

***SPECIAL TOWN MEETING WARRANT***

*of the*

***TOWN OF SOUTHBOROUGH***

***MASSACHUSETTS***



**For the Special Town Meeting on**

***March 8, 2017***

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## ***Town Finance Terminology***

The following terms are frequently used in the Advisory Committee Report and at Town Meeting. For your convenience, we provide the following definitions.

***Surplus Revenue:*** (Often referred to as “Excess and Deficiency”)

*The fund represents the amount by which the Cash, Accounts Receivable and other floating assets exceed the liabilities and reserves.*

***Available Funds:*** (Often referred to as “Free Cash”)

*The amount of the Unreserved Fund Balance (Surplus Revenue) account over and above uncollected taxes of prior years constitutes “free cash” or “available funds”.*

***Overlay:***

The Overlay is the amount raised by the Assessors in excess of appropriations and other charges for the purpose of creating a fund to cover abatements granted and avoiding fractions.

***Overlay Reserve:***

This is the accumulated amount of the Overlay for various years not used or required to be held in the specific Overlay account for a given year, and may be used by vote of the town for extraordinary or unforeseen purposes or voted into the Reserve Fund.

***Stabilization Fund:***

An outside section of Chapter 138 of the Acts of 1991 (the FY92 State budget) modifies limitations on the Stabilization Fund appropriation process by enabling communities to appropriate from this fund for any non-capital, lawful purpose without Emergency Finance Board approval (section 333). Beginning in FY92, the Stabilization Fund will thus become a source of revenue for general operating expenses for communities.

The Stabilization Fund is a mechanism for setting aside money for capital projects. It equalizes the effect of capital expenditures over time, as capital appropriations can change considerably from year to year. The balance in the fund will build up during years when expenditures for capital items are low. During years with high capital expenditures, the community will transfer money from the fund to reduce the project’s impact on the tax rate or the amount of borrowing required for the project.

A community may appropriate up to 10% of its tax levy each year, as long as the balance in the Stabilization Fund does not exceed 10% of the community’s equalized valuation. Interest earned on any fund balance is retained as part of the fund.

Appropriations into a Stabilization Fund can be made at either an annual or special town or district meeting. Chapter 94 of the Acts of 1985 permits appropriations to be made from a Stabilization fund at a special town or district meeting, not just

at the annual meeting. Regardless of the timing, appropriations from the Stabilization Fund require a two-thirds vote by the appropriating authority. Until the FY92 state budget, a community could only appropriate from the Stabilization Fund for a none-capital purpose with the approval of the Emergency Finance Board.

***Reserve Fund:***

This fund is established by the voters at the Annual Town Meeting only and may be composed of (a) an appropriation (not exceeding 5% of the tax levy of the preceding year), (b) money transferred from Overlay Reserve, or (c) both.

Transfers from the Reserve fund may be made only by the Advisory Committee and are for “extraordinary or unforeseen expenditures” only.

***Conservation Fund:*** For land purchases and any other conservation use.

## ***Introduction to the Rules of Town Meeting***

### ***TOWN MEETING***

Southborough's Town Meeting is an open town meeting in which all registered voters may participate in the voting. The Meeting is a deliberative assembly, conducted in the democratic process, charged with considering a maximum number of questions of varying complexity in a minimum amount of time and with full regard to the rights of the majority, strong minority, individuals, absentees and all of these together.

#### ***AUTHORITY***

The three elements of authority at Town Meeting are a quorum of one hundred (100) registered voters or more, the Town Clerk and the Moderator. Of these three the quorum is the most important.

The Town Clerk is responsible for voter registration, certification of a quorum, setting up the hall and keeping the record of the Meeting. He may also officiate at the Meeting in the absence of a Moderator.

The Moderator presides at and regulates the proceedings, decides all questions of order, and makes declarations of all votes. No one may speak on an issue without being recognized by the Moderator. It is his responsibility to approve the distribution of materials, and persons wishing to do so must seek his permission. The Moderator appoints Tellers and alternates for the purpose of counting votes of the meeting.

#### ***THE WARRANT***

All matters to be considered at Town Meeting must be published in the Town Meeting Warrant, which is the responsibility of the Board of Selectmen. By state law, Town by-law, or custom several business articles such as budget appropriations must be presented in the Town Warrant each year for consideration. Other items are added by warrant articles proposed by town officials, committees, boards, or groups of ten or more registered voters. The Advisory Committee reviews the warrant, making recommendations on all the items of business to be presented. In accordance with the by-laws, all articles in the Warrant are considered in the order in which they appear in the Warrant, unless the Town Meeting votes to change the order.

#### ***PARTICIPATION***

Anyone wanting to ask questions, make a statement, or otherwise participate in the meeting must go to one of the floor microphones and wait to be recognized by the Moderator. Upon recognition by the Moderator, state your name and address and then state your business.

Anyone whose name is not on the list of registered voters requires the approval of either the Moderator or a majority of the Meeting to sit in the voting area.

All remarks should be limited to the subject then under discussion. It is improper to indulge in references to personalities and all expressions of approval or disapproval, such as applause or booing, are out of order. The Moderator may request any person to keep silent. If after warning from the Moderator, a person refuses to be silent or persists in other disorderly behavior, the Moderator may order a person to withdraw and if he fails to withdraw, may order a police officer to remove such person from the Meeting.

Individuals who have a personal or financial interest with respect to a matter may speak or vote thereon but should frankly disclose their interest. However, no Town Meeting voter should accept compensation for speaking to or voting at the Meeting without disclosing that fact.

There is no fixed time limit to the debate of any question. However, each individual who speaks to the Meeting should make an effort to be as brief as possible, out of consideration for the others attending the Meeting and the need to give adequate time to all matters coming before it.

## ***Introduction to the Rules of Town Meeting (continued)***

Anyone who wishes to make a special presentation with respect to any article must, prior to the Meeting, inform the Moderator of the length of time required and the nature of the presentation in seeking his approval.

In order to give all a fair opportunity to speak, no one who has addressed the Meeting on any particular motion shall speak again, except to answer questions, until all others wishing to speak to the motion have done so.

### ***HOW ARE MOTIONS CLASSIFIED?***

#### Main Motions

Motions of this group have for their object the bringing of questions, or propositions, before the Meeting for consideration. Only one main motion can be considered at a given time by the Meeting, and such a motion, when introduced, excludes all other main motions until it has been disposed of.

#### Subsidiary Motions

Motions of this group have for their object the modification or disposition of the main motion that is being considered. Their existence as motions depends entirely upon the principal motion to which they are subordinate. Since they relate to the question before the Meeting, it is "in order" to propose them when a main motion is still before the Meeting and to vote upon them before voting upon the main motion.

#### Privileged Motions

Motions of this group have no connection whatsoever with the main motion before the Meeting, but are motions of such importance that they are entitled to immediate consideration. These motions have the privilege of setting aside temporarily the main business before the Meeting.

#### Incidental Motions

Motions of this group have few characteristics in common, but for convenience have been grouped into one class. The name, "incidental," has been chosen because they arise only incidentally out of the business of the Meeting.

### ***RULES RELATIVE TO MOTIONS***

A motion is the means of bringing a proposal or question before the Meeting for consideration. When put forward it is a motion; after it is seconded and acknowledged by the Moderator, it becomes the question or proposal. Except for complimentary resolutions (the presentation of which must be approved in advance by the Moderator), no main motion shall be entertained unless it is contained within a warrant article (main motion, take from the table, reconsider, rescind, advance an article, postpone indefinitely or postpone to a time certain). Upon completion of debate, articles will be voted upon.

The Moderator shall determine whether a motion, or any discussion relative to a motion, is within the "scope of the article." That is, the motion and the debate must be relevant to the article as written in the Warrant. Articles only give notice to

the voters and do not initiate action; motions do. Motions may be withdrawn; articles may not be withdrawn – articles must be acted upon by Town Meeting.

There are four types of amendments: striking out, inserting, striking out and inserting, and substitution. Motions to amend may be hostile as long as they are germane. An amendment to a motion is an amendment of the first rank; an amendment is an amendment of the second rank; there can be no amendment beyond that of the second rank.

Some motions avoid a final determination by the Meeting. A motion to commit or to refer sends the matter to an existing board or committee or one to be established. The motion to postpone indefinitely disposes of the question without bringing it to a direct vote. The motion to postpone indefinitely should not be confused with the motion to table which only temporarily delays a vote.

As previously stated, articles may not be withdrawn; so when the Meeting does not wish to act on a particular article, the proper motion is to postpone consideration indefinitely.

***Introduction to the Rules of Town Meeting (continued)***

Motions to reconsider are in order and shall be entertained when moved by a person who voted on the prevailing (winning side) side of the original vote on the article. Articles may be reconsidered and defeated only once. A motion to reconsider, when passed by the necessary 2/3 vote, will bring the original article back to the floor (requires a new motion and additional debate) or, if the motion to reconsider is defeated, then the original article stands as previously voted and may not be reconsidered again. The person making the motion for reconsideration is under no obligation to state why said article should be reconsidered (although informing the hall of a reason(s) is the usual process). Actions to reconsider can be taken at the same session or any subsequent session of the Meeting. A notice of reconsideration may be filed with the Town Clerk stating that, at a specific point during the current Town Meeting, a person will move for reconsideration on a particular article. The Moderator, when so informed by the Town Clerk of this pending motion, will inform the hall of said action.

All motions other than purely procedural motions must be in writing and signed by the sponsor.

***CHART OF PRECEDENCE OF MOTIONS AND SUMMARY OF GOVERNING RULES***

	May interrupt a speaker	Req. a sec.	Debatable	Vote Required	Motions that may apply
<b><u>PRIVILEGE MOTIONS</u></b>					
1. To dissolve	no	yes	no	majority	none
2. To adjourn	no	yes	limited	majority	amend
3. Point of no quorum	no	no	no	none	none
4. Recess	no	yes	limited	majority	amend
5. Question of privilege	yes	no	no	chair rules	none
6. Orders of the day	yes	no	no	none	none
<b><u>SUBSIDIARY MOTIONS</u></b>					
7. To lay on the table	no	yes	no	2/3	none
8. Previous question	no	yes	no	2/3	none
9. To postpone definitely	no	yes	limited	majority	amend, reconsider previous question
10. To refer to a committee	no	yes	limited	majority	amend, reconsider previous question
11. To amend	no	yes	yes	majority	amend, reconsider previous question
12. To postpone indefinitely	no	yes	yes	majority	reconsider previous question
<b><u>MAIN MOTIONS</u></b>					
Main Motions	no	yes	yes	majority*	all
To take from the table	no	yes	no	majority	none
To reconsider	no	yes	yes	2/3	table previous question postpone definitely
To rescind	no	yes	yes	2/3	all
To amend after passage (requires a 2/3 vote to reconsider the prior vote)	no	yes	yes	majority	all
<b>Consideration of Articles</b>					
a) To advance	no	yes	yes	majority	reconsider previous question
b) To postpone definitely	no	yes	yes	majority	amend, reconsider previous question
c) To postpone indefinitely	no	yes	yes	majority	reconsider previous question

***Introduction to the Rules of Town Meeting (continued)***

	May interrupt <u>a speaker</u>	Req. a <u>sec.</u>	<u>Debatable</u>	<u>Vote Required</u>	<u>Motions that may apply</u>
<b><u>INCIDENTAL MOTIONS</u></b>					
To suspend rules	no	yes	no	2/3	none
To withdraw a motion	no	no	no	majority	reconsider
Point of order	yes	no	no	chair rules	none
Parliamentary inquiry	no	no	no	none	none
Point of information	no	no	no	none	none
Division of the assembly	no	no	no	none	none
Division of a question	no	yes	no	majority	none
Separate consideration	no	yes	no	majority	none

\*The vote required to pass an affirmative main motion is a matter of substantive law, and it is usually a majority.

***FORM USED IN MAKING MOTIONS***

- |                                       |  |
|---------------------------------------|--|
| 1. Main Motion                        | Mr. Moderator, I move that...(statement of the proposal)   |
| 2. Adjourn                            | Mr. Moderator, I move to adjourn to...(state time)   |
| 3. Amend                              | Mr. Moderator, I move to amend by adding...<br>Mr. Moderator, I move to amend by inserting...before...<br>Mr. Moderator, I move to amend by striking out...<br>Mr. Moderator, I move to amend by striking out...and inserting...<br>Mr. Moderator, I move to substitute...for... |
| 4. Amend an Amendment                 | Mr. Moderator, I move to amend the pending amendment by (see above)  |
| 5. Amend Something Previously Adopted | Mr. Moderator, I move to amend the resolution under Article...by...  |
| 6. Commit or Refer                    | Mr. Moderator, I move that the proposal be referred to a committee of...   |
| 7. Division of the Assembly           | Mr. Moderator, I call for a division.  |
| 8. Division of a Question             | Mr. Moderator, I move to divide the question.  |
| 9. Lay on the Table                   | Mr. Moderator, I move that the proposal be laid on the table.  |
| 10. Point of Order                    | Mr. Moderator, point of order.   |
| 11. Postpone definitely               | Mr. Moderator, I move to postpone the question to...   |
| 12. Postpone Indefinitely             | Mr. Moderator, I move that the question be postponed indefinitely.   |
| 13. Previous Question                 | Mr. Moderator, I move the previous question.   |
| 14. Question of Privilege             | Mr. Moderator, I rise to a question of privilege.  |
| 15. Recess                            | Mr. Moderator, I move to recess for...   |
| 16. Reconsider (2/3)                  | Mr. Moderator, I move to reconsider the vote under Article...<br>Mr. Moderator, I move to reconsider the vote on the amendment to...   |
| 17. Separate Consideration            | Mr. Moderator, I move for separate consideration.  |
| 18. Suspend the Rules                 | Mr. Moderator, I move to suspend the rules which interfere with...   |
| 19. Take from the Table               | Mr. Moderator, I move to take from the table the motion relating to...   |

***INTERRUPTING A SPEAKER***

No one may interrupt a speaker except for a point of order or a question of privilege.

***POINT OF ORDER***

A point of order if a question of the Moderator about whether the speaker is entitled to be speaking, whether the discussion is irrelevant, illegal or contrary to proper procedure.

*Introduction to the Rules of Town Meeting (continued)*

***QUESTION OF PRIVILEGE***

A question of privilege most often relates to the rights and privileges of those in attendance such as asking the Moderator to quiet the meeting so that discussion can be heard.

***PARLIAMENTARY INQUIRY***

A parliamentary inquiry is a question directed to the Moderator to obtain information on a matter of parliamentary law of the rules of the Meeting bearing on the business at hand. It is the Moderator's duty to answer such questions when it may assist a voter to make an appropriate motion, raise a proper point of order, or understand the parliamentary situation or the effect of a motion. The Moderator is not obliged to answer hypothetical questions.

***PREVIOUS QUESTION***

To call or move the question is a request to stop discussion and to take an immediate vote. This requires a 2/3 vote.

***VOTING***

Voting is by hand vote and the Moderator declares the results of such votes. If seven or more registered voters immediately question the vote, so declared, the Moderator shall determine the results by a standing count of votes by the tellers. After the vote, as counted by the tellers, is presented to the Moderator and announced to the floor, any further motions for recount are out of order. Moreover, the Moderator may disallow the request for a count if he believes the voice was beyond a reasonable doubt.

If a law or by-law requires more than a simple majority for action by the Meeting, the Moderator may first determine whether the vote is unanimous. If the vote is not unanimous, the voters shall be counted by means of a standing vote.

***ADJOURNMENT AND DISSOLUTION***

Sessions of the Town Meeting normally adjourn at eleven o'clock in the evening but may adjourn at such earlier or later time as the Meeting upon vote of the majority may determine.

The Meeting shall not dissolve until all articles in the warrant have been properly considered.















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:** At Town Meeting

**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" or to act or do anything in relation thereto.

### **Recall of Elected Officials**

~~§1 Holders of an Elected Office May Be Recalled~~  
§1 Holders 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:** At Town Meeting

**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:** At Town Meeting

**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:** At Town Meeting

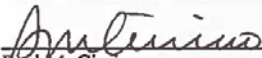
**Summary:** *This petition replaces section 27-7 of the Town's bylaws with updated language that allows elected boards/commissions/committees or elected officials to engage legal counsel, independent of the current requirement for Selectmen's approval of such access—provided that Town Counsel is conflicted 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.*

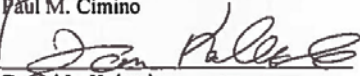
And you are to give notice hereby by posting true and attested copies of the Warrant at Southborough Town House, 17 Common Street, Cordaville Hall, 9 Cordaville Road, Mauro's Village Café, 2 Main Street, Mauro's Market, 4 Main Street, Southborough Library, 25 Main Street, Fayville Post Office, 67 Turnpike Road, Fayville Village Hall, 42 Central Street, Albert S. Woodward Memorial School, 28 Cordaville Road, Mary E. Finn School, 60 Richards Road, P. Brent Trottier Middle School, 49 Parkerville Road, Fitzgerald's General Store, 110 Southville Road, Turnpike Food & Liquor, 65 Turnpike Road; fourteen (14) days at least before the time appointed for such meeting.


Given under our hand this seventh (7<sup>th</sup>) day of February, 2017

  
\_\_\_\_\_  
Brian E. Shea, Chairman

  
\_\_\_\_\_  
Bonnie J. Phaneuf, Vice-Chairman

  
\_\_\_\_\_  
Paul M. Cimino

  
\_\_\_\_\_  
Daniel L. Kolenda

  
\_\_\_\_\_  
John F. Rooney, III

BOARD OF SELECTMEN OF THE TOWN OF SOUTHBOROUGH

Attest:  
  
\_\_\_\_\_  
Kenneth M. Paulhus, Constable