

**Fall Town Meeting
Tuesday, November 15, 2022 7 PM
Blanchard Memorial School Gymnasium
493 Massachusetts Avenue
Boxborough, Massachusetts**



TOWN OF BOXBOROUGH
WARRANT FOR FALL TOWN MEETING
NOVEMBER 15, 2022

MIDDLESEX, SS

To either of the Constables of the Town of Boxborough in the County of Middlesex, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn all residents of the Town of Boxborough, who shall be qualified to vote in elections and Town affairs, in accord with the provisions of M.G.L. Chapter 51, Section 1, to meet at the Blanchard Memorial School, 493 Massachusetts Avenue, Boxborough, MA on Tuesday, November 15, 2022 at 7:00 p.m. to act on the following articles:

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TOWN MEETING: A GUIDE FOR RESIDENTS

At the very end of this warrant book we have included a detailed four-page guide to the procedures and terms often used in a Town Meeting. Below is the most commonly used procedure we expect to use at this upcoming Town Meeting.

WHY DO WE USE A CONSENT AGENDA?

Articles on the Consent Agenda are exceptions to the general process of Town Meeting. In every Town Meeting warrant the Select Board, in consultation with Town Counsel, the Moderator and the Finance Committee, identify those articles they feel should generate no controversy and can be properly voted without debate. These articles are put on the Consent Agenda to allow motions under these articles to be acted upon as one unit and to be passed without debate.

At the call of the Consent Agenda, the Moderator will read out the numbers of the articles, one by one. If one or more voters object to any particular article being included in the Consent Agenda, they say "Hold" in a loud voice when the number is called. The article will then be removed automatically from the Consent Agenda and restored to its original place in the warrant, to be debated and voted upon in the usual manner. After the calling of the individual items in the Consent Agenda, the Moderator will ask for a motion that the voters pass all items remaining AS A UNIT on one vote. Use of the Consent Agenda process makes the Town Meeting more efficient by speeding up the handling of non-controversial items.

The articles we anticipate taking up in this manner are indicated by a double asterisk (**).

NOTE: only Articles 5 and 6 remained in consent agenda at Town Meeting.

NOVEMBER 15, 2022

Counters/Tellers were sworn in by Town Clerk, Rebecca Harris: John Fallon, Barbara Birt, Anne McNeece, Tessa McKinley, Cheryl Mahoney, and David McKiernan

Town Moderator, Dennis Reip convened the Fall Town Meeting at 7:03 pm. 173 registered voters were in attendance.

Dennis Reip introduced Town Counsel Joseph (Joe) Fair from KP Law and Town Clerk Rebecca Harris.

Moderator Reip made introductory remarks.

He explained the basic Town Meeting process and thanked the Town Hall staff for putting the warrant together.

Mr. Reip thanked Littleton Community Television (LCTV), especially Kirby Dolak, LCTV's Video Production Supervisor, Judy Reid LCTV's Video Program Coordinator, and Rob Crory BXBTM Media Technician. They make the audiovisual components of Town Meeting possible, as well as editing and providing the broadcast for later viewing.

He introduced our new Town Administrator, as of a week ago Monday, Michael Johns. Mr. Johns said a few words of introduction and expressed that he was looking forward to working with the volunteers and staff in Boxborough.

He introduced former Interim Town Administrator, Carter Terenzini, now serving the role of Assistant to the Select Board.

Chair of the Boxborough Select Board (BSB) was introduced: Diana Lipari, who introduced the other members of BSB: Les Fox, Wes Fowlks, and John Markiewicz

Chair of the Finance Committee, Maria Neyland was introduced, and each member of the Fin Com introduced themselves: Priya Sundaram, Vice Chair, Gary Kushner, Clerk, Tony Newton, and Becky Neville.

Mr. Reip introduced Rajon Hudson, Assistant Town Administrator and Kelley Price, Administrative Assistant, together running the A/V projector.

Moderator Reip expressed thanks to Blanchard School's principal Dana Labb for being our gracious host and Blanchard School's Dan Ralls and his staff and to Ed Kukkula and our Department of Public Works (DPW) crew for preparing the gym for tonight's Town Meeting.

Mr. Reip expressed that in addition to the fine work of our paid staff, one reason this Town runs well is the dedicated work of literally hundreds of volunteers who so generously contribute countless hours of their time.

Town Meeting Process: Moderator Reip explained:

"The agenda for this meeting is the Warrant and everything we discuss at this meeting is contained in the warrant. This is not the public comment section of a Select Board or Planning Board meeting nor is it a public forum or public hearing. The Boxborough Town Meeting is the "legislature" for the Town. We

collectively approve Town expenses, vote on capital purchases, approve by-laws, determine land use and more.

My job as Moderator is to be the presiding officer of this legislature. The Boxborough Town Meeting process is guided by Town Meeting Time, a handbook of parliamentary law prepared by the Massachusetts Moderators Association. You can obtain this at the library or buy one through the Massachusetts Moderators Association.

You were given a 1-page handout on “Boxborough Town Meeting Process” as you walked in. Four key points:

- a) To be recognized and speak you need to be at one of the alternating microphones.
- b) Speakers are limited to 3 minutes and we run a clock. I will not be able to see the clock so I will count on Rajon and/or Kelley, and your fellow citizens to keep track of time.
- c) All discussion must be relevant to the Motions on the floor, and must be civil.
- d) I will call for a vote when no one is standing at microphone. If someone wants to end debate before that they need to come to a microphone and say “I move the question.” Sponsors of the article cannot move the question. You cannot make comments at the mic, and then immediately move the question.

All voters should have received a “bright green” card when you signed in. If I ask for a vote by hands or standing, I will ask you to raise the card to make it easier for the vote to be counted.

Note: if anyone has a question about process you can stand in place and say “Point of Order” in a loud voice and direct your question to me.

Except for a point of order, you MUST be at a microphone to ask a question, make a comment, make a motion (end debate, adjourn the meeting).

We will have two microphones tonight. I will be recognizing people to speak in an equitable alternating fashion. I will refer to these as the microphone to my right (your left), and the microphone to my left (your right). Please note the beige color chairs along the aisles directly behind each microphone. These chairs are provided for people waiting in line at the microphones.

Please remember to keep the discussion CIVIL and disagree without being disagreeable. We also refrain from applause, boos, cheer or jeers of any kind. Boxborough has a long tradition of civility at TM. Let’s continue with this tradition.”

Preliminary Motions

Because we do not have a Town Meeting (TM) process bylaw, each TM needs to make its own rules.

Ms. Lipari moved that any adjourned sessions of this Meeting be held on Wednesday, November 16th starting at 7 pm and further that no debate will begin on any new article after 10:30 pm, provided however, that the Moderator may at any time call for a vote to continue past this time in the interests of concluding the meeting this evening.

Seconded. **Motion passed unanimously.**

Ms. Lipari moved that once final action has been taken on an article, and the next order of business has been taken up, or the session of this Special Town Meeting has been adjourned, the Article may not be again considered at this Special Town Meeting unless the Moderator determines in his discretion that reconsideration would be in the best interests of the voters.

Seconded. **Motion passed by majority.**

Note: votes are taken by voice, show of hands, or standing count. Under town by-law Mr. Reip explained that he has the ability to declare a 2/3 vote without taking a standing count. If he does so and seven voters think he was in error, they have the ability to object and there will be a standing vote.

Moderator Reip explained that the sequence of some of the Motions on the Articles will be re-ordered:

Based on discussion with, and concurrence from the Chair of the Planning Board (PB) that the Motions on PB Articles 10 through 13 will be reordered such that 10 still goes first, followed by Motions on Articles 13, 12 and 11.

Therefore, the revised sequence of Motions will be:

1-9, and 10, 13, 12, 11

ARTICLE 1 PAYMENT OF PRIOR FISCAL YEAR BILLS

Submitted by: Town Administrator
Amount: \$12,349.84 (free cash) amended to: \$9,529.84 (free cash)
Required Vote: Nine-tenths

Diana Lipari, Chair of the Select Board moved that the Town vote to appropriate the sum of Twelve Thousand Three Hundred Forty-Nine Dollars and Eighty-Four Cents (\$12,349.84) to provide for the payment of certain late bills from prior fiscal years for the following invoices in the following amounts:

Late bill vendor list	Invoice	Amount
Creedon and Co.	38960-6	\$4,812.84
Minuteman High School	N/A	\$4,702.00
Mead Talerman & Costa LLC	N/A	\$2,835.00

And to meet said appropriation by a transfer of said sum from certified free cash. Motion was seconded.

Summary:

This is a housekeeping article. These invoices were not processed in time for the closeout of FY 2022¹ and have been identified as outstanding bills for the said fiscal year. Authorization to pay a prior year's bill must be approved by Town Meeting.

The Select Board recommends (5 Yes – 0 No – 0 Recused/Absent)

The Select Board recommends for the reasons stated in the summary.

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

Main Motion: Diana Lipari, Select Board Chair, seconded.

Discussion on Article 1:

Rick Barrett of Whitcomb road moved to amend Article 1 by striking the words "Twelve Thousand Three Hundred Forty-Nine Dollars and Eighty-Four Cents (\$12,349.84)" and substituting the words "Nine Thousand Five Hundred Twenty-Nine Dollars and Eighty-Four Cents (\$9,529.84)."

Mr. Barrett questioned why when there were sufficient funds and invoices received, these bills were not paid on time.

The Select Board does not recommend this amendment.

The Finance Committee does not recommend 4 to 1.

Discussion on Amendment to Article 1:

Rick Barrett asked that the information be printed in the warrant as it had been in past years; if it had been, he wouldn't have to ask these questions. He has an email from the Interim Town Accountant to the Interim Town Administrator of September 9, 2022, with an invoice for tent set up and rental from Creedon and Co. for 6 weeks, totaling \$4,812.84. Of that \$1,992.84 was FY22 costs and \$2,820 was FY23 costs for four weeks in July. Because this portion was FY23 costs, and these funds are available, the

invoices should have been split into fiscal years and those that could have been paid should have been paid. He hopes this lapse does not result in damage to the excellent relationship that has been built with this company over the years.

Mr. Terenzini said he doesn't recall that that was the explanation given to him at the time these bills were presented.

Rick Barrett said he has the email, and doesn't feel the burden to the tax payer should be added.

The Fin Com revised their recommendation based on the discussion that just took place: they recommend 5 to 0.

Owen Neville of Middle Rd. is in support of the amendment because the article is for payment of prior year bills not current year bills.

Point of order: the amendment should be displayed on the screen.

Action on the amendment: Motion on the amendment carried.

Discussion on the original motion as amended. None.

Moderator called for a vote on the motion as amended by show of hands, which carried by majority but was not unanimous.

Because a 9/10s vote was required, Moderator then called for a standing vote.

Action on the amended motion on Article 1: motion carried by 9/10 majority (137 yes to 3 no).

¹ MGL Ch 44 §56: "The fiscal year of all towns of the commonwealth shall begin with July first and end with the following June thirtieth, and the returns made to the director under section forty-three shall show the financial condition of the town at the close of business on June thirtieth; provided, however, that the treasurer shall, until July fifteenth, enter in his books all items for the payment of bills incurred..."

ARTICLE 2: FUNDING OF COLLECTIVE BARGAINING AGREEMENTS

Submitted by: Town Administrator

Amount: \$114,728 (Taxation)

Required Vote: Majority

Diana Lipari, Chair of the Select Board moved to appropriate the sum of sum of One Hundred Fourteen Thousand Seven Hundred Twenty Eight Dollars and No Cents (\$114,728.00) to the FY '23 Operating Budget as shown on the screen to fund the cost items of the first year of three-year collective bargaining agreements between the Town and the identified union:

A	Boxborough Professional Firefighters, Local 4601	\$XXXX
B	Massachusetts Coalition of Police, Local 200, Police	\$77,457.00
C	Massachusetts Coalition of Police, Local 200A, Dispatch	\$11,284.00
D	DPW Local 424M, Unit MA Div.125	\$25,987.00

And to meet said appropriation by taxation. Motion was seconded.

And to further authorize the Town Administrator to allocate said sums to the personnel, insurance and benefit cost account(s) as appropriate to each agreement.

Summary:

Funding for the first year of collective bargaining agreements must be approved by Town Meeting. This article is for the funding of the first year of three-year collective bargaining agreements covering the period July 1, 2022 – June 30, 2025 with the Town's four unions: Massachusetts Coalition of Police, Local 200, Police; Massachusetts Coalition of Police, Local 200A, Dispatch; Boxborough Professional Firefighters, Local 4601; and DPW (United Public Service Employees) Local 424M, Unit MA Div.125. At the time of the printing of the warrant, some of the contracts had not been settled. If they are settled before Town Meeting, they will then be presented.

The Select Board will defer their actual Yes/No count to Town Meeting

The Select Board will be recommending the approval of the Collective Bargaining Agreements (CBAs). The CBAs have been negotiated with the unions and the Select Board, in collaboration with the negotiation team, has strived to create agreements that are beneficial to both the Town as well as the respective Unions. At the time of the writing of recommendations, the negotiations have not been finalized but we are hoping to have an update at Town Meeting.

The Select Board Recommends unanimously. The collective bargaining agreements have been negotiated with the unions and have benefits to both the unions and the Town.

The Finance Committee unanimously recommends. The recommendation was deferred to Town meeting because they just got the details tonight; the change to the tax rate is 9 cents/thousand s or \$59.96 on the median home price.

No discussion.

Action on the motion on Article 2: motion carried by majority vote.

ARTICLE 3: AMENDING THE PERSONNEL ADMINISTRATION PLAN

Submitted by: Town Administrator

Amount: N/A

Required Vote: Majority

To see if the Town will vote to amend the Personnel Administration Plan by deleting the words and/or amounts noted in strikethrough, and inserting the words and/or amounts shown in bold print as follows:

(a) FY2023 Classification & Compensation Schedule
Per Diem and Intermittent Employees & Stipends

Hourly (All Non-exempt)	FY 23 Rate
Part Time Dispatcher	19.84 22.50
Special Reserve Police Officer	21.86 25.00

(b) ARTICLE VI. THE PAY PLAN

Section 2. Promotions or Reclassifications

a. ~~When an employee is promoted to a position in a higher class, the employee's salary shall be increased to the minimum rate for the higher class. In the case of overlapping ranges, the promoted employee shall be increased to the step immediately above the employee's present salary.~~

b. ~~When an employee is promoted, or the position they hold is reclassified to a position in a higher grade, the employee's salary shall be increased to the minimum rate for the higher grade. In the case of overlapping ranges, the promoted or reclassified employee shall be increased to the step immediately above the employee's current salary step.~~

When an employee is promoted to a position in a higher class or the position they hold is reclassified to a position in a higher grade, the employee's salary shall be increased to the first step which provides them with an increase in pay of at least 5% above their base pay prior to the promotion or reclassification.

(c) ARTICLE X. VACATIONS

Section 2. Regular reduced-hours **and regular part-time** employees shall be entitled to vacation according to Section 1 except that the resulting days shall be multiplied by the average number of hours worked each week and then divided by forty (40).

Section 3. ~~Regular part-time, p~~ Per diem, and intermittent employees do not accrue vacation time

(d) ARTICLE XI. LEAVES OF ABSENCE

Section 1 SICK LEAVE

h. Sick Leave Bank

There is hereby created a Sick Leave Bank (the "Bank") to provide offsetting pay for a limited time to those participating Town employees (the "Participant") who have exhausted their personal accrued leave time, in all of its forms, and suffer from a disabling injury or illness. The Bank is a voluntary, participative arrangement entered into by Town employees seeking to provide some measure of relief to ill or disabled peers and does not represent an obligation upon the Town to create time upon the records of the Bank for use by Participants beyond the time contributed by Participants or as otherwise established within this policy.

Administration of the Bank: The records of time contributed to and drawn from said Bank shall be maintained by the Town Officer charged with maintaining such records. Approvals and disapprovals of membership and withdrawals shall be administered by the Town Administrator subject to any appeal process established herein provided, however, that if the Town Administrator shall become a Participant in the Bank, the Chair of the Select Board shall act in the stead of the Town Administrator with respect to any decision required to be made with respect to the Town Administrators participation in the bank.

Eligibility for the Bank: All employees eligible to receive and accrue sick leave are eligible to apply to enroll in and participate in the Bank. Any such employee represented by a bargaining unit is only eligible to apply to and enroll in the Bank if the entity bargaining on their behalf has negotiated for the inclusion of this policy within their Collective Bargaining Agreement.

Initial Membership Application: Applications for enrollment in the Bank shall be on a form to be designed by the Town Administrator and will only be accepted for consideration during the so-called "Open Enrollment" period established annually for employees to enroll in and/or change their enrollments in the Town's various insurance programs. However, upon creation of the Bank, there shall be a period of thirty (30) days thereafter in which employees may apply to become a Participant in the Bank.

Initial Membership Deposit: Applications for enrollment shall provide authorization for the Town to withdraw an initial deposit of at least two (2) days of sick leave from the accrued sick leave time of the applicant for transfer to the Bank and may authorize up to four (4) days of sick leave time to be transferred to the Bank.

Annual Membership Deposit: Annually, during the Open Enrollment Period, Participants must provide authorization for the Town to withdraw an additional deposit of at least two (2) days hours of sick leave from the accrued sick leave time of the Participant for transfer to the Bank and may authorize up to four (4) days of sick leave time to be transferred to the Bank.

Opt-Out Provision: Any Participant may remove himself or herself from the Bank at any time; however, once removed, the employee may not withdraw any sick leave contributed to the Bank at the time they initially joined or that they contributed to the Bank as part of any subsequent contribution.

Loss of Deposits: Deposits of sick leave time become the sole property of the Bank and are not returned to the Participant for their sole use, except in accordance with the application for a withdrawal as outlined below.

Application for Withdrawals: A Participant, or their designee, shall apply to withdraw time from the Bank upon a form to be designated by the Town Administrator. Said form shall require a certification from a qualified medical or mental health professional as to the disabling injury or illness, an indication as to how long the condition may persist, and a certificate of the Town Officer maintaining the Bank of any and all time the applicant has remaining of their personal accrued leave time, in all forms, which must be fewer than eighty (80) hours of total leave time at the time of application.

Maximum Withdrawal & Use Thereof: No Participant may be granted more than an initial grant of twenty (20) days of leave from the Bank in any twelve-month calendar year period. Any such grant of leave may not be drawn against until all other available leave time on the books of the Participant has been fully exhausted.

Continuing Accruals of Sick Leave: Under no circumstances may a Participant, while using time derived from the Bank, accrue any type of leave.

Refunds for Monies Recovered: Any Participant who subsequently receives any form of reimbursement for any Town offered disability or Worker's Compensation Policy covering any illness or disability originally covered by a withdrawal of time from the Bank will reimburse the Bank for the value of the duplicate coverage.

Appeals: Should an application for withdrawal be denied, the Participant may appeal to a three-member board which shall be established to hear the matter within 72 business hours. The Town Administrator shall appoint one person to the panel, the Participant shall appoint one member to the panel, and those two members shall appoint a third party who shall decide the matter within 48 hours of appointment.

Special Levies: Should the level in the Sick Leave Bank be insufficient to provide the time required to fund an approved application, the Town Administrator may issue a special levy requiring a Participant to contribute at least one additional day, but no more than three additional days, of their sick leave time to the Bank. A levy made upon any Participant shall be binding upon all Participants equally. However, no such levy may force any Participant into a negative balance position and the Town Administrator may allow any Participant unable to respond to a special levy to do so when able.

Extraordinary Circumstances: In extraordinary circumstances of illness or disability during a period of time in which an employee was not eligible to apply for membership in the Bank, the Town Administrator may make a one-time call for contributions of sick leave time in any amount to a specific employee who shall be identified in the call for voluntary contributions. Any employee granted time under these provisions shall not be eligible to accrue leave time during any such period of time and any voluntary contribution made in excess of that needed to meet the needs of the employee shall be transferred to the permanent records of the Bank.

Or take any other action related thereto.

The Select Board recommends (5 Yes – 0 No – 0 Recused/Absent)

Section(s) (a) is a needed increase in the wage scale to better attract candidates for these positions, (b), and (c) are necessary clarifications to the plan while (d) the establishment of the optional sick bank leave gives an opportunity for employees to share and borrow accrued days donated by plan participants. This is one way the town is trying to provide non-salary incentives and benefits to recruit and retain employees in a most challenging job market.

The Finance Committee will defer their recommendation to Town Meeting.

The Personnel Board will defer their recommendation to Town Meeting.

Ms. Lipari moved to pass over this article. Motion was seconded.

Discussion on the motion to pass over Article 3: Select Board recommends to pass over unanimously.

Mr. Johns reported that after meeting with the Personnel Board earlier this week, there is a desire to meet collaboratively and work on these changes together and bring them back to Annual Town Meeting.

Recommendation from the Personnel Board chair Sheila Bauer is to pass over.

Recommendation from the Fin Com is also unanimous to pass over.

Cheryl Mahoney of Liberty Square Rd. expressed her support of the details of this article.

Action on the motion to pass over Article 3: motion carried unanimously.

ARTICLE 4: AMENDING THE FY '23 OPERATING BUDGET

Submitted by: Town Administrator

Amount: \$68,400.00 (Free Cash)

Required Vote: Majority

Diana Lipari, Chair of the Select Board moved that the Town vote to amend the FY '23 Operating Budget by appropriating an additional sum of Sixty-Eight Thousand Four Hundred Dollars and No Cents (\$68,400.00) in the following amounts for the following accounts:

Town Clerk – Personnel	\$1,500.00
Assessor – Personnel	\$4,900.00
Treasurer/Collector - Personnel	\$4,500.00
Legal – Expenses	\$50,000.00
Town Insurance	\$7,500.00

And to meet said appropriation by a transfer of said sum from certified free cash. Motion was seconded.

Summary:

Town Clerk: In preparing the FY '23 budget, the wages for two employees were calculated based upon an interpretation of the proposed changes to the bylaw which would establish how wages for persons who were promoted or reclassified were to be determined. In advising the employees of their new pay rate for FY '23, one took an exception to this interpretation believing it should be a different (higher) wage. While Town Counsel believed the interpretation used to set the budget was a fair and reasonable one, he also believed that an argument could be made by the employee. Given this advice, we deemed it in the best interest of employee morale to acquiesce to the request but to take steps to clarify the interpretation for the future (See Article 3). In recalculating the wage of the individual who believed we were not interpreting the wage correctly, we did take the same steps for the employee in the Town Clerk's office which we had also calculated in this same manner. For the first employee, there were sufficient funds in the budget due to a staffing vacancy. For the second employee in the Town Clerk's office there was no such vacancy and thus a lack of sufficient funds to cover the difference. This appropriation covers that difference.

Assessor: The FY '23 budget apportioned the time of the Department Assistant (DA) between assessing and accounting. That was based on a belief that we would have a full-time Accountant. However, that plan did not work when our several efforts to hire a full-time Accountant were not successful. We had to step back and reorganize the staffing for accounting which now needed more hours of administrative support. At the same time, we found a need to fill an administrative position at the Police Department. We were able to reduce that position from full-time to part-time and share it with accounting.

Over time, cost of this plan is actually lower and allows us to add some needed hours in assessing. However, it means we need to backfill the assessing budget for those hours we originally thought would be devoted to accounting. We now need to cover the full costs of the Assessing DA out of that

budget.

While we considered transferring some of the savings to be realized by reorganizing the position in the police department, we anticipate that their budget will need to be backfilled at some point in the spring due primarily to overtime coverage being incurred to cover officers out with injuries. Transferring money now merely makes the anticipated problem larger in the spring.

Treasurer/Collector: In preparing the FY '23 budget, it was believed that the position of Finance Director would not be needed with the anticipated recruitment of a full-time qualified accountant and a minimum of backlog of issues on the agenda for the incoming TA who could act as Finance Director. Neither of those assumptions have proven out and we now believe it is important to have a single designated person as Team Leader to coordinate the finance team.

Legal Expenses: Legal expenses are dramatically higher than anticipated due primarily to ongoing litigation that we had hoped would be resolved, numerous requests for public records, many of which need to be reviewed by Counsel, and the need to defend against numerous complaints that various Boards have violated the Open Meeting Law and ongoing collective bargaining.

Town Insurance: The injuries in the Police Department negatively impacted our experience rating on our Injured on Duty (IOD) insurance coverage and drove the FY '23 premium renewal far above what was anticipated. It is highly likely the same will occur with other coverages and a backfill of the liability insurance may be needed as we get closer to the spring as well.

A majority of the Select Board recommends all of the increases to the Operating Budget.

A majority of the Select Board recommends these changes to the operating budget in order to make up for unanticipated changes and costs associated with the town's operations.

A minority of the Select Board recommends all the increases with one exception:

A minority of the Select Board (1) recommends all of the various items except the \$4,500 for the Office of the Treasurer/Collector. The minority feels that it would be better to wait until all members of the finance team have had more time to work together before appointing a finance director which these funds would be used to compensate.

A majority of the Finance Committee recommends all of the increases to the Operating Budget.

A minority of the Finance Committee recommends all of the increases with two exceptions:

The Finance Committee recommends on several elements of the article as follows:

Town Clerk – Personnel (6 Yes – 0 No – 0 Recused/Absent)

Assessing – Personnel (5 Yes – 1 No – 0 Recused/Absent)

The minority does not recommend the \$4,900 increase for Assessors office. While there is no dispute for need for the additional hours for the Department Assistant in the Assessor's office, it is the funding source that is of concern (Free Cash); as the minority feels that for full transparency this item should be a budget line-item transfer rather

than additional funding.

Treasure/Collector (4 Yes – 2 No – 0 Recused/Absent)

The minority does not recommend \$4,500 for the Treasurer/Collector office. The minority feels that an appointment of Finance Director should be done as part of the Annual Budgeting cycle and by the Select Board and new Town Administrator

Legal – Expenses (6 Yes – 0 No – 0 Recused/Absent)

Town Insurance (6 Yes – 0 No – 0 Recused/Absent)

Moderator Reip explained: Please be aware that the Motion on Article 4 involves 5 separate budget items. To make it easier to explain, discuss, and to vote on the Motion, there will 5 separate discussions and votes with one discussion/vote per item listed in the Warrant.

Discussion on Article 4, Vote 1:

Select Board and Fin Com recommend unanimously.

No discussion.

Action on the motion on Article 4, Vote 1: motion carried by majority vote.

Discussion on Article 4, Vote 2:

Select Board recommends unanimously; Majority of the Fin Com recommends. Minority does not recommend (see above).

No discussion.

Action on the motion on Article 4, Vote 2: motion carried by majority vote.

Discussion on Article 4, Vote 3:

Select Board recommends 4 to 1 (see above); Majority of the Fin Com recommends. Minority does not recommend (see above).

Michaela Barrett of Whitcomb Rd. noted that the \$4,500 is a pro-rated portion of the \$6,000 stipend approved in 2020 for this position. She reported on the experience and qualifications of the previous Town Accountant. She questioned what qualifications the current Treasurer/Collector has in comparison.

Mr. Terenzini said that this position was originally not in the budget when we anticipated having full-time staff for all three positions. He reported that it has not been possible to secure a full time Accountant. When this was budgeted, there was not the need for this position. The current Treasurer/Collector does not have all the qualifications of the person you cited but has 8 years of municipal financial experience, but in the absence of a full-time municipal accountant, and the fact that there are many more items on the plate of this Treasurer/Collector, it is the feeling now that this is the

kind of status needed.

John Markiewicz of Patch Hill Rd. strongly recommends support of this article. It has been an extremely challenging finding people for the finance team. We don't want to lose someone because of \$4,500, it would be a shame. We will probably need to spend a lot more money than we will spend now to retain this person.

Action on the motion on Article 4, Vote 3: motion carried by majority vote.

Discussion on Article 4, Vote 4:

The Select Board recommends unanimously. Majority of the Fin Com does not support this.

Rick Barrett of Whitcomb Rd. stated that we should have enough \$ in the legal budget already. Counsel should not need to be contacted regarding public records requests and open meeting law violations, and our boards should be trained to avoid OML violations. He questions whether this is a proposed increase that has been proposed in order to hide hidden costs of hiring a private investigator.

Ms. Lipari said that we do have a lot of continuing expenses that emerge with legal. Originally there was a request to make the legal budget higher, with anticipated higher costs coming down the line. That request was turned down by the Fin Com. We've had new litigation come up included White vs. Boxborough as well as CBK, and it is impossible to fully anticipate what the town will face in terms of its legal responsibilities. We want to be able to defend ourselves against litigation. We can't refuse to respond to public records requests.

Sometimes things come to the SB attention; in some cases these things can be handled by in house personnel and in some cases we have to bring in third party entities. When things such as this are under review, the select board cannot provide information; the transparency that is being requested, we are not able to comment because it is not appropriate to comment on ongoing investigations.

Ms. Mahoney of Liberty Square Rd has a point of order. In the warrant, the Fin Com recommendation was 6 yes and 0 no. The one we were just provided said the Fin Com voted unanimously against this vote.

Fin Com responded: Chair Maria Neyland stated that the Fin Com revolted their recommendation this evening.

Ms. Neyland explained that the \$125k line item for legal was put forth by the ITA last March and Fin Com asked for back-up straight through until their final vote, so they cut the budget down to \$75k. It is tracking at about what we anticipated it would be tracking per month.

Jim Connolly of Flagg Hill Rd. stated that he understands that the SB can't comment on ongoing investigations, but because collective bargaining is almost complete, and he would like to understand the budgeting process. He asked where these numbers coming from within the limits of what the SB is able to tell us.

Mr. Terenzini corrected a few of the things. One of the problems with looking at cash expenditures is that some bills are yet to be received and some are in the process of being paid. As of September 30th, you have \$50,700 in legal bills have been paid. That is about 2/3 of the budget for legal bills. Some of that was for work you'll see later this evening; some was for litigation. With respect to Open Meeting Law, your boards are actually very good at following OML. OML and Public Records Requests have been weaponized in this community by certain individuals; there are multiple requests from the same individuals that follow on repeated requests. There is no provision in the statute for individuals such as

this; you have spent approximately \$11k in the first three months of this year on PRR and OML; you can't just hand things to people; they have privileged information in them, and unfortunately we need to have Town Counsel review many of these documents. You've had Cable negotiations and still have Comcast to work on. There are a variety of other matters. You've been served notice under chapter 21E, a legal claim that will easily cost \$15k in the next few months. It's not easy when presenting the original request to anticipate but you can base things on previous years (last year we spent about \$125k).

Susan Bak of Burroughs Rd. has questions for Fin Com. Back when she was on Fin Com and SB, our prior Town Accountant and Town Administrator provided a list of items. They would tell us how many hours were spent and the \$ amount on each item. Did you ask for a report like that, Fin Com?

Ms. Neyland stated that she has been asking for a report like that since Feb. Then Town Meeting happened, and the numbers that Carter just provided were never given to us. On Saturday once I asked again for tonight's meeting. Kelli Pontbriand, the Accountant said she doesn't get the detailed legal bills, any longer. She gets a fully redacted version, and the full one is kept in the Select Board office. We have received maybe one in the last several months.

Ms. Bak asked if SB can provide a legal bill amount for how much we pay attorneys who have been retained in response to employees who have had to hire attorneys in response to management actions?

Mr. Terenzini stated that his best guestimate is that it was slightly less than \$1,000 in the last fiscal year.

Ms. Neville of Middle Rd. asked five questions for the SB or Town Counsel. Regardless of who is being investigated or why, she stated that she has talked to several people who have been questioned by Paul L'Italien, a private investigator that KP Law hired on behalf of the Town. 1) how much KP Law has billed us for private investigator services? 2) has a cap been set on the amount the KP Law can spend on investigator services, 3) did we pay an agency fee to KP Law to facilitate this hiring, 4) are we paying travel through KP Law to Paul L'Italien for when he travels from his office in Pembroke to Boxborough, and 5) what else are we hiding in legal fees?

Ms. Lipari believes that those questions were answered by Mike Johns, the new TA.

Mr. Johns stated that he started to address Ms. Neville's questions. He answered two of them today that he was able to answer and also sent a list of bucketed legal bills from the beginning of the calendar year. For example from January 1st – August 31, 2022 the legal bills totaled \$111,348. There are numerous litigations and various legal services, public records requests, general legal services, etc. We've started providing some of this and in as much detail as we can at this point.

Ms. Neville said General Legal services is the biggest number and there is no accounting for the details. She urges everyone to vote no and not allow the SB to get more \$ to launder through legal.

Kristin Hilberg of Hill Rd. asked the Fin Com what happens if we vote this down tonight.

Ms. Neyland said we make a lot of assumptions, but don't know when we are going to be sued or when lawsuits are going to end. For anything unknown or emergency we can do a reserve fund transfer. These may be legitimate and we would ask for detailed bills, and we would do a reserve fund transfer. There is \$115k in the reserve fund.

Ms. Hilberg said that helps, because we still don't know what these bills are. I trust the Fin Com and the system that they will make the necessary transfer.

Ms. Lipari said the problem is that we know we will go over budget in the legal budget.

Ms. Hilberg said based on what you're saying you don't need \$50k.

Ms. Lipari said there is a delay on bills and we're only in November. The public records requests and all of the other things that come up. It was already projected by the TA initially that it was already over

budget. Keep in mind that legal bills are subject to certain exceptions in Public Records Law – these bills have to go back to legal for redaction and that requires even more \$.

Ms. Hilberg said that there's no getting around that we have significant transparency issues. The Fin Com is telling us that they don't know what they're spending the money on and you're saying trust us and we need to bring the town back together. I'm having trouble voting for this without knowing what I'm actually voting for.

Larry White of Sara's Way stated that he hasn't been to a Town Meeting in a long time. Maybe it should be \$1 million because of the way you've been treating people. How many Building Inspectors, Town Planners, etc. the Town has gone through in the last few years? It is a time of uncertainty and little or no consideration for personal or constitutional rights. There will be more lawsuits and more negativity. Should we keep funding these questionable practices or should we say stop? You can't keep acting like this; employees can't do their jobs if they risk being fired and micromanaged. One of the things we should do at this point is to reinstate Chief Ryder. We're paying him and what if he sues us? Would be more cost effective if we brought him back.

Moderator Reip said Mr. White is drifting off topic. His time is up.

Mark White of Sara's Way asked what is the money for? Fin Com asked what it's for and they didn't get an answer. Something has to change. He is concerned that the only way to talk to the SB and make them listen is in this room because in their meetings they don't have to listen to us. Or we cannot elect them the next election, and that's rather difficult to do. He is concerned that the SB is not listening. He doesn't want to give them any more money until he understands what it is being spent on.

Chad Childers of Middle Rd. moved the question.

Motion to move the question carried by two-thirds majority.

Action on the motion on Article 4, Vote 4: motion failed.

Discussion on Article 4, Vote 5:

Select Board and Fin Com recommend unanimously.

Action on the motion on Article 4, Vote 5: motion carried by majority vote.

Consent Agenda

Diana Lipari, Chair of the Select Board moved to approve Financial Consent agenda Articles 5, 6, and 7 as published in the warrant and unanimously recommended by SB and Fin Com. Motion was seconded.

Article 5 through 7 have been identified as financial Consent agenda articles and have “**” in the warrant. These are articles that involve some appropriations and transfers that were unanimously recommended by the BSB and FC and have been identified in advance as items that would likely pass without debate and are intended to be acted upon as a unit.

The moderator went through the articles one by one by name. If one or more voters object to including any particular article in the consent agenda and wish to debate it please say “hold” in a loud voice when I read the title of that article. That article will be removed from the consent agenda.

After the name of #5, #6, and #7 has been read Mr. Reip asked for a motion from BSB Chair Diana Lipari that all articles remaining in the consent agenda be passed as a unit by TM.

We will then go back and discuss the “hold” articles one by one in the usual fashion.

Article 7 was held.

Diana Lipari Select Board Chair moved to approve Articles 5 and 6 entitled respectively as follows,

Title	Page #
Funding for Assessing Services and Software (**)	12
Funding for Capital and Special Articles (**)	13

as published in the warrant and unanimously recommended by the Select Board and Finance Committee. Motion was seconded.

The Select Board recommends (5 Yes – 0 No – 0 Recused/Absent)

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

Point of Order: Ms. Neyland needed to add the taxation information. Fin Com recommends unanimously; at the time of the printing of the warrant the Fin Com didn't have the complete information. The taxation information for Capital Special Article of \$30,000 is \$0.23 per thousand dollars, or \$15.68 per median household; this is the MS4 permitting item.

Action on the motion on Articles 5 and 6: motion carried by majority vote.

ARTICLE 5: FUNDING FOR ASSESSING SERVICES AND SOFTWARE ()**

Submitted by: Town Assessor
Amount: \$30,000 (Free Cash)
Required Vote: Majority

Diana Lipari, Chair of the Select Board moved that the Town vote to appropriate the sum of Thirty Thousand Dollars and No Cents (\$30,000.00) to be spent by the Town Assessor for cyclical inspections, periodic personal and real property valuations, full valuations, interim statistical updates and the related software and upgrades and to meet said appropriation by a transfer of said sum from certified free cash.

Summary:

The Town voted to provide the Assessor with the sum of \$120,000 at Annual Town Meeting of 2021 (Art. 18) for similar purposes. However, after meeting with the various vendors and the Department of Revenue (DOR) the Assessor has discovered the Town is further behind in its cyclical inspection program than had been anticipated and they are unable to complete all of the required work as required by FY '24 without further funding. (Communities are required by the DOR to complete a full revaluation of all property every five years and complete an inspection of every property, including tax exempt property, every ten years). During the discussion of the FY '23 budget the FinCom considered a request to begin to include certain funding within the annual operating budget for annual work on the requirement, whether or not to continue to try to do the bulk of the work with one large appropriation or break the estimated amount needed every five years (\$150,000+/) into an annual sum. This amount will allow the Assessor to demonstrate to DOR that sufficient funds are in hand well enough in advance to ensure that the Town can complete all of the required work, and provide additional lead time to the staff to ensure they can, in fact, undertake and complete that work.

This set us on the path of appropriating a consistent amount of money in each future year to carry out the needed work. This approach minimizes periodic spike to the budget such as the \$125k appropriation at the 2021 Annual Town Meeting. It is anticipated that these future annual costs will be funded from taxation.

The Select Board recommends (5 Yes – 0 No – 0 Recused/Absent)

The Select Board recommends unanimously. The town is behind in the required cyclical inspections. This money will help to bring us current on a faster cycle and ensure the proper tax assessments.

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

This item is expected to be a recurring expense and will be added to the Capital Plan.

Action on the motion on Article 5: motion carried by majority vote as part of consent agenda.

ARTICLE 6: FUNDING FOR CAPITAL AND SPECIAL ARTICLES (**)

Submitted by: Town Administrator

Amount: \$57,500 (Transfers, Free Cash and Taxation)

Required Vote: Majority

Diana Lipari, Chair of the Select Board moved that the Town vote to appropriate the sum of Fifty-Seven Thousand Five Hundred Dollars and No Cents (\$57,500.00) for capital and special articles for the following purposes in the following amounts as generally specified below:

MS-4 Permitting Requirements	\$30,000.00
Police Department Storage Facility	\$15,000.00
Water Resources Committee	\$12,500.00

And to meet said appropriation by:

- A. A transfer from certain prior unexpended appropriations in the following amounts; (a) Thirty Two Dollars and Nine Cents (\$32.09) (ATM 2008 Art 20), (b) One Thousand Twenty One Dollars and Ninety Nine Cents (\$1,021.99) (ATM 2017 Art 21), (c) Six Thousand Five Hundred Five Dollars and Sixty Five Cents (\$6,505.65) (ATM 2018 Art 35), (d) Three Hundred Seven Dollars and Thirty Six Cents (\$307.36) (ATM 2020 Art 23), (e) Nine Hundred Ninety Four Dollars and Four Cents (\$994.04) (ATM 2020 Art 31), (f) Two Hundred Ninety Nine Dollars and Sixty Five Cents (\$299.65) (ATM 2015 Art 20), (g) Nine Thousand Thirty Six Dollars and Ninety Cents (\$9,036.90);
- B. A transfer of Nine Thousand Three Hundred Two Dollars and Thirty-Two Cents (\$9,302.32) from certified free cash; and
- C. The balance of Thirty Thousand Dollars and No Cents (\$30,000.00) from Taxation.

Summary:

The Town has annual maintenance, development of policies, and reporting requirements that it must undertake under the so-called MS-4 program (Municipal Separate Storm Sewer System) established by the federal government for all communities in an "Urbanized Area". Due to staff turnover, the annual request toward this work was not included in the warrant for the Annual Town Meeting.

At the Police Department, there is a need for a locker room for female officers. Although we have the funds to do this and we have identified a space in which to do it, we need exterior storage space to which we can move the items currently being stored in that location within the building. The current storage structures are deteriorated, incapable of any form of climate control and unsuitable to properly house the items we need to store.

In 2006 the Town developed several exploratory wells on the property of the Harvard Sportsmen Club (HSC) to determine if a well could be established that had sufficient quantity and quality of water to be one element of a public water supply for the area of the I-495 Interchange. The terms and conditions of the license we were granted to enter onto the HSC property required us to remove the test wells and restore the premises once we were done if they requested us to do so. The HSC has now requested that we do so. These monies will allow us to remove any remaining well casings, seal the wells in accord with DEP's rules and regulations, cover any related costs of removal, site restoration or clean-up, pay attendant legal costs and support continued efforts on the water quality issue at the I-495 interchange.

The Select Board recommends (5 Yes – 0 No – 0 Recused/Absent)

The Select Board recommends all three expenses unanimously for the reasons stated in the summary.

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

The Finance Committee unanimously recommends.

Action on the motion on Article 6: motion carried by majority vote as part of consent agenda.

ARTICLE 7: FUNDING (SUPPLEMENTAL) FOR LIBERTY FIELD ()**

Submitted by: Recreation Commission
Amount: \$175,000 (Free Cash)
Required Vote: Majority

Diana Lipari, Chair of the Select Board moved that the Town vote to appropriate the sum of One Hundred Seventy-Five Thousand Dollars and No Cents (\$175,000.00) for the additional expenses incurred in the redevelopments of Liberty Field and to meet said appropriation by a transfer of said sum from certified free cash. Motion was seconded.

Summary:

At the time of the initial vote for Liberty Field at the 2021 Annual Town Meeting, the supply chain issues and price increases due to the pandemic were unforeseen. The project was put out to bid in mid-May of 2022 and unfortunately, the lowest bid received was considerably over budget. The Recreation Commission voted to modify the bid package by doing a scaled-down renovation of the baseball field, using stone dust for the walking path, and holding off on the basketball court. The modified bid package was rebid in mid-August. Two of the bids received came in under budget, but with a very low construction contingency. These two low bids did not include the paved walking path, basketball court, and sub-drainage for the soccer fields. However, the bids listed estimates for completing each of these elements (paved path, sub-drainage and basketball court) per the original scope of the Liberty Field project.

The funds requested would allow the Liberty Field project to proceed with sub-drainage for the soccer fields, a paved walking path, and basketball court as initially planned, and a reasonable construction contingency. We would also note that this amount will be reduced by a gift of \$50,000 toward the pickleball courts once that element of the project is completed.

The Select Board recommends (5 Yes – 0 No – 0 Recused/Absent)

A majority of the Select Board recommends. The high bids reflect the increase in supply costs that have occurred over the past year and a half since the project was approved at Town Meeting. The soccer field drainage is a major requirement in order to fix a current issue and was part of the reason for the project in the first place. Because of restrictions on the bonding of the project and to ensure the validity of the current bids, this is necessary to do at this time and not wait until Annual Town Meeting.

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

Unfortunately, since ATM, the costs for construction have increased higher than the originally requested amount. Two sets of bids were received, the second set had items that we in Town really wanted and would not receive. By approving this article, we will have a fully functional set of fields. We also want to note to the Town that even with these added funds additional work will be required in the next 4 to 8 years on the baseball field. This work will be added to the capital plan. The RecCom has a written agreement from a private donor to reimburse the Town for \$50,000 once the pickleball courts are in place as of December 2023.

The Recreation Commission recommends (5 Yes – 0 No – 1 Recused/Absent)

The Recreation Commission unanimously supports this article as it will enable Liberty Field to be completed as planned, but with a modified rehabilitation of the baseball field. Approving this funding now will ensure that the town can proceed with the lowest bid (including bid alternates) that was received in September 2022. The Recreation Commission did seek alternate funding in 2022, including the Mass Trails Grant, MA state budget earmark and others; but unfortunately, none was granted. In the coming year, the Recreation Commission will continue to seek other ways of funding to defray the cost of the project.

Discussion on the motion on Article 7.

Jim Connolly of Flagg Hill Rd. wonders how much the original article was for and if we don't have enough money, can we wait until we do?

Hilary Greven of the Recreation Commission reminded us that the Town Meeting of June 2021 overwhelmingly supported this article. It includes rehab to the baseball field, walking path, rehab of the soccer fields, pickleball court and adult fitness areas. \$1.255 million was approved with \$300k CPA funds. The remainder was bonded. We already have the bond so we have a limited time to spend this money. We went out to bid the first time in May and all of the bids were overbudget and didn't include construction contingencies. We talked with our landscape architect and figured out what we could modify and go back out to bid. We went back out to bid and wouldn't do the baseball fields as originally planned as that was coming in double what we anticipated. We removed the basketball court because that could be added later. We put in a stone dust walking path in place of pavement. The underbudget bids didn't include the sub-drainage or basketball courts. Two bidders gave us estimates of what it would cost including a construction contingency. If we don't do it now, costs are only going to go up; we tried to get a good estimate back in 2021 but now supply chain issues and costs are very high.

Ms. Mahoney of Liberty Square Rd. stated that she would like to see the slide show.

Ms. Greven presented a slide show. Once the pickleball courts are created we will receive a generous gift of \$50k to reduce the cost to town to \$125k. We will be able to move forward as originally planned with a 10% construction contingency and get everything except the baseball field rehab. We already bought playground equipment at a discount via CommBuys. We applied for ARPA Funds, a Mass Trails grant, and an earmark. We can apply for these again.

Ms. Mahoney remembered that back when it was originally voted, the Fin Com recommended and the SB recommended with a phased time period. Has Fin Com changed their position since they first voted? Ms. Neyland said they have not, and they still support this article.

Ms. Mahoney asked if it is already bonded and what time period was it contracted on?

Mr. Terenzini stated that all articles of ATM 2021 were bonded earlier this year including road paving, fire engine, dump truck were bonded for low 3-3.5% for 10 years as far as he remembers. You have one year from the time of bonding to spend 25% of the money. All has to be spent over the course of two years. Today current bonding would be a one-year BAN only for approximately 4.25%. You would receive the full negative impact of every change from the federal reserve bank.

Ms. Mahoney wanted to know how much has been spent so far.

Ms. Greven stated that \$250k has been spent so far on infrastructure planning and equipment.

Eric Vroom of Liberty Square Rd. (vice president of ABYB baseball) stated that it is very important that we support this. This is an area that isn't available now especially for the baseball field; it could be a revenue source for the town. There are not a lot of these fields around, so having a 50/70 hybrid field available would be a great option for revenue, so he highly recommends that we vote to complete this project.

Johanna Choo of Burroughs Rd. wondered how critical the paving is and does Rec Com have plans to generate revenue from these fields from outside users?

Ms. Greven asked Moderator Reip to allow William Murray of Places, Associates.

Mr. Murray, the landscape architect for this project explained that these numbers are actual bids and there is no escalation in the bid. They are contractually obligated to give us the paved path because they are holding these bids for us. As Ms. Greven mentioned, we have two contractors bidding for this and we've asked both of them to hold their bids. The 10% included here is always required because we're digging in the earth and we know they didn't do pristine construction when they built the ball fields the first time around.

Ms. Choo asked about cheaper alternatives to paving.

Mr. Murray said we went out to bid with stone dust; included a bid alternate. The problem with stone dust is that it's maintenance-heavy. The asphalt is a far more durable material. The contractors prefer to do the asphalt because it's cleaner and faster for them. The Rec Com looked at other surfaces. Ultimately 3-4 of these were ruled out because they are not green or too expensive.

Megan Connor of Mayfair Dr., Chair of the Rec Com said yes there are a lot of neighboring towns that are looking to use the field and we plan to use these to generate revenue. She reminded everyone that the \$175,000 comes from free cash so doesn't affect taxes. This has been a long time coming for adults and youth because it's the only municipal land in town that can be utilized in this way.

Ms. Hilberg is in favor of this and happy to have a multi-generational facility. I wonder how much \$ is left in free cash?

Ms. Neyland responded that as of July 1 there was \$2,983,617 which is much higher than it usually is because of covid, much of what was budgeted was not spent and went back into free cash. If the articles pass tonight, the balance will be \$2,728,617, including \$175k taken out. The balance of \$2.7 million with an additional \$600k coming out as voted at ATM, we will have \$2.1 million left.

Ms. Hilberg said this is such an important project. We are far into the project and hard to come back later. The contingency is so important. Having a project sit idle is a problem. This is prudent all the way around.

Mary Nadwairski moved the question.

Motion to move the question passed by two-thirds majority.

Action on the motion on Article 7: motion carried by majority vote.

ARTICLE 8: FUNDING (SUPPLEMENTAL) FOR SARGENT ROAD ACQUISITION

Submitted by: Town Administrator

Amount: \$25,000 (Free Cash) \$10,000 (Free Cash)

Required Vote: Majority

Diana Lipari, Chair of the Select Board moved to approve the Article as published in the warrant provided, however, that the amount to be appropriated shall be reduced to Ten Thousand Dollars and No Cents (\$10,000.00). Motion was seconded.

Original Article:

To see if the Town will vote to appropriate the sum of Twenty-Five Thousand Dollars and No Cents (\$25,000) for the additional expenses incurred in the acquisition and related costs of meeting certain grant obligations and to meet said appropriation by a transfer of said sum from certified free cash.

Or take any other action related thereto.

Summary:

At the May 2022 Annual Town Meeting, the Town voted to acquire 95-105 Sargent Road. The acquisition was a result of a Right of First Refusal (ROFR) offered to the Town because the land had been in Chapter 61 Forestry. The total appropriation was \$1,275,000 (\$1,250,000 for the actual acquisition and \$25,000 for costs related to the acquisition). The \$25,000 for associated costs included, but was not limited to, a boundary survey, title insurance, baseline documentation report and land management plan, and associated legal fees. We had hoped to offset some of those costs by applying for a \$400,000 grant from the Commonwealth of Massachusetts under the Local Acquisitions for Natural Diversity (LAND) program.

The Town has since learned that the full \$400,000 LAND grant was awarded to the Town, resulting in several expenses that the Town needs to incur in order to get the full reimbursement. Due to the timing of the need to close on the purchase and await the final LAND grant paperwork, it was necessary to assign the ROFR to Sudbury Valley Trustees (SVT) in order to apply for the grant. One of the main drivers of the increased expense is the high-interest rates on treasury bills that weren't anticipated (interest will be paid to SVT as part of the Memorandum of Agreement between SVT and the Town in order to apply for the LAND grant). Surveys are currently expensive and legal fees associated with all of the transactions are costlier than anticipated. A trailhead sign is required that acknowledges the LAND grant and it was not originally included in associated budgeted costs.

The Boxborough Conservation Trust (BCT) has now raised \$17,000 above and beyond its original promise of \$200,000. With the LAND grant, BCT contributions, and Community Preservation Committee (CPC) funds, the cost remaining to the taxpayer of the total project is estimated at \$275,000 plus the \$25,000 requested in this article, for a total of \$300,000. Thanks to the successful LAND grant application, this amount is significantly lower than the amount for bonding that was presented at Annual Town Meeting, or \$675,000.

The Select Board recommends (5 Yes – 0 No – 0 Recused/Absent)

The Select Board recommends unanimously these expenses to get this worthwhile purchase completed and remains grateful to the BCT for its work in offsetting costs through fundraising and grant applications.

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

The FinCom supports the acceptance of the State LAND grant and the funds required prior to receiving the grant. Spending \$25,000 to save the Town the full amount to purchase the Sargent Road property is a good tradeoff for the Town.

Discussion on Article 8:

Ms. Mahoney asked for the reason for the reduction in costs.

Mr. Terenzini noted that the BCTrust raised an additional \$17k and received a grant of \$25k so they are covering most of the costs and the town owes a debt of gratitude to the BCTrust for raising additional funds far above what they originally committed to.

Action on the motion on Article 8: motion carried unanimously.

ARTICLE 9: FUNDING FOR THE ECONOMIC DEVELOPMENT COMMITTEE

Submitted by: Economic Development Committee (EDC)
Amount: \$10,000 (Free Cash)
Required Vote: Majority

John Neyland of the EDC moved to pass over Article 9. Motion was seconded.

To see if the Town will vote to appropriate the sum of Ten Thousand Dollars and No Cents (\$10,000.00) for Boxborough's contribution toward the funding of a Technical Assistance Panel to be provided by the Urban Land Institute of New England (ULI/NE) to develop an action plan for Boxborough Town Center

And to meet said appropriation by a transfer of said sum from certified free cash.

Summary:

This funding is a contribution by the Town to engage the Urban Land Institute of New England (ULI/NE) to provide a Technical Assistance Panel (TAP) focused on revitalizing our Town Center to be an expanded and economically viable commercial, social and cultural center. To accomplish this, there is much work to be done. "Town Center" needs to be re-imagined as an expanded village center incorporating the current Town Center district with adjacent commercial and municipal properties along Rt. 111 and on Middle and Stow Roads (See Map). The institute facilitates a panel of independent planners, engineers, real estate experts and other professionals who provide time and resources working with communities throughout New England to help revitalize their commercial centers. A completed TAP has a value of \$30,000-\$40,000, and ULI/NE requests a \$10,000 contribution from the community. At the conclusion of the TAP, the Town will receive an assessment and set of recommendations and actions for us to move forward with realizing a viable and expanded Town Center.

Establishing a vibrant Town Center has been a long-established goal for Boxborough. There are multiple strategies and actions in the Boxborough 2030 Master Plan calling for efforts to further our Town Center. This was reaffirmed in the survey conducted by UMASS, indicating that people in town desire a mixed-use, village style development for the Town. The Economic Development Committee believes this approach puts the Town on a path to realizing our vision for a Town Center, and is committed to working with all boards, committees, residents and businesses to bring this vision to life.

This funding request is in conjunction with an effort to secure grant funding from the Commonwealth of Massachusetts for Town Center Revitalization. An application was submitted in June for \$47,000 in funding to allow the town to hire a consultant to complete an assessment of our constraints and opportunities for an expanded town center. Grant decisions are expected in the Fall of 2022. Should Boxborough not be successful in securing the grant funding, this \$10,000 for ULI/NE will enable us to keep moving forward to realizing a viable and expanded Town Center, better positioning us for grant funding in 2023. Should we be successful in winning this grant funding, this \$10,000 will enable us to jump start the effort before starting the grant work, which will provide Boxborough the largest benefit.

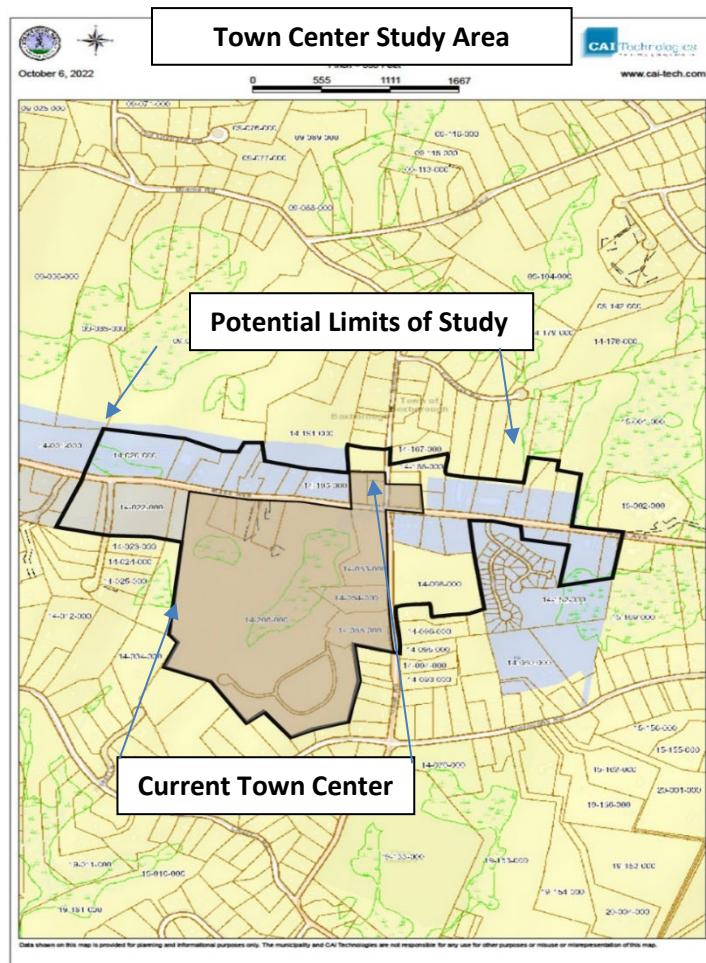
The Select Board recommends (4 Yes – 1 No – 0 Recused/Absent)

It is the opinion of the majority of the Select Board that the value of the input we receive far outweighs the small cost for this project. It will allow the Economic Development Committee and other boards and committees to use this data to plan for the future.

It is the opinion of the minority of the Select Board that the proposed funding for another study regarding the Village Town Center is unnecessary. The Boxborough 2030 Master Plan was quite clear about the priorities for such a Town Center. The University of Massachusetts study, which cost the Town approximately \$25,000, iterated those goals. While there may be some minor benefits for another look at the process of creating such a Town Center, the minority believes that it is now time to be doing the work with the help of our Town Planner, not doing another study of the work to be done. The proposed funds would be better spent in more productive and fruitful ways.

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

The EDC recommends (4 Yes – 0 No – 2 Recused/Absent)



Discussion on the motion to pass over Article 9:

Mr. Neyland explained that the Article was to explore possible changes to the Town Center district, Middle / Hill / Burroughs Rd area. At the same time we were successful in receiving a grant of \$48k from the state, so we'll drop the \$10k request for now. We may come back for future funding. The idea is to explore if we could come up with something that looks like a village or town center.

SB recommends passing over and Fin Com recommends passing over and appreciates the financial

prudence.

Larry White of Sara's Way wanted to discuss something about the article.

Moderator Reip made sure that his comment was about passing over vs. not. The comment was not relevant to passing over.

Action on the motion on Article 9: motion to pass over carried unanimously.

ARTICLE 10: AMENDING THE ZONING BYLAW RELATIVE TO RECODIFICATION

Submitted by: Planning Board

Amount: N/A

Required Vote: Two-Thirds

Mark Barbadoro, Chair of the Planning Board moved that the Town vote to Article 10 as written in the warrant. Motion was seconded.

To see if the Town will vote to amend the Zoning Bylaw Article I through Article IX by adopting the Recodification of the existing Zoning Bylaw as shown in a 100 page document entitled “Proposed Zoning Bylaw Recodification,” on file at the Town Clerk’s office, Town Planner’s office, and viewable on the Town of Boxborough’s Website if you [Click Here](#) (https://www.boxborough-ma.gov/DocumentCenter/View/2708/boxborough_zbl_9_28_22)

By taking the following actions:

1. Deleting in their entirety the following provisions and all their subparts of the existing Zoning Bylaw:

Article I Authority, Purpose, and Regulations

Article II Definitions

Article III Establishment of Districts

Article IV Use Regulations

Article V Dimensional Requirements

Article VI General Regulations

Article VII Special Regulations

Article VIII Site Plan Approval & Design Review

Article IX Administration

2. Substituting the following provisions and their subparts in the zoning article on file in the office of the Town Clerk and Town Planner:

Article 1 Authority and Purpose

Article 2 Administration

Article 3 Establishment of Districts

Article 4 Use Regulations

Article 5 Dimensional Requirements

Article 6 General Regulations

Article 7 Special Regulations

Article 8 Special Districts

Article 9 Definitions

Summary:

The purpose of the recodification is to make the Bylaw easier for users to navigate, simplify and update its language, and provide a better structure for predictability and flexibility in both the interests of current use and future adaptability by:

Reorganizing, repositioning, and renumbering portions of the Zoning Bylaw to enhance accessibility and adaptability;

Editing sentence structure, word choice, and paragraph formatting throughout, for clarity;
Providing consistency with present State law;

Consolidating all definitions under a single article and grouping some topic-specific definitions;

Reformatting Section 4003 “Use Regulation Schedule” to identify the special permit granting authority for each use;

Eliminating redundant or unnecessary provisions; correcting spelling and typographical errors, and eliminating or updating outdated statutory references, and

Removing administrative procedures (such as plan submission requirements) that would be better suited to the Planning Board’s Rules and Regulations document.

The Select Board defers to the Planning Board on matters of zoning.

Planning Board recommends (4 Yes – 0 No – 1 Recused/Absent)

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

Discussion on Article 10:

Mark Barbadoro noted that the Planning Board held public hearings on all zoning articles, and that they were duly advertised. Mr. Barbadoro presented on all articles related to zoning.

Mark Barbadoro asked a Point of Order of the Town Moderator about whether he had to do a Planning Board report.

Owen Neville asked a point of order to find out what Barbadoro’s point of order was.

Larry White of Sara’s Way asked to clarify the wording change written in the warrant. Where are the changes?

Cindy Markowitz of the Planning Board gave the presentation on recodification of the existing Zoning Bylaw. The document is approximately 100 pages, on file with the Town Clerk and on the website.

The last recodification occurred in 1991. It was time to recodify because of all the changes that had been made. We did a zoning audit in 2019. A zoning diagnostic of 13 pages came out of that including ways to provide ease of use and language clarity. We went to Town Meeting to get additional funding in 2021 to hire a consultant to help us implement some of the changes. We hired Barrett Planning Group for this and held hearings on Oct 3 and Oct 17 for public input.

Revised document is a work product that is the same bylaw with technical changes but no intent or policy related changes. There is a lot of rewording and reformatting but no change to intent.

Consistency with present state law, updated statutory references, consolidated definitions on one page. Improved the use table, special permit authority, etc. We’ve developed a working document with our consultant to make changes in the future. We suggest you bring typographical errors to the attention of the Town Planner in the future. Zoning bylaws are living documents that continue to change over the years.

Action on the motion on Article 10: motion carried by two-thirds majority vote.

ARTICLE 13: AMENDING THE ZONING BY-LAW TO ALIGN THE DEFINITION OF LOT COVERAGE WITH THE REQUIREMENTS IN THE DIMENSIONAL TABLE

Submitted by: Planning Board
Amount: N/A
Required Vote: Two-Thirds

Mark Barbadoro, Chair of the Planning Board moved that the Town vote to approve Article 13 as written in the Warrant. Motion was seconded.

To see if the Town will vote to amend the definition of “Lot Coverage” as found in Zoning Bylaw Article II entitled “Definitions” subsection 2158 or in Article 9 entitled “Definitions” subsection 9.2 of the recodified Zoning Bylaw to add the language in bold, as follows:

Lot coverage shall mean the percentage of the lot area that is occupied by buildings, **structures, and impervious surfaces.**

Summary:

The purpose of the additional language is to harmonize the definition of Lot Coverage with the requirements contained in table 5002 of the Zoning Bylaw. The definition of “Lot Coverage” in Section 2158 only includes the area covered by buildings; however, table 5002 “Maximum Lot Coverage” also includes *Structures and impervious surfaces*. This change will not alter the current requirements, but it will clarify them.

The Planning Board recommends (5 Yes – 0 No – 0 Recused/Absent)

The Finance Committee recommends (1 Yes – 4 No – 1 Recused/Absent)

A majority of the Finance Committee does NOT recommend this article. We are concerned that it will put too many constraints on a developer. Thoughtful redevelopment of our existing office parks and business district is important to help shift the tax burden from the residential taxpayers to commercial taxpayer.

One member of the FinCom felt that there are issues with water runoff due to impervious surfaces. We as a town need to protect the water aquifer refill.

Discussion on Article 13: Mark Barbadoro gave the Planning Board presentation.

The Dimensional Schedule contains “lot coverage” but no other references to it. Table includes structures and references to other surfaces. The definition of “lot coverage” needs to be spelled out in the special definition.

This was discovered after the recodification and he didn’t want to have it voted against because it was in there and have a lot of work done for nothing. People are suspicious and easily spooked; some people might think that they were trying to bury a substantive change in the recodification.

He is confident that this will not change how we do business in Boxborough.

Planning Board recommends unanimously. Fin Com majority does not recommend (see above); minority supports it (see above).

Larry White of Sara's Way is confused and suspicious. He believes it's still not clear what the bylaw says. He said it does seem like it would bring down developers' useable area.

John Fallon of Paddock Ln. urged people to vote for this and believes that it was good faith for the Planning Board to pull this out of the recodification.

Mark White of Sara's Way is speaking as a member of the Planning Board and believe it's very clear. There is no significant change; he voted for it along with the rest of the Planning Board.

Cindy Markowitz of Meadow Ln. doesn't understand the Fin Com's recommendation and asked them to explain it more fully.

Ms. Neville of the Fin Com asked why it wasn't included in recodification if it was a housekeeping thing.

Mr. Connolly of Flagg Hill Rd. asked if the table that lists impervious surfaces the part of the bylaw that covers what is allowed to be covered in percentage of lots allowed to be covered.

Mr. Barbadoro said the Table is not changing.

Mr. Connolly said then if you vote yes, everything becomes more consistent but the amount that you can build on doesn't change?

Mr. Barbadoro said that is correct.

Larry White said maybe you need to define what impervious means. A porch or a patio are sometimes defined as impervious? It makes more sense to identify what impervious really means. There were many reinterpretations of the rules.

Jeff Glidden of Sargent Rd. moved the question.

Motion to move the question carried by two-thirds majority.

Action on the motion on Article 13: motion carried by two-thirds majority vote.

ARTICLE 12: AMENDING THE ZONING BY-LAW RELATIVE TO ALIGNING IT WITH THE STORM WATER BY-LAW AND REGULATIONS

Submitted by: Planning Board
Amount: N/A
Required Vote: Two-Thirds

Mark Barbadoro, Chair of the Planning Board, moved that the Town vote to approve Article 12 as written in the Warrant. Motion was seconded.

To see if the Town will vote to strike footnote 1 as found in the Zoning Bylaw Subsection 5002 entitled “Dimensional Schedule, or in Section 5.1.2. entitled “Dimensional Requirements” of the recodified Zoning Bylaw as follows:

~~1 Unless drainage retention structures such as filtered catch basins, impoundments etc., are constructed which will ensure that the recharge rate will not be reduced by an amount more than the 30% coverage would produce.”~~

Summary

The purpose of this amendment is to create consistency with the Planning Board Stormwater Rules and Regulations, which are required by state and federal regulations to be more restrictive than the current restrictions in the Zoning Bylaw. Currently the Zoning Bylaw allows for up to 100% lot coverage by buildings, structures, and impervious surfaces in the Office Park and Industrial Commercial zoning districts, if certain engineered stormwater systems are in place. The amendment will place a limit on the developable area of a lot to protect our most environmentally sensitive areas in these districts, similar to the other commercial districts.

The Planning Board recommends (5 Yes – 0 No – 0 Recused/Absent)

The Finance Committee recommends (6 Yes – 0 No – 0 Recused/Absent)

Discussion on Article 12: Mark Barbadoro gave the Planning Board presentation. This is a zoning bylaw amendment to align the stormwater bylaw and the zoning bylaw.

Footnote 1 in the Dimensional Table applies to the Maximum Lot Coverage item in the Office Park and Industrial-Commercial Zoning Districts. Footnote 1 reads: “Unless drainage retention structures such as filtered catch-basins, impoundments, etc., are constructed which will ensure that the recharge rate will not be reduced by an amount more than the 30% coverage would produce.” This footnote allows for an alternative engineering design for stormwater management when lot coverage is proposed to exceed 30% in the IC and OP zoning districts.

There are two areas where the footnotes are in the table. Lot coverage is important when determining recharge levels for groundwater. An engineer wants to determine how much water is recharging into the ground and how much flows off on the surface. The less lot coverage there is, the more stormwater can permeate back into the ground through natural soil. This footnote could allow for 100% lot coverage as long as an engineered design predicted that recharge would be equal to that achieved with only 30%

lot coverage.

As written, 30% lot coverage is allowed without any stormwater management. This is at odds with current state and federal regulations which are more stringent than our zoning bylaw. MA Stormwater Standards: "At a minimum, the annual recharge from the post-development site shall approximate the annual recharge from pre-development conditions based on soil type."

Also at odds with Boxborough's General Bylaw on Stormwater, which has multiple goals including safeguarding public health, safety, environment, protecting aquatic resources and wildlife habitat, conserving water resources and groundwater supplies and fostering climate change resiliency.

Under our current zoning bylaw, the first 30% of development can ignore stormwater run-off. Because our current IC and OP zoning districts are located primarily in the Aquifer Protection District, there is more potential run-off in this area than in other districts and that is at odds with this area being most environmentally sensitive. It is also at odds with Strategy 3.4.1 of the Master Plan "Minimize development impact by protecting town's limited water supply and managing stormwater runoff."

There is no cost to the town to making this change and it aligns with state and federal stormwater regulations.

Finance Committee recommends unanimously. Planning Board recommends unanimously.

Sue Reuther of Reed Farm Rd. asked if it affects only businesses?

Mr. Barbadoro said it would affect businesses; only future businesses.

John Neyland of Picnic St. said it seems to not make sense to strike out the footnote and it doesn't apply to the vast majority of our town which is residential. It is an overbearing restriction. But if you limit development it does have a financial impact.

Mr. Barbadoro addressed the fact that our stormwater bylaw addresses 100% of the stormwater damage, and the zoning bylaw doesn't address that. Most importantly we made a mistake by putting our office park over the largest aquifer in town.

Michael Toups of Pine Hill Rd. is asking about certain types of areas allow for stormwater: in certain districts up to 50% coverage is allowed. He doesn't think the footnote gives you a free pass because you still need to meet the stormwater requirements. He is in favor, but it is confusing.

Mr. Barbadoro said the stormwater bylaw doesn't lead you to the general bylaw. Our water regulations are contradictory and less restrictive in one bylaw; this intent is to make them consistent. If you read the zoning bylaw, there is no way to know that we have a General Stormwater Bylaw (that is more restrictive).

Mr. Connolly tried to clarify that it only applies to new development, to be consistent with the stormwater bylaw, you would need to use engineering control to minimize the runoff? But it's not going to block development?

Mr. Barbadoro stated that it will block some development.

Mr. Connolly but if you create a stormwater system that would allow 100% of the drainage to infiltrate that would be theoretically allowed?

Mr. Barbadoro said yes. We will not go back and make an existing office park re-engineer their stormwater system.

Rita Grossman had a question about the ceiling height. (Question was in regards to the next Article; she had a hard time hearing in the back).

Ms. Markowitz of Meadow Ln. said its intent is to align the zoning bylaw with state standards and our current stormwater bylaw.

Ms. Mahoney asked if those in the IC and OP districts are the only properties affected? Also clarified what was already stated by Ms. Markowitz.

Mr. Barbadoro said yes, and there are residential developments in those districts.

Susan Bak of Burroughs Rd. moved the question.

Motion to move the question carried by over two-thirds majority.

Action on the motion on Article 12: motion carried by two-thirds majority vote.

ARTICLE 11: AMENDING THE ZONING BYLAW RELATIVE TO CALCULATING THE GROSS FLOOR AREA OF A BUILDING

Submitted by: Planning Board
Amount: N/A
Required Vote: Two-Thirds

Mark Barbadoro, Chair of the Planning Board, moved that the Town vote to approve Article 11 as written in the warrant. Motion was seconded.

To see if the Town will vote to amend the definition of the “Floor Area Ratio”, as found in the Zoning Bylaw Article II Section 2136 or in Section 9.2 of the recodified Zoning Bylaw, to add the language in bold as follows:

Floor Area Ratio shall mean the ratio of the total gross floor area of all buildings on a lot to the total area of the lot. **When calculating the total Gross Floor Area of buildings on a lot, any Gross Floor Area of buildings with a ceiling height greater than 12'0" other than residential buildings and their accessory structures, shall be added twice to the total.**

Summary:

The purpose of this amendment is to limit the amount of high cube flex space buildings on a property. This change will encourage mixed uses in multistory facilities instead of land-intensive warehouse facilities without any prohibition of the use. The change shall promote *mixed-use development* in accordance with Strategy 3.1.4 of the Recommendations and Implementation Plan of the Master Plan (*Boxborough 2030*). This also gives the Planning Board more flexibility to potentially provide Floor Area Ratio (FAR) density bonuses for potential future commercial and housing developments that incorporate active agricultural management or open space preservation in their overall development design as identified in Action 3.4.3.2 of the *Boxborough 2030* Master Plan.

The Planning Board recommends (4 Yes – 1 No – 0 Recused/Absent)

The Finance Committee recommends (0 Yes – 6 No – 0 Recused/Absent)

The Finance Committee unanimously does NOT recommend this article. Changing the Floor Area Ratio to 12' will significantly restrict the redevelopment of our office parks and reduce the amount of commercial property tax the Town will be able to collect. Boxborough has several Office Parks ready for redevelopment and being located at the junction of Routes 2 and 495 makes them very desirable. This change in the FAR will make it more difficult for many projects to go forward. Most office buildings and restaurants being built today have a ceiling height of greater than 12'. The Finance Committee would like to see these properties thoughtfully redeveloped so that the tax burden can be shifted from the residents to commercial taxpayers.

The Economic Development Committee Recommends (0 Yes – 4 No – 2 Recused/Absent)

The EDC believes the current bylaws, as written, is already restrictive, and any further change to make it more restrictive will further inhibit commercial development within the districts the Town has zoned for such development.

Discussion on Article 11: Mark Barbadoro gave a presentation. It will limit the amount of gross development on land while still allowing new development. 90% of the proposed development is located in the OP district, which is environmentally sensitive. 25% or more of our population lives in or in proximity to this district.

New developments have been proposed that are 30-40 feet tall with one story on the hotel land. There are some proposed developments that will cover 2 million sq ft. This area is environmentally sensitive, but R&D and light manufacturing are allowed in those districts. They are a pre-existing non-conforming lot. They can get a permit with the ZBA and convert their floor area into high bay flex space. Gutierrez behind the hotel (all on Adams PI) are proposing 120,000 sq ft. development. They have the same situation with a lot of undeveloped land. 100% of the hotel land is in aquifer protection district, with a portion of the Gutierrez within this district. In case you are not aware, this is a river that flows underground. Someday if we ever have our own municipal water supply, it will likely be from some portion of this aquifer protection district.

It's an environmental justice community, downstream from the development is the Public Water supply for condos (approx. 25% of our population), DEP Important Habitat, Natural Heritage and Endangered Species Program (NHESP) Priority Habitat, includes 100s of acres of open space and abuts permanently protected open space.

The AP and OP were established in 1984. New regs to protect aquifer protection district were established. Lot coverage regulations were put in place. In 1989 the Floor-Area Ratio (FAR) regulations were put into place. FAR was restricted to 0.1, restricting gross floor area to 10% on the lot. These have protected our water supply and natural resources. Over the years, R&D requirements have changed. The current shift is away from Information Technology (IT) and towards life science and warehouses. They need larger open floor areas. There is more call for High Bay Flex Space.

There is potential for pathogens, hazardous waste, increased traffic and other development downsides. These uses are not consistent with the Aspirations and Goals of the 2030 Master Plan. (e.g., "Improve the quality of life for residents," "Economic development should not be pursued simply to increase the commercial tax base," "long-term water resource management and protection," and "recreational facilities, and open space for all ages," "prioritizing enhanced quality of life over expanding the commercial tax base," and "appropriately scaled and mixed-use developments").

Solution: set reasonable limits on some types of development. Diversify Commercial space use types.

This bylaw will double the Gross Floor Area for buildings that have a ceiling height greater than 12 ft. Total Gross Floor Area is the total floor area contained in the building on every floor. Total Gross Floor Area/Sq Footage of the Lot = FAR. It is an intensity regulation. All floors on any story are counted. Example: 10,000 sq ft building on/100,000 sq ft = 0.1 FAR. If another story is added it is a 0.2 FAR but the footprint remains the same. Allowable FAR in our bylaw in OP district is 0.1.

FAR of different buildings with more stories can have equal FARs but smaller lot coverage.

If you're talking about conservation of land, you can do a lot with stacking of stories. High Bay Flex space buildings are as large as office buildings but have $\frac{1}{2}$ or $\frac{1}{3}$ the Gross Floor Area. We are talking about many 100,000s of thousands of sq ft of factory/warehouse space. You end up covering a great deal of area and use up a lot of open space this way. Illustrations in ppt of existing buildings on Beaver Brook Campus for example. You could build many more 40 foot tall buildings on an equivalent lot.

Costs of this zoning amendment: could result in a reduction of about 500,000 sq ft of currently proposed development. The town could see future tax abatements if the market for High Bay Flex Space diminished and we're left with stranded assets. The Boston Globe had an article from today "Boston's

lab boom is hitting the brakes."

If we are left with a lot of empty life science buildings, we have lost revenue and lost open space. The trend is downward.

Commercial, Industrial and Personal (CIP) property tax revenue: we have the largest contribution of CIP compared to towns of surrounding size. We are in the top 25%; those that are higher than us have split tax rates. Of flat tax communities we are number 1. In the entire county for flat tax rates we have the highest CIP last fiscal year. This year it dropped a bit, mainly because our residential tax rate went up so those are being taxed at a higher value.

He urged a yes vote to preserve open space and for the reasons given.

Planning Board recommended 4 to 1.

Fin Com unanimously does not recommend (see above).

Mr. Neyland stated that the EDC believes that the zoning bylaw is restrictive enough as written.

Select Board defers to the Planning Board for matters of planning.

Owen Neville of Middle Rd. was at the 1984 Town Meeting. He feels that we have taken great pains to protect our water supply. He showed an illustration of building size vs. lot size and how much it would shrink. We have a 0.1 ratio currently; Mr. Barbadoro showed a 1:1 ratio. Our Planning Board is meticulous. He is concerned that this is too restrictive so urged a no vote.

Mr. Barbadoro had a point of fact to clarify that a one-story building would cover the same amount of the lot unless it has a ceiling height of over 12 ft or if the building is already in existence.

Ms. Choo is concerned that this district is right next to route 495. The development would involve clearcutting and you would lose the buffer for noise. The cheapest way to development is to cut down trees, sell the timber, and building one-story buildings; she argues that we should not be chasing after developers that could go bankrupt and be left with no tax revenue. She moved to Boxborough for the open space and tree protection. We should think far ahead and encourage long-term thinking and encourage everyone to vote yes.

Rita Grossman of Depot Rd. applauds that Planning Board for tackling this as well as appreciating the EDC and Fin Com trying to bring in tax revenue. We have a challenge here. She likes to think of it as, liking her flush toilet and indoor plumbing but wouldn't install it on her dining room table. Our aquifer is the dining room table and even though we would like to see development for economic reasons, we need to come up with a solution. Could there be a compromise with how high the ceilings can be within the intent of what you're trying to accomplish? Her husband, an architect, said that many developments don't have dropped ceilings, and the mechanicals would be exposed; would 15 feet or a different number be possible?

Mr. Barbadoro said yes, we could do a higher number for ceiling. Usually the dropped ceiling is 12 ft and there's room for mechanicals. Cathedral spaces are nice in restaurants but we're never going to get a 100,000 sq ft restaurant in Boxborough. We're talking about 5-10,000 sq ft of cathedral ceiling: that would be allowed. There is flexibility to allow for some of that; the whole restaurant wouldn't have to have a cathedral ceiling, for example. He is concerned that if we're not careful, we will lose the one restaurant that we do have.

Mr. Toups thinks it's a great idea but is afraid there are a lot of problems that will show up. There are commercial offices with high ceilings and low cubes; he doesn't like the 12 ft number. If no dropped ceiling, then you're up to 16 ft. For example, if a three-story atrium is built, does that mean there needs

to be 12-ft ceilings on all of the floors?

Mr. Barbadoro said the floor area of an atrium (usually on 3-4 floor buildings) will be counted twice. KP Law's Jonathan Eichmann reviewed it and the calculation makes sense.

Mr. Toups is still concerned that 12 ft is very restrictive and low.

Larry White asked if this pertains to any zone? If the intention is for office parks only, there should be wording added regarding that.

Mr. Barbadoro said it only applies to the OP and IC districts for a minimum standard of Gross Floor Area in those districts. The other districts have unlimited.

Mr. White said that is not true because in A1 there is a limit.

Mr. Barbadoro asked to look that up.

Mr. White said it was disingenuous to bring up water and asked how you can bring up public water supply for these buildings because that wouldn't happen. The Planning Board is commended for trying to clean up some stuff, but is trying to have more power and he doesn't think it's appropriate. You can't build out these areas because of wetlands, etc. Making two stories is better for open space, and it is cheaper to build two stories, to counter the earlier speaker's point.

Ms. Lipari of Littlefield Rd. said she remembers a Planning Board meeting about 1414 Mass Ave. and possible warehouses. The developers talked about a flex space and how wonderful it is and outfit it for future second and third stories. What the Planning Board is trying to prevent a building from going too high with extra stories – all impacts to water supply, septic etc. would be the results of a building that can turn into something else other than what it was regulated to be. That is why when you have a building above a certain area you want to represent what it could become. She recommends that we vote yes on this.

Mark White of Sara's Way was the dissenting vote on the Planning Board due to the 12 ft ceiling height. They had the big fear of an Amazon warehouse coming in with traffic and water impacts. But a warehouse is not allowed in the office park district. I had proposed an 18 ft height; 12 ft is really low. The intention of this change is to encourage multiuse space, but it doesn't really do that. The last big development, Vibalogics is a building that's worth \$56 million; an Amazon warehouse would have been worth a fraction of that. The traffic is low and impact is low because of waste management. It's problematic to get through – they have to apply for permits and site plan review. We have a dump on that aquifer, we can't use that as a public water supply anyway. The hotel can't be forced to stay. There a lot of things that can't go in without permission from the Planning Board.

Ms. Mahoney agreed with Mark White – 12 feet is arbitrary. The new school in Acton, the building she works in has multiple ceiling heights. Can we bring manufacturing back to the US; R&D spaces are far more than 12 ft high. The Planning Board needs to rethink that restriction. 1984 was 40 years ago; office parks are a thing of the past.

Mr. Connolly supports the article. Developers will always overbuild. They will try to get they can get. We will be spending more money on legal fees because developers will try to use the buildings for what they want to use it for. The question about this bylaw is: is it protective enough. You could always give a variance if needed. Once the trees are cut and the endangered species are eliminated, they are not coming back. I would urge you to consider if the possibility of short-term tax revenue is enough to justify risking the aquifer, the noise protection, and the environment.

Stephanie Stoumbelis of Emanuel Dr. supports this article and appreciates that it is an important piece in taking the long view and a small part of addressing a global crisis. So anything that can be done to

protect land is important. It's also important that it is in a part of town with the highest population density.

Larry White of Sara's Way moved to amend Article 11 to pertain to Office Parks only. Gary Kushner seconded. He wants to make sure it cannot be used in other areas.

Mr. Barbadoro made a point of order that there are two districts on the use table that currently have a FAR of 0.1 so it applies to those two districts only, Office Parks (OP) and Industrial Commercial (IC).

Joe Fair of KP Law opined that the Zoning Bylaw as already written only applies to the OP and IC districts.

Vote on the motion on the amendment fails.

Kristin Hilberg of the Economic Development Committee reported that the EDC had a lot of discussion about unintended consequences. She appreciated Mr. Barbadoro's bringing up the Master Plan; the concern is that it's a reaction to what's happening at Adams Place. Maybe there should be an amendment on the ceiling height. Part of what they're trying to understand is what types of buildings can use high bay flex space with a 12 ft ceiling height?

Mr. Barbadoro clarified that high bay flex space is not defined in the bylaw. The high bay flex space buildings are really more like 40 ft tall. You would probably be completely rebuilding the building into a multistory building or knocking it down. He doesn't feel that 12 ft is a hard limit, and is perhaps a bit arbitrary because these things evolve.

Ms. Hilberg said she is factoring in the fact that we already have limitations in place in zoning and we've done a good job protecting open space and water resources. Was the Water Resources Committee approached for an opinion on this article?

Mr. Barbadoro showed a map of the proposed 1414 Mass Ave. building that was an extra slide in his presentation. He said that you can be sure that if developers propose a certain building then that is what they are intending to build. This image is with the FAR of 0.1 – it is covering a lot of the lot.

Ms. Hilberg sees other limitations that will protect our open space. She thinks this is not the right time and that it's not well-thought out. She is all about protecting open space and water, but thinks this isn't in the best interest of the town.

Francie Nolde of Sargent Rd. is feeling like we're weighing commercial development tax base vs. conservation. There are about 40 acres and you walk up a hill with a very intense forest that gives you noise pollution abatement, carbon sequestration, and loss of trees. That hill will be dug out so it can be flat. All that natural wildlife habitat destroyed and all impervious surface. There are vernal pools there, circled with buildings. Try to imagine what that will look like, and the fact that it is an environmental justice area.

Mary Nadwairski of Stonehedge Pl. moved the question. Seconded.

Motion to move the question passed by two-thirds majority.

Moderator called for a vote on the motion on Article 11 by show of hands, which carried by majority but because a two-thirds majority vote was required, Moderator then called for a standing vote.

Action on the motion on Article 11: motion carried by two-thirds majority vote (84 yes, 35 no = 70.6%).

Diana Lipari moved to dissolve the meeting. Motion to dissolve the meeting passed unanimously. Adjourned at 10:39pm.

