

**2013 Annual Town Meeting
Supplemental Report of the Advisory Committee**

ARTICLE 6.

RECOMMENDED: That there be raised and appropriated for each of the following purposes, for the fiscal year beginning July 1, 2013, the sum of money stated therefor, provided that where a transfer appropriation is stated, the amount so indicated shall be transferred or specifically appropriated as stated; also that the authority is hereby given to turn in vehicles and equipment in part payment for vehicles and equipment purchased in those cases where a turn-in is stated; and provided that any amount or a portion thereof appropriated to a sub-account under and included in a numbered account as set forth below may be transferred to another sub-account under the same numbered account with the approval of the Board of Selectmen and the Advisory Committee.

ARTICLE 22.

COMMENT: For the past several years, the Town has actively pursued plans to improve wastewater services, water supply, and roadway infrastructure in south Hingham in order to promote economic development in the those areas along Route 3 that are currently zoned for commercial use but remain underutilized. Increased economic development would yield multiple benefits to the Town, such as expansion of the commercial tax base, lessening the financial burden borne by residential taxpayers, and the creation of new employment opportunities. To achieve these goals, Town officials have been working cooperatively with both commercial and residential property-owners in the area, and with various state officials. In July 2009, the Comprehensive Wastewater Management Committee released its report identifying the Industrial Park Area – containing the Industrial Park and Office Park Districts – as a top Town priority for consideration of a wastewater treatment plant and related sewer lines. The Industrial Park Area (“the IPA”) consists of approximately 600 acres and includes 86 commercial parcels and 23 residential parcels. The commercial properties in the IPA and The Derby Street Shoppes generate over four million tax dollars annually. In December 2009, the South Shore Chamber of Commerce published a study describing economic development challenges and opportunities in the IPA. That study highlighted the lack of sewer service as a major obstacle to further commercial development. Thereafter, the Board of Selectmen commissioned a conceptual planning study to be conducted under the auspices of the Planning Board, Board of Health, and Sewer Commission and partially funded by two major developers currently in the IPA. The purpose of the study was to determine the feasibility of creating a new Industrial/Office Park Sewer District. That district was created by a vote of the 2010 Town Meeting.

Construction of the wastewater infrastructure for the new sewer district will not be possible in one location, but rather will require the location of a treatment plant, one or more leaching field sites, and the installation of sewer mains throughout the area to be served. This will require a combination of sites and potential public-private partnerships to bring the plan to fruition. In 2011, Town Meeting authorized \$190,000 for study and testing in connection with the construction of a decentralized, on-site wastewater treatment facility. The 2011 Town Meeting also authorized \$160,000 to acquire a parcel of land within the Industrial Park as a potential site for a wastewater treatment plant and/or leaching fields related to a plant, such land to be combined with land in other locations. During the ensuing two years, Town officials have been in discussions with multiple private property-owners in the area to determine the most practicable and effective means of designing the sewer system for the district.

The land involved in this Article consists of four parcels comprising approximately 18.6 acres located off Recreation Park Drive. The land is uniquely situated across Route 3 from the parcel in the Industrial Park that the Town acquired in 2011. Because of its strategic location, the property is a valuable “puzzle piece” that the Town can utilize to provide wastewater treatment service in the new sewer district. The land was not previously available for consideration by the Town because AvalonBay Communities, Inc. (“Avalon”) has had it under purchase and sale agreement with the three property-owners since 2010. Under Chapter 40B of the Massachusetts General Laws, Avalon has applied for a comprehensive permit to construct a 177-unit apartment building complex on the site. However, approximately nine months

ago, the Board of Selectmen began to explore with Avalon the possibility of the Town acquiring Avalon's contract rights to purchase the land. In March, Avalon, the property-owners, and the Town reached an agreement allowing the Town to purchase the land for the price that Avalon had agreed to pay, plus Avalon's costs of development, totaling \$3,750,000, subject to Town Meeting approval by a two-thirds vote. This Article seeks that approval. Avalon has made available to the Town various plans and studies of the land that it conducted in its "due diligence" on the proposed development, and initial review of those materials indicate that the land can contribute significantly to the Town's overall wastewater treatment plans. Moreover, the land affords sufficient area to allow for a buffer between the existing Deerfield Road and Farm Hill neighborhoods and any future use of the land by the Town. None of the residential properties would be subjected to any betterment assessments or otherwise be affected adversely. A wastewater treatment facility sited on the 18.6-acre property would look no more imposing than a small home. Future Town Meeting approval would be required for any necessary re-zoning and the expenditure of any funds in connection with wastewater treatment service. The Board of Selectmen will continue working with the abutting neighbors on future plans for use of the land. It is currently expected that the Town's purchase of the land would be financed through the issuance of one-year notes for the first two years and a long-term bond for the next 18 years. At presently available rates, the expected interest cost on the short-term notes would amount to \$10,000 to \$15,000 annually for two years. Notwithstanding the cost of this proposed land acquisition, the Advisory Committee agrees with the Board of Selectmen that it serves the best long-term interests of the Town. The potential contribution of the use of this land as an integral part of the Town's wastewater infrastructure to economic development in south Hingham should result in a net gain in tax revenue over time, especially when compared to the substantial financial impact on Town roadways and services, including public safety and the schools, of other possible uses of the land, such as dense residential development. The Advisory Committee therefore unanimously recommends favorable action on this Article.

RECOMMENDED: That the Town (a) authorize, but not require, the Board of Selectmen, to acquire four parcels of land together containing approximately 18.6 acres, more or less, off Recreation Park Drive in Hingham, and identified as Parcels 3 and 4 on Assessors' Map 202, and Parcels 4 and 5 on Assessors' Map 208 (collectively, the "Property"), on the terms set forth in that certain Purchase and Consent Agreement, dated March 14, 2013, and on such other terms and conditions that the Board of Selectmen deem in the best interest of the Town, and (b) vote to appropriate \$3,750,000 to pay costs of purchasing the Property and all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7(3) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

ARTICLE 32.

COMMENT: Article 23 of the General Bylaws, known as the Sewer Appropriation By-law, was approved by Town Meeting in 1983. It requires the Advisory Committee to disclose to Town Meeting voters financial information regarding the cost to taxpayers and benefitted property owners of sewer projects in the Town. Applicable Massachusetts General Laws and the special acts that govern certain sewer projects in the Town, allow for different methods of assessing betterments. The way Section 1(b)(iii) is currently worded implies that the Town only uses the method known as the "frontage" method when determining the rate of assessment for property owners. The proposed revision to this subsection clarifies that the rate of assessment may be any method permitted by law and previously approved by Town Meeting.

RECOMMENDED: That the Town amend the General By-laws of the Town of Hingham, adopted March 13, 1939, as heretofore amended, by amending Article 23, entitled "Sewer Appropriation By-law, by replacing Section 1(b)(iii) thereof with the following: "(iii) The estimated rate of the assessment upon the owners of the land to be bettered based on the method of assessment voted by the Town and allowed by Massachusetts General Laws."

ARTICLE 33.

COMMENT: Article 38 of the 2012 Annual Town Meeting (“2012 ATM”) was initiated by a group of residents from Ship and Cottage Streets. It requested authorization for the Town to appropriate or borrow up to \$600,000 to design and construct an additional sewer system affecting 30 properties along Ship Street from 3A to North Street and Cottage Street from Fearing Road to North Street. Article 38 was recommended for approval by the Sewer Commission, Board of Selectmen, and Advisory Committee.

Pursuant to the Hingham General By-laws (Article 23, Sewer Appropriation By-law), a printed document (“handout”) was made available at the 2012 ATM. It specified the scope of the proposed project and contained a financial impact statement that included the total estimated cost of the project, how it would be paid for (100% affected residents), the estimated property tax impact, and the betterment method and cost. Article 38 required and received a 2/3 affirmative vote during the second night of the 2012 ATM. A motion to reconsider was made and defeated at the start of the third night of the 2012 ATM.

While the combination of the 2012 ATM Article 38 content, the handout, and the discussion of Article 38 at Town Meeting provided Town Meeting voters with all of the information required by applicable Massachusetts General Laws and the special acts governing certain sewer projects in the Town, to avoid any doubt as to the intent of the 2012 ATM, and to clearly set forth all of the relevant statutory requirements for a sewer betterment assessment, it is advisable that the betterment method and cost apportionment for the sewer project approved under Article 38 of the 2012 ATM be specified within a Town Meeting vote.

In addition, interest is charged to property owners on the amount of the betterment if it is not paid in full. Under applicable law, the interest rate is 5% unless the Town elects to charge interest at a rate not to exceed 2 per cent above the rate of interest charged to the Town for its borrowing costs for the project. The Town is able to borrow at very favorable rates and wishes to pass on that savings to the affected property owners. Therefore, adoption of this Article will also allow the Town to charge interest at its rate of borrowing, rather than the default rate interest of 5%.

RECOMMENDED: That the Town, in connection with the sewer project approved under Article 38 of the 2012 Annual Town Meeting, and in accordance with Section 8 of Chapter 82 of the Acts of 1946 as amended by Section 2 of Chapter 454 of the Acts of 1955, Section 2 of Chapter 427 of the Acts of 2008, and the applicable provisions of the General Laws Chapter 83, vote to provide (1) that assessments authorized under such Article be made upon the owners of land on Ship Street and Cottage Street by a uniform unit method, (2) that the Town shall bear no share of the cost of such project, the full cost of such project to be borne by the owners of such land, and (3) that assessments made by the Town for such project bear interest at the rate of interest chargeable to the Town from the thirtieth day after the assessments have been committed to the collector.

ARTICLE 35

RECOMMENDED: That the Town amend the Zoning By-law of the Town of Hingham by adopting Section V-H approving a temporary moratorium on the establishment of medical marijuana distribution centers in the Town as follows:

V-H Medical Marijuana Treatment Centers

1. Purpose

This Section is intended to provide restrictions that will allow the Town adequate time to consider where and under what conditions to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations. Given that Chapter 369, *An Act For The Humanitarian Medical Use Of Marijuana* (the “Act”), permitting the medical use of marijuana in the Commonwealth of

Massachusetts went into effect on January 1, 2013, but that the Massachusetts Department of Public Health has yet to promulgate the regulations by which facilities that produce or dispense medical marijuana shall be registered and administered, a restriction on the establishment of such facilities in Hingham shall provide the opportunity to study their potential impacts on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures. The moratorium, of a finite duration, will allow the Town to carefully study the potential impacts of such centers and recommend zoning ordinance amendments to address the Town's concerns in the context of Town planning goals and objectives.

2. Definitions

Medical Marijuana Treatment Center - A not-for-profit entity, as defined by Massachusetts law only, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

3. Exclusion of Other Marijuana Establishments.

Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, or related activities shall not be permitted if such establishment has not been properly registered and licensed in accordance with applicable state and local laws and regulations, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Medical Marijuana Treatment Center.

4. Exclusion of Accessory Uses.

In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any use, provided, however, that this provision shall not prohibit hardship cultivation at the residence of a qualifying patient or personal caregiver (as those terms are defined under the Act) to the extent permitted under, and subject to, the provisions of Section 11 of the Act.

5. Temporary Moratorium

For the reasons set forth above, and notwithstanding any other provision of the Zoning By-Law to the contrary or any other uses permitted thereunder, Medical Marijuana Treatment Centers, including any one or combination of the uses which may constitute a Medical Marijuana Treatment Center, shall not be permitted in any zoning district in the Town of Hingham so long as this Section is effective. Use variances shall be strictly prohibited.

6. Expiration

This Section V-H moratorium shall be in effect through June 30, 2014.