



## TOWN OF UPTON, MASSACHUSETTS

### Special Town Meeting 14 November 2017 Warrant

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 in Town affairs, to meet in the Auditorium at the Nipmuc Regional Middle/High School, 90 Pleasant Street, in Upton on Tuesday, the fourteenth day of November 2017, at 7:00 o'clock in the evening, then and there to act on the following Articles:

**ARTICLE 1:** To see if the Town will vote to amend Title II Chapter 25 Revolving Funds of the General Bylaws by inserting the following:

Section 8. The Annual Report shall list for each revolving fund authorized hereunder the revenue, expenditures, and ending balance, as well as spending limit set was increased per Section 4 and whether the spending limit was exceeded for the fiscal year ending June 30 of that year.

Or, to take any other action relative thereto.

**Explanation/  
Submitted by:**

The proposed bylaw amendment will provide additional expense and revenue details for all revolving funds to be included within the Town's annual report. - Board of Selectmen

**Recommendation:**

Favorable Action/Board of Selectmen

**ARTICLE 2:**

To see if the Town will vote to appropriate from available unappropriated funds in the Town Treasury or transfer from available funds the total sum of Ten Thousand dollars (\$10,000.00) to pay bills of a prior fiscal pursuant to MGL Chapter 44, Section 64, or otherwise; or, to take any other action relative thereto.

**Explanation/  
Submitted by:**

To appropriate sums for bills of a prior fiscal year.

**Recommendation:**

Favorable Action/Board of Selectmen

**ARTICLE 3:**

To see if the Town will vote to amend the Town's Zoning Bylaw by adding a new Section 6.7, **TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS**, to provide as follows:

**Section 6.7.1 Purpose**

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes, which was amended by Chapter 351 of the Acts of 2016, and by Chapter 55 of the Acts of 2017, was codified as G.L. c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed. The law requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses no later than April 1, 2018. Currently the Zoning Bylaw does not address non-medical Marijuana Establishments (hereinafter, a "Recreational Marijuana Establishment"), as defined in G.L. c. 94G, §1. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of recreational marijuana raises novel legal, planning, and public safety issues, and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact bylaws in a consistent manner.

**Section 6.7.2 Definition**

The term "Recreational Marijuana Establishment" shall mean a "marijuana establishment" as defined in G.L. c.94G, §1, a "marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana related business."

**Section 6.7.3 Temporary Moratorium**

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to non-medical or recreational marijuana. The moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues.

Or, to take any action relative thereto.

**Explanation/  
Submitted by:**

The new state law regulating non-medical marijuana presents many policy and planning issues for municipalities. A zoning moratorium, which would impose a temporary limit on the ability of applicants to locate recreational marijuana establishments within a municipality, will provide additional time to consider how the Town will regulate recreational marijuana uses. -Board of Selectmen

**Recommendation:**

Favorable Action/Board of Selectmen

<b>ARTICLE 4:</b>	To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Twenty-Eight thousand dollars (\$28,000.00), or any other sum, to purchase a breathing air compressor for the Fire Department; or, to take any other action relative thereto.
<b>Explanation/ Submitted by:</b>	The Fire- EMS Department's Breathing Air Compressor is old and outdated. It is not large enough to fill the Department's air storage bank. The air storage bank is used to speed up the time it takes to refill the firefighters self-contained breathing apparatus (SCBA) bottles worn at fires and other emergency incidents. Due to the high pressure demands of SCBA today, the breathing air compressor must be replaced. - Board of Selectmen
<b>Recommendation:</b>	Favorable Action/Board of Selectmen/Finance Committee
<b>ARTICLE 5:</b>	To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Nine thousand seven hundred fifty dollars (\$9,750.00), or any other sum, for the Planning Board to participate in the Central Massachusetts Regional Planning Commission (CMRPC) Planning Board Assistance Program, or, to take any other action relative thereto.
<b>Explanation/ Submitted by:</b>	To acquire 150 hours of professional planning services from CMRPC to support the activities of the Planning Board- Planning Board
<b>Recommendation:</b>	Favorable Action/Board of Selectmen/Finance Committee
<b>ARTICLE 6:</b>	To see if the Town will vote to authorize the Board of Selectmen to acquire, by gift, purchase, or eminent domain and upon such terms and conditions as it deems appropriate, such temporary and permanent easements for highway, utility, and other purposes in lands along Hartford Ave North, High Street and Hopkinton Road, as are needed to carry out the proposed reconstruction/improvement of said Hartford Ave North, High Street and Hopkinton Road in the locations more or less shown on the right-of-way plan prepared for such Project, and as funding therefor, to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, transfer, or borrow the sum of One Hundred and Eighty-One thousand dollars (\$181,000), or any other sum, as may be required for the acquisition of the aforesaid interests, including all incidental and related expenses, and to authorize the Board of Selectmen to execute instruments and take such other action as may be necessary to carry out the vote taken hereunder, or, to take any other action relative thereto.
<b>Explanation/ Submitted by:</b>	For the purchase of permanent and temporary easements along the Hartford Ave North, High Street and Hopkinton Road, all related to the Transportation Improvement Plan (TIP) project. - Board of Selectmen
<b>Recommendation:</b>	Favorable Action/Board of Selectmen/Finance Committee

**ARTICLE 7:** To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Twenty-Five dollars (\$25,000.00), or any other sum, to hire a consultant including all expenses incidental and related, to manage the Transportation Improvement Project, or, to take any other action relative thereto

**Explanation/  
Submitted by:** To hire consulting services to assist the Town in identifying temporary and permanent easements and then negotiating cost or donations for said land takings.  
-Board of Selectmen

**Recommendation:** Favorable Action/Board of Selectmen

**ARTICLE 8:** To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow the sum of Four thousand dollars (\$4,000) or any other sum to be used for repair and preventative maintenance of the Knowlton-Risteen building to include: tree trimming, window cleaning, thermostat replacement, siding repair and other building maintenance, and any other incidental or related expenses; or, to take any other action relative thereto.

**Explanation/  
Submitted by:** To provide funding for repairs of the Knowlton-Risteen Building. - Library Board of Trustees

**Recommendation:** Favorable Action/Finance Committee/Board of Selectmen

**ARTICLE 9:** To see if The Town will vote to transfer from the Community Preservation Fund FY 2018 estimated revenues the sums set forth below to the following Community Preservation Fund accounts to meet the requirements of M.G.L.c.44B 6:

- Historic Resources Account \$41,083.67
- Open Space Account \$41,083.67
- Community Housing Account \$41,083.67

and to place any remaining FY2018 estimated annual revenues in a so-called “FY2018 Undesignated Budgeted Reserve”, or, to take any other action relative thereto.

**Explanation/  
Submitted by:** To set aside 10% of CPA FY2018 estimated annual revenues into each of the three standard reserve accounts, and to place the remainder into a FY2018 “undesignated” reserve - Community Preservation Committee.

**Recommendation:** Favorable Action/Finance Committee/Board of Selectmen

**ARTICLE 10:** To see if the Town will vote to transfer the total sum of two hundred ninety-two thousand one hundred seventy-five dollars (\$292,175.00) from the Community Preservation Fund to meet the fifth year payment of debt service owed on the General Obligation Town Hall Renovation Bonds, with forty one thousand eighty-three dollars and sixty-seven cents (\$41,083.67) from the Community Preservation Historic Resources Account and two hundred fifty-one thousand ninety-one dollars and thirty-three cents (\$251,091.33) from the Community Preservation Undesignated Account, or, to take any other action relative thereto.

**Explanation/  
Submitted by:** To make the fifth-year principal and interest payments (i.e., debt service) on the Town Hall bonds, to be paid from CPA monies - Community Preservation Committee.

**Recommendation:** Favorable Action/Finance Committee/Board of Selectmen

**ARTICLE 11:** To see if the Town will vote to accept the provisions of M.G.L. Chapter 40, Section 8J for the purpose of creating a Commission on Disability, and, in connection therewith, to amend the General Bylaws as follows:

**Title II Chapter 26  
Commission on Disability**

There shall be in the Town of Upton a Commission on Disability of 5 members appointed by the Town Manager, with the approval of the Board of Selectmen, all pursuant to G.L. c.40, §8J. As provided for by said §8J, a majority of the members of the commission shall be people with disabilities, one member shall be a member of the immediate family of a person with a disability and one member shall be either an elected or appointed official of the town. A vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Any member of said commission may, after a public hearing, if so requested, be removed for cause by the Town Manager.

, or take any other action relative thereto.

**Explanation/  
Submitted by:** Although the Town has a Commission on Disability, the acceptance of this statue and the insertion of a General Bylaw formalizes the Town's commitment to ensure the rights of people with disabilities. – Board of Selectmen

**Recommendation:** Favorable Action/Board of Selectmen

**ARTICLE 12:**

To see if the Town will vote to amend Title II, Chapter One of the General By-laws, Town Meetings, by inserting the underlined language and deleting the strikethrough language, as follows:

Section 1. The Annual Town Meeting Election for the election of Town Officers shall be held on the ~~first Monday~~ Tuesday ~~twelve days~~ following the first Thursday of May of each year. Official ballots shall be used as provided by law.

Section 2. The polls for the annual Town Meeting Election shall be opened at seven o'clock in the forenoon and shall remain open until eight o'clock in the evening.

Section 2a. The Annual Adjourned Town Meeting for the transaction of all businesses other than the election of Town Officers, and the determination of matters required to be by ballot, shall be at 7:00 P.M. on the ~~first Thursday following the first Monday~~ in May of each year.

or take any other action relative thereto.

**Explanation/  
Submitted by:**

The proposed change will allow those elected officials involved in the preparation for the Annual Town Meeting to serve in their elected position during Town Meeting, which occurs prior to the annual election. - Board of Selectmen.

**Recommendation:** Favorable Action/Board of Selectmen**ARTICLE 13:**

To see if the Town will vote to authorize the Board of Selectmen to accept gifts of land for such purposes, and upon such terms and conditions, as it deems appropriate; and further, to memorialize such authority, to amend the Town Bylaws by inserting a new section for such purposes, as follows:

Title 2, Chapter 2, Section 12

The Board of Selectmen shall hereby be authorized to accept gifts of land and easements or any other interest in land for any and all purposes on behalf of the Town without a vote of Town Meeting vote, provided no funds need be appropriated therefor.

Or take any other action relative thereto.

**Explanation/  
Submitted by:**

There are two residents who would like to donate land to the Town. This article authorizes the Board of Selectmen to accept such land and further amends the General Bylaws to affect the same. -Board of Selectmen

**Recommendation:** Favorable Action/Board of Selectmen

<b>ARTICLE 14:</b>	To see if the Town will vote to transfer \$25,000 from the Community Preservation Undesignated Fund Balance to make the Kiwanis Recreation area more functional for its intended use, in particular, to make the walkway leading to the upper parking lot adjacent to the soccer field compliant with the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board, or, to take any other action relative thereto.
<b>Explanation/ Submitted by:</b>	Any forthcoming grants or donations earmarked for this project will reimburse the Recreation Commission funds and CPA funds in equal measure. This project will be under the supervision of the Recreation Commission and the Department of Public Works and must be completed within one year.- Community Preservation Committee.
<b>Recommendation:</b>	Favorable Action/Finance Committee/Board of Selectmen
<b>ARTICLE 15:</b>	To see if the Town will vote to transfer \$10,000 from the Community Preservation Open Space Account for the preservation and rehabilitation of the historic Schoolhouse #6 and site thereof located on North Street, including but not limited to the prevention of further damage to the stone foundation and retaining walls by removing 15 trees and 3 snags ranging in diameter from 5 to 24 inches, such project to be overseen by the Town Manager in consultation with the Land Stewardship Committee and the Upton Historical Commission, or, to take any other action relative thereto.
<b>Explanation/ Submitted by:</b>	To provide funding for the removal of trees that are damaging a historic foundation. – Community Preservation Committee
<b>Recommendation:</b>	Favorable Action/Board of Selectmen/Finance Committee
<b>ARTICLE 16:</b>	To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury or transfer the sum of Fifteen- thousand dollars (\$15,000) to the Town Clerk's wages line item in the FY2018 operating budget for the purposes of restructuring the role and responsibilities of the Town Clerk, or take any action relative thereto.
<b>Explanation/ Submitted by:</b>	The Town Clerk's position has expanded to take on additional roles throughout Town operations, to include managing all Town owned facilities and advancing Town operations by leveraging more efficient and effective information & technology. – Board of Selectmen
<b>Recommendation:</b>	Favorable Action/Board of Selectmen
<b>ARTICLE 17:</b>	To see if the Town will vote to raise and appropriate, appropriate from available funds in the Treasury, or transfer, or borrow the sum of Five-Thousand dollars (\$5,000.00), or any other sum, for a supplemental appropriation to the Conservation Fund, or, to take any other action relative thereto.
<b>Explanation/ Submitted by:</b>	To provide additional funding for the Town's Conservation Fund. – Conservation Commission
<b>Recommendation:</b>	Favorable Action/Board of Selectmen/Finance Committee

**ARTICLE 18:**

To see if the Town will vote to transfer the care, custody, management and control of the property shown below from the Town Treasurer for tax title purposes including sale at auction to the Board of Selectmen for general municipal purposes and for the purposes of sale, and further, to authorize the Board of Selectmen to sell such land or interests therein and to execute any and all instruments as may be necessary to effectuate the vote taken hereunder.

Description	Map	Parcel
0 Westboro Road	2	56

Or, to take any other action relative thereto.

**Explanation/****Submitted by:**

To authorize the use of 0 Westborough Road for general municipal purposes and to authorize the property to be sold in accordance with G.L. c.30B, if the Board of Selectmen determines the same is appropriate. -Board of Selectmen

**Recommendation:**

Favorable Action/Board of Selectmen

**ARTICLE 19:**

To see if the Town will vote to transfer from available unappropriated funds in the Treasury a sum of money to reduce the tax rate for FY2018, or to take any other action relative thereto.

**Explanation/****Submitted by:**

To limit the tax impact on property owners by utilizing a portion of the Town's Free Cash to reduce the amount needed to be raised by taxation for FY 2018 - Board of Selectmen.

**Recommendation:**

Favorable Action/Board of Selectmen/Finance Committee

**ARTICLE 20:**

To see if the Town will vote to raise and appropriate, appropriate from available funds in the Treasury, or transfer, or borrow the sum of Two Hundred-Thirty-Five Thousand dollars (\$235,000.00), or any other sum, for the purchase of 3 Milford Street for general municipal purposes, and to authorize the Board of Selectmen to execute instruments and take such other action as may be necessary to carry out the vote taken hereunder or, to take any other action relative thereto.

**Explanation/****Submitted by:**

To purchase the former Holy Angels Church located at 3 Milford Street for future consideration. -Board of Selectmen

**Recommendation:**

Favorable Action/Board of Selectmen

**ARTICLE 21:**

To see if the Town will vote to authorize the Board of Selectmen to **petition** the General Court to amend various sections of Chapter 391 of the Acts of 2008 "An act establishing the office of Town Manager in the Town of Upton", as set forth below, with strikethrough text to be deleted and underlined text to be inserted; provided, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court, provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives:

**SECTION 2.** There shall be an administrative officer in the town of Upton known as the manager. The manager, reporting directly to and supervised by the board, shall be the chief administrative officer of the town. The manager shall not set town policy but shall ensure that there is appropriate coordination in the implementation of town policy, working with the board and all elected and appointed boards and commissions. The following responsibilities and authority shall devolve from the board to the manager: (a) hiring, firing and disciplining employees under the jurisdiction of the board, pursuant to subsection ~~(4)~~ (a) of section 4;

**SECTION 3.** The manager shall be appointed by the board on the basis of executive and administrative qualifications and other hiring requirements set forth by the board. The manager shall be a person especially suited by a combination of education, training and professional experience to perform the duties of the office. The manager shall not serve as a member of the elected office board of selectmen in the town's government for at least 12 months before his appointment. The manager shall devote his full-time to the office and shall not hold any other public office, elected or appointed, nor engage in any other business or occupation during the term unless that service is approved in advance by the vote of the board. The manager shall be subject to the personnel by-laws of the town unless the board exempts specific provisions of those by-laws as defined in a signed contract between the town and the applicant. The board may enter into a contract with the manager, not to exceed 3 years in length, setting forth the terms and conditions of the manager's employment.

A vacancy in the position of town manager shall be filled as follows. The board of selectmen shall appoint a screening committee of five (5) Upton residents for the purpose of identifying candidates for appointment to the position of town manager. The screening committee shall recommend to the Board of Selectmen a minimum of three (3) qualified candidates. After receiving the recommendations of the screening committee, the Board shall appoint a town manager from the recommended candidates; provided, however that the Board may, at its discretion, instead request the screening committee to submit additional candidates, or appoint a new screening committee for such purposes.

**SECTION 4.** The manager shall be responsible and accountable to the board for the efficient and orderly conduct of the departments and functions placed in his charge as manager and for the proper execution of the following powers and duties. The manager shall...

(m) ~~administer all applicable general and special laws, and all applicable by laws and regulations and implement all lawful goals and policies established by the board and provide reports to the board when appropriate; to see that all laws, bylaws, other town-meeting votes, and directives of the board of selectmen, that require enforcement by him or officers or employees subject to his direction and supervision, are faithfully carried out.~~

**SECTION 7.** ~~During the transition period from an active administrative board to the manager form of administration as defined by this act, the position of administrative assistant to the board may exist for a period of time not to exceed 90 days to assist the manager once hired. The length of the 90 day transition period may be shortened at the discretion of the board. Every five years, the board of selectmen shall appoint from among the residents of the town a committee to review this act, as it may be amended from time to time. Such committee shall make such recommendations to the board of selectmen as it deems appropriate concerning proposed revisions. The committee shall be comprised of an odd number of members to a maximum of 7.~~

or, take any other action relative thereto.

**Explanation/**

**Submitted by:**

To accept recommendations to the Town Manager's Act as proposed by the Town Manager's Act Review Committee- Town Manager's Act Review Committee

**Recommendation:**

Favorable Action/Board of Selectmen

And you are directed to serve this Warrant, by posting up attested copies thereof at the U.S. Post Office, Town Library and Town Hall, in said Town seven days (7) at least before the time of holding said Meeting.

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

Given under our hands this 25 day of October in the year of our lord two thousand seventeen.

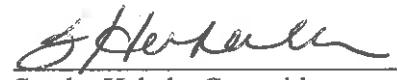
**UPTON BOARD OF SELECTMEN**

  
Robert J. Fleming, Chairman

  
Gary Daugherty, Member

  
Steve Matellian, Member

A true copy, Attest:

  
Sandra Hakala, Constable  
Date: October 27, 2017

RECEIVED  
17 OCT 27 AM 9:21  
TOWN CLERK  
UPTON  
K. Hakala

