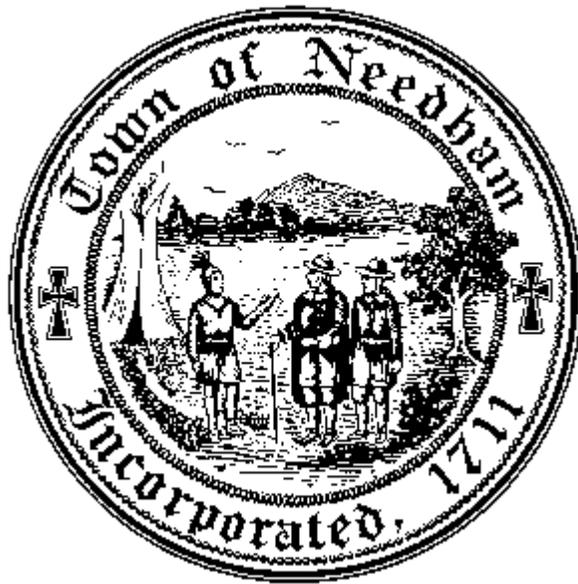


# **SPECIAL TOWN MEETING**

## **WARRANT**



# **TOWN OF NEEDHAM**

**MONDAY, MAY 10, 2010**

**7:30 P. M.**

**NEWMAN ELEMENTARY SCHOOL**

**CENTRAL AVENUE**

**NEEDHAM**



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**May 10, 2010 Special Town Meeting Warrant  
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COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

To either of the Constables in the Town of Needham in said County, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Needham qualified to vote in elections and in Town affairs to meet at the Newman Elementary School:

**MONDAY, THE TENTH DAY OF MAY, 2010**

at seven-thirty in the afternoon, then and there to act upon the following articles, viz:

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**ARTICLE 1: AMEND ZONING BY-LAW – ELDER SERVICES ZONING DISTRICT**

To see if the Town will vote to amend the Needham Zoning By-Law, as follows:

- (a) Amend Section 1.3, Definitions, by adding the following terms and definitions in appropriate alphabetical order as follows:

“Independent Living Apartments

A building in the Elder Services Zoning District containing three or more dwelling units, which building houses only residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community.

Assisted Living and Alzheimer's/Memory Loss Facilities

Convalescent or nursing homes that may not be licensed as skilled nursing facilities by the Massachusetts Department of Public Health, but cater to individuals who need some degree of assistance in caring for themselves and are certified, licensed, or otherwise approved by the Executive Office of Elder Affairs or other Commonwealth of Massachusetts governmental entity.

Continuing Care Retirement Community

A Continuing Care Retirement Community, whether or not governed by M.G.L. Chapter 93, Section 76, is also sometimes called a life care community, allowing residents to “age in place”. Facilities are on a campus of one or more contiguous parcels that includes separate housing for those who live independently, which may include communal dining for one or more meals, assisted living facilities that offer more support, and nursing homes for those needing skilled nursing care.”

- (b) Amend the definition of “Setback” in Section 1.3, Definitions, so that the words “Elder Services” are added after the words “Commercial – 128” of the ninth line of said definition.
- (c) Amend Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Commercial:

“ES - Elder Services”

- (d) Amend Section 3, Use Regulations, by adding a new Subsection 3.12, Elder Services Zoning District, to read as follows:

“3.12 Elder Services Zoning District

3.12.1 Purposes of District

The purpose of the Elder Services Zoning District is to promote the health, safety and general welfare of the community by encouraging the establishment of housing and other facilities in close proximity to each other primarily serving individuals 55 years or older who wish to live in independent apartments with convenient access to supportive services, while minimizing potential adverse impacts upon nearby residential and other properties. These purposes are to be achieved through establishing controls specifically for the proposed uses at locations where either such uses already exist or they would be appropriate because of access or other locational considerations.

3.12.2 Scope of Authority

The regulations of the Elder Services Zoning District shall govern all new construction, reconstruction or expansion of new or existing buildings, and new or expanded uses, regardless of whether the requirements of Section 3.12 are more or less restrictive than those of the General Residence Zoning District, of which the Elder Services Zoning District was formerly a part. Provisions of Section 3.12 shall supersede those of Section 3.2 Schedule of Use Regulations, Sections 4.2 through 4.10 (Dimensional Regulations) and Section 5.1.2 (Required Parking) except as otherwise specifically provided herein.

3.12.3 Allowed Uses

The following uses are allowed by right:

- a) All uses allowed by right in the General Residence Zoning District as described in Section 3.2.1 of the Zoning By-Law.

3.12.4 Special Permit Uses

The following uses are allowed by Special Permit:

- a) All uses allowed by Special Permit in the General Residence Zoning District, as set forth in Section 3.2.1 of the Zoning By-Law.
- b) Independent Living Apartments.
- c) Assisted Living and/or Alzheimer's/Memory Loss Facilities.

3.12.5 Multiple Buildings and Uses in the Elder Services Zoning District

More than one use may be located on a lot as a matter of right and more than one building may be located on a lot as a matter of right, provided that each building and/or its uses are in compliance with the requirements of Section 3.12 of this By-Law.

### 3.12.6 Dimensional Regulations For the Elder Services Zoning District

#### Lot Area, Frontage and Setback Requirements

The following lot area, frontage and setback requirements shall apply to development in the Elder Services Zoning District:

- a) Minimum Lot Area: 10,000 square feet
- b) Minimum Lot Frontage: 80 feet
- c) Minimum Front Setback: 25 feet from the front property line
- d) Minimum Side and Rear Setback: Minimum side and rear setbacks abutting a railroad right of way shall be 10 feet. Minimum side and rear setbacks not abutting a railroad right of way shall be 25 feet except that the minimum setback abutting residential properties on the north side of Putnam Street shall be 35 feet. For side and rear setbacks not abutting a railroad right of way, the Board of Appeals or other Special Permit granting authority may grant a Special Permit reducing the minimum side yard setback to no less than 20 feet and the minimum rear yard setback to no less than 10 feet. In acting upon such applications for such reductions, the Board shall consider, in addition to the criteria for special permits generally (Section 7.5.2), the criteria set forth in Section 4.2.7 (a)-(f).

### 3.12.7 Building Height Requirements

The maximum building height of buildings in the Elder Services Zoning District shall be 40 feet. The maximum number of stories (exclusive of the basement) shall be three, plus an unfinished, uninhabitable fourth story contained under a pitched roof with gables.

Provided further, however, that the existing nursing home structure shall be further limited so that any expansion of such structure in a northerly direction, the highest point of said structure along Gould Street, shall not be higher than a horizontal line drawn through the highest points of said existing nursing home structure and extended northward to the boundary of the Elder Services Zoning District. Such further limitation shall not be applicable to any future structures to be located to the west of said existing nursing home structure (as it may be extended) regardless of whether a physical connection will be constructed between such other future structures to the west and the existing nursing home structure (as it may be extended).

### 3.12.8 Building Bulk, Lot Coverage and Other Dimensional Requirements

Except as otherwise provided herein, the maximum floor to area ratio in the Elder Services Zoning District shall be 1.0. Parking garages, interior portions of buildings devoted to off-street parking and all other parking facilities shall not be utilized in computing floor to area ratio.

Buildings developed or re-developed under the regulations of the Elder Services Zoning District shall not be subject to any other limitations on floor to area ratio, lot coverage, building bulk, setbacks or other dimensional requirements as are contained in Sections 4.2 through 4.10.

Notwithstanding anything in the By-Law to the contrary, including but not limited to the preceding two subparagraphs of this Section 3.12.8, the construction of single family detached dwellings, two family detached dwellings or the conversion of a single family dwelling to a two

family dwelling, shall be governed by the dimensional and density requirements of the General Residence Zoning District.

### 3.12.9 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 shall apply in the Elder Services Zoning District.

- a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:
  - 1) The off-street parking requirement for independent living apartments in the Elder Services Zoning District shall be 0.5 parking spaces for each dwelling unit.

### 3.12.10 Affordable Housing

Independent living apartments, as defined above (i.e. which excludes convalescent or nursing homes, assisted living and Alzheimer's/memory loss facilities) shall include Affordable Housing Units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes Affordable Housing Units:

- a) For a development with not more than 10 dwelling units, at least one unit shall be an Affordable Housing Unit; and for a development with 11 or more dwelling units, at least 10% shall be Affordable Housing Units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number.
- b) If the Applicant provides at least one-half of the Affordable Housing Units for households with incomes at or below 50% of area median income, the remaining Affordable Housing Units may be sold or rented to households with incomes up to 100% of area median income even if the latter units are not eligible for the subsidized housing inventory, regardless of any requirements to the contrary set forth in Section 1.3.
- c) Affordable Housing Units shall be dispersed within the building or buildings and not concentrated in one area or one floor. They shall generally be comparable in size, energy efficiency, quality, convenience and unit specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit specific real estate related amenities and are excluded from such comparability requirements.
- d) The Affordable Housing Units shall be constructed in proportion to the number of market-rate units in a development. Proportionality shall be determined by the number of building permits or certificates of occupancy issued for the Affordable Housing Units and market-rate units, as applicable.
- e) The selection of eligible residents for the Affordable Housing Units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to

the issuance of any building permits for the independent living units.

- f) The Affordable Housing Units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction.
- (e) Amend Section 7.4, Site Plan Review, by making the following changes to Section 7.4.2, Definitions:

Under Major Project: Add a new paragraph after “Needham Center Overlay District” as follows:

“In the Elder Services Zoning District a Major Project shall be defined as any construction project which involves the construction of 10,000 or more square feet gross floor area; or increase in gross floor area by 5,000 or more square feet; or any project which results in the creation of 25 or more off-street parking spaces; or any project that results in any new curb or driveway cut.”

Under Minor Project: Add a new paragraph after “Needham Center Overlay District” as follows:

“In the Elder Services District a Minor Project shall be defined as any construction project which involves the construction of more than 5,000 but less than 10,000 square feet gross floor area; or an increase in gross floor area such that the total gross floor area after the increase is 5,000 or more square feet - and the project cannot be defined as a Major Project.”

or take any other action thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article 1-2 Introduction: Articles 1 and 2 in combination propose the creation of an Elder Services Zoning District. The concept of the district is to allow individuals to “age in place” in a campus environment that includes separate housing for those who live independently, assisted living facilities that offer more support, and nursing homes for those needing skilled nursing care. By providing this comprehensive approach of having various types of facilities and services available in close proximity to each other, the physical and emotional disruption surrounding moves necessitated by changes in an individual’s condition is minimized.*

*As in most other communities in Massachusetts and across the nation, Needham’s citizens are aging and their life expectancy is increasing. One of the results of that phenomenon is an increased need (as well as an increased awareness of that need) for a community to provide different types of care for its senior citizens. Since all of us age differently, there are a number of alternatives that should be made available. Some individuals remain healthy but have decided they no longer wish or are able to care for a single-family residence on their own. Others may have a variety of health problems that require differing levels of care. The proposed Elder Services Zoning District is intended to address this growing need.*

*At the present time, the Wingate at Needham Nursing Home, located at the corner of Highland Avenue and Gould Street, is a 142-bed skilled nursing facility that has operated in Needham for many years. There are two vacant parcels adjacent to the Wingate at Needham facility which can be utilized (a) to create independent living apartments for those seniors who continue to be able to care for themselves but do not wish to continue the expense and energy associated with maintenance of single family homes, and (b) to create an assisted living facility on the same “campus” which will be able to serve the population and offer*

*an increased level of care and support (for example, common dining facilities, staff to assist in daily activities of living, counseling, etc.). Within the assisted living facility, a number of beds would be reserved for those suffering from Alzheimer's and other memory-loss related illnesses. The third component of the Elder Services Zoning District is a skilled nursing facility. The existing Wingate at Needham Nursing home would provide the skilled nursing care component of the project as anticipated by the Elder Services Zoning District.*

*The advantage of having different types of facilities and services available in close proximity to each other are numerous. As one can imagine, each move is traumatic and a move from one facility to another affiliated facility located on the same campus will ease that transition. In addition, it is very common that spouses, due to their advancing ages and differing circumstances, require different levels of care. For example, one spouse may remain healthy and perfectly capable of living in an independent apartment. The other spouse, however, may suffer from a variety of illnesses or conditions that require either an assisted living facility or skilled nursing facility. The ability for spouses to reside on the same campus (albeit in different buildings) lessens the disruption of the long-term relationship between the spouses, and is designed to maximize continuing contact between them. The proposed zoning amendment is meant to address this inevitable aging process. It is contemplated that the independent living apartments to be constructed as a result of this rezoning will be rental units.*

*Article 1 Explanation: Article 1, in combination with Article 2, proposes to create the Elder Services Zoning District. Article 1 lays out the regulatory framework for the new district while Article 2 describes its geographic boundaries.*

#### *Designation of the District*

*The Elder Services Zoning District would comprise slightly more than seven acres of land that will be bounded as follows: on the south by the portion of Highland Avenue that presently houses the Wingate at Needham Nursing Home; on the east by Gould Street running from the intersection of Highland Avenue and Gould Street to the railroad right of way; on the north by the railroad right of way; and on the west by the boundaries of the proposed parcels to be included in the zoning district. The approximately five acres shown on Needham Assessor's Map 77, Lots 25 and 56 are presently undeveloped, and many years ago were part of a sand and gravel operation. The properties to be included in the Elder Services Zoning District are presently zoned as "General Residence".*

#### *Purpose of the District*

*The purpose of the Elder Services Zoning District is to promote the health, safety and general welfare of the community by encouraging the establishment of housing and other facilities in close proximity to each other. The facilities will serve individuals 55 years or older who wish to live in independent apartments with convenient access to supportive services, while minimizing potential adverse impacts upon nearby residential and other properties.*

#### *Definitions*

*New terms that appear in the package of zoning amendments but not elsewhere in the zoning by-law are presented in alphabetical order: assisted living and Alzheimer's /memory loss facilities; continuing care retirement community; independent living apartments.*

#### *Permitted Uses*

*The Zoning By-Law amendment was written to minimize changes in uses allowed in the new district as compared to the current district. With the exception of the assisted and independent living apartments, which are now not allowed in a General Residence District, and are proposed to become uses requiring a special permit, all uses in the General Residence District that are presently allowed as a matter of right will continue to be allowed as a matter of right. Moreover, all uses presently allowed in the General Residence District by*

special permit will continue to be allowed by special permit. The nursing home presently on the site was allowed by special permit by the Needham Planning Board in 1993. Alzheimer's/memory loss facilities are considered nursing or convalescent homes and as such are presently allowed by special permit.

#### Lot Area and Frontage

The Elder Services Zoning District requires the same minimum lot area (10,000 square feet) and the minimum lot frontage (80 feet) as the existing General Residence District.

#### Minimum Front, Side and Rear Setbacks

The minimum front yard setback in the Elder Services Zoning District is 25 feet. The present front yard setback in the General Residence District is 20 feet with the exception that for institutional uses the minimum front yard setback is 25 feet. The Elder Services Zoning District maintains the more restrictive front yard setback of 25 feet of an institutional use in the General Residence District.

The present side and rear yard setback in the General Residence District is 12.5 and 10 feet respectively, with the exception that for institutional uses the minimum side and rear yard setback is 25 feet. The Elder Services Zoning District establishes an overall as of right minimum side and rear yard setback of 25 feet with the following two exceptions: 1) an extra 10-foot setback requirement (from 25 feet to 35 feet) has been added for the portion of the site abutting the rear of the properties located on the northerly side of Putnam Street; and 2) the side yard setback adjacent to the MBTA right of way has been reduced to 10 feet. Additionally, a provision has been added allowing for side and rear yard setbacks not abutting the railroad right of way to be reduced to 20 feet for a side yard and 10 feet for a rear yard by Special Permit.

#### Building Height Requirements

The maximum building height of structures in the Elder Services Zoning District is 40 feet, which is an increase of 5 feet over the maximum height in the General Residence District. It should be noted, however, that the Planning Board has discouraged the use of flat roofs for the buildings and prefers peaked roofs with gables, which necessarily increase the maximum height of the building. Since building height is measured to the top of the peaked roof, the additional height is a necessary component of the re-zoning. The top portion of the buildings (under the sloped roofs) will be unfinished and uninhabitable. Buildings will be limited to three finished and habitable stories, plus a basement.

Moreover, an additional restriction on height has been provided along Gould Street so that the maximum height of any building along Gould Street will never exceed a horizontal line running through the tops of the gables on the existing nursing home. This additional restriction was included to ensure that any structure along Gould Street would be consistent with what already exists along this side of Gould Street.

#### Building Bulk, Lot Coverage and Other Dimensional Requirements

The maximum floor-area ratio in the Elder Services Zoning District shall be 1.0. Floor-area ratio is computed by dividing the total amount of square footage of a building by the size of the lot. For example, if a lot were comprised of 10,000 square feet and a two-story structure with a 5,000 square foot footprint were located on that lot, the total floor area would be 10,000 and the floor-area ratio would be 1.0.

#### Parking

No changes are proposed from what already exists in the Zoning By-Law with respect to parking requirements for nursing homes, assisted living and Alzheimer's/memory loss centers. The standard that has been used for many years and will continue to be used is one parking space for every two beds plus one space for each two employees on the larger shift. With respect to the independent living apartments, the parking requirement will be .5 parking spaces per unit. It is generally acknowledged that parking requirements for both independent living apartments and assisted living/Alzheimer's/memory loss centers are very low and that

*the traffic generated by those facilities is also very low. A traffic study was submitted and reviewed by the Planning Board in connection with the public hearings associated with this zoning article. The study provided evidence of minimal traffic impact as a result of the proposed rezoning proposal.*

*Affordable Housing*

*Ten percent (10%) of the independent living apartments will be required to be “Affordable Housing Units”, as defined in the existing Zoning By-Law.*

*Summary*

*The Planning Board believes that the proposed location for the Elder Services Zoning District is a good one and that it will have a positive impact on the Town's ability to accommodate and care for the needs of senior citizens.*

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**ARTICLE 2: MAP CHANGE TO ELDER SERVICES ZONING DISTRICT**

To see if the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map, as follows:

Place in the Elder Services Zoning District all that land now zoned General Residence and comprising Parcels 1, 25 and 56 as shown on Needham Assessor's Map No. 77.

Said land is bounded generally to the south by Highland Avenue, to the east by Gould Street, to the north by the Massachusetts Bay Transportation Authority (M.B.T.A.) railroad right of way, and to the west by Parcels 36, 21, 22, 23, 2 and 3 on Needham Assessor's Map No. 77, Guild Road, Cross Street and Putnam Avenue.

Said land is bounded and described as follows:

Parcel 1 – beginning at the point of intersection of the easterly sideline of Gould Street and the northwesterly sideline of Highland Avenue on Town of Needham Assessor's Map No. 77; thence running southwesterly along the southeasterly sideline of Highland Avenue a distance of 195.21 feet, to the point of intersection with the northeasterly boundary line of Parcel 3; thence turning and running northwesterly along the northeasterly boundary line of Parcel 3 and Parcel 2 a distance of 222.45 feet, to a point on the easterly boundary of Parcel 2; thence turning and running northeasterly 42.78 feet, along the easterly boundary of Parcel 2 and Parcel 59 to the most southeasterly corner of Parcel 59; thence turning and running northwesterly 139.34 feet, along the northeasterly sideline of Parcel 59, Putnam (private) Street, and Parcel 23 to a point on the southeasterly boundary line of Parcel 25; thence turning and running northeasterly 416.75 feet, along the southeasterly boundary line of Parcel 25 and Parcel 56 to the westerly sideline of Gould Street; thence turning and running in a southerly and southeasterly direction 472.55 feet, to an angle in the southwesterly sideline of Gould Street; thence turning and running in a southerly direction 29.14 feet, to an intersection of Gould Street and Highland Avenue which is the point of beginning.

Parcel 25 – beginning at the point of intersection of the easterly sideline of Gould Street and land of the Massachusetts Bay Transportation Authority on Town of Needham Assessor's Map No. 77; thence running southerly along the westerly sideline of Gould Street 301.06 feet, to Parcel 56; thence turning and running southwesterly 145.50 feet, along the northeasterly boundary of Parcel 56 to a point; thence turning and running southerly 155.57 feet, along the easterly boundary of Parcel 56 to Parcel 1; thence turning and running southwesterly 474.96 feet, along the northwesterly boundary of Parcel 23, Parcel 22, and Parcel 21 to Cross Street; thence turning and running northwesterly 234.89 along the southeasterly sideline of Cross

Street, Guild Road, and Parcel 36 to land of the Massachusetts Bay Transportation Authority; thence turning and running northeasterly 970.27 feet along the southeasterly boundary of land of the Massachusetts Bay Transportation Authority to Gould Street and the point of beginning.

Parcel 56 – beginning at the intersection of Gould Street and Parcel 25 on Town of Needham Assessor’s Map No. 77; thence running southerly 37.15 feet along the westerly sideline of Gould Street to Parcel 1; thence turning and running southwesterly 241.67 feet, along the northwesterly boundary of Parcel 1 to Parcel 25; thence turning and running northerly 155.57 feet, along the easterly boundary of Parcel 25; thence turning and running northeasterly 145.50 feet, along the southeasterly boundary of Parcel 25 to the westerly sideline of Gould Street and the point of beginning.

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information: This article describes the geographical boundaries of the new Elder Services Zoning District. As described above, it is comprised of slightly over seven (7) acres and is shown on Needham Assessor's Map 77 as parcels 1, 25 and 56. The district is bounded as follows: on the south by Highland Avenue (is limited to the portion of Highland Avenue where the Wingate at Needham Nursing Home is presently located); to the east by Gould Street; to the north by the railroad right of way, and; to the west by the boundaries of the proposed parcels to be included in the zoning district.*

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**ARTICLE 3:                    AUTHORIZE TAKING OF EASEMENTS AND REAL PROPERTY**

To see if the town will vote to authorize the Board of Selectmen to acquire the following land parcels and or rights in land parcels though all legal means, including by donations, purchase or eminent domain, for the purpose of obtaining a secure and public right of way, to allow for the construction and roadway safety improvements at the Willow Street Bridge from South Street in the Town of Needham to Willow Street in Town of Dover, Massachusetts.

1.     A temporary construction easement, identified as Parcel XX-TE-2, supposedly owned by Ronald Edward Ebel and Theresa J. Ebel, with an area of 1834 s. f., more or less;
2.     A taking in fee, identified as Parcel XX-2, supposedly owned by Ronald Edward Ebel and Theresa J. Ebel, with an area of 52 s. f., more or less;
3.     A temporary construction easement identified as Parcel XX-TE-3, supposedly owned by Commonwealth of Massachusetts, with an area of 430 s. f., more or less;
4.     A permanent utility easement identified as Parcel XX-DS-1, supposedly owned by Commonwealth of Massachusetts, with an area of 1171 s. f., more or less;
5.     A taking in fee, identified as Parcel XX-4, owners unknown, with an area of 121 s. f., more or less;
6.     A permanent utility easement identified as Parcel XX-D-1, owners unknown, with an area of 213 s. f., more or less;
7.     A temporary construction easement identified as Parcel XX-TE-5, owners unknown, with an area of 890 s. f., more or less; and
8.     A temporary construction easement identified as Parcel XX-TE-6, owners unknown, with an area of 188 s. f., more or less.

Further that the Selectmen may acquire these parcels, or modification of these parcels or other required parcels though all legal means, including donations, purchase or eminent domain.

The subject parcels are currently shown and identified on plans drafted by the Massachusetts Department of Transportation, Dated December 2009 and entitled Massachusetts Department of Transportation – Highway Division – Plan and Profile of Willow Street Over The Charles River – Bridge No. D-10-004 = N-04-007. Sheet No. 6 of 7. Project File No. 603713; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information: The South Street (Needham)/Willow Street (Dover) bridge project is being undertaken by the Commonwealth of Massachusetts at the cost of approximately \$4 million. The project includes a complete replacement of the circa 1930 bridge structure and wing walls with a precast concrete arch bridge matching the geometry of the existing arch. The existing stone façade on the bridge will be removed and reused in a nearly identical fashion. The responsibility of acquiring rights to land needed to complete the project is to be borne by Needham and Dover.*

*At the November 2, 2009 Special Town Meeting, the Town authorized a home rule petition to allow the Town to effect takings of easements on property under the jurisdiction of the Commonwealth/Department of Conservation and Recreation. The Home Rule was filed and is being considered by the Legislature. The Town was recently informed by MassDOT that additional takings are required in order to complete the project. These takings were not included in the November, 2009 Special Town Meeting warrant because the Town was unaware at that time that they would be required.*

*The Town has commissioned an appraisal of the value of the temporary construction easement and the taking in fee of property on Fisher Street, and we anticipate that the value of the takings will be approximately \$5,000 to be expended through previously appropriated bridge funding.*

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**ARTICLE 4: AMEND GENERAL BY-LAWS – TAXATION**

To see if the Town will vote to amend the General By-laws of the Town of Needham by deleting Article 7 in its entirety and inserting in place thereof “Article 7. – Reserved”; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information: The November 2, 2009 Special Town Meeting voted to amend the local room occupancy excise to the rate of 6% in accordance with M.G.L. 64G, Section 3A. That action supersedes Article 7 of the General By-laws. This proposal would eliminate the by-law reference to avoid confusion. The language to be removed is as follows:*

**“ARTICLE 7  
TAXATION**

**SECTION 7.1 HOTELS, LODGING HOUSE AND MOTEL TAX**

*There is imposed a local excise tax upon the transfer of occupancy of any room or rooms in a hotel, lodging house, or motel located within the Town by any operator at the rate of 4% of the total amount of rent for each such occupancy. No excise tax shall be imposed if the total amount of rent is less than fifteen dollars (\$15) per day or its equivalent or if the accommodation is exempt under the provisions of M.G.L. Chapter 64F, Section 2. This tax is imposed and is to be paid in accordance with and subject to the provisions of General*

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**ARTICLE 5: ACCEPT M.G.L. c. 59 § 5(54) – PERSONAL PROPERTY TAX EXEMPTION**

To see if the Town will vote to accept the provisions of M. G. L. Chapter 59 § 5(54) added by Chapter 159 § 114 of the Acts of 2000, to establish an exemption from taxation personal property accounts with an assessed value of less than \$5,000, beginning in Fiscal Year 2011; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information:* The purpose of this article is to allow the Town to adopt the local option statute to set a dollar amount for an exemption from personal property tax. The proposal is to establish the exemption at \$5,000; the statute allows for an exemption up to \$10,000. The exemption is applicable only for personal property, not real estate and is only applicable to personal property accounts that have a total assessed value that is less than the adopted limit. Personal property accounts with a total assessed value that exceeds the limit are not eligible for the exemption; meaning the entire value is taxable. The law does not allow partial exemptions.

Personal property generally includes tangible items that are not firmly attached to land or buildings, and which are not specially designed for or of such a size and bulk to be considered part of the real estate. This includes merchandise, furnishings and effects, machinery, tools, animals and equipment. The personal property tax is predominately assessed on businesses. Personal property is taxable unless a specific exemption provision applies. Many corporations are specifically exempted from the personal property tax. Certain utilities and telephone companies, however, are subject to the personal property tax on their machinery, poles, wires and underground conduits, wires, and pipes.

Adoption of this article would help to reduce certain administrative expenses (billing, abatement application processing, and appeals) on tax accounts which generate little tax revenue. Adoption of this exemption would provide relief to small businesses in Town that are subject to the tax. The article, based on FY2010 data, would exempt 429 Needham businesses from the personal property tax in FY2011. The total assessed value of the qualifying accounts is \$949,980 which represents less than 0.0128% of the total assessed taxable value in Needham. The average total assessed value of the 429 personal property accounts that would be exempted if this article is adopted is \$2,214 with an average bill of less than \$46 for the year.

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**ARTICLE 6: TRANSFER OF PROPERTY AT PERRY GLEN**

To see if the Town will vote to transfer the control of a parcel of land known as Perry Glen (Assessors' Map 140, parcel 1), containing 6.51 acres from the Park and Recreation Commission to the Conservation Commission, and to change the purpose for which it is held from “park and recreation” to “open space;” or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information:* At the request of the Board of Selectmen, the Park and Recreation Commission voted to declare that this 6.51 acre parcel, which was acquired by the Town in 1965, is no longer needed for “Park and Recreation purposes.” The parcel has no frontage or access, and was likely acquired for water quality protection for Rosemary Brook and Rosemary Lake. The Board of Selectmen asked the Park and Recreation Commission to take this action in order to transfer the property to the Conservation Commission to fulfill a

*commitment made in 2007. If transferred, the property will be permanently restricted as conservation land.*

*In 2007, the Board of Selectmen and Conservation Commission entered into an Agreement to transfer jurisdiction of 3.04 acres at Ridge Hill Reservation from the Commission to the Board of Selectmen. The reason for the transfer was the proposed construction of a senior center on the property. The transfer of jurisdiction was approved by the Town Meeting in May, 2007. The change in use from conservation use to general municipal use also required the approval of the Legislature, which was achieved under Chapter 202 of the Acts of 2007. Under the so-called "no net loss" policy of the Commonwealth, the Town agreed to use all feasible means to acquire for open space and/or recreational purposes a parcel or parcels of land of a total size equal to or greater than the 3.04 acre parcel, or to transfer a municipally owned parcel or parcels of land of a total size equal to or greater, to the Conservation Commission.*

*The Board of Selectmen made a commitment to the Conservation Commission that it would seek to acquire or transfer property with significant conservation value in return for the Conservation Commission's willingness to accommodate the proposed senior center construction. The Perry Glen parcel has been identified by the Conservation Commission as a parcel of significant conservation value.*

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**ARTICLE 7:      **TRANSFER OF PROPERTY FOR MUNICIPAL AND RECREATION USE****

To see if the Town will vote to transfer the control of three parcels known as Avery Field (Assessors' Map 70, Parcel 28 consisting of 80,970 +/- s.f.), Dwight Field (Assessors' Map 120, Parcel 23-002 and a portion of Map 309 consisting of a total of 193,924 +/- s.f.) and Perry Park (Assessors' Map 23, Parcel 1 consisting of 111,514 +/- s.f.), from the Board of Selectmen to the Park and Recreation Commission for municipal and recreation use; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: No Position Taken

*Article Information:      The Board of Selectmen voted to support the transfer of three parcels known as Avery Field, Dwight Field, and Perry Park from the jurisdiction of the Board of Selectmen to the jurisdiction of the Park and Recreation Commission for municipal and recreation uses. The Park and Recreation Commission requested that the Board of Selectmen support this transfer for properties that were originally transferred to the Selectmen from the School Committee for "the purpose of maintaining and preserving said property for sale or other Town use". The three parcels have been used as ball fields since the sale of the Avery, Carter, Dwight, Highland, and Harris Schools in 1981, and have been scheduled and managed by the Park and Recreation Department since that time. The proposed transfer of jurisdiction is for municipal and recreation purposes and is not permanently restricted. As such, the use of the property may be changed in the future by vote of Town Meeting.*

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**ARTICLE 8:      **APPROPRIATE FOR GENERAL FUND CASH CAPITAL****

To see if the Town will vote to raise and/or transfer and appropriate \$691,185 for General Fund Cash Capital, to be spent under the direction of the Town Manager and to meet this appropriation that \$415,900 be transferred from Line 10 of Article 28 of the May 2009 Annual Town Meeting, and that \$275,285 be transferred from line 28B of Article 28 of the May 2009 Annual Town Meeting; or take any other action relative thereto.

GF	Description	Recommended	Amendment
General Government	Microsoft Office 2007 Upgrade	\$60,000	
Public Works	Large Speciality Equipment	\$223,500	
Public Works	Small Specialty Equipment	\$92,500	
Public Works	Brook & Culvert Maintenance	\$75,000	
Public Works	Storm Drain Discharge Improvements	\$42,000	
Public Facilities	Core Fleet Replacement	\$30,932	
Public Facilities	Small Specialty Equipment	\$20,853	
Community Services	Library Technology Replacement	\$42,800	
Community Services	Athletic Facility Improvements	\$103,600	
Total Appropriation		\$691,185	

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information:* Due to the below average cost for snow removal this year, and projected savings in the Public Facilities Department energy line item, the Board of Selectmen and Finance Committee are recommending that Town Meeting amend the fiscal year 2010 budget to fund some cash capital requests that the Town would not otherwise be able to fund. A description of each request follows. Additional information on the Town's Capital Improvement Plan is available at [www.needhamma.gov](http://www.needhamma.gov).

**Microsoft Office 2007 Upgrade** Every eighteen to twenty-four months, Microsoft produces an upgrade to its popular Microsoft Office suite of products. Microsoft's recent version of the Office Suite is known as Office 2007. In the past, the Information Technology Center (ITC) has purchased Microsoft Office licenses on an as needed basis. At this point in time throughout the approximately 240 workstations and laptops, there is a mixture of Microsoft Office XP and Office 2003. This has never been a problem due to the fact that the Office products in the past have been "backwards compatible". That is not the case with Office 2007. The ITC is experiencing a greater number of problems with user files not being compatible with the current versions of Microsoft Office. This request would be an effort by the ITC to upgrade licensing and install Microsoft Office 2007 on all Town workstations and laptops.

**Large Specialty Equipment** Public Works specialty equipment consists of power-assisted equipment or other specialized tools used by the Department in the performance of its work. This replacement vacuum type sweeper will replace an older, mechanical broom type 3-wheeled street sweeper.

Unit	Division	Year	Description	Miles	Cost
#182	Highway	1987	Vacuum type Street Sweeper	30,200	\$223,500

**Small Specialty Equipment** This program provides funding to purchase new and replace existing Public Works specialty equipment. This equipment is critical for the efficient operation of the Drains, Highway, and Parks and Forestry Division's maintenance programs. The purchase of this equipment will increase productivity and expand the use of maintenance dollars. The equipment scheduled to be replaced include:

Unit	Division	Year	Description	Cost
#350	Parks & Forestry	1976	Utility Tractor	\$44,000

#353	Parks & Forestry	1989	Riding Turf Sweeper	\$27,500
#335	Parks & Forestry	1999	Field Renovator	\$21,000

**Brook and Culvert Maintenance** Severe storms result in numerous complaints and subsequent investigations of the Town's brooks, streams and culverts. The DPW has developed a repair and maintenance program which is a combination of contracted work and use of Town forces to address the issue of flooded and poor draining brooks, streams, waterways and culverts throughout the Town. This program addresses the failure of retaining walls and loss of soil behind the walls, which is allowing the brooks to become silted and overgrown with vegetation, impacting water flow levels. The goal of the program is to improve situations where there is a loss of usable abutting property and flooded basements. The project will require a detailed investigation, a plan of recommended improvements, a design drawing and specifications, environmental permitting and bidding of construction services. This will return the waterways to a condition that will allow the DPW to maintain the brooks using its own forces. Funding for this program since FY 2006 has included cleaning of Hurd Brook and culverts, from Central Avenue to the Wellesley line and a portion of Alder Brook. Unless circumstances require otherwise, FY 2011 funds are targeted for construction for Perry Gorge, and water quality improvements.

**Storm Drain Discharge Improvements** The Town's Storm Water Master Plan was completed in 2002. Incorporated into this Storm Water Master Plan are improvements to the Storm Drainage System to upgrade the quality of the water discharged to the Charles River in Needham. This project will fund the engineering, design, and permitting for the water quality improvements at the DPW facility on Dedham Avenue.

**Public Facilities Core Fleet Replacement** The Core fleet consists of passenger vehicles such as sedans and wagons, vans, pick-up trucks, small dump trucks, and utility trucks. The vehicle scheduled to be replaced is:

Unit	Division	Year	Description	Miles	Cost
#709	Public Facilities	2002	F150 Pickup	135,940	\$30,932

**Small Specialty Equipment** The purchase of a Close Cab Mower/Blower for the Needham High School and the High Rock School will improve the Department's capacity for maintaining grounds and removing snow at these facilities. The new High Rock School has over 2,000 linear feet of sidewalk, with one day custodian and two night custodians to perform snow removal. This equipment will facilitate the removal of snow in a timely and efficient manner. The High School presently is being cleared of snow in the winter by a group of eleven (11) custodians and trades people. A Close Cab Mower/Blower will allow several of those trades currently being utilized for snow removal to perform their necessary duties. The addition of these units will improve the Department's ability to maintain the grass, sweep the parking lots and sidewalks and perform snow removal in the winter.

**Library Technology Replacement** This funding will allow the library to replace computer workstations, servers, network printers, microfilm ready equipment, and networked multi-functional copiers in accordance with its technology replacement plan.

**Athletic Facility Improvements** The Public Works and Park and Recreation Departments have developed a maintenance plan for all fields, which includes new or total reconstruction, partial renovation, irrigation, drainage improvements, and equipment replacement or repair (e.g. bleachers, fences/backstops, player benches and miscellaneous equipment) for multi-use fields and ball diamonds. Perimeter fencing and backstops for the Mills Field ball diamond are in need of replacement. The original installation dates back to 1959. Despite numerous repairs over the years, the present condition has reached a critical level and will require total replacement. Replacement would include new and updated backstops, complete perimeter fencing with gates, and efficiency improvements to the irrigation system. The project also includes

improvements to the drainage system at High Rock, which will enable the field to remain open more often. A drainage plan will be developed prior to construction, because the system is connected to existing catch basins.

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**ARTICLE 9:                    APPROPRIATE FOR POLLARD SCHOOL IMPROVEMENTS**

To see if the Town will vote to raise and/or transfer and appropriate \$30,000 for design and engineering modifications and/or improvements to the Pollard School property related to the temporary relocation of elementary school students during the renovation of the Newman School, to be spent under the direction of the Town Manager, and to meet this appropriation that \$30,000 be transferred from Article 11 of the November 1, 2006 Special Town Meeting Warrant; or take any other action relative thereto.

INSERTED BY: Board of Selectmen  
FINANCE COMMITTEE RECOMMENDS THAT:     Article be Adopted

*Article Information:* The purpose of this article is to provide funds for the design/engineering of required improvements to the Pollard School, related to the temporary relocation of Newman elementary school students to the site in September 2011. The \$30,000 in requested funding will be supplemented by an additional \$20,000 in one-time school funds, for a total budget of \$50,000. Possible improvements include, but are not limited to: alterations to vehicle access/parking in the rear of the school and retrofits to the modular classrooms to accommodate the elementary school program. This article complements, but does not duplicate, the work proposed to be undertaken by the Pollard Condition Assessment, the purpose of which is to assess the condition of the school and identify any renovations required to extend the useful life of that facility.

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**ARTICLE 10:                    APPROPRIATE FOR (CPA) - PURCHASE OF LAND**

To see if the Town will vote to raise and/or transfer and appropriate \$800,000 to acquire parcels of land for recreational purposes under the Community Preservation Act, and to make improvements to said parcels including demolition of existing structures thereon, and to provide for costs incidental or related thereto, to be spent under the direction of the Town Manager, and further to authorize the Board of Selectmen to acquire said parcels for recreational purposes and to meet this appropriation that said sum be raised from FY2011 Community Preservation Receipts; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee  
FINANCE COMMITTEE RECOMMENDS THAT:     Recommendation to be made at Town Meeting

*Article Information:*     The Community Preservation Committee is considering the possible acquisition of a parcel or parcels of land for recreational purposes. At the time of the printing of this warrant, the Town had not yet reached agreement with the property owner. More information will available prior to the Special Town Meeting at [www.needhamma.gov](http://www.needhamma.gov).

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**ARTICLE 11:                    APPROPRIATE FOR PAYMENT OF UNPAID BILLS OF PRIOR YEARS**

To see if the Town will vote to raise and/or transfer and appropriate \$2,845.49 for the payment of unpaid bills of previous years, incurred by the departments, boards and officers of the Town of Needham, as follows, and

to meet this appropriation that \$731.44 be transferred from Overlay Surplus and that \$2,114.05 be transferred from Sewer Retained Earnings; or take any other action relative thereto.

<u>Department</u>	<u>Vendor</u>	<u>Description of Goods/Service</u>	<u>Fiscal Year</u>	<u>\$ Amount</u>
Public Facilities	Midland Fire Protection	Emergency Fire Sprinkler Shut Down	FY2009	\$ 731.44
DPW – Sewer	Bahr Sales	Equipment Parts/Repair	FY2009	\$2,114.05
Total				\$2,845.49

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information:* State law requires Town Meeting action in order for the Town to make payment for bills received after the close of the fiscal year.

**ARTICLE 12:            AMEND THE 2010 OPERATING BUDGET**

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2010 Operating Budget adopted under Article 28 of the May 2009 Annual Town Meeting by deleting the amounts of money appropriated under some of the line items and appropriating new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From:</u>	<u>Changing To:</u>
15A	Finance Department Salary and Wages	\$1,350,144	\$1,305,144
15B	Finance Department Expenses	\$715,252	\$760,252

or take any other action relative thereto.

INSERTED BY: Finance Committee

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information:* This article is to amend the Town’s operating budget for FY2010. The request is to transfer of \$45,000 from the salary and wages line (Line 15A) to the expenses line (15B) in the Finance Department. Due to turnover and continued vacancies in the Accounting Division, a growing backlog of work required hiring outside consultants to assist with current reporting requirements. The amendment would obviate the need for a Reserve Fund Transfer.

**ARTICLE 13:            AMEND THE 2010 SEWER ENTERPRISE FUND BUDGET**

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2010 Sewer Enterprise Fund Budget adopted under Article 30 of the May 2009 Annual Town Meeting by deleting the amounts of money appropriated under some of the line items and appropriating new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From:</u>	<u>Changing To:</u>
201A	Sewer Personnel	\$599,718	\$649,718

201B	Sewer Expenses	\$267,547	\$366,547
201C	Sewer Capital	\$ 39,000	\$ 84,000

and to meet this appropriation that \$194,000 be transferred from Sewer Enterprise Fund Retained Earnings; or take any other action relative thereto.

INSERTED BY: Finance Committee  
 FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information:* This article is to amend the Town’s sewer enterprise fund budget for FY2010. The request is for a supplemental appropriation of \$194,000 to cover increased and extraordinary operating expenses resulting from the two severe March rain storms. This appropriation and the Sewer Enterprise Fund Reserve Fund would cover expenses incurred to date relating to the March storms, as well as usual operating costs through June 30, 2010. The Town will also seek reimbursement through the Federal Emergency Management Agency (FEMA) for eligible costs. At the time of printing the warrant, FEMA has not yet issued applications for assistance.

The costs related to the March storms include overflow by-pass pumping at eleven different locations throughout Town, including three of the Town’s sewer pumping stations. The costs include overtime expenses for around-the-clock monitoring of the sewer by-passes, and the rental of pumps, and repairs to the Town’s sewer infrastructure. The cost includes \$50,000 for overtime, \$99,000 for services, rentals, repairs, and supplies, and \$45,000 for pumps at Great Plain Avenue pump station.

**ARTICLE 14: APPROPRIATE FOR MOBILE HIGH CAPACITY PUMPS**

To see if the Town will vote to appropriate the sum of \$200,000 for the purchase of mobile high capacity pumps and related installation costs, to be spent under the direction of the Town Manager, and to meet this appropriation that \$200,000 be transferred from Sewer Enterprise Fund Retained Earnings; or take any other action relative thereto.

INSERTED BY: Board of Selectmen  
 FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information:* The heavy rain from the March storms and consequent flooding resulted in serious taxing of the Town’s sewer system. The costs related to the March storms include overflow by-pass pumping at eleven different locations throughout town, including three of the Town’s sewer pumping stations. To cover these costs, funding is being requested under two warrant articles, the sewer enterprise operating budget, and this article. The Town will also seek reimbursement through the Federal Emergency Management Agency (FEMA) for eligible costs. At the time of printing the warrant FEMA has not yet issued applications for assistance.

This article is to fund the purchase of two mobile high capacity pumps that can be used to by-pass malfunctioning, damaged, or overstressed pump stations or culverts. The Town is currently renting two units which will be needed at the Reservoir B Pumping Station for a number of months. The cost of renting the pumps long term is comparable to the cost of purchasing the pumps. These pumps are movable, and can be used in the future to tackle emergency sewer by-pass pumping needs and/or pumping storm water flow which may be impeded by blockage or damaged infrastructure.

*The damage to the Reservoir B pumping station due to the flooding will require the initial use of the by-pass pumps until the new station is constructed. Funding for the design of the new pumping station was appropriated at May 2009 Town Meeting. The construction funds will be requested at the fall, 2010 Special Town Meeting. If the funds are appropriated, construction of the station could begin in early spring 2011, with an anticipation construction of 18-24 months. The cost of rental of the by-pass pumps during this period of time would be approximately \$140,000 to \$180,000. The cost of purchasing pumps for the by-pass is estimated at \$160,000 to \$200,000. If by-pass pumps are purchased, the rental of pumps will continue only until the new pumps are installed and operating. It is anticipated that the new pumps would be in place by September 30, 2010. The purchase would allow the Town to keep the equipment for other emergencies or high volume events (there have been six over the past 24 months not including March). The Town did lose one of its emergency pumps as a consequence of the storm. An emergency preamble will be requested in order to expedite the purchasing of the pumps.*

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**ARTICLE 15:      APPROPRIATE TO CAPITAL FACILITY FUND**

To see if the Town will vote to transfer \$100,000 to the Capital Facility Fund as provided under the provisions of M.G.L., Chapter 40, Section 5B as amended by Section 14 of Chapter 46 of the Acts of 2003, and as further amended by Section 19 of Chapter 140 of the Acts of 2003, said sum to be transferred from Article 28 of the 2009 Annual Town Meeting, Line 28B; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information:      Projected savings in the Public Facilities Department energy line are proposed for reallocation to the Capital Facility Fund. The balance of the fund as of February 28, 2010 was \$630,453.*

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And you are hereby directed to serve this Warrant by posting copies thereof in not less than twenty public places in said Town at least fourteen (14) days before said meeting.

Hereof fail not and make due return of this Warrant with your doings thereon unto our Town Clerk on or after said day and hour.

Given under our hands at Needham aforesaid this 6<sup>th</sup> day of April 2010.

Daniel P. Matthews, Chairman  
John A. Bulian, Vice Chairman  
Denise C. Garlick, Clerk  
Gerald A. Wasserman  
Maurice P. Handel

Selectmen of Needham

A TRUE COPY

Attest:

Constable:

*(This page has been left intentionally blank.)*

**Town Clerk's Office  
Needham, MA 02492**

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**ATTN: SPECIAL TOWN MEETING WARRANT**