



**OCTOBER 17, 2011
SPECIAL TOWN
MEETING
MOTIONS**

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OCTOBER 17, 2011 SPECIAL TOWN MEETING MOTIONS

FINANCIAL

ARTICLE 1:	Fiscal Year 2012 Budget Adjustments	<i>Majority Vote Required</i>
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Motion: That the Town raise and appropriate the sum of \$106,658 (ONE HUNDRED SIX THOUSAND SIX HUNDRED FIFTY EIGHT DOLLARS) in order to supplement the following Fiscal Year 2012 Operating Budgets:

131 Finance Committee Reserve Fund	\$50,000
292 Animal Control (Personal Services)	\$16,040
543 Veterans Services (Personal Services)	\$20,618
543 Veterans Services (Expenses)	\$20,000

And further

That the town adjust the funding source for the Recreation Enterprise Fund voted under Article 8 of the Annual Town Meeting of March 26, 2011 from \$1,204,631.00 from Recreation Enterprise Revenue to \$1,079,631 from Recreation Enterprise Revenue, \$40,000 from Recreation Enterprise Free Cash, and \$85,000 from General Fund Free Cash.

And further

That the town adjust the funding source for the Ambulance Enterprise Fund voted under Article 8 of the Annual Town Meeting of March 26, 2011 from \$894,435 from Ambulance Enterprise Revenue to \$544,435 from Ambulance Enterprise Revenue, \$150,000 from Ambulance Enterprise Free Cash, and \$200,000 from General Fund Free Cash.

Selectmen recommend and Finance Committee recommends

ARTICLE 2:	Fiscal Year 2012 Budget Transfers	<i>Majority Vote Required</i>
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Motion: That the Town transfer the sum of \$6,052 (SIX THOUSAND FIFTY TWO DOLLARS) from and to the following Fiscal Year 2012 accounts:

from: Dept. 292 Animal Control, Expenses
to: Dept. 292 Animal Control, Personal Services

Selectmen recommend and Finance Committee recommends

ARTICLE 3:	Unpaid Bills Prior Fiscal Years	<i>Majority Vote Required</i>
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Motion: That the Town dismiss Article 3.

ARTICLE 4: Acquire Real Property Located at 57 Main Street for General Municipal Purposes	<i>2/3 Majority Vote Required</i>
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Citizen's Petition

Motion: Petitioners will present the motion under Article 4 at the Town Meeting.

Selectmen do not recommend and Finance Committee does not recommend

ARTICLE 5: Perchlorate Expenses	<i>2/3 Majority Vote Required</i>
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Motion: That the Town transfer the sum of \$170,000 (ONE HUNDRED SEVENTY THOUSAND DOLLARS) from Perchlorate Stabilization Fund for the purpose of providing funds to address associated issues regarding perchlorate contamination or any other related costs.

Selectmen recommend and Finance Committee recommends

ARTICLE 6: Capital Request	<i>Majority Vote Required</i>
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Motion: That the Town dismiss Article 6.

ARTICLE 7: Water Distribution System Improvements - River Street, Graniteville Road, West Street, and Bridge Street	<i>2/3 Majority Vote Required</i>
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Motion: That the Town appropriate the sum of \$1,500,000 (ONE MILLION FIVE HUNDRED THOUSAND DOLLARS) to be expended at the direction of the Water Commissioners, for the purpose of making water system improvements on River Street, Graniteville Road, West Street, and Bridge Street, including all costs incidental and related thereto, and that to meet this appropriation, the Town Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow said amount under and pursuant to Chapter 44 Section 8 of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

Selectmen recommend and Finance Committee recommends

ARTICLE 8: Economic Development Incentive Program Project –Tax Increment Financing – Red Hat, Inc.	<i>Majority Vote Required</i>
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Motion: That the Town approve the Tax Increment Financing Agreement between the Town and Red Hat, Inc. (the "TIF Agreement"), pursuant to Massachusetts General Laws Chapter 40, Section 59, and to confirm the Board of Selectmen's designation of the

property located in the Westford Technology Park West, as an Exceptional Opportunity Area pursuant to 402 CMR 2.19, designated as the "Westford Technology Park West Exceptional Opportunity Area"; and to authorize the Board of Selectmen to submit Exceptional Opportunity Area Applications, Tax Increment Financing Plans, and Certified Project Applications to the Massachusetts Economic Assistance Coordinating Council, all relating to the project as described in the TIF Agreement to be located in the Westford Technology Park West Exceptional Opportunity Area, and to take such other actions as may be necessary to obtain approval of the Certified Project Application, the Exceptional Opportunity Area, the Tax Increment Financing Plans and TIF Zone and to implement the TIF Agreement.

Selectmen recommend and Finance Committee recommends

ARTICLE 9:	Reduce Amount Raised by Taxes in Fiscal Year 2012	<i>Majority Vote Required</i>
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Motion: That the Town transfer the following available funds to reduce the net amount to be raised by taxes for Fiscal Year 2012:

\$55,703.85 From Fund Balance Designated for Debt Exclusion Reduction
\$1,935,538.79 From Free Cash*

**Amount dependent on vote under Article 1*

Selectmen recommend and Finance Committee recommends

ARTICLE 10:	Authorization to Accept Grant Funding for Acquisition, Development, and Construction of Recreation Facilities and Related Costs	<i>Majority Vote Required</i>
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Motion: That the Town file and accept grants with and from the Commonwealth of Massachusetts, Executive Office of Energy and Environmental Affairs for the Parkland Acquisitions and Renovations for Communities Program for the construction and renovations to the American Legion Fields complex and construction on the recently purchased parcel of land identified as Parcel 35.101 on the Westford Assessors' Map 31.

Whereas: The American Legion fields and abutting parcel 31-35-101 (fields and abutting parcel) is by and far a community-wide asset and the preservation and improvements to this facility are a Town priority as evidenced in the most recent Open Space and Recreation Plan; and

Whereas: The fields and abutting parcel is dedicated to park and recreation purposes under M.G.L. Chapter 45, Section 14; and

Whereas: The fields and abutting parcel's ultimate restoration, guided in principal by the Master Plan, will greatly enhance this facility with improved infrastructure, path systems, site lighting universal access, etc; and

Whereas: The main focus of the Plan is to increase the available space at the fields and abutting parcel to adequately provide playing fields for children of all ages, adults and handicapped individuals, and host regional tournaments. This overall cost and fiscal budget constraints prevented the Town from proceeding forward with implementation as one project; and

Whereas: The project was instead viewed as a series of phases, to be implemented over time, by priority as fiscal resources were available, with the intention of securing grant funding, when and if available, to assist in this effort; and

Whereas: The Executive Office of Energy and Environmental Affairs (EEA) is offering reimbursable grants to cities and towns to support the preservation and restoration of urban parks through the Parkland Acquisitions and Renovations for Communities grant program (301 CMR 5.00); and

Whereas: Phase 1 (design) of the American Legion fields and abutting parcel construction and renovations project will cost \$163,800 and Phase II (construction) will cost \$1,965,600, for a total project cost of \$2,129,400. The Town of Westford is requesting \$500,000 from the Executive Office of Energy and Environmental Affairs, as part of the Parkland Acquisitions and Renovations for Communities grant program. The remaining cost will be through an application for Town of Westford Community Preservation funds for \$275,000 and private donations.

NOW, THEREFORE, BE IT

1. That the Town Manager be and is hereby authorized to file and accept grants from the Executive Office of Energy and Environmental Affairs; and
2. That the Town Manager be and is hereby authorized to take such actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Parks and Recreation Department; and
3. That this resolution shall take effect upon passage.

Selectmen recommend and Finance Committee recommends

GENERAL BYLAW AMENDMENTS

ARTICLE 11:	Amend the Definition of "Pond" in the Section 171-9 Definitions of the Non-Zoning Wetlands Bylaw	<i>Majority Vote Required</i>
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Motion: That the Town amend Section 171-9 Definitions of the non-Zoning wetlands Bylaw by deleting the Definition of "Pond" as it currently reads and substituting the following Definition:

POND - Any open body of fresh water with a surface area observed or recorded within the last ten years of at least 10,000 square feet. Ponds may be either naturally occurring or man-made by impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought. Periods of extended drought for purposes of this definition shall be those periods, in those specifically identified geographic locations, determined to be at the "Advisory" or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan (MDMP).

Notwithstanding the above, the following man-made bodies of open water shall not be considered ponds:

- (a) basins or lagoons which are part of wastewater treatment plants;
- (b) swimming pools or other impervious man-made basins; and
- (c) individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years.

And also amend the Definition of "Freshwater Wetland" by adding the following language:

Notwithstanding the above, the following man-made areas shall not be considered freshwater wetlands:

- (a) basins or lagoons which are part of wastewater treatment plants;
- (b) swimming pools or other impervious man-made basins; and
- (c) individual gravel pits or quarries excavated from upland areas unless inactive for five
or more consecutive years;
- (d) retention and detention ponds created as part of a stormwater management system.

<i>Selectmen recommend</i>

ZONING BYLAW AMENDMENTS

ARTICLE 12: Amend Zoning Bylaw concerning Wireless Communications Facilities (including Cell Towers) as to Use, Height and Location(s)	<i>2/3 Majority Vote Required</i>
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Motion: That the Town amend the Westford Zoning Bylaw to delete in its entirety Section 6.2, Siting of Wireless Communication Facilities (WCF) and adopt a new Section 6.2 Siting of Radio Telecommunications Facilities (RTFs) to read as follows:

6.2 SITING OF RADIO TELECOMMUNICATIONS FACILITIES (RTFs)

6.2.1. **Purposes.** The purposes of this section are:

1. To enable Radio Telecommunications to benefit the people of Westford in a manner that is consistent with the purpose and intent of the Zoning Bylaw.
2. To ensure that Westford's regulation of RTFs is in compliance with applicable federal and state law and regulations, including but not limited to:
 - a. For Personal Wireless Service Facilities (PWSFs), the Telecommunications Act of 1996 Section 704 provisions relating to the placement, construction, and modification of personal wireless service facilities.
 - b. For Amateur Radio RTFs, the federal and state laws requiring minimum practicable regulation of Amateur Radio facilities.
 - c. For Other Radio Services, federal and state laws enabling the public to employ certain types of antennas.
3. To minimize undesirable impacts of RTF development in Westford.
4. To ensure that the benefits of RTFs outweigh potential detrimental impacts on the Town's scenic and historic assets, safety, health, environment, general welfare, values and quality of life.

6.2.2. **Scope of Authority.** Pursuant to the purposes stated in Section 1.3 and 6.2.1, the Town will exercise its bylaw authority with the following scope:

1. To ensure that RTF's comply with local, state and federal regulations.
2. To ensure that the location, height and design of RTFs are reasonably regulated within a public review process.

6.2.3. **Special Permit Granting Authority (SPGA).** The SPGA for all Special Permits issued pursuant to this Section 6.2 shall be the Board of Appeals.

6.2.4. **Personal Wireless Service Facilities (PWSFs).**

1. **Applicability.** No PWSF shall be erected, installed or modified except upon issuance of a special permit in compliance with the provisions of this bylaw, whether the PWSF is considered a principal use or an accessory use. However, a PWSF is exempt from the special permit requirement ("Exempt PWSF") if it is an Indoor RTF, including but not

- limited to internet-connected “femtocells,” indoor distributed antenna systems and bi-directional amplification systems.
2. **Preferences: PWSF Locations and Types.**
- a. **PWSF Locations.** PWSF may be permitted within any district by Special Permit, subject to the purposes and standards established in this bylaw. The following list of allowable PWSF Locations is presented in order of preference:
- i. **First Preference: PWSF Non-Residential.** A site located within any Commercial (CH) or Industrial District (IA, IB, IC, ID or IH).
 - ii. **Second Preference: PWSF Residential.** A site located within any Residential (RA, RB) or Business District (B, BL).
- b. **PWSF Installation Types.** The following list of PWSF Installation Types is presented in order of preference:
- i. **First Preference: PWSF Site Sharing.** Of highest preference, a new PWSF may employ Site-Sharing with existing PWSFs, to the extent that such site-sharing is found by the SPGA to be consistent with the purposes and standards established in this bylaw.
 - ii. **Second Preference:** The following PWSF Installation Types are of equal preference to one another, and collectively are subordinate to the First Preference: PWSF Site Sharing:
 - (i) **PWSF Collocation.** A new PWSF may Collocate on any existing structure, to the extent that such Collocation is found by the SPGA to be consistent with the purposes and standards established in this bylaw.
 - (ii) **PWSF on Existing Electrical Utility Infrastructure.** A PWSF may Collocate on existing electrical utility infrastructure such as utility poles or streetlights using unobtrusive architectures such as Distributed Antenna Systems (DAS). With respect to the use of utility poles, Collocation on existing electrical utility poles (and replacements thereof) is preferred above the installation of new electrical utility poles in public/private ways. In neighborhoods with underground electrical utilities, pole-mounted PWSF on existing electrical utility infrastructure are discouraged in favor of less visually obtrusive alternatives, such as placing a small antenna installation on existing electrical utility poles on a nearby street.
 - (iii) **Other Implementations.** A PWSF may be located using innovative alternatives that are in keeping with the purpose and intent of this Bylaw and that may become available after the adoption of this bylaw.
 - iii. **Third Preference: PWSF with new Antenna Tower.** PWSFs which require the construction of a new Antenna Tower are least on the order of preference.

- c. **Waiver of Preferences.** The SPGA may waive the preference orders designated for siting and types of PWSF pursuant to Section 6.2.4.5.c upon a finding that the siting at a location of lesser preference, or the installation of a PWSF type of lesser preference, would achieve a result more consistent with the purposes and standards established in this bylaw.
3. **General Requirements.**
 - a. **Use.** PWSFs shall only be employed for the purpose of delivering PWS to subscriber devices or supporting public safety communications, and shall not be used for storage, office, manufacturing, repair, or other activities unless separately permitted for such other activities.
 - b. **Demonstration of Need.**
 - i. **Need for Service.** The Applicant must demonstrate the service objectives in Westford that the proposed PWSF will address in whole or in part. Such demonstration shall include:
 - (i) substantial written evidence including technical documentation demonstrating that there is a substantial deficiency in the Applicant's provision of service to Westford which fails to satisfy the service objectives;
 - (ii) detailed information about all existing and pending PWSFs regardless of the Applicant proposing the PWSF or the jurisdiction in which they are located, and associated coverage maps;
 - (iii) information about terrain, vegetation and land use within the proposed coverage area;
 - (iv) estimates with supporting documentation of the number of mobile and stationary subscribers affected by the substantial deficiency;
 - (v) network performance factors; and
 - (vi) other information relevant to the Applicant's service objectives, or as may be required by the SPGA.
 - ii. **Need for Location.** The Applicant must provide substantial written evidence including clear documentation showing how the improved service to Westford that the Applicant seeks could not be substantially provided by utilizing one or more locations of higher preference as described in Section 6.2.4.2, or, alternatively, how the proposed PWSF achieves a better result as described in Section 6.2.4.2.c.
 - c. **Availability of Alternatives.** The SPGA, at its discretion, may require the Applicant to consider specific potential alternatives at any level of the hierarchy in Section 6.2.4.2, if the SPGA determines that such locations may better achieve the purposes established in this bylaw.

- d. **Visual Guidelines.** The construction, erection, installation and/or placement of all PWSF shall be reviewed by the SPGA within the public hearing process based on the following visual guidelines:
- i. **Concealment.** To the maximum extent practicable, PWSFs shall conceal equipment, cables, and antennas within architectural surfaces that are ordinary and consistent with the context of the PWSFs Westford environs, such as steeples, concealed-antenna monopoles, flagpoles, smokestacks, faux chimneys and cupolas.
 - ii. **Screening, Camouflage and Landscaping.** Wherever possible, PWSF shall be sited so as to minimize the visibility of such devices from adjacent property and shall be suitably screened from abutters and residential neighborhoods. Where elements of a PWSF will be visible to residential parcels and public or private ways, PWSFs shall employ screening and/or camouflage methods that are consistent with the context of the surrounding area such as fencing, vegetation, and paint color or patterns to match underlying surfaces in order to mitigate any undesirable visual bulk and distraction. Installation of free-standing PWSF shall minimize the removal of trees and other existing vegetation.
 - iii. **Scale.** The visual characteristics of a PWSF shall be minimized with respect to being unreasonable in scale, such as a dominant or looming visual experience, disproportion to the site and its surroundings, or undesirable shadowing impacts.
 - iv. **Color.** Free-standing, wall mounted and roof-mounted devices may be required to be painted or otherwise colored or finished in a manner which aesthetically minimizes the visual bulk of the devices to the surrounding landscape or on the building or structure to which they are attached.
 - v. **Signs.** There shall be no advertising permitted on or in the vicinity of PWSF. There shall be a sign not exceeding four square feet in area at each PWSF which shall display a phone number where the person responsible for the maintenance of the PWSF may be reached on a 24 hour basis.
 - vi. **Lighting.** Outdoor lighting of PWSFs shall be limited to that which is necessary for security and temporary maintenance at the discretion of the SPGA. PWSFs that are required to be marked and lighted for air navigation safety are discouraged.
 - vii. **Maintenance.** The visual characteristics of a PWSF shall be maintained, repaired and replaced as necessary and as an ongoing condition of compliance to retain the characteristics approved by issuance of a special permit.
 - viii. **Prohibitions.** The following are specifically prohibited:

- (i) Lattice style Antenna Towers and facilities requiring three or more legs and/or guy wires for support; and
 - (ii) Fences utilizing razor wire or barbed wire or similar wire types.
- e. **Height and Setbacks.**
- i. **PWSF Non-Residential.** PWSFs in PWSF Non-Residential locations may exceed the height limit of the underlying district, whether attached to existing structures or mounted on new Antenna Towers, subject to the following criteria:
 - (i) **Non-Residential Height.**
 - 1. New Antenna Towers in PWSF Non-Residential locations are limited to a height of up to 100 feet.
 - 2. Subject to the following findings, and such findings as required for issuance of a waiver pursuant to Section 6.2.4.5.c, the SPGA may approve a PWSF Antenna Tower at a height up to 150 feet upon a finding that:
 - a. Such greater height is more consistent with the purposes established by this bylaw than a lesser height;
 - b. The PWSF is at least 2 times its height from the nearest residential structure not on the PWSF parcel; and
 - c. The PWSF is substantially screened from view to residential buildings, public or private ways and public or private conservation land by existing terrain, vegetation, camouflage and/or development.
 - (ii) **Non-Residential Setbacks.**
 - 1. PWSFs must satisfy the property line setbacks of the underlying district.
 - 2. New Antenna Towers that are greater than the building height limit of the underlying zoning district shall be set back from all parcels in residential districts by a factor of 1.0 times the height above ground of the Antenna Tower, including appurtenances.
 - 3. On existing structures, PWSFs that are greater than 15 feet above the height of the structure shall be set back from all parcels in residential districts by a factor of 1.0 times the height above ground of the PWSF, including appurtenances.
 - ii. **PWSF Residential:** PWSFs in PWSF Residential locations may exceed the height limit of the underlying district, whether attached to existing structures or mounted on new Antenna Towers, subject to the following criteria:
 - (i) **Residential Height.**
 - 1. New Antenna Towers in PWSF Residential locations are limited to:
 - a. Sixty feet above ground in areas where there is no significant tree cover; or

- b. Ten feet above the average existing tree cover within a 150 foot radius, as determined by the SPGA; or
 - c. Such lesser height that the SPGA finds is appropriate for the site of the PWSF based on the purposes and standards established in this bylaw.
2. Subject to the following findings, and such findings as required for issuance of a waiver pursuant to Section 6.2.4.5.c, the SPGA may approve a PWSF Antenna Tower at a height of between 60 feet and 150 feet upon a finding that:
- a. the location of the Antenna Tower is visually remote from surrounding residential uses; and
 - b. such height increase is consistent with the purposes and standards established in this bylaw.
- (ii) **Residential Setbacks.**
- 1. PWSFs must satisfy the property line setbacks of the underlying district.
 - 2. New Antenna Towers that are greater than the building height limit of the underlying zoning district shall be set back from all parcels in residential districts by a factor of 1.25 times the height above ground of the Antenna Tower, including appurtenances.
 - 3. On existing structures, PWSFs that are greater than 12 feet above the height of the structure shall be set back from all parcels in residential districts by a factor of 1.25 times the height above grade of the PWSF, including appurtenances.
- iii. **Additional Required Setbacks.** In all districts, PWSFs shall be placed no closer than 3 times the height of the Antenna above grade to an existing Dwelling, school, Child Care Facility, Nursing or Convalescent Home, or an Assisted Living Facility.
- f. **National, State and Local Environmental Policy.** PWSFs shall be compliant with the National Environmental Policy Act (“NEPA”) and relevant state and local regulations pertaining to environmental compatibility. The Applicant shall provide an evaluation, prepared by a qualified independent expert, of the NEPA criteria demonstrating that an Environmental Assessment is not required, pursuant to 47 CFR §1.1307.
- g. **Special Permits Criteria.** In addition to the standards in this Section 6.2, the SPGA shall review the Special Permit application for compliance with Section 9.3.2 Special Permits Criteria.

4. Application Procedures.

a. **Application Process.** For PWSFs other than Exempt PWSFs, the application process consists of two distinct phases: the Preliminary Application Phase and the Application Phase.

i. **Preliminary Application Phase.** Applicants are strongly encouraged to contact the SPGA's office to initiate a dialogue well before final site selection and detailed application development. The Preliminary Application Phase is intended to:

(i) Provide the Applicant with the opportunity to discuss and clarify Zoning Bylaws and SPGA Rules and Regulations (hereinafter "Regulations" adopted by the SPGA pursuant to Section 9.3.7) relevant to the Applicant's prospective PWSF proposal; and

(ii) To review general concepts related to the PWSF and alternative means of implementation to determine the SPGA's preferences.

ii. **Application Phase.** The Application Phase of the process begins with the receipt by the SPGA of a complete application including all elements required by this bylaw and the Regulations, including receipt of all required technical review fees and administrative fees.

(i) **Timing.**

1. Completeness Review.

a. The SPGA may adopt Regulations on the format and content of specific information the SPGA, in its discretion, may require from PWSF Applicants before and during the public hearing process. Such information may include, without limitation: publicly noticed visibility testing and photography; photo-simulations of the proposed PWSF; alternative designs or placements on the parcel; evidence submitted by a registered structural engineer based on site inspection, if applicable, demonstrating that the Tower or structure to which the PWSF will be mounted has the structural integrity to support such device, and a certification that a proposed use of an Antenna Tower is designed to withstand stresses in accordance with TIA 222 standards (latest revision); and analysis of economic or safety impacts; each as determined by the SPGA in the context of the specific application.

b. Within 30 days of receipt, the SPGA or its designee shall review the application for consistency and completeness with respect to the Application Requirements in this bylaw and the Regulations, including receipt of all required technical review fees and

administrative fees, and shall notify the Applicant in writing of any deficiency in the completeness of the application.

2. **Final Action.** The SPGA shall take regulatory notice of the Federal Communications Commission (FCC) presumption that the final action of the SPGA on a new Antenna Tower should take no more than 150 days from the date of receipt of the completed application, and that final action on a Collocation or Site Sharing application should take no more than 90 days from the date of receipt of the completed application except upon written extension of these timelines by mutual agreement between the SPGA and the Applicant, said written extension to be placed on file with the Town Clerk. (FCC Declaratory Ruling, Nov. 18, 2009). The SPGA shall comply with any relevant successor regulation or bulletin, as same may be amended from time to time.
 - (ii) **Modification to Existing PWSF.** A modification of an existing Special Permit and/or a new Special Permit is required for any change in the facility that would be visible from or beyond a property boundary, including but not limited to an increase in height, bulk, surface area presented to one or more viewpoints, size or quantity of any exterior elements of an individually permitted PWSF, including without limitation, additions or changes to outdoor equipment or antennas.
 - (iii) **Site Plan Review.** Nothing in this section is intended to exempt PWSF from the requirement to receive Site Plan Approval pursuant to Section 9.4.
 - iii. **Consultant Review.** When considering an application for a PWSF, the SPGA may determine the need for the assistance of a consultant technical expert in matters involving the placement, construction and modification of PWSFs, under the Zoning Bylaw and the Telecommunications Act of 1996, at the Applicant's expense pursuant to G.L. c. 44 s. 53G. To make the most productive use of the limited time authorized by the FCC to hear the application, the SPGA may at its discretion engage a consultant immediately upon receipt of an application.
5. **Decision.**
- a. **Required Findings.** To approve a Special Permit for a PWSF, the SPGA must make the following findings:
 - i. That the Applicant or co-Applicant has:
 - (i) demonstrated that it is a PWS provider in the Westford area, and has sufficient leasehold interest in the proposed site to construct the PWSF;
 - (ii) provided written assent to the Town that the Applicant will allow Site-Sharing, to the extent reasonably practicable and that is appropriate for the site and surroundings, in a reasonable and nondiscriminatory manner; and

- (iii) demonstrated that the construction, operation and maintenance of the proposed PWSF are consistent with applicable environmental regulations including, but not limited to, NEPA criteria.
- ii. That the proposed PWSF (with conditions, if applicable):
 - (i) is part of the orderly development of PWSFs in Westford, and will result in a substantial improvement in the provision of Personal Wireless Service in Westford;
 - (ii) is compatible with Westford's character and is designed and screened in a manner that is sensitive to the surrounding neighborhood as well as the community at large;
 - (iii) protects adjacent properties from unreasonable risks of PWSFs, to the extent permitted by law, including without limitation excessive noise levels, falling objects, fuel spills, and attractive nuisance;
 - (iv) if the proposed PWSF will Site-Share with an existing PWSF(s), that such Site Sharing is found by the SPGA to be consistent with the purposes established in this bylaw;
 - (v) conforms with the PWSF Location and PWSF Installation preferences of Section 6.2.4.2 to the extent necessary to conform with the purposes established in this bylaw;
 - (vi) ensures that all RF emissions shall comply with the FCC requirements codified in 47 CFR § 1.1307 *et seq* as further interpreted by FCC Office of Engineering and Technology Bulletin 65, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Magnetic Fields*, or any successor regulation or bulletin, as same may be amended from time to time.
 - (vii) if proposed as a new Antenna Tower, the Applicant has documented that no combination of one or more alternative Collocations and/or Site Sharing can:
 - 1. substantially satisfy the Applicant's coverage objectives; and
 - 2. present a substantially less detrimental impact on Westford.
 - (viii) satisfies the Purposes established by the Zoning Bylaw and, without limitation, the specific requirements and guidelines established in this bylaw; and
 - (ix) if applicable, that:
 - 1. Existing vegetation will be preserved or improved, and disturbance of the existing topography has been minimized; or
 - 2. Proposed manipulation of vegetation and disturbance of topography results in a lesser visual impact.

- b. **Form of Decision.** The SPGA shall act on a Special Permit request for the placement of a PWSF in accordance with G.L. c. 40A, s.9 and may approve, approve with conditions, or deny an application. The Decision of the SPGA shall be timely, in writing and based upon substantial evidence in the written record.
- i. **Approval.** Any approved Special Permit shall authorize specific PWS provider(s) and specific wireless service(s) to be operated by the Applicant(s) at the Antenna height(s) or positions specified in the application or approval document.
 - ii. **Approval with Conditions.** The SPGA may impose conditions of approval as necessary to ensure that the purposes of this bylaw are achieved. For any condition that the SPGA establishes with reporting or monitoring requirements, including without limitation noise or radio frequency emissions, the SPGA shall seek the advice of an expert in the relevant field pursuant to Section 6.2.4.4.b.iii to identify the least burdensome protocol that is consistent with a legitimate public purpose identified by the SPGA.
 - iii. **Denial.** Any denial shall be in writing and supported by substantial evidence contained in the record as required by the Telecommunications Act of 1996.
 - iv. **Reconsideration pursuant to Telecommunications Act.** If the SPGA fails to find in favor of all elements of Section 6.2.4.5.a, the SPGA shall reconsider the proposed PWSF in the context of the Telecommunications Act of 1996. To approve the Special Permit under this section, the SPGA must make the following findings:
 - (i) That a significant gap exists in the coverage area of the proposed PWSF, which significant gap is not necessarily equivalent to the lack of the Applicant's stated coverage objectives;
 - (ii) That there are no viable alternatives involving one or more PWSFs to serve the significant gap;
 - (iii) That not granting a Special Permit for the proposed PWSF (including conditions, if any) would effectively prohibit the provision of PWS;
 - (iv) That not granting a Special Permit for the proposed PWSF (including conditions, if any) would unreasonably discriminate among providers of functionally equivalent services; and
 - (v) That, in addition to any findings in this Section 6.2.4.5.b.iv, the SPGA has made any other findings that are necessary to grant approval under local, state and federal law.
- c. **Waivers.** The SPGA may at its discretion authorize waivers in the Special Permit Approval with respect to the orders of preference in Section 6.2.4.2, and any dimensional or other requirements of Section 6.2.4.3.e upon a finding that such

waiver will achieve better results consistent with the purposes and standards established in this Section 6.2.4.

- d. **Removal of abandoned Antenna Towers and PWSFs.** Any PWSF Antenna Tower, PWSF Communications Device, or PWSF that is not commercially operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Antenna Tower, PWSF Communications Device, or PWSF shall remove same within ninety (90) days of receipt of notice from the Town notifying the owner of such abandonment. If such tower or facility is not removed within said ninety (90) days, the Town may cause such tower or facility to be removed at the owner's expense. If there are two or more users of a single tower, the height may be reduced to that required by the remaining user(s). If the permit holder for the tower ceases operation, the remaining users may be required to apply for a new Special Permit.

6.2.5. **Amateur Radio Services.**

1. **Authority.** Pursuant to G.L. c. 40A s. 3, and 47 CFR §97.15, this Zoning Bylaw does not prohibit the construction or use of an Antenna Tower for the purpose of operating Amateur Radio Services by a federally licensed radio amateur. The use is allowed in all districts subject to the permitting processes established herein.
2. **Purposes.** This bylaw sets forth applicable criteria and review processes in order to:
 - a. comply with federal and state obligations to reasonably regulate the location and height of such antenna structures for the purposes of health, safety, or aesthetics; and
 - b. reasonably allow for sufficient height of such antenna structures so as to effectively accommodate amateur radio communications by federally licensed amateur radio operators applying the minimum practicable regulation necessary to accomplish the legitimate public purposes of the Town of Westford.
3. **Dimensional Standards.** The dimensional setback of an Amateur Radio Service Antenna Tower shall conform to the dimensions that apply generally to the zoning district in which the Antenna Tower is built.
4. **Review Process.**
 - a. **Amateur Radio Service allowable By Right.** A height of up to the district height limits specified in the Table of Dimensional and Density Regulations in Appendix C is allowed by right.
 - b. **Amateur Radio Service allowable by Site Plan Review.** A height of up to 70 feet above ground is permitted by right, subject to site plan review by the Planning Board. There shall be no application fees or fees related to public hearing notice and mailings for Site Plan Review of an Amateur Radio Service Antenna or Amateur Radio Service Antenna Tower.

- (ii) Unreasonably increases the cost of installation, maintenance, or use; or
 - (iii) Precludes reception or transmission of an acceptable quality signal.
 - ii. Application fees and fees related to public hearing notice and mailings, if any, for Site Plan Review shall be waived for Subscriber Antenna Applicants.
 - iii. Pursuant to federal regulation 47 CFR 1.4000, Site Plan Review of a proposed Subscriber Antenna shall be limited to the following controls:
 - (i) The proposed Subscriber Antenna shall not derogate public safety from hazard such as falling objects, Antennas, and support structure; attractive nuisance; lightning or fire; or other matters of safety that are regulated under Site Plan Review.
 - (ii) The proposed Subscriber Antenna shall be placed and installed in a manner that its impact on any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion on, the National Register of Historic Places is compliant with the National Historic Preservation Act of 1996, as amended.
 - (iii) If the proposed subscriber antenna is not compliant with a dimensional requirement of the zoning district in which the Subscriber Antenna will be installed, the Applicant for Site Plan Review shall demonstrate that there is no location on the parcel that is both more compliant with the dimensional criteria and is capable of reliably providing the service of the Subscriber Antenna. If there is a more dimensionally compliant location for the Subscriber Antenna, the SPGA may require the Applicant to install the Subscriber Antenna at such location.
 - (iv) The SPGA may require the Applicant to perform reasonable mitigation of the visual impact of the proposed Subscriber Antenna and mounting apparatus.
- 3. **Public Safety Service Facilities.** Radio communications antennas and equipment installed exclusively for the use of municipal and/or state communications for police, fire, EMS, highway and other public safety purposes may be installed by right if the antennas and mounting apparatus extend no more than 20 feet above an existing structure. Site Plan Review is required for such antenna facilities if new structures are proposed or if antennas and mounting apparatus will exceed 20 feet above the existing structure to which they are mounted.
- 4. **Other Personal, Business, Institutional or Unlicensed Facilities.**
 - a. **Applicability.** Antennas used for purposes other than those described in the previous subparagraphs of this Section 6.2.6 may be installed by right if they extend no more than 12 feet above the ground or the existing structure to which they are attached, provided that from any horizontal perspective the surface area of the antennas and related apparatus does not exceed 20 square feet. Antennas and

related apparatus attached to an existing building or structure, or to a new Antenna Tower, may extend to the height limit of the zoning district in which they are located either by and/or exceed 20 square feet from any horizontal perspective, but not more than 40 square feet, subject to Site Plan Review. Among the criteria of Site Plan Review, the visual characteristics that will be visible from public ways and abutting properties shall be considered.

- b. **Limitations.** This section 6.2.6.4 is not applicable to uses in conjunction with an educational, religious, or day care use that is partially excepted from local zoning regulation pursuant to G.L c. 40A s. 3. The requirements of Section 9.4 of this Zoning Bylaw remain applicable to the extent indicated in said Section 9.4.
- 6.2.7. **Severability.** The provisions of this section are severable. If any provision of this section is held invalid, the other provisions shall not be affected but shall remain in full force.

And to amend Section 4.2 Height Regulations as follows (added words are shown in **bold and underlined**, deleted words are shown in ~~strikeout~~):

4.2 HEIGHT REGULATIONS

4.2.1 Exceptions. The provisions of this Zoning Bylaw governing the height of the building shall not apply to **appurtenances that are incorporated for and consistent with the primary use of the building; examples of such appurtenances include** chimneys, poles, **steeple**s, spires, **cupolas**, tanks, bulkheads, skylights, ventilators, cooling towers, electronic equipment, elevator ~~shafts~~ **penthouses**, and ~~other and other projections or necessary and material processors.~~ **Such** appurtenances ~~carried above the roof, nor to domes, other towers, stacks, or spires which occupy not:~~

1. **shall not have horizontal cross-sections that occupy** more than twenty percent (20%) of the ground floor area of the buildings; ~~provided, however;~~
2. ~~that the excepted appurtenances are not located within the flight paths of an airport as defined by Federal Aviation Administration guidelines~~ **shall not have an overall height above ground and/or mean sea level that would require air navigation safety lighting or be considered a hazard to air navigation pursuant to state and federal regulations;**
3. ~~that such roof top appurtenances shall be screened from public view to the maximum extent feasible~~ **and/or have architectural characteristics that are consistent with the building's architecture;**
4. **shall not be habitable.**

Notwithstanding this subsection 4.2.1, RTFs are subject to the Section 6.2 and Section 9.4 of this Zoning Bylaw and associated Regulations.

And to amend Section 10.2 General Definitions as follows: (added words are shown in **bold and underlined**, deleted words are shown in ~~strikeout~~):

10.2 GENERAL DEFINITIONS [Amended 5-5-07 ATM, Art. 22]

Amateur Radio Service: That category of Radio Telecommunication that is regulated under 47 CFR §97 as defined in §97.3(a)(4): “A radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.”

Antenna: A device that includes conductive surfaces that transmit and/or receive Radio Telecommunications. Examples of Antenna types include dish, panel, vertical (e.g. “whip” and “collinear”), horizontal (e.g. “beam,” “yagi” and “log-periodic”).

Antenna Tower: A Tower that is constructed for the primary purpose of supporting one or more Antennas.

Co-location, collocation: “The mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.” (Source: Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, FCC et al, 2001).

Concealed Antenna Monopole: A Monopole that fully contains Antennae and cables concealed within its tubular outer surface.

Earth Station: An RTF that communicates using man-made or natural satellites by transmitting and/or receiving Radio Telecommunication with the aid of such satellites, provided that any RTF that may otherwise qualify as both an Earth Station and either an Amateur Radio Service or a Subscriber Antenna, shall not be regulated as an Earth Station under this Bylaw.

Essential services: Services provided by a public service corporation, as defined in G.L. c. 40A, s. 3, or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including ~~wireless communications facilities~~ **PWSFs**. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith. Specifically excluded from this definition are buildings and overhead transmission towers. A ~~Wireless Communications facility~~ **PWSF** shall not be construed as an essential service.

Fixed Wireless Signals: “Any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Fixed wireless signals do not include, among other things, AM radio, FM radio, amateur (“Ham”) radio, Citizen's Band (CB) radio, and Digital Audio Radio Service (DARS) signals.” (47 CFR 1.4000 in effect as of February 10, 2011).

Indoor RTF: RTFs that are all of the following: indoors, essentially not visible to persons off the parcel, and require no modification of structure or exterior surfaces to be installed and operate

Monopole: A Tower that is a self-supporting vertical pole, with no guy wires, that supports Antennae and through the interior of which Antennae and control cables are routed to maintain an uncluttered continuous exterior surface. Antennae are mounted to Monopoles in several fashions, including those mounted on wide frames or platforms extending from the Monopole surface, surface-mounted to the pole exterior (sometimes called "flush mounts"), concealed within the pole's surface (see *Concealed Antenna Monopole*) or disguised by materials such as those emulating natural vegetation.

Other Radio Service: Those Radio Telecommunications that are not Personal Wireless Services or Amateur Radio Services.

Personal Wireless Service (PWS): That category of Radio Telecommunication that is subject to the National Wireless Telecommunications Siting Policy (Section 704 of the Telecommunications Act of 1996 and codified in 47 USC §332(c)(7).

Personal Wireless Service Facility (PWSF): An RTF that provides Personal Wireless Services to subscriber devices. A PWSF consists of all equipment, structures, materials, antennas and customer-side utility interfaces used by an individual provider of Personal Wireless Services at one site.

Exceptions:

1. Consumer-grade PWS devices that are authorized by the carrier and installed by the subscriber to reinforce local service;
2. PWS devices and networks that are installed inside a building to serve the occupants of the building.

Note, it is important to distinguish between a structure that may be part of a PWSF and the PWSF itself: A Tower is not a PWSF, although it may be a component of one or more PWSFs at a site.

PWSF Site-Sharing: The placement of a PWSF at a tower, building or structure that already has one or more PWSFs installed on such building, tower or structure. Site-Sharing is one form of collocation.

Radio Frequency (RF): That portion of the electromagnetic spectrum regulated by the Federal Communications Commission.

Radio Telecommunication: The transmission and/or reception of information, including but not limited to voice, video, data or radiolocation signals, by means of RF transmissions through the atmosphere.

Radio Telecommunication Facility (RTF): Any installation for the purpose of Radio Telecommunication.

Subscriber Antenna: Pursuant to 47 CFR 1.4000, an antenna that is both:

- a. **located on property within the exclusive use or control of the Antenna user where the user has a direct or indirect ownership or leasehold interest in the property; and**
- b. **that is one meter (3.28± feet) or less in diameter that is used to receive (and transmit, as applicable):**
 1. **direct broadcast satellite service, including direct-to-home satellite service,**
 2. **fixed wireless signals, whether via satellite or not;**
 3. **video programming services via multipoint distribution services, including:**
 - i. **multichannel multipoint distribution services,**
 - ii. **instructional television fixed services,**
 - iii. **local multipoint distribution services, or**
 - iv. **fixed wireless signals other than via satellite, and**
 - v. **an antenna that is used to receive television broadcast signals;**

Tower: Any structure that is not habitable, has proportions of which the height is substantially greater than the largest dimension of its horizontal cross-section, is greater than 12 feet in height when attached to a building or other structure, and/or exceeds the height limit of the district within which it is constructed, whether or not attached to another structure. Examples of Tower types include "lattice" (open frame, truss-type construction) and "monopole" (tubular construction, defined herein).

And to amend Appendix A: Table of Principal Use Regulations as follows: (added words are shown in **bold and underlined**, deleted words are shown in ~~strikeout~~).

	RA	RB	B	BL	CH	IH	IA	IB	IC	ID
<u>E. Industrial Uses, cont'd</u>										
<u>12. Commercial communications and television tower</u>	N	N	N	N	SPA	SPA	N	N	N	N
<u>13. Wireless communications facility</u>	N	N	N	N	SPA	SPA	N	N	N	N
<u>F. Other Uses</u>										

<u>4. RTF, including Antennas, equipment and Structures</u> <u>(see Section 6.2 for exemptions)</u>	<u>SPA</u>									

And to amend Appendix B: Table of Accessory Use Regulations as follows: (added words are shown in **bold and underlined**, deleted words are shown in ~~strikeout~~).

	RA	RB	B	BL	CH	IH	IA	IB	IC	ID
C. General Accessory Uses										
<u>5. RTF, including Antennas, equipment and Structures</u> <u>(see Section 6.2 for exemptions)</u>	<u>SPA</u>									

And further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Westford Zoning Bylaw.

Or act in relation thereto.

Selectmen recommend

LAND USE

ARTICLE 13:	Land Transfer – Vine Brook Tax Possession Parcels to Conservation Commission	<i>2/3 Majority Vote Required</i>
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Motion: That the Town transfer the care, custody, control and management of three parcels of land located along Vine Brook identified as Parcel 6 on Westford Assessors' Map 6, Parcel 61 on Westford Assessors' Map 11, and Parcel 9 on Westford Assessors' Map 12, from the Tax Possession Sale Committee presently held for the purpose of tax title sale to the Conservation Commission to be held for conservation purposes.

<i>Selectmen recommend</i>
