



## Select Board Meeting

Wednesday, March 24, 2021 6:30 PM

Virtual Meeting Broadcast on Comcast Channel 22 Verizon Channel 45

---

**I. Call to Order – 6:30 P.M.**

**II. Opening Ceremonies**

A. Moment of Silence/Pledge of Allegiance

**III. Select Board Appointment**

Board to appoint Richard Howe to serve as a member of the Select Board through March 22, 2022.

**IV. Communications/Announcements/Liaison Reports**

**V. Citizens Petitions and Presentations**

To provide public comment during Citizens Petitions and Presentations visit:

[www.andoverma.gov/JoinSelectBoardMeeting](http://www.andoverma.gov/JoinSelectBoardMeeting)

**VI. Regular Business**

A. Board of Registrars – (15 minutes):

Board to consider nominees for appointment to the Board of Registrars of Voters and to appoint a registrar for a term expiring March 31, 2024. The Democratic Town Committee nominates Robert Willard of 76 Tewksbury Street and Vinod Bhandari of 8 Iron Gate Drive. The Republican Town Committee nominates William Melahn of 172 Haverhill Street.

B. Retirement Board Appointment – (10 minutes):

Board to discuss and consider voting to approve next steps for appointing the 5th member of the Retirement Board.

C. Massachusetts Clean Water Trust – (5 minutes):

Board to vote to approve the issuance and details of a bond to be issued to the Massachusetts Clean Water Trust for Loan No. DW-19-13.

D. Outdoor Dining License – (5 minutes):

Board to review and consider voting to approve the application of Ultimate Perk, Inc. d/b/a Ultimate Perk, 96 ½ Main Street, for an Outdoor Dining License of 8 seats and 4 tables.

E. Town Manager's FY 2022 Recommended Budget and Financial Plan – (15 minutes):

Town Manager to provide overview of FY 2022 Budget Recommended Budget & Financial Plan

RECEIVED  
TOWN CLERK'S OFFICE  
2021 MAR 22 PM 4:12  
TOWN OF ANDOVER, MASS

F. Annual Town Meeting Articles - (60 minutes)

Board to consider voting to take a position on the following articles:

P5	Fiscal Year 2022 Capital Projects Fund
P11	Chapter 90 Authorizations
P12	Granting Easements
P13	Stabilization Fund Bond Premium
P14	Water Treatment Plant Maintenance
P17	Capital Projects from Special Dedicated Funds
P20	Interest on Late Payments
P27	Retail Package Store Quota
P28	Means Tested Senior Citizen Property Tax Exemption

VII. **Consent Agenda**

A. Appointments by the Town Manager

Board to vote that the following appointments by the Town Manager be approved.

Department	Name	Position	Rate/Term	Date of Hire
Accounting	Kimberly Matthes (Colleen Currier)	Accounts Payable Coordinator	\$58,662.71/year	3/29/2021
Elder Services	Nina D'Agostino (Patricia McCloskey)	Office Assistant I	\$23.01/hour	3/30/2021
Information Technology	Luke Davey	Intern	\$14.00/hour	3/23/2021
Youth Services	Quinn Sobieraj	Seasonal	\$13.50/hour	3/16/2021
Youth Services	Riley Lowe	Seasonal	\$13.50/hour	3/16/2021
Youth Services	Hanna Medwar	Seasonal	\$13.50/hour	3/23/2021
Youth Services	Grace Gervais	Seasonal	\$13.50/hour	3/23/2021
Youth Services	Meghan Gallagher	Seasonal	\$13.50/hour	3/23/2021
Youth Services	Kelley Ross	Seasonal	\$13.50/hour	3/23/2021
Youth Services	Alana Miller	Seasonal	\$13.50/hour	3/23/2021

VIII. **Approval of Minutes**

A. Board to approve minutes from the following meetings:

1. February 22, 2021
2. March 1, 2021

IX. **Adjourn**

**Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Select Board will be conducted via remote participation to the greatest extent possible. For this meeting, members of the public who wish to watch the meeting may do so in the following manner: Andover TV COMCAST CHANNEL 22 AND VERIZON CHANNEL 45.**

**Members of the public who wish to provide public comment on an item that is *not* on the agenda may do so by visiting [www.andoverma.gov/JoinSelectBoardMeeting](http://www.andoverma.gov/JoinSelectBoardMeeting). They will be admitted during Citizens Petitions and Presentations.**

**To ask a question on particular agenda items during the regular meeting can do so by calling 311 from their landline or cell phone within the geographical boundaries of Andover or by calling 978-623-8311 from anywhere or by emailing [manager@andoverma.gov](mailto:manager@andoverma.gov). Residents are encouraged to email their questions ahead of the meeting, however, staff will be available to present the Board with questions received during the meeting. Please include your name and address with your question.**

**Every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town's website an audio or video recording, transcript, or other comprehensive record of the proceedings as soon as possible after the meeting.**



**Town of Andover**  
**Town Clerk's Office**

36 Bartlet Street  
Andover, MA 01810  
978-623-8230  
townclerk@andoverma.us

Austin P. Simko,  
Town Clerk & Chief Strategy Officer

January 20, 2021

Joe Thibodeau  
Chair, Democratic Town Committee  
73 Carmel Road  
Andover, MA 01810

Dear Mr. Thibodeau,

The term of office of William Melahn, a Republican Party member of the Board of Registrars of Voters, expires on March 31, 2021. Mr. Melahn has informed me that he wishes to be re-appointed to another three-year term on the Board.

Massachusetts General Laws Chapter 51 Section 15 provides that in the case of a vacancy or expiration of the term of office of a Registrar, the Select Board, as appointing authority, "shall so appoint their successors that as nearly as possible the members of the board (of registrars) shall represent the two leading political parties ... in no case shall an appointment be made as to cause a board (of registrars) to have more than two members ... of the same political party." As currently configured, not including Mr. Melahn's seat, the board has one Republican member, one Democratic member, and myself sitting as an unenrolled member.

In accordance with Massachusetts General Laws, Chapter 51, Section 15, the Town of Andover is hereby notifying the Democratic Town Committee of the right to nominate three (3) persons to fill the seat currently held by Mr. Melahn at the expiration of his current term of office. The Committee may, within 45 days of receipt of this letter, submit to the Select Board the names of its nominees who must be residents of the Town of Andover and members of the Democratic Party.

Please note that the elections reform bill, Chapter 111 of the Acts of 2014, has expanded the duties and responsibilities of Registrars of Voters, including periodic election laws training, and responsibility for early voting and post election audits.

If you have any questions, please do not hesitate to contact me at 978-623-8230.

Sincerely,

A handwritten signature in black ink, appearing to read "Austin P. Simko". The signature is fluid and cursive, with the first name "Austin" being the most prominent.

Austin P. Simko  
Town Clerk

cc: Select Board  
Andrew Flanagan, Town Manager  
William Melahn, Registrar

G:\Registrars:DemApptLtr1-6-20.doc



**Town of Andover**  
**Town Clerk's Office**

36 Bartlet Street  
Andover, MA 01810  
978-623-8230  
townclerk@andoverma.us

Austin P. Simko,  
Town Clerk & Chief Strategy Officer

January 20, 2021

Ms. Evelyn Curley  
Chair, Republican Town Committee  
55 Tewksbury Street  
Andover, MA 01810

Dear Ms. Curley,

The term of office of William Melahn, a Republican Party member of the Board of Registrars of Voters, expires on March 31, 2021. Mr. Melahn has informed me that he wishes to be re-appointed to another three-year term on the Board.

Massachusetts General Laws Chapter 51 Section 15 provides that in the case of a vacancy or expiration of the term of office of a Registrar, the Select Board, as appointing authority, "shall so appoint their successors that as nearly as possible the members of the board (of registrars) shall represent the two leading political parties ... in no case shall an appointment be made as to cause a board (of registrars) to have more than two members ... of the same political party." As currently configured, not including Mr. Melahn's seat, the board has one Republican member, one Democratic member, and myself sitting as an unenrolled member.

In accordance with Massachusetts General Laws, Chapter 51, Section 15, the Town of Andover is hereby notifying the Republican Town Committee of the right to nominate three (3) persons to fill the seat currently held by Mr. Melahn at the expiration of his current term of office. The Committee may, within 45 days of receipt of this letter, submit to the Select Board the names of its nominees who must be residents of the Town of Andover and members of the Republican party.

Please note that the elections reform bill, Chapter 111 of the Acts of 2014, has expanded the duties and responsibilities of Registrars of Voters, including periodic election laws training, and responsibility for early voting and post election audits.

If you have any questions, please do not hesitate to contact me at 978-623-8230.

Sincerely,

A handwritten signature in black ink, appearing to read "Austin P. Simko". The signature is fluid and cursive, with a large initial 'A' and 'S'.

Austin P. Simko  
Town Clerk

cc: Select Board  
Andrew Flanagan, Town Manager  
William Melahn, Registrar

G:Registrars:RepApptLtr1-19-21.doc

Austin Simko  
Town Clerk & Chief Strategy Officer  
Town of Andover  
38 Bartlet Street  
Andover, MA 01810

March 23, 2021

Dear Mr. Simko,

I am writing to you because I would like to be considered for the Board of Registrar for the Town of Andover. I am a resident of Andover since 2002. I am a member of Housing Partnership Committee for more than 8 years. Also, I am a member of Andover Democratic Town since 2002. I volunteer at Cor Unam at Lawrence every first Saturday of the month for last four years. Both of my Children grew up in Andover and graduated from Andover High. I am someone who takes charge and welcomes new opportunities and experiences. I am always looking for ways to expand my skills and grow. I believe that this position is exactly what I need to challenge myself. Also, I would like to serve my Community. In advance for your time and consideration. I look forward to hearing from you soon.

Sincerely,

Vinod Bhandari

## To Members of the Board:

My name is William E. Melahn and I am presently a member of the Board of Registrars. I am submitting this memo in support of my request for reappointment to the Board.

By way of background I was a practicing attorney for 23 years admitted to the state and federal courts of the states of Massachusetts and New York. In addition, I was a practitioner before the Court of International Trade, the U.S. Court of Appeals for the Federal Circuit and the U.S. Claims Court. In addition to the above I have had extensive federal administrative law experience in my background.

In 1992, I was sworn in as a Massachusetts trial court justice of the Newburyport District Court. I spent most of my time assigned to the Lowell District Court but occasionally I served in other district courts. I have presided over hundreds of jury and jury-waived trials and thousands of motions. I have always striven to base my decisions solely on the law and the facts, not my personal opinions. I retired in 2008.

Respectfully submitted,

William E. Melahn

March 21, 2021

Robert E. Willard  
Nominee for Board of Registrars

We all want elections that are honest and accurate. That requires honestly and accurately maintaining the lists of registered voters. If selected, I will impartially maintain those active and inactive lists of voters, and related information, with as much accuracy as possible.

I am very familiar with current ballot counting equipment (Image Cast) and with the protocols that make that equipment trustworthy. I served in Andover as a Precinct Warden for 10 years. I also served as a Precinct Clerk, Poll Worker, Poll Watcher, and Poll Monitor.

I know and have a good relationship with key people, including: Austin Simko, Dawne Warren, Michael Sassin, Brian Major, Barry Finegold, Tram Nguyen, and the Andover Select Board.

I am proud of the quality of elections in Andover, and I will work to keep it. I will also advocate for changes in law and procedures to make our elections even better.

Personal information:

- Husband, father, grandfather
- Homeowner, taxpayer, concerned citizen
- Andover resident since 1981, Massachusetts resident since 1966
- Veteran, U.S.Navy. Honorably discharged
- Engineer, retired. BSEE & MSEE, UIUC (Univ. of Illinois)
- Vmail: 1-978-475-8767
- Email: [BobwBSGS@comcast.net](mailto:BobwBSGS@comcast.net)
- Snailmail: 76 Tewksbury St., Andover MA, 01810

Board of Registrars Motion

I move that the Board appoint [*NAME*] of [*ADDRESS – see agenda*] to serve on the Board of Registrars of Voters to a term expiring on March 31, 2024.

Motion for Massachusetts Clean Water Trust

I move to approve the issuance and details of a bond to be issued to the Massachusetts Clean Water Trust for Loan No. DW-19-13.

# LICENSE AGREEMENT

By and between

**THE TOWN OF ANDOVER**

**And**

Ultimate Perk, Inc.

## **THE OWNER AND OPERATOR OF A RESTAURANT LOCATED WITHIN THE TOWN OF ANDOVER**

This License Agreement (the "Agreement") is entered into as of the 24th day of March, 2021, by and between the Town of Andover and Ultimate Perk, Inc. The Owner and Operator of a Restaurant located within the Town of Andover.

WITNESSETH:

**WHEREAS**, Licensee is owner and operator of a Restaurant facility within the Town of Andover located at 96 ½ Main Street, Andover, MA. (hereinafter "Restaurant Owner");

**WHEREAS**, Licensor is the Town of Andover (hereinafter the "Town");

**WHEREAS**, the Restaurant Owner desires to provide the public with outdoor dining in an area shown on the attached plan;

**WHEREAS**, the Town is seeking a manner through which to facilitate the Restaurant Owner's ability to provide the public with outdoor dining;

**WHEREAS**, the Town and the Restaurant Owner desire to cooperate to further the above-stated purpose in a way compatible with the public interest;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. License to Provide Outdoor Dining. The Town of Andover hereby grants the Restaurant Owner a revocable license to provide outdoor dining services at its restaurant facility located within the Town of Andover. The Licensee shall comply with the terms of this Agreement, the License granted by the Select Board, any other license related to the Restaurant Facility, all applicable laws, regulations, and bylaws

and all applicable rules and regulations established by the Select Board. Within the licensed area, the licensee may put and maintain no more than 4 tables and 8 chairs. All such services will be provided at the sole cost and expense of the Restaurant Owner. The Town of Andover shall not be liable for such cost nor obligated to reimburse the Restaurant Owner for the same. The Restaurant Owner shall be responsible for obtaining all permits or licenses at its expense for the construction of any improvements necessary to the provision of such services.

2. Indemnification. The Restaurant Owner shall indemnify, defend and save harmless the Town of Andover, its officers, and employees from and against all suits, actions, claims, demands, damages, losses, expenses, and costs of every kind and description relating to or arising from the operation, construction, or existence of the outdoor dining facility and service, under this Agreement.

3. Insurance. The Restaurant Owner shall carry or require that there be carried Workers' Compensation Insurance for all employees and those of its contractors and/or subcontractors engaged in work at the outdoor dining facility, in accordance with the State Workers' Compensation Laws. The Restaurant Owner shall furnish a certificate of insurance to the Town evidencing coverage of Workers' Compensation Insurance. In addition, the Restaurant Owner shall carry Comprehensive General Liability and Property Damages Liability Insurance, and if alcoholic beverages are served, Liquor Liability Insurance, with limits hereinafter set forth to cover the Restaurant Owner and its contractors and subcontractors against claims which may occur or result from operations under this Agreement. Such insurance shall cover the use of all equipment related to the provision of outdoor dining services. The Comprehensive General Liability Policy, and if applicable, Liquor Liability Insurance Policy, shall insure against all claims and demands for bodily injury and property damage with respect to the outdoor dining facilities and services, with limits of \$5,000,000 per occurrence and \$5,000,000 in the aggregate. The Town shall be named as an "additional insured" in all policies for such insurance with specific reference as to coverage related to this License Agreement. All such policies shall provide a waiver of subrogation in favor of the Town. The Restaurant Owner (and their heirs, successors and assigns in interest) shall hold harmless, defend and indemnify the Town of Andover and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under this agreement. The Restaurant Owner shall furnish a certificate of insurance to the Town prior to commencing any work, construction or services of the facilities and services authorized under this Agreement. Where such insurance is renewed or replaced the Restaurant Owner shall furnish the Town with a certificate of insurance evidencing same.

4. Maintenance. The Restaurant Owner shall maintain the premises utilized for the provision of outdoor dining facilities and services under this Agreement in a clean and orderly condition. The Restaurant Owner assumes responsibility for the removal of any debris generated by the construction, operation, or existence of the outdoor dining facility and service. These duties assumed by the Restaurant Owner include but are not limited to:

- Plant maintenance, lawn maintenance, if any:

- General maintenance and cleaning of fixtures;

- Sweeping;

- Trash removal; and

Security, including the removal of any person who becomes disorderly. The Restaurant owner shall be solely responsible for any costs and losses generated by the above listed, and any other maintenance duties.

5. Term. The License granted herein shall begin after it is approved by the Select Board and upon execution of this Agreement and payment of the License Fee and shall expire on the October 31<sup>st</sup> immediately following, unless sooner revoked. Notwithstanding the foregoing sentence this License is revocable at the will of the Andover Select Board at any time at the total discretion of said Select Board.

At the expiration or revocation of this License, the Licensee shall promptly remove all furniture and articles placed in the outdoor dining area, and return the area to condition at least as good prior to the issuance of this License.

6. Hours of Operation. The License granted hereunder neither extends the physical description of the Premises nor shortens or extends the hours during which the Licensee may carry on other lawful licensed activities in the premises to which the outdoor dining area is auxiliary.

7. Revocation. The parties covenant and agree that this License is not an interest in land and is revocable at will by the Andover Select Board for any reason whatsoever upon written notice to the Licensee from the Town. The License will terminate upon Licensee's receipt of said written notice described therein. Licensee acknowledges, covenants and agrees that this License is revocable at will by the Town and the Licensee further acknowledges, covenants and stipulates that in the event of such revocation, the Licensee shall have no recourse or claim against the Town for such revocation whether by way of monetary charges, a suit in equity, or otherwise.

**WITNESS**, the execution hereof in counterparts under seal as of the date and year first above written.

By \_\_\_\_\_

Owner and Operator of Restaurant  
Located within the Town of Andover

By \_\_\_\_\_

Chair, Select Board

Date: March 24, 2021

CERTIFICATION OF GOOD FAITH

The undersigned certifies under the pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

---

CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, Ultimate Perk, Inc., whose principal place of business is at 96 ½ Main Street, Andover, MA., does hereby certify under the pains and penalties of perjury that he has paid all Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

---

Federal Identification No. of Ultimate Perk, Inc.:	56-2324014
Licensee	Number

ULTIMATE PERK OUTDOOR DINING LICENSE MOTION

MOTION:

I move to approve the application of Ultimate Perk, Inc. d/b/a Ultimate Perk, 96 ½ Main Street, for an Outdoor Dining License of 8 seats and 4 tables as shown on the submitted “Ultimate Perk Outdoor Seating Plans,” subject to the following conditions:

- 1) That State law, including the Governor’s Executive Orders regarding the safe conduct of restaurant activities, are adhered to; and
- 2) That all other requirements of the Town are met prior to issuance.

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Yes: \_\_\_\_\_

No: \_\_\_\_\_

**W A R R A N T**  
**THE COMMONWEALTH OF MASSACHUSETTS**  
**ESSEX, SS.**

To Either of the Constables of the Town of Andover

Greeting:

In the name of the Commonwealth you are hereby required to notify and warn the Inhabitants of said Town who are qualified to vote in Town Affairs to meet and assemble at Andover High School, Shawsheen Road, in said Andover, on

**SATURDAY, THE FIFTH DAY OF JUNE, 2021**

At seven o'clock P.M. to act upon the following articles:

<b>ARTICLE P1</b>	<b>ANNUAL TOWN ELECTION</b>
-------------------	-----------------------------

Annual Town Election: Moderator for one year, two Select Board members for three years, two School Committee members for three years, one Housing Authority member for five years, one Greater Lawrence Regional Vocational Technical School District Commission member for three years and two Punchard Free School Trustees for three years, or take any other action related thereto.

*On request of the Town Clerk*

<b>ARTICLE P2</b>	<b>ELECTION NOT REQUIRED BY BALLOT</b>
-------------------	--

To elect all other officers not required by law to be elected by ballot, or take any other action related thereto.

*On request of the Town Clerk*

<b>ARTICLE P3</b>	<b>SALARIES OF ELECTED OFFICIALS</b>
-------------------	--------------------------------------

To establish the salaries of the elected officers for the ensuing year, or take any other action related thereto.

*On request of the Town Clerk*

<b>ARTICLE P4</b>	<b>FISCAL YEAR 2022 BUDGET</b>
-------------------	--------------------------------

To see if the Town will vote to determine what sums of money the Town will raise and appropriate, including appropriations from available funds, to defray charges and expenses of the Town, including debt and interest, and to provide for a reserve fund for the Fiscal Year beginning July 1, 2021 and ending June 30, 2022, or take any other action related thereto.

*On request of the Town Manager*

<b>ARTICLE P5</b>	<b>FISCAL YEAR 2022 CAPITAL PROJECTS FUND</b>
-------------------	---

To see if the Town will vote to raise by taxation and appropriate the sum of money for the purpose of funding the Fiscal Year 2022 appropriation for the Capital Projects Fund, or take any other action related thereto.

*On request of the Town Manager*

<b>ARTICLE P6</b>	<b>UNFUNDED PENSION LIABILITY</b>
-------------------	-----------------------------------

To see if the Town will appropriate a sum of money for the purpose of funding the unfunded pension liability, so-called, of the retirement system of the Town, and for the payment of all costs incidental or related thereto; to determine whether this amount shall be raised by borrowing or otherwise provided that no amounts shall be borrowed or expended hereunder unless the Town shall have voted to exclude the amounts required to repay any indebtedness authorized by this vote from the limitations on property taxes set forth in G.L. c. 59, §21C.; to determine whether a reserve fund shall be established in connection with the undertaking of any such borrowing, or take any other action relative thereto.

*On request of the Town Manager*

<b>ARTICLE P7</b>	<b>FINANCIAL HOUSEKEEPING ARTICLES (A THROUGH H)</b>
-------------------	--

- A. Budget Transfers** To see if the Town will vote to transfer from amounts previously appropriated at the September 2020 Annual Town Meeting as authorized by Massachusetts General Laws Chapter 44, Section 33B, or take any other action related thereto.

*On request of the Finance Director*

- B. Supplemental Budget Appropriations** To see if the Town will vote to transfer from available funds a sum of money to supplement appropriations voted at the September 2020 Annual Town Meeting, or take any other action related thereto.

*On request of the Town Manager*

- C. Stabilization Fund** To see if the Town will vote to appropriate and raise from taxation or available funds a sum of money to the Stabilization Fund in accordance with Massachusetts General Laws Chapter 40, Section 5B, as amended by Chapter 46, Sections 14 and 50 of the Acts of 2003 and Chapter 218 of the Acts of 2016, or take any other action related thereto.

*On request of the Town Manager*

- D. Free Cash** To see what amount the Town will vote to permit the Assessors to use in Free Cash to reduce the Fiscal Year 2022 tax rate and to affect appropriations voted at the 2020 Annual Town Meeting, or take any other action related thereto.

*On request of the Finance Director*

- E. Unexpended Appropriations** To see what disposition shall be made of unexpended appropriations and Free Cash in the treasury, or take any other action related thereto.

*On request of the Finance Director*

- F. Unexpended Appropriations Capital Projects Fund** To see what disposition shall be made of unexpended appropriations in the Capital Projects Fund, or take any other action related thereto.

*On request of the Finance Director*

- G. Fiscal Year 2022 Revolving Accounts** To see if the Town will vote to authorize the following expenditure limits for revolving funds for certain Town departments under Massachusetts General Laws, Chapter 44, Section 53E½ for the fiscal year beginning July 1, 2021, or take any other action related thereto:

<b>Revolving Fund</b>	<b>FY2022 Limit</b>
Community Development & Planning Department	\$20,000
Memorial Hall Library-Lost/Damaged Materials	\$20,000
Health Clinic	\$60,000
Division of Recreation	\$750,000
Division of Youth Services	\$400,000
Field Maintenance	\$150,000
Division of Elder Services	\$225,000
Police Communications	\$50,000
School Photocopy Fees	\$10,000
Compost Program	\$60,000
Solid Waste	\$40,000
Stormwater Management	\$5,000
Fire Rescue	\$100,000
Health Services	\$100,000
Professional Development Institute	\$50,000

*On request of the Finance Director*

- H. PEG Access and Cable Related Expenses** To see if the Town will vote to appropriate cable franchise fees and other cable-related revenues to support PEG access services, cable related expenses, and oversight of the cable franchise agreements for fiscal year 2022, which begins on July 1, 2021, or take any other action related thereto.

*On request of the Finance Director*

<b>ARTICLE P8</b>	<b>MINOR FINANCIAL ARTICLES (A THROUGH D)</b>
-------------------	---

- A. Overlay Surplus Transfer** To see if the Town will vote to transfer \$10,000 from Overlay Surplus to fund expenses related to the FY2022 valuation of personal property accounts of locally assessed gas distribution companies, or take any other action related thereto.

*On request of the Finance Director*

- B. Elderly/Disabled Transportation Program** To see if the Town will vote to appropriate and raise by taxation a sum not to exceed \$12,000 for the purpose of continuing to provide for an elderly and disabled transportation subsidy program, or take any other action related thereto.

*On request of the Council on Aging*

- C. Support for Andover Day** To see if the Town will vote to appropriate and raise by taxation or transfer from available funds a sum not to exceed \$5,000 for the purpose of paying a portion of the municipal costs associated with Andover Day in the downtown, or take any other action related thereto.

*On request of the Town Manager*

- D. Spring Grove Cemetery Maintenance** To see if the Town will vote to transfer the sum of \$6,000 from the Spring Grove Cemetery Perpetual Care reserve account and appropriate the sum of \$6,000 for the purpose of cemetery maintenance including costs incidental and related thereto, or take any other action related thereto.

*On request of the Director of Public Works*

<b>ARTICLE P9</b>	<b>GENERAL HOUSEKEEPING ARTICLES (A THROUGH G)</b>
-------------------	--

To see if the Town will vote the following consent articles, or take any other action related thereto:

- A. Grant Program Authorization** To see if the Town will vote to authorize the Select Board and/or the Town Manager to apply for, accept and enter into contracts from time to time for the expenditure of any funds allotted to Andover by the Commonwealth of

Massachusetts or the U. S. Government under any State or Federal grant program, or take any other action related thereto.

*On request of the Town Manager*

- B. Road Contracts** To see if the Town will vote to authorize the Town Manager to enter into a contract with the Massachusetts Highway Department Commissioners or the Federal Government for the construction and maintenance of public highways in the Town of Andover for the ensuing year, or take any other action related thereto.

*On request of the Town Manager*

- C. Town Report** To act upon the report of the Town officers, or take any other action related thereto.

*On request of the Town Manager*

- D. Property Tax Exemptions** To see if the Town will vote to accept the provisions of Section 4, Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988 to allow an additional property tax exemption for Fiscal Year 2022 for those persons who qualify for property tax exemptions under Massachusetts General Laws Chapter 59, Section 5, or take any other action related thereto.

*On request of the Board of Assessors*

- E. Contracts in Excess of Three Years** To see if the Town will vote in accordance with the provisions of Massachusetts General Laws Chapter 30B, Section 12(b) to authorize the Town Manager or the Superintendent of Schools to solicit and award contracts for terms exceeding three years but no greater than five years, including any renewal, extension or option, provided in each instance the longer term is determined to be in the best interests of the Town by a vote of the Select Board or the School Committee, as appropriate, or take any other action related thereto.

*On request of the Town Manager*

- F. Accepting Easements** To see if the Town will vote to authorize the Select Board and the School Committee to accept grants of easements for streets, water, drainage, sewer, public access and utility purposes or any public purpose on terms and conditions the Board and the Committee deem in the best interests of the Town, or take any other action related thereto.

*On request of the Town Manager*

- G. Rescinding of Bond Authorizations** To see if the Town will vote to rescind unissued bond authorizations from prior Town Meetings, or take any other action related thereto.

*On request of the Finance Director*

<b>ARTICLE P10</b>	<b>UNPAID BILLS</b>
------------------------	---------------------

To see if the Town will vote to transfer from available funds a sum of money to pay unpaid bills for which obligation was incurred in prior fiscal years, or take any other action related thereto.

*On request of the Town Accountant*

<b>ARTICLE P11</b>	<b>CHAPTER 90 AUTHORIZATIONS</b>
------------------------	----------------------------------

To see if the Town will vote to authorize the Town to acquire any necessary easements by gift, by purchase or by right of eminent domain for Chapter 90 Highway Construction or any other federal or state aid program for road or sidewalk improvements, or take any other action related thereto.

*On request of the Town Manager*

<b>ARTICLE P12</b>	<b>GRANTING EASEMENTS</b>
------------------------	---------------------------

To see if the Town will vote to authorize the Select Board and the School Committee to grant easements for water, drainage, sewer and utility purposes or any public purpose on terms and conditions the Board and the Committee deem in the best interests of the Town, or take any other action related thereto.

*On request of the Town Manager*

<b>ARTICLE P13</b>	<b>STABILIZATION FUND BOND PREMIUM</b>
------------------------	--

To see if the Town will vote to transfer the sum of \$100,000 from the Bond Premium Stabilization Fund to the General Fund to offset non-exempt debt interest payments, or take any other action related thereto.

*On request of the Finance Director*

<b>ARTICLE P14</b>	<b>WATER TREATMENT PLANT MAINTENANCE</b>
------------------------	--

To see if the Town will vote to appropriate the sum of \$300,000 in the Water Enterprise Fund for the purpose of paying various maintenance costs related to the water distribution system and the Water Treatment Plant, including any other costs incidental and related thereto, or take any other action related thereto.

*On request of the Director of Public Works*

<b>ARTICLE P15</b>	<b>CAPITAL PROJECTS FROM GENERAL FUND BORROWING</b>
------------------------	---

To see if the Town will vote to raise by taxation, borrowing, transfer from available funds or by any combination thereof and appropriate the sum of \$6,595,000 to pay costs of purchasing capital equipment, making infrastructure improvements, or for purchasing services and materials related to capital improvements, as more particularly described below, including the payment of any other costs incidental and related thereto, or take any other action related thereto.

<b>CIP #</b>	<b>Project</b>	<b>Amount</b>	<b>Statutory Citation</b>
CDP-4	Historic Mill District-Circulation and Street Construction	\$500,000	C 44 Sec 7(1)
LIB-1	Ground Level Renovation - Makerspace	\$225,000	C 44 Sec 7(1)
FR-1	Fire Apparatus Replacement	\$360,000	C 44 Sec 7(1)
FR-4	Public Safety Bi-Directional Amplifier System	\$200,000	C 44 Sec 7(1)
DPW-7b	Public Works Vehicles – Large	\$400,000	C 44 Sec 7(1)
TM-2	Sidewalk Program	\$950,000	C 44 Sec 7(1)
FAC-6	Major Town Projects	\$605,000	C 44 Sec 7(1)
FAC-7	Town & School Energy Initiatives	\$530,000	C 44 Sec 7(1)
SCH-5	Major School Projects	\$2,825,000	C 44 Sec 7(1)

*On request of the Town Manager, Director of Planning, Library Director, Police Chief, Fire Chief, Director of Public Works, and Director of Facilities*

<b>ARTICLE P16</b>	<b>CAPITAL PROJECTS FROM FREE CASH</b>
------------------------	--

To see if the Town will vote to transfer from available funds and appropriate the sum of \$1,983,372 to pay costs of purchasing capital equipment, infrastructure, or for purchasing services and materials related to capital improvements, as more particularly described below, including any other costs incidental and related thereto, or take any other action related thereto.

<b>CIP #</b>	<b>Project</b>	<b>Amount</b>
IT-1	Annual Staff Device Refresh	\$627,744
IT-2	Annual Student Device Refresh	\$418,128
IT-3	IT Platforms and Infrastructure	\$687,500
DPW-2	Minor Sidewalk Repairs	\$250,000

*On request of the Chief Information Officer and Director of Public Works*

<b>ARTICLE P17</b>	<b>CAPITAL PROJECTS FROM WATER AND SEWER ENTERPRISE FUNDS</b>
------------------------	---

To see if the Town will vote to raise by taxation, borrowing, transfer from available funds or by any combination thereof and appropriate the sum of \$9,375,000 to pay costs of purchasing capital equipment, making infrastructure improvements, and purchasing services and materials related to

making capital improvements, as more particularly described below, including the payment of any other costs incidental and related thereto, or take any other action related thereto.

<b>CIP #</b>	<b>Project</b>	<b>Amount</b>	<b>Statutory Citation</b>
DPW-12	Water & Sewer Vehicles (Water Enterprise Reserves)	\$125,000	N/A
DPW-14	Water Main Replacement Projects (Water Enterprise Borrowing)	\$6,000,000	Ch 44 Sec 8 (5)
DPW-20	Water Treatment Plant Generator (Water Enterprise Reserves)	\$2,500,000	Ch 44 Sec 8 (4)
DPW-24	Minor Sanitary Sewer Collections System Improvements (Sewer Enterprise Reserves)	\$100,000	N/A
DPW-29	Fish Brook Intake Replacement (Water Enterprise Borrowing)	\$500,000	Ch 44 Sec 8 (4)
DPW-30	Inflow/Infiltration (I/I) Removal Program (Sewer Enterprise Reserves)	\$150,000	N/A

*On request of the Director of Public Works*

<b>ARTICLE P18</b>	<b>DEFICIT REDUCTION</b>
--------------------	--------------------------

To see if the Town will vote to appropriate a sum of money from available funds to cover deficits in special revenue and capital project funds or take any action relative thereto.

*On request of the Finance Director*

<b>ARTICLE P19</b>	<b>ESTABLISH NEW REVOLVING FUND – STUDENT TECHNOLOGY RENTAL</b>
--------------------	---

To see if the Town will vote to amend General By-Law Article XII Section 48.5 by establishing, authorizing and adding a new Revolving Fund entitled “Student Technology Rental” with the Chief Information Officer authorized to spend from the fund monies received by the Information Technology Department from families of Andover Public School students to rent computing equipment to assist them in their course of studies, and to authorize expenditures from the fund to pay the cost of acquiring and maintaining the equipment for fiscal year 2020 in the amount of \$12,800, and to authorize the amount of \$200,000 to be expended in fiscal year 2021 and subsequent years.

*On request of the Finance Director*

<b>ARTICLE P20</b>	<b>INTEREST ON LATE PAYMENTS</b>
--------------------	----------------------------------

To see if the Town will vote to add to the general by-laws the following:

“Pursuant to General Laws Chapter 40, Section 21E due dates for water and sewer bills and charges shall be thirty days after the bills and charges are mailed. For all water and sewer bills and charges which remain unpaid after the due date, interest at the rate of 14 per cent per annum shall accrue” or take any other action related thereto

*On request of the Finance Director*

<b>ARTICLE P21</b>	<b>AUTHORIZE ELECTRICITY SUPPLY / ON BILL CREDIT PURCHASE AGREEMENTS AT SANBORN SCHOOL</b>
------------------------	--

To see if the Town will vote to authorize the School Committee to enter into one or more electricity supply, on-bill credit or similar agreements with the owner(s) of solar voltaic facilities to be installed at the Sanborn School for such terms of years, and on such other terms and conditions, as the School Committee deems in the best interests of the Town, or take any other action related thereto.

*On request of the Director of Facilities*

<b>ARTICLE P22</b>	<b>AUTHORIZE LEASE OF LAND/ROOFTOP SPACE AT SANBORN SCHOOL FOR SOLAR PHOTOVOLTAIC FACILITIES</b>
------------------------	--

To see if the Town will vote to transfer the care, custody and control of the land and buildings located at 90 Lovejoy Road shown on Assessors Map 153 as Lot 3 and known as the Sanborn School, to the School Committee for school-related purposes and for the purpose of (i) leasing building rooftop space and any unused, open-land areas for installation of solar voltaic facilities and (ii) granting easements on, over and under said parcels of land in connection with such solar photovoltaic facilities, with such leases and easements to be for such terms of years, and on such other terms and conditions, as the School Committee deems in the best interests of the Town, or take any other action related thereto.

*On request of the Director of Facilities*

<b>ARTICLE P23</b>	<b>AUTHORIZE AGREEMENTS FOR PAYMENT IN LIEU OF TAXES AT SANBORN SCHOOL</b>
------------------------	--

To see if the Town will vote to authorize the Select Board to enter into one or more agreements for payments in lieu of taxes pursuant to G.L. c. 59 s.38H(b) with the owner(s) of solar voltaic facilities to be installed at the Sanborn School for such terms of years, and on such terms and conditions, as the Select Board deems in the best interests of the Town, or take any other action related thereto.

*On request of the Director of Facilities*

<b>ARTICLE P24</b>	<b>SHAWSHEEN SCHOOL</b>
------------------------	-------------------------

To see if the Town will vote to petition the Legislature for a Special Act, notwithstanding Chapter 30B of the General Laws or any other general or special law to the contrary, authorizing the change

of the use of the land at the Shawsheen School conveyed in a deed from the American Woolen Company to the Town for said school, which deed is dated February 16, 1925 and recorded at the Northern Essex district registry of deeds at Book 509, Page 278, to be changed from school purposes to general municipal purposes, under the care, custody and control of the Select Board, provided that the Legislature may vary the form and substance of the requested legislation within the scope of the general public objectives of this petition, or take any other action related thereto.

*On request of the Town Manager*

<b>ARTICLE P25</b>	<b>WEST ELEMENTARY SCHOOL DESIGN AND CONSTRUCTION</b>
------------------------	---

To see if the Town will vote to appropriate, borrow or transfer from available funds, an amount of money to be expended under the direction of the West Elementary School Building Committee for the design and construction of a new Pre-K through Grade Five Elementary School with an approximate square footage of 191,000 square feet located at 58 Beacon Street, Andover, Massachusetts inclusive of abatement and demolition of the existing school structures on said property, new parking lots, multi-purpose fields, and all other costs incidental and related thereto (the "Project:"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"). The Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) 40.47 percent ( %) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA, provided that any appropriation hereunder shall be subject to and contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. 59, Section 21C (Proposition 2½) and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the Town of Andover and the MSBA. Or take any other action relative thereto.

*On request of the School Committee*

<b>ARTICLE P26</b>	<b>ANDOVER HIGH SCHOOL DESIGN</b>
------------------------	-----------------------------------

To see if the Town will vote to appropriate the sum of \$1,238,419.73 by repurposing funds remaining from Article 1 of the 2013 Special Town Meeting so that such funds may, instead, be used to pay costs for the Andover High School Design project, including all costs incidental and related thereto, or take any other action related thereon.

*On request of the Town Manager*

<b>ARTICLE P27</b>	<b>RETAIL PACKAGE STORE QUOTA</b>
------------------------	-----------------------------------

To see if the Town will vote to authorize the Town Manager to petition the legislature for a special act to authorize the Town to grant seven additional licenses for the sale of all alcoholic beverages not to be drunk on the premises pursuant to section 15 of chapter 138 of the General Laws and the licenses shall be subject to all of said chapter 138 except section 17, provided that the legislature may reasonably vary the form and substance of the required legislation within the scope of the general public objectives of the petition, or take any other action related thereto.

*On request of the Select Board*

<b>ARTICLE P28</b>	<b>MEANS TESTED SENIOR CITIZEN PROPERTY TAX EXEMPTION</b>
------------------------	---

To see if the Town will vote to authorize the Select Board, on behalf of the Town, to petition the General Court for passage of a special law substantially as provided below. The Legislature may make clerical or editorial changes in form only to the bill, unless the Select Board approves amendments to the bill before enactment by the Legislature. The Select Board is hereby authorized to approve amendments that shall be within the scope of the general public objectives of this petition.

**AN ACT AUTHORIZING THE TOWN OF ANDOVER TO ESTABLISH A MEANS TESTED SENIOR CITIZEN PROPERTY TAX EXEMPTION**

**SECTION 1.** With respect to each qualifying parcel of real property classified as class one, residential in the town of Andover there shall be an exemption from the property tax in an amount to be set annually by the Select Board as provided in section 3. The exemption shall be applied to the domicile of the taxpayer only. For the purposes of this act, “parcel” shall be a unit of real property as defined by the board of assessors under the deed for the property and shall include a condominium unit. The exemption provided for herein shall be in addition to any other exemptions allowed by the General Laws.

**SECTION 2.** Real property shall qualify for the exemption under this act if all of the following criteria are met:

- (a) The qualifying real property is owned and occupied by a person who qualified and received the circuit breaker income tax credit the previous year under subsection (k) of section 6 of chapter 62 of the General Laws;
- (b) The qualifying real property is owned by a single applicant age 65 or older at the close of the previous year or owned jointly by persons either of whom is age 65 or above at the close of the previous year and if the joint applicant is 60 years of age or older;
- (c) The qualifying real property is owned and occupied by the single applicant or joint applicants as their domicile

(d) The single applicant or at least 1 of the joint applicants has been domiciled and owned a home in the town of Andover for at least the 10 consecutive years preceding the filing of an application for the exemption;

(e) The maximum prior year assessed value of the domicile is not greater than the prior year's maximum assessed value for qualification for the circuit breaker income tax credit under subsection (k) of section 6 of chapter 62 of the General Laws as adjusted annually by the Department of Revenue; and

(f) The board of assessors has approved the application.

SECTION 3. The Select Board shall annually set the exemption amount provided for in this act, provided that the amount of the exemption shall be up to a 100% match, and not less than a 50% match, of the amount of the circuit breaker income tax credit under subsection (k) of section 6 of chapter 62 of the General Laws for which the applicant received in the previous year. The total amount exempted by this act shall be allocated proportionally within the tax levy on all residential taxpayers.

SECTION 4. A person who seeks to qualify for the exemption under this act shall, before the deadline established by the board of assessors, file an application, on a form to be adopted by the board of assessors, along with the supporting documentation of the filed income tax return of the applicant showing the circuit breaker tax credit. The application shall be filed each year for which the applicant seeks the exemption.

SECTION 5. No exemption shall be granted under this act until the department of revenue certifies a residential tax rate for the applicable tax year where the total exemption amount is raised by a burden shift within the residential tax levy.

SECTION 6. The exemption provided for in this act shall begin in fiscal year 2023 and shall expire after five years; or take any other action with respect thereto.

*On request of the Council on Aging*

<b>ARTICLE P29</b>	<b>GENERAL BYLAW AMENDMENT - OUTDOOR DINING OR RETAIL LICENSE BYLAW</b>
------------------------	---

To see if the Town will vote to amend the General Bylaws of the Town Article XI Section 9, as follows:

## **OUTDOOR DINING OR RETAIL LICENSE BYLAW**

### **SECTION 1 - LICENSE**

#### **Section 1.1 Purpose, Scope, Authority**

The purpose of this bylaw is to provide for the licensing on public property of outdoor dining areas and the placement of retail furniture, products and/or fixtures of appropriate design, configuration, and appearance that will be an amenity to the Town during the spring, summer and fall. The Select

Board may issue annual outdoor dining and retail licenses which shall be for or within the period from March 1 to November 30. Licenses shall be valid for one season and must be renewed annually. If a licensee previously issued an outdoor dining or outdoor retail license by the Select Board wishes to renew that license for activities substantially identical to those previously licensed, the Town Manager may issue the renewal license without action by the Select Board, provided the licensee submits all necessary materials required for renewal.

#### Section 1.2 Conditions of the License

The Select Board shall impose such conditions on each license as the Board determines to be appropriate and in the best interest of the Town. License fees shall be established by the Select Board. The Select Board may also make such regulations governing the outdoor dining or retail licenses as the Board considers to be necessary or appropriate to carry out the purposes of this bylaw.

#### Section 1.3 Design and Appearance

The outdoor dining placement of tables and chairs containing nine (9) or more seats shall be separated from their surroundings by a perimeter fence or barrier. No such fences or barriers may damage the public property. Perimeter treatments, umbrellas, furniture and trash receptacles shall be supplied by the licensee and shall be maintained in a safe and sanitary manner by the licensee. All trash receptacles shall be covered and trash removed nightly. All perimeter treatments, umbrellas, furniture and trash receptacles placed by the licensee must be removed at the end of each season.

#### Section 1.4 Pedestrian and Wheelchair Passage

In no event shall the placement of furniture, fixtures, products, umbrellas, perimeter fences or barriers create a pedestrian or wheelchair passage width of less than what is required by 521 CMR.

#### Section 1.5

Outdoor food preparation shall not be allowed unless approved by the Board of Health in accordance with their procedures and regulations.

#### Section 1.6 Other Licenses and Approvals

Approval of an outdoor dining or retail license shall not be construed as an approval of any other license or an approval for the alteration or extension of premises where alcoholic beverages are served. The serving or consumption of alcohol outside of premises duly licensed for the service of alcohol is expressly forbidden unless approved by the Select Board.

#### Section 1.7 Temporary Seating

Due to the seasonal and temporary nature of outdoor dining areas, the seating allowed by an outdoor dining license will not be considered an increase in the number of seats serving a business establishment, and will not be counted toward any off-street parking requirement.

## SECTION 2 – SUBMISSION AND APPROVAL OF APPLICATION

### Section 2.1 Filing Procedure

Application for an outdoor dining or retail license shall be made to the Select Board and a copy shall be submitted to the Inspector of Buildings, Board of Health, Andover Fire Rescue and the Andover Police Department for their reviews. When located within the General Business and Mixed Use Zoning Districts, the applicant shall consult with the Design Review Board prior to seeking a license. Each application will include the name, address and telephone number of the business owner, the proposed dates and times of operation, and a plan meeting the requirements of Section 2.2 below. The application shall be signed by the owner of the building or owner's representative or attorney.

### Section 2.2 Plan Requirements

A neatly drawn scaled plan and seven (7) copies shall be submitted with the application depicting the precise dimensions and location of the temporary and seasonal placement of outdoor dining areas and placement of retail furniture and fixtures; the arrangement of furniture, perimeter fencing, umbrellas, and any other obstruction, and the width of sidewalk/parking space/other public area to be used, and a description of the area available for pedestrian and wheelchair passage. The plan will also include a written description of the colors and materials to be used. Photographs or samples of proposed furniture and materials shall be provided upon request of the Select Board or Design Review Board.

### Section 2.3 Insurance

The licensee shall carry or require that there be carried Workers' Compensation Insurance for all employees and those of its contractors and/or subcontractors engaged in work at the business or dining facility, in accordance with the State Workers' Compensation Laws. The licensee shall, prior to the issuance of the license, furnish a certificate of insurance with associated endorsements to the Town evidencing coverage for all insurance required by the Town. In addition, the licensee shall carry Commercial General Liability Insurance and, if applicable, liquor liability insurance, to cover the licensee and its contractors and subcontractors against claims due to accidents which may occur or result from operations under the license. Such insurance shall cover the use of all equipment related to the provision of temporary and seasonal outdoor services. The Commercial General Liability Policy shall insure against all claims and demands for bodily injury and property damage with respect to the temporary and seasonal outdoor dining facilities and retail services, and shall be in such form and amount as determined by the Select Board. The Town shall be named as an "additional insured" in all policies for such insurance. All insurance policies shall be primary and noncontributory and shall contain a waiver of subrogation in favor of the Town. The licensee (and their heirs, successors and assigns in interest) shall also agree to hold harmless, defend and indemnify the Town of Andover and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under the license. Where such insurance is renewed or replaced the licensee shall furnish the Town with a certificate of insurance and endorsements evidencing the same.

### Section 2.4 Approval

The Select Board may approve an outdoor dining or retail license after determining that the design and location is suitable to its environs, and that all other requirements of the license have been met. The Select Board shall consider any comments made by the Inspector of Buildings, Board of Health, Andover Fire Rescue, Andover Police Department, Planning Division or the Design Review Board prior to rendering a decision.

Upon approval of an outdoor dining or retail license by the Select Board, the owner and operator of the business and the Select Board shall sign a License Agreement prepared for these purposes by Town Counsel and shall pay any applicable license fee prior to the commencement of any activities under the license.

### SECTION 3 – SEVERABILITY

#### Section 3.1

If any provisions, paragraphs, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect; or take any action related thereto.

*On request of the Planning Board*

<b>ARTICLE P30</b>	<b>AMEND ANDOVER ZONING BYLAW ARTICLE VIII</b>
------------------------	--

To see if the Town of Andover will vote to amend Section 3.2.1 to the Andover Zoning Bylaw, Article VIII and amend the Andover Zoning Bylaw, Article VIII, Section 3.1.3 Table of Use Regulations Appendix A Table 1, and Section 10 Definitions by adding the following:

Amend Section 3.2.1 Specific Accessory Uses by adding a number 6 to read as follows:

#### 6. Temporary and Seasonal Placement of Tables and Chairs and Retail Fixtures

A permitted commercial structure may place tables and chairs or retail fixtures and products on public or private property for the convenience of patrons as a use incidental and accessory to a permitted food or retail sales establishment where the principal activity is the service or sale of food for consumption on or off the premises, or the retail sale of merchandise. An application for temporary and seasonal placement of tables and chairs or for retail fixtures on private property shall be made to the Building Division on an annual basis and a copy shall be submitted to the Board of Health and Public Safety Officer for their respective reviews. The annual permit shall be issued by the Inspector of Buildings for or within the period from March 1<sup>st</sup> to November 30<sup>th</sup>. An application for public property placement shall be made in accordance with the General Bylaw Article XI Section 9 Outdoor Dining or Retail License Bylaw and Regulations.

Amend Section 10 Definitions by deleting Temporary and Seasonal Placement of Tables and Chairs and replacing it with Temporary and Seasonal Placement of Tables and Chairs and Retail Fixtures and further amend the definition to read as follows:

#### TEMPORARY AND SEASONAL PLACEMENT OF TABLES AND CHAIRS AND RETAIL FIXTURES

The temporary and seasonal placement of tables and chairs or retail fixtures and products outside a permitted commercial structure for the convenience of patrons as a use incidental and accessory to a permitted food or retail sales establishment where the principal activity is the service or sale of food for consumption on or off the premises, or the retail sale of merchandise. Outdoor tables and chairs or retail fixtures shall not interfere with pedestrian access or access for emergency purposes.

Amend Appendix A Table 1 F.8 by replacing “Temporary and seasonal placement of tables and chairs” with “Temporary and seasonal placement of tables and chairs and retail fixtures,” and further amend BA to Y:

F. Accessory Uses (See Section 3.2)	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2
8. Temporary and seasonal placement of tables and chairs and retail fixtures	N	N	N	N	Y	N	Y	Y	Y	Y	Y	Y

or take any action related thereto.

*On the request of the Planning Board*

<b>ARTICLE P31</b>	<b>AUTOMATIC SPRINKLERS</b>
------------------------	-----------------------------

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 148, Section 26 H, relating to automatic sprinklers, or take any other action related thereto.

*On request of the Fire Chief and the Inspector of Buildings*

<b>ARTICLE P32</b>	<b>STREET ACCEPTANCE – MONARCH LANE</b>
------------------------	---

To see if the Town will vote to accept and name as a public way the following street: Monarch Lane as further described below, and to accept deeds to the streets and all related easements:

**Monarch Lane**, as shown on a plan approved by the Andover Planning Board entitled “DEFINITIVE SUBDIVISION (FORM C) SPECIAL PERMIT FOR CLUSTER DEVELOPMENT & EARTH MOVEMENT PLAN FOR MONARCH WOODS ANDOVER, MASS’ dated August 30, 2016 last revised August 8, 2017, sheet 4 of 15 (Recordable sheet 1 of 1) being recorded in the Essex North District Registry of Deeds as Plan Number 17784 and further shown as Lot 130 on Land Court Plans filed as Plan Number 10362N; or take any other action related thereto.

*On request of Select Board*

<b>ARTICLE P33</b>	<b>AMENDMENT OF OPEN SPACE LAND ACQUISITION BONDING APPROPRIATIONS</b>
------------------------	--

To see if the Town will vote to appropriate \$1,215,270.75 to pay costs of acquiring all or any portion of certain additional listed parcels of real property or interest in such real property for conservation and open space purposes under the provisions of Chapter 40, Section 8C of the Massachusetts General Laws, and for expenses incidental or related thereto, together with any buildings that may be thereon, consisting of the acres, more or less, of land above or below water or both together with all flowage and other rights and easements which may exist, which parcels are described as follows:

2014 List of Approved Open Space Parcels

<u>Assessors Map</u>	<u>Lot</u>	<u>Address</u>	<u>Acreage</u>
183	11	83 Lowell Junction Road	3.08
123	30	25 Willard Circle	1.48
123	31	23 Willard Circle	0.90
125	2	57R River Road	7.80
24	4	12 Woodland Road	35.46
24	7	22 Woodland Road	24.60
24	8	28 Woodland Road	9.40
24	9	Woodland Road	8.93
24	10	Woodland Road	7.67
25	12	50 Woodland Road	14.67
25	30	74 Salem Street	18.00
25	44	Route 125	1.88
25	45	Route 125	10.60
25	45A	Route 125	3.56
95	1	141 Abbot Street	53.04

2020 List of Open Space Parcels To Be Added

<u>Assessors Map</u>	<u>Lot</u>	<u>Address</u>	<u>Acreage</u>
72	1	18 Red Spring Road	1.40
72	2	Red Spring Road	0.33
138	23	204 Andover Street	1.04
159	10A	Lowell Junction Road	3.00
159	10	Lowell Junction Road	1.00
158	1	Tewksbury Street	5.00
74	95	Lupine Road	0.10
158	2	Tewksbury Street	2.22
158	8	84 Tewksbury Street	3.50
158	8C	86 Tewksbury Street	1.04
182	4	92 Tewksbury Street	4.38
182	5	4 Pine Cone Lane	1.03
182	5B	3 Pine Cone Lane	1.10
10	4A	15 Tucker Road	10.00

54	14	20 Stevens Street	3.44
54	13T	10 Stevens Street	6.62
54	48A	81 Gradall Lane	2.45
54	48	Essex Street	0.53
60	4B	320 South Main Street	12.80
60	4C	3 West Knoll Road	5.62
60	4D	320 South Main Street	2.01
73	17A	St. Augustine Cemetery	18.87
55	27	Essex Street	0.21
25	43	Route 125	1.00
228	4D	439 River Road	11.80

And

(i) to authorize the Select Board and Conservation Commission to acquire the property or interest in the property described herein by gift, purchase, or eminent domain, and to use such funds to acquire all or any portion of such real property or interest in such real property for conservation and open space purposes under the provisions of Chapter 40, Section 8C of the Massachusetts General Laws on terms and conditions they deem to be in the best interest of the Town,

(ii) to meet this appropriation, (a) the Treasurer, with the approval of the Select Board, is hereby authorized to borrow \$1,200,000 and premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount; and (b) \$15,270.75, representing unexpended proceeds of bonds issued in December 2004 to fund a land acquisition project that is now complete or abandoned and for which no further liability remains, is hereby authorized to be transferred; and

(iii) to rescind the authorized yet unissued balances of (a) \$800,000 appropriated under Article 12 of the 2001 annual town meeting, as amended by Article 56 of the 2014 annual town meeting for land acquisition, and (b) \$400,000 appropriated under Article 23 at the 2002 annual town meeting for land acquisition; or take any other action related thereto.

*On request of the Open Space Task Force*

<b>ARTICLE P34</b>	<b>LAND ACQUISITION</b>
------------------------	-------------------------

To see if the Town will vote to appropriate a sum of money for the acquisition, and for costs related to such acquisition including but not limited to demolition costs and removal of building contents of the land at 138 Chandler Road, as shown as Assessors Map 147, Lot 4 for municipal purposes and for any other costs incidental and related thereto, and to authorize the Select Board to acquire such land with the buildings thereon, by gift, option, purchase or eminent domain, upon terms and conditions deemed by the Select Board to be in the best interest of the Town and to determine whether the amount appropriated by the Town under this Article shall be raised by taxation, transfer from available funds, borrowing, or otherwise provided, or to take any other action related thereto.

*On request of the Town Manager*

<b>ARTICLE P35</b>	<b>MERRIMACK RIVER SOLID WASTE COLLECTION &amp; REMOVAL PROJECT FROM FREE CASH</b>
------------------------	--

To see if the Town will vote to transfer from available funds and appropriate the sum of \$75,000 to pay the costs for purchasing services for the collection and removal of floatable solid waste debris from the Merrimack River, and any tributaries thereto including immediately adjacent upland areas from where improperly discarded solid waste may fall into and/or otherwise enter these waterways, as well as the sorting, handling and ultimate recycling or proper disposal of such removed solid waste, including any other costs incidental and related thereto, or take any other action related thereto.

*On petition of Lindsay Concemi and others*

<b>ARTICLE P36</b>	<b>FORM OF GOVERNMENT BALLOT QUESTION</b>
------------------------	---

To see if the Town will authorize the Select Board to add the following ballot question on the form of government in the Town of Andover for the next Town local election:

Ballot Question:

*Please select what form of government that you are in favor of for the Town of Andover's future:*

- Open Town Meeting

All voters eligible to vote on budgets, bylaws and all matters brought before town meetings and approve indebtedness. Town meeting acts as legislative body while Select Board and Town Manager act together as the executive branch.

- Representative Town Meeting

Limited number of voters are elected, usually by precinct/district, to represent all voters in a representative town meeting (RTM). Representatives vote on bylaws and all matters brought before Town Meeting and approve indebtedness. RTM is legislative body while Select Board and Town Manager act as executive branch.

- Council/Manager

Voters elect Council and the Council appoints a Town Manager. Council is the legislative body. Town Manager is chief executive, appoints key officials, prepares budget, approves contracts, negotiates with unions, and oversees administrations.

- Town Council/Mayor

Voters directly elect a mayor and council. Council is legislative body. Mayor is chief executive who appoints key officials and all or some boards, and prepares budgets, approves contracts, negotiates with unions and oversees administration.

*On the petition of Jose Albuquerque and others.*

<b>ARTICLE P37</b>	<b>TOWN ELECTION DATE</b>
------------------------	---------------------------

To see if the Town will vote to approve and amend the day and month in Bylaw Article II, Section 1 for our Town local elections to be held from fourth Tuesday in March to second Tuesday in June.

Current Article II, Section 1:

*The Annual Town Meeting for the election of town officers and for other purposes shall be held on the fourth Tuesday of March in each year at such place or places within the town as the Select Board may designate in its notice thereof.*

Proposed Article II, Section 1:

*The Annual Town Meeting for the election of town officers and for other purposes shall be held on the second Wednesday of June in each year at such place or places within the town as the Select Board may designate in its notice thereof.*

*On the petition of Jose Albuquerque and others.*

<b>ARTICLE P38</b>	<b>TERMS FOR BOARDS, COMMITTEES &amp; COMMISSIONS</b>
------------------------	---

To see if the Town will vote to amend the Town Charter, Section 4 to include the following language on term limits for appointed officials:

The limit of tenure for all boards, committees, and commissions shall be three (3) consecutive, three year terms for a total of nine (9) years to a single board, committee or commission. The limit of tenure for the Planning Board shall be two (2) consecutive, five-year terms for a total of ten (10) years. A member who has served the aforementioned consecutive terms shall not be eligible for reappointment. Regardless of tenure, each board, committee, or commission member shall serve until their successor shall be appointed. No board, committee, or commission member shall serve as chairperson for more than two consecutive years.

<b>ARTICLE P39</b>	<b>NOISE AND VIBRATION STANDARDS BYLAW</b>
------------------------	--

To see if the Town will vote and approve the following noise and vibration standard bylaw:

1.0 Applicability.

This Bylaw shall pertain to, but not be limited to, activity associated with the construction of Major Non-Residential Projects and Special Residential Projects as defined by Sections 10.00

and Section 7.0 Special Residential Regulations, of the Andover Zoning Bylaw. Specifically, this bylaw regulates outdoor sound amplifying equipment, motor vehicles, trucks, construction and demolition equipment, industrial and commercial sources of sound, and other manmade sounds that cause noise.

#### 1.01 Definitions.

Except as may be specified herein, acoustical terminology used throughout this Bylaw is that approved as American National Standard Acoustical Terminology [ANSI S1.11994] by the American National Standards Institute (ANSI). The following words, phrases and terms as used in this bylaw shall have the meanings as indicated below:

- (a) “Background sound level” shall mean the sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged Intruding Noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.
- (b) “Construction” shall mean those activities requiring a building permit. Construction shall also include any site preparation, seismic surveys, grading, assembly, erection, substantial repair, alteration or similar action, including demolition, for or of public or private right-of-way, structures, utilities or similar property.
- (c) The abbreviation dBA shall mean the A-weighted sound pressure level expressed in decibels and referenced to 20 micropascals.
- (d) “Emergency vehicle” shall mean any vehicle operated in an effort to protect, provide or restore public safety, including DPW Vehicles, ambulances, police vehicles and fire vehicles.
- (e) “Emergency work” shall mean any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service.
- (f) “Enforcing person” shall mean any police officer of the Town or any other Town employee designated by the Selectmen for this purpose. For complaints under this bylaw an enforcing person shall also include any authorized employee of the Office of Community Development & Planning.
- (g) “Intruding noise” shall mean the total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.
- (h) “Leq” equivalent sound level, is the level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time varying sound during the same period, as measured with a sound level meter measuring Leq.
- (i) “L10 Level” shall mean the A-Weighted sound level exceeded ten percent of the time.
- (j) “Person” shall mean an individual or individuals, firm, association, co-partnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

- (k) “Pure tone” means any sound which can be distinctly heard as a single pitch or a set of single pitches, as defined by the Environmental Protection Agency (EPA).
- (l) “Sound level” shall mean the instantaneous A weighted sound pressure level, in decibels, as measured with a sound level meter set to the “A” weighting scale, slow response.
- (m) “Sound level meter” shall mean an instrument meeting American National Standard S1.41983 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

**1.02 Designated land use areas.**

The properties hereinafter described are hereby assigned to the following noise zones:

Land Use Area I:	All Residential Zoning Districts and the grounds of any school, day care, hospital or similar health care institution, house of worship or library while the same is in use, and any Cemetery.
Land Use Area II:	All other properties.

**1.03 Exterior Noise Standards.**

It shall be a violation of this bylaw for a Major Non-Residential or Special Residential Construction project, as defined by paragraph 1.00, to create Intruding Noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such entity, which causes a sound level which exceeds the limits set forth for the receiving land use category in Table 1, without prior written approval from the Special Permit Granting Authority, when measured at or within the property boundary of the receiving land use. Daytime measurements are to be determined at an L10 level provided that at no time shall the exterior sound level in Land Use Area I exceed 90dBA or cause a PURE TONE condition for the receiving land use category.

Table I. Maximum Allowable Exterior Sound Level

Land Use Area	Daytime level	Nighttime level
	7:00 AM to 6:00 PM	6:00 pm to 7:00 AM
Land Use Area I	70 dBA	55dBA
Land Use Area II	N/A	N/A

**If the intruding noise is continuous and cannot reasonably be discounted or stopped for a time period whereby the background sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I.**

**1. Construction & Demolition**

Notwithstanding the provisions of Section 1.03, the following are the maximum noise levels that may be permitted by the Special Permit Grating Authority for Construction and Demolition purposes:

- a. Unless otherwise permitted by the Special Permit Granting authority, the cumulative noise level of all construction and demolition on one site at any one time shall not exceed 90dBA. No individual piece of equipment shall exceed a maximum noise level of 90 dBA. **Noise levels shall be measured at or within the property boundary of the receiving land use.**

#### **1.04 Site Plan Review & Special Permit Requirements.**

Prior to the issuance of a Special Permit under section 10.00 Major Non-Residential Projects, or Special Residential Projects under Section 7.0 of the Andover Zoning Bylaw, approval of any potentially nuisance generating facility with potential to impact any Land Use Area I receptor, the applicant shall be required to demonstrate to the Special Permit Granting Authority the unlikelihood of noncompliance with such Noise Limits and Standards, or that proper mitigation measures will be taken as a condition of permit issuance.

The Special Permit Granting Authority may, at its discretion, require pre-construction background sound level readings during the daytime, night time and weekend hours from the applicant at the time of the public hearing. Pre-construction background noise levels are to be recorded with a sound level meter by a professional trained in providing such documentation.

#### **1.05 Special provisions.**

Limitation of Construction Activity: Noise associated with Construction is only permitted between 7:00AM and 6:00 PM on weekdays and 8:00am to 6:00pm on Saturdays, unless otherwise approved by the Special Permit Granting Authority.

Noise associated with the following activities shall be exempted from the provisions of this bylaw:

- (a) Emergency Work or Emergency Vehicles.
- (b) Activities, other than construction, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction including but not limited to school athletic and school entertainment events, and on church grounds, including but not limited to, bells or chimes.
- (c) Occasional outdoor gatherings, public dances, shows, and sporting entertainment events provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;
- (d) The maintenance of real property (not Construction), such as temporary use of power tools and equipment such as lawn mowers, snow blowers, chain saws and similar equipment, provided said activities take place between the hours of 7:00 AM and 10:00 PM on any day. The use of snow blowers during an active snow storm shall be exempt.
- (e) Motor vehicle back-up alarms required for site safety.

#### **1.06 Vibration Limits and Standards**

No party owning, leasing, or otherwise controlling a facility within the Town of Andover shall be allowed to:

1. Produce vibration which exceeds the combine-axis one-third octave band vibration accelerations of ANSI §3.29, Guide to the evaluation of human exposure to vibration in buildings. (Table one, as read in (meters/second)).
2. Produce sound levels in the 31.5 Hz octave band, and in lower bands, that exceed 65dB.

3. Exceptions: The above performance standards shall not apply to noise and vibration emitted during and associated with the following:
  - a. Parades, public gatherings, sporting or special short duration events.
  - b. Emergency, police, fire and ambulance vehicles.
  - c. Police, fire, and civil and national defense activities.
  - d. Temporary construction activity associated with a permitted facility, operating within normal daytime hours.

#### **1.07 Prima facie violation.**

Any measured noise exceeding the sound level standards as specified in Sections 1.03 Exterior Noise Standards shall be deemed to be prima facie evidence of a violation of the provisions of this Bylaw.

#### **1.08 Penalties for violations.**

- (a) Violations under this Noise Bylaw, in the discretion of the enforcing person, may be enforced by noncriminal disposition as provided in Chapter 40, Section 21D of the Massachusetts General Laws (“Section 21D”).
- (b) The penalty for a violation under 1.03 Exterior Noise Standards shall be a written warning for a first offense; \$100 for a second offense; \$200 for a third offense; and \$300 per offense, without limit, for each succeeding offense. Each day or part thereof shall constitute a separate offense.
- (c) Additionally under Section 1.03, at the discretion of the enforcing officer, all construction activities may be suspended following
- (d) initial warning until the violation is cleared to the reasonable satisfaction of the enforcing officer, or Special Permit Granting Authority.
- (e) An enforcing officer investigating a violation of this Bylaw, or any rule or regulation adopted hereunder, shall give the offender a written notice for the noncriminal disposition thereof in accordance with the provision of Chapter 40, Section 21D of the Massachusetts General Laws. The provisions of Section 21D are incorporated by this reference.

#### **1.09 Manner of enforcement.**

- (a) The enforcing officer(s) may include the Andover Police, Town of Andover Building and/or Health Officials, as necessary.
- (b) Violations of this Chapter shall be prosecuted in the same manner as other violations of the Andover General By-Laws provided, however, that in the event of an initial violation of the provision of this bylaw, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken in the event the cause of the violation has been removed or fully corrected within the time period specified in the written notice.

(c) In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred in which event the specified time period for abating the violation shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a complaint.

**1.10 Severability.**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.

*On the petition of Jose Albuquerque and others.*

Hereof fail not, and make return of this Warrant with your doings thereon, at the time and place of said meeting.

Given our hands this 22<sup>nd</sup> day of March 2021.

_____	)	
Ann W. Gilbert, Chair	)	
_____	)	
Daniel A. Koh, Vice Chair	)	SELECT BOARD
_____	)	
Laura M. Gregory, Member, Select Board	)	OF
_____	)	
Christian Huntress, Member, Select Board	)	ANDOVER
_____	)	
Alexander J. Vispoli, Member, Select Board	)	

A true copy

A T T E S T

\_\_\_\_\_  
Ronald Bertheim, Constable

Andover, Massachusetts, \_\_\_\_\_, 2021

Pursuant to the foregoing Warrant, I, the subscriber, one of the Constables of the Town of Andover, have notified the Inhabitants of said Town to meet at the time and place and for the purposes stated in said Warrant, by posting a true and attested copy of the same on the Town Hall, on each school house, and in no less than five other public places where bills and notices are usually posted and by publication in the *Eagle Tribune*. Said warrants have been posted and published fourteen days.

---

Ronald Bertheim, Constable

DRAFT

---

---

## Select Board Meeting

Monday, February 22, 2021

Virtual Meeting Broadcast on Comcast Channel 22 Verizon Channel 45

---

---

### I. Call to Order

Chairperson Annie Gilbert called the Select Board Meeting of Monday, February 22, 2021 to order at 7:04 P.M. Members in attendance: Dan Koh, Laura Gregory, Chris Huntress, Alex Vispoli.

**Others in Attendance:** Town Manager Andrew Flanagan, Deputy Town Manager Mike Lindstrom, Assistant Town Manager Patrick Lawlor, Town Clerk Austin Simko, Town Counsel Tom Urbelis.

### II. Opening Ceremonies

#### A. Moment of Silence/Pledge of Allegiance

The meeting began with a Moment of Silence and a Salute to the Flag.

### III. B. Communications/Announcements/Liaison Reports

The Town Manager announced that they are continuing their partnership with the Andover Community Trust to provide rental/mortgage assistance during the pandemic. To date, they have funded 53 rental/mortgage payments for a total of \$74,270. We are pleased that this program can continue. Information can be found on the Town Website or by reaching out to Andover Community Trust.

Mike Lindstrom gave an update on Community Choice Aggregation. The draft plan has been completed and sent to the Dept of Public Utilities for pre-decisional reviews. As per State Law, a two-week public comment period will be held in late March to inform and enhance the draft aggregation plan.

#### Board Updates:

Dan Koh is honored to have been elected as a Select Board Member two years ago and to work with others to make Andover better. He was invigorated by the dedicated public servants who work every day to make our Town what it is and acknowledged Andrew Flanagan's steadfast leadership through challenging times which served as an example for what public servants can and should be. Dan was recently offered to join the Biden/ Administration and has decided to accept that position. He will be resigning as a member of the Board effective tomorrow. Dan looks forward to staying involved as a resident off Andover. Thank you.

Annie Gilbert thanked Dan for his service to the Town. We are all very sorry to lose you but so happy that you will be bringing your talents to a national level. You have made a huge impact in the two years you have been on the Board and an incredible strong active voice to promote diversity, equity and inclusion. Your experience working with municipal government in Boston has been a great resource to us all. We are excited to watch what you do for all of us in Washington.

Chris Huntress, is very excited for the opportunity Dan has been offered, he will be missed. Alex Vispoli said it has been an honor to serve with Dan for the past two years, and for bringing a lot of perspective from his prior role to Andover. Dan's professionalism, intelligence and the way he approaches issues are traits needed in the bigger stage. Laura Gregory echoed the remarks of the other SB members Dan has contributed so much over the brief time on the Board and appreciates getting to get to know him. Thank you for your two years of service in Andover and thank you in advance for your service to our country and to America's working people.

Alex recognized Tom Carbone, the volunteers and teammates who did a great job with our vaccine clinic this week and proved that we can certainly handle delivering vaccines. It is a shame to hear that the State has decided to stop the vaccines at local towns, which he thinks is a mistake. Alex asked the Town Manager if we could generate a letter to see if Andover can continue to be a vaccine outlet for the local residents. Andrew will be happy to send a letter, DPH knows we are willing to continue to participate. Chris Huntress also supports Alex's comments. It is important that Andover take a bold move to be in front of this effort to have vaccines in Andover. We need to be proactive and reach out to our legislative delegation and get them involved. Laura Gregory appreciates that the Town is supportive of the great housing assistance program during this difficult time.

Annie suggested adding a special meeting on Monday, March 1<sup>st</sup> to discuss the process to fill the vacancy created when Dan resigns tomorrow. The Andover Senior Community Friends has raised quite a bit of money to help support the Robb Center Renovation Project, especially with furnishings and equipment. As part of their fundraising efforts, they are selling bricks that will go into the patio. There are 26 bricks left at \$100 each and can be engraved. Information on purchasing a brick can be found at the Andover Senior Community Website at [www.andoverscf.org](http://www.andoverscf.org) Alex asked if the Board would be interested in purchasing one from the Board as a whole. Great idea! Annie will send out an email.

#### **IV. Citizens Petitions and Presentations**

To provide public comment during Citizens Petitions and Presentations visit:  
[www.andoverma.gov/JoinSelectBoardMeeting](http://www.andoverma.gov/JoinSelectBoardMeeting)

#### **V. Regular Business**

##### **A. COVID-19 Vaccinations**

Director of Public Health, Tom Carbone provided to provide update on the Town's role with COVID-19 vaccinations. The vaccine clinic held at the Collins Field House on Wednesday, Feb 17<sup>th</sup> was very successful with 100 people being vaccinated. School nurses have been wonderful with vaccinating residents. This has been a group effort with Dr. Bach allowing them to use the Field House, IT Dept's technical assistance, Facilities delivered the equipment and custodians put it all together. The Town Manager's office worked on all the messaging, and DPW put up signs. The Senior Center and Veterans Office have been intricately involved.

A second clinic is scheduled for next Wednesday. Registration is available online or by calling into the phone bank. The letter from Secretary Sutters informed us that we will not be receiving additional vaccines after March 1<sup>st</sup>. It is disappointing that local clinics will not be delivering the vaccinations.

Andrew said MMA stepped up last week expressing their collective concerns about not using local clinics for vaccinations. Tom and his team have been planning for months to have a vaccination site and a disappointment that we all share. In addition to the clinic and phone bank, they are working on a partnership with Greater Law Family Center on a pop-up clinic to supplement our efforts. They are also in the process of preparing to scale up our senior medical transportation program (already transporting to Lawrence and Danvers site). Chris Huntress agrees that given our location, Andover is well situated for a regional location. For the short term, we need to shift our resources to help people get to other vaccination sites. All of the Board members thanked Tom for all of the work that he and his Team are doing.

B. 2021 Annual Town Meeting Election Warrant

Board to consider voting to approve the March 23, 2021 Annual Town Election Warrant. Because of the various deadlines that have already passed, it would functionally not be possible to use this election to fill Dan Koh's seat. The warrant is very straightforward with nine open seats, voting locations are the same as they were at the end of 2020. The process for 2020 is no longer good for 2021. To vote by mail in 2021, residents can request an absentee ballot/mail-in voting from the Town Clerk's Office (and online) or at the Customer Service Station at Town Offices. The application should be completed and returned by mail or dropped off at Town Offices.

Alex Vispoli moved to approve the 2021 Annual Town Election Warrant as printed. Motion seconded by Laura Gregory. Roll call: A. Vispoli-Y, D. Koh-Y, L. Gregory-Y, C. Huntress-Y, A. Gilbert-Y. Motion passes 5-0.

C. Andover Town Seal

The Town Manager provided information on the process to review the Town Seal. A seven member review panel will be selected to conduct research, solicit community input, form a community driven design committee, obtain services of a professional design firm, review the design and recommendations. The process will take place over a 12-18-month period. It would be appropriate to bring to Town Meeting in 2022 for a vote. Over a period of time, they would incorporate the new seal into our branding work, predicated on review process that a design change is warranted.

Andrew suggested the panel consist of: two members from the 375<sup>th</sup> Committee, one member from each from the Diverse/Equity/Inclusion Committee, the Preservation Committee, MHL Trustees, Andover Center for History & Culture, one member from the Town Manager's Office. He also suggested having a liaison from the Select Board.

Alex does not think a Board Member needs to be on the Commission. Chris Huntress wants to make sure that we decide that it starts with the foundation as to why the seal is

what the seal is, and how it ties us to our history and if we are going to move away, we should do it with an educational background. Laura Gregory thinks the history is important but the seal needs to reflect Andover today, and all of the different components and facets of our community, history being one of them, but not the only one. Include different aspects of the community who can participate without being part of the Committee, and a liaison from the Board would be important to have.

Dan Koh thinks our history as a Town is very important but we shouldn't bind ourselves to conclusions made by the Town 25 years ago. This is a testament to our Town that we are constantly checking ourselves. Annie thinks it will be important to make clear that anybody who is interested can attend and participate in the meetings even if they are not on the Commission. The sessions will all be public. Chris said the history would be the foundation and stepping off point of how we are looking at this, and agrees it should be a much broader perspective.

Laura Gregory moved that the Board vote to approve the Committee Composition and the process proposed by the Town Manager for reviewing the Andover Town Seal, and the makeup of the Committee to be involved in that process. Motion seconded by Dan Koh. RC: D. Koh-Y, L. Gregory-Y, A. Vispoli-Y, C. Huntress-Y, A. Gilbert-Y. DK, LG, Motion passes 5-0.

#### D. Town Yard Land Disposition

Using a slide presentation Austin Simko provided updates on the Town Yard Disposition and Procedural Amendments to the proposal process under the Requests for Proposals. The Board has confirmed members of the Town Yard Selection Committee, the process modification to the RFP, and next steps. Distribution advisors McCall/Almy will be playing a very important role, facilitating negotiations, execution of the Land Development Agreement, etc.

The Town Yard Selection Committee includes: George Fantini, Chair, Suzanne Korschun, Vice Chair, Lais Washington, Clerk, Tom Childs- At-large Member, Jeremy Cyrier-At-Large, Paul Materazzo Planning Director, Joyce Losick-Yang Sustainability Coordinator and Andrew Maylor Associate Member.

They are not suggesting any change to the planning objectives. The selection criteria for qualification proposals are not changing nor is the schedule of deposits of developers, or the Land Disposition Agreement. What they are requesting, is that the RFP change from a one-round process to a two-round process. Developers would submit an initial development plan with summary information for round-one so they can tell if the developer is on the right track. McCall suggested we do a Phase-1 Environmental Report which they did and was recently received. The plan is to issue the RFP in early March.

Chris Huntress moved that the Board approve the revisions to the Town Yard Request for Proposals effecting a two-round, rather than a one-round, proposal process. Motion seconded by Alex Vispoli. Roll call: C. Huntress-Y, A. Vispoli-Y, L. Gregory-Y, D. Koh-Y, A. Gilbert-Y. Motion passes 5-0.

**VI. Consent Agenda**

**A. Appointments by the Town Manager**

Andrew is pleased to present Chris Dempsey, Director of Recreation and Jeffrey Newman as Assistant Director of Recreation to oversee the many recreational programs especially during this past year which has been very difficult. Thank you to everyone who expressed an interest in participating in the 350 Committee and to Ann Ormond for overseeing this.

Alex Vispoli moved that the following appointments by the Town Manager be approved as printed. Motion seconded by Dan Koh. Roll call: D. Koh-Y, L. Gregory-Y, C. Huntress-Y, A. Vispoli-Y, A. Gilbert-Y. Motion passes 5-0.

<b>Department</b>	<b>Name</b>	<b>Position</b>	<b>Rate/Term</b>	<b>Date of Hire</b>
Recreation	Christopher Dempsey <i>(Jessica Downing)</i>	Director of Recreation	\$85,000	2/23/2021
Recreation	Jeffrey Newman <i>(Christopher Dempsey)</i>	Assistant Director of Recreation	\$71,413	2/23/2021
Memorial Hall Library	Laura McVeigh <i>(M. Kimberly Bears)</i>	Part-Time Children's Librarian	\$30.82/hour	3/8/2021
Facilities	Denzel White <i>(Timothy McCarron)</i>	Part-Time Security Guard	\$22.34/hour	3/6/2021
375 <sup>th</sup> Committee	Joe Halpern	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Paul Mackay	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Bill Pennington	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Gale Ross	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Buzz Stapczynski	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Joann Michalski	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Melissa Litton	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Richard Padova	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Thomas Adams	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Susan Pokress	Member	Term Expires 6/30/2022	2/22/2021
375 <sup>th</sup> Committee	Cipriano Apicelli	Member	Term Expires 6/30/2022	2/22/2021

## VII. Approval of Minutes

A. Board to approve minutes from the following meetings:

1. January 11, 2021
2. January 13, 2021 (Mid-Year Review)
3. January 25, 2021

Laura Gregory moved the Board approve the minutes of January 11, January 13, and January 25, 2021 as printed. Motion seconded by Chris Huntress.

Roll call: C. Huntress-Y, A. Vispoli-Y, L. Gregory-Y, D. Koh-Y, A. Gilbert-Y.

Motion passes 5-0.

## VIII. Executive Session

A. Laura Gregory moved that the Board vote to go into Executive Session for confidential communication with Town Counsel and pursuant to Option 6 to discuss the purchase, exchange, lease or value of real property, for the Chair to declare that an open session may have a detrimental effect on the negotiating position of the Town and not to return to Open Session. Chairperson Gilbert did so declare. Motion seconded by Dan Koh. Roll call: A. Vispoli-Y, D. Koh-Y, L. Gregory-Y, C. Huntress-Y, A. Gilbert-Y. Motion passes 5-0.

## IX. Adjourn

At 8:22 P.M. the Board adjourned from regular session and moved to Executive Session not to return to Open Session.

*Respectfully submitted,*

Dee DeLorenzo  
Recording Secretary

*Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Select Board will be conducted via remote participation to the greatest extent possible. For this meeting, members of the public who wish to watch the meeting may do so in the following manner: Andover TV COMCAST CHANNEL 22 AND VERIZON CHANNEL 45. Members of the public who wish to provide public comment during Citizens Petitions and Presentations may do so by visiting [www.andoverma.gov/JoinSelectBoardMeeting](http://www.andoverma.gov/JoinSelectBoardMeeting). To ask a question on particular agenda items during the regular meeting can do so by calling 311 from their landline or cell phone within the geographical boundaries of Andover or by calling 978-623-8311 from anywhere or by emailing [manager@andoverma.gov](mailto:manager@andoverma.gov). Residents are encouraged to email their questions ahead of the meeting, however, staff will be available to present the Board with questions received during the meeting. Please include your name and address with your question.*

*Every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town's website an audio or video recording, transcript, or other comprehensive record of the proceedings as soon as possible after the meeting.*

# Select Board Special Meeting

Monday, March 1, 2021

Virtual Meeting Broadcast on Comcast Channel 22 Verizon Channel 45

---

## I. Call to Order

Chairperson Annie Gilbert called the Select Board Meeting of March 1, 2021 to order at 7:03 P.M. Other Members in attendance: Laura Gregory, Chris Huntress, Alex Vispoli.

**Others in Attendance:** Town Manager Andrew Flanagan, Deputy Town Manager Mike Lindstrom, Assistant Town Manager Patrick Lawlor, Town Clerk Austin Simko, and Town Counsel Tom Urbelis.

## II. Opening Ceremonies

### A. Moment of Silence/Pledge of Allegiance

The meeting began with a Moment of Silence followed by the Pledge of Allegiance.

## III. Regular Business

### A. Re-Organization of the Board

Board to vote to reorganize and elect a Vice Chair and any other officers as required.

Alex Vispoli moved that Chris Huntress be named as Vice Chairperson. The motion was seconded by Laura Gregory. Chris Huntress accepted the nomination. Roll call: L. Gregory-Y, A. Vispoli-Y, C. Huntress-Y, A. Gilbert-Y. Motion passes 4-0.

Chris Huntress moved that Alex Vispoli be appointed as Clerk to the Select Board. Laura Gregory seconded the motion. Alex Vispoli accepted the nomination. Roll call: C. Huntress-Y, L. Gregory-Y, A. Vispoli-Y, A. Gilbert-Y. Motion passes 4-0.

### B. Select Board Vacancy

Board to discuss and vote to approve process for filling vacancy on the Select Board to fill the set of Dan Koh, who resigned last week to take a position in the Biden-Harris Administration.

The Board has three options to consider: Option 1: The Board may appoint a resident to serve on the Board for the remainder of the Term in March 2022. Option 2: The Board can operate with 4 members through March of 2022. Option 3: The Board may call a Special Election for the purposes of filling the position for the duration of the term.

**Process for Option 1:** If they choose Option 1, the vacancy would be advertised, candidates would submit through an application process, interviews would be conducted, and a candidate selected to serve for the remainder of the term. However, the Board would have to consider amending its own policy relative to not filling a vacancy with 100 days of the annual Town Election. This is the most expeditious option for filling vacancy, the same process used for the last two vacancies.

Process for Option 2: Board to Operate with 4 Members No action would be necessary from the Board, they could continue to operate as normal. Any tie vote would result in a motion being defeated.

Process for Option 3: Special Election.

- \*Board calls and sets a date for a special election - 10-12 weeks before the election.
- \*Prospective candidates pull nomination papers – 10 weeks before the election.
- \*Deadline to submit nomination papers 49 days or about 7 weeks before the election.
- \*Last day to withdraw from the ballot 33 days or about 5 weeks before the election.
- \*Voter registration deadline – 20 days or about 3 weeks before the election.
- \*Publication of the warrant about 14 days before the election.

This option is the less timely method of filling the vacancy, the costliest, and requires holding an election during a pandemic and logistically more challenging. We would be unable to consolidate the polling locations and having to use more of the school buildings.

Discussion:

The Board does not believe Option 2 should be considered. It would be difficult having one less member especially with the budget and the Town Yard Process that will require a full disposition of the Board. The Board also have many responsibilities outside of the meeting, having the 5<sup>th</sup> member would help with the work load and representing the Town.

A Special Election would be a tremendous amount of work and expense for a one-year term and we are right at the timeline of starting the new year with a great deal of work on the horizon. warrants to be voted on, Integrated Finance Plan Communication Roll-out, West Elementary Building Project, etc. Having someone sooner rather than later makes sense. (Option 3)

It would make more sense to appointment someone given that we are in a pandemic requiring more work and additional expense. (Option 1)

The Board discussed the steps in the process for a one-year appointment. Applicants would submit a letter of interest, and interviews would be scheduled. The position would be for the remainder of the term, although they could not prevent the person from running in the 2022 Election; although it could be seen as an unfair advantage.

The Board discussed the questions for the draft application for the opening on the Select Board. The position would be advertised on the Town website, posted on social media, sent out via a news flash, as well as through other forms of communication. March 12<sup>th</sup> would be the deadline for applications. Interviews would be tentatively scheduled for Wednesday, March 17<sup>th</sup> with an additional date scheduled if needed.

Chris Huntress moved that the Select Board vote to approve Option 1 as outlined and discussed this evening for selection of a new Select Board member. The motion was seconded by Laura Gregory. Roll call: C. Huntress-Y, L Gregory-Y, A. Vispoli-Y, and A. Gilbert-Y. Motion passes 5-0.

IV. **Adjourn**

At 8:15 P.M. Laura Gregory moved to adjourn the March 1, 2021 Select Board Meeting. Motion seconded by Alex Vispoli. Roll call: A. Vispoli-Y, C. Huntress-Y, L. Gregory-Y, and A. Gilbert-Y. Motion passes 4-0.

Respectfully submitted,

Dee DeLorenzo  
Recording Secretary

*Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Select Board will be conducted via remote participation to the greatest extent possible. For this meeting, members of the public who wish to watch the meeting may do so in the following manner: Andover TV COMCAST CHANNEL 22 AND VERIZON CHANNEL 45. To ask a question on particular agenda items during the regular meeting can do so by calling 311 from their landline or cell phone within the geographical boundaries of Andover or by calling 978-623-8311 from anywhere or by emailing [manager@andoverma.gov](mailto:manager@andoverma.gov). Residents are encouraged to email their questions ahead of the meeting, however, staff will be available to present the Board with questions received during the meeting. Please include your name and address with your question.*

*Every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town's website an audio or video recording, transcript, or other comprehensive record of the proceedings as soon as possible after the meeting.*