

# Town of Southwick, Massachusetts

454 College Highway, Southwick, MA 01077

## Doings at the Annual Town Meeting May21, 2013

### DOINGS AT THE ANNUAL TOWN MEETING COMMONWEALTH OF MASSACHUSETTS May 21, 2013

The Annual Town Meeting was called to order by the Moderator, James Putnam at 7:10 PM on Tuesday, May 21, 2013 Southwick Tolland Regional High School, Feedings Hills Road, in the Auditorium, with approximately 125 registered voters in attendance.

The following registered voters were appointed as tellers for the meeting:

Paul Connolly

Joseph Impoco

David Gunn

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

A moment of silence was observed for: *(reflects those who have passed away since October 10, 2012)*

*Merton G. Seibert- Cemetery Sexton, Superintendent for Highway, Water and Transfer Station*

*Winifred E. Zarichak – Volunteered Southwick Public Library*

*Henry C. "Bud" Engelhardt III – Southwick Housing Authority Executive Director*

*Peter Jakobowski – Selectman, Planning Board Member, Southwick Cemetery and Volunteer Fire Commissioner*

*George L. Nicoletta – Southwick Fire Commissioner*

*Raymond Reardon – Planning Board, Conservation Commission and Lake Management*

*Dorothy M. Leavitt – Member of Senior Center*

All US Servicemen and Women

Advancement Placement United States Government Class.  
*(Assistance with microphones and lighting)*

Mariah Collins

Felicia Creswell

Nicole Davis

Billy Deidolori

Taryn Egerton

Ryan Harper

Zachary Hersey

Joe Impoco

Allee Platanitis

Sam Power

Tim Reardon

Olivia White

Lindsey Wilcox

Alex Blackburn

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

Jeff Neece,  
DPW Director

Benjamin Coyle,  
Town Counsel Attorney

Russell Dupere,  
School District Counsel

Linda Carr,  
Town Accountant

Dr. John Barry,  
Superintendent

Carol DellaGiustina,  
Assistant Town Accountant

Stephen Presnal,  
Business Manager

Michael Solek,

Representative for Solek APR

**UNANIMOUS**

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

**ARTICLE 1.** In the name of the Commonwealth of Massachusetts you are 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 14, 2013 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 Regional School District Committee members for three-year terms. One Assessor for a three-year term. One Cemetery Commissioner for a three-year term. One Dickinson School Trustee for a three-year term. Two Library Trustees each for a three-year term. One Park and Recreation Commission member for a three-year term. One Planning Board member for a five-year term. One Water Commissioner for a three year term. One Board of Health member for a three-year term. One Housing Authority member for a five-year term and Two Constables for a three-year term.

A motion was made and seconded to combine articles 2 through 5 under one vote as they are considered housekeeping articles.

**ARTICLE 2.** The Town of Southwick voted to accept the reports as published in the Annual Town Report of the Selectmen, Assessors, Town Accountant, Town Clerk, Water Commissioners and all others to be acted thereon, or take any other action thereon.

**ARTICLE 3.** The Town of Southwick voted to instruct the Selectmen to appoint minor officers or to take any other action relative thereon.

**ARTICLE 4.** The Town of Southwick voted to authorize the Board of Selectmen to sell or trade obsolete equipment or take any action relative thereon.

**ARTICLE 5.** The Town of Southwick voted to authorize the Board of Selectmen 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**

**ARTICLE 6.** The Town of Southwick voted to authorize the Town Treasurer, with the approval of the Board of Selectmen, to issue bonds, notes, and certificates of indebtedness for a period of not more than two years in accordance with M.G.L. Chapter 44, Section 17 or take any other action relative thereon.

**PASSED  
UNANIMOUS**

**ARTICLE 7.** The Town of Southwick voted to appropriate \$170,000 to pay costs of purchasing a large dump truck with plow, for use of the Department of Public Works, 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.

**PASSED  
UNANIMOUS**

**ARTICLE 8.** The Town of Southwick voted to appropriate \$100,000 to pay costs of purchasing and installing above ground storage tanks, 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.

**PASSED  
UNANIMOUS**

**ARTICLE 9.** The Town of Southwick voted to appropriate \$145,000 to pay costs of insulating and installing HVAC enhancements at the Library, 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.

**PASSED  
DECLARED 2/3**

**ARTICLE 10.** The Town of Southwick 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: Dispatch, Emergency Management, Park and Recreation, Computer, Town Hall, Library, Police, Fire, Lake Management, DPW (various divisions), and EMS 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 FY July 1, 2013 to June 30, 2014 or to take any other action relative thereon.

**PASSED  
UNANIMOUS**

**ARTICLE 11.** DEPARTMENTAL REVOLVING FUNDS AUTHORIZATION. The Town of Southwick voted to authorize revolving funds for certain town departments under M.G.L. C. 44 § 53E for the fiscal year beginning July 1, 2013, or take any other action relative thereto.

**MOTION:** That the Town reestablish revolving funds for certain town departments under M.G.L. C. 44 § 53E for the fiscal year beginning July 1, 2013, with the specific receipts credited to each fund, the purposes for which each fund may be spent and the maximum amount that may be spent from each fund for the fiscal year as follows:

Revolving Fund	Authorized to Spend Fund	Revenue Source	Use of Fund	Spending Limit	Disposition of Fund Balance
Inspector's Revolving	Inspectors	Inspection permits	Inspectors salaries	\$40,000	Balance available for expenditure in following fiscal year
HAZ-MAT Revolving	Police & Fire	HAZ-MAT fines	Personnel training, purchasing supplies & equip, maint & repair of equip & vehicles & anything related to HAZ-MAT response	\$40,000	Balance available for expenditure in following fiscal year
Boat Ramp Revolving	Lake Mgmt	Boat Ramp access	Salaries & boat ramp expenses	\$32,000	Balance available for expenditure in following fiscal year
Harbormaster Revolving	Police	Fines for Lake removals	Salaries & expenses regarding removal & storage of items removed from lake	\$20,000	Balance available for expenditure in following fiscal year
Local Lake Permitting Revolving	Police & Conservation	Lake permitting fees	Salaries & expenses regarding DEP regulations for lake structures	\$40,000	Balance available for expenditure in following fiscal year
TOTAL SPENDING				\$172,000	

**PASSED  
UNANIMOUS**

**ARTICLE 12.** The Town of Southwick voted to act on the report of the Community Preservation Committee on the Fiscal Year 2014 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 2014 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 2014 with each item to be considered a separate reserve.

#### Proposed Fiscal Year 2014 Community preservation Reserves

- To reserve \$36,000 from FY2014 Community Preservation Fund revenues for Open Space.

- To reserve \$36,000 from FY2014 Community Preservation Fund revenues for Historic Resources.
- To reserve \$36,000 from FY2014 Community Preservation Fund revenues for Community Housing.
- To reserve \$252,000 from FY2014 Community Preservation Fund revenues for Community Preservation General Unreserved Fund.

## Reserves

Open Space	\$36,000
Historic Resources	\$36,000
Community Housing	\$36,000
General Unreserved	<u>\$252,000</u>
Total	\$360,000

Estimated FY2014 revenues = State match to be received on 10/15/13	\$120,000
+ estimated new surcharge collections for FY2014	<u>\$240,000</u>
Total	\$360,000

State match = FY2013 CPA commitments minus abatements

Estimated new surcharge collections for FY2014 = FY2013 collections

10% of estimated FY2014 revenues equal the amount reserved for each CPA purpose, Historical, Open Space and Community Housing, as required by law.

70% of estimated FY2014 revenues equal the amount reserved for the Community Preservation General Unreserved Fund

**PASSED  
UNANIMOUS**

**ARTICLE 13.** The Town of Southwick voted to act on the report of the Community Preservation Committee on the Fiscal Year 2014 Community Preservation Budget and appropriate 4% (\$10,080), 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 \$10,080 as recommended by the Community Preservation Committee.

**PASSED  
UNANIMOUS**

**ARTICLE 14.** The Town of Southwick voted to appropriate and transfer from FY2014 estimated revenues the sum of \$36,000 from the Historical Community Preservation Historical fund and the sum of \$43,510 from the Community Preservation General Unreserved Fund for a total of \$79,510 for Phase III of the Preservation/Archival of the Town of Southwick Historical documents or take any other action relative thereto.

**PASSED  
UNANIMOUS**

**ARTICLE 15.** The Town of Southwick voted to appropriate and transfer the sum of \$100,500.00 from the Community Preservation Unreserved Funds for a portion of the 10% local match towards the purchase of an Agricultural Preservation Restriction of 128+/- acres of farmland located on Granville Road and South Longyard Road. The APR is valued at \$1,325,000.00. The State of Massachusetts APR program is paying \$1,192,500.00. Project Site Hampden County Registry of Deeds, Book 3357/ Page 412, Book 3357/ Page 412, Book 4670 / Page 001, Book 3557 / Page 412 and Book 4604 / Page 226 known as part of Assessors Map/Parcels 61/21/, 62/07, 116/01, 61/02 and 98/77, recorded at the Hampden County Registry of Deeds, or take any other action relative thereto.

**MOTION:** To see if the Town will vote to appropriate the sum of \$100,500.00 in accordance with the recommendation of the Community Preservation Committee.

**PASSED  
UNANIMOUS**

**ARTICLE 16.** The Town of Southwick voted to raise and appropriate or appropriate and transfer from available funds the sum of \$8,729,654 for the Southwick-Tolland-Granville Regional School District assessment for Fiscal Year 2014 commencing July 1, 2013 and ending on June 30, 2014, or take any other action thereon.

I, James Vincent, do hereby make a motion to Amend Article 16 to delete "the sum of \$8,729,654" and insert "the sum of \$9,739,044" and request that the remaining portions of the article remain the same.

**PASSED  
UNANIMOUS**

A motion was made and seconded to move the question for vote after articles 17 and 18.

**PASSED  
UNANIMOUS**

**ARTICLE 17.** The Town of Southwick voted not to disapprove certain additional debt authorized by the Southwick-Tolland-Granville Regional School Committee under a vote dated April 2, 2013, which reads as follows:

"Voted: approve authorization to incur debt by the issuance and sale of bonds or notes for the amount of \$350,000 for the purchase of all items specified in the attached School District's Fiscal Year 2014 Capital Improvement Plan," or take any other action relative thereon.

**PASSED  
UNANIMOUS**

**ARTICLE 18.** The Town of Southwick voted to raise and appropriate or appropriate and transfer the sum of \$1,009,390.00 which represents the FY2014 principle and interest payment on the first loan for the School Construction Project or take any other action relative thereon.

I, Arthur Pinell, do hereby make a motion to Amend Article 18 as follows:

Delete:

"to raise and appropriate" from the first line

And replace:

"1,009,390.00 which represents the FY2014 principle and interest payment on the first loan for the School Construction Project"

With the following:

"\$34,000 from the School Capital Projects Stabilization Fund in accordance with M.G.L. c.40, § 5B, to help defray the cost to the Town of Southwick for the School Construction Project"

Amended as follows:

"To see if the town will vote to appropriate and transfer the sum of \$34,000 from the School Capital Projects Stabilization Fund in accordance with M.G.L. c. 40, §5B, to help defray the cost to the Town of Southwick for the School Construction Project or take any other action relative thereon."

**PASSED  
UNANIMOUS**

A motion was made and seconded to bring Article 16 back for discussion.

**ARTICLE 19.** The Town of Southwick voted to accept a donation of a new, fully permitted, Animal Control Facility from Robert J. Polverari and Barbara A. Polverari to be known as the "Polverari – Southwick Animal Control Facility". The donation shall include a fully permitted and constructed concrete building approximately 34 feet by 68 feet, which will include a lobby, nine interior and exterior kennels, a feline room, a kitchen, a lavatory, a quarantine room, an adoption area, storage rooms, a carport, a paved parking lot, fenced in area and landscaping at no cost to the Town. The new Animal Control Facility will be constructed on land owned by the Town of Southwick located behind the Police Station bordering Prifiti Park on land identified on the Town of Southwick Assessors Map 88, Parcel 1, and acceptance of such donation remains contingent upon compliance with all municipal, state and federal laws as approved by Town Counsel or take any other action relative thereto.

**PASSED  
UNANIMOUS**

**ARTICLE 20.** The Town of Southwick voted to see if the Town will vote to amend the Chapter 185 of the Code of the Town of Southwick Article IV Use and Regulations as follows, and further that non-substantive changes to the numbering and letter of the Code be permitted in order that it be in compliance with the Code of the Town of Southwick:

(1). By adding a Section 185-23.2 to be known as “**Small Scale and Large Scale, Ground Mounted, Photovoltaic System**” and to add new language that will allow the installation and maintenance of Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems under the specific conditions as follows.

#### 185-23.2.1 **Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems**

##### **A. Purpose**

The purpose of this subsection of the Zoning Bylaw is to establish appropriate criteria and standards for the placement, design, construction, operation, monitoring, modification, removal and/or repair of Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems. These standards will address public safety, minimize impact on the scenic, natural, and historic resources and provide adequate financial assurance for the eventual decommissioning of such systems.

##### **B. Applicability**

This section applies to Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of existing systems or related equipment. Building mounted, photovoltaic systems are exempt from the provisions under this bylaw but shall comply with the building code and obtain a building permit from the Building Inspector.

##### **C. Location**

Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems shall be allowed in the districts identified in the table below:

**Table 1  
Solar Energy  
Town of Southwick Table of Principal Uses**

Land Use Clarification	Standards & Conditions	ZONE			
		AC	R40 R20 R-20A R-20B	B BR	I IR
<b>Small Scale Ground Mounted Photovoltaic Systems</b>	Consolidated Less than 1,000 Square Feet	Site Plan Review	Site Plan Review	Site Plan Review	Site Plan Review
<b>Large Scale Ground Mounted Photovoltaic Systems</b>	Consolidated 1000 Square Feet or greater	Not Allowed	Not Allowed	Special Permit & Site Plan Approval	Special Permit & Site Plan Approval

##### **D. Definitions for This Article:**

APPURTENANT STRUCTURES: Adjacent or accessory structures.

AS-OF-RIGHT SITING: As-of-Right siting shall mean that development may proceed without the need for review by the Planning Board.

BUILDING-MOUNTED PHOTOVOLTAIC SYSTEMS: A photovoltaic installation that is structurally mounted on a building's footprint.

CONTACT INFORMATION: Any and all information necessary to make contact under both normal and emergency conditions. This information shall include but not be limited to: names, addresses, telephone and fax numbers, as well as email addresses. This information shall be kept up to date.

LARGE SCALE, GROUND MOUNTED PHOTOVOLTAIC SYSTEM: A photovoltaic installation that is structurally mounted on the ground and is one thousand square feet (1000) or greater in consolidated size of panels.

PHOTOVOLTAIC (PV) INSTALLATION: A series of components which use one or more panels to convert sunlight into electricity including all appurtenant structures, wiring and accessory use.

SMALL SCALE, GROUND MOUNTED PHOTOVOLTAIC SYSTEM: A photovoltaic installation that is structurally mounted on the ground and is less than one thousand square feet (1000).

**TRANSMISSION LINES:** Those conductors and their necessary supporting or containing structures which are located entirely outside of buildings and are used for transmitting electrical energy which is not connected solely to individual users/property owners who generate Such Electricity.

#### **E. General Requirements**

1. Building mounted, photovoltaic systems are exempt from the provisions under this bylaw and shall be consider as-of-right development. They shall comply with the building code and obtain a building permit from the Building Inspector.
2. No building permit, for construction, installation or modification shall be issued for a Small Scale, Ground Mounted, Photovoltaic System without first submitting a plan of the proposed work to the Planning Board for Site Plan Review in accordance with 185-37 and 185-10 of this chapter and receiving site plan approval.
3. No building permit, for construction, installation or modification shall be issued for a Large Scale, Ground Mounted, Photovoltaic System without first submitting a plan of the proposed work to the Planning Board for Special Permit and Site Plan Approval in accordance with 185-37, 185-9 and 185-10 of this chapter and receiving and obtaining site plan approval.
4. The construction and operation of all Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems and all appurtenant structures shall be consistent with all applicable local, state and federal requirements including but not limited to all safety, construction, electrical and communications requirements. All buildings and fixtures forming part of a Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems and all appurtenant structures shall be constructed in accordance with the Building Code.
5. Building Permits issued for the construction, alteration, enlargement or demolition of Small and Large Scale Ground Mounted, Photovoltaic System shall be subject to permit fees, as established by the Town of Southwick. No building permit shall be deemed valid until such fee is paid.

#### **F. Application Process**

1. All applications for Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems will be made and filed in compliance with the Southwick Planning Board rules and zoning bylaw regulations and accompanied by fees as set by the Town.
2. All applications for Large Scale, Ground Mounted, Photovoltaic Systems will include six copies of a plan which include all requirements of 185-10. In addition, the following documents are required specifically for Large Scale, Ground Mounted, Photovoltaic systems.
  - a. Documentation of the major system components to be used, including the photovoltaic panels, mounting system and inverter.
  - b. Contact information for the proposed system installer
  - c. Contact information and signature of the project proponents as well as all listing of photovoltaic systems components, if any, and all property owners.
  - d. Contact information and signature of agents representing the project proponents, if any.
  - e. Contact information and person(s) responsible for public inquiries throughout the life of the system.
  - f. Blueprints of the photovoltaic systems showing the proposed layout of the system and proposed shading for nearby structures, natural features and landscaping.
  - g. Three lined electrical diagrams detailing the photovoltaic systems, any associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.
  - h. All Plans and maps associated with Large Scale, Ground Mounted, Photovoltaic Systems shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.
  - i. Documentation of actual or perspective access and control of the project site sufficient to allow for construction and operation of the proposed photovoltaic system.
  - j. An operations and maintenance plan which shall include measures for maintaining safe access to system, storm water controls, and general procedures for operational maintenance of the system and keeping system on operation and in compliance with all Governmental Regulations
  - k. Proof of liability insurance that meets the state requirements.
  - l. Description of financial security that satisfies section L.
  - m. Utility Notification. No large scale, ground mounted, photovoltaic system shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the system is to be located has been informed of the owners or operator's intent to install an interconnected customer-owned generator. Off grid systems shall be exempt from this requirement.

#### **G. Design Standards**

##### **1. DIMENSIONAL AND DENSITY REQUIREMENTS**

All construction of Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems and the appurtenant structures shall comply with the yard space and height requirements of the zoning districts in which the system is located as per 185 Attachment 3 - Height, Area and Yard Requirements Chart, Town of Southwick. In cases where the parcel abuts agricultural zones, residential zones, park land, or conservation land, the setback shall be a minimum of 50 feet unless waived by the Planning Board.

##### **2. LIGHTING**

Lighting of the Large Scale, Ground Mounted, Photovoltaic Systems and any appurtenant structure be directed downward and inwards and shall incorporate full cut off fixtures to reduce light pollution. Lighting shall be limited to that which is required for safety and operational purposes and shall be shielded from abutting properties.

##### **3. SIGNAGE**

For Large Scale, Ground Mounted, Photovoltaic Systems an Identification sign shall be no larger than two feet by two feet, shall identify the owner and provide a 24 hour emergency contact phone number. The sign shall be made visible from a right of way where the property has frontage. Large scale, ground mounted, photovoltaic systems shall not be used for displaying any advertising except for identification of the manufacturer or operator of the system. All signs require a Building Permit and will comply with the signage provisions in Southwick's Zoning bylaw.

#### 4. UTILITY CONNECTIONS

For Large Scale, Ground Mounted, Photovoltaic Systems reasonable efforts, as determined by the Planning Board shall be made to place all utilities connections from the Large Scale, Ground Mounted, Photovoltaic Systems installation underground, depending on appropriate soil conditions, shape and topography of the site, and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

### H. Safety and Environmental Standards

#### 1. EMERGENCY SERVICES

The Large Scale, Ground Mounted, Photovoltaic Systems' owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to local Fire Chief or the Chief's designee. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the Large Scale, Ground Mounted, Photovoltaic Systems' shall be clearly marked.

#### 2. LAND CLEARING, SOIL EROSION AND HABITAT IMPACT

Clearing of natural vegetation shall be limited to what is necessary for the construction operation and maintenance of the Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems and shall be installed on surfaces, as approved by the Planning Board during the Site Plan Review.

#### 3. LANDSCAPING AND LANDSCAPE BUFFER STRIP

A landscaped buffer strip is intended to provide, within five years of installation, a visual barrier between the Large Scale, Ground Mounted, Photovoltaic Systems and neighboring properties. Except for vehicular and pedestrian passways and permitted signs, these areas shall be used only for an interplanting of deciduous or evergreen trees, shrubs and other vegetative ground cover that can be appropriately create a visual barrier.

The buffer must provide landscaping coverage as required by the Planning Board. Where considered appropriate in the judgment of the Planning Board walls and fences may be used in addition to or in lieu of planting.

All structures (including appurtenant structures) shall have a landscape plan. Vegetation screening shall reach a mature form to effectively screen the installation within five years of installation

A planting plan showing the types, sizes and locations of material to be used shall be subject to the approval of the Planning Board.

The Planning Board may waive the requirements of the visual barrier when it is deemed advisable.

### I. Waivers

1. The Planning Board may waive strict compliance with any requirement of this bylaw, or rules and regulations promulgated hereunder, where:

- a. Such action is allowed by federal, state and local statutes and/or regulations.
- b. Is in the public interest.
- c. Is not inconsistent with the purpose and intent of this bylaw.

2. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaws does not further the purposes or objectives of this bylaw and why it is believed that the waiver meets the criteria in I.-1.

3. All waiver requests shall be discussed at the Public Hearing for the project.

4. If in the Planning Board's opinion, additional time or information is required for review of a waiver request, the Board may continue the hearing to a date announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

### J. Monitoring and Maintenance

#### 1. INSTALLATION CONDITIONS

The Small Scale and Large Scale, Ground Mounted, Photovoltaic Systems' owner or operator shall maintain the facility in good condition and in compliance with all Governmental Regulations. Maintenance shall include, but not limited to: planting, structural reports and integrity of security measures. Site access shall maintain to a level acceptable to the Planning Board, and Emergency Management Services and the Department of Public Works.

The owner or operator shall be responsible for the cost of maintaining the large scale, ground mounted, photovoltaic system and any access roads unless accepted as a public way.

#### 2. MODIFICATION CONDITIONS

Any material modifications to a Small Scale or Large Scale, Ground Mounted, Photovoltaic Systems made after issuance of the building permit shall require approval by the Planning Board and repairs will require Planning Board approval.

## **K. Abandonment or Decommissioning**

### **1. ABANDONMENT**

Absent notices of decommissioning or written notice of extenuating services, a Large Scale, Ground Mounted, Photovoltaic Systems shall be considered abandoned when it fails to operate for a year or more without written consent of the Planning Board. If the owner or operator of the Large Scale, Ground Mounted, Photovoltaic Systems fails to remove the installation in accordance with the requirements of this section within one hundred and fifty (150) days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation utilizing the surety provided in section L. If such funds are insufficient, any additional costs will be the responsibility of the systems owner and owner of property which system is on. Such extra cost shall constitute a lien where the system is located.

### **2. REMOVAL REQUIREMENTS**

Any Large Scale, Ground Mounted, Photovoltaic Systems which has reached the end of its useful life or has been abandoned consistent with section K-1 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plan for removal.

Decommissioning shall consist of:

- a. Physically removal of all Large Scale, Ground Mounted, Photovoltaic Systems and all related structures, equipment, security barriers and transmission lines from the site.
- b. Disposal of all solid and hazardous waste in accordance with local and state regulations.
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion.
- d. Return of land area to conditions prior to installation of photovoltaic systems.

## **L. Financial Surety**

The owner or operator of a proposed Large Scale, Ground Mounted, Photovoltaic Systems project shall provide a form of surety through an escrow account or bond, as determined by the Town Treasurer, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape. The surety account or bond will be managed by the Town Treasurers office.

The amount of financial surety will be determined to be released to be reasonable by the Planning Board, but in no event to exceed one hundred and twenty five percent (125) of the cost of removal and compliance with the additional requirements set forth herein. The project owner or operator shall submit a fully detailed and inclusive estimate for all costs associated with the removal to the Planning Board. This estimate must be prepared by a qualified engineer.

The amount shall include a mechanism for calculating increased removal costs due to inflation and other causes of the life of the system. Such surety will not be required for municipally or state owned facilities.

- (2). Amend Article 185-11(B) by adding subparagraph (7) to read as follows:

“(7) For Small Scale, Ground Mounted, Photovoltaic Systems see Article 185-23-2.”

- (3). Amend Article 185-11 by adding a new subparagraph C as follows:

“(C) Large Scale, Ground Mounted, Photovoltaic Systems are not an allowed use in this zoning district. See Article 185-23.2 Table 1.”

- (4). Amend Article 185-12(A) by adding subparagraph (13) to read as follows:

“(13) For Small Scale, Ground Mounted Photovoltaic Systems see Article 185-23.2. Large Scale, Ground Mounted, Photovoltaic Systems are not allowed in this zoning district. See Article 185-23.2 Table 1.”

- (5). Amend Article 185-13(A) by adding subparagraph (5) to read as follows:

“(5) For Small Scale, Ground Mounted Photovoltaic Systems see Article 185-23.2. Large Scale, Ground Mounted, Photovoltaic Systems are not allowed in this zoning district. See Article 185-23.2 Table 1.”

- (6). Amend Article 185-14(A) by adding subparagraph (3) to read as follows:

“(3) For Small Scale, Ground Mounted Photovoltaic Systems see Article 185-23.2. Large Scale, Ground Mounted, Photovoltaic Systems are not allowed in this zoning district. See Article 185-23.2 Table 1.”

- (7). Amend Article 185-15(A) by adding subparagraph (3) to read as follows:

“(3) For Small Scale, Ground Mounted Photovoltaic Systems see Article 185-23.2. Large Scale, Ground Mounted, Photovoltaic Systems are not allowed in this zoning district. See Article 185-23.2 Table 1.”

- (8). Amend Article 185-16(A) by adding subparagraph (18) to read as follows:

“(18) For Small Scale and Large Scale Ground Mounted Photovoltaic Systems see Article 185-23.2 which requires site plan approval for Small Scale, Ground Mounted, Photovoltaic Systems and special permit or Large Scale Ground Mounted Photovoltaic Systems and site plan approval for Large Scale Ground Mounted Photovoltaic Systems.”

- (9). Amend Article 185-17(B) by adding at the end of the paragraph a new sentence as follows:

“ For Large Scale, Ground Mounted Photovoltaic Systems a special permit is required as set forth under Article 185-23.2. Also, site plan approval is also required for Large Scale, Ground Mounted Photovoltaic Systems. For Small Scale and Ground Mounted Photovoltaic Systems a site plan approval is required as set forth in Article 185-23.2.”

- (10). Amend Article 185-18(A) by adding subparagraph (16) to read as follows:

“(16) For Small Scale and Large Scale, Ground Mounted Photovoltaic Systems see Article 185-23.2 which requires both Large Scale and Small Scale Ground Mounted Photovoltaic Systems to obtain site plan approval and a special permit for Large Scale Ground Mounted Photovoltaic Systems.”

- (11). Amend Article 185-19(A) by adding subparagraph (8) to read as follows:

“(8) For Small Scale and Large Scale, Ground Mounted Photovoltaic Systems see Article 185-23.2 which requires the issuance of site plan approval pursuant to Article 185-23.2.”

- (12). Amend Article 185-19(B) by adding a sentence at the end of the article as follows:

“Large Scale, Ground Mounted Photovoltaic Systems special permit and site plan approval is required under Article 185-23.2 in accordance with the terms of Article 185-23.2”

**ARTICLE PASSED  
DECLARED 2/3 VOTE**

**45 - Yes**

**14 - No**

**ARTICLE 21.** The Town of Southwick voted to amend the Town of Southwick Zoning Bylaw referenced in Section 185-5D of the Code of the Town of Southwick by amending the existing date July 16, 1984 for “Flood Insurance Rate Maps Town of Southwick, Massachusetts Hampden County” to July 16, 2013, or take any other action relative there to.

**PASSED  
UNANIMOUS**

**ARTICLE 22.** The Town of Southwick voted to amend the Code of the Town of Southwick, Chapter 69 “Animals” including the sections enumerated as follows, and further that nonsubstantive changes to the numbering and letter of the Code be permitted in order that it be in compliance with the Code of the Town of Southwick:

**§69-1. Authority.**

Delete: “M.G.L. c. 140, §147A” and

Replace with: “M.G.L. c. 140, §136 to §174E, inclusive.”

**§69-2. Definitions.**

**Add the following definitions in alphabetical order:**

“**Adoption**”, the delivery of a cat or dog to a person 18 years of age or older for the purpose of taking care of the dog or cat as a pet.

**“Animal control officer”**, an appointed officer authorized to enforce sections 136A to 174E, inclusive.

**“Attack”**, aggressive physical contact initiated by an animal.

**“Commissioner”**, the commissioner of agricultural resources.

**“Domestic animal”**, an animal designated as domestic by regulations promulgated by the department of fish and game.

**“Euthanize”**, to take the life of an animal by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

**“Hearing authority”**, the selectmen of a town, mayor of a city, the officer in charge of the animal commission, the chief or commissioner of a police department, the chief or commissioner's designee or the person charged with the responsibility of handling dog complaints in a town or city.

**“Keeper”**, a person, business, corporation, entity or society, other than the owner, having possession of a dog.

**“License period”**, the period of time for which a municipal licensing authority prescribes the validity of a dog license, including the date of issuance of the license through the date on which the license expires, inclusive.

**“Licensing authority”**, the police commissioner of the city of Boston and the clerk of any other municipality.

**“Livestock or fowl”**, a fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, the department in proper houses or suitable enclosed yards; provided, however, that “livestock or fowl” shall not include a dog, cat or other pet.

**“Nuisance dog”**, a dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

#### **Amend the definition of “Dangerous Dog”**

**Delete:** Entire current definition

**Replace with:** “Dangerous dog”, a dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal; or (iii) unprovoked, in an aggressive manner, inflicts severe injury upon or kills a human being; or (iv) unprovoked, on two separate occasions within the prior twelve-month period has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a companion animal, pet or farm animal off the property of the owner of the dog; or (v) was previously determined to be an currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior that caused it to be listed as a potentially dangerous dog, or is found to be in violation of orders placed upon it in a previous hearing; or (vi) that has been used for the purpose of dog fighting or a dog trained for dog fighting

#### **§69-4 Licensing fees.**

**Delete:** “fine of \$45” and

**Replace with:** “fine of \$50”

#### **Add the following to the end of §69-4**

“No fee shall be charged for a license issued under this section for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder. No fee shall be charged for a license for a dog owned by a person aged 70 years or over in a city or town that accepts this provision. No license fee or portion thereof shall be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or portion thereof paid by mistake be paid or recovered after it has been paid over to a city or town under section 147.”

#### **§69-5. Vaccination of dogs and cats against rabies.**

**Delete:** “find \$45” and

**Replace with:** "fine of \$50"

**§69-10. Payments to veterinarians for emergency treatment of dog or cat injured on ways.**

**Delete:** "not to exceed \$100" and

**Replace with:** "not to exceed \$250"

**§69-13. Fee for reclamation of impounded dog or cat; failure to claim impounded dog or cat.**

**Delete:** "\$25 plus \$10" and

**Replace with:** "\$30 plus \$15"

**§69-15. Failure to provide adequate food, water and shelter.**

Add the following to the end of the first paragraph:

"In addition any person owning, keeping, in control of or otherwise responsible for a companion animal, pet, farm animal or any other dog or cat who, in the opinion of the animal control officer, is treating the aforementioned animal in an inhumane manner (such treatment may include, but not be limited to: prolonged chaining or tethering of animals; extended outdoor confinement; lack of access to food, water or shelter; exposure to hazardous conditions) the animal control officer or police officer shall issue the a notice and fine in accordance with this section for any person who violates the provisions contained herein."

**§69-16. Dangerous and Potential Dangerous Dogs.**

**§§B(4)**

Delete: "removal from the town"

**Add new §§B(4)(iii) as follows:**

"(iii) that when removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length."

**Add a new §69-17. Tethering or Chaining Dog; Penalties.**

(a) No person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 24 consecutive hours. A tethering employed shall not allow the dog to leave the owner's, guardian's or keeper's property. The tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No chain or tether shall weigh more than → of the dog's body weight. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand-held leash. No dog under the age of 6 months shall be tethered outside for any length of time.

(b) A person owning or keeping a dog may confine such dog outside, subject to the restrictions in this section, through the use of any of the following methods:

(1) inside a pen or secure enclosure, if the following conditions are met:

(i) the pen or secure enclosure shall have adequate space for exercise with a dimension of at least 100 square feet; provided, however, that commercial dog kennels with pens intended for the temporary boarding of dogs shall be exempt from this requirement;

(ii) the pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all 4 sides enclosed; and

(iii) the minimum height of the fence shall be adequate to successfully confine the dog;

(2) a fully fenced, electronically fenced or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard; or

(3) a trolley system or a tether attached to a pulley in a cable run, if the following conditions are met:

(i) only 1 dog shall be tethered to each cable run;

(ii) the tether shall be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which 2 adult fingers may fit; provided, however, that a choke collar and a pinch collar shall not be used to tether a dog to a cable run;

(iii) there shall be a swivel on at least 1 end of the tether to minimize tangling of the tether;

(iv) the tether and cable run must each be at least 10 feet in length. The cable must be mounted at least 4 feet but not more than 7 feet above ground level; and

(v) the length of the tether from the cable run to the dog's collar or harness shall allow continuous access to clean water and appropriate shelter at all times as described in subsection (c); provided, however, that a trolley system or tether shall be of appropriate configuration to confine the dog to the owner's, guardian's or keeper's property, to prevent the trolley system or tether from extending over an object to an edge that could result in injury to or

strangulation of the dog and to prevent the trolley system or tether from becoming tangled with other object or animals.

(c) A person owning or keeping a dog confined outside in accordance with subsection (b) shall provide the dog with access to clean water and appropriate dog shelter. The dog shelter shall allow the dog to remain dry and protected from the elements and shall be fully enclosed on at least 3 sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and shall be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage shall be provided so that water, ice or waste is not standing in or around the shelter.

(d) No person owning or keeping a dog shall leave a dog chained or tethered outside for longer than 24 consecutive hours.

(e) Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(f) No person owning or keeping a dog shall subject the dog to cruel conditions or inhumane chaining or the tethering at any time. For the purposes of this subsection, "cruel conditions and inhumane chaining or tethering" shall include, but not be limited to, the following conditions:

(1) filthy and dirty confinement conditions including, but not limited to, exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill a dog upon contact or other circumstances that could cause harm to a dog's physical or emotional health;

(2) taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog; and

(3) subjecting a dog to dangerous conditions, including attacks by other animals.

(g) A person who violates this section shall, for a first offense, be issued a written warning or punished by a fine of not more than \$50, for a second offense, be punished by a fine of not more than \$100 and for a third or subsequent offense, be punished by a fine of not more than \$300, and be subject to impoundment of the dog in a local shelter at the owner's or guardian's expense pending compliance with this section, or loss of ownership of the dog.

**PASSED  
UNANIMOUS**

**ARTICLE 23.** The Town of Southwick voted to accept, by gift or otherwise, a perpetual drainage easement including stormwater flowage rights from Michael Charest and Marianne Charest of a parcel of land shown as "Easement 'B'" on a plan entitled "Drainage Easement Southwick, Massachusetts" prepared for the Town of Southwick dated December 21, 2012 by R. Levesque Associates, Inc. on or near Gloria Drive, Southwick, bounded and described as follows:

Beginning at a point on the southwesterly line of land N/F D. Davis; thence running N79-08-18W for a distance of 39.78 feet to a point; thence running N56-45-30W for a distance of 41.45 feet to a point; thence running N53-52-12W for a distance of 82.21 feet to a point; thence running S67-47-08W for a distance of 13.35 feet to a point; thence running N28-26-45W for a distance of 16.81 feet to a point; thence running N65-25-58E for a distance of 4.47 feet to a point on the southwesterly line of land N/F D. Davis, the last six courses running through land N/F M. & M. Charest; thence running S67-49-03E along the southwesterly line of land N/D D. Davis for a distance of 84.01 feet to a point; thence running S53-52-12E for a distance of 20.17 feet to a point; thence running S56-45-30E for a distance of 36.98 feet to a point; thence running S79-08-18E for a distance of 5.40 feet to a point on the southwesterly line of land N/F D. Davis, the last three courses running through land N/F M. & M. Charest; thence running S45-49-02D along the southwesterly line of land N/F D. Davis for a distance of 36.41 feet to the point and place of beginning. Also granting stormwater flowage rights across land N/F M. & M/ Charest. Said described easement contains 2,602 square feet.

**PASSED  
MAJORITY**

**ARTICLE 24.** The Town of Southwick voted to accept, by gift or otherwise, a perpetual easement to drain surface water from Donna P. Davis of two (2) parcels of land shown as "Easement 'A' and Easement 'C'" on a plan entitled "Drainage Easement Southwick, Massachusetts" prepared for the Town of Southwick dated December 21, 2012 by R. Levesque Associates, Inc. on or near Gloria Drive, Southwick, bounded and described as follows:

#### **Easement "A"**

Beginning at a point on the westerly sideline of Gloria Drive at land N/F D. Davis; thence running N82-50-23W for a distance of 13.91 feet to a point; thence running N83-31-24W for a distance of 54.13 feet to a point; thence running N79-08-18W for a distance of 17.22 feet to a point at land N/F M. & M. Charest; the last three courses running through land N/F D. Davis; thence running N45-49-02W along land N/F M.&M. Charest for a distance of 36.41 feet to a point; thence running S79-08-18E for a distance of 46.87 feet to a point; thence running S83-31-24E for a distance of 53.49 feet to a point; thence running S82-50-23E for a distance of 7.67 feet to a point on the westerly sideline of Gloria Drive, the last three courses running through land N/F D. Davis; thence running S10-28-44E along the westerly sideline of Gloria Drive for a distance of 20.99 feet to the point and place of Beginning. Said Described easement contains 1,933 square feet.

#### **Easement "C"**

Beginning at a point bearing N67-49-03W and a distance of 34.19 feet from an iron pipe found at land N/F D. Davis and land N/F M. & M. Charest; thence running N67-49-03W along land N/F D. Davis and land N/F M. & M. Charest; for a distance of 84.01 feet to a point; thence running N65-25-59E for a distance of 23.22 feet to a point; thence running S53-52-12E for a

distance of 70.17 feet to the point and place of beginning, the last two courses running through land N/F D. Davis Said described easement contains 710 square feet.

**PASSED  
UNANIMOUS**

A Motion was made and seconded to dissolve the Annual Town Meeting at 9:03 PM.

**UNANIMOUS**

A TRUE COPY ATTEST:

Michelle L. Hill, Town Clerk