

*Please Read*

TOWN CLERK  
2016 AUG 29 AM 11:28  
DUXBURY, MASS.



**COMMONWEALTH OF MASSACHUSETTS**

**TOWN OF DUXBURY  
SPECIAL TOWN MEETING  
WARRANT**

**MONDAY, SEPTEMBER 19, 2016  
AT 7:00 P.M.**

**DUXBURY SCHOOLS PERFORMING ARTS CENTER  
73 ALDEN STREET**

Plymouth, SS  
Greetings:

To either of the Constables of the Town of Duxbury, in said County:

In the name of the Commonwealth of Massachusetts you are directed to NOTIFY and WARN the INHABITANTS OF THE TOWN OF DUXBURY, qualified to vote in elections and in Town affairs, to meet in the Duxbury Schools Performing Arts Center, 73 Alden Street, in said Duxbury on MONDAY, the NINETEENTH day of SEPTEMBER, 2016 next, at 7:00 P.M. for a SPECIAL TOWN MEETING, for the transaction of any business that may legally come before said meeting:

## **ARTICLE 1 - AMEND ZONING BY-LAWS ARTICLE 200, ARTICLE 400, AND ARTICLE 600 – OFFICIAL ZONING MAP**

To see if the town will amend Section 201 (“Classes of Districts”), Section 202.1 (“Zoning Map”) and Section 202.2, (“District Boundary Line Descriptions,”) of the Duxbury Protective Bylaw Article 200 – (“Establishment of Districts”) including deletion in its entirety of paragraph 10 of Section 202.2, amend Sections 404.1, 404.2, 404.3, 405, 406.2, 410.1, 420, 424.2.j, and 430 of Article 400 (“Use, Intensity, Dimensional and Coverage Regulations for All Districts”), and amend Section 615.4.18 (“Contents of Site Plan”) of Article 600 (“Special Regulations”) in order to reference the Official Zoning Map of the Town of Duxbury; as shown by underlining for additions and interlineation for deletions (such markings for illustrative purposes only), as follows:

### **ARTICLE 200 – ESTABLISHMENT OF DISTRICTS**

#### **201 CLASSES OF DISTRICTS**

For the purpose of this Bylaw, the Town is hereby divided into the following classes of districts to be known as:

- FHAOD Flood Hazard Areas Overlay District
- DP Dunes Protection District
- WP Wetlands Protection Overlay District \*
- POL Publicly-Owned Land Overlay District
- APOD Aquifer Protection Overlay District
- RC Residential Compatibility District
- NB-1 Neighborhood Business District 1
- NB-2 Neighborhood Business District 2
- PD-1 Planned Development District 1
- PD-2 Planned Development District 2
- PD-3 Planned Development District 3
- WSA Waterfront Scenic Overlay District

~~\*The Wetlands Protection Overlay District as referred to in this Bylaw is the district identified on the “Wetlands and Watershed Protection District Map dated March 4, 1971.”~~

#### **202.1 Zoning Map**

Said districts are located and bounded as delineated on the "Town of Duxbury, Massachusetts Official Zoning Map (the “Official Zoning Map”) ~~dated March 2009 as created by Greatwall GIS Services consisting of seven (7) sheets in total as revised and amended to date and on file in the office of the Town Clerk including the Wetland and Watershed Protection District Map dated March 4, 1971, as revised and amended to date and on file in the office of Town Clerk, and an Aquifer Protection District Map, dated January 15, 1986, as revised and amended March 24, 1993 and December 4, 2002 on file in the office of Town Clerk, and a Duxbury Flood Insurance Rate Map (DFIRM) dated May 17, 2005 and on file in the office of the Town Clerk. The Official~~

Zoning Map with boundaries of the districts and all explanatory matter thereon is hereby made a part of this Bylaw. Any conflict between the map and the description of any district in the written terms of this Bylaw shall be resolved according to the written terms.

## **202.2 District Boundary Line Descriptions**

9. Boundaries of the Flood Hazard Areas Overlay District are shown and set forth in the Duxbury Plymouth County Flood Insurance Rate Map (DFIRM), as described in Article 400 Section 402.2 Flood Hazard Areas Overlay District Boundaries dated May 17, 2005, on file in the Office of the Town Clerk and in the Planning Board Office.
10. ~~Boundaries of the Waterfront Scenic Area Overlay District are shown on a map entitled "Waterfront Scenic View Resource Areas" dated 2004 prepared by the Urban Harbors Institute and on file in the Office of Town Clerk and Planning Board Office.~~

## **ARTICLE 400**

### **USE, INTENSITY, DIMENSIONAL AND COVERAGE REGULATIONS FOR ALL DISTRICTS**

#### **404 WETLANDS PROTECTION OVERLAY DISTRICT**

##### **404.1 Purpose**

The foundation of the Wetlands Protection Overlay District is to afford safeguards for both the coastal and inland wetlands located within the Town of Duxbury. The district encompasses both wetland areas and an upland buffer zone located along the edge of the wetlands as depicted on the ~~Wetlands and Watershed Protection Map, as amended~~ Official Zoning Map. These upland areas are vital components to ensuring the proper function of the wetlands serving to recharge the Town's groundwater resources. This Bylaw serves to minimize any potential adverse impacts in the Wetlands Protective Overlay District and afford protection to the community's groundwater and environmentally sensitive areas.

This section does not grant any property rights, it does not authorize any person to trespass, infringe upon or injure any property of another, and it does not excuse any person of the necessity of complying with other sections of this Bylaw or other applicable laws, regulations and Bylaws.

##### **404.2 Location of District**

The location and boundaries of the Wetlands Protection Overlay District shall be as shown on the Official Zoning Map, entitled "Map of Wetlands and Watershed Protection District in the Town of Duxbury, Massachusetts," dated March 4, 1971, as revised and amended to date and on file in the office of Town Clerk, and said map with all its contents is a part of Duxbury Protection Zoning Map and Bylaw.

~~All land within twenty-five (25) feet, measured horizontally, of the high water line of all waterbodies, the mean high tide line and the banks of all watercourses is within the Wetlands Protection Overlay District, except when specifically excluded. Where contours are used on the Wetlands and Watershed Protection District Map as the boundaries of the district, their location on the ground shall be determined by their elevation based on the datum irrespective of their delineated location on the zoning map.~~

~~Where a boundary line shall include a numerical figure followed by the letters M.S.L., it is at that number of feet above Mean Sea Level. The basic source for determining such a line shall be the United States Geological Survey as interpreted by the Zoning Enforcement Officer or subsequent field surveys.~~

#### **404.3 Boundary Line Plot Plan**

Whenever an application is made for a building or use permit which the Zoning Enforcement Officer believes may involve the use of land in the Wetlands Protection Overlay District boundary, there shall be provided as part of such application a plan certified by a registered land surveyor of the lot on which such building or structure is intended to be built, showing the exact location of the Wetlands Protection Overlay District boundary as described in the "Wetlands and Watershed Protection District Map, dated March 4, 1971" as amended to date and the Duxbury zoning map dated March 4, 1971 Official Zoning Map.

#### **405 PUBLICLY OWNED LAND OVERLAY DISTRICT**

This district consists of land owned by the Town and voted by a Town Meeting to be added to this district and shown on the Official Zoning Map. The municipal uses of this publicly owned land are as established by vote of a Town Meeting, ~~and, if that vote includes action to amend the zoning map, such land is shown on the Duxbury Zoning Map.~~ In accordance with Section 401, all buildings and structures for approved municipal uses shall meet all applicable dimensional, density, and design requirements of this Bylaw.

#### **406 AQUIFER PROTECTION OVERLAY DISTRICTS**

##### **406.2 Aquifer Protection Overlay Districts**

There are hereby established within the Town certain groundwater protection areas consisting of aquifers or recharge areas and approved Zone I, Zone II and Zone III areas which are shown on a map entitled "Aquifer Protection Districts, Town of Duxbury dated March 24, 1993" being an amendment of the Aquifer Protection District Map dated December 4, 2002 the Official Zoning Map. This map is hereby made a part of the Duxbury Zoning Bylaw and is on file in the office of the Town Clerk. The Aquifer Protection Overlay Districts, as shown on the maps described above, as well as the above noted Zone I, II and III areas, shall be considered to be superimposed over any other district established in this Bylaw.

#### **410 RESIDENTIAL COMPATIBILITY DISTRICT**

#### **410.1 Permitted Uses and Structures**

Residential Compatibility District shall include all areas designated on the Duxbury Official Zoning Map ~~dated March 13, 1973 as revised and amended to date on file in the office of Town Clerk,~~ as Residential Compatibility District established by Section 201. The following regulations shall apply.

#### **420 NEIGHBORHOOD BUSINESS DISTRICTS**

The Town shall have two designated Neighborhood Business Districts as established by Section 201, described herein and as shown on the Official Zoning Map ~~dated March 13, 1973 as revised and amended to date and on file in the office of the Town Clerk,~~ and as defined in and subject to Section 421, through and including Section 425.

#### **424 SPECIAL PERMIT PROCEDURES AND CRITERIA FOR NEIGHBORHOOD BUSINESS DISTRICTS 1 AND 2**

##### **424.2 Requirements:**

- j) where applicable, the limits of any defined Aquifer Protection Overlay District areas and/or Wetlands Protection Overlay District areas as specified in this Bylaw and the Official Zoning Map; and

#### **430 PLANNED DEVELOPMENT DISTRICTS**

Planned Development District 1, Planned Development District 2, Planned Development District 3 are established by Section 201 of this Bylaw and land zoned Planned Development 1,2, or 3 are designated on the Duxbury Official Zoning Map ~~dated March 13, 1973 as revised and amended to date.~~

#### **615 ADMINISTRATIVE SITE PLAN REVIEW**

##### **615.4 Contents of Site Plan**

18. Location of site with regard to the APOD (Aquifer Protection Overlay District) as shown on the Duxbury Official Zoning Map.

; or take any other action in relation thereto.

Proposed by the Board of Selectmen/Town Manager

**Explanation:** This article will make references to the Official Zoning Map consistent throughout the text of the bylaw. The Town of Duxbury Planning Office is updating the Official Zoning Map using ArcGIS Software, so that all of the maps previously referenced separately are combined into one map set and can be maintained by the Town, rather than contracting out services for these updates (similar to the software used to display the zoning online for the

Assessors Maps). Article 404.2 currently contains language that is repeated in Article 200, and the amendment proposes to delete this duplicate language. Additions to the Zoning Bylaw are shown below as underlined, and deletions are shown as interlineated (such markings serving only to illustrate the proposed changes). A two thirds vote of Town Meeting will be required to approve this article.

***Recommendations: Board of Selectmen Voted 3-0 to Recommend  
Finance Committee Voted 5-0 to Recommend***

## **ARTICLE 2 - AMEND ZONING BY-LAWS ARTICLE 200 AND ARTICLE 400 – REVISED FEMA FLOOD INSURANCE RATE MAPS**

To see if the town will amend Section 202.1 (“Zoning Map”) and Section 202.2 (“District Boundary Line Descriptions”) of the Duxbury Protective Bylaw Article 200 – (“Establishment of Districts”), as shown by underlining for additions and interlineation for deletions (such markings for illustrative purposes only); to delete in its entirety Section 402 (“Flood Hazard Areas Overlay District”) of the Duxbury Protective Bylaw Article 400 (“Use, Intensity, Dimensional and Coverage Regulations for All Districts”) and replace it as shown below; and to amend the Official Zoning Map to incorporate the Plymouth County Flood Rate Insurance Map with an effective date of November 4, 2016; as follows:

### **ARTICLE 202 LOCATION OF DISTRICTS**

#### **202.1 Zoning Map**

Said districts are located and bounded as delineated on the "Town of Duxbury, Massachusetts Zoning Map" dated March 2009 as created by Greatwall GIS Services consisting of seven (7) sheets in total as revised and amended to date and on file in the office of the Town Clerk including the Wetland and Watershed Protection District Map dated March 4, 1971, as revised and amended to date and on file in the office of Town Clerk, and an Aquifer Protection District Map, dated January 15, 1986, as revised and amended March 24, 1993 and December 4, 2002 on file in the office of Town Clerk, and the ~~Duxbury Flood Insurance Rate Map (DFIRM) dated May 17, 2005~~ Plymouth County Flood Insurance Rate Map dated November 4, 2016, and on file in the office of the Town Clerk. The zoning map with boundaries of the districts and all explanatory matter thereon is hereby made a part of this Bylaw. Any conflict between the map and the description of any district in the written terms of this Bylaw shall be resolved according to the written terms.

#### **202.2 District Boundary Line Descriptions**

9. Boundaries of the Flood Hazard Areas Overlay District are shown and set forth in the ~~Duxbury-Plymouth County Flood Insurance Rate Map (DFIRM), dated May 17, 2005~~, on file in the Office of Town Clerk and in the Planning Board Office.

### **402 FLOOD HAZARD AREAS OVERLAY DISTRICT**

#### **402.1 Purpose of the Flood Hazard Areas Overlay District**

The purposes of the Flood Hazard Areas Overlay District are to:

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the Town beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions; and
6. Reduce damage to public and private property resulting from flooding waters.

#### **402.2 Flood Hazard Areas Overlay District Boundaries**

The Flood Hazard Areas Overlay District shall be considered an overlay district throughout the Town. It shall include all special flood hazard areas within the Town, as shown and set forth in the Plymouth County Flood Insurance Rate Map (FIRM), panels 25023C0207J, 0209J, 0216J, 0217J, 0219J, 0236J, all dated July 17, 2012, and panels 25023C0226K, 0228K, 0229K, 0233K, 0234K, 0237K, 0238K, 0239K, 0241K, 0242K, 0243K, 0244K, 0263K, 0356K AND 0357K all dated November 4, 2016, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP) designated as Zones A, AE, AO and VE, which indicate the 100-year regulatory floodplain. 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 Flood Insurance Study (FIS) report dated November 4, 2016. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, and available for viewing in the Planning Department.

#### **402.3 Compliance with Other Law and Regulations**

All development in the district, including structural and non-structural activities, whether permitted by right or by special permit, must comply with the following state statute and regulations, except that provisions of this Section that are more restrictive shall apply.

1. Massachusetts General Laws, Chapter 131, Section 40;
2. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
3. Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.



#### **402.4 BASE FLOOD ELEVATION AND FLOODWAY DATA**

1. **Floodway Data.** In Zone A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the Town during the occurrence of the base flood discharge.
2. **Base Flood Elevation Data.** Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, within unnumbered A zones.

#### **402.5 NOTIFICATION OF WATERCOURSE ALTERATION**

In a riverine situation, the Building Commission shall notify the following of any alteration or relocation of a watercourse:

1. The Chief Executive Officer of adjacent Cities and Towns
2. NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
Currently located at 251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
3. NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
Currently located at 99 High Street, 6th Floor  
Boston, MA 02110

#### **402.6 Other Use Regulations**

1. Within Zone AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
2. In Zone AE, along watercourses that have a regulatory floodway designated on the FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. Man-made alteration of sand dunes within Zone VE which would increase potential flood damage are prohibited.
4. All new construction and substantial improvements to existing structures within Zone VE must be located landward of a boundary line of the Wetlands Protection Overlay District, except those structures allowed by sub-sections 404.9 or 404.11.
5. All subdivision proposals must be designed to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

6. Existing site contours and elevations of existing structures shall be included on plan proposals.

#### **402.7 Permitted Uses**

The following uses of low flood damage potential and causing no obstructions to flood flows are allowed, provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, and horticulture.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, and play areas.
4. Conservation of water, plants, and wildlife.
5. Wildlife management areas, and foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Man-made alteration of sand dunes for dune restoration and beach enhancement projects for the purposes of flood and erosion control to adapt to the long-term effects of sea level rise.

#### **402.8 Definitions**

**BASE FLOOD** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**FLOOD INSURANCE RATE MAP (FIRM)** means the official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

**FLOOD INSURANCE STUDY (FIS)** means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**FLOODWAY** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**LOWEST FLOOR** means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor,

PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**SPECIAL FLOOD HAZARD AREA** means an area having special flood and/or flood-related erosion hazards, and shown on the FIRM as Zones A, AO, AE and VE.

**STRUCTURE** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

**SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

**ZONE A** means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

**ZONE AE** (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

**ZONE AO** means the 100-year floodplain with flood depths of one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**ZONE VE** (for new and revised maps) means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

**ZONE X** identifies areas in the Town that the Flood Insurance Study has determined as areas of moderate or minimal flood hazard.

; or take any other action in relation thereto.

Proposed by the Board of Selectmen/Town Manager

**Explanation:** The United States Department of Homeland Security's Federal Emergency Management Agency (FEMA) has issued a new Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) which will become effective on November 4, 2016. This article will incorporate references to and approve the new FIRM map as the boundaries of the Flood Hazard Areas Overlay District under the Duxbury Zoning By-law. By doing so, the Town will be able to continue to participate in the National Flood Insurance Program which allows homeowners and businesses to purchase flood insurance through federal programs and which maintains eligibility for (1) federal grants and loans in identified flood hazard areas and (2) federal disaster assistance to repair insurable buildings and structures located in identified flood hazard areas for damage caused by a flood. The new Section 402 follows language required by the Federal Emergency Management Agency and the Flood Hazard Management Program for Flood Hazard Areas Overlay Districts administered by Department of Conservation and Recreation of the Commonwealth of Massachusetts. A two thirds vote of Town Meeting will be required to approve this article.

**Recommendations:** *Board of Selectmen Voted 3-0 to Recommend*  
*Finance Committee Voted 5-0 to Recommend*

## **ARTICLE 3 – EVALUATION OF FEMA FLOOD INSURANCE RATE MAPS – PHASE II**

To see if the Town will raise and appropriate and/or transfer from available funds, a sum of money to fund Phase 2 of the evaluation of the FEMA flood insurance rate maps, or take any action in relation thereto.

Proposed by the Board of Selectmen

**Explanation:** The purpose of this article is to fund the second phase of the work begun by the Town's engineering consultant Woods Hole Group relative to the evaluation of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs) for the Town of Duxbury that are scheduled to become effective on November 4, 2016. The Town of Duxbury has been working with the Towns of Marshfield and Scituate throughout this process in partnership with the Woods Hole Group since we are facing similar challenges.

The Woods Hole Group developed a technical approach that includes two (2) phases - the first of which was designed to update the 100-yr water levels and wave heights and the second phase consisting of site specific modeling and engineering analyses at each FEMA transect in Duxbury. More specifically, under Phase II, the Woods Hole Group will conduct a transect by transect analysis in Duxbury using 100-yr water levels and wave conditions for the offshore areas previously approved by FEMA during Phase I. Wave setup in the open coast nearshore areas where high resolution data are required will be determined using SWAN 1-D model simulations. Wave setup in the more sheltered estuarine/bay areas will likely require SWAN 2-D modeling; however, this issue will be resolved through consultation with FEMA during Phase I. Other

components of Phase II include review and update of FEMA's topographic data (if warranted), update of FEMA's structure failure and dune erosion calculations, revised overland wave transformation modeling, revised wave runup and overtopping modeling, and preparation of revised flood zone boundary and base flood zone elevation mapping. Assuming that work conducted during Phase II supports revisions to the effective FIRMs, Woods Hole Group would then prepare and file a Letter of Map Revision (LOMR) application, which we expect FEMA will accept. FEMA has been consulted with respect to the modeling methods that will be used in Phase II by the Woods Hole Group.

***Recommendations:***    *Board of Selectmen Voted 3-0 to Recommend*  
                                  *Finance Committee Voted 5-0 to Recommend*

#### **ARTICLE 4 - BORROWING AUTHORIZATION**

To see if the Town will transfer from available funds or borrow a sum of money to fund an appropriation deficit created under the authority of M.G.L. Chapter 44, Section 31 and with the approval of the Massachusetts Department of Revenue for the settlement of a claim brought against the Town, or take any other action in relation thereto.

Proposed by the Board of Selectmen/Town Manager

**Explanation:** This past summer, the Town of Duxbury settled on favorable terms the seven-year-old case brought by Johnson Golf regarding the public bidding process for the 2010-2015 management contract at the North Hill County Club. In 2013, a jury found that the Town's bidding process did not violate the Uniform Procurement Act, but that it violated General Laws Chapter 93A, and the court awarded Johnson Golf \$839,000. The Town's appeal from that judgment was pending in the Supreme Judicial Court, and the Town believed that it had a good chance of winning that appeal. However, statutory interest of 12% per year was accruing on the judgment, bringing the total obligation to more than \$1.1 million by this time (which would be even higher by the time of an SJC decision). Fortunately, the Town was able to settle the case for \$695,000, significantly less than the judgment even without interest. Johnson Golf accepted that discounted amount to avoid the time and risks of the appeal, and other parties contributed to the settlement, leaving the Town obligated for \$435,000. Johnson Golf's concession and the other parties' contributions might have been unavailable after an SJC decision, and the 12% annual interest was continuing to accrue. Under those circumstances, the Town Manager and the Board of Selectmen concluded that settling on those terms now was firmly in the Town's best interest. The settlement has closed, and the Town has paid its \$435,000 share as deficit spending, approved by the state Department of Revenue. This article is a request of the voters to authorize borrowing of that amount to eliminate that deficit. A two thirds vote of Town Meeting will be required to authorize this borrowing.

***Recommendations:***    *Board of Selectmen Voted 3-0 to Recommend*  
                                  *Finance Committee Voted 4-0-1 to Recommend*

## **ARTICLE 5 – SUPPLEMENTAL APPROPRIATIONS**

To see if the Town will authorize the Town Manager to raise and appropriate or transfer from available funds a sum of money to supplement appropriations previously voted under Article 5 at the Annual Town Meeting of March 12, 2016, for the Fiscal Year beginning July 1, 2016, for various Town Departments, in order to fund the expenses associated with the following:

Item #	Department	Budget	Adjustment	Revised FY17 Budget	Funding Source
1	161 – Town Clerk – Other Expenses	\$63,655	\$14,194.98	\$77,849.98	Article 12 – 3/14/15 ATM
2	241 – Municipal Services – Personal Services	\$439,304	\$38,266	\$477,570	Taxation
3	241 – Municipal Services – Other Expenses	\$101,709	\$3,600	\$105,309	Taxation
4	914 – Health Insurance Appropriation	\$6,708,000	\$53,325	\$6,761,325	Taxation

; or take any action in relation thereto.

Proposed by the Board of Selectmen/Town Manager

**Explanation:** The purpose of this article is to supplement a number of line items in the current fiscal year's budget (FY17) in order to fund a number of additional expenses associated with the aforementioned departments.

**Recommendations:** *Board of Selectmen Voted 3-0 to Recommend  
Finance Committee Voted 5-0 to Recommend*

## **ARTICLE 6 – CREATE ADDITIONAL NEW HISTORIC DISTRICTS**

To see if the Town will create the following districts:

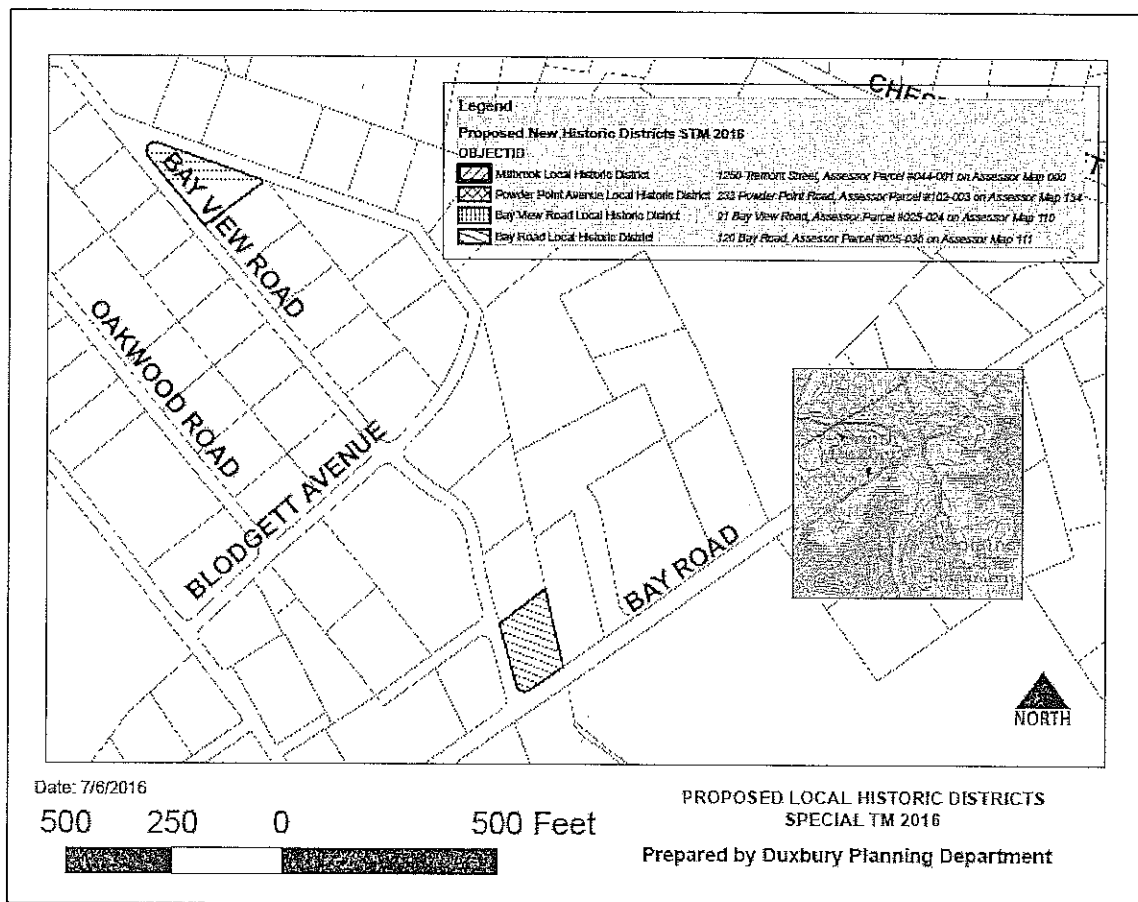
Bay View Road Local Historic District and add the property comprised of 0.58 acres, more or less, and the buildings located upon it at 91 Bay View Road, known as Assessor Parcel #025-024 on Assessor Map 110 dated January 1, 2015, effective September 19, 2016;

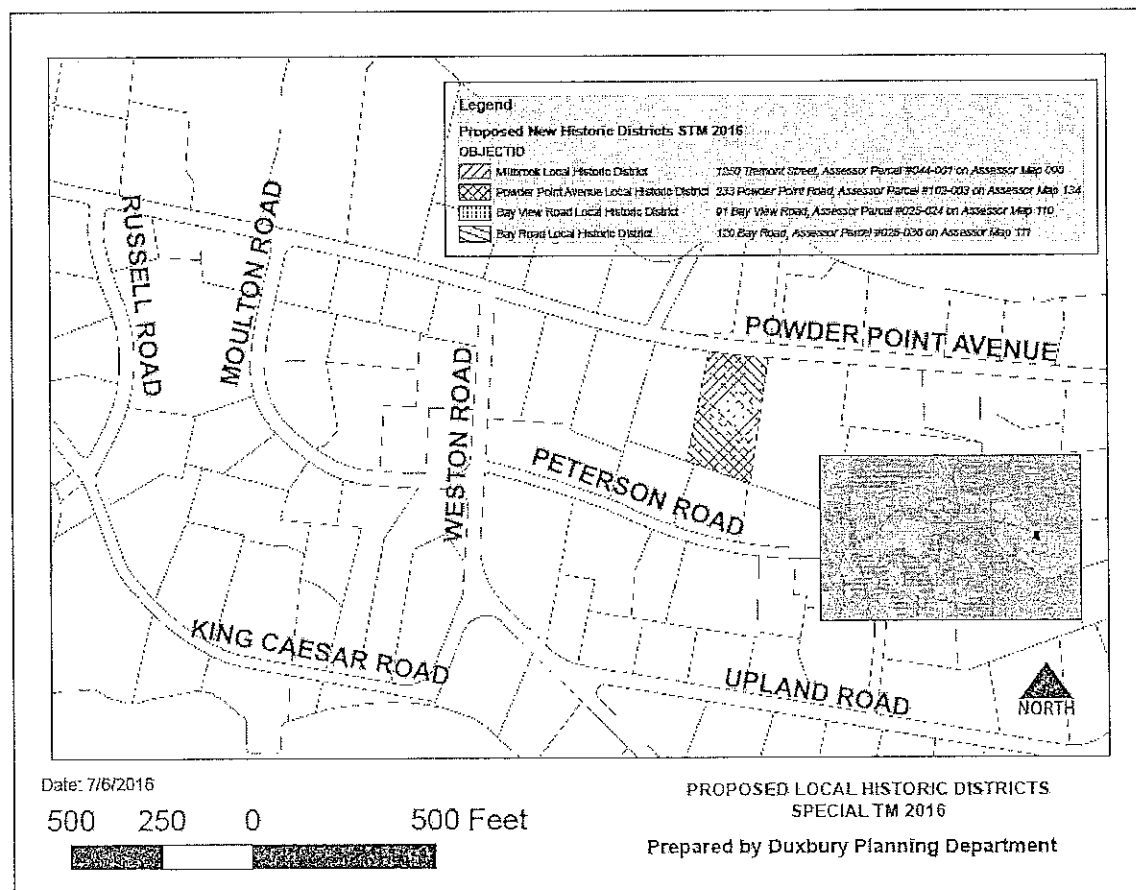
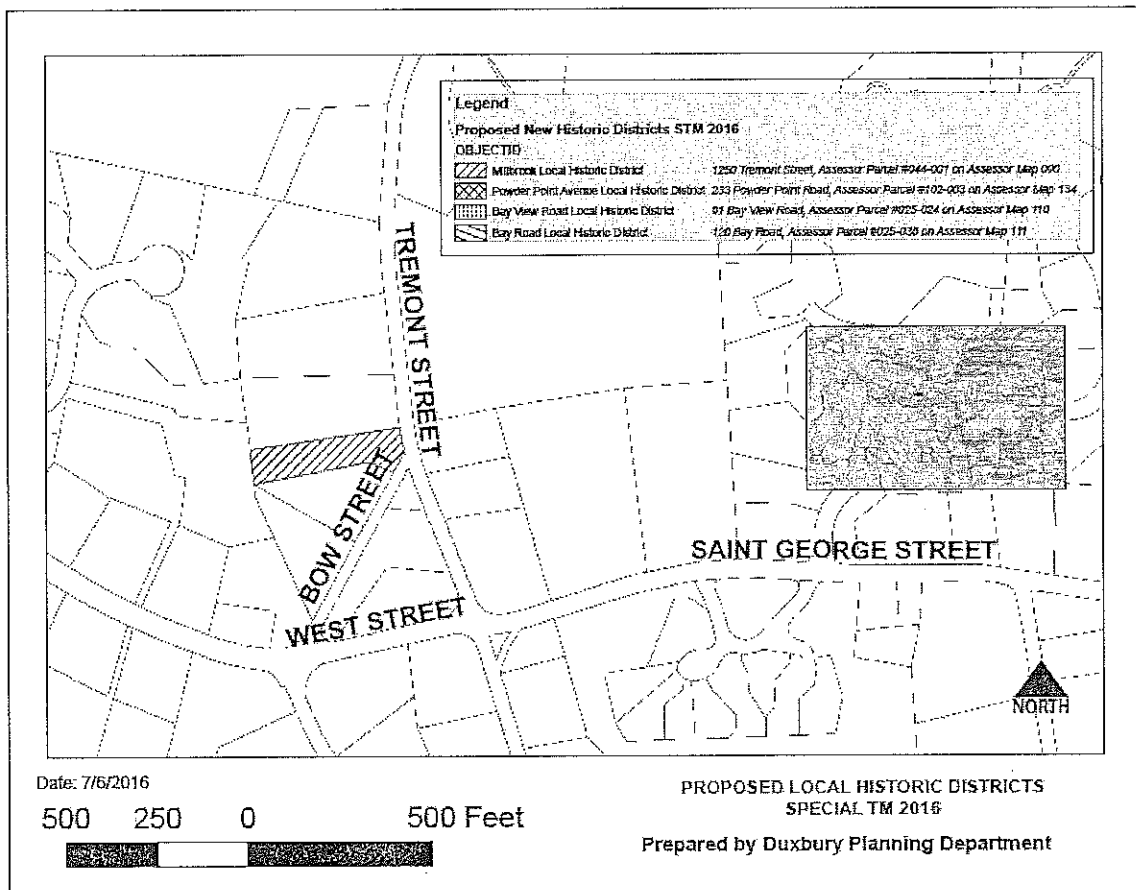
Powder Point Avenue Local Historic District and add the property comprised of 1.32 acres, more or less, and the buildings located upon it at 233 Powder Point Road, known as Assessor Parcel #102-003 on Assessor Map '134 dated January 1, 2015, effective September 19, 2016;

Millbrook Local Historic District and add the property comprised of 0.90 acres, more or less, and the buildings located upon it at 1250 Tremont Street, known as Assessor Parcel #044-001 on Assessor Map 090 dated January 1, 2015, effective September 19, 2016; and

Bay Road Local Historic District and add the property comprised of 0.47 acres, more or less, and the buildings located upon it at 120 Bay Road, known as Assessor Parcel #025-036 on Assessor Map 111 dated January 1, 2015, effective September 19, 2016.

; or take any action in relation thereto.







Proposed by the Duxbury Historic District Commission

**Explanation:** The Duxbury Historic District Commission is proposing the creation of four (4) new Local Historic Districts along Tremont Street (aka Millbrook), Bay View Road, Powder Point Avenue and Bay Road. The districts are each comprised of sole residences within Duxbury, whose owners have volunteered their property into this process as a mechanism to preserve the historic integrity of their homes, which in turn helps to preserve the historic fabric of Duxbury. Each district will be established and maintained per the Local Historic District Bylaw. These are the same amendments that were previously voted favorably at the March 2016 Annual Town Meeting; however, a 2/3 vote was not called for and is required to adopt the new historic districts, and as a result, this article is being proposed to satisfy this requirement. A two thirds vote of Town Meeting will be required to approve this article.

**Recommendations:** *Board of Selectmen Voted 3-0 to Recommend  
Finance Committee Voted 4-1 to Recommend*

#### **ARTICLE 7 – FUND COLLECTIVE BARGAINING AGREEMENTS**

To see if the Town will raise and appropriate, or transfer from available funds, a sum of money to fund collective bargaining agreements with any one or more of the following employee organizations for the fiscal year commencing July 1, 2016:

- Duxbury Police Union, MCOP Local 376B
- Duxbury Police Commanders Association
- Duxbury Police Dispatchers Union, MCOP Local 376A
- Duxbury Free Library Employees, Service Employees International Union, Local 888
- Duxbury Permanent Firefighter's Association, International Association of Firefighters Local 2167
- Duxbury Municipal Employees, AFSCME, Council 93, Local 1700, Duxbury DPW Employees
- Town of Duxbury Secretaries and Clerks, SEIU Local 888
- Duxbury Teachers Association
- Duxbury Teachers Association Instructional Assistants Unit C
- Duxbury Secretaries/Clerks Association (School)
- Local 1700, AFSCME, A.F.L.-C.I.O., Council 93 (School Custodians)

; or take any action in relation thereto.

Proposed by the Board of Selectmen

**Explanation:** This article will fund collective bargaining agreements for positions in each of the contracts to be noted in the motion to be made at Town Meeting.

**Recommendations:** *Board of Selectmen Voted 3-0 to Recommend  
Finance Committee Voted 5-0 to Recommend*

## **ARTICLE 8 – PROPOSED PETITION TO THE GENERAL COURT**

To see if the Town will vote to authorize the Board of Selectman to petition the General Court for an act to provide that, notwithstanding any contrary provision in MGL Chapter 111, Section 8C, the Town shall place on a ballot for the next annual election of town officers that is scheduled not sooner than sixty days following enactment of such act, the following question: “Shall the public water supply for domestic use in Duxbury be fluoridated?”

; or take any action in relation thereto.

Proposed by Citizen Petition

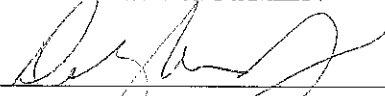
*Recommendations: Board of Selectmen Voted to Refer to Town Meeting  
Finance Committee Vote – Available at Town Meeting*

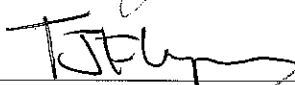
AND YOU ARE HEREBY DIRECTED TO SERVE THIS WARRANT by posting attested copies thereof as prescribed by M.G.L. Chapter 39, Section 10 and by Chapter 2, Section 2.3 of the Town of Duxbury General Bylaws, and by publishing a copy of this Warrant in a Plymouth County Newspaper, as prescribed by Article 2, Section 2.3 of the Duxbury By-Laws, at least fourteen (14) days before the time of holding said Meeting.


**Hereof fail not and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of this meeting.**

Given under our hands this 22<sup>nd</sup> day of August, 2016.

**BOARD OF SELECTMEN**

  
\_\_\_\_\_  
David J. Madigan, Chair

  
\_\_\_\_\_  
Theodore J. Flynn, Vice-Chair

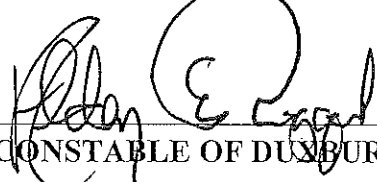
  
\_\_\_\_\_  
Shawn Dahlen, Clerk

**Plymouth SS:**

August 29, 2016

Pursuant to the warrant I have this day notified and warned the inhabitants of the Town of Duxbury, herein described, to meet at the time and place and for the purposes as prescribed by the bylaws of the Town.

A TRUE COPY ATTESTED

  
\_\_\_\_\_  
CONSTABLE OF DUXBURY

