

# TOWN OF MILTON 2008



## Special Town Meeting

Monday, October 20, 2008

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



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**In compliance with the Americans with Disabilities Act, this warrant can be made available in alternative formats. The October 2008 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 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 Reform Act of 1993." This law applies to any individual at any time.**

**2008**  
**SPECIAL 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 twentieth 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 through 10

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 twentieth 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 twentieth day of October, next.

Given under our hands at Milton this eighteenth day of September, two thousand and eight.

Kathryn A. Fagan  
John Michael Shields  
Marion V. McEttrick

A True Copy: Attest

Tamara Berton  
CONSTABLE OF MILTON

**REPORT OF THE WARRANT COMMITTEE  
FOR THE OCTOBER 20, 2008 SPECIAL TOWN MEETING**

The Warrant Committee is pleased to present its recommendations for action on nine of the ten articles that have been submitted to the Special Town Meeting convening on Monday, October 20, 2008. Town Meeting will act on requests for the retirement of an injured fire department employee, the reduction of funds previously appropriated to the School Department at the May 2008 Annual Town Meeting, the authorization for the Town to request the State to enact legislation authorizing the issuance of a liquor license and the donation of a certain parcel of land to the Town. Additionally Town Meeting will act on the requests for the following supplemental appropriations for fiscal year 2009; the School Department, medical expenses for a firefighter injured in the line of duty, wage increases for certain nonunion personnel, wage increases for elected Town employees, certain equipment purchases and funds set aside for wage increases for Town collective bargaining units. The basis for each of our recommendations is discussed below and/or in the comments to the articles.

**I. Free Cash and Overlay Reserve**

The Department of Revenue (DOR) has certified that the Town has free cash as of June 30, 2008 in the amount of \$473,754. Under State law free cash is that portion of the Town's unrestricted reserves that can be used as available funds and appropriated for expenditure once certified. These monies have been identified as the source of funding for the appropriations requested under Articles 3, 4, 5 and 8.

Funds represented by free cash are considered one time or non-recurring sources of revenue since there is no degree of assurance that these funds will recur from year to year. Prudent municipal business practice dictates that one time source revenue be used to fund unforeseen expenditures, capital expenditures and other one time costs. Funding recurring expenses from non-recurring revenue

sources subjects the Town to the risk that those expenditure levels may not be sustainable when that revenue source is no longer available. Such a practice creates a very unstable operating environment.

The Warrant Committee is recommending that the Town not appropriate funds for articles 3, 4, and 5.

The Warrant Committee firmly believes that recurring operating expenditures should only be funded by recurring revenue unless it can be assured beyond a reasonable doubt that a future recurring revenue source will become available to fund operating expenditures that are proposed to be funded with non-recurring revenues.

At the Annual Town Meeting in May 2008 the Warrant Committee proposed two budgets. One budget was contingent upon the passage of a Proposition 2 1/2 override. The other budget was a balanced budget based on estimated revenues available to the Town for fiscal year 2009. At Town Meeting the contingent budget was rejected. The department heads from all of the Town's major departments including the school committee presented to Town Meeting that they could effectively operate with the non-contingent balanced budget that was proposed with certain modifications that were accomplished at Town Meeting by moving certain line item appropriations.

Many of the appropriation articles before the Town today are in the Warrant Committee's opinion appropriations that should have been addressed in the fiscal year 2009 budget that was passed at the May 2008 Annual Town Meeting but for lack of estimated revenue. These articles include appropriations for set asides for wage increases of Town collective bargaining units for fiscal year 2009 that have yet to be negotiated, Chapter 13 wage increases, wage increases for the Town Clerk and Town Treasurer and a portion of the request of the school department for additional appropriation. All of these appropriations were addressed in the contingent budget presented to Town Meeting in May, 2008. The Warrant Committee believes that there have been no changes in the Town's ability to

sustain the additional appropriations requested in these articles since the May, 2008 Town Meeting. No new recurring sources of revenue have been identified and there is no assurance currently that the Town will prevail in an override vote.

## **II. Medicaid Funds and Home Rule Petition**

The November 2007 Town Meeting approved the School Committee's request to file a home rule petition with the State Legislature. The home rule petition requested that the State allow the Town to account for Medicaid reimbursements that it receives for certain services to special education students in a manner that is different from that then currently prescribed by State Statute. Under the statute Medicaid reimbursements are required to be deposited in the Town's general fund and accounted for as general operating revenue. The home rule petition proposed to allow the Town of Milton to treat Medicaid reimbursements as revenue directly attributed to the School Department and be deposited into and accounted for as a School revolving fund. The home rule petition if enacted in fiscal year 2008 would take effect in fiscal year 2009.

The home rule petition was not acted on and passed by the end of fiscal year 2009. The petition was enacted in July 2009 with the language still in place that it will take effect in fiscal year 2009. The timing of the passage of the home rule petition and the effective date are significant because of the manner in which the Town appropriates funds for its annual operating budget.

The Town's budget is determined by the appropriation of revenue. In other words the amount of revenue that the Town expects to receive in a fiscal year from all unrestricted sources is first estimated. The estimated revenue is then appropriated to be expended by the various departments of the Town in the form of a budget. All planned (budgeted) appropriations are offset (funded) by estimated revenue thus producing a balanced budget.

For several years the Town has received Medicaid reimbursements into the general fund as general operating revenue. Each year the Town has estimated the amount of Medicaid reimbursement that it expected to receive as part of annual estimated revenue available to be appropriated. The revenues that were appropriated for fiscal year 2009 and approved at the May 2008 Annual Town Meeting included \$385,000 of estimated revenue for Medicaid reimbursements. That \$385,000 was consciously appropriated to the School Department in the Warrant Committee's budget calculations before any other funds were appropriated. At the time the Warrant Committee proposed the budget and at the time the budget was approved by the May 2008 Annual Town Meeting the statute required that the Medicaid revenue be treated as part of the Town's general fund revenue.

Since the Annual Town Meeting and the approval of the budget the home rule petition was enacted to take effect for fiscal year 2009. As a result Medicaid revenues that were estimated to be \$385,000 for FY 2009 will not be deposited and accounted for as general fund revenue but will be deposited directly into a School Department revolving fund.

The Town has no choice but to remove the Medicaid funds from estimated revenue for FY 2009. The removal of this revenue from estimated revenue has caused the amount appropriated for FY 2009 to exceed the new estimated revenues by \$385,000. In short the budget is out of balance.

Article 7 has been submitted to bring the budget for FY 2009 into balance. Article 7 will reduce the Town's FY 2009 appropriation to the School Department by \$385,000. Since the School Department will now receive this revenue directly, they will have the same amount of estimated revenue to expend as they would have had if the home rule petition had not been enacted and the appropriation not reduced. This action is consistent with the comment that was made in the report of the Warrant Committee to the November 5, 2007 Town Meeting. The following is a quote from the November

5, 2007 Warrant Committee report *“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.”*

### **III. Retirement of Firefighter Due to Accidental Disability**

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.

Article 1 has been submitted to allow the Board of Selectmen to petition the State to enact legislation to retire injured and disabled Firefighter Antonio Pickens.

Antonio Pickens is currently eligible for disability retirement benefits at a rate of up to 72% of his compensation at the time of retirement depending on his years of creditable service. This article will petition the State to enact legislation that would allow the Town to retire Antonio Pickens at a rate equal to 100% of his regular compensation had he continued in service as a firefighter at the grade held by him at the time of his retirement. This amount would be paid to Firefighter Pickens until he reaches the maximum age for retirement for his group. When he reaches maximum retirement age his benefit will be reduced to the appropriate rate for accidental disability retirement treating his retirement years to that point as creditable service years for purposes of determining the retirement benefit.

The proposed legislation addresses health insurance stating it will provide health insurance on the same basis as other retirees. Provisions in the legislation deal with spouse and dependant benefits in the event of death prior to the attainment of maximum age for retirement. The Town will continue to be responsible for Firefighter Pickens medical expenses that are not covered by health insurance.

This special legislation, modeled after similar legislation that was successfully enacted for the City of Worcester, will allow Firefighter

Pickens to retire with a reasonable amount of compensation. While there is nothing that the Town can do that will restore to a vibrant young man the quality of life that he enjoyed before the accident, the special legislation will ensure that Firefighter Pickens will be financially no worse off in disability retirement than as an employee of the Town of Milton.

With the retirement of Firefighter Pickens a position in the fire department can be filled. Filling this position will increase public safety and reduce overtime necessary to cover the unmanned position. While there will be additional costs to the Town in the form of increased retirement fund appropriations, the Retirement Board has assured us that because of the size of the retirement fund any additional appropriations resulting from the retirement of one individual will be negligible. The Committee believes that the retirement of Firefighter Pickens with the proposed compensation is in the best interests of Firefighter Pickens and the Town of Milton.

#### **IV. Authorization to Borrow for Employee Medical Expenses**

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 last year the Board of Selectmen and the Town Administrator obtained an insurance policy that will cover future injuries to firefighters and police officers (subject to deductibles and maximum limits).

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. The Town filed a home rule petition in 2007 to petition the State to enact special legislation that would allow the Town to issue bonds to pay associated medical costs for FY 2008. The legislation was enacted and funds were appropriated for bonding in the 2008 Annual Town Meeting.

The Governor has submitted a bill to the Legislature in an effort to speed up and streamline the process for obtaining approval to issue bonds for Firefighter Pickens' medical expenses for the next five years. If the bill is passed by the State legislature, there will be no need to file a home rule petition for this purpose. At this time the bill has been filed but the Legislature has not acted on it.

Article 2 will ask the Town to appropriate funds to pay medical expenses of Antonio Pickens for FY 2009. The source of those funds will be through the issuance of bonds that will be authorized by the special legislation filed by the Governor.

Firefighter Pickens medical expenses are an operating expense of the Town for the foreseeable future. It is generally not fiscally prudent to issue long-term debt to finance operations. As a general rule the Committee would not support such a use of long-term debt. However, these are very difficult financial times for the Town. The growth in operating expenses because of inflationary pressure is outpacing the growth in revenue. Because the Town was totally self insured at the time for police and fire medical expenses, any catastrophic medical expenses put significant strain on the operating budget. Funding these expenses from operating revenues for FY 2009 will divert much needed funds from other necessary operating needs. The Committee believes that the debt financing of the medical expenses in this special circumstance is necessary. We also believe that the use of debt for this purpose should be temporary. The Town must strive to find a way to finance these medical expenses from operating revenue.

As previously stated the special legislation filed by the Governor has yet to be enacted. The Town cannot appropriate funds without an available source of funds.

## **V. Authorization to Issue Liquor License**

Under Article 10, 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 2 Adams Street. Town Meeting's approval of Article 10 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 2 Adams Street. If the Legislature approves the petition, the petitioner, Extra Storage of Milton, LLC 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 2007, Town Meeting authorized the Board of Selectmen to petition the Legislature for authorization to issue a liquor license to Extra Space of Milton, LLC for a restaurant to be located at 2 Adams Street. Because a liquor license must be issued to a specific site and because there is no structure located at 2 Adams Street there is a question as to whether the Legislature will approve the original petition filed. If the petition is not acted on by December 31, 2008, it will be necessary to refile the petition. This Article has been submitted to seek Town Meeting's approval to refile the petition in the event that the original petition is not acted upon.

## **VI. Wage Increases for Nonunion Employees**

Articles 3 and 4 will ask the Town to appropriate funds for wage increases for nonunion, non-school personnel (Chapter 13) and two of the Town's elected employees.

These were the most difficult articles that the Warrant Committee considered for this Town Meeting. The Town has relatively few nonunion personnel. Most are department heads and part time administrative personnel. These employees work diligently for the Town and are unquestionably necessary for the operation of Town government. The Committee holds these employees in the highest regard and commends them for their tireless work for the Town that far exceeds the value of their compensation. There is no question that a wage increase is deserved.

The Personnel Board has documented the fact that wage increases for the Town's non-union, non-school personnel have not kept pace with wage increases for Town employees covered by collective bargaining agreements. It is also true that the non-union, non-school personnel cannot receive a retroactive wage increase without special legislation. This is not true for union personnel. If the non-union personnel do not receive a wage increase for FY 2009, it would be difficult, but not impossible, to compensate them in FY 10 for the increase that was not received in FY 09.

The Warrant for the May 2008 Annual Town Meeting contained an Article for wage increases for the Chapter 13 and elected employees. The amount requested was \$82,151 for the Chapter 13 personnel and \$4,288 for the elected employees. Of this amount \$10,756 would have been funded from the Water & Sewer Enterprise Funds. The Committee recommended that the amount requested be appropriated conditioned on the passage of a Proposition 2 1/2 override. Funds were simply not available in the non-contingent balanced budget to pay any wage increases. The non-contingent balanced budget was adopted at Town Meeting. Accordingly no funds were appropriated for the wage increases.

Operating funds were not available for the wage increases in May 2008. The Warrant Committee does not believe that the situation has changed. There is still no available recurring source of revenue to fund the wage increases. As previously stated the Town does have approximately \$473,000 of free cash that could be used for this purpose. However, the Warrant Committee does not recommend the use of free cash to fund recurring operating expenses. Free cash is considered one-time money. If used to fund ongoing operating expenses, there is significant likelihood that sufficient revenue will not be available in subsequent fiscal years to sustain the level of expenditures. Also free cash represents reserves of the Town. Use of free cash will diminish reserves at a time when the Town's reserves are extremely low.

## **VII. Set Asides for Collective Bargaining Agreements**

Article 5 will ask the Town to appropriate funds for potential wage increases for FY 09 that may result from the negotiation of union contracts. Provisions for the potential wage increases have not been included in department budgets for FY 09. The Selectmen have requested that \$200,000 be appropriated from available free cash to partially cover the wage increases.

The Contingent Budget presented at the May, 2008 Annual Town Meeting, set aside funds for collective bargaining wage increases for FY 09. There was not sufficient revenue in the non-contingent budget to fund the set aside amounts.

All of the Town's contracts with union employees, except for the schools and one clerical union, expired on June 30, 2008. The Town and union officials are actively working to reach collective bargaining agreements for FY 09 and beyond. There is currently no time table for when the contract negotiations will be completed. When the contracts are signed they will be retroactive to July 1, 2008.

If the contracts are signed during FY 09 the Town has three choices as how to fund the FY 09 wage increases: First wage increases can be absorbed in the individual departmental budgets. Second, if funds do not exist to pay the wage increases, it can be carried forward to the next fiscal year when the funds would have to be raised. Third wage increases could be funded from available funds such as free cash. If the wage increases must be absorbed into departmental budgets, layoffs would likely result. Carrying the wage increase forward to FY 10 would either require a Proposition 2 1/2 override or layoffs. If paid out of available funds, no layoffs would result in FY 09 but revenues may not be available to sustain that level of staffing into FY 10.

The amount requested, \$200,000 would set aside enough funds to cover approximately a 1% pay increase for all of the union employees who are out of contract for FY 09. If the set aside is not appropriated or if it is insufficient, the wage increase will be accommodated through one of the three methods described above.

For the same reasons stated above with respect to Chapter 13 employees and elected employees, the Warrant Committee does not support the concept of funding wage increases from free cash.

### **VIII. Request for Additional School Appropriation**

Article 8 is a request by the School Committee for an additional appropriation of \$154,500 for FY 2009 to hire three teachers. The source of the funds for this appropriation is free cash.

In August, 2008 the School Superintendent was informed by the Massachusetts Department of Education that certain targeted student groups at the Pierce Middle School and Tucker School failed to make Adequate Yearly Progress (AYP) for 2008 in accordance with standards established by the Federal *No Child Left Behind Act of 2001*. Tucker School has been classified as being in year 2 of improvement and Pierce in year 1 of restructuring. Failure to properly address this problem could have severe consequences for the School district.

Both Pierce and Tucker had previously failed to make AYP for certain targeted student groups. Tucker was in year 1 of improvement in 2007 and it was believed that they would make AYP in 2008. Pierce was identified in 2007 as being in need of corrective action. Removal from the State accountability list requires that the school make AYP for two consecutive years.

The School Committee came to the Warrant Committee in November, 2007 requesting a Reserve Fund transfer to address the AYP needs at Pierce. A Reserve Fund transfer was granted in an amount sufficient to hire three teachers who were targeted to provide remedial MCAS education at Pierce. Those teachers were hired in January 2008.

Of those three positions hired in January 2008 one was retained at the Pierce School for fiscal year 2009. The teachers who filled the other two positions have been redeployed to other functions within the School.

The School Committee's plan to address the AYP problem is to hire two teachers at Pierce and one at Tucker to be dedicated to MCAS remediation.

The Warrant Committee has concerns that two of the teachers who were hired with the reserve fund transfer in January, 2008 have been redeployed. The School Committee's request for two of the three positions is due to the School Department's decision to redeploy staff that they already had. The other position being requested appears to be a new position. Extremely tight operating budgets are a consequence of adopting the non-contingent budget for FY 2009. The School Committee knew the implications of this decision. All of the departments including the School Committee's assured Town Meeting that they could effectively operate under these budgets. The choice to redeploy staff was a decision made by the School Department with the full knowledge of the AYP problems at the Pierce Middle School.

The Warrant Committee recognizes how serious this situation is and believes that it must be addressed. The children in the Milton Public School System deserve an opportunity to receive an education that will allow them to excel in life. We differentiated this request from other requests for two additional reasons. First the position at Tucker School is a new position. The School Department believed that Tucker would be removed from the State's accountability list this year. It was not until August, 2008 that it was learned that this was not the case. This is a change from the facts that existed when the budget was crafted and approved at the May, 2008 Town Meeting. Second the School Department lost an \$80,000 grant that it had been receiving. The School Department was under the impression that they would receive this grant for FY 2009 and prepared their budget accordingly. The loss of this grant has put additional fiscal stress on their FY 2009 budget. For these reasons the Committee has supported part of the School Committee's request. We have recommended the appropriation of \$103,000 from free cash to partially fund the School Committee request.

## **IX. Gift of Land From Animal Rescue League of Boston**

Article 9 asks the Town to accept a gift of approximately six acres of land from the Animal Rescue League of Boston. The land is located off Randolph Avenue behind property owned by Andrew Thomas Landscaping. The land was donated many years ago to the Animal Rescue League with a deed restriction that it only be used for the care or sanctuary of animals. There is currently no access to the land without crossing other property that is not owned by the Town.

There is currently no planned use for this property and any future use would have to be consistent with the deed restriction. It does not appear that accepting this gift will result in any additional operating costs to the Town. It will also preserve open space. Therefore we see no reason for the Town not to accept this generous gift.

Respectfully submitted,  
September 18, 2008

Tom Hurley, Chair  
Ewan Innes, Secretary  
Stefano Keel  
Leroy Walker  
Brendan McLaughlin  
Barbara Martin  
Kevin Chase  
John Folcarelli  
Omar Sanchez  
George Mandell  
Jean H. Powers  
Raj Pathak  
Eric Kelly  
Maurice (Moe) Mitchell  
Robert (Bob) G. O'Brien  
Helen M. Kiddy, Clerk

**ARTICLE 1** 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 PROVIDING FOR THE PAYMENT OF CERTAIN ACCIDENTAL DISABILITY RETIREMENT AND MEDICAL BENEFITS TO ANTONIO PICKENS**

*Whereas*, the deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the payment of certain retirement and medical benefits to Antonio Pickens, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 any general or special law to the contrary and in order to promote the public good, the Retirement Board of the Town of Milton shall retire Antonio Pickens, a firefighter employed by the Town of Milton who, while responding to a minor motor vehicle accident sustained injuries likely to result in his death. The annual amount of pension payable to Antonio Pickens under this act shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a firefighter in said town at the grade held by him at the time of his retirement, but (a) after he has attained the maximum age for his group, his retirement shall be reduced to the appropriate rate for an accidental disability retirement, treating his retirement years as creditable service for determining the amount of his benefits and (b) the retirement allowances payable to him after he has attained the maximum age for his group shall be increased in the manner provided to all retirees of the town pursuant to any provision of chapter 32 of the General Laws.

**SECTION 2.** Before taking action under authority of this act, the Retirement Board of the Town of Milton shall request the state Public Employee Retirement Administration Commission (PERAC) to appoint a medical panel composed of three physicians who shall examine Firefighter Pickens or, if a majority of said Retirement Board shall agree, forego such examination and review the existing medical records and other relevant information concerning Firefighter Pickens. The Retirement Board of the Town of Milton shall approve a pension for Antonio Pickens upon receipt of a report from such medical panel which concludes that Firefighter Pickens is physically incapacitated for further duty as a firefighter, that such incapacity is likely to be permanent and that such injuries are likely to result in his premature death. Such retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation. Upon the retirement of Antonio Pickens, the Retirement Board of the Town of Milton shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of said town. Upon the approval of the pension provided for herein and notwithstanding the provisions of any general or special law to the contrary, including, but not limited to, section 8 of chapter 32 of the General Laws, Antonio Pickens shall not be subject to examination or to re-examination by a medical panel or other physician to determine his eligibility or continued eligibility for accidental disability retirement benefits as provided in this section or in said chapter 32.

**SECTION 3.** Upon the death of Antonio Pickens prior to the maximum age for retirement for his group, if his wife at the time of the incident survives him, and as long as she remains unmarried, the Town of Milton shall pay to his wife an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death, and \$687.96 annually adjusted for a cost-of-living adjustment for each child of Antonio Pickens for such time as such child is either under 18 years of age or totally physically or mentally incapacitated from working, or over 18 years of age, but under age 22, if a full time student. Upon the death of Antonio Pickens after the maximum age for retirement for his group, if his wife at the time of the incident survives him, she shall be entitled

to the same benefits as other surviving spouses under chapter 32, as shall their children. In the event of the death of Antonio Pickens, and if his wife at the time of his death does not survive him, such allowance shall be paid to the legal guardian for the benefit of any surviving unmarried children, as defined above.

**SECTION 4.** Antonio Pickens shall be eligible for health insurance through the Town of Milton on the same basis as all other retirees and shall be responsible for the retirees' share of all premiums. Following his retirement, the Town of Milton shall pay for necessary and reasonable medical expenses for him due to injuries for which he was retired.

(i) Medical care shall first be provided through the health insurance provided to retired Town of Milton employees pursuant to chapters 32B and 150E of the General Laws.

(ii) The Town of Milton shall pay to the health care providers all co-payments required by the health insurance policy under which the firefighter is insured. The Town of Milton shall pay to the health care providers all deductibles required by the health insurance policy under which the firefighter is insured. The Town of Milton shall pay to the health care providers the fees and other expenses for authorized services whose costs exceed applicable benefits limits, but whose payment is denied solely because of such applicable benefits limit.

(iii) Any such payments pursuant to this section shall meet all other eligibility requirements of said health insurance; provided however, that Antonio Pickens shall not be required to change health care providers; and provided, further, that any changes made by him in health care providers, and any referrals from current health care providers to health care providers who have not rendered care to him for injury for which he was retired, shall comply with paragraph (i).

**SECTION 5.** Antonio Pickens shall not have his retirement allowance subject to modification as a result of earnings from alternative employment; provided, however, that he shall be required to

submit earnings reports to PERAC pursuant to section 91A of chapter 32 of the General Laws. Antonio Pickens shall be subject to the limitation of earnings formula as set forth in said section 91A, with the ability to earn the amount described in said section 91A plus an additional \$5,000.00. If he earns in excess of these allowable amounts, PERAC shall inform him of the excess amount earned and the amount owed by him to the Retirement Board of the Town of Milton. PERAC shall, in its discretion, require repayment of that amount to said retirement board, or may withhold amounts as it deems appropriate from future retirement allowance payments until the amounts owed to the retirement board have been paid in full.

**SECTION 6.** The retirement allowances payable pursuant to this section shall remain subject to all other provisions of chapter 32 of the General Laws as if they had been granted as accidental disability retirements in the normal course of events pursuant to said chapter 32, except to the extent that said chapter 32 conflicts with this act.

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 PROVIDING FOR THE PAYMENT OF CERTAIN ACCIDENTAL DISABILITY RETIREMENT AND MEDICAL BENEFITS TO ANTONIO PICKENS***

**WHEREAS, the deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the payment of certain retirement and medical benefits to Antonio Pickens, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.**

**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 any general or special law to the contrary and in order to promote the public good, the Retirement Board of the Town of Milton shall retire Antonio Pickens, a firefighter employed by the Town of Milton who, while responding to a minor motor vehicle accident sustained injuries likely to result in his death. The annual amount of pension payable to Antonio Pickens under this act shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a firefighter in said town at the grade held by him at the time of his retirement, but (a) after he has attained the maximum age for his group, his retirement shall be reduced to the appropriate rate for an accidental disability retirement, treating his retirement years as creditable service for determining the amount of his benefits and (b) the retirement allowances payable to him after he has attained the maximum age for his group shall be increased in the manner provided to all retirees of the town pursuant to any provision of chapter 32 of the General Laws.

**SECTION 2.** Before taking action under authority of this act, the Retirement Board of the Town of Milton shall request the state Public Employee Retirement Administration Commission (PERAC) to appoint a medical panel composed of three physicians who shall examine Firefighter Pickens or, if a majority of said retirement board shall agree, forego such examination and review the existing medical records and other relevant information concerning Firefighter Pickens. The Retirement Board of the Town of Milton shall approve a pension for Antonio Pickens upon receipt of a report from such med-

ical panel which concludes that Firefighter Pickens is physically incapacitated for further duty as a firefighter, that such incapacity is likely to be permanent and that such injuries are likely to result in his premature death. Such retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation. Upon the retirement of Antonio Pickens, the Retirement Board of the Town of Milton shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of said town. Upon the approval of the pension provided for herein and notwithstanding the provisions of any general or special law to the contrary, including, but not limited to, section 8 of chapter 32 of the General Laws, Antonio Pickens shall not be subject to examination or to re-examination by a medical panel or other physician to determine his eligibility or continued eligibility for accidental disability retirement benefits as provided in this section or in said chapter 32.

**SECTION 3.** Upon the death of Antonio Pickens prior to the maximum age for retirement for his group, if his wife at the time of the incident survives him, and as long as she remains unmarried, the Town of Milton shall pay to his wife an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death, and \$687.96 annually adjusted for a cost-of-living adjustment for each child of Antonio Pickens for such time as such child is either under 18 years of age or totally physically or mentally incapacitated from working, or over 18 years of age, but under age 22, if a full time student. Upon the death of Antonio Pickens after the maximum age for retirement for his group, if his wife at the time of the incident survives him, she shall be entitled to the same benefits as other surviving spouses under chapter 32, as shall their children. In the event of the death of Antonio Pickens, and if his wife at the time of his death

does not survive him, such allowance shall be paid to the legal guardian for the benefit of any surviving unmarried children, as defined above.

**SECTION 4.** Antonio Pickens shall be eligible for health insurance through the Town of Milton on the same basis as all other retirees and shall be responsible for the retirees' share of all premiums. Following his retirement, the Town of Milton shall pay for necessary and reasonable medical expenses for him due to injuries for which he was retired.

(i) Medical care shall first be provided through the health insurance provided to retired Town of Milton employees pursuant to chapters 32B and 150E of the General Laws.

(ii) The Town of Milton shall pay to the health care providers all co-payments required by the health insurance policy under which the firefighter is insured. The Town of Milton shall pay to the health care providers all deductibles required by the health insurance policy under which the firefighter is insured. The Town of Milton shall pay to the health care providers the fees and other expenses for authorized services whose costs exceed applicable benefits limits, but whose payment is denied solely because of such applicable benefits limit.

(iii) Any such payments pursuant to this section shall meet all other eligibility requirements of said health insurance; provided however, that Antonio Pickens shall not be required to change health care providers; and provided, further, that any changes made by him in health care providers, and any referrals from current health care providers to health care providers who have not rendered care to him for injury for which he was retired, shall comply with paragraph (i).

**SECTION 5. Antonio Pickens shall not have his retirement allowance subject to modification as a result of earnings from alternative employment; provided, however, that he shall be required to submit earnings reports to PERAC pursuant to section 91A of chapter 32 of the General Laws. Antonio Pickens shall be subject to the limitation of earnings formula as set forth in said section 91A, with the ability to earn the amount described in said section 91A plus an additional \$5,000.00. If he earns in excess of these allowable amounts, PERAC shall inform him of the excess amount earned and the amount owed by him to the retirement board of the Town of Milton. PERAC shall, in its discretion, require repayment of that amount to said retirement board, or may withhold amounts as it deems appropriate from future retirement allowance payments until the amounts owed to the retirement board have been paid in full.**

**SECTION 6. The retirement allowances payable pursuant to this section shall remain subject to all other provisions of chapter 32 of the General Laws as if they had been granted as accidental disability retirements in the normal course of events pursuant to said chapter 32, except to the extent that said chapter 32 conflicts with this act.**

*Comment: Town authorization of this article would allow the Board of Selectmen to petition the General Court to enact legislation allowing the Retirement Board of the Town of Milton to retire Antonio Pickens with a pension fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a firefighter at the grade held by him at the time of his retirement. Compensation would be paid to Firefighter Pickens subject to provisions and limitations outlined in Sections 1 through 5 in Article 1. The retirement of Firefighter Pickens will free a position of the Fire Department, promote public safety and reduce some of the need for overtime. The legislation would also insure that Firefighter Pickens is financially the same in retirement as he would be as an employee on disability.*

**ARTICLE 2** To see what sum of money the Town will vote to appropriate for payment of legally obligated medical expenses incurred from July 1, 2008 through June 30, 2009 for Town of Milton public safety personnel resulting from injuries sustained in the line of duty; 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 Town appropriate the sum of \$240,000 for the payment of legally obligated medical expenses incurred from July 1, 2008 through June 30, 2009 by certain Town of Milton public safety personnel resulting from injuries sustained in the line of duty; and that to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$240,000 and to issue bonds or notes of the Town therefor.**

*Comment: The Town of Milton is obligated to pay the medical and hospital expenses of a firefighter seriously injured while on duty. Special legislation filed by the Governor that would authorize the Town to borrow the necessary funds to pay the medical and hospital expenses of the injured firefighter thus allowing the costs to be spread over several years to reduce the burden on the fiscal year 2009 budget. At this writing, the special legislation is pending but is expected to be acted upon favorably by both the MA Senate and House of Representatives and signed by the Governor before October 20, 2008.*

**ARTICLE 3** To see what sum of money the Town will vote to appropriate for the purpose of funding a wage adjustment for employees covered by Chapter 13 of the General By Laws, known as the Personnel Administration By Law, effective July 1, 2008; and to act on anything relating thereto.

Submitted by the Personnel Board

**RECOMMENDED that the Town make no appropriation under this Article.**

*COMMENT: As noted at the 2008 Annual Town Meeting in May both in the Report of the Warrant Committee and in the comment on Article 14 of that Warrant:*

*“The recommended appropriation provides sufficient funds to cover a 2.75% wage increase (which was voted by the Personnel Board) for all non-school, non-union employees effective July 1, 2008 solely in the context of the contingent budget. The Warrant Committee cannot recommend funding a wage increase for the Chapter 13 employees without an override because increases in fixed costs and extraordinary costs leave no funds available for any wage adjustments.”*

*As noted in the report of the Warrant Committee for this special town meeting, recurring operating expenditures should only be funded by recurring revenue. While the Chapter 13 employees are absolutely deserving of a wage increase, we are concerned that we will not be able to continue the departments at their new funding level in FY10 without an override. As such we cannot recommend in favor of using one time money (free cash) to fund wage adjustments.*

**ARTICLE 4** To see what sum of money the Town will vote to appropriate for the purpose of funding increases in the salary of the following:

Town Treasurer, pursuant to Chapter 41, Section 108 of the Massachusetts General Laws;

Town Clerk, pursuant to Chapter 41, Section 108 of the Massachusetts General Laws;

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 Town make no appropriation under this Article.**

*COMMENT: It has been traditional practice to keep the Treasurer/Collector and Town Clerk in sync with Chapter 13 employees in terms of wage increases. At the Annual Town Meeting in May, 2008 a wage increase was proposed to be funded only in the contingent budget, which was not voted by Town Meeting. As with the previous article, we cannot recommend in favor of using one time money (free cash) to fund wage adjustments.*

**ARTICLE 5** To see what sum of money the Town will vote to appropriate for the purpose of funding cost items not in departmental budgets for the twelve month period beginning July 1, 2008 for collective bargaining agreements reached before or after this Special Town Meeting between the Town and bargaining units representing Town employees, such sums to be allocated to departments by the Selectmen; and to act on anything relating thereto.

Submitted by the Board of Selectmen

**RECOMMENDED that the Town makes no appropriation under this Article.**

*COMMENT: As noted at the 2008 Annual Town Meeting in May both in the report of the Warrant Committee and in the comment on Article 12 of that Warrant, only in the event of a contingent budget could set asides for union wage increases be countenanced. Nothing has changed in the intervening five months to change that situation. As with Article 4 and 5 above, we cannot recommend in favor of using one time money (free cash) to fund wage adjustments.*

**ARTICLE 6** To see what sum of money the Town will appropriate to fund a generator for the Town Office Building and a new server for the Police Department; 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

**The Warrant Committee has no recommendation at this time.**

*Comment: The Warrant Committee is not making a recommendation at this time but is in the process of seeking more information about the pricing and details of this request.*

**ARTICLE 7** To see by what sum of money the Town will vote to reduce the appropriation voted by the May, 2008 Annual Town Meeting under Article 36 for the support of schools for the twelve month period beginning July 1, 2008, to offset funds received by the Town of Milton under Section 72 of Chapter 44 of the Massachusetts General Laws, which money is deposited into a separate account for expenditure by the Milton Public Schools for any lawful purpose pursuant to Chapter 213 of the Acts and Resolves of 2008.

Submitted by the Board of Selectmen

**RECOMMENDED that the Town vote to reduce by \$385,000 the appropriation voted by the May, 2008 Annual Town Meeting under Article 36 for the support of schools for the twelve month period beginning July 1, 2008, thereby reducing said appropriation from \$32,061,120 to \$31,676,120.**

*Comment: This article is submitted and recommended for approval in order to bring the Town FY 2009 budget into balance. A home rule petition approved by Town Meeting in November, 2007 was passed by the Legislature and signed by the Governor in July, 2008. This home rule petition allows the School Department to receive Medicaid reimbursements directly rather than having those funds come into the Town's General Fund and then be appropriated as a part of the School Department budget. The reimbursement for the 2007-2008 school year (payable in 2009) was \$385,000. Since the petition had not been approved at the time the Warrant Committee constructed the FY 2009 non-contingent budget, the Warrant Committee recommended and Town Meeting approved a School*

*Department budget that included the appropriation in anticipation of the Town General Fund receiving this revenue. Since the School Department will receive their funds directly, the budget appropriation from the Town must be reduced by the same amount. There will be no net increase or decrease in the School Department revenue as a result of approval of this article.*

**ARTICLE 8** To see what sum of money the Town will vote to appropriate in addition to the money appropriated by the May, 2008 Annual Town Meeting under Article 36 for the support of the schools for the twelve month period beginning July 1, 2008, and to act on anything relating thereto.

Submitted by the School Committee

**RECOMMENDED that the Town appropriate the sum of \$103,000 for the support of schools for the twelve month period beginning July 1, 2008, in addition to the money appropriated by the May, 2008 Annual Town Meeting under Article 36, said sum to be raised from funds certified by the Department of Revenue as free cash.**

*Comment: This article will fund two teaching positions if approved. The additional funds are needed to address deficits in the MCAS preparation for students at the Tucker School and the Pierce Middle School.*

**ARTICLE 9** To see if the Town will vote to authorize the Board of Selectmen to accept on behalf of the Town, a gift of a 5.74 acre parcel of land off Randolph Avenue owned by the Animal Rescue League of Boston.

Submitted by the Board of Selectmen

**RECOMMENDED that the Town authorize the Board of Selectmen to accept on behalf of the Town a gift of a parcel of land located off Randolph Avenue in Milton, owned by the**

**Animal Rescue League of Boston, which land is shown as Lot 2 on a plan of land entitled “Revised Plan of Land, Milton, Mass.”, Scale 1”=40’, dated October 16, 1992, prepared by Glenn J. Carew, Registered Land Surveyor, 42 Ida Avenue, Brockton, MA, which plan is recorded with the Norfolk County Registry of Deeds as Plan Number 207 of 1993 in Plan Book 412. Said parcel of land contains 5.74 acres as shown on said plan, and is shown on the Town of Milton Assessors’ Maps as Map N, Block 10B, and Lot 3A.**

*COMMENT: This property was donated to the Animal Rescue League of Boston a number of years ago. The league used it (until a change in the law) to release captured animals. Since that time, it has lain unused. The Animal Rescue League of Boston has decided to gift the property to the Town as they have no use for it. The Selectmen are pursuing alternative uses at this time.*

**ARTICLE 10** 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 sections 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 2 Adams Street, which is owned by Extra Space of

Milton, LLC or its 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 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 sections 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 2 Adams**

**Street, which is owned by Extra Space of Milton, LLC or its 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 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: At the 2007 Annual Town Meeting (Article 50) this petition for an additional liquor license was presented and approved. Since that time, it has been held up in the Legislature due to its concern that there was no "physical presence" at the location. As permitting and construction had not been completed, this is perhaps understandable. Unfortunately, there is a deadline for the passage of the petition before it goes into abeyance. As permitting has been completed and construction has begun on the property (although not yet in the location of the new 2 Adams St property), this article would allow the Town to represent the petition to the Legislature prior to the next Annual Town Meeting and avoid additional delays.*

**TABLE 1**  
**DEBT SERVICE**

<b>Fiscal Year</b>	<b>Town Hall Generator</b>	<b>Medical Expenses</b>	<b>Total</b>	<b>Principal Outstanding</b>	<b>Interest at 4.25%</b>	<b>Total Debt Service</b>
2010	\$ 15,000	\$ 12,000	\$ 27,000	\$ 389,000	\$ 16,533	\$ 43,533
2011	\$ 15,000	\$ 12,000	\$ 27,000	\$ 362,000	\$ 15,385	\$ 42,385
2012	\$ 15,000	\$ 12,000	\$ 27,000	\$ 335,000	\$ 14,238	\$ 41,238
2013	\$ 15,000	\$ 12,000	\$ 27,000	\$ 308,000	\$ 13,090	\$ 40,090
2014	\$ 15,000	\$ 12,000	\$ 27,000	\$ 281,000	\$ 11,943	\$ 38,943
2015	\$ 15,000	\$ 12,000	\$ 27,000	\$ 254,000	\$ 10,795	\$ 37,795
2016	\$ 15,000	\$ 12,000	\$ 27,000	\$ 227,000	\$ 9,648	\$ 36,648
2017	\$ 15,000	\$ 12,000	\$ 27,000	\$ 200,000	\$ 8,500	\$ 35,500
2018	\$ 15,000	\$ 12,000	\$ 27,000	\$ 173,000	\$ 7,353	\$ 34,353
2019	\$ 14,000	\$ 12,000	\$ 26,000	\$ 146,000	\$ 6,205	\$ 32,205
2020		\$ 12,000	\$ 12,000	\$ 120,000	\$ 5,100	\$ 17,100
2021		\$ 12,000	\$ 12,000	\$ 108,000	\$ 4,590	\$ 16,590
2022		\$ 12,000	\$ 12,000	\$ 96,000	\$ 4,080	\$ 16,080
2023		\$ 12,000	\$ 12,000	\$ 84,000	\$ 3,570	\$ 15,570
2024		\$ 12,000	\$ 12,000	\$ 72,000	\$ 3,060	\$ 15,060
2025		\$ 12,000	\$ 12,000	\$ 60,000	\$ 2,550	\$ 14,550
2026		\$ 12,000	\$ 12,000	\$ 48,000	\$ 2,040	\$ 14,040
2027		\$ 12,000	\$ 12,000	\$ 36,000	\$ 1,530	\$ 13,530
2028		\$ 12,000	\$ 12,000	\$ 24,000	\$ 1,020	\$ 13,020
2029	\$ -	\$ 12,000	\$ 12,000	\$ 12,000	\$ 510	\$ 12,510
	\$ 149,000	\$ 240,000	\$ 389,000	\$	\$ 141,738	\$ 530,738

**TABLE 2  
COMPARISON OF  
REQUESTED AND RECOMMENDED EXPENDITURES**

ARTICLE NO.		FY 09 REQUESTED	FY 09 RECOMMENDED	DOLLAR DIFFERENCE
2	Appropriation-Payment of Medical Benefits	240,000	240,000	0
3	Appropriation-Wage Adjustment-Chapter 13	82,151	0	82,151
4	Appropriation-Wage Adjustment-Treasurer & Clerk	4,288	0	4,288
5	Appropriation-Fund Collective Bargaining	200,000	0	200,000
6	Appropriation-Fund TOB Generator/Police Server	149,000	0	149,000
7	Appropriation Reduction-FY08 School Budget	(385,000)	(385,000)	0
8	Additional Appropriation-FY08 School Budget	154,500	103,000	51,500
<b>GRAND TOTAL APPROPRIATIONS</b>		449,939	(42,000)	486,939

**SPECIAL TOWN MEETING**  
**Monday, October 20, 2008**  
**7:30 P.M.**  
**Milton High School Auditorium**

**POSTAL CUSTOMER RESIDENT**  
**MILTON, MA 02186**

**PRSRRT STD**  
**U.S. POSTAGE**  
**PAID**  
**PERMIT NO. 59792**  
**MILTON, MA**