



COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SPECIAL TOWN MEETING

To the Constable of the Town of Maynard, in said County,

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the voters of said Maynard, to assemble **IN FOWLER SCHOOL AUDITORIUM, THREE TIGER DRIVE IN SAID town**, on Sunday, May 19, 2013 at 1:00 P.M. then and there to act on the following articles:

SPECIAL NOTICE TO VOTERS

On Monday, May 13, 2013 at 7:00 P.M., a public hearing will be held at the Maynard Town Hall, Michael J. Gianotis Room, Room 201, to discuss with any citizen who desires further information, as to the recommended budget, and any special Articles in the Warrant to which the Finance Committee has made a recommendation. Explanation and discussion concerning these matters may be helpful in the interest of saving time at the Special Town Meeting. Your participation is welcome.

ADA ADVISORY

Anyone in need of special arrangements for the Town Meeting, such as wheelchair arrangements or signing for the hearing impaired, please contact the Office of the Selectmen at (978) 897-1301 by May 6, 2013 in order for reasonable accommodations to be made.

PROCEDURES AT TOWN MEETING

Order of Articles: Articles are voted on in the order they are presented unless Town Meeting votes to do otherwise.

Secret Ballot Votes: The Moderator determines whether or not an article requires a secret ballot according to Town By-laws. If the Moderator determines that an Open Vote applies to an article, at least 25 voters may request that a secret ballot vote be taken. The request for a secret ballot vote must be made prior to the open vote being taken.

Amending an Article at Town Meeting: Any time after a main motion has been made and seconded, but before being voted on, it is possible to amend the main motion:

1. Ask the Moderator for recognition.
2. Present a motion to amend verbally and submit a copy of the motion in writing to the Moderator. The motion to amend must include your name as sponsor, any change in appropriation and its source.
3. The motion to amend must be seconded.
4. The motion to amend must be voted on by Town Meeting separately from the main motion.
5. The motion to amend must pass by a simple majority vote.
6. More than one motion to amend can be made to the main motion, but must be presented and voted on one at a time. A motion to amend must be made before the main motion is voted on.
7. After all motions to amend are voted, the main motion, (or as amended), must be voted on.

Reconsider an Article: An article may be reconsidered, that is revoted, **only** within thirty (30) minutes of the time that the main article (motion) was voted on. An article can only be reconsidered once. To reconsider:

1. Ask the Moderator for recognition.
2. Ask for reconsideration within the thirty (30) minute time limit. The Moderator can now finish present business, which may go on beyond thirty (30) minute limit. However, The Moderator shall take up the reconsideration as the next order of business.
3. At the proper time, present your motion for reconsideration and state your name.
4. At the Moderator's option, he can move the motion without further discussion.

NECESSARY MAJORITIES*

9/10 majority is required for unpaid bills of prior fiscal years (Special Town Meeting) that had no appropriation.

4/5 majority is required for unpaid bills of prior fiscal years, (Annual Town Meeting).

2/3 majority is required for all borrowing, land acquisitions or transfers and zoning by-laws.

Simple majority is required for all else, such as: regular By-laws, current appropriations and transfers, unpaid bills of prior years that have money appropriated but arrived too late to be included.

NOTE:

Yes and No votes will only be considered in the calculation of percentages. To figure the percentage, divide the Yes votes by the total Yes and No votes.

Example: 100 Yes, 50 No, and 20 Blanks shall be interpreted as:

$$\frac{100 \text{ Yes}}{100 \text{ Yes} + 50 \text{ No}} = 66.7\% \text{ or } 2/3$$

*Please note these vote quantum's are for example only and there may be other types of votes, which fall under each of the categories listed above.

| <u>Article #</u> | <u>Title</u> | <u>Department</u> | <u>Appropriation</u> |
|-------------------------|--|---------------------------|-----------------------------|
| 1 | ZONING BY-LAWS WITH REGARD TO THE NEIGHBORHOOD BUSINESS OVERLAY DISTRICT (NBOD, SECTION 9.3) AS FOLLOWS: | Acting Town Administrator | None |
| 2 | APPROVAL OF 129 PARKER STREET CONCEPT PLAN | Acting Town Administrator | None |

ARTICLE 1: TO SEE IF THE TOWN WILL VOTE TO AMEND THE PROTECTIVE ZONING BY-LAWS WITH REGARD TO THE NEIGHBORHOOD BUSINESS OVERLAY DISTRICT (NBOD, SECTION 9.3) AS FOLLOWS:

Item 1. Amend Section 9.3.2 entitled “Applicability,” which presently reads:

9.3.2 Applicability. The NBOD is an overlay district superimposed over, rather than replacing, the applicable underlying zoning districts. NBOD authorizes certain uses not allowed in the underlying base district provided certain special terms and conditions are met regarding the establishment of such uses. Where the NBOD authorizes uses not otherwise allowed in the underlying district, the provisions of the NBOD shall control. Except as provided in this Section 9.3, the NBOD does not in any manner alter or remove the zoning rights permits in the underlying base zoning district(s). Nothing contained in this section 9.3 shall prohibit or limit uses otherwise permitted by right or by Special Permit in the base zoning district(s).

To read instead:

9.3.2 Applicability. The NBOD is an overlay district superimposed over, rather than replacing, the applicable underlying zoning districts. The NBOD authorizes certain uses not allowed in the underlying base district provided certain special terms and conditions are met regarding the establishment of such uses. Where the NBOD authorizes uses not otherwise allowed in the underlying district, the provisions of the NBOD shall control. Except as provided in this Section 9.3, the NBOD does not in any manner alter or remove the zoning rights permits in the underlying base zoning district(s). Nothing contained in this section 9.3 shall prohibit or limit uses otherwise permitted by right or by Special Permit in the base zoning district(s). **Where any provision in the NBOD is silent the applicable provision of the Protective Zoning By-Laws shall control. Where any provision of the NBOD is not silent, the provision of the NBOD shall control.**

Item 2. Amend Section 9.3.3 entitled “Requirement for Approval of a Concept Plan at Town Meeting,” which presently reads:

9.3.3 Requirement for Approval of a Concept Plan at Town Meeting. No development for uses not otherwise allowed in the underlying zoning district shall be permitted on any land within the NBOD without first obtaining approval, by a majority vote at Town Meeting, of a Concept Plan that identifies the proposed development. At the property owner’s discretion, one or more Concept Plans may be submitted at different times and a Concept Plan may include development of all, or any smaller portion, of the relevant parcel or lot. Each Concept Plan submitted for approval at Town Meeting shall include the following information:

1. The area of land proposed to be developed under the NBOD regulations, which may be less than the total area of the applicable lot.
2. The topography of the land to be developed.

3. The location of wetlands and water bodies, if any.
4. The location of existing roads and ways serving the land to be developed.
5. The general location, size and shape of existing structures to be removed, and the general location, size and shape of existing structures to remain.
6. The general location and size of all required buffer areas provided in compliance with Section 6.1.
7. The general location and approximate size of all proposed new buildings, including the approximate size of each single principle use within said buildings; the final size of each single principle use to be determined via the Town's site plan review process and shall not exceed the dimensional requirements in Table G.
8. Examples of amenities and design features to be included as part of the proposed development.
9. Illustrations of the general architecture of the proposed structures.
10. A preliminary traffic impact analysis.
11. A written proposal from the Property Owner ("Developer") that addresses, but is not limited to, the following:
 - a. Any proposed exactions, financial gifts, easements or land gifts
 - b. Payment for consultant review of plans and documents accompanying the Concept Plan
 - c. The timing of assessment of new improvements
 - d. The Developer's payment for design and implementation of traffic
 - e. Transfer of responsibilities and commitments in the event the property is sold

Such proposal shall be incorporate into the terms of a development agreement, which may include other provisions between the Developer and the Town of Maynard acting by and through the Board of Selectmen and the Planning Board before final site plan approval is granted by the Planning Board.

To read instead:

9.3.3 Requirement for Approval of a Concept Plan at Town Meeting. No development for uses not otherwise allowed in the underlying zoning district shall be permitted on any land within the NBOD without first obtaining approval, by a majority vote at Town

Meeting, of a Concept Plan that identifies the proposed development. **A Concept Plan shall be defined as a plan of the proposed development which is preliminary and conceptual in nature and which shall include the general use and approximate size and location of the buildings, project layout, proposed roads, parking, and all items as set forth in subparagraphs 1-10 below along with all other amenities, to the best of the property owner's knowledge as of the date of the Concept Plan.** At the property owner's discretion, one or more Concept Plans may be submitted at different times and a Concept Plan may include development of all, or any smaller portion, of the relevant parcel or lot. Each Concept Plan submitted for approval at Town Meeting shall include the following information:

1. The area of land proposed to be developed under the NBOD regulations, which may be less than the total area of the applicable lot.
2. The topography of the land to be developed.
3. The location of wetlands and water bodies, if any.
4. The location of existing roads and ways serving the land to be developed.
5. The general location, size and shape of existing structures to be removed, and the general location, size and shape of existing structures to remain.
6. The general location and size of all required buffer areas provided in compliance with Section **9.3.11.3.**
7. The general location and approximate size of all proposed new buildings, the final **location and size of each building** to be determined via the Town's site plan review process and shall not exceed the dimensional requirements in Table G.
8. Examples of amenities and design features to be included as part of the proposed development.
9. Illustrations of the general architecture of the proposed structures.
10. A preliminary traffic impact analysis.
11. **Prior to the vote at Town Meeting on the Concept Plan, a Development Agreement shall be signed by the Board of Selectmen, Planning Board and the Property Owner ("Developer") that addresses, but is not limited to, the following:**
 - a. **Any proposed exactions, financial gifts, easements or land gifts**
 - b. **Payment for consultant review of plans and documents accompanying Concept Plan**
 - c. **The timing of assessment of new improvements**

- d. The Developer’s payment for design and implementation of traffic
- e. Transfer of responsibilities and commitments in the event the property is sold

Item 3. Amend Section 9.3.5 entitled “Permitted Principal Uses,” which presently reads:

9.3.5 Permitted Principal Uses. The following uses are allowed by right in the Neighborhood Business Overlay District:

- Healthcare Facility
- Health Club
- Restaurant
- Garden Center
- Personal Service Establishment
- Supermarket
- Retail Business
- Wholesale Business
- Mixed Use with fewer than five (5) dwelling units
- Multiple principal uses on a single lot or parcel within the NBOD

To read instead:

9.3.5.1 Permitted Principal Uses. The following uses are allowed by right in the Neighborhood Business Overlay District:

- Healthcare Facility, **including Clinic and Medical, Dental and Psychiatric Office**
- Health Club
- Restaurant*
- Garden Center
- General or Personal Service Establishment and Business or Professional or Other Office**
- Supermarket
- Retail Business
- Wholesale Business
- Mixed Use with fewer than five (5) dwelling units
- Multiple principal uses on a single lot or parcel within the NBOD
- Printing Shop**
- Emerging Energy Technology Establishment**
- Child Care Center**
- Adult Day Care**

***There shall be no more than three (3) Restaurants allowed by right.**

Item 4. Add a new Section 9.3.5.2 entitled “Prohibited Uses” after Section 9.3.5.1, to read as follows:

9.3.5.2 Prohibited Uses. In addition to any use which is not specifically permitted in this Section 9.3 and which is otherwise prohibited in the underlying district, any Medical Marijuana Dispensary and/or growing facility shall be prohibited in the NBOD.

Item 5. Amend Section 9.3.7 entitled “Uses Permitted by Special Permit of the Planning Board,” which presently reads:

9.3.7. Uses Permitted by Special Permit of the Planning Board. The following uses are allowed by Special Permit in the Neighborhood Business Overlay District:

- Multi-family Dwelling
- Parking Structures
- Mixed use with five (5) or more dwelling units

To read instead:

9.3.7. Uses Permitted by Special Permit of the Planning Board. The following uses are allowed by Special Permit in the Neighborhood Business Overlay District:

Elderly Housing and Assisted Living Residence

- Parking Structures
- Mixed use with five (5) or more dwelling units

Motor Vehicle Light Service

Brewery with Ancillary Food Service

Fast Food Restaurant

Multi Family Dwelling

Restaurant (the fourth (4th) or more)

Item 6. Amend Section 9.3.8 entitled “Dimensional Requirement,” which presently reads:

9.3.8 Dimensional Requirements. Table G lists the dimensional requirements for each single principal use within the NBOD. Uses listed in Table G as “N/A” have no corresponding dimensional requirement.

TABLE G: NBOD DIMENSIONAL REQUIREMENTS

| Principal Use | Maximum Gross Floor Area |
|---------------------------------|--------------------------|
| Multi-Family Dwelling | N/A |
| Healthcare Facility | N/A |
| Health Club | 30,000 s.f. |
| Restaurant | 10,000 s.f. |
| Garden Center | 25,000 s.f. |
| Personal Services Establishment | 5,000 s.f. |
| Supermarket | 75,000 s.f. |
| Retail Business | 35,000 s.f. |
| Wholesale Business | 35,000 s.f. |

To read instead:

9.3.8 Dimensional Requirements. Table G lists the dimensional requirements for each single principal use within the NBOD, unless otherwise set forth in Section 9.3.

TABLE G: NBOD DIMENSIONAL REQUIREMENTS

| <u>Principal Use</u> | <u>Maximum Gross Floor* Area</u> |
|--|--|
| 1. <u>Multi-Family Dwelling and Garden Apartment and Elderly Housing and Assisted Living Residence</u> | <u>325,000 s.f.</u> |
| 2. <u>Retail Business and all other Permitted Principal Uses set forth in Section 9.3.5 other than 1. and 3. in this Table G</u> | <u>328,000 s.f. total calculated as follows:</u> |
| a. <u>No more than 1 structure</u> | <u>118,000 s.f.</u> |
| b. <u>No more than 1 structure</u> | <u>117,000 s.f.</u> |
| c. <u>No more than 2 structures</u> | <u>50,000 s.f.</u> |
| d. <u>No more than 2 structures</u> | <u>14,000 s.f.</u> |
| e. <u>No more than 5 structures</u> | <u>29,000 s.f.</u> |
| 3. <u>Municipal Facility</u> | <u>55,000 s.f.</u> |
| | |
| | |
| | |
| | |
| | |

*The maximum gross floor area for any non-residential single tenant or related entity under common control shall be 85,000 s.f.

Item 7: Amend Section 9.3.9 entitled “District Total,” which presently reads:

9.3.9 District Total. The total gross floor area for all principal uses within the NBOD, including nonresidential portions of Mixed Use structures, excluding multifamily dwellings, healthcare facilities, and residential components of mixed use structures, shall not exceed 175,000 s.f.

To read instead:

9.3.9 Non-Residential Total. The total gross floor area for all principal uses within the NBOD, including nonresidential portions of Mixed Use structures, excluding multifamily dwellings, healthcare facilities, and residential components of mixed use structures, shall not exceed the corresponding Maximum Gross Floor Area set forth in Table G.

Item 8: Amend Section 9.3.10 entitled “Housing Cap,” which presently reads:

9.3.10 Housing Cap. The maximum number of housing units in the NBOD shall not exceed one hundred (100).

To read instead:

9.3.10 Housing Cap. The maximum number of housing units in the NBOD shall not exceed two hundred fifty (250).

Item 9. Amend Section 9.3.11 entitled “Design Criteria,” which presently reads:

9.3.11 Design Criteria. In addition to provisions in other sections of this By-law, the criteria listed in this Section 9.3.11 shall apply to any action in the NBOD requiring site plan approval under Section 10.5.

1. Lighting. These standards are intended to: promote a lighting design for all development within the NBOD to ensure public safety and welfare; and protect the night sky from unnecessary ambient light. Any lighting plan submitted as part of a Site Plan Review application, shall include the following:
 - a. All lighting installations shall be designed to achieve no greater than the minimum luminance levels for the activity as recommended in the most recent standards established by the Illuminating Engineering Society of North America (IESNA);
 - b. To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cut-off

(Full cutoff means that no light is emitted above the horizontal plane that intersects the lowest part of the fixture). Where necessary to prevent light or glare, accessories such as hoods and shields shall be used on lighting fixtures. The source of light shall be so arranged and shielded as to prevent direct glare from the light source into any public street or onto adjacent property;

- c. Security lighting shall be shielded and directed at a downward angle.
 - d. As part of any application for Site Plan Review, the applicant shall prepare a

lighting study showing that the development will meet these standards.

2. Utilities Underground. All new, non-municipal utilities (such as electricity, telephone, gas, fiber optic cable) shall be placed underground.
3. Setbacks/Buffers. For the construction of any new building, a setback area of one hundred (100) feet shall be provided at the perimeter of any lot or parcel in the NBOD where it abuts the property line of any residentially zoned or occupied properties, except for fences twelve (12) feet in height or less and driveways necessary for access and egress to and from the new building(s); provided, however, that existing structures and existing access roadways and paved areas are exempt from this requirement. Notwithstanding the preceding, existing structures and paved areas shall not be made more non-conforming except for American with Disabilities Act (ADA) compliance. A buffer area of forty-five (45) feet shall be provided where the property line of any land within the NBOD is contiguous to the property line of another lot within an existing residential district. The buffer shall be landscaped and screened by way of fences, walls, and/or plantings (including existing vegetation and trees) to reasonably and substantially shield abutting land from parking and loading areas and buildings. Any such fences or walls may, in the reasonable determination of the Planning Board, provide openings to allow safe pedestrian access and egress between the development sit and the adjacent neighborhood.
4. Parking. Required parking shall be four (4) spaces per one thousand (1,000) square feet of gross floor area for retail and supermarket uses. For outdoor sales and display areas of a Garden Center uses, required parking shall be one (1) space per three thousand (3,000) square feet of outside merchandise display area. For all other allowed uses, the parking requirement for such use shall be in accordance with the schedule of parking uses set forth in Section 6.1 of this By-law.

To read instead:

9.3.11 Design Criteria. In addition to provisions in other sections of this By-law **concerning design criteria to the extent they may be applicable**, the criteria listed in this Section 9.3.11 shall apply to any action in the NBOD requiring site plan approval under Section 10.5.

1. Lighting. These standards are intended to: promote a lighting design for all development within the NBOD to ensure public safety and welfare; and protect the night sky from unnecessary ambient light. Any lighting plan submitted as part of a Site Plan Review application, shall include the following:
 - a. All lighting installations shall be designed to achieve no greater than the minimum luminance levels for the activity as recommended in the most recent standards established by the Illuminating Engineering Society of North America (IESNA);

- b. To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cut-off

(Full cutoff means that no light is emitted above the horizontal plane that intersects the lowest part of the fixture). Where necessary to prevent light or glare, accessories such as hoods and shields shall be used on lighting fixtures. The source of light **shall be low profile lights of twenty-five (25) feet or less and shall be so arranged and shielded as to prevent direct glare from the light source into any public street or onto adjacent property;**

- c. Security lighting shall be shielded and directed at a downward angle.
- d. As part of any application for Site Plan Review, the applicant shall prepare a lighting study showing that the development will meet these standards.

- 2. Utilities Underground. All new, non-municipal utilities (such as electricity, telephone, gas, fiber optic cable) shall be placed underground.
- 3. Setbacks/Buffers. For the construction of any new building, **front setback area of at least one hundred (100) feet, and rear setback area of at least fifty (50) feet and side setback area of at least sixty (60) feet shall be provided at the perimeter of the NBOD development where it abuts the property line of any residentially zoned properties and twenty (20) feet where it abuts open space zoned properties, except for fences twelve (12) feet in height or less and driveways necessary for access and egress to and from the new building(s); provided, however, that existing structures and existing access roadways and paved areas are exempt from this requirement. Notwithstanding the preceding, existing structures and paved areas shall not be made more non-conforming except for American with Disabilities Act (ADA) compliance. A buffer area of no less than forty (40) feet in the side and rear setback areas and twenty (20) feet in the front setback area shall be provided where the perimeter of the NBOD development is contiguous to the property line of another lot within an existing residential district. The buffer shall be landscaped and screened by way of fences, walls, and/or plantings (including existing vegetation and trees) to reasonably and substantially shield abutting land from parking and loading areas and buildings. Any such fences or walls may, in the reasonable determination of the Planning Board, provide openings to allow safe pedestrian access and egress between the development site and the adjacent neighborhood.**
- 4. Parking. Required parking shall be **one (1) spaces per three hundred (300) square feet of gross floor area for office, retail, supermarket and all other allowed uses not set forth herein.** For outdoor sales and display areas of a Garden Center uses, required parking shall be one (1) space per three thousand (3,000) square feet of outside merchandise display area. **For multi-family and other dwelling units, except Elderly Housing which shall be controlled by section 6.1.5, the required parking shall be 1.75 spaces per unit. For all**

restaurant uses, required parking shall be one (1) space per eighty-five (85) square feet of gross floor area. For warehouse uses, required parking shall be one (1) space per twenty-five hundred (2,500) square feet of gross floor area. Relief from these parking standards may be granted by special permit by the Planning Board.

5. Dimensional Requirements. The minimum requirements of the NBOD development shall be an area of 15,000 s.f.; 100 feet of frontage and 100 feet in width; total maximum building coverage 35% of the NBOD development; maximum building height of fifty-two (52) feet for residential uses and forty (40) feet for any other uses within the NBOD; minimum landscape open area of 20% of the NBOD development; and minimum landscape open area of 5% in the front yard of the NBOD development.

Item 10: Amend 9.3.12 entitled “Site Plan Approval,” which presently reads:

9.3.12 Site Plan Approval. The provisions of Section 10.5, Site Plan Approval, shall apply to uses, buildings and structures permitted by right or by Special Permit in the NBOD.

1. All new development pursuant to the NBOD shall be subject to Site Plan Approval from the Planning Board. The Planning Board may not issue such Approval unless the proposed Site Plan substantially conforms to the Concept Plan approved by the Town Meeting. The Planning Board may permit minor modifications to the proposed development in connection with its site plan review, provided that the Planning Board finds, in its reasonable discretion and in writing, that any such modifications do not materially conflict with the general intent of the Concept Plan as approved.

To read instead:

9.3.12 Site Plan Approval. The provisions of Section 10.5, Site Plan Approval, shall apply to uses, buildings and structures permitted by right or by Special Permit in the NBOD.

1. All new development pursuant to the NBOD shall be subject to Site Plan Approval from the Planning Board. The Planning Board may permit modifications to the proposed development in connection with its site plan review, provided that the Planning Board finds, in its reasonable discretion and in writing, that any such modifications do not substantially and materially conflict with the general intent of the Concept Plan as approved.

Item 11: Add a new Section 9.3.14 entitled “Special Permitting Granting Authority” after Section 9.3.13, to read as follows:

9.3.14 Special Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority for this Section 9.3.

OR PASS ANY VOTE OR TAKE ANY OTHER ACTION RELATIVE THERETO.

SUBMITTED BY: Acting Town Administrator
APPROPRIATION: None
FINCOM RECOMMENDATION: At Town Meeting
PLANNING BOARD RECOMMENDATION: At Town Meeting

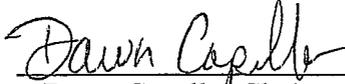
ARTICLE 2: APPROVAL OF 129 PARKER STREET CONCEPT PLAN

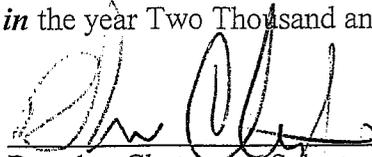
TO SEE IF THE TOWN WILL VOTE TO: approve, in accordance with Section 9.3.3 of the Protective Zoning By-Laws, a Concept Plan, together with all supporting material identified in Section 9.3.3, for the development of property located at 129 Parker Street, Maynard, Massachusetts which property is located within the Neighborhood Business Overlay District and also known as Parcel Identification Number 025.0-0000-0152.0 and shown on Assessor's Maps 24, 28 and 29 as NB and on Map 25 as Parcel 152. Said Concept Plan entitled, "Concept Plan B, 129 Parker Street, Maynard, MA.," dated March 26, 2013 and prepared by CI Design, Inc., together with all required supporting materials, is on file and available for review with the Town Clerk and the Planning Office,

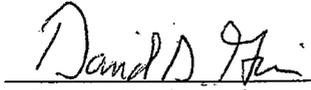
OR PASS ANY VOTE OR TAKE ANY OTHER ACTION RELATIVE THERETO.

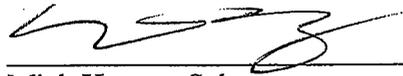
SUBMITTED BY: Acting Town Administrator
APPROPRIATION: None
FINCOM RECOMMENDATION: At Town Meeting
PLANNING BOARD RECOMMENDATION: At Town Meeting

Given under our hands this *9th* day of *April in* the year Two Thousand and Thirteen.


Dawn Capello, Chairman


Brendon Chetwynd, Selectman


David Gavin, Selectman


Mick Hurrey, Selectman

James Buscemi, Selectman

A true copy, Attest  Constable of Maynard.