

Town of Southborough
ANNUAL TOWN MEETING
April 9, 2012

Shirley Lundberg, Regional School Committee Member
Joseph C. Mauro, Jr., Fire Chief
Thomas Mead, Principal, Algonquin Regional High School
Jane T. Moran, Police Chief
Mary Jo Nawrocki, Assabet Valley High School Superintendent
Brad Petrishen, Reporter, MetroWest Daily News
Paul Pisinski, Board of Health Agent
Philip S. Rinehart, Facilities Manager
Laurie Sugarman-Whittier, Youth and Family Services Director

MOTION MADE: To waive the reading of the Warrant.

MOTION PASSED UNANIMOUSLY.

ARTICLE 1: To hear reports of the various Town Officers and Committees and to take such action thereon as the Town may vote.

Proposed by: BOARD OF SELECTMEN

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: Support

Summary: *To hear reports of Town Boards, Committees or Commissions.*

MOTION MADE: That the Town hear reports of the various Town Officers and Committees and to take such action thereon as the Town may vote.

MOTION PASSED UNANIMOUSLY.

The following Town Officers and/or Committee members gave a report:

- **Dr. Louis Fazen, III – Presentation of the Dr. Timothy Stone Public Health Award – Carol A. Willoughby recipient**
- **Rhonda L. Russian - Conservation Commission– Tribute to Richard Upjohn**
- **William J. Boland - Board of Selectmen**
- **Claire Carberry Reynolds - Advisory Committee**
- **Dana E. Cunningham and Donald C. Morris – Zoning Advisory Committee**
- **Joseph C. Laning – Drafting Committee for Town Manager Legislation**
- **Leo F. Bartolini, Jr. – Drafting Committee for Town Manager Legislation**
- **Andrew S. Mills – Community Preservation Committee**

ARTICLE 2: To see if the Town will vote to accept any sum of money from St. Mark's School, Fay School, Harvard Medical School, New England Regional Primate Research Center, L'Abri Fellowship, The New England Center for Children, and any other contributor and deposit same amount in Estimated Receipts Account, and determine what disposition shall be made of the same, if accepted, or do or act anything in relation thereto.

Proposed by: BOARD OF SELECTMEN

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: Support

Summary: *To allow the Board of Selectmen to accept donations from Tax Exempt organizations and determine the disposition of funds.*

MOTION MADE: That the Town vote to accept any sum of money from St. Mark's School, Fay School, Harvard Medical School, New England Regional Primate Research Center, L'Abri Fellowship, The New England Center for Children, and any other contributor and deposit same amount in Estimated Receipts Account, and determine what disposition shall be made of the same, if accepted.

MOTION PASSED UNANIMOUSLY.

ARTICLE 3: To see if the Town will vote to authorize the Town Treasurer, with the approval of the Selectmen, to borrow from time to time in anticipation of revenue of the financial year beginning July 1, 2012 in accordance with the provisions of Massachusetts General Laws, Chapter 44, and to issue a note or notes as may be given for a period of less than one year in accordance with Massachusetts General Laws, Chapter 44, Section 17 as amended, or do or act anything in relation thereto.

Proposed by: BOARD OF SELECTMEN

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: Support

Summary: *This article allows the Town Treasurer to short term borrow in anticipation of revenue.*

MOTION MADE: That the Town vote to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow from time to time in anticipation of revenue of the financial year beginning July 1, 2012 in accordance with the provisions of Massachusetts General Laws, Chapter 44, and to issue a note or notes as may be given for a period of less than one year in accordance with Massachusetts General Laws, Chapter 44, Section 17 as amended.

MOTION PASSED UNANIMOUSLY.

ARTICLE 4: To see if the town will vote to accept and approve the following text of a Special Act and further to see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts for the passage and enactment of the Special Act as accepted and approved as follows:

An Act Establishing a Five-Member Board of Selectmen/Town Manager Form of Government for the Town of Southborough

Section 1: Board of Selectmen, Composition and Term

- (a) There shall be a Board of Selectmen consisting of five (5) members, elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

Section 2: Board of Selectmen, Powers and Duties

- (a) The executive powers of the Town shall be vested in the Board of Selectmen, which shall serve as the Chief Executive Authority of the Town, as recognized under the General Acts of the Commonwealth.
- (b) Except as provided by this Act, the Board of Selectmen shall have the powers and duties given to boards of selectmen under the Massachusetts Constitution and General Laws, and shall have such additional powers and duties as may be authorized by this Act, by Town bylaws, or by vote of Town Meeting. The Board of Selectmen shall be authorized to enter into intergovernmental and other agreements on such terms it deems beneficial to the Town of Southborough, subject to the General Laws, this Act, special legislation, and the Town bylaws, or by vote of Town Meeting.
- (c) The Board of Selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all Town departments serving under it and, in conjunction with other elected Town officials and multiple member bodies, to develop and promulgate policy guidelines designed to bring the operation of all Town agencies into harmony; provided, however, nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of such members, to become involved in the day-to-day administration of any Town agency. It is the intention of this provision that the Board of Selectmen shall act only through the adoption of broad policy guidelines and long-term plans or programs, which are to be implemented by officials and employees serving under it.
- (d) The Board of Selectmen shall communicate periodically with all Town agencies, departments, committees, and boards, including meeting with representatives of volunteer committees and boards, and shall consider the concerns and plans of all such agencies, departments, committees, and boards when formulating policy, plans, or services.
- (e) The Board of Selectmen, as Chief Executive Officers of the Town, shall cause the Special Act, Bylaws, Orders, and Rules and Regulations of the Town to be complied with, and otherwise enforced, and shall cause a record of all its official acts to be kept.
- (f) The Board of Selectmen shall appoint the Town Manager as provided by Section 3 of this Act, and by the affirmative vote of a majority of its full membership, the Board shall appoint the Board of Assessors, Town Counsel, Affordable Housing Trust Committee, Conservation Commission, Zoning Board of Appeals, Constables, Registrar of Voters, Commissioners of Trust Funds, and Special Legal Counsel.
- (g) The Board of Selectmen may appoint such offices, boards, committees, and commissions, by a majority vote of the Board, as may be provided by the General Laws, intergovernmental agreements, or by vote at Town Meeting. In the event of a vacancy in any of said offices, boards, committees, and commissions, the Board of Selectmen shall act to fill said vacancy within ninety (90) days from notice by the affected board to the Board of Selectmen of any vacancy. The Board of Selectmen may appoint ad hoc committees, whose charge is specific and existence temporary, where not provided by General Laws, intergovernmental agreements, or by vote at Town Meeting.
- (h) In the event of a vacancy in any elected office, board, committee, or commission, except the Board of Selectmen, the Board shall fill said vacancy pursuant to Section 11 of Chapter 41 of the General Laws. In the event of a vacancy on the Board of Selectmen, said vacancy shall be filled pursuant to Section 10 of Chapter 41 of the General Laws.
- (i) Except as otherwise provided by General Laws, the Board of Selectmen shall be the licensing board of the Town and shall have the power to issue, amend, and revoke licenses, in accordance with the General Laws, to make all necessary rules and regulations regarding the issuance of such licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest. The Town Manager shall see to the enforcement of the laws relating to all businesses for which the Board of Selectmen issues licenses.
- (j) The Board of Selectmen shall be responsible for ensuring that timely financial audits are conducted as required by law. The audits shall be performed by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the Town government or any of its officials.
- (k) The Board of Selectmen shall have all other duties consistent with the Office of the Board of Selectmen, as may be provided by the General Laws, Special Acts of the General Court, or by Vote of the Town Meeting.

Section 3: Town Manager Appointment, Term of Service, Qualifications, and Restrictions

- (a) The Board of Selectmen shall appoint a Town Manager by the affirmative vote of a majority of its full membership for a term not to exceed three (3) years, by a majority vote of the Board. To the extent permitted by law, the terms of the Town Manager's employment may be the subject of a written public agreement between the parties, pursuant to M.G.L.

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c.41 §108N, as amended, or any successor Statute thereto. The Town Manager may be appointed for successive terms of office.

- (b) The Town Manager shall be a person of demonstrated ability, with experience in public management or business administration, and who is qualified by reason of education, training, skills, and previous experience. The Board of Selectmen may, from time to time, establish additional qualifications for the position of Town Manager.
- (c) Whenever there is a vacancy in the office of Town Manager, a screening committee shall be established for the purpose of soliciting, receiving, and evaluating applications for the position. The screening committee shall consist of five Town residents chosen by the Board of Selectmen. Members of the Board of Selectmen shall not be eligible to be on the screening committee. The Board of Selectmen shall provide the screening committee with a charge and a written statement of qualifications and duties of the position that have been approved by majority vote of the Board. The screening committee shall present candidates to the Board of Selectmen. The Board of Selectmen shall, within 45 days following the date of receipt of the list of nominees, choose one candidate from the list to fill the position of Town Manager or reject such nominees and direct that the Committee resume the search.
- (d) The Town Manager shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during his or her term, without the express written approval of the Board of Selectmen. The Board of Selectmen may appoint the Town Manager to any appointed office or position consistent with the responsibilities of the position. The Town Manager shall not have served on the Board of Selectmen of the Town of Southborough for at least twenty-four (24) months prior to his or her appointment.

Section 4: Town Manager Powers and Duties

(a) General:

(1) The Town Manager shall be the chief administrative officer of the Town and shall be responsible to the Board of Selectmen for the effective management of all Town affairs placed in the Town Manager's charge by this Act, the Board of Selectmen, or vote of Town Meeting. The Town Manager shall be responsible for the implementation of Town policies established by the Board of Selectmen. The functions and duties of the Town Manager shall include, but not be limited to, the functions and duties described in this Section.

(b) Appointment Authority and Personnel Responsibility:

(1) Except as provided by this Act, the Town Manager shall appoint and may remove all department heads, and shall approve the appointment and removal of all other employees. The Town Manager's appointments to such department head positions shall become effective on the thirtieth (30) day following the day that the notice of appointment or removal is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that 30-day period, by a majority vote of the current elected members, vote to reject said appointment or removal, or sooner, by a majority vote of the current elected members, vote to affirm said appointment or removal. Department heads shall, subject to the consent and approval of the Town Manager, appoint or remove assistant department heads, officers, subordinates, and employees, and officials for whom no other method of selection is provided in this Act. The Town Manager may transfer personnel between departments under his or her jurisdiction as needed.

(2) The terms of section 4(b)(1) shall not apply to the following positions, which shall be appointed as provided:

- a. Department heads of elected Town boards and committees, as listed in Section 9(a), with the exception of the Board of Selectmen. Elected boards and committees shall appoint and may remove department heads for their respective departments and shall approve the appointment and removal of all other employees of their department. The elected board or committee shall consult with the Town Manager prior to department head appointment or removal and shall provide written notice of intent to appoint or remove to the Town Manager. The elected board's appointments to such department head positions shall become effective on the thirtieth (30) day following the day that the notice of appointment or removal is filed with the Town Manager, unless the Town Manager shall, within that 30-day period reject in writing said appointment or removal for noncompliance with personnel policies, practices, or procedures. Department heads shall, subject to the consent and approval of the elected board, appoint or remove assistant department heads, officers, subordinates, and employees; provided, however, that the department head shall consult with the Town Manager prior to making such appointments or removals. Elected Boards and Committees shall ensure that their management of employees is consistent with personnel policies, employment contracts, and practices in use in all Town departments.
- b. Police Chief. Notwithstanding the provisions of Chapter 41, Section 97A of the General Laws, the Town Manager shall appoint, subject to approval by the Board of Selectmen, a police chief who shall have the authority to appoint police officers and other department personnel, subject to approval by the Town Manager. The chief shall be appointed for a term not to exceed three (3) years, but may be appointed for successive terms of office. The Town Manager may recommend removal of the chief to the Board of Selectmen, who must act within thirty (30) days to accept or reject the Town Manager's recommendation for removal. The police chief shall from time to time make suitable regulations governing the police department, and the officers thereof, subject to the approval of the Town Manager; provided, that such regulations shall become effective without such approval upon the failure of the Town Manager to take action thereon within thirty (30) days after they have been submitted to him or her by the police chief. The police chief shall be in immediate control of all Town property used by the department, and of the police officers, whom he or she shall assign to their respective duties and who shall obey his or her orders.

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- c. Fire Chief. Notwithstanding the provisions of Chapter 48, Section 42 of the General Laws, the Town Manager shall appoint, subject to approval by the Board of Selectmen, a fire chief who shall have the authority to appoint firefighters and other department personnel, subject to approval by the Town Manager. The chief shall be appointed for a term not to exceed three (3) years, but may be appointed for successive terms of office. The Town Manager may recommend removal of the chief to the Board of Selectmen, who must act within thirty (30) days to accept or reject the Town Manager's recommendation for removal. The fire chief shall have charge of extinguishing fires in the Town and the protection of life and property in case of fire, and any emergency medical services provided or supervised by the Department. He or she shall purchase, subject to the approval of the Town Manager, and keep in repair all property and apparatus used for and by the fire department. He or she shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in Towns except as herein provided, and shall appoint a deputy chief and such officers and firemen as he or she may think necessary, and may remove the same at any time for cause and after a hearing. He or she shall have full and absolute authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the Town Manager from time to time as he or she may require, and shall annually report to the Town the condition of the department with his or her recommendations thereon; he or she shall fix the compensation of the permanent and call members of the fire department subject to the approval of the Town Manager. In the expenditure of money the chief shall be subject to such further limitations as the Town may from time to time prescribe.
 - d. Superintendent of Public Works. The Town Manager shall appoint a Superintendent of Public Works and may provide an employment contract, for a period of up to three years, to provide for the salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, relocation expenses, reimbursement of expenses incurred in the performance of duties or office, liability and disability insurance, and leave, for the Superintendent of Public Works. Such an employment contract shall prevail over and preempt any provision of any local personnel bylaw, Code section, rule or regulation covering the subject matter of the employment contract. Nothing contained in this section shall affect the appointment or removal powers of the Town Manager over the above-referenced department head, nor shall it grant tenure to such department head.
- (3) The Town Manager shall appoint, subject to approval by the Board of Selectmen, the Council on Aging, Historical Commission, and Recreation Commission, and other such offices, boards, committees, and commissions as may be provided by vote of the Town or for which no other method of appointment is provided by this Act.
- (4) With the assistance and guidance of the Personnel Board, as long as it shall exist in the Town, the Town Manager shall develop and administer a personnel system, including, but not limited to, determination of rates of pay, the development and implementation of an ongoing training program, evaluation processes, personnel and hiring policies, practices, and regulations for Town employees.
- (c) Administrative Responsibilities:
- (1) The Town Manager shall be responsible for the efficient administration of all offices and departments under the Town Manager's jurisdiction, and of all functions for which the Town Manager is given responsibility, authority, or control by this Act, bylaw, Town Meeting vote, or vote of the Board of Selectmen.
 - (2) The Town Manager shall coordinate the activities of all Town Agencies serving under the Town Manager and/or the Board of Selectmen with those under the control of other officers and multiple member bodies elected directly by the voters as provided in Section 9a. For this purpose, the Town Manager shall have the authority to require the persons so elected, or their representatives, to meet with the Town Manager at reasonable times for the purpose of effecting coordination and cooperation among all agencies of the Town.
 - (3) The Town Manager may reorganize, consolidate, or establish any department or position under the Town Manager's direction or supervision, with the Board of Selectmen's approval. Any reorganization or consolidation proposal shall be made after consultation with the relevant department heads, boards, commissions, or committees. Whenever the Town Manager prepares a plan for reorganization, the Board of Selectmen shall hold one or more public hearings on the proposal. The Board of Selectmen shall give notice of the hearing, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than seven (7) nor more than fourteen (14) days following publication of notice. The Board of Selectmen may not vote on the proposal until after the public hearing shall have been completed, after which the Board may vote to accept or reject, but not to amend, the proposed plan. With the approval of both the Board of Selectmen and Advisory Committee, the Town Manager may transfer all or part of any unexpended appropriation that may result from any reorganization or consolidation of department activities or functions, consistent with appropriate municipal finance procedures.
 - (4) The Town Manager shall have full jurisdiction over the rental and use of all Town facilities, except schools and the library. He or she shall be responsible for the maintenance and repair of all Town property, including the library and school buildings placed under his or her control by this Act or by bylaw; provided, however, that the approval of the library trustees or the school committee shall be obtained for all library and school maintenance and repair plans, respectively.
 - (5) Subject to policies established by the Board of Selectmen, the Town Manager shall approve all warrants or vouchers, including payroll warrants, for payment of Town funds submitted by the Town Accountant. Any three members of the Board of Selectmen shall approve all warrants in the absence of the Town Manager, when a temporary Town Manager is serving pursuant to Section 7a, or when a vacancy exists in the office of Town Manager.

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- (6) The Town Manager shall be responsible for working with Town officers and departments on Town grant applications and, in consultation with the office or department receiving the grant, overseeing adherence to conditions of grants received by the Town. The Town Manager shall keep the Board of Selectmen informed periodically of the status of all grants, grant applications submitted, and grant applications being planned for submission.
- (7) The Town Manager shall negotiate collective bargaining contracts on behalf of the Board of Selectmen, which contracts shall be subject to approval, ratification, and execution by the Board of Selectmen. At its discretion, the Board of Selectmen may authorize or require use of additional counsel to assist the Town Manager in the negotiations.
- (8) The Town Manager shall administer and enforce collective bargaining agreements, and personnel rules and regulations, except for those of the schools.
- (9) The Town Manager shall, with the approval of the Board of Selectmen, have the authority to prosecute, defend, and compromise all litigation to which the Town is a party.
- (10) The Town Manager may, with the approval of the Board of Selectmen, delegate rights, powers, and authority vested in him or her to subordinates when deemed necessary by the Town Manager; provided that such staff shall comply with all applicable laws, rules, and procedures established by the Town; and provided, further, that all actions performed under such delegation shall be deemed to be the actions of the Town Manager.

(d) Responsibilities to the Board of Selectmen

- (1) The Town Manager shall attend all regular and special meetings of the Board of Selectmen, unless excused at his or her own request, and shall have a voice, but no vote, in all of its discussions. The Town Manager shall attend all sessions of Town Meeting and shall answer all questions directed to him or her by the voters of the Town which relate to his or her office.
- (2) The Town Manager shall present periodic reports to the Board of Selectmen identifying priorities, concerns, and outcomes, etc. of the Town Manager's office and shall cause full and complete records of meetings of the Board of Selectmen to be taken and maintained.
- (3) The Town Manager shall act as the liaison with, and represent the Board of Selectmen before, state, federal, and regional authorities.
- (4) The Town Manager shall serve as the Town's liaison to all boards, commissions, and officers. Notwithstanding their statutory duties, such boards, commissions, and officers shall seek to ensure effective and ongoing collaboration and cooperation among all entities serving the Town and to assure regular communication and shared understanding of the Town's needs and priorities as determined by the Board of Selectmen.
- (5) The Town Manager shall perform any other duties consistent with the office of the Town Manager as may be required by bylaw, vote of Town Meeting, or vote of the Board of Selectmen.

(e) Financial Management:

- (1) The Town Manager shall prepare and submit at a public meeting to the Board of Selectmen and Advisory Committee, not later than January 30, a written proposed budget for Town government, including the school department, for the ensuing fiscal year. To assist the Town Manager in preparing the proposed annual budget of revenues and expenditures, all boards, officers, and committees of the Town, including the respective school committees, shall, within the time frame requested by the Town Manager, furnish all relevant information in their possession and submit to the Town Manager, in writing and in such form as the Town Manager shall establish, a detailed estimate of the appropriations required and available funds.
 - a. The proposed budget shall detail all estimated revenues from all sources, and all expenditures, including debt service, for the two previous years, the current year, and the ensuing year.
 - b. It shall include proposed expenditures for both current operations and capital during the ensuing year, together with estimated revenues and budgetary fund balance available at the close of the fiscal year, including estimated balances in special accounts.
- (2) The Town Manager shall prepare, annually, a five-year financial forecast of revenue, expenditures, including capital expenditures, and the general financial condition of the Town. Said plan shall be submitted to said Board of Selectmen, the Advisory Committee, the Board of Assessors and the School Committee, and shall be made available to the public.
- (3) The Town Manager shall establish control and data systems appropriate to monitoring expenditures by Town boards and departments in order to enable the Town Manager to make periodic reports to the Board of Selectmen and the Advisory Committee on the status of the Town's finances.
- (4) The Town Manager shall act as the chief procurement officer under the provisions of Chapter 30B of the General Laws, and shall be responsible for the purchasing of all supplies, materials, equipment, and services for the Town, including the bidding and awarding of all contracts, except for supplies, materials, equipment, and services for the School Department and for library books and related printed, audio-visual, or digital material purchased by the library, unless specifically requested by the School Committee or the Library Trustees, respectively.

Section 5: Town Manager Compensation and Evaluation

- (a) The Board of Selectmen shall set the compensation of the Town Manager.
- (b) Based on the Town's adopted personnel policies, the Board of Selectmen shall be responsible for compiling performance information from residents, Town department heads and employees directly supervised by the Town Manager, and shall provide a written annual performance evaluation to the Town Manager. A copy of the written evaluation shall be kept on file by the Town Clerk and shall remain open for examination by the public.

Section 6: Town Manager Suspension and Removal

- (a) The Board of Selectmen may suspend or remove the Town Manager from office after first instituting the following procedures:
 - 1. By the affirmative vote of a majority of its full membership, the Board of Selectmen may adopt a preliminary resolution of removal setting forth in reasonable detail the reason or reasons for the proposed removal. The preliminary resolution may suspend the Town Manager for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered to the Town Manager immediately following adoption and a copy shall be filed with the Town Clerk.
 - 2. Within five (5) days after the delivery of the preliminary resolution of removal, the Town Manager may request a public hearing on the reasons cited for removal by filing a written request with the Board of Selectmen. The Town Manager may be represented at the hearing by his or her own counsel. The Town Manager shall be entitled to present evidence, call witnesses, and, personally or through counsel, question any witness appearing at the hearing.
 - 3. The Board shall convene said hearing not less than twenty (20) but not more than thirty (30) days after a request is filed. The Board of Selectmen shall give the Town Manager not less than five (5) days written notice of the date, time, and location of said hearing. The Town Manager may waive, in writing, such time limits.
 - 4. The Town Manager may file a written statement with the Board of Selectmen responding to the reasons cited for the proposed removal. The Board of Selectmen shall receive said statement not less than forty-eight (48) hours prior to the time set for said hearing.
- (b) The Board of Selectmen may, by the affirmative vote of a majority of its full membership, adopt a final resolution of removal that shall be effective upon adoption, as follows:
 - 1. If the Town Manager does not request a public hearing, then upon the expiration of ten (10) days from the date of delivery to him or her of the preliminary resolution of removal, the Board may act as stated above.
 - 2. If the Town Manager does request a public hearing, then five (5) days from the completion of the public hearing, or forty-five (45) days from the date of the adoption of the preliminary resolution, whichever occurs later, the Board of Selectmen may act as stated above. Failure to adopt a final resolution of removal within the time limitations provided in this section shall nullify the preliminary resolution of removal.
- (c) This section vests all authority and fixes all responsibility for such suspension or removal in the Board of Selectmen. The action of the Board of Selectmen in removing the Town Manager shall be final. The Town Manager shall continue to receive his or her salary until a final resolution of removal has become effective, unless otherwise provided General Laws.

Section 7: Town Manager Temporary Absence or Vacancy

- (a) During a temporary absence, the Town Manager shall, by letter duly filed with the Town Clerk and with the Board of Selectmen, designate a qualified Town official or employee to exercise the powers and perform the duties of Town Manager. During a temporary absence, the Board of Selectmen may not revoke such designation until at least ten (10) working days have elapsed, whereupon the Board of Selectmen may appoint another qualified Town official or employee to serve until the Town Manager shall return. The powers of an acting Town Manager appointed under this subsection shall be limited to urgent matters and shall include temporary or emergency appointments or employment.
- (b) Any vacancy in the office of Town Manager must be filled by the Board of Selectmen as soon as feasible following the procedures described in Section 3. Pending such appointment, the Board of Selectmen shall appoint a qualified individual to perform the duties of the office on an interim basis. Such interim appointment may not exceed six (6) months, but one renewal may be voted by the Board of Selectmen not to exceed an additional three (3) months. The Board of Selectmen shall set the compensation for such person.

Section 8: Advisory Committee

- (a) The composition, terms, and procedures of the Advisory Committee shall be as provided by the general bylaws of the Town.
- (b) The purpose of the Advisory Committee shall be: (1) to advise Town Meeting on all articles submitted through the Town Warrant, including the annual operating and capital budgets prepared by the Town Manager under the policy guidance of the Board of Selectmen, (2) to analyze and approve requests for transfers from the reserve fund during the course of the year, and (3) to perform other advisory duties as provided by State Statute, Town bylaws or by vote of Town Meeting.
- (c) In conjunction with its specified duties, the Advisory Committee shall have the authority to examine the books and accounts of any department of the Town by submitting a written request to the Town Manager, and the books and accounts of all departments of the Town shall be open to review of the Committee in such form as the Town Manager shall determine.

Section 9: General Provisions

- (a) In accordance with any applicable laws, bylaws, or votes of the Town, the following offices, positions, boards, and committees shall be elected under this Act.
 - 1. Board of Selectmen – Five members for terms of three years.
 - 2. Town Moderator – One person for a term of one year.
 - 3. Southborough School Committee – Five members for terms of three years.
 - 4. Northborough/Southborough Regional School District Committee – As provided by the School District Agreement.
 - 5. Assabet Valley Regional Vocational School District Committee – As provided by the School District Agreement.
 - 6. Board of Library Trustees - Six members for terms of three years.
 - 7. Board of Health – Three members for terms of three years.
 - 8. Planning Board – Five members for terms of five years.
 - 9. Southborough Housing Authority – Four members for terms of five years, plus one member appointed by the state for a term of five years.
- (b) Notwithstanding the obligation of elected boards to submit budgets and capital requests to the Town Manager, the printed warrant for consideration by Town Meeting shall include such sums as are actually requested by each elected board, in addition to the aforesaid recommendations from the Town Manager and Advisory Committee regarding each requested amount.
- (c) All appointments and promotions of Town officers and employees shall be made on the basis of merit and suitable qualification demonstrated by examination or other evidence of competence and suitability including, but not limited to, past performance or seniority.
- (d) The provisions of this Act are severable. If any provision of this Act is held to be invalid, the other provisions shall remain in full force and effect and shall not be affected thereby. If the application of this Act or any of its provisions to any person or circumstances is held to be invalid, the application of this Act and its provisions to other persons and circumstances shall not be affected thereby. To the extent that any specific provision of the Act shall conflict with any provision expressed in general terms, the specific provision shall prevail.
- (e) All references to “Selectmen” or “Board of Selectmen” herein shall be considered gender neutral. The terms “Selectboard” or “Selectperson” may be used interchangeably with “Board of Selectmen” and “Selectman” respectively.
- (f) All bylaws, resolutions, rules, regulations, and votes of the Town Meeting which are in force at the time this Act is adopted, not inconsistent with the provisions of this Act, shall continue in full force until amended or repealed. Where provisions of this Act conflict with provisions of Town bylaws, rules, regulations, orders, and special acts and acceptances of laws of the Commonwealth, the Act’s provisions shall govern. All provisions of Town bylaws, rules, regulations, orders and special acts not superseded by this Act shall remain in force.
- (g) All records, property, and equipment whatsoever of any office, board, commission, committee or agency or part thereof, the powers and duties of which are assigned in whole or in part to another Town office, board, commission or agency shall be transferred forthwith to such office, board, commission or agency.
- (h) Except as provided by this Act, any person holding a Town office or employment under the Town shall retain such office or employment, as near to his or her prior position as possible, and shall continue to perform their duties until provisions shall have been made in accordance with this Act, for the performance of said duties by another person or agency. No person in the permanent full-time service or employment of the Town shall forfeit pay grade for time in service.

Section 10: Transition Provisions

- (a) At the annual election following the ratification of this Act, two (2) additional Selectmen shall be elected, such that one office shall appear on the ballot as serving a term that shall expire three years from the date of election, and one office shall appear on the on the ballot as serving a term that shall expire two years from the date of election. Thereafter, as the terms of the Selectmen expire, successors shall be elected for terms of three (3) years.
- (b) Elected members of the Board of Assessors and Commissioners of Trust Funds, who hereafter under this Act shall be appointed, shall serve the balance of the terms for which they were elected; thereafter, their successors shall be appointed in accordance with the Section 4F of this Act.
- (c) The incumbent Town Clerk elected at the annual Town election on May 9, 2011 shall complete the term to which elected and shall thereafter hold the position of appointed Town Clerk. Upon the vacating of office by said incumbent Clerk by resignation, retirement, or other cause, such office will be subject to appointment as provided by Section 4B of this Act.
- (d) The Personnel Board of five members shall serve until two years following the appointment of the Town Manager. At such time, the remaining members shall serve in an advisory capacity to the Town Manager, and shall meet as the Town Manager shall determine. Upon the expiration of the terms of all remaining members, the Personnel Board shall cease to exist and all powers and duties as assigned by law or regulation to the Board shall be assumed by the Town Manager; provided, however, that the Town Manager may, with the approval of the Board of Selectmen, maintain the Personnel Board in an advisory capacity and may continue to appoint members to said Board.

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- (e) Sections 13A, 13D, and 14 of Chapter 9 of Article III of the Southborough Code are hereby repealed.
- (f) Not later than one hundred and twenty (120) days after the appointment of a Town Manager under this Act, the Board of Selectmen shall appoint five (5) persons to be a committee to begin a review of the Town bylaws for the purpose of preparing revisions and amendments as may be needed or necessary to bring them into conformity with this Act. The committee shall submit a report, with recommendations, to the Annual Town Meeting in the year following the year in which this Act takes effect. The review shall be conducted under the supervision of the town counsel or by special counsel appointed for that express purpose.
- (g) Upon the effective date of this Act, subject to the General Laws, the following multiple member bodies shall be eliminated and any remaining duties shall be transferred to other multiple member bodies as determined by the Board of Selectmen to be appropriate:
 - 1. Industrial Development Commission
 - 2. Industrial Development Financing Authority
- (h) The secretary of state shall cause the following question to be placed on the official ballot to be used in the Town of Southborough at the biennial state election to be held on November 6, 2012: "Shall an act passed by the General Court in the year 2012, entitled 'An Act Establishing a Five-Member Board of Selectmen/Town Manager Form of Government for the Town of Southborough' be accepted?" If a majority of the votes cast in answer to the question is in the affirmative, this Act shall take effect in the Town of Southborough, but not otherwise.

The Board of Selectmen are hereby authorized to approve amendments which shall be within the scope of the general public objectives of this Petition, or do or act anything in relation thereto.

Proposed by: DRAFTING COMMITTEE FOR TOWN MANAGER LEGISLATION

Board of Selectmen Recommendation: At Town Meeting – voted to support

Advisory Committee Recommendation: At Town Meeting – voted to support

MOTION TO ACCEPT THE GREEN HANDOUT VERSION AS THE ORIGINAL MAIN MOTION PASSED UNANIMOUSLY.

MOTION MADE: That the subject matter of the warrant article further subject to the changes contained in the green handout version before you tonight, which is the original main motion.

An Act Establishing a Five-Member Board of Selectmen/Town Manager Form of Government for the Town of Southborough

Section 1: Board of Selectmen, Composition and Term

- (a) There shall be a Board of Selectmen consisting of five (5) members, elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

Section 2: Board of Selectmen, Powers and Duties

- (a) The executive powers of the Town shall be vested in the Board of Selectmen, which shall serve as the Chief Executive Authority of the Town, as recognized under the General Acts of the Commonwealth.
- (b) Except as provided by this Act, the Board of Selectmen shall have the powers and duties given to boards of selectmen under the Massachusetts Constitution and General Laws, and shall have such additional powers and duties as may be authorized by this Act, by Town bylaws, or by vote of Town Meeting. The Board of Selectmen shall be authorized to enter into intergovernmental and other agreements on such terms it deems beneficial to the Town of Southborough, subject to the General Laws, this Act, special legislation, and the Town bylaws, or by vote of Town Meeting.
- (c) The Board of Selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all Town departments serving under it and, in conjunction with other elected Town officials and multiple member bodies, to develop and promulgate policy guidelines designed to bring the operation of all Town agencies into harmony; provided, however, nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of such members, to become involved in the day-to-day administration of any Town agency. It is the intention of this provision that the Board of Selectmen shall act only through the adoption of broad policy guidelines and long-term plans or programs, which are to be implemented by officials and employees serving under it.
- (d) The Board of Selectmen shall communicate periodically with all Town agencies, departments, committees, and boards, including meeting with representatives of volunteer committees and boards, and shall consider the concerns and plans of all such agencies, departments, committees, and boards when formulating policy, plans, or services.
- (e) The Board of Selectmen, as Chief Executive Officers of the Town, shall cause the Special Act, bylaws, Orders, and Rules and Regulations of the Town to be complied with, and otherwise enforced, and shall cause a record of all its official acts to be kept.
- (f) The Board of Selectmen shall appoint the Town Manager as provided by Section 3 of this Act, and by the affirmative vote of a majority of its full membership, the Board shall appoint the Board of Assessors, Town Counsel, Affordable Housing Trust Committee, Conservation Commission, Zoning Board of Appeals, Constables, Registrar of Voters, Commissioners of Trust Funds, and Special Legal Counsel.

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- (g) The Board of Selectmen may appoint such offices, boards, committees, and commissions, by a majority vote of the Board, as may be provided by the General Laws, intergovernmental agreements, or by vote at Town Meeting. In the event of a vacancy in any of said offices, boards, committees, and commissions, the Board of Selectmen shall act to fill said vacancy within ninety (90) days from notice by the affected board to the Board of Selectmen of any vacancy. The Board of Selectmen may appoint ad hoc committees, whose charge is specific and existence temporary, where not provided by General Laws, intergovernmental agreements, or by vote at Town Meeting.
- (h) In the event of a vacancy in any elected office, board, committee, or commission, except the Board of Selectmen, the Board shall fill said vacancy pursuant to Section 11 of Chapter 41 of the General Laws. In the event of a vacancy on the Board of Selectmen, said vacancy shall be filled pursuant to Section 10 of Chapter 41 of the General Laws.
- (i) Except as otherwise provided by General Laws, the Board of Selectmen shall be the licensing board of the Town and shall have the power to issue, amend, and revoke licenses, in accordance with the General Laws, to make all necessary rules and regulations regarding the issuance of such licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest. The Town Manager shall see to the enforcement of the laws relating to all businesses for which the Board of Selectmen issues licenses.
- (j) The Board of Selectmen shall be responsible for ensuring that timely financial audits are conducted as required by law. The audits shall be performed by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the Town government or any of its officials.
- (k) The Board of Selectmen shall have all other duties consistent with the Office of the Board of Selectmen, as may be provided by the General Laws, Special Acts of the General Court, or by Vote of the Town Meeting.

Section 3: Town Manager Appointment, Term of Service, Qualifications, and Restrictions

- (a) The Board of Selectmen shall appoint a Town Manager by the affirmative vote of a majority of its full membership for a term not to exceed three (3) years, by a majority vote of the Board. To the extent permitted by law, the terms of the Town Manager's employment may be the subject of a written public agreement between the parties, pursuant to M.G.L. c.41 §108N, as amended, or any successor Statute thereto. The Town Manager may be appointed for successive terms of office.
- (b) The Town Manager shall be a person of demonstrated ability, with experience in public management or business administration, and who is qualified by reason of education, training, skills, and previous experience. The Board of Selectmen may, from time to time, establish additional qualifications for the position of Town Manager.
- (c) Whenever there is a vacancy in the office of Town Manager, a screening committee shall be established for the purpose of soliciting, receiving, and evaluating applications for the position. The screening committee shall consist of five Town residents chosen by the Board of Selectmen. Members of the Board of Selectmen shall not be eligible to be on the screening committee. The Board of Selectmen shall provide the screening committee with a charge and a written statement of qualifications and duties of the position that have been approved by majority vote of the Board. The screening committee shall present candidates to the Board of Selectmen. The Board of Selectmen shall, within 45 days following the date of receipt of the list of nominees, choose one candidate from the list to fill the position of Town Manager or reject such nominees and direct that the Committee resume the search.
- (d) The Town Manager shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during his or her term, without the express written approval of the Board of Selectmen. The Board of Selectmen may appoint the Town Manager to any appointed office or position consistent with the responsibilities of the position. The Town Manager shall not have served on the Board of Selectmen of the Town of Southborough for at least thirty six (36) months prior to his or her appointment.

Section 4: Town Manager Powers and Duties

(a) General:

(1) The Town Manager shall be the chief administrative officer of the Town and shall be responsible to the Board of Selectmen for the effective management of all Town affairs placed in the Town Manager's charge by this Act, the Board of Selectmen, or vote of Town Meeting. The Town Manager shall be responsible for the implementation of Town policies established by the Board of Selectmen. The functions and duties of the Town Manager shall include, but not be limited to, the functions and duties described in this Section.

(b) Appointment Authority and Personnel Responsibility:

(1) Except as provided by this Act, the Town Manager shall appoint and may remove all department heads, and shall approve the appointment and removal of all other employees. The Town Manager's appointments to such department head positions shall become effective on the thirtieth (30) day following the day that the notice of appointment or removal is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that 30-day period, by a majority vote of the current elected members, vote to reject said appointment or removal, or sooner, by a majority vote of the current elected members, vote to affirm said appointment or removal. Department heads shall, subject to the consent and approval of the Town Manager, appoint or remove assistant department heads, officers, subordinates, and employees, and officials for whom no other method of selection is provided in this Act. The Town Manager may transfer personnel between departments under his or her jurisdiction as needed.

(2) The terms of section 4(b)(1) shall not apply to the following positions, which shall be appointed as provided:

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- a. Department heads of elected Town boards and committees, as listed in Section 9(a), with the exception of the Board of Selectmen. Elected boards and committees shall appoint and may remove department heads for their respective departments and shall approve the appointment and removal of all other employees of their department. The elected board or committee shall consult with the Town Manager prior to department head appointment or removal and shall provide written notice of intent to appoint or remove to the Town Manager. The elected board's appointments to such department head positions shall become effective on the thirtieth (30) day following the day that the notice of appointment or removal is filed with the Town Manager, unless the Town Manager shall, within that 30-day period reject in writing said appointment or removal for noncompliance with personnel policies, practices, or procedures. Department heads shall, subject to the consent and approval of the elected board, appoint or remove assistant department heads, officers, subordinates, and employees; provided, however, that the department head shall consult with the Town Manager prior to making such appointments or removals. Elected Boards and Committees shall ensure that their management of employees is consistent with personnel policies, employment contracts, and practices in use in all Town departments.
 - b. Police Chief. Notwithstanding the provisions of Chapter 41, Section 97A of the General Laws, the Town Manager shall appoint, subject to approval by the Board of Selectmen, a police chief who shall have the authority to appoint police officers and other department personnel, subject to approval by the Town Manager. The chief shall be appointed for a term not to exceed three (3) years, but may be appointed for successive terms of office. The Town Manager may recommend removal of the chief to the Board of Selectmen, who must act within thirty (30) days to accept or reject the Town Manager's recommendation for removal. The police chief shall from time to time make suitable regulations governing the police department, and the officers thereof, subject to the approval of the Town Manager; provided, that such regulations shall become effective without such approval upon the failure of the Town Manager to take action thereon within thirty (30) days after they have been submitted to him or her by the police chief. The police chief shall be in immediate control of all Town property used by the department, and of the police officers, whom he or she shall assign to their respective duties and who shall obey his or her orders.
 - c. Fire Chief. Notwithstanding the provisions of Chapter 48, Section 42 of the General Laws, the Town Manager shall appoint, subject to approval by the Board of Selectmen, a fire chief who shall have the authority to appoint firefighters and other department personnel, subject to approval by the Town Manager. The chief shall be appointed for a term not to exceed three (3) years, but may be appointed for successive terms of office. The Town Manager may recommend removal of the chief to the Board of Selectmen, who must act within thirty (30) days to accept or reject the Town Manager's recommendation for removal. The fire chief shall have charge of extinguishing fires in the Town and the protection of life and property in case of fire, and any emergency medical services provided or supervised by the Department. He or she shall purchase, subject to the approval of the Town Manager, and keep in repair all property and apparatus used for and by the fire department. He or she shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in Towns except as herein provided, and shall appoint a deputy chief and such officers and firemen as he or she may think necessary, and may remove the same at any time ~~or~~ cause and after a hearing. He or she shall have full and absolute authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the Town Manager from time to time as he or she may require, and shall annually report to the Town the condition of the department with his or her recommendations thereon; he or she shall fix the compensation of the permanent and call members of the fire department subject to the approval of the Town Manager. In the expenditure of money the chief shall be subject to such further limitations as the Town may from time to time prescribe.
 - d. Superintendent of Public Works. The Town Manager shall appoint a Superintendent of Public Works and may provide an employment contract, for a period of up to three years, to provide for the salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, relocation expenses, reimbursement of expenses incurred in the performance of duties or office, liability and disability insurance, and leave, for the Superintendent of Public Works. Such an employment contract shall prevail over and preempt any provision of any local personnel bylaw, Code section, rule or regulation covering the subject matter of the employment contract. Nothing contained in this section shall affect the appointment or removal powers of the Town Manager over the above-referenced department head, nor shall it grant tenure to such department head.
- (3) The Town Manager shall appoint, subject to approval by the Board of Selectmen, the Council on Aging, Historical Commission, and Recreation Commission, and other such offices, boards, committees, and commissions as may be provided by vote of the Town or for which no other method of appointment is provided by this Act.
- (4) With the assistance and guidance of the Personnel Board, as long as it shall exist in the Town, the Town Manager shall develop and administer a personnel system, including, but not limited to, determination of rates of pay, the development and implementation of an ongoing training program, evaluation processes, personnel and hiring policies, practices, and regulations for Town employees.
- (c) Administrative Responsibilities:
- (1) The Town Manager shall be responsible for the efficient administration of all offices and departments under the Town Manager's jurisdiction, and of all functions for which the Town Manager is given responsibility, authority, or control by this Act, bylaw, Town Meeting vote, or vote of the Board of Selectmen. For purposes of this section, departments with elected boards are not "departments under the Town Manager's jurisdiction."

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- (2) The Town Manager shall coordinate the activities of all Town Agencies serving under the Town Manager and/or the Board of Selectmen with those under the control of other officers and multiple member bodies elected directly by the voters as provided in Section 9a. For this purpose, the Town Manager shall have the authority to schedule meetings at reasonable times for the purpose of effecting coordination and cooperation among all agencies of the Town.
 - (3) The Town Manager may reorganize, consolidate, or establish any department or position under the Town Manager's direction or supervision, with the Board of Selectmen's approval. Any reorganization or consolidation proposal shall be made after consultation with the relevant department heads, boards, commissions, or committees. Whenever the Town Manager prepares a plan for reorganization, the Board of Selectmen shall hold one or more public hearings on the proposal. The Board of Selectmen shall give notice of the hearing, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than seven (7) nor more than fourteen (14) days following publication of notice. The Board of Selectmen may not vote on the proposal until after the public hearing shall have been completed, after which the Board may vote to accept or reject, but not to amend, the proposed plan. With the approval of both the Board of Selectmen and Advisory Committee, the Town Manager may transfer all or part of any unexpended appropriation that may result from any reorganization or consolidation of department activities or functions, consistent with appropriate municipal finance procedures. For purposes of this section, departments with elected boards are not "departments under the Town Manager's direction or supervision."
 - (4) The Town Manager shall have full jurisdiction over the rental and use of all Town facilities, except schools and the library. He or she shall be responsible for the maintenance and repair of all Town property, including the library and school buildings placed under his or her control by this Act or by bylaw; provided, however, that the approval of the library trustees or the school committee shall be obtained for all library and school maintenance and repair plans, respectively.
 - (5) Subject to policies established by the Board of Selectmen, the Town Manager shall approve all warrants or vouchers, including payroll warrants, for payment of Town funds submitted by the Town Accountant. A majority of the Board of Selectmen shall approve all warrants in the absence of the Town Manager, when a temporary Town Manager is serving pursuant to Section 7a, or when a vacancy exists in the office of Town Manager.
 - (6) The Town Manager shall be responsible for working with Town officers and departments on Town grant applications and, in consultation with the office or department receiving the grant, overseeing adherence to conditions of grants received by the Town. The Town Manager shall keep the Board of Selectmen informed periodically of the status of all grants, grant applications submitted, and grant applications being planned for submission.
 - (7) The Town Manager shall negotiate collective bargaining contracts on behalf of the Board of Selectmen, which contracts shall be subject to approval, ratification, and execution by the Board of Selectmen. At its discretion, the Board of Selectmen may authorize or require use of additional counsel to assist the Town Manager in the negotiations.
 - (8) The Town Manager shall administer and enforce collective bargaining agreements, and personnel rules and regulations, except for those of the schools.
 - (9) The Town Manager shall, with the approval of the Board of Selectmen, have the authority to prosecute, defend, and compromise all litigation to which the Town is a party.
 - (10) The Town Manager may, with the approval of the Board of Selectmen, delegate rights, powers, and authority vested in him or her to subordinates when deemed necessary by the Town Manager; provided that such staff shall comply with all applicable laws, rules, and procedures established by the Town; and provided, further, that all actions performed under such delegation shall be deemed to be the actions of the Town Manager.
- (d) Responsibilities to the Board of Selectmen
- (1) The Town Manager shall attend all regular and special meetings of the Board of Selectmen, unless excused at his or her own request, and shall have a voice, but no vote, in all of its discussions. The Town Manager shall attend all sessions of Town Meeting and shall answer all questions directed to him or her by the voters of the Town which relate to his or her office.
 - (2) The Town Manager shall present periodic reports to the Board of Selectmen identifying priorities, concerns, and outcomes, etc. of the Town Manager's office and shall cause full and complete records of meetings of the Board of Selectmen to be taken and maintained.
 - (3) The Town Manager shall act as the liaison with, and represent the Board of Selectmen before, state, federal, and regional authorities.
 - (4) The Town Manager shall serve as the Town's liaison to all boards, commissions, and officers. Notwithstanding their statutory duties, such boards, commissions, and officers shall seek to ensure effective and ongoing collaboration and cooperation among all entities serving the Town and to assure regular communication and shared understanding of the Town's needs and priorities as determined by the Board of Selectmen.
 - (5) The Town Manager shall perform any other duties consistent with the office of the Town Manager as may be required by bylaw, vote of Town Meeting, or vote of the Board of Selectmen.

(e) Financial Management:

- (1) The Town Manager shall prepare and submit at a public meeting to the Board of Selectmen and Advisory Committee, not later than January 30, a written proposed budget for Town government, including the school department, for the ensuing fiscal year. All proposed budgets shall be posted online. To assist the Town Manager in preparing the proposed annual budget of revenues and expenditures, all boards, officers, and committees of the Town, including the respective school committees, shall, within the time frame requested by the Town Manager, furnish all relevant information in their possession and submit to the Town Manager, in writing and in such form as the Town Manager shall establish, a detailed estimate of the appropriations required and available funds.
 - a. The proposed budget shall detail all estimated revenues from all sources, and all expenditures for each budget, including debt service, for the two previous years, the current year, and the ensuing year.
 - b. It shall include proposed expenditures for each budget for both operations and capital during the ensuing year, together with estimated revenues and certified budgetary fund balances available at the close of the prior fiscal year, including estimated balances in special accounts.
- (2) The Town Manager shall prepare, annually, a five-year financial forecast of revenue, expenditures, including capital expenditures, and the general financial condition of the Town. Said plan shall be submitted to said Board of Selectmen, the Advisory Committee, the board of Assessors and the School Committee, and shall be made available to the public.
- (3) The Town Manager shall establish control and data systems appropriate to monitoring expenditures by Town boards and departments in order to enable the Town Manager to make periodic reports to the Board of Selectmen and the Advisory Committee on the status of the Town's finances.
- (4) The Town Manager shall act as the chief procurement officer under the provisions of Chapter 30B of the General Laws, and shall be responsible for the purchasing of all supplies, materials, equipment, and services for the Town, including the bidding and awarding of all contracts, except for supplies, materials, equipment, and services for the School Department and for library books and related printed, audio-visual, or digital material purchased by the library, unless specifically requested by the School Committee or the Library Trustees, respectively.

Section 5: Town Manager Compensation and Evaluation

- (a) The Board of Selectmen shall set the compensation of the Town Manager.
- (b) Based on the Town's adopted personnel policies, the Board of Selectmen shall be responsible for compiling performance information from residents, Town department heads and employees directly supervised by the Town Manager, and shall provide a written annual performance evaluation to the Town Manager. A copy of the written evaluation shall be kept on file by the Town Clerk and shall remain open for examination by the public.

Section 6: Town Manager Suspension and Removal

- (a) The Board of Selectmen may suspend or remove the Town Manager from office after first instituting the following procedures:
 1. By the affirmative vote of a majority of its full membership, the Board of Selectmen may adopt a preliminary resolution of removal setting forth in reasonable detail the reason or reasons for the proposed removal. The preliminary resolution may suspend the Town Manager for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered to the Town Manager immediately following adoption and a copy shall be filed with the Town Clerk.
 2. Within five (5) days after the delivery of the preliminary resolution of removal, the Town Manager may request a public hearing on the reasons cited for removal by filing a written request with the Board of Selectmen. The Town Manager may be represented at the hearing by his or her own counsel. The Town Manager shall be entitled to present evidence, call witnesses, and, personally or through counsel, question any witness appearing at the hearing.
 3. The Board shall convene said hearing not less than twenty (20) but not more than thirty (30) days after a request is filed. The Board of Selectmen shall give the Town Manager not less than five (5) days written notice of the date, time, and location of said hearing. The Town Manager may waive, in writing such time limits.
 4. The Town Manager may file a written statement with the Board of Selectmen responding to the reasons cited for the proposed removal. The Board of Selectmen shall receive said statement not less than forty-eight (48) hours prior to the time set for said hearing.
- (b) The Board of Selectmen may, by the affirmative vote of a majority of its full membership, adopt a final resolution of removal that shall be effective upon adoption, as follows:
 1. If the Town Manager does not request a public hearing, then upon the expiration of ten (10) days from the date of delivery to him or her of the preliminary resolution of removal, the Board may act as stated above.
 2. If the Town Manager does request a public hearing, then five (5) days from the completion of the public hearing, or forty-five (45) days from the date of the adoption of the preliminary resolution, whichever occurs later, the Board of Selectmen may act as stated above. Failure to adopt a final resolution of removal within the time limitations provided in this section shall nullify the preliminary resolution of removal.
- (c) This section vests all authority and fixes all responsibility for such suspension or removal in the Board of Selectmen. The action of the Board of Selectmen in removing the Town Manager shall be final. The Town Manager shall continue to receive his or her salary until a final resolution of removal has become effective, unless otherwise provided General Laws.

Section 7: Town Manager Temporary Absence or Vacancy

- (a) During a temporary absence, the Town Manager shall, by letter duly filed with the Town Clerk and with the Board of Selectmen, designate a qualified Town official or employee to exercise the powers and perform the duties of Town Manager. During a temporary absence, the Board of Selectmen may not revoke such designation until at least ten (10) working days have elapsed, whereupon the Board of Selectmen may appoint another qualified Town official or employee to serve until the Town Manager shall return. The powers of an acting Town Manager appointed under this subsection shall be limited to urgent matters and shall include temporary or emergency appointments or employment.
- (b) Any vacancy in the office of Town Manager must be filled by the Board of Selectmen as soon as feasible following the procedures described in Section 3. Pending such appointment, the Board of Selectmen shall appoint a qualified individual to perform the duties of the office on an interim basis. Such interim appointment may not exceed six (6) months, but one renewal may be voted by the Board of Selectmen not to exceed an additional three (3) months. The Board of Selectmen shall set the compensation for such person.

Section 8: Advisory Committee

- (a) The composition, terms, and procedures of the Advisory Committee shall be as provided by the general bylaws of the Town.
- (b) The purpose of the Advisory Committee shall be: (1) to advise Town Meeting, in print or otherwise, on all articles submitted through the Town Warrant, including the annual operating and capital budgets contained therein (2) to analyze and act on requests for transfers from the reserve fund during the course of the year, and (3) to perform other advisory duties as provided by State Statute, Town bylaws or by vote of Town Meeting.
- (c) The Advisory Committee shall have the authority to examine the books and accounts of any department of the Town by first submitting a written request to the Town Manager, but such obligation to first request of the Town Manager shall not limit its full access to all books, accounts and public information of all departments.

Section 9: General Provisions

- (a) In accordance with any applicable laws, bylaws, or votes of the Town, the following offices, positions, boards, and committees shall be elected under this Act.
 - 1. Board of Selectmen – Five members for terms of three years.
 - 2. Town Moderator – One person for a term of one year.
 - 3. Southborough School Committee – Five members for terms of three years.
 - 4. Northborough/Southborough Regional School District Committee – As provided by the School District Agreement.
 - 5. Assabet Valley Regional Vocational School District Committee – As provided by the School District Agreement.
 - 6. Board of Library Trustees – Six members for terms of three years.
 - 7. Board of Health – Three members for terms of three years.
 - 8. Planning Board – Five members for terms of five years.
 - 9. Southborough Housing Authority – Four members for terms of five years, plus one member appointed by the state for a term of five years.
- (b) Notwithstanding the obligation of elected boards to submit budgets and capital requests to the Town Manager, the printed warrant for consideration by Town Meeting shall include such sums as are actually requested by each elected board, in addition to the aforesaid recommendations from the Town Manager and Advisory Committee regarding each requested amount.
- (c) All appointments and promotions of Town officers and employees shall be made on the basis of merit and suitable qualification demonstrated by examination or other evidence of competence and suitability including, but not limited to, past performance or seniority.
- (d) The provisions of this Act are severable. If any provision of this Act is held to be invalid, the other provisions shall remain in full force and effect and shall not be affected thereby. If the application of this Act or any of its provisions to any person or circumstances is held to be invalid, the application of this Act and its provisions to other persons and circumstances shall not be affected thereby. To the extent that any specific provision of the Act shall conflict with any provision expressed in general terms, the specific provision shall prevail.
- (e) All references to "Selectmen" or "Board of Selectmen" herein shall be considered gender neutral. The terms "Selectboard" or "Selectperson" may be used interchangeably with "Board of Selectmen" and "Selectman" respectively.
- (f) All bylaws, resolutions, rules, regulations, and votes of the Town Meeting which are in force at the time this Act is adopted, not inconsistent with the provisions of this Act, shall continue in full force until amended or repealed. Where provisions of this Act conflict with provisions of Town bylaws, rules, regulations, orders, and special acts and acceptances of laws of the Commonwealth, the Act's provisions shall govern. All provisions of Town bylaws, rules, regulations, orders and special acts not superseded by this Act shall remain in force.
- (g) All records, property, and equipment whatsoever of any office, board, commission, committee or agency, or part thereof, the powers and duties of which are assigned in whole or in part to another Town office, board, commission or agency shall be transferred forthwith to such office, board, commission or agency.

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- (h) Except as provided by this Act, any person holding a Town office or employment under the Town shall retain such office or employment, as near to his or her prior position as possible, and shall continue to perform their duties until provisions shall have been made in accordance with this Act, for the performance of said duties by another person or agency. No person in the permanent full-time service or employment of the Town shall forfeit pay grade for time in service.

Section 10: Transition Provisions

- (a) At the annual election following the ratification of this Act, two (2) additional Selectmen shall be elected, such that one office shall appear on the ballot as serving a term that shall expire three years from the date of election, and one office shall appear on the on the ballot as serving a term that shall expire two years from the date of election. Thereafter, as the terms of the Selectmen expire, successors shall be elected for terms of three (3) years.
- (b) Elected members of the Board of Assessors and Commissioners of Trust Funds, who hereafter under this Act shall be appointed, shall serve the balance of the terms for which they were elected; thereafter, their successors shall be appointed in accordance with the Section 4F of this Act.
- (c) The incumbent Town Clerk, at the time of acceptance and approval of this Act at the Annual Town Meeting of April 9, 2012, shall become and hold the position of appointed Town Clerk with the passage of this Act at a subsequent town election, provided that he remains the elected and incumbent Town Clerk at the time of passage of this Act. Thereafter, such office shall be considered a department head and will be subject to the terms of Section 4 (b) (1) of this Act.
- (d) The Personnel Board of five members shall serve until two years following the appointment of the Town Manager. At such time, the remaining members shall serve in an advisory capacity to the Town Manager, and shall meet as the Town Manager shall determine. Upon the expiration of the terms of all remaining members, the Personnel Board shall cease to exist and all powers and duties as assigned by law or regulation to the Board shall be assumed by the Town Manager; provided, however, that the Town Manager may, with the approval of the Board of Selectmen, maintain the Personnel Board in an advisory capacity and may continue to appoint members to said Board.
- (e) Sections 13A, 13D, and 14 of Chapter 9 of Article III of the Southborough Code are hereby repealed.
- (f) Not later than one hundred and twenty (120) days after the appointment of a Town Manager under this Act, the Board of Selectmen shall appoint five (5) persons to be a committee to begin a review of the Town bylaws for the purpose of preparing revisions and amendments as may be needed or necessary to bring them into conformity with this Act. The committee shall submit a report, with recommendations, to the Annual Town Meeting in the year following the year in which this Act takes effect. The review shall be conducted under the supervision of the town counsel or by special counsel appointed for that express purpose.
- (g) Upon the effective date of this Act, subject to the General Laws, the following multiple-member bodies shall be eliminated and any remaining duties shall be transferred to other multiple-member bodies as determined by the Board of Selectmen to be appropriate:
1. Industrial Development Commission
 2. Industrial Development Financing Authority
- (h) The secretary of state shall cause the following question to be placed on the official ballot to be used in the Town of Southborough at the biennial state election to be held on November 6, 2012: "Shall an act passed by the General Court in the year 2012, entitled 'An Act Establishing a Five-Member Board of Selectmen/Town Manager Form of Government for the Town of Southborough' be accepted?" If a majority of the votes cast in answer to the question is in the affirmative, this Act shall take effect in the Town of Southborough, but not otherwise.

AMENDMENT MADE BY TOWN COUNSEL: That the following language be included in the motion:
The Board of Selectmen are hereby authorized to approve amendments which shall be within the scope of the general public objectives of this Petition, or do or act anything in relation thereto.

AMENDMENT PASSED UNANIMOUSLY.

MOTION MADE: That this article be postponed indefinitely.

MOTION PASSED: YES: 112 NO: 101

ARTICLE 5: To hear the report of the Capital Budget Planning Committee, or do or act anything in relation thereto.

Proposed by: CAPITAL BUDGET PLANNING COMMITTEE

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: Support

Summary: *The Capital Budget Planning Committee will present their report.*

MOTION MADE: That this article be postponed indefinitely.

MOTION PASSED UNANIMOUSLY.