YES”

Meeting adjourned at 9:08 p.m.

Respectfully submitted,
Linda A. Ramsdell, CMMC
Town Clerk