

# BOARD OF SELECTMEN

## MEETING AGENDA

**Tuesday, April 7, 2020**  
**7:00 PM**

*NOTE: Due to the state of emergency in Massachusetts due to the COVID-19 outbreak, this meeting will be held via ZOOM, an internet based meeting space. It is the intent that the virtual meeting space will be made accessible to the public; however, if this is not possible despite best efforts, the full and complete transcript of the meeting will be posted on the municipal website as soon as practicable upon the conclusion of the proceedings. To join the meeting, go to <https://zoom.us/j/448348456?pwd=MEd4K0RHNEhMV0lFZjluRERWRk8yUT09>*

Meeting ID: 448 348 456

Password: 961973

One tap mobile +13126266799,,448348456# US (Chicago) +19292056099,,448348456# US (New York)

1. 7:00 PM Warrant: #2021  
Minutes: Open Session: March 24, 2020  
Executive Session:  
Town Administrator updates and reports
2. 7:15 PM Public Comment Period
3. 7:25 PM Review and sign Bond Anticipation Notes in the amount of \$3,745,000 for acquisition and master planning of 105 South Main Street
4. 7:30 PM Discuss and review Annual Town Meeting warrant; review revised Town Meeting and Budget calendar; and vote to set Wednesday, June 10, 2020 as the new date, contingent on the lifting of the stay at home order
5. 7:50 PM Discuss and vote to postpone the Annual Town Election to Saturday, June 20, 2020 with proposed hours of 10AM-4PM, contingent on the lifting of the stay at home order
6. 7:55 PM Discussion and vote to adopt the provisions of House Bill 4612 changing the due date for 4<sup>th</sup> quarter property taxes from May 1 to June 1 and other taxpayer relief. Note, this legislation is currently being debated
7. 8:05 PM Discussion of hearings and meetings by public bodies during the stay at home order
8. 8:15 PM Discussion of personnel policies, charter and bylaw amendments
9. 8:30 PM New Business: Reserved for topics that the Chair did not reasonably anticipate would be discussed

Upcoming Meetings: April 21: Regular BOS meeting  
May 5: Regular BOS meeting  
May 7: Joint Budget Hearing/Warrant Reading  
May 12: Regular BOS meeting  
June 2: Regular BOS meeting  
June 10: Annual Town Meeting  
June 16: Regular BOS meeting

*The Board reserves the right to consider items on the agenda out of order. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.*

**BOARD OF SELECTMEN MEETING MINUTES**  
**Fuller Meadow School Front Canopy**  
**143 South Main Street, Middleton, MA 01949**  
**Tuesday, March 24, 2020 5:00 PM**  
**This meeting is being recorded.**

Meeting Law, GL c. 30A, s. 18, and the Governor's Order imposing strict limitations on the number of people who may gather in one place, this meeting of the Middleton Board of Selectmen may be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town's website, [www.middletonma.gov](http://www.middletonma.gov). For this meeting, Board members intend to gather in person while maintaining responsible social distancing. The Board, collectively or individually, may elect to participate remotely. No in-person attendance by the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings. Members of the public who wish to listen to or watch this meeting may do so by watching a rebroadcast of the meeting on local access cable or on the Town's website, [www.middletonma.gov](http://www.middletonma.gov). [Note: due to a faulty memory card in the camera, the first portion of the meeting was lost and is not able to be recaptured. We apologize for this and will take additional measures in the future]

*Present: Chair Tim Houten, Kosta Prentakis, Todd Moreschi, Rick Kassiotis*

*Absent: Brian Cresta*

*Others Attending: Town Administrator Andy Sheehan*

With a quorum present, Chair Tim Houten called the meeting to order.

**ROUTINES**

- **Warrant Approval:** Town Administrator Andy Sheehan provided a brief review of warrant #2020. Payroll totals \$664,373 and bills payable totals \$898,558. He noted that the Town Accountant had reviewed the warrant and requested the Board's approval.  
On a **MOTION** made by **Prentakis**, second by **Kassiotis**, the Board of Selectmen **VOTED** unanimously to accept warrant #2020, as presented.
- **Minutes:** After a brief review of the minutes of March 10, 2020, the following action was taken:  
On a **MOTION** made by **Prentakis**, second by **Moreschi**, the Board of Selectmen **VOTED** unanimously to approve the minutes of March 10, 2020 as drafted.
- **Town Administrator's Report:** Town Administrator Andy Sheehan provided the Board with updates and information on the following:
  - **Coronavirus Update:** Sheehan advised that coronavirus is consuming most of the time of many employees. To date there are two confirmed cases in Middleton. Many Town employees were already working from home, but the number increased this week with the Governor's most recent stay at home order.
  - There is a brush drop off at the Transfer Station on April 4 from 8AM-4PM.

- The bond anticipation note (BAN) for the acquisition of 105 South Main Street is coming due. Based on volatility in the bond market resulting from the coronavirus, Hilltop Securities, our financial advisors, have recommended rolling the notes for another year. Sheehan said the paperwork will be ready in the next couple of weeks. The Board will need to approve it at the April 7 meeting or possibly sooner. Once he gets a firm date from Hilltop he will advise the Board members.
- Finally, Sheehan thanked the residents and Town employees for the sacrifices that all are making.

#### **Discussion on Local Declaration of Emergency:**

Sheehan provided background on the recommended emergency declaration. Although cities and towns don't usually issue local emergency declarations he suggested it in this case. It is a good way of reinforcing the seriousness of the situation and the need to follow social distancing. It also provides another layer on top of the Governor's emergency declaration. He added that the Board of Health voted an emergency declaration that clarifies some of the types of businesses that cannot be open during the stay at home order. After a brief discussion, the Board took the following action:

On a **MOTION** made by **Prentakis**, second by **Moreschi**, the Board of Selectmen **VOTED** unanimously to issue the local emergency declaration, as presented.

#### **Vote to Designate One Member to Sign Payroll and Bills Payable Warrants:**

Sheehan said that since the Board is unlikely to be meeting again in person in the near future, one member needs to be designated to sign bills, payroll, and other paperwork. After a brief discussion, the Board took the following action:

On a **MOTION** made by **Prentakis**, second by **Moreschi**, the Board of Selectmen **VOTED** unanimously to designate Tim Houten to sign warrants and paperwork.

**Discussion of May 12, 2020 Annual Town Meeting, May 19, 2020 Annual Town Election, and related meetings, hearings, and actions:** Sheehan started a discussion with the Town Clerk and Moderator on changing the dates of the Annual Town Meeting and the Annual Election. With no end in sight for the State of Emergency there will be no choice but to delay both the Meeting and Election. He suggested that the Board delay setting new dates for the Annual Town Meeting and election. He is working on timelines and scenarios based on when the State of Emergency ends. He will vet those with the Town Clerk and Moderator and have a recommendation for the Board at the next meeting.

#### **New Business:**

- **Call People:** Selectman Houten encouraged residents to call friends and neighbors to make sure they're okay, adding that the town has the ability to deliver meals or groceries to those who can't get out.
- **Thank You to First Responders and Food Supply Chain:** Selectman Prentakis publicly thanked the first responders for all they do and reminded everyone to thank those who work in the restaurants and supermarkets who supply our food.


#### **ADJOURN**

With no further business, on a **MOTION** made by Prentakis, the Board of Selectmen's meeting of March 24, 2020 adjourned.

**Scheduled Meetings:** The status of all meetings remains uncertain during the State of Emergency

- **April 2:** Joint w/ Finance Committee FY21 Budget Hearing and Warrant Reading
- **April 7:** Regular BOS meeting
- **April 9:** Joint w/ Finance Committee FY21 Budget, if necessary
- **April 21:** Regular BOS meeting

Respectfully submitted,



Judith A. Stickney, Minutes Secretary

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Todd Moreschi, BOS Clerk

Documents either distributed to the Board of Selectmen before the meeting in a packet or at the meeting:

- Agenda: March 24, 2020
- Warrant #2020
- Minutes: March 10, 2020
- Proposed Emergency Declaration by the Board of Selectmen
- 3/24/20 Emergency Declaration by the Board of Health

# Town of Middleton, Massachusetts

\$3,745,000 General Obligation Bond Anticipation Notes

Sale Date: 4/2/2020  
 Dated Date: 4/24/2020  
 Delivery Date: 4/24/2020  
 Due Date: 4/23/2021  
 Days Per Year: 360  
 Day Count: 359  
 Bank Qualified: No  
 Rating: None



Bidder	Underwriter	Principal	Coupon Rate	Premium	Interest	Net Interest	NIC	Prorata Premium	Prorata Interest	Award	Reoffering Yield
JPMorgan Chase Bank		\$3,745,000	1.46%	\$0.00	\$54,525.12	\$54,525.12	1.4600%	\$0.00	\$54,525.12	\$3,745,000	
Century Bank		\$3,745,000	1.65%	\$0.00	\$61,620.85	\$61,620.85	1.6500%				
Newburyport Bank		\$3,745,000	1.72%	\$0.00	\$64,235.07	\$64,235.07	1.7200%				
Award Totals								\$0.00	\$54,525.12	\$3,745,000	

Weighted Average Net Interest Cost: 1.4600%



MUNICIPAL PURPOSE LOAN

Town of Middleton, Massachusetts

\$3,745,000 General Obligation Bond Anticipation Notes

Sale Date: 4/2/2020  
Dated Date: 4/24/2020  
Delivery Date: 4/24/2020  
Due Date: 4/23/2021  
Bank Qualification: No



<u>Purpose</u>	<u>Vote Date(s)</u>	<u>Reference</u>	<u>Article Number</u>	<u>Amount Authorized</u>	<u>Previous Issues</u>	<u>Grants Bonds and/or Paydowns</u>	<u>Renewal This Issue</u>	<u>New This Issue</u>	<u>Total This Issue</u>	<u>Balance Unissued</u>	<u>Original Issue Date</u>	<u>Prorata Interest</u>	<u>Prorata Premium</u>
Land Acquisition - South Main Street	3/19/2019	Ch. 44, s.7(1)	1	\$3,420,000	\$3,420,000	\$0	\$3,420,000	\$0	\$3,420,000	\$0	4/26/2019	\$49,793.30	\$0.00
Development Master Plan - South Main Street	3/19/2019	Ch. 44, s.7(1)	2	\$325,000	\$325,000	\$0	\$325,000	\$0	\$325,000	\$0	4/26/2019	\$4,731.82	\$0.00
Totals				\$3,745,000	\$3,745,000	\$0	\$3,745,000	\$0	\$3,745,000	\$0		\$54,525.12	\$0.00

## VOTE OF THE BOARD OF SELECTMEN

I, the Clerk of the Board of Selectmen of the Town of Middleton, Massachusetts, certify that at a meeting of the board held April 7, 2020, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: to approve the sale of \$3,745,000 1.46 percent General Obligation Bond Anticipation Notes (the "Notes") of the Town dated April 24, 2020, and payable April 23, 2021, to JPMorgan Chase Bank, NA at par and accrued interest, if any.

Further Voted: that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated March 27, 2020, and a final Official Statement dated April 2, 2020, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Notes for the benefit of the holders of the Notes from time to time.

Further Voted: that we authorize and direct the Town Treasurer to establish post issuance federal tax compliance procedures and continuing disclosure procedures in such forms as the Town Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Notes and to comply with relevant securities laws.

Further Voted: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

Except for the town meeting called pursuant to G.L. c.39, §10, all proceedings essential to the issue of the Notes and the authorization of the bonds and deliberations of a quorum relating thereto have been taken at a meeting or meetings open to the public; notice of each such meeting was filed in my office and publicly posted in the time and manner set forth in the General Laws, as amended, in effect at the time of each such meeting (Chapter 30A, §§18-25) and as further suspended, supplemented, amended or modified by the Executive Order of the Governor of The Commonwealth of Massachusetts Suspending Certain Provisions of the Open Meeting Law, Chapter 30A, §20 dated March 12, 2020 (the "Executive Order"), or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b); no deliberations, decision or vote in connection with the Notes or bonds were taken in executive session and no vote was taken by secret ballot; and the official record of each such meeting was made available to the public and remains available to the public as set forth in G.L. c.30A, §§18-25, as further suspended, supplemented, amended or modified by the Executive Order.



Dated: April 7, 2020

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Clerk of the Board of Selectmen



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**CALENDAR**  
**FY2021 OPERATING AND CAPITAL BUDGETS**  
**WEDNESDAY, JUNE 10, 2020 ANNUAL TOWN MEETING**  
**SATURDAY, JUNE 20, 2020 ANNUAL TOWN ELECTION**



*Events that have already occurred have been omitted*

**2020**

Tuesday, March 31, until 5PM	Last day for candidates to submit nomination papers for Annual Town Election
Wednesday, April 8	Last day for candidates to object or withdraw their candidacy for elected office
Monday, April 20	Patriots Day holiday; start of school vacation week
Tuesday, April 21	BOS votes to close and sign ATM warrant
Tuesday, April 28	Target date for Constable to post warrant
Monday, May 4	Current expiration of Governor's stay at home order
Tuesday, May 5	Deadline to submit recommendations, exhibits, maps to TA's Office for inclusion in warrant book
Thursday, May 7	Budget Hearing and Warrant Reading: BOS, FinCom, Moderator at Flint Public Library; deadline to finalize operating and capital budgets
Tuesday, May 12	Motions meeting with TA, ATA, CFO, Moderator, Town Clerk, Town Counsel
Thursday, May 14	Warrant book to printer
Friday, May 22 Until 8:00PM	Last day to register to vote for the Annual Town Meeting and Annual Town Election
Friday, May 29	Warrant book to USPS for mailing to households (7 days required)
Thursday, June 4, 7:00PM	Pre-Town Meeting at Flint Public Library
<u>Wednesday, June 10</u>	Annual Town Meeting at Howe Manning School gymnasium
<u>Saturday, June 20, 10AM-4PM*</u>	Annual Town Election at Fuller Meadow School gymnasium

***All meeting locations subject to change depending on availability of venue***

Regular Board of Selectmen meetings: Unless otherwise noted, public meetings take place at the Nathan Media Room at Fuller Meadow School, 143 South Main Street

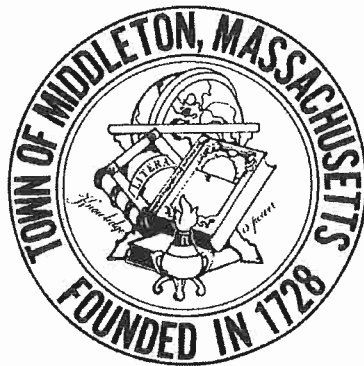
April 7 & 21

May 5 & 19

June 2 & 16

\*Statute requires minimum 4 hours opening before 12PM

# Town of Middleton Massachusetts



## Annual Town Meeting

Tuesday, June 10, 2020, 7:00 P.M.

Annual Town Meeting Warrant for  
Fiscal Year 2021

Meeting to be held at Howe Manning School Gymnasium  
26 Central Street, Middleton, MA

## **Town Warrant Dedications**

### **Dedication to Those Who Have Left Us:**

**Donna Innis, Administrative Assistant to the Town Administrator (Retired)**

**Francis Masse, Co-Founder of the Middleton Stream Team**

**Jeffrey Barber, Firefighter (Retired)**

### **Congratulations to the following recent retirees from Town service:**

<b>Robert Currier</b>	Police Sergeant
<b>Charles Costigan</b>	Reserve Police Officer
<b>Robert Ambrefe</b>	Board of Health

We appreciate all those who serve the Town and thank our retirees for your outstanding dedication and service to the residents of Middleton.

### **Middleton Board of Selectmen**

Timothy P. Houten, Chairperson

Todd Moreschi, Clerk

Kosta E. Prentakis

Brian M. Cresta

Rick Kassiotis

Andrew J. Sheehan, Town Administrator

Tanya Stepasiuk, Assistant Town Administrator/Human Resources Director

**TOWN OF MIDDLETON  
ANNUAL TOWN MEETING  
THE COMMONWEALTH OF MASSACHUSETTS  
JUNE 10, 2020**

ESSEX s.s.

To the Constable of the Town of Middleton in the County of Essex:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in Elections and Town Affairs, to meet at the Howe Manning School Gymnasium, 26 Central Street in said Middleton on Tuesday, June 10th, 2020 next, at 7:00 p.m., then and there to act on the following articles:

To transact any other business that may lawfully come before this meeting.

**CURRENT AND PRIOR YEAR FINANCIAL ARTICLES**

**ARTICLE 1.** To hear Committee Reports:

School Committee  
Finance Committee  
Master Plan Committee  
Other Committees

**ARTICLE 2.** On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to be used to fund the deficit incurred in the Department of Public Works (snow removal and winter road maintenance) budget; or take any other action relative thereto.

**Purpose:** This article will transfer funds to close the deficit for snow and ice removal for the 2019-2020 winter. The snow and ice deficit is typically funded through a transfer from Free Cash. At the time of printing the snow and ice deficit was \$0. If the deficit remains at \$0, Town Meeting will be asked to pass over the article.

**ARTICLE 3.** On petition of the Board of Selectmen, to see if the Town will vote to raise and appropriate, transfer between and among various accounts, or transfer from available funds to supplement the Fiscal Year 2020 operating budget; or take any other action relative thereto.

**Purpose:** This article is to transfer funds and supplement monies, if necessary, to meet departmental expenses in the current fiscal year ending on June 30, 2020.

## FY2021 FINANCIAL ARTICLES

**ARTICLE 4.** On petition of the Board of Selectmen acting in the capacity of the Personnel Board, to see if the Town will vote to set the salaries of elected officials pursuant to Massachusetts General Law Chapter 41, Section 108 and the Town Consolidated Personnel Plan, Section 9-5 as follows; or take any other action relative thereto.

**Purpose:** This article establishes the compensation of elected officials. The Personnel Plan which shows the compensation of all employees is located in the back of the warrant book.

**ARTICLE 5.** On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to fund the Omnibus Budget for Fiscal Year 2021; or take any other action relative thereto.

**Purpose:** This article requests approval of the Town operating budget for the coming fiscal year beginning on July 1, 2020 and running through June 30, 2021.

**ARTICLE 6.** On petition of the Board of Selectmen and Community Preservation Committee, to see if the Town will vote to appropriate or reserve from the Community Preservation Fund annual revenues or available funds the amounts recommended by the Community Preservation Committee for debt service, and community preservation projects and other expenses in Fiscal Year 2021 with each item to be considered a separate appropriation; or take any other action relative thereto.

### **Proposed Fiscal Year 2021 Community Preservation Budget**

#### **<INSERT FY2021 COMMUNITY PRESERVATION PLAN>**

The Community Preservation Committee recommends that the following amounts be appropriated or reserved from Fiscal Year 2021 Community Preservation Fund Revenues, unless otherwise specified for Fiscal Year 2021 Community Preservation Purposes with each item considered to be a separate appropriation:

<b><u>Purpose</u></b>	<b><u>Recommended Amount</u></b>	<b><u>Funding Source</u></b>
A) Reserves: Open Space	\$37,133.63	FY 2021 Estimated CPA Receipts
Reserves: Historic Resources	\$37,133.63	FY 2021 Estimated CPA Receipts
Reserves: Community Housing	\$37,133.63	FY 2021 Estimated CPA Receipts
B) Flint Library Debt Service	\$74,375	\$38,885.80 from Historic Resources Reserve and \$35,489.20 from Fund Balance
C) 11 South Main St. Debt Service	\$44,000	\$38,885.81 from Open Space Reserve and \$5,114.19 from Fund Balance

D) CPA Committee Admin. Expenses                      \$1,150                      From Fund Balance

**Community Preservation Total                      \$230,926**

**Purpose:** Each year the Town Meeting must appropriate or reserve for future appropriation at least 10% of the estimated annual fund revenues for acquisitions and initiatives in each of the following three categories of allowable community preservation purposes:

Open space (excluding recreational uses)  
Historic resources  
Community housing

The term “annual fund revenues” in Fiscal Year 2021 are estimated at \$297,500 and is composed of the estimated receipts from the local surcharge of \$240,000 and monies from the State Trust Fund, which will make its sixteenth payment in October of 2021 providing an additional estimated \$57,500 in matching funds based upon the local share raised in FY 2020.

**ARTICLE 7.** On petition of the Board of Selectmen and Community Preservation Committee, to see if the Town will vote to appropriate from the Community Preservation Fund annual revenues the following amounts recommended by the Community Preservation Committee for new community preservation projects in Fiscal Year 2021 with each item to be considered a separate appropriation; or take any other action relative thereto.

<b><u>Purpose</u></b>	<b><u>Recommended Amount</u></b>	<b><u>Funding Source</u></b>
Digitizing Historic Records	\$5,000	Fund Balance
<b>Community Preservation Total</b>	<b>\$5,000</b>	

**ARTICLE 8.** On petition of the Board of Selectmen to see if the Town will vote to authorize the spending limits of the following revolving funds established under the Town Bylaw and General Laws Chapter 44, Section 53E ½:

<b>Revolving Fund</b>	<b>Spending Limit</b>
Firearms License and Permits	\$10,000
Council on Aging	\$35,000
Recreation	\$15,000
Recreation Field Use	\$15,000
Stormwater Management	\$5,000
Sidewalk Fund	\$\$\$\$\$\$\$\$\$\$

Or take any other action relative thereto.

**ARTICLE 9.** On petition of the Town Accountant, Public Works Superintendent, Board of Selectmen, and Finance Committee, to see if the Town will vote to appropriate a certain sum from the Sewer Enterprise receipts to pay expenses and contractual services required to operate the Sewer Enterprise Fund for Fiscal Year 2020; or take any other action relative thereto.

**Direct Costs**

SESD Assessment	\$105,000
Expenses	\$100
Extra/Unforeseen	\$1,000
Total Direct Costs:	\$106,100

**Indirect Costs \***

Salaries and Wages	\$4,346
Insurance & Benefits	\$515
Total Indirect Costs:	\$4,861

**Total FY2020 Budget      \$110,961**

*\*(to be raised and appropriated in the General Fund Operating Budget)*

Town shall raise the sum of \$106,100 or any other sum from the Sewer Enterprise Revenues and to approve the sum of \$4,861 of indirect costs appropriated in the general fund under **article 8** to be funded from Sewer Enterprise Revenues.”

**ARTICLE 10.** On petition of the Town Accountant, Public Works Superintendent, Board of Selectmen, and Finance Committee, to see if the Town will vote to appropriate a certain sum from the Water Enterprise receipts to pay expenses and contractual services required to operate the Water Enterprise Fund for Fiscal Year 2020; or take any other action relative thereto.

**Direct Costs**

Salaries and Wages	\$110,768
Capital Outlay	0
Debt Service	\$11,285
Expenses	\$116,600
Total Direct Costs:	\$238,653

**Indirect Costs \***

Salaries and Wages	\$13,530
Insurance & Benefits	\$7,419
Total Indirect Costs:	\$20,949

**Total FY2020 Budget      \$259,602**

*\*(to be raised and appropriated in the General Fund Operating Budget)*



Town shall raise the sum of \$238,653 or any other sum from the Water Enterprise Revenues and to approve the sum of \$20,949 of indirect costs appropriated in the general fund under article 8 to be funded from Water Enterprise Revenues.”

**ARTICLE 11.** On petition of the Electric Light Commissioners, to see if the Town will vote to accept a sum of money from the earnings of the Electric Light Department, said sum to be used for the reduction of taxes; or take any other action relative thereto.

**ARTICLE 12.** On petition of the Electric Light Commissioners, to see if the Town will vote to authorize the appropriation of all income of the Municipal Light Department, the whole to be expended by the Manager thereof under the direction and control of the Commissioners, for the expenses of the Department for the Fiscal Year as defined in Section 57 of Chapter 164 of the General Laws of the Commonwealth, and the excess to be transferred to the Depreciation Fund of said Department to be used as the Commissioners may direct hereto; or take any other action relative thereto.

**ARTICLE 13.** On petition of the Superintendent of Public Works, to see if the Town will vote to raise and appropriate such sums of monies as may be received from the Commonwealth of Massachusetts for the fiscal year commencing July 1, 2020 to install drainage, widen, pave, and otherwise improve any public way in accordance with the provisions of Chapter 90 of the Massachusetts General Laws; or take any other action relative thereto.

**ARTICLE 14.** On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to fund the Capital expenditures for Fiscal Year 2021; and to authorize the Town Administrator to sell or trade items rendered surplus by such purchases; or take any other action relative thereto.

Department/Location	Project	Expenditure	
<u>Dept. of Public Works</u>	John Deere Tractor or similar	60,000	*
	Garage Heaters	11,000	
	F550 1 Ton Truck or similar	75,000	*
	7400 International Dump Truck or similar	173,000	*
	Roll Off Containers, Repair/Replace	12,000	
<b>Public Works subtotal</b>		<b>331,000</b>	
<u>Police Department</u>	Cruiser Radios	4,100	
	Radar Guns	2,500	
	Vests (reimbursable)	21,000	
	Taser Replacement	18,750	
	Bicycles	4,800	
	Court Vehicle	37,000	
	Digital Sign Board	21,800	
	Station Upgrades	10,000	

		<b>Police subtotal</b>	<b>119,950</b>
<u>Fire Department</u>	Engine 4 Cabinets	10,000	
	Alarm Box Decoder	60,000	
	Replace Ambulance 1	384,710	
	Outfit/Train New Firefighters/Paramedics	75,930	
		<b>Fire subtotal</b>	<b>530,640</b>
<u>Information Technology</u>	Fiber Optic Network	100,000	
	UBS Backup Devices	8,000	
	Warranty Renewal Mem. Hall Network Storage	4,000	
	Replace Police Computers	6,000	
	Multifunction Copier-Printers: MH, Fire, DPW, Lib.	36,000	
		<b>Information Technology subtotal</b>	<b>154,000</b>
<u>Facilities</u>	Memorial Hall Handicap Ramp Replacement	20,000	
		<b>Facilities subtotal</b>	<b>20,000</b>
<u>Administration</u>	Digitizing of Inspectional Services Records	45,000	
	Carpet Replacement	14,250	
		<b>TA/BOS subtotal</b>	<b>59,250</b>
<u>Senior Center</u>	Replace Heating/Cooling System	11,000	
	Meals on Wheels Delivery Vehicle	35,000	
		<b>Senior Center subtotal</b>	<b>46,000</b>
<u>Middleton Public Schools</u>	Fuller Meadow End-User Technology	80,833	
	Fuller Meadow Math Curriculum	39,162	
	Fuller Meadow Math Curriculum	45,258	
	Howe Manning End User Technology	144,048	
	Howe Manning Security		
		<b>Middleton schools subtotal</b>	<b>309,301</b>
<u>Essex No. Shore Tech</u>	Capital contribution	20,626	
		<b>Essex Tech subtotal</b>	<b>20,626</b>
<b>Capital Projects Total</b>			<b>\$ 1,590,767</b>

\*Indicates items for which borrowing is the funding source; requires 2/3 vote

**Purpose:** This article requests approval of the capital budget for the coming fiscal year. Capital items are assets that have a useful life of five (5) or more years and a cost of more than \$5,000. Regular capital investment is critical to maintaining the Town's infrastructure, including the vehicle fleet, buildings, equipment, and acquisition of land. Annually, a capital improvement plan (CIP) is developed looking ahead for the next five years. Year one of the CIP is the ensuing year's capital budget.

**ARTICLE 15.** On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the sum of \$710,000 to fund the purchase of a fire pumper, said appropriation to be contingent on the passage at the ballot of a capital outlay exclusion for Fiscal Year 2021; and to authorize the Town

Administrator to sell or trade items rendered surplus by such purchases; or take any other action relative thereto.

**ARTICLE 16.** On petition of the Middleton School Committee and Superintendent, to see if the Town will vote pursuant to General Law chapter 30B, section 12 to authorize the Superintendent of Schools to solicit and award transportation contracts for terms exceeding three years, but not longer than five years, including any renewal, extension, or option, provided in each instance the longer term is found by vote of the School Committee to be in the best interest of the Town; or take any action relative thereto.

**Purpose:** This article authorizes the Middleton School Committee to enter into a five year contract for student transportation. Under Massachusetts General Law chapter 30B, contracts in excess of three years require the approval of Town Meeting.

**ARTICLE 17.** On petition of the Board of Selectmen and Finance Committee, to see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$75,000 to the Other Post-Employment Benefits Liability Irrevocable Trust Fund; or take any other action relative thereto.

## **CITIZEN PETITIONS, BYLAW ADOPTIONS, AND REAL PROPERTY**

**ARTICLE 18.** On petition of the Board of Selectmen, to see if the Town will vote to amend Chapter 79 Revolving Funds, of the By-Laws of the Town by inserting a new Revolving Fund, Sidewalks and Pedestrian Improvements:

<b>Revolving Fund</b>	<b>Department, Board, Committee, Agency or Officer Authorized to Spend from Fund</b>	<b>Fees, Charges or Other Receipts Credited to Fund</b>	<b>Program or Activity Expenses Payable from Fund</b>	<b>Restrictions or Conditions on Expenses Payable from Fund</b>	<b>Other Requirements/ Reports</b>	<b>Fiscal Years</b>
Sidewalks and Pedestrian Improvements	DPW Superintendent, Town Administrator	Contributions and payments in lieu of construction for developments permitted by Planning Board, Zoning Board, and other permitting authorities	Design, construction, and related costs associated with construction of sidewalks and pedestrian improvements			Fiscal Year 2021 and subsequent years

Or take any other action relative thereto.

**ARTICLE 19.** On petition of the Board of Selectmen, to see if the Town will vote to amend Chapter 68 Personnel, of the By-Laws of the Town by deleting the entire chapter and substituting in its place:

Chapter 68 Personnel

**§ 68-1 Purpose and Intent.**

The purpose of the Personnel Bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensure a uniform fair and efficient application of personnel policies. The intent of this bylaw is to provide a method of recruitment, selection, development, and retention of a work force that is skilled and effective in accomplishing the service delivery mission of the Town. Personnel actions are to be made without regard to any criteria established and proscribed by any state or federal law or regulations promulgated pursuant thereto, or political affiliation or other non-job related factors, and shall be based on merit and fitness.

**§ 68-2 Applicability**

All Town departments and positions shall be subject to the provisions of this bylaw, except elected officers, members of boards and commissions, and employees of the School Department. To the extent that the provisions of any collective bargaining agreement conflicts with any provisions of this bylaw or personnel policies adopted pursuant to § 68-5, the provisions of the collective bargaining agreement shall prevail. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Law.

**§ 68-3 Responsibility of the Town Administrator.**

The Town Administrator shall be responsible for the establishment and maintenance of a personnel system based on merit principles. The Town Administrator shall have all the personnel management powers and duties as provided by the Middleton Town Charter and shall formulate personnel policies pursuant to § 68-5 of this bylaw, subject to the approval of the Board of Selectmen.

**§ 68-4 Contents of Personnel Policies.**

The personnel policies shall establish a personnel system which shall include, but need not be limited to, the following elements:

- A. A method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records; implementing effective recruitment and selection processes; maintaining the classification and compensation plans; monitoring the application of policies and periodic reviews and evaluation of the personnel system.

- B. A classification and compensation plan.
- C. A recruitment and selection policy.
- D. A centralized personnel record keeping system, and
- E. Other elements of a personnel system as deemed appropriate or necessary.

**§ 68-5 Adoption of Policies.**

The Town Administrator is empowered and authorized by this bylaw to prepare personnel policies for adoption by the Board of Selectmen defining the rights, benefits, and obligations of employees subject to this bylaw, provided however. The Town Administrator shall be responsible for the development of personnel policies. Any Board or Committee, department head, or any single employee or group of employees may recommend personnel policies to the Town Administrator for consideration. Such policies shall become effective in accordance with the following procedure:

- A. The Town Administrator shall prepare proposed personnel policies.
- B. The Town Administrator shall consult with employees that may be affected by proposed changes in personnel policies.
- C. The Town Administrator shall finalize personnel policies and transmit in writing any proposed policies to the Board of Selectmen.
- D. The Board of Selectmen shall review said policies and vote to approve, disapprove, or approve with modifications.
- E. Copies of new or amended policies shall be posted and distributed to department heads and employees.

**§ 68-6 Severability.**

The provisions of this bylaw and any policies adopted pursuant to this bylaw are severable. If any bylaw provision or policy is held invalid, the remaining provisions of the bylaw or policy shall not be affected thereby.

**§ 68-7 Effective Date.**

This bylaw shall take effect upon passage.

Or take any other action relative thereto.

**Purpose:** This article proposes changes to the personnel bylaw to make the personnel bylaw consistent with the current and historic practice of personnel management.

**ARTICLE 20.** On petition of the Board of Selectmen, to see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts for legislation in the form set forth below adopting with respect to personnel matters, or take any action relative thereto.

Amending Chapter 6, Section 1, Subsection 6-1-1(b) by inserting “and” before “a Treasurer-Collector” and deleting “, all division and/or department heads”;

Amending Chapter 6, Section 3, Subsection 6-3-1(d) by deleting “Personnel Board, a”;

Amending Chapter 6, Section 4, Subsection 6-4-1 by deleting “such individual Town officers and”;

Amending Chapter 6, Section 7, Subsection 6-7-10 by renumbering existing subsection 6-7-10 to “6-7-11” adding the following new subsection as 6-7-10 “He shall appoint, subject to the provisions of any collective bargaining agreements as may be applicable, all other department heads, officers, and employees for whom no other method of selection is provided by this Charter. Such appointments shall become effective on the fifteenth (15<sup>th</sup>) day following the day on which such notice of appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that period by a majority of all of its members, vote to reject such appointment, or has sooner voted to affirm it.”

Amending Chapter 9, Section 5, Subsection 9-5-2 by replacing “Personnel Board” with “Town Administrator”, and further by replacing “Town Meeting” with “Board of Selectmen” and further by replacing “except those provided for by General Law” with “except as otherwise provided by law or as may be superseded by collective bargaining agreement(s)”

Provided however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and that the Board of Selectmen is authorized to approve amendments which shall be within the scope of the general public objectives of the petition; or take any action relative thereto.

**Purpose:** This article would amend the Charter with respect to personnel matters. The changes would make the Charter consistent with the current and historic practice of personnel management and with the changes proposed under Article 18, above. Charter changes require the affirmative vote of Town Meeting followed by approval of the Massachusetts legislature and the Governor.

**ARTICLE 21.** On petition of the Planning Board to see if the Town will vote to amend the Middleton Zoning Bylaw and Map by amending Section 2.2 “Overlay Districts” by adding the following new Section 8.7 “Groundwater Protection Overlay District” and that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Middleton:

- 1) Add the following to Section 2.2 “Overlay Districts”:

Groundwater Protection Overlay District (GPOD)

- 2) Add the following Section 8.7 “Groundwater Protection Overlay District”:

## 8.7. Groundwater Protection Overlay District

- 8.7.1. Purpose of District. The purpose of this Groundwater Protection District is to:

1. promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and business of the Town of Middleton and adjacent towns;
2. preserve and protect existing and potential sources of drinking water;
3. conserve natural resources in the Town of Middleton; and
4. prevent temporary and permanent contamination of the environment.

- 8.7.2. Scope of authority. The Groundwater Protection District is an overlay district superimposed on the other zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the Groundwater Protection District must additionally comply with the requirements of this bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

- 8.7.3. Definitions.

AQUIFER: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

CMR: Code of Massachusetts Regulations.

COMMERCIAL FERTILIZER: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except un-manipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, and other products exempted by state regulations.

DISCHARGE: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or ground waters.

DRY WELL: A subsurface pit with open-jointed lining or holes through which storm-water drainage from roofs, basement floors, foundations or other areas seep into the surrounding soil.

**GROUNDWATER PROTECTION DISTRICT:** The land area consisting of aquifers and Zone II recharge areas as identified on a map and adopted pursuant to this bylaw.

**HAZARDOUS MATERIAL:** Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL c. 21E. This term shall not include hazardous waste or oil.

**HISTORICAL HIGH GROUNDWATER TABLE ELEVATION:** A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

**HAZARDOUS WASTE:** A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30.000.

**IMPERVIOUS SURFACE:** Material or structure on, above, or below the ground that does not allow precipitation or surface water runoff to penetrate into the soil.

**LANDFILL:** A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to the Solid Waste Regulations, 310 CMR 19.006.

**MassDEP:** Massachusetts Department of Environmental Protection.

**MGL:** Massachusetts General Law.

**PETROLEUM PRODUCT:** Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

**NON-SANITARY WASTEWATER:** Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in 310 CMR 15.004(6).



**OPEN DUMP:** A facility operated or maintained in violation of the Resource Conservation and Recovery Act 42 U.S.C. 4004(a)(b), or state regulations and criteria for solid waste disposal.

**RECHARGE AREAS:** Land areas, such as a Zone II, where precipitation and surface water infiltrates into the ground to replenish groundwater and aquifers used for public drinking water supplies.

**SEPTAGE:** The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. This term shall not include any material that is a hazardous waste, as defined by 310 CMR 30.000.

**SLUDGE:** The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment including wastewater residuals. This term shall not include grit, screening, or grease and oil which are removed at the head-works of a facility

**TREATMENT WORKS:** Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**UTILITY WORKS:** Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities. This term shall include the installation of detention and retention basins for the purpose of controlling storm water.

**VERY SMALL QUANTITY GENERATOR:** Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

**WASTE OIL RETENTION FACILITY:** A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c.21. s.52A. .6

**ZONE II:** The delineated recharge area to a public drinking water well as approved by MassDEP and defined under the Massachusetts Drinking Water Regulations 310 CMR 22.00.7

8.7.4. Establishment and Delineation of Groundwater Protection District. For the purposes of this bylaw, there are hereby established within the Town of Middleton, certain groundwater protection areas consisting of aquifers or recharge areas. These areas are delineated on the Zoning Map, which is hereby made part of the Groundwater Protection District Bylaw and is on file in the office of the Town Clerk.

#### 8.7.5. District Boundary Disputes.

1. If the location of the Groundwater Protection District in relation to a particular parcel is in doubt, resolution of the boundary dispute shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a special permit for this purpose shall be accompanied by adequate documentation.
2. Burden of proof shall be upon the land owner to demonstrate that the location of the Groundwater Protection District with respect to a particular parcel(s) of land is uncertain. At the request of the land owner, the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the Groundwater Protection District with respect to a particular parcel(s) of land, and may charge the owner for the cost of the investigation. Changes to the Groundwater Protection District require town meeting approval.

8.7.6. Permitted Uses. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
2. maintenance, repair, and enlargement of any existing structure, subject to Section 7 and Section 8 of this bylaw;
3. construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels; and
4. any use permitted in the underlying zoning except for those uses specifically prohibited in Sections 7 and 8 of this bylaw.

8.7.7. Prohibited Uses. The following land uses and activities are prohibited unless designed in accordance with the specified performance standards:

1. landfills and open dumps;
2. automobile graveyards and junkyards;
3. landfills receiving only wastewater residuals and/or septage, including those approved by MassDEP pursuant to MGL c. 21 s.26 through s.53, MGL c.111 s.17, and MGL c.83 s.6 and s.7; 10
4. facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL c.21C and 310 CMR 30.000, except for:
  - a. very small quantity generators as defined under 310 CMR 30.000;
  - b. household hazardous waste centers and events under 310 CMR 30.390;
  - c. waste oil retention facilities required by MGL c. 21, s.52A;
  - d. water remediation treatment works approved by MassDEP for the treatment of contaminated waters.

5. petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under North American Industry Classification System (NAICS) Codes 424710 and 454311, except for liquefied petroleum gas.
6. storage of liquid hazardous materials and/or liquid petroleum products unless such storage is above ground level and on an impervious surface and either:
  - a. in container(s) or above ground tank(s) within a building; or
  - b. outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either; 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater;
 however, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements;
7. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
8. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
9. storage of animal manure unless contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
10. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, utility works or wetland restoration work conducted in accordance with a valid Order of Condition issued pursuant to MGL c. 131, s.40;15 and
11. non-sanitary wastewater discharges from industrial and commercial facilities, except for:
  - a. replacement or repair of an existing treatment works that will not result in a design capacity greater than the existing treatment works;
  - b. treatment works approved by MassDEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
  - c. publicly owned treatment works.
12. stockpiling and disposal of snow and ice containing deicing chemicals, if snow and ice is brought in from outside the Groundwater Protection District;
13. storage of commercial fertilizers unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

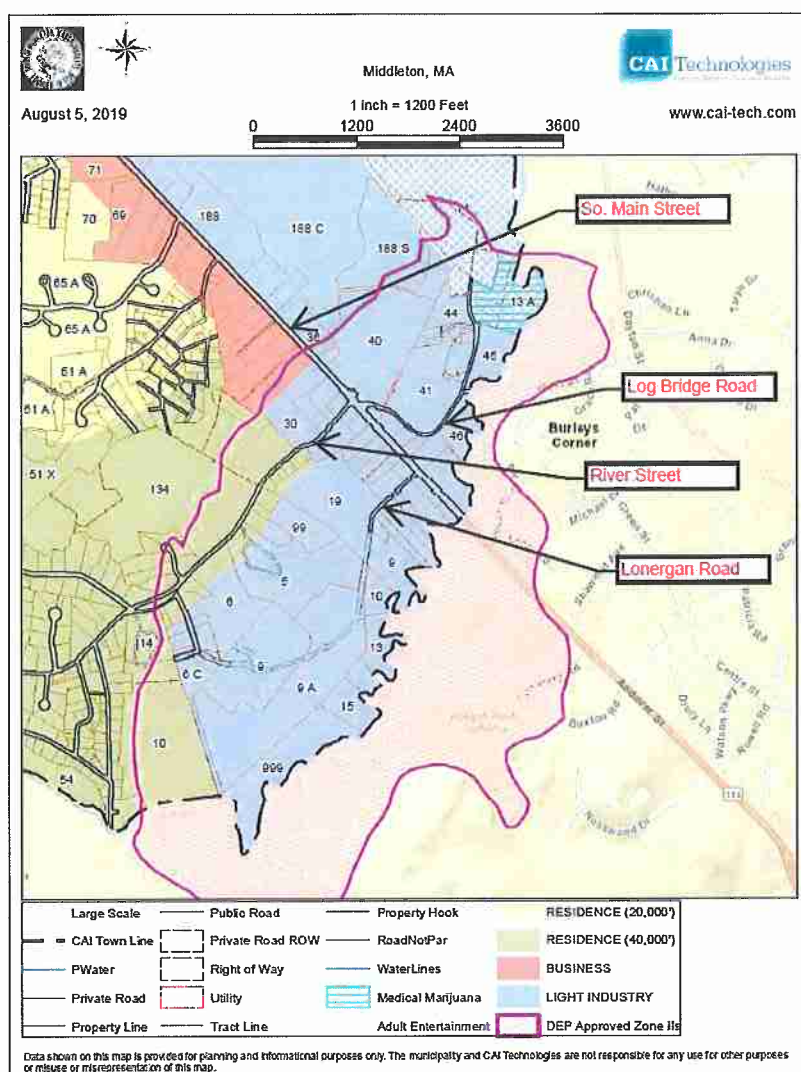
8.7.8. Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA) under such conditions as they may require:

1. Changes to lawfully existing nonconforming uses and structures shall comply with the requirements of Section 3.3 "Nonconforming Uses & Structures" as well as the Ground water Protection Overlay District Bylaw;
2. except as prohibited under Section 7 of this bylaw, activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use and which are permitted in the underlying zoning district;
3. rendering impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater; unless artificial recharge, that will not degrade water quality, is provided using methods demonstrated to be capable of removing contaminants from storm water and which are consistent with methods described in MassDEP's Stormwater Handbook, Vol. I, II and III, as amended.

#### 8.7.9. Procedures for Issuance of Special Permit.

1. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Board of Appeals. A special permit shall be granted if the SPGA determines, in conjunction with the Middleton Conservation Commission, that the intent of this bylaw, as well as its specific criteria, is met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other municipal boards, departments or commissions in its decision.
2. In addition to the plan requirements contained in Section 9.4 of the Zoning Bylaw, the applicant shall file a site plan and attachments that shall, at a minimum, include the following information where pertinent:
  - a. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use; and
  - b. for activities using or storing hazardous materials or wastes, a management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan will be consistent with the requirements of Section 7 and shall include:
    1. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
    2. provisions for indoor, secured storage of hazardous materials or wastes with impervious floor surfaces;
    3. evidence of compliance with the Massachusetts Hazardous Waste Regulations 310 CMR 30.000; and
    4. proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

3. Upon receipt of the special permit application, the SPGA shall transmit one copy to the Conservation Commission. Failure by the Conservation Commission to respond in writing within 35 days of receipt shall indicate approval, or no desire to comment.
  4. The SPGA, with advice from the Middleton Conservation Commission, may grant the required special permit only upon finding that the proposed use meets the applicable general criteria found under Section 9.4 of the Zoning Bylaw and the specific criteria below. The proposed use must:
    - a. in no way, during construction or thereafter, adversely affect the quality or quantity of the water supplies protected by the Groundwater Protection District; and
    - b. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- 8.7.10 Enforcement. Written notice of any violations of this bylaw shall be given by the Building Commissioner to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Board of Appeals, Conservation Commission, Department of Public Works, Fire Department, and Board of Health. The cost of containment, clean-up, or other action of compliance shall be borne by the owner/operator of the premises.
- 8.7.11 Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of this bylaw.
- 3) Add a new Groundwater Protection Overlay District to the Middleton Zoning Bylaw Map:



Or take any other action relative thereto.

**Purpose:** Massachusetts Drinking Water Regulations, 310 CMR 22.00, require public water systems (PWS) to protect Zone II recharge areas with municipal controls (bylaws and/or health regulations). Local controls must meet MassDEP Wellhead Protection Regulations 310 CMR 22.21(2), which forbid certain land uses from being sited within the Zone II public water supply well area. The above proposed overlay district bylaw is based on the MassDEP Model Groundwater Protection Overlay District Bylaw. If the Town does not adopt a bylaw that protects the Zone II Well area according to 310 CMR 22, it would make the town non-compliant, which could jeopardize the town's Water Management Act permit renewal for withdrawal from the Ipswich River Basin. Part of the Zone II Wellhead area falls within the Town of Danvers. Danvers adopted a Groundwater Protection Overlay District to protect this area in 2001.

**Planning Board Recommendation:** The Planning Board voted \_\_\_\_ to recommend in favor/opposed.

**Master Plan Committee Recommendation:** The Master Plan Committee voted \_\_\_\_ to recommend in favor/opposed.

**ARTICLE 22.** On petition of Eric R. Cudmore and 10 or more registered voters, to see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$20,000 to pay for the costs associated with the acquisition or disposal of real property.

**Purpose:** The town has acquired land for public facilities and to sell Town-owned land on Locust Street. The town needs to engage professionals to conduct assessments such as appraisals, environmental assessments, and surveys. Funds appropriated under this article would not be used for the acquisition of any real property.

**End of Annual Town Meeting Warrant**

4/3/2020

And you are hereby directed to service this Warrant by posting up attested copies thereof at:

Memorial Hall  
Post Office

Flint Public Library  
Howe Station Market

Ferncroft Towers, and  
Fuller Pond Village

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereof, to the Town Clerk at time and place of meeting aforesaid.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand Twenty.

**MIDDLETON BOARD OF SELECTMEN**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

A true copy Attest:

\_\_\_\_\_  
Constable of the Town of Middleton

\_\_\_\_\_  
Date Posted



5.

**To the Town Constable:**

You are hereby ordered to notify and warn said qualified voters to meet at the Fuller Meadow School on **Saturday, June 20, 2020**, next for the following purposes, VIZ: To choose by ballot the following Town Officers for the ensuing year:

One Town Clerk for three years  
One Board of Selectmen member for three years  
One Board of Assessors member for three years  
One Elementary School Committee member for three years

Two Regional School Committee members for three years  
One Planning Board member for five years  
Two Electric Light Commissioners for three years  
Two Library Trustees for three years  
Two Housing Authority members for five years

Question 1: Shall the Town of Middleton be allowed to assess an additional \$710,000 in real estate and personal property taxes for the purposes of purchasing a fire engine for the fiscal year beginning July first, two thousand and twenty?

YES  
NO

**The Polls open at 10:00 a.m. and close at 4:00 p.m. Voting takes place at the Fuller Meadow School gymnasium, 143 South Main Street, Middleton.**

And you are hereby directed to service this Warrant by posting up attested copies thereof at:

Memorial Hall  
Post Office

Flint Public Library  
Howe Station Market

Ferncroft Towers, and  
Fuller Pond Village

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereof, to the Town Clerk at time and place of meeting aforesaid.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand Twenty.

**MIDDLETON BOARD OF SELECTMEN**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A true copy Attest:

\_\_\_\_\_  
Constable of the Town of Middleton

\_\_\_\_\_  
Date Posted

H.4598

**HOUSE FURTHER AMENDMENT**  
**(Text Contained in H.4617)**

**SECTION 1.** Provides towns an extension to complete town business beyond the June 30th deadline in the event of a public health or safety emergency preventing the timely completion of town meeting business, specifies this can only be done upon a declaration of a state of emergency by the Governor with respect to such emergency.

**SECTION 2.** While a public health or safety emergency is in effect, and for a period of up to 5 days after the Governor's declaration of a state of emergency has ended, town moderators or a person designated to perform the duties of town moderator may, in consultation with the board of selectmen and local public health or safety officials, recess or continue a town meeting to a later time, date and location, so long as the rescheduled date is within 30 days. Does not set a limit on how many times a town moderator is permitted to recess and reschedule town meetings during the state of emergency and for 5 days after.

**SECTION 3.** Eliminates language from the general laws that require recessed town meetings to be convened within 30 days by the moderator.

**SECTION 4.** Requires, days after the initial declaration of recess and continuance of a town meeting due to a public safety emergency, that a local public safety or public health official designated by the board of selectmen submit a report to the attorney general providing the justification for the declaration.

**SECTION 5.** In the event a city, town or district cannot adopt a final budget by June 30th due to a declared emergency, the board of selectmen, or district commissioners may approve a budget for operational expenditures in an amount not less than 1/12th of the previous fiscal year's budget, using any type of account. This is permitted every month as long as the emergency prevents the adoption of a final budget. Permits the director of local accounts (DOR) to adopt rules or regulations governing such expenditures during the emergency.

**SECTION 6.** Permits cities, towns or districts that are unable to adopt a budget before June 30, 2020, as a result of the COVID-19 state of emergency, to use existing free cash, including any undesignated fund balance in an enterprise fund or special revenue account, as a funding source for FY 2021 expenditures. The Department of Revenue is to administer this. Permits the director of accounts to promulgate rules and regulations to implement this section.

**SECTION 7.** Authorizes cities, towns and districts that incur a deficit this year to fight the Coronavirus/COVID-19 to spread out or amortize that debt in equal installments (or more rapidly) over the next 3 fiscal years. This debt could include but not be limited to any such deficit in an enterprise fund or special revenue account. Permits the Commissioner of Revenue to issue guidelines or instructions for how to do this.

## H.4598

### HOUSE FURTHER AMENDMENT (Text Contained in H.4617)

**SECTION 8.** Permits cities or towns to use money from a revolving fund in the same amount they were authorized to spend from each such fund for FY2020, until they are able to adopt their FY2021 budget and vote on the amount they will expend from each fund in the new fiscal year.

**SECTION 9.** Provides a deadline extension of 90 days after the termination of the state of emergency caused by COVID-19 for municipalities to exercise any right of first refusal option to purchase property.

**SECTION 10.** (a) Mandates that notwithstanding any general or special law to the contrary, as a result of the outbreak of COVID-19 and the declaration of a state of emergency issued by the Governor, for fiscal year 2020, the chief executive officer of a city, town or district, as defined by law, may extend:

(i) the due date of bills for taxes from May 1 to a date not later than June 1, 2020;

(ii) & (iii) the deadline for preliminary tax payments for real estate and personal property from May 1 to a date not later than June 1, 2020; and

(iv) the deadline to apply for exemption from certain property taxes from April 1 to a date not later than June 1, 2020.

(b) Mandates that notwithstanding laws concerning the assessment of local taxes, if municipal offices are closed as a result of the outbreak of the 2019 novel Coronavirus or the declaration of a state of emergency issued by the Governor on March 10, 2020 on the date that a tax payment, abatement or exemption application is due, the due dates will not be extended except pursuant to this section.

**SECTION 11.** Allows the chief executive officer of a city or town to waive the payment of interest and other penalty for late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for payments made after its respective due date but before June 30, 2020. (Same as SECTION 12 of H.4586.) Establishes that a city or town shall not terminate an essential service of a resident, including, but not limited to, water, trash collection or electricity, for nonpayment of taxes or fees with a due date on or after March 10, 2020, made after its respective due date but before June 30, 2020, if the nonpayment resulted from a demonstrated inability to pay due to circumstances related to the outbreak of the 2019 novel coronavirus, also known as COVID-19, or the governor's March 10, 2020 declaration of a state of emergency. Requires that the inability to pay must include a demonstrated financial hardship of a resident, which may include, but not be limited to, loss of employment, serious illness of someone within the home or death of someone within the home.

**SECTION 12.** Extends the state's personal income tax filing deadline from April 15 to July 15.

**SECTION 13.** Permits establishments authorized to sell alcohol, beer or wine for on-premise

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### HOUSE FURTHER AMENDMENT (Text Contained in H.4617)

consumption to sell wine or beer only for off-premises consumption during the state of emergency, subject to the following conditions: (i) the wine or malt beverage must not be sold to a person under 21 years of age; any delivery of wine or malt beverages shall not be made without verification that the person receiving the order has attained 21 years of age; (ii) the wine shall be sold in its original, sealed container and the malt beverage shall be sold in a sealed container; (iii) the wine or malt beverage shall be sold as part of the same transaction as the purchase of food; provided however, that any order that includes wine or malt beverages shall be placed not later than the hour of which the establishment is licensed to sell alcohol or 12:00 midnight, whichever time is earlier; (iv) a customer is limited to 192 ounces of malt beverage and 1.5 liters of wine per transaction.

**SECTION 14:** Suspends the cap on hours and compensation for retired employees collecting a pension for hours worked during the state of emergency, allowing municipalities and the state to employ qualified workers when their workforces might be disrupted. This does not apply to individuals retired under a general or special law on disability.

**SECTION 15.** Allows a public corporation to conduct an annual or special meeting of the shareholders solely by means of remote communication for the duration of the state of emergency and for a period of 60 days after.

**SECTION 16.** Allows the board of directors for a corporation to provide notice of a meeting of the board of directors only to those directors that it is practical to reach and in any practical manner during the duration of the state of emergency and for a period of 60 days after. Allows the Board to cancel meetings and further permits officers/directors to serve until the end of the state of emergency. Outlines remote participation and voting for the board of directors. Stipulates that the directors who participate in a meeting of the board of directors pursuant to this language will constitute a quorum.

**SECTION 17.** (a) Establishes definitions for the following terms: "Permit" and "Permit Granting Authority"

(b) Mandates that notwithstanding any general or special law, rule, regulation, charter, ordinance or by-law to the contrary, during the state of emergency declared by the Governor on March 10, 2020 as a result of the outbreak of the 2019 novel Coronavirus, the following changes shall apply:

(1) States that an application for a permit will be deemed duly filed and accepted as of the date of the filing by the applicant, if filed with and certified as received by the appropriate municipal official established by law to receive such applications if a county or regional entity. Permits a permit granting authority to contest the completeness of an application at the time of filing, if the application is ultimately denied by the permitting board on other grounds, or if the permit is appealed by the applicant. Allows applications for permits to be filed electronically through a website established by the permit granting authority or by sending the proper materials through

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electronic mail to the proper official. Allows certification of receipt to be provided electronically if an applicant applies through electronic means and requests such receipt.

(2) Suspends requirements of a statute, ordinance, bylaw, rule, or regulation that a hearing take place within a specific period of time after the filing of an application or request for approval as of March 10, 2020. Specifies that the applicable period will resume 45 days after the termination of the state of emergency, or as of a date otherwise prescribed by law, whichever is later.

(3) Establishes that a permit in effect or existence as of March 10, 2020, including any deadlines or conditions of the permit, will not lapse or otherwise expire and the expiration date of the permit, or time period for meeting a deadline or for performance of a condition of the permit, will toll during the state of emergency.

(4) Establishes that no permit will be considered granted, approved or denied, constructively or otherwise, due to a failure of the permit granting authority to act within the time required by law. Requires that the permit granting authority act within 45 days of the termination of the state of emergency or by a date otherwise prescribed by law, whichever is later. Specifies that the applicant and permit granting authority may agree to alternative timing in writing.

(5) Establishes that notwithstanding the time periods in which a permit is to be heard or acted upon, a permit granting authority is permitted to – by a declaration of its chair and irrespective of whether a quorum is present to vote on such matter – schedule or reschedule on one or more occasions the hearing or decision deadlines on a permit application. Stipulates that no such date or deadline may be rescheduled for more than 45 days after the termination of the state of emergency or after a date otherwise prescribed by law, whichever is later. Requires the chair to provide written notice of any applicable rescheduled dates or deadlines to the applicant at the applicant's address, and to the general public by posting electronically on the website of the city or town clerk or the website of the county or regional entity.

(6) Stipulates that in the event a permit is required to be recorded with the registry of deeds or filed with the registry district of the land court for the county or district in which the property subject to the permit is located, within a certain period of time after its issuance in order to remain in effect or as a condition to exercising the permit, (i) the period of time for recording the permit will be suspended during such time as the relevant registry of deeds or registry district of the land court is either closed or subject to rules and procedures restricting public in-person access; and (ii) the failure to record the permit will not preclude the permit holder from applying for, obtaining and commencing construction activities pursuant to other required permits and approvals, including, without limitation, a building permit, which building permit may be issued and shall be considered duly issued pursuant to the law.

(7) Establishes that a hearing on a pending application for a permit opened by a permit granting authority prior to March 10, 2020, which has either not been concluded as of March 10, 2020 or has been continued by the permit granting authority as of March 10, 2020, will be automatically tolled

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and continued to the first hearing date of the permit granting authority following the termination of the state of emergency, or to a date otherwise prescribed by law, whichever is later. Stipulates that the date may be no later than 45 days from the termination of the state of emergency or the date otherwise prescribed by law, whichever is later.

(c) Mandates that nothing in this section may affect the ability of a permit granting authority, subject to applicable notice and hearing requirements, to revoke or modify a permit when that permit or the law or regulation under which the permit was issued authorizes the modification or revocation thereof. Stipulates that the permit granting authority is prohibited from revoking or modifying a permit due to a permit holder's failure, as a result of the state of emergency, to exercise or otherwise commence work pursuant to the permit, or where such work began on or prior to March 10, 2020, but has stopped as a result of the state of emergency or actions taken by an agency or political subdivision of the state. States that these limitations will apply while the state of emergency is in effect and for a period of 60 days after its termination. Establishes that a permit holder will be entitled to a further extension of reasonable length to exercise or begin work pursuant to said permit at the discretion of the permit granting authority for good cause shown. Authorizes the chair of any permit granting authority to grant such further extension irrespective of whether a quorum is present to vote on the matter.

(d) Allows a permit granting authority, during the state of emergency, to conduct meetings and public hearings remotely, consistent with the Governor's order entitled "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A Section 20" issued March 12, 2020, as the order may be amended, supplemented or replaced.

(e) Stipulates that nothing in this section will preclude or prohibit a permit granting authority from issuing decisions on permit applications for which duly held public hearings or meetings have been held, or preclude or prohibit any building commissioner, inspector of buildings, or other permit granting official, from issuing permits, including demolition or building permits.

(f) Mandates that this section will apply to all local boards and commissions' conduct of public meetings, public hearings, or other actions taken in a quasi-judicial capacity by all local boards and commissions.

**SECTION 18.** Mandates that nothing in this act shall be construed or implemented in such a way as to modify a requirement of law necessary to retain federal delegation to, or assumption by, the commonwealth of the authority to implement a federal law or program.

**SECTION 19.** Establishes March 10, 2020 as the effective date for SECTIONS 2 and 4.



## Summary of An Act to Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19

(H. 4598 as enacted by the General Court on April 2, 2020, see text of H. 4617 at <https://malegislature.gov/Bills/191/H4617>)

- **Town Meeting Delay Beyond June 30.** Allows Town Meetings to be delayed beyond June 30 if Governor has declared a state of emergency related to public health or safety. (Section 1).
- **Recess and Continuance of Town Meeting.** Allows the Moderator to recess and continue an already-called Town Meeting during (and until 5 days after) a public health, safety or weather emergency for up to 30 days, renewable for up to 30 days at time during the emergency, but not to a date more than 30 days following the rescission of the state of emergency. If a town does not have a moderator, the Select Board may recess and continue Town Meeting accordingly. A public safety or public health official designated by the Select Board shall submit a report to the Attorney General providing justification for the recess and continuance. These changes are effective as of March 10, 2020. (Sections 2, 3 and 4).
- **Adoption of Temporary Fiscal 2021 Budgets.** If Town Meeting is unable to adopt an annual budget by June 30 due to a declared emergency, the Select Board shall notify the Director of Accounts at DLS, and the Director may approve expenditures from any appropriate fund or account of an amount sufficient for the operations of the Town during the month of July of not less than 1/12 of the total budget approved in the most recent fiscal year, pursuant to a plan approved by the Select Board, with such authority continuing for each successive month that the emergency prevents the adoption of a budget by Town Meeting. (Section 5).
- **Use of Free Cash and Undesignated Fund Balances.** If a Town is delayed from adopting an annual budget due to the COVID-19 emergency, the Director of Accounts may authorize the Town to appropriate (for use in fiscal 2021) from the available undesignated fund balance or free cash certified by DLS as of July 1, 2019, including undesignated fund balances in enterprise funds or special revenue accounts. (Section 6).
- **Amortization of Fiscal 2020 Deficits.** Allows cities and towns to amortize its fiscal 2020 deficit resulting from the COVID-19 emergency over fiscal years 2021 to 2023, to be funded in equal or more rapid installments, such amortization to be adopted prior to setting the fiscal 2021 tax rate. (Section 7).
- **Use of Revolving Funds.** Allows cities and towns that are unable to adopt their fiscal 2021 annual budget due to the COVID-19 emergency to expend amounts from revolving funds not to exceed the authorized expenditure in fiscal 2020. The legislative body shall vote on the total amount to be expended from each revolving fund when the annual budget is adopted. (Section 8).
- **Tolling Required Action on “Chapter” Lands.** Suspends the time period that municipalities are required to act, respond, effectuate or exercise an option to purchase Chapter 61 forest land, Chapter 61A agricultural land, or Chapter 61B recreational land until 90 days after the governor’s March 10, 2020 emergency declaration is terminated. (Section 9).

• **Option to Delay Property Tax Due Date to June 1.** Allows the municipal chief executive to delay the due date for municipal property tax bills to June 1. (Section 10).

• **Option to Waive Interest and Penalties for Late Payments.** Allows the municipal chief executive to waive the payment of interest and other penalties on late payments that were due after March 10, 2020 and paid before June 30, 2020, for any excise, tax, betterment assessment, water or sewer bill, or other charge added to a tax. (Section 11).

• **Non-Termination of Services to Residents Due to Late Payment.** Cities and towns shall not terminate an essential service of a resident, including water, trash collection or electricity, for nonpayment of taxes or fees due on or after March 10, 2020 and paid after the due date but before June 30, 2020, if the nonpayment resulted from a demonstrated inability to pay due to the COVID-19 outbreak or the March 10, 2020 emergency declaration by the governor, provided that the inability to pay shall include a demonstrated financial hardship of a resident, including but not limited to loss of employment, serious illness or death of someone within the home. (Section 11).

• **State Income Tax Deadline Delayed.** Postpones the deadline for filing Massachusetts state income tax returns and payments from April 15, 2020 to July 15, 2020. (Section 12).

• **Sale of Alcohol by Take-Out Restaurants.** Allows restaurants licensed to sell alcoholic beverages on-premises may sell sealed containers of alcoholic beverages for off-premises consumption as part of take-out food transactions. (Section 13).

• **Facilitating Return to Service by Retirees.** Allows state and municipal employees to return to work for the state or a municipality regardless of mandatory retirement ages or a statutory limit on hours worked and earnings received, to help with workforce needs. Those on disability retirement are not eligible. (Section 14).

• **Remote Meetings for Shareholder Corporations.** Allows public corporations (private shareholder entities) to hold annual or special meetings of shareholders remotely for up to 60 days after the termination of the March 10, 2020 state of emergency. (Section 15).

• **Provisions for Nonprofit Corporations.** Allows nonprofit entities (incorporated under Chapter 180) to conduct or postpone necessary business and meet remotely for up to 60 days after the termination of the March 10, 2020 state of emergency. (Section 16).

• **Tolling Municipal Requirements on Permits and Quasi-Judicial Public Meetings and Hearings** (the “constructive approval” issue). Tolls required municipal actions on permits until 45 days after the termination of the COVID-19 emergency, and no permit shall be considered granted, approved or denied, constructively or otherwise due to the failure of a permit granting authority to act within timelines that would otherwise be in effect. This section also clarifies that permit granting authorities may conduct meetings and public hearings remotely during the COVID-19 emergency, consistent with the Governor’s March 12 Executive Order regarding the Open Meeting Law. This section also applies to the conduct of public meetings, public hearings or other actions taken in a quasi-judicial capacity by all local boards and commissions during the emergency declaration by the governor. (Section 17).

*This act has an emergency preamble, and will take effect immediately when signed by the Governor.*



8.

ARTICLE                      To see if the Town will vote to amend Chapter 68 Personnel, of the By-Laws of the Town by deleting the entire chapter and substituting in its place:

#### Chapter 68 Personnel

##### **§ 68-1 Purpose and Intent.**

The purpose of the Personnel Bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensure a uniform fair and efficient application of personnel policies. The intent of this bylaw is to provide a method of recruitment, selection, development, and retention of a work force that is skilled and effective in accomplishing the service delivery mission of the Town. Personnel actions are to be made without regard to any criteria established and proscribed by any state or federal law or regulations promulgated pursuant thereto, or political affiliation or other non-job related factors, and shall be based on merit and fitness.

##### **§ 68-2 § 68-5**

All Town departments and positions shall be subject to the provisions of this bylaw, except elected officers, members of boards and commissions, and employees of the School Department. To the extent that the provisions of any collective bargaining agreement conflicts with any provisions of this bylaw or personnel policies adopted pursuant to § 68-5, the provisions of the collective bargaining agreement shall prevail. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Law.

##### **§ 68-3 Responsibility of the Town Administrator.**

The Town Administrator shall be responsible for the establishment and maintenance of a personnel system based on merit principles. The Town Administrator shall have all the personnel management powers and duties as provided by the Middleton Town Charter and shall formulate personnel policies pursuant to § 68-5 of this bylaw, subject to the approval of the Board of Selectmen.

##### **§ 68-4 Contents of Personnel Policies.**

The personnel policies shall establish a personnel system which shall include, but need not be limited to, the following elements:

- A. A method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records; implementing effective recruitment and selection processes; maintaining the classification and compensation plans; monitoring the application of policies and periodic reviews and evaluation of the personnel system.
- B. A classification and compensation plan.
- C. A recruitment and selection policy.

- D. A centralized personnel record keeping system, and
- E. Other elements of a personnel system as deemed appropriate or necessary.

#### **§ 68-5 Adoption of Policies.**

The Town Administrator is empowered and authorized by this bylaw to prepare personnel policies **for adoption by the Board of Selectmen** defining the rights, benefits, and obligations of employees subject to this bylaw, provided however. The Town Administrator shall be responsible for the development of personnel policies. Any Board or Committee, department head, or any single employee or group of employees may recommend personnel policies to the Town Administrator for consideration. Such policies shall become effective in accordance with the following procedure:

- A. The Town Administrator shall prepare proposed personnel policies.
- B. The Town Administrator shall consult with employees that may be affected by proposed changes in personnel policies.
- C. The Town Administrator shall finalize personnel policies and transmit in writing any proposed policies to the Board of Selectmen.
- D. The Board of Selectmen shall review said policies and vote to approve, disapprove, or approve with modifications. *Alternative...* Policies shall become effective on the thirtieth day following the day on which notice of proposed policy is filed with the Board of Selectmen, unless the Board of Selectmen shall within said period vote to reject any such policy.**
- E. Copies of new or amended policies shall be posted and distributed to department heads and employees.

#### **§ 68-6 Severability.**

The provisions of this bylaw and any policies adopted pursuant to this bylaw are severable. If any bylaw provision or policy is held invalid, the remaining provisions of the bylaw or policy shall not be affected thereby.

#### **§ 68-7 Effective Date.**

This bylaw shall take effect upon passage.

Article \_\_ Charter: Omnibus Changes

To see if the Town will vote to authorize the Board of Selectmen to petition the Legislature to change the Middleton Home Rule Charter by adopting amendments as recommended by the Board of Selectmen dated \_\_\_\_\_ as follows, or take any action relative thereto.

Amending Chapter 6, Section 1, Subsection 6-1-1(b) by inserting “and” before “a Treasurer-Collector” and deleting “, all division and/or department heads”;

Amending Chapter 6, Section 3, Subsection 6-3-1(d) by deleting “Personnel Board, a”;

Amending Chapter 6, Section 4, Subsection 6-4-1 by deleting “such individual Town officers and”;

Amending Chapter 6, Section 7, Subsection 6-7-10 by renumbering existing subsection 6-7-10 to “6-7-11” adding the following new subsection as 6-7-10 “He shall appoint, subject to the provisions of any collective bargaining agreements as may be applicable, all other department heads, officers, and employees for whom no other method of selection is provided by this Charter. Such appointments shall become effective on the fifteenth (15<sup>th</sup>) day following the day on which such notice of appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that period by a majority of all of its members, vote to reject such appointment, or has sooner voted to affirm it.”

Amending Chapter 9, Section 5, Subsection 9-5-2 by replacing “Personnel Board” with “Town Administrator”, and further by replacing “Town Meeting” with “Board of Selectmen” and further by replacing “except those provided for by General Law” with “except as otherwise provided by law or as may be superseded by collective bargaining agreement(s)”

**TOWN OF MIDDLETON  
COMMONWEALTH OF MASSACHUSETTS  
HOME RULE PETITION**

By authorization of Article ?? of the Annual Town Meeting of the Town of Middleton held on the twelfth day of May in the year 2020, the Board of Selectmen do hereby petition the General Court of the Commonwealth of Massachusetts to adopt the following Home Rule Petition:

**AN ACT APPROVING THE TOWN OF MIDDLETON HOME RULE CHARTER AS AMENDED AND AS VOTED IN ARTICLE ?? OF THE ANNUAL TOWN MEETING OF THE TOWN OF MIDDLETON INCLUDING CHAPTERS 6 AND 9.**

The following amendments shall be made to the Charter of the Town of Middleton:

Chapter 6, Section 1, Subsection 6-1-1(b) shall be amended by inserting “and” before “a Treasurer-Collector” and deleting “, all division and/or department heads”;

Chapter 6, Section 3, Subsection 6-3-1(d) shall be amended by deleting “Personnel Board, a”;

Chapter 6, Section 4, Subsection 6-4-1 shall be amended by deleting “such individual Town officers and”;

Chapter 6, Section 7, Subsection 6-7-10 shall be amended by renumbering existing subsection 6-7-10 to “6-7-11” adding the following new subsection as 6-7-10 “He shall appoint, subject to the provisions of any collective bargaining agreements as may be applicable, all other department heads, officers, and employees for whom no other method of selection is provided by this Charter. Such appointments shall become effective on the fifteenth (15<sup>th</sup>) day following the day on which such notice of appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that period by a majority of all of its members, vote to reject such appointment, or has sooner voted to affirm it.”

Chapter 9, Section 5, Subsection 9-5-2 shall be amended by replacing “Personnel Board” with “Town Administrator”, and further by replacing “Town Meeting” with “Board of Selectmen” and further by replacing “except those provided for by General Law” with “except as otherwise provided by law or as may be superseded by collective bargaining agreement(s)”

## CHARTER

### PREAMBLE

We, the people of the Town of Middleton, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the Home Rule Amendment of the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter for this town.

### CHAPTER 1 POWERS OF THE TOWN

#### Section 1 Incorporation

1-1-1 The present Town of Middleton, Massachusetts, within its corporate limits as now established shall continue to be a body politic and corporate under the name, Town of Middleton.

#### Section 2 Scope of Town Powers

1-2-1 The Town shall possess and exercise all powers possible under the Constitution and laws of the Commonwealth of Massachusetts as fully and completely as though they were expressly enumerated in this Charter.

#### Section 3 Form of Government

1-3-1 This Charter provides for the open town meeting-selectmen form of government.

#### Section 4 Construction of Charter

1-4-1 The powers of the town under this Charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any measure the general powers of the town as stated in this charter.

#### Section 5 Intergovernmental Relations

1-5-1 The Town may exercise consistent with the provisions of law, any of its powers, or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, civil divisions, subdivisions, or agencies of the Commonwealth, other states, or of the United States Government.

### CHAPTER 2 TOWN MEETING

#### Section 1 Definitions

2-1-1 The Annual Town Meeting is defined as that session of the voters of the town provided for by section 2-4-1 of this Charter.

2-1-2 A special town meeting is defined as any session of the voters of the town not expressly scheduled by this Charter.

2-1-3 It is the intent of this Charter that any provisions of the Constitution or General Laws embodying the term "Annual Town Meeting" and which pertains to the legislative affairs of the Town, pertains to the Town Meeting expressly provided for by section 2-4-1 of this Charter.

## Section 2 Composition, Quorum, Adjournment

2-2-1 The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the Town.

2-2-2 The quorum necessary for the conduct of business may be established through by-law, but may not be less than 100 registered voters of the Town.

2-2-3 When the number of voters in attendance at a Town Meeting is determined to be less than the established quorum, the meeting shall be adjourned forthwith to a stated date, time, and place.

## Section 3 Powers and Responsibilities

2-3-1 The Town Meeting shall consider and act upon all proposed By-laws.

2-3-2 The Town Meeting shall consider and act upon, with or without amendments, all proposed operating and capital budgets, bond issues, and other financial proposals of the Town.

2-3-3 All Town officers, or their representatives, members of boards and commissions, and department heads including non-residents shall attend any Town Meeting and be permitted to speak on articles or issues that affect their department, office, or function. The absence of any such person shall not invalidate the actions of the Town Meeting.

2-3-4 The Town Meeting may investigate the affairs of any Town division, department, board, commission, committee, office or function.

2-3-5 The Town Meeting shall possess and exercise all powers possible under General Law.

## Section 4 Procedures

2-4-1 The Town Meeting shall meet regularly on the second Tuesday in May to consider and adopt an annual operating and capital budget, and to act on other financial matters, to consider and act on matters of planning, zoning, subdivision control, building codes, and all other matters of a By-law nature, as well as to consider and act upon such other business as may properly come before the meeting.

2-4-2 In all procedural matters, the Town Meeting shall follow the latest edition of "Robert's Rules of Order," except as provided by General Law, this Charter, or by By-law.

2-4-3 The Warrant for each Town Meeting shall be prepared by the Board of Selectmen.

2-4-4 All warrants for Town Meeting shall be served by posting up attested copies thereof, in at least three public places in the Town and at such places as the Selectmen may designate, at least seven days before the time of holding such meeting.

2-4-5 A copy of the Warrant for any Town Meeting shall be made available to each residence in the Town at least seven days prior to the commencement of said meeting.

2-4-6 The order of consideration of the articles on the Warrant may be changed only by a four-fifths vote of the Town Meeting.

2-4-7 All proposed operating expenditures shall be included in a single, omnibus-type article in the Town Warrant.

2-4-8 The Town Meeting shall not consider financial matters without Finance Committee recommendations.

2-4-9 Articles involving planning, zoning, subdivision control, land acquisition, conservation, extension of sewer lines, and all other matters relating to the environment shall not be voted on by the Town Meeting unless they have been considered previously and a recommendation issued thereon by the Planning Board.

2-4-10 The substance of any article defeated at a Town Meeting shall not again be placed on the warrant for the period of one year, except and unless in compliance with General Laws, Chapter 39, Section 10 as amended.

2-4-11 The substance of any article entailing planning, zoning, subdivision control, which has been defeated at any town meeting shall not again be voted on by the Town Meeting for a period of two years thereafter, unless the planning board shall have recommended resubmission of the article.

2-4-12 The date, time, and place for any emergency Town Meeting shall be established by the Board of Selectmen, but, the calling of such shall be in accordance with the General Law provisions for calling a Special Town Meeting.

2-4-13 Any ten voters of the Town may secure by written petition to the Board of Selectmen, the inclusion of an article for the warrant of any duly scheduled Annual Town Meeting, and at least one hundred registered voters may secure the same for any duly scheduled Special Town Meeting.

#### Section 5 Presiding Officer

2-5-1 A Moderator shall be elected for a 3-year term at the regular election of Town officials. The Moderator shall not hold any other office or accept Town employment during the term for which the Moderator is elected.

2-5-2 The Moderator shall preside at all Town Meetings and shall swear in the Town Clerk. He shall enforce procedural rules as set forth in General Law, this Charter, and By-law.

2-5-3 The Moderator shall appoint the Finance Committee in accordance with Chapter 7, Section 3 of this Charter.

2-5-4 The Moderator shall appoint any ad hoc committee created by the Town Meeting, unless another appointive authority shall be specified in the language of the article establishing such committee.

### CHAPTER 3 ELECTIONS

#### Section 1 Town Elections

3-1-1 The regular election for all Town offices shall be by official ballot held on the third Tuesday in May of each year.

3-1-2 Any person duly elected to any office or board shall take up the duties of his office immediately, provided that he first shall have been sworn to the faithful performance of his duties.

3-1-3 All General Law provisions with regard to Town elections shall apply.

#### Section 2 Elections to be Nonpartisan

3-2-1 All elections for Town officers shall be nonpartisan, and election ballots for Town officers shall be printed without any political party mark, emblem, vignette, or designation whatsoever.

#### Section 3 Eligibility of Town Voters

3-3-1 Any registered voter of the Town shall be eligible for election to any elective office or Board of the Town.

#### Section 4 Recall of Elective Officers

3-4-1 An elected officer of the Town may be recalled and removed from public office by the voters of the Town as herein provided. Any voter of the Town may file with the Board of Selectmen a petition containing the name and title of the elective officer whose removal is sought together with a statement of the grounds for his removal. Said petition shall be filed with said Board and shall be signed in ink or indelible pencil by qualified voters of the Town equal in number to at least twenty percent of the voters registered at the last regular municipal election, provided that no recall petition may be filed against any officer until he shall have held his office for at least six months. Said petition shall be accompanied by affidavits as to authenticity of signatures, signed and sworn to by each circulator, and certified by the Board of Registrars or Town Clerk.

3-4-2 If, within five days after receipt of the petition the Board of Selectmen shall determine the petition and affidavits to be sufficient, a recall vote shall be taken within one hundred and ten days but not sooner than ninety days after such final determination, provided that no such vote shall be taken if the term of office of such elective official shall expire within one hundred and



fifty days after such determination, or if such elective officer shall resign from such office before the taking of such vote. Said recall vote shall be called and conducted in the same manner as is provided by general law for the call and conduct of a special election.

3-4-3 The form of the question to be voted upon shall be substantially as follows: "Shall (here insert the name and title of the elective officer whose recall is sought) be recalled?" A majority vote of the voters to recall such elective officer shall not be effective unless a total of at least thirty percent of the electorate entitled to vote on the question shall have voted. Recall of such elective officer shall become effective upon certification of the results of the voting thereon, regardless of any technical deficiency in the recall petition. If any elective officer shall be recalled, the vacancy created thereby shall be filled in accordance with the provisions of this charter and of general law.

3-4-4 No person, having been recalled or having resigned from office while recall proceedings were pending against him, shall be appointed to any Town office within two years following said recall or resignation.

## CHAPTER 4 BOARD OF SELECTMEN

### Section 1 The Board of Selectmen

4-1-1 A Board of Selectmen of five members shall be elected for three year overlapping terms. The regular election for the office of Selectman shall be held in accordance with Chapter 3 of this Charter.

4-1-2 Vacancies in the office of Selectman shall be filled by special election in accordance with the provisions of General Law.

### Section 2 General Powers

4-2-1 All executive powers of the Town, except as otherwise provided in this Charter, shall be vested in the Board of Selectmen. It is the intent of this section that the Board shall exercise control over Town affairs by recommending major courses of action to the Town Meeting and by setting policies to be carried out by the Town Administrator and other officers, boards, and commissions appointed by the Board of Selectmen.

4-2-2 The Board shall have the power to enact rules and regulations relating to the conduct of Town elections and for the establishment of Town policies, not otherwise governed by Statute, this Charter, or By-law, provided however, that whenever an appropriation shall be necessary to implement such action, the vote of the Board shall be effective only if such appropriation shall be made by the Town Meeting.

### Section 3 Powers of Appointment

4-3-1 The Board shall have the powers of appointment as provided in Chapter six of this Charter.

### Section 4 Powers of Investigation

4-4-1 The Board of Selectmen may make investigations and may authorize the Town Administrator or other agent to investigate the affairs of the Town and the conduct of any Town department, office or agency, including any doubtful claims against the Town. For this purpose the board may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of such investigation shall be placed on file in the office of the Town Clerk and a report of such investigation shall be printed in the next Annual Town Report.

#### Section 5 Administrative Reorganization

4-5-1 Subject only to express prohibitions in the Constitution and General Laws and provisions of the Charter, the Town Meeting may, by By-law, reorganize, consolidate, or abolish any Town agency, in whole or in part; establish such new Town agencies as it deems necessary or advisable and may prescribe the functions of any such Town agency; provided however, that no function assigned by the Charter to a particular Town agency may be discontinued except by Charter amendment.

### CHAPTER 5 OTHER ELECTED TOWN BOARDS

#### Section 1 General Provisions

5-1-1 Beginning with the first Town Election held after the adoption of this Charter, the other Town Boards to be elected by vote of the Town shall be: An Elementary School Committee, a Regional School Committee, a Planning Board, a Board of Assessors, a Board of Library Trustees, a Town Clerk, a Housing Authority, Electric Light Commissioners and a Constable.

5-1-2 Boards and commissions established under this Charter shall perform their functions and duties in accordance with the Constitution, General Law, this Charter, or By-law.

5-1-3 During the term for which he is elected, and for one year following expiration of his term, no member of any board or commission established under this Charter shall be eligible to accept any appointed paid full-time Town position.

5-1-4 Members of boards and commissions established under this Charter who serve without compensation may receive actual and necessary expenses incurred in the performance of their duties, within limits of an appropriation made for that purpose.

#### Section 2 Vacancies

5-2-1 Vacancies in the Town Boards or offices established under this Charter shall be filled by the Board of Selectmen together with the remaining members of the respective board, in accordance with the provisions of General Law.

#### Section 3 School Committee

5-3-1 An elementary School Committee of five members shall be elected for three year overlapping terms.

5-3-2 A regional School Committee membership of three shall be elected for three year overlapping terms.

5-3-3 At least two weeks prior to submitting a budget to the Town Accountant, the school committee shall conduct a public hearing on the school budget. Said committee shall have preliminary summaries of its recommendations available at said hearing, which shall be distributed to those who request them.

#### Section 4 Planning Board

5-4-1 A Planning Board of five members shall be elected for five year overlapping terms.

5-4-2. Two alternate members shall be appointed jointly by the board of selectmen and the planning board for one-year terms. The chairperson of the planning board may designate an alternate member to sit on the planning board to vote and act on all matters in the event of a board member's absence, inability to act, conflict of interest or a vacancy on the board.

#### Section 5 Board of Assessors

5-5-1 A Board of Assessors of three members shall be elected for three-year overlapping terms.

#### Section 6 Library Trustees

5-6-1 A Board of Library Trustees of five members shall be elected for three year overlapping terms.

5-6-2 The Board shall be responsible for the administration and operation of the Town Library.

#### Section 7 Electric Light Commissioners

5-7-1 A Board of five Commissioners shall be elected for three-year overlapping terms.

#### Section 8 Town Clerk

5-8-1 A Town Clerk shall be elected for a three year term.

#### Section 9 Constable

5-9-1 A constable shall be elected for a three year term.

### CHAPTER 6 APPOINTMENTS BY THE BOARD OF SELECTMEN

#### Section 1 Powers to Appoint Town Officers

6-1-1 The Board of Selectmen shall have the power to appoint:

(a) The following officers each for a term of three years; a Town Counsel, a Town Accountant.

(b) The following officers for a term or succession of terms, no one term of which shall be in excess of three years; a Town Administrator, a Superintendent of Public Works, and a Treasurer-Collector, ~~all division and/or department heads.~~

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(c) The following officers for an indefinite term: a Police Chief, a Fire Chief.

## Section 2 Duties

6-2-1 Officers appointed under this chapter shall perform their duties in accordance with General Law, this Charter, and By-law.

## Section 3 Power to Appoint Town Boards and Commissions

6-3-1 The Board of Selectmen shall have the power to appoint:

(a) Five members of a Zoning Board of Appeals for five year overlapping terms, and two alternate members for one year terms.

(b) Five members of a Board of Health, for three year overlapping terms.

(c) Three members of a Board of Registrars of Voters for three year overlapping terms.

(d) A ~~Personnel Board,~~ a Conservation Commission, a Recreation Commission, an Historical Commission, such boards to be composed of five members each, who shall be appointed for three year overlapping terms.

## Section 4 Other Appointive Powers

6-4-1 The Board shall have the power to appoint ~~such individual Town officers and~~ members of Boards and Commissions as are authorized by General Law, this Charter, or By-law, and for whom appointment is not otherwise provided.

## Section 5 Removals and Suspensions

6-5-1 Any appointed officer or full-time salaried employee of the Town, not subject to the provisions of the state Civil Service law, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term good cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

6-5-2 Any appointed officer or full-time salaried employee of the Town may be suspended from office by the appointing authority if such action is deemed to them to be necessary to protect the interests of the Town. However, no suspension shall be for more than fifteen days. Suspension may be conterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

6-5-3 The appointing authority when removing any such officer or employee shall act in accordance with the following procedure:

a. A written notice of the intent to remove and a statement of the cause or causes therefore shall be delivered by registered mail to the last known address of the person sought to be removed.

b. Within five days of delivery of such notice the officer or employee may request a public hearing at which he may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.

c. Between one and ten days after the public hearing is adjourned, or if the officer or employee fails to request a public hearing between six and fifteen days after delivery of the notice of the intent to remove, the appointing authority shall take final action either removing the officer or employee or notifying him that the notice is rescinded.

6-5-4 Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when his original term expires.

6-5-5 Said power should not apply to the Zoning Board of Appeals, nor to any other body which the Town Counsel has determined to be quasi-judicial.

#### Section 6 Qualifications of Town Administrator

6-6-1 The Town Administrator shall have executive and administrative qualifications and shall have education by training, experience or scholastic achievement to perform the duties of the office.

#### Section 7 Duties of the Town Administrator

6-7-1 The Town Administrator shall be directly responsible to the Board of Selectmen for the performance of his duties, and shall be the principal full-time administrative officer of the Town.

6-7-2 He shall represent the Town, in the absence of the Selectmen, at all Federal, State, Regional, or Municipal meetings which may affect the present or future status of the Town.

6-7-3 He shall attend all meetings of the Board of Selectmen except when excused and shall have the right to speak, but not to vote.

6-7-4 He shall assemble and present to the Board of Selectmen the annual budget of the town and shall also be responsible for the development and annual revision of the capital improvements program, in accordance with chapter seven of this Charter.

6-7-5 He shall keep the Board of Selectmen fully informed regarding all departmental operations, fiscal affairs, problems, and administrative actions, and to this end, shall submit quarterly reports to the Board of Selectmen.

6-7-6 He shall keep the Board of Selectmen fully informed on the long range needs of the Town and shall provide the Board with data to support suggested alternative courses of action.

6-7-7 He shall be responsible for purchasing all material, equipment, and supplies for the Town except as otherwise provided for by law. He shall award all contracts for the Town except those which Town Bylaw requires competitive bids. A vote of the Board of Selectmen is required to award a contract other than to the lowest bidder.

6-7-9 He shall keep a full and complete inventory of Town property both real and personal.

6-7-10 He shall appoint, subject to the provisions of any collective bargaining agreements as may be applicable, all other department heads, officers, and employees for whom no other method of selection is provided by this Charter. Such appointments shall become effective on the fifteenth (15<sup>th</sup>) day following the day on which such notice of appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that period by a majority of all of its members, vote to reject such appointment, or has sooner voted to affirm it.

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6-7-11 He shall perform such other duties as may be required by this Charter, By-law, vote of the Town, or vote of the Board of Selectmen.

#### Section 8 Removal of the Town Administrator

6-8-1 The Town Administrator may be removed in the course of his term, in accordance with the following procedures.

6-8-2 The removal of the Town Administrator shall be by a resolution of the Board of Selectmen to this effect, provided that no such resolutions shall be adopted within sixty days after any Town election that shall have caused a change in the composition of the Board.

6-8-3 The adoption of said resolution shall serve to suspend the Administrator for a period of not more than forty-five days, during which his salary shall continue to be paid. A copy of such resolution shall be delivered to the Town Administrator who shall have five days in which to request a public hearing. If a hearing shall be requested, the Board shall schedule it within two weeks, to be held in a public place. The Board shall advertise the hearing in a newspaper of local circulation and cite its purpose, location, time and date.

6-8-4 The Moderator, or if he is unable to be present, such person as he shall designate, shall preside at such hearing.

6-8-5 At any such hearing, the reasons for the removal shall first be read aloud. The Town Administrator shall then be allowed to respond, either personally or through counsel. The Board of Selectmen and the Town Administrator shall be allowed to call witnesses, and to subpoena any and all Town records.

6-8-6 Final removal of the Town Administrator shall be effected by the affirmative vote of the Board of Selectmen, at a public meeting of the Board held within seven days of such public hearing, if the Town Administrator shall have requested one. Or, if he shall not have requested one, final removal may be effected by the affirmative vote of three members of the Board held not sooner than fourteen days after the vote initiating the removal. The salary of the Town Administrator shall continue to be paid for a period of thirty days after the vote effecting his removal from office.

## Section 9 Acting Town Administrator

6-9-1 In the event of temporary absence, disability, suspension, or vacancy in the office of the Administrator, the Board of Selectmen by an affirmative vote of at least three members may appoint an acting Town Administrator. The term of the acting Administrator shall not exceed 90 days. If necessary the Board of Selectmen by an affirmative vote of at least three members may extend the temporary appointment for an additional term not to exceed 90 days. An acting Administrator appointed under this section shall receive compensation as set by the affirmative vote of at least three selectmen, but, it shall not exceed the rate of compensation, approved for the Administrator by the town meeting.

## CHAPTER 7 FINANCES AND FISCAL PROCEDURES

### Section 1 Fiscal Year

7-1-1 The fiscal year of the Town shall be as required by the General Laws.

### Section 2 Annual Audit

7-2-1 At least ninety days before the end of each fiscal year, the Board of Selectmen shall request the auditing agency of the Commonwealth to conduct an audit of all accounts, books, records, and financial transactions of every department, board, and commission of the Town government, including the school department.

7-2-2 All auditor's reports shall be public records and shall be filed with the Town Administrator, Town Clerk, and a summary thereof shall be published in the next Annual Town Report.

### Section 3 Finance Committee

7-3-1 A Finance Committee of seven members shall be appointed by the Moderator for three year overlapping terms. Appointments shall be made annually, within 30 days after the Town elections.

7-3-2 Vacancies in the committee shall be filled for the unexpired portion of the term by the Moderator, within 30 days thereafter.

7-3-3 The Moderator shall have the power to rescind, for cause, any appointment made by him to the Finance Committee, provided that the appointee shall first have been served with a written notice specifying the Moderator's intention, specifying his reasons therefore, and informing the appointee of his right to be heard at a public hearing, if requested.

### Section 4 Submission of Budget and Budget Message

7-4-1 At least 120 days prior to the Annual Town Meeting, every Department, Board, Commission and Committee shall prepare and submit to the Town Accountant, operating budget estimates for the ensuing fiscal year.

7-4-2 The Town Accountant shall, within 14 days present to the Town Administrator the operating budget estimates.

7-4-3 At the next regular meeting of the Board of Selectmen, the Town Administrator shall submit to the Board of Selectmen the proposed budgets for the ensuing fiscal year.

7-4-4 Not later than 14 days after the receipt from the Town Administrator the Selectmen shall submit the budget for the ensuing year to the Finance Committee.

7-4-5 The Finance Committee shall prepare and present the budget message at the Annual Town Meeting. The budget message shall also be included in the annual Town Report.

7-4-6 The budget message shall explain the budget both in fiscal terms and in terms of work programs. It shall: (1) outline the proposed financial policies of the Town for the ensuing fiscal year; (2) describe the features of the budget; (3) indicate any major changes from the current year in financial policies; expenditures, and revenues together with the reasons for such changes; (4) summarize the Town's debt position; (5) estimate the impact of the total budget upon the ensuing tax rate; (6) include such other material as the Finance Committee shall deem desirable.

#### Section 5 Capital Improvements Program

7-5-1 The Town Administrator shall submit a capital improvement program to the Board of Selectmen and the Finance Committee at least one hundred fifty days before the start of each fiscal year. It shall be based on material prepared by the Capital Planning Committee of the Town, including (1) a clear concise general summary of its contents; (2) a list of all capital improvements proposed to be undertaken during the next ensuing five years, with supporting information as to the need for each such capital improvements; (3) cost estimates, methods of financing and recommended time schedules for each improvement; and, (4) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved. This information is to be annually revised by the Capital Planning Committee with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

7-5-2 The Capital Planning Committee shall be composed of the Town Administrator and the Town Accountant, ex-officio, one member of the Finance Committee appointed by and from it, one member of the Planning Board appointed by and from it and three additional members to be appointed by the Moderator. The members from the Finance Committee and Planning Board shall be appointed for one-year terms. The other members shall be appointed for three-year terms, such that one will expire each year. Vacancies shall be filled for the unexpired terms and in the manner of the original appointments.

#### Section 6 Action on Proposed Budgets

7-6-1 The Finance Committee shall publish, in one or more newspapers of general circulation in the Town, a notice stating: (1) the time and places where copies of the operating budgets and capital improvements program are available for inspection; and (2) the date, time and place, not less than seven days after such publication, when the Finance Committee and the Board of Selectmen jointly shall conduct one or more public hearings on the proposed operating budget and the capital improvements program.



7-6-2 The Finance Committee shall have summaries of its preliminary recommendations available at said hearings which shall be distributed to those who request them.

7-6-3 The Finance Committee shall then issue its final recommendations in print on both the operating budget and the capital improvements program, together with the warrant as provided in 2-4-5; and make copies available to the voters at least fourteen days prior to the annual Town Meeting. In preparing its recommendations, the Finance Committee may require any Town department, board, or office to furnish it with appropriate financial reports and budgetary information.

#### Section 7 Financial Public Records

7-7-1 Statements summarizing the budget and the capital improvement program and related warrant articles, as adopted by the Town Meeting, shall be made available at the office of the Town Administrator and Town Clerk for examination by the public not more than twenty days after their adoption.

#### Section 8 Collections & Disbursements

7-8-1 All monies received by the Town or by any department or officer thereof, shall, upon their receipt by such department or officer, be paid forthwith into the town treasury except as provided otherwise by General Law, By-Law, or this Charter.

7-8-2 Warrants for the payment of town funds, prepared and signed by the Town Accountant in accordance with General Law procedures shall be submitted to the Board of Selectmen, and their approval thereof shall be sufficient authorization for payment by the Town Treasurer.

#### Section 9 Emergency Appropriations

7-9-1 To meet a public emergency affecting life, health, property, or the public peace, the Board of Selectmen may make emergency appropriations, to the extent that there shall be available unappropriated revenues to meet such appropriations, subject to provisions of G.L. 44 Section 31, as amended.

#### Section 10 Lapse of Appropriations

7-10-1 Every appropriation, except an appropriation made by a separate warrant article, shall lapse at the close of the fiscal year to the extent that it shall not have been expended or encumbered by contract. An appropriation made by a separate warrant article shall continue in force until the purpose for which it was made shall have been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three years shall pass without any disbursement from or encumbrance by contract of the appropriation.

#### Section 11 Prohibitions

7-11-1 In addition to the prohibitions prescribed by law, the submission of a bid by any compensated town officer or employee on any contract to be awarded by the Town shall serve to vacate his office, unless otherwise authorized by General Law.

## CHAPTER 8 ENVIRONMENTAL MATTERS

### Section 1 Powers and Duties of Planning Board

8-1-1 The Planning Board established under Chapter 5, Section 4 of this Charter shall make recommendations to the Board of Selectmen on all matters concerning the physical, economic, and environmental development of the town, as prescribed by General Law, and this Charter.

8-1-2 The Board shall be responsible for the development and periodic updating of a comprehensive plan, which shall be utilized as the basis of all planning activities, procedures, and recommendations in the Town.

8-1-3 A copy of the comprehensive plan shall be kept available for inspection at the office of the Town Administrator, Town Clerk and Public Library.

### Section 2 Condemnation Powers

8-2-1 The Board of Selectmen shall have the authority to condemn and compel to be removed, shacks and dilapidated buildings, or other undesirable, detrimental exposed material wherever the same mar the beauty of the Town, provided that such action shall be undertaken in accordance with due process of law, and that such resolution shall have been recommended previously by the Planning Board, or by the Town's chief inspecting officer.

## CHAPTER 9 ADMINISTRATION

### Section 1 Division & Departments Established

9-1-1 This Charter establishes the following divisions, each of which shall be under the supervision of the Board of Selectmen: (1) a Division of Public Works, (2) a Division of Zoning Enforcement and Inspection, (3) a Department of Police, (4) a Department of Fire.

9-1-2 Each division and/or department head shall be appointed by, and ultimately responsible to the Board of Selectmen unless otherwise provided by this Charter or General Laws.

### Section 2 Division of Public Works

9-2-1 The Division of Public Works shall be responsible for: (1) the design, construction, maintenance, repair, cleaning and all essential duties affecting roads, sidewalks, storm drains, sewers, bridges and other public way related structures, (2) the maintenance, repair, and cleaning of all buildings owned or leased by the Town, except those of the School Department, (3) the development and maintenance of all cemeteries, parks and recreational facilities, (4) snow removal; (5) the supervision, care and replacement of trees, including those functions previously undertaken by the tree warden and the moth superintendent, (6) the custody, maintenance and repair of all equipment, tools, machinery and related devices necessary and incidental to the performance of the division's functions.

9-2-2 The Division of Public Works shall assume all of the duties and responsibilities and perform all of the functions including, but not limited to, those which prior to the adoption of this Charter, were performed by or under the authority of the Water and Sewer Commission.

#### Section 3 Division of Zoning Enforcement and Inspection

9-3-1 The Division of Zoning Enforcement and Inspection shall be responsible for all inspecting functions, including building, wire, plumbing, and those functions assigned by law to all inspectors and to the Sealer of Weights and Measures.

#### Section 4. Municipal Light Department.

9-4-1 The Municipal Light Department shall assume all the duties and responsibilities of operating and maintaining the functions of the Electric Light and Power Department under the provisions of the General Laws and the Department of Public Utilities.

#### Section 5 Personnel System

9-5-1 All appointments and promotions of Town officers and employees shall be made on the basis of merit and fitness demonstrated by examination or other evidence of competence.

9-5-2 The ~~Personnel Board~~Town Administrator, shall propose, and the ~~Town Meeting~~Board of Selectmen may adopt personnel rules relating to all Town positions, ~~except those provided for by General Law~~except as otherwise provided by law or as may be superseded by collective bargaining agreement(s). Such rules shall provide for: (1) the classification of all positions based on the duties, responsibility and authority of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances, (2) a salary and pay plan for all positions, (3) methods of determining the merit and fitness of candidates for appointment and promotion, (4) policies and procedures regulating the removal of employees, (5) hours of work, attendance regulations, and provisions for sick, vacation, military and other leave of absence, (6) policies and procedures governing persons holding provisional appointments, (7) policies and procedures governing relationships with employee organizations, (8) policies regarding in service training programs, (9) grievance procedures, including procedures for the hearing of such grievances, and (10) such other practices and procedures as may be necessary for the administration of the personnel system.

### CHAPTER 10 GENERAL PROVISIONS

#### Section 1 Amendment of Charter

10-1-1 This Charter may be replaced, revised, or amended in accordance with the provisions of the Constitution and General Law.

#### Section 2 Specific Provisions shall Prevail

10-2-1 To the extent that any specific provision of this Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

### Section 3 Severability of Charter

10-3-1 If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter of any of its provisions to any person or circumstance shall be held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

### Section 4 Revision and Publication of By-Laws

10-4-1 It shall be the responsibility of the Board of Selectmen to insure, through an appointed By-law Committee, that the By-laws of the Town shall be reviewed, codified, and republished at least every five years, and that copies shall be made available to all registered voters requesting them.

### Section 5 General Responsibilities of Boards and Commissions

10-5-1 All boards, commissions, and committees of the Town shall: organize annually and elect a chairman and other necessary officers; establish a quorum requirement for their meetings; adopt rules of procedure and voting; maintain a journal of proceedings, copies of which shall be a public record.

### Section 6 Executive Sessions

10-6-1 No meeting of any Town board, commission, committee, or subcommittee shall be held in executive session except by not less than a majority vote of those present.

10-6-2 Executive sessions may be held only for the purpose of discussing or voting on matters which cannot be made public by reason of law or federal grant-in-aid requirements, or which might adversely affect the public security, the financial interest of the Town (including matters relating to collective bargaining) and the reputation of any person (including normal personnel actions).

## CHAPTER 11 TRANSITIONAL PROVISIONS

### Section 1 Continuation of By-laws

11-1-1 All special acts, by-laws, resolutions, rules, regulations and votes of the Town Meeting in force on the effective date of this Charter not inconsistent with its provisions, shall continue in force until amended or repealed, including, if any, By-laws which shall have been passed and have been approved by the Attorney General but not published.

### Section 2. Continuation of Government.

11-2-1 Appointed or elected Town officials holding office on the effective date of this Charter shall continue to serve until their successors have been qualified, unless the office and/or duties have been transferred, consolidated, or abolished.

11-2-2 Notwithstanding any conflicting provisions, the adoption of this Charter shall serve to grant tenure until age of seventy years to Allan G. Marshall and Ernest R. Gould, so long as they are willing and able to perform the duties of their respective offices as presently defined.

11-2-3 Notwithstanding any provisions to the contrary, the adoption of this Charter shall serve to grant tenure until age seventy to Patricia Jordan and Harold Tyler, so long as they are both willing and able to perform the duties of their respective offices as presently defined. In the event either shall become unwilling or unable to perform, the office of Treasurer-Collector shall be offered to the remaining officer under the provisions of Section 6-1-1.

11-2-4 The incumbent Board of three selectmen shall cause a Special Election to be held on the second Monday of September, 1974 for the purpose of electing two additional members to the Board, one to serve until the next regular election in 1976 and one until the regular election in 1977. After the qualification of the two new members, the five-man Board shall proceed to appoint the Town Administrator and take whatever other action is deemed necessary to implement the office.

### Section 3      Transfer of Records and Property

11-3-1 All records, property, and equipment whatsoever of any office, department, or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency, shall be transferred forthwith to the office, department, or agency to which such powers and duties are assigned.

### Section 4      Pending Actions and Proceedings

11-4-1 No action or proceedings, civil or criminal, in law or in equity, pending, at the time this Charter shall take effect, brought by or against the Town or any office, department, or other agency thereof, shall be affected or abated by the adoption of this Charter.