

# TOWN OF WELLESLEY



## ADVISORY COMMITTEE REPORT TO THE SPECIAL TOWN MEETING

**MONDAY, NOVEMBER 16, 2009  
7:30 PM**

**WELLESLEY MIDDLE SCHOOL AUDITORIUM**

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**Please read this book and bring it with  
you to the Special Town Meeting.**

In the event that it becomes necessary to cancel any session of the Town Meeting,  
notice will be given between 6 and 6:30 p.m. on  
**Wellesley Cable TV: Comcast Channel 9 and Verizon Channel 39.**

**For more information and updates, please visit [www.wellesleyma.gov](http://www.wellesleyma.gov).**

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## 2009 SPECIAL TOWN MEETING

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### APPENDIX

Guidelines For Conduct Of Wellesley Representative Town Meeting

# TOWN OF WELLESLEY



## REPORT OF THE ADVISORY COMMITTEE TO THE 2009 SPECIAL TOWN MEETING

### **TERM ENDS 2010**

Peter Cory, Chair  
Judi Donnelly, Secretary  
Katherine Macdonald, Vice Chair  
Stephen Sykes  
Marc Taylor

### **TERM ENDS 2011**

Rick Hill  
Barbara McMahon  
Caren Parker  
Steve Simons  
Jason Whittet

### **TERM ENDS 2012**

Virginia Ferko  
Jack Haley  
Maura Murphy  
Rich Page  
Derek Redgate

October 29, 2009

To the Citizens of the Town of Wellesley:

A Special Town Meeting will convene on Monday, November 16, 2009, at 7:30 pm, to consider Articles proposed by the Board of Selectmen and the Planning Board. All residents are welcome to attend the meeting in person, or follow the proceedings on Wellesley Cable TV (Comcast Channel 9, Verizon Channel 39). This letter presents the Advisory Committee's overall perspective on the key features of these Articles. The more comprehensive Advisory Committee's Report to Town Meeting members will be posted to the Advisory section of the Town website. In addition, if any further recommendations are made by Advisory between publication of this letter and the opening of the Special Town Meeting, a notice will be sent to Town Meeting members by e-mail, and the new recommendations will also be posted to the Advisory website.

None of the Articles before this year's Special Town Meeting are expected to include motions to appropriate funds. Nonetheless, Advisory would like to take this opportunity to briefly update Town residents on the budget outlook for the balance of FY10, and for FY11. Many residents may already know that the Town entered FY10 with revenues projected to be more than \$1 million lower than what had been anticipated at the time that the FY10 budget appropriations were approved by the 2009 Annual Town meeting. This is due primarily to late-announced cuts in the State's funding of the Quinn Bill (which provides a salary increment to police officers with college degrees) and, especially, in the Circuit Breaker Reimbursement (CBR) formula for out-of-district special education tuitions. While most of the already-identified FY10 revenue shortfall will likely be offset by federal and state stimulus funds, based on recent state tax collection data there is growing concern that additional, emergency "9C" cuts in state aid may be forthcoming for FY10.

With little hope for a meaningful recovery in the State's fiscal position or a corresponding rebound in state aid any time soon, and with no guidance from the State on the CBR formula for FY11, Advisory issued FY11 operating budget guidelines to Boards, Committees, and Departments that were among the lowest in decades: 1) a 1% increase for all non-School Departments; 2) a 1% increase for the School Department, excluding the Special Tuition & Transportation category of its budget; and 3) a "contingent" \$750,000 increase for out-of-district

special education tuitions within the Special Tuition & Transportation category of the budget - bringing the total school budget increase to 2.25%. In issuing these guidelines, Advisory endeavored to cover the rising cost of employee benefits (viewed broadly to include health insurance, Other Post Employment Benefits or "OPEB" funding, contributions to the Town's Pension Plan, etc.) and avoid an operating override, while recognizing that there may also be a need to draw, in a limited way, on the Town's cash reserves. The Advisory Guidelines letter is posted on the Advisory section of the Town's website, and we would urge all residents to take this opportunity to read this document if they have not already done so.

The Advisory Committee wishes to express its appreciation to the dedicated Town employees, elected and appointed officials, and concerned citizens who devote so much time, energy, and expertise to the Town's affairs.

Sincerely,

Peter Cory, Chair  
Advisory Committee

### **2009 Fall Special Town Meeting**

There are nine substantive Articles on the Warrant for the 2009 Special Town Meeting that are grouped below according to the sponsoring Board (e.g., the Board of Selectmen, the Planning Board). At the time this letter and the Advisory Committee's Report to Special Town Meeting goes to print, Advisory has sufficient information to vote its recommendations on five of these Articles.

#### ***Board of Selectmen:***

##### **Article 3 – Local Option Meals Excise**

This Article, which proposes adoption of the so-called Local Option Meals Excise, provided the initial impetus for the Board of Selectmen to call the Special Town Meeting. State law recently changed to allow municipalities to impose an "add-on" excise of 0.75% to the existing 6.25% state meals tax. Local tax revenues would be collected by the State and returned to the Town; if approved by Special Town Meeting, collection of the tax would begin on January 1, 2010. Revenue collections on an annualized basis are projected by the State Department of Revenue (DOR) to be approximately \$355,000. Advisory supports this measure, which would increase and diversify the Town's revenue base and provide some help to the Town in meeting current budget challenges.

##### **Article 4 – Amend Article 8 of 2009 ATM – MGL c. 29, Sect. 9C Reductions**

As noted above, the Commonwealth's tax collections thus far in FY10 are continuing to fall significantly short of projections, and there is a possibility of emergency cuts in local aid to municipalities by the Governor under the authority of Section 9C of MGL Ch. 29. In the event that sizeable cuts are announced by the Governor prior to Special Town Meeting, the Town may find it necessary to revisit the FY10 appropriations authorized by the 2009 Annual Town Meeting. Although not expected, if a motion containing emergency fiscal measures for FY10 is offered by the Board of Selectmen under this "place-holder" Article, Advisory will make its recommendation at Special Town Meeting.

##### **Article 7 – Cochituate Aqueduct Leases**

This Article relates to lease renewals for portions of the Cochituate Aqueduct property (which is owned by the Town) to local businesses and other entities. At the time this letter goes to print, negotiations are ongoing with one or more lease-holders.

### **Article 8 – Sidewalk Easement – 219 Washington Street**

This Article proposes that the Town accept an easement being granted by the Wellesley Friendly Aid Association on a narrow parcel of property at 219 Washington Street to enable construction of a new sidewalk. The new sidewalk, set further back from the roadway at the north-west corner of the busy Routes 9 & 16 intersection, would improve pedestrian safety. The construction activity (and the associated funding) would be the responsibility of MassHighway, not the Town.

### **Article 9 – Land Acquisition – Cartwright and Greenbough**

This Article proposes acceptance of a small strip of land on Cartwright Road that was deeded to the Town over two decades ago. Advisory supports this measure.

### **Article 10 – Accept Amendments – Tax Benefit – MGL c. 59, Sect. 5K**

This Article revisits the increase in the Senior Property Tax Work-Off benefit from \$750 to \$1,000 previously approved at the 2009 Annual Town Meeting. Town Meeting authorized the Board of Selectmen to seek a special legislative dispensation authorizing this increase. Subsequently, the Massachusetts legislature adopted general legislation authorizing the increase, and the Town now needs to accept this amendment in order to implement the added benefit. Advisory supports this proposal.

### **Article 11 – Glen Grove Apartments**

The property in question is a rental apartment complex on Grove Street that is comprised of 125 HUD-subsidized affordable senior rental units. The current owner is negotiating the sale of the property, and the Board of Selectmen and the Wellesley Housing Authority are proposing to waive their Right of First Refusal to purchase it. The Board of Selectmen is working to ensure that contractual safeguards adequately preserve both the property's status as senior affordable housing and the Town's Right of First Refusal in any future transactions. Several details are still pending, and Advisory will bring its recommendation to Special Town Meeting.

### ***Planning Board:***

#### **Article 5 – Retaining Walls**

This Article represents a new approach to the issue of regulating the construction of retaining walls, under the Zoning Bylaws. Currently the Town has very limited authority to regulate retaining walls, although Articles proposing additional regulation have been brought to Town Meeting on several occasions in the past. The Planning Board's current proposal incorporates increasing levels of rigor to the review and permitting process, depending on the height of the proposed walls. Walls less than four feet in height are exempted from permitting, and the Article also provides relief for designs of terraced combinations of retaining walls where the spacing between the walls meets certain thresholds. Also covered is the positioning of retaining walls relative to property setbacks. Advisory supports this proposal.

#### **Article 6 – Amend Definition of “Trailer or Vehicle Signs”**

This Article amends the Zoning Bylaws to permit regulation of certain types of signs not currently covered in the Bylaws. Vehicles with signage that are parked at a location that is not related to the vehicle's normal business activity (nor is the owner or lessee's primary residence) but are instead “used merely or mainly for advertising purposes” will be classified as “moving signs” which are prohibited in the Town. Although Advisory supports the basic objectives of the Article, it does not support this proposal as currently written.

**ARTICLE 1. To choose a Moderator to preside over said meeting.**

**(Board of Selectmen)**

**Advisory expects no motion under this Article.**

**ARTICLE 2. To receive reports of town officers and committees, and act thereon, and discharge presently authorized special committees; or take any other action relative thereto.**

**(Board of Selectmen)**

**Advisory expects no motion under this Article.**

**ARTICLE 3. To see if the Town will vote to accept Chapter 64L, Section 2 of the Massachusetts General Laws authorizing the Town to impose a local option sales tax on restaurant meals; or take any other action relative thereto.**

**(Board of Selectmen)**

As part of the FY10 State budget, the Legislature and Governor approved a new local option excise of 0.75% on sales of restaurant<sup>1</sup> meals<sup>2</sup> originating within the municipality, with the resulting revenues earmarked for the Town's General Fund (G.L. c. 64L, 2(a)).

The local option meals excise of 0.75% would add 75 cents to a diner's \$100 bill for a meal and applies to all meals subject to the state sales tax, including restaurant meals, catered meals, and certain prepared food items sold in grocery stores or coffee shops. The Department of Revenue (DOR) will collect the local meals excise at the time it collects the state tax on the sale. Based on historical sales tax receipts, the DOR estimates annual receipts of approximately \$355,000 from the meals excise for Wellesley.

If approved by Special Town Meeting, the meals excise would become effective on January 1, 2010, and the first quarterly distribution to Wellesley would be on March 31, 2010.

The mechanics and timeline for enacting the meals excise include:

1. The legislative body (Town Meeting) approves the local excise by a majority vote, prior to December 2009. (Vote must be a minimum of 30 days prior to start date.)
2. If approved, the meals excise would become effective January 1, 2010.
3. The first quarterly distribution for Wellesley would be on March 31, 2010.

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<sup>1</sup> As defined in MGL c.64H, 6(h), "restaurant" shall mean any eating establishment where food, food products, or beverages are provided and for which a charge is made, including but not limited to, a café, lunch counter, private or social club, cocktail lounge, hotel dining room, catering business, tavern, diner, snack bar, vending machine, and any other place or establishment where food or beverages are provided, whether stationary or mobile, temporary or permanent; provided, however, that delicatessen, grocery, market or bakery stores shall not be considered eating establishments within the meaning of this chapter except for any part of such a store which engages in the sale of dinners, luncheons, barbecued chicken, other than barbecued chicken sold whole and unsliced, sandwiches, snacks, pizzas, and other similar items that are commonly sold at snack bars, coffee shops or luncheon counters.

<sup>2</sup> MGL c.64H, 6(h) defines "meals" as any food and beverage, or both, prepared for human consumption and provided by a restaurant, where the food or beverage is intended for consumption on or off the restaurant premises, and includes food or beverage sold on a "take out" or "to go" basis.

**Table: Local Option Excise Timetable**

| <b>FY Quarter</b> | <b>Quarter Start Date</b><br>(minimum of 30 days<br>after vote) | <b>Action Deadline</b><br>(vote taken prior to<br>this date) | <b>Distribution<br/>Date</b> | <b>Revenue<br/>Collected<br/>During</b> |
|-------------------|---|--|------------------------------|---|
| <b>Q3</b>         | <b>January 1</b>  | <b>December 1</b>  | <b>March 31</b>              | <b>January and<br/>February</b>         |
| Q4                | April 1   | March 1  | June 30                      | March, April, May                       |

*Source: Based on MDOR Bulletin 2009-15B Local Option Excise*

At the Selectmen’s Public Hearing, local restaurant owners expressed concern that if Wellesley enacted this excise and surrounding towns did not, restaurant clientele would choose restaurants in other communities, due to the perception that going out to dinner in Wellesley was more expensive. It was noted that in August 2009, the Legislature approved increasing the sales tax by 1.25% to 6.25%, thereby already increasing restaurant bills. The meals excise would bring the total combined tax to 7%. Restaurant owners and their representative noted that economic times are difficult and that a tax increase would adversely impact their businesses. Finally, some saw the meals excise as setting a bad precedent that could lead to selective targeting of other retail segments.

The majority of the Advisory Committee voted in support of the new local option meals excise. The majority feel that the Town should diversify and increase its aggregate revenue base by taking advantage of this measure, especially in light of decreasing state aid and local revenues and the limitations on property tax increases imposed by Proposition 2 1/2. The Town is already facing a revenue shortfall in FY10 versus the FY10 budget appropriation, and the FY11 budget guidelines issued by Advisory impose very tight constraints on spending increases by Town departments. The meals excise revenues will help meet these budget challenges. The majority also believe that the extra burden on diners is fairly modest and affordable, that restaurant meals are a discretionary spending category, and that the impact on restaurants in the Town will be very limited, especially since many surrounding communities have adopted, or are likely to adopt, the measure.

The minority opposes the meals excise for several reasons. They feel it is unfair to target a specific group of retailers to bear the burden of this excise. Philosophically, they also oppose tax increases, especially during this difficult economic environment, noting that taxes are generally not good for business or the economy. More importantly, incremental sales tax levies will not solve the Town’s overall cost structure problem and the Town needs to do a better job of reducing costs. They feel that imposing an excise levy is a band-aid approach to financial management.

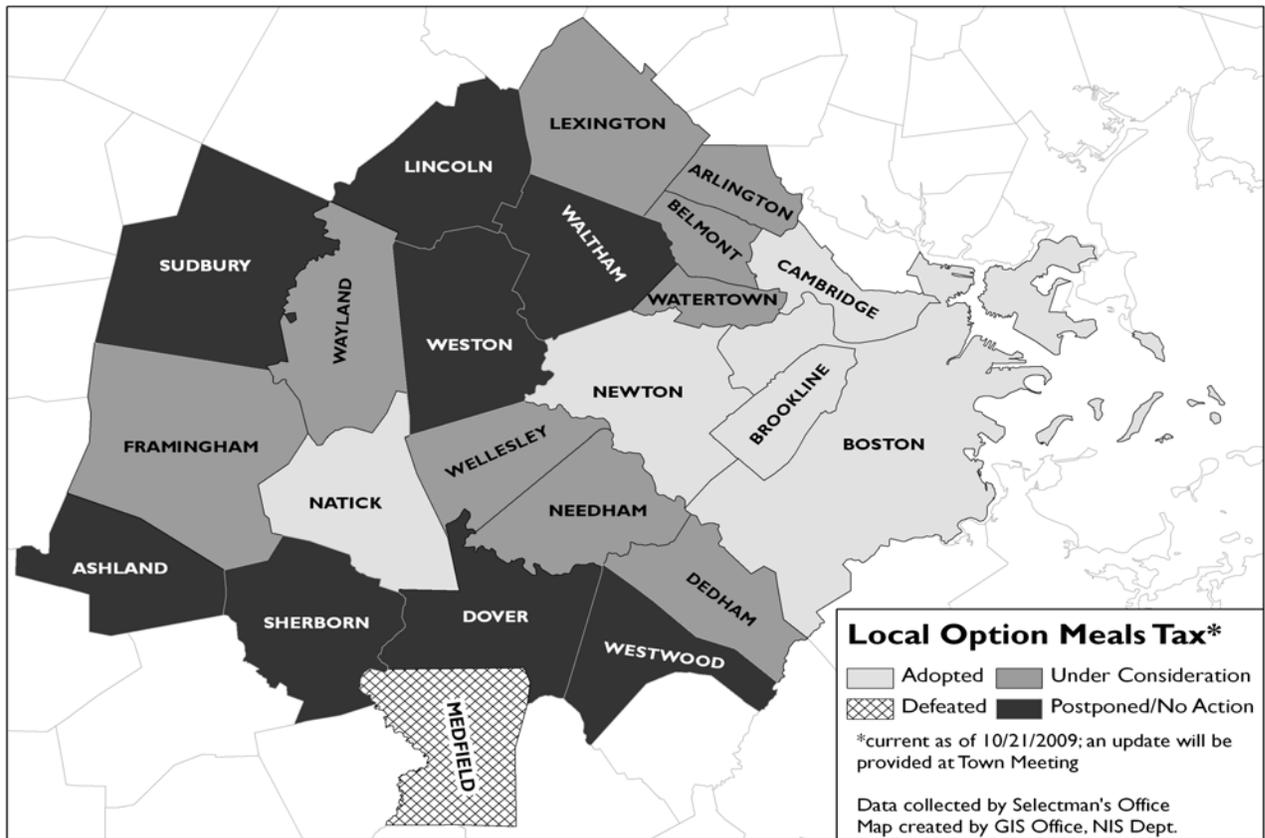
**Surrounding Communities**

As of October 21, 2009, 37 Massachusetts communities had enacted the local meals excise. Additional towns are scheduled to vote at Town Meetings this fall. The following communities have scheduled Special Town Meetings for this fall, with the meals excise option on their respective warrants. Please see table and map on following page.

**Scheduled Special Town Meetings for Surrounding Communities to Vote on the Local Meals Excise:**

| October 2009       | November 2009  |   |
|--------------------|--|---|
| Framingham – 10/27 | Needham – 11/2<br>Lexington – 11/9<br><b>Wellesley – 11/16</b> | Dedham – 11/16<br>Arlington – 11/16<br>Belmont – 11/16<br>Wayland – 11/18 |

**Map: Local Option Meals Excise in Surrounding Communities**



Local Option Meals Excise as of 10/21/09:

- Surrounding communities that have adopted: Boston, Natick, Newton, Cambridge, Brookline
- Surrounding communities that postponed/no action: Ashland, Sherborn, Dover, Westwood, Weston, Waltham, Lincoln and Sudbury
- Surrounding community defeated: Medfield

**Advisory recommends favorable action, 12 to 2.**

**ARTICLE 4. To see if the Town will vote to reduce, or appropriate from other sources, the sums of money appropriated under Article 8 of the Warrant for the 2009 Annual Town Meeting for the operation of the several Town departments in Fiscal Year 2010 in order to reflect mid-year reductions made in aid from the Commonwealth under Chapter 29, Section 9C of the Massachusetts General Laws; or take any other action relative thereto.**

**(Board of Selectmen)**

Advisory expects no motion under this Article, which has been placed on the warrant by the Board of Selectmen as a place holder. In the event that so-called "9C" cuts in state aid are announced by the Governor during the weeks leading up to Special Town Meeting, a motion containing emergency fiscal measures for Fiscal Year 2010 could be offered by the Board of Selectmen. In such an event, Advisory will make its recommendation at Special Town Meeting.

**ARTICLE 5. To see if the Town will amend the Zoning Bylaw by inserting a new section to regulate retaining walls following Section XXIIIC. ANTENNAS. The proposed version (which is recognized to be subject to change before or at Town Meeting) currently reads as follows:**

**SECTION XXIID. RETAINING WALLS.**

**A. PURPOSE AND INTENT.**

The Town of Wellesley adopts this section to accomplish and ensure the following:

1. To allow for the review of retaining walls of a size that may impact surrounding buildings, land, and uses;
2. To require the construction of retaining walls in a manner consistent with engineering and construction best practices; and
3. To lessen the impact of large retaining walls on abutting properties and the public by encouraging the use of landscaping and aesthetically pleasing design elements.

**B. APPLICABILITY AND EXEMPTIONS**

The regulations and requirements contained herein shall apply to all retaining walls erected in the Town of Wellesley, except the following:

1. Retaining walls that retain less than four (4) feet of unbalanced fill shall be exempt from the requirements of this section.
2. A terraced combination of walls, in which each separate wall retains less than four (4) feet of unbalanced fill and in which each successive wall is offset from the lower wall at least two times (2x) the height of the unbalanced fill retained by the lower wall, shall be exempt from the requirements of this section.

**C. GENERAL PROVISIONS**

1. Determining Retaining Wall Height - The height of a retaining wall shall be the distance from the grade at the front of the wall to the grade at the back of the wall at the same section. For walls that are not a constant height the largest of these measurements shall be used to determine the height of the wall.

For the purpose of determining the height of terraced retaining walls, walls determined to constitute separate walls shall be measured in the manner described above, independent of other walls. Multiple walls determined to constitute a single wall shall be measured from the grade at the front of the lowest wall to the grade at the back of the highest successive wall.

2. Terracing - Terracing of retaining walls is allowed and encouraged. In a terraced retaining wall system, if a successive wall is offset from a lower wall at least two times (2x) the height of the unbalanced fill retained by the lower wall, the walls shall be considered as separate walls; if a successive wall is offset from a lower wall less than two times (2x) the height of the unbalanced fill retained by the lower wall, the walls shall be considered as a single wall.
3. Setback - No portion of a retaining wall over four (4) feet in height, subject to this section shall be within ten (10) feet of a property line.
4. Nonconforming Retaining Walls - Retaining walls constructed and/or permitted prior to the adoption of these regulations shall be allowed to remain in their existing state; however, significant changes or alterations to such walls shall be made in conformity with these regulations. The repair and routine maintenance, as determined by the Inspector of Buildings, of nonconforming retaining walls shall be allowed without requiring conformity with these regulations.
5. Maximum Wall Height - No retaining wall shall exceed fifteen (15) feet in height.

#### D. DESIGN REVIEW AND PERMITTING

1. Design Review - Design Review shall be required for all retaining walls requiring a permit, as determined by the Inspector of Buildings, and retaining seven (7) feet or more of unbalanced fill. The Design Review Board shall review retaining walls under those criteria contained in Section XXII, *Design Review*, Part C., *Design Criteria*, of this Bylaw and shall submit an advisory recommendation to the Inspector of Buildings prior to the issuance of a permit.
2. Permitting - A permit shall be required, consistent with the requirements of the Town of Wellesley Building Department, for all retaining walls that retain four (4) or more feet of unbalanced fill.

#### E. SPECIAL PERMIT PROVISIONS

The Special Permit Granting Authority shall consider requests for special permits in accordance with this Section and Section XXV of the Zoning Bylaw.

1. Circumstances Under Which A Special Permit May Be Granted - The Special Permit Granting Authority may grant a Special Permit in the following situations:
  - a. Retaining walls exceeding the maximum height as indicated in Subsection C., Paragraph 5., of this Section.
  - b. Retaining walls not meeting the Setback requirements indicated in Subsection C., Paragraph 3., of this Section.
2. Required Findings - A Special Permit for a retaining wall may be issued provided the Special Permit Granting Authority finds:
  - a. That the retaining wall is otherwise in compliance with the provisions of this Section;
  - b. That the requested retaining wall will not adversely impact adjacent property or the public;

- c. That the report of the Design Review Board has been received and the requested retaining wall is consistent that report and those criteria contained in Section XXII, *Design Review*, Part C., *Design Criteria*, of the Zoning Bylaw; and
- d. That the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.

and by amending SECTION IA. DEFINITIONS. of the Zoning Bylaw by adding a new definition for Retaining Wall to read substantially as follows:

Retaining Wall - A wall or terraced combination of walls used at a grade change to hold soil and other earth material at a higher position. Retaining walls may be attached to or independent from other structures. The exposed side of a retaining wall shall be known as a "face". The area between a lower wall and a successive higher wall shall be known as a "terrace".

or take any other action relative thereto.

**(Planning Board)**

This Article requests Special Town Meeting's approval to amend the Zoning Bylaws by inserting a new section to regulate retaining walls. The Town currently has no regulations governing retaining walls, except those found in the Building Code. A building permit is required to erect a retaining wall over four feet in height and a permit will be granted if the wall is designed and constructed to meet Code requirements for structural integrity. However, with the limited availability of land suitable for the construction of new homes, and the desire of some homeowners to build large additions onto existing homes, the pressure to level land (sometimes previously deemed unbuildable) by erecting large retaining walls remains intense. The effect has been the erection of walls that, while conforming to the Building Code, negatively impact abutters and the public due to their size, placement, and appearance.

The Planning Board has proposed the regulation of retaining walls several times in recent years. At the 2007 Annual Town Meeting, a proposed Zoning Bylaw amendment would have subjected all walls retaining more than four feet of fill to lot-setback requirements. Some Town Meeting members expressed concern that the regulation was overly restrictive and would have prohibited some commonly constructed types of retaining walls. The proposal failed narrowly to achieve the necessary two-thirds vote of Town Meeting. The Planning Board reports continued interest by residents in retaining wall regulation since that time.

The current Article represents a more flexible approach to the regulation of retaining walls by imposing graduated levels of review, based upon the proposed wall height:

- Walls that retain less than four feet would be exempt from regulation.
- Terraced walls that each retain less than four feet would also be exempt, provided the upper and lower walls are adequately spaced.
- Walls that retain more than four feet would be prohibited within 10 feet of a lot line unless a Special Permit is issued by the Zoning Board of Appeals. Walls retaining more than four feet but not more than seven feet would be allowed elsewhere on a lot once a building permit is obtained from the Building Inspector.
- Walls retaining more than seven feet but not more than 15 feet would, additionally, require Design Review to encourage the use of design elements and landscaping to minimize negative impacts.

- Walls retaining more than 15 feet would not be allowed without a Special Permit granted by the Zoning Board of Appeals after notice and a public hearing. A Special Permit may be granted only after specific findings that the wall: will not adversely impact adjacent properties or the public; is consistent with the report of the Design Review Board; and is the minimum structure necessary to allow a property to be reasonably utilized.

The Planning Board believes that this amendment to the Zoning Bylaws is necessary to limit the negative impacts of retaining walls on abutters and the public without overburdening homeowners and builders. The proposed graduated review process recognizes that the potential for retaining walls to create negative impacts increases as the height of the wall increases.

Advisory agrees that a Zoning Bylaw amendment to regulate retaining walls is needed. The current proposal represents a significant improvement over the approaches to retaining wall regulations previously proposed to Town Meeting, while not imposing an unreasonable burden on property owners.

*Passage requires a 2/3 vote at Special Town Meeting.*

**Advisory recommends favorable action, 12 to 0.**

**ARTICLE 6. To see if the Town will vote to amend the definition of “Trailer or Vehicle Signs” located in SECTION XXIIIA. SIGNS AND IDENTIFICATION DEVICES. To classify “Trailer and Vehicle Signs” as a moving sign;**

by inserting the word “moving” after the words “shall be considered and regulated as a”; and by inserting “, or not parked at the owner’s primary residence,” before the phrase “but is used merely or mainly for advertising purposes.”

so that the definition will read substantially as follows:

Trailer or Vehicle Signs – For the purposes of this Sign Bylaw a vehicle, motor vehicle or self-propelled vehicle shall be considered and regulated as a moving sign when or under such circumstances any such vehicle is not engaged in the usual business or work of the owner or lessee, or not parked at the owner’s primary residence, but is used merely or mainly for advertising purposes, or take any other action relative thereto.

**(Planning Board)**

The purpose of this Article is to amend the existing definition of trailer or vehicle signs within the Zoning Bylaws so that trailers or vehicles with signage that are “used mainly or merely for advertising purposes” will be regulated as “moving signs,” which are not permitted anywhere in Town.

Signs are allowed to be displayed on vehicles and trailers for identification purposes when such vehicles are being used for normal daily work, or are temporarily parked (including overnight) at a worksite or at the owner’s (or lessee’s) primary residence or place of business. However, when vehicles or trailers with signage are parked for an extended period at a non-related location (that is not the owner’s primary residence or place of business) then these signs are considered to be advertising. Under the proposed amendment, these vehicles would be regulated as “moving signs” and prohibited. The Town’s Bylaws relating to all forms of vehicular signs (trailer, vehicle or moving signs) were created to protect property values, aesthetic integrity, and community appearance, and it is the Planning Board’s view that in certain

circumstances this intent is being circumvented. The proposed amendment is an effort to overcome this. Enforcement of this Bylaw would be the responsibility of the Building Inspector.

Advisory understands that the primary intent of this Article is to control the use of trailer and vehicle signs that are displayed solely or primarily as a form of advertising. While Advisory supports the basic objectives of the Article, the majority feel that the specific language of the proposal contains deficiencies. Some questioned the lack of measurable standards and criteria for enforcement, others questioned whether there would be equitable treatment for lease-holders of property versus property owners, and, finally, others questioned the application of an outright prohibition of moving signs as compared to a more rules-based regulation.

*Passage requires a 2/3 vote at Special Town Meeting.*

**Advisory recommends unfavorable action, 10 to 2.**

**ARTICLE 7. To see if the Town will vote to authorize the Board of Selectmen to enter into one or more leases of certain parcels of town-owned land within the Cochituate Aqueduct; and/or to renew existing leases; on such terms and conditions, including dollar amounts, as said Board deems to be in the Town's interest; or take any other action relative thereto.**

**(Board of Selectmen)**

This Article relates to lease renewals for portions of the Cochituate Aqueduct property (which is owned by the Town) to local businesses and other entities. At the time this Report goes to print, negotiations are ongoing with one or more lease-holders.

**Advisory will make its recommendation at Special Town Meeting.**

**ARTICLE 8. To see if the Town will vote to accept an easement granted to the Town for sidewalk purposes at 219 Washington Street as shown on a plan entitled "PLAN OF SIDEWALK EASEMENT AT 219 WASHINGTON STREET, WELLESLEY, MA" dated August 11, 2009, at no cost to the Town; or take any other action relative thereto.**

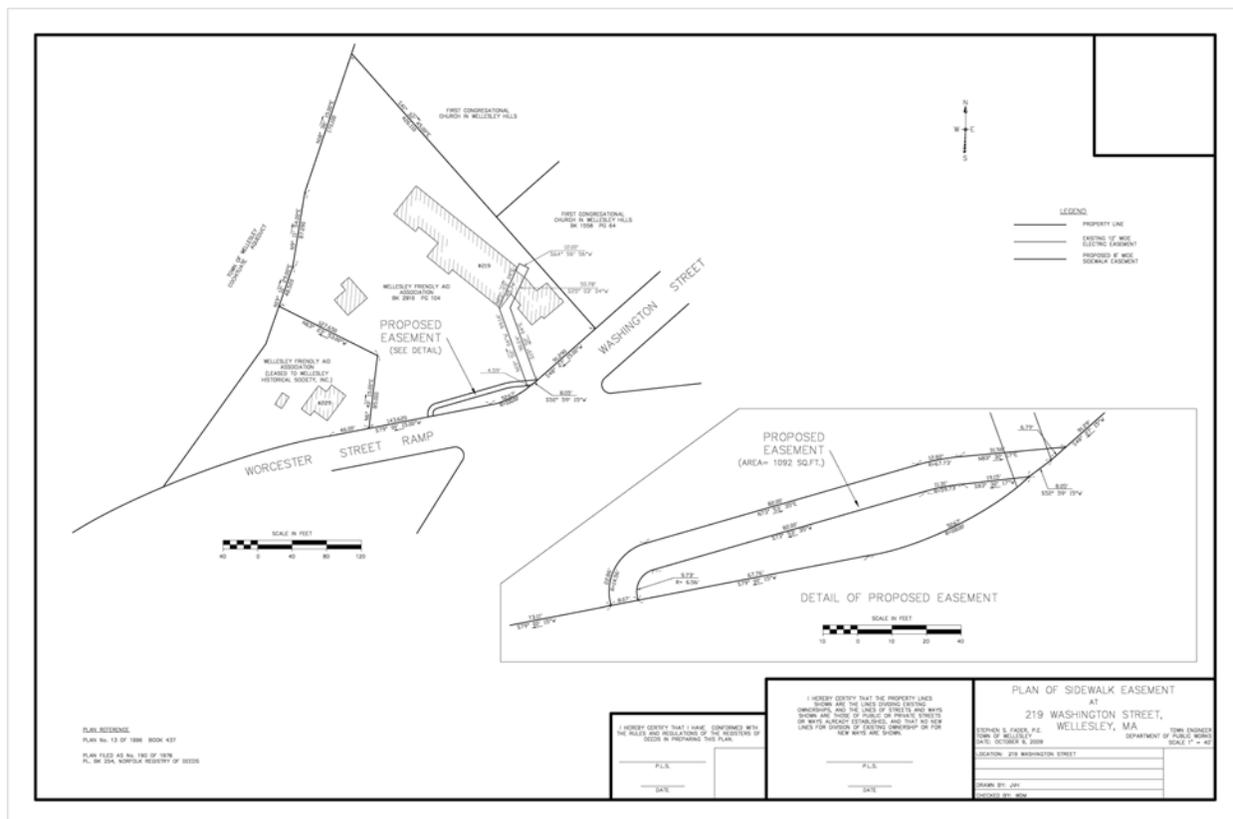
**(Board of Selectmen)**

This Article proposes that the Town accept a grant of an easement on a narrow parcel of land at 219 Washington Street for the purpose of constructing a new sidewalk. The land at 219 Washington Street is owned by the Wellesley Friendly Aid Association; the building that occupies the site is operated by the Wellesley Community Center. The parcel covered by this easement, which is immediately adjacent to the northwest corner of the intersection of Routes 9 & 16, totals 1,092 sq. ft. and is approximately 136 feet in length and 8 feet in width. At the time this Report goes to print, the terms of the easement agreement between the Wellesley Friendly Aid Association and the Town have not been finalized. It is Advisory's understanding that the easement will be "in perpetuity," at a cost of \$1 or less to the Town, and that the Town will accept some responsibility for the care and maintenance of trees that are located between the strip of property covered by the easement and the boundary of the Friendly Aid Association's property at the roadway. A map showing details of the easement is provided below.

The Article under consideration is specifically focused on the easement. However, the construction of a new sidewalk at the busy Routes 9 & 16 intersection would be of clear benefit to pedestrian safety, and to the Town. The existing sidewalk is very narrow and very close to the roadway, and offers little curb-height protection to pedestrians as vehicles travel on Washington

Street westbound and access the ramp onto Route 9 westbound. The newly reconfigured sidewalk will be set further back from the roadway, and located behind the tree line rather than in front of it. It will end at the crosswalk that traverses the vehicle ramp onto Route 9 westbound and connects with the sidewalk on the Route 16 bridge across Route 9. Under the master plan for the intersection, this crosswalk will incorporate a pedestrian signal.

It is Advisory's understanding that MassHighway, and not the Town, will bear the cost of the new sidewalk in conjunction with their completion of the Route 16/Route 9 intersection master plan. The expected completion date is the spring or summer of 2010. Details are still subject to final approval by MassHighway. The Town will be responsible for future maintenance of the new sidewalk.



**Proposed Easement - 219 Washington St. 1**

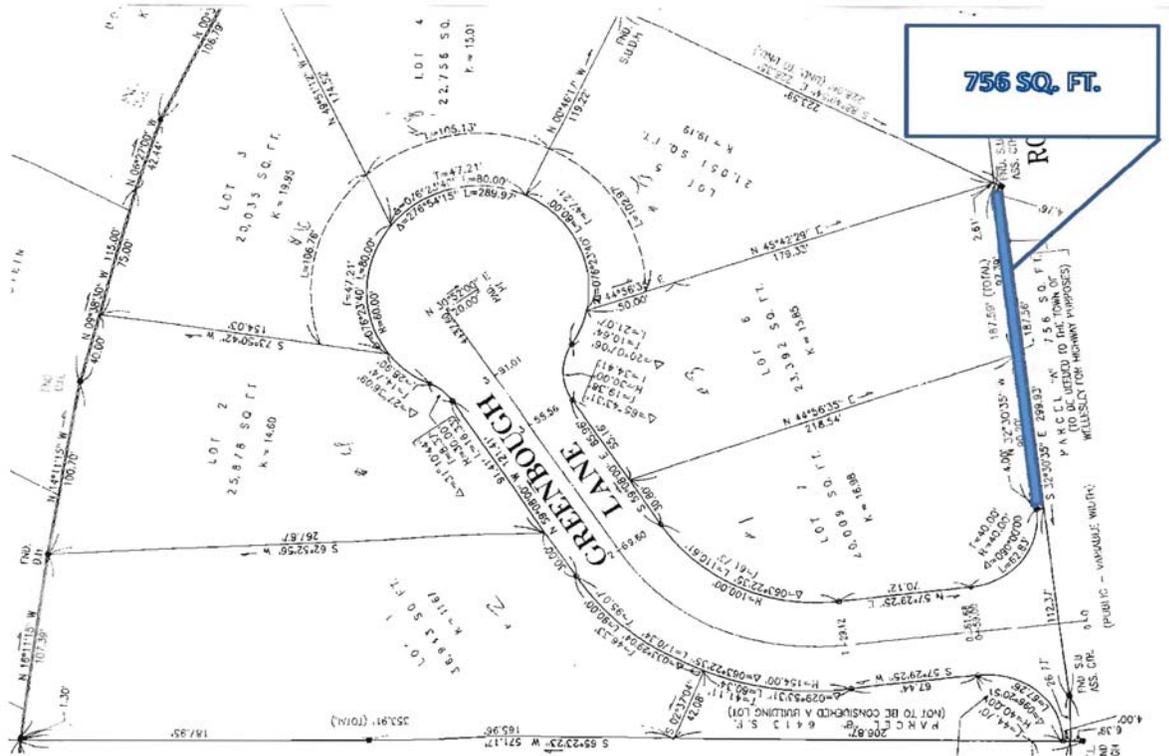
**Advisory will make its recommendation at Special Town Meeting.**

**ARTICLE 9.** To see if the Town will vote to acquire, by gift, deed, eminent domain or otherwise, a 756 sq. ft. parcel of land at the corner of Cartwright Road and Greenbough Lane, to be held for highway purposes, said parcel shown on a subdivision plan approved by the Planning Board on May 5, 1987 and filed in the Norfolk Registry of Deeds as Plan No. 666 of 1988 in Plan Book 369; or take any other action relative thereto.

**(Board of Selectmen)**

This Article seeks approval for acceptance of a gift of a 756 sq. ft. parcel of land. The parcel is a 189 ft. by 4 ft. strip of land located on the west side of Cartwright Road at the intersection with Greenbough Lane (see plan below). Greenbough Lane is an eight-parcel subdivision that was

approved by the Planning Board in 1987 and constructed thereafter. Although, as part of the approval, it was intended that the subject parcel be conveyed to the Town, it never was. This oversight was recently discovered by a third party doing research on recorded deeds relating to the settlement of an estate. If approved, the transfer of the parcel would be conveyed at no cost to the Town and would increase the width of the Cartwright Road right-of-way as was originally intended. Currently, Cartwright Road is not an accepted public way.



Advisory recommends favorable action, 14 to 0.

**ARTICLE 10.** To see if the Town will vote to accept the amendments to Chapter 59, Section 5K of the Massachusetts General Laws as authorized by Chapter 27, Section 24 of the Acts of 2009 allowing persons over the age of 60 to reduce their property tax liability in exchange for volunteer services, or take any other action relative thereto.

**(Board of Selectmen)**

This Article requests that Town Meeting accept the amendment described in Chapter 27, Section 24, of the Acts of 2009, which permits the Selectmen to direct the Board of Assessors to increase the property tax benefit offered to certain homeowners under the Senior Work-Off program from a maximum of \$750 to \$1,000 per year. At the 2009 Annual Town Meeting, Town Meeting members authorized the Selectmen to seek special legislation to achieve this increase in the tax benefit for Wellesley's Senior Work-Off program, which is managed by the Council on Aging. However, after the 2009 Annual Town Meeting concluded, the Massachusetts legislature increased the maximum benefit for all cities and towns in the Commonwealth to \$1000, making it unnecessary for the Board of Selectmen to request special legislation. Town Meeting now needs to accept this amendment in order to implement the specified increase in the tax benefit

in Wellesley. This benefit would assist lower-income seniors to remain in Wellesley and would be offset by the volunteer service provided to the Town.

For FY10, single homeowners over 60 years of age who have a net income of not more than \$34,650 (\$38,808 for individuals who qualify for federal Supplemental Security Income ["SSI"]), and married homeowners who have a net income of not more than \$51,975 (\$58,212 for SSI recipients), can reduce their real property tax liability up to a maximum of \$750 in exchange for volunteer service to the Town (based upon the State hourly minimum wage, currently \$8/hour, without benefits). These income thresholds for program eligibility are adjusted annually by a cost of living adjustment. Twenty-four homeowners in FY09, and 17 in FY08, availed themselves of this benefit, although not every participant received the maximum benefit. While residents over age 60 currently represent 21% of Wellesley's population, since relatively few residents participate today in the program, the annual incremental cost to the Town of a \$250 increase in property tax relief for eligible homeowners is likely to be modest.

**Advisory recommends favorable action, 14 to 0.**

**ARTICLE 11. To see if the Town will vote to authorize the Board of Selectmen, on behalf of the Town, to act on, waive or otherwise respond to the right of first refusal to purchase the Glen Grove Apartments at Grove Street as provided in a Comprehensive Permit issued by the Zoning Board of Appeals, filed with the Town Clerk on April 4, 1977; or take any other action relative thereto.**

**(Board of Selectmen)**

The Glen Grove Apartment complex, located on Grove Street between Grove and Cameron Streets, consists of two buildings containing 125 units of HUD-subsidized affordable rental housing for the elderly and the disabled. These units comprise a substantial share (approximately 25%) of the affordable housing stock in Wellesley. Pursuant to the terms of a Comprehensive Chapter 40B Permit issued by the Wellesley Zoning Board of Appeals on April 4, 1977, both the Town and the Wellesley Housing Authority ("WHA") have a right of first refusal in the event that the owner wishes to sell the property. In July 2008, the Town was notified by the current owner, Equity Residential, of its intention to sell. The seller is now in negotiations with a buyer who hopes to complete the purchase during the first half of 2010. Through this Article, the Board of Selectmen seeks Special Town Meeting's approval to waive the Town's and the WHA's right of first refusal for this transaction.

The Selectmen's request for approval of the waiver is based on several objectives being satisfied prior to Special Town Meeting. The Town is seeking suitable guarantees that the property's status as affordable elderly housing will be preserved for as long as possible, and that the Town's right of first refusal survives this transaction and is preserved to cover any future transaction. The Town is also seeking all reasonable assurance that the buyer of this property is a qualified and reputable owner and operator of affordable housing that can and will maintain this property at a level that meets acceptable standards in Wellesley.

As this Report goes to print, the Selectmen, in collaboration with representatives from the Wellesley Housing Development Corporation and WHA, are negotiating with representatives from both the seller and the buyer to accomplish these objectives.

**Advisory will provide its recommendation at Special Town Meeting.**

## **GUIDELINES FOR CONDUCT OF WELLESLEY REPRESENTATIVE TOWN MEETING**

### ***I. INTRODUCTION***

The purpose of Wellesley Town Meeting (the "Meeting") is to reach decisions with respect to the matters brought before the Meeting by a democratic process. The process should not be partisan or adversarial. Rather it should demonstrate an effort by the elected representatives of the Town in open discussion, free from technicalities of parliamentary procedure, to establish constructive policies for the government of the Town. The Meeting depends for its effectiveness on familiarity of the Town Meeting Members with the matters before the Meeting and upon their ability to rely one upon the other and upon their elected or appointed boards and committees.

All who speak to the Meeting or prepare reports to it should seek to be worthy of this trust. Proponents of action should make full and fair disclosure of all facts and considerations bearing on a problem, not merely those favoring their proposal. On the other hand, those opposed to a proposal should make their opposition known to the sponsors as soon as possible, rather than seeking to succeed by surprise at the Meeting. Negotiations prior to Town Meeting are more likely than debate at Town Meeting to clarify the issues and to produce solutions that will receive the support of the Meeting as a whole.

The great diversity among the residents of the Town will often lead to differences with respect to the matter before the Meeting. The good faith of no one should be questioned; rather there should be a cooperative effort to find solutions that are reasonably responsive to the needs of all.

The Meeting shall abide by the laws of the Commonwealth including the prohibitions of smoking and carrying firearms on school property.

The following guidelines are intended to inform and guide those who participate in the Meeting and thus to assist in its orderly conduct. These guidelines, except to the extent that they embody statutes and Town Bylaws, are not intended as rules having legal effect.

### ***II. PARTICIPANTS IN THE MEETING***

#### **A. Public Meeting**

The Town Meeting is a public meeting and may be attended by all. Since only the Members may make motions and vote thereon, they are seated separately from non-members.

#### **B. Quorum**

A majority of the Town Meeting Members shall constitute a quorum for doing business; but a lesser number may adjourn the Meeting to another time.

#### **C. Moderator**

The Moderator shall preside at the Meeting and shall regulate the proceedings and decide all questions of order.

No one shall distribute any material at Town Meeting except with permission of the Moderator.

The Moderator may appoint persons to assist in the conduct of the Meeting, including determination of the vote to the Meeting.

If the Moderator is absent or cannot act, a Moderator *Pro Tempore* may be elected by the Meeting, the Town Clerk to preside at such election.

The Moderator shall not be an elected Town Meeting Member and shall not vote with respect to any matters before the Meeting. A Town Meeting Member may be a Moderator *Pro Tempore*, but shall not vote while presiding at the Meeting.

**D. Clerk**

The Town Clerk shall determine the presence of a quorum and shall maintain the records of the Meeting, including the results of all votes and other action taken at the Meeting.

If there is no Town Clerk, or if the Town Clerk is absent from the Meeting, the Meeting shall elect another person (usually the Assistant Town Clerk) to act as Temporary Clerk of the Meeting.

The Town Clerk shall not be an elected Town Meeting Member and shall not vote with respect to any matters before the Meeting. A Town Meeting Member may be Temporary Clerk, but shall not vote while acting as Clerk of the Meeting.

**E. Town Counsel**

Town Counsel shall be present at all Meetings, and, upon request, shall advise the Moderator and any Member or other person present with respect to any pertinent question of law on which his or her opinion is requested. Such opinion is advisory only and not binding upon the Town, any person or the Meeting.

If Town Counsel is unable to attend, the Selectmen shall designate another attorney as Acting Town Counsel to perform those duties at the Meeting.

Town Counsel shall not be an elected Town Meeting Member and shall not vote with respect to any matter before the Meeting. A Town Meeting Member may be Acting Counsel, but shall not vote while so acting.

**F. Tellers**

The Moderator shall appoint Town Meeting Members as Tellers for the purpose of counting the votes of the Meeting. Such appointments may, in the Moderator's discretion, be effective for more than one session of any Meeting. The Tellers shall report the results of their count of the section of the Meeting assigned to them indicating the number in favor of the motion, the number opposed, and, if so instructed by the Moderator, the number abstaining, and such shall be announced to the Meeting and maintained with the records of the Meeting. Tellers may vote on any question on which they act as Tellers, but any Teller who decides to participate in the debate of a question should request the Moderator to appoint another Teller to count the vote on that question.

### **III. MOTIONS**

#### **A. Need for Motion**

Action by the Meeting is taken solely by a vote of the Meeting on a motion duly made at the Meeting.

#### **B. Subject of Motions**

Except for such matters as resolutions recognizing individual achievements and the like, no motion shall be entertained by Town Meeting unless the subject thereof is contained within the Warrant. The Moderator shall determine whether a motion is “within the scope of the warrant,” that is, whether the warrant gave adequate notice that the action proposed by the motion might be taken at the Meeting.

Motions may propose action at variance with that desired by the sponsor of the article. Such motions may, for example, propose the establishment of a guideline, referral to an existing board or committee or one to be established; but all such motions are proper only if “within the scope of the warrant” as determined by the Moderator.

#### **C. Order of Consideration**

All articles shall be considered in the order in which they appear in the warrant, unless the Moderator in his/her discretion or the Meeting by majority vote changes the order.

Where there are a number of motions relating to a project calling for the expenditure of funds, the motion calling for the expenditure of the largest sum shall be the first put to vote, unless the Moderator in his/her discretion decides to change the order.

#### **D. Formal Requirements**

Motions can be made only by a Member of the Meeting. All motions other than procedural motions must be in writing signed by the sponsoring Member. No seconds are needed for any motion.

Sponsors of motions are required to submit their motions to the Selectmen by a date specified by the Selectmen. The motions must also be submitted to the Moderator and the Chair of the Advisory Committee.

The exact form of any motion or amendment must be either distributed to Town Meeting Members or projected on a screen at Town Meeting before a vote thereon can be taken.

After the initial call to order of any Annual or Special Town Meeting, if a proponent informs the Moderator of an intention to present an amendment or substitute motion or resolution, notice of the action and the text must be made available to Town Meeting members before action is taken on the article to which it relates.

#### **E. Notice to Moderator**

Every person who prior to the Meeting has decided to make a motion with respect to an article should inform the Moderator and the Chairman of the Advisory Committee prior to the Meeting, or *if* the decision to make a motion is reached only during the Meeting, as early as convenient thereafter.

#### **F. Reconsideration**

Motions to reconsider any action shall be entertained only if in the view of the Moderator there is reason to suppose that Members may have changed their minds. The Moderator may rule that any motion is a motion for reconsideration if it is not substantially different from a motion previously voted upon.

No action taken at any session of a Town Meeting shall be reconsidered at any subsequent session, unless notice of intention to move for reconsideration shall have been given at the session at which such action was taken. If action taken at the final session is to be reconsidered, debate and a vote on a motion for reconsideration may occur at the same session only after all articles have been acted upon unless, in the Moderator's discretion, debate and a vote on the motion at an earlier point in the session would expedite the conduct of the session. Any vote which requires more than a simple majority for passage shall require a 3/5ths vote in order to be reconsidered by Town Meeting.

#### **IV. DEBATE**

##### **A. Persons Authorized**

All residents of Wellesley, whether or not Town Meeting Members or registered voters, may address the Meeting. Non-residents may address the Meeting with the approval of the Moderator or a majority of the Meeting.

##### **B. Permission of the Moderator**

Persons wishing to address the Meeting shall raise their hand or stand and wait until they are recognized by the Moderator and no one shall address the Meeting without first requesting and receiving the permission of the Moderator.

##### **C. Identification of Speaker**

Each person addressing the Meeting shall begin by stating his or her name and precinct, if a resident of Wellesley, or place of residence if a non-resident.

##### **D. Conduct**

All remarks should be limited to the subject then under discussion. It is improper to indulge in references to personalities and all expressions of approval or disapproval, such as applause or booing, are out of order.

The Moderator may request any person to keep silent. If, after warning from the Moderator, a person refuses to be silent or persists in other disorderly behavior, the Moderator may order such person to withdraw and if he or she fails to withdraw, may order a police officer to remove such person from the Meeting.

##### **E. Personal or Financial Interest**

Individuals who have a personal or financial interest with respect to a matter may speak or vote thereon but should frankly disclose their interest before speaking. However, no Town Meeting Member should accept compensation for speaking to or voting at the Meeting.

##### **F. Time**

There is no time limit to the debate of any question. Accordingly, motions to limit time for debate or to call the question are not in order. However, each individual who speaks to the Meeting should make an effort to be as brief as possible, out of consideration for the others attending the Meeting and the need to give adequate time to all matters coming before it. The Moderator may request that all persons who intend to speak for more than five minutes give him/her notice before the start of the session.

**G. Repeated Speaking**

In order to give all a fair opportunity to speak, no one who has addressed the Meeting on any particular motion shall speak again, except to answer questions, until all others wishing to speak to the motion have done so.

**H. Maps**

The Planning Board has slides of Town maps available for use at all Meetings and may be requested on reasonable notice to make available a slide of any map appropriate to the subject under discussion.

**V. VOTING**

**A. Method**

Except as specifically otherwise provided by law or these rules, voting shall be by voice vote or show of hands as the Moderator may determine and the Moderator shall declare the results of such vote. If a vote so declared is immediately questioned by seven or more Members, the result shall be determined by counting the votes of the Meeting by means of a standing vote.

**VI. DEFINITIONS**

**A. Roll Call**

Upon motion supported by not less than sixty members and made prior to the taking of a standing vote, the vote shall be by a roll call of all Members, the Clerk to indicate on the record with respect to each Member, "Aye," "Nay," "Abstain," or "Not Present" as the case may be.

**B. Secret Votes**

There shall be no secret ballots or other secret votes at Town Meeting.

**C. Majorities**

Except as otherwise provided by law or the Town's Bylaw, all actions of the Meeting shall be taken upon vote of a simple majority of those present and voting.

**D. Ballot Vote**

(a) Upon a motion supported by not less than 20 Members made prior to a vote on any question (whether required by law to be a counted vote or not), the vote shall be taken by ballot in such form as will in the opinion of the Moderator indicate how individual Town Meeting Members have voted on a question. The results of such vote shall be announced in terms of the numbers of aye, nay, or abstain votes cast. The Town Clerk shall, within a reasonable time after the session has been adjourned, compile a list of Members voting on the question, which list shall disclose how each Member voted. Said list, together with the original ballots, shall be open to public inspection so that the public shall be able to determine the way in which each Town Meeting Member voted on the question, and shall be preserved for at least 3 years.

(b) If a law or a by-law requires a two-thirds vote for action by the Meeting, the Moderator is authorized to declare the vote without taking a count, subject to the roll call and ballot vote provisions noted above. If more than a two-thirds vote is required, the Moderator may first determine whether the vote is unanimous, and if it is not, the vote

shall be counted either by means of a standing vote or by roll call, or by ballot as provided in the Town's Bylaw.

## **VII. ADJOURNMENT AND DISSOLUTION**

### **A. Adjournment**

Sessions of the Town Meeting shall normally adjourn about 11 o'clock in the evening but may adjourn at such earlier or later time as the Town Meeting upon vote of a majority of its Members may determine.

### **B. Dissolution**

The Meeting shall not dissolve until all articles in the warrant with respect to which any Member wishes to make a motion have been considered.

## **VIII. RECORD OF MEETING**

The Town Clerk in consultation with the Moderator shall prepare and maintain a complete record of the Meeting at the office of the Town Clerk where, upon request, it may be inspected by any interested person and also shall deposit a copy of such record at the Main Library. Such record may, but need not be, verbatim. However, it shall as a minimum contain the text of all articles and motions, whether main motions or subsidiary motions, the name of the moving party, the action of the Meeting with respect thereto and such summary of statements made at the Meeting as will in the opinion of the Town Clerk contribute to a better understanding of the action of the Meeting.

## **IX. REFERENCE TO TOWN MEETING RULES**

Wellesley Representative Town Meeting was established by Chapter 202 of the Acts of 1932 which has been amended several times since then. Certain customs have developed in the conduct of the Town Meeting. Wellesley custom does not differ substantially from the custom of other representative town meetings, as generally described in *Town Meeting Time* (Little, Brown, and Company 1962), a book which also contains references to applicable court decisions and statutes. All custom may be changed by law, or the Bylaws of Wellesley, as from time to time amended.

It is the combination of the foregoing which produces the "rules" of Wellesley Town Meeting in conformity with which the Moderator regulates the conduct of the meeting.