

**TOWN OF MILTON  
2007**



**SPECIAL  
TOWN MEETING  
WARRANT**

**Monday, November 5, 2007**

**Milton High School Auditorium  
7:30 p.m.**

**INCLUDING THE REPORT OF THE WARRANT  
COMMITTEE AND RECOMMENDATIONS ON  
ARTICLES**

**as required by Chapter 3, Section 4, of the General Bylaws of  
the Town**

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**WARRANT ARTICLES AND RECOMMENDATIONS**

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**In compliance with the Americans with Disabilities Act, this warrant can be made available in alternative formats. The November 5, 2007 Special Town Meeting, if requested, will be offered by assisted listening devices or an interpreter certified in sign language. Requests for alternative formats should be made as far in advance as possible.**

**Should you need assistance, please notify the Board of Selectmen at 617-898-4843 (voice) or 617-696-5199 TTY.**

**Smoking and other tobacco use is prohibited in school facilities and on school grounds by MGL Chapter 71, Section 37H, "An Act Establishing the Education Reform Act of 1993." This law applies to any individual at any time.**

2007  
SPECIAL TOWN MEETING WARRANT

Commonwealth of Massachusetts) SS.  
County of Norfolk

To any of the Constables of the Town of Milton is said County:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Milton, qualified to vote in Town affairs, to meet at the Milton High School Auditorium on Gile Road, in said Milton on Monday, the fifth day of November next at 7:30 o'clock in the evening, then and there to act upon said following Articles to wit:

Articles 1-9

And you are directed to warn said inhabitants qualified as aforesaid to meet at the times and places and for the purposes herein mentioned by posting attested copies of the Warrant in each of the Post Offices of said Town fourteen days at least before the fifth of November and leaving printed copies thereof at the dwelling houses of said Town at least fourteen days before the date.

Hereof fail not and make due return of this Warrant with your doings thereon to the Town Clerk, on or before said fifth day of November, next.

Given under our hands at Milton this fourth day of October, two thousand and seven.

Marion V. McEttrick  
Kathryn A. Fagan  
John Michael Shields  
**Board of Selectmen**

A True Copy: Attest

Stephen Freeman  
CONSTABLE OF MILTON

## **REPORT OF THE WARRANT COMMITTEE FOR THE NOVEMBER 5, 2007 SPECIAL TOWN MEETING**

The Warrant Committee is pleased to present its recommendations for action on seven of the nine articles that have been submitted to the Special Town Meeting convening on Monday, November 5, 2007. Recommendations on articles 7 and 8 will be made at the Town Meeting after additional information is obtained. Town Meeting will act on requests for three home rule petitions, a supplemental appropriation for the school building project, a prior year appropriation for the School Department, appropriations for the Stabilization Fund and the Capital Stabilization Fund, an amendment to the Central Avenue planned unit development overlay zoning, and rescission of a borrowing authorization. The basis for each of our recommendations is discussed below and/or in the comments to the articles.

### **I. Disposition of the Landfill Escrow Account**

The source of funding for the appropriations recommended under Articles 1 (School Department's FY07 expenses), 5 (Stabilization Fund) and 6 (Capital Stabilization Fund) is the Landfill Escrow Account, which has a balance of \$631,822. In 1995, the Town and the Massachusetts Department of Environmental Protection ("DEP") entered into an agreement that, among other things, required the Town to establish the Landfill Escrow Account for the purpose of paying closure and post-closure costs relating to the former landfill. The landfill is now part of the Quarry Hills Recreational Complex. Quarry Hills Associates, Inc., the operator of the complex, provides surety bonds and other security for the closure and post-closure obligations.

In 2005, DEP granted the Town's request to retire the Landfill Escrow Account and release the funds held in the account. At the February 2006 Special Town Meeting, the Town's management and the Warrant Committee recommended that Town Meeting transfer the majority of the funds held in the Landfill Escrow Account to the Stabilization Fund in order to increase the Town's reserves. However, the transfer could not be accomplished at that time because the Massachusetts Department of Revenue ("DOR") raised a technical issue concerning the procedure for transferring the funds. That issue has been resolved and, in June, DOR approved the release of funds from the Landfill Escrow Account.

At this time, the full balance of the Landfill Escrow Account cannot be used to increase reserves because \$383,000 is needed to pay certain FY07 Special Education expenses. \$383,000 is the aggregate amount of Medicaid reimbursements that the Town received last year on account of services that the School Department provided to students in the Special Education program. Reimbursement payments are deposited into the General Fund in

accordance with State law. As we have previously reported to Town Meeting, the School Department treated the FY07 Medicaid reimbursement as an offset against its Special Education expenses that would require a prior year appropriation from free cash. In each of the past two years, free cash has been used to pay prior year Special Education expenses. However, free cash does not exist this year. The Town Accountant anticipates that DOR will certify the Town's free cash in a negative amount, (\$139,283). Several factors led to free cash going negative for the first time since 1993. They include a deficit of approximately \$200,000 in the sewer account, a deficit of approximately \$170,000 for FY06 snow and ice removal, and contractually required prepayments of FY08 salary for certain school employees in the amount of approximately \$120,000. Because free cash is not available, the Landfill Escrow Account and the Stabilization Fund are the only funding sources for the School Department's unpaid bills. Therefore, we recommend that \$383,000 be transferred from the Landfill Escrow Account to the School Department under Article 1 for the purpose of paying FY07 Special Education expenses.

It is very unfortunate that free cash is not available and that the Landfill Escrow Account (which is a "one time" funding source) must be used to pay operating expenses rather than to increase the Town's reserves. The situation in which the Town now finds itself is precisely the situation that the Town's auditors have cautioned could occur. Last Spring, the Warrant Committee added \$350,000 to the recommended FY08 appropriation for the School Department in order to end the department's practice of treating Medicaid reimbursements as "offsets" to its budgets to be paid from free cash in a subsequent year. Accordingly, this is the last time that an unpaid bills article on account of anticipated Medicaid reimbursements will be needed.

We recommend that the Landfill Escrow Account be closed and that the balance of \$248,822 be divided between the Stabilization Fund and the Capital Stabilization Fund, which comprise a significant portion of the Town's reserves. As of June 30, 2007, the Stabilization Fund had a balance of \$1,095,800.44 and the Capital Stabilization Fund had a balance of \$10,363.02. On August 6, 2007, Standard & Poor's ("S&P") reaffirmed the Town's AA bond rating but noted that "available reserves remain below the state average and well below the national average." S&P concluded that Milton's "ability to manage with lower reserves, given the constraints of proposition 2-1/2, is the result of a favorable record in passing voter referendums for both debt exclusions and operational overrides, which provides additional operating flexibility." Inadequate levels of reserves hinder the Town's ability to weather a financial storm and to respond to an emergency situation. The Town's management, the Board of Selectmen and the Warrant Committee will continue to seek additional opportunities to augment reserves.

The Board of Selectmen did not express a preference for allocating the remaining funds in the Landfill Escrow Account between the two stabilization funds but, rather, left it to our discretion to recommend an allocation. Increasing the balance of either or both of the stabilization funds will be viewed positively by the bond rating agencies. Thus, it is less important how \$248,822 is apportioned between the two stabilization funds than it is that the full amount be moved into reserves. We recommend that \$50,000 be transferred to the Capital Stabilization Fund and that the remaining \$198,822 be added to the Stabilization Fund. We recommend that a greater amount be transferred to the Stabilization Fund because it has a broader purpose than does the Capital Stabilization Fund. It may become necessary to withdraw monies from the Stabilization Fund in order to pay some of the medical bills and long-term care expenses of a firefighter who was critically injured while on duty. (See Section II.B below.) However, in recognition of the Town's many capital needs and the fact that the Town has been unable to add even a modest sum to the Capital Stabilization Fund in the three years since it was established, we believe that it is reasonable to add \$50,000 to the Capital Stabilization Fund at this time.

It should be noted that, in each of the past several years, the sum of \$40,000 has been transferred from the Landfill Escrow Account to the Department of Public Works' operating budget in order to pay for groundwater testing at the former landfill and the annual household hazardous waste collection. Until the State approved the release of funds from the account, these were among the limited purposes for which the money in the Landfill Escrow Account could be used. If our recommendations are approved by Town Meeting, then, beginning in FY09, the Landfill Escrow Account would cease to be an available fund for these or other operating expenses.

## II. Home Rule Petitions

Articles 2, 3 and 9 request that Town Meeting authorize the Board of Selectmen to file home rule petitions with the State Legislature. Under Massachusetts law, the Legislature has the power to enact a special law relating to a particular town upon the filing of a petition approved by the town meeting of such town.

### A. Medicaid Reimbursements

Under Article 2, the School Committee proposes that the Town file a home rule petition with the State Legislature in order to change the manner in which Medicaid reimbursements are processed and expended. As noted above, under current law, such reimbursements are paid into the General Fund and become available for appropriation through free cash for any purpose and to any department in the subsequent year. The Town has received Medicaid

reimbursements in each of the past three years and has turned over 100% of such reimbursements to the School Department. However, that is not the practice in all communities. Some cities and towns apportion the reimbursement between school and non-school operations on a percentage basis. Proposed legislation that would have remitted at least fifty percent of Medicaid reimbursements received by cities and towns directly to school departments has been introduced in the State Legislature many times but has not been enacted. The Massachusetts Association of School Committees recently re-filed the bill, which is currently pending in the House of Representatives.

There is no guarantee that the legislation proposed by the home rule petition will be enacted. Because cities and towns treat Medicaid reimbursements in many different ways, the petition may encounter opposition from legislators from other communities. Nevertheless, we agree with the School Committee that it is worth seeking legislative approval for Medicaid reimbursements to be directed to a stand-alone account controlled by the School Committee. If enacted, the legislation would simplify the Town's accounting and budgeting of Medicaid reimbursements. Such reimbursements represent a small source of revenue but have been the subject of a considerable amount of discussion among the Town Accountant, the Warrant Committee and the School Department for the past two years. If the home rule petition succeeds, then the Warrant Committee, when preparing a budget recommendation for FY09, will take into account the fact that Medicaid reimbursements will be paid directly to the School Department.

At the Warrant Committee's request, section 2 was added to the proposed special legislation to ensure that, if enacted, Medicaid reimbursements will not be paid directly to the School Department until FY09. The amount of Medicaid reimbursement that the School Department estimated the Town will receive this year (\$350,000) has already been included in projected FY08 revenue.

B. Authorization to Borrow for Employee Medical Expenses

On June 30, 2007, Milton Firefighter Antonio Pickens was critically injured as a result of being struck by an automobile as he responded to the scene of a motor vehicle accident. Under Massachusetts law, cities and towns are liable for the medical expenses of firefighters and police officers who are injured while on duty. No workers' compensation or other insurance coverage is available in this instance, although the Board of Selectmen and the Town Administrator recently obtained an insurance policy that will cover future injuries to firefighters and police officers (subject to deductibles and maximum limits). The Town may be able to recover a portion of the cost of Mr. Pickens' care from the insurer and/or the driver of the vehicle that struck

him. However, the cost of Mr. Pickens' medical treatment and long-term care will be very substantial.

State law does not permit a community to borrow to pay for an employee's medical expenses without first obtaining special legislation enabling it to do so. Article 9 would authorize the Board of Selectmen to seek such special legislation. At this time, the Board of Selectmen is considering various options, including a Proposition 2½ operating override, to pay for Mr. Pickens' medical expenses. We recommend that Town Meeting authorize the Board of Selectmen to file a home rule petition for the purposes set forth in Article 9 in order to preserve all of the Town's options. If special legislation is enacted and the Board of Selectmen subsequently decides to borrow in order to pay some of the cost of Mr. Pickens' medical care, then an article to authorize the borrowing of a specific amount must be submitted to a future Town Meeting. At this time, the Board of Selectmen anticipates that the amount, if any, that would be borrowed and repaid over time would be the cost of Mr. Pickens' initial hospitalization.

We will revise our recommendation on Article 9 at the Town Meeting in order to incorporate the text of the home rule petition. Additional information regarding the petition is now being obtained. However, the recommended language of the petition will be based on special legislation that was adopted for another town that dealt with a similar situation.

### C. Authorization to Issue Liquor License

Under Article 3, the Board of Selectmen seeks Town Meeting's approval to petition the State Legislature for authorization to issue a liquor license for a restaurant to be located at 550 Adams Street. As the Warrant goes to press, Vance Welch, the owner of Java Jo Coffee House, Inc., is engaged in negotiations to lease space at 550 Adams Street for use as a restaurant. Video To Go previously occupied the space. Town Meeting's approval of Article 2 will not result in the issuance of a liquor license. It will only authorize the Board of Selectmen to request the Legislature's approval to issue such a license for 550 Adams Street. If the Legislature approves the petition, Mr. Welch would then be required to apply to the Board of Selectmen for a liquor license. The Board of Selectmen must conduct a public hearing in the course of acting on such an application.

In 2006, Town Meeting authorized the Board of Selectmen to petition the Legislature for authorization to issue a liquor license for a restaurant to be located at nearby 556 Adams Street, which is the Java Jo's location. Because a liquor license is site-specific and cannot be transferred to a different site, a separate article authorizing the filing of a home rule petition for a license to be issued for the new location is required.

### III. Other Articles

The School Building Committee requests a supplemental appropriation in the amount of \$750,000. Of this amount, \$160,000 is requested to complete the construction of the Collicot and Cunningham Schools. It would pay for (1) the installation of fencing in front of the driveways to prevent children from crossing in the path of traffic and at the back of the buildings for security purposes and (2) the correction of handicap access ramps at the lower entrance of the Cunningham School, which currently do not meet standards required by the Americans with Disabilities Act. The balance of \$590,000 represents the School Building Committee's estimate of the cost of removing cinder that was discovered under the slab base of, and the pavement surrounding, the 1909 wing of the former high school building during demolition. Cinder often contains lead and other hazardous materials that would require remediation. The cinder beneath the slab has been analyzed and found to contain lead. At this time, the analysis of the cinder below the paved areas has not been completed. Because a formal cost estimate has not yet been received, we are not now in a position to make a recommendation on Article 7. However, the table printed at the back of this warrant contains a schedule prepared by the Town's financial consultant, Lisa Dickinson of UniBank Fiscal Advisory Services, Inc., showing the implications of a supplemental borrowing in the amount of \$750,000.

The Planning Board submitted Article 8, which would increase, at the Planning Board's discretion, the floor area ratio of a mixed use development in the Central Avenue Planned Unit Development area from 1.5 to 1.725, and, therefore, result in the construction of somewhat larger condominium units and buildings. The Planning Board will hold a public hearing on the proposed amendment on October 16, after the warrant goes to press. Thus, Article 8 is not yet ready for consideration by the Warrant Committee.

Article 4 is a housekeeping article that would rescind a borrowing authorization that the Town no longer needs.

### Acknowledgements

We thank the members of the Board of Selectmen, the School Committee, the School Building Committee and the Planning Board, Town Administrator Kevin Mearn, Town Accountant David Grab, Planning Director Bill Clark and Town Counsel John Flynn for their assistance in preparing this warrant.

Special thanks are owed to Paula Rizzi, Executive Secretary to the Board of Selectmen, for assistance to the Warrant Committee during the past several months that has been above and beyond the call of duty and is greatly appreciated by all of us.

Respectfully submitted,  
October 4, 2007

Kathleen M. Conlon, *Chair*  
Tom Hurley, *Secretary*  
Daniel Biagiotti  
Kevin Chase  
James L. Conley, Jr.  
Lorraine C. Dee  
John W. Folcarelli  
Ewan J. Innes  
Stefano Keel  
Barbara C. Martin  
Brendan McLaughlin  
John J. O'Connor Jr.  
Jennifer L. Pinkus  
Leroy J. Walker  
Carol A. Blute, *Clerk*

**ARTICLE 1** To see what sum of money the Town will vote to appropriate for unpaid bills of departments for prior fiscal years; to determine how said appropriation shall be raised, whether by transfer from available funds, borrowing under applicable provisions of law or otherwise;

and to act on anything relating thereto.

Submitted by the School Committee

**RECOMMENDED that the sum of \$383,000 be appropriated for the purposes set forth in this article as follows:**

<b>School Department</b>	<b>\$383,000</b>
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**and that to meet said appropriation the sum of \$383,000 be transferred from the Landfill Escrow Account.**

*COMMENT: The amount that is recommended for appropriation represents the aggregate amount of Medicaid reimbursements that the Town received in FY07 on account of services that the School Department provided to students in the Special Education program. The unpaid bills consist primarily of out-of-district tuitions that the School Department is obligated to pay. The Landfill Escrow Account is the recommended funding source because free cash (the funding source that was originally intended to be used for this article) is not available.*

**ARTICLE 2** To see if the town will vote to authorize the Board of Selectmen to petition the General Court to enact legislation in substantially the following form, provided that the General Court may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition:

**AN ACT RELATIVE TO THE TOWN OF MILTON AND SCHOOL REIMBURSEMENT.**

*Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:*

Section 1.

Notwithstanding section 72 of chapter 44 of the General Laws or any other general or special law to the contrary, any funds received by the town of

Milton pursuant to said section 72 shall not be considered unrestricted revenue of the town of Milton. The town of Milton shall deposit in a separate account for expenditures by the Milton School Committee all such funds received. The Milton School Committee may make expenditures from the separate account for any lawful educational purpose without further appropriation. Any expenditure from said account on items qualifying as net school spending shall supplement the net school spending requirement of the district. The receipt of such funds shall not affect the calculation of the minimum required local contribution and state school aid as defined in section 2 of chapter 70 of the General Laws.

## Section 2.

This act shall not apply to such funds received by the town of Milton during fiscal year 2008. This act shall apply to such funds received by the town of Milton during fiscal year 2009 and thereafter.

Section 3. This act shall take effect upon its passage.

Submitted by the Milton School Committee

**RECOMMENDED that the Town authorize the Board of Selectmen to petition the General Court to enact legislation in substantially the following form, provided that the General Court may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition:**

**AN ACT RELATIVE TO THE TOWN OF MILTON AND SCHOOL REIMBURSEMENT.**

***Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:***

## Section 1.

**Notwithstanding section 72 of chapter 44 of the General Laws or any other general or special law to the contrary, any funds received by the town of Milton pursuant to said section 72 shall not be considered unrestricted revenue of the town of Milton. The town of Milton shall deposit in a separate account for expenditures by the Milton School Committee all such funds received. The Milton School Committee may make expenditures from the separate account for any lawful educational purpose without further appropriation. Any expenditure from said account on items qualifying as net school spending shall supplement the net school spending requirement of the district. The receipt of such funds shall not affect the calculation of the minimum required local**

**contribution and state school aid as defined in section 2 of chapter 70 of the General Laws.**

**Section 2.**

**This act shall not apply to such funds received by the town of Milton during fiscal year 2008. This act shall apply to such funds received by the town of Milton during fiscal year 2009 and thereafter.**

**Section 3. This act shall take effect upon its passage.**

*COMMENT: Funds that the Town receives under M.G.L. c. 44, §72, are considered unrestricted revenue of the Town and, therefore, can be appropriated (through free cash) for any purpose and to any department. In each of the past three years, the School Department has applied for Medicaid reimbursements and the Town has remitted 100% of the funds received to the School Department through prior year appropriations. Passage of this article would authorize the Board of Selectmen to submit to the State Legislature a home rule petition that would cause Medicaid reimbursements to be deposited in a separate account under the control of the School Committee. If the legislation that is proposed by the home rule petition is enacted, then, beginning in FY09, Medicaid reimbursements would be paid directly to the School Committee.*

**ARTICLE 3** To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact legislation in substantially the following form, provided that the General Court may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition:

**AN ACT AUTHORIZING THE TOWN OF MILTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES OF A CERTAIN RESTAURANT**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Notwithstanding the provisions of section 11 and 17 of Chapter 138 of the General Laws, the licensing authority of the town of Milton may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises of the restaurant located at 550 Adams Street, which is owned by Vance Welch or his successor in interest, provided that any successor in interest shall be subject to approval by the Milton Board of Selectmen and the Alcoholic Beverages Control Commission; provided however, that an application to transfer the license to a successor in interest

shall be granted and approved according to the standard for a new license; and provided further that all the procedures set forth under Section 15A of Chapter 138 shall be applicable thereto. The license shall be subject to all of said Chapter 138, except said Section 17. The licensing authority shall not approve the transfer of the license to any other location.

SECTION 2. This act shall take effect upon its passage.

Submitted by the Board of Selectmen

**RECOMMENDED** that the Town authorize the Board of Selectmen to petition the General Court to enact legislation in substantially the following form, provided that the General Court may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition:

**AN ACT AUTHORIZING THE TOWN OF MILTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES OF A CERTAIN RESTAURANT**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Notwithstanding the provisions of section 11 and 17 of Chapter 138 of the General Laws, the licensing authority of the town of Milton may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises of the restaurant located at 550 Adams Street, which is owned by Vance Welch or his successor in interest, provided that any successor in interest shall be subject to approval by the Milton Board of Selectmen and the Alcoholic Beverages Control Commission; provided however, that an application to transfer the license to a successor in interest shall be granted and approved according to the standard for a new license; and provided further that all the procedures set forth under Section 15A of Chapter 138 shall be applicable thereto. The license shall be subject to all of said Chapter 138, except said Section 17. The licensing authority shall not approve the transfer of the license to any other location.

**SECTION 2.** This act shall take effect upon its passage.

*COMMENT: Passage of this article would authorize the Board of Selectmen to request legislative approval to issue a liquor license for a new restaurant to be located at 550 Adams Street in the space previously occupied by Video To Go. Town Meeting approved the filing of a similar home rule petition for 556 Adams Street under Article 54 of the May 2006 Annual Town Meeting. At*

*that time, Mr. Welch planned to open a restaurant at the Java Jo's location. A liquor license for that location is no longer sought. At this time, Mr. Welch is negotiating with Citizens Bank, the landlord of the premises at 550 Adams Street, to lease the former video store space. If the proposed legislation is enacted, then, upon the filing by Mr. Welch of an application for an alcoholic beverages license, the Board of Selectmen will be required to conduct a public hearing to address various issues, including abutters' concerns, traffic impact and the like.*

**ARTICLE 4** To see if the Town will vote to rescind the borrowing authorizations voted as follows:

<u>DESCRIPTION</u>	<u>DATE</u>	<u>ANNUAL TOWN MEETING ARTICLE</u>	<u>AMOUNT</u>
DPW Trucks Leased	May 3, 2004	Article 9	\$230,606

Submitted by the Board of Selectmen

**RECOMMENDED that the Town rescind the following borrowing authorization:**

<u>DESCRIPTION</u>	<u>DATE</u>	<u>ANNUAL TOWN MEETING ARTICLE</u>	<u>AMOUNT</u>
DPW Trucks Leased	May 3, 2004	Article 9	\$230,606

*COMMENT: The borrowing authorized under Article 9 of the May 2004 Annual Town Meeting is no longer needed and should be rescinded because it represents a liability on the Town's books. In 2004, Town Meeting authorized a borrowing in the amount of \$230,606 for the acquisition of a dump truck and a forestry truck. As contemplated by that article, the two vehicles were acquired through a three-year lease/purchase arrangement.*

**ARTICLE 5** To see what sum of money the Town will vote to appropriate into the Stabilization Fund in accordance with the provisions of General Laws Chapter 40, Section 5B; to determine how said appropriation shall be raised, whether by transfer from available funds, borrowing under applicable provisions of law or otherwise;

and to act on anything relating thereto.

Submitted by the Board of Selectmen

**RECOMMENDED that the sum of \$198,822 be appropriated for the purposes set forth in this article and that to meet said appropriation the sum of \$198,822 be transferred from the Landfill Escrow Account.**

*COMMENT: Town Meeting established the Stabilization Fund (sometimes known as a "rainy day" fund) in 1996 for the dual purposes of improving the Town's financial position in anticipation of bonding and serving as a funding source for capital projects. (The latter function was aided by the establishment in 2004 of the separate Capital Stabilization Fund.) As of June 30, 2007, the Stabilization Fund had a balance of \$1,095,800.44. The Town's management has represented to the bond rating agencies that, upon obtaining State approval to release funds held in the Landfill Escrow Account, such funds would be used to increase the balance of the Stabilization Fund. An increase of \$198,822 will not raise the balance of the Stabilization Fund to an adequate level but is a step in the right direction and will help to maintain the Town's bond rating.*

**ARTICLE 6** To see what sum of money the Town will vote to appropriate into the Capital Stabilization Fund in accordance with the provisions of General Laws Chapter 40, Section 5B; to determine how said appropriation shall be raised, whether by transfer from available funds, borrowing under applicable provisions of law or otherwise;

and to act on anything relating thereto.

Submitted by the Board of Selectmen

**RECOMMENDED that the sum of \$50,000 be appropriated for the purposes set forth in this article and that to meet said appropriation the sum of \$50,000 be transferred from the Landfill Escrow Account.**

*COMMENT: In 2004, Town Meeting established the Capital Stabilization Fund and made an initial deposit of \$10,000. During the past three years, the Town has not had sufficient resources to increase the balance of the Fund. As of June 30, 2007, the Capital Stabilization Fund had a balance of \$10,363.02.*

**ARTICLE 7** To see what sum of money the Town will vote to appropriate in addition to the money appropriated by vote of the June, 2000 Special Town Meeting under Article 1, by vote of the February, 2002 Special Town Meeting under Article 1, by vote of the October, 2002 Special Town Meeting under Article 1, by vote of the February, 2004 Special Town Meeting under Article 11, by vote of the October, 2005 Special Town Meeting under Article 7, by vote of the February, 2006 Special Town Meeting under Article 1, and by vote of the May 2007 Annual Town Meeting under Article 40 for the

purposes of this article, including without limitation for the school construction projects described below and work and costs incidental and related thereto:

Construction, equipping and furnishing of a new high school at the site of the existing Pierce Middle School, and/or repair, renovation, remodeling, equipping and furnishing of Pierce Middle School, and partial or complete demolition of Pierce Middle School, all for conversion to a new high school;

Repair, renovation, remodeling, equipping and furnishing of the existing Milton High School, and construction, equipping and furnishing of additions to Milton High School, and partial demolition of Milton High School, all for conversion to a new middle school;

Repair, renovation, remodeling, equipping and furnishing of Collicot School, and construction, equipping and furnishing of additions to Collicot School, or construction, equipping and furnishing of a new Collicot School, and partial or complete demolition of Collicot School;

Repair, renovation, remodeling, equipping and furnishing of Cunningham School, and construction, equipping and furnishing of additions to Cunningham School, and partial demolition of Cunningham School;

Repair, renovation, remodeling, equipping and furnishing of Glover School, and construction, equipping and furnishing of additions to Glover School, and partial demolition of Glover School; and

Repair, renovation, remodeling, equipping and furnishing of Tucker School, and construction, equipping and furnishing of additions to Tucker School, or construction, equipping and furnishing of a new Tucker School, and partial demolition of Tucker School.

To see if the Town will vote to authorize its Boards, Commissions and Committees, including without limitation the Board of Selectmen, the School Committee and the School Building Committee, to apply for state and/or federal funds to assist and/or to reimburse the Town in connection with any of the foregoing; to authorize the Board of Selectmen to accept grants, gifts, or donations on behalf of the Town for the purposes of this article; and to determine how such appropriation shall be raised, whether by borrowing under any applicable provisions of law or otherwise;

and to act on anything relating thereto.

Submitted by the School Building Committee

## **No recommendation at this time.**

*COMMENT: If this article is approved, it will permit the Town to borrow an additional sum of money for the completion of the Cunningham and Collicot Schools and the remediation of hazardous waste found at the demolition site of the 1909 wing of the former high school. The School Building Committee has requested an appropriation of \$750,000 as a worst-case scenario.*

*During the demolition of the 1909 wing contractors discovered approximately 3 inches of cinder below the slab base of the building. An additional 12 inches of cinder was discovered beneath the paved areas of the demolition site. Cinder often contains lead and other hazardous materials that would require remediation. The cinder beneath the slab has been analyzed and found to contain lead. As of this writing, the analysis of the cinder below the paved areas has not been completed. The School Building Committee has estimated that \$590,000 will be required for the remediation of the cinder. However, since the analysis has not been completed and the extent of the hazardous material determined, formal estimates have been not been received.*

*The School Building Committee is also requesting \$160,000 to complete the construction of the Cunningham and Collicot Schools. The additional money is needed to install fencing in front of the driveways to prevent children from crossing in the path of traffic. A second fence would be installed in the back of the building for security reasons. A third fence would be constructed on the Cunningham side of the building between a driveway and an abutter's property. Handicap access ramps to the lower entrance of Cunningham that currently does not meet Americans with Disabilities Act ("ADA") standards would be corrected. If the access ramp is not corrected to meet ADA standards, the entrance to the building from the lower level cannot be used as a public means of access or egress from the building.*

*The Warrant Committee cannot make a recommendation on this article at this time because complete financial data concerning the cost of the remediation of the cinder at the 1909 wing demolition site is not yet available.*

*The School Building Committee has funds available that may be used to proceed with the various additional expenditures. However, those funds are currently earmarked for other planned expenditures, such as the "green schools" initiative, which is funded by a grant from the Massachusetts Technology Collaborative. If such funds are used for the additional work, they will have to be restored to fund the planned expenditures.*

*If an additional appropriation for the school building project were borrowed under the levy limit, there would be no impact on the FY09 budget. Bonding would occur in FY10. If an additional \$750,000 is appropriated for the*

*project, then, assuming an interest rate of 4.5%, the debt service payments will be \$71,250 in FY09 and \$69,562.50 in FY 10, and will gradually decrease to a final payment of \$39,187.50 in FY28.*

**ARTICLE 8** To see if the Town will vote to amend Section III.J.4.b of the Zoning Bylaws by deleting the present text and substituting the following paragraph:

Floor Area Ratio (FAR). Buildings in a Central Avenue planned unit development, exclusive of parking structures and areas used solely for parking, shall not have a floor area ratio (FAR) in excess of one and one half times the area of the lot in the business district. If the Planning Board determines that the area of the lot in the business district is the same as the qualifying lot area and that a development will preserve one or more significant natural features on the site and will provide significant amenities to the public, the Planning Board may permit a bonus not to exceed 15% for a higher FAR. With this bonus, the total FAR for a building, exclusive of parking structures and areas used solely for parking, shall not exceed 1.725 times the area of the lot in the business district;

and to act on anything relating thereto.

Submitted by the Planning Board.

**No recommendation at this time.**

*COMMENT: If adopted in its current form, the article would increase from 1.5 to 1.725 the maximum permissible floor area ratio for buildings in the Central Avenue Business District that are subject to the planned unit development overlay zoning that Town Meeting adopted in 2006. The Planning Board will hold a public hearing on this article on October 16, 2007. The Warrant Committee will make a recommendation on this article at the Special Town Meeting.*

**ARTICLE 9** To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact legislation which, notwithstanding any general law or special law to the contrary, would authorize the Town of Milton to borrow money for the purpose of payment of legally obligated medical expenses and hospital expenses incurred by Milton public safety personnel resulting from injuries sustained in the line of duty;

and to act on anything relating thereto.

Submitted by the Board of Selectmen

**RECOMMENDED** that the Town authorize the Board of Selectmen to petition the General Court to enact legislation which, notwithstanding any general law or special law to the contrary, would authorize the Town of Milton to borrow money for the purpose of payment of legally obligated medical expenses and hospital expenses incurred by Milton public safety personnel resulting from injuries sustained in the line of duty.

*COMMENT: Massachusetts law does not permit a town to borrow money to pay the medical and hospital expenses of an employee who is injured while on duty without first obtaining special legislation enabling it to do so. A vote in favor of this article would enable the Board of Selectmen to petition the Legislature to enact the requisite special legislation. If special legislation authorizing such a borrowing is enacted, then the Selectmen would be required to seek Town Meeting's approval to borrow a sum certain at a later date.*

*We will revise our recommendation at the Town Meeting in order to incorporate the text of the home rule petition. At this time, additional information pertaining to the petition is being obtained. We anticipate that the recommended language will be substantially similar to special legislation that was adopted last year for the Town of Dartmouth, which faced a similar situation as a result of a work-related injury to a Dartmouth police officer*

## REQUESTED AND RECOMMENDED APPROPRIATIONS

<u>Article</u>	<u>Description</u>	<u>Amount Requested</u>	<u>Amount Recommended</u>
1	School Department/FY 07 Unpaid Bills	\$383,000	\$383,000
4	Stabilization Fund	\$248,822	\$198,822
5	Capital Stabilization Fund	\$248,822	\$ 50,000
7	School Building Project Supplemental Appropriation	\$750,000	No recommendation at this time

