

**MINUTES OF ANNUAL TOWN MEETING
May 4, 2009**

The Annual Town Meeting was convened on May 4, 2009, at the Corey Building. A quorum of 150 voters being reached and the meeting called to order by Moderator Thomas Raftery at 7:07 PM. There were 325 voters present. The meeting was adjourned at 10:30 PM.

Before the warrant was opened, the Moderator explained how the meeting would be conducted. Selectman Douglas A. G. Stevenson then thanked the volunteers on boards and committee for contributing their time and efforts in the service to the Town during the past year. Those retiring from public service were also thanked. Special tribute and a standing ovation was also given to Moderator Thomas Raftery as he also retires as Moderator after 5 years of service to the Town.

Article 1: On motion of William R. Tice, Jr. it was voted by majority vote that the reports of the Town Officers, Boards, Committees, Commissioners and Trustees as published the Town Report for the Year 2008 be accepted and placed in the permanent records of the Town, it being understood that such acceptance does not constitute a ratification of the contents of those reports.

Article 2: On motion of Douglas A. G. Stevenson, it was voted by majority vote that the motions, approved by the Finance Committee, and provided in the Motions Handout at Town Meeting and indicated by a double asterisk (**) be adopted as follows: at the call of the Consent Agenda, the Moderator shall call out the numbers of the Articles one by one, if one or more voters object to any particular Article being included in the Consent Agenda, they should say the word "Hold" in a loud voice when the Article number is called, at which point the Articles will then be removed automatically from the Consent Agenda and restored to its original place in the Warrant, to be debated and voted upon in the usual manner; after the calling of the individual Articles, the Moderator will then ask that all Articles for which no Hold was placed be passed as a unit with a single vote by the voters.

Article 3: At the call of the Consent Agreement in conjunction with Articles 4, 5, 6, and 7, Article 3 was voted by majority vote that the compensation of the following elective officers of the Town be fixed at provided by Chapter 41, Section 108 of the General Laws, as amended, for the fiscal year 2010, effective date July 1, 2009, as follows

Moderator	\$50
Town Clerk	\$52,588
Assessors – Chairman	\$100
Second Member	\$100
Third Member	\$100

Article 4: At the call of the Consent Agreement in conjunction with Articles 3, 5, 6, and 7, Article 4 was voted by majority vote that the compensation of the following elective officers of the Town be fixed at provided by Chapter 41, Section 108 of the General Laws, as amended, for the fiscal year 2010, effective date July 1, 2009, as follows:

That Five Thousand Dollars (\$5,000) be raised and appropriated from the FY 2010 tax levy and other general revenues of the Town to be spent by the Board of Assessors for the

purpose of professional services in connection with revaluation of real estate and personal property in the Town.

Article 5: At the call of the Consent Agreement in conjunction with Articles 3, 4, 6, and 7, Article 5 was voted by majority vote that the compensation of the following elective officers of the Town be fixed at provided by Chapter 41, Section 108 of the General Laws, as amended, for the fiscal year 2010, effective date July 1, 2009, as follows:

That Four Thousand Dollars (\$4,000) be raised and appropriated from the FY 2010 tax levy and other general revenues of the Town to be spent by the Board of Selectmen for the purpose of professional services in connection with GASB 45 actuarial valuation of post employment benefits obligations for the Town.

Article 6 At the call of the Consent Agreement in conjunction with Articles 3, 4, 5, and 7, Article 6 was voted by majority vote that the compensation of the following elective officers of the Town be fixed at provided by Chapter 41, Section 108 of the General Laws, as amended, for the fiscal year 2010, effective date July 1, 2009, as follows:

That the revolving funds for School Buses, Board of Health Inspections, Hazardous Wastes, Trails Committee, Conservation Wetlands, Conservation Foss Farm, Conservation Building Maintenance, Historical Commission, Youth Commission, Building Inspector, and Council on Aging be authorized or reauthorized, as the case may be, for FY 2010 pursuant to Chapter 44, Section 53 E1/2 with the revenue source, authority to spend, use of fund, and spending limit as designated below with the understanding that such Revolving Funds be credited with the balance remaining in such Revolving Fund at the end of FY 2009 as follows:

Department Revolving Funds

Revenue Funds	Revenue Source	Authority to Spend	Use of Fund	Spending Limit
School Buses	User Fees Collected by School	School Committee	To provide transportation for 7 th and 8 th grade students	\$60,000
Board of Health Inspections	Board of Health Fees	Board of Health	Specific expert engineering and consulting services to review septic and well installations and repairs, sanitary inspections and other reimbursable expenses.	\$50,000
Hazardous Wastes	Transfer Station User Fees & Grants Received	Board of Selectmen	Collection and disposal of household hazardous waste.	\$40,000
Trails Committee	Sale of Trails in Carlisle Book	Board of Selectmen	Building, maintaining and enhancing recreation trails.	\$5,000
Conservation Wetlands	Fees from Carlisle Wetland Protection Bylaw	Conservation Commission	Specific expert engineering and consulting services to review Wetland Bylaw filings and other reimbursable expenses.	\$30,000

Conservation Foss Farm	User Fees	Conservation Commission	Activities and maintenance associated with Foss Farm.	\$2,500
Conservation Building Maintenance	Fees and/or Rent	Conservation Commission	Maintenance and repairs associated with the Buildings located on Conservation Commission Lands	\$30,000
Historical Commission	Fees	Historical Commission	Expenses related to filings/applications.	\$3,000
Youth Commission	Event Admission Fees	Board of Selectmen	To provide for dances and other events sponsored by the Youth Commission.	\$10,000
Building Inspector	User Fees	Board of Selectmen	To cover inspectional services	\$75,000
Council on Aging	User Fees	Council on Aging	To provide for events sponsored by the Council on Aging	\$10,000

Article 7: At the call of the Consent Agreement in conjunction with Articles 3, 4, 5, and 6, Article 7 was voted by majority vote that the compensation of the following elective officers of the Town be fixed as provided by Chapter 41, Section 108 of the General Laws, as amended, for the fiscal year 2010, effective date July 1, 2009, as follows:

That Chapter 59 Section 5 (clause 41C) to grant an additional real estate property tax exemption of one hundred (100%) percent be accepted for the Town.

Article 8: On motion of William R. Tice, Jr. it was voted by majority vote that Seventy Two Thousand Dollars \$72,000 be transferred from the appropriation voted pursuant to Article 9, Insurance & Benefits, of the Annual Town Meeting held May 5, 2008 to Article 9, Unclassified, Reserve Fund Balance of the Annual Town Meeting held May 5, 2008 for a new total of such Fiscal Year 2009 Unclassified, Reserve Fund Balance of One Hundred Eighty Four Thousand, Three Hundred Fifty Eight Dollars (\$184,358).

Article 9: On motion of David Model, it was voted by majority vote that Twenty Two Million Five Hundred Forty Eight Thousand Eight Hundred Thirty Four Dollars (\$22,548,834) be raised and appropriated from the FY 2010 tax levy and other general revenues of the town to defray departmental and incidental expenses of the Town for FY 2010 as set forth in column entitled "Article 9 & 19" of the chart accompanying this motion.

	FY 2009 Budget	ARTICLES 9&19 FY 2010 Levy Limit Budget	ARTICLES 16 & 17 FY 2010 Transfers Budget
General Government	1,070,151	1,072,758	1,072,758
Protection of Persons & Property	1,836,773	1,881,926	1,881,926
Board of Health	77,491	77,491	77,491
Public Works	1,006,290	1,024,611	1,024,611

Public Assistance	110,731	118,152	118,152
Education	14,387,064	14,654,232	14,654,232
Library	487,110	497,110	497,110
Recreation	116,462	116,462	116,462
Insurance & Benefits	1,308,765	1,224,765	1,224,765
Unclassified	113,990	151,632	151,632
Retirement & Tax Title	522,882	569,130	569,130
Long Term Debt	1,092,635	1,160,565	1,195,662
Total	22,130,344	22,548,834	22,583,931

Article 10: On motion of Donald Rober, it was voted by majority vote that Two Hundred Thirty Nine Thousand Dollars (\$239,000), be raised and appropriated from the FY 2010 tax levy and other general revenues of the town, to be spent by the Board of Selectmen, except for the items for the Carlisle Public Schools which sums are to be spent by the Carlisle School Committee, for the following capital purposes:

**Long Term Capital Requirements
FY'10**

CPS	Computers and related devices	80,000
CPS	Network replacement	20,000
CPS	Annual Maintenance Projects	25,000
CPS	Spalding Roof Repair	10,000
CPS	Dishwasher	30,000
Police	Cruiser	36,000
Police	Replacement boiler	13,000
Fire	Base Transmitter	<u>25,000</u>
		239,000

Article 11: On motion of Lee Storrs, it was voted by a declared two thirds vote that the Town of Carlisle appropriate the sum of four hundred and fifty thousand Dollars (\$450,000) for schematic design and project management services associated with the additions, renovations and site work improvements to the Carlisle Public Schools located on the existing school campus on School Street in Carlisle, MA, said sum to be expended under the direction of the Carlisle School Building Committee and the Board of Selectmen, and to meet said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under M.G.L. Chapter 44, or any other enabling authority; that the Town of Carlisle acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a

non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town of Carlisle incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town of Carlisle, and further provided that the appropriation hereunder shall be subject to and contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. 59, Section 21C (Proposition 2 ½), and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Feasibility Study Agreement that may be executed between the Town of Carlisle and the MSBA.

Article 12: On motion of Louis Salemy, it was voted by majority vote that the Concord-Carlisle Regional School District be authorized to borrow Seven Hundred Fifty Thousand Dollars (\$750,000) for the purposes of financing, the repair and renovation to Concord Carlisle High School, improvements to safety systems, and to address and plan remediation of space constraints; provided however that this vote shall not take effect unless the amounts required to pay the Town's assessable share of the bonds to be issued by the Concord-Carlisle Regional School District are voted by the Town to be exempt from the limitation of taxes imposed by Massachusetts General Law and Acts in amendment thereof or in addition thereto, Chapter 59, Section 21C, in accordance with clause (k) of said section; and provided further that if said ballot question fails to pass, this vote shall be deemed to be disapproval of the borrowing with the meaning of Chapter 71, Section 16 (d) of the General Laws of the Commonwealth.

Article 13: On motion of Alan Carpenito, it was voted by a declared two thirds vote that One Hundred Fifty Four Thousand Dollars (\$154,000) be appropriated, to be spent by the Board of Selectmen to purchase a DPW Roll-off Truck and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow One Hundred Fifty Four Thousand Dollars (\$154,000) provided however, that this vote shall not take effect until the town votes to exempt from the limitation of taxes imposed by Massachusetts General Law and Acts in amendment thereof or in addition thereto, Chapter 59, Section 21C, in accordance with clause (k) of said section ("Proposition 2 ½" so called) amounts required to pay the principal of and interest on borrowing authorized by this vote.

Article 14: On motion of John D. Williams, it was voted by a declared two thirds vote that Sixty Thousand Dollars (\$60,000) be appropriated for the Board of Selectmen to purchase and install cisterns for the Carlisle Fire Department, and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow Sixty Thousand Dollars (\$60,000) provided however, that this vote shall not take effect until the town votes to exempt from the limitation on total taxes imposed by Massachusetts General Law and Acts in amendment thereof or in addition thereto, Chapter 59, Section 21C, in accordance with clause (k) of said section ("Proposition 2 ½" so called) amounts required to pay the principal of and interest on borrowing authorized by this vote.

Article 15: On motion of Timothy Hult, it was voted by majority vote that Seven Thousand Dollars (\$7,000) be raised and appropriated from the FY 2010 tax levy and other general revenues of the town to be spent by the Board of Selectmen upon the recommendation of the

Council on Aging for the purpose of professional services for social service counseling for the Council on Aging.

Article 16: On motion of Douglas A. G. Stevenson, it was voted by majority vote that Twenty Thousand One Hundred Forty Nine Dollars (\$20,149) be transferred from the Reserve for Debt Services – MSBA account to add to the line item as voted in the motion pursuant to Article 9 of this Warrant titled “Long Term Debt”, thereby increasing the FY 2010 Long Term Debt line item as voted pursuant to Article 9 to a new total of \$1,180,714, which sum so transferred is to be used to pay for principal and interest on a portion of the debt service in the town.

Article 17: On motion of Douglas A. G. Stevenson, it was voted by a declared two thirds vote that Fourteen Thousand Nine Hundred Forty Eight Dollars (\$14,948) be transferred from the Stabilization Fund to add to the line item as voted in the motion pursuant to Article 9 of this Warrant titled “Long Term Debt”, thereby increasing the FY 2010 Long Term Debt line item as voted pursuant to Article 9 to a new total of \$1,195,662, which sum so transferred is to be used to pay for principal and interest on a portion of the debt service in the town, so that the resulting FY 2010 budget, for informational purposes only, would be as set forth in the column entitled “Articles 16 & 17” of the chart accompanying this motion.

	<u>ARTICLES 9&19</u>	<u>ARTICLES 16 & 17</u>
	FY 2010	FY 2010
FY 2009	Levy Limit	Transfers
Budget	Budget	Budget
Long Term Debt	1,160,565	1,195,662

- The new amount \$1,195,662 assumes both Article 16 and Article 17 pass.

Article 18: On motion of Timothy Hult, it was voted by a declared two thirds vote that Seventy Five Thousand Dollars (\$75,000) be transferred from Free Cash (Surplus Revenue) in the treasury of the Town to increase the Stabilization Account

Article 19 On motion of David Model, it was voted by majority vote that One Hundred Four Thousand Six Hundred Twenty Five Dollars (\$104,625) be appropriated to meet the appropriations for the FY 2010 budget and to meet this appropriation, that One Hundred Four Thousand Six Hundred Twenty Five Dollars (\$104,625) be transferred from Free Cash (Surplus Revenue) in the treasury of the town.

Article 20: On motion of John D. Williams it was voted by a declared two thirds vote that the Treasurer of the Town, with the approval of the Selectmen, be authorized to borrow One Hundred Ninety Seven Thousand One Hundred Ninety Eight Dollars (\$197,198) to be expended by the Board of Selectmen for the reconstruction and improvement of public ways as provided for pursuant to the provisions of Section 34(2)(a) of Chapter 90 of the General Laws, such

borrowing to be in anticipation of reimbursement by the Commonwealth pursuant to said Chapter 90.

Article 21: On motion of Alan Carpenito, it was voted by a declared two thirds vote that the care, custody, and control of the Highland Building be transferred from the Carlisle School Committee to the Board of Selectmen for the general municipal purposes of the Town pursuant to G. L. Ch. 40, s. 15A.

Article 22: On motion of Kelly Guarino, it was voted by majority vote that the Community Preservation Committee recommendations for transfers and expenditures for Fiscal Years 2009 and 2010 be approved as follows:

Motion 1:

It was voted by majority vote that Two Hundred Thirty Nine Thousand Four Hundred Forty Six Dollars (\$239,446) be transferred from the Fiscal Year 2009 Community Preservation Budget Reserve approved in Motion 1(f) of Article 21 of the Annual Town Meeting of May 5, 2008 to the Community Preservation Historic Reserve Fund balance.

Motion 2:

It was voted by majority vote that Seven Hundred Seventy Five Thousand Dollars (\$775,000) be appropriated for the Trustees of the Gleason Public Library with the approval of the Board of Selectmen, to expend for the preservation of the Gleason Public Library historic building envelope by repairing the basement, foundation, roof, masonry walls and windows of such historic building envelope effective immediately (Fiscal Year 2009), and to meet this appropriation that Five Hundred Twenty Thousand One Hundred Eleven Dollars and Seventy-two cents (\$520,111.72) be transferred from the Community Preservation Historic Reserve Fund, and that Two Hundred Fifty Four Thousand Eight Hundred Eighty Eight Dollars and Twenty-Eight cents (\$254,888.28) be transferred from the Community Preservation Undesignated Fund balance, and further that after June 30, 2012, any residual unexpended funds be returned to the Community Preservation Undesignated Fund balance.

Motion 3:

It was voted by majority vote that the following amounts be appropriated from the Fiscal Year 2010 Community Preservation Fund estimated revenues to the Community Preservation Fund accounts as follows:

- a. Forty Four Thousand Seven Hundred Forty Eight Dollars (\$44,748) be appropriated to the Community Housing Reserve Fund.
- b. Two Hundred Nine Thousand Three Hundred Twelve Dollars (\$209,312) be appropriated to the Historic Reserve Fund.
- c. One Hundred Sixty One Thousand Dollars (\$161,000) be appropriated for Debt Service Principal Payment on Open Space Borrowings comprised of \$44,748 which is the 10% designated to the Community Preservation Open Space Reserve Fund for FY'10 and \$116,252 from unreserved FY'10 estimated revenues.

- d. Thirty Thousand Four Hundred Twenty Dollars (\$30,420) be appropriated for debt Service Interest Expense.
- e. Two Thousand Dollars (\$2,000) be appropriated for Administrative Expenses.

Motion 4:

It was voted by majority vote that Sixteen Thousand Six Hundred Ten Dollars (\$16,610) be appropriated for the Conservation Commission with the approval of the Board of Selectmen to expend for the preservation of open space through the preparation, mapping, compilation and printing of the Open Space and Recreation Plan, effective July 1, 2009 (Fiscal Year 2010), and to meet this appropriation that Sixteen Thousand Six Hundred Ten Dollars (\$16,610) be transferred from the Community Preservation Undesignated Fund balance in FY 2010, and further that after June 30, 2012, any residual unexpended funds be returned to the Community Preservation Undesignated Fund balance.

Motion 5:

It was voted by a counted majority vote, 223 yes, 93 no, that Four Hundred Forty Five Thousand Dollars (\$445,000) be appropriated for the Board of Selectmen to expend for the preservation of the Highland Building by installing and upgrading of fire safety, plumbing and heating systems, and by repairing the exterior façade of the building, including the roof, chimney, siding, windows, and front porch, effective July 1, 2009 (Fiscal Year 2010), and to meet this appropriation that Two Hundred Nine Thousand Three Hundred Twelve Dollars (\$209,312) be transferred from the Community Preservation Historic Reserve Fund, and that Two Hundred Thirty Five Thousand Six Hundred Eighty Eight Dollars (\$235,688) be transferred from the Community Preservation Undesignated Fund balance, and further that after June 30, 2013, any residual unexpended funds be returned to the Community Preservation Undesignated Fund balance.

Article 23: On motion of Timothy Hult, it was voted by majority vote that the subject matter of Article 23 be indefinitely postponed.

Article 24: On motion of William R. Tice, Jr., it was voted by majority vote that the Board of Selectmen, pursuant to M.G.L. c.152, sec. 69, be authorized to designate the position of Town Clerk to be included as an elected official in the group of employees covered under the Town of Carlisle Workers' Compensation Program, and to execute appropriate documentation of such designation with the Commonwealth Division of Industrial Accidents.

Article 25: On motion of John D. Williams, it was voted by a declared two thirds vote that Carriage Way be accepted as a Town way, as recommended by the Planning Board and laid out by the Board of Selectmen and as shown on the plan entitled "Carriage Way Carlisle, Massachusetts", dated January 3, 2007, revised July 10, 2007 and prepared by Stamski and McNary, Inc. and further that the Board of Selectmen be authorized to acquire by purchase, gift or eminent domain the fee or lesser title interests in said way.

Article 26: On motion of Alan Carpenito, it was voted by majority vote that the Board of Selectmen be authorized to amend the current Contract and extend the current Contract between the Town of Carlisle and Wheelabrator North Andover for an additional five years for a total contract length of ten years ending June 30, 2015.

Article 27: On motion of Chad Koski, it was voted by majority vote that the Carlisle School Committee be authorized to enter into a five year contract for Management of the Wastewater Plant.

Article 28 On motion of Douglas A. G. Stevenson, it was voted by a declared two thirds vote that the Board of Selectmen be authorized to acquire by gift, purchase or eminent domain easements over the lands described below for the purposes of drainage, fire protection, access and public pathways as follows:

Stearns Street Drainage Easement – Drainage and construction easements over a portion of land located at 6 Patten Lane in Carlisle and shown on a plan of land entitled “Easement Plan of Land in Carlisle, Massachusetts (Middlesex County)”, prepared by Stamski and McNary, Inc. for the Town of Carlisle, dated January 23, 2007; and

Hanover Hill Pathway Easements – Easements for the construction, installation, inspection, repair, renewal, replacement, operation and maintenance of public pathways over land situated on the northerly side of Westford Street, Carlisle and shown as Pathway Easement A, Pathway Easement B, Pathway Easement C, and Pathway Easement D on a plan of land entitled “Hanover Hill in Carlisle, Massachusetts (Middlesex County) Lot Layout Plan, for: Wilkins Hill Realty, LLC, Scale 1” = 40’, August 24, 2007,” prepared by Stamski and McNary, Inc., dated August 24, 2007, last revised June 3, 2008, filed with the Middlesex County Registry of Deeds Northern District in Plan Book 227, Page 36; and

Hanover Hill Fire Protection Easement – Easements for the construction, installation, inspection, repair, renewal, replacement, operation and maintenance of fire-protection systems over a land located northerly off Westford Street, known as the Hanover Hill subdivision and as shown on the plan of land entitled “Hanover Hill in Carlisle, Massachusetts (Middlesex County) Lot Layout Plan, for: Wilkins Hill Realty, LLC, Scale 1” = 40’, August 24, 2007,” prepared by Stamski and McNary, Inc., dated August 24, 2007, last revised June 3, 2008, filed with the Middlesex County Registry of Deeds Northern District in Plan Book 227, Page 36; and

Bedford Road Pathway Easement - Easements for the construction, installation, inspection, repair, renewal, replacement, operation and maintenance of a public pathway located at the intersection of Bedford Road and Lowell Street, commonly known and numbered as 8 Lowell Street, Map 22, Parcel 43, as shown on plan entitled “Proposed Footpath Plan of Land Lowell Street, Carlisle, Massachusetts (Middlesex County)”, dated October 4, 2005, prepared by Stamski and McNary, Inc.; and

Westford Street Pathway Easement – Easements for the construction, installation, inspection, repair, renewal, replacement, operation and maintenance of a public pathway located at 546 Westford Street, known as Map 20, Parcel 10 as shown on plan entitled “Plan of Land in Carlisle, Massachusetts, Middlesex County for: Wilkins Hill Realty, LLC”, dated May 12, 2008, prepared by Stamski & McNary, Inc.

Article 29: On motion of John D. Williams, it was voted by a declared two thirds vote that the Board of Selectmen be authorized to transfer to the Conservation Commission the care, custody, and control of a one (1) acre, more or less, parcel of land, identified as Carlisle Assessor's Map 5, Parcel 46 for conservation and recreational purposes, or any portion thereof or interest therein.

Article 30: On motion of William R. Tice, Jr., it was voted by majority vote that Article XIV Section 14.6.2.3 Regulation of Dogs, Licenses of the General Bylaws be amended as follows:

By deleting Section 14.6.2.3 and replacing it with the following:

“The Town Clerk shall, pursuant to G.L. c.40, Section 22F, from time to time fix reasonable annual fees to be charged for the issuance of licenses for dogs.”

and by deleting Section 14.6.2.4 and replacing it with the following:

“The Town Clerk shall, pursuant to G.L. c.40, Section 22F, from time to time fix reasonable annual fees to be charged for the issuance of licenses for kennels.”

and by amending Section 14.6.2.6 to read as follows:

14.6.2.6 Any person who is the owner or keeper of a dog in the Town of Carlisle, and who fails to license said dog by April 1st of any year, shall be subject to a penalty of twenty dollars (\$20.00) to be payable, in addition to the license fee, to the Town Clerk upon demand by the Dog Officer. Any person who fails to license a dog which is owned or kept in the Town of Carlisle within fifteen (15) days after the demand made by the Dog Officer shall be subject to a penalty of thirty dollars (\$30.00), said penalty to be collected as provided by law.

Article 31: On motion of Thomas Schultz, it was voted by majority vote that Article XIII WETLAND PROTECTION of the General Bylaws be amended as follows:

by amending Section 13.1.5 to read as follows:

13.1.5 It is not the purpose or intention of this Bylaw to exceed Mass. Gen. Laws Ch. 131 Sec. 40 as amended February 14, 1997, or the Wetland Protection Act Regulations 310 CMR 10.00 as amended May, 2008, except in the following Bylaw sections: 2, 10, and 11.

and by amending Section 13.7.1 to read as follows:

13.7.1 The provisions set forth in 310 CMR 10.03(1) through 10.03(6) as defined May, 2008, and 310 CMR 10.51 through 10.60 as defined May, 2008, shall be used for the interpretation and implementation of this Bylaw except in the event of a conflict with other provisions of this Bylaw, in which case the other provisions of this Bylaw shall take precedence.

and by amending Section 13.11.1 to read as follows:

- 13.11.1 Unless specifically stated otherwise in this Bylaw, the definitions set forth in Mass Gen. Laws Ch. 131, Sec. 40, as defined on February 14, 1997, and in 310 CMR 10.00 as defined May, 2008, shall be used for the interpretation and implementation of this Bylaw. Definitions unique to this Bylaw that shall be used in the interpretation and implementation of this Bylaw include:

Article 32: On motion of John D. Williams it was voted by majority vote that the subject matter of Article 32 be indefinitely postponed.

Article 33: On motion of Timothy Holt, it was voted by majority vote that Article 33 be withdrawn by the proponent without consideration, without prejudice and without unfavorable action thereon with the meaning of M.G.L. c.40A, s.5.

Article 34: On motion of Michael Epstein, it was voted by a declared two thirds vote that Section 5.9 of the Town of Carlisle Zoning Bylaws, Personal Wireless Communication Facilities, be amended by replacing the current Section 5.9 with the language set forth in Article 34 of the 2009 Annual Town Meeting Warrant with a change from the Annual Town Meeting Warrant in section 5.9.4.14 from “mergency” to emergency.

5.9 Personal Wireless Communication Facilities.

5.9.1 Purpose. The purpose of this Section is to permit the siting of Personal Wireless Service Facilities within the Town, to regulate their impacts, their location and use in a manner that complies with federal and state laws and regulations regarding the placement of such Facilities, including the National Wireless Telecommunications Siting Policy of the Telecommunications Act of 1996, Section 332 (c) (47 U.S.C. 332 (c)), and to the extent feasible:

- 5.9.1.1 protects the scenic, historic, natural and man-made resources of the Town;
- 5.9.1.2 minimizes the impact on the character of the community while facilitating beneficial use of Personal Wireless Services;
- 5.9.1.3 minimizes any adverse impacts on the residents of the Town with regard to the general safety, welfare and quality of life in the community (such as, but not limited to, attractive nuisance, noise, and falling objects);
 - 5.9.1.4 minimizes any adverse impacts on property values;
 - 5.9.1.5 minimizes any adverse impacts on the environment and existing vegetation;
 - 5.9.1.6 minimizes the collective impact of Personal Wireless Facilities throughout the Town by controlling the quantity, height, visibility and appearance of Facilities in a fashion that is compatible with their surroundings; and
- 5.9.1.7 minimizes the visual impact on the community to the extent practicable by:

- (a) encouraging Facilities to be Concealed within pre-existing structures;
- (b) encouraging Facilities attached to pre-existing structures to be Camouflaged;
- (c) encouraging, where location on or within pre-existing structures is not feasible, the co-location of Facilities, including, but not limited to, the location of Facilities on Utility Poles;
- (d) discouraging the construction of new Towers; and
- (e) encouraging the use of the least visually intrusive technology available in the industry.

5.9.2 Definitions.

As used in this Section, the following terms shall have the meanings indicated:

- 5.9.2.1 *Act:* The Federal Telecommunications Act of 1996.
- 5.9.2.2 *Antenna:* A device that emits and/or receives radio waves propagating through the air.
- 5.9.2.3 *Associated Antenna Equipment:* Any Antenna and equipment that is mounted with or in proximity to the Antenna and supporting the purpose of the Antenna, such as cables, in-line mounted amplifiers, filters, sensors, actuators, hardware and the like.
- 5.9.2.4 *Base Station:* The point of communication between one Personal Wireless Service Provider and its mobile subscribers. It consists of a Personal Wireless Service Provider's transmission and reception equipment, along with any related equipment including; Antennas, Associated Antenna Equipment, and any Communication Equipment Shelters.
- 5.9.2.5 *Camouflaged:* A Facility disguised, shielded, hidden, painted or otherwise made to appear as part of an existing or proposed structure or to resemble an architectural feature of an existing or proposed structure or building on which it is placed.
- 5.9.2.6 *Communication Equipment Shelter:* A building designed principally to enclose equipment used in connection with the provision of Personal Wireless Services.
- 5.9.2.7 *Concealed:* A Facility that is entirely contained within an existing building or structure and is not visible from the outside of the structure, but this definition does not include a Concealed Antenna Monopole.
- 5.9.2.8 *Concealed Antenna Monopole or CAM:* A Monopole that fully contains Antennas and cables concealed within its tubular outer surface.

- 5.9.2.9 *Facility Site or Site:* A parcel of land that on any part thereof one or more Personal Wireless Service Providers operate one or more Personal Wireless Service Facilities.
- 5.9.2.10 *Monitoring:* The evaluation of the emissions and operation of a Personal Wireless Service Facility for compliance with applicable standards or requirements.
- 5.9.2.11 *Monopole:* A Tower that is self-supporting vertical pole, with no guy wires, that supports Antennas and through the interior of which Antenna and control cables are routed to maintain an uncluttered continuous exterior surface. Antennas are mounted to Monopoles in several fashions, including those mounted on wide frames or platforms extending from the Monopole surface, surface-mounted to the pole exterior (sometimes called “flush mounts”), concealed within the pole’s surface (see *Concealed Antenna Monopole*) or disguised by materials such as those emulating natural vegetation.
- 5.9.2.12 *Overall Tower Height:* the height of a Tower, measured from the ground level surrounding the base of the Tower to the higher of the top of the Tower itself or any appurtenance extending beyond the top of the Tower.
- 5.9.2.13 *Personal Wireless Services:* Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange services, as defined in 47 U.S.C. sec. 332(c)(7)(C)(i). These services include but are not limited to: cellular services, personal communication services (PCS), specialized mobile radio services and paging services.
- 5.9.2.14 *Personal Wireless Service Facility or Facility:* the arrangement of any of the following at a location (Facility Site, building or other structure) that enables the provision of Personal Wireless Services; Base Stations, Antennas, Associated Antenna Equipment, Communication Equipment Shelters and Personal Wireless Towers.
- 5.9.2.15 *Personal Wireless Service Provider or Provider:* An entity engaged in the business of providing Personal Wireless Service(s).
- 5.9.2.16 *Personal Wireless Tower:* A Tower or Monopole that is primarily intended to support Antenna(s) and Associated Antenna Equipment for Personal Wireless Service.
- 5.9.2.17 *Repair of an existing Personal Wireless Service Facility:* The replacement or repair of any part of a Personal Wireless Service Facility with a part that has similar visual and technical characteristics, for the purpose of improving the reliability or performance of Personal Wireless Service.
- 5.9.2.18 *Small Form Factor Technologies (collectively, or individually, “SFFT”):* such as, without limitation, the following:

- A. *Repeater*: A small relay transceiver and associated Antennas designed to provide general extension of Personal Wireless Service coverage by repeating communications through the use of an over-the-air link with a host Personal Wireless Service Facility. Repeater electronics packages are typified by their self-containment, low volume (5 cubic feet or less) and ability to be attached to an existing structure such as a building or Utility Pole.
- B. *Distributed Antenna System (DAS)*: A network of components that employs a multiplicity of small Antennas distributed throughout an area, often mounted to Utility Poles, each of which is served by a small (3 to 30 cubic feet., typical) electronics package mounted with the Antenna, and which Antennas and electronics packages are linked to a central Base Station facility by intermediate media such as fiber, wire, or wireless links.
- C. *Distributed Network Elements*: A means of distributing Antennas throughout an area in manner that does not employ the central Base Station of a DAS and instead employs small (5 cubic feet., typical) Base Station packages mounted locally with each Antenna.

5.9.2.19 *Special Permit Granting Authority*: The Town board charged with the responsibility for granting special permits for personal wireless service facilities shall be the Carlisle Planning Board (“Planning Board”). The Special Permit Granting Authority may be assisted by an *ad hoc* committee convened by the Planning Board.

5.9.2.20 *Tower*: Any structure that is uninhabitable and exceeds the height limit for habitable structures in the applicable zoning district.

5.9.2.21 *Utility Pole*: A pole installed for the purpose of conveying one or more utilities. For the purposes of this Bylaw, a Utility Pole is considered a structure and is not considered a Tower or a Personal Wireless Tower, unless its overall height is in excess of 60 feet.

5.9.3 Priorities.

If requested by the Planning Board, Applicants shall demonstrate to the satisfaction of the Planning Board that they have investigated locations or Facilities higher in priority ranking than the one they are applying for and that such higher priority ranked alternative(s) is (are) not available to provide coverage that would be substantially similar to the coverage that would be provided by the Facility which is proposed or that any such higher ranked alternative is singly or in the aggregate more visible or otherwise will have a more detrimental impact on the community than the proposed Facility. The following are the priority rankings from highest to lowest rankings:

- (a) Concealed, per Section 5.9.5;
- (b) Camouflaged in connection with an existing building or structure, per Section 5.9.5;
- (c) Co-located with an existing Facility;

- (d) SFFT located on a Utility Pole or other structure;
- (e) Camouflaged in connection with a proposed building or structure;
- (f) A Concealed Antenna Monopole located on land owned or leased by the Town of Carlisle;
- (g) A Concealed Antenna Monopole not located on land owned or leased by the Town of Carlisle.

5.9.4 General Requirements.

- 5.9.4.1 Pre-Application Conference. Applicants are strongly encouraged to meet with the Planning Board at a public meeting to discuss the proposed application for a new Facility and to discuss in general terms the proposed facility prior to the formal submission of an application.
- 5.9.4.2 Application Process. Each Personal Wireless Service Provider desiring to construct or install a Personal Wireless Service Facility shall submit a written application for a special permit including without limitation a plan of the site of the proposed Personal Wireless Service Facility to the Planning Board. The application shall be submitted in accordance with the requirements of the Rules and Regulations regarding Special Permits for Personal Wireless Communications Facilities, adopted by the Planning Board, as the same may be amended from time to time (“Rules and Regulations”). Except for Repairs of existing Personal Wireless Service Facilities as defined in Section 5.9.2.17, a special permit is required for the installation of any new Personal Wireless Service Facility. The applicant must demonstrate to the Planning Board a significant lack of service currently being provided. The applicant must prove to the Planning Board the need for the particular proposed Facility. As part of the Application Process, the applicant must demonstrate the need for the proposed Facility as detailed in the Rules and Regulations.
- 5.9.4.3 New Personal Wireless Service Facilities shall be permitted in the Town of Carlisle only when the applicant has demonstrated that the provision of its Personal Wireless Service cannot be achieved with existing Facilities or with an adjustment of those Facilities.
- 5.9.4.4 Applications for new Personal Wireless Service Facilities shall be reviewed by the Planning Board in accordance with the Priorities set forth in Section 5.9.3 above. Any Monopoles shall be designed to camouflage, minimize, or conceal their appearance. Facilities within or attached to an existing building or structure shall comply with Section 5.9.5. Other Antenna supporting structures such as truss (also known as lattice) or guyed Personal Wireless Towers shall not be permitted. Any Tower existing for another purpose may be employed for Personal Wireless Service Antennas and Associated Antenna Equipment in a fashion consistent with this paragraph and this Bylaw.

- 5.9.4.5 The proposed Facility must be designed and constructed in accordance with the Commonwealth of Massachusetts building code, laws, rules and regulations, and any other applicable Federal, State building codes, laws, rules and regulations. The designer of record of the Facility must be a registered professional engineer in the Commonwealth of Massachusetts. The Planning Board may, at its discretion, hire a professional engineer to review the design of the Facility, the cost of such verification to be borne by the applicant.
- 5.9.4.5.1 Without limiting Section 5.9.4.5, proposed Facilities located within the current mapped Priority Habitat and Estimated Habitat of State Listed Rare Wildlife shall comply with the review process required by the Natural Heritage and Endangered Species Program of the Massachusetts Division of Fisheries and Wildlife, as the same may be amended from time to time, and applicants of proposed Facilities located within the review area of the Wild and Scenic River Corridor shall notify the Sudbury, Assabet and Concord Wild and Scenic River Stewardship Council.
- 5.9.4.6 The Personal Wireless Service Facility shall have, to the maximum extent feasible, negligible adverse visual effects on the environment.
- 5.9.4.6.1 The Planning Board may impose reasonable conditions to ensure this result, including painting, landscaping and lighting requirements or limitations, provided that no such requirement conflicts with any Federal standard, including those of the FAA. Personal Wireless Service Facilities, collectively and individually, shall be developed in a manner that to the greatest extent possible avoids FAA lighting requirements.
- 5.9.4.6.2 If, in the opinion of the Planning Board, the Facility Site is in a vegetated area, and protection of a vegetated buffer will prevent or minimize detrimental changes in the visibility of the Facility, the Planning Board may require protection of a vegetated buffer with specifications of its choosing.
- 5.9.4.6.3 To the extent feasible, all utility connections to the Personal Wireless Service Facility shall be via underground lines unless the use of above-ground lines on any portion of the route has no detrimental impact to the safety or the visual effects of the surrounding environment as determined by the Planning Board.
- 5.9.4.6.4 Existing on-site vegetation shall be preserved to the maximum extent practicable. Any and all plans for construction in connection with the Facility, including, but not limited to, Personal Wireless Towers, roads and utility trenches, shall, where applicable, be reviewed and approved by the Carlisle Conservation Commission, as well as by the Planning Board and the Building Commissioner.
- 5.9.4.7 Traffic associated with and access to the proposed Personal Wireless Service Facility shall not adversely affect abutting ways.

5.9.4.8 The applicant shall obtain written, legally valid and binding authorization for the use of each Facility Site from the owner thereof; or, where applicable, from the utility companies whose facilities are used; or from the Carlisle Board of Selectmen with respect to public ways and Town-owned facilities, and shall provide such evidence to the Planning Board.

5.9.4.9 Unless the Planning Board determines that safety and aesthetic concerns are not served by the installation of such fencing, the area around a Personal Wireless Tower and Facility and associated Communication Equipment Shelters shall be completely fenced and gated for security, with fencing acceptable to the Planning Board. Personal Wireless Towers shall be inherently inaccessible to unauthorized climbers or shall maintain anti-climbing devices the first twenty feet of the Personal Wireless Tower.

A sign shall be posted adjacent to the entry point indicating the Facility owner(s) and a 24-hour emergency telephone number. Advertising on any part of the Facility or Site, including but not limited to, any Antenna, Personal Wireless Tower, fencing, accessory building or Communication Equipment Shelter is prohibited.

5.9.4.10 All Personal Wireless Service Facilities shall be powered from electric company distribution lines. Transportable emergency generators may be deployed to and used at the site only in the event of a sustained outage. A permanent generator to be used for supplying backup power in the event of a power outage will only be considered by the Planning Board if the sound created by such a generator is compliant with Commonwealth of Massachusetts Department of Environmental Protection Noise Control Regulation 310 CMR 7.10, or any successor regulation, as the same may be amended from time to time or any more stringent applicable requirement, as demonstrated by a thorough evaluation conducted and reported by a qualified acoustical engineer.

5.9.4.11 All radio frequency emissions from any Personal Wireless Service Facility shall comply with Federal Communications Commission (FCC) requirements codified in 47 CFR §1.1307 *et seq* as further interpreted by FCC Office of Engineering and Technology Bulletin 65, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields*, or any successor regulation or bulletin, as the same may be amended from time to time.

5.9.4.12 Communication Equipment Shelters shall be designed to be architecturally similar and compatible with each other and the surrounding area. The Personal Wireless Service Provider shall use the Communication Equipment Shelter only for the housing of equipment related to the Facility, and shall not use the Communication Equipment Shelter or the Facility Site for storage, maintenance, office, manufacturing or other purposes unless such use is permissible under the Carlisle Zoning Bylaw and all necessary permits and approvals have been obtained. Changes to the proposed Communication Equipment Shelter design, as well as additional supplemental screening, may be required by the Planning Board to lessen adverse visual or auditory impacts.

- 5.9.4.13 If a substantial amount of Personal Wireless Service provided by the proposed Personal Wireless Service Facility is outside the Town of Carlisle, the Planning Board may deny the application in favor of solutions that address the coverage requirements in the Town of Carlisle in a fashion that better satisfies the purposes of this Bylaw.
- 5.9.4.14 The Facility shall be designed and constructed so as to provide adequate emergency access to the Facility and the Facility Site. The Planning Board shall request input from the Carlisle Fire and Police Departments and other town emergency services regarding the adequacy of emergency access to the site.
- 5.9.4.15 In coordination with the Planning Board, an applicant for a new Tower or an extension to an existing Tower shall perform a visibility test. The visibility test shall be as set forth in the Planning Board's Rules and Regulations. The applicant shall publish advance notice of the test in a manner directed by the Planning Board. The applicant shall submit to the Planning Board a visibility analysis of a proposed Personal Wireless Service Facility as set forth in the Rules and Regulations.
- 5.9.4.16 The Planning Board may require that the equipment of all Providers on a Facility shall be subject to relocation to another nearby Facility if such relocation, when considered individually or in concert with existing or potential new Facilities, does not create a significant gap or gaps in the Provider's coverage as determined by the Planning Board as set forth in the Rules and Regulations when so directed by the Planning Board at a later time in its effort to maximize co-location of Providers. The Planning Board may then order the removal of a Tower if such is no longer required for wireless service after the relocation is completed.
- 5.9.4.17 The Planning Board may require that the equipment of all users of a Facility shall be subject to rearrangement on the Site if so directed by the Planning Board at a later time in its effort to maximize co-location of Providers. This may result in different vertical Antenna locations, reduced vertical separation of Antennas, and changes of Antenna arrangements, to the extent feasible without causing technically unacceptable radio frequency signal interference between the Antennas of the co-locators and without creating new significant gap or gaps in the existing coverage of incumbent Providers on the Facility.

5.9.5 Installation of SFFT or a Personal Wireless Service Facility in or on an Existing Building or Structure.

- 5.9.5.1 Notwithstanding Sections 5.9.6 and 5.9.7, the Planning Board may permit a Personal Wireless Service Facility to be installed in a manner that is not visible or easily recognizable to the public provided the proposed Facility meets the following criteria:

- (a) The proposed Facility must be Concealed or Camouflaged as part of an existing building or structure and such shall not substantially alter the external appearance of the building or structure or site, as viewed from the street or any adjacent building, or must be a SFFT Facility. However, architectural features that are customarily applied in Carlisle for other purposes may be applied to the building or structure in a manner that is in keeping with the architecture of the structure and the character of the surroundings. For example, a cupola might be added to conceal Antennas, or an attached addition or detached shed might be installed for a Base Station or Communication Equipment Shelter if they maintain the character of the site. The Planning Board may require a pictographic analysis of the proposed Facility, or other demonstration of the anticipated appearance of the Facility, as a condition before granting a special permit hereunder.

5.9.6 Height Limitations.

- 5.9.6.1 New Personal Wireless Towers shall not exceed the height necessary to address provision of Personal Wireless Service requirements specified in the application under consideration unless the Planning Board determines that the benefits of approving a greater height to accommodate co-location outweigh the detriments of the increased height, provided such increased height shall not exceed the height limitations set forth in Sections 5.9.6.2 through 5.9.6.4 below.
- 5.9.6.2 Subject to Sections 5.9.5 and 5.9.7.3.1, in areas where there is no significant tree cover or vegetative screening, the maximum Overall Tower Height of a new Personal Wireless Tower shall not exceed eighty (80) feet above finished grade of the ground elevation. Such finished grade shall not be distorted above the pre-existent natural grade as a way to achieve additional height.
- 5.9.6.3 Subject to Sections 5.9.5 and 5.9.7.3.1, the maximum Overall Tower Height of a new Personal Wireless Tower may exceed eighty (80) feet in areas where there is significant tree cover, and the maximum Overall Tower Height of a new Personal Wireless Tower in such area shall not exceed ten (10) feet above the average height of the natural preexistent tree canopy within a one-hundred fifty (150) foot radius of the proposed Personal Wireless Tower.
- 5.9.6.4 Notwithstanding the height limitations in Sections 5.9.6.2 and 5.9.6.3 should an applicant or applicants propose a Facility with more than one Provider seeking to co-locate Facilities on an existing or proposed Personal Wireless Tower, the installation of which would require or cause an increase in the overall height of said Tower, that increase shall be the smallest height increase required to address the provision of Personal Wireless Service requirement established by the applicant to the satisfaction of the Planning Board; however the increased height shall not exceed by more than 10 feet the 80 foot height as specified in Section 5.9.6.2 or by more than 10 feet the height as specified in Section 5.9.6.3., as applicable. Once a Facility has been increased in height for co-location, no additional co-location shall be allowed that would require a height increase beyond the total 10 foot increase allowance for co-location set forth herein.

5.9.6.5 Should the height of a Facility be increased because of co-location pursuant to Section 5.9.6.4 or 5.9.7.3.1, and should one or more Providers on such Facility cease to operate, and therefore the Facility ceases to have co-location, the holder of the Special Permit for the Facility shall provide Notice to the Planning Board within 30 days of the cessation of such operation. Within 90 days from said notification, an application for a new co-locator on the Facility must be filed. If approval for a Special Permit for a new co-locator is not obtained within 1 year of the date one or more of the Providers ceased to operate, the additional height granted the Facility because of the co-location must be removed and the Facility shall be subject to the maximum height limitations set forth in this Bylaw as if there was no co-location.

5.9.7 Setbacks.

5.9.7.1 Subject to Section 5.9.5, new Personal Wireless Towers shall be set at a distance at least equal to 1.5 times the maximum planned height of the Personal Wireless Tower from all lot lines of the site on which the Personal Wireless Tower is to be located, provided that the Planning Board may allow a setback less than 1.5 times the maximum planned height if it finds that a substantially better design will result with such reduction, provided, however, such set back shall in any event not be less than the maximum planned height of the proposed Facility, nor less than the setback required for structures within the zoning district that the Personal Wireless Tower is proposed. In making such finding, the Planning Board shall consider the visual and safety impacts of the proposed Facility.

5.9.7.2 Subject to Section 5.9.5, no Personal Wireless Service Facility, except as may be allowed by waivers under Section 5.9.7.3, shall be located within:

5.9.7.2.1 nine-hundred (900) feet, on a horizontal plane, to the structure of an existing child care facility or to any existing structure which is, or is able to be, occupied or habitable on the property of any school;

5.9.7.2.2 nine-hundred (900) feet, on a horizontal plane, to the structure of an existing residence, or the footprint of a future residence for which a Building Permit has been issued, not including those residential buildings located at the Site;

5.9.7.2.3 nine-hundred (900) feet, on a horizontal plane, to any structure in a Historic District, or listed, or eligible to be listed, on the State or Federal Register of Historic Places.

5.9.7.2.4 one-hundred (100) feet, on a horizontal plane, to any Massachusetts certified vernal pool.

5.9.7.3 The Planning Board may waive any setback requirement of Section 5.9.7.2 for the implementation of a Personal Wireless Facility if the Planning Board determines that the purposes of this Bylaw, as set forth in Section 5.9.1 are substantially satisfied. Justification for granting waivers under this section shall include the following

- (a) Documented evidence that the proposed provision of Personal Wireless Service cannot be substantially obtained by means not requiring such waivers, or documented evidence that the provision of such service by such means is substantially more detrimental to the purposes of this Bylaw than with the grant of the exceptions;
- (b) Demonstration that the proposed Facility or Facilities substantially satisfy the purposes of this Bylaw, including without limitation Section 5.9.3; and
- (c) Documented proof that any exceptions requested will not violate or exceed the limits of any federal, state environmental laws or regulations.

5.9.7.3.1 If a waiver is granted by the Planning Board pursuant to Section 5.9.7.3, any Concealed Antenna Monopole shall not exceed 60 feet in height, provided, however, if the Facility shall be subject to co-location by one or more Personal Wireless Service Provider, the height of such CAM shall not exceed 80 feet.

5.9.8 Approval criteria.

- 5.9.8.1 A special permit shall be issued under this section only if the Planning Board shall find that the project is in harmony with the general purpose and intent of this Bylaw.
- 5.9.8.2 The Planning Board, with the advice of outside review consultants and/or an advisory committee, if requested, shall make all the applicable findings before granting the special permit, as follows:
 - 5.9.8.2.1 that the applicant has demonstrated that a substantial improvement in its provision of Personal Wireless Service in Carlisle will be obtained with the proposed Facility;
 - 5.9.8.2.2 that the applicant has demonstrated to the satisfaction of the Planning Board that the use of existing Personal Wireless Service Facilities and Facility Sites, or the adjustment of same, does not eliminate or substantially diminish the need for the proposed Facility;
 - 5.9.8.2.3 that the applicant has complied with Section 5.9.3 of this Bylaw;
 - 5.9.8.2.4 that the proposed Personal Wireless Service Facility minimizes to the extent possible any adverse impact on historic resources, scenic views, residential property values, and natural or man-made resources;
 - 5.9.8.2.5 that the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the Facility;
 - 5.9.8.2.6 that the Planning Board has been presented satisfactory evidence that the proposed Facility will be compliant with FCC requirements regarding human exposure to radio frequency energy; and

5.9.8.2.7 that, if the application is for a Personal Wireless Tower, the applicant has agreed to provide any available space on its Personal Wireless Tower to other Personal Wireless Service Providers, on a reasonable and non-discriminatory basis.

5.9.8.3 If a special permit is granted, the Planning Board may impose any such additional conditions and safeguards as public safety, welfare and convenience may require, either as recommended by consultants or upon its own initiative.

5.9.9 Monitoring, Structural Evaluation and Modifications.

5.9.9.1 Requirements for the monitoring of Personal Wireless Service Facilities for compliance with federal emissions standards shall be specified in the Planning Board's Rules and Regulations.

5.9.9.2 Requirements for the structural evaluation of Personal Wireless Service Facilities for compliance with applicable state building codes shall be specified in the Planning Board's Rules and Regulations.

5.9.9.3 The owners of all Personal Wireless Service Facilities shall notify the Planning Board, in writing, prior to any modifications to an existing Facility or Facility Site that would substantially change its appearance or visibility, or otherwise change its performance under this Bylaw and/or the terms of its Special Permit, and such proposed modifications must receive prior approval from the Planning Board. The Board may elect, depending on the significance of the proposed changes, to require the owner(s) of the Facility to submit an application to amend their Special Permit. In any event, all proposed modifications, including repairs as set forth in Section 5.9.2.17, must receive all appropriate permits and approvals including, but not limited to those required by the Building Commissioner.

5.9.10 Removal of Facilities.

When a Personal Wireless Service Facility ceases to operate, it must be removed by the permittee or owner and the site restored to its original condition as described below. "Ceases to operate" is defined as not providing Personal Wireless Service for a period of one year. Prior to the removal of a Personal Wireless Facility, the owner or permittee shall notify the Planning Board in writing of its intent to remove the Facility. At the time of removal, the Facility Site shall be restored such that all Personal Wireless Service Facility improvements that have ceased to operate shall be removed and the site shall be restored to its original condition unless otherwise required by the owner of the Site and/or the Planning Board. Existing trees shall only be removed if necessary to complete the required removal. If all Facilities on a Personal Wireless Tower have ceased to operate, the Personal Wireless Tower (including the foundation) and all associated Antenna Equipment and any Communication Equipment Shelter(s) shall also be removed and the site shall be restored by the owner of the Personal Wireless Tower or Facilities and/or the owner of the site to the condition it was in prior to the installation of such Facilities. The Planning Board may, in connection with the granting of any special permit, require the providing of funds, posting of a bond, insurance certificate, or other financial instrument (collectively "Collateral") as designated by the Planning Board to fund the removal of the Facility and restoration of the Site in the event the Facility ceases to operate, and the permittee or owner fails to

comply with this section or lawful orders to remove the Facility. If, following lawful notice given to the owner of the site and/or Facility owner(s) demanding removal of the Facility, the owner fails to do so, the Planning Board or the Building Commissioner may initiate removal at the owners' expense and may utilize the Collateral provided for the removal of the Facility and restoration of the Site under the terms of this Bylaw. At the discretion of the Planning Board, removal shall either be done by the Facility owner, under the supervision of the Town of Carlisle, or by the Town of Carlisle.

5.9.11 Exemptions. The following types of wireless communications facilities are exempt from this Section 5.9:

5.9.11.1 Amateur radio transmitting and receiving structures used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission and protected by Massachusetts General Laws c. 40A, sec. 3, provided that the transmitting and receiving structure is not used or licensed for any commercial purpose;

5.9.11.2 Non-commercial satellite dishes and antennas used only for reception of radio, television and data signals; and

5.9.11.3 Communication facilities employed by police, fire, ambulance and other emergency dispatch.

5.9.12 Term of Permit.

Any special permit issued for a Facility shall be valid for not more than 3 years, unless such is extended by the Planning Board for a period not to exceed 2 years, provided, however, the Planning Board may provide longer terms for Facilities set forth in Section 5.9.3(a)-(f).