

TOWN OF MILTON 2015



October Town Meeting

Monday, October 26, 2015

Milton High School Auditorium
7:30 p.m.

WARRANT

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

2015
OCTOBER TOWN MEETING WARRANT

Commonwealth of Massachusetts) SS.
County of Norfolk

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

GREETINGS:

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

Articles 1- 8

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 twenty-sixth day of October 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 twenty-sixth day of October, next.

Given under our hands at Milton this fifteenth day of September, two thousand and fifteen.

J. Thomas Hurley
David T. Burnes
Kathleen M. Conlon

A True Copy: Attest

Stephen Freeman
CONSTABLE OF MILTON

INDEX

WARRANT ARTICLES AND RECOMMENDATIONS

ARTICLE NO.	TITLE	PAGE
1	Amend Chapter 20 of General Bylaws – Police Chief Screening Committee	9
2	Home Rule Petition – Amend Section 2 of Chapter 272 of the Acts of 1989	13
3	Abandon Wind Turbine Project, Appropriate Remaining Amounts Borrowed, and Rescind the Unissued Balance	14
4	Authorize Treasurer to Rescind Unissued Borrowings	15
5	Appropriate Remaining Amounts Borrowed that Are No Longer Necessary to Pay Costs of that Purpose	16
6	Increase the Board of Selectmen from 3 to 5 Members.	17
7	Amend Chapter 6 of the General Bylaws – Amplified Music	20
8	Amend Chapter 10 of the General Bylaws – Non-Conforming Dimensions	21

In compliance with the Americans with Disabilities Act, this warrant can be made available in alternative formats. The October 26, 2015 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 or 617-696-5199 TTY.

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

“Strong fragrances cause significant adverse reactions in some people, such as migraine headaches. Products with strong fragrances include personal care products such as perfume, cologne, fragranced hair products, after shave lotion, etc. Attendees at Town Meeting are requested to avoid products with strong fragrances. As an accommodation to persons with such adverse reactions, and to allow safe and free access the auditorium, the lobby and restrooms, attendees at Town Meeting who are wearing products with strong fragrances, or who think they may be wearing products with strong fragrances, are requested to sit away from the sections nearest the lobby entrance.”

REPORT OF THE WARRANT COMMITTEE FOR THE 2015 OCTOBER TOWN MEETING

To the Honorable Board of Selectmen:

The Warrant Committee is pleased to present Town Meeting and the voters and taxpayers of the Town our recommendations for action on eight articles submitted to the October Town Meeting convening on Monday, October 26, 2015.

Article 34 of the 2012 Annual Town Meeting Warrant, as voted by Town Meeting, established a schedule of spring and fall Town Meetings to replace the previous annual May and floating Fall/Winter Special Town Meetings. Always scheduled for the fourth Monday in October, our fourth annual October Town Meeting is October 26, 2015 at the Milton High School Auditorium, beginning at 7:30 p.m. If needed, a second night will be held October 27, 2015, also at the Milton High School Auditorium and also beginning at 7:30 p.m.

The first five articles of the Warrant, submitted by the Board of Selectmen and the Treasurer, are necessary housekeeping items. The sixth article, submitted by the Town Government Study Committee (TGSC) is of more consequence. It seeks an increase in the Board of Selectmen from three to five members. The April 2013 Report of the Town Government Study Committee states: "This committee was reestablished by the Board of Selectmen in November 2011 to 'study the operation of all departments and offices of Town Government with its goal being to recommend changes, if any that would affect economics or increase efficiency...'" One of the subject areas the committee reviewed was "the Town's governance and alternative forms of government adopted by Massachusetts communities." This article is the product of the TGSC's research of that subject, and the tenth article they have brought to Town Meeting. The Board of Selectmen preferred delaying implementation of this article and they have agreed to an effective date of 2017. Another debate, as to whether this question should be decided by the voters or our representative Town Meeting, has been settled. The Charter for the Town of Milton mandates a town-wide vote on articles related to the election of town officers. Therefore, provision is made in the recommendation for this question to be placed on a ballot: "Shall an act passed by the General Court entitled, 'An Act increasing the membership of the Board of Selectmen of the Town of Milton' be accepted?"

October Town Meeting was institutionalized in large part to provide a reliable but alternate opportunity to address zoning and other non-budget articles. Zoning articles comprised but two of six articles presented to the 2012 meeting and three of fifteen presented to the 2013 meeting. Last year, six of sixteen were zoning articles. Over these years, as a new Master Plan for the Town was considered, the Planning Board was often encouraged to craft general zoning bylaws to address

a variety of issues rather than merely react to the latest pressure or developer's proposal. However, a common caution to the adoption of any zoning initiative was whether it might be compatible with the Master Plan. The Town of Milton Master Plan was presented to the Town last fall and approved with amendments and accepted by the Planning Board this past summer. Additionally, Article 13 of the 2014 October Town Meeting established a Master Plan Implementation Committee charged with reporting to Town Meeting in October. The Master Plan contains twenty key recommendations, some of which require new zoning bylaws. An additional recommendation characterized by the Master Plan as "low hanging fruit" is to amend the zoning bylaw for accessory dwelling units - as though it was easily done. Under the objective "Develop capacity to be proactive and plan for the long term future," the Planning Board is asked to "review, update and revise Town bylaws so that they reflect the Master Plan Vision and Goals." The Planning Board did its job and it was with no great surprise, though with considerable trepidation, that the Warrant Committee received nine articles from the Planning Board of the fifteen submitted to the Warrant. Five weeks later, two articles were recommended to the Warrant Committee, the other seven withdrawn. This is no failure, but a reminder of the difficulty of the work. In answer to the charge of the Master Plan, the Planning Board laid a fine foundation for its future efforts. This ambitious and broad agenda needed far more time for peer review and the public participation process. Complex and thorny issues attend any proposed amendment to the Zoning Bylaw. Time and caution will yield more durable results; we are not disappointed. The articles withdrawn concerned mixed-use condominium zoning, accessory dwelling units, bed and breakfast establishments, inclusionary zoning, non-conforming business use zoning, lighting and signs. All of these subjects merit the efforts of the Planning Board working with the first goal of the Master Plan in mind: to preserve Milton's physical character.

Preserving Milton's character, physical and otherwise, is the reason to support an override from time to time such as the one that will be presented to the Town next spring. It has been a long time coming. Seven years is the longest span between successful operational overrides since 1989. Since the last operational override vote in 2009 for the fiscal year 2010 budget, Milton has been both smart and fortunate. Our schools were supported with upwards of a million dollars of federal stimulus money in the early years of the great recession. A change in the percentage contribution for employee participation in the Town's healthcare benefit has led to greatly restrained growth of a \$10 million annual expense. Flat dollar budget policies for general expenses across the Town departments for the fiscal years of 2011 through 2014 have left nothing to cut. Conservative estimates of local revenue have been happily outstripped by a recovering economy leading to surprisingly large certifications of free cash the last three years. FY 2015 local revenue grew 7.5% above FY 2014, a significant increase. The Chief Appraiser of the Town has reported a preliminary new growth figure for FY 2016 of

\$553,000 compared to \$377,000 the previous year. These are robust numbers that testify to the underlying economic health of the Town, but growth also puts additional pressure on town and school services. Last year, with a late start and \$3 million free cash in hand, the Board of Selectmen, School Committee and Warrant Committee agreed to use enough free cash in direct operational budget support to postpone an override one more year. However, this is not a sustainable fiscal practice and is generally disapproved by the Massachusetts Department of Revenue and other municipal finance officials. Use of any free cash for recurrent expenses robs the Town of funds for much-needed capital projects. The Town will likely have substantially less free cash available for FY 2017 and will also confront an unfunded federal mandate to spend an additional \$800,000 annually on storm-water management. Salary and wage expense for FY 2017 is uncertain as all union contracts across town expire at the end of this fiscal year next spring. Salary, wage and benefits comprise about 84% of all departmental costs and can only be trimmed by lay-offs. The other 16% of departmental costs (about \$13 million) is in general expense. There's no water left in this sponge. School department general expenses for FY 2016 were budgeted at \$7,317,250. Six years ago they were at \$7,235,711. Net local aid (state support) is unlikely to increase much for 2017. This year net state aid finally recovered to the dollar level of FY 2009 and seems to be stuck at about 6% of the Town's revenue. This is not the robust funding mechanism that was postulated in 1980 when Proposition 2½ took effect. Anticipating all these difficulties, the Town Administrator requested preliminary budgets of all departments by October 1st, two months earlier than usual. A balanced, or non-contingent (no override) budget will have unfortunate consequences for all constituents. The most important safeguard for the preservation of Milton's character and the continued smooth delivery of services and education, is the Town's willingness, periodically, to overcome the structural deficit inherent in Massachusetts' municipal finances under Proposition 2½ and pass an override.

The basis for our recommendations and background on the articles are discussed below and/or in the comments to the articles.

Article 1: Amend Chapter 20 of General Bylaws—Police Chief Screening Committee

Article 2: Home Rule Petition – Amend Section 2 of Chapter 272 of the Acts of 1989

Both of these articles are required to achieve consistency with the terms of Article 15 (Town Administrator) approved at Annual Town Meeting May 2015.

Article 3: Abandon Wind Turbine Project, Appropriate Remaining Amounts Borrowed and Rescind the Unissued Balance

In 2009 the Town commissioned an energy consultation firm, KEMA, to prepare

a feasibility study and cash flow projections for possible wind turbine projects next to the Quarry Hills golf course. Their report in November 2009 predicted energy credits of about \$800,000 annually to offset the costs of the project over twenty years. At 3% financing, the net present value to the Town was calculated to be slightly more than four million dollars. The abandonment of the wind turbine project due to an adverse decision by an arbitrator is a disappointing loss for the Town, as well as the monies spent, \$986,374 on site preparation, utility connections, electrical engineering and legal fees.

Article 4: Authorize Treasurer to Rescind Unissued Borrowings

The Department of Revenue had cautioned the Town against further bonding of recurrent medical expenses, so when the Town received a certification of \$2,238,335 free cash in the fall of 2012 an opportunity arose to appropriate \$1 Million for medical expenses rather than issuing previously authorized bonds. The article for this appropriation was followed in the 2013 Annual Town Meeting Warrant by an article to authorize a petition to the General Court that resulted eventually in the override ballot item last spring. In addition, the Town received \$300,000 in 2013 from the State for these medical expenses.

Article 5: Appropriate Remaining Amounts Borrowed that Are No Longer Necessary to Pay Costs of that Purpose

The \$180,081 sum available for repurposing in this article is a real savings to the Town and the department heads who oversaw the projects deserve our thanks: Town Clerk Susan Galvin, DPW Director Joseph Lynch, Director of Parks and Recreation David Perdios and Director of Consolidated Facilities William Ritchie.

Article 6: Increase the Board of Selectmen from 3 to 5 Members

Though the TGSC had begun thinking about alternative forms of government in 2013 the change this article proposes stems from the Financial Management Review performed by the Massachusetts Department of Revenue, Division of Local Services for the Town of Milton and published in September 2013. Expansion of the Board of Selectmen was the second of thirty-two recommendations. The first was to reinforce centralized management through empowerment of the Town Administrator. This was accomplished by the approval of Article 15 at last spring's Annual Town Meeting.

Article 7: Amend Chapter 6 of the General Bylaws – Amplified Music

This article is a start on the Master Plan's request for a noise bylaw. It was originally conceived as an amendment to Chapter 10 (Zoning) of the General Bylaws. Issues of enforceability by Inspectional Services prompted a switch at filing to Chapter 6 (Police Regulations). The issues remain and the recommendation of the Warrant Committee is to send it back to the Planning Board for additional study.

Article 8: Amend Chapter 10 of the General Bylaws – Non-Conforming Dimensions

The zoning template laid down on the Town in 1938 specifies 7,500 square feet with a minimum frontage of 75 feet for lots in a Residential C zone. Many existing lots were smaller than that and are now identified as “pre-existing non-conforming lots.” This article seeks to clarify the options and protections available to homeowners on such lots when seeking a building permit for extensions or alterations of their dwellings. That such clarification is necessary is unclear to the Warrant Committee at the time of printing. Furthermore, if it proves necessary, the draft recommendation of the Warrant Committee would amend the relevant regulatory Section IV (Non-Conforming Uses of Building and Land) rather than Section IX. C, the Special Permit process under the Board of Appeals.

Acknowledgements

On behalf of your Warrant Committee, the Chair extends his thanks to all of the appointed and elected officials of the Town who assisted in the preparation of this Warrant: Town Administrator Annemarie Fagan, Town Counsel John Flynn, Town Treasurer James McAuliffe, Building Commissioner Joseph Prondak, Town Government Study Committee Chair Richard Neely and the members of that committee, Planning Board Chair Emily Keys Innes and Planning Director William Clark, Board of Selectmen Chair Thomas Hurley, the members of that board and staff of their office. The Chair is especially grateful for the assistance of the Warrant Committee Clerk, Julia Getman.

Respectfully submitted,
September 30, 2015

Edward Hays, Chair
LeeMichael McLean, Secretary
Brian Beaupre
Richard Boehler
Jean Eckner
Charles Karimbakas
Philip Mathews
Steven McCurdy
Michael Maholchic
James Potter
Jonathan Schindler
Darnell Turner
Elizabeth White
Julia Getman, Clerk

ARTICLE 1 AMEND CHAPTER 20 OF GENERAL BYLAWS – POLICE CHIEF SCREENING COMMITTEE

To see if the Town will vote to amend Chapter 20 of the General Bylaws by deleting the words “Board of Selectmen” wherever they appear and inserting in their place the words “Town Administrator”, and by deleting from the membership of the Police Chief Screening Committee the words “Executive Secretary of the Board of Selectmen” and inserting in their place the words “one member of the Board of Selectmen, designated by the Board of Selectmen”, such that Chapter 20 of the General Bylaws would read as follows:

CHAPTER 20

CHIEF OF POLICE

Section 1: Upon the occurrence of a vacancy in the office of police chief, the Town Administrator shall appoint a committee of six persons to be called the “Police Chief Screening Committee” (hereinafter the Committee) which shall be comprised of: (a) one member of the Board of Selectmen, designated by the Board of Selectmen; (b) a member of the Personnel Board; (c) a current sworn member of the Milton Police Department; and (d) three residents of the Town not in a paid service of the Town, either elected, appointed or hired, at least one of whom shall have had substantial experience in law enforcement or a related field. The Town Administrator shall fill vacancies on the Committee as they may occur. The Committee shall make all decisions by majority vote, including the election of the Committee Chair. No person appointed to the Committee shall be eligible for appointment to the then current vacancy in the office of police chief. The Committee shall be dissolved upon the swearing in of the newly chosen police chief.

Section 2: Upon their appointment, and except in the situation described in the next paragraph herein, the Committee shall review applications for the office of police chief only from persons who satisfy the following requirements on the date of application for the position of police chief: (a) having at least eight years of experience in law enforcement work; and (b) currently serving as a sworn member of the Milton Police Department in the permanent rank of sergeant or lieutenant with at least one year of prior service in either rank.

In the event the Committee shall receive by a publicly-announced first application deadline, fewer than six applications from persons fulfilling both requirements (a) and (b) as set forth in the previous paragraph, then the Committee shall review such applications already received from permanent sergeants and/or lieutenants of the Milton Police Department, together with applications from any other currently serving sworn members of the Milton Police Department (whether in the permanent rank of patrolman, sergeant, or

lieutenant) having at least eight years of experience in law enforcement work and who submit applications for the position of police chief by a publicly-announced second application deadline.

Section 3: The Committee may, at their discretion, and subject to appropriation, employ the services of professional search consultants. In examining the qualifications of applicants, the Committee shall apply the following criteria (in addition to other reasonable criteria deemed appropriate by the Committee): (a) the results of a written examination or other assessment of leadership ability and management skills administered by a qualified testing agency or company recommended by the Committee and selected by the Town Administrator; (b) educational credentials; (c) experience in law enforcement and related fields; and (d) familiarity with problems of law enforcement in the Town of Milton. The Committee may interview as many of such applicants as the Committee deem necessary to form reasoned judgments.

Section 4: Upon completion of the process required under Sections 2 and 3, the Committee shall select three qualified finalists, prepare a written analysis of each, and forward a list of such qualified finalists to the Town Administrator. In the event one or more of said qualified finalists withdraws from consideration at any time prior to the swearing in of the newly chosen police chief, the Committee shall upon a request of the Town Administrator, select and forward as recommended additional qualified finalists, equal in number to those finalists having withdrawn, to be added to the list of recommended finalists. In seeking additional qualified finalists, the Committee may reconsider applications already submitted and may set additional deadlines for late applications to be considered. All said additional qualified finalists must meet the requirements of Section 2.

Section 5: The Town Administrator shall investigate the qualified finalists recommended by the Committee and shall choose the police chief from the list of qualified finalists recommended by the Committee. The Committee and the Town Administrator shall conduct this selection process in an expeditious manner.

Submitted by the Board of Selectmen

RECOMMENDED that the Town vote to amend Chapter 20 of the General Bylaws by deleting the words “Board of Selectmen” wherever they appear and inserting in their place the words “Town Administrator;” and by deleting from the membership of the Police Chief Screening Committee the words “Executive Secretary of the Board of Selectmen” and inserting in their place the words “one member of the Board of Selectmen, designated by the Board of Selectmen,” such that Chapter 20 of the General Bylaws would read as follows:

CHAPTER 20

CHIEF OF POLICE

Section 1: Upon the occurrence of a vacancy in the office of police chief, the Town Administrator shall appoint a committee of six persons to be called the “Police Chief Screening Committee” (hereinafter the Committee) which shall be comprised of: (a) one member of the Board of Selectmen, designated by the Board of Selectmen; (b) a member of the Personnel Board; (c) a current sworn member of the Milton Police Department; and (d) three residents of the Town not in a paid service of the Town, either elected, appointed or hired, at least one of whom shall have had substantial experience in law enforcement or a related field. The Town Administrator shall fill vacancies on the Committee as they may occur. The Committee shall make all decisions by majority vote, including the election of the Committee chair. No person appointed to the Committee shall be eligible for appointment to the then current vacancy in the office of police chief. The Committee shall be dissolved upon the swearing in of the newly chosen police chief.

Section 2: Upon their appointment, and except in the situation described in the next paragraph herein, the Committee shall review applications for the office of police chief only from persons who satisfy the following requirements on the date of application for the position of police chief: (a) having at least eight years of experience in law enforcement work; and (b) currently serving as a sworn member of the Milton Police Department in the permanent rank of sergeant or lieutenant with at least one year of prior service in either rank.

In the event the Committee shall receive by a publicly-announced first application deadline, fewer than six applications from persons fulfilling both requirements (a) and (b) as set forth in the previous paragraph, then the Committee shall review such applications already received from permanent sergeants and/or lieutenants of the Milton Police Department, together with applications from any other currently serving sworn members of the Milton Police Department (whether in the permanent rank of patrolman, sergeant, or lieutenant) having at least eight years of experience in law enforcement work and who submit applications for the position of police chief by a publicly-announced second application deadline.

Section 3: The Committee may, at their discretion, and subject to appropriation, employ the services of professional search consultants. In examining the qualifications of applicants, the Committee shall apply the following criteria (in addition to other reasonable criteria deemed appropriate by the Committee): (a) the results of a written examination or other assessment of leadership ability and management skills administered by a qualified testing agency or company recommended by the Committee and selected by the Town Administrator; (b) educational credentials; (c) experience in law enforcement and related fields; and (d) familiarity with problems of law enforcement in the Town of Milton. The Committee may interview as many of such applicants as the Committee deem necessary to form reasoned judgments.

Section 4: Upon completion of the process required under Sections 2 and 3, the Committee shall select three qualified finalists, prepare a written analysis of each, and forward a list of such qualified finalists to the Town Administrator. In the event one or more of said qualified finalists withdraws from consideration at any time prior to the swearing in of the newly chosen police chief, the Committee shall upon a request of the Town Administrator, select and forward as recommended additional qualified finalists, equal in number to those finalists having withdrawn, to be added to the list of recommended finalists. In seeking additional qualified finalists, the Committee may reconsider applications already submitted and may set additional deadlines for late applications to be considered. All said additional qualified finalists must meet the requirements of Section 2.

Section 5: The Town Administrator shall investigate the qualified finalists recommended by the Committee and shall choose the police chief from the list of qualified finalists recommended by the Committee. The Committee and the Town Administrator shall conduct this selection process in an expeditious manner.

COMMENT: This is a housekeeping article submitted by the Board of Selectmen to align the language in Chapter 20 of the General Bylaws with the changes voted at the May 2015 Town Meeting delegating financial and operational management responsibilities to the Town Administrator. It will enable the Town Administrator to fill open positions on the Police Chief Screening Committee, which must include one member of the Board of Selectmen selected by the Board of Selectmen. The Town Administrator would select the police chief from the

qualified finalists put forth by the Police Chief Screening Committee. With respect to the police Chief and other department heads, except for the Consolidated Facilities Director, the Board of Selectmen will have fifteen days to reject any such appointment made by the Town Administrator by majority vote.

ARTICLE 2 HOME RULE PETITION – AMEND SECTION 2 OF CHAPTER 272 OF THE ACTS OF 1989

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to amend Section 2 of Chapter 272 of the Acts of 1989 by deleting the words “board of selectmen” and inserting in their place the words “town administrator” and by deleting the word “are” and inserting in its place the word “is”, so that said Section 2 shall read:

“Notwithstanding the provisions of section ninety-seven of chapter forty-one of the General Laws or any other general or special law to the contrary, upon the occurrence of a vacancy in the office of police chief in the Town of Milton, the town administrator of said town *is* empowered to fill such vacancy and all future vacancies by appointment of a police chief under a contract for a term of years not to exceed five years. Such appointment shall be made in accordance with the procedures set forth in the town by-laws. Until the appointment of a police chief in accordance with said procedures, said town administrator is empowered to appoint a current sworn member of the police department of said town as acting police chief to fill such vacancy.”

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 the petition.

Submitted by the Board of Selectmen

RECOMMENDED that the Town vote to authorize the Board of Selectmen to petition the General Court to amend Section 2 of Chapter 272 of the Acts of 1989 by deleting the words “Board of Selectmen and inserting in their place the words “Town Administrator” and by deleting the word “are” and inserting in its place the word “is,” so that said Section 2 shall read:

“Notwithstanding the provisions of section ninety-seven of chapter forty-one of the General Laws or any other general or special law to the contrary, upon the occurrence of a vacancy in the office of police chief in the Town of Milton, the Town Administrator of said town is empowered to fill such vacancy and all future vacancies by appointment of a police chief under a contract for a term of years not to exceed five years. Such appointment shall be made in accordance with the procedures set forth in the town bylaws. Until the appointment of a police chief in accordance with said procedures,

said Town Administrator is empowered to appoint a current sworn member of the police department of said town as acting police chief to fill such vacancy.

This act shall take effect upon its passage.”

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 the petition.

COMMENT: This is a housekeeping article submitted by the Board of Selectmen to align the language in Chapter 272 of the Acts of 1989 “AN ACT RELATIVE TO THE APPOINTMENT OF THE CHIEF OF POLICE IN THE TOWN OF MILTON” with the changes voted at the May 2015 Town Meeting delegating financial and operational management responsibilities to the Town Administrator. It will enable the Town Administrator to appoint an acting police chief, in the event the position of Police Chief becomes vacant. The Board of Selectmen will have fifteen days to reject any such appointment made by the Town Administrator by majority vote.

ARTICLE 3 Abandon Wind Turbine Project, Appropriate Remaining Amounts Borrowed, and Rescind the Unissued Balance

To see if the Town will vote to (i) abandon the project for construction, erection, installation and maintenance of wind turbines on land owned by the Town of Milton (the Wind Turbine Project) as approved by the vote of the February 22, 2010 Milton Special Town Meeting under Article 4, (ii) appropriate for a different purpose the remaining amount borrowed for the Wind Turbine Project and no longer necessary to pay costs of that project, and (iii) rescind the unissued balance of the amount authorized to be borrowed to pay costs of the Wind Turbine Project; and to act on anything relating thereto.

Submitted by the Board of Selectmen

RECOMMENDED that the Town vote to (i) abandon the project for construction, erection, installation and maintenance of wind turbines on land owned by the Town of Milton (the Wind Turbine Project) as approved by the vote of the February 22, 2010 Milton Special Town Meeting under Article 4, (ii) appropriate the remaining amount borrowed for the Wind Turbine Project, as approved and no longer necessary to pay costs of that project, to pay costs approved by the votes of May 4, 2015 and May 6, 2013 Milton Annual Town Meeting of \$13,625.95 for Fire building improvement and repairs and \$350,000 for the reconstruction of the DPW locker rooms and the Cemetery garage, and (iii) rescind the unissued balance of the amount authorized to be borrowed to pay costs of the Wind Turbine Project.

COMMENT: In 2010, Town Meeting approved a \$6,200,000 authorization to plan, design and construct a wind turbine at the site of the former town landfill. Ownership of the Granite Links Golf Club claimed that the construction of the wind turbine would infringe on their leasehold rights. The lease between Quarry Hills and the Town was subject to binding arbitration to cure any disputes between the parties. The arbiter decided that the turbine could be constructed but it could not operate during normal golf hours. The arbiter's decision was final and not subject to appeal. Owing to the arbiter's decision, the Town has determined that the project is no longer economically feasible, and that continued efforts to site a turbine on that location would be fruitless. \$1,350,000 has been bonded and \$986,374 spent in pursuit of the turbine project. Action to abandon the project will release \$4,850,000 in unused debt authorization, and allow the Town to repurpose \$363,625.95 of issued, but unspent bonding to address other previously authorized capital needs.

ARTICLE 4 AUTHORIZE TREASURER TO RESCIND UNISSUED BORROWINGS

To see if the Town will vote to rescind the authorized, but unissued balance of the amount authorized to be borrowed to pay costs of the East Milton Deck Project, so-called, as approved by the Town under Article 8 of the Warrant at the May 6, 2013 Annual Town Meeting, and the unissued balances of the amounts authorized to be borrowed to pay costs of medical expenses, as approved by the Town under Article 14 of the Warrant at the May 2, 2011 Annual Town Meeting and under Article 13 of the Warrant at the May 8, 2012 Annual Town Meeting, or take any other action relative thereto.

Submitted by the Treasurer

RECOMMENDED that the Town vote to rescind the authorized, but unissued balance of the amount authorized to be borrowed to pay costs of the East Milton Deck Project, so-called, as approved by the Town under Article 8 of the Warrant at the May 6, 2013 Annual Town Meeting and the unissued balances of the amounts authorized to be borrowed to pay costs of medical expenses, as approved by the Town under Article 14 of the Warrant at the May 2, 2011 Annual Town Meeting and under Article 13 of the Warrant at the May 8, 2012 Annual Town Meeting.

COMMENT: Town Meeting had previously authorized the use of bonding to pay medical expenses for Firefighter Pickens, a member of the Milton Fire Department severely injured on duty. Since the costs of care are expensive and ongoing, the Town voted an override in spring of 2015, to create a dedicated source of funding, separate from the annual budget. That action will provide Mr. Pickens with the necessary level of care, while avoiding interest costs as would accrue through borrowing. Rescinding the authorization removes \$1,350,000 from the Town's authorized borrowing.

Town Meeting voted May 6, 2013 to appropriate and authorize borrowing \$300,000 toward the redesign of the East Milton Deck in part because state assistance was secured for the work, and though debt would never be issued, voting the appropriation was necessary in order to spend the state grant.

As in Article 3 above, rescinding the authorizations in this article for \$1,650,000 is just good fiscal housekeeping.

ARTICLE 5 APPROPRIATE REMAINING AMOUNTS BORROWED THAT ARE NO LONGER NECESSARY TO PAY COSTS OF THAT PURPOSE

To see if the Town will vote to appropriate the remaining amount borrowed for the below purposes, as approved and no longer necessary to pay costs of that purpose, to pay costs of improvements to the designated purposes as outlined below:

Authorization Date	Article	Purpose	Unspent Proceeds	Purpose Transferred To	Authorization Date	Article
5/7/2012	7	DPW Equipment – sidewalk tractor	\$8,034.01	Fire Building Improvements	5/4/2015	5
5/7/2012	7	DPW Equipment - Madvac	\$2,089.45	Roadways	5/4/2015	5
5/7/2012	7	DPW Access Security Gate	\$2,773.47	Fire Building Improvements	5/4/2015	5
5/7/2012	7	Truck Lift System Central Maintenance	\$25,000.00	Fire Building Improvements	5/4/2015	5
5/7/2012	7	Backup Generator for Town Hall & PMS	\$34,855.46	Roadways	5/4/2015	5
5/7/2012	7	Upgrade to Town Hall Ethernet Cable	\$9,304.59	Roadways	5/4/2015	5
5/7/2012	7	Replacement of Town Telephone System	\$87.24	Roadways	5/4/2015	5
5/7/2012	7	MHS Duct Work	\$67,149.86	Fire Building Improvements	5/4/2015	5
5/6/2013	8	F250 Truck	\$1,271.79	Fire Building Improvements	5/4/2015	5
5/6/2013	8	F250 Truck	\$118.21	Roadways	5/4/2015	5
5/6/2013	8	Replace Election Voting Booths	\$850.00	Roadways	5/4/2015	5
5/6/2013	8	Reconstruct Kelly Field Tennis Courts	\$27,144.92	Fire Building Improvements	5/4/2015	5
5/6/2013	8	Leak Correlation Equipment	\$1,402.23	Water/Sewer Meter Replacement	5/5/2014	6

Submitted by the Treasurer

RECOMMENDED that the Town vote to appropriate the remaining amount borrowed for the below purposes, as approved and no longer necessary to pay costs of that purpose, to pay costs of improvements to the designated purposes as outlined below:

Authorization Date	Article	Purpose	Unspent Proceeds	Purpose Transferred To	Authorization Date	Article
5/7/2012	7	DPW Equipment – sidewalk tractor	\$8,034.01	Fire Building Improvements	5/4/2015	5
5/7/2012	7	DPW Equipment - Madvac	\$2,089.45	Roadways	5/4/2015	5
5/7/2012	7	DPW Access Security Gate	\$2,773.47	Fire Building Improvements	5/4/2015	5
5/7/2012	7	Truck Lift System Central Maintenance	\$25,000.00	Fire Building Improvements	5/4/2015	5
5/7/2012	7	Backup Generator for Town Hall & PMS	\$34,855.46	Roadways	5/4/2015	5
5/7/2012	7	Upgrade to Town Hall Ethernet Cable	\$9,304.59	Roadways	5/4/2015	5
5/7/2012	7	Replacement of Town Telephone System	\$87.24	Roadways	5/4/2015	5
5/7/2012	7	MHS Duct Work	\$67,149.86	Fire Building Improvements	5/4/2015	5
5/6/2013	8	F250 Truck	\$1,271.79	Fire Building Improvements	5/4/2015	5
5/6/2013	8	F250 Truck	\$118.21	Roadways	5/4/2015	5
5/6/2013	8	Replace Election Voting Booths	\$850.00	Roadways	5/4/2015	5
5/6/2013	8	Reconstruct Kelly Field Tennis Courts	\$27,144.92	Fire Building Improvements	5/4/2015	5
5/6/2013	8	Leak Correlation Equipment	\$1,402.23	Water/Sewer Meter Replacement	5/5/2014	6

COMMENT: Typically, Town Meeting authorizes borrowing the estimated costs to purchase capital items or repair Town assets. In some cases, the actual costs are less than the estimates, leaving some authorized and issued capacity to address other capital needs. The sum of \$180,081.23 in project cost savings listed above is proposed for previously authorized Fire Building Improvements, Roadways and Water and Sewer meter replacements on the recommendation of the Capital Improvement Planning Committee and the Treasurer.

ARTICLE 6 INCREASE THE BOARD OF SELECTMEN FROM 3 TO 5 MEMBERS

To see if the Town will vote to authorize the Board of Selectmen to file a petition with the General Court to enact legislation which would provide that notwithstanding any other general law or special law to the contrary, that at the next annual town election after passage of such legislation, but not earlier than the 2017 Annual Town Election, the Milton Board of Selectmen shall consist of five (5) members, and which would provide, without limitation, a process for an election to fill the two (2) new positions, for no change to the term of office of then currently serving members, and for staggered terms of the five (5) members of the Board of Selectmen; 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 the petition; and to act on anything relating thereto.

Submitted by the Town Government Study Committee

RECOMMENDED that the Town vote to authorize the Board of Selectmen to petition the General Court to enact legislation relating to the membership of the Board of Selectmen 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 the petition:

**AN ACT increasing the membership of the
Board of Selectmen of the Town of Milton**

*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 any provision of any general or special law to the contrary, the number of members of the board of selectmen of the Town of Milton shall be increased from three (3) to five (5). The Board of Selectmen shall annually elect a chairperson from among its members.

SECTION 2. At the first Annual Town Election following acceptance of this act by the voters of the Town, but in no event prior to the 2017 Annual Town Election, three (3) Selectmen shall be elected. The candidate receiving the highest number of votes in that election shall serve a three (3) year term, the candidate receiving the second highest number of votes shall serve a two (2) year term, and the candidate receiving the third highest number of votes shall serve a one (1) year term. Thereafter, as the terms of selectmen expire, successors shall be elected for terms of three (3) years.

The terms of those members currently serving as selectmen at the time of adoption of this act shall be unchanged by the adoption of this act.

SECTION 3. This act shall be submitted for acceptance to the voters of the Town of Milton at the next Annual or Special Town Election following its passage, in the form of the following question which shall be placed on the official ballot:

“Shall an act passed by the General Court entitled, ‘An Act increasing the membership of the Board of Selectmen of the Town of Milton’ be accepted?”

If a majority of the votes cast in answer to the question is in the affirmative, sections 1 and 2 of this act shall thereupon take effect, but not otherwise.

SECTION 4. Section 3 of this act shall take effect upon its passage.

COMMENT: This article would increase the size of the Milton Board of Selectmen from three to five members subject to the approval of a home rule petition and a successful town wide vote of registered voters. In September of 2013, at the recommendation of the Town Government Study Committee (TGSC), the Town requested a Financial Management Review from the Massachusetts Department of Revenue (DOR). The first section of that report dealt with the basic structure and organization of Town government. The DOR made recommendations for changes that would adapt the Town Meeting form of government to the challenges posed by a significantly larger population, budget, and the increased complexity of municipal government.

The primary recommendation was to strengthen the Town Administrator position by broadening the financial and operational responsibilities assigned to that position. The Town Meeting approved this change at the Annual Town Meeting in May 2015.

The second recommendation called for increasing the size of the Board of Selectmen from three members to five members. The TGSC devoted a great deal of time to studying this issue. In particular, they identified and spoke with a number of communities who had increased their boards of selectmen from three to five members in the relatively recent past to find out the impetus for the change and the results of the change.

The response was overwhelmingly favorable to the change, with a very high rate of success between expected benefits and realized benefits. Among the most frequently mentioned issues for towns with a three member board was the inability of any two selectmen to discuss town business outside the hours spent together during posted board of selectmen meetings. To do so would violate the Open Meeting Law. Communication between two selectmen would not be a problem with a five member board. While this would mean a reduction from 100% transparency, it would still completely satisfy the Open Meeting Laws’ goal of ensuring that decision-making quorums of boards not discuss town affairs outside of posted public meetings.

Some of the other benefits cited by these communities included: greater diversity of opinion; a larger number of skillsets; a spreading of the workload; increased use of sub-committees; broader voter representation; a positive dynamic for consensus building; and increased continuity of governance. One community that switched from three to five selectmen mentioned a somewhat increased workload for the Town Administrator. The remainder either experienced no such problem, or found that it was mitigated by the changed dynamic of a five member board with a chair acting as a focal point for individual questions and requests.

The TGSC also found that the three member Board of Selectmen was increasingly a small town phenomenon. Of the approximately 296 communities with Town Meeting/Board of Selectmen forms, 156 (53%) have three member boards while 139 (47%) have five member boards. But 58% of towns with three member boards are in communities with populations of less than 5,000. And 84% of them are in towns with populations under 10,000. For towns with populations over 20,000, 39 (89%) of 44 communities now have a five member board. Only Milton, Milford, Hingham, Belmont and Marshfield use a small board. Among the 39 towns using a five member board are Canton, Dedham, Lexington, Needham, Norwood, Wellesley, and Winchester.

Finally, the TGSC expressed the view that a five member board was more appropriate for a changed role that will take place once the Town Administrator assumes a greater role in town governance. The Selectmen will then function more as a board of directors focusing on policy and long-range strategic issues. A five member board is a more appropriate number for that function, closer to what is found in the private sector.

The Board of Selectmen unanimously support the change to a five member Board of Selectmen. At their request, the article has been written to specifically provide that the expansion of the Board cannot occur before the April 2017 town election. This will allow time for adjustments to the expanding role of the Town Administrator.

ARTICLE 7 AMEND CHAPTER 6 OF THE GENERAL BYLAWS – AMPLIFIED MUSIC

To see whether the Town will vote to amend Chapter 6 of the General Bylaws, known as the Police Regulations, by adding the following Section 42:

Section 42. There shall be no use of amplified music at a volume in excess of a level reasonably necessary for the user's purpose for amplification of the music. The purpose shall be zoning compliant. The volume shall be consistent with the rights of nearby residents to quiet enjoyment of their property. A test of the appropriateness of the loudness of amplified music shall be whether a conversation at normal conversational levels can be conducted by two persons with good hearing standing together on the lot of an abutter to the user during the

use of amplified music. When the amplified music causes difficulty in conducting such a conversation, the use of amplified music shall be presumed to be in excess of a reasonable level. In the event that amplified music is used on a site, including use in conjunction with a sports event, the user shall take reasonable and appropriate steps, such as placement of speakers, to confine and direct the sound of the amplified music to the site of its use. In the event amplified music is presumed to be in excess of a reasonable level, the user may rebut the presumption by showing that the volume was reasonably necessary and did not exceed more than 10 decibels above ambient levels at lot lines. In the event that a non-regular user of amplified music has a reasonable need of amplified music which might be presumed to be in excess of a reasonable level, the Town Administrator or designee may issue a license for use of amplified music at a specified time, place and date upon reasonable terms and conditions, including a limitation on decibels above ambient levels.

Submitted by the Planning Board

RECOMMENDED that the subject matter of this article be referred to the Planning Board for further study.

COMMENT: This article proposes an inventive remedy to problems caused by amplified music at high volume. The test of the appropriateness of the loudness of the amplified music seems fair and just. Placing the burden of proof on the user of the amplified music to rebut a presumption, as tested, of excess volume also seems fair and just but may not be supportable by law. Allowance for a temporary license for the use of amplified music is a logical provision. However, questions of the legal application of such a regulation to all users of amplified music and issues of enforcement and penalty remain unaddressed. With hope that these issues may be resolved and that a bylaw of greater practical utility might emerge, the Warrant Committee hopes the Planning Board will accept the return of this article for further study.

ARTICLE 8 AMEND CHAPTER 10 OF THE GENERAL BYLAWS – NON-CONFORMING DIMENSIONS

To see whether the Town will vote to amend Section 10 of the General Bylaws, known as the Zoning Bylaws, by adding the following Paragraph 3 to Section IX.C: 3: On a lot established before 1938 in a Residence C district (including a subsequent division of such lot by special permit pursuant to Section VI.A.3) on which a dwelling is maintained, the Board of Appeals may issue a special permit for enlargement or alteration of the dwelling within the set-back areas established by sections VI.B.3, VI.C.1 and 3 and VI.D.1 and for no more than three feet above the maximum height established by Section V.A.1 upon the standards set out in Section IX.C.1 and upon the following findings: The noncompliances in setbacks and heights (1) do not cause an adverse impact on blocking light to the

windows, porches, decks and yards of neighboring residents or in reducing their privacy; (2) are the same or less than noncompliances in setbacks or heights of other dwellings within 300 feet; (3) are designed to be architecturally compatible with the dwelling and with the architectural character of the streetscape and immediate neighborhood; and (4) are reasonably necessary for dwelling purposes by the residents. The Board of Appeals may make a special permit subject to such conditions or limitations as it deems appropriate to allow alteration or enlargement without detriment to other residents or the character of the neighborhood.

Submitted by the Planning Board

RECOMMENDED that the subject matter of this article be referred to the Planning Board for further study.

COMMENT: The remedy of a Special Permit process offered to certain homeowners by this amendment and protections already available in the Zoning Bylaw may prove redundant. However, if this article provides a new and clear benefit to homeowners rather than making an existing benefit newly clear, then a comprehensive amendment would offer such benefits to all homeowners rather than restricting its use to homeowners in a Residence C district. Indeed, the draft recommendation the Planning Board delivered to the Warrant Committee added Residence B district. The Warrant Committee would recommend the addition of Residence AA and A districts as well to include all homeowners in Milton. Unfortunately, recommending the inclusion of homeowners from districts other than Residence C broadens the scope of the recommendation beyond that of the article. Any recommendation proposed for an article published for the purposes of the Planning Board's public hearing process must remain "in scope" so as not to exclude interested parties from that process. The Town Moderator rules on issues of scope and has ruled the draft recommendation of the Warrant Committee out. Regretfully, we must recommend the return of this article to the Planning Board for further study.

Town Meeting will be held on
Monday, October 26, 2015
beginning at 7:30 p.m. at the
Milton High School Auditorium

The Milton High School auditorium
is reserved for an additional Town Meeting
session at 7:30 p.m. on Tuesday, October 27, 2015

ECRWSS

POSTAL CUSTOMER RESIDENT

MILTON, MA 02186

PRSRV STD U.S. POSTAGE PAID PERMIT NO. 59792 BOSTON, MA
--