

DOINGS AT THE ANNUAL TOWN MEETING
COMMONWEALTH OF MASSACHUSETTS
May 17, 2022

The Annual Town Meeting was called to order by the Moderator, Celeste A. St. Jacques at 6:30 PM on Tuesday, May 17, 2022 Southwick Regional High School, 93 Feedings Hills Road, in the Auditorium, with 168 registered voters in attendance.

A Pledge Allegiance to the Flag of the United States was recited.

A motion was made and seconded to allow the following non-voters on to the town meeting floor:

Michelle L. Hill, Town Clerk, Treasurer, Collector	Chief Robert Landis, Southwick Police
Benjamin Coyle, Town Counsel Attorney	Jon Goddard, Town Planner
Jen Willard, Superintendent of Schools	Deputy Richard Stefanowicz, Southwick Fire
Stephen Presnal, Business Manager Schools	Lynn Blair, Library Director
Alex White, Board of Health	Kyle Scott, Building Inspector
Cindy Sullivan, COA & Park & Rec Director	Andy Barr, Russo & Barr Designer

PASSED - UNANIMOUS

A moment of silence was observed for the following individuals;

Sam Goodwin- COA Volunteer
Claire Kotowicz- COA Volunteer
Don Prifti – Fire Commissioner
John “Jack” Sinico – Selectman
Robert Horacek – Finance Committee & Cable Committee
Seth Kellogg – Conservation Commission
George LeBlanc – Board of Appeals & Regional School District Member
Fran Ehrardt – Finance Committee, Building Committee for Southwick High School
Art Boissonault – Channel 15
Earl Murphy – Sewer Implementation Committee

All US Servicemen and Women

Assistance with microphones and counting

Robert Stevenson	Jayson R. St. Jacques
David A. Pierce	Jarod Mapel
James Putnam	Kenneth Stomski

A motion was made and seconded to dispense with the reading of the warrant in its entirety and to act upon each Article separately

PASSED - UNANIMOUS

ARTICLE 1. BALLOTS

In the name of the Commonwealth of Massachusetts the Town Clerk is hereby directed to notify and warn the inhabitants of said town qualified to vote in elections and town affairs to meet and assemble at the TOWN HALL, 454 COLLEGE HIGHWAY, PRECINCTS I, II, & III, in said Southwick on Tuesday, May 10, 2022 between the hours of 7:00 A.M. and 8:00 P.M. to elect on one ballot the following officers:

One Selectman for a three-year term, Two District School Committee member for a three-year term. One Assessor for a three-year term. One Board of Health member for a three-year. One Cemetery Commissioner

for a three-year term. Two Community Preservation Committee members for a three-year term. Two Constables for a three-year term. One Dickinson School Trustee for a three-year term. Two Library Trustees for a three-year term. One Park and Recreation Commission members for a three-year term. One Planning Board member for a five-year term. One Southwick Housing Authority for a five-year term. One Water Commissioner for a three-year term.

ARTICLE 2. TOWN REPORTS – CONSENT AGENDA

The Town voted to accept the reports as published in the Annual Town Report of the Select Board, Assessors, Town Accountant, Town Clerk, Water Commissioners and all others to be acted thereon, or take any other action thereon.

ARTICLE 3. APPOINTMENT OF MINOR OFFICERS – CONSENT AGENDA

The Town voted to instruct the Select Board to appoint minor officers or to take any other action relative thereon.

ARTICLE 4. SELL OR TRADE OBSOLETE EQUIPMENT – CONSENT AGENDA

The Town voted to authorize the Select Board to sell or trade obsolete equipment or take any action relative thereon.

ARTICLE 5. APPLY AND ACCEPT GRANTS – CONSENT AGENDA

The Town voted to authorize the Select Board to apply for and accept any and all grants from private entities, the Federal Government or the Commonwealth of Massachusetts for the purposes for which said grants are authorized, or to take any other action relative thereon.

**ARTICLES 2-5
PASSED - UNANIMOUS
MAJORITY REQUIRED**

ARTICLE 6. TOWN HALL – ROOF AND HVAC REPLACEMENT BORROWING AUTHORIZATION

The Town voted to appropriate \$2,663,259.00 or any other amount, to pay costs of reconstructing the Town Hall roof, and for the replacement of the Town Hall's heating, ventilation and air conditioning equipment, including the payment of all costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise, or to take any other action relative thereto.

Motion & Finance Committee Recommendation: That the sum of \$2,663,259.00 is appropriated to pay costs of reconstructing the Town Hall roof, and for the replacement of the Town Hall's heating, ventilation and air conditioning equipment, including the payment of all costs incidental and related thereto, and that to meet this appropriation, (i) \$170,000.00 shall be transferred from surplus funds initially borrowed to pay costs of the fire station project, in accordance with G.L. c. 44, §20, (ii) \$262,245.87 shall be transferred from bond and note sale premium derived from the sale of bonds and notes from time to time, and reserved for appropriation in accordance with G.L. c. 44, §20 and (iii) the Treasurer, with the approval of the Select Board, is authorized to borrow \$2,231,013.13 under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. The amount authorized to be borrowed by this vote shall be reduced to the extent of any grants, gifts, rebates or other funds received by the Town on account of this project.

**PASSED
TWO-THIRDS REQUIRED
YES-106 NO -27**

ARTICLE 7. ACCEPT OPEB TRUST FUND

The Town voted to accept G.L. c. 32B, Section 20 and establish an Other Post-Employment Benefits Liability Trust Fund (OPEB Fund) effective July 1, 2023, or take any other action relative thereto

Motion: Moved that the Town accept G.L. c. 32B, Section 20, and establish an Other Post-Employment Benefits Liability Trust Fund (OPEB Fund), effective July 1, 2023.

**PASSED - UNANIMOUS
MAJORITY REQUIRED**

ARTICLE 8. AUTHORIZE INVESTMENT OF OPEB FUND UNDER PRUDENT INVESTOR RULE

The Town authorized the Custodian-Trustee/OPEB Fund Board of Trustees of OPEB Fund established under G.L. c. 32B, §20 to invest monies in the OPEB Fund under the prudent investor rule established in G.L. c. 203C, or take any other action relative thereto.

Motion: Moved that the Custodian-Trustee/OPEB Fund Board of Trustees of the OPEB Fund established under G.L. c. 32B, §20 be authorized to invest monies in the OPEB Fund pursuant to the prudent investor rule established in G.L. c. 203C.

**PASSED - UNANIMOUS
MAJORITY REQUIRED**

ARTICLE 9. ANNUAL BUDGET

The Town voted to fix the compensation of elected officers and town employee salaries where stipulated, provide for a reserve fund, provide a sum of money for Capital Outlay for the following Town Departments: Assessor's Office, Cable Ch. 15, Computer, Police, Fire, Lake Management, Lake Restoration, Council on Aging, Planning Board, Library, Cemetery Commission, Park and Recreation Commission, Town Hall, Public Safety Buildings and DPW (various Divisions) and determine the sum of money the Town will raise and appropriate including appropriations from available funds to defray charges and expenses of the Town including debt and interest for the ensuing FY23 (July 1, 2022 to June 30, 2023) or to take any other action relative thereon.

The Finance Committee recommends that the Town vote to raise and appropriate the sum of \$13,954,116 and appropriate and transfer from Free Cash \$1,657,000 and appropriate and transfer from Sale of Lots \$10,000 and appropriate and transfer from Cable Peg Access the sum of \$64,700 and appropriate and transfer from Overlay Surplus the sum of \$70,000 and appropriate and transfer from Sewer Capital Account the sum of \$23,000 and appropriate and transfer from Recycling Grant the sum of \$6,000.00 and appropriate and transfer from Water Retained Earnings the sum of \$30,000 and transfer from Sewer Retained Earnings the sum of \$345,283.00 for the grand total of \$16,160,099 which represents the general fund budget in the amount of \$12,089,098 and the water fund budget of \$1,500,000 and the sewer budget of \$1,472,332 and the emergency medical services budget for \$1,098,669

**PASSED - MAJORITY
MAJORITY REQUIRED**

ARTICLE 10. DEPARTMENTAL REVOLVING FUND ANNUAL SPENDING LIMIT AUTHORIZATION

The Town voted to fix the maximum amount that may be spent during fiscal year 2023 beginning on July 1, 2022 for the revolving funds established in Chapter 25 of the Code of the Town of Southwick for certain departments, boards, committees, agencies or officers in accordance with M.G.L. c. 44, §53E1/2, or take any other action relative thereto.

MOTION: Moved that the Town fix the maximum amount that may be spent during fiscal year 2023 beginning on July 1, 2022 for the revolving funds established in Chapter 25 of the Code of the Town of Southwick for certain departments, boards, committees, agencies or officers in accordance with M.G.L. c. 44, §53E1/2 as follows:

Revolving Fund	Department, Board, Committee, Agency or Officer	Limit on Spending
Inspector's Revolving	Inspectors	\$40,000
HAZ-MAT Revolving	Police & Fire	\$40,000

Boat Ramp Revolving	Lake Mgmt	\$50,000
Police Chief Lake Revolving	Police	\$20,000
Local Lake Permitting Revolving	Police & Conservation	\$40,000
Custodial Service Fund	Maintenance Dept.	\$5,000
COA Revolving Fund	COA	\$10,000
COA Classes Revolving Fund	COA	\$10,000
Sidewalk Revolving	DPW	\$80,000
COA House Numbering Program Revolving Fund	COA	\$10,000
Local Wetland Application	Conservation Commission	\$50,000

**PASSED- UNANIMOUS
MAJORITY REQUIRED**

ARTICLE 11. COMMUNITY PRESERVATION ANNUAL BUDGET

The Town acted on the report of the Community Preservation Committee on the Fiscal Year 2023 Community Preservation Budget and to set up a budgeted reserve for later appropriation of monies from the Community Preservation Fund annual revenues or available funds for the undertaking of Community Preservation Projects and all other necessary and proper expenses for the year. Pursuant to Massachusetts General Laws, Chapter 44B from the estimated FY 2023 Community Preservation Fund, appropriation to be set aside as follows.

MOTION: To see if the town will vote to set up a budgeted reserve from the Community Preservation Fund annual revenues the amounts recommended by the Community Preservation in Fiscal Year 2023 with each item to be considered a separate reserve.

Proposed Fiscal Year 2023 Community Preservation Reserves

- ♦ To reserve \$50,444 from FY2023 Community Preservation Fund revenues for Open Space.
- ♦ To reserve \$50,444 from FY2023 Community Preservation Fund revenues for Historic Resources.
- ♦ To reserve \$50,444 from FY2023 Community Preservation Fund revenues for Community Housing.
- ♦ To reserve \$353,108 from FY2023 Community Preservation Fund revenues for Community Preservation General Unreserved Fund.

Reserves
Open Space..... \$50,444
Historic Resources..... \$50,444
Community Housing..... \$50,444
General unreserved..... \$353,108
Total..... \$504,440

Estimated FY2022 revenues = State match to be received on or about 10/15/22 \$136,950

+ estimated new surcharge collections for FY2023

\$367,490

Total

\$504,440

State match = FY2022 CPA commitments minus abatements

Estimated new surcharge collections for FY2023 = FY2022 collections

10% of estimated FY2023 revenues equal the amount reserved for each CPA purpose, Historical, Open Space and Community Housing, as required by law.

70% of estimated FY2023 revenues equal the amount reserved for the Community Preservation General Unreserved Fund

**PASSED- UNANIMOUS
MAJORITY REQUIRED**

ARTICLE 12. COMMUNITY PRESERVATION COMMITTEE – ADMINISTRATIVE AND OPERATING EXPENSES

The Town acted on the report of the Community Preservation Committee on the Fiscal Year 2023 Community Preservation Budget and appropriate 5% (\$17,655.00) of the monies from the Community Preservation General Unreserved Fund for the administrative and operating expenses of the Community Preservation Committee, or take any other action relative thereto.

MOTION: To see if the Town will vote to appropriate from the Community Preservation General Unreserved Fund \$17,655.00 as recommended by the Community Preservation Committee.

**PASSED- UNANIMOUS
MAJORITY REQUIRED**

ARTICLE 13. COMMUNITY PRESERVATION COMMITTEE – BRASS RAIL MEETING HOUSE

The Town voted to appropriate and transfer the sum of \$28,000.00 from the Community Preservation Historical Fund in order to rehabilitate and improve the original basement entrance of the property located at 90 Point Grove Road, commonly referred to as the Brass Rail Meeting House to make it comply with the standards of the Americans with Disabilities Act (ADA). The property is listed on the Massachusetts Cultural Resource Information System and is a historical building. The property is owned by LTM Property Management, LLC and is referenced in the assessors' database as MBLU 114/078 and the deed reference is Hampden County Registry of Deeds, Book 23458, Page 063.

MOTION:

To see if the Town will vote to appropriate and transfer the sum of \$28,000.00 from the Community Preservation Historical Fund in order to rehabilitate and improve the original basement entrance of the property located at 90 Point Grove Road, commonly referred to as the Brass Rail Meeting House. The property is listed on the Massachusetts Cultural Resource Information System and is a historical building. The property is owned by LTM Property Management, LLC and is referenced in the assessors' database as MBLU 114/078 and the deed reference is Hampden County Registry of Deeds, Book 23458, Page 063.

**FAILED
MAJORITY REQUIRED
YES-31 NO –110**

ARTICLE 14. ALUM TREATMENT DEBT SERVICE

The Town voted to appropriate the sum of \$73,800 from Community Preservation General Unreserved Fund, for the purpose of making the 3RD interest and principal payment on the \$600,000 bond issued for the Alum Treatment of the Congamond Lake.

Motion: For the Town vote to appropriate the sum of \$73,800 from the Community Preservation General Unreserved Fund, for the purpose of making the 3RD interest & principal payment on the \$600,000 bond for the Alum Treatment of the Congamond Lake.

**PASSED-UNANIMOUS
MAJORITY REQUIRED**

ARTICLE 15. REGIONAL SCHOOL DISTRICT BUDGET

The Town voted to raise and appropriate or transfer from available funds the sum of \$12,252,012.00 for the Southwick-Tolland-Granville Regional School District assessment for Fiscal Year 2023 commencing July 1, 2022 and ending on June 30, 2023, or take any other action thereon.

**PASSED - UNANIMOUS
MAJORITY REQUIRED**

ARTICLE 16. REGIONAL SCHOOL DISTRICT – DEBT AUTHORIZATION

The Town of Southwick voted not to disapprove certain additional debt authorized by the Southwick-Tolland-Granville Regional School Committee under a vote dated March 29, 2022, which reads as follows:

“Voted: approve the authorization to incur debt by the issuance and sale of bonds or notes up to the amount of \$200,000.00 for the purchase of all items specified in the STGRSD FY2023 Capital Improvement Plan, as follows:

Grounds Improvements	\$200,000.00
• Install new paving at Southwick Regional School east parking lot (student parking)	

**PASSED- UNANIMOUS
MAJORITY REQUIRED**

A motion was made and seconded to allow the following a non-voter on to the town meeting floor:

Bradford B. Moir, Moir and Ross Law Firm

PASSED - UNANIMOUS

ARTICLE 17. PARTIAL AND LIMITED RELOCATION OF WHITE STREET, A/K/A BEACH ROAD, A PRIVATE WAY (M.G.L. c. 82 s. 21, 23)

The Town voted to accept the proposed relocation of the Private Way within the Town of Southwick known as White Street, also known as Beach Road, as voted by the Select Board at their March 7, 2022 meeting. The existing Private Way (White Street a/k/a Beach Road) is as shown on a plan of land recorded in the Hampden County Registry of Deeds at Plan Book 18, Page 75 (“Congamond Heights Plan”). Said relocation is limited to removing a small portion of property, identified as “Parcel A” on a “Plan of Land in Southwick, Massachusetts, to be Conveyed to Ronald Ludorf, 21 White Street, Southwick, Massachusetts,” prepared by Professional Land Surveyor Stephen A. Salvini and dated January 20, 2022 (“Salvini Plan”), from the current private way. Established lane of travel and way as-built to remain the same. Said relocation to result in the settlement of pending litigation. Copies of all relevant Plans are on file with the Town Clerk.

Motion:	That the Town accept the Select Board’s proposed relocation of the Private Way known as White Street, a/k/a Beach Road, relocating the bounds of the Private Way as established by the Congamond Heights Plan to run around and exclude the land identified as “Parcel A” on the Salvini Plan, and otherwise not relocating or altering any portion thereof.
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**PASSED - UNANIMOUS
MAJORITY REQUIRED**

Russell Fox made a motion to AMEND Article 18 by deleting the word “Zoning” in the 1st sentence and replace it with “General” all other wording to remain the same.

PASSED - UNANIMOUS

ARTICLE 18. HAWKER PEDDLER ARTICLE

The Town voted to amend the ~~Zoning~~**General** Bylaws of the Code of the Town of Southwick by deleting §138-1 in its entirety and replace it with the following, and further that non-substantive changes to the numbering of the Bylaw be authorized in order to make it consistent with the numbering format as sequencing of the code of the Town of Southwick:

§138-1. Permission required; exception

No person shall on any public way or public place, solicit money or sell or offer for sale any service tag, badge or other article of any intrinsic value for the purpose of obtaining money, without:

- (1) Complying with Chapter 63 of the Code of the Town of Southwick requiring hawkers, peddlers, solicitors and canvassers to submit fingerprints to the Southwick Police Department to be used to conduct State and Federal criminal history checks; and
- (2) Obtaining a license from the Select Board with such conditions as the Select Board may impose including limiting solicitation to the hours of 10:00 a.m. to 6:00 p.m. daily to conduct such hawking, peddling, soliciting or canvassing.
- (3) Having obtained written permission to do so from the Chief of Police or their designee.

This section may not be applied to persons engaged in solicitation of materials for religious, political, social or other position or belief protected by the Federal or State constitution or to sale or delivery of newspapers or any sale of materials or services by any organization formed for charitable purposes such as schools or Boys/Girl Scouts and candidates for Public Office.

**PASSED –UNANIMOUS
AS AMENDED
MAJORITY REQUIRED**

ARTICLE 19. ZONING BYLAW – MAJOR DEVELOPMENT REVIEW BYLAW

The Town voted to amend the Zoning Bylaws of the Code of the Town of Southwick by adding to Chapter 185 a new Section 9.1 entitled “Major Development Review” as follows and further that non-substantive changes to the numbering of the Bylaw be authorized in order to make it consistent with the numbering format as sequencing of the code of the Town of Southwick:

185-9.1 Major Development Review

A. Purpose

The purpose of the Major Development Review is to identify, early in the process, those land use proposals for which a special permit is sought, excluding Flexible Residential Development proposals submitted under Chapter 185-23 of the Town of Southwick Bylaws and subdivision proposals submitted under Chapter 315 of the Town of Southwick Bylaws, that may have a significant impact on the Town of Southwick. Such a review will enable the Planning Board and the community to make an early assessment of said proposals, including any impacts to Town resources and services, traffic, the environment, abutting properties, the rural and historic character of the Town and surrounding properties, and the public health and safety that may be caused directly or indirectly by the proposal.

B. Definitions.

The following definitions apply when said terms are used in this section.

- (1) “Façade” means the shape, the color, and the type of material of the facing of any exterior wall of a building or structure.
- (2) “Floor area” means the sum of all area on each floor of a building, excluding any cellar space but including any exterior space used for year-round sale or storage of merchandise or equipment.

- (3) "Impervious surface" means any surface which prevents or impedes the infiltration of stormwater into the underlying soil, including but not limited to buildings or structures, compacted gravel or soil surfaces which impede infiltration of stormwater, rooftops, sidewalks, driveways, parking areas, storage areas.

C. Applicable Proposals.

The provisions of this Bylaw shall apply to any application for a special permit, excluding Flexible Residential Development proposals submitted under Chapter 185-23 of the Town of Southwick Bylaws and subdivision proposals submitted under Chapter 315 of the Town of Southwick Bylaws, which seeks to utilize the property or properties in a manner that meets or exceeds any of the following thresholds:

- (1) A proposed building or buildings on the subject property or properties for a new use which meets the following conditions:
- (a) Said new building(s) total 60,000 square feet or more of gross floor area; or
 - (b) Said new building(s) total 40,000 square feet or more of gross floor area, and:
 - i. the proposal includes the construction of 100 or more net additional parking spaces; or
 - ii. the proposal generates an increase in the existing total daily vehicle trips on the road serving the property or properties by 25% or more, utilizing the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual to determine the number of vehicle trips or, if the ITE Trip Generation rates are not applicable or the use is not included in the manual, the estimated vehicle trips per day shall be verified by the Southwick Town Engineer or a traffic engineer peer reviewer; or
 - iii. the proposal generates 20 or more net additional daily vehicle trips to or from the subject property or properties by vehicles classified under the Federal Highway Administration Classification as Class 7 or above.
 - (c) Any building(s) erected on the subject property or properties within the prior 2 years will be included in the gross floor area totals of (a) and (b), above.
- (2) A proposed new use on the subject property or properties which meets the following conditions:
- (a) The proposal includes 100,000 square feet or more of new gross impervious surface; or
 - (b) The proposal includes 60,000 square feet or more of new gross impervious surface, and:
 - i. the proposal includes the construction of 100 or more net additional parking spaces; or
 - ii. the proposal generates an increase in the existing total daily vehicle trips on the road serving the property or properties by 25% or more, utilizing the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual to determine the number of vehicle trips or, if the ITE Trip Generation rates are not applicable or the use is not included in the manual, the estimated vehicle trips per day shall be verified by the Southwick Town Engineer or a traffic engineer peer reviewer; or
 - iii. the proposal generates 20 or more net additional daily vehicle trips to or from the subject property or properties by vehicles classified under the Federal Highway Administration Classification as Class 7 or above.
 - (c) Any impervious surface constructed or installed on the subject property or properties within the prior 2 years will be included in the gross impervious surface totals of (a) and (b), above.

- (3) A proposed new building or buildings on the subject property or properties to be utilized for an existing use which meets the following conditions:
 - (a) Said new building(s) total 80,000 square feet or more of new gross floor area; or
 - (b) Said new building(s) total 60,000 square feet or more of new gross floor area, and:
 - i. the proposal includes the construction of 100 or more net additional parking spaces; or
 - ii. the proposal generates an increase in the existing total daily vehicle trips on the road serving the property or properties by 25% or more, utilizing the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual to determine the number of vehicle trips or, if the ITE Trip Generation rates are not applicable or the use is not included in the manual, the estimated vehicle trips per day shall be verified by the Southwick Town Engineer or a traffic engineer peer reviewer; or
 - iii. the proposal generates 20 or more net additional daily vehicle trips to or from the subject property or properties by vehicles classified under the Federal Highway Administration Classification as Class 7 or above.
 - (c) Any building(s) erected on the subject property or properties within the prior 2 years will be included in the gross floor area totals of (a) and (b), above.
- (4) A proposed addition to a subject property or properties without a change to the existing use on the subject property or properties which meets the following conditions:
 - (a) The proposal includes 120,000 square feet or more of new gross impervious surface; or
 - (b) The proposal includes 80,000 square feet or more of new gross impervious surface, and:
 - i. the proposal includes the construction of 100 or more net additional parking spaces; or
 - ii. the proposal generates an increase in the total daily vehicle trips on the road serving the property or properties by 25% or more, utilizing the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual to determine the number of vehicle trips or, if the ITE Trip Generation rates are not applicable or the use is not included in the manual, the estimated vehicle trips per day shall be verified by the Southwick Town Engineer or a traffic engineer peer reviewer; or
 - iii. the proposal generates 20 or more net additional daily vehicle trips to or from the subject property or properties by vehicles classified under the Federal Highway Administration Classification as Class 7 or above.
 - (c) Any impervious surface constructed or installed on the subject property or properties within the prior 2 years will be included in the gross impervious surface totals of (a) and (b), above.

D. Additional Application Information and Filing Requirements

An application for a special permit which seeks to use the property or properties in a manner that meets or exceeds any of thresholds of Section C above must be submitted to the Planning Board office prior to filing in the Town Clerk's Office. Said application must contain the following information in addition to the submittal requirements of any other Section of Chapter 185:

- (1) The name and address of the anticipated occupant(s)/tenant(s) (if known by the applicant at the time of the application), if different than the applicant;

- (2) Facade elevation renderings and perspective drawings of all sides of any new building or structure or alterations to any existing building or structure;
- (3) Versions of all applicable plans showing the subject property or properties superimposed on an aerial image of the subject property or properties, which includes abutting properties;
- (4) Any plans for phased construction; and
- (5) The applicant's opinion on the need for a Comprehensive Impact Statement (see Section E, below).

An application for a special permit which seeks to use the property or properties in a manner that meets or exceeds any of thresholds of Section C above must also include, when filed in the Town Clerk's Office, a copy of any Comprehensive Impact Statement required by Section E, below, and a certification by the applicant that the community meeting required by Section F, below, has been conducted. Said application will not be deemed to be complete and appropriate for filing with the Town Clerk's Office, pursuant to Massachusetts General Laws Chapter 40A, Section 9, until such time as any Comprehensive Impact Statement required by Section E, below, is submitted to the Planning Board, and the community meeting required by Section F, below, has been conducted. If a public hearing is required to be opened due to statutory time limits due to the premature filing of the application with the Town Clerk, a public hearing may be opened and the application shall be denied by the Planning Board, unless said time limits are extended by written agreement of the applicant and the Planning Board or its designee.

E. Comprehensive Impact Statement

- (1) Upon submission of an application for a special permit which seeks to use the property or properties in a manner that meets or exceeds any of thresholds of Section C above to the Planning Board Office, the Town Planner will assess the following topics, with input from any other Town Boards, Commissions, or Departments deemed relevant, and within 35 days of the submission of the application, circulate to the Planning Board members a written recommendation, including the factual basis and support for said recommendation, as to whether a Comprehensive Impact Statement regarding one or more of the following topics is needed from the applicant:
 - (a) Traffic impacts;
 - (b) Impacts to municipal utilities and services;
 - (c) Environmental impacts;
 - (d) Community impacts; and
 - (e) Fiscal impacts.
- (2) An application for a special permit which seeks to use the property or properties in a manner that meets or exceeds any of thresholds of Section C above shall contain the applicant's opinion on whether a Comprehensive Impact Statement regarding the topics listed in Section (E)(1) above is needed, and the factual basis and support for said position.
- (3) The Planning Board shall vote at its next meeting following the circulation of the recommendation of the Town Planner on whether or not a Comprehensive Impact Statement regarding one or more of the above topics is required, taking into account the information contained in the latest version of the Planning Board's Comprehensive Impact Statement Handbook. The recommendation of the Town Planner will be adopted unless a majority of the Board vote to change the recommendation of the Town Planner, with a majority vote required for each proposed change to the recommendation. The Board must state the factual basis and support for any change in the recommendation of the Town Planner. Notice of the Board's decision regarding the Comprehensive Impact Statement shall be provided to the applicant promptly.
- (4) Any required Comprehensive Impact Statement must be submitted by the applicant within 30 days of the applicant being provided notice of the Planning Board's vote that a

Comprehensive Impact Statement is required, unless this time limit is extended by written agreement of the applicant and the Planning Board or its designee.

- (5) Any required Comprehensive Impact Statement must comply with the requirements of the latest version of the Planning Board's Comprehensive Impact Statement Handbook.
- (6) Any required Comprehensive Impact Statement must be submitted at least 7 days prior to conducting a community meeting on an application for a special permit which seeks to use the property or properties in a manner that meets or exceeds any of thresholds of Section C above.
- (7) Any required Comprehensive Impact Statement must be certified by the applicant as being complete and accurate. Failure to comply with the requirements of the latest version of the Planning Board's Comprehensive Impact Statement Handbook, or submission of any substantial misrepresentation or misleading or omitted data, shall be grounds for denial of the application.

F. Community Meeting

- (1) The applicant shall provide reasonable dates and times for a community meeting to be held at a suitable location in the Town of Southwick. Within 7 days thereafter, the Town Planner will determine if the location is suitable, select one of the proposed dates and times and notify the applicant of the selection.
- (2) The applicant will timely give notice of the community meeting by publication in a newspaper of general circulation in the Town of Southwick once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the community meeting, and will provide notice of the meeting by U.S. First Class Mail, postage prepaid, to all parties in interest, as defined by M.G.L. Chapter 40A, Section 11. Publications and notices required by this section shall contain the name and address of the applicant; the name and address of the anticipated occupant(s)/tenant(s) (if known at the time of the application); a description of the area or premises, street address, if any, or other adequate identification of the location, of the subject property or properties; the date, time and place of the community meeting; a description of the proposed use for the subject property or properties; and a statement that the applicant's submission is available for public review in the Planning Board Office. Prior to conducting a public hearing, the applicant shall provide the Planning Board with a copy of any and all publications and notices described above, a list of all parties in interest to whom notice was provided, and a certification that the requirements of this section were completed.
- (3) The meeting will be attended, at a minimum, by a representative of the applicant, a representative of the anticipated occupant(s)/tenant(s) (if known by the applicant at the time of the meeting), and a representative of the landscape architect/engineering firm associated with the project. If the applicant is the anticipated occupant(s)/tenant(s) and/or the landscape architect/engineering firm, a single attendee from those identical parties can satisfy the above requirement.
- (4) The meeting will be attended, at a minimum, by the Town Planner and/or a member of the Planning Board. A representative of the Department of Public Works, the Conservation Coordinator and/or a member of the Conservation Commission, and other relevant Town Boards and Departments will be notified by the Town Planner of the meeting and encouraged to attend.
- (5) The meeting will allow for a minimum of one hour of public questions and comments.
- (6) At the option of either the applicant or the Town Planner/Planning Board, the meeting may be conducted in hybrid format (in person and via a video conferencing platform) and may be recorded.
- (7) All costs associated with conducting the meeting will be borne by the applicant.
- (8) The information to be presented by the applicant at the meeting must include:

- (a) A detailed description and explanation of the proposed use for the subject property or properties;
 - (b) Information that describes the location and site plan;
 - (c) How the development will positively impact the community;
 - (d) Any required Comprehensive Impact Statement;
 - (e) How any potential negative impacts from the construction process and use will be minimized; and
 - (f) How the development will meet the standards in the Southwick Design Guidelines Handbook, if applicable.
- (9) A community meeting must be conducted prior to a public hearing on an application for a special permit which seeks to use the property or properties in a manner that meets or exceeds any of thresholds of Section C above.

G. Major Development Standards

- (1) An application for a special permit which seeks to use the property or properties in a manner that meets or exceeds any of thresholds of Section C above must include a minimum lot size of five (5) acres.
- (2) An application for a special permit which seeks to use the property or properties in a manner that meets or exceeds any of thresholds of Section C above must not include new impervious surfaces which exceed 40% of the total lot area of the property or properties.
- (3) Total impervious surfaces of a Grouped Retail Business Use or mall proposal shall not exceed 45% of total lot area of the property or properties.

H. Surety

The Planning Board may, at its discretion when granting a special permit which seeks to use a property or properties in a manner that meets or exceeds any of thresholds of Section C above, choose to require that the applicant submit to the Town a form of abandoned building surety, either through escrow account, or bond, in an amount sufficient to cover the cost of removal of all, or some portion of, the structures and impervious surfaces to be added to the property or properties by the applicant, and to return the property or properties to their original condition or a condition appropriate for redevelopment. Such determination should consider the reusability of the structures and/or improvements. The escrow account or bond shall be kept in place until such time as the Planning Board grants, for good cause and by majority vote, to release the surety.

**PASSED- DECLARED 2/3
TWO-THIRDS REQUIRED**

Michael Doherty made the motion to amend Article 20 of the warrant for the Annual Town Meeting to change Section E(6) of the proposed bylaw by replacing the word "Clerk" with "Treasurer"

PASSED- UNANIMOUS

ARTICLE 20. PLANNING BOARD – WIRELESS COMMUNICATIONS FACILITIES BYLAW

The Town voted to amend the Zoning Bylaws of the Code of the Town of Southwick §185-23.1 by replacing the existing §185-23.1 entitled "Wireless Communications Services District" with a new §185-23.1 entitled "Wireless Communications Facilities" as follows; and further that non-substantive changes to the numbering of the Bylaw be authorized in order to make it consistent with the numbering format as sequencing of the code of the Town of Southwick:

§ 185-23.1 Wireless Communications Facilities.

A. Purpose.

To promote the availability of Wireless Communications Services (WCS) in the town while minimizing

adverse impacts of each Wireless Communications Facility (WCF), individually and collectively, on the environment, nearby properties, residential areas, viewsheds, and on quality of experience, and to promote best practices to minimize the proliferation of unsightly facilities.

B. Definitions.

ANCILLARY EQUIPMENT

All equipment necessary to the secure and successful operation of a WCF, including, but not limited to, support structures, Antennas, transmitting, receiving, and combining equipment; equipment shelter or cabinets containing radios and electronic equipment; transmission cables, telephone lines and utility lines; and backup power source.

ANTENNA

A device that contains electrical elements for the transmission and/or reception of radio frequency communications.

BASE STATION

A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a Tower as defined herein or any equipment associated with a Tower.

- (1) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (2) The term includes, but is not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
- (3) The term includes any structure other than a Tower that, at the time the relevant application is filed, supports or houses equipment described in paragraphs (1) through (2) above that has been reviewed and approved under the applicable zoning or other regulatory process, even if the structure was not built for the sole or primary purpose of providing such support.
- (4) The term does not include any structure that, at the time the application is filed, does not support or house equipment described in paragraphs (1) through (2) above.

(Based on 47 CFR § 1.6100)

ELIGIBLE FACILITIES REQUEST

Any request for modification of an existing Tower or Base Station that does not result in Substantial Change of the physical dimensions of such Tower or Base Station, involving:

- (1) Collocation of new transmission equipment on an Eligible Support Structure;
- (2) Removal of transmission equipment; or
- (3) Replacement of transmission equipment.

(Based on 47 CFR § 1.6100)

ELIGIBLE SUPPORT STRUCTURE

Any Tower or Base Station, provided that it is lawfully existing at the time the application is filed with the Town of Southwick.

(Based on 47 CFR § 1.6100)

INTERIOR WIRELESS COMMUNICATIONS FACILITY (INTERIOR WCF)

A Minor WCF located entirely within a building or structure that is occupied or used primarily for other purposes, but which may include Ancillary Equipment not located within the building or structure, provided that such facility and Ancillary Equipment are not visible from

any public way or abutting property.

MAJOR WIRELESS COMMUNICATIONS FACILITY (MAJOR WCF)

Any WCF that is not a Minor WCF, including, without limitation, a WCF requiring a new Tower.

MINOR WIRELESS COMMUNICATIONS FACILITY (MINOR WCF)

Any WCF that is:

- (1) Installed on or in or attached on or to a building or lawfully existing structure, including but not limited to, Wireless Communications Tower or pole or transmission tower, overhead cable, smokestack, steeple, water tank or billboard, and Ancillary Equipment adjacent thereto; and
- (2) Composed solely of Antennas and Ancillary Equipment which do not extend higher than 10 feet above the highest point of the building or structure on which the WCF is installed.

To the extent that any Tower or pole that was previously authorized is replaced with a Tower or pole that is substantially similar in design and is not greater than the approved height, a WCF added to or modified on that structure shall be deemed to be a Minor WCF, provided it does not defeat any required camouflage or concealment.

PERSONAL WIRELESS SERVICES (PWS)

Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services (47 USC § 332(c)).

PERSONAL WIRELESS SERVICE FACILITY (PWSF)

A WCF for the provision of Personal Wireless Services.

SMALL WIRELESS FACILITY (SWF)

A facility that meets each of the following conditions:

- (4) The facility:
 - (a) is mounted on structures 50 feet or less in height including their Antennas (as defined by the FCC: an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location); or
 - (b) is mounted on structures no more than 10 percent taller than other adjacent structures; or
 - (c) does not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (5) Each Antenna associated with the deployment, excluding associated Antenna equipment (equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an Antenna, located at the same fixed location as the Antenna), is no more than three cubic feet in volume;
- (6) All other wireless equipment associated with the structure, including the wireless equipment associated with the Antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (7) The facility does not require antenna structure registration under FCC regulations; and
- (8) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards.

(Based on 47 CFR § 1.6002)

SATELLITE DISH

Any Antenna with a large surface area with similar dimensions in height and width, such as parabolic and panel Antennas, that is used for satellite communications.

SUBSTANTIAL CHANGE

A modification substantially changes the physical dimensions of an Eligible Support Structure if it meets any of the following criteria:

- (9) For Towers other than Towers in the public rights-of-way, it increases the height of the Tower by more than 10% or by the height of one additional Antenna array with separation from the nearest existing Antenna not to exceed twenty feet, whichever is greater; for other Eligible Support Structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the Tower or Base Station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (Section 6409 of the Middle Class Tax Relief Act and Job Creation Act of 2012, codified at 47 U.S.C. § 1455).
- (10) For Towers other than Towers in the public rights-of-way, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- (11) For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for Towers in the public rights-of-way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- (12) It entails any excavation or deployment outside the current site;
- (13) It would defeat the concealment elements of the Eligible Support Structure; or
- (14) It does not comply with conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in (1) through (4) above.

(Based on 47 CFR § 1.6100)

WIRELESS COMMUNICATIONS FACILITY (WCF)

An installation of equipment belonging to one party that includes Antennas, transmitters and/or receivers, other Ancillary Equipment, structural supports, enclosures, and utilities, that uses the radio frequency spectrum to communicate on one or more frequency bands. When multiple Wireless Communications Service providers occupy a common location, each is operating a WCF. For convenience, the combined use of one site for multiple WCFs may be referred to as a WCF, as the context requires.

WIRELESS COMMUNICATIONS SERVICE (WCS)

The provision of Wireless Communications capability to a group of users by an entity that operates WCFs.

WIRELESS COMMUNICATIONS TOWER (WCT) or TOWER

Any structure built for the sole or primary purpose of supporting any FCC-licensed or FCC-authorized Antennas and their associated facilities, including structures that are constructed for Wireless Communications Services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

C. District delineation.

WCFs are permissible in all zoning districts, subject to the requirements of this Bylaw.

D. General requirements.

(1) WCFs and WCTs shall be erected or installed in compliance with the provisions of this Section. In all cases, except Interior WCFs, a special permit is required from the Planning Board and a proposed new or modified WCF or WCT may also be subject to site plan review according to §185-37 of this Chapter. Any proposed modification of, or construction of, a new or replacement facility will be subject to a new application for a special permit, subject to certain exceptions for Eligible Facilities Requests addressed herein.

(2) A Major WCF should be located to:

(a) Have minimal visual and other impacts on the public and on its neighbors.

(b) Avoid being near active residential uses on nearby properties to minimize the potential for adverse visual and other impacts to neighbors, such as a looming effect, causing shadowing or reflections, detracting from scenic or natural views, causing noise disturbances, etc.

(c) Be on business or industrial zoned land, when practicable, or on other parcels not in residential use, or on large parcels in residential use where the placement is remote from the view of the public and residential neighbors.

It shall be the burden of the applicant to make a substantial showing that the proposed location of a Major WCF is the location that is most consistent with respect to the performance criteria in this Bylaw. Alternative locations considered by the applicant shall be presented in the application for special permit, including alternative site details; feasibility of each alternative site to address all or part of the applicant's service objective; availability and/or feasibility of using the alternative site; and the potential for the alternative to have the least impact on the public and the site's neighbors. The Planning Board may pursue additional alternatives at its sole discretion and request the applicant evaluate any such alternatives.

(3) If a WCF or WCT is not substantially in commercial operation for a period of one year, it shall be removed, and the site shall be returned to its preexisting condition by the owner of the facility and/or by the owner of the property within 180 days of written notice by the Town. Site restoration under this clause shall be subject to Site Plan Review.

(4) A Major WCF shall not be approved unless the Planning Board finds that one or more new or existing Minor WCFs cannot address the service needs of the WCS provider in Southwick.

(5) All Major and Minor WCFs, including any Towers, shall be suitably screened/camouflaged/concealed to a sufficient degree to protect public views and residential neighbors from objectionable views and prevent degradation of the quality of visual experience of the area, including, but not limited to: scenic views, historic architectural features, neighborhood characteristics, and other ways the community experiences the WCF. The Planning Board may require Minor WCFs to be configured with such materials or painted so as to blend in appearance to the extent practicable with the building or structure upon which it is installed.

(6) Exemptions

(a) Amateur radio towers and Antennas used in accordance with any amateur radio service license that is issued by the Federal Communications Commission are exempt from this section, subject to the following requirements. Installations must be consistent with building codes and zoning dimensional regulations, except, any radio tower, Antenna or other Antenna support structure used for amateur radio communications may be erected to a height not to exceed 80 feet without Planning Board review, provided it shall not be used for any commercial purpose and shall have a sufficient fall zone within the subject property, as determined by the Building Inspector. For an amateur radio tower or Antenna greater than 80 feet height, an application shall be submitted to the Planning Board for a height waiver. Upon a showing that a height greater than 80 feet is required to achieve the purposes of the amateur radio communications intended for the site and a sufficient fall zone exists within the subject property, the Planning Board may waive the 80-foot limit and impose a greater limit. Any conditions imposed by the Planning Board on an

amateur radio tower or Antenna shall be consistent with the federal and state standards for minimum practicable regulation of amateur radio facilities.

- (b) The Planning Board may waive special permit requirements, including dimensional requirements, for Towers and other WCFs to be used exclusively for public safety and municipal communications.
- (c) Satellite dishes 6 feet or less across their broadest surface dimension are subject only to Site Plan Review and shall be situated in such a manner that they are screened, preferably not being visible from abutting streets. Freestanding dishes or Antenna will be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment will be designed and/or installed to reduce conspicuity and blend into its surroundings. Any satellite dish that is protected by right under federal guidelines is exempt from this section. Larger satellite dishes shall be treated as a Major WCF under the scope of this Bylaw.
- (d) Interior WCFs are not subject to this Bylaw unless they involve other work that requires zoning approval.

E. Application process.

All special permit and site plan applications for WCFs will be made and filed in compliance with the Southwick Planning Board regulations. Such application will include six copies and a searchable electronic copy (original with no scans) with the following information submitted:

- (1) A set of engineered drawings with the customary sheets, typically including:
 - (a) A locus plan at a scale of one-inch equals 40 feet that will show all property lines, the exact location of the proposed structure(s), streets, landscapes features, access, residential dwellings and neighborhoods and all buildings within 500 feet of the facility or 300 feet of the parcel, whichever is greater. Show radial distances as needed to demonstrate compliance with applicable setbacks.
 - (b) A detail plan of the proposed outdoor site development.
 - (c) Elevation drawings and detail views of key elements.
 - (d) Any other drawings the applicant determines to be helpful in informing the Planning Board.
- (2) Photographs/drawings/renderings depicting views of the proposed WCF from the site and nearby locations off the parcel, including views from abutting streets and ways.
- (3) The following information prepared by one or more qualified persons:
 - (a) An application narrative describing the proposal and explaining how it complies with applicable requirements in this Bylaw, and if a WCT is proposed, the technical, economic, environmental, zoning and other reasons for the proposed location, height, and design.
 - (b) If the applicant intends to assert that non-approval of the requested special permit and/or site plan would constitute an effective prohibition of Personal Wireless Services under the Telecommunications Act of 1996, the applicant shall include substantial evidence demonstrating:
 - (i) how the proposed WCF is eligible for such consideration
 - (ii) how there is a significant gap in service (coverage, for example),
 - (iii) how there are no better alternatives available,
 - (iv) how a non-approval would effectively prohibit and, if applicable, materially inhibit, the applicant's ability to provide Personal Wireless Services.
 - (c) A technical confirmation that a proposed WCF complies with all applicable federal and state regulations and standards.
 - (d) A description of the capacity of a proposed WCF, including the number and type of Antennas that it can accommodate and the basis for these calculations, including potential future co-locators.
 - (e) A description of any noise the WCF will generate and demonstration that it will not constitute a nuisance to neighboring uses.

- (f) Evidence that the proposed WCF complies with, or is exempt from:
 - (i) Federal Aviation Administration (FAA), and Massachusetts Aeronautics Commission obstruction hazard regulations (aeronautical lights); and
 - (ii) Federal Communications Commission (FCC) and Massachusetts Department of Public Health radio frequency energy emissions safety regulations including all existing and planned emitters at the site.
- (g) Detailed description and results of the search for alternatives, including a narrative responsive to Section (D)(2) above.
- (4) The applicable filing fee, review fee, and advertising and mailing fees.
- (5) If the applicant is not the owner of the property and/or mounting structure, the owner(s) shall sign the application or provide a letter of permission. The applicant shall also submit evidence of a signed contract between the applicant and the property owner. If the owner is the Town of Southwick, a lease agreement between the Town and the applicant shall establish authorization from the Town.
 If the applicant is not the holder of the FCC license(s) pertaining to the WCF permit application, the applicant shall provide documentation from licensee(s) that they have committed to utilizing the WCF if it is approved.
- (6) A performance bond must be posted to the Town equivalent to the cost of removing such Towers and other WCFs at present day costs. No building permit will be issued until the Town ~~Clerk~~ **Treasurer** receives this bond.
- (7) If a Tower or other WCF is on Town property, a certificate of insurance for liability coverage in the amount of \$1,000,000 must be provided naming the Town of Southwick as additionally insured.
- (8) If a Tower or other WCF is on Town property, an agreement shall be made whereby the user indemnifies and holds the Town harmless against any claims for injury or damage resulting from or arising out of the use or occupancy of the Town owned property by the user.
- (9) Any application involving the re-use of an existing Tower and any change to equipment mounted thereupon shall be accompanied by a stamped report by a structural engineer certifying to the suitability of said re-use and change.

F. Balloon/crane tests

For WCT applications, after submitting the application, the applicant shall conduct a minimum of 2 balloon/crane tests at the location of a proposed Tower or Antenna to show its height and visibility. Such tests and subsequent submissions shall comply with the following:

- (1) The tests shall be conducted no later than the Sunday before the first day of the public hearing on the application.
- (2) Each test shall be advertised at the applicant's expense in a newspaper of general circulation in Southwick at least one week prior to each test.
- (3) At least one test shall be conducted on a weekday and one test shall be conducted on a weekend day.
- (4) Written notice of the test shall be given to the owners of property within 300 feet of the proposed property at least one week prior to the test.
- (5) A photosimulation report from each balloon/crane test shall be submitted by the applicant, with a description of report methodology, existing and simulated view photos, and map of photo locations included therein.
- (6) Photosimulation photographs shall be made with a focal length equivalent to a reference 35 mm film "full-frame" camera equipped with 50-55 mm focal length lens.
- (7) To improve efficiency, the Planning Board may delegate the coordination of a balloon test to staff. The Planning Board and/or staff may impose reasonable requirements, including on the height, size, shape, and color of the balloon(s), as well as locations of special interest and concern for photographing, even if there is low probability of the WCT being visible there.

G. Design guidelines.

The following guidelines will be used when siting, preparing plans for and constructing WCFs:

- (1) All Towers will be designed to be constructed at the minimum height necessary to accommodate the proposed use. The sharing of existing structures, especially Towers, by additional WCF operators is encouraged when doing so does not substantially increase undesirable visual impacts, such as by increasing the approved Tower height to accommodate site-sharing. Depending on the visual impacts of a proposed new Tower, the Planning Board may consider waiving the minimum-height-necessary requirement and approving a height that provides additional space with minimal increase in visual impact.
- (2) The setback of a Tower from the property line of the lot on which it is located to the center of the Tower shall be greater than or equal to $1\frac{1}{2}$ times the height of the Tower, unless the Planning Board determines in a written finding that a location closer to the property line is advantageous because the proposed location minimizes visual impacts without materially impacting the neighboring uses. The Planning Board has the discretion to require a setback greater than $1\frac{1}{2}$ times the height of the Tower if it finds that the increase is appropriate to reduce a material impact on neighboring uses. In no case shall the setback be reduced to less than 1 times the height to a residential property line with a neighboring residence within 250 feet of the same point on the property line or be reduced to less than $\frac{1}{2}$ half the height of the Tower for all other situations.
- (3) No Tower, or attachment to a Tower, shall exceed 150 feet in height as measured from ground level at the base of the Tower, unless as excepted herein.
- (4) All WCFs shall be sited in such a manner that the view of the facility from the adjacent abutters, residential neighbors, and other areas of Town shall be as limited as possible. All Towers and Satellite Dishes and/or Antenna shall be painted or otherwise colored so they will blend in with the landscape or have an appearance that is visually compatible with the structure on which they are located.
- (5) WCTs will be designed to accommodate the maximum number of users technologically practical, balanced against minimizing the visual impacts of each Tower. The intent of this requirement is to obtain the best outcome for a given area within the community by limiting the height of a new Tower to that which is acceptable, potentially requiring more than one, less objectionable, Tower to serve the area.
- (6) WCF installations will be fenced to control access and will be compatible with the scenic character of the Town and will not include razor wire.
- (7) A sign providing 24-hour contact information is required at the entrance to a WCF compound. Safety signs, no trespassing signs and other communications necessary for the safe operation of the WCFs may be posted. No other signs or advertising may be posted. All signs will conform to the Town of Southwick's Bylaws.
- (8) Night lighting of Towers will be prohibited unless required by the Federal Aviation Administration. Lighting will be limited to that needed for emergencies and/or as required by the FAA. FAA lighting, if required, shall employ red illumination at night (no white flashing lights) with narrow vertical beam spreads as specified in FAA standards. It is preferred that Towers be at such heights and locations that FAA lighting is not required.
- (9) There will be a minimum of one parking space at a WCF site, to be used in connection with the maintenance of the site. Sites with existing parking for multiple vehicles may be excused from having a dedicated space. There shall be no storage of vehicles or other equipment on the WCF site. There will be adequate access to the site for emergency vehicles. The amount of impervious surface on the site will be minimized and all stormwater run-off will be contained on site.
- (10) When possible, municipal agencies will be allowed to attach communications Antennas to a WCT at the Town's expense, and to use the WCT at no cost to the Town, provided the Town's use does not interfere with or preclude the use of the WCT by the number of WCFs anticipated in the approval of the WCT. Municipal communications Antennas will not be included in the calculation of Tower height.
- (11) The applicant shall allow other carriers to lease space on a WCT, provided such use does not interfere with the current use of the WCT.

H. Special permit and site plan review.

- (1) An application for a special permit for a WCF under this section shall be approved or approved with conditions if the Planning Board finds that the applicant has met the requirements set forth in this Bylaw.
- (2) An application for a special permit for a WCF under this Bylaw shall be denied if the Planning Board finds that the applicant has failed to meet the requirements set forth in this section. A denial shall be in writing and supported by reference to substantial evidence in the documented record.
- (3) To approve an application for a special permit under this section, the Planning Board shall judge in favor of the following findings, noting any conditions necessary to satisfy the findings:
 - (a) The proposed WCF does not materially detract from the purpose and intent of this Bylaw;
 - (b) The proposed WCF has an acceptable degree of visual impact in the context of the site and views of it, or has a degree of negative visual impact that must be tolerated due to the demonstrated necessity of the facility and a lack of less impactful alternatives, or alternatively, that the benefits of the proposal outweigh the detriments;
 - (c) The proposed WCF has been shown to be necessary to the effective operation of the applicant's WCS in the Town of Southwick; and
 - (d) The proposed WCF is consistent with the design guidelines in Section G, above.

I. Monitoring and inspections.

- (1) If a Wireless Communications Facility is determined to be in violation of any of the provisions of the special permit and/or site plan approval or any other applicable law or regulation, the Planning Board shall cause written notice to be served by the Town on the operator of the facility, the holder of the special permit and site plan approval, and the owner of the land on which it is located.
- (2) The Building Inspector and/or the Planning Board may, upon reasonable concern regarding compliance with specific performance requirements, require the permittee(s) to respond with proof of compliance and may engage the services of independent expert consultants at applicant's expense to assess compliance or review the permittee's response. Permittees must respond in a timely way (within 24 hours for an indicated life-threatening emergency, otherwise 14 days for routine requests for response). Failure to respond in good faith or to pay reasonable fees for independent consultants may result in revocation of the special permit by the Planning Board or the occupancy/use permit by the Building Inspector, as applicable.

J. Compliance and violations.

Every WCF for which a special permit is granted hereunder shall continue at all times to comply with the provisions thereof and of the Town of Southwick Bylaws; and the holder of such special permit shall comply with requirements of the Planning Board in fulfillment of the provisions for monitoring herein.

K. Small Wireless Facilities Outside Rights-of-Way

- (1) The purpose and intent of this Bylaw section is to regulate the installation of Small Wireless Facilities (SWF) outside of rights-of-way so as to respect the neighborhood characteristics in which they are proposed, consistent with the purposes set forth in this Bylaw and with federal and state law.
- (2) All installations of SWFs outside of rights-of-way require a Special Permit from the Planning Board. Federal requirements limit the time in which SWF applications must be determined to be complete and subsequently to be decided. This requires special treatment for SWF applications.
- (3) The Planning Board shall adopt, and from time to time amend, policies, rules, and regulations relative to the issuance of Special Permits for SWFs under this section. A copy of the SWF policies, rules, and regulations shall be on file with the Town Clerk. Such rules

shall prescribe the form, contents, style, and number for application forms, the fees collectible with the applications, the process by which the application will be reviewed, the design and location criteria for approval, the time within which the Planning Board will issue a decision, and requirements for recertification.

L. Modifications and Eligible Facilities Requests.

- (1) Any modifications to an already approved WCF not defined as an Eligible Facilities Request in 47 USC § 1455 shall be made through the special permit/site plan review and approval process described above. Such modifications involving new permittees at existing permitted sites shall require an application for a new special permit. Such modifications of existing permitted facilities may be reviewed as an application for a special permit modification, if applicable. The foregoing applies also to Eligible Facilities Requests, to the extent as outlined in (b) below and to the extent allowed by law.

- (2) Request for Modification of Eligible Facilities.

- (a) Submission Requirements. Applications for an Eligible Facilities Request shall be filed with the Building Inspector. Applications shall contain information in sufficient detail, including without limitation site plans and drawings of existing and proposed conditions, to demonstrate the proposed modifications satisfy the following requirements:

- (i) The currently operating WCF is constructed and maintained in compliance with its existing permit(s), including but not limited to its dimensions and appearance as permitted;
 - (ii) Such information as is necessary to demonstrate that the modifications are within the limits established for Eligible Facilities Requests under federal law and such information as is necessary to demonstrate compliance with applicable safety regulations including without limitation, the existing permit to the extent it is not superseded by federal law, building codes, noise and radio frequency energy exposure;

To render a determination on whether an application is an Eligible Facilities Request, the Building Inspector may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of an Eligible Facilities Request. The Building Inspector may not require an applicant asserting in writing that the application is an Eligible Facilities Request to submit any other documentation, including but not limited to documentation intended to illustrate the need for such WCF or to justify the business decision to modify such WCF.

- (b) Review process.

- (i) The Building Inspector shall conduct an initial review of the application to determine whether the application is a bona fide Eligible Facilities Request, and whether the application is complete. The Building Inspector shall notify the applicant within thirty (30) days of receipt of the application if the application is deemed incomplete and/or whether the application is not an Eligible Facilities Request or requires the determination of the Planning Board as to its eligibility. Such notice shall delineate all missing documents or information.
 - (ii) If the Building Inspector determines that the facts of the application require the judgment of the Planning Board to determine whether an application is an Eligible Facilities Request (such as for interpreting whether a proposal qualitatively defeats the intent of a previously approved camouflage design), the Building Inspector shall timely refer the application to the Planning Board for an opinion on whether the application qualifies as an Eligible Facilities Request. The Planning Board, or staff, if so delegated by the Planning Board, shall respond in a timely manner, being cognizant of the 60-day federal shot clock for Eligible Facilities Requests.
 - (iii) If the application is determined to be an Eligible Facilities Request, and

otherwise complies with applicable safety regulations, the Building Inspector may not deny and shall approve the application, with such conditions as may be necessary to maintain safety code compliance.

(iv) If the application is determined not to be an Eligible Facilities Request, the Building Inspector shall provide the applicant with an explanation in writing.

(c) Approval. Within sixty (60) days of the filing of a bona fide Eligible Facilities Request, plus any time that may be excluded pursuant to a tolling for incompleteness or by agreement between the applicant and the Building Inspector, the Building Inspector shall complete the statutory review under building, electrical and other relevant safety codes. If the bona fide Eligible Facilities Request application is deemed compliant under statutory review, the Building Inspector must approve the application.

Or take any other action relative thereto

**PASSED- UNANIMOUS
TWO-THIRDS REQUIRED**

ARTICLE 21. PLANNING BOARD – WIRELESS OVERLAY MAP – DELETION

The Town voted to amend the Zoning Bylaws of the Code of the Town of Southwick §185-5 *Districts Enumerated; Maps* to eliminate references to the "Wireless Communications Service District Overlay Map" dated April 10, 2001 (and as subsequently amended) by revising subsection A and removing subsection F. as follows; and further that non-substantive changes to the numbering of the Bylaw be authorized in order to make it consistent with the numbering format as sequencing of the code of the Town of Southwick:

§ 185-5. Districts enumerated; maps.

A. For the purpose of this Zoning Bylaw, the Town of Southwick is hereby divided into ~~14~~ **13** zoning districts to be known as:

- (1) Agriculture and Conservation District AC.
- (2) Residence Zone R-40.
- (3) Residence Zone R-20.
- (4) Business Zone B.
- (5) Business Restricted Zone BR.
- (6) Industrial Zone I.
- (7) Industrial Restricted Zone IR.
- (8) Residence Zone R-20-A.
- (9) Residence Zone R-20-B.
- (10) Flood Hazard and Wetlands District FH.
- (11) Wellhead Protection District.
- (12) Flexible Residential Development District FRD.
- ~~(13) Wireless Communications Services District.~~
- ~~(14)~~ (13) Adult Entertainment District.

- B. The boundaries of each of said zones set forth above in Subsection [A\(1\)](#) through [A\(9\)](#), inclusive, are hereby established as shown, defined, and bounded on a map on file in the Office of the Town Clerk of the Town of Southwick, Massachusetts, entitled "Town of Southwick, Massachusetts, Municipal Zoning Districts." This map, dated May 2010, and subsequent amendments thereto, together with explanatory matter thereon, is hereby incorporated by reference and made a part of this chapter.
[Amended STM 10-27-2003 by Art. 5; ATM 5-18-2010 by Art. 22]
- C. The boundaries of said Residence Zone R-20-B referred to in Subsection [A\(9\)](#) above are as established, defined and described in zoning chapter amendments duly enacted at Town Meetings of the Town of Southwick held on October 4, 1990, November 21, 1991, November 26, 1996, and subsequent amendments thereto, all of which are on file in the Office of the Town Clerk of the Town of Southwick, Massachusetts.
- D. The boundaries of said Flood Hazard and Wetlands District FH in Subsection [A\(10\)](#) above is herein established as an overlay district. The District includes all special flood hazard areas within the Hampden County designated as Zone A and AE on the Hampden County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Hampden County FIRM that are wholly or partially within the Town of Southwick are panel numbers 25013C0352E, 25013C0354E, 25013C0358E, 25013C0359E, 25013C0360E, 25013C0361E, 25013C0362E, 25013C0364E, 25013C0366E, 25013C0367E, 25013C0368E, 25013C0369E, 25013C0378E, 25013C0379E, 25013C0386E, 25013C0387E, 25013C0502E, and 25013C0506E dated September 17, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated September 17, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.
[Amended ATM 5-21-2013 by Art. 21; 5-20-2014 ATM by Art. 22]
- E. The boundaries of said Wellhead Protection District in Subsection [A\(11\)](#) above are hereby established as shown, defined and bounded on a map on file in the Office of the Town Clerk of the Town of Southwick, Massachusetts, entitled "Town of Southwick, Commonwealth of Massachusetts, Wellhead Protection District." This map, dated March 26, 2007, and subsequent amendments thereto, together with explanatory matter thereon, is hereby incorporated by reference and made a part of this chapter.
[Amended ATM 5-15-2007 by Art. 25]
- ~~F. The boundaries of said Wireless Communications Services District in Subsection [A\(13\)](#) above are established as shown, defined and bounded on a map on file in the Office of the Town Clerk of the Town of Southwick, Massachusetts, entitled "Wireless Communications Service District Overlay." This map, dated April 10, 2001, and subsequent amendments thereto, together with explanatory matter thereon, is hereby incorporated by reference and made a part of this chapter.~~

**PASSED - UNANIMOUS
TWO-THIRDS REQUIRED**

A Motion was made and seconded to dissolve the Annual Town Meeting at 8:05 PM.

UNANIMOUS

A TRUE COPY OF ATTEST:

Michelle L. Hill

Michelle L. Hill, Town Clerk
Doings ATM 05.17.22
TOWN CLERK, SOUTHWICK, MA