

TOWN OF SOUTHBOROUGH  
Adjourned Annual Town Meeting  
April 17, 2014

[7] Reduces obstruction of scenic views from publicly accessible locations; and

[8] Is compatible with the surrounding area as to building design or scale or overall site design; and

(c) Any variances required from the Board of Appeals have been granted.

(4) Appeals. Any decision of the Building Inspector based on failure to obtain approval of a site plan from the Planning Board or failure to comply with conditions of a site plan approved under this section may be appealed to the Board of Appeals in accordance with Massachusetts General Laws c. 40A §§ 8 and 15.

F. Site plan modifications.

(1) Insubstantial or de minimis changes to an approved site plan may be authorized by the Building Inspector, with approval from the DCG, if required by physical, natural, economic or other factors not foreseen at the time of plan review.

(2) The following changes shall be deemed substantial and not de minimis and shall be made only through review by the Planning Board, following the same procedures as the original major plan submission:

(a) Any change in the size of a building or structure;

(b) Any change in the location of any building by more than six (6) feet;

(c) Any expansion of the capacity of a parking facility by more than three (3) spaces;

(d) Any change in the location or width of an interior access road by more than ten (10) feet;

(e) Any reduction in landscaping or screening; or

(f) Any changes to the plan due to requirements imposed by a State agency.

(3) Any change shall be requested in writing, with the basis for the change explained, following which approved changes shall be recorded on the file copy of the site plan with the Building Inspector's signature and the date.

G. Special permit with major plan review.

(1) Applicability. When the Planning Board is the special permit granting authority for a proposed use that is subject to major plan review, the Planning Board shall address major site plan review and the special permit through a unified application, review, and decision process consistent with this section and § 174-9. Major plan review in a Village Business District shall be in accordance with § 174-10.1.

(2) Procedures.

(a) An application for a special permit with major plan review shall be submitted in accordance with the Planning Board's rules and regulations and filed with the Town Clerk and the Planning Board.

(b) The Planning Board shall hold a public hearing and render its decision in accordance with the special permit procedures under § 174-9.

(c) In acting on an application for a special permit with major plan review, the Planning Board shall consider both the special permit granting criteria under § 174.9 and the major site plan review criteria under § 174-10(E)(3).

(d) An appeal of the Planning Board's decision on a special permit with major plan review shall be made in accordance with Massachusetts General Laws c. 40A, § 17.

**Proposed by: PLANNING BOARD**

**Board of Selectmen Recommendation: At Town Meeting**

**Advisory Committee Recommendation: At Town Meeting**

**Summary:** *This article would amend the Town's current Site Plan Review Section 174-10 but not affect existing Section 174-10.1 which will remain unchanged.*

**MOTION MADE:** That this article be indefinitely postponed.

**MOTIOIN PASSED UNANIMOUSLY.**

**ARTICLE 21:** To see if the Town will vote, pursuant to M.G.L. c. 41 §1B, to have the elected office of the Town Clerk become an appointed Town Clerk. Such appointment shall be made by the Board of Selectmen for a term not to exceed three (3) years, and further provided that such vote of Town Meeting shall be subject to the acceptance by the voters of the Town by a ballot question in the form of the following question to be placed on the official Town Ballot, as provided by said Section 1B of Chapter 41 of such General Laws:

“Shall the Town vote to have its elected Town Clerk become an appointed Town Clerk of the Town?

Yes \_\_\_ No \_\_\_”

Said appointment shall not take effect until the expiration of the term of office of the Town Clerk as may be re-elected at the annual election on May 12, 2014; or do or act anything in relation thereto.

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**Proposed by: BOARD OF SELECTMEN**

**Board of Selectmen Recommendation: At Town Meeting**

**Advisory Committee Recommendation: At Town Meeting**

**Summary:** *This article seeks to change the Town Clerk's position from an elected to an appointed position. This change will only take place after the current term of the incumbent expires. It will also require approval at the ballot on May 12, 2014 town election. Many Massachusetts communities are shifting from elected to appointed positions for Town Clerk as the responsibilities of the position have increased, and the need to ensure that you get the most qualified person for the position.*

**MOTION MADE:** That the Town vote, pursuant to M.G.L. c. 41 §1B, to have the elected office of the Town Clerk become an appointed Town Clerk. Such appointment shall be made by the Board of Selectmen for a term not to exceed three (3) years, and further provided that such vote of Town Meeting shall be subject to the acceptance by the voters of the Town by a ballot question in the form of the following question to be placed on the official Town Ballot, as provided by said Section 1B of Chapter 41 of such General Laws

“Shall the Town vote to have its elected Town Clerk become an appointed Town Clerk of the Town? Yes \_\_\_ No \_\_\_”

Any incumbent in such office shall continue in such office until the expiration of the current term.

**AMENDMENT TO THE MAIN MOTION:** That the Town vote to amend the main motion by adding the following statement, “Said appointment shall not take effect until the expiration of the term of office of the Town Clerk as may be re-elected at the annual election on May 12, 2014, after the words, “Shall the Town vote to have its elected Town Clerk become an appointed Town Clerk of the Town? Yes \_\_\_ No \_\_\_”

**MOTION MADE TO MOVE THE QUESTION PASSED BY MAJORITY VOTE.**

**MAIN MOTION WITH AMENDMENT DEFEATED.**

**ARTICLE 22:** 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 pursuant to the provisions of the State Constitutional Amendment, Article 2, Section 8, thereof, and all other applicable laws, thereof for Special Law substantially in the following form. The legislature may reasonably vary the form and substance of the petitioned legislation, subject to the approval of the Board of Selectmen who are hereby authorized to approve amendments within the scope of the general public objectives of this petition. In addition, the Board of Selectmen is authorized to pursue a more limited or specific scope as the Board of Selectmen deem appropriate, so long as to accomplish the general public objectives of this petition, or do or act anything in relation thereto.

**AN ACT TO CHANGE THE APPOINTING AUTHORITY OF THE POLICE CHIEF, FIRE CHIEF AND THE SUPERINTENDENT OF THE DEPARTMENT OF PUBLIC WORKS FROM THE BOARD OF SELECTMEN TO THE TOWN ADMINISTRATOR.**

#### Section I

**Police Chief.** Notwithstanding the provisions of Chapter 41, Section 97A of the General Laws, the Town Administrator 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 Administrator. 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 Administrator may recommend removal of the chief to the Board of Selectmen, who must act within thirty (30) days to accept or reject the Town Administrator'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 Administrator; provided, that such regulations shall become effective without such approval upon the failure of the Town Administrator 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.

#### Section II

**Fire Chief.** Notwithstanding the provisions of Chapter 48, Section 42 of the General Laws, and Chapter 591 of the Acts of the General Court of 1920, the Town Administrator 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 Administrator. 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 Administrator may recommend removal of the chief to the Board of Selectmen, who must act within thirty (30) days to accept or reject the Town Administrator'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 Administrator, 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 Administrator 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 Administrator. In the expenditure of money the chief shall be subject to such further limitations as the Town may from time to time prescribe.

#### Section III

**Superintendent of Public Works.** The Town Administrator shall appoint a Superintendent of Public Works, notwithstanding the provisions of Chapter 447 of the Acts of the General Court of 1991, 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

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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 Administrator over the above-referenced department head, nor shall it grant tenure to such department head.

**Proposed by: ADVISORY BOARD**

**Board of Selectmen Recommendation: Support**

**Advisory Committee Recommendation: Support**

**Summary:** *This article seeks to change the hiring and reporting authority for the Police Chief, Fire Chief, and Public Works Director, from the Board of Selectmen to the Town Administrator. The article does not seek additional changes to the existing Special Acts which currently govern the Fire Chief and Public Works Director positions.*

**MOTION MADE:** That the Town vote to accept and approve the following text of a Special Act, and further that the Town vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts pursuant to the provisions of the State Constitutional Amendment, Article 2, Section 8, thereof, and all other applicable laws, thereof for Special Law substantially in the following form. The legislature may reasonably vary the form and substance of the petitioned legislation, subject to the approval of the Board of Selectmen who are hereby authorized to approve amendments within the scope of the general public objectives of this petition. In addition, the Board of Selectmen is authorized to pursue a more limited or specific scope as the Board of Selectmen deem appropriate, so long as to accomplish the general public objectives of this petition.

**MOTION DEFEATED.**

**ARTICLE 23:** To see if the Town of Southborough will vote to allow donations, without specific usage designation, made to various town departments, i.e. Fire, Library, Police, Recreation under the dollar amount of \$5,000, to be used at the discretion of the department manager for use in their department. Such authority shall be obtained without the Board of Selectmen approval. Accounting of funds received and expenditures made shall be maintained in a manner acceptable to the Board of Selectmen for their review as warranted, or do or act anything in relation thereto.

**Proposed by: MELVIN KIZNER**

**Board of Selectmen Recommendation: At Town Meeting**

**Advisory Committee Recommendation: Not Support**

**Summary:** *This is a citizen's petition seeking to allow departments to accept donations of less than \$5,000 to be used at their discretion without further approval of the Board of Selectmen.*

**MOTION MADE:** That this article be indefinitely postponed.

**MOTION PASSED UNANIMOUSLY.**

**ARTICLE 24:** To see if the Town will vote to adopt the following non-binding resolution, or take any action thereon:

WHEREAS, the Town of Southborough has for many years followed the policy of implementing a single tax rate for residential, commercial, industrial and personal property; and

WHEREAS, pursuant to State law, the Board of Selectmen may, at their annual tax classification hearing for each fiscal year, vote to implement a split tax rate for such fiscal year, whereby one property tax rate applies to residential property and a second, different property tax rate applies to commercial, industrial and personal property; and

WHEREAS, approximately 30% of all cities and towns in Massachusetts have adopted a split tax rate, providing property tax relief for residential property owners; and

WHEREAS, of the cities and towns in Massachusetts with over 15% of their total taxable property value in the classes of commercial, industrial and personal property (including Southborough, with over 19% of its taxable real property in these classes), over 60% have adopted a split tax rate; and

WHEREAS, the average annual single-family residential property tax bill for Southborough residents has increased by 19% over the past seven fiscal years (from \$7,289 in FY07 to \$8,676 in FY14); and

WHEREAS, the adoption of a split tax rate in Southborough, with one tax rate for residential property and a different, higher tax rate for commercial, industrial and personal property, can provide property tax relief for all Southborough residential property owners.

Therefore be it RESOLVED, that the 2014 Annual Town Meeting:

ACKNOWLEDGES that property tax relief for Southborough residential property owners is a valuable result for the vast majority of the citizens of the Town; and

FURTHER ACKNOWLEDGES that residential property tax relief is particularly valuable for those Southborough residential property owners living on a fixed income, without the means to produce additional income to pay the increasing residential property taxes; and

ENDORSES a cautious implementation of a split tax rate for FY15; and

REQUESTS that the Board of Selectmen, at their Fall, 2014 tax classification hearing, adopt a split tax rate with the commercial/industrial/personal property tax rate set at a value of at least 105% of the residential property tax rate; and

FURTHER REQUESTS that the Board of Selectmen, subsequent to a vote to implement a split tax rate as requested above, carefully monitors any significant impacts from this split tax rate policy and presents a report to the 2015 Annual Town Meeting on the details of any such impacts identified.