

**WARRANT AND PROCEEDINGS
of the SPECIAL TOWN MEETING
held on October 23, 2006**

In the name of the Commonwealth of Massachusetts, all residents of the Town of Boxborough, who were qualified to vote in accord with the provisions of M.G.L. Chapter 51, Section 1, were duly notified to meet at the Blanchard Memorial School, Massachusetts Avenue, Boxborough, MA on Monday, October 23, 2006 at 7:30 p.m. to act on Articles 1 through 5 of this Special Town Meeting Warrant.

- 1. AMEND PERSONNEL PLAN**
- 2. AMEND FY 2007 OPERATING BUDGET**
- 3. ACCEPT CHAPTER 39 § 23D OF THE GENERAL LAWS**
- 4. REGIONAL DISPATCH STUDY**
- 5. ADOPT GENERAL BYLAW TO GOVERN DISCHARGES INTO STORM DRAINS**

The Special Town Meeting, having been legally called and convened, and with voters having been legally notified, was called to order at 7:30pm by Moderator John G. Fallon. There were 78 voters in attendance.

ARTICLE 1: AMEND PERSONNEL PLAN

(Majority vote required)

To see if the Town will vote to amend the Personnel Administration Plan by adding the position of “Van Driver” to Schedule A, Classification of Positions under the Intermittent Schedule and by adding an associated rate of pay of Twelve Dollars (\$12) for the position under the Intermittent Schedule on Schedule B Compensation of Positions; or take any other action relative thereto.

The Board of Selectmen recommends (4-0).

The Council on Aging has been working diligently to find cost-neutral ways to provide services to Boxborough’s senior citizen population. Due to a recent change in legislation, we now have an opportunity to put our regional transit assessment to work and make use of state-sponsored transportation services.

Currently, the town is assessed a little over \$30,000 annually by the MBTA. For better or worse, we do not directly receive any services for this assessment, although our commuters do make use of local T stations. The new legislation allows us to join another regional transit authority and any additional services we take advantage of will be off-set by our MBTA assessment.

The Board of Selectmen recently voted unanimously to join the Montachusett Area Regional Transit Authority (MART). Membership will allow us to take advantage of the senior van program that MART currently provides to many of our neighboring towns including Littleton and Harvard.

In order to be able to initiate the program, hire, train and pay van drivers, we must amend the Personnel Plan to include the position of Van Driver, as well as include an associated rate of pay.

The Finance Committee recommends unanimously

The Finance Committee supports the COA van driver. This article creates the driver position job description in Schedule A and provides the funding mechanism in Schedule B. The funding mechanism is described in Article 2 (Amend FY2007 Operating Budget).

ACTION ON ARTICLE 1: Mr. Powers made a presentation on van transportation services for seniors. A survey of the town conducted by the COA indicated interest in having van service, particularly if a small users' fee was imposed. The COA surveyed eight (8) similar towns and found that six of the eight had van service programs. When looking into funding options, the COA discovered that van service could be provided at no extra cost to the town by switching transit authority affiliations from the MBTA to MART (Montachusett Area Regional Transit Authority). The Town joined MART on September 28, 2006. The target date for start of service is December 2006, once drivers are trained and certified. A revolving fund would be established to provide funds to pay the van drivers. Mr. Powers was pleased to announce that Middlesex Savings Bank will donate \$4000 to the town to open the revolving fund.

Mr. Golden moved, and Mr. Fox seconded the motion, to amend the Personnel Administration Plan. Mr. Neville moved to amend the motion by adding the words "per hour" after (\$12) in the original motion. Mr. Fox seconded. **The motion , as amended, carried unanimously.**

ARTICLE 2: AMEND FY 2007 OPERATING BUDGET

(Majority vote required)

To see if the Town will vote to approve the cost items of the collective bargaining agreements between the town and the police, fire and dispatch unions and to fund this appropriation by amending the budget voted under Article 5 at the Annual Town Meeting on May 8, 2006 by transferring the departmental appropriations indicated below, and to further amend said budget by adjusting additional departmental appropriations as indicated below, or take any other action relative thereto.

The Finance Committee recommends unanimously.

The operating budget categories and sums presented at the ATM represented the funds necessary for the Town to execute governmental, financial, public safety, education and maintenance functions provided to all Boxborough citizens. At the time of town meeting, the union contracts were not signed and the final costs were not known. An estimate was made and placed in a separate line in article 5. With all contracts signed we now know the final numbers and can move the required dollar amounts from the special fund back to the specific line items. It should be noted that by MGL, a town can only move funds between budget lines when approved by town meeting or in the last few weeks of the fiscal year. Also, per town rules we cannot move funds between salary and expense lines except at town meeting or during the last few weeks of the fiscal year.

Another change in Article 5 is the transfer of funds between the Town Administrator salary line and Town Hall salary line. With the departure of our Town Administrator we have a need to add some clerical assistance to aid our acting Town Administrator.

The COA is adding a van for senior citizens. The van is funded by MART, but the Town is required to hire the driver. The cost of the driver (hourly wages) will be fully reimbursed from Boxborough's assessment to MART. Liability insurance and training are funded by MART and workman's compensation is reimbursed. To our knowledge, there are no expenses that are not reimbursable.

The final change is a transfer of funds to cover the deficit in the snow and ice budget from FY06 rather than roll it into the tax rate for FY07.

The Board of Selectmen recommends (4-0).

The objective of these adjustments to the Article 5 budget from Annual Town Meeting is principally to shift monies from our salary reserve account to the Police, Fire, and Dispatch budgets, now that contract negotiations have been successfully completed. An additional adjustment has been made to shift funds

from the Insurance line to the several salary lines in both Town Government and Blanchard School, since the recent contract settlements have shifted some of the cost for employee health insurance from the Town to the employees. This development will help insulate the town budget from the large increases in health care costs that are likely to accrue in future fiscal years. The ongoing study of town administrative structure has furthermore determined that funds can be shifted out of the Town Administrator salary account to more general operational support functions within Town Hall. While the outcome of the staffing study is still a few months away, we anticipate that a net savings of \$15,000 for FY '07 will accrue, with the outyear totals yet to be determined. Two final small adjustments are proposed here as well: to add a small amount to the CoA budget to cover van driver wages in anticipation of reimbursement from the MART senior van service to be shortly initiated, and to add a small amount to the Reserve Fund to cover the contingencies for our increasing operating budget. The net effect of all these changes is to reduce the FY '07 operating budget by \$13,806.

ACTION ON ARTICLE 2: Mr. Kushner moved, and Ms. Neville seconded, that the town vote to amend the budget voted under Article 5 at the Annual Town Meeting on May 8, 2006, by transferring the departmental appropriations as printed in the warrant under Article 2, and to further amend said budget by adjusting additional departmental appropriations as printed in the warrant under Article 2 except with the following changes:

Line item 541, Total Salaries – Council on Aging: \$0 proposed increase/decrease
 Line Item 132, Reserve Fund: \$11,623 proposed increase/decrease

VOTED: That the town amend the budget voted under Article 5 at the Annual Town Meeting by decreasing Line Item 123 by \$50,000; increasing Line Item 192 by \$35,000; increasing Line Item 210 by \$38,042; increasing Line Item 220 by \$32,468; increasing Line Item 221 by \$10,453; increasing Line Item 300 by \$31,768; decreasing Line Item 915 by \$52,800; increasing Line Item 132 by \$11,623; decreasing “Total Salaries—Reserved” by \$70,360; resulting in a total budget for FY’07 of \$18,248,478, a reduction of \$13,806 from the budget voted at ATM on 05/08/2006.

Line Item	Description	Appropriated at ATM, 5/8/06	Proposed Increase/Decrease	Newly Recommended FY07
123	Total Salaries - Town Administrator	\$143,903	<\$50,000>	93,903
192	Total Salaries – Town Hall	\$167,803	\$35,000	202,803
210	Total Salaries - Police	\$808,533	\$38,042	\$846,575
220	Total Salaries - Fire	\$586,263	\$32,468	\$618,731
221	Total Salaries - Dispatch	\$189,539	\$10,453	\$199,992
300	Total Expenses - Blanchard	\$5,371,944	\$31,768	\$5,403,712
541	Total Salaries – Council on Aging	\$34,929	\$5,000	\$39,929
915	Total Other – Med, Life, LTD Insurance	\$1,153,470	<\$52,800>	\$1,100,671
132	Reserve Fund	\$146,000	\$6,623 \$11,623	\$152,623 \$157,623
	Total Salaries - Reserved	\$70,360	<\$70,360>	\$-0-
	Total Budget Appropriated at ATM, 5/8/06	\$18,262,284	<\$13,806>	\$18,248,478

The motion carried unanimously.

ARTICLE 3: ACCEPT CHAPTER 39 § 23D OF THE GENERAL LAWS

(Majority vote required)

To see if the Town will vote to accept, for all boards, committees or commissions holding adjudicatory hearings in the Town, the provisions of G.L. c.39, §23D, which provides that a member of a board, committee, or commission holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to the member's absence from one session of such hearing, provided that certain conditions are met, or take any other action relative thereto.

The Board of Selectmen recommends (4-0).

The Board of Selectmen believes that adopting this chapter of the Massachusetts General Laws will help municipal boards avoid quorum issues when a member misses a hearing and will therefore expedite the hearing, appeal, and permitting process for citizens who have business before those boards that hold adjudicatory hearings such as the Planning Board, the Zoning Board of Appeals, the Conservation Commission, and the Board of Selectmen. Without acceptance of this legislation, local boards could find themselves without a "voting quorum" when members miss substantive hearings where facts are considered and those members are disqualified from voting on a matter. Boards could also find themselves without a voting quorum when they lose a member and the new replacement joins the board in the middle of a hearing. Acceptance of this statute will allow a member of a board or commission to still participate in the hearing process and cast a vote if he or she misses **one** meeting, provided that certain conditions are met, such as listening to the missed hearing on tape. An unforeseen absence can delay the entire process and adopting this statute would allow the process to continue in a timely fashion.

The Finance Committee recommends unanimously.

This article does not have financial impact to the Town and does provide for limited support of the various committees in town who require full attendance at consecutive meetings in order to vote on specific agenda items.

Planning Board recommends unanimously.

At their meeting on September 25, 2006, the Planning Board unanimously voted to recommend that Town Meeting accept Warrant Article #3 regarding the acceptance of Chapter 39, Section 23D of the general laws.

All Boxborough board and committee members are volunteers with family and/or work obligations that may require them to miss a meeting. The adoption of this state statute provides board and committee members the flexibility to miss one session of a public hearing without jeopardizing any decision made by the board or committee or requiring an applicant to continue the processing of an application. This obviously promotes better public service.

The Conservation Commission recommends (4 - 0).

Members occasionally have to miss a meeting due to work or family responsibilities. This can cause a problem when the Commission has a continued wetland hearing. Accepting this law would allow a member who has missed a single session of a hearing to vote on issuing the permit if this member reviews all evidence (tapes, minutes, etc.) for the missed session thus helping to avoid quorum problems.

ACTION ON ARTICLE 3: Ms. Neville moved, and Mr. Fox seconded, that the Town vote to accept, for all boards, committees or commissions holding adjudicatory hearings in the Town, the provisions of G.L. c.39, section 23D, which provides that a member of a board, committee, or commission holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to the member's absence from one session of such hearing, provided that certain conditions are met.

DISCUSSION: Mitzi Weil, 350 Burroughs Rd., questioned how this change would impact the discussion and vote of various boards. Les Fox responded that current statutes require all board members present at the start of a hearing to be there for all hearings and the final vote, otherwise the hearing would have to be continued. Duncan Brown, 55 Whitcomb Rd., was concerned that the chair of a committee or board needed to make sure that any members missing a hearing brought themselves up-to-date so they would be ready to vote. He pointed out that a member can't be brought up-to-date by email or telephone conversations. In response to these concerns, Town Counsel provided the moderator with the wording of G.L. 39:23D which stipulates that the member must certify in writing that he/she had brought themselves up-to-date, either through review of a meeting transcript or videotape.

The motion carried unanimously.

ARTICLE 4: REGIONAL DISPATCH STUDY

(Majority vote required)

To see if the Town will vote to raise and appropriate, or appropriate from available funds, or borrow or otherwise provide the sum of Twenty Thousand Dollars (\$20,000), more or less, for the purpose of hiring a professional consultant to complete an equipment and facility needs assessment for regional dispatch, and to authorize the Board of Selectmen to enter into an intermunicipal agreement pursuant to G.L. c.40, sec. 4A with no fewer than two other municipalities to jointly share in the total cost of such a study, provided that no funds may be expended under this appropriation unless such an intermunicipal agreement is entered into; or to take any other action relative thereto.

Note: This article was passed over.

The Board of Selectmen recommends (4-0).

Regionalized services may not be a new concept in New England, but it's a rare one! In 2005, Boxborough officials initiated a discussion with Devens and the towns of Harvard and Littleton regarding the regionalization of the town's emergency dispatch services as a way to control escalating budget costs as well as maintain or improve the town's current level of service.

A Regional Dispatch Committee was formed and began meeting regularly in order to develop a model, weigh relative pros and cons and determine whether the concept is viable for all of the communities involved. The committee wrote and received a grant from Massachusetts Development to examine dispatch center configuration, staffing models, governance, policies and procedures, finances and operations. Based on this information, the Board of Selectmen believes that regional dispatch services may be a viable choice for Boxborough. However, these details represent only half of the dispatch center equation.

The next step necessary to decide whether to bring the whole concept to Town Meeting is to develop an understanding of equipment and facility needs. The Board of Selectmen believes that the most efficient way to do this is to hire an outside consultant.

An equipment and facility study will help us:

- Determine the best location for the center
- Determine whether we need to build a new facility or retro-fit an existing building

- Examine regional technology needs and the best way to integrate current systems

Based on an estimated cost of \$60,000, Boxborough's share to hire a qualified consultant will be approximately \$20,000.

The Finance Committee does not recommend by majority vote (4-2).

The majority of the committee felt that the Town has been discussing regionalization as part of cost savings, but that the cost savings are evaporating. The original cost model was based on four towns participating. We do not know the break-even point at this point when infrastructure costs are built into the model and how many towns are required to make the process work. One town of the original four towns has decided not to regionalize. We are unclear at the time of the vote if Littleton is in or out. We do not believe that two towns can adequately fund a consultant when the requested amount for the study was based on four towns.

ACTION ON ARTICLE 4: Ms. Hilberg moved to pass over Article 4. Other towns potentially interested in regional dispatch were not ready to move forward. Mr. Fox seconded.

The motion to pass over Article 4 passed unanimously.

ARTICLE 5: ADOPT GENERAL BYLAW TO GOVERN DISCHARGES INTO STORM DRAINS

(Majority vote required)

To see if the Town will vote to adopt a general bylaw, *Discharges into Storm Drains*, as written in the warrant, to govern discharges into storm drains, or take any other action relative thereto.

Note: This article was referred for further study.

DISCHARGES INTO STORM DRAINS

SECTION 1. PURPOSE

Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

Regulation of illicit connections and discharges to storm drains is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this bylaw are:

- (1) to prevent pollutants from entering storm water;
- (2) to prohibit illicit connections and unauthorized discharges to storm drains;
- (3) to require the removal of all such illicit connections;
- (4) to comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

SECTION 2. DEFINITIONS

For the purposes of this bylaw, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY: The Boxborough Board of Health, its employees or agents, or any town appointed board official or municipal employee or contractor designated by the Board

to enforce this bylaw. **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

BOARD: The Boxborough Board of Health

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. Â§ 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into a storm drain or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: Water beneath the surface of the ground.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into a storm drain, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE: Direct or indirect discharge to a storm drain that is not composed entirely of stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 8 of this bylaw.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE: Discharge to a storm drain not composed entirely of stormwater.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock, sand, salt, soils;
- (10) construction wastes and residues; and
- (11) and noxious or offensive matter of any kind.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORM DRAIN: Any publicly or privately owned system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped

storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise a storm drain

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT: A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

SECTION 3. APPLICABILITY

This bylaw shall apply to flows entering any storm drains located in the Town of Boxborough.

SECTION 4. AUTHORITY

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

SECTION 5. RESPONSIBILITY FOR ADMINISTRATION

The Board shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to employees or agents of the Board, or to any town appointed board official or municipal employee designated by the Board to enforce this bylaw.

SECTION 6. REGULATIONS

The Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

SECTION 7. PROHIBITED ACTIVITIES

Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into a storm drain, into a watercourse, or into the waters of the Commonwealth.

Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to a storm drain, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

Obstruction of Storm Drain. No person shall obstruct or interfere with the normal flow of stormwater into or out of a storm drain without prior written approval from the Board.

SECTION 8. EXEMPTIONS

Discharge or flow resulting from fire fighting activities. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the storm drain system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;
- (3) Springs;

- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Rising groundwater;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharge from street sweeping;
- (13) Dye testing, provided verbal notification is given to the Board prior to the time of the test;
- (14) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharge for which advanced written approval is received from the Board as necessary to protect public health, safety, welfare or the environment.

SECTION 9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

The Board may suspend storm drain access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

SECTION 10. NOTIFICATION OF SPILLS

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to a storm drain or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Board, as well as the appropriate state and federal agencies as may be required by law. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 11. ENFORCEMENT

The Board or an authorized agent of the Board shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Orders. The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to a storm drain; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59 §57 after the thirty-first day at which the costs first become due.

Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder, shall be punished by a fine of not less than \$100, and not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, section 21D, in which case the Board of Health or any police officer of the Town shall be the Authorized Enforcing Agent. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Entry to Perform Duties under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary.

Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.

Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

SECTION 12. SEVERABILITY

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

SECTION 13. TRANSITIONAL PROVISIONS

Residential property owners shall have sixty (60) days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

The Board of Health recommends.

The Board of Health recommends the following Storm Drain Bylaw for the purpose of protecting the town's groundwater from surface runoff contamination. This bylaw will enable the town's police to issue citations directly to violators who dispose of any waste in or near storm drains. The police are available for such response 24/7. Our current means of issuing fines is through the Mass General Laws under Nuisances which requires BOH meeting to vote and a more lengthy effort to enforce the penalty.

The applicant may still approach the BOH by requesting a hearing in writing to amend/revoke the fine if appropriate.

The Finance Committee recommends unanimously.

We believe it makes sense to have a bylaw to govern discharges into existing and new storm drains. The proposed article is out of the existing MA General Law. Our understanding is that there is no direct financial impact to the Town. We did discuss the enforcement section and believe that enforcement is the province of the police department, not volunteer committees.

ACTION TAKEN ON ARTICLE 5: Ms. Cannon moved to refer Article 5 for further study. Mr. Fox seconded.

The motion to refer Article 5 for further study carried unanimously.

ADJOURNMENT

Mr. Duncan Brown moved to adjourn the special town meeting. Mr. Michael Gayowski seconded.

The motion passed unanimously. The meeting was adjourned at 8:14pm.