

**TOWN WARRANT  
COMMONWEALTH OF MASSACHUSETTS**

**SPECIAL TOWN MEETING**

Worcester, ss.

February 7, 2017

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the Inhabitants of the Town of Southborough qualified to vote in elections and town affairs, to meet in the P. Brent Trottier Middle School, 49 Parkerville Road, in said Southborough, on

***Wednesday, March 8, 2017***

at **7:00 p.m.**, then and there to take action on the following Articles:

**ARTICLE 1:** To see if the Town will vote to authorize the Board of Selectmen to acquire and obtain by purchase a certain parcel of land with structures thereon from St. Mark's School of Southborough, Inc. located at 36 Cordaville Road, Southborough, Massachusetts, Assessor's Map 45, Parcel 2 consisting of 60 acres more or less and being the same parcel conveyed to St. Mark's School by Deed dated November 12, 1923 and recorded in the Worcester Registry of Deeds at Book 2318, Page 258 said parcel to be acquired for a public safety complex, reserved undeveloped land and other municipal purposes and further to authorize the Board of Selectmen to convey, transfer and sell the Town's real properties located at 0 School Street consisting of 1.63 acres more or less and the parcel located at 19 Main Street consisting of 2.34 acres of land more or less to St. Mark's School of Southborough, Inc. and to authorize the Board of Selectmen to execute a land exchange agreement to effect these transactions and further to vote to raise by borrowing, transfer from available funds, or otherwise a sum of money to pay for the acquisition and construction costs incidental or related thereto for the public safety complex.

The Town Clerk shall cause the following question to be placed on the ballot at the next annual election following the adoption of this article by the Town Meeting:

*Shall the Town of Southborough be allowed to exempt from the provisions of proposition two and one half, so called, the amounts required to pay for the bonds to be issued in order to acquire land and construct a new public safety complex, and for the payment of costs incidental or related thereto?*

; or do or act anything in relation thereto.

**Proposed by: BOARD OF SELECTMEN**

**Board of Selectmen Recommendation:** Support

**Advisory Committee Recommendation:**

**Summary:** This article will authorize the Board of Selectmen to execute the Purchase and Sale agreement that they have negotiated with St. Mark's School on behalf of the Town. The agreement will transfer two Town parcels to St. Mark's, along with \$4.5M in cash, in exchange for the entirety of the St. Mark's Golf Course. Per the agreement, at least 50% of the property must remain undeveloped. This agreement is the result of more than 15 months of negotiations between members of the Board of Selectmen, and senior staff and members of the Board of Trustees at St. Mark's School. In addition, this article will also authorize the borrowing of funds sufficient to pay for the engineering, design, construction, and other costs related to a new Public Safety Facility on a portion of the St. Mark's Golf Course property. The Selectmen-appointed Public Safety Study Committee has worked tirelessly for the better part of two years with consultants, town officials, and concerned citizens to craft a recommended proposal that meets the Town's present and future public safety needs, and is also sensitive to the needs of the various groups. The land deal with St. Mark's has also generated discussion as to additional uses for the remainder of the golf course property not considered for public safety purposes, including maintaining a golf course and/or placing a conservation restriction over the remainder of the parcel. The Selectmen have appointed a Golf Course Master Plan Committee to provide recommendations in that regard.

**ARTICLE 2:** To see if the Town will vote to accept and approve the following text of a Special Act and further to see if the Town will vote to authorize the Board of Selectmen to petition the General Court of Commonwealth of Massachusetts for passage and enactment of the Special Act as accepted and approved as follows:

**AN ACT AUTHORIZING THE SOUTHBOROUGH BOARD OF SELECTMEN TO ENTER INTO A LAND EXCHANGE AGREEMENT WITH ST. MARK'S SCHOOL, INC.**

Section 1. Notwithstanding the provisions of the Massachusetts General Laws c.40 and c.45 as to the sale and purchase of land and every other general and special act to the contrary, the Town of Southborough Board of Selectmen are authorized to enter into a Land Exchange Agreement for the purchase of land from St. Mark's School located at 36 Cordaville Road, Southborough and for the sale of two parcels of land to St. Mark's School, Inc. located at 19 Main Street and 0 School Street.

Section 2. Further, notwithstanding the provisions of M.G.L. c.61A that the Board of Assessors in conjunction with the Board of Selectmen be authorized to negotiate and abate the amount of rollback taxes with the St. Mark's School, Inc. which may be due as to the parcel of land located at 36 Cordaville Road in conjunction with the Land Exchange Purchase and Sales Agreement.

The Board of Selectmen are hereby authorized to approve amendments which shall be within the scope of the general public objectives of this Petition, or do or act anything in relation thereto.

; or do or act anything in relation thereto.

**Proposed by: BOARD OF SELECTMEN**

**Board of Selectmen Recommendation:** Support

**Advisory Committee Recommendation:**

**Summary:** *This article will authorize the Board of Selectmen to petition the State Legislature for a Special Act that authorizes several points of the Purchase and Sale agreement with St. Mark's School, whose authority and ability are not clearly defined in Massachusetts General Law. The execution of the Purchase and Sale agreement in Article 1, and therefore the entirety of the public safety facility as proposed, is dependent on the passage of this Article by Town Meeting, and subsequent approval by the State Legislature.*

**ARTICLE 3:** To see if the Town will vote to place a CONSERVATION RESTRICTION (CR) on a portion of St. Mark's Golf Course, at 36 Cordaville Rd, provided Town Meeting has first voted on a prior Article to approve purchase of the Golf Course, and also provided the portion of the Golf Course to which the CR applies shall exclude the land proposed for a Public Safety Facility to be located on a small part of the Golf Course.

The intent of the CR is to preserve the open space for the benefit of the town, to protect historic scenic views and wildlife habitat, while allowing continued use as a Golf Course. The CR shall allow alterations of the Golf Course to accommodate the Public Safety Facility, and shall also allow construction of facilities needed to operate the Golf Course, such as a golf club, driveways, parking and maintenance facilities.

The wording of the CR shall be prepared following Town Meeting, by the Board of Selectmen with participation by the Open Space Preservation Commission, Conservation Commission, Historical Commission, Planning Board, five members of the Golf Club, and two abutters. The CR shall be legally in force prior to any future construction on the Golf Course following town purchase.

Funding for the redesign and reconstruction of part of the Golf Course, required to accommodate the Public Safety Facility, may be submitted at a future Town Meeting, so that the redesign may be done concurrently with the design of the Public Safety Facility, and so that the impact of the Public Safety Facility can be minimized; or do or act anything in relation thereto.

**Proposed by: DAVID PARRY and CHRISTOPHER CROWLEY**

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

**Advisory Committee Recommendation:**

**Summary:** This Article supports the Board of Selectmen's purchase of the property from St Mark's, and also supports the Board of Selectmen's recommendation to build a Public Safety Facility on that property ..... St Mark's Golf Course is approximately 63 acres. This Article will place a Conservation Restriction (CR) on a "portion", approximately 59 acres, which is over 90 % of the total acreage. The only land not included in the CR will be approximately 4 acres proposed for the Public Safety Facility..... The CR will preserve all of the remaining land as open space, for the benefit of the Town and its residents. It will preserve historic scenic views, and allow the golf course to continue in operation for as long as the Town (through Town Meeting) desires, as well as other types of outdoor recreation ..... The improvements permitted by the CR include modifications to the golf course (such as a club house and watering pipes), and open space improvements needed for the Public Safety Facility (such as an underground septic field)..... The CR will be prepared by the Board of Selectmen and will be recorded after the land is purchased, but before construction of the Public Safety Facility.

**ARTICLE 4:** To see if the Town of Southborough will vote to support purchasing approximately 61-acres St Marks' Golf Course located at 36 Cordaville Road for perpetual preservation of the entire property with no future development allowed and a conservation restriction required on the entire property at time of purchase. To achieve this, the Selectmen shall renegotiate the purchase agreement for the property with no land swap involved, and bring to voters at the 2017 Annual Town Meeting. The Conservation Restriction (CR) purpose shall be to preserve high-quality open space for the benefit of the town, protect historical scenic views and wildlife habitat, while preserving a golf course and passive recreation. Said CR to be developed immediately following Special Town meeting with Selectmen to appoint a Conservation Restriction Development Committee made up of 7 members only, with 1 member representing each of the following constituencies: the Open Space Preservation Commission, Historical Commission, Conservation Commission, Recreation Commission, Planning Board, a Direct Abutter, and a member of the Golf Community. The Selectmen also to work with the Open Space Preservation Commission, Planning Board, and Community Preservation Committee to develop a finance package that includes applying for CPA funding, using Golf Course revenues to offset purchase price, and applying for State grants; or do or act anything in relation thereto.

**Proposed by:** FREDERICA GILLESPIE, SALLY B. WATERS, THOMAS J. MCCARTHY, LOUISE BARRON, MARY C. BURKE

**Board of Selectmen Recommendation:** Not Support

**Advisory Committee Recommendation:**

**Summary:** This citizen petition warrant article is tied to Town Meeting's rejection of Article #1 to purchase the Golf Course for construction of a new public safety complex. Passage of this article indicates to the Selectmen that the Townspeople want them to renegotiate the purchase of the Golf Course in order to preserve the entire property. It requires a Conservation Restriction that allows the golf course operation to continue, helping to make the purchase of the land financially feasible while providing needed recreational opportunities. It establishes a committee representing all key constituencies to design the Conservation Restriction and requires development of a financial package that includes CPA funds, state grants, and golf course revenues.

**ARTICLE 5:** To see if the town of Southborough will adopt the attached document titled "Establishment of the Municipal Technology Committee", which comprises 5 pages and is dated 9-Dec-2016, as Chapter 9, Article VII sections 9-25 through 9-29 of the Town bylaws:

#### **Article VII Municipal Technology Committee**

##### **§9-25 Establishment; Membership; Qualifications**

There shall be a Municipal Technology Committee (MTC), which shall consist of five voting members and the non-voting ex-officio members identified below.

Each voting member shall be a resident of the Town and shall not be a Town officer or employee. Each voting member shall have significant relevant professional experience and knowledge of one or more of the Technologies used, or proposed to be used, by the Town.

The voting members shall be appointed as follows: two by the Board of Selectmen, two by the School Committee, and one by the Library Board of Trustees.

#### **§9-25-A Appointments; Terms; Vacancies; Removal**

Voting members shall be appointed for three-year terms. The initial appointments shall be two members for three years, two members for two years, and one member for one year, so as to establish overlapping terms.

Any voting member who shall remove from the Town, resign, die, fail to faithfully discharge his duties, or otherwise fail without good cause to attend at least three quarters of the full MTC meetings held in any six month interval shall cease to be a member. In such case, the respective appointing authority shall, within thirty days, appoint a replacement for the balance of the unexpired term.

Regular ex-officio (non-voting) members may be appointed as follows: one each by The Board of Selectmen, the School Committee, the Library Board of Trustees and the Board of Health. ("Boards") Regular ex-officio members serve at the pleasure of their appointing authorities, and may be non-resident Town officers or employees. They shall be the persons most responsible for Technology used by their respective Board.

Additional ad-hoc ex-officio (non-voting) members may be added by the Boards, but only with the consent or by the request of a majority vote of the MTC. Such ad-hoc members serve at the pleasure of the appointing authority and of the MTC on a temporary basis for so long as needed by the business of the MTC. They may be non-resident Town officers or employees.

#### **§9-25-B Organization; Meetings**

The members shall select, from among themselves, a Chairman and a Secretary. The MTC shall create or adopt such rules of procedure as may be reasonable and useful for its efficient operation, and may from time to time amend these rules by a majority vote of the members.

The MTC shall ordinarily and preferentially meet in the Town, but may conduct meetings, investigations or inspections within the scope of its duties and authority anywhere, subject to standard Town travel budgets and policies

The MTC may appoint from its own membership subcommittees and delegate to them such of its powers as it deems expedient.

All reports and recommendations of the MTC made to the Town shall be voted by a majority of the voting members of the MTC, but this shall not be construed to prevent recommendations by a minority nor to discourage full participation by the non-voting members.

#### **§9-25-C Staffing**

Subject to available funding, the MTC shall have the authority to engage consultants (paid or volunteer) ("Consultants") when its membership does not include the expertise necessary to evaluate specific projects. The MTC may direct Consultants to act to investigate and/or to report to the MTC on Technology and/or its use, proposed use, or discontinuance in the Town. The Technology Managers shall, when requested by the MTC, reasonably assist Consultants to complete any task assigned to Consultants by the MTC. The MTC may not delegate its powers to Consultants.

The MTC shall have no permanent staff, but the Town Administrator and ex-officio members shall provide reasonable administrative support and reasonable access to other employees as may be requested by the MTC.

#### **§9-25-D Funding**

The MTC shall have a budget for Consultants and other expenses. It shall submit its projected expenses to the Town's regular budget and exception processes. Any expenditures shall require a majority vote of the MTC, and be subject to the Town's policies for such expenditures. Unless otherwise agreed or budgeted, expenses attributable to members shall be paid by their respective appointing authorities.

## **§9-26 Functions and Definitions**

The duty of the MTC shall be to recommend and document an overall technology strategy for the Town and to proactively lead the Town's development and implementation of this strategy.

Further, the MTC shall proactively advise the Boards, other Town Entities, the Town Administrator, and their designated employees ("Technology Managers") responsible for purchasing and utilizing technologies used to provide Town services.

In this Article VII, "Technologies" include, but are not limited to: Information Technology/Data Processing equipment and Software, Computer Networks, Voice/FAX systems, Intelligent building control systems, SCADA, Mobile computing technologies (e.g. cellular telephones, tablets and laptops), Radio communications, Audio-Visual technologies, Emergency communications and future technologies as they arise.

In this Article VII, the phase "Town Entities" includes any Town board, committee, or agency of Town government, or subsidiary organization of any of these, whether statutory, elected or appointed, that uses or proposes to use Technologies; and/or which expends or proposes to expend funds for Technologies and/or related services.

## **§9-27 Mission and Authority**

The MTC shall, as more fully described in the entirety of this Article VII, address matters of Technology in the Town, including but not limited to: information delivery; ensuring access to communications technology; increasing the efficiency of transactions involving the Town; and ensuring the effective deployment of infrastructure for the Town's operations and the Town's citizens.

The MTC shall work to ensure that all Town Entities utilize technology in a common, effective and cost effective manner for the benefit of the Town, its operations and its residents.

### **§9-27-A Plans and Reviews**

Technology Managers shall notify the MTC when any plan for adopting, discontinuing, expanding or reducing Technologies is being formulated and shall provide the MTC with the opportunity to participate in the development of such plans and to obtain and budget for any necessary Consultants. All such plans shall be timely submitted to the MTC for final review and comment prior to committing to their implementation. These reviews shall consider and identify: consistency with the Strategic Plan, opportunities for efficiencies and improved service, and impact on other Town Entities and the Town's citizens. The MTC may consider and identify other relevant issues and related matters during these reviews. These reviews shall be documented and considered by the Technology Managers and their respective Boards or Town Entities, which shall provide the MTC with their final plans and any subsequent changes thereto.

The MTC shall have the authority to inspect and review, in conjunction with the Technology Managers, any of the Town's Technology-based processes, systems and operations to identify progress and issues with implementing the Strategic Plan.

The goal of all MTC inspections and reviews shall be to provide significant insight and advice that will improve consistency with and implementation of the Strategic Plan and which may provide for the successful implementation of projects. The goal shall not be merely to find fault or to subsume the authority of the Technology Managers.

### **§9-27-B Strategic Plan**

The MTC shall provide strategic planning and advice to the Technology Managers, the Boards, other Town Entities and the Town Administrator. In conjunction with the Technology Managers, the MTC shall maintain a rolling five-year strategic plan ("Strategic Plan") for the Town's technologies, which shall be accessible to the public. The MTC may report on the Strategic Plan to Town Meeting.

The Strategic Plan shall consider, but is not limited to:

- a. capital requests for technologies, taking into consideration the goals of maximizing efficiency and cost effectiveness, removing unnecessary redundancy, and ensuring, to the extent reasonably possible, the compatibility of each request with other existing or proposed systems;
- b. the specifications to be considered for informational and communications systems and other Technologies when constructing or renovating Town facilities;
- c. matters relating to information technology policy, specifically with reference to issues of security, privacy, risk, future technology, legal or regulatory requirements and the provision of government services to the public through information technology; and
- d. how to stimulate and support the development of appropriate technology initiatives and activities that may increase communication and information exchange within Town Entities, between Town Entities and its residents, and among Town residents.

#### **§9-27-C Limitations; Other Agencies**

The MTC does not have the authority to direct or require that a Technology Manager, Board or other Town Entity make (or not make) a specific Technology-related decision.

The MTC shall not interfere with the School Committee's development or choice of instructional methods and curriculum, but the MTC shall have the same duties with respect to infrastructure planning and non-instructional systems as it does for the other Boards and Town Entities. The MTC may report to the School Committee on Technology issues and trends that may affect education, but such reports shall be informative, and shall not be binding on the School Committee.

The MTC may meet with other governmental agencies to discuss opportunities for interoperation, efficiencies or other synergies. However, the MTC does not have the authority to commit the Town to pursue such opportunities, which authority rests with the Boards, other Town Entities, and/or their designees.

#### **§9-28 Reporting**

From time to time, as may be necessary, the MTC shall report to the Boards on major technology issues affecting the Town and its citizens, including its progress toward completing the Strategic Plan.

From time to time, as may be necessary, the MTC shall report to the Town Meeting on its activities, the Town's Technology needs, and progress toward completing the Strategic Plan.

The MTC shall review and consider all matters included within the articles of any warrant for a Town Meeting hereafter issued that involve a material expenditure of funds for technology and/or involve significant changes in technology that affect Town services. The MTC shall, after due consideration of the subject matter in said articles, report thereon, in print or otherwise, such information and recommendations as it shall deem best regarding such matters. The Moderator shall solicit the recommendation of the MTC for each such article prior to general discussion of and vote on the article at Town Meeting. The MTC shall use reasonable judgment in establishing the threshold for issuing these recommendations.

#### **§9-29 Conflict of Law; Interpretation**

In the event that a court of competent jurisdiction determines that any clause or provision of this Article VII is unenforceable, this Article VII shall be deemed modified to the minimum extent necessary to correct such defect, while maximally maintaining the intent of this Article VII.

The section headings and numbering of this Article VII are for convenience and shall not be construed to modify the interpretation of the article.

In this Article VII, terms are defined in quotation marks within parenthesis, and their uses are indicated by capitalization. The definition of each such term applies to its use in the entirety of this Article VII, whether or not the definition appears before such use.

In this Article VII: the word "shall" is to be interpreted in the imperative sense of "must" or "is required to", while the word "may" is to be interpreted in the permissive sense of "optionally", or "has discretion whether or not to".

;or act or do anything in relation thereto.

**Proposed by: ROGER W. CHALLEN**

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

**Advisory Committee Recommendation:**

**Summary:** This article would establish a standing town committee responsible for generating and maintaining a rolling five-year strategic plan for all technologies used by the town (not just computers) and would oversee its implementation. The committee would encourage the adoption of technologies to improve citizen services and operational efficiency. It would report to the Town Meeting on the plan, and on any warrant articles that propose spending on technology. The committee would be comprised of 5 resident voting members appointed by the Selectmen, School Committee and Library Trustees; 4 permanent ex-officio members appointed by the Selectmen, School Committee, Library, and Board of Health; and additional ex-officio members as required by the active projects. The committee would work in collaboration with all of the government entities that use and propose technologies. In addition, it would tap into the vast number of technology experts resident in the town (estimated at ~600) as consultants for additional expertise.

**ARTICLE 6:** To determine if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts to adopt a special act which is substantially the same as the act in the attached document dated 12/31/16 and titled, "AN ACT ESTABLISHING A PROCEDURE FOR THE RECALL OF ELECTED OFFICIALS IN THE TOWN OF SOUTHBOROUGH"

**Recall of Elected Officials**

**§1 Holders of an Elected Office May Be Recalled**

Any holder of an elected office may be recalled and removed by the registered voters of the Town as set forth in this act; provided that the maximum number of members of a multiple-member body that may be recalled at one time is a majority. Recall is intended to be utilized when, in the opinion of the number of voters specified below, an elected official, acting as such, has lost the confidence of the voters in his/her judgment or the ability to reasonably perform the duties and responsibilities of the office.

**§2 Recall Affidavit and Petition.**

- A. A recall petition may be initiated by filing with the Town Clerk an affidavit containing at least one hundred (100) signatures of persons representing to be registered voters of the Town (including for each signature the street and number, if any, of the signer's residence), the name of the officer sought to be recalled and a statement of the grounds for recall (together, the "Initial Petition"). The Town Clerk shall, within five (5) business days of receipt of such affidavit, submit the affidavit to the Registrars of Voters of the Town and the Registrars shall, within five (5) business days of receipt of such Initial Petition, certify thereon the number of signatures which are names of registered voters of the Town. If the Registrars certify that the Initial Petition contains the signatures of at least one hundred (100) registered voters, the Town Clerk shall, within five (5) business days, make available to any one or more of the, registered voters making the Initial Petition copies of petition blanks demanding such recall (the "Recall Petition"). Said blanks shall be issued by the Town Clerk, with the Town Clerk's signature and the official Town seal affixed thereto. The blanks shall be consecutively numbered, dated, addressed to the Board of Selectmen, shall specify the name of the person whose recall is sought, shall specify the office from which removal is sought, shall specify the grounds of recall as stated in the Initial Petition, shall include a demand for a recall election, and shall include a demand for the election of a successor in said office.
- B. A copy of the Recall Petition shall be entered in a record book to be kept in the office of the Town Clerk. Said Recall Petition shall be returned and filed with the Town Clerk during regular business hours no later than the close of thirty (30) business days after the certification of the Initial Petition by the Registrars. Before being returned and filed with the Town Clerk, said Recall Petition shall have been signed by no fewer than ten per cent (10%) of the registered voters of the Town as of the date the Initial Petition was filed with the Town Clerk (including for each signature the street and number, if any, of the signer's residence).

- C. The Town Clerk shall, within three (3) business days of receipt of the signed Recall Petition, submit the Recall Petition to the Registrars of Voters of the Town and the Registrars shall, within fifteen (15) business days, certify thereon the number of signatures which are names of registered voters of the Town.

### **§3 Recall Election and Removal**

- A. If the Recall Petition has a sufficient number of valid signatures and is certified by the Town Clerk and the Registrars of Voters, the Town Clerk shall allow five (5) business days for the filing of legal challenges to the signatures on the Recall Petition. If no such legal challenges are filed within these five (5) business days, or in the event that such legal challenges are filed, after such legal challenges have been resolved with the result that the Recall Petition is certified by the Town Clerk to be sufficient and valid, the Town Clerk shall submit the Recall Petition with the certification to the Selectmen forthwith. The Selectmen shall, within two (2) business days, give written notice of the receipt of the certification of the Recall Petition to the officer sought to be recalled, and shall, if the officer does not resign within five (5) business days thereafter, thereupon issue a warrant for a special election to be held on a Tuesday fixed by them not less than twenty-five (25) nor more than forty-five (45) calendar days after the date that the Town Clerk submits his certification to the Selectmen that the Recall Petition is sufficient; provided, however, that if any other Town election is to occur within ninety (90) calendar days after the date of the certification, the Selectmen shall issue a warrant for the recall election to be held on the date of such other election. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as provided for in this section. If the officer sought to be recalled requests a public hearing in writing, the Selectmen shall hold a public hearing on the matter. This hearing shall take place not less than seven (7) days prior to the recall election.
- B. Any officer sought to be removed may be a candidate in the election to fill that office. The Town Clerk shall place the name of said officer on the official ballot without nomination or qualification, unless that officer requests otherwise in writing.
- C. The qualification of candidates other than the officer sought to be removed, the publication of the warrant for the recall election, and the conduct of the same shall be in accordance with the provisions of the law relating to the elections originally held for said office, unless otherwise specified by this Section 3.
- D. The question of recalling any number of officers may be submitted at the same election, but as to each officer whose recall is sought there shall be a separate ballot.
- E. Ballots used in a recall election shall submit the following propositions in the order indicated:
  - Against the recall of (name of officer).
  - For the recall of (name of officer).Immediately at the right of each proposition there shall be a shape in which the voter, by making a cross mark (X) or by filling in the shape, may vote for either of the said propositions. Under the proposition shall appear the word "Candidates", the direction "Vote for One", and other directions to voters as required by section four of chapter fifty-four A of the General Laws, and beneath this the names of candidates nominated as hereinbefore provided.
- F. If a majority of the votes cast on the recall question is in the affirmative, the officer sought to be recalled shall be deemed removed, as specified in Section 4 (unless such officer is re-elected pursuant to section 3.G); then the candidate who received the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes cast on the recall question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted.
- G. If a plurality of votes cast in the candidate section of the ballot is for the officer whose recall is being sought, that officer shall remain in office regardless of the vote cast on the recall question.

### **§4 Officer Being Recalled and Successor**

The incumbent shall continue to perform the duties of office until the recall election unless the incumbent sooner resigns from the office. If then re-elected, the incumbent shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in Section 5. If not re-elected in the recall election, the incumbent shall be deemed removed upon the certification of the election results. If the

successor fails to qualify or is unable to begin, serving in the office for any reason within five (5) business days after receiving notification of the certification of the election results, the incumbent shall be deemed removed and the office shall be vacant until the next Town election for such office.

## **§5 Recall Timing Limitations**

- A. No Recall Petition shall be filed against an officer within three (3) months after such officer takes office, nor in the case of an officer subjected to a recall election and not recalled thereby, until at least three months after the election at which such officer's recall was submitted to the voters of the Town.
- B. No person shall be subject to recall if the term of office of such person expires within one hundred eighty (180) calendar days of the filing of an Initial Petition with the Town Clerk.
- C. No recall shall be filed against an officer who was the subject of a recall election and not recalled thereby, until at least six months after the election at which the recall question was submitted to the voters.

## **§6 Subsequent Town Service for a Recalled Officer**

No person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against him or her, shall be eligible to hold any Town elected office or appointed position within two (2) years after such recall or such resignation.

**Proposed by:** SAM R. STIVERS, JACK BARRON, LOUISE BARRON, FREDERICA GILLESPIE

**Board of Selectmen Recommendation:** Not Support

**Advisory Committee Recommendation:**

**Summary:** *This home-rule petition updates the Town's bylaws to specify a process for recall of elected officials. This language is similar to bylaws in a number of other towns, as it creates a process by which 10% of the registered voters of the Town can force a recall election for an elected official. The bylaw language contains various safeguards to limit frivolous use of this mechanism, including such limitations as not allowing the recall process for an elected official earlier than six months after such an official is elected or within six months of the end of the term of such elected official.*

**ARTICLE 7:** To see if the Town of Southborough will vote to amend Chapter 3 of the Code of the Town of Southborough, Massachusetts, by adding a new Section 3-12 to Chapter 3 of the Town bylaws, comprised of the text on the attached document titled "New Chapter 3, Section 3-12: Removal of Appointed Board/Committee/Commission/ Other Public Entity Member", which comprises 1 page and is dated 30-Dec-2016:

## **§ 3-12 Removal of an Appointed Board/Committee/Commission/Other Public Body Member**

### **A. Removal Process**

The appointing authority may remove an appointed member of a board or committee or commission or other public body of the Town, with more than six (6) months remaining in the appointee's term of office. The process for such removal may be initiated by any of the following three methods:

- (1) The appointing authority may, by a super-majority vote, cause a written notice of removal to be filed with the Town Clerk; or
- (2) A board or committee may, by a majority vote, submit a written request that the appointing authority remove one of its members, specifying the grounds for such removal request in writing and causing a written notice of removal to be filed with the Town Clerk; or
- (3) Two hundred (200) or more registered voters of the Town may file with the Town Clerk a petition requesting the removal of a member of a board or committee, specifying the grounds for such removal. Upon certification by the Board of Registrars of a sufficient number of valid signatures, the Town Clerk shall immediately give written notice to the appointing authority thereof.

### **B. Public Hearing**

A public hearing shall be convened by the appointing authority not less than twenty (20) nor more than forty-five (45) calendar days after a notice, request or valid petition for removal is filed with the Town Clerk. Not less than

ten (10) calendar days prior to such hearing, written notice thereof shall be given by the Town Clerk to the individual whose removal is sought, by mail, postage prepaid, to his or her last known address. Not less than forty-eight (48) hours prior to the time set for the commencement of the public hearing, the individual whose removal is sought shall be entitled to file a written statement with the appointing authority responding to the reasons cited for the proposed removal. The individual whose removal is sought may be represented by counsel at the public hearing, and shall be entitled to present evidence, call witnesses and, personally or through counsel, question any witnesses appearing at the hearing. The entity or individual(s) initiating the removal process may be represented by counsel at the public hearing, and shall be entitled to present evidence, call witnesses and, personally or through counsel, question any witnesses appearing at the hearing. Should the individual whose removal is sought elect to resign his or her position before the public hearing, such public hearing shall not be held and the appointing authority shall make, according to its standard procedures, a new appointment to fill the vacant position for the remaining term of the incumbent who has resigned.

#### **C. Removal**

The appointing authority may, by majority vote, adopt a final resolution of removal, which shall be effective upon adoption. Failure to adopt a final resolution of removal within thirty (30) calendar days after the public hearing shall be deemed to be a disapproval of such resolution. The action of the appointing authority in removing the appointee shall be final, it being the intention of this section to vest all authority and fix all responsibility for such removal in the appointing authority. The individual whose removal is sought shall continue to serve in his or her appointed position until a final resolution of removal has become effective. After such removal, the appointing authority shall make, according to its standard procedures, a new appointment to fill the vacant position for the remaining term of the removed individual.

#### **D. Subsequent Town Service for a Removed Individual**

No person who has been removed from an appointed position pursuant to this section 3-12, or who has resigned from an appointed position while such removal proceedings were pending against him or her pursuant to this section 3-12, shall be eligible to hold any Town appointed position on a board or committee or other public body within (2) two years after such removal or such resignation.

;or act or do anything in relation thereto.

**Proposed by:** SAM R. STIVERS, JACK BARRON, LOUISE BARRON, FREDERICA GILLESPIE

**Board of Selectmen Recommendation:** Not Support

**Advisory Committee Recommendation:**

**Summary:** *This petition adds a new section 3-12 to section 3 of the Town's bylaws to specify a process for removal of an appointed board/committee/commission/other public body member. This language is similar to bylaws in a number of other towns, as it creates a process for the removal of such appointed officials—initiated by three possible methods: (1) by a super-majority vote of the appointing authority; (2) by majority vote of the members of the public body; or (3) by petition of 200 or more registered voters. After this process is initiated by one of these methods, the proposed bylaw language establishes a process for the appointing authority to hold a hearing and to render a decision on the removal.*

**ARTICLE 8:** To see if the Town of Southborough will vote to amend Chapter 27 of the Code of the Town of Southborough, Massachusetts, by deleting Chapter 27, Article III, Section 27-7 in its entirety and by inserting in place thereof the text on the attached document titled "Updated Chapter 27, Article III, Section 27-7 ", which comprises 1 page and is dated 30-Dec-2016, as Chapter 27, Article III, Section 27-7 of the Town bylaws:

#### **§ 27-7 Consent for opinions required**

- A. No Town officer, board, commission or committee shall request an opinion from, or legal support from, the Town Counsel, except in cases not admitting of delay, without first obtaining the consent of the Board of Selectmen; nor shall any such Town officer, board, commission or committee employ any other counsel without like consent, except as set forth in Section 27-7.B, under which circumstances such legal opinion or services from legal counsel other than Town Counsel is permitted without the

consent of the Board of Selectmen.

- B. In the event that an elected Town officer, board, commission or committee requests an opinion from, or seeks any form of legal services from, the Town Counsel, and the Town Counsel either has a conflict of interest and/or cannot provide independent counsel due to competing and/or conflicting Town officer, board, commission or committee interests or positions or for any other similar reason, then such elected Town officer, board, commission or committee may engage the services of an attorney or law firm other than Town Counsel, without the consent of the Board of Selectmen, to provide such legal opinion or other legal services; provided that such Town officer, board, commission or committee has the necessary funds available to pay for such legal opinion or other legal services without relying on Town funds outside of their jurisdiction; and further, provided that such elected Town officer, board, commission or committee may gain access to such legal opinion or other legal services not requiring payment from Town funds (such as services paid for through donations of funds from third parties or pro bona legal services). For an elected Town board, commission or committee, such use of legal services from an attorney or firm other than Town Counsel must be approved by a super-majority vote of such board, commission or committee.

;or act or do anything in relation thereto.

**Proposed by:** SAM R. STIVERS, JACK BARRON, LOUISE BARRON, FREDERICA GILLESPIE

**Board of Selectmen Recommendation:** Not Support

**Advisory Committee Recommendation:**

**Summary:** *This petition replaces section 27-7 of the Town's bylaws with updated language that allows elected boards/commissions/committees or elected officials to engage legal counsel, independent of the current requirement for Selectmen's approval of such access—provided that Town Counsel is conflicted with respect to a particular request for such legal support or is unable to provide legal counsel to such board/commission/committee or official for any reason; and further provided that such board/commission/committee or official has access to funds (either as part of their budgeted funds or from donations or from pro bono services) to pay for such legal counsel.*