

**ANNUAL TOWN MEETING  
TOWN OF WHATELY  
June 23, 2020**

Pursuant to the recorded warrant the annual meeting of the Town of Whately held outside on the grounds of the Whately Elementary School due to the COVID-19 pandemic was called to order Tuesday, June 23, 2020 at 6:00 p.m. by Moderator Nathanael Fortune. Town Clerk, Lynn M. Sibley read the Constable's return of the warrant. Amy Schrader acted as checker and assigned voting placards to those voters attending the meeting. Maximum attendance was 97 checked voters. This meeting was being broadcast by FCAT as well.

Moderator Fortune recognized former moderator Richard Smith, who chose not to run again for the position. Moderator Fortune thanked him for his years of service to the Town of Whately as Moderator. He also acknowledged Paul Fleuriel for his service as Moderator prior to Richard. Selectboard member Joyce Palmer Fortune announced her nominee for the dedication of the 2019 Annual Town Report is Fran Fortino, Board of Health and Solid Waste Committee member. Joyce had chosen Fran prior to the recent pandemic and his endless work on the pandemic as a member of the Board of Health solidified her selection.

Representative Natalie Blais was allowed a moment to address the Town Meeting. She thanked the Selectboard and all other town boards and committees for their handling of the pandemic and allowing democracy to continue safely, by holding an outdoor Town Meeting. Once the announcements had been made the business of the meeting was started.

**ARTICLE 1.** Upon motion made and seconded, it was

Voted that the Town accept the Annual Reports of the Officers of the Town, and to hear any other reports of the Boards and Committees.

Moderator declared article passed in the affirmative

**ARTICLE 2.** Upon motion made and seconded, it was

Voted that the Town authorize the Town Treasurer, with the approval of the Selectboard, to borrow money from time to time in anticipation of the revenue of the fiscal year beginning on July 1, 2020, in accordance with the provisions of G.L., c. 44, § 4, and to renew any note or notes as may be given for a period of less than one year, in accordance with the provisions of G.L. c. 44, § 17.

Moderator declared article passed in the affirmative

**ARTICLE 3.** Upon motion made and seconded, it was

Voted that the Town authorize the Selectboard to enter into contracts for goods and services with a duration in excess of three years, pursuant to the provisions of G.L. c. 30B, § 12 (b).

Moderator declared article passed in the affirmative

**ARTICLE 4.** Upon motion made and seconded, it was

Voted that the Town authorize the Town Treasurer, with the approval of the Selectboard, to enter into compensating balance agreements with banking institutions having their principal offices in the Commonwealth of Massachusetts during the fiscal year beginning on July 1, 2020, as permitted by G.L. c. 44, § 53F.

Moderator declared article passed in the affirmative

**ARTICLE 5.** Upon motion made and seconded, it was

Voted that the Town apply for, accept, and expend any federal, state or private grant monies on behalf of the Town and to authorize the Town Treasurer with approval of the Selectboard to borrow in anticipation of reimbursement.

Moderator declared article passed in the affirmative

**ARTICLE 6.** Upon motion made and seconded, it was

Voted that the Town establish spending limits for the Town's Revolving Funds as established by the Town's General Bylaws, Chapter 46 – Revolving Funds, for the fiscal year beginning on July 1, 2020 as follows:

<b>Revolving Fund Name</b>	<b>FY21 Spending Limit</b>
Dog Licensing and Control Revolving Fund	\$2,000
Recreation Revolving Fund	\$20,000
Library Revolving Fund	\$1,000
Public Hearing Revolving Fund	\$4,000
Cordwood Sales Revolving Fund	\$2,500
Cemetery Commissioners Revolving Fund	\$1,000
Trench Permit	\$1,000
Recycling and Solid Waste Revolving Fund	\$15,000

Moderator declared article passed in the affirmative

**ARTICLE 7.** Upon motion made and seconded, it was

Voted that the Town fix the salaries or compensation of the elected officers of the Town for the fiscal year beginning on July 1, 2020 as follows:

<b>Position</b>	<b>Amount (2.0% COLA)</b>
Moderator	\$132.12
Selectboard – Chair	\$2,014.74
Selectboard - Member	\$1,849.60
Town Clerk	\$30,455.57
Assessors – Chair	\$2,014.74
Assessors - Member	\$1,849.60
Water Commissioner	\$792.70
School Committee	\$381.92
Elector: Oliver Smith Will	\$11.37
Board of Health – Chair	\$957.82
Board of Health – Member	\$792.70
Constables	\$14.98 per hour
Cemetery Commissioners – Sextons	\$15.35 per hour
Opening Graves Fee	\$600 per opening

Moderator declared article passed in the affirmative

**ARTICLE 8.** Upon motion made and seconded, it was

Voted that the Town appropriate **\$395,679** or any other sum or sums of money from the Water Department Enterprise Fund to finance the operation of the Water Department for the fiscal year beginning on July 1, 2020 as follows:

<b>Enterprise Fund - Water Department (EF)</b>	<u>Fiscal Year 2020</u> Enterprise Fund	<u>Fiscal Year 2021</u> Enterprise Fund	Change (\$) FY20 to FY21	Change (%) FY20 to FY21
<b>I. Revenues (estimated)</b>				
Water Receipts	\$149,500.00	\$170,000.00	\$20,500.00	13.71%
Hook-up Fees	\$30,000.00	\$225,000.00	\$195,000.00	650.00%
Other Fees & Charges	<u>\$2,500.00</u>	<u>\$2,500.00</u>	<u>\$0.00</u>	<u>0.00%</u>
<b>Total Estimated Revenue</b>	<b>\$182,000.00</b>	<b>\$397,500.00</b>	<b>\$215,500.00</b>	<b>118.41%</b>
<b>II. Expenses</b>				
<b>Direct Expenses</b>				
Salaries	\$38,638.00	\$52,037.00	\$13,399.00	34.68%
Operations	<u>\$84,600.00</u>	<u>\$289,700.00</u>	<u>\$205,100.00</u>	<u>242.43%</u>
<b>Subtotal Direct Expenses</b>	<b>\$123,238.00</b>	<b>\$341,737.00</b>	<b>\$218,499.00</b>	<b>177.30%</b>
<b>Indirect Expenses</b>				
Selectboard & Administration	\$2,394.00	\$2,430.00	\$36.00	1.50%
Legal Counsel/Financial Advisor	\$418.00	\$320.00	-\$98.00	-23.44%
Audit	\$225.00	\$0.00	-\$225.00	-100.00%
Town Building Operations	\$2,549.00	\$2,464.00	-\$85.00	-3.33%
Town Accountant	\$648.00	\$756.00	\$108.00	16.67%
Harper's Payroll	\$104.00	\$107.00	\$3.00	2.88%
Treasurer/Collector	\$6,564.00	\$6,642.00	\$78.00	1.19%
Property/Liability Insurance	\$6,000.00	\$6,180.00	\$180.00	3.00%
Health Insurance	\$25,211.00	\$25,211.00	\$0.00	0.00%
Medicare & Social Security	\$1,430.00	\$1,540.00	\$110.00	7.69%
Workers Compensation Insurance	\$692.00	\$925.00	\$233.00	33.67%
Life Insurance	\$0.00	\$0.00	\$0.00	
Retirement	\$5,859.00	\$5,967.00	\$108.00	1.84%
Town Vehicles Fuel	<u>\$1,400.00</u>	<u>\$1,400.00</u>	<u>\$0.00</u>	<u>0.00%</u>
<b>Subtotal Indirect Expenses</b> <i>(appropriated to the General Fund)</i>	<b>\$53,494.00</b>	<b>\$53,942.00</b>	<b>\$448.00</b>	<b>0.84%</b>
<b>Total Estimated Expenses</b>	<b>\$176,732.00</b>	<b>\$395,679.00</b>	<b>\$218,947.00</b>	<b>123.89%</b>

Moderator declared article passed in the affirmative

**ARTICLE 9.** Upon motion made and seconded, it was

Voted that the Town act on the report of the Finance Committee on the Fiscal Year 2021 Town Operating Budget and raise and appropriate and/or transfer from available funds, money for the operation of the Town's departments, boards, committees, agencies and officers, for the payment of debt service and for all other necessary and proper expenses for the fiscal year beginning on July 1, 2020 as follows:

(Note: Water Department Enterprise Fund costs are appropriated in Article 8)

Proposed Fiscal Year 2021 Budget

The Finance Committee recommends that the amounts shown in the column captioned "Fiscal Year 2021 Operating Budget" be raised or appropriated or transferred from available funds for Fiscal Year 2021 operating purposes, debt service and other Town expenses.

Fiscal Year	2020	2021		
General Government (GG)	Operating Budget	Operating Budget	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
Selectboard & Administration	\$117,308.00	\$119,084.00	\$1,776.00	1.51%
Legal Counsel/Financial Advisors	\$20,482.00	\$15,680.00	-\$4,802.00	-23.44%
Town Offices-Supplies	\$3,500.00	\$3,500.00	\$0.00	0.00%
Audit	\$7,275.00	\$0.00	-\$7,275.00	-100.00%
Town Report	\$500.00	\$500.00	\$0.00	0.00%
Town Building Operations	\$82,427.00	\$79,666.00	-\$2,761.00	-3.35%
Town Clerk	\$40,133.00	\$47,159.00	\$7,026.00	17.51%
Town Accountant	\$20,968.00	\$24,438.00	\$3,470.00	16.55%
Harpers Payroll	\$5,096.00	\$5,243.00	\$147.00	2.88%
Accounting Software	\$750.00	\$750.00	\$0.00	0.00%
Treasurer/Collector	\$53,111.00	\$53,743.00	\$632.00	1.19%
Tax Takings	\$8,000.00	\$10,000.00	\$2,000.00	25.00%
Assessors	\$38,850.00	\$38,594.00	-\$256.00	-0.66%
Planning Board	\$2,184.00	\$2,211.00	\$27.00	1.24%
Zoning Board of Appeals	\$2,385.00	\$2,600.00	\$215.00	9.01%
Finance Committee	\$150.00	\$150.00	\$0.00	0.00%
Moderator	\$150.00	\$150.00	\$0.00	0.00%
Conservation Commission	\$500.00	\$500.00	\$0.00	0.00%
Historical Commission	\$200.00	\$200.00	\$0.00	0.00%
Agricultural Commission	\$1,500.00	\$500.00	-\$1,000.00	-66.67%
Computer - IT	\$5,250.00	\$5,250.00	\$0.00	0.00%
Connect CTY	\$2,500.00	\$2,500.00	\$0.00	0.00%
Website & Email Hosting	\$4,000.00	\$4,350.00	\$350.00	8.75%
Housing Committee	\$200.00	\$200.00	\$0.00	0.00%
Municipal Building Committee	\$800.00	\$0.00	-\$800.00	-100.00%
GG Subtotal	\$418,219.00	\$416,968.00	-\$1,251.00	-0.30%
Fiscal Year	2020	2021		
Cultural, Recreation, Services (CRS)	Operating Budget	Operating Budget	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
Tri-Town Beach District	\$5,174.00	\$4,131.00	-\$1,043.00	-20.16%
Recreation Commission	\$10,570.00	\$10,570.00	\$0.00	0.00%
Cemetery Commission	\$8,477.00	\$8,637.00	\$160.00	1.89%
Library	\$74,784.00	\$74,629.00	-\$155.00	-0.21%
South County Senior Center	\$19,208.00	\$23,670.00	\$4,462.00	23.23%
Veterans	\$8,732.00	\$9,170.00	\$438.00	5.02%
Local Council on Aging	\$500.00	\$1,400.00	\$900.00	180.00%
CRS Subtotal	\$127,445.00	\$132,207.00	\$4,762.00	3.74%
Fiscal Year	2020	2021		
Public Health (PH)	Operating Budget	Operating Budget	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
Board of Health	\$2,996.00	\$3,046.00	\$50.00	1.67%
Health Agent - Foothills Health District	\$18,155.00	\$19,071.00	\$916.00	5.05%
Solid Waste	\$46,541.00	\$56,975.00	\$10,434.00	22.42%
Hazardous Waste	\$1,200.00	\$1,200.00	\$0.00	0.00%
Franklin County Solid Waste Management District	\$6,540.00	\$7,412.00	\$872.00	13.33%
PH Subtotal	\$75,432.00	\$87,704.00	\$12,272.00	16.27%
Fiscal Year	2020	2021		
Public Safety (PS)	Operating Budget	Operating Budget	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
Fire Department	\$62,933.00	\$63,365.00	\$432.00	0.69%
Ambulance - South County EMS	\$106,080.00	\$97,023.00	-\$9,057.00	-8.54%
Police Department	\$204,075.00	\$209,150.00	\$5,075.00	2.49%
Quinn Bill Incentive	\$5,424.00	\$5,533.00	\$109.00	2.01%
Animal Control	\$4,900.00	\$4,952.00	\$52.00	1.06%
Animal Inspection	\$528.00	\$537.00	\$9.00	1.70%
Emergency Management	\$950.00	\$950.00	\$0.00	0.00%
Franklin County Inspection Services	\$7,500.00	\$7,600.00	\$100.00	1.33%
PS Subtotal	\$392,390.00	\$389,110.00	-\$3,280.00	-0.84%

Fiscal Year	2020	2021	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
<b>Public Works (PW)</b>	<b>Operating Budget</b>	<b>Operating Budget</b>		
Highway Salaries	\$136,222.00	\$142,114.00	\$5,892.00	4.33%
General Highways	\$79,200.00	\$78,700.00	-\$500.00	-0.63%
Winter Roads	\$132,979.00	\$137,068.00	\$4,089.00	3.07%
Road Machinery	\$21,000.00	\$26,000.00	\$5,000.00	23.81%
Garage Maintenance	\$8,300.00	\$8,100.00	-\$200.00	-2.41%
Trees	\$5,500.00	\$6,500.00	\$1,000.00	18.18%
<b>PW Subtotal</b>	<b>\$383,201.00</b>	<b>\$398,482.00</b>	<b>\$15,281.00</b>	<b>3.99%</b>
Fiscal Year	2020	2021	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
<b>Insurance &amp; Benefits (IB)</b>	<b>Operating Budget</b>	<b>Operating Budget</b>		
Property & Liability Insurance	\$69,000.00	\$71,070.00	\$2,070.00	3.00%
Group Health Insurance	\$418,789.00	\$408,789.00	-\$10,000.00	-2.39%
Medicare & Social Security	\$31,070.00	\$33,460.00	\$2,390.00	7.69%
Workers Compensation Insurance	\$18,008.00	\$24,075.00	\$6,067.00	33.69%
Life Insurance	\$1,000.00	\$1,000.00	\$0.00	0.00%
Unemployment Insurance	\$16,000.00	\$16,000.00	\$0.00	0.00%
Franklin County Retirement	\$189,444.00	\$192,949.00	\$3,505.00	1.85%
Police & Fire Injured on Duty Insurance	\$14,700.00	\$11,100.00	-\$3,600.00	-24.49%
OPEB Liability	\$25,000.00	\$0.00	-\$25,000.00	-100.00%
Division of Medicaid Assistance	\$1,800.00	\$1,800.00	\$0.00	0.00%
<b>IB Subtotal</b>	<b>\$784,811.00</b>	<b>\$760,243.00</b>	<b>-\$24,568.00</b>	<b>-3.13%</b>
Fiscal Year	2020	2021	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
<b>Unclassifieds (U)</b>	<b>Operating Budget</b>	<b>Operating Budget</b>		
Temporary Loan Interest	\$1,000.00	\$1,000.00	\$0.00	0.00%
Reserve Fund	\$20,000.00	\$20,000.00	\$0.00	0.00%
Franklin Regional Council of Governments	\$19,586.00	\$19,881.00	\$295.00	1.51%
Physicals & Tests	\$1,500.00	\$1,500.00	\$0.00	0.00%
Town Vehicles Fuel	\$26,600.00	\$26,600.00	\$0.00	0.00%
Educational Incentives	\$1,000.00	\$2,000.00	\$1,000.00	100.00%
<b>U Subtotal</b>	<b>\$69,686.00</b>	<b>\$70,981.00</b>	<b>\$1,295.00</b>	<b>1.86%</b>
Fiscal Year	2020	2021	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
<b>Schools (S)</b>	<b>Operating Budget</b>	<b>Operating Budget</b>		
<b>Whately Elementary School</b>				
Operating & Transportation Budget	\$1,785,184.00	\$1,785,184.00	\$0.00	0.00%
<b>Subtotal Whately Elementary School</b>	<b>\$1,785,184.00</b>	<b>\$1,785,184.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>Frontier Regional</b>				
Operating Budget	\$926,097.00	\$954,419.00	\$28,322.00	3.06%
Capital Budget		\$0.00	\$0.00	
Transportation Budget	\$38,283.00	\$26,405.00	-\$11,878.00	-31.03%
<b>Subtotal Frontier Regional</b>	<b>\$964,380.00</b>	<b>\$980,824.00</b>	<b>\$16,444.00</b>	<b>1.71%</b>
<b>Franklin County Technical School</b>				
Operating Assessment	\$167,162.00	\$223,341.00	\$56,179.00	33.61%
Capital Assessment	\$7,302.00	\$6,201.00	-\$1,101.00	-15.08%
<b>Subtotal Franklin County Technical School</b>	<b>\$174,464.00</b>	<b>\$229,542.00</b>	<b>\$55,078.00</b>	<b>31.57%</b>
<b>Smith Vocational High School</b>				
Tuition	\$0.00	\$0.00	\$0.00	
Transportation	\$0.00	\$0.00	\$0.00	
<b>Subtotal Smith Vocational High School</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	
Fiscal Year	2020	2021	\$ Change (FY20-FY21) (Operating Budget)	% Change (FY20-FY21) (Operating Budget)
<b>Debt (D)</b>	<b>Operating Budget</b>	<b>Operating Budget</b>		
<b>Long Term Debt</b>				
None	\$0.00	\$0.00	\$0.00	
<b>Long Term Debt Subtotal</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	
<b>Short Term Debt</b>				
Dump Truck 2	\$0.00	\$0.00	\$0.00	
Fire Truck	\$82,619.00	\$0.00	-\$82,619.00	-100.00%
<b>Short Term Debt Subtotal</b>	<b>\$82,619.00</b>	<b>\$0.00</b>	<b>-\$82,619.00</b>	<b>-100.00%</b>
<b>TOTAL TOWN OPERATING BUDGET</b>	<b>\$5,257,831.00</b>	<b>\$5,251,245.00</b>	<b>-\$6,586</b>	<b>-0.13%</b>

Moderator declared article passed in the affirmative

## **Financial Transfers**

**ARTICLE 10.** Upon motion made and seconded, it was

Voted that the town authorize the Board of Assessors to transfer the sum of **\$200,000** from available funds (FY19 Free Cash) to reduce the tax levy for the fiscal year beginning on July 1, 2020.

Moderator declared article passed in the affirmative

**ARTICLE 11.** Upon motion made and seconded, it was

Voted to transfer the sum of **\$100,000** from available funds (FY19 Free Cash) to the General Stabilization Fund.

Moderator declared article passed in the affirmative

**ARTICLE 12.** Upon motion made and seconded, it was

Voted that the town transfer and return the sum of **\$50,000** appropriated under Article 5 of the March 25, 2020 Special Town Meeting back to the Capital Stabilization Fund.

Moderator declared article passed in the affirmative

## **Capital Project Appropriations & Authorizations**

**ARTICLE 13.** Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$21,500** from available funds (FY19 Free Cash) to pay for the purchase of new communications equipment for the Police and Fire Departments.

Moderator declared article passed in the affirmative

**ARTICLE 14.** Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$8,000** from available funds (FY19 Free Cash) to pay for the repairs to the Whately Elementary School roof.

Moderator declared article passed in the affirmative

Clerk's note: There was one question regarding the age of the present roof. Superintendent Modestow was not sure of the exact year but this money would remove the leaking skylights and repair the roof.

**ARTICLE 15.** Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$12,500** from available funds (FY19 Free Cash) to pay for the expansion and resurfacing of the driveway and parking lot at the S. White Dickinson Library.

Moderator declared article passed in the affirmative

**ARTICLE 16.** Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$13,750** from available funds (FY19 Free Cash) to pay for the purchase of new five-inch fire hose to be used by the Fire Department.

Moderator declared article passed in the affirmative

**ARTICLE 17.** Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$80,810** from available funds (FY19 Free Cash) to pay for the debt service on the fire truck loan.

Moderator declared article passed in the affirmative

**ARTICLE 18.** Upon motion made and seconded, it was

Voted that the town appropriate and transfer the sum of **\$5,000** from the Water Department Enterprise Fund – Retained Earnings to pay for upgrades to the Westbrook Road pumping station.

Moderator declared article passed in the affirmative

**ARTICLE 19.** Upon motion made and seconded, it was

Voted that the town appropriate and transfer the sum of **\$25,000** from the Water Department Enterprise Fund – Retained Earnings to pay for the engineering and installation of booster pumps at the main pumphouse on Chestnut Plain Road.

Moderator declared article passed in the affirmative

**Lease-Purchase Agreements & First Year Appropriations**

**ARTICLE 20.** Upon motion made and seconded, it was

Voted that the town authorize the Highway Department to enter into a lease purchase financing agreement for an excavator for a term of years up to the useful life of the equipment to be procured, as determined by the Selectboard.

2/3rds vote required. Vote was unanimous

**ARTICLE 21.** Upon motion made and seconded, it was

Voted that the town authorize the Highway Department to enter into a lease purchase financing agreement for a woodchipper for a term of years up to the useful life of the equipment to be procured, as determined by the Selectboard.

2/3rds vote required. Vote was unanimous

**ARTICLE 22.** Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$12,000** from available funds (FY19 Free Cash) to pay for the first-year payment on the lease purchase agreement for the woodchipper.

Moderator declared article passed in the affirmative

## **Frontier Regional School District Capital Appropriation**

**ARTICLE 23.** Upon motion made and seconded, it was

Voted that the town appropriate and transfer the sum of **\$5,499.90** from available funds (FY19 Free Cash) to be transferred to the Frontier Regional School District for capital needs, including purchasing and installing electric corridor holds, repairing the Central Clock System, and repairing the exterior and interior Intercom System, as part of a total \$48,500 expense.

Moderator declared article passed in the affirmative

## **Community Preservation Act Appropriations**

**ARTICLE 24.** Upon motion made and seconded, it was

Voted that the Town hear and act, pursuant to G.L. c. 44B, on the report of the Community Preservation Committee for the Fiscal Year 2021 Community Preservation Budget and vote to appropriate or reserve from the Community Preservation Fund a sum of money in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other necessary and proper expenses in the fiscal year beginning on July 1, 2020, including debt service for any approved Community Preservation project, with each item to be considered a separate appropriation:

### **Appropriations:**

From FY21 estimated revenues for committee administrative expenses      **\$7,750**

### **Reserves:**

From FY21 estimated revenues for Open Space Reserve      **\$15,500**

From FY21 estimated revenues for Affordable Housing Reserve      **\$15,500**

From FY21 estimated revenues for Budgeted Reserve      **\$73,250**

### **Debt Service**

From FY21 estimated revenues for Town Hall Loan Debt Service      **\$43,000**

Moderator declared article passed in the affirmative

Clerk's note: Motion differed from warrant article. FY21 estimated revenues was listed as FY20 estimated revenues on the warrant by error.

**ARTICLE 25.** Upon motion made and seconded, it was

**Voted that the town**, pursuant to G.L. c. 44B, appropriate and transfer the sum of **\$13,200** from the Community Preservation Fund Unreserved Fund Balance for the restoration of gravestones in the Town's historic cemeteries.

Moderator declared article passed in the affirmative

**ARTICLE 26.** Upon motion made and seconded, it was

Voted that the town, pursuant to G.L. c. 44B, appropriate and transfer the sum of **\$60,000** as follows; \$27,000 from the Community Preservation Fund Open Space Reserve and \$33,000 from



the Community Preservation Fund Unreserved Fund Balance for the purchase of a Conservation Restriction on and in land, located off Chestnut Plain Road ("Whately Center Woods")(Assessors' Parcel ID 12-0-09) containing approximately 120 acres of land and recreational trails.

Moderator declared article passed in the affirmative

**ARTICLE 27.** Upon motion made and seconded, it was

Voted that the town, pursuant to G.L. c. 44B, appropriate and transfer the sum of **\$10,000** from the Community Preservation Fund Open Space Reserves for updating the Town's Open Space & Recreation Plan.

Moderator declared article passed in the affirmative

**ARTICLE 28.** Upon motion made and seconded, it was

Voted that the town, pursuant to G.L. c. 44B, appropriate and transfer the sum of **\$11,000** from the Community Preservation Fund Open Space Reserves for the purchase of an Agricultural Preservation Restriction on 33 acres of farm land located at 163 Long Plain Road (Assessors' Parcel ID 13-0-10) and owned by Lawrence & Nancy Ashman.

Moderator declared article passed in the affirmative

**ARTICLE 29.** Upon motion made and seconded, it was

Voted that the town, pursuant to G.L. c. 44B, appropriate and transfer the sum of **\$10,750** from the Community Preservation Fund Open Space Reserves for the purchase of an Agricultural Preservation Restriction on 20 acres of farm land located at 239 River Road (Assessors' Parcel IDs 27-0-15 and 27-0-15-1) and owned by Fran Sobieski.

Moderator declared article passed in the affirmative

#### **Petitions to the General Court**

**ARTICLE 30.** Upon motion made and seconded, it was

Voted that the town authorize the Selectboard to petition the General Court for special legislation to allow William Smith, a Town of Whately firefighter, notwithstanding the provisions of any general or special law to the contrary, to serve in such position until the age of seventy, or until the date of his retirement or non-appointment, whichever occurs first; provided that no deductions from the regular compensation of said William Smith, shall be made under G.L. c. 32 subsequent to his reaching the age of sixty-five in connection with his service to the Town for retirement or pension purposes; and further provided, that the General Court may make clerical and editorial changes of form only to the bill unless the Selectboard approves amendments to the bill prior to enactment by the General Court, and to authorize the Selectboard to approve such amendments which shall be within the scope of the general public objectives of the petition.

Moderator declared article passed in the affirmative

**ARTICLE 31.** Upon motion made and seconded, it was

Voted that the town authorize the Selectboard to petition the General Court for special legislation to allow Gary Stone, a Town of Whately firefighter notwithstanding the provisions of any general or special law to the contrary, to serve in such position until the age of seventy, or until the date of his retirement or non-appointment, whichever occurs first; provided that no deductions from the regular compensation of said Gary Stone, shall be made under G.L. c. 32 subsequent to his reaching the age of sixty-five in connection with his service to the Town for retirement or pension purposes; and further provided, that the General Court may make clerical and editorial changes of form only to the bill unless the Selectboard approves amendments to the bill prior to enactment by the General Court, and to authorize the Selectboard to approve such amendments which shall be within the scope of the general public objectives of the petition.

Moderator declared article passed in the affirmative

**ARTICLE 32.** Upon motion made and seconded, it was

Voted that the town authorize the Selectboard to petition the General Court for special legislation authorizing a transfer to the Town of the assets and operations of the Whately Water District, including provisions for: the District's disposition of certain real estate to other persons or entities; reimbursement to the District's members of costs related to physical connection of properties within the District to the Town of Whately water system; the winding down of the District's affairs; and such other matters as may be required by law or regulation to accomplish such transfer; and to authorize the Selectboard to prepare a petition including such provisions and such other provisions as it deems to be prudent or otherwise in the Town's interest.

Moderator declared article passed in the affirmative

**ARTICLE 33.** Upon motion made and seconded, it was

Voted that the town amend the Town's General Bylaws by adding a new Chapter 148-3 - Whately Scenic Roads Bylaw, as follows:

**Chapter 148-3: Whately Scenic Roads Bylaw**

- A. Purpose. The purpose of this Chapter is to maintain the rural, natural, historic and scenic character of the Town's roads.
- B. In accordance with MGL Chapter 40, Section 15C, Chestnut Plain Road including North Street, Haydenville Road and Conway Road are designated as Scenic Roads.
- C. Any repair, maintenance, reconstruction, or paving work to be done within the public way of a Scenic Road that will involve or include (i) cutting down or removing trees with a diameter of 6 inches or more, or (ii) tearing down, burial, relocation, or destruction of stone walls or portions thereof shall require prior written approval of the Planning Board after a public hearing, except no public hearing will be required for

- (1) repair and replacement of stone walls in kind, with no change in appearance;
- (2) removal of trees deemed by the Tree Warden to be a public hazard to public safety;
- (3) removal of trees determined by the Tree Warden to be dead, beyond saving, or a threat to neighboring trees.

Where trees are removed under the provisions of clauses (2) and (3), efforts shall be made to plant appropriate substitutes.

- D. The Planning Board shall hold a public hearing within 30 days of receipt of a properly filed request and shall make a decision within 45 days of that receipt, unless a longer time is agreed to by the applicant.
- E. In evaluating the request, the Planning Board shall consider preservation of natural resources; environmental issues; historical values; scenic and aesthetic characteristics; public safety; existence or absence of reasonable alternatives; compensatory actions proposed, such as tree and wall replacement; and the functional importance and urgency of repair, maintenance, reconstruction or paving.
- F. In the case of a proposed entrance access that impacts the trees and stone walls described in paragraph C, the Planning Board may waive the public hearing if there is no alternative, if it determines that there is little negative impact on the character of the Scenic Road, and if the Historical Commission approves the waiver.
- G. Failure of the Planning Board to make its decision and file it with the Town Clerk within the time allotted shall be construed as approval of the request.

Moderator declared article passed in the affirmative

Clerk's note: There were several questions regarding this article and how it affects a homeowners ability to manage their trees. It was stated that this bylaw only affects trees within the town's road layout. This article lays out a clear procedure for handling tree issues and gives the Tree Warden some flexibility to remove dead and dangerous trees without the necessity of a hearing.

### **Zoning Amendments**

**ARTICLE 34.** Upon motion made and seconded, it was

Voted that the town amend the Town's Zoning Bylaws, § 171-28.4 Aquifer Protection District, as follows:

*Proposed additions shown in italics, underlined & highlighted.*  
 Proposed deletions shown in ~~strikeout~~

**171-28.4 Aquifer Protection District** (Added 4-25-2006 ATM, Article 10)

## E. PROHIBITED USES

The following uses are prohibited within the Aquifer Protection District:

- (1) In Zone 1, all uses are prohibited except structures and uses necessary to extract groundwater for the purpose of providing a public water supply. The disposal of liquid or leachable wastes or the discharge of any septage waste within Zone 1 is prohibited.
- (2) The following uses are prohibited within Zone I, Zone II, Zone III and the Interim Wellhead Protection Area (IWPA):

*(r) storage of manure, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff and leachate;*

2/3 rd's vote required. Moderator declared clear 2/3 rd's vote under his authority by bylaw

**ARTICLE 35.** Upon motion made and seconded, it was

Voted that the town amend the Town's Zoning Bylaws by amending Section § 171-8, Table of Use Regulations, as follows:

*Proposed additions shown in italics, underlined and highlighted.*  
Proposed deletions shown in ~~strikeout~~

Principal Use	Agriculture/ Residential 1	Agriculture/ Residential 2	Commercial	Commercial - Industrial	Industrial
<b>Light Industrial</b>					
Ground Mounted Solar Power Generating Facilities greater than 10 kW <sub>AC</sub> <sup>1</sup> up to 500 kW <sub>AC</sub> that occupy no more than 2 acres and meet the requirements of Section 171-28.5 [Added 10-27-2011, Art.1]	N	Y*	Y*	Y*	Y*
Ground Mounted Solar Power Generating Facilities greater than 500 kW <sub>AC</sub> or occupying more than 2 acres that meet the requirements of Section 171-28.5 [Added 10-27-2011, Art.1]	N	SP*	SP*	SP*	SP *

<sup>1</sup> Ground Mounted Solar Power Generating facilities of 10kW<sub>AC</sub> or less which are an accessory use to a residential or non-residential use are allowed "by right". Roof mounted solar power generating

facilities are allowed “by-right”. [Added 10-27-2011, Art. 1]

Y = Yes, the use is permitted by right in that zoning district. N = No, the use is not permitted in that zoning district.

SP = The use is allowed in that zoning district only after a special permit has been granted.

\* = Site Plan Review required (See Section 171.17 for other uses requiring Site Plan Review) [added ATM 4-27-2010, Art 11]

2/3 rd’s vote required. Vote was declared unanimous.

**ARTICLE 36.** Upon motion made and seconded, Article 36, to amend the Town’s Zoning Bylaws, §171-28.5 Solar Electric Generating Facilities was up for discussion as follows:

<p><i>Proposed additions shown in italics, underlined &amp; highlighted.</i> Proposed deletions shown in <del>strikeout</del></p>
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**171-28.5 Solar Electric Generating Facilities** [Added section 10-27-2011]

**A. Purpose**

The purpose of this bylaw is to facilitate the creation of new Large-Scale Ground- Mounted Solar Electric Installations (see Section 171-37. Terms defined) by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

**(1) Applicability**

The provisions set forth in this section shall apply to the construction, operation, repair and/or removal of Large-Scale Ground- Mounted Solar Electric Installations greater than 10 kW. Smaller scale (10 kW AC or less) ground mounted solar electric installations which are an accessory structure to an existing residential or non-residential use do not need to comply with this section, but require a building permit and must comply with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements and other provisions of Whately’s Zoning Bylaws such as setback requirements.

Large-Scale Ground-Mounted Solar Electric Installations greater than 10 kW AC up to 500 kW AC that occupy no more than 2 acres of land proposed to be constructed in the Agricultural/Residential District 2, Commercial, Commercial- Industrial, or Industrial Zoning Districts are allowed by right but are subject to Site Plan Review (see Section 171-17) and the requirements of this section.

Large-Scale Ground-Mounted Solar Electric Installations which require a Special Permit and Site Plan Review in accordance with the Zoning Bylaws of the Town of Whately in addition to meeting the requirements of this section are as follows:

- (a) an installation larger than 500 kW AC; or

- (b) an installation occupying more than 2 acres of land on one or more adjacent parcels in common ownership (including those separated by a roadway) in the Agricultural Residential 2, Commercial, Commercial-Industrial or Industrial Zoning Districts.

This section also pertains to physical modifications that materially alter the type, configuration, or size of Large-Scale Ground-Mounted Solar Electric installations or related equipment.

All buildings and fixtures forming part of a solar electric installation shall be constructed in accordance with the Massachusetts State Building Code.

## **B. General Requirements for all Large-Scale Solar Ground-Mounted Solar Electric Installations**

The following requirements are common to all Large-Scale Ground-Mounted Solar Electric installations.

### **(1) Compliance with Laws and Regulations**

The construction and operation of all Large-Scale Ground-Mounted Solar Electric Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar electric installation shall be constructed in accordance with the Massachusetts State Building Code.

### **(2) Building Permit and Building Inspection**

No Large-Scale Ground-Mounted Solar Electric Installations shall be constructed, installed or modified as provided in this section without first obtaining a building permit and paying any required fees.

## **C. Site Plan Review**

Large-Scale Ground-Mounted Solar Electric Installations shall undergo Site Plan Review (see Section 171-17) by the Planning Board prior to construction, installation or modification as provided in this section.

### **(1) General**

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

### **(2) Required Documents**

The project proponent shall provide the following documents in addition to or in coordination with those required for Site Plan Review (see Section 171-17):

- (a) A site plan showing:
- i. Property lines, map and lot from the Assessor's records, and physical features, including roads and topography, for the project site;
  - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height;
  - iii. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP)
  - iv. Locations of Floodplains or inundation areas for moderate or high hazard dams;
  - v. Locations of local or National Historic Districts, ~~and~~ Priority Heritage Landscapes, and Scenic Roads and Scenic Views identified on the Scenic Resources and Unique Environments Map of the Town's Open Space & Recreation Plan;
  - vi. A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment, as appropriate;
  - vii. Blueprints or drawings of the solar electric installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
  - viii. A detailed impact study for the Utility Interconnection including information on the location and type of any poles, transformers or other electrical components required by the utility to support the proposed solar facility including electrical equipment upgrades outside the facility to allow the site to connect to the grid including any necessary tree trimming. The list of abutters shall include abutters within a 300' radius of these changes.
  - ix. A copy of an Interconnection Application filed with the utility including a one or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - ~~ix~~.x. Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.;
  - ~~x~~.xi. Documentation by an acoustical engineer of the noise levels projected to be generated by the installation;

- ~~xi.~~xii. Name, address, and contact information for proposed system installer;
  - ~~xii.~~xiii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - ~~xiii.~~xiv. The name, contact information and signature of any agents representing the project proponent;
  - ~~xiv.~~xv. Documentation of actual or prospective access and control of the project site;
  - ~~xv.~~xvi. Provision of water including that needed for fire protection;
  - ~~xvi.~~xvii. Existing trees 6" caliper or larger and shrubs; *and*
  - ~~xvii.~~xviii. Location of prime farmland soils or soils of State-wide importance.
- (b) An operation and maintenance plan (see Section 171-28.5 E.);
  - (c) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
  - (d) Proof of liability insurance; *and*
  - (e) Description of financial surety that satisfies Section 171-28.5 K; *and*
  - (f) A detailed planting plan showing the location and species selected for all proposed plantings and screening (see 171-28.5 H.(10) Screening and H.(5) Control of Vegetation).

#### D. Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar electric installation.

#### E. Inspections and Operation & Maintenance Plan

The project may be inspected at various times during the construction and operation of the solar electric facility including during the placement of utility connections underground, installation and maintenance of required landscaping or the construction and maintenance of the stormwater management system. The Zoning Board of Appeals, as special permit granting authority, or the Planning Board, pursuant to the Site Plan Review process, may hire an on-site inspector with background and experience in solar electric generating facilities, stormwater management, pollinator habitat and/or landscaping to provide inspection services



at the expense of the project proponent. Such required inspections may be specified in the Special Permit and/or Site Plan Review conditions.

The project proponent shall submit a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Electric Installation, which shall include measures for maintaining safe access to the installation, storm water and vegetation controls, as well as general procedures for operational maintenance of the installation.

#### **F. Utility Notification**

No Large-Scale Ground-Mounted Solar Electric Installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar electric installation owner or operator's intent to install an interconnected facility. Off-grid systems shall be exempt from this requirement.

#### **G. Dimension, Size and Height Requirements**

- (1) Setbacks for Large-Scale Ground-Mounted Solar Electric Installations, front, side and rear setbacks shall be as follows

- (a) Front yard: The front yard depth shall not be less than ~~100~~50 feet.
- (b) Side yard. Each side yard shall have a depth of at least ~~100~~35 feet.
- (c) Rear yard. The rear yard depth shall not be less than ~~100~~35 feet.

- (2) Setbacks for Large-Scale Battery Storage systems in Solar Electric Installations shall be as follows:

- (a) No less than 500 feet from any abutting plot in the AR1 or AR2 Districts.
- (b) No less than 200 feet from any well for lots not served by public water

The required setback areas should not be included in the 2 acre maximum calculation for By-Right solar electric installations (see Section 171-28.5 A.).

- (2) Appurtenant Structures

All appurtenant structures to Large-Scale Ground-Mounted Solar Electric Installations shall be subject to regulations concerning the bulk and height of structures, lot area, and setbacks as specified in Section 171-28.5 G., open space,

parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

(3) Height of Structures

The height of any structure associated with a Large-Scale Ground-Mounted Solar Electric Installation shall not exceed 25 feet. [Amended height 5-9-2013 ATM, Art. 21]

(4) The size of the Solar Electric Generating Facility including required setbacks shall not exceed 10 acres., except that where the Special Permit Granting Authority determines it appropriate, the maximum size of the facility may be increased by

(a) an additional 2 ½ acres if the Facility is sited on glacial till and sandy soil that is not heavily forested; and

(b) an additional 2 ½ acres if the Facility is sited in a location where it is not visible from any existing residence.

**H. Design and Performance Standards**

(1) Lighting

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

(2) Signage

Signs on Large-Scale Ground-Mounted Solar Electric Installations shall comply with Whately's sign bylaw, Section 171-14. A sign consistent with Whately's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar electric installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar electric installation.

(3) Utility Connections

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar electric installation Electrical transformers for utility interconnections may be above ground if required by the utility provider.

(4) Roads

Access roads shall be constructed to minimize grading, removal of stone walls or trees and minimize impacts to environmental or historic resources.

(5) Control of Vegetation

Herbicides may not be used to control vegetation at the solar electric installation. Mowing, grazing or using geotextile materials underneath the solar array are possible alternatives. Removal of existing trees on the site should be minimized to the maximum extent feasible; the Zoning Board of Appeals, as special permit granting authority, or the Planning Board, pursuant to the Site Plan Review process, may require that replacement trees be planted outside the Facility unless the owner is subject to the fee requirement in paragraph (8) of this section.

(6) Hazardous Materials

Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to MassDEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar electric equipment then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

Any associated battery storage systems may not be located in Zone 1 of the Aquifer Protection District and must be located above the 100 year floodplain. The storage system must be located within a building with the following features: a temperature and humidity maintained environment; an impervious floor with a containment system for potential leaks of hazardous materials; a smoke/fire detection, fire alarm and fire suppression system; a thermal runaway system; and a local disconnect point or emergency shutdown feature. The containment area must be designed so that in event of a fire, fire extinguishing chemicals will be completely contained.

The building and systems must be approved by the Whately Fire Chief and must be designed and installed in accordance with all applicable State codes and safety requirements as well as safety measures recommended by the National Fire Protection Association. The applicant shall provide for annual training of Whately Fire Department staff in coordination with the Fire Chief. Periodic inspections to ensure the integrity of the batteries, other equipment and the containment system may be required as conditions of the special permit and the site plan review.

Battery storage units shall be limited to only those needed to support the solar installation at the site and their kW hour capacity may not exceed that of the installation. Spent or expired battery units must be immediately removed from the site

(7) Noise

Noise generated by Large-Scale Ground-Mounted Solar Electric Installations and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source:

- (a) increases the broadband sound level by more than 10 db(A) above ambient; or produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

Said criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP. Noise generated shall further comply with Section 171-15 B (1) of the Town of Whately bylaws.

(8) Impact on Agricultural and Environmentally Sensitive Land

The facility shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. For every acre of land assessed under the provisions of MGL Chapter 61, or 61A in any of the previous three years to be occupied by the Solar Facility, including its plantings and setbacks, the owner or operator shall pay a Resource Replacement Fee to the Town of Whately Community Preservation Act Open Space Reserve for the preservation of farmland and timberland.

(9) Drainage

The solar facility design shall minimize the use of concrete and other impervious materials to the greatest extent possible.

(10) Screening

Large-Scale Ground-Mounted Solar Electric Installations shall be screened from view by a minimum fifteen (15) foot wide buffer zone with staggered and grouped planting of shrubs and small trees. Such plantings shall use native plants and a mix of deciduous and evergreen species and may be located within the setback area. Such plantings must be a minimum of five (5) feet high at the time of installation and any plant that is damaged or dies shall be replaced on an annual basis each Spring or Fall.

## **I. Safety and Environmental Standards**

### **(1) Emergency Services**

The Large-Scale Ground-Mounted Solar Electric Installations owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar electric installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

### **(2) Land Clearing, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Large-Scale Ground-Mounted Solar Electric Installation or otherwise prescribed by applicable laws, regulations, and bylaws. Such installations shall not occur on any slopes greater than 15% in order to minimize erosion. All facilities must be located at least 100 feet from any wetland or Priority Habitat Area as delineated in accordance with the Massachusetts Endangered Species Act regulations at 321CMR 10.00 or successor regulation.

## **J. Monitoring, Maintenance and Reporting**

### **(1) Solar Electric Installation Conditions**

The Large-Scale Ground-Mounted Solar Electric Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the solar electric installation and any access road(s).

### **(2) Modifications**

All material modifications to a solar electric installation made after issuance of the required building permit shall require approval by the Planning Board.

### **(3) Annual Reporting**

The owner or operator of the installation shall submit an Annual Report which certifies compliance with the requirements of this bylaw and their approved site plan including control of vegetation, noise standards, and adequacy of road access. The Annual Report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The

Annual Report shall be submitted to the Select Board, Planning Board, Fire Chief, Emergency Management Director, Building Inspector, Board of Health and Conservation Commission (if Wetlands Permit was issued) no later than 45 days after the end of the calendar year.

## **K. Abandonment or Decommissioning**

### **(1) Removal Requirements**

Any large-scale ground-mounted solar electric installation which has reached the end of its useful life or has been abandoned consistent with Section 171-28.5 K. of this bylaw shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning and if not the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned Large-Scale Ground-Mounted Solar Electric Generating Installation. As a condition of Site Plan or Special Permit approval, an applicant shall agree to allow entry to remove an abandoned or decommissioned installation. The cost for the removal will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all Large-Scale Ground-Mounted Solar Electric Installations, structures, equipment, security barriers and transmission lines from the site, including any materials used to limit vegetation.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

### **(2) Abandonment**

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar electric installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the Large-Scale Ground-Mounted Solar Electric Installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and

physically remove the installation.

### (3) Financial Surety

Proponents of Large-Scale Ground-Mounted Solar Electric Installations shall provide a form of surety, either through escrow account, bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

Motion was made and seconded to amend the last paragraph of section H (6) on page 21 of the warrant to read as follows (additions in italics and bold) as follows:

Battery storage units shall be limited to only those needed to support the solar installation at the site, ***their total maximum power output*** may not exceed ***the nominal rated kW generating capacity of the installation as measured in direct current,*** and ***the storage capacity should not be larger than that required to provide electricity at that maximum power output for a period of 4 hours.*** Spent or expired battery units must be immediately removed from the site.

Vote was taken on the amendment and passed unanimously.

Vote was then taken on the motion as amended and passed unanimously. Voted article appears below.

## 171-28.5      **Solar Electric Generating Facilities** [Added section 10-27-2011]

### **A. Purpose**

The purpose of this bylaw is to facilitate the creation of new Large-Scale Ground- Mounted Solar Electric Installations (see Section 171-37. Terms defined) by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

#### (1) Applicability

The provisions set forth in this section shall apply to the construction, operation, repair and/or removal of Large-Scale Ground- Mounted Solar Electric Installations greater than 10 kW. Smaller scale (10 kW AC or less) ground mounted solar electric installations which are an accessory structure to an existing residential or non-residential use do not need to comply with this section, but require a building permit and must comply with all applicable local, state and federal requirements, including

but not limited to all applicable safety, construction, electrical, and communications requirements and other provisions of Whately's Zoning Bylaws such as setback requirements.

Large-Scale Ground-Mounted Solar Electric Installations greater than 10 kW~~AC~~ up to 500 kW~~AC~~ that occupy no more than 2 acres of land proposed to be constructed in the Agricultural/Residential District 2, Commercial, Commercial- Industrial, or Industrial Zoning Districts are allowed by right but are subject to Site Plan Review (see Section 171-17) and the requirements of this section.

Large-Scale Ground-Mounted Solar Electric Installations which require a Special Permit and Site Plan Review in accordance with the Zoning Bylaws of the Town of Whately in addition to meeting the requirements of this section are as follows:

- (a) an installation larger than 500 kW~~AC~~; or
- (b) an installation occupying more than 2 acres of land on one or more adjacent parcels in common ownership (including those separated by a roadway) in the Agricultural Residential 2, Commercial, Commercial-Industrial or Industrial Zoning Districts.

This section also pertains to physical modifications that materially alter the type, configuration, or size of Large-Scale Ground-Mounted Solar Electric installations or related equipment.

All buildings and fixtures forming part of a solar electric installation shall be constructed in accordance with the Massachusetts State Building Code.

#### **B. General Requirements for all Large-Scale Solar Ground-Mounted Solar Electric Installations**

The following requirements are common to all Large-Scale Ground-Mounted Solar Electric installations.

##### **(1) Compliance with Laws and Regulations**

The construction and operation of all Large-Scale Ground-Mounted Solar Electric Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar electric installation shall be constructed in accordance with the Massachusetts State Building Code.

##### **(2) Building Permit and Building Inspection**

No Large-Scale Ground-Mounted Solar Electric Installations shall be constructed, installed or modified as provided in this section without first obtaining a building permit and paying any required fees.



### C. Site Plan Review

Large-Scale Ground-Mounted Solar Electric Installations shall undergo Site Plan Review (see Section 171-17) by the Planning Board prior to construction, installation or modification as provided in this section.

#### (1) General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

#### (2) Required Documents

The project proponent shall provide the following documents in addition to or in coordination with those required for Site Plan Review (see Section 171-17):

##### (a) A site plan showing:

- x. Property lines, map and lot from the Assessor's records, and physical features, including roads and topography, for the project site;
- xi. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height;
- xii. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP)
- xiii. Locations of Floodplains or inundation areas for moderate or high hazard dams;
- xiv. Locations of local or National Historic Districts, *and* Priority Heritage Landscapes, *and Scenic Roads and Scenic Views identified on the Scenic Resources and Unique Environments Map of the Town's Open Space & Recreation Plan*;
- xv. A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment, as appropriate;
- xvi. Blueprints or drawings of the solar electric installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
- xvii. A detailed impact study for the Utility Interconnection including information on the location and type of any poles, transformers or other electrical components required by the utility to support the proposed solar facility including electrical equipment upgrades outside the facility to allow the site to connect to the grid including

any necessary tree trimming. The list of abutters shall include abutters within a 300' radius of these changes.

- xviii. A copy of an Interconnection Application filed with the utility including a one or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
  - ix. x. Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.;
  - x. xi. Documentation by an acoustical engineer of the noise levels projected to be generated by the installation;
  - xi. xii. Name, address, and contact information for proposed system installer;
  - xii. xiii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
  - xiii. xiv. The name, contact information and signature of any agents representing the project proponent;
  - xiv. xv. Documentation of actual or prospective access and control of the project site;
  - xv. xvi. Provision of water including that needed for fire protection;
  - ~~xvi.~~ xvii. Existing trees 6" caliper or larger and shrubs; *and*
  - ~~xvii.~~ xviii. Location of prime farmland soils or soils of State-wide importance.
- 
- (b) An operation and maintenance plan (see Section 171-28.5 E.);
  - (c) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
  - (d) Proof of liability insurance; and
  - (e) Description of financial surety that satisfies Section 171-28.5 K; *and*
  - (f) A detailed planting plan showing the location and species selected for all proposed plantings and screening (see 171-28.5 H.(10) Screening and H.(5) Control of Vegetation).

#### **D. Site Control**

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar electric installation.

#### **E. Inspections and Operation & Maintenance Plan**

The project may be inspected at various times during the construction and operation of the solar electric facility including during the placement of utility connections underground, installation and maintenance of required landscaping or the construction and maintenance of the stormwater management system. The Zoning Board of Appeals, as special permit granting authority, or the Planning Board, pursuant to the Site Plan Review process, may hire an on-site inspector with background and experience in solar electric generating facilities, stormwater management, pollinator habitat and/or landscaping to provide inspection services at the expense of the project proponent. Such required inspections may be specified in the Special Permit and/or Site Plan Review conditions.

The project proponent shall submit a plan for the operation and maintenance of the Large-

Scale Ground-Mounted Solar Electric Installation, which shall include measures for maintaining safe access to the installation, storm water and vegetation controls, as well as general procedures for operational maintenance of the installation.

#### **F. Utility Notification**

No Large-Scale Ground-Mounted Solar Electric Installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar electric installation owner or operator's intent to install an interconnected facility. Off-grid systems shall be exempt from this requirement.

#### **G. Dimension, Size and Height Requirements**

- (1) Setbacks for Large-Scale Ground-Mounted Solar Electric Installations, front, side and rear setbacks shall be as follows

(a)Front yard: The front yard depth shall not be less than 10050 feet.

(b)Side yard. Each side yard shall have a depth of at least 10035 feet.

(c)Rear yard. The rear yard depth shall not be less than 10035 feet.

- (2) Setbacks for Large-Scale Battery Storage systems in Solar Electric Installations shall be as follows:

(a) No less than 500 feet from any abutting plot in the AR1 or AR2 Districts.

(b) No less than 200 feet from any well for lots not served by public water

The required setback areas should not be included in the 2 acre maximum calculation for By-Right solar electric installations (see Section 171-28.5 A.).

## 2. Appurtenant Structures

All appurtenant structures to Large-Scale Ground-Mounted Solar Electric Installations shall be subject to regulations concerning the bulk and height of structures, lot area, and setbacks as specified in Section 171-28.5 G., open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

### (3) Height of Structures

The height of any structure associated with a Large-Scale Ground-Mounted Solar Electric Installation shall not exceed 25 feet. [Amended height 5-9-2013 ATM, Art. 21]

(4) The size of the Solar Electric Generating Facility including required setbacks shall not exceed 10 acres., except that where the Special Permit Granting Authority determines it appropriate, the maximum size of the facility may be increased by

(a) an additional 2 ½ acres if the Facility is sited on glacial till and sandy soil that is not heavily forested; and

(b) an additional 2 ½ acres if the Facility is sited in a location where it is not visible from any existing residence.

## H. Design and Performance Standards

### (1) Lighting

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

### (2) Signage

Signs on Large-Scale Ground-Mounted Solar Electric Installations shall comply with Whately's sign bylaw, Section 171-14. A sign consistent with Whately's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar electric installations shall not be used for displaying

any advertising except for reasonable identification of the manufacturer or operator of the solar electric installation.

(3) Utility Connections

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar electric installation Electrical transformers for utility interconnections may be above ground if required by the utility provider.

(4) Roads

Access roads shall be constructed to minimize grading, removal of stone walls or trees and minimize impacts to environmental or historic resources.

(5) Control of Vegetation

Herbicides may not be used to control vegetation at the solar electric installation. Mowing, grazing or using geotextile materials underneath the solar array are possible alternatives. Removal of existing trees on the site should be minimized to the maximum extent feasible; the Zoning Board of Appeals, as special permit granting authority, or the Planning Board, pursuant to the Site Plan Review process, may require that replacement trees be planted outside the Facility unless the owner is subject to the fee requirement in paragraph (8) of this section.

(6) Hazardous Materials

Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to MassDEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar electric equipment then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

Any associated battery storage systems may not be located in Zone 1 of the Aquifer Protection District and must be located above the 100 year floodplain. The storage system must be located within a building with the following features: a temperature and humidity maintained environment; an impervious floor with a containment system for potential leaks of hazardous materials; a smoke/fire detection, fire alarm and fire suppression system; a thermal runaway system; and a local disconnect point or emergency shutdown feature. The containment area must be designed so that in event of a fire, fire extinguishing chemicals will be completely contained.

The building and systems must be approved by the Whately Fire Chief and must be designed and installed in accordance with all applicable State codes and safety requirements as well as safety measures recommended by the National Fire Protection Association. The applicant shall provide for annual training of Whately Fire Department staff in coordination with the Fire Chief. Periodic inspections to ensure the integrity of the batteries, other equipment and the containment system

may be required as conditions of the special permit and the site plan review.

Battery storage units shall be limited to only those needed to support the solar installation at the site, their total maximum power output may not exceed the nominal rated kW generating capacity of the installation as measured in direct current, and the storage capacity should not be larger than that required to provide electricity at that maximum power output for a period of 4 hours. Spent or expired battery units must be immediately removed from the site.

(7) Noise

Noise generated by Large-Scale Ground-Mounted Solar Electric Installations and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source:

- a. increases the broadband sound level by more than 10 db(A) above ambient; or produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

Said criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP. Noise generated shall further comply with Section 171-15 B (1) of the Town of Whately bylaws.

(8) Impact on Agricultural and Environmentally Sensitive Land

The facility shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. For every acre of land assessed under the provisions of MGL Chapter 61, or 61A in any of the previous three years to be occupied by the Solar Facility, including its plantings and setbacks, the owner or operator shall pay a Resource Replacement Fee to the Town of Whately Community Preservation Act Open Space Reserve for the preservation of farmland and timberland.

(9) Drainage

The solar facility design shall minimize the use of concrete and other impervious materials to the greatest extent possible.

(10) Screening

Large-Scale Ground-Mounted Solar Electric Installations shall be screened from view by a minimum fifteen (15) foot wide buffer zone with staggered and grouped planting of shrubs and small trees. Such plantings shall use native plants and a mix of deciduous and evergreen species and may be located within the setback area. Such plantings must be a minimum of five (5) feet high at the time of installation and any plant that is damaged or dies shall be replaced on an annual basis each Spring or Fall.

## **I. Safety and Environmental Standards**

### **(1) Emergency Services**

The Large-Scale Ground-Mounted Solar Electric Installations owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar electric installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

### **(2) Land Clearing, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Large-Scale Ground-Mounted Solar Electric Installation or otherwise prescribed by applicable laws, regulations, and bylaws. Such installations shall not occur on any slopes greater than 15% in order to minimize erosion. All facilities must be located at least 100 feet from any wetland or Priority Habitat Area as delineated in accordance with the Massachusetts Endangered Species Act regulations at 321CMR 10.00 or successor regulation.

## **J. Monitoring, Maintenance and Reporting**

### **(1) Solar Electric Installation Conditions**

The Large-Scale Ground-Mounted Solar Electric Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the solar electric installation and any access road(s).

### **(2) Modifications**

All material modifications to a solar electric installation made after issuance of the required building permit shall require approval by the Planning Board.

### **(3) Annual Reporting**

The owner or operator of the installation shall submit an Annual Report which certifies compliance with the requirements of this bylaw and their approved site plan including control of vegetation, noise standards, and adequacy of road access. The Annual Report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The Annual Report shall be submitted to the Select Board, Planning Board, Fire Chief, Emergency Management Director, Building Inspector, Board of Health and Conservation Commission (if Wetlands Permit was issued) no later than 45 days after the end of the calendar year.

## **K. Abandonment or Decommissioning**

### **(1) Removal Requirements**

Any large-scale ground-mounted solar electric installation which has reached the end of its useful life or has been abandoned consistent with Section 171-28.5 K. of this bylaw shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning and if not the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned Large-Scale Ground-Mounted Solar Electric Generating Installation. As a condition of Site Plan or Special Permit approval, an applicant shall agree to allow entry to remove an abandoned or decommissioned installation. The cost for the removal will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all Large-Scale Ground-Mounted Solar Electric Installations, structures, equipment, security barriers and transmission lines from the site, including any materials used to limit vegetation.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

### **(2) Abandonment**

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar electric installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the Large-Scale Ground-Mounted Solar Electric Installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

### **(3) Financial Surety**

Proponents of Large-Scale Ground-Mounted Solar Electric Installations shall provide a form of surety, either through escrow account, bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and



compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

2/3 rd's vote required. Vote was declared unanimous

**ARTICLE 37.** Upon motion made and seconded, it was

Voted that the town amend the Town's Zoning Bylaws, § 171-37, Terms Defined, as follows:

*Proposed additions shown in italics underlined and highlighted*  
*Proposed deletions shown in ~~strikeout~~*

~ 171-37. Terms defined.

*RESOURCE REPLACEMENT FEE - A fee to be paid by the owner or operator of a large-scale ground-mounted solar facility for removing agricultural or forest land from production, the size of which shall be determined by the Selectboard with input from the town Agricultural and Conservation Commissions.*

LARGE-SCALE GROUND-MOUNTED SOLAR ELECTRIC INSTALLATION -- A solar electric system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity greater than 10 kWAC. [Added 10- 27-2011 Art. 1]

2/3 rd's vote required. Vote was unanimous.

Upon motion made and seconded, it was

Voted to adjourn without date at 7:15 p.m.

A true copy,

Attest:

*Lynn M Sibley CMMC, MMC*  
Lynn M. Sibley, CMMC, MMC  
Town Clerk