



TOWN OF WESTBOROUGH

Report and Recommendations of the Advisory Finance Committee to the SPECIAL TOWN MEETING OCTOBER 26, 2009 (FY2010)

Jo Jeanne B. Lown, Chairperson

Judith Lucas, Vice Chairperson

John E. Arnold

F. Robert Brown

Brigitte Casemyr

Kevin Cronin

Ian Johnson

William Linnane

Michael Meachen

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2009 Special Town Meeting - FY10 Financial Recap

	Voted 2009 ATM	Oct STM	ATM & STM
Fiscal Year 2009 Levy Limit	\$ 53,060,709		\$ 53,060,709
Plus 2.5%	\$ 1,326,518		\$ 1,326,518
Plus New Growth (estimated)	\$ 700,000	\$ (75,000)	\$ 625,000
Fiscal Year 2010 Levy Limit	\$ 55,087,227		\$ 55,012,227
School Debt Exclusion Amount	\$ 2,695,241		\$ 2,695,241
Maximum Allowable Levy	\$ 57,782,468	\$ (75,000)	\$ 57,707,468
Estimated Non-Levy Revenues			
Local Receipts (Not W/S)	\$ 10,308,485	\$ (78,317)	\$ 10,230,168
Local Receipts (Water/Sewer)	\$ 5,897,066	\$ 23,631	\$ 5,920,697
State Aid (Cherry Sheet)	\$ 6,102,904	\$ (209,966)	\$ 5,892,938
SBA Debt	\$ 3,778,460	\$ -	\$ 3,778,460
Free Cash	\$ 1,201,642	\$ 248,044	\$ 1,449,686
Overlay Surplus	\$ 425,000	\$ -	\$ 425,000
Enterprise Fund RE Transfers	\$ 664,112	\$ 720,000	\$ 1,384,112
Other available transfers	\$ 79,146	\$ 47,123	\$ 126,269
Transportation Bond	\$ 618,384	\$ -	\$ 618,384
Country Club Account	\$ 473,610	\$ -	\$ 473,610
Trust Funds	\$ 88,800	\$ -	\$ 88,800
Non-Tax Levy Revenues	\$ 29,637,609	\$ 750,515	\$ 30,388,124
Maximum Available Revenue	\$ 87,420,077	\$ 675,514	\$ 88,095,591
Expenditures	FY10 Budget		
	<u>82,308,136</u>		<u>82,198,112</u>
Non-School Salary & Wages	\$ 11,809,242	\$ -	\$ 11,809,242
Non-School Expenses	\$ 32,243,366	\$ (270,024)	\$ 31,973,342
School Dept. Budget	\$ 38,255,528	\$ 160,000	\$ 38,415,528
Cherry Sheet Offsets & Charges	\$ 559,720	\$ 10,015	\$ 569,735
Articles (non-borrow, non-budget)	\$ 2,099,955	\$ 808,044	\$ 2,907,999
Overlay Account	\$ 500,000	\$ -	\$ 500,000
County Retirement	\$ 1,915,410	\$ -	\$ 1,915,410
Central Mass. Planning	\$ 4,336	\$ -	\$ 4,336
Total AFC Recommended Expenditures	\$ 87,387,557	\$ 708,035	\$ 88,095,592
Excess Levy Capacity	\$ 32,520	\$ (32,520)	\$ (0)
Tax Rate Information (ESTIMATED)			
Estimated Town Valuation		\$	3,447,600,000
Estimated Tax Rate per \$1,000 Valuation		\$	16.74
Approximate Average House FY2009 (ESTIMATE)			
\$437,650 @ \$15.50/1000		\$	6,784
Approximate Average House FY2010 (ESTIMATE)			
\$ 424,680 @ \$16.75/1000		\$	7,109

Note: The numbers used in this Financial Recap are conservative and based upon estimates and other information made available to the Advisory Finance Committee at the time of printing.

To: Town Meeting Voters

From: Advisory Finance Committee

Date: October 26, 2009

Welcome to the 2009 Special Town Meeting. The Advisory Finance Committee (AFC) would also like to welcome our new Town Manager, James Malloy. The AFC reviewed the Warrant and heard presentations on each of the Articles at its meetings on September 24, September 28, October 1, and October 5, 2009. We report our findings and recommendations to you, the legislative body, for your consideration as you decide the direction of the Town.

In addition to our recommendations, in this booklet, we have included the vote of the Board of Selectmen as of the date of publication, and the Town Manager's statement on each Article. A glossary of terms and a message from the Town Moderator is located near the end. We hope that as you participate in this democratic process, you will find this information and our recommendations to be helpful in making your voting decisions.

At the Annual Town Meeting last spring, we used the most conservative numbers available to estimate the excess levy capacity for FY10. In order to present a level-funded budget within such estimates, most departments took cuts in expenses or reduced personnel hours to offset salary and wage increases. Unfortunately, the financial situation did not improve.

Certain local revenue receipts for FY09 came in lower than expected, so the FY10 estimate has been reduced accordingly. The Assessor's Office also estimates that the new growth number will be approximately \$75,000 lower than was anticipated. The federal stimulus money for Westborough schools in FY10 was lower than expected, and there may be no such funds available for FY11. In addition, in the final FY10 state budget signed by the Governor in July, the local state aid to Westborough was even lower than the very conservative estimate. In July, we also had an unusual rainfall event, which cost over \$70,000 for clean up and repairs.

As a result of these factors, budgetary adjustments are needed at this Town Meeting to prevent an anticipated deficit. If approved, these adjustments, as well as increases to several budgets, will be offset by savings and a reduced estimate for the Town Insurance budget, and transfers from free cash.

Looking forward, the state's revenues for FY10 have fallen short of projections. More budget cuts are anticipated and additional cuts to local aid are very possible. Meanwhile, costs to provide services at current levels continue to rise. If these trends continue, Town Meeting voters may soon be faced with the choice of making significant cuts, eliminating some services, or supporting a Proposition 2½ override.

We therefore urge you, as members of this legislative body, to attend or watch the local government meetings throughout the year to gain a deeper understanding of the Town's financial position, and the choices you may be asked to make at future town meetings. Your local and state government also needs to hear your voices and concerns throughout the year, in order to

make decisions in the best interest of all its citizens. We encourage you to join the dialogue in a courteous manner and to listen to and consider the various interests and needs in our community.

We wish to thank all town employees and members of boards, commissions and committees who provided information to us, and all the members of the community who shared their experiences and concerns with us. We thank you for your time and consideration of these various articles and our accompanying recommendations as you determine the direction of the Town of Westborough this fiscal year, and beyond.

Please feel free to ask any questions of us throughout this 2009 Special Town Meeting.

**TOWN OF WESTBOROUGH
SPECIAL TOWN MEETING
OCTOBER 26, 2009
WESTBOROUGH HIGH SCHOOL**

ARTICLE 1. FY10 Budget Reduction – Town Insurance (Town Manager)

To see if the Town will vote to amend the FY10 budget by reducing the Town Insurance Expense budget from Ten Million Nine Hundred Eight Five Thousand Five Hundred Thirty Two and 00/100 Dollars (\$10,985,532.00) to Ten Million Six Hundred Forty Four Thousand Seven Hundred Fifty Four and 00/100 Dollars (\$10,644,754.00);
or take any other action thereon.

Article 1: We recommend the Town so vote. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this Article would reduce the Town's Insurance expense account by \$340,778. The Town is able to reduce this account through efforts to reduce costs through the MIIA Rewards Program and other insurance savings in the Casualty/Property and Workers Compensation Insurance costs. State Law requires that the Town's budget be balanced. The budget approved by the May Annual Town Meeting now shows a deficit of \$340,778 for several reasons. First, the State Budget contains a reduction of State Aid of \$209,966. With the state acting on the budget later than normal this year, these figures were not known at the time of the Town Meeting. Second, local receipts are down a net of \$101,000 with the major losses of revenue being in Motor Vehicle Excise Tax; Investment Income and the Hotel/Motel Tax. Third, the new growth in the property tax base estimate for FY10 is \$75,000 less than the estimate at the time the budget was adopted by Town Meeting.

ARTICLE 2. FY10 Budget Transfers (Town Manager)

To see if the Town will vote to transfer from the Town Insurances Expenses Account the sum of Forty Seven Thousand One Hundred Twenty Three and 00/100 Dollars (\$47,123.00) to the following accounts:

Buildings and Grounds Expenses	\$18,235.00
Fire Department Expenses	\$ 9,261.00
Library Expenses	\$ 3,915.00
Street Light Account Expenses	<u>\$15,712.00</u>
	\$47,123.00

Or take any other action thereon.

Article 2: We recommend the Town vote to transfer \$47,123 from Town Insurance Expenses Account for the purposes of this Article. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this transfer will take funds available from the Unemployment Compensation budget estimate for FY10 to cover the estimated additional electric costs for the departments included in the article. The electric generation charge paid by the Town increased from 5.8¢ per Kwh to 12.4¢ per Kwh mid-year in FY09. The impact was difficult to estimate before year end. Several of the electricity line items may not have sufficient funding for FY10.

ARTICLE 3. FY10 Sewer Budget Amendment – Electricity (Town Manager)

To see if the Town will vote to transfer from Sewer Retained Earnings and appropriate the sum of Four Thousand Five Hundred Ninety Four and 00/100 Dollars (\$4,594.00) to the Electricity – Sewer Account #64303-5211 for the purpose of paying additional electrical costs associated with the operation of the sewer system;
or take any other action thereon.

Article 3: We recommend the Town vote to transfer the sum of \$4,594.00 from Sewer Enterprise Retained Earnings to the Electricity - Sewer Account for purpose of this Article. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved this Article will increase the electricity budget for the Sewer Enterprise Expense Account for the same reason stated in the previous article by transferring funds from the Sewer Retained Earnings.

ARTICLE 4. FY10 Water Budget Amendment – Electricity (Town Manager)

To see if the Town will vote to transfer from Water Retained Earnings and appropriate the sum of Nineteen Thousand Thirty Seven and 00/100 Dollars (\$19,037.00) to the Electricity – Water Account #64503-5211 for the purpose of paying additional electrical costs associated with the operation of the water system;
or take any other action thereon.

Article 4: We recommend the Town vote to transfer \$19,037.00 from Water Retained Earnings to Electricity – Water Account for the purpose of this Article. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this Article will increase the electricity budget for the Water Enterprise Expense Account by transferring funds from the Water Retained Earnings for the same reason stated in Article 3.

ARTICLE 5. Design and Permit Opticom Traffic Controllers (Fire Chief)

To see if the Town will vote to transfer from free cash and appropriate the sum of Seventeen Thousand and 00/100 Dollars (\$17,000.00) to design and permit Opticom traffic controllers at the Route 9 and Otis Street Intersection;
or take any other action thereon.

Article 5: We recommend the Town vote to transfer \$17,000.00 from Free Cash for the purpose of this Article. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this article would appropriate the additional amount necessary for the installation of the Opticom Traffic Controller. The original estimate of \$19,500 was paid by Herb Chambers as part of the special permit conditions for the Infiniti dealership. The current cost estimate is \$36,500 with the additional costs associated with a new permitting process required by MassHighway. The Opticom Traffic Controller allows public safety vehicles to control the traffic light at the intersection of Route 9 and Otis Street. The Fire Chief has indicated that this remains a priority and has asked Town Meeting to fund the difference in cost.

ARTICLE 6. Removal of a Liquor License Requirement (Citizen's Petition)

To see if the Town will vote to authorize the Board of Selectmen to petition the Legislature to remove, as a condition of the Full Liquor License held by Mandarin Westborough, Inc., the requirement that the License not be relocated except within the Downtown Business District and to allow the License to be transferred to a location within the Town of Westborough, identified by Mandarin Westborough, Inc. and properly zoned for restaurant use by the Town of Westborough, which location shall be specified in the Legislation;
or take any other action thereon.

Article 6: We recommend the Town so vote. (5-2-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: This article, if approved and enacted by the Selectmen and Legislature would remove a location restriction on the Mandarin Restaurant's liquor license. This would remove the restriction that the liquor license be maintained in the Downtown Planning Overlay District (DPOD). The proponent is seeking to strike the language that prohibits them from moving the license outside the DPOD.

ARTICLE 7. Department of Public Works Rainstorm Reimbursement (DPW Manager)

To see if the Town will vote to transfer from free cash and appropriate the sum of Seventy One Thousand Forty Three and 72/100 Dollars (\$71,043.72) to the Department of Public Works' expenditures for the rainstorms that occurred this summer;

or take any other action thereon.

Article 7: We recommend the Town vote to transfer the sum of \$56,107.64 from free cash in the General Fund to the FY2010 DPW Expense Budget and the sum of \$14,936.08 from free cash in the Sewer Retained Earnings Account to the FY2010 Sewer Expense Budget for purpose of this article. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this article would increase the DPW budget to account for additional costs incurred by the DPW associated with the July 7-8 rainstorms. These include costs associated with emergency road repairs, emergency property repairs, engineering, materials and police details which were paid out of the DPW and Sewer Enterprise Accounts. The Town has submitted a request to our state delegation to seek a supplemental budget appropriation from the legislature to cover these extraordinary costs. If the Town receives state funding, it will be deposited into the General Fund as a revenue source. If this article is not approved, it will leave the DPW expense budget short by this amount, reducing the amount of work that can be done through the remainder of the year.

ARTICLE 8. Public Safety Complex (Municipal Building Committee)

To see if the Town will vote to appropriate \$30,000,000 for designing and constructing a new public safety building, including costs incidental or related thereto; that to meet this appropriation the Treasurer/Collector with the approval of the Board of Selectmen is authorized to borrow \$30,000,000 under G.L. c.44, §7(3) or any other enabling authority; that the Treasurer/Collector with the approval of the Board of Selectmen is authorized to contract for and expend any federal or state aid available for the project, provided that the amount of the authorized borrowing shall be reduced by the amount of such aid received prior to the issuance of bonds or notes under this vote; and that the Treasurer/Collector is authorized to take any other action necessary to carry out this project; provided, however, that this vote shall not take effect until the Town votes to exempt from the limitation on total taxes imposed by G.L. c.59, §21C (Proposition 2½) amounts required to pay the principal of and interest on the borrowing authorized by this vote; to determine whether this appropriation shall be raised by borrowing or otherwise; or to take any other action relative thereto.

Article 8: We recommend the Town vote to approve this Article as written in the Warrant. (4-3-2)

At the Board of Selectmen meeting of October 13, 2009, the motion to support this article failed for lack of majority. (2-3-0)

Town Manager's Statement: If approved, this article would authorize the Board of Selectmen to borrow the funds necessary to construct a new Public Safety Facility that would house both the Police and Fire Departments. The Town is using the last cost estimate for this project from December 2008 rather than incur additional costs to put the project out to bid. At the estimated

cost of \$30,000,000 at 3% interest over 20 years is estimated to increase property taxes for an average single family home by approximately \$292 for the first year of borrowing, decreased to \$188 in the final year (average of \$240 per year).

This project is intended to address structural and space issues at the Fire Department and space issues and concerns related to the general facilities of the Police Department (booking areas, jail cells, etc) and to combine the dispatch centers into one facility.

If approved, a debt exclusion election would need to be held within 90 days after the close of this Town Meeting and is planned for January 19, 2010.

A 2/3 vote is required to approve this Article.

ARTICLE 9. Amendment of Article 12 (Hawkers Peddlers Permit) Bylaw (Assistant Town Manager)

To see if the Town will vote to amend Article 12 of the General Bylaws by deleting said Article 12 and replacing it with the following Article 12:

The display, for sale to the general public, of merchandise or goods from a temporary or portable location shall be prohibited except by permit from the Chief of Police. Said permit shall require a fee not inconsistent with Chapter 101 of the Massachusetts General Laws. Religious, charitable or non-profit organizations and persons servicing a parade within the Town shall be exempt from this Bylaw. A violation shall be \$100 (see Article 37); or take any other action thereon.

Article 9: We recommend the Town so vote. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this article would change Article 12 of the General Bylaws and the process for obtaining a Hawkers/Peddlers Permit requiring applicants to apply to the Chief of Police instead of the Board of Selectmen.

ARTICLE 10. Public Shade Trees Bylaw (Board of Selectmen)

To see if the Town will vote to amend the General Bylaws by adding a new Article 46 as follows,

Section 1.

It shall be the policy of the Board of Selectmen to encourage the conservation of public shade trees in the Town of Westborough and to work for a planned program of replacement for public shade trees that have been removed because of disease or public nuisance, construction or danger, and further, it shall be the policy of the Board to encourage residents, businesses and

private builders to conserve and to plant shade trees. Public Shade Trees shall be those trees as defined by MGL Ch. 87, §1.

- A. The Board of Selectmen shall request the DPW Manager or his designee to notify the Board and any abutters at least seven (7) days in advance of any public hearing called for the purpose of presenting cause why a non-diseased public shade tree should be removed and should tag said tree in a conspicuous manner.
- B. The Board of Selectmen shall request the DPW Manager or his designee to annually list those public shade trees which, in his opinion, constitute a public nuisance or danger or are diseased and submit said list to the Board on or before September 1 of each year.
- C. The DPW Manager or his designee shall prepare and submit to the Board of Selectmen by November 1, a recommendation and a specific site location plan for public shade tree replacements and additions and a proposed planting budget for said replacements and additions.
- D. The Board of Selectmen shall encourage all private builders and municipal building committees and municipal agencies to plant and conserve public shade trees.
- E. The Board of Selectmen shall encourage residents of Westborough to plant public and private shade trees and, from time to time, shall issue public statements that support this procedure and perform a public service by informing residents of best procedures for conservation and planting of shade trees.
- F. Wherever practical, the DPW Manager or his designee shall institute a planting program, especially in the Downtown District, in anticipation of tree removal.
- G. These rules and procedures shall not take precedence over any General Laws.

Or take any other action thereon.

Article 10: We recommend the Town so vote. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this article would amend the General Bylaws by establishing a process for removing public shade trees that are deemed unhealthy or unsafe and for replanting public shade trees. This type of bylaw is a prerequisite to the Town being named a Tree City USA.

ARTICLE 11. Abandoned and Foreclosed Property Registration (Board of Selectmen)

To see if the Town will vote to amend the General Bylaws by adding a new Article 47 as follows,

Section 1. **Purpose; Enforcement Authority.**

- A. It is the purpose and intent of this Article to protect and preserve public safety and security, and the quiet enjoyment of occupants, abutters and neighborhoods, by: (i) requiring all residential property owners, including lenders, trustees and service companies, to register abandoned and/or foreclosing residential properties with the Town of Westborough; and (ii) regulating the maintenance and security of abandoned and/or foreclosing residential properties to help prevent blighted and unsecure residences.
- B. The Building Commissioner of the Town of Westborough has enforcement authority as to this Article, pursuant to MGL c. 143, § 3, the State Building Bylaws, and the Town's Zoning Bylaws.

Section 2. **Definitions.**

When used in this Article 46, the following terms shall have the following meanings, unless a contrary intention clearly appears:

“Abandoned” means vacant.

“Town” means the Town of Westborough.

“Commissioner” means the Building Commissioner of the Town of Westborough or his/her designee.

“Days” means consecutive calendar days, including legal holidays as specified in MGL c. 4, § 7 and weekend days.

“Evidence of abandonment” means any condition that, by itself or in combination with other conditions, might lead a reasonable person to conclude that a property is vacant. Such conditions include but are not limited to overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris; the absence of window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation; statements by neighbors, passersby, delivery agents and/or governmental employees that the property is vacant.

“Foreclosing” means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower of that loan defaults.

“Initiation of the foreclosure process” means the taking of any of the following actions:

- (i) taking possession of a residential property pursuant to MGL c. 244, § 1;

- (ii) publishing the first foreclosure notice of a residential property pursuant to MGL c. 244, § 14;
- (iii) delivering the mortgagee's notice of intention to foreclose pursuant to MGL c. 244, § 17B; or (iv) commencing a foreclosure action on a residential property in either the Land Court or the Superior Court.

“Local” means within twenty (20) driving miles of the property in question.

“Mortgagee” means the creditor, including but not limited to service companies, lenders in a mortgage agreement, or any successor in interest of the mortgagee's rights, interests or obligations under the mortgage agreement.

“Mortgagee in possession” means a mortgagee that, upon default of the borrower, has taken over control and/or occupancy of a property in order to collect income from the property and/or to prepare the property for foreclosure.

“Owner” means every person, entity, service company, property manager or real estate broker, who alone or severally with others:

- (i) has legal or equitable title to any dwelling, dwelling unit, manufactured home(mobile home unit), building or parcel of land, vacant or otherwise, including a manufactured housing community (mobile home park); or
- (ii) has care, charge or control of any dwelling, dwelling unit, manufactured home(mobile home unit), building or parcel of land, vacant or otherwise, including a manufactured housing community (mobile home park), in any capacity including but not limited to agent, executor, executrix, administrator, administrator, trustee or guardian of the estate of the holder of legal title; or
- (iii) is a mortgagee in possession of any such any dwelling, dwelling unit, mobile home unit, building or parcel of land, vacant or otherwise, including a mobile home park; or
- (iv) is an officer or trustee of the association of unit owners of a condominium;
- (v) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities and has initiated the foreclosure process; or
- (vi) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (vii) is a person who operates a rooming house.

“Property” means any real, residential property or portion thereof, located in the Town of Westborough, including but not limited to buildings and structures situated on the property.

“Residential Property” means any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

“Vacant” means any residential building or structure not currently legally occupied.

Section 3. **Registration.**

- A. All owners of abandoned and/or foreclosing residential properties shall register such properties with the Commissioner on forms provided by the Commissioner.
1. Each registration must state the individual owner's or agent's name, phone number and mailing address located within the Commonwealth of Massachusetts as required by MGL c. 59, § 57D, MGL c. 156D, § 5.02, and 950 CMR 113.20; the mailing address may not be a post office box.
 2. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is abandoned. If the property shows evidence of abandonment, the property is abandoned for purposes of this Article 46.

Each registration must designate a local individual or local property management company responsible for the maintenance and the security of the property. This designation must state the individual or company's name, direct phone number, and local mailing address; the mailing address may not be a post office box.

- a. If the owner's inspection determines that the property is abandoned, the registration must be received by the Commissioner within seven (7) days of the owner's inspection.
 - b. If the owner's inspection determines that the property is not abandoned, but foreclosure proceedings have been initiated, the registration must be received by the Commissioner within seven (7) days of the initiation of the foreclosure process.
 - c. If the Commissioner's inspection pursuant to Section 46-5 determines that the property is abandoned, the registration must be received by the Commissioner within fourteen (14) days of the Commissioner's first citation for improper maintenance.
 - d. If, regardless of any determination as to abandonment, foreclosure proceedings have been initiated, the registration must be received by the Commissioner within seven (7) days of the initiation of the foreclosure process.
- B. All property registrations pursuant to this Section 46-3 are valid for one (1) calendar year from the date when the registration is received by the Commissioner. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. Subsequent registrations and fees are due within thirty (30) days after the date of expiration of the previous registration. Subsequent registrations must certify whether the property remains abandoned and/or remains in foreclosure, as the case may be.
- C. Any owner that has registered a property under this Section 46-3 must report any change in information contained in the registration within ten (10) days of the change.

- D. Once the property is no longer abandoned or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or proof of sale, as the case may be.

Section 4. Maintenance and Security Requirements.

- A. Properties subject to this Article must be maintained in accordance with the State Sanitary Bylaws, the State Building Bylaws, and local regulations concerning external and/or visible maintenance. The local owner or local property management company must inspect and maintain the property on a monthly basis for so long as the property is abandoned or shows evidence of abandonment. The name and the 24-hour contact phone number of the local owner or local property management company responsible for the maintenance must be posted on the front of the property so as to be clearly visible by the Commissioner or his/her designee from the street.
- B. In accordance with state law, including but not limited to MGL c. 143, §§ 6-10 and 780 CMR 121.0, abandoned property must be made safe and must be secured so as not to be accessible to unauthorized persons.
- C. Compliance with this Section 46-4 does not relieve the owner of any applicable obligations set forth in Bylaws regulations, covenant conditions and restrictions, and/or homeowners' association rules and regulations.

Section 5. Inspections.

Pursuant to the State Building Code, the Commissioner or his/her designee shall have the authority and the duty to inspect properties subject to this Article for compliance with this Article and to issue citations for any violations. The Commissioner or his/her designee shall have the discretion to determine when and how such inspections are to be made, provided that such determination is reasonably calculated to ensure that this Article is enforced.

Section 6. Violations and Penalties.

- A. A failure to initially register with the Commissioner pursuant to Section 66-3 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$100.00.
- B. A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to Section 46-3 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of \$100.00 for each violation, and a like fine for each day's continuation of such violation.
- C. A failure to maintain and/or to secure the property pursuant to Section 46-4 shall be enforced by non-criminal disposition pursuant to MGL c. 40, § 21D, resulting in a fine of

\$100.00 for each week during which the property is not maintained and/or not secured in compliance with Section 46-4.

- D. The penalties provided in this Section 46-6 shall not be construed to restrict the Town from pursuing other legal remedies available to the Town.

Section 7. Appeals.

Any person aggrieved by the requirements of this Article or by a decision issued hereunder may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

Section 8. Applicability.

If any provision of this Article imposes greater restrictions or obligations than those imposed by any general law, special law, regulation, rule, Bylaws, order or policy, then the provisions of this Article shall control.

Section 9. Regulatory Authority.

The Commissioner shall have the authority to promulgate rules and regulations necessary to implement and enforce this Article.

Section 10. Severability.

If any provision of this Article is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from this Article's remaining provisions, which shall remain in full force and effect.

Section 11. Notice.

A copy of this Bylaw is to be advertised in one (1) newspaper of general circulation in the Town of Westborough, and is to be mailed to all loan institutions, banks, real estate offices, and management companies located in, and/or having legal or equitable interest in any residential property located in, the Town of Westborough.

Section 12. Effective Date.

The provisions of this Article shall take effect in accordance with G.L.c. 40§32 passage and all provisions shall be enforced immediately, except that no monetary fine shall be imposed pursuant to this Article until thirty (30) days after the date when notices are mailed pursuant to Section 46-11.

Or take any other action thereon.

Article 11: We recommend the Town so vote. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this Article would amend the General Bylaws to add a Bylaw that requires registration of foreclosed properties, a contact person if issues arise and establishes a maintenance and security requirement. If approved, it will also provide notification for the Town's Water Department to confirm whether water service should be shut off during winter months when properties are not heated

ARTICLE 12. Warren Street Drainage Improvement (DPW Manager)

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow pursuant to any applicable statutes, or accept as a grant the sum of Six Hundred Thousand Dollars (\$600,000), or such other amount as the Town Meeting may approve, for the purpose of stream bank improvements, installation of culverts and or by-pass culverts with associated structures, mitigation to nearby properties, and any work necessary on Warren Street and adjacent properties to alleviate overtopping of the Jackstraw Brook, and to purchase, accept as a gift, or take by eminent domain under the provisions of the General Laws, Chapter 79, as amended or otherwise acquire parcels of land and/or easements for said improvements; or take any other action thereon.

Article 12: We recommend the Town vote to borrow the sum of \$600,000 for the purpose of this Article. (7-0-0)

A 2/3 vote is required to authorize a borrowing.

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this article would authorize the Board of Selectmen to borrow the funds necessary to address the flooding problems that have occurred on Warren Street where the Jack Straw Brook crosses the street. This has been determined to be the highest priority among drainage issues in Town. During the past few years, the residents in this area have had significant flooding incidents where the brook overtops the road and floods their basements and erodes banks and causes other flooding damage. At the estimated cost of \$600,000 at 3% interest over 20 years is estimated to increase property taxes for an average single family home by approximately \$5.84 the first year.

ARTICLE 13. Work on Town Sewer System (DPW Manager)

To see if the Town will vote to raise and appropriate, borrow pursuant to any applicable statute or transfer from available funds the sum of Seven Hundred Thousand Dollars (\$700,000.00), or such amount as the Town Meeting may approve to rehabilitate the Longmeadow Sewer Pump Station including engineering supervision and construction services and any work on such stations incidental to and purchase, accept as a gift, or take by eminent domain under the provisions of the General Laws, Chapter 79, as amended or otherwise acquire parcels of land and/or easements for said pump stations; or take any other action thereon.

Article 13: We recommend the Town vote to transfer \$700,000 from Sewer Retained Earnings for the purpose of this Article. (7-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this Article would fund a planned 20 year review and update of this pump station. The updates include upgrading the pumps from 40 hp to 70 hp and installing new variable speed controls. Other improvements include corrosion protection, painting floors and lower walls, a new generator and cleaning/coating the wetwells as well as installing a new fence around the pump station.

ARTICLE 14. Westborough Country Club Capital Improvements (Country Club Operating Committee)

To see if the Town will vote to appropriate through the transfer from retained earnings under the Westborough Country Club Enterprise Fund a sum of money to supplement those funds voted under Article 7 (FY2010 Operational Budgets) of the May 2009 Annual Town Meeting for the Country Club Enterprise for capital improvements, including but not limited to improving the drainage from the parking lot, at the Westborough Country Club; or take any other action thereon.

Article 14: We recommend the Town vote to transfer from Retained Earnings under the Westborough Country Club Enterprise Fund the sum of \$20,000 for the purpose of this Article. (9-0-0)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this article would allow the Country Club to improve drainage in their parking lot and other capital improvements by transfer of funds from the Country Club Enterprise Account.

ARTICLE 15. Special Education Costs (School Committee)

To see if the Town will vote to transfer from free cash and appropriate the sum of One Hundred Sixty Thousand and 00/100 Dollars (\$160,000.00), or such other amount as the Town Meeting may approve, to cover unanticipated special education costs; or take other any action thereon.

Article 15: We recommend the Town vote to transfer the sum of \$160,000 from free cash to the School Department for purpose of this article. (6-0-1)

The Board of Selectmen voted on September 22, 2009 to support this Article. (4-0-0)

Town Manager's Statement: If approved, this article would increase the School Department budget to cover additional Special Education costs for several new students who entered the school system after the Annual Town Meeting in May.

ARTICLE 16. Local Option Meal Excise Tax Increase (Board of Selectmen)

To see if the Town will vote to impose a .75% meals tax on the sales of restaurant meals by accepting Massachusetts General Laws, Chapter 64L, Section 2(a); or take any other action thereon.

Article 16: We recommend the Town vote to approve this Article. (5-4-0)

At the Board of Selectmen meeting of October 13, 2009, the motion to support this article failed for lack of majority. (2-3-0)

Town Manager's Statement: If approved this article would establish a local sales tax on restaurant meals. Currently the state sales tax on meals is 6.25% (increased this year from 5.0%). Cities and Towns have been authorized to establish by local option a 0.75% sales tax on meals to bring the total to 7.0%. The Mass Dept of Revenue has set the allowable estimated revenue at \$369,831 per year. If approved at this Town Meeting, first year revenues would not begin to accrue until the start of the next quarter (Jan 2010) for only one-half of the fiscal year.

ARTICLE 17. Local Option Room Occupancy Tax Amendment (Board of Selectmen)

To see if the Town will vote to amend its local room occupancy excise tax under G.L. c. 64G, § 3A to the rate of six percent 6.0%; or take any other action thereon.

Article 17: We recommend the Town vote to approve this Article. (5-4-0)

The Board of Selectmen voted on October 13, 2009 to support this Article. (3-2-0)

Town Manager's Statement: If approved, this Article would increase the Room Occupancy rate on hotels to 6.0%. The Town previously implemented a 4.0% Room Occupancy Tax on hotel rooms. Cities and Towns have been authorized to establish by local option a maximum 6.0% on Room Occupancy Taxes. Based upon FY10 Town of Westborough budget estimates, the additional 2.0% would raise approximately \$292,500 per year (note - the Town must use the Mass Dept of Revenue estimates for the first year revenues for the first year, which is \$239,786). If approved at this Town Meeting, first year revenues would not begin to accrue until the start of the next quarter (Jan 2010) for only one-half of the fiscal year or \$119,893.

ENTERPRISE FUNDS

The enterprise fund statute, M.G.L. c. 44, § 53F ½ was enacted to provide communities with more flexibility to account separately for a range of municipal services for which a fee is charged in exchange for goods or services. A city or town may adopt an enterprise fund for “a utility, healthcare, recreational or transportation facility.” Examples include provision of water, sewer, trash disposal, ambulance services, nursing homes, skating rinks, swimming pools, and golf courses. An enterprise fund may not be established for normal government operations such as public safety, inspectional services or cemeteries. Once adopted by Town Meeting vote, an enterprise fund must be operated as such for a minimum of three years before it may be rescinded. Enterprise funds can only be used for the stated purpose of each particular fund, and cannot be used for non-enterprise services.

Westborough has established three separate enterprise funds for its water utility, sewer and wastewater treatment, and its golf course. Generally, residents and businesses that use town water and are connected to town sewers are assessed a fee for the amount of water going in (water rate), and a fee for the water to leave (sewer rate). People who do not use an enterprise fund service do not pay fees for that service. For example, a resident who does not use town water but is connected to town sewer would only pay sewer fees. Approximately 80% of Westborough is served by Town sewer.

The voters at Town Meeting decide whether or not to fund appropriations for both regular government and enterprise-funded operations. The key distinction is that spending for enterprise accounts is supported by user fees, not tax revenues. Although the correlation is neither simple nor direct (factors include available revenue sources, borrowing costs, fixed costs unrelated to usage, costs related to usage, the amount of usage, the number of users, etc.), it is fair to say that when additional spending is authorized for an enterprise fund, the rates or fees for that service are likely to increase. We provide a very simplified diagram to illustrate the separate funding sources.

Enterprise Funded Operations:

Enterprise Retained Earnings Account, beginning balance →	Plus (+) anticipated revenue from user fees and state or federal revenues sources, if any, →	Minus (-) appropriations and Reserve Fund transfers authorized by Town Meeting vote →	= Balance in Enterprise Retained Earnings →	Reviewed by appropriate authority, who may vote to increase user fees.
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Regular Government Operations:

Prior Year Levy Limit Amount →	Plus (+) 2.5%, New Growth, School Debt Exclusion, Local Revenue, State Aid, Free Cash, Avail Transfers, etc., →	= Levy Limit. Amount that can be raised by taxes without a Proposition 2 ½ override →	Amount voted at Town Meeting to Raise & Appropriate →	= Amount needed to raise by local taxes.
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GLOSSARY OF TERMS¹

Debt Exclusion - An action taken by a community through a referendum vote to raise the funds necessary to pay debt service costs for a particular project from the property tax levy, but outside the limits under Proposition 2½. By approving a debt exclusion, a community calculates its annual levy limit under Proposition 2½, then adds the excluded debt service cost. The amount is added to the levy limit for the life of the debt only and may increase the levy above the levy ceiling.

Excess Levy Capacity - The difference between the levy limit and the amount of real and personal property taxes actually levied in a given year. Annually, the board of selectmen or city council must be informed of excess levy capacity and their acknowledgment must be submitted to DOR when setting the tax rate.

Free cash - Remaining, unrestricted funds from operations of the previous fiscal year including unexpended free cash from the previous year, actual receipts in excess of revenue estimates shown on the tax recapitulation sheet, and unspent amounts in budget line-items. Unpaid property taxes and certain deficits reduce the amount that can be certified as free cash. The calculation of free cash is based on the balance sheet as of June 30, which is submitted by the community's auditor, accountant, or comptroller. Important: free cash is not available for appropriation until certified by the Director of Accounts.

Levy - The amount a community raises through the property tax. The levy can be any amount up to the levy limit, which is re-established every year in accordance with Proposition 2½ provisions.

Levy Limit - A levy limit is one of two types of levy (tax) restrictions imposed by MGL Ch. 59 §21C (Proposition 2½). It states that the real and personal property taxes imposed by a city or town may only grow each year by 2½ percent of the prior year's levy limit, plus new growth and any overrides or exclusions. The levy limit can exceed the levy ceiling only if the community passes a capital expenditure exclusion, debt exclusion, or special exclusion.

Local Aid - Revenue allocated by the Commonwealth to cities, towns, and regional school districts. Estimates of local aid are transmitted to cities, towns, and districts annually by the "Cherry Sheets." Most Cherry Sheet aid programs are considered general fund revenues and may be spent for any purpose, subject to appropriation.

Local Receipts - Locally generated revenues, other than real and personal property taxes. Examples include motor vehicle excise, investment income, hotel/motel tax, fees, rentals, and charges. Annual estimates of local receipts are shown on the tax rate recapitulation sheet.

¹ Definitions provided by the Massachusetts Department of Revenue in its "Municipal Finance Glossary" available at: <http://www.mass.gov>. (DOR: Home > Local Officials > Municipal Data and Financial Management > Municipal Knowledge Base).

New Growth - The additional tax revenue generated by new construction, renovations and other increases in the property tax base during a calendar year. It does not include value increases caused by normal market forces or by revaluations. New growth is calculated by multiplying the assessed value associated with new construction, renovations and other increases by the prior year tax rate. The additional tax revenue is then incorporated into the calculation of the next year's levy limit. For example, new growth for FY06 is based on new construction, etc. that occurred between January and December 2004. In the fall of 2005, when new growth is being estimated to set the FY06 levy limit, the FY05 tax rate is used in the calculation.

Overlay Reserve - An account established annually to fund anticipated property tax abatements, exemptions and uncollected taxes in that year. The overlay reserve is not established by the normal appropriation process, but rather is raised on the tax rate recapitulation sheet.

Overlay Surplus - Any balance in the overlay account of a given year in excess of the amount remaining to be collected or abated can be transferred into this account. Within ten days of a written request by the chief executive officer of a city or town, the assessors must provide a certification of the excess amount of overlay available to transfer. Overlay surplus may be appropriated for any lawful purpose.

Reserve Fund - An amount set aside annually within the budget of a city (not to exceed 3 percent of the tax levy for the preceding year) or town (not to exceed 5 percent of the tax levy for the preceding year) to provide a funding source for extraordinary or unforeseen expenditures. In a town, the finance committee can authorize transfers from this fund for "extraordinary or unforeseen" expenditures. Other uses of the fund require budgetary transfers by town meeting. In a city, transfers from this fund may be voted by the city council upon recommendation of the mayor.

Stabilization Fund - A fund designed to accumulate amounts for capital and other future spending purposes, although it may be appropriated for any lawful purpose (M.G.L. c. 40, §5B). Communities may establish one or more stabilization funds for different purposes and may appropriate into them in any year an amount not to exceed ten percent of the prior year's tax levy. A two-thirds vote of town meeting or city council is required to establish, amend the purpose of, or appropriate money from the stabilization fund.

General Information on Westborough's Town Meeting Procedures

Welcome to the Fall 2009 Special Town Meeting! My job is to preside and regulate the proceedings. I do this in accordance with the Massachusetts General Laws, our Home Rule Charter and our By-laws. In situations not covered by the above, guidance has been provided for years by local tradition and Town Meeting Time, the handbook of parliamentary law endorsed by the Massachusetts Moderators Association. Robert's Rules of Order is not used, although there are many similarities between our rules and Robert's.

This information is offered for the convenience of those willing to accept a summary of the key procedural points. If you have questions that aren't answered here, please ask; someone else is probably wondering, too.

Joe Harrington, Moderator

WHAT IS THE TOWN MEETING, AND HOW DOES IT WORK?

The town meeting is the legislative branch of our local government. It has the power to make and amend our local by-laws, and to appropriate funds. Under Massachusetts law, many other matters are dealt with at town meeting. We have an open town meeting, so any registered voter may attend and speak. Each voter present gets one vote, and the majority rules.

WHAT ACTIVITIES GO ON OUTSIDE THE MEETING?

Literature from various sources pertinent to the subjects to be discussed at the meeting, and to local activities in general, is available in the lobby. Various local organizations may also be present in order to disseminate information, generate support, and raise funds. Approval of the School Department and the Moderator must be secured in advance in order to do this. Start by seeing Cindy Crowley at the School Department offices on the third floor of the Forbes Building. She coordinates the entire process, including getting the Moderator's OK.

HOW DO I GAIN ADMISSION TO THE MEETING?

Registered voters should obtain a colored voting slip from the checkers in the lobby, for purposes of identification. Non-voters are welcome to attend as well. They usually sit in the designated "non-voter" section. No votes are counted here, nor is debate entertained from this section. Non-voters who wish to sit in a voter section and participate in debate should see the checkers and obtain a Request for Permission for Non-Voter to Participate in Town Meeting, and follow the instructions given.

WHAT CAN BE DONE AT A TOWN MEETING, AND HOW ARE TOPICS INTRODUCED?

The agenda, or warrant, for a town meeting is prepared and issued by the Selectmen, and posted in advance. It consists of a series of articles. No binding action may be taken on items not identified in the warrant.

After dealing with preliminary matters such as appointing tellers and admitting non-voters, the Moderator introduces each article and asks the sponsor to make the proper motion, and explain the supporting reasons.

The town meeting acts on motions, not articles. A motion may be, and often is, the same as the article under which it is made. However, it may also differ, from the outset or by subsequent amendment, although it may not go beyond the scope of the article.

HOW IS DISCUSSION CONDUCTED?

No one may speak without first being recognized by the Moderator. The Moderator will indicate who is to speak by identifying the person's position in the hall, his or her name, and/or his or her role in town government. There is no correlation between the method of identification and any form of preferred status. Once a voter is recognized, a Scout brings a microphone. Standing microphones are also available for those who wish to maximize the chance that they will have an opportunity to speak. The one on the right (as you face the stage) is designated for those in favor of the article, the other is for opponents.

Each speaker gives his or her name and street address for identification before beginning to speak. The meeting is videotaped and live broadcast by Westborough TV, and it is audio taped for the benefit of the Clerk, who prepares the record of the meeting. It is our long-standing tradition not to applaud, heckle or interrupt at any time when debate is in progress, out of courtesy and mutual respect for one another.

We have no formal time limits on speaking. After introductory statements, a maximum of three minutes per speech is a good guideline. Although it should not be done prematurely, a voter who feels that there has been sufficient discussion may move to end debate. However, it is our custom not to allow this motion as part of a speech, even a short one. A voter who wishes to propose that debate be ended must first be recognized and identify himself or herself; then he or she should simply say, "I move that debate be ended." The Moderator may decline to entertain the motion if he feels that the meeting would benefit from further discussion.

HOW IS VOTING CONDUCTED?

When the discussion is over the vote is taken by a display of voting slips. The proposal under discussion will be embodied in the main motion; it may be modified by motions to amend, or other motions. Motions are dealt with in accordance with an established order of precedence, although the Moderator has some latitude.

Many decisions require simple majority votes, but sometimes more than a majority is required. For example, a motion to limit or terminate debate requires a two-thirds vote. Under Massachusetts law, certain actions require a 2/3 vote. One example in this particular warrant is Article 8, where a borrowing is contemplated. In cases where the outcome is clear, the Moderator simply announces the result of the vote as it appears to him. However, votes may be counted by the tellers if the Moderator is not sure of the outcome, and must be counted if the announced outcome is immediately questioned.

CAN A VOTE AT TOWN MEETING BE BROUGHT UP A SECOND TIME?

A vote taken at the town meeting can be reconsidered by the same meeting, if reconsideration is approved by the meeting. The relevant bylaw reads: “Once final action has been taken on an article, and the meeting has taken up the next order of business or has adjourned, the matter may not again be taken under consideration at that town meeting unless in the best judgment of the Moderator a significant error or omission occurred in the language or the process of the original action on the article, or a significant change of circumstances has occurred, such that there is a clear likelihood that the outcome could change upon reconsideration or that reconsideration would be in the Town’s best interest. Such errors, omissions, or changes of circumstances shall be brought to the Moderator’s attention as soon as they are known, and the Moderator shall determine if and when the matter will be taken up. The Moderator shall announce this decision to the town meeting. If the Moderator determines that the matter may be taken up pursuant to this section, a three-quarters vote shall be necessary in order to proceed with reconsideration.”

WHY DO YOU NO LONGER ENTERTAIN MOTIONS TO “PASS OVER” CONTESTED ARTICLES?

The motion to “pass over” is in essence a formal proposal to take no action under an article. Prior to the 2005 enactment of our reconsideration by-law, it was not unusual to hear a motion to pass over in cases where there already was an affirmative main motion. Passing over, if successful, made the article harder to reconsider. This is no longer true. The motion to pass over adds complexity without gaining anything for those opposed to the article; they should simply urge people to vote “no”. We will still use the motion to pass over in situations where a proponent does not wish to go forward, or fails to appear. In such a case, it would be the only motion on the floor, and provide a recordable vote not to take action under the article.

Please make this booklet your copy for the duration of Town Meeting.