

**Westwood Records**

**Annual Town Meeting May 7, 2007**

The Meeting was called to order at 7:40 P.M. by Moderator Stephen Gordet who declared the presence of a quorum. The Return on Warrant was read, after which all stood for the Pledge of Allegiance to the Flag.

The Selectmen moved that the reading of the Articles be omitted, and also moved the "10:45 notice" so-called.

**2 Resolutions were presented and read.**

WHEREAS, **John H. Gottschalk** served as a member of the School Committee from 1995 to 2007 and served as Chairman in 1998, 2004, and 2006, and

WHEREAS, during his term on the School Committee, he gave unselfishly of his time to the children and assiduously advocated for the education of all Westwood Children, and

WHEREAS, he was involved in the design, renovation and construction of the Martha Jones School, Downey School, Thurston Middle School, and Westwood High School, and he was willing to make difficult decisions based on the needs of the school system and the students, and

WHEREAS, during his term of office he demonstrated the qualities of leadership, setting examples of fairness, hard work, and loyalty, and

BE IT THEREFORE RESOLVED that the Town of Westwood, by vote of those present at the 2007 Annual Town Meeting, officially recognize and express its gratitude to John H. Gottschalk for his dedicated service to the Town, and

BE IT FURTHER RESOLVED that this Resolution be placed in the official records of the Town and a copy be given to John H. Gottschalk.

WHEREAS, **Edie McCracken** has served the Town of Westwood beginning in 1954, and was elected as Town Clerk in 1974 through May, 2007, and

WHEREAS, during her terms of office as Town Clerk, she was the keeper of records and documents; issued licenses; served as the Registrar of voters; served as the Filing Officer for vital records and zoning and conservation decisions, and

WHEREAS, during her terms of office she administered elections as the chief Election Officer, and attended the Annual Town Meetings recording the actions taken, and

WHEREAS, during her tenure as Town Clerk, she demonstrated the qualities of leadership, hard work, dedication and loyalty, and

BE IT THEREFORE RESOLVED that the Town of Westwood, by vote of those present at the 2007 Annual Town Meeting, officially recognize and express its gratitude to Edie McCracken for her dedicated service to the Town, and

BE IT FURTHER RESOLVED that this Resolution be placed in the official records of the Town and a copy be given to Edie McCracken.

The John Cronin Public Service Award was presented to Jack Patterson for his many years of service in various areas to the Town of Westwood.

**ARTICLE 1**

The Finance Commission recommended and the Town voted unanimously to appropriate by transfer from available funds the sum of One Hundred Thirty-Three Thousand Nine Hundred Twenty-Two Dollars (\$133,922) to supplement the following fiscal year 2007 appropriations:

<b>Transfer</b>			
<b>From Account</b>	<b>Amount</b>	<b>To Account</b>	<b>Amount</b>
Reserve Fund	\$133,922	Snow & Ice	\$75,000
		COA Salary	\$21,000
		Police Salary	\$25,000
		DPW Operations – Street Sweeper	\$12,922
<b>Total</b>	<b>\$133,922</b>	<b>Total</b>	<b>\$133,922</b>

**ARTICLE 2**

The Finance Commission recommended and the Town voted unanimously to appropriate by transfer from available funds the sum of One Hundred Thirty-Nine Thousand Dollars (\$139,000) to supplement the following fiscal year 2007 appropriations:

<b>Transfer</b>			
<b>From Account</b>	<b>Amount</b>	<b>To Account</b>	<b>Amount</b>
Ambulance Receipts	\$21,000	Ambulance Services	\$21,000
Overlay Surplus (additional FY07 Chapter 70 received after May 2006 Town Meeting)	\$118,000	FY07 School Operating Budget	\$118,000
<b>Total</b>	<b>\$139,000</b>	<b>Total</b>	<b>\$139,000</b>

**ARTICLE 3**

The Finance Commission recommended and the Town voted unanimously to raise and appropriate and/or transfer from available funds a sum of money for the Stabilization Fund established in accordance with General Laws Chapter 40, Section 5B.

<b>Department</b>	<b>Amount</b>	<b>Funding Source</b>
Stabilization Fund	\$25,000	Free Cash

#### **ARTICLE 4**

There being no unpaid bills of previous years, no action was taken on this article.

#### **ARTICLE 5**

The Finance Commission, from the floor voted to change their recommendation from that printed in the article to indefinite postponement. The Town then voted in favor of indefinite postponement

( to authorize the Board of Selectmen to take any actions necessary, including acquiring, at no expense to the Town, by purchase, conveyance, gift, eminent domain or otherwise, any necessary interests in land, to layout a portion of Canton Street as a town way and widen a portion of this layout where necessary, as shown on the Relocation Plans, for putting in a cul-de-sac preventing through traffic, and to enter into all agreements and execute any and all instruments or take any other action relative thereto as may be necessary on behalf of the Town in connection therewith, or vote to take any other action related thereto.)

#### **ARTICLE 6**

The Finance Commission made its recommendation from the floor for indefinite postponement, which was voted by the Town

(to authorize the Board of Selectmen to take any actions necessary, including acquiring, at no expense to the Town, by purchase, conveyance, gift, eminent domain or otherwise, any necessary interests in land, (1) to alter the layouts of Whitewood Road and a corner of Juniper Road at its intersection with Whitewood Road to improve access to Westwood Station Boulevard from I-95; (2) to discontinue a portion of Whitewood Road and a corner of Juniper Road at its intersection with Whitewood Road that are inconsistent with the altered layout; and (3) to lay out as a town way a Blue Hill Drive extension, all as shown on the Relocation Plans, on terms acceptable to the Board of Selectmen, and to enter into all agreements and execute any and all instruments or take any other action relative thereto as may be necessary on behalf of the Town in connection therewith, or vote to take any other action in relation thereto.)

#### **ARTICLE 7**

The Finance Commission made its recommendation from the floor for indefinite postponement, which was voted by the Town

(to authorize the Board of Selectmen to amend existing development restrictions currently held by the Town encumbering 213 Whitewood Road to allow for the realignment of an access way from Blue Hill Drive substantially as shown on the Relocation Plans and/or for a pedestrian path, and to enter into all agreements and execute any and all instruments or take any other action relative thereto as may be necessary on behalf of the Town in connection therewith, or vote to take any other action in relation thereto.)

## ARTICLE 8

The Finance Commission moved to present a substitute motion, which was favorably voted. A motion for indefinite postponement was also moved, but failed, after which the town voted 412 YES to 163 NO to take the following several actions in furtherance of public necessity and convenience and in conjunction with certain improvements, changes and alterations to the location lines of a new roadway layout and underlying infrastructure existing or planned in that portion of the Town more commonly known as the Westwood Station project and depicted as the "Project Area" on a plan set entitled "Town of Westwood May 7, 2007 Town Meeting Warrant Article Exhibit Plans – Westwood Station Project Roadways, Easements and Infrastructure" ("Relocation Plans").

- (A) To authorize the Board of Selectmen to acquire, at no expense to the Town, by purchase, gift, eminent domain or otherwise, such land or interests in land, and to lay out as Town ways, on terms acceptable to the Board of Selectmen, and to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town or take any other action relative thereto as is necessary to:
  - (1) Lay out as a town way NStar Way, substantially as shown on the Relocation Plans and designated thereon as "New Roadway Area No. 1."
  - (2) Lay out and take or acquire easements related to widening portions of University Avenue and Canton Street at their intersection substantially as shown on the Relocation Plans and designated thereon as "New Roadway Area Nos. 2 and 3."
  - (3) Accept temporary right of way easements for public travel and infrastructure facilities over any land necessary within the Project Area to serve as temporary rights of way until completion of applicable portions of infrastructure and roadway realignment.
  - (4) Accept permanent right of way easements for public travel and infrastructure facilities over all or any portion of the private roadways approved by the Planning Board under the Subdivision Control Law pursuant to the pending definitive subdivision application filed on March 1, 2007 by the Westwood Station project proponent and owners, or as otherwise approved by the Planning Board.
  
- (B) To authorize the Board of Selectmen to discontinue the following portions of existing town ways, to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said discontinuance, or take any other action relative thereto necessary to:
  - (1) Discontinue a portion of University Avenue substantially as shown on the Relocation Plans and designated thereon as "Discontinued Roadway Area No. A."
  - (2) Discontinue a portion of Rosemont Road substantially as shown on the Relocation Plans and designated thereon as "Discontinued Roadway Area No. B."
  - (3) Discontinue a portion of Harvard Street substantially as shown on the Relocation Plans, said portion being designated thereon as "Discontinued Roadway Area No. C."

- (4) Discontinue a portion of NStar Way as it was previously approved but not recorded, as shown on the Relocation Plans, said portion being designated thereon as "Discontinued Roadway Area No. D."
- (C) To authorize the Board of Selectmen to abandon or relocate, at no expense to the Town and for no consideration, those certain roadway, sidewalk, landscape, signage, drainage and infrastructure easements and rights held by the Town depicted on the Relocation Plans, and to acquire, at no expense to the Town, by purchase, gift, eminent domain or otherwise, certain easements, rights and interests in land , on terms acceptable to the Board of Selectmen, related to new sewer, drainage and other municipal infrastructure so as to conform to the new roadway layout and infrastructure design approved by the Planning Board under the Subdivision Control Law pursuant to the pending definitive subdivision application filed on March 1, 2007 by the Westwood Station project proponent and owners, or as otherwise approved by the Planning board , and to enter into all agreements and execute any and all instruments or take any other action relative thereto as may be necessary on behalf of the Town in connection therewith.
- (D) To authorize the Board of Selectmen to acquire, at no expense to the Town, by purchase, gift, eminent domain or otherwise, and thereafter to abandon or dispose of any private interests in land within the bounds of the following existing town ways: University Avenue, Rosemont Road, Marymount Avenue and Harvard Street, and related private slope easements and rights pertaining to said town ways substantially as shown on the Relocation Plans, on terms acceptable to the Board of Selectmen, said abandonment or disposal being for no consideration, and to enter into all agreements and execute any and all instruments or take any other action relative thereto as may be necessary on behalf of the Town in connection therewith.
- (E) To authorize the Board of Selectmen to acquire, at no expense to the Town, by purchase, gift, eminent domain or otherwise, and thereafter to abandon, dispose of or relocate, certain easements, rights and interests in land related to rights of way, utilities, signs, drainage and slopes shown on the Relocation Plans, so as to conform to the new roadway layout and infrastructure design approved by the Planning Board under the Subdivision Control Law pursuant to the pending definitive subdivision application filed on March 1, 2007 by the Westwood Station project proponent and owners, or as otherwise approved by the Planning Board, said abandonment, disposal, or relocation being for no consideration , and to enter into all agreements and execute any and all instruments or take any other action relative thereto as may be necessary on behalf of the Town in connection therewith.

"A motion to reconsider Article 8 lost on a voice vote."

## **ARTICLE 9**

The Finance Commission recommended and the Town voted to authorize the Board of Selectmen to negotiate an agreement for payment in lieu of taxes (PILOT) and any other agreements, including a "development agreement" requiring mitigation for impacts attributable to the Westwood Station project, with the proponents of that project and the owners of the underlying land.

## **ARTICLE 10**

This amendment was approved after which the Town voted by a 2/3s vote declared by the Moderator to authorize the Board of Selectmen to take certain actions relative to the financing of the Westwood Station project, more specifically as follows, or take any other action in relation thereto:

- (A) To authorize the Board of Selectmen to approve a Tax Increment Financing (TIF) Agreement pursuant to M.G.L. c. 40, § 59 with the proponents of the Westwood Station project and the owners of the underlying property, substantially in the form attached as Exhibit A hereto;
- (B) To confirm the Board of Selectmen's designation of the location of the Westwood Station project, as shown on Assessors' Map 33, Lots 6, 8,9, 11, 12, 13, 15, 16, 19 and 20, and Map 37, Lots 10, 16, 17,18,19 and 20, as the "Westwood Station Economic Opportunity Area"; and
- (C) To authorize the Board of Selectmen to submit an Economic Opportunity Area Application, TIF Plan, and Certified Project Application to the Massachusetts Economic Assistance Council for the Westwood Station project located within the Westwood Station Economic Opportunity Area, as described in the TIF Agreement, and to take such other action as may be necessary to obtain approval of the Certified Project Application, the Economic Opportunity Area, the TIF Plan, and the TIF Zone, and to implement the TIF Agreement, or take any other action relative thereto.

## **ARTICLE 11**

The Finance Commission made its recommendation on the funding in this article after which the Town voted to raise and appropriate the sum of One Million Six Hundred Fifty Thousand Dollars (\$1,650,000.00) for the costs associated with the permitting of the Westwood Station project, to be spend on resource and staffing needs for inspection and other services during and after construction, and to allocate for this purpose all permit fees paid by the proponents of the Westwood Station project to the Town of Westwood, to authorize the Board of Selectmen to apply for and accept any State or Federal grant or assistance, or both, that may be available for any of the above purposes.

## **ARTICLE 12**

The Finance Commission recommended and the Town voted 519 YES to 74 NO to amend the Westwood Zoning Bylaw 9.6.9.2 to insert a new Section 9.6.9.2.5, as provided below:

“9.6.9.2.5 Within the MUOD, the phrase “on-site” as used in Section 7.3.8.7 and Section 9.3, Water Resource Protection Overlay District (WRPOD), shall refer to land in lots subject to an MUOD Area Master Plan Special Permit, so that (1) the requirements for the recharge of storm drainage may be met across the aggregate of all land in lots within the Area Master Plan, but do not have to be met on each individual lot; and (2) the requirements for wastewater disposal may be met through a privately-operated wastewater treatment facility serving some or all lots within the Area Master Plan provided that the facility is constructed, approved and operated in accordance with all applicable federal, state, and local laws.

### ARTICLE 13

This article failed 347 YES to 219 NO to amend the Westwood Zoning Bylaw Section 9.6.5 to insert a new Section 9.6.5.7, as provided below, or take any other action in relation thereto:

(“9.6.5.7 Cogeneration Plant, provided that for purposes of this Section, (1) a “Cogeneration Plant” shall mean a power-producing plant that, while producing electricity, uses its waste energy to produce heat, however transported (e.g., via gas, steam, hot water, forced hot air, or other media), and/or cold, such as may be generated when byproduct heat is used in absorption chillers for cooling; and (2) to the extent that the Cogeneration Plant provides services through erection, construction, alteration or maintenance of gas, electrical, steam or water transmission or distribution systems and collection supply or disposal systems, whether underground or overhead, such services need not be provided by a public service corporation or governmental agency, notwithstanding the definition of “Essential Services” in Section 2.0 of this Bylaw.”)

### ARTICLE 14

The Finance Commission recommended and Town voted by a 2/3s vote declared by the Moderator to amend the Westwood Zoning Bylaw Section 9.6.5 to insert a new Section 9.6.5.8, as provided below, and to renumber the existing Section 9.6.5.8 to be Section 9.6.5.12.

“9.6.5.8 Shuttle Service System, which shall mean the operation of buses or similar motor vehicles designed for the transport of groups of people, together with the following facilities: a covered garage for parking shuttle vehicles, shelters at shuttle stops, and maintenance facilities, provided that, if a maintenance facility is located within the Water Resource Protection Overlay District, only those maintenance or repair services shall be allowed as are reviewed and approved by the Planning Board in an Area Master Plan Special Permit and conditioned in a manner that serves the purposes of the Water Resource Protection Overlay District, and provided further that in no event shall maintenance and repair services in the Water Resource Protection Overlay District include the changing of motor oil, or the use or storage of any petroleum

product, or the refueling of vehicles with any oil or hazardous material as defined in M.G.L. c. 21E;”

## **ARTICLE 15**

This article failed on a voice vote to amend the Westwood Zoning Bylaw Section 9.6.5 to insert a new Section 9.6.5.9.

“9.6.5.9 In Retail Sales and Services establishments of 15,000 square feet or more only, the installation in customer-owned or operated vehicles of electronic accessories purchased at such retail establishments, such as sound systems or other media systems, provided that the installation is performed in a covered garage or covered bay designed and utilized specifically for that purpose. For purposes of this Section, such installation shall not be considered Motor Vehicle Light Service as defined in Section 2.0 of this Bylaw, and the fuel in the fuel tanks of such customer vehicles shall not be considered the storage of liquid petroleum products or oil or hazardous material ;”)

## **ARTICLE 16**

The Finance Commission recommended and the Town voted by a 2/3s vote declared by the Moderator to amend the Westwood Zoning Bylaw Section 9.6.5 to insert a new Section 9.6.5.11, as provided below:

“9.6.5.11 Restaurant with Entertainment, provided that (1) the Restaurant with Entertainment is part of an Area Master Plan that includes at least 500,000 square feet of Retail Sales and Services uses in the aggregate; (2) the Entertainment is at all times subordinate and incidental to the Restaurant use; and (3) the Entertainment takes place while the Restaurant is offering meal service. For purposes of this Section, Entertainment shall be defined within the MUOD as the provision of live, recorded, or interactive music, comedy, vocals, drama or media or other entertainment licensed by the Town but shall not include Adult Use;”

## **ARTICLE 17**

The Finance Commission recommended and the Town voted unanimously to amend the Westwood Zoning Bylaw Section 9.6.9 by inserting a new Section 9.6.9.1.6, as provided below:

“9.6.9.1.6 In an MUOD Area Master Plan Special Permit, the Planning Board may approve, in lieu of the requirements of Section 6.1.17, such landscaping requirements as the Planning Board determines are appropriate in light of the type of parking facility and the parking or loading area location and relationship to nearby buildings, which landscaping may be shown on plans included in an Area Master Plan Special Permit but, in all events,

must be reviewed and approved pursuant to Environmental Impact and Design Review under Section 7.3.”

## **ARTICLE 18**

The Finance Commission recommended and the Town voted unanimously to amend the Westwood Zoning Bylaw Section 9.6.5 by inserting new language at the end of Section 9.6.5.8 (which pursuant to Article 14 is re-numbered as Section 9.6.5.12), as provided below:

“, irrespective of whether such uses are located on the same lot as the principal uses, provided that the principal use to which each such use is accessory must be clearly identified, and provided further that any use or building that is accessory to principal uses must be reviewed and approved by the Planning Board in an Area Master Plan Special Permit.”

## **ARTICLE 19**

The Finance Commission recommended and the Town voted by a 2/3s vote declared by the Moderator to amend the Westwood Zoning Bylaw Section 9.6.9.2 by inserting a new Section 9.6.9.2.6, as provided below:

“9.6.9.2.6 For purposes of Section 9.3.7.6, with respect to the land in lots subject to an MUOD Area Master Plan Special Permit, uses requiring wastewater disposal may be connected to a private wastewater treatment facility, if constructed, approved, and operated in accordance with all applicable federal, state, and local laws.”

## **ARTICLE 20**

The Finance Commission made its recommendation for Indefinite Postponement on the floor and the Town so voted

( to amend the Westwood Zoning Bylaw Section 9.6.5 to insert a new Section 9.6.5.10, as provided below, or take any other action in relation thereto:

“9.6.5.10 Medical Center or Clinic ;”)

## **ARTICLE 21**

The Finance Commission made its recommendation for the Indefinite Postponement on the floor and the Town so voted

( to amend the Westwood Zoning Bylaw Section 9.6.6 to insert a new Section 9.6.6.3, as provided below, or take any other action in relation thereto:

“9.6.6.3 Notwithstanding the definition of “Motel or Hotel” set forth in Section 2.0 of this Bylaw, in an MUOD Area Master Plan Special Permit, the Planning Board may allow a Motel or Hotel that has units with independent cooking facilities, provided that such unit shall not be occupied by any guest for more than seven (7) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous seven (7) month stay, and no occupant may claim residency at such location.”)

**ARTICLE 22**

The Moderator called for a vote on Appendix C, which was favorably voted .The Town then voted to unanimously to raise and appropriate and/or transfer from available funds and/or borrow for the operation of the municipal departments and public school system for the fiscal year July 1, 2007, through June 30, 2008, as set forth in Appendix D of the Finance Commission's Report to the 2007 Annual Town Meeting.

*Appendix A - The classification and compensation plan for Town employees, as presented by the Personnel Board. This is printed for information only.*

*Appendix B - The classification and compensation plan for School employees, as voted by the School Committee. This is printed for information only.*

*Appendix C - The classification and compensation plan for elected officials as recommended by the Finance Commission. The Moderator will call for a vote on each of these positions.*

*Appendix D - As noted, the operating budget for all Town departments as recommended by the Finance Commission.*

*Appendix E - The School Department Budget Summary.*

**ARTICLE 23**

The Finance Commission recommended and the Town voted unanimously to raise and appropriate and/or transfer from available funds the sum of Four Hundred Seventeen Thousand Dollars (\$417,000) for the purchase, lease or lease/purchase of the following capital equipment and improvements:

<u>Equipment/Project</u>	<u>Requesting Department</u>	<u>Cost</u>	<u>Funding Source</u>
1500 GPM Engines (6 <sup>th</sup> of 6 payments)	Fire	\$117,535	\$56,035 Free Cash/ \$61,500 Taxation
(2) Dump Truck & Plow & Sanders	DPW	\$124,000	Free Cash
End User Technology/Software Upgrades	IS	\$75,000	Free Cash
Replacement of Police Vehicles	Police	\$100,465	Free Cash

and to direct the Board of Selectmen to trade as part of the purchase price or to sell or dispose of any equipment no longer necessary, and to authorize the Board of Selectmen to apply for and

accept any State or Federal grant or assistance, or both, that may be available for any of the above purchases.

**ARTICLE 24**

The Finance Commission recommended and the Town voted to raise and appropriate and/or transfer from available funds the sum of Four Hundred Six Thousand Dollars (\$406,000) for the purchase, lease or lease/purchase of the following capital equipment and improvements:

<u>Equipment/Project</u>	<u>Requesting Department</u>	<u>Cost</u>	<u>Funding Source</u>
Technology	School	\$183,500	\$122,000 Free Cash/ \$61,500 Taxation
Furniture, Fixtures and Equipment	School	\$16,500	Free Cash
Repair and Maintenance	School	\$50,000	Free Cash
Copiers	School	\$77,600	Free Cash
Modulars - Hanlon	School	\$78,400	Free Cash

and to direct the Board of Selectmen to trade as part of the purchase price or to sell or dispose of any equipment no longer necessary, and to authorize the Board of Selectmen to apply for and accept any State or Federal grant or assistance, or both, that may be available for any of the above purchases.

**ARTICLE 25**

The Finance Commission recommended and the Town voted unanimously to raise and appropriate and/or transfer from available funds the sum of One Hundred Fifty-Five Thousand Dollars (\$155,000) for the following capital equipment and improvements:

<u>Equipment/Project</u>	<u>Requesting Department</u>	<u>Cost</u>	<u>Funding Source</u>
Service Vehicle	Sewer	\$55,000	Sewer User Fees
Sewer Utility Vehicle	Sewer	\$30,000	Sewer User Fees
Pump Replacement	Sewer	\$70,000	Sewer User Fees

and to direct the Board of Selectmen to trade as part of the purchase price or to sell or dispose of any equipment no longer necessary, and to authorize the Board of Selectmen to apply for and accept any State or Federal grant or assistance, or both, that may be available for any of the above purchases.

**ARTICLE 26**

The Finance Commission recommended and the Town voted 301 YES to 95 NO to adopt M.G.L. c. 39, § 23D (as amended by c. 79 of the Acts of 2006) to allow a member

of any municipal board, committee or commission of the Town of Westwood, including but not limited to the zoning board of appeals, the conservation commission, and the planning board, to miss a single session of an adjudicatory hearing and still vote on the matter provided that the absentee member examines all evidence received at the session, including an audio or video recording or transcript of the session, and provides written certification that he or she has done so prior to voting on the matter, which certificate is to be included in the record of the hearing.

## **ARTICLE 27**

The Finance Commission recommended and the Town voted unanimously to authorize the Board of Selectmen to apply for and accept state funds to be received as reimbursement for road improvements and deposit said funds into the Town's road improvement account to be used as reimbursement for expenditures made or to continue the Town's road improvement program of crack sealing, secondary resurfacing and major reconstruction; to authorize the Board of Selectmen to enter into contracts for the expenditure of any funds allotted or to be allotted by the Commonwealth for the improvement of Chapter 90 and other public roads within the Town of Westwood and to authorize the Board of Selectmen to make any necessary takings of land and/or easements to accomplish said program.

## **ARTICLE 28**

The Finance Commission recommended and the Town voted unanimously to amend its General Bylaws by adding a new Article 18A, titled "Stormwater Management."; as follows:

Discharges to the Municipal Drain System

### **Section 1. PURPOSE**

The purpose of this section is to eliminate non-stormwater discharges to the Town of Westwood's Municipal Storm Drain System. Non-stormwater discharges contain contaminants and supply additional flows to the Town's storm drain system. Increased and contaminated stormwater runoff are major causes of:

- (1) impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
- (2) contamination of drinking water supplies;
- (3) contamination of clam flats and other coastal areas;
- (4) alteration or destruction of aquatic and wildlife habitat; and
- (5) flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Westwood's natural resources, municipal facilities, and to safeguard the public health, safety, welfare and the environment.

The objectives of this section are:

- (1) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
- (2) To prohibit illicit connections and unauthorized discharges to the MS4;
- (3) To require the removal of all such illicit connections;
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

## **Section 2. DEFINITIONS**

Unless a different definition is indicated in other sections of this by-law, the following definitions and provisions shall apply throughout this Article , also referred to in this Article, as this by-law or Section.

**AUTHORIZED ENFORCEMENT AGENCY:** Conservation Commission (hereafter "the Commission"), its employees or agents designated to enforce this by-law.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended.

**DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**GROUNDWATER:** Water beneath the surface of the ground.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

**ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 6. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or resulting from fire fighting activities exempted pursuant to Part G (4)(B), of this by-law.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Westwood.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

**NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock; sand; salt, soils;
- (10) construction wastes and residues;
- (11) and noxious or offensive matter of any kind.

**PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**STORMWATER:** Runoff from precipitation or snow melt.

**TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**WATERS OF THE COMMONWEALTH:** all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

**WASTEWATER:** any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **Section 3. APPLICABILITY**

This section shall apply to flows entering the municipally owned storm drainage system.

### **Section 4. AUTHORITY**

This Article is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, the regulations of the federal Clean Water Act found at 40 CFR 122.34, Article 1, Section 4 of the General Bylaws of the Town of Westwood and Chapter 9 of the Charter of the Town of Westwood.

### **Section 5. RESPONSIBILITY FOR ADMINISTRATION**

The Commission shall administer, implement and enforce this by-law. Any powers granted to or duties imposed upon the Commission may be delegated in writing by the Commission to employees or agents of the Commission.

### **Section 6. REGULATIONS**

The Commission may promulgate rules and regulations to effectuate the purposes of this by-law. Failure by the Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this by-law.

### **Section 7. PROHIBITED ACTIVITIES**

1. Illicit Discharges

No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

2. Illicit Connections

No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

3. Obstruction of Municipal Storm Drain System

No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior consent from the Commission.

4. Exemptions

A. Discharge or flow resulting from fire fighting activities;

B. The following **non-stormwater discharges** or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

(1) Waterline flushing;

(2) Flow from potable water sources;

(3) Springs;

(4) Natural flow from riparian habitats and wetlands;

(5) Diverted stream flow;

(6) Rising groundwater;

(7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the Commission prior to discharge, and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Commission;

(8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

(9) Discharge from landscape irrigation or lawn watering;

(10) Water from individual residential car washing;

(11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;

(12) Discharge from street sweeping;

(13) Dye testing, provided verbal notification is given to the Commission prior to the time of the test;

(14) Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

(15) Discharge for which advanced written approval is received from the Commission as necessary to protect public health, safety, welfare or the environment.

#### **Section 8. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

The Commission may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

#### **Section 9. NOTIFICATION OF SPILLS**

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### **Section 10. ENFORCEMENT**

The Commission or an authorized agent of the Commission shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

##### **1. Civil Relief**

If a person violates the provisions of this section, regulations, permit, notice, or order issued thereunder, the Commission may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

## **2. Orders**

The Commission or an authorized agent of the Commission may issue a written order to enforce the provisions of this section or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57 after the thirty-first day at which the costs first become due.

## **3. Criminal Penalty**

Any person who violates any provision of this by-law, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

## **4. Non-Criminal Disposition**

As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D and Article 10, section 23 of the Town of Westwood General Bylaws, in which case the Agent of the Conservation Commission of the Town shall be the enforcing person. The penalty for the 1st violation shall be a warning. The penalty for the 2nd violation shall be \$100.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

## **5. Entry to Perform Duties Under this Section**

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this by-law and regulations and may make or cause to be made such examinations, surveys or sampling as the Commission deems reasonably necessary.

## **6. Appeals**

The decisions or orders of the Commission shall be final. Further relief shall be to a court of competent jurisdiction.

**7. Remedies Not Exclusive**

The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

**Section 11. SEVERABILITY**

The provisions of this section are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this section or by-law.

**Section 12. TRANSITIONAL PROVISIONS**

Residential property owners shall have 60 days from the effective date of the by-law section to comply with its provisions provided good cause is shown for the failure to comply with the by-law during that period.

**ARTICLE 29**

The Finance Commission recommended and the Town voted to amend its General Bylaws, Article 10, section 23 by deleting the existing section 23 and substituting the following:

*Section 23. Non Criminal Disposition of Bylaw Violations.*

Any bylaw of the Town of Westwood relating to the Board of Health, the Conservation Commission or Building Commissioner or any rule or regulation of the Board of Health, the Town of Westwood, or the Commonwealth of Massachusetts, the violation of which is subject to a specific penalty, may in the discretion of the Town Official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the Massachusetts General laws, said section being incorporated by reference herein.

“Enforcing person”, as used in this bylaw shall mean the Health Director and other agents of the Board of Health; the Conservation Agent and other agents of the Conservation Commission and the Building Commissioner.

**ARTICLE 30**

The Finance Commission recommended and the town voted to accept General Laws Chapter 59 section 5 clause 55, which would allow units, leased to and occupied by members of cooperatives and occupied by them as their domiciles, to be considered as owned by the members for the purpose of making them eligible for personal exemptions, to be effective for exemptions granted for any fiscal year beginning on or after July 1, 2007.

**ARTICLE 31**

The Finance Commission recommended and the Town voted unanimously to raise and appropriate and/or transfer from available funds to continue construction of the new Veterans’ Park. The Town voted to appropriate the sum of Eleven Thousand One Hundred Seventy-Five Dollars (\$11,175) to continue construction of the new Veterans’ Park; and to meet said

appropriation, transfer the sum of Eleven Thousand One Hundred Seventy-Five Dollars (\$11,175) from free cash.

### **ARTICLE 32**

The Finance Commission recommended and the Town voted unanimously to transfer from the care, custody and control of the Board of Selectmen to the care, custody and control of the Conservation Commission, to be managed and controlled by the Conservation Commission in accordance with and for the purposes of M.G.L.A. chapter 40, §8C, as amended, the following parcel of land:

The land in Westwood, Norfolk County, Massachusetts being shown as Lot 6 on Assessors Map #24 in the Town of Westwood consisting of 3.28 acres, more or less, and being a portion of a parcel of land marked "Charles J. Grady" as shown on a plan entitled "Plan of Subdivision of Land Belonging to Charles J. Grady, Westwood, Mass." Dated May 5, 1947 Arnold E. Schaier, Engr, recorded in Norfolk Deeds Plan Book 164, Plan 564 of 1951.

Said premises having been previously taken by the Board of Selectmen by an Order of Taking by Eminent Domain, dated July 18, 2001, and recorded at the Norfolk County Registry of Deeds at Book 15283, Page 184.

### **ARTICLE 33**

The Finance Commission made its recommended from the floor, after which the Town voted unanimously to accept as a Town Way the street listed below as laid out by the selectmen.

Shoe String Lane

**All business on the Warrant having been acted upon, a motion was made and seconded to adjourn at 11:10 P.M.**