

**Foxborough Advisory Committee Recommendations**  
**December 14, 2009 Special Town Meeting(s)**

**ARTICLE 1:** **(Budget Adjustments)**

This Article seeks to amend the Town of Foxborough's current fiscal year budget which was approved at the May 2009 Town Meeting. There is a projected deficit in the Town's budget of approximately \$537,000 this fiscal year. This warrant article asks Town Meeting to vote to specifically reduce nine department's current budgets to assist in closing the projected budget deficit.

The Town Manager and the Finance Director met with each department head to discuss the budget reductions, and based on the outcome of those meetings, each department head has agreed to their specific reduction articulated in this warrant article. The proposed reduction of approximately \$161,000 is equal to 30% of the projected deficit and represents the municipal portion of the projected deficit.

Meetings with representatives from the School Department and the Town administration to discuss the remaining 70% of the projected deficit (or approximately \$376,000) are on going. The discussions have been positive and the School Department has committed that they will reduce their current budget to close the remaining projected budget deficit.

The 30/70 share in budget reductions is in proportion to the current levels of funding of the municipal and education budgets.

The Advisory Committee recommends approval of this Article by a vote of 15-0-0.

**ARTICLE 2:** **(Water Pollution Projects)**

This Article asks the citizens present at Town Meeting to vote to borrow – interest free – a sum of \$600,000 from the Massachusetts Water Pollution Abatement Trust for water pollution projects for Town residents. The sum of \$600,000 was determined as a reasonable and conservative amount needed to sustain the program's quick accessibility to residents already in need of this program. The Trust was established in 1989 and is flexible enough to allow the Town to easily apply for more funding should the need arise.

The borrowed funds are issued as a 20-year, 0% loan to the Town of Foxborough from the Commonwealth's Massachusetts Water Pollution Abatement Trust. The loan funds will be used exclusively to assist Foxborough property owners on a range of septic and related sewer waste pollution issues including repair, replacement, or upgrade of malfunctioning and/or out-of-code septic and sewer system hook-ups.

The Town Manager, on a case-by-case request and in concert with the Foxborough Board of Health, will grant a Foxborough resident a 10-year, 2% betterment loan for the costs associated with such repairs. The 2% interest rate on a loan covers the Town's expenses

for administering this program. A loan from this funding source is tied to a betterment, which allows a Foxborough resident to acquire the funds without a credit check.

The Town has successfully borrowed funds for this purpose in the past. Foxborough's administrative infrastructure and familiarity with this program make it entirely capable of continued, efficient facilitation.

The Advisory Committee recommends approval of this Article by a vote of 14-0-1.

**ARTICLE 3:** **(Amend By-Laws)**

This Article asks Foxborough voters to amend, Town By-Law Article IV, by adding the following new language, Section 10 – “Due Dates for Payment of Town Charges and Bills; Interest”.

This Article establishes a uniform due date of 30 days from date of issuance of an invoice for all payments due to the Town of Foxborough unless a prior agreement exists. This Article also establishes that interest will accrue on any unpaid balance beyond the due date.

This Article does not impede or preclude the Town of Foxborough from imposing liens to recover such payments.

The Advisory Committee recommends approval of this Article by a vote of 15-0-0.

**ARTICLE 4:** **(Amend Earth Removal By-Law)**

This Article asks the voters at Town Meeting to amend the current Earth Removal By-Law, Article V, Sections 13.D.2 and 13.F.

The Articles seeks to add clarity to Section 13.D.2 by defining the term ‘operating farm’. The term operating farm shall be defined “as a parcel of land five acres or more in area, the primary and principal use of which is agriculture and which is being actively operated for agriculture as the primary and principal use of the land and not as an accessory use”.

The Article further establishes the penalties for failure to comply with Article V, Section 13 and the authorities responsible for enforcing the amended By-Law. Failure to comply enables the Town Manager, Building Commissioner, Police Chief or any person designated by the Board to enforce Article V, Section 13.

A violation of Article V, Section 13 may result in the assessment of fines and suspension or revocation of the permit granted under Article V, Section 13.

The Advisory Committee recommends approval of this Article by a vote of 14-0-1.

**ARTICLE 5:** **(Local Option Meals Excise)**

This Article is a resubmission of Article 1 from the August 24, 2009 Special Town meeting. At that meeting, the Advisory Committee recommended that the town reject

this article by a vote of eight to four. Town meeting subsequently rejected this article by a vote of 85 to 45.

This Article asks the citizens of Foxborough to approve and accept section 2(a) of Chapter 64 L of the General Laws of the Commonwealth, which will impose an excise of 0.75% on sales of restaurant and prepared meals. This tax would be on top of the current state sales tax of 6.25% bringing the total tax on restaurant meals and prepared food to 7.0%.

With input from our Town Manager and Town Finance Director on the degeneration of the Town's financial condition and expected decreases in state aid, the Advisory Committee again weighed the merits and the drawbacks of this Article. The principal merit is a new and continuingly reliable source of revenue that could supplement our expected multi-year shortfalls from the state. The principal drawback is that it adds to the tax burden of citizens. Many members of the Advisory Committee expressed concern that, due to the current state of the economy and the recent increase in the State sales tax, this tax will have a negative impact on new and existing restaurants (small businesses) and on the decision by Foxborough residents and visitors to patronize them.

Given that the Selectmen have proposed no plan for these monies, the Advisory Committee is concerned that this new source of revenue would be absorbed into the general operations of the Town; addressing no chronic under-funded need nor having any recognizable future impact.

Notwithstanding the Board of Selectmen's decision to move "no action" on this Article, the Advisory Committee voted on the Article.

The Advisory Committee does not recommend approval of this Article by a vote of 12-2-1.

#### **ARTICLE 6: (Zoning By-Laws – Re-codification of the Zoning By-Laws)**

This Article asks the voters at Town Meeting to vote to amend the current Zoning By-Laws. Several zoning articles will follow this Article, which propose substantive changes to the Zoning By-Laws. This Article addressed clerical changes only and all of these proposed changes are non-substantive.

A brief history: In 1952, the Zoning By-Laws were established. In 1991, an update to the Zoning By-Laws occurred. In 2007, the Planning Board and Zoning Board requested that the Board of Selectmen appointment a committee to review the Zoning By-Laws. A Zoning Review Committee, with assistance from a qualified consultant, made recommendations for revision to the By-Laws.

This Article represents a complete replacement by re-codification of the current By-Laws. This Article constitutes a reorganization and clarification of the current By-Laws. The Zoning By-Laws are in a more logical order, typographical errors and spelling mistakes were corrected, abbreviations have been replaced with complete words and outdated references and their formats have been eliminated.

The Advisory Committee recommends approval of this Article by a vote of 12-0-0.

**ARTICLE 7: (Zoning By-Laws – Add Definitions to Section 11)**

This Article asks the voters at Town Meeting to amend the Zoning By-laws of the Town of Foxborough by adding the definitions outlined in the warrant article to the already existing definitions contained in Section 11 of the By-Laws.

Section 11 of the By-Law is the section that defines, among other things, various uses, businesses and structures that assist the Planning and Zoning Boards in making decisions. Currently, the definitions in the warrant article do not exist in the By-Laws.

Approval of this article does not grant permission for a particular use, business or facility, it merely accepts and approves the definitions for inclusion in the By-Laws.

The Advisory Committee recommends approval of this Article by a vote of 12-0-0.

**ARTICLE 8: (Zoning By-Laws New Use Tables)**

This Article asks the voters at Town Meeting to amend Table 4-1 and Section 11 of the Zoning By-Laws of the Town of Foxborough. The Article seeks to provide specific guidance to the Planning and Zoning Boards for facilities and uses not currently defined in the Zoning By-Laws.

The Article seeks Town approval to add the five (5) definitions to the Zoning By-Laws and to provide for the uses reflected by these definitions in the Table of Use (Table 4-1) as a matter of right, or by special permit granted by the Planning Board or the Zoning Board. The five (5) definitions are: Adult Day Care Facility, Assisted Living Facility, Bed and Breakfast, Family Day Care (large or small), and Nursing and Convalescent Home.

The Advisory Committee recommends approval of this Article by a vote of 13-0-0.

**ARTICLE 9: (Zoning By-Laws – Section 8.1)**

This Article asks the voters at Town Meeting to amend the Zoning By-Laws to enable a homeowner to apply for a Special Permit to create an Accessory Apartment within a single family home. The Accessory Apartment is conditional on criteria that the homeowner must meet before approval of the Special Permit application. The amended language also updates Table 3-1, Section G.5 of the Zoning By-Laws to exclude two family dwellings from the R-40 zone and to include the Accessory Apartment in the table.

The definition of an Accessory Apartment is “a second dwelling unit in a single-family dwelling”.

The criteria to meet before granting the special permit are:

1. The owner of the single family home must occupy one of the living units;
2. Any external changes shall result in the appearance of a single family home when viewed from the street;

3. The floor area of Accessory Apartment cannot exceed 850 square feet;
4. Parking for two additional vehicles must be provided;
5. Screening and/or landscaping between the addition and abutters shall be to the satisfaction of the Planning Board;
6. All state and local permits must be adhered to;
7. The utilities for the Accessory Apartment must not be separate from the primary home; and
8. The design sewage flow of the Accessory Apartment does not exceed the design sewage flow of Section 9.4 for the Zone II and Zone III of the Water Resource Protection Overlay District.

The Advisory Committee felt that that this Article addresses a current and future need that allows family members to live within the same house with minimal impact to surrounding neighbors and neighborhoods. It is not drafted to allow apartments to be permitted for income generating purposes, but rather to address situations such as parent and in-law situations. It is of the opinion that this is also an improvement over the current zoning provisions with improved regulatory and enforcement clarity.

The Advisory Committee recommends approval of this Article by a vote of 13-0-0.

**ARTICLE 10:** **(Zoning By-Laws – Home Occupation)**

This Article asks the voters at Town Meeting to amend the Zoning By-Laws to allow non-intensive home occupation.

The definition of Home Occupation, Non-intensive is “any gainful employment or occupation of one (1) or more members of the resident family that is clearly secondary or accessory to the primary residential use of the principal dwelling”.

A non-intensive home occupation would be permitted “as of right” in the Residential R-15, R-40, GB and NB districts only if the required standards in the proposed zoning are met regarding noise, size, parking, employees, customers, deliveries, outside storage, signage, and home resident restrictions.

The Advisory Committee felt that that there is a current and increasing trend of people working from their homes for various reasons and that this Article addresses the current and future situation while placing appropriate restrictions that will protect surrounding neighbors and neighborhoods.

The Advisory Committee recommends approval of this Article by a vote of 13-0-0.

**ARTICLE 11:** **(Street Acceptance)**

The next six (6) articles relate to street acceptances. The voters at Town Meeting are asked to accept a street as a public way; meaning that the Town accepts the responsibility for the maintenance of the street. The private developer initiates the street acceptance request. The Planning Board determines if the developer has met all obligations prior to agreeing to ask the Board of Selectmen to seek acceptance through Town Meeting.

This Article asks the voters at Town Meeting to accept Neff Drive as a public way. Neff Drive intersects with Payson Road.

The Advisory Committee recommends approval of this Article by a vote of 12-0-0.

**ARTICLE 12:** **(Street Acceptance)**

This Article asks the voters at Town Meeting to accept Kingsbury Lane as a public way. Kingsbury Lane, as well as the streets in the next four (4) warrant articles is part of the Stonehurst subdivision.

The Advisory Committee recommends approval of this Article by a vote of 12-0-0.

**ARTICLE 13:** **(Street Acceptance)**

This Article asks the voters at Town Meeting to accept Cutler Lane as a public way. Cutler Lane is part of the Stonehurst subdivision.

The Advisory Committee recommends approval of this Article by a vote of 12-0-0.

**ARTICLE 14:** **(Street Acceptance)**

This Article asks the voters at Town Meeting to accept Kendall Drive as a public way. Kendall Drive is part of the Stonehurst subdivision.

The Advisory Committee recommends approval of this Article by a vote of 12-0-0.

**ARTICLE 15:** **(Street Acceptance)**

This Article asks the voters at Town Meeting to accept Hutchins Drive as a public way. Hutchins Drive is part of the Stonehurst subdivision.

The Advisory Committee recommends approval of this Article by a vote of 12-0-0.

**ARTICLE 16:** **(Street Acceptance)**

This Article asks the voters at Town Meeting to accept Truax Lane as a public way. Truax Lane is part of the Stonehurst subdivision.

The Advisory Committee recommends approval of this Article by a vote of 12-0-0.

## **Special Town Meeting Article 1 within Special Town Meeting**

### **ARTICLE 1:**

### **(Zoning By-Laws Chestnut Green)**

This Article asks Town Meeting to vote to amend the Chestnut-Payson Overlay District (CPOD) of the Foxborough's Zoning By-Laws by adding in provisions to allow detached single-family homes. This is the area commonly known as the former state hospital property. Currently, there are special permits issued by the Planning Board for attached homes in this area. By approving this article, the property owner would have the ability to redesign their site and resubmit back to the Planning Board to construct detached homes.

The Planning Board, sponsors of this article, have appeared before the Advisory Committee to state that they believe this is in the best interest of the town as this will assist the Chestnut Green development to resume progress. The development is currently stagnant due to the general economy, the soft market for the previously approved housing type and for other expressed reasons specific to the zoning requirement of attached housing approved as age restricted versus small, detached two-bedroom housing proposed within this Article.

Passage of this article requires the developer to reapply to the Planning Board to renew the special permit for the development. The Planning Board has expressed confidence that they will then be able to strengthen the conditions of the special permit and mitigation that is currently in place but is problematic to enforce.

After reviewing the conceptual site plans presented by the developer and analyzing the potential impacts this change would have, it was the opinion of the Advisory Committee that this Article would serve the best interest of the town.

The Advisory Committee is well aware of the taxes that are delinquent and owed to the Town related to the current development at Chestnut Green. The Advisory Committee is prepared to revote and recommend against this article just prior to the Town Meeting should the Town Finance Director report that the delinquent taxes are still outstanding. In addition, the Planning Board has also stated that they will pull this Article at Town Meeting for the same reason.

The Advisory Committee recommends approval of this Article by a vote of 14-1-0.