

Advisory Committee positions on Warrant Articles for Special Town Meeting, December 5, 2011

ARTICLE 1 – Budget Adjustments

Article #1 is comprised of a number of disassociated funding requests, which for the purposes of review and comment, the Advisory Committee chose to consider as separate items.

Item # 1

This item seeks to transfer available funds from Unspent Debt Interest from the Library Reconstruction Project to Administration Salaries to cover the costs of the Management Intern for the balance of the current fiscal year.

This article's intended purpose is to increase the rate of pay for the intern to \$19/hr from \$10/hr. The Town Manager's position on this issue is that he would like to have more of the intern's time, that the grants received and money saved have and would far outweigh the added expense.

The Advisory Committee does not recommend approval of this item: 0 in favor and 11 opposed

Item # 2

This item seeks to transfer available funds from unspent Debt Interest to Administration Salaries to cover the costs of a new "SAVE BUDGET DOLLARS INCENTIVE PROGRAM". The intention of this program is to incent town employees to submit ideas that will ultimately lead to quantifiable financial savings to the town's operations. Should this new program be approved, \$10,000 would be set aside to fund it.

Although the Advisory Committee understands the intended merits and mechanics of this concept, an actual or model written plan was not presented for the committee's review and consideration.

The Advisory Committee does not recommend approval of this item: 0 in favor and 11 opposed

Item # 3

This item seeks to transfer \$15,000 of available funds from unspent Debt Interest to Town Clerk Expenses to cover the cost of establishing a Town Code. The proponents of this item would like to begin to assemble all of the town's by-laws into one cohesive searchable document that can be updated and referenced reliably; beginning with the Town's General By-laws and Zoning By-Laws. This funding may only cover a portion of the entire project, but the Advisory Committee recognized that this is project that needed to be started. The annual cost to maintain this program is estimated to be \$1,195 per year.

The Advisory Committee recommends approval of this item: 9 in favor 1 opposed with 1 abstention

Item # 4

This item seeks to transfer \$6,896 from the Board of Health Salaries to Board of Health Expenses.

Overtime expenses were beginning to become necessary in order for the Board of Health to process their existing workload. Given that an Overtime line item had been eliminated from this budget, it was determined that services would be purchased via an outside contractor at the normal (non-overtime) rate. Hence the need to supplement expenses and not salaries.

The Advisory Committee recommends approval of this item: 11 in favor 0 opposed

Item # 5

This item seeks to transfer \$75,000 from Local Receipts: Meals Tax to Public Works Expense to replenish the funds that were used to pave Mill Street. This street paving was originally scheduled to be done this past fall using Chapter 90 Funds and not Meals Tax Revenue. This paving was canceled because the School Department asked that paving be postponed until next summer due to expected interruption of school bus service. Therefore the Chapter 90 Funds were redirected to other town paving needs. The Town Manager authorized the Highway Department to pave Mill Street on weekend days so that school bus service would not be disrupted. This project was completed on November 13, 2011. While Mill Street did get re-paved, the project left a substantial hole in the Public Works budget. This item will replenish the budget using Meals Tax Revenue.

The Advisory Committee recommends approval of this item: 9 in favor 2 opposed

ARTICLE 2 - Highway Contract

This Article asks the citizens present at the Town Meeting to vote to pay for certain increases in the Highway and Water Employees Union (the "Union). Specifically, this Article is seeking to fund the newly negotiated agreement between the Town and the Union, covering the period from July 1, 2010 through June 30, 2102. The main cost of this amendment is to provide the Union with a three percent (3%) cost of living adjustment (the "COLA") after receiving no adjustment for the last fiscal year. According to the Town Manager, this improvement is consistent with the other Town departments.

The Town's Finance Director estimates that the direct cost of this Article to be \$42,850: (i) \$37,095 for the COLA, (ii) \$1,500 for work boots, (iii) \$1,580 for work clothing, (iv) \$2,107 for overtime, and (v) \$568 for Medicare adjustments. In addition, the underlying agreement provides the Town with certain financial improvements to offset some of these costs, including changes to the health insurance, co-pays, cost of emergency room visits, sick time, and such.

The Advisory Committee recommends approval of this article: 11 in favor 0 opposed

ARTICLE 3 - Town Hall Plans

Article 3 asks the Town to approve the appropriation of approximately \$550,000 for hiring of architects and engineers to prepare full design and engineering plans as well as specifications to include contract/bid documents and site work estimates for the construction of a new town hall where the existing Town Hall stands today.

The Advisory Committee met with the Chairman of the Municipal Building Committee, the Town Manager, Town Finance Director and citizens to discuss the current state of Town Hall, the costs of building a new Town Hall versus renovating the current Town Hall and how the project would be financed. Although the Advisory Committee was not against the project we were concerned about how the project would be financed after spending \$550,000 of taxpayer money for the design work. The Advisory Committee discussed this article at numerous meetings and asked the Finance Director and Town Manager for the financing plan in order to understand whether it would be prudent to spend \$550,000 now if there was not a clear path to financing the ultimate building construction in the coming fiscal year.

Since the Advisory Committee never received a financing plan for the new building, we voted to recommend that the Article not be supported.

The Advisory Committee does not recommend approval of this article: 0 in favor and 11 opposed

ARTICLE 4 - Implementation of Wage/Classification

The Wage / Classification Study was not completed. Therefore it could not be reviewed by appropriate town officials and committees.

The Advisory Committee recommends “No Action” on this article: 11 in favor of no action, 1 against no action and 1 abstention.

ARTICLE 5 – Easement

This Article asks the citizens present at Town Meeting to vote to authorize the Board of Selectmen, with the approval of the Boyden Library Trustees, to grant a permanent easement for access purposes over a portion of Boyden Library property owned by the Town, to a neighboring residential property.

This Article would authorize the Board of Selectmen and Boyden Library Trustees to draft, negotiate, and grant an easement for access purposes to a neighbor of the Boyden Library whose back yard is inaccessible from Baker Street without driving over the current parking lot of the Boyden Library, which is land owned by the Town. As of Town Meeting, the language of the proposed easement itself does not exist, and therefore this Article is to authorize not only the easement itself but also the drafting and negotiation of the easement--steps that have not yet been taken. The Boyden Library Trustees indicated that the easement would be for intermittent access only, and that parking or storage in the area would not be permitted. Asked what the impact of such an easement would be upon future library plans, the Trustees indicated that the easement would not allow the neighbors to veto future library plans unless those future plans impaired the neighbors' use of the easement. At any rate, the Trustees do not anticipate that future expansion, beyond that authorized by Town Meeting in 2010, would work on the current site. It was noted that, if the Article failed, the Trustees would nonetheless informally allow the neighbors access over Library land; this Article would create an easement formalizing what at present is an informal understanding between the Library and the neighbors. Confidence was expressed in the ability of the Trustees to draft and negotiate such an easement with the interests of the Boyden Library in mind, as well as in the ability of the Board of Selectmen to oversee such negotiations with the interests of the Town in mind. It was considered worth noting that at present the language of such an easement does not yet exist.

The Advisory Committee recommends approval of this article: 10 in favor 1 opposed

ARTICLE 6 - General By-Law Changes

This Article asks the citizens to adopt a change to the General By-Laws – Section 15(B) Signs.

In Section III General Requirements, Paragraph D: to remove the word “display” so that the amended language in this section of the By-Law is more specific to electronic signs.

Also, this article seeks to add language to Section IV. Sign Definition by inserting Section 14, defining Electronic Signs and inserting Paragraph G in Section V. District Regulations to define a special use of Electronic Signs in town owned property and on property licensed by the town. This article further defines the physical dimensions, placement, display and advertising criteria.

The advisory committee reviewed this article in multiple sessions and concluded that this article should not be adopted by the town for the following reasons:

1. This by-law was deemed to be exclusionary to the private landowners in the S-1 district. By adopting this by-law, the town would position itself for first consideration by the state for an electronic sign license and possibly restrict the ability of others to have electronic signs.
2. By erecting an electronic sign on private land, with an easement granted to the town a question exists as to whether revenue split would be 50/50 between the Town of Foxborough and the private land owner or entirely to the Town of Foxborough. The town revenue will flow into the Water Enterprise Fund.
3. New Sign Regulations from the Commonwealth are due to be issued shortly.
4. The Town’s sign By-Law is anticipated to be completely overhauled and presented to Annual Town Meeting in May.
5. This By-law change would allow the use of Electronic Signs and some members of the Advisory Committee objected to the concept of electronic signs in general.

The Advisory Committee recommends rejection of this article and advises the town to wait until the comprehensive overhaul of our entire sign by-law is presented at Annual Town Meeting in May. This would allow for all parties to participate equally and allow for the town to adopt and implement a rational, workable strategy for signs throughout the town as well as within the S-1 overlay district. **4 in Favor, 8 Opposed, 1 Abstention**

ARTICLE 7 - Amend Zoning By-Laws

The overall objective of article 7 is to position the landfill property to be used as a site for a Ground Mounted Solar Photovoltaic Installation. There are a number of components to this article, the sum of which will a) allow the use, b) rezone parcels within the landfill to be consistent with these new zoning regulations, and c) establish a by-law whereby the town, via the planning board, can establish and enforce standards for the placement, design, construction, operation, monitoring, modification and the eventual removal of these installations.

This article does not try to identify parties that may build and operate such a facility, but simply to establish zoning regulations to allow and control a potential installation. Some of the terms and conditions are consistent with guidelines issued by the Commonwealth of Massachusetts Department of Energy Resources, which when implemented, may contribute to naming the Town of Foxborough as a green community, opening opportunities for grants and other resources.

The Advisory Committee found this plan to be comprehensive, well drafted and with the long term interest of the town in mind.

The Advisory Committee recommends approval of this article: 7 in favor 2 opposed

ARTICLE 8 – General By-Law Changes

This article asks the citizens present at Special Town meeting to vote to amend the Revised General By-laws as follows:

1. By deleting from Article V, Section 2, “Permit & Inspection Fee Schedule”, subsections C,D, & E which includes:

C. Smoke Detector Inspections

D. Re-Inspection Fee (For second and subsequent inspections at same location)

E. Research and Information Charge – A fee of \$50.00 shall be charged by the Foxborough Fire Department to anyone who requests research and information necessary to respond and complete a Massachusetts General Law, Chapter 21E report.

2. By Re-lettering “F. Enforcement” to “C. Enforcement”

3. By Re-lettering “G. Fire Department” to “D. Fire Department”

Or take any other action related thereto.

The Advisory Committee had an opportunity to discuss this By-Law change with Chief Hatfield. One of the first questions that we asked was if the Fire Department would be able to increase fees or create new fees at any time without any approval. We were assured by the Chief that any changes to the fee structure would need to be proposed to and accepted by the Board of Selectman and Town Manager.

We asked why this change to the By-Laws was necessary at this time and were told that the Fire Department is the only department that still has to go to town meeting with proposed fee structure changes, that this action was to be in line with other Town Departments and any fee increases would be in line with other neighboring towns.

The Advisory Committee recommends approval of this Article: 11 in favor and 0 opposed

ARTICLE 9 – Special Act

Article 9 seeks to amend the Foxborough Town Manager Act (AN ACT PROVIDING FOR A SELECTMEN - TOWN MANAGER FORM OF GOVERNMENT IN THE TOWN OF FOXBOROUGH). The proposed change is to modify the following paragraph which describes a portion of the responsibilities of the Town Manager:

"Manage and be responsible for all town buildings, properties and facilities, except those under the jurisdiction of the school committee, library trustees, fire chief and the board of water and sewer commissioners, unless requested by that agency" so that the words "conservation commission" appear after the words "library trustees".

This change would exempt properties which have been acquired for the purpose of conservation, from the authority of the Town Manager. This amendment would return to the Conservation Commission the authority described in the Conservation Commission Act of 1957 for making decisions regarding land use and conservation for these properties.

A majority of members on the Advisory Committee agreed that placing management of conservation land in the hands of the Conservation Commission made sense as this group has the necessary expertise and perspective to produce results best aligned with keeping these properties available for future generations of Foxborough residents.

Members of the Advisory Committee voting in the minority believed that it was best to have an elected body, the Selectmen, through their authority over the Town Manager with authority over the management of this land arguing that the Selectmen would be more accountable to the citizens of the town than the Conservation Commission. Another minority opinion was that this article will have little effect in removing authority to manage conservation commission lands from the Town Manager. The Board of Selectmen recommended approval of this article 4-1.

The Advisory Committee recommends approval of this Article: 6 in favor 5 opposed.

ARTICLE 10 - Home Rule Petition: Public Endangerment Act

This Article is asking Foxborough citizens to vote in the affirmative to move forward in petitioning the State's General Court for special legislation on the matter of a NON CRIMINAL penalty, including a fine, and enforcing protective custody if necessary on matters of public endangerment conduct arising from intoxication and/or drunkenness resulting from the excessive use of alcohol in public areas.

The Advisory Committee believes that Public Safety and confidence in our Law Enforcement Departments is a primary issue in our Town for the safety of our children, its citizens, businesses and visitors.

To be clear, the Advisory Committee considered this Special Act, in its present form, with complete reliance that it would stand up to legal challenges.

Town meeting participants should recall that this matter has come before them before and WAS PASSED and also amended in a different forms at Town Meeting as Article 9 in March 2011's Special Town Meeting (Protective Custody for Intoxication, changing Article V Section 1. after Paragraph 14 in the Town's By-laws) and then as a existing By-Law change proposal as Article 21 at the May 2011 Town Meeting to raise a previously existing By-Law fine from \$50.00 to \$250.00.

This process relating to Article 10 (and Articles 9) does not take place in the vacuum of Foxborough's governance. This language also must be reviewed and approved by the Commonwealth of Massachusetts' Attorney General's Office. In a nutshell, the By-Law change in the ARTICLE 9 of March 2011 WAS NOT approved by the Commonwealth's Attorney General's Office and the Town is trying to use other legal and legislative methods in an attempt to perfect the adoption of our Town's objectives.

The Advisory Committee understands that this Special Act will be used and exercised by Law Enforcement reasonably, with temperance and exclusively for the continued benefit of Public Safety.

The Advisory Committee recommends approval of this article: 11 in favor 0 opposed.