

**TOWN OF MILLBURY
COPY OF 2008 ANNUAL TOWN ELECTION AND TOWN
MEETING WARRANT**

WORCESTER, S.S.

To either of the Constables of the Town of Millbury, in the County of Worcester,

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Millbury qualified to vote in Elections and Town affairs to meet at their respective voting places to wit: Precinct No.1 at the Memorial High School; Precinct No. 2 at the Memorial High School; Precinct No.3 at the Memorial High School; and Precinct No. 4 at the Memorial High School on Tuesday the 29th day of April, 2008 at 7:00 o'clock in the forenoon until 8:00 P.M. to elect the following offices to wit:

ARTICLE 1: To choose one member of the Board of Selectmen, one Assessor, one member of the School Committee, one member of the Board of Health, two members of the Planning Board and two members of the Board of Library Trustees all for a term of three years; one member of the Housing Authority for a term of five years; and one member of the Board of Library Trustees for a term of one year.

ARTICLE 2: To choose all other necessary Town Officers for the year ensuing and to meet, on Tuesday, May 6, 2008 at 7:00 P.M. in the Memorial High School Auditorium, 12 Martin Street in said Town, to act on the following articles to wit:

ARTICLE 3: To hear the reports of several Town Officers and Committees, or take any action thereon.

ARTICLE 4: To see if the Town will vote to raise and appropriate, or transfer from available funds, such sums of money as may be necessary to defray the expenses and charges of the Town of Millbury in Fiscal Year 2009, the period of July 1, 2008 through June 30, 2009, including, but not limited to: the salaries of Town Officers, costs of public education, debt and interest payments, expenses of the Sewer Enterprise Fund, and providing municipal services; or take any other action relative thereto.

(The proposed Fiscal Year 2009 Operating Budget can be found after the text of the Annual Town Meeting Warrant. The budget format contains the appropriation figures for Fiscal Year 2008, as well as the Town Manager's and Finance Committee's recommendations for Fiscal Year 2009.)

ARTICLE 5: To see if the Town will vote to authorize any or all of the following capital improvement projects and purchases to be funded through taxation as follows.

1. Raise and appropriate the sum of One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000.00) to be expended by the Director of Public Works with the approval of the Town Manager for the first year lease payment for the upgrade of the Highway department vehicles and equipment. (Town Manager)

Recommend \$125,000.00 be raised and appropriated for the purposes of Article 5.1

2. Raise and appropriate the sum of Twenty-five Thousand Dollars and No Cents (\$25,000.00) to be expended by the Director of Public Works with the approval of the Town Manager for the replacement of the equipment lift at the highway garage. (Town Manager)

Recommend \$30,000.00 be raised and appropriated for the purposes of Article 5.2

3. Raise and appropriate the sum of Forty Thousand Dollars and No Cents (\$40,000.00) to be expended by the Board of Fire Engineers with the approval of the Town Manager for Replacement of the air compressor at Fire Headquarters that fills individual breathing tanks used by the firefighters. (Town Manager)

Recommend \$40,000.00 be raised and appropriated for the purposes of Article 5.3

4. Raise and appropriate the sum of Thirty Thousand Dollars and No Cents (\$30,000.00) to be expended by the Police Chief with the approval of the Town Manager for the replacement of laptop computers in the cruisers. (Town Manager)

Recommend \$30,000.00 be raised and appropriated for the purposes of Article 5.4

5. Raise and appropriate the sum of Forty Thousand Dollars and No Cents (\$40,000.00) to be expended by the Town Manager for the replacement of the telephone system in the Municipal Office Building. (Town Manager)

Recommend Article 5.5 be indefinitely postponed.

(Reason: There has been no information on the review that was done, nor has a quote been provided to the committee. The committee also believes that before we invest more taxpayer monies into the building that a detailed analysis be done on what the requirements and needs of the operations are.)

ARTICLE 6: To see if the Town will vote to raise and appropriate the sum of Five Hundred Dollars and No Cents (\$500.00) to be used by the Town Manager to settle claims for personal property damage or incidental personal injury claims that may be brought against the Town, or take any action thereon. (Town Manager)

Recommend \$500.00 be raised and appropriated for the purposes of Article 6

(Reason: This is an expense that is allocated in the case of unforeseen events)

ARTICLE 7: To see if the Town will vote to transfer the sum of Two Million, One Hundred Eleven Thousand Eight Hundred Sixty-Two Dollars and No Cents (\$2,111,862.00) from available, certified free cash to reduce or stabilize the Fiscal Year 2009 Tax Rate, or take any action thereon. (Town Manager)

Recommend Article 7 be accepted as written.

(Reason: We must use these funds to reduce the tax rate in order to stay within the constraints of Proposition 2 ½. Please note that the town moved free cash in the amount of \$1,500,000.00 for FY2008 last year to reduce the rate.)

ARTICLE 8: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to be added to the Stabilization Fund, or take any action thereon. (Board of Selectmen)

Recommend that Three Hundred Seventy Five Thousand Dollars and No Cents (\$375,000.00) be raised and appropriated for the purposes of Article 8.

(Reason: This amount is based on the recommendation of the Millbury Bond Agent, where Millbury recently received a credit analysis and bond rating affirmation by Standard and Poors. The town for the past number of years has not put much money into the Stabilization Account. This money will get the town to the recommended level to maintain the current bond rating.)

ARTICLE 9: To see if the Town will vote to raise and appropriate the sum of Five Thousand Dollars and No Cents (\$5,000.00) to pay for the disposal of abandoned property, or take any action thereon. (Town Manager)

Recommend \$5,000.00 be raised and appropriated for the purposes of Article 9.

(Reason: The town needs the availability of these funds to pay the costs associated with disposing of abandoned property.)

ARTICLE 10: To see if the Town will vote to raise and appropriate the sum of (\$14,000.00) Fourteen Thousand Dollars, to be expended by the Millbury Emergency Management Agency, and the Director of the Millbury Emergency Management Agency, with the approval of the Town Manager for the purpose of setting up a secondary Emergency Operating Center (EOC) at the Butler Farm complex or take any action thereon. (Town Manager)

Recommend Article 10 be indefinitely postponed.

(Reason: The finance committee has received no information related to the plan. While the concept may be good, without any information detailing what is needed and the costs associated with those needs the FINCOM is not able to recommend this article.)

ARTICLE 11: To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ to establish a Revolving Fund for the Board of Health. (a) to be the depository for user fees for the continuing purchase of composting bins, (b) this account shall be kept separate and apart from other monies and the special account, including accrued interest, if any, shall be expended by it only in connection with carrying out this program, (c) to have a limit on the total amount which can be expended from the Fund in Fiscal Year 2009

set at Five Thousand Dollars \$5,000; and (d) to have the Board of Health be the only authority empowered to expend monies from this Fund; or take any action thereon. (Board of Health)

Recommend Article 11 be accepted as written

(Reason: A revolving fund is required to participate in the composting bin program. The town has participated in this program for the last 9 years. The Board of Health has gone on record that this revolving fund is not necessary in the future. The FINCOM believes that it is appropriate to continue this revolving fund for 1 more year to allow the administration the time to plan for the transition from the revolving fund.)

ARTICLE 12: To see if the Town will vote to establish a Revolving Fund in conformity with Massachusetts General Laws, Chapter 44, Section 53E1/2 for the following purposes and subject to the following conditions: (a) to be the depository for fees derived from plan reviews, inspections and administrative charges for services related to review and approval of on-site septic systems, and housing quality inspections, (b) to pay for the Board of Health consulting inspectors and contracted agents for sanitary code compliance and for percolation and soil testing, septic system design review and installation of septic system review, final septic system inspection, and related engineering services, (c) to have a limit on the total amount which can be expended from the Fund in Fiscal Year 2009 set at \$25,000; and (d) to have the Board of Health be the only authority empowered to expend monies from this Fund; or take any action thereon. (Board of Health)

Recommend Article 12 be accepted as written.

(Reason: This revolving fund will allow the Board of Health to receive money, and to pay for the technical review of an applicant's plan for a septic system with in the Town of Millbury.)

ARTICLE 13: To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ to establish a Revolving Fund for the Board of Appeals for the following purposes and subject to the following conditions: (a) to be the depository for filing fees and other fees for applications for variances and permits as allowed by law, under the jurisdiction of the Board of Appeals, (b) to fund expenses associated with the activities of the Board of Appeals, including wages for part-time employees, as well as for consultants, as appropriate, and (c) to have a limit on the total amount which may be spent from the fund in Fiscal Year 2009 at \$20,000, and (d) to have the Board of Appeals be the only authority to expend monies from this fund, or take any action thereon. (Board of Appeals)

Recommend Article 13 be accepted as written.

(Reason: This revolving fund will allow for the collection of the fees associated with the application for variances, and permits. This will also allow the costs associated with the Board of Appeals to be paid from this fund.)

ARTICLE 14: To see if the Town will vote to establish a Revolving Fund pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ for the Board of Appeals Professional and Technical Review Of Comprehensive Permit Applications submitted in conformity with the requirements of M.G.L, Chapter 40B for the following purposes, and subject to the following conditions: (a) to be the depository for Comprehensive Permit application, filing and review fees, (b) to fund expenses associated with any part-time

employee of the Board of Appeals, as well as for the hiring of professional and technical consultants in conformity with the rules and regulations of the Board, to assist the Board in analyzing a project to ensure compliance with all relevant laws, by-laws and regulations; such assistance may include, but not be limited to: analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulation or inspecting a project during construction or implementation, (c) to have a limit on the total amount which may be spent from this fund in Fiscal Year 2009 at \$30,000 and (d) the Board of Appeals shall be the only authority to expend monies from this fund, or take any action thereon. (Board of Appeals)

Recommend Article 14 be accepted as written,

(Reason: This revolving fund is necessary to allow for expenditures for secretarial services, and technical and professional services relating to the permit applications under Massachusetts General Law, Chapter 40B)

ARTICLE 15: To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ to establish a Revolving Fund for the Department of Public Works for the following purposes and subject to the following conditions: (a) to be the depository for fees and charges collected by the Department of Public Works for the disposal of hazardous and/or specially handled solid wastes, such as heavy metals and large appliances accepted for disposal at the Transfer Station, (b) to fund expenses associated with the disposal of hazardous and/or specially handled solid wastes such as heavy metals and large appliances accepted for disposal at the Transfer Station, (c) to authorize the maximum amount to be expended from this fund in Fiscal Year 2009 to be Ten Thousand Dollars and No Cents (\$10,000.00), and (d) to authorize the Director of Public Works to expend monies from this fund, or take any action thereon. (Town Manager)

Recommend Article 15 be accepted as written.

(Reason: This revolving fund will allow for the continuation of the program allowing Millbury residents to be able to dispose of hazardous or specifically handled items, i.e., computer monitors, etc. – for a fee.)

ARTICLE 16: To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ to establish a Revolving Fund for the Sealer of Weights and Measures for the following purposes and subject to the following conditions: (a) to be the depository for fees received for sealing of weights and measures; (b) for paying the expenses and services of the Sealer of Weights and Measures; (c) to authorize the maximum amount to be expended from this fund in Fiscal Year 2009 to be Ten Thousand Dollars and No Cents (\$10,000.00), and (d) to authorize the Town Manager to expend monies from this fund, or take any action thereon. (Town Manager)

Recommend Article 16 be accepted as written.

(Reason: This revolving fund will allow the Town to receive and expend monies for the services of the Sealer of Weights and Measures.)

ARTICLE 17: To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ establishing a Revolving Fund for the Police Department for the following purposes and subject to the following conditions: (a) to be the depository for fees received for Licenses to Carry Firearms and Firearms Identification Cards; (b) to make

payments due to the Firearms Record Bureau of the Commonwealth of Massachusetts for their portion of the receipts; (c) to authorize the maximum amount to be expended from this fund in Fiscal Year 2009 to be \$30,000.00, and the remainder of receipts are to be placed into the General Fund of the Town of Millbury; (d) to authorize the Police Chief to expend monies from this fund, or take any action thereon. (Police Department)

Recommend Article 17 be accepted as written.

(Reason: 75% of the license fees must be returned to the State. If the fees were sent into the General Fund directly, then a budget would have to be established to reimburse the State.)

ARTICLE 18: To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ to establish a Revolving Fund for the Asa Waters Mansion for the following purposes and subject to the following conditions: (a) to be the depository for rental deposits and other fees, donations and charges, for use of the Asa Waters Mansion, (b) to fund expenses associated with the use and operation of the Asa Waters Mansion, including wages for part-time employees, and (c) to have a limit on the total amount which may be spent from the fund in Fiscal Year 2009 at \$90,000, and (d) to have the Asa Waters Task Force with the approval of the Town Manager be the only authority to expend monies from this fund, or take any action thereon. (Town Manager and Asa Waters Task Force)

Recommend Article 18 be accepted as written.

(Reason: This revolving fund will allow for the collection of fees associated with the operation of Asa Waters Mansion and the payment of sundry expenses. The Town authorized an amount of \$59,225.00 last year. The increase this year will allow the ASA Waters Mansion Task Force to undertake some of the required maintenance to the ASA Waters Mansion.)

ARTICLE 19: To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ establishing a Revolving Fund for the Millbury Housing Partnership for Fiscal Year 2009 for the following purposes and subject to the following conditions: (a) to be the depository for funds received from the sale of affordable homes (b) for the purpose of paying the administrative, legal, planning, engineering and related expenses of the Millbury Housing Partnership's affordable housing programs; (c) to authorize the maximum amount to be expended from this fund in Fiscal Year 2009 to be Ten Thousand Dollars and No Cents (\$10,000.00), and (d) to authorize the Town Manager to expend monies from this fund, or take any action thereon. (Town Manager and Millbury Housing Partnership)

Recommend Article 19 be accepted as written.

(Reason: This will allow the housing partnership to work to bring more affordable housing into the town.)

ARTICLE 20: To see if the Town will vote pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ to establish a Revolving Fund for the Fiscal Year 2009 for the Earth Removal Board for the following purposes and subject to the following conditions: (a) to be the depository for funds received for application fees, as well as plan reviews, inspections and administrative charges for services related to the administration of the Earth Removal Bylaw, Chapter 14, Section 21 of the General Bylaws; (b) to fund the administrative expenses of the Earth Removal Board, as well as planning, inspection and engineering expenses related to the Removal Permit application and permit granting process;

(c) to have a limit on the total amount which can be expended from the Fund in Fiscal Year 2009 set at \$25,000; (d) to authorize the Earth Removal Board with the approval of the Town Manager to expend monies from this fund, or take any action thereon.. (Earth Removal Board)

Recommend Article 20 be accepted as written.

(Reason: This article will allow the Earth Removal Board to collect fees, and expend monies necessary for reviewing applications that come before the.)

ARTICLE 21: To see if the Town will vote to raise and appropriate the sum of Twenty Thousand Dollars and No Cents (\$20,000) to fund an Elders Community Services Program for the purpose of providing a payment voucher for services rendered for the departments, boards and committees of the municipality to resident property owners who have attained the age of sixty (60) years, to be used to reduce the real estate property taxes for the property in which the elderly owner resides; said program shall be subject to the following conditions, in addition to any and all eligibility requirements promulgated by the Board of Selectmen, after receiving the recommendations of the Council-On-Aging: (a) participation in the program shall be limited to elderly residents of the town who own property and are willing and able to provide services to the town; (b) program participants shall receive compensation at a rate of \$7.50 an hour for each hour of service rendered for a total not to exceed One Thousand Five Hundred Dollars and NO Cents (\$1,500) in any calendar year; (c) program participants must agree in writing prior to participating in the program to receive compensation in the form of a voucher to be presented to the Treasurer/Tax Collector to be applied to the real estate obligations of the participant for the property in which the participant resides; (d) the Treasurer/Tax Collector shall comply with the wage, tax and payroll deduction requirements of the state Department of Revenue and the federal Internal Revenue Service, prior to compensating program participants or applying the net amount of wages earned to the real estate tax obligations of the participants; and (e) program participants who meet the eligibility guidelines established for the program by the Board of Selectmen shall be selected for participation in the program on a first-come-first-served basis, or take any action thereon. (Board of Selectmen and Council-On-Aging)

Recommend \$20,000.00 be raised and appropriated for the purposes of Article 21.

(Reason: This has been a very successful program, which benefits both the town and its elderly participants. By contributing their time and expertise as community service for the town, the elderly are able to reduce some of their real estate expenses.)

ARTICLE 22: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Thirty Thousand Dollars (\$30,000.00) from the Millbury Sewer Enterprise Fund to be expended by the Board of Sewer Commissioners for the purpose of funding the expenses of a Sanitary Sewer System Infiltration and Inflow Program, including but not limited to: administration, engineering, equipment and inspection costs; or take any action thereon.

(Town Manager and Board of Sewer Commissioners)

Recommend that the sum of \$30,000.00 be transferred from the Millbury Sewer Enterprise Fund User Revenue for the purposes of Article 22.

(Reason: This is a necessary project that has been requested by the Upper Blackstone, when we tied into the system at the Upper Blackstone.)

ARTICLE 23: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Fifty-five Thousand Dollars (\$55,000) from the Millbury Sewer Enterprise Fund to be expended by the Board of Sewer Commissioners for the purpose of replacing the backup grinder at the main pump station; or take any action thereon. (Town Manager and Board of Sewer Commissioners)

Recommend that the sum of \$55,000.00 be transferred from the Millbury Sewer Enterprise Fund User Revenue for the purposes of Article 23.

(Reason: This expenditure was part of the 10 year Sewer plan that was presented to the Board of Selectmen, and the FINCOM. This is necessary to continue the maintenance of the currently constructed sewer system.)

ARTICLE 24: To see if the Town will vote to appropriate the sum of Nine Hundred Two Thousand Eight Hundred Twenty-Four Dollars and No Cents (\$902,824.00) from the Retained Earnings of the Sewer Enterprise Fund to the Stabilization Fund for Debt Service Costs, or take any action thereon. (Town Manager)

Recommend the sum of \$902,824.00 be transferred from the Retained Earnings of the Sewer Enterprise Fund to the Stabilization Fund for Debt Service Costs.

(Reason: This is the money that was collected in FY 2007 through the capital assessment for the sewer expansion project.)

ARTICLE 25: To see if the Town will vote to transfer the following sums of money from available funds or from any unexpended balances of Fiscal Year 2008 appropriations, hitherto made, to Fiscal Year 2008 appropriation accounts, as follows:

Description	Transfer to:	Transfer From:
TOWN MGR - SALARIES ADMIN	6,875.00	-
TOWN COUNSEL - LEGAL	45,000.00	-
M O B SALARY - ALL OTHER	1,000.00	-
M O B - GENERAL EXPENSES	1,000.00	-
POLICE DEPT - GENERAL EXPENSES	7,000.00	-
DPW MAINT & OP SALARIES	17,360.00	-
SNOW & ICE - SALARIES	30,000.00	-
SNOW & ICE - GENERAL EXPENSES	120,000.00	-
HEALTH DEPT. - GENERAL EXPENSES	1,700.00	-
MEDICARE	20,065.00	-
F.B RESERVE FOR OVERLAY SURPLUS	-	250,000.00
VETERANS BENEFITS	13,000.00	-
PARKS OPS & MAINT SUPPLIES	10,000.00	-
PUBLIC WORKS - SALARY ADMIN	-	19,000.00
STREET LIGHTING - GENERAL EXPENSES	-	4,000.00

Recommend that \$273,000.00 be transferred as follows for the purposes of Article 25.

(Reason: This will allow the transfer of funds to departments and accounts that were not able to hold the line on amounts approved at last year's Annual Town Meeting.)

ARTICLE 26: To see if the Town will vote to raise and appropriate a sum of money as reimbursement for expenses and revenue generated from the Municipal Medicaid Reimbursement Program to the FY 2009 School Department Budget or take any action relative thereto. (School Committee)

Recommend that \$90,000.00 be raised appropriated for the purposes of Article 26.

(Reason: Medicaid Reimbursements go into the General Fund and this article is necessary to reimburse the School Department for the expenses in administering the program.)

ARTICLE 27: To see if the Town will vote to raise and appropriate or transfer from available funds \$185,000 to repave the parking lot at the Raymond E. Shaw Elementary School and the basketball courts at both the Elmwood Street and Shaw Elementary Schools or take any action relative thereto. (School Committee)

Recommend that \$185,000.00 be raised and appropriated for the purposes of Article 27.

(Reason: The parking lot at Shaw School has deteriorated significantly and poses a safety risk.)

ARTICLE 28: To see if the Town will vote to raise and appropriate or transfer from available funds \$40,000 to install appropriate surfacing and equipment to provide ADA accessible playgrounds at both the Elmwood Street and Shaw Elementary Schools or take any action relative thereto. (School Committee)

Recommend that \$40,000.00 be raised and appropriated for the purposes of Article 28.

(Reason: This will help the school implement the recommendations of the ADA study that was recently completed by the town.)

ARTICLE 29: To see if the Town will vote to amend the Zoning Map as follows: Rezone to B-II that portion of the R-II District bound to the north by McCracken Road; to the east by an existing I-1 District; to the south by the southern boundary of Assessor's Map 35, Lot 14; to the west by the eastern boundaries of Assessor's Map 35, Lot 14, Assessor's Map 35, Lot 18, Assessor's Map 35, Lot 19; to the south by the southern boundary of Assessor's Map 35, Lot 21 and Assessor's Map 35, Lot 22; and to the west by the western boundary of Assessor's Map 35, Lot 22, or take any other action relative thereon. (Board of Selectmen)

Defer Article 29 to the Planning Board/Town Planner for the recommendation.

ARTICLE 30: To see if the Town will vote to amend the Zoning Map as follows: Rezone to B-II that portion of the S-IV District and R-I District that is bound to the north by Martin Street; to the east by the eastern boundaries of Assessor's Map 36, Lot 33 and Assessor's Map 36, Lot 70; to the south by North Main Street; and to the northwest by Park Hill Avenue, or take any other action relative thereon. (Board of Selectmen)

Defer Article 30 to the Planning Board/Town Planner for the recommendation.

ARTICLE 31: To see if the Town will vote to allocate, raise, or appropriate the funds necessary to complete the subdivision in accordance with the plan entitled "Haynes Acres",

definitive Subdivision Plan of land in Millbury, Massachusetts. Prepared by Thomson-Liston Associates, Inc., dated April 29, 1999, last revised August 12, 1999 and the certificate of Approval of a Definitive Plan dated September 27, 1999, or take any action thereon. (Petition)

Recommend Article 31 be indefinitely postponed.

(Reason: The issues contained in this article should be between the developer and the homeowners in the subdivision. The article is also fraught with legal issues that should be settled elsewhere and not through Town Meeting.)

ARTICLE 32: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow under the provision of M.G. L. c.44 or any other enabling authority, a sum of money not to exceed \$5,000 for the control of Eurasian Watermilfoil, fanwort or algae in Lake Singletary, or take any action thereon. (Petition)

Recommend Article 32 be indefinitely postponed.

(Reason: Lake Singletary has a Watershed Association that receives monies from the boat excise payments each year for this purpose. No other Lake in the Town of Millbury receives additional assistance from the Town; to allocate monies to this particular lake would mean that we should be doing it for all the lakes in Town.

ARTICLE 33: To see if the Town will vote to establish a charter review committee pursuant to Section 7-6 of the Millbury Home Rule Charter or take any action thereon. (Board of Selectmen)

Recommend Article 33 be accepted as written.

ARTICLE 34: To see if the Town will vote to amend the General Bylaws of the Town so as to amend Chapter 14, Article 111, Section 14-33, Paragraph 2 as follows:

Delete: The Director of Public Works shall be selected on the basis of merit and qualifications and have a Bachelor's Degree in Civil Engineering or other appropriate discipline and preferably be registered as a Professional Civil Engineer and possess a relevant professional experience in public works construction and management.

Insert: The Director of Public Works shall be selected on the basis of merit and qualifications. A minimum of 15 years experience in public works or general municipal construction, of which 5 years should be at a senior supervisory level. Experience in managing budgets and long term planning a must, a degree in Civil Engineering and certification as a Professional Engineer preferred, or take any action thereon. (Petition)

Recommend Article 34 be indefinitely postponed.

(Reason: The town at last year's Annual Town Meeting voted to change the by-law for the Director of Public Works. The FINCOM believes that the requirements approved at last year's meeting are more than appropriate and should not be changed. The FINCOM would also like to note that in a review of open Director of Public Works positions around the state the vast majority all require a degreed professional in the position)

ARTICLE 35: To see if the Town will vote to amend the Millbury Zoning Bylaws, **Article 1, Section 12.44 Contents and Scope of Application** by adding the following italicized text, or take any action thereon:

- Name of project, property address, assessor's map and lot number, the date, north arrow, *datum (NAD 83 and NAVD 88)*, names of abutters, and scale.

(Planning Board)

Defer Article 35 to the Planning Board/Town Planner for the recommendation.

ARTICLE 36: To see if the Town will vote to amend the Millbury Zoning Bylaws, **Article 1, Section 12.44 Contents and Scope of Application, Subsection a.** by adding the following italicized text, or take any action thereon:

- *At least three property boundary marker locations, remotely separated, shall be indicated with Massachusetts Grid Plane Coordinates. The plan shall identify the elevation and coordinates of these boundary markers.*

(Planning Board)

Defer Article 36 to the Planning Board/Town Planner for the recommendation.

ARTICLE 37: To see if the Town will vote to amend the Millbury Zoning Bylaws, **Article 1, Section 12.49 Enforcement of an Approved Site Plan, Subsection c.** by adding the following italicized text, or take any action thereon:

- c) "As Built" plans, certified by a registered professional engineer and noting any change from the approved plan, shall be filed with the Building Inspector and the Planning Board before a Certificate of Completion shall be issued. *The Applicant shall also file a CD or DVD containing a level III standard digital file (SDF) of the project, per MassGIS standards for digital plan submittals to municipalities.*

(Planning Board)

Defer Article 37 to the Planning Board/Town Planner for the recommendation.

ARTICLE 38: To see if the Town will vote to raise and appropriate the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) to be expended by the Town Manager for required soil and water testing and monitoring, environmental and engineering assessments, related reporting required by the state Department of Environmental Protection (DEP) and any other related actions to abate any environmental contamination located on the Asa Waters Mansion Property, 123 Elm Street; or take any action thereon. (Town Manager)

Recommend that \$50,000.00 be raised and appropriated for the purposes of Article 38.

(Reason: *This money will allow the town to complete the remediation of the area affected by the oil spill at the ASA Waters Mansion.***)**

ARTICLE 39: To see if the Town will vote to amend the Millbury General By-laws, under Chapter 2, Article III-Officers, Division 1. In General by adding the following new section 2-

47 Appointment of Town Manager, which shall supersede the provisions of Article 8, Sections 8-5(b) and 8-5(c) of the Town Charter:

Section 2-47. Appointment of Town Manager.

Whenever the office of Town Manager shall become vacant, or upon receipt of a written notice of resignation of the current Town Manager to be effective on a future date, the Board of Selectmen shall forthwith give notice to of its intention to appoint a Town Manager and solicit applications for the office of Town Manager.

The Board of Selectmen shall review all applications received and provide for interviews to be conducted with such number of candidates as it may decide. Such preliminary interviews may be conducted in executive session to the extent provided by law. In addition to the qualifications as stated in Section 4-1 of the Town Charter, the Board of Selectmen may establish additional minimum qualifications for the office of Town Manager.

This By-law shall supersede and replace the provisions of Section 8-5(b) and 8-5(c) of the Town Charter regarding the screening committee and the qualifications and appointment process for the office of Town Manager. Or take any action relative thereto.
(Board of Selectmen)

Recommend Article 39 be indefinitely postponed.

(Reason: The change to the article as presented will give the Board of Selectmen sole authority for all aspects of the hiring of a new Town Manager and would eliminate the requirement for a Screening Committee, that has demonstrated in the past to be highly effective . However, the FINCOM does agree that the qualifications need to be amended)

ARTICLE 40: To see if the Town, in accordance with Massachusetts General Law, Chapter 40, Section 15C and Section 49 of the Millbury Zoning By-Laws, will vote to designate as scenic the portion of McCracken Road that extends from the Auburn town line to its intersection with Greenwood Street, or take any action thereon. (Citizen's Petition)

Recommend Article 40 be indefinitely postponed.

(Reason: The town has received an opinion letter from Counsel which reads as follows; "It is Town Counsel's opinion that a road cannot be designated as a scenic road under statue by vote of Town Meeting unless such designation is requested or sponsored by the Planning Board, Conservation Commission or Historical Commission. As of this date the Finance Committee is unaware of any such requests by any of the above named Boards and or Commissions.")

ARTICLE 41: To see if the Town will vote to establish a bicentennial committee appointed by the Town Manager, or take any action thereon. (Town Manager)

Recommend Article 41 be accepted as written.

ARTICLE 42: To see if the Town will vote to amend the Millbury General Bylaws Chapter 6, Article I, by inserting the following Section 6-3, to read as follows:

(a) Notwithstanding the provisions of 527 CMR 2.09, the use of pyrotechnic devices, pyrotechnical materials, and pyrotechnic special effects, as defined in 527 CMR 2.03, in the interior of a structure or building is hereby prohibited within the Town of Millbury.

(b) Compliance with this by-law shall be a condition of any license or permit issued by the Town of Millbury for on-premises consumption of alcoholic beverages and/or entertainment.

(c) Any person violating any of the provisions of this by-law shall be subject to a fine of three hundred dollars (\$300.00). Each day shall be considered a separate offense subject to an additional fine. Any violation shall be grounds for suspension or revocation of any license issued by the Town of Millbury referenced in Section 2. In addition to civil or criminal prosecution, this by-law may be enforced by non-criminal disposition, pursuant to G.L. c.40, §21D and Section 1-7 of the Millbury General By-laws. "Enforcing persons" for non-criminal disposition shall include any Millbury police officer, or take any action thereon. (Board of Selectmen)

Recommend Article 42 be accepted as written.

ARTICLE 43: To see if the Town will vote to amend the Millbury General Bylaws Chapter 14, Article I, by inserting the following new Section 14-12 Anti-Loitering, to read as follows:

Section 14-12 Anti-Loitering

1-1. Prohibited Conduct and Activities.

A. It shall be unlawful for any person to loiter in any public place, or in or about any building or dwelling or adjacent thereto, in such a manner so as to:

- (1) Obstruct any public street or public place by hindering or impeding or tending to hinder or impede an uninterrupted passage of pedestrians or vehicles.
- (2) Commit in or upon any public street or public place any act which is an obstruction or interference to the free and uninterrupted use of any property or with any business being lawfully conducted by anyone in any public place, or which prevents the free and uninterrupted ingress and egress therein, thereon and thereto.
- (3) Create or cause to be created any disturbance or annoyance to the discomfort or alarm of any person lawfully going in or going to or from any building, dwelling or public place.

B. "Loitering" shall mean remaining in essentially one location either alone or in concert with others.

C. "Public Place" shall mean any place to which the general public has access and the right to enter in or upon for business, entertainment or other lawful purposes, and shall include the front or immediate area around any store, shop, restaurant, tavern, or other place of business and also public grounds, areas, beaches or parks.

D. When any person or persons causes or commits any of the conditions enumerated in subsection A herein a police officer, or any law enforcement officer, shall order the person or persons to stop causing or committing such conditions, and may, if he deems necessary for the preservation of public peace and safety, order that person or persons to move on and disperse. Any person who fails or refuses to obey any such order shall be guilty of a violation of this section.

E. This section shall not apply to peaceful picketing, public speaking or other lawful expressions or opinion not in contravention of other Town Ordinances or State and Federal Laws.

2-1. Pedestrians Not To Obstruct traffic; Duty of Officer, etc. to Disperse Offenders

Two or more persons shall not stand together, or near each other, in any street or sidewalk, in such a manner as to obstruct the free passage thereon or there over. It shall be the duty of any police officer, constable, or other authorized agent of the Town to order any person violating the foregoing provision of this section to move on; and if the person does not obey, to arrest and by lawful process cause him to be brought before the District Court. (Police Department)

Recommend Article 43 be accepted as written.

ARTICLE 44: To see if the Town will vote to amend the Millbury General Bylaws Chapter 13, Article I, by inserting the following Section 13-1, to read as follows:

Section 13-1 Alarm System Bylaw

Section 1. Title and Purpose

- (A) This By-Law shall be known as the Alarm System By-Law and shall regulate alarms which cause a message to be transmitted to the Police Department
- (B) The purpose of this By-Law is to encourage alarms users to maintain the operational reliability of their alarm systems, to reduce or eliminate false alarm dispatch requests, to establish a system of regulations and fees with respect to alarm systems, and to provide for penalties for violations of this By-Law.

Section 2. Definitions

- (A) Chief of Police – The term “Chief of Police” means the Chief of Police of the Town of Millbury or his/her designated representative.
- (B) Police or Police Department – The term “Police or Police Department” means the Town of Millbury Police Department or any authorized agent thereof.

- (C) Town – The term “Town” means the Town of Millbury
- (D) Alarm Administrator – The term “Alarm Administrator” means the Chief of Police of the Town of Millbury or his /her designated representative.
- (E) Town Manager – The term “Town Manager” means the Town Manager of Millbury or his/her designated representative.
- (F) Board of Selectmen – The term “Board of Selectmen” means the Selectmen of The Town of Millbury
- (G) Alarm User – The term “Alarm User” means: Any person on whose premises an alarm system is maintained within the Town. The owner of any premises on which an alarm device is used, provided that an occupant that expressly accepts responsibility for an alarm device by registration pursuant to: Section 3 (Registration Requirements) of this bylaw shall be deemed the alarm user.
- (H) False Alarm – The term “False Alarm” means: (a) the activation of an alarm system or device through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his/her employees or agents; (b) any signal or oral communication transmitted to the Millbury Police Department requesting, or requiring, or resulting in a response on the part of the Millbury Police Department requesting, or requiring, or resulting in a response on the part of the police department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises or no attempted robbery or burglary at a premises.
- (I) Alarm System – The term “Alarm System” means: An assembly of equipment and devices or a single device which when activated calls for a response by police personnel: (a) transmits a signal to the Millbury Police Department; (b) transmits a signal to a person who relays information to the Millbury Police Department; or (c) produces an audible alarm or visible signal to which police are expected to respond.

Section 3. Registration Requirements

- (A) No alarm user shall operate, or cause to be operated, an alarm system without a registration issued in accordance with this by-law. A separate registration is required for each alarm site. The registration form format shall be determined by the Chief of Police and made available at the Police Station.
Failure to comply with this section (3A) shall result in a \$100.00 fine.

Section 4. Alarm Systems Operation and Maintenance

- (A) The alarm user shall maintain the alarm site and alarm system in a manner that will minimize or eliminate false alarm dispatches.
- (B) The alarm user shall make every reasonable effort to respond or cause a

representative to respond within twenty (20) minutes, when notified to deactivate a malfunctioning alarm system or to provide access to the alarm site.

- (C) Alarm Reset – The alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of the alarm site will sound for no longer than 15 minutes after being activated.
- (D) The alarm business performing monitoring services shall attempt to verify every alarm signal, except for duress, hold-up alarm activation before requesting a police response to an alarm signal. In the case of duress or hold up alarm the Millbury Police Department's Communications center shall be notified immediately (first call).
- (E) An alarm system does not include an alarm installed in a vehicle or an alarm designed to alert on the inhabitants of a premises that does not have a sound device which can be heard on the exterior of the alarm site.
- (F) Automatic Dialers to the Police Department are prohibited. Any alarm system currently using an automatic dialer must discontinue automatic dialer service by July 1, 2008.
Failure to comply with this section (6F) shall result in a \$100.00 fine.
- (G) The Police Department shall not serve as alarm monitors.

Section 5. Determination of False Alarms

- (A) The Police Chief or his/her designee shall determine if alarm activation is false. His/her determination shall serve as the basis for the issuing of a false alarm violation.

Section 6. Fines

- (A) Effective July 1, 2008, an alarm user shall be subject to warnings and fines depending on the number and/or type of false alarms emitted from the alarm system within a twelve month period based upon the following schedule.
 - 1. A written warning will be sent by certified mail to the owner of the facility/dwelling for the first false alarm in a calendar year
 - 2. A written warning will be sent by certified mail to the owner of the facility/dwelling for the second false alarm in a calendar year.
 - 3. The third false alarm in a calendar year will be a fine of \$100.00; the notice of the fine will be sent by certified mail to the owner of the facility/dwelling. Note: In all cases, the OWNER will be responsible for payment of the fine regardless of the type of alarm/protection system.

4. The fourth and subsequent false alarm(s) in a calendar year will be a fine of \$200.00 for each separate offense.
 5. Failure to comply with Section 3A, Registration Requirements will be a fine of \$100.00.
 6. Failure to comply with Section 6F, Automatic Dialer will be a fine of \$100.00.
 7. All fines shall be paid by check made payable to the Town of Millbury
 8. All fines shall be paid within 60 days from the time and date of offense.
 9. Failure to pay the fine will result in an order to disconnect from the current alarm system.
 10. All facilities/dwellings return to zero (0) alarms on January 1 of the New Year.
- (B) Non-Registered Alarms – Any persons operating an alarm system without a registration issued in accordance with this by-law shall be subject to an additional fine of \$100.00 for each false alarm dispatch.
- (C) An alarm dispatch request caused by a criminal offense or other emergency, or an alarm resulting solely from power outages or extreme weather conditions shall not be counted as a false alarm dispatch. The Chief of Police or his/her designee shall be responsible for making this determination.
- (D) All fines and fees resulting from the enforcement of the provisions of this by-law shall be collected in the form of a personal check, money order or registered check, made payable to the Town of Millbury and should be forwarded to the Millbury Police Department, 127 Elm Street, Millbury, ma. 01527.
- (E) State and municipal entities shall be exempt from the provisions of this by-law.
- (F) All fines paid shall be paid within 60 days from time and date of offense.

Section 7. General Provisions

- (A) Except as otherwise required by law, the information furnished and secured pursuant to this by-law shall be confidential in character and shall not be subject to public inspection
- (B) The alarm user may appeal the decision of the alarm administrator to the Town Manager or designee by filing a written request for a review within ten (10) Days after receipt of a non-criminal violation notice. The Town Manager or designee shall conduct a hearing and render a written decision within (30) days. The decision of the Manager or designee shall be final.

- (C) The Chief of Police or his/her designee shall serve as the alarm administrator to: administer, control and review alarm applications, registrations and alarm dispatch requests, promulgate such regulations as may be necessary or required to implement this by-law.

Section 8. Applicability

This By-Law shall be subject to the provisions of M.G>L. Chapter 40, Section 21D for non-criminal enforcement.

Section 9. Limitation of Liability

Notwithstanding the provisions of this By-Law, the Town, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm system or of alarm monitoring facilities. No liability whatsoever is assumed for the failure of such alarm devices for monitoring facilities or for failure to respond to alarms or for any other act or omission in connection with such alarm devices. Each alarm user shall be deemed to hold and save harmless the Town, its departments, officers, agents, and employees from liability in connection with the alarm user's alarm device.

Section 10. Separability

If any clause, sentence, paragraph, or part of this local by-law or the application thereof to any person or circumstance shall for any reason be adjudged by a Court to be invalid, such judgment shall not affect, impair or invalidate the remainder and the application thereof to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the intent of the Town of Millbury that this enactment would have been adopted had such invalid provision not been included therein, or take any action thereon. (Police Department)

Recommend Article 44 be accepted as written.

ARTICLE 45: To see if the Town, for and in consideration of One Dollar (\$1.00) will vote to abandon a portion of an easement taking along Wheelock Avenue, made by instrument recorded in the Worcester South District Registry of Deeds in Book 2544, Page 110, said land to be abandoned being located in Millbury, Massachusetts described as follows:

The area shown as "Proposed Widening of the Street 20 feet" on Plan entitled "Plan and Profile of Proposed Extension of Wheelock Ave." dated April 1929, Revised July, 1929 and recorded in the Worcester South District Deeds in Plan Book 67, Plan 38. Said Plan is available for viewing at the Millbury Town Hall;

Or take any action thereon. (Citizen's Petition)

Recommend Article 45 be indefinitely postponed.

(Reason: The Interim Department of Public Works director has indicated that there is drainage wit in this easement. As such the town should not give up the rights associated with the easement.)

Given under our Hands this 8th day of April, Two Thousand Eight.

And you are directed to serve this Warrant by posting up an attested copy thereof at the Post Office, Library, and Senior Center in said Town and in addition at available public places in West Millbury, Bramanville, Dorothy Pond and East Millbury fourteen days at least before the time of holding said meeting.

**A TRUE COPY ATTEST:
TOWN CLERK**

CONSTABLE OF MILLBURY

BOARD OF SELECTMEN
