

**TOWN OF MILLBURY
COPY OF 2009 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 28th day of April, 2009 at 7:00 o'clock in the forenoon until 8:00 P.M. to elect the following offices to wit:

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

ARTICLE 2. To choose all other necessary Town Officers for the year ensuing and to meet, on Tuesday, May 5, 2009 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 2010, the period of July 1, 2009 through June 30, 2010, 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.

Recommendation for Article 4 begins on page 29.

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 or transfer from available funds the sum of Forty Thousand Dollars and No Cents (\$40,000.00) to be expended by the Director of Public Works with the approval of the Town Manager to supplement funds for the replacement of the McCracken Road Bridge/Culvert which is near # 59 McCracken or take any action thereon (Town Manager)

Recommend that Article 5.1 be accepted as written.

(Reason: *This amount will cover engineering costs in relation to the replacement of the McCracken Road Bridge/Culvert. The balance of replacement costs will come from Chapter 90 funds.***)**

2. Raise and appropriate or transfer from available funds the sum of Ninety-one Thousand Dollars and No Cents (\$91,000.00) to replace hallway doors at the Raymond E. Shaw School in order to make them compliant with ADA handicapped accessible requirements and to replace the bathroom stalls to make them ADA handicapped accessible complaint or take any action thereon. (School Committee)

Recommend Article 5.2 be indefinitely postponed.

(Reason: *Millbury Public Schools will not pursue funds for this item at this time.***)**

3. Raise and appropriate or transfer from available funds the sum of Forty Thousand Dollars and No Cents (\$40,000.00) to complete Phase II of the high school drainage project or take any action. (School Committee)

Recommend Article 5.3 be indefinitely postponed.

(Reason: *Millbury Public Schools will not pursue funds for this item at this time.***)**

4. Raise and appropriate or transfer from available funds the sum of Ten Thousand Dollars and No Cents (\$10,000.00) to remove and replace dangerous light poles from Windle Field or take any action. (School Committee)

Recommend Article 5.4 be indefinitely postponed.

(Reason: *A plan to remove and replace light poles at Windle Field has been developed and will be completed before the end of this fiscal year.***)**

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 One Million, Five Hundred Seventy-Nine Thousand Five Hundred Seventeen Dollars and 39 Cents (\$1,579,517.39) from available, certified free cash to reduce or stabilize the Fiscal Year 2010 Tax Rate, or take any action thereon. (Town Manager)

Recommend that 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.)

ARTICLE 8: To see if the Town will vote to transfer the sum of Nine Thousand Thirty-Two Dollars and 61 Cents (\$9,032.61) from available certified free cash to account # 01.030.3120.0000 Reserve for Debt Service, or take any action thereon. (Town Manager)

Recommend that Article 8 be accepted as written.

(Reason: This proposed use of free cash is for the purpose of correcting a prior administration mistake where money received did not get applied to the Debt Service Account and went to Free Cash instead.)

ARTICLE 9: To see if the Town will vote to raise and appropriate the sum of Fifty-five Thousand Dollars and No Cents (\$55,000.00) 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 Article 9 be accepted as written.

(Reason: This amount will be spent to continue to meet requirements laid down by the Department of Environment Protection.)

ARTICLE 10: To see if the Town will vote to raise and appropriate the sum of Sixty Thousand Dollars (\$60,000.00), to acct # 27.000.3400.7006 Designated Police Department Fund Balance Account to fund a deficit in that account, or take any action thereon. (Town Manager)

Recommend that Sixty Thousand Dollars (\$60,000) be raised and appropriated for the purposes of Article 10.

(Reason: This figure represents the total of un-reconciled billings and collections for police detail activities over the past six plus years. The town's auditor firm, Melanson Heath & Company, PC) has verified that proper systems are now in place to reduce future credit risk to the Town.)

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 2010 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. FY2010 should be the last year for the need for this revolving fund as the administration of this program can be performed within the Board of Health.)

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 2010 set at Twenty-five Thousand Dollars (\$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 that Article 12 be accepted as written.

(Reason: This revolving fund will allow the Board of Health to receive money, and to pay for technical review of an applicant's plan for a septic system within 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 2010 at Twenty Thousand Dollars (\$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 that 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 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 2010 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 that 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 2010 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 that 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 2010 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 that 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 2010 to be Thirty Thousand Dollars (\$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 that Article 17 be accepted as written.

(Reason: Seventy five percent (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 2010 at Ninety Thousand Dollars (\$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 that Article 18 be accepted as written.

(Reason: This revolving fund will allow the Asa Waters Task Force to operate 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 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 2010 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 that Article 19 be accepted as written.

(Reason: This fund 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 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 2010 set at Twenty-five Thousand Dollars (\$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 that Article 20 be accepted as written.

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

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 that Twenty Thousand Dollars (\$20,000) 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 transfer the following sums of money from available funds or from any unexpended balances of Fiscal Year 2009 appropriations to pay unpaid bills from previous fiscal Years, or take any action thereon:

Description	Account Number	Transfer to:	Transfer From:
Unifund-Vadar interface Software	02.155.5200.0939	2750.00	
The Carrel Group-8/14/07-Police station plans	02.210.5850.0940	8000.00	
The Carrel Group-8/14/07-Fire station plans	02.200.5850.0941	8000.00	
John Griffin-Fire Department Training	02.200.5730.0942	4100.00	
Massamont Insurance-deductible payment	02.945.5740.0943	3000.00	
Ricoh-Lease payment	02.123.5200.0944	119.50	
A-10 2008 FY09 Revaluations	02.141.5200.0810		21600.00
A-24 Actuarial Study	02.135.5200.0724		4369.50
Total		25969.50	25969.50
(Town Manager)			

Recommend that Twenty Five Thousand Nine Hundred Sixty Nine Dollars and Fifty Cents (\$25,969.50) be transferred as follows for the purposes of Article 22.

(Reason: *This will allow the transfer of funds in order to pay unpaid bills from previous fiscal years.***)**

ARTICLE 23: 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 2009 appropriations, hitherto made, to Fiscal Year 2009 appropriation accounts, as follows:

Description	Account Number	Transfer to:	Transfer From:
Veteran Services	01.543.5780.0000	45000.00	
Town Hall Computer Ops	01.155.5200.0000	4350.00	
Unemployment Insurance	01.913.5170.0000	35000.00	
A-24 ACTUARIAL STUDY	02.135.5200.0724		6310.00
Gas and Diesel Fuel	01.495.5780.0000		20000.00
Elections & Registrars salaries & Wages	01.162.5116.0000		4000.00
Police Department-Salaries & Wages	01.210.5130.0000		31600.00
Town Manager-Salaries all others	01.123.5130.0000		2440.00
DPW Salaries (all Others)	01.410.5115.0000		20000.00
Total		84350.00	84350.00
(Town Manager)			

Recommend that Eighty Four Thousand Three Hundred Fifty Dollars and No Cents (\$84,350.00)) be transferred as follows for the purposes of Article 23.

(Reason: *This will allow the transfer of funds to principally cover additional needs for veteran's services and unemployment insurances.*)

ARTICLE 24: To see if the Town will vote to raise and appropriate \$90,000 as reimbursement for expenses and revenue generated from the Municipal Medicaid Reimbursement Program to the FY 2010 School Department Budget or take any action relative thereto. (School Committee)

Recommend that Ninety Thousand Dollars (\$90,000) be raised and appropriated for the purposes of Article 24.

(Reason: *Medicaid reimbursements go into the General Fund and this article is necessary to reimburse the School Department for the expense in administrating the program.*)

ARTICLE 25: To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to be used for the purchase and installation of a veterans memorial monument and plaque. This memorial will honor Staff Sergeant Bernard F. Devoe, U.S. Army Air Force, a World War II casualty, who on February 22, 1944 was reported missing in action, or take any action thereon. (Citizen Petition)

Recommend that One Thousand Eight Hundred Dollars (\$1,800) be raised and appropriated for the purposes of Article 25.

(Reason: *The Millbury Veteran's Council requested this respectful action and has provided cost estimates that do not exceed \$1,800.*)

ARTICLE 26: To see if the Town will vote to name a proposed location on Grafton Street across from Bellville Lane, the "Bernard F. Devoe Square" in memory of Staff Sergeant Bernard F. Devoe, who gave his life in the service of his country with honor during World War II, or take any action thereon. (Citizen Petition)

Recommend that Article 26 be accepted as written.

(Reason: *This respectful proposal is at the request of the Millbury Veteran's Council.*)

ARTICLE 27: To see if the Town will vote to reduce one position in the office of Finance Director until such a time as the economy reverses itself, due to the fiscal restraints of the current economic conditions or take any action thereof. (Citizen Petition)

Recommend Article 27 be indefinitely postponed.

(Reason: *It is Town Counsel's opinion that this article would exceed the authority of town meeting and the decision whether to employ individuals in full or part time positions is an executive/administrative function rather than a legislative function. The opinion adds that the role of town meeting is limited to the legislative function of determining what amounts are to be appropriated to operate the various town departments.*)

ARTICLE 28: To see if the Town will vote to reduce the position of BUILDING INSEPECTOR to a part time position until such a time as the economy reverses itself, due to the fiscal restraints of the current economic conditions or take any action thereof. (Citizen Petition)

Recommend Article 28 be indefinitely postponed.

(Reason: It is Town Counsel's opinion that this article would exceed the authority of town meeting and the decision whether to employ individuals in full or part time positions is an executive/administrative function rather than a legislative function. The opinion adds that the role of town meeting is limited to the legislative function of determining what amounts are to be appropriated to operate the various town departments.)

ARTICLE 29: To see if the Town will vote to reduce the position of Town Planner to a part time position until such a time as the economy reverses itself, due to the fiscal restraints of the current economic conditions or take any action thereof. (Citizen Petition)

Recommend Article 29 be indefinitely postponed.

(Reason: It is Town Counsel's opinion that this article would exceed the authority of town meeting and the decision whether to employ individuals in full or part time positions is an executive/administrative function rather than a legislative function. The opinion adds that the role of town meeting is limited to the legislative function of determining what amounts are to be appropriated to operate the various town departments.)

ARTICLE 30: To see if the Town will vote to: Effective July 1, 2009: To allow participation in the town of Millbury's Group Health Insurance Plan to only those individuals who meet the requirements of Sec. 2 of Chapter 32B of the Massachusetts General Laws (MGL) and that the Town of Millbury not subsidize any portion of the premium for this benefit.

Any individual who currently receives this benefit but does not meet the requirements of sections 2 of Chapter 32B will no longer be eligible to participate in the Town of Millbury's Group Health Insurance Plan. (Citizen Petition)

Recommend Article 30 be indefinitely postponed.

(Reason: It is Town Counsel's opinion that this article is illegal to the extent it purports to require that the Town of Millbury not subsidize any portion of the health insurance benefits for Town employees. The opinion also states that the Town may not change the definition of employees eligible for participation in the health insurance program unless special legislation is passed by the General Court)

ARTICLE 31: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE I. ADMINISTRATION AND PROCEDURE, Section 12.43 Application and Review Procedures** by inserting the following italicized text, or take any action thereon:

- (a) Prior to the filing of an application, the applicant shall submit plans to the building inspector who shall advise the applicant as to the pertinent sections of the zoning by-law. The applicant shall then submit ten (10) copies of the application to the

Planning Board. *No application for review shall be accepted as a submittal unless and until all information necessary for such review, as described in the Zoning Bylaws, is fully provided unless waivers are requested in writing. At the time of submission, the Board or its Agent shall make a determination, using a checklist, that the submission requirements are either complete or incomplete.*

If the submission has been determined to be incomplete, the application shall be returned to the applicant either in person or by certified mail with a letter indicating that insufficient information has been provided making it impossible for the Planning Board to adequately review the application, or approve the application. Incomplete applications shall not be considered submittals and shall not be considered the start of any time limits within which the Board is required to act under various provisions of Massachusetts General Law, Chapter 40A. If the submission has been determined to be complete, the Applicant shall file the application with the Town Clerk by delivery or by certified mail, postage prepaid. The Town Clerk shall time and date stamp said application to fix the date of submission.

(Planning Board)

Defer Article 31 to the Planning Board for the recommendation.

ARTICLE 32: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 2. DISTRICT REGULATIONS, Section 21. Establishment of Districts**, Subsection **21.1** by inserting “Floodplain Overlay District” and “Adaptive Reuse Overlay District” between the “Aquifer and Watershed Protection Overlay District” and “Route 146 Highway Corridor Overlay District”, or take any action thereon. (Planning Board)

Defer Article 32 to the Planning Board for the recommendation.

ARTICLE 33: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 3. GENERAL REGULATIONS, Section 33. Parking and Loading Requirements**, Subsection **33.2** by deleting the following underlined text and inserting the following italicized text, or take any action thereon:

Dwellings: One (1) space per two (2) dwelling units if serving subsidized elderly housing, two (2) spaces per *single-family dwelling unit for all others, and three spaces(3) per two-bedroom, multi-family dwelling unit. One (1) additional space per bedroom shall be added for each multi-family dwelling unit containing an excess of two bedrooms.* (Planning Board)

Defer Article 33 to the Planning Board for the recommendation.

ARTICLE 34: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 4. SPECIAL REGULATIONS, Section 41. Home Occupations** by inserting the following italicized text, or take any action thereon:

Home occupations are permitted if no more than twenty-five percent (25%) of the floor area of the residence is used for the occupation, not more than one person not a member of the household is employed on the premises in the occupation, there is no exterior display or storage or other variations from the residential character of the premises *other than one (1) non-illuminated wall sign or freestanding sign not exceeding two (2) square feet in area*, traffic generated does not

exceed that normally expected in a residential neighborhood, and all parking required to service the occupation is provided off-street, other than within a required front yard. *No equipment, process or activity shall be used in such home occupation which creates noise, vibration, glare, noxious odors, and electrical interference or otherwise disrupts the neighborhood integrity.*
(Planning Board)

Defer Article 34 to the Planning Board for the recommendation.

ARTICLE 35: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 1. ADMINISTRATION AND PROCEDURE, Section 14.11 Planning Board Authority** by adding the following text:

(q) Small Wind Turbines under Section 50.
(Planning Board)

Defer Article 35 to the Planning Board for the recommendation.

ARTICLE 36: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 4. SPECIAL REGULATIONS** by inserting **Section 50** containing the following text, or take any action thereon:

Section 50. Small Wind Turbines

50.1 Applicability. The Planning Board may grant a special permit for the construction and operation of a Small Wind Turbine in any zoning district subject to the requirements set forth herein. No more than three (3) Small Wind Turbines shall be permitted on a single parcel or contiguous parcel(s) in common ownership.

Wind monitoring or meteorological towers shall be permitted by-right in any zoning district subject to issuance of a building permit for a temporary structure. A permit for a temporary wind monitoring or meteorological tower shall be valid for a maximum of three (3) years.

50.2 Purpose and Intent. The purpose of this Section is to promote the safe, effective and efficient use of Small Wind Turbines and to provide for the placement, design, construction, monitoring, modification and removal of wind energy systems so as to protect health and safety, control noise levels, prevent electromagnetic interference, and minimize the impacts of Small Wind Turbines on the character of neighborhoods, property values, and the scenic, historic, and environmental resources of the Town.

50.3 Definitions. As used in this Section, the following terms shall have the meanings indicated:

Height – The total height of the wind turbine measured from the land in its natural state, prior to grading or filling, to the tip of the rotor blade at its highest point, or blade-tip height.

Rated Nameplate Capacity – The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on

the equipment or specified as a requirement of the type and model number of the wind turbine.

Rotor – The blades and hub of the wind turbine that rotate during turbine operation.

Wind Energy System – All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines, which has a rated nameplate capacity of sixty (60) kW or less.

Wind Monitoring or Meteorological Tower – A temporary tower equipped with devices to measure wind speeds and direction, used to determine the amount of wind power a site can be expected to generate.

Wind Turbine – A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a rotor, electric generator, and tower.

50.4 Professional and Technical Review. The Planning Board may hire professional and technical consultants to assist in analyzing an application to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application and monitoring or inspecting a project or site for compliance with the Planning Board's decision or regulation. The expenses for engaging professional and technical assistance and review in connection with a Small Wind Turbine shall be borne by the Applicant.

50.5 General. Proposed Small Wind Turbines shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental, Federal Communications Commission (FCC), and Federal Aviation Administration (FAA) aviation requirements and the requirements of the relevant utility to which the wind turbine will be connected.

50.6 Application Procedure. Applicants are required to submit a special permit application conforming to the requirements of this Bylaw. The application shall include a site plan and associated documents specified under Section 12.4 Site Plan Review, as well as the following additional information:

1. A technical report from a qualified individual attesting that the site is feasible for wind power, that documents wind speed at the proposed site, that anticipates energy that will be created from the Small Wind Turbine, and that estimates the amount of energy necessary to serve the on-site uses.
2. Manufacturers' specifications for the proposed wind turbine, attendant facilities, and all related equipment.
3. Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

4. Evidence that the utility company has been informed of the Applicant's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
5. Pre- and post-construction simulation views of the site from at least four locations where the Small Wind Turbine will be visible through means of photographs, sketches and/or computer simulations.
6. Material describing a specific plan for a "balloon" or similar test, including the date and time, as well as a rain date and time, suitably and clearly described for inclusion in the legal notice for the newspaper and abutters' mailing. The test shall demonstrate the height of the proposed facility.
7. If lighting is required by the FAA, the Applicant shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure. The Applicant shall submit a plan indicating the horizontal foot candles at grade, within the property line and twenty-five feet (25') beyond the property lines. The plan shall also indicate the location and types of luminaries proposed.
8. A proposed maintenance schedule for the Small Wind Turbine and related equipment.

50.7 Design Standards and Siting Requirements. In addition to the Design Standards set forth in Section 12.4 Site Plan Review, the following design standards shall apply to all Small Wind Turbines and shall govern the development and design process.

1. **Setbacks:** A Small Wind Turbine or Met Tower shall not be located closer to a property line than the height of the tower plus the height of the blade in its vertical position plus fifty feet (50'). No inhabited structures, overhead utility lines, public roads or right-of-ways shall be located within the setback distance. No part of the Small Wind Turbine or Met Tower support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located. The Planning Board may reduce the setback distances for the wind turbine if an abutting property owner(s) provides the Applicant with a recorded easement agreeing to the use limitations.
2. **Noise:** The Small Wind Turbine and associated equipment shall conform with the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10). Except during short-term events such as high windstorms or utility outages, the sound created by said facility shall not exceed 70 decibels (dba) as measured from the nearest property line. If noise levels are found to exceed allowable limits, the Building Inspector shall notify the owner of the property in writing to correct the violation. The Small Wind Turbine shall remain inactive until the noise violation is remedied. If the owner does not remedy the noise violation within thirty (30) days, the Building Inspector shall require the facility to be relocated or removed.

3. Height: The Small Wind Turbine or Met Tower shall not exceed two hundred (200) feet in height, and must comply with Federal Aviation Administration (FAA) Regulations. The Planning Board may allow this height to be exceeded as part of the special permit process if the project proponent can demonstrate that the additional height is needed and that the additional benefits of the higher tower outweigh any increased adverse impacts.
4. Unauthorized Access: The wind energy system shall be designed to prevent unauthorized access. For instance, the base of the tower may be enclosed by a fence and/or shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of twelve (12) feet above the ground.
5. Visual Impact: Installation of the Small Wind Turbine shall not create a substantially adverse visual impact. The wind turbine shall be sited in a manner that does not result in significant shadowing or flicker impacts. The wind turbine shall have a non-reflective finish of an unobtrusive color. The Planning Board may require the structure to be painted or otherwise camouflaged to minimize visual impact.
6. A monopole tower shall be the preferred type of support.
7. Equipment Shelter: All equipment necessary to monitor and operate the wind facility shall be contained within the turbine tower unless technically infeasible, in which case, ancillary equipment may be located outside the tower, provided it is contained either within an underground vault, or enclosed within a separate structure.
8. Lighting: Wind turbines shall be lighted only if required by the FAA. Lighting of other parts of the wind energy system, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
9. Electromagnetic Interference: The Small Wind Turbine shall cause no disrupting electromagnetic interference. If it is determined that a Small Wind Turbine is causing interference, the operator shall take the necessary corrective action to eliminate this interference, subject to the approval of the Building Inspector.
10. Telecommunications: A wind turbine may be used as a wireless communication facility, subject to the requirements of the Federal Communications Commission (FCC), Section 26 herein and the following additional requirements:
 - Antennas shall be flush-mounted to be in keeping with the design of the wind turbine tower.
 - All cabling associated with the wireless communication facility shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.

- The telecommunications carrier shall be named as co-applicant.
11. Signs: No signs shall be erected except a sign identifying the wind facility, the owner, the operator, and an emergency telephone number, no-trespassing signs, and any signs to warn of danger. All signs shall comply with Section 34 herein.
 12. Natural Vegetation: Clearance of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility.

50.8 Maintenance Requirements.

1. At all times the Applicant shall maintain the Small Wind Turbine and related equipment in good working condition and perform regular maintenance in accordance with the approved maintenance schedule. A record shall be kept of all maintenance performed, and said record shall be provided to Town officials whenever requested to verify maintenance.
2. Should the turbine fall into disrepair, the Applicant shall correct the deficiency within seven (7) days. If the turbine is producing an unusual emission, the Applicant shall address the emission within twenty-four (24) hours or leave the turbine inactive until the problem can be remedied.
3. Failure to properly maintain the Small Wind Turbine or correct other issues shall result in revocation of the Special Permit.

50.9 Removal Requirements.

1. The owner of the Small Wind Turbine shall submit a letter to the Planning Board in December of each year confirming that the turbine is still in use and verifying compliance with standards of the bylaw and the Special Permit decision.
2. Upon abandonment or discontinuation of use, the owner shall notify the Planning Department by certified mail of the proposed date of discontinued operations and plans for removal. The owner shall dismantle and physically remove the wind energy system within ninety (90) days from the date of discontinued operations. Removal of the system shall include the structure, foundation, transmission equipment, equipment shelter, fencing, and other appurtenances. All solid and hazardous wastes shall be disposed of in accordance with local and state waste disposal regulations. The site shall be re-vegetated to prevent erosion.
3. A wind energy system that is not used for twelve (12) successive months shall be deemed abandoned. Upon a Notice of Abandonment issued by the Building Inspector, the owner will have thirty (30) days to provide sufficient evidence that the system has not been abandoned or the Planning Board shall have the authority to enter the subject property and order the removal of the wind energy system at the owner's expense.

50.10 Performance Guarantee. The Planning Board shall require surety, either in the form of an escrow account or other security, in an amount sufficient to assure satisfactory removal of the system and re-vegetation of the site. The cost estimate for removal and re-vegetation shall be prepared by the Planning Board's technical consultant and shall include a twenty-five percent (25%) contingency fee.

50.11 Waiver Provision. The Board may waive strict compliance with any provision of this bylaw if it deems it in the public interest and determines that the intent of the bylaw has been maintained.

50.12.1 Modifications. All material modifications to a wind energy system made after issuance of the special permit shall require submission of a modified special permit, applied for in accordance with all regulations applicable at the time such application is properly made. (Planning Board)

Defer Article 36 to the Planning Board for the recommendation.

ARTICLE 37: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 3. GENERAL REGULATIONS** by deleting **Section 32.9 Wind Energy Conversion Systems** in its entirety, or take any action thereon. (Planning Board)

Defer Article 37 to the Planning Board for the recommendation.

ARTICLE 38: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 3. GENERAL REGULATIONS** by adding **Section 32.9 Accessory Structures**, or take any action thereon. Section 32.9 shall contain the following text:

32.9 Accessory Structures: All accessory structures, including swimming pools (in ground, above ground, hot tubs and spas), sheds over one hundred twenty (120) square feet, and decks shall meet all minimum yard setback requirements for the applicable district and require a building permit. (Planning Board)

Defer Article 38 to the Planning Board for the recommendation.

ARTICLE 39: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 5. DEFINITIONS** by inserting the following italicized text, or take any action thereon:

Temporary Structure or Use – A portable or demountable structure or a use or occupancy of land, in either case to be removed or discontinued within twelve (12) months. *A wind monitoring or meteorological tower as defined in Section 50.3 shall be removed within thirty-six (36) months of installation.* (Planning Board)

Defer Article 39 to the Planning Board for the recommendation.

ARTICLE 40: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 5. DEFINITIONS** by inserting the following text, or take any action thereon:

Bed and Breakfast – A private, owner-occupied residence with up to six (6) guestrooms. The bed and breakfast is subordinate and incidental to the main residential use of the building.

Individual guests are prohibited from staying at a particular bed and breakfast establishment for more than thirty (30) days in any one-year period.

Day Care Center – Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, for non-residential custody and care during part or all of the day separate from their parents or legal guardians.

LEED (Leadership in Energy and Environmental Design)-Certified Buildings – LEED-certified buildings have demonstrated energy conservation and addressed concerns for site development, water savings, energy efficiency, materials selection and indoor environmental quality. Certification comes after compliance with the requirements of the LEED Green Building Rating System, a nationally accepted benchmark established by the U.S. Green Building Council. To receive LEED certification, a developer applies to the USGBC, documenting the building's compliance with LEED goals. Depending on the nature and use of the building, it must meet a basic set of prerequisites; to that, numerous credits are added, depending on the building's specific design and construction. Innovation is encouraged. (Planning Board)

Defer Article 40 to the Planning Board for the recommendation.

ARTICLE 41: To see if the Town will vote to amend the Zoning Map so as to include the Bramanville Village District, as shown on file in the Office of the Town Clerk, or take any action thereon. The Bramanville District shall contain the following lots, as depicted on the proposed map:

Assessor's Map 79, Lot 29
Assessor's Map 79, Lot 11
Assessor's Map 79, Lot 25
Assessor's Map 79, Lot 26
Assessor's Map 79, Lot 28
Assessor's Map 70, Lot 118
Assessor's Map 70, Lot 117
Assessor's Map 70, Lot 116
Assessor's Map 70, Lot 115
Assessor's Map 70, Lot 114
Assessor's Map 70, Lot 117
Assessor's Map 70, Lot 104
Assessor's Map 70, Lot 103
Assessor's Map 70, Lot 102
Assessor's Map 70, Lot 101
Assessor's Map 70, Lot 99
Assessor's Map 70, Lot 98
Assessor's Map 70, Lot 97
Assessor's Map 70, Lot 95
Assessor's Map 70, Lot 94
Assessor's Map 70, Lot 93
Assessor's Map 70, Lot 92
Assessor's Map 70, Lot 91
Assessor's Map 70, Lot 90

Assessor's Map 70, Lot 89
Assessor's Map 70, Lot 88
Assessor's Map 70, Lot 87
Assessor's Map 71, Lot 83
Assessor's Map 70, Lot 82
Assessor's Map 70, Lot 81
Assessor's Map 70, lot 80
Assessor's Map 70, Lot 78
Assessor's Map 70, Lot 77
Assessor's Map 70, Lot 76
Assessor's Map 70, Lot 75
Assessor's Map 70, Lot 79
Assessor's Map 70, Lot 1
Assessor's Map 70, Lot 2
Assessor's Map 71, Lot 3
Assessor's Map 70, Lot 4
Assessor's Map 70, Lot 5
Assessor's Map 70, lot 31
Assessor's Map 70, Lot 32
Assessor's Map 70, Lot 33
Assessor's Map 71, Lot 34
Assessor's Map 70, Lot 35
Assessor's Map 70, Lot 36
Assessor's Map 70, Lot 37
Assessor's Map 70, Lot 38
Assessor's Map 70, Lot 39
Assessor's Map 70, Lot 40
Assessor's Map 71, Lot 41
Assessor's Map 70, Lot 42
Assessor's Map 70, Lot 43
Assessor's Map 70, Lot 131
Assessor's Map 70, Lot 120
(Planning Board)

Defer Article 41 to the Planning Board for the recommendation.

ARTICLE 42: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 2. DISTRICT REGULATIONS, Section 21.1** by inserting "Bramanville Village" on the line between "Suburban IV" and "Business I", or take any action thereon. (Planning Board)

Defer Article 42 to the Planning Board for the recommendation.

ARTICLE 43: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 2. DISTRICT REGULATIONS**, by adding **Section 24. Bramanville Village District**. The numbering of existing Sections 24, 25, 26, and 27, including all subsections, shall be renumbered as follows: **Section 25. Business Districts, Section 26. Industrial Districts, Section 27. Wireless Communications Facilities and Section 28. Adaptive Reuse Overlay District**, not changing any content except references to these numbered sections, or take any action thereon. **Section 24. Bramanville Village District** shall contain the following text:

Section 24. Bramanville Village District.

The intent of the Bramanville Village District is to enable the redevelopment and in-fill development of the central part of the historical Bramanville area in keeping with the historic development pattern, in order to create a vibrant, pedestrian-friendly village center by allowing high-density residential as well as small-scale commercial uses that serve the residents of the district and adjacent residential districts. This district shall work in concert with the Adaptive Reuse Overlay District bylaw, which enables mixed uses in the mill buildings only. While the encouragement of economic development is desired in this district, the type and scale should not compete with Millbury Center. This district should have its own unique identity on a village scale.

24.1 In the Bramanville Village District, only the following uses are permitted:

24.11 Permitted Residential Uses:

- Boarding, lodging, or tourist home;

24.12 Permitted Community Service Uses:

- School or college;
- Religious, sectarian or denominational buildings or uses;
- Day care center;
- Nursing, convalescent or rest homes;
- Non-profit club or lodge;
- Philanthropic institution;
- Municipal use not elsewhere more specifically cited;

24.13 Permitted Business Uses:

- Business or professional office;
- Bank or other financial institution without drive-thru;
- Retail sales and services, provided that not more than 5,000 square feet of total floor area is devoted to office, sales and storage purposes;
- Any of the following personal service establishments dealing directly with the consumer: dry cleaner, hand or self service laundry, tailor, shoe repair, barber or beauty salon, florist, small appliance repair shop, interior decorating studio, medical or dental laboratory, printing, photocopying or photography shop;
- Shop of plumber, carpenter, electrician, upholsterer or similar workshop or repair establishment, provided that there is no exterior storage or activity, and only on-site repair work;
- Restaurant without drive-thru;
- Bakery or café;
- Tavern or bar;

24.14 Other Permitted Principal Uses:

- Agricultural, horticultural, or floricultural uses;
- Parking to service a permitted use;
- Building containing multi-family dwelling units in combination with stores or other permitted business uses;

24.15 Permitted Accessory Uses:

- Bed and breakfast;
- Home occupation in accordance with Section 41;
- Roadside stand for goods principally produced on the premises;
- Accessory parking;
- Temporary structures to be used only as temporary construction offices in relation to and in conjunction with a current construction project and to be removed in the case of building construction upon the final issuance of all occupancy permits or in the case of other types of construction projects upon the completion of all construction work, in either case the temporary structure shall not remain on the property for more than twenty-four (24) months.
- Other customary accessory uses that are subordinate, customary and incidental to the principal use.

24.2 In the Bramanville Village District, the following uses are permitted if granted a special permit by the Special Permit Granting Authority:

- Multifamily dwelling (not associated with mixed use);
- Assisted living establishment in accordance with Section 42;
- Accessory dwelling in accordance with Section 46.2;
- Liquor store;
- Indoor recreational uses including skateboard park, arcade, bowling alley;
- Health or exercise club;
- Temporary structures or uses not conforming to this by-law;

24.3 In the Bramanville Village District, no lot shall be built upon or changed in size or shape except in conformity with the following:

District	Min. Lot Area	Min. Lot Frontage	Min. Yards Front/Side/Rear	Max. Lot Coverage	Max. Impervious Lot Coverage	Max. Bldg. Height
Bramanville Village	5,000 sf.	60 ft.	*/10/10	50%	25%**	40***

* The front yard setback requirement for a property containing exclusively residential uses shall be a minimum of eighteen feet (18') and a maximum of twenty-five feet (25'). The front yard setback requirement for a property containing non-residential uses or mixed-uses shall be a minimum of zero (0') feet and a maximum of eighteen feet (18').

**The maximum impervious lot coverage calculation is exclusive of lot coverage.

***The maximum building height for all uses shall not exceed forty (40) feet (including rooftop mechanics) and no building shall have more than three (3) stories. (Planning Board)

Defer Article 43 to the Planning Board for the recommendation.

ARTICLE 44: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 1. ADMINISTRATION AND PROCEDURE, Section 12.4. Site Plan Review**, Subsection **12.45 Design Standards**, to add the following text:

(v) Additional Design Standards for Bramanville Village District

(1) Parking:

- a. Off-street parking may be provided by a separate private property owner provided that a current, legally-binding agreement is executed between the two parties. A copy of the agreement shall be given to the Planning Board for their review and approval.
- b. In mixed-use developments, an applicant may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. The Planning Board may waive up to fifty percent (50%) of the requirements for the principal use if the applicant can demonstrate that the peak demands for two uses are not concurrent.

(2) Buildings

- a. All buildings shall have a principal façade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal façade and/or entry;
- b. Building finish materials shall be appropriate to traditional New England architecture and may include, but shall not be limited to brick or high-quality brick face, wood, stone or high-quality stone-face. Vinyl, unfinished metal or fiberglass as a primary finished surface shall not be used;
- c. Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not possible or appropriate given the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls;
- d. New retail buildings shall have one of the following features along the front surface at intervals sufficient to provide harmonious design, while providing variety: awning, marquee, arcade and/or colonnade;
- e. Flat roofs may be allowed on multi-story buildings as long as the roofline projects outward from the building surface as a decorative cornice or parapet;
- f. Rooftop mechanical equipment shall not be visible from the street;
- g. Buildings with multiple non-residential tenants on the first floor shall articulate the façade in a manner that distinguishes the location of these tenants through the use of decorative raised or depressed vertical surfaces, variations in signage, awnings, marquees, colonnades or arcades.

(3) Signs

- a. Primary signs shall be flat against the façade, or mounted projecting from the façade;
- b. Signs shall be externally lit from the front. Back lighting of signs shall not be permitted;
- c. Signs shall be made of attractive materials consistent with the character of the district. Materials may include wood (painted or natural), stone, copper, brass, galvanized steel, painted canvas or paint engraved on façade surface;
- d. Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.

(4) Site Design

- a. Street level frontage shall be devoted to entrances, shop windows or other displays;

- b. Clearly delineated pedestrian pathways shall be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district;
- c. Where residential neighborhoods abut commercial, office or mixed-use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features;
- d. Primary entrances to buildings shall be situated on pedestrian ways (e.g., sidewalks, plazas or open space) and shall have a minimum width of ten feet (10');
- e. Adequate natural lighting and air circulation for businesses and residents shall be maintained;
- f. New sidewalks shall be composed of cement;
- g. Other pedestrian walkways, courtyards, patios, or similar shall be composed of natural materials (i.e. brick, bluestone, granite, flagstone, or similar);
- h. Pedestrian-scale lighting shall be used on walkways.

(5) Open Space: Common open space shall have a shape, dimension, character and location suitable to assure its use for park and open space purposes for the public.
(Planning Board)

Defer Article 44 to the Planning Board for the recommendation.

ARTICLE 45: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 3. GENERAL REGULATIONS, Section 34.3. Exempt Signs**, to include the following text, or take any action thereon:

- 8. Construction signs of thirty-two (32) square feet or less.
 - 9. Nameplates of one (1) square foot or less.
- (Planning Board)

Defer Article 45 to the Planning Board for the recommendation.

ARTICLE 46: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 3. GENERAL REGULATIONS, Section 34.6. Specific Sign Requirements**, Subsection **4.B Development and construction signs** to delete the following underlined text and add the following italicized text, or take any action thereon:

- 1. Such signs on a single residential lot shall be limited to one sign, not greater than 6 *four (4)* feet in height and sixteen (16) square feet in area *and shall be set at least ten (10) feet from the street lot line.*
- 2. Such signs for a residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon, and shall be no greater than eight (8) feet in height and thirty-two (32) square feet in area *and shall be set back at least ten (10) feet from the street lot line.*
- 3. Such signs for commercial or industrial projects shall be limited to one sign per street front, not to exceed eight (8) feet in height and thirty-two (32) square feet for projects on parcels five (5) acres or less in size, and not to exceed twelve (12) feet in height and one-hundred (100) square feet for projects on parcels larger than five (5) acres *and shall be set back at least ten (10) feet from the street lot line.*

4. Development and construction signs shall not be displayed until after the issuance of construction permits by the building inspector, and must be removed not later than ten (10) days following issuance of an occupancy permit for all or any portion of the project. (Planning Board)

Defer Article 46 to the Planning Board for the recommendation.

ARTICLE 47: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 3. GENERAL REGULATIONS, Section 34.6. Specific Sign Requirements, Table 34.6.01 Signs Permitted by Zone**, to include the following italicized text, or take any action thereon:

Table 34.6.01						
Signs Permitted by Zone						
Sign Type	Zone					
	R I - III	S I - IV	<i>BV</i>	B I	B II	I I - III
Max Size/ Max Height	s/h	s/h	<i>s/h</i>	s/h	s/h	s/h
Wall Maximum Height	6'	6'	20'	20'	25'	35'
Wall Maximum Size	4 s.f.	4 s.f.	15%/300**	15%/300**	25%/500**	30%/600**
Freestanding Size/Height	6 s.f./6'	6 s.f./8'	<i>Not Permitted</i>	32 s.f./6'*	60 s.f./15'	80 s.f./20'

*Requires a Special Permit from the Planning Board

**Percentage of wall area up to a maximum size (Planning Board)
(Planning Board)

Defer Article 47 to the Planning Board for the recommendation.

ARTICLE 48: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 4. SPECIAL REGULATIONS, Section 42 Assisted Living Facility**, to include the following italicized text, or take any action thereon:

Applicability. The Planning Board may grant a special permit for the construction and occupancy of an Assisted Living Facility (ALF), provided that it is served by public water, in a Residential I, Residential II, Residential III, Suburban I, Suburban II, Suburban III, Suburban IV, *Bramanville Village*, Business I, Business II, and Industrial I District subject to the requirements set forth herein. In Residential and Suburban Districts, an ALF shall be located on at least three (3) contiguous acres. In all other eligible districts the minimum lot size shall control.
(Planning Board)

Defer Article 48 to the Planning Board for the recommendation.

ARTICLE 49: To see if the Town will vote to amend the Millbury Zoning Bylaws, **ARTICLE 4. SPECIAL REGULATIONS** by deleting **Section 45. Swimming Pools** in its entirety, or take any action thereon. (Planning Board)

Defer Article 49 to the Planning Board for the recommendation.

ARTICLE 50: To see if the Town will vote to amend the Millbury General Bylaws **Chapter 6, Article I, Section 6-1**, as follows:

In section 6-1(a)(3) by deleting “one hundred dollars (\$100.00)” and replacing them with “five hundred dollars (\$500.00)”

By deleting section 6-1(a)(4) and replacing it with

- (4) The fourth false fire alarm(s) in a calendar year shall be a fine of one thousand dollars (\$1000.00) and the fifth and subsequent false fire alarms in the calendar year shall be a fine of twenty-five hundred dollars (\$2500.00) for each separate offense.

or take any action thereon. (Town Manager)

Recommend Article 50 be accepted as written.

(Reason: *The changes reflected in this article are for the purpose of providing some level of financial incentive to business operators to ensure that alarm systems are in the best working order.***)**

ARTICLE 51: To see if the Town will vote to amend the Millbury General Bylaws **Chapter 2, Article I, Section 2-6, Purchases**. as follows:

By deleting the words “ten thousand dollars (\$10,000.00)” and replacing them with “twenty-five thousand dollars (\$25,000)” and also by inserting a new section as follows:

- (a) All United States, Commonwealth and Town of Millbury flags purchased shall be manufactured in the United States.

or take any action thereon. (Town Manager/Board of Selectmen)

Recommend Article 51 be accepted as written.

(Reason: *This purchasing change brings Millbury in line with revised State purchasing practices. The additional new section (a) reflects a “made in USA” requirement for such an important symbol.***)**

ARTICLE 52: To see if the Town will vote to appropriate \$700,000 to purchase a new Rescue Squad Truck and related equipment for use by the Millbury Fire Department and to meet said appropriation by authorizing the Town Treasurer/Tax Collector to borrow a sum of money; to issue bonds or notes of the town therefor under the provisions of Massachusetts General Laws, Chapter 44 or any other enabling legislation subject to the approval of the Board of Selectmen, and to pay all necessary legal and bond preparation costs associated with the issuance of said bonds or notes as authorized under the provisions of Massachusetts General Laws, Chapter 44 provided that payments for said borrowing would not begin until FY 2011, or take any action thereon. (Board of Fire Engineers)

Recommend Article 52 be indefinitely postponed.

(Reason: *The replacement of Millbury's Rescue Squad vehicle should certainly be a priority, however, the addition of well over \$100,000 in operations expenses for a five year period would be extremely difficult at this time as the Town of Millbury has reached the Proposition 2 ½ Levy Limit. There should be consideration in the future for a debt exclusion which would allow the vehicle to be purchased outside the requirements of Proposition 2 ½.*)

ARTICLE 53: To see if the Town will vote to: (1) authorize the Board of Selectmen to acquire, by purchase, gift, or eminent domain, and upon such terms and conditions as the Board of Selectmen shall deem appropriate, the property shown as Parcel 'D' on a plan entitled "Plan of Property Old Common Road in Millbury, Massachusetts" prepared by Heritage Design Group, One Main Street, Whitinsville, Massachusetts dated 12/13/04 and recorded in Worcester Deeds Plan Book 823, Plan 27, said property consisting of 14.8694 acres, more or less, to be managed and controlled by the Conservation Commission for conservation and passive recreation purposes; (2) raise and appropriate, transfer, or borrow a sum of money to complete said acquisition, and, to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for this purchase, as authorized by G.L. c.44 or any other enabling authority; (3) authorize the Board of Selectmen or its designee to seek and to file on behalf of the Town any and all applications for grants and/or reimbursements to make up the purchase price, including those made pursuant to Chapter 132A, Section 11, and to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase, provided, however, that such appropriation is, and any agreement to purchase such property shall be, expressly conditional upon the Town receiving grant commitments, reimbursements and/or gifts to make up the full purchase price, or take any other action relative thereto. (Conservation Commission)

Recommend Article 53 be accepted as written.

(Reason: *The Open Space and Recreation Plan highlights the Old Common area for preservation. There are presently large tracts of land in this area that are protected. The land described in this article was originally set aside for Phase II of Brierly Pond Estates; but, is no longer required by the developer. This track would link two (2) permanently protected open space areas. This article would allow the Town to develop a way to acquire this tract.*)

ARTICLE 54: To see if the Town will vote to appropriate the sum of Nine Hundred Fifteen Thousand Six Hundred Sixty-Six Dollars and No Cents (\$915,666.00) from the Retained Earnings of the Sewer Enterprise Fund to the Sewer Stabilization Fund for Debt Service Costs, or take any action thereon. (Town Manager and the Board of Sewer Commissioners)

Recommend the sum of Nine Hundred Fifteen Thousand Six Hundred Sixty Six Dollars and No Cents (\$915,666.00) be transferred from the Retained Earnings of the Sewer Enterprise Fund to the Sewer Stabilization Fund for Debt Service Costs

for the purposes of Article 54.

(Reason: This is money that was collected in FY2008 through the capital assessment for the sewer expansion project.)

ARTICLE 55: To see if the Town will vote to transfer from retained earnings from the Sewer Enterprise Fund the sum of One Hundred Ninety Five Thousand Dollars (\$195,000.00) to be expended by the Board of Sewer Commissioners for the purpose of funding the expenses of a Sanitary Sewer System Infiltration and Inflow Study, including but not limited to: administration, engineering, equipment and inspection costs; or take any action thereon. (Town Manager and the Board of Sewer Commissioners)

Recommend that the sum of One Hundred Ninety Five Thousand Dollars (\$195,000.00) be transferred from the Sewer Enterprise Fund for the purposes of Article 55.

(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 56: To see if the Town will vote to appropriate and transfer the sum of Five Thousand Dollars and No Cents (\$5,000.00) from account # 02.945.5200.0811 ART 11-2008 DISPOSAL ABANDON PROP to be seed money for the Town's Bicentennial Committee, or take any action thereon. (Town Manager and Bicentennial Committee)

Recommend that Five Thousand Dollars (\$5,000) be appropriated and transferred from account # 02.945.5200.0811 ART 11-2008 DISPOSAL ABANDON PROP for the purposes of Article 56.

(Reason: Voters at Town Meeting on May 6, 2008 approved the establishment of a bicentennial committee. This money will be for the purpose of fundraising and other expenses.)

ARTICLE 57: To see if the Town will vote to transfer the sum of Twenty-four Thousand Nine Hundred Forty-two Dollars and Fifty Cents (\$24,942.50) from the Retained Earnings of the Sewer Enterprise Fund to account #01.710.5925.0000 Short Term Interest, or take any action thereon. (Town Manager and the Board of Sewer Commissioners)

Recommend that Twenty-four Thousand Nine Hundred Forty-two Dollars and Fifty Cents (\$24,942.50) be transferred from the Retained Earnings of the Sewer Enterprise Fund to account #01.710.5925.0000 Short Term Interest for the purposes of Article 57.

(Reason: With relation to the sewer expansion project, short term interest needs to be expended through the General Fund as a general fund cost. This was not done correctly this past year and this article corrects the mistake.)

ARTICLE 58: To see if the Town will vote to accept the provisions of General Laws Chapter 40, Section 22F and Chapter 60, Section 23B which allows the treasurer collector to adjust fees for Certificate of Liens to reflect actual costs, or take any action relative thereon. (Treasurer/Collector and Town Manager)

Recommend Article 58 be accepted as written.

(Reason: *This article allows the Treasurer Collector to recover the actual cost for production of a Certificate of Lien.***)**

Given under our Hands this day of Two Thousand Nine.

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
